

# Public Document Pack



## PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 5TH JUNE, 2023

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, 5TH JUNE, 2023 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 May 2023

<b>BUSINESS</b>	
1.	<b>Apologies for Absence</b>
2.	<b>Order of Business</b>
3.	<b>Declarations of Interest</b>
4.	<b>Minute</b> (Pages 3 - 24) Consider Minute of the Meeting held on 24 April 2023 for approval and signature by the Chairman. (Copy attached.)
5.	<b>Applications</b> Consider the following applications for planning permission:
	(a) <b>Land North of Allanbank House, Manse Road, Lauder - 22/01734/FUL</b> (Pages 25 - 58) Erection of 110 dwellinghouses including associated roads, drainage and landscaping. (Copy attached.)
	(b) <b>Land East of Kirkwell House, Preston Road, Duns - 23/00131/PPP</b> (Pages 59 - 84) Residential development with access, landscaping and associated works. (Copy attached.)
	(c) <b>Land South West and South East of Bowbank Cottages, Bellfield Road, Eddleston - 21/01804/FUL</b> (Pages 85 - 102) Erection of 8 no dwellinghouses with ancillary building/garage, associated access and landscaping. (Copy attached.)

	(d) <b>Land North of Flatt Farm, Newcastleton - 23/00422/FUL</b> (Pages 103 - 114) Erection of 25 high telecommunications Lattice Tower and associated ancillary works. (Copy attached.)
6.	<b>Appeals and Reviews</b> (Pages 115 - 124) Consider briefing note by Chief Planning and Housing Officer. (Copy attached.)
7.	<b>Any Other Items Previously Circulated</b>
8.	<b>Any Other Items which the Chair Decides are Urgent</b>

**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

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**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 Headquarters, Newtown St Boswells and via Microsoft Teams on Monday, 24th April, 2023 at 10.00 am

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

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

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 27 March 2023.

**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 applications for planning permission which required consideration by the Committee.

**DECISION**

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

3. **REVOCAION OF PLANNING PERMISSION**

There had been circulated copies of a report by Chief Planning and Housing Officer that sought Members' approval of a revocation Order under Section 65 of the Town and Country Planning (Scotland) Act 1997, to revoke planning permission 11/01527/FUL for the erection of a dwelling with carport and stables/workshop/store on land North West of Greenlawdean Farmhouse, Greenlaw. Under Section 65 of the Town and Country Planning (Scotland) Act 1997, the planning authority had the power to revoke or modify any permission to develop land granted on an application. In exercise of this function, the planning authority must have had regard to the development plan and any other material considerations. Revocation of planning permission under Section 65 of the Act may be exercised where the permission related to the carrying out of a building or other operations, at any time before those operations have been completed. The Lead Planning Officer presented the report with associated slides and advised Members that executors of the late applicant Mr Peter Leggate had been instructed to apply for revocation of the planning permission following the death of Mr Leggate in the summer of 2022. The Leggate family as successors to the estate of Mr Peter Leggate decided that the planning permission was no longer needed nor did they desire to proceed with the approved dwelling. The Leggate family had agreed to remove the existing section of foundation and restore the land to its former condition. There was a Section 75 agreement associated with the planning permission which the agent was aware of and a separate application would be made to remove it. The extant planning permission was assessed against policies that had since been superseded by NPF4. The Lead Planning Officer advised that there had not been a significant shift in policy since the planning permission was approved, however there had been a significant change in personal

circumstances and the need for the new dwelling no longer exists. The Committee agreed with the recommendations of the report.

#### **DECISION**

**AGREED** that the Committee exercise the power conferred by Section 65 of the Town and Country Planning (Scotland) Act 1997 and make an Order revoking the planning permission granted under reference 11/01527/FUL.

#### **4. APPEALS AND REVIEWS**

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

#### **DECISION**

**NOTED** that:

- (a) **An appeal had been received in respect of Installation of insulated plasterboard system to walls, 68 High Street, Coldstream;**
- (b) **There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 13th April 2023. This related to sites at:**

<ul style="list-style-type: none"><li>• <b>1 Hall Street, Galashiels</b></li></ul>	<ul style="list-style-type: none"><li>• <b>The Old Cow Shed, Lennel, Coldstream</b></li></ul>
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- (c) **Review requests received in respect of:**
  - (i) **Alterations and dormer extension to dwellinghouse, 11 Tweed Avenue, Peebles – 27/00788/FUL;**
  - (ii) **Erection of 2no dwellinghouses, Land South of 1 Kelso Road, Coldstream – 22/01416/PPP;**
  - (iii) **Erection of dwellinghouse with detached garage, Land West of The Old Barn Westwater, West Linton – 22/01739/FUL;**
  - (iv) **Erection of dwellinghouse, Paddock West of Hardens Hall, Duns – 22/01740/PPP;**
  - (v) **Installation of timber gates (retrospective), Church House, Raemartin Square, West Linton – 22/01935/FUL;**
  - (vi) **Erection of dwellinghouse, Land North of Belses Cottage, Jedburgh-23/00034/PPP;**
  - (vii) **Change of Use from Class 4 to Class 2 Veterinary Practice, 2 Rowan Court, Cavalry Park, Peebles – 23/00056/FUL;**
- (d) **The following review had been determined as shown:**
  - (i) **Erection of dwellinghouse, Land South West of Castleside Cottage, Selkirk – 21/01618/FUL – Decision of Appointed Officer Upheld;**
- (e) **There remained 15 reviews previously reported on which decisions were awaited when the report was prepared on 13 April 2023 which related to sites at:**

<ul style="list-style-type: none"> <li>• Land North East of Runningburn Farm, Stichill</li> </ul>	<ul style="list-style-type: none"> <li>• Land at Silo Bins Edington Mill Chirnside, Edington Mill Road, Chirnside</li> </ul>
<ul style="list-style-type: none"> <li>• Land South West of Corstane Farmhouse, Broughton</li> </ul>	<ul style="list-style-type: none"> <li>• Land North and East of Clay Dub, Duns Road, Greenlaw</li> </ul>
<ul style="list-style-type: none"> <li>• 17 George Street, Eyemouth</li> </ul>	<ul style="list-style-type: none"> <li>• Dove Cottage Gate Lodge Press Castle, Coldingham, Eyemouth</li> </ul>
<ul style="list-style-type: none"> <li>• Ravelaw Farm, Duns</li> </ul>	<ul style="list-style-type: none"> <li>• Land South West of West Loch Farmhouse, Peebles</li> </ul>
<ul style="list-style-type: none"> <li>• 100 Abbotseat, Kelso</li> </ul>	<ul style="list-style-type: none"> <li>• Land West of Greenburn Cottage, Auchencrow</li> </ul>
<ul style="list-style-type: none"> <li>• Land South of Ebbastrand, Coldingham Sands, Coldingham</li> </ul>	<ul style="list-style-type: none"> <li>• The Millers House Scotsmill Kailzie, Peebles</li> </ul>
<ul style="list-style-type: none"> <li>• Ratchill Farmhouse, Broughton</li> </ul>	<ul style="list-style-type: none"> <li>• Land at Disused Railway Line Rachan, Broughton</li> </ul>
<ul style="list-style-type: none"> <li>• Scott House, Douglas Square, Newcastleton</li> </ul>	

- (f) There remained one Section 36 Public Local Inquiry previously reported on which a decision was still awaited when the report was prepared on 13 April 2023 which related to a site at Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick.

*The meeting concluded at 11.35 am.*

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**APPENDIX I**  
**APPLICATIONS FOR PLANNING PERMISSION**

<b><u>Reference</u></b>	<b><u>Nature of Development</u></b>	<b><u>Location</u></b>
21/01134/S36	Wind farm development comprising of 12 turbines (149.9 metres in height), associated infrastructure and battery energy storage system.	Cloich Forest Wind Farm, Land West Of Whitelaw Burn, Eddleston

DECISION: Members agreed with the Officers' recommendation and do not object to the proposed development. Members also agreed to a minor modification of suggested Conditions 21 and 22 to replace the word 'mitigate/mitigation' with 'avoid/avoidance'. It was recommended that the following conditions are attached to any consent that may be granted:

1. Duration of Consent

The consent is for a period of 40 years from the date of Final Commissioning. Written confirmation of the date of First Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

Reason: To define the duration of the consent

2. Commencement of Development

Commencement of Development shall be no later than five years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of Commencement of Development shall be provided to the Scottish Ministers and the Planning Authorities no later than one calendar month before that date.

Reason: To avoid uncertainty and ensure that consent is implemented within a reasonable period, and to allow the Scottish Ministers and the Planning Authorities to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.

3. Non Assignment

The company shall not be permitted to assign this consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may assign the consent (with or without conditions) or refuse assignment as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The company shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignment having been granted.

Reason: to safeguard the obligations of the consent if it is assigned to another company

4. Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the development during the period of this consent, the company will provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 24 hours of such an incident occurring.

Reason: to keep the Scottish Ministers informed of any such incidents which may be in the public interest.

5. Implementation in accordance with approved plans and requirements

Except as otherwise required by the terms of this section 36 consent and deemed planning permission, the Development shall be undertaken in accordance with the Application (including the EIAR as amended or supplemented by the AEI).

Reason: To ensure that the Development is carried out in accordance with the approved details.

6. Design and operation of turbines

a. There shall be no Commencement of Development unless full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour (which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the planning authority.

b. The turbines shall be consistent with the candidate turbine or range assessed in the environmental statement, and the tip height thereof shall not exceed 149.9 metres above ground level.

c. The development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

d. All wind turbine blades shall rotate in the same direction.

e. None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the planning authority.

Reason: To ensure that the environmental impacts of the turbines forming part of the development conform to the impacts of the candidate turbine assessed in the environmental statement and in the interests of the visual amenity of the area

7. Design of sub-station and ancillary development

There shall be no Commencement of Development unless final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and Battery Energy Storage System (BESS) facility and parking areas have been submitted to and approved in writing by the planning authority. The substation building, associated compounds, fencing, external lighting and BESS facility and parking areas shall be constructed in accordance with the approved details.

Reason: to ensure that the environmental impacts of the sub-station and ancillary development forming part of the development conform to the impacts assessed in the Environmental Statement and in the interests of the visual amenity of the area



## 8. Micro-siting

(1) Subject to paragraph (2), all wind turbines, buildings, masts, areas of hard standing and tracks shall be constructed in the location shown on Figure 2.1 of the Supplementary Environmental Information submitted on 1 December 2022

(2) Wind turbines, buildings, masts, areas of hard-standing and tracks may be adjusted by micro-siting within the site, but micro-siting is subject to the following restrictions, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and SNH)—

(a) no wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on Figure 4.1;

(b) no building, mast, access track or hard-standing shall be moved more than 50 metres from the position shown on the original approved plans;

(c) no wind turbine shall be moved more than 50 metres from the position shown on the original approved plans and no turbines (T2, T3, T4 and T5) shall be moved closer than the location specified in figure 2.1 of the Supplementary Environmental Information submitted on 1 December 2022 to any of the dwellings at Upper Stewarton, the Stewarton group (Nether Stewarton Farmhouse, Stewarton House, Stewarton Toll, Stewarton Lodge) and the Harehope group (Harehope Cottage, Harehope Steading, Old Harehope, Harehope Farmhouse);

(d) all micro-siting permissible under this condition must be approved in advance in writing by the Ecological Clerk of Works.

(2) No later than one month after the date of First Commissioning, an updated site plan must be submitted to the Planning Authority showing the final position of all wind turbines, masts, areas of hard-standing, tracks and associated infrastructure forming part of the Development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the Ecological Clerk of Works or Planning Authority's approval, as applicable.

Reason: to control environmental impacts while taking account of local ground conditions, and specifically to limit changes to positioning of turbines where they are closest to residential property and where their relocation would have the potential to change the level of impact on residential amenity and hydrology to that hereby consented.

## 9. Borrow Pits

There shall be no Commencement of Development unless a scheme for the working of each borrow pit forming part of the development has been submitted to and approved in writing by the planning authority in consultation with SEPA. The scheme shall include;

a. A detailed working method statement;

b. Details of the handling of any overburden (including peat, soil and rock);

c. Drainage, including measures to prevent surround areas of peatland from drying out;

d. A programme of implementation of the works described in the scheme; and e. Full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period. The approved scheme shall thereafter be implemented in full.

Reason: to ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the environmental

statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit(s) at the end of the construction period.

#### 10. Planning Monitoring Officer

There shall be no commencement of development unless the planning authority has first approved the terms of appointment by the company of an independent and suitably qualified environmental consultant to assist the council in the monitoring of compliance with conditions attached to this deemed planning permission during the period from commencement of development to the date of Final Commissioning and thereafter throughout the period of operation of the wind farm.

Reason: to enable the development to be suitably monitored during the construction phase to ensure compliance with the consent issued

#### 11. Ecological Clerk of Works

There shall be no commencement of development unless the planning authority has approved in writing the terms of appointment by the company of an independent Ecological Clerk of Works (in consultation with NatureScot and SEPA). The terms of appointment shall:

- a. Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement and other information lodged in support of the application, the Construction and Environmental Management Plan and other plans approved in terms of the Construction Method Statement and Habitat Management and Enhancement Plan (conditions 12 and 15); and
- b. Require the Ecological Clerk of Works to report to the company's nominated construction project manager any incidences of non-compliance with the works for which the Ecological Clerk of Works is responsible for monitoring at the earliest practical opportunity.

The Ecological Clerk of Works shall be appointed on the approved terms from commencement of development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 12.

No later than 18 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the company shall submit details of the terms of appointment by the company of an independent Ecological Clerk of Works throughout the decommissioning, restoration and aftercare phases of the development to the planning authority for approval in consultation with Scottish Natural Heritage and SEPA. The Ecological Clerk of Works shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

Reason: to secure effective monitoring compliance with the environmental mitigation and management measures associated with the development.

#### 12. Construction Method Statement

There shall be no commencement of development unless a Construction Method Statement outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their

timetabling, has been submitted to and approved in writing by the planning authority in consultation with Scottish Natural Heritage and SEPA.

The Construction Method Statement shall include (but shall not be limited to):

- a. a Construction Environmental Management Plan outlining the procedures, mechanisms and responsibilities for implementing the environmental controls outlined in the Construction Method Statement and the separate management plans listed below;
- b. site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- c. details of the formation of the construction compound, welfare facilities, any areas of hard-standing, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- d. details of borrow pit excavation and restoration;
- e. a dust management plan;
- f. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- g. a pollution prevention and control method statement, including arrangements for the storage of oil and fuel on the site;
- h. soil storage and management;
- i. a peat management plan;
- j. a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources
- k. sewage disposal and treatment;
- l. temporary site illumination;
- m. the construction of the access into the site and the creation and maintenance of associated visibility splays;
- n. the method of construction of the crane pads;
- o. the method of construction of the turbine foundations;
- p. the method of working cable trenches;
- q. the method of construction and erection of the wind turbines and meteorological masts;
- r. details of watercourse crossings;
- s. post-construction restoration/ reinstatement of the working areas not required during the operation of the development, including construction access tracks, borrow pits, construction compound and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;
- t. a wetland ecosystems survey and mitigation plan, where appropriate; and
- u. a felling and forestry wastes management plan, where appropriate;
- v. a strategy for monitoring, control and mitigation in respect of construction noise, and a methodology to be applied in instances where complaints are received in relation to construction noise.

The development shall be implemented thereafter in accordance with the approved Construction Method Statement unless otherwise approved in advance in writing by the planning authority in consultation with NatureScot and SEPA.

Reason: to ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the environmental statement accompanying the application, or as otherwise agreed, are fully implemented.

### 13. Construction Hours

Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or on Bank Holidays or Public Holidays . Outwith these specified hours, development which is audible from any noise sensitive property shall be limited to turbine foundation construction, turbine installation, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the relevant Planning Authority.

Reason: In the interests of local amenity.

### 14. Traffic Management Plan

There shall be no commencement of development until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the Planning Authority. The TMP to include:

- a. The detailed delivery route and vehicle numbers for all cars, HGV deliveries and abnormal loads associated with the development and measures to ensure that the specified routes are adhered to, including monitoring procedures;
- b. Details of all ancillary works required to the public road network to facilitate deliveries, including all signage and lining arrangements, a programme and timescales for implementation and reinstatement proposals after the development is complete and a programme and timescales for completion;
- c. Road condition survey of all proposed access routes carried out prior to the development commencing and details of any upgrading works and a regime for routine maintenance during construction of the development. Any remedial works required as a result of damage/deterioration by construction traffic (to be highlighted in a post-construction road condition survey) to be rectified at the expense of the developer after the development has been completed in accordance with an agreed timescale. Any emergency repairs identified during the construction period to be rectified within one week, unless otherwise agreed;
- d. Details of tree or hedge removal along the route for the abnormal loads and a scheme for replacement planting and a timescale for its implementation and completion;
- e. Swept path analysis drawings for agreed areas of concern along the route for the abnormal loads and remedial measures;
- f. Areas of the abnormal load route where the removal of street furniture, including lighting, is required and all temporary lighting measures required for the duration of the abnormal load movements;
- g. Name and contact details of a nominated person to whom any road safety issues can be referred.
- h. A trial run to be undertaken on the finalised abnormal load route, with representatives from the Council present.

The approved TMP thereafter to be implemented in full, unless otherwise agreed in advance in writing by the Planning Authority and all work within the public road boundary to be undertaken by a contractor first approved by the Council.

*Reason: To ensure all construction traffic access the site in a safe manner and that any upgrading works or repairs to public roads are carried out timeously to the Council's specifications, in the interests of road safety.*

#### 15. Habitat Management and Enhancement Plan

There shall be no commencement of development unless a Habitat Management and Enhancement Plan has been submitted to and approved in writing by the planning authority in consultation with RSPB Scotland, Forestry Commission Scotland and SEPA. The Habitat Management and Enhancement Plan shall set out proposed long term management and enhancement of the wind farm site and shall provide for the maintenance, monitoring and reporting of habitat on site in relation to bats, schedule 1 raptors, breeding birds, reptiles, amphibia, woodland, wetland, grassland and heathland management.

The approved Habitat Management and Enhancement Plan will be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the planning authority for written approval in consultation with RSPB Scotland, Forestry Commission Scotland and SEPA.

Unless otherwise agreed in advance in writing with the planning authority, the approved Habitat Management and Enhancement Plan shall be implemented in full.

Reason: in the interests of good land management and the protection and enhancement of habitats

#### 16. Biodiversity Monitoring and Management

Prior to the commencement of the development and, in the case of items (b) and (c) prior to the commencement of any on-site works or development, the following plans, programmes and/or survey results shall have been submitted to, and approved by the Planning Authority:

- (a) a programme of monitoring of Schedule 1 raptor species and protected mammals including bats and badgers, agreed with the Planning Authority and in consultation with Scottish Natural Heritage and RSPB Scotland;
- (b) supplementary surveys for protected species (including otter, bat, badger, red squirrel, breeding birds), carried out by a suitably qualified person or persons in a manner appropriate to the phasing of the development, to inform a Species Mitigation and Management Plan;
- (c) a Species Mitigation and Management Plan relating to the species identified in clause (b);

(d) an Integrated Water Quality and Fisheries Management Plan agreed with Marine Scotland-Freshwater Laboratory and River Tweed Commissioners (at least 12 months before construction starts), with a programme of pre-construction water quality and fisheries surveys to establish a baseline, plus during and after construction water quality monitoring (in addition to visual checks required under the Construction and Environmental Monitoring Plan). In the case of (a), the programme shall be undertaken pre-construction, during construction, and for years 1, 2, 3, 5, 10 and 15 once the wind farm becomes operational.

In the case of (b), the results of these surveys should be used to inform construction activities and any required mitigation proposals for protected species on the site, and shall be strictly adhered to in the course of development.

In the case of (c) and (d), all on-site works and development shall thereafter be carried out in accordance with the approved plan(s).

Reason: To ensure that reasonable protection is given to biodiversity on and utilising the site; species protected by law are not harmed as a result of the development taking place; the protected species are afforded due protection (and to enable greater understanding of the impacts of development of this nature); and proposed mitigation measures are effective in protecting fisheries within and downstream of the proposed development.

#### 17. Breeding Birds

There shall be no commencement of development unless a Breeding Bird Protection Plan (BBPB) has been submitted to and approved in writing by the planning authority in consultation with RSPB Scotland and thereafter shall be implemented in accordance with the agreed details. The BBPB shall set out mitigation to limit the disturbance of the development on goshawk and crossbill.

Reason: To ensure suitable protection is given to breeding birds and ensure they are not harmed as a result of any effects of the development.

#### 18. Archaeological Clerk of Works

There shall be no commencement of development unless the planning authority, in consultation with Historic Environment Scotland, has approved the terms of appointment by the company of an independent Archaeological Clerk of Works, and the company has secured the implementation of a written scheme of investigation outlining a programme of archaeological mitigation. The scope of the Archaeological Clerk of Works's appointment shall include:

- a. Monitoring implementation and compliance with a programme of archaeological mitigation works approved by the planning authority in a written scheme of investigation which shall specify:
  - i. An archaeological watching brief on relevant excavations where unknown archaeological deposits or features may exist;
  - ii. A paleo-environmental sampling and dissemination strategy in areas where deep peat will be impacted by development;
  - iii. A post-excavation research and dissemination strategy in the event of significant discoveries determined as such by the Archaeological Clerk of Works and planning authority. All post-excavation research and dissemination shall be completed within 3 years of the completion of on-site investigations;
  - iv. The erection of suitable fencing around known archaeological assets, to be determined by the Archaeological Clerk of Works and planning authority, where there is potential damage during development;
  - v. A strategy of LiDAR survey of the impacted historic landscape to be agreed between the company and the planning authority and to include community engagement, interpretation and dissemination;
- b. Advising the company on adequate protection of archaeological interests on the site;
- c. Checking for new records of archaeological interests for which additional mitigation may be required;
- d. Directing the micro-siting and placement of turbines and tracks away from known assets and discovered assets of archaeological significance where in situ preservation is warranted;

- e. Monitoring the compliance with mitigation, reinstatement and restoration measures approved in this consent; and
- f. Reporting any breaches of the mitigation, reinstatement and restoration measures approved in this consent to the planning authority in writing.

The Archaeological Clerk of Works shall be appointed on the approved terms throughout the period from commencement of development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 12.

No later than 18 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the company shall submit details of the terms of appointment by the company of an independent Archaeological Clerk of Works throughout the decommissioning, restoration and aftercare phases of the development to the planning authority for approval, in consultation with Historic Environment Scotland. The Archaeological Clerk of Works shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

Reason: To ensure the protection or recording of archaeological features impacted by development.

#### 19. Replanting of Forestry

There shall be no commencement of the development unless a woodland planting scheme to compensate for the removal of existing woodland (“the Replanting Scheme”) has been submitted for the written approval of the planning authority in consultation with Forestry Commission Scotland Conservator.

The Replanting Scheme must comply with the requirements set out in the UK Forestry Standard (Forestry Commission, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers, or such replacement standard as may be in place at the time of submission of the Replanting Scheme for approval. The Replanting Scheme must include:

- (a) details of the location of the area to be planted;
- (b) details of land owners and occupiers of the land to be planted;
- (c) the nature, design and specification of the proposed woodland to be planted;
- (d) details of all consents required for delivery of the Replanting Scheme and timescales within which each will be obtained;
- (e) the phasing and associated timescales for implementing the Replanting Scheme;
- (f) proposals for the maintenance and establishment of the Replanting Scheme, including annual checks, replacement planting, fencing, ground preparation and drainage; and
- (g) proposals for reporting to the planning authority on compliance with timescales for obtaining the necessary consents and thereafter implementation of the Replanting Scheme.

Unless otherwise agreed in writing by the planning authority, the development shall not be commissioned to supply electricity on a commercial basis unless all relevant consents necessary for implementation of the approved Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.

In the event that there is no reasonable prospect of the relevant consents necessary for implementation of the approved Replanting Scheme being obtained, then the company shall submit an amended Replanting Scheme to the planning authority for approval in consultation with Forestry Commission Scotland. Unless otherwise agreed in writing by the planning authority, the

development shall not be commissioned to supply electricity on a commercial basis unless all relevant consents necessary for implementation of the approved amended Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained.

The approved Replanting Scheme (or, as the case may be, an approved amended Replanting Scheme) shall be implemented in full, unless otherwise agreed in writing by the planning authority after consultation with Forestry Commission Scotland Conservator.

Reason: to secure replanting to mitigate against effects of deforestation arising from the Development.

## 20. Noise

The rating level of noise immissions from the combined effects of the wind turbines forming part of the development (including the application of any tonal penalty) shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this consent. The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria and:

a. The company shall continuously log power production, wind speed and wind direction. These data shall be retained for a period of not less than 24 months. The company shall provide this information to the planning authority within 14 days of receipt in writing of a request to do so.

b. There shall be no First Commissioning of the Development until the company has received written approval from the planning authority of a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.

c. Within 21 days from receipt of a written request from the planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the company shall, at its expense, employ a consultant approved by the planning authority to assess the level of noise immissions from the wind farm at the complainant's property. The written request from the planning authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

d. The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the planning authority. The protocol shall include the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the



written request of the planning authority under condition 19 paragraph c above, and such others as the independent consultant considers likely to result in a breach of the noise limits.

e. Where the property to which a complaint is related is not listed in the tables attached to this condition, the company shall submit to the planning authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's property for compliance checking purposes. The proposed noise limits are to be those limits selected from the tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's property. The rating level of noise immissions resulting from the combined effects of the wind turbines shall not exceed the noise limits approved in writing by the planning authority for the complainant's property.

f. The company shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of the planning authority for compliance measurements to be made under paragraph e, unless the time limit is extended in writing by the planning authority. Certificates of calibration of the instrumentation used to undertake the measurements shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise immissions.

g. Where a further assessment of the rating level of noise immissions from the wind farm is required, the company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to condition 19 paragraph d above unless the time limit has been extended in writing by the planning authority.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods

Location including co-ordinates	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10 minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
<b>Nether Stewarton Properties*</b>	37	37	37	37	37	37	37	37	38	40	41	42
<b>Ruddenleys Properties**</b>	35	35	35	35	35	35	35	36	39	41	43	44
<b>Cloich Farm</b>	35	35	35	35	35	35	35	36	38	41	44	48
<b>Harehope Properties***</b>	35	35	35	35	35	35	35	39	42	45	47	49
<b>Upper Stewarton</b>	39	39	39	39	39	39	39	39	39	40	41	42

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location including co-ordinates	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10 minute periods
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	1	2	3	4	5	6	7	8	9	10	11	12
<b>Nether Stewarton Properties*</b>	43	43	43	43	43	43	43	43	43	43	43	45
<b>Ruddenleys Properties**</b>	43	43	43	43	43	43	43	43	43	43	43	43
<b>Cloich Farm</b>	43	43	43	43	43	43	43	43	43	43	43	43
<b>Harehope Properties***</b>	43	43	43	43	43	43	43	43	43	43	46	49
<b>Upper Stewarton</b>	43	43	43	43	43	43	43	43	43	43	43	45

\* Nether Stewarton Farm, Stewarton House, Stewarton Lodge, Stewarton Toll

\*\* White Heather Cottage Ruddenleys, The Carriage House Ruddenleys, Ruddenleys Cottage, Ruddenleys House

\*\*\*Harehope Cottage, The Steading Harehope, Old Harehope, Harehope Farmhouse

Reason: to protect nearby residents from undue noise and disturbance; to ensure that noise limits are not exceeded; and to enable prompt investigation of complaints.

## 21. Private Water Supplies

There shall be no commencement of development unless the following private water supply matters have been submitted to and agreed in writing with the Planning Authority:

- a) a method statement (private water supply plan) has been submitted to and approved in writing by the planning authority, detailing all avoidance measures to be delivered to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the development. In particular, the method statement shall include a water quality and quantity (yield) monitoring plan for every private water supply which may be affected by the development during the construction, operational and decommissioning phases of the development.
- b) a site-specific emergency response plan has been submitted to and approved in writing by the planning authority, detailing all additional (emergency) measures to be delivered in the event of the avoidance measures (identified as part a.) unpredictably failing to secure a sufficient supply of wholesome water to properties which are served by private water supplies at the date of this consent and which may be affected by the development. In particular, the plan shall identify all measures necessary to secure a sufficient and continuous supply of wholesome water to the properties until such time as the pre-development water supply conditions (quality, quantity and continuity) are reinstated, along with the criteria necessary for liability for the unpredicted event(s) to be attributed to the development and the duration of this liability, as far as reasonably practicable. Finally, in the event that the pre-development water supply conditions cannot be reinstated or the additional measures include new infrastructure (e.g. source, pipework, tank, treatment, etc.), the plan must include consideration of any long-term additional operation and maintenance tasks, including running costs, and confirmation of where liability for and/or responsibility thereof is to be attributed to the development/applicant.

Reason: To maintain a secure and adequate quality water supply to all properties with private water supplies which may be affected by the development.

#### 22. Private water supply – Turbine 3

There shall be no commencement of development in relation to the construction of Turbine 3 (T3) or any of its associated infrastructure (including the new access track between T3 and T4/T5) until a scheme of details has first been submitted to and approved in writing by the planning authority, informing on the groundwater table and/or groundwater flow direction to demonstrate that the development will not impact the Nether Stewarton (“Stewarton”) private water supply system in terms of quality, quantity and continuity of water supply. In the event that any assessment or site investigation concludes that the location of T3 or its infrastructure could adversely impact the Stewarton or any other private water supply system(s), a scheme of details to avoid the impact(s) on the private water supply system(s) should be submitted to and approved in writing. Alternatively, it may be appropriate for T3 and its infrastructure be re-sited to another location under Condition 8, providing no adverse impacts to any private water supply systems as a consequence of the re-siting are able to be confirmed in writing and approved by the planning authority

Reason: Further information is required to determine the impact of the Turbine 3 (T3) development site on private water supplies and seek to maintain a secure and adequate supply to all properties with private water supplies which may be affected by the development.

#### 23. Water and Flood Risk Management

There shall be no commencement of development unless the following matters have been submitted to and approved in writing by the planning authority and thereafter the development shall be carried out in accordance with the approved details:

- a. design details of new crossings or alterations to previous crossings to ensure that there is no decrease in flow conveyance and subsequently increased flood risk caused by the crossings;
- b. details of regular maintenance relating to new water crossings and drains, to mitigate by reducing surface water runoff impact;
- c. details of levels of discharges from SUDS or other drainage, confirming how it will be kept to existing Greenfield run-off rates;
- d. written explanation of how it is proposed to manage the minimisation of sediment entering the surrounding water courses.

Reason: to minimise impact on the water environment and to ensure that flood risk is ameliorated.

#### 24. Redundant turbines

If one or more turbine fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the planning authority, the Company shall:

- a. by no later than the date of expiration of the 12 month period, submit a scheme to the planning authority setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored; and
- b. implement the approved scheme within six months of the date of its approval, all to the satisfaction of the planning authority.

Reason: To ensure that any redundant wind turbine is removed from Site, in the interests of safety, amenity and environmental protection

## 25. Aviation Safety

There shall be no commencement of development until the company has provided the planning authority, Ministry of Defence, Defence Geographic Centre and NATS with the following information, and has provided evidence to the planning authority of having done so:

- a. the date of the expected commencement of each stage of construction;
- b. the height above ground level of the tallest structure forming part of the development;
- c. the maximum extension height of any construction equipment; and
- d. the position of the turbines and masts in latitude and longitude.

Reason: in the interests of aviation safety

## 26. Aviation Lighting

Prior to the erection of the first wind turbine, the company shall submit a scheme for aviation lighting for the wind farm to the planning authority for written approval. The scheme shall include details of infra-red aviation lighting to be applied. No lighting other than that described in the scheme may be applied at the site, other than as required for health and safety, unless otherwise agreed in advance and in writing by the planning authority. No turbines shall be erected on site until the scheme has been approved in writing. The development shall thereafter be operated fully in accordance with the approved scheme.

Reason: in the interests of aviation safety

## 27. Site Decommissioning, Restoration and Aftercare

The development will be decommissioned and will cease to generate electricity by no later than the date falling twenty five years from the date of Final Commissioning. The total period for restoration of the site in accordance with this condition shall not exceed three years from the date of Final Commissioning without prior written approval of the Scottish Ministers in consultation with the Planning Authority.

There shall be no commencement of development unless a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the planning authority in consultation with NatureScot and SEPA. The scheme shall detail measures for the decommissioning of the development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the above ground elements of the development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.

No later than 3 years prior to decommissioning of the development or the expiration of this consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare method statement, shall be submitted to the planning authority for written approval in consultation with NatureScot and SEPA. The detailed decommissioning, restoration and aftercare

plan will provide updated and detailed proposals for the removal of above ground elements of the development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include:

- a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- b. details of the formation of the construction compound, welfare facilities, any areas of hard-standing, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c. a dust management plan;
- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a pollution prevention and control method statement, including arrangements for the storage of oil and fuel on the site;
- f. soil storage and management;
- g. sewage disposal and treatment;
- h. temporary site illumination;
- i. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- j. details of watercourse crossings;
- k. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

The development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the planning authority in consultation with NatureScot SEPA.

Reason: to ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

## 28. Financial Guarantee

There shall be no commencement of development unless the company has delivered a bond or other form of financial guarantee in terms acceptable to the planning authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in condition 25 to the planning authority. The financial guarantee shall thereafter be maintained in favour of the planning authority until the date of completion of all restoration and aftercare obligations.

The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in condition 25. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason: to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.

## 29. Public Path/Access Protection, Enhancement and Management

There shall be no commencement of development until a Public Path and Access Management Plan has been submitted to and approved in writing by the planning authority, in consultation with the Forestry Commission Scotland Ranger. The plan shall include (but not be limited to) the following:

- a. timings of any intended diversion, closure or obstruction of any public right of way (note that these are likely to need a separate consent);
- b. measures for ensuring that paths kept open during development are safe and can be traversed without undue harm to the amenity of users;
- c. measures to ensure that users of the path network and accessible areas more generally are able to navigate through and adjacent to the site, including mapping and signage;
- d. any temporary installations such as gates, stiles and bridges and the duration of their installation;
- e. proposals to restore original paths to an acceptable condition between construction and decommissioning and once full decommissioning has taken place; and
- f. proposals to enhance public access within and adjacent to the site during the lifetime of the development.

Reason: the development would interact with a range of public paths and accessible areas, with development effects causing changes that require careful management to ensure that the experience of users is not harmed unacceptably or, where it will be harmed, that the level and nature of harm is limited and controlled to minimise development effects.

### Informatives

1. In relation to Condition 22, the potential re-siting or micro-siting of any turbines and associated infrastructure has the potential to impact private water supply systems, particularly if the sources have not been fully risk assessed (i.e. the true source locations have not been determined) and the aquifers (origin of the water) or distribution networks (pipework, tanks, etc.) serving said sources are undetermined and inadvertently impacted by the re-sited infrastructure. As such, as far as reasonably practicable, it must be ensured that all private water supply systems have been suitably risk assessed, and so it is recommended that the following information request be attached to the planning consent for this purpose:

(a) An ArcGIS overlay (plate/map/figure) should be provided of the PWS Search Zone (i.e. including the site boundary of the wind farm, the area within 3 km of the site boundary and source catchments) showing every PWS source point (i.e. the point where water is collected/sourced) risk assessed as per Section 5 and Table 10.1 of Technical Appendix A10.2 (PWSRA) of the EIA Report. Each source point should be labelled with the Source Reference Number as detailed in Table 10.1 and, if any source point depicted is not the true location of the source (“true source location”) but it is simply the first point (e.g. a chamber) through which the water is being channelled or collected, then this should also be identified – e.g. through appropriate colouring, symbol shape, etc.

(b) An ArcGIS overlay should be provided of the PWS Search Zone showing every PWS source point screened-out of the risk assessment as per Table 10.2 of Technical Appendix A10.2 (PWSRA) of the EIA Report. Each source point should be labelled with the Source Reference Number as detailed in Table 10.2 and, if any source point is not the true source location, then this should also be identified – e.g. through appropriate colouring, symbol shape, etc.

(c) An ArcGIS overlay should be provided of the PWS Search Zone showing every property which has an undetermined water supply/source point, as per Table 10.3 of PWSRA V2. Each property (or collection of properties in close proximity to one another) should be labelled with the Source Reference Number as detailed in Table 10.3 of Technical Appendix A10.2 (PWSRA) of the EIA Report.

## NOTES

### 1. Vote

Councillor Moffat, seconded by Councillor Scott, moved that the application be approved as per the officer recommendation

Councillor Douglas, seconded by Councillor Richards, moved as an amendment that the application be refused on the grounds that it was contrary to Policies 1, 2 and 11 of the National Policy Framework 4 (NPF4), Policy ED9 of the Local Development Plan in that the development would have unacceptable adverse landscape and visual impacts on the broader landscape as a result of the increased height of the proposed turbines which will be prominent and wholly contained within the landscape. Further, it is contrary to Policy 7 of NPF4 and Policy EP8 of the Local Development Plan in that the proposed development will have significant adverse impact on the historic environment, particularly the setting of Whaup Law Cairn.

On a show of hands Members voted as follows:-

Motion – 6 votes

Amendment – 3 votes

The Motion was accordingly carried and the application approved.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
22/01876/FUL	Variation of Condition 1 of planning permission 97/00461/FUL to allow year-round occupation of caravans.	Pease Bay Caravan Site, Land West Of Whitelaw Burn, Eddleston

DECISION: Approved as per officer recommendation subject to the following condition:

1. The development hereby approved shall be occupied for holiday use only and shall not be used as a person or persons' sole or main residence. The operator shall maintain an up-to-date register of the names of all holiday-makers staying in the holiday units and their principal home addresses. This information shall be made available for inspection at all reasonable times by an authorised officer of the Planning Authority.

Reason: To ensure compliance with the adopted development contributions policy, to retain effective control over the development and to ensure that the development, in line with the details presented in support of the planning application, is only ever used for holiday use and is not used as a private dwellinghouse by any permanent residents.



**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**5 JUNE 2023**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 22/01734/FUL

**OFFICER:** Mr C Miller

**WARD:** Leaderdale and Melrose

**PROPOSAL:** Erection of 110 dwellinghouses including associated roads, drainage and landscaping

**SITE:** Land North Of Allanbank House, Manse Road, Lauder

**APPLICANT:** Whiteburn Projects

**PLANNING PROCESSING AGREEMENT**

A Planning Processing Agreement has been agreed for Committee presentation by 5 June 2023.

**SITE DESCRIPTION**

The site is located on the western side of Lauder, on the southern side of the B6362 Stow Road. The site consists of a grazing field with a gradual slope from south-west to north-east, totalling 3.78HA. Areas of maturing woodland lie between the field and the north, west and eastern boundaries, the latter being much younger than the other woodland belts. These three areas of woodland total nearly 3HA of land. The site also contains two parkland trees to the northern and western edges.

The site is bordered to the north by one of the woodland belts, the B6362 and an area of private housing north of the road, which stops partially short of the full western extent of the site. A high stone wall runs along the full extent of the northern boundary with a field access and timber gates towards the western corner. There is a wide grass verge between the stone wall and the road, with a footpath on the northern side of the B6352 serving the existing housing development. To the eastern side of the site beyond the young plantation belt lies another area of private housing known as Allanbank Gardens with Lauder Primary School and grounds further to the south-east.

The southern boundary partly borders a small grazing paddock to the south-western edge and the Category C Listed Allanbank House, Stables and Cottage to the middle and north-eastern part of the southern boundary, separated by post and rail fencing, a beech hedge and occasional mature trees in the grounds of the main house. The western boundary of the site is formed by another woodland belt with a vacant poultry unit beyond the woodland. An informal footpath network runs though the centre of the three woodland belts.

The site is peripheral to the town and not within the Conservation Area, the nearest part of the Conservation Area lying east of the woodland bordering Allanbank Gardens. It is allocated in the Local Development Plan for housing development, specifically as ALAUD001 with an indicative capacity of 100 houses. This allocation has been carried

through into the Proposed Local Development Plan. The allocation includes the woodland belts around three sides of the development and the additional paddock to the southern end of the site, albeit significant parts of the southern, western and northern boundaries are indicated for structure planting and landscaping.

## **PROPOSED DEVELOPMENT**

The application has been amended during the processing of the application and it is the amended version that is in front of the Committee for decision. The original application was submitted in full for the erection of 117 dwellinghouses and flats, 28 of them for affordable rent through SBHA and the remainder private market housing. The housing mix is claimed to be aimed at local needs and the breakdown of housing types is shown in Section 7 of the Design and Access Statement. This shows the vast majority of the housing to be 3 and 4 bedroom detached, semi and terraced houses with 14 units of two bedrooms or below. The majority of the units would be two storey, with some three storey flats at the entrance to the scheme, two single storey cottages next to Allanbank House and several 1.5 storey houses at corners of the private housing element. Designs will feature a number of gable street elevations with a mixture of main wall materials as render with features of reconstituted stone and composite cladding in lined boarding effects. The features are intended to be in darker colours with dark grey windows and doors.

One vehicular access would be taken into the site from the B6362 and the layout would be based upon a series of interconnecting streets and squares. The development would be contained within field, protecting the full width of the existing woodland belts. A footpath and cycle link will be provided at the eastern edge of the development to link with a shared surface roadway on Allanbank Gardens. A further footpath link will connect with the woodland belt to the western edge. The affordable units would be located at the eastern end of the development adjoining the young woodland plantation and Allanbank Gardens. A SUDs pond would be located at the lowest part of the site in the north-eastern corner.

The submission contains a mix of in-curtilage and communal parking and there is a full landscaping scheme, including retention and management of the surrounding woodland, retention of an isolated parkland tree, a linear park stretching through the centre of the site and other hard and soft landscaping treatments within the public areas. A new five metre deep planting belt is also proposed along the southern edge of the site with the small paddock and there are other tree screening proposals between the site and the Allanbank House listed complex.

The revised plans make a number of changes including the following:

- A reduction in overall numbers from 117 to 110
- A reduction of one affordable unit to 27
- Variations in the width and alignment of roads throughout the development
- Changes to layout and surroundings to squares
- A new footpath connecting the site with the Stow Road at the northern corner
- Removal of three storey "Colony" style flats
- An increase in 1.5 storey designs to 11 units with a second house type
- Replacement of a two storey with 1.5 storey house adjoining Allanbank Cottage/Stables
- Changes to mix and position of houses along main northern and western streets
- Retention of two parkland trees and amendment to open space to suit

- Inclusion of childrens' play area

This report will assess the revised version of the plans, with references to the original proposals where necessary to demonstrate how the development has progressed and addressed issues arising. The revised plans were subject to full re-consultation and neighbour notification together with newspaper advertisement. All consultation replies and representations on the Public Portal should be considered even if some also refer to the original submission. Only if representations are specifically withdrawn, will they be removed from the Portal and not considered.

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

- Pre-Application Consultation Report
- Design and Access Statement
- Preliminary Ecological Assessment
- Transportation Assessment
- Tree Survey
- Updated Bat and Badger Survey
- NPF4/Community Benefit Statement
- Ground Investigation Report
- Landscape Planting and Maintenance Proposals
- Response to SBC Comments

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

## **PLANNING HISTORY**

The current allocation for housing on the site has been through full public consultation during the Local Development Plan process, leading to designation as allocation ALAUD001 with an indicative site capacity of 100 units. This allocation has been carried through into the Proposed Local Development Plan for the same number of housing units. The latter has indicated a number of site requirements, including the following:

- One or two accesses from the Stow Road
- Road link into housing development to east
- Extension of Stow Road footpath
- Retention and enhancement of tree planting around boundaries
- Roadside wall retention
- Maintenance of landscaped areas
- Path linkages
- Protection of setting of C Listed buildings at Allanbank House/Stables Cottage
- Gas Pipeline exclusion zone, flood risk and poultry farm buffer mitigation to west of site

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Roads Planning:** No objections but a series of revisions suggested. Requires at least one vehicular access onto Stow Road, the footpath to be extended, a new footpath link to the Stow Road from the north-eastern corner of the development and the link to Allanbank Gardens non-vehicular. Layout revisions suggested include additional internal footways, an additional vehicular link to the affordable housing, increased communal parking, improved visitor parking distribution, alternatives to in-curtilage parking, EV provision, road surfacing variation, house and plot variation and improvements in featureless streets.

After re-consultation, accepts revised plans but still seeks additional internal linking footways, maintenance proposals for the linear path, measures to prevent vehicles using the Allanbank Gardens path link, equity of parking provision and full swept path analysis.

**Education Officer:** Developer contributions required for Lauder Primary School and Earlston High School.

**Landscape Architect:** Further revisions and responses required. Concerned over proximity of houses on the western edge of the development to a maturing woodland belt with resultant loss of light/shading and overbearing impacts. Requires a 15m buffer to ensure problems are addressed and NPF4 Policies met. Only direct impact on woodland trees at access routes through woodland, requiring individual tree surveys and reconsideration of main vehicular route. Requires retention of the parkland trees within site with safeguarding of root protection areas.

Layout requires more variety with staggering house positions, reconfiguration of communal parking and attention to boundary treatments. Small trees should be added within the site, within public spaces and some rear gardens, with beech hedging along the southern edge and enhanced landscaping around the SUDs pond.

After re-consultation, raises no objections but maintains some concerns over distance of houses from western tree belt. Makes recommendations over planting species and seeks conditions relating to woodland management, tree protection and boundary treatments.

**Heritage Officer:** Sets out the relevant legislative context, including LDP and NPF4 Policies, supplementary guidance etc. Assesses development against six principles of successful places and makes suggestions on layout revisions including focal points, parking arrangements, relation to retained trees, improved connections to path networks, enhanced frontages to the linear park etc. Also seeks maintenance of the woodland belts, retention of walls and full boundary treatments. Seeks greater variation in building forms and density, including an additional 1.5 storey design and attention to square and road end impacts. Building designs need reconsideration including deletion of the three storey Colony flats, more vertically enhanced window proportions and further information on external details. Sustainability features encouraged.

Impacts of development on Category C Listed Allanbank House and Stables/Cottage limited, the main house facing south-east and being protected by buffer open space. The Stables and Cottage still relate to the main house unaffected and orientate in that direction, the rear having been subject to alteration and addition. With proposed

intervening planting, open space and reduction of house types to single storey, the setting would be preserved without impact on character.

After re-consultation with revised plans, welcomes revisions and improvements. One of the retained trees is in a different position and seeks window revisions to houses adjoining the linear park. Still maintains request for more vertical window proportions and seeks specific communal car spaces to be moved.

**Housing Strategy:** Meets identified housing needs, the affordable element reflected in the Strategic Housing Investment Plan.

**Flood Protection:** No objections but seeks drainage calculations for surface water run-off from the site, including how the water will be diverted from property. If surface water connects with combined sewer, then discussion with Scottish Water required about options. Seeks condition to obtain surface water routing and drainage calculations. Upon receipt of detailed drainage calculations, withdraws request for condition.

**Ecology Officer:** Provides a confidential response in relation to badgers, licensing and more detailed surveys perhaps required. Bat and bird interests relating to trees intending to be removed for the access road, further surveys and mitigation required. Further squirrel surveys required and lighting details provided, especially facing the shelter belt. Shares Landscape Officer concerns over pressure on shelterbelt felling and requires Habitat Management Plan for the shelterbelt augmentation and maintenance. More comprehensive tree survey required.

After re-consultation with revised plans, maintains previous comments but also seeks removal of beech trees within the south-eastern hedgerow and one planting species.

Upon receipt of updated surveys, seeks conditions on Species Protection Plans and a licence for badger, bats (including lighting), no development in breeding bird season unless otherwise agreed and a Biodiversity Enhancement scheme.

**Access Officer:** Response awaited.

**Archaeology Officer:** No objections but in possible vicinity of a Medieval castle, on western side of Medieval Burgh of Lauder and also several agricultural historic interests with possibility of below ground archaeology. Evaluation work through trenching required as part of a written scheme of investigation, to be secured by planning condition.

After re-consultation with revised plans, maintains original comment.

**Neighbourhood Services:** Response awaited

**Waste Services:** Roads do not appear wide enough nor is there provision for refuse vehicles.

### **Statutory Consultees**

**SEPA:** No remit to comment and would rely on standing advice

**Transport Scotland:** No objections.

After re-consultation with revised plans, maintains original comment.

**Scottish Water:** No objections. Water and foul drainage capacity in the public network to accommodate the development although formal consent still required directly from Scottish Water. Surface Water not accepted into public combined sewer.

After re-consultation with revised plans, maintains original comment.

**Lauderdale Community Council:** No objections but concern and requires clarification over the impacts of the development on sewerage system, school, water, health service and bus capacity. Also notes no playpark proposed, local concerns over the War Memorial junction with the A68 and the need for a new path in the North-East corner.

### **Non-Statutory Consultees**

**National Gas Transmission:** Response awaited.

**Association for the Protection of Rural Scotland:** Response awaited.

**Berwickshire Civic Society:** Neutral. Notes substantial development but well outside Conservation Area. Mitigation by tree belt surrounding which should be protected and augmented with a 50 year plan.

**Scottish Badgers:** Area is suitable habitat for badger activity. Recommends a survey by qualified consultant, with licensing and a Protection Plan dependent on findings of survey.

### **REPRESENTATION SUMMARY**

Following the neighbour notification and press advertisements, there were a total of 46 representations received in total to the original application and revised plans. 38 of these were objections, 6 in support and 2 neutral. All representations are viewable in full on Public Access and the main points raised can be summarised as follows:

#### Objections

- Overdevelopment and high density, out of keeping with surroundings
- Inadequate open space provision
- Designs, colours, materials and 3 storey flats prominent and not in keeping with local architecture
- Concerns over link to Allanbank Gardens, may carry vehicles, would not be adopted and difficult in winter conditions
- Affordable development concentrated in one place and not spread throughout, lack of evidence for strategy
- Adverse impacts on setting of Allanbank Cottage/Stables Listed Building
- Link, rear elevations and garden arrangements will cause privacy intrusion
- Inadequate safe capacity for additional traffic on Stow Road and junction with A68
- Inadequate pedestrian provision on Stow Road
- Development not sustainable in transport terms and flawed Transport Assessment
- Contravention of LDP Policies and Placemaking SPG, including lack of Energy Statement
- Surface water and foul drainage concerns, lack of SUDs capacity and lack of Flood Risk Assessment

- Strain on local services such as schools, health centre, football club etc
- Query retention and management of woodland
- Impacts on wildlife
- SUDs area should move back to where affordable housing is
- No EV provision
- Inadequate fencing and walling height
- Insufficient buffer space between development and woodland
- Inadequate planting proposals for eastern woodland belt
- Revised plans do not overcome high density issues nor impacts on ;listed buildings
- New path link welcomed but inadequate and unattractive to use
- Disparity in energy efficiency between private and affordable homes

#### Support

- Provides much needed new modern housing addressing a shortage
- Sustainable location and infrastructure

### **DEVELOPMENT PLAN POLICIES:**

#### **Scottish Borders Local Development Plan 2016**

- PMD1 Sustainability
- PMD2 Quality Standards
- PMD3 Land Use Allocations
- IS2 Developer Contributions
- IS5 Protection of Access Routes
- IS4 Transport Development and Infrastructure
- IS6 Road Adoption Standards
- IS7 Parking Provision and Standards
- IS8 Flooding
- IS9 Waste Water Treatment Standards and Sustainable Urban Drainage
- IS12 Development Within Exclusion Zones
- EP1 International Nature Conservation Sites and Protected Species
- EP2 National Nature Conservation Sites and Protected Species
- EP3 Local Biodiversity
- EP7 Listed Buildings
- EP8 Archaeology
- EP9 Conservation Areas
- EP13 Trees, Woodlands and Hedgerows
- EP15 Development Affecting the Water Environment
- HD1 Affordable and Special Needs Housing
- HD3 Protection of Residential Amenity

#### **Scottish Borders Proposed Local Development Plan 2022**

- EP17 Food Growing and Community Growing Spaces
- IS5 Protection of Access Routes
- IS6 Road Adoption Standards

### **NATIONAL PLANNING FRAMEWORK 4**

- Policy 1 – Climate Crisis
- Policy 2 – Climate Mitigation

Policy 3 – Biodiversity  
Policy 4 – Natural Places  
Policy 5 - Soils  
Policy 6 – Forestry, Woodland and Trees  
Policy 7 – Historic Assets  
Policy 12 – Zero Waste  
Policy 13 – Sustainable Transport  
Policy 14 – Design Quality and Place  
Policy 15 – Local Living  
Policy 16 – Quality Homes  
Policy 18 – Infrastructure  
Policy 20 – Blue and Green Infrastructure  
Policy 21 – Play and Recreation  
Policy 22 – Flood Risk  
Policy 23 – Health and Safety

## **OTHER PLANNING CONSIDERATIONS**

PAN 44 Fitting New Housing into the Landscape 2005  
PAN 61 Planning and Sustainable Urban Drainage Systems 2001  
PAN 65 Planning and Open Space 2008  
PAN 67 Housing Quality 2003  
PAN 75 Planning for Transport 2005  
Designing Streets 2010

SPG Affordable Housing 2015  
SPG Development Contributions 2023  
SPG Trees and Development 2020  
SPG Landscape and Development 2008  
SPG Green Space 2009  
SPG Placemaking and Design 2010  
SPG Guidance on Householder Development 2006  
SPG Waste Management 2015  
SPG Biodiversity 2005  
SPG Local Biodiversity Action Plan 2018  
SPG Sustainable Urban Drainage Systems 2020

## **KEY PLANNING ISSUES**

The main determining issues with this application are compliance with Local Development Plan Policies, Supplementary Planning Guidance and NPF4 on development on allocated sites, density, traffic impacts, design, landscaping, drainage and development contributions.

## **ASSESSMENT OF APPLICATION**

### Planning Policy

The site is allocated for housing in the adopted Local Development Plan as allocation ALAUD001, with an indicative site capacity of 100 units. This allocation has been carried through into the Proposed Local Development Plan for the same number of housing units. The latter has indicated a number of site requirements, including the following:

- One or two accesses from the Stow Road



- Road link into housing development to east
- Extension of Stow Road footpath
- Retention and enhancement of tree planting around boundaries
- Roadside wall retention
- Maintenance of landscaped areas
- Path linkages
- Protection of setting of C Listed buildings at Allanbank House/Stables Cottage
- Gas Pipeline exclusion zone, flood risk and poultry farm buffer mitigation to west of site

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

Bringing the site forward for housing development reflects the Council's housing land commitments for periods to 2023 and beyond. In terms of the principle of a housing development on this site, the Policy background is one of full support. The proposal is for housing development in compliance with the intended use in Policy PMD3. The site provides a contribution towards Council housing land targets, identified in the previous SESPlan and in line with "Key Outcomes 1 and 2" in the Local Development Plan i.e. effective housing land supply and opportunities for affordable housing.

NPF4 contains a number of relevant Policies relating to large housing developments and their impacts within settlements, including Policy 3 Biodiversity, 4 Natural Places, 13 Sustainable Transport, 14 Design Quality and Place, and especially 15 Local Living and 16 Quality Homes. The applicant has also submitted a NPF4 Statement with the application.

The principle of the development should be assessed primarily against the provisions of the Development Plan in the first instance, as required by Section 25 of The Town and Country Planning (Scotland) Act 1997. It is only if there are material factors of sufficient significance that outweigh the provisions of the Development Plan, then determination could be against the provisions of the Plan. Much assessment from respondents and in this report will correctly focus on those material factors, including the impacts and consequences of the increased number of housing units above the indicative capacity, character, residential amenity, environmental issues and infrastructure. This report will contend that those material factors are not demonstrating sufficient adverse effects to the extent that refusal of housing development with a proportion of affordable housing on an allocated housing site would be justified.

The allocation in the Local Development Plan provides a total indicative capacity of 100 houses. However, as discussed with other developments on allocated sites that have been presented to Committee, indicative capacity figures should not be seen as absolute maximum figures or caps. They are designed to ensure that the Council meet their five year housing land supply obligations set by the Government and are included within the Local Development Plan to ensure sufficient effective housing land for the period of the Plan and beyond. The figures are not derived from an exhaustive analysis of the potential layout of every site but on general size and density parameters. Although there may be consequential impacts, the fact that a proposed development exceeds the indicative capacity is not, in itself, justification per se for rejection of an application.

It is possible that, once detailed assessment has been carried out and layouts have been designed, development could prove to be acceptable in excess of the indicative capacity. This has happened on a number of sites throughout the Borders where developments in excess of the stated capacity have still been considered to be acceptable. It is indeed often the case that a higher density can lead to a better form and layout of development. The issue is whether the additional number of units causes significant and demonstrable harm that cannot be addressed or mitigated satisfactorily. In the case of developments including an affordable element, higher densities are also likely as a result of economies of scale and the generally smaller house sizes. The Placemaking and Design SPG also lends support to the benefits of higher densities, including using them in specific parts of a development to help define sense of place.

Members will note a number of objections to the development on the basis of overdevelopment, high density and inappropriate density and layout in comparison with adjoining developments. However, as explained above, larger housing developments incorporating affordable housing elements have tended to increase in density, also reflecting Government placemaking policies and the local living agenda. This development, on the basis of the reduced number of 110 houses from 117, is at a rate of 28.9 houses per hectare which compares favourably to 34.5 houses on a recent private housing development to the south of Lauder or 34.5 per hectare at South Parks in Peebles. The density is higher than the immediately adjoining housing developments to the east and north of the site but, in the overall planning balance, this report contends that, after amendment, the layout and design of the development complies with placemaking and local living policies. It creates a sense of place with a variety of designs and spaces, also respecting its surroundings which include woodland belts on three sides. It utilises a mixture of house sizes and styles to meet local demands, providing a development which, whilst not replicating the low density and larger house types adjoining the site, is still of a scale, massing, height and density appropriate to its surroundings and respectful of neighbouring built form – which are requirements of Policy PMD2.

### Layout

The applicant has submitted a Design and Access Statement, which has been amended following revision to the development, and supported by an NPF4 Statement. These contend that the mix of 1-4 bedroomed homes meets local demand and a shortfall of housing land in the Borders, being within short walking distances of facilities in Lauder and public transport links, thus complying with the 20-minute neighbourhoods being promoted in Policy 15 of NPF4. They consider that their proposed layout creates a natural extension to Lauder, maintaining a natural feel to the housing extension through a balance of development and green spaces, with linear connectivity and permeability. The Design and Access Statement concludes that with a range of house types and a layout bisected by a linear park, there is a rich and interesting streetscape forming streets, avenues and squares. The layout is enclosed by existing structure planting that will be retained and augmented, blending the development in with its transitional position between town and country.

Although the application originally proposed 17 houses above the indicative capacity for allocation ALAUD001 in the Local Development Plan, it was considered that the layout and density were in general compliance with LDP Policies PMD2, HD3 and the “Placemaking and Design” SPG, together with the housing, placemaking and local living Policies in NPF4.

The density of the development has been discussed in the previous Section of this report. The use of a number of semi-detached and terraced units makes more effective

use of ground and minimises the detrimental visual effects of increased unit numbers by providing greater space in between houses. Had the application been submitted for the indicative capacity of 100 units on a purely detached house basis, there would have been likely to have been more repetition of narrow gaps between gable walls and an impression of congestion and overdevelopment possible as a result, given that house types would have been likely to be larger in individual footprint.

It is not considered that the layout and density are contrary to Policies or Guidance, inappropriate for the area nor causing any demonstrable harm to the surrounding residential areas or landscape. At 117 units across 3.8 HA, this equates to 30.79 units per hectare which has parallels in recent approvals for housing developments elsewhere in the Borders, mentioned previously.

To comply with Development Plan Policies and the “Placemaking” SPG, any layout and density have to be appropriate to their surroundings and be compatible with, and respect the character of the surrounding area and neighbouring built form. The SPG repeatedly uses reference to the built context. However, the Policies and Guidance do not intend to seek identical or replica layouts and densities throughout a settlement, the importance of interest and variety being stressed.

The overall layout is significantly influenced by the rectilinear shape of the site, the difference in levels from south-west to north-east, the need to connect the site both with the Stow Road and Allanbank Gardens, and the retention of planting belts around three sides. Although the layout has been informed by Guidance such as Designing Streets, the “Placemaking” SPG and the new NPF4 Policies on local living and quality homes, the layout faced significant challenges from the aforementioned factors and attempts to redress all constraints on the site, whilst still providing a development with visual interest and sense of place

The alignment of the houses follows the line of the woodland belts to the north and west of the site, linking internal streets within that and a permeable linear space with footpath through the centre of the site. Various squares, open spaces and parking nodes would link and punctuate the street pattern. Whilst the original submission of 117 houses and flats on this basis was largely acceptable and did not exhibit significant levels of overdevelopment to the detriment of the surrounding natural and built environment, there were a number of issues identified with the application that needed to be improved, resulting from the chosen number of houses and original house types and layout. These were mainly as follows:

- During the pre-application procedure, the applicant was invited to consider the general density and form of the proposals and was advised to take into account the comments of the Heritage Officer. It was recommended that there should be more variation in density and design due to the proposal being uniformly two storey at that stage. Whilst it was acknowledged that upon application, the applicant introduced two bungalows at the south-eastern edge of the site and some 1.5 storey units at the corners of streets in the south-western part of the site, this did not provide the degree of variation and alleviation of uniformity that was identified as an issue at pre-app stage. Only six houses out of 117 units were below two storey height. Whilst a low-density development to mirror surrounding development was not sought, the density, layout and number of two storey houses still caused concern in relation to the setting and achieving varied and successful placemaking. Variations were invited, incorporating the views of the Heritage Officer, to improve the layout and create more variety of building form, height and layout. This should also enlarge and enhance the open spaces already shown within the layout.

- The design of the 1.5 storey unit was supported as it successfully addressed different streets and elevations of the development. As part of the revision to layout, it was recommended that house numbers were reduced where issues were caused and a greater proportion of single and 1.5 storey units proposed, especially to the sensitive edge next to Allanbank listed buildings. It was recommended that this also included an additional single or 1.5 storey house type.
- The concept of three storey units was raised at pre-app stage and whilst there was general support if the remainder of the development was improved in density and variation of building forms and heights, this was not done to the level expected. As this has not yet been achieved satisfactorily and as the location and number of three storey designs were unclear on the original submission, their removal from the proposals was recommended as their design was considered inappropriate and vertically accentuated. They were also the subject of significant objections from members of the public.
- The Heritage and Landscape Officers suggested improving the street and square elevations by varying house elevations, positions and parking. This was commended to the applicant to improve the development at the entrance square and at other squares where the development does not fully address each civic space. It would also allow for focal points at the end of longer streets and full elevations facing the linear open space.
- The northern edge of the development had been improved since the pre-app stage but there was still concern at the uniformity of building lines and designs. This had not been fully addressed by the variations in road line and squares and it was considered that this building line needed greater punctuation and variation than could be achieved by road geometry alone. Similarly, the western edge also exhibited insufficient variation and was likely to be potentially impacted by the requirements of the Landscape Officer and the need for consideration of enhanced 15m setback from the tree lined edge. Variation in distances from this edge were considered not only to improve interest but also create further space from the poultry farm buildings to the west of the site. The opportunity should also be taken to retain the Category B tree within the site at Plot 73 and for additional scarcement at Plot 75.
- privacy loss issues were identified within the development and in relation to Allanbank Cottage/Stables

The applicant responded to these concerns with amended proposals which were the subject of full re-consultation and neighbour notification. In relation to the layout and housing number/variation issues identified, the following revisions were made:

- A reduction in overall numbers from 117 to 110
- A reduction of one affordable unit to 27
- Variations in the width and alignment of roads throughout the development
- Changes to layout, landscaping, parking and surroundings to squares
- A new footpath connecting the site with the Stow Road at the northern corner
- Removal of three storey “Colony” style flats
- An increase in 1.5 storey designs to 11 units with a second 1.5 storey house type, provided at focal points and corners

- Replacement of a two storey with 1.5 storey house adjoining Allanbank Cottage/Stables
- Changes to mix and building line of houses along main northern and western streets
- Retention of two parkland trees and amendment to open space to suit with a new square to the north-east of the site and omission of a house along the western edge
- Inclusion of childrens' play area

These revisions met with acceptance from the Heritage and Landscape Officers who considered that the easing of the density and improvement in housing alignment, mix and increase in open space and landscaping, resulted in a development which was now in compliance with LDP Policies, SPGs and NPF4 Policies in relation to quality and placemaking. The Heritage Officer specifically tested the revisions against the six listed qualities of successful places in NPF4 Policy 14 and now supports the application. Whilst some issues still need to be addressed, they can be handled by planning conditions, including agreement on phasing. There has been no withdrawal of objections from those who lodged objections to the first proposal and Members will need to be aware that their objections still stand, also noting that some have lodged additional comments and concerns following the submission of revised plans. Their main points are that the development is not sufficiently reduced to allay the layout and density fears, whilst still expressing concerns over affordable housing location, road safety and drainage impacts

For the aforementioned reasons, it was not considered that the density and layout of the development were inappropriate for the area nor incompatible with character, albeit some improvements to enhance variety of layout were sought. With the changes now made to the development as listed above, it is considered that the layout is compliant with Local Development Plan Policies, NPF4 Policies and relevant Guidance on placemaking, design quality and local living.

### Design

The design of the development must comply with Local Development Plan Policy PMD2, the "Placemaking and Design" SPG and NPF4 Policies such as 14 on Design, quality and place. PMD2 requires developments to be of a scale, massing and height appropriate to their surroundings and finished in materials that complement the highest quality of architecture in the locality.

The Design and Access Statement considers the design approach to comply with Local Development Plan Policy, influenced by the local area in relation to materials. The range of 1-4 bedroomed units in detached, semi and terraced form, with some single storey and 1.5 storey designs is claimed to introduce diversity whilst linking in with local vernacular. All units use dual pitched roofs in one matching grey roof tile to be agreed, with many gable-ended onto street frontages. Given the contribution this makes to placemaking and variety of streetscapes, when mixed with lower house types with side elevations and side roofspans to streets, there is no issue with such alignment, especially when the architectural treatment to the front gables is varied with different materials and feature panels. This is shown on the External Finishes Site Development Plan, showing mixes of cedar lined boarding, render and two types of reconstituted stone.

This mixture of finishes is applied throughout the development, including the affordable housing, to ensure variety and integration. Materials will have to be carefully selected

to ensure that variety of texture and colour is achieved whilst still blending in generally with the colours and tones in the area. Over-use of dark greys, for example, may look appropriate in the former industrial setting of Caerlee Mill where the applicant previously developed, but would be less appropriate on this greenfield, rural fringe site. The main house colourings should be light in tone with some textured feature panelling in matching colours and fewer in darker colours, perhaps at focal points, in squares and on corners. The agreement of the precise colours and feature panels for the walls, roof tiles, windows and doors can be reserved through planning condition.

Discussion at pre-app stage led to an expectation that windows would be given greater vertical emphasis than was actually the case with the application submitted. Whilst some house types have elevations with vertical window emphases, many still have a horizontal emphasis or are fully square. Mullions had been suggested at pre-app stage but there was no evidence, at least with the private house designs, of this being utilised to improve the proportions and appropriateness of the windows in this location. The Heritage Officer had also raised this point to ensure a better connection with local vernacular and compliance with the Placemaking SPG. The houses within Allanbank Gardens, for example, use a combination of mullions and banded window surrounds to improve the vertical emphasis to windows, including some that are triple window arrangements.

Most house types within the proposed development exhibit paired windows of different widths when facing streets and the public realm, the remainder of the house elevations either being to rear gardens or with vertically accentuated single windows on side elevations. The applicant was asked to consider adjustment of the window proportions but had only made revisions to the affordable housing style frontages, albeit most of those are now acceptable - with the exception of Plots 10 and 27 which can be addressed by condition. The matter was raised again with the applicant and the twin frontage upper floor windows within the private house types have now been split with a solid mullion and the windows surrounded with banding. This has resolved the issue and made those house types appear more traditional to the public realm and reflecting window treatments in nearby houses.

In summary and subject to the condition listed, the design of the units and the proposed materials will allow architectural interest, connection and integration with the surrounding urban fabric whilst providing a sense of place and style of townscape and design, in keeping with Local Development Plan Policies, NPF4 Policies and supplementary planning guidance.

### Residential Amenity

Local Development Plan Policies PMD2 and HD3 contain safeguards regarding residential amenity, both in terms of general use compatibility but also direct impacts such as privacy and light. This is explored further in the Council's "Privacy and Sunlight" SPG. NPF4 contains limited guidance on residential amenity, concentrating within Policy 16 "Quality Homes" on the impacts of householder developments on their neighbours. The same Policy also requests that the Statement of Community Benefit explains how the proposals would improve the residential amenity of the surrounding area, although it is a challenge to consider how any development of 50 houses would actually improve residential amenity for the surrounding area, especially on a greenfield site such as this one.

The main issues with regard to residential amenity have largely been in relation to the standards within and between the houses in the new development, rather than the impacts of the development on adjoining housing areas to the north and east of the

site. The roadside wall and maturing woodland belt to the north of the site interrupt and conceal any potential issues of privacy between the backs of the new houses along the northern edge of the site and the existing houses north of the B6362. The separation distance is also several times the minimum required.

There have been some concerns and objections expressed from the nearest properties in Allanbank Gardens, in relation to privacy loss both from the development and the pathway leading from the new site. They make several points about the height of the land compared to Allanbank Gardens and potential issues of public access outwith the pathway, between the back of their houses and the eastern woodland belt. Even allowing for the higher floor levels of the nearest houses within the new development to Allanbank Gardens, the houses are not directly face-to-face but are angled to each other and the nearest houses are more than 40m apart. Given these factors and the intervening young woodland, which will be controlled and augmented by the Woodland Management and Biodiversity Enhancement Plan, the development will not contravene LDP Policies and supplementary guidance, either in privacy or daylighting terms.

The potential privacy loss from the path is noted. Whilst it is accepted that usage will result in more pedestrians and cyclists in Allanbank Gardens, the augmentation of the woodland strip and conditions relating to the precise details of the path and screen fencing will allow these concerns to be addressed when considering proposals to approve the Woodland Management Plan and discharge the conditions.

Allanbank Cottage/Stables is the closest existing house to the development, the façade being located 9-10m from the site boundary to the north. However, the development has been amended in this location with one of the nearest house units to Allanbank Cottage/Stables being changed to 1.5 storey design from 2 storey, resulting in a 1.6m ridge reduction. The floor levels on both nearest houses were also dropped by 0.4-0.7m and window positions changed to ensure no habitable room overlooking at upper floors, together with amended boundary screening including fencing and hedging. Privacy buffer distances were also dimensioned on the drawings at 10-12m from the Allanbank Cottage/Stables boundary. Whilst the nearest house on Plot 13 is approximately 13-14m from the corner of the Cottage itself, the gable has been designed to be largely blank with only a bathroom window. Whilst there is further development to the west of the Cottage faced by its sunroom, the distances to the nearest houses are greater at 25-30m which are well in excess of the minimum standards required in the Privacy and Sunlight SPG. Given these design amendments, the proposed screening and planting and the location of the development to the north and east of Allanbank Cottage/Stables, its residential amenity will be preserved within acceptable levels relating to privacy and daylight.

There also needs to be consideration of residential amenity within the development, ensuring adequate separation of proposed houses from each other to enable compliance with the Privacy and Sunlight SPG whilst also allowing for creation and development of place with character and identity in line with the Placemaking and Design SPG and NPF4 Policies 15 and 16. As the development has been criticised by objectors for representing overdevelopment and too high a density, being originally 17 units above the indicative capacity in the LDP allocation, the developer was asked to demonstrate how the separation standards in the SPG were being met by the development. This related not only to back to back distances between windows across private gardens, but also because of the gable-ended design of some of the houses and the apparent overlooking between side windows at close quarters.

The revised layout plan adjusts the development, removing seven houses and realigning the roadways and some squares. Back-to-back distances are now dimensioned on the layout and either comply with the 18m standard or, where closer, have used blank or non-habitable room elevations to ensure privacy retention. A number of houses within the inner part of the development are closer together face to face, some being as close as 8-10m window to window. However, these instances are in public street situations where the front elevations are directly impacted by the public realm in any case, reductions below the 18m being therefore, acceptable in such circumstances. The proximity also helps the interest within the layout, improving variety and creating a stronger sense of place, with similar face-to-face distances used by the same developer at Caerlee Mill in Innerleithen to good effect.

In relation to side window overlooking within the development, the applicant has looked at the instances raised with them and responded with a detailed gable window study. This has shown that in most instances, habitable room windows either do not face other habitable room windows or, if they do, are offset in angle to acceptable levels. However, issues still remain with the houses on Plots 9 and 10 and from the house on Plot 22, being resolved either by the omission of one secondary bedroom window or obscure glazing. This matter can be reserved by condition.

It is concluded that the development provides levels of residential amenity in compliance with Policies PMD2, HD3 and the relevant Supplementary Planning Guidance.

### Landscape

The development should comply with the relevant Local Development Plan Policies on landscaping, especially PMD2 and EP13, but also with the associated SPGs on trees, landscaping and development. NPF4 Policies, relating to the natural environment also apply, such as Policies 3 Biodiversity, 4 Natural Places, 6 Forestry, Woodlands and Trees and 20 Blue and Green Infrastructure. In particular, Policy 3 states that any major development will only be supported if it conserves, restores and enhances biodiversity. The site requirements of the LDP allocation also refer to:

- biodiversity mitigation
- retention of parkland trees
- enhancement of the northern woodland belt
- establishment of woodland planting to the south and west
- long term maintenance of landscape areas

The current characteristics of the site are of a large sloping field enclosed on three sides by a relatively wide planting belt of varied maturity. It is understood this planting was carried out a number of years ago by the landowner, the trees within the northern and western belts being more mature than the young planting on the eastern side. The proposed development respects the three planting belts by not proposing any development within them other than road and footpath links. All houses and gardens stop at the fence line separating the field from the woodland planting,

The Design and Access Statement acknowledges that the landscape is a prominent design feature of the site, the proposals retaining the existing woodland structure but proposing new planting to the southern boundary of the site as well as throughout the layout, creating a linear element of planted open space together with other pockets of open space and street planting. A full landscaping plan has been submitted with the



application, which has developed and improved during the processing of the application.

Many of the third party representations and the comments of the Landscape, Heritage and Ecology Officers recognise the importance to the site of its wooded surrounds. At issue is the fact that the applicant has not included the woodland within the red line of the application boundary on a number of the most relevant drawings, whilst showing red line connections to cover the footpath and road links. Given that the applicant has notified the landowner of these links, it is assumed that they can also reach agreement on retention and augmentation works to the woodland belts, together with the footpath system through them.

The retention, augmentation and management of the woodland belts for amenity and recreation purposes remain essential for both existing and proposed residents in the area. The submitted Design and Access Statement refers to woodland belts being "Community Woodland" and the Tree Report recommends a Woodland Management Plan before transfer to a Local Trust. The applicant would be content with the issue being controlled through a planning condition. However, given the woodland remains outwith the application site, a planning condition would not be appropriate as it would not comply with the tests laid down in Government guidance for conditions. The methodology and securing of maintenance would be better controlled by legal agreement should the application be approved. This can also incorporate the Biodiversity Enhancement Scheme as recommended by the Ecology Officer. The benefit of a legal agreement is that the landowner of the woodland belt would also need to be a signatory to the agreement and the retention, augmentation and management of the woodland belt would then be more secure and better controlled.

The Woodland Management Plan would address a number of the points raised by the Landscape Officer in her revised response, with other unresolved points being covered by planning conditions. Whilst some concern over the proximity of the houses to the western woodland belt is maintained, the applicant has dropped a house in this part of the site and has also moved several eastwards. The individual positions of the nearest trees have also now been plotted which reveal that some are at least 15m from the rear facades of the nearest houses. With these improvements and management of the woodland adjoining through the legal agreement, the Landscape Officer no longer objects on this basis.

In terms of the submitted landscaping proposals, the Landscape Officer noted that with the reduction of units to the revised 110, there have been additional planting proposals and hedgerows added to the scheme. The southern boundary has now been augmented with a 5m wide woodland and hedgerow belt to the open paddock adjoining, together with tree planting and hedgerows along the boundary with the Allanbank listed buildings. Additional planting has also been added around the SUDs basin and street trees throughout the development. One individual parkland tree was already being retained to the east of the development but a further existing tree is now being protected along the western boundary, through omission of a house. The communal open and linear green spaces throughout the development were already considered acceptable for the development and area, but have been improved further with the reduction of housing numbers and repositioning/enhancement of squares and communal spaces.

The woodland retention and soft planting proposals are, therefore, now considered appropriate for the site and can be controlled by a combination of legal agreement and conditions. The conditions can also control the management and future maintenance of communal open spaces within the development. The local concerns over these

elements are understandable but it is considered that the proposals are even more sensitive than the allocation in the LDP would allow both in relation to the thickness of the woodland belts now being retained and also the fact that the woodland belt to the east is not proposed for housing development. It is appreciated that this easterly belt is immature at present but with augmentation and management through the Woodland Management Scheme in the legal agreement, it is anticipated that concerns over the visual impacts of the development from Allanbank Gardens can be addressed.

The Landscape Officer does have some further comments about hedgerow positions and species mixes. There are also further clarifications required over fence designs and heights which are not sufficiently detailed in the submitted drawings, including heights in and around public open spaces and along the boundaries with the woodland belts. A planning condition can secure the remaining details and specifications.

Subject to conditions and the legal agreement, it is considered that the development complies with Development Plan Policies and Supplementary Planning Guidance on landscaping, tree protection, open spaces and biodiversity.

### Access

Policies PMD2 and IS6 require safe access to and within developments, which should also be capable of being developed to the Council's adoptable standards and in accordance with the guidance in "Designing Streets" and various other relevant Government publications and Guidance Notes. NPF4 Policies 13 Sustainable Transport, 14 Design Quality and Place and 15 Local Living also provide a framework requirement for local access connectivity and sustainable transport methods. In terms of compliance with relevant Policies and Guidance, it is necessary to consider the potential impacts of the development on the traffic network leading to the site, then the actual road, footpath and parking layout of the development itself.

The site requirements of the allocation seek one or two vehicular accesses onto the B6362 Stow road, an extension of the footpath along the southern edge of the road and a minor road link into the housing development east of the site at Allanbank Gardens. There are also requirements for protection of existing paths and new footpath links with the wider countryside along the northern and western edges.

The application was supported by a Design and Access Statement and Transportation Assessment. The former identified the good location of the site in relation to Lauder, complying with 20-minute neighbourhood concepts promoted in Policy 15 of NPF4 with most facilities and public transport links within ten minutes walk of the site. The Statement also defended the provision of only one vehicular link to the B6362 by the interconnected and permeable nature of the development layout with easy and frequent link road and focal square connections between the different parts of the development. With linear footpath links through the centre of the development and a pedestrian link to Allanbank Gardens, the developer contends that accessibility and connectivity complies with local and national guidance and Policies.

The Transportation Assessment supported the good connectivity of the development whilst clarifying that the single junction onto the B6362 can be formed to the required standards. It also states that a minimal number of new vehicle road trips will be added to the public road network at peak times and that this would not affect the operation of adjacent junctions, including the A68 junction.

Although the impacts of traffic have been queried by objectors and the Community Council, neither Transport Scotland nor the Council's Roads Officer have any

objections to the capacity of the road network to accommodate the development, even with the originally submitted 117 houses. Members will note the full response from the Roads Officer who, whilst preferring two accesses onto the B6362, would accept the centrally positioned single access, with roadside footpath link along the site frontage to the east. The Officer also acknowledges that the LDP requirement for a vehicular link to Allanbank Gardens could cause issues of a rat run, unsuitable for the current lightly-trafficked shared surface road. He consequently accepts the application proposal for a strong pedestrian and cycle link instead, linking the new development with the Primary School and remainder of the town.

However, there were a number of issues identified with the development by the Roads Planning Service and which were subsequently raised with the applicant. This includes a new footpath link to the Stow Road from the north-eastern corner of the development, additional internal footways, an additional vehicular link to the affordable housing, increased communal parking, improved visitor parking distribution, alternatives to in-curtilage parking, EV provision, road surfacing variation, house and plot variation and improvements in featureless streets. Residents also had a number of concerns relating especially to the footpath and cycle link leading to Allanbank Gardens, including the suitability of the shared road surface to take the additional usage.

The applicant responded with the following adjustments:

- Reduction in unit numbers from 117 to 110
- Further footpath link to B6362
- Additional footpath linkage within the development
- Increased communal parking to 175%
- Improved distribution of visitor parking
- EV parking for all in-curtilage parking and wiring for 100% provision
- Building lines and road geometry more varied
- Swept Path Analysis proven
- Clarification on linear path

These amendments were passed to RPS for further comment and their response is now to accept the revisions. They still seek additional internal linking footways, maintenance proposals for the linear path, measures to prevent vehicles using the Allanbank Gardens path link, equity of parking provision and full swept path analysis. The applicant has submitted a further revised drawing to address some of these points and the Roads Officer has now accepted this drawing, subject to a condition seeking an additional four parking spaces within the affordable housing development. Further swept path analysis may require minor adjustment but this can be done at Roads Construction Consent stage.

The additional footpath link to the Stow Road is particularly welcomed given the potential desire lines from the development towards facilities in a north-easterly direction such as the Co-op foodstore. This would serve those living in the eastern half of the development and may also reduce the amount of footfall and cyclists that would otherwise use the link to Allanbank Gardens. However, the precise route and connection with the Stow road is not shown on the site layout plan (albeit schematically shown on the Swept Path Analysis drawing) and this would need to be detailed and secured by planning condition. Whilst it does pass through the woodland belt which is not within the application site boundary, the applicant appears to suggest that the path is achievable, in the same manner as the main site access and footpath link to Allanbank Gardens. In matters of access, it is acceptable planning practice to secure

such access across land outwith site boundaries, especially if secured by suspensive planning conditions.

The footpath link to Allanbank Gardens also requires further details to be approved by condition, as the 3m width would be sufficient to be negotiated by cars even though that is not the stated intention. Despite the requirement in the Local Development Plan allocation seeking a minor vehicular link, this is not supported by the local residents nor the Roads Officer who considers that traffic impacts at peak times would be unacceptable in road and pedestrian safety terms. Barriers or bollards would be the most effective method to allow pedestrians and cyclists but not cars, this being able to be secured by planning condition.

The Local Development Plan also requires footpath links with the wider area to the north and west. The access to the Stow Road will be gained via the aforementioned footpath to the north-east of the site together with the footpaths flanking the main site access. These will then join with a footpath which needs to be formed along the southern edge of the Stow Road linking the development with the existing path network that leads from Allanbank Gardens. The details and connections of the remaining path system within the woodland belts can be reserved within the Woodland Management Plan and Biodiversity Enhancement Scheme that will be required within the legal agreement.

As the proposals are now acceptable to Roads Planning and subject to relevant conditions, it is considered that the proposals comply with the provisions of the Local Development Plan and NPF4 in relation to safe and acceptable access to, and within, the site, together with positive contributions to local living. It is not considered that there are other material factors of such significance in relation to road safety and access that would outweigh the terms of the Development Plan in this instance.

#### Water, Drainage and Flood Risk

Local Development Plan Policies IS8 and IS9 are the most relevant in consideration of the impacts of development of this site on the water environment. Policy IS8 relates to flood risk and IS9 to Waste Water Treatment Standards and Sustainable Urban Drainage. The Council have also produced a SUDs SPG. NPF4 Policies 20 Blue and Green Infrastructure and 22 Flood Risk and Water Management are also relevant to the proposals

Policy IS8 requires development not to be at risk of flooding but also not to materially increase the risk of flooding elsewhere. The allocation has a site requirement which asks that “*..flood risk from a watercourse on the west end of the site should be evaluated and mitigated*”. During pre-application discussions, the Flood Risk Officer confirmed that the site was outwith the 1 in 200 year flood extents shown in SEPA’s Indicative Flood Mapping and also that there had been no reports of flooding. He advised that he had no objections regarding flood risk and only required that surface water flood risk be considered in the design of the development, given the size and slope of the site.

The proposals utilise a surface water drainage system and outfall to comply with Scottish Water regulations, using permeable surfacing, attenuating and treating surface storm water at a SUDs pond at the lowest point in the north-eastern corner of the site. The intention is then to connect into the existing Scottish Water network serving Allanbank Gardens via an existing storm sewer. This has led to local objections and representations over the potential for surface water flood risk on the lower-lying Allanbank Gardens and the existing SUDs system and overflow pipes. Scottish Water

themselves have commented that they may not accept connection of surface water into their combined sewer system but that there may be exceptions in the case of brownfield sites. They also state:

*“In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.”*

Given that the connection to a storm sewer in Allanbank Gardens remains within a separate surface water system, it is not clear why Scottish Water do not refer to that surface water connection rather than a combined system. The applicant has confirmed this and that any outfall from the SUDs pond to this system will have to be to the requirements of Scottish Water, including the test that run-off rates should not exceed greenfield rates – which is the present position. The Council’s Flood Risk Officer also asked for, and received, verification of the calculations but still seeks the final agreement of Scottish Water.

Given there is clarity required and given the concerns of local residents, a suspensive condition should be attached to any consent, to ensure an acceptable surface water treatment and discharge is proposed, approved by the relevant regulatory body (Scottish Water) if a connection to the public system is allowed, or SEPA if a direct watercourse connection is sought instead.

With regards to local concerns over water provision and sewerage capacity, Scottish Water has confirmed that there is capacity in the Howden Water Treatment Works for water supply and the Lauder Waste Water Treatment Works for connection of the site to foul drainage networks. Whilst they state that direct approaches still need to be made to them by the developer at the appropriate time, there is no indication at this stage that water or foul drainage capacity would be an issue in approving the proposed development. However, it is standard practice to impose suspensive conditions to ensure water provision and foul drainage are proposed in detail and approved by the Council, after liaison with Scottish Water, before any development can commence on the site.

Subject to relevant conditions, it is considered that the proposed development complies with Development Plan Policies IS8, IS9, 20 and 22, together with supplementary planning guidance, ensuring mitigation of flood risk and the provision of an appropriate water and drainage system without adverse impacts on the existing network and properties using it.

### Ecology

The application requires assessment principally against Local Development Plan Policies EP1-EP3 covering international, national and local nature conservation and protected species and the Biodiversity SPG. NPF4 Policies also require to be considered, particularly Policy 3 Biodiversity and Policy 4 Natural Places. Policy 3 requires major applications to restore, conserve and enhance biodiversity. The allocation in the Local Development Plan also contains a site requirement to evaluate and mitigate moderate biodiversity interest. The application has been supported by a Preliminary Ecological Assessment, Tree Survey and Updated Bat and Badger Survey.

The Council Ecology Officer responded to the submissions by seeking further information on badger and bats. Comments on badgers are specific and considered sensitive, but Members will have access to the full consultation response in private papers forwarded with the Committee agenda. She also noted from the Preliminary Ecological Assessment that the shelter-belt offered potential for bats and that two trees being felled for the access road had bird and bat potential. The Ecology Officer requested a roosting survey of one of the trees with bat potential at this stage before application determination.

Squirrel dreys from the Ecological Assessment and a need for further surveys to ascertain if red squirrel are present are noted – in which case licensing and impact assessment would then be required. The woodland also had suitable habitat for mammals and reptiles, as well as justifying some control over the methods of external lighting facing the woodland. The Ecology Officer backed the concerns of the Landscape Officer over the proximity of houses to some of the trees in the shelter belts, expressing fears over the pressure that the woodland would be under in future once houses are occupied and the trees/shading effects begin to grow. A Habitat Management Plan, which would include measures within the shelterbelts, is recommended. Finally, some concerns were expressed over an invasive plant species for the SUDs area and the mix of beech trees within the proposed south-eastern hedgerow boundary.

The applicant responded to the Ecology Officer comments in a separate document and provided an updated climb-and-inspect survey in relation to bat concerns, as well as more detail on badger and squirrel. Other issues they considered could be addressed by condition. Overall, the Ecology Officer now accepts that bat and badger issues have been addressed pre-determination of the application and that conditions can be imposed to seek evidence of any badger licence and a Species Protection Plan for bats, including a sensitive lighting scheme. Other suggested conditions would cover breeding birds and reptiles, through a Biodiversity Enhancement scheme. The latter would replace the previously requested Habitat Management Plan. There are no requirements for a condition in relation to squirrel any longer as recent updated survey work show no evidence of red squirrel.

Given the responses from the Ecology Officer and subject to appropriate conditions covering these matters, it is considered that the proposals would comply with the Development Plan with respect to ecology and wildlife.

### Soils

NPF4 Policy 5 now introduces a requirement for the minimisation of disturbance to soils on undeveloped land. Soils should be protected from compaction and erosion through the methods of development and mitigation. Relevant commentary and mitigation in relation to soil impacts can be accommodated within the requirements of the aforementioned Biodiversity Enhancement Scheme.

### Cultural Heritage

Archaeology matters are principally controlled by LDP Policy EP8 and NPF4 Policy 7. They require any significant adverse effects to be avoided or weighed up in the overall planning balance, when considering the other social or economic benefits of the proposal. This includes the setting of archaeological assets and proposals should be backed by Cultural Heritage Assessments or field evaluations where significant impacts are identified.

The Archaeology Officer raises no objections to the application after considering the site and what is known about the area. There is the possibility of a medieval castle near to Allanbank House although no physical evidence has yet been found. The site is also west of the medieval Burgh of Lauder with evidence of agricultural activity from that time and the possibility of below-ground features. Trenching evaluation work is, therefore, considered justified across the whole of the site with any finds requiring further excavation recording. This can be achieved by means of a standard suspensive condition attached to any consent, outlining a scheme of archaeological investigation and works on the site. Subject to that, the development would be considered to comply with Development Plan Policies in that there would be no significant impacts on local archaeological assets and, should any finds be discovered, this would be subject to mitigation.

Cultural Heritage impacts are also relevant in relation to the proximity of the site to the Category C Listed Allanbank House, Cottage and Stables which lie close to the south-eastern boundary of the site. Policy EP7 of the Local Development Plan and 7 of NPF4 support development that respects the setting and integrity of statutorily listed buildings, augmented by Government online advice from Historic Environment Scotland. Whilst NPF4 Policy seeks submission of a specific heritage assessment where potentially significant impacts have been identified, it is not considered that the degree of impacts expected in this instance justify a heritage assessment.

The Heritage Officer identified the issue in her first consultation response and Members will note the letters from the occupier of Allanbank Cottage/Stables who opposes the development partly for reason of impacts on the integrity and setting of the building. The relationship with the development was also carefully explored at pre-application stage and a site requirement of the allocation requests careful consideration to avoid adverse impacts.

It was noted with the original submission that there were various design techniques in the vicinity in an attempt to respect and minimise impacts on the setting of all listed buildings on the south-eastern boundary of the site. These included:

- Bungalows at the edge of the site next to Allanbank House
- Intervening tree planting and open space to merge with existing trees at Allanbank House
- Buffer space including a roadway and communal open space between houses and Allanbank Cottage/Stables
- Intervening tree planting and screen fencing
- Limitation of upper floor windows facing Allanbank Cottage/Stables

Whilst these techniques were noted and welcomed, there was still objection from the occupier of Allanbank Cottage/Stables. The Heritage Officer was largely satisfied with the impacts as a result of the various mitigation measures, her view being that the setting and orientation of the listed buildings were to the south and interlinked with each other. She considered that impacts from the development to the north would be limited but she did request consideration of more single storey dwellings.

The applicant was asked to consider further improvement to the southern edge adjoining the listed buildings and, whilst more single storey units were not proposed, one of the nearest house units to Allanbank Cottage/Stables was changed to 1.5 storey design from two storey, resulting in a 1.6m ridge reduction. The floor levels on both nearest houses were also dropped by 0.4-0.7m and window positions changed to ensure no habitable room overlooking at upper floors, together with amended

boundary screening including fencing and hedging. Privacy buffer distances were also dimensioned on the drawings at 10-12m from the Allanbank Cottage/Stables boundary. Whilst final boundary details can be agreed by planning condition, there have been sufficient height reductions and improvements at this edge of the development to conclude that the development will respect the setting of the listed buildings, in compliance with Policy EP7 of the LDP and Policy 7 of NPF4. This is also the view of the Heritage Officer who welcomes the revisions.

The site requirements listed in the Local Development Plan for the land allocation also seek the retention or replacement of the roadside wall along the edge of the Stow Road as it provides further containment to the site. The wall is an important feature which does provide containment and screening to the development, assisted by the woodland. The existing opening has timber gates which can remain. Although a new opening will be formed to gain a centralised access into the development from the Stow Road, the wall will only be removed for the width of the opening as it is set well back with a wide verge and will not need to be reduced or affected by vehicular sightlines or the new roadside footpath. It may also need a further break to achieve the direct footpath link from the north-eastern part of the development. However, the vast majority of the wall appears to be in reasonable condition and a planning condition can secure its retention and maintenance in the future, together with the treatment at the new road and pedestrian access junctions.

#### Childrens' Play Space

Play provision is advised by the "Greenspace" SPG and by NPF4 Policy 21. The latter states that development will be supported if "*well designed good quality*" provision is made for children's play, proportionate to the development and existing provision. Policy 21 also states that new streets and the public realm should also be considered for their contribution to incidental children's play. The original layout made no specific provision for children's play equipment which led to a number of concerns and objections locally, including from the Community Council. At that point, it was assumed that the developer was looking to make developer contributions to augment existing facilities nearby.

However, the layout now shows an equipped children's play area as part of the linear park adjoining the affordable housing development and accessed on part of the main footpath system through the central part of the site. Management is intended to be by Deed of Condition. The precise layout, equipment and maintenance of the play area can be controlled by planning condition. Given this addition to the layout, the location of existing play facilities in short walking distance near the school (including space for older children's play) and the scale and location of the development adjoining open countryside, it is considered that the development complies with Development Plan Policy and the "Greenspace" SPG.

#### Hazardous Pipeline Exclusion Zone

The site lies to the east of high pressure gas pipelines, identified in the LDP Allocation Site Requirements as requiring consideration in relation to exclusion zones. This is also reflected in LDP Policy IS12 and NPF4 Policy 23 g). Having assessed the pipeline locations and exclusion zones, the nearest part of the site would be the south-western corner and whilst the woodland belt is partly within the exclusion zone at this location, none of the houses or their gardens would be. The applicant has also sent in servitude information to demonstrate this.



The Health & Safety Executive check has been carried as required by the Policies and there is no reason to oppose the development, according to the results of that check. The development is, therefore, considered to be in compliance with Policies IS12 and 23.

### Poultry Farm

The LDP allocation makes reference to the development layout and design needing to take account of potential nuisance from the poultry unit lying to the west of the site. The matter has been raised with the applicant who responded to state that no water had been drawn at the unit since 2006 and that the owner sought disconnection of the water supply in 2021. Given the owner (unsuccessfully) then sought inclusion within the settlement boundary of the LDP, the applicant maintains that the poultry unit should no longer be a point of consideration with their layout.

On the basis of the information provided, it is not conclusive that the poultry unit use has been abandoned albeit length of vacancy and disconnection of services are factors that are often taken into account. Assuming that the use could be resurrected, it would need to operate to modern regulations and ventilation standards. The new houses nearest the unit would also be separated by a substantial woodland belt which would be retained and augmented by legal agreement – and their designs will be efficient, modern and aimed at keeping heat in, thus keeping odours out. There has also been a slight increase in buffer space with the house in the north-western corner and removal of one house in the western row to retain an existing tree.

On the basis of the current position, it is not considered there is sufficient justification to seek further variation of the layout to increase buffer space as there would be significant implications for housing numbers and retention of privacy, all on the basis of resurrection of a use that, at the very least, has lain dormant for nearly two decades.

### Developer Contributions

Local Development Plan Policy IS2 requires all housing developments to contribute to infrastructure and service provision where such contributions are considered necessary and justified, advised by the Development Contributions SPG. NPF4 Policy 18 “Infrastructure First” also states :

*“The impacts of development proposals on infrastructure should be mitigated. Development proposals will only be supported where it can be demonstrated that provision is made to address the impacts on infrastructure.”*

In addition, NPF4 Policy 16 Quality Homes requires both a Statement of Community Benefit to be submitted with any application of more than 50 homes and for any development to ensure at least 25% affordable homes on-site provision.

In relation to the development of land at Allanbank for housing development, it is identified that mitigation in the form of developer contributions are required for education, Borders Railway and affordable housing, to be secured by legal agreement. These are considered necessary, reasonable and related to the infrastructure impacts anticipated. As explained below, it is considered that the development will comply with the relevant Development Plan Policies, including IS2, 16 and 18.

Mitigation includes a requirement for all private housing developments of 17 units and upwards to provide on-site affordable housing units at a ratio of 25%. The development meets this particular requirement through the provision of 27 one to four bedroomed

houses and flats at the north-eastern end of the development. Whilst the provision is 0.25 unit short, this fraction can be accommodated by a one-off commuted sum payment within the legal agreement.

Members will note Scottish Borders Housing Association have already indicated an interest in the provision of the affordable element on this site, identifying significant additional housing need in Lauder. The developer has designed the provision after discussion with SBHA. Similarly, the Council Housing Strategy Team identify the need and development of affordable housing. This is identified in the SHIP. The Council Policy will be met by the provision of the units, subject to agreement of tenure, via condition and a Section 75 Agreement which will also detail the timing of their construction.

A number of objectors raise the location and grouping of the affordable housing element, requesting that it either be placed elsewhere within the development or spread throughout, and integrated more within the development. Some have quoted from the “Placemaking and Design” SPG which states:

*“In order to fully enhance social cohesion, the variety of tenure incorporated should always be evenly distributed across a community, and designed so as to be visually integrated into the urban realm.”*

It is contended that in the context of the relevant Section in the SPG and the use of the term “community”, the SPG is not necessarily inferring that mixed tenure should be spread across one particular development site, but rather that such provision is spread across a community or settlement. The provision of 27 affordable units at the Allanbank site, even though in one grouping, still meets with this community aspiration to ensure even spread, given that surrounding housing developments are private in tenure.

It is also considered that the development is not segregated or compartmentalised within the development in any event, as the northern element of the affordable housing is both part of the main northern street scene but also terminates in a square based around a retained tree, very much a focal point when viewed through the private housing from the west. The affordable housing also lies between Allanbank Gardens and the remainder of the new development, thus being integrated geographically rather than in a far corner of the development. Furthermore, the footpaths and linear park provide a connectivity through the heart of the affordable housing area to Allanbank Gardens and the rest of Lauder. The layout within the affordable housing section of the development is the same as other layouts throughout the development, with kinked streets, squares, on-street parking and landscaping. The designs of the houses also clearly derive from the same architecture. Finally, it should be noted that this layout is acceptable to SBHA and the Scottish Borders Tenants Organisation and also ensures orderly phased development. They have submitted a full statement defending the nature and location of the affordable housing element and that can be read in full on Public Access. They rehearse and explain the difficulties of “pepperpot” provision dispersed within a development.

In terms of other financial contributions that would be demonstrated to be required by the development, impacts on schools are mentioned by objectors. Whilst acknowledging the concerns that have been expressed over capacity and strain on facilities, the Council Policy is to seek a standard contribution per market unit where school capacity and rolls are of concern to Education and Lifelong Learning. As Members will note from the consultation response, contributions of £4,709 and £10,251 towards Earlston High and Lauder Primary Schools are advised – levied upon each private house and not the 27 affordable units. The site also requires developer

contributions to the Borders Railway. These development contributions would be met through the Section 75 Agreement.

A number of representations, including from a local GP, refer to the current health care provision in Lauder and there are concerns that such a large development could overrun the current provision. Such concerns frequently arise in many towns across the Borders when faced with housing development and population growth. The concerns suggest that the application should either be refused for reasons of impact on health care services or that contributions be sought to support the services. The issue is regularly reviewed during the Development Planning process and, as identified by some objectors, the NHS are consulted when land is allocated and growth planned.

Whilst the Development Contributions SPG states that “...*Any services, infrastructure or facilities may require contributions...*” health care is not listed in the examples of the predominant types of facilities that could be supported with contributions. There has hitherto been no identified need to oppose developments or seek financial contributions on the basis of health care capacity, perhaps reflecting the variety of reasons why there currently may be capacity issues. These may not only relate to population and development growth but also to funding and resource matters which lie outwith the control of the Local Authority or developers. There is also the difficulty of not only assessing how much contribution should be sought, but also how to ensure it is diverted to local facilities that may require it when such services are centrally funded. Ultimately, it would be difficult to establish a clear causal link (and justification to seek contributions) between a proposal to add 10 units above the indicative capacity in the Local Development Plan and the potential impact on health care in the town.

#### Statement of Community Benefit

Although the application was submitted before the adoption of NPF4 as part of the Development Plan for the Scottish Borders, the applicant was asked to provide a Statement of Community Benefit as per the requirement of Policy 16 for any development totalling 50 or more homes. This is included within the NPF4 Statement submitted by the Planning Consultant for the applicant. This outlines:

- Financial contributions towards Lauder Primary School and Earlston High School as agreed with Scottish Borders Council.
- Financial contribution to the Borders Railway
- the transfer of existing woodland into community management, enabling public access and the implementation of a woodland management plan.
- 27 affordable to rent homes delivered by Scottish Borders Housing Association.
- community engagement, including safety talks with Lauder Primary School.
- support of the Lauder community Defibrillator network, both in terms of maintenance and provision in Allanbank.

It is considered that this Statement, together with the details of the development, meet the requirements set down in Policy 16 of NPF4 and provide proportionate and satisfactory responses to the impacts of the development on the local community.

#### **CONCLUSION**

The proposals, as revised, are considered to be an acceptable development of an allocated housing site within the Local Development Plan, providing housing and additional affordable houses to meet local need. The density, design and layout of the development comply with Policies and Guidance and the impacts on landscape,

infrastructure, cultural heritage and residential amenity are considered acceptable, mitigated by conditions where required.

In conclusion and subject to compliance with the proposed schedule of conditions, Informatives and a legal agreement, the development is considered acceptable when assessed against the Development Plan and other material factors.

#### **RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:**

I recommend the application is approved subject to the following conditions, Informatives and a legal agreement to secure development contributions and a Woodland Management Scheme:

#### **Conditions**

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 by the Planning etc. (Scotland) Act 2006.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Local Planning Authority.  
Reason: To ensure that the development is carried out in accordance with the approved details.
3. All approved residential units shall meet the definition of “affordable housing” as set out in the adopted Local Development Plan 2016 and Supplementary Planning Guidance “Affordable Housing” 2015 and shall only be occupied in accordance with arrangements (to include details of terms of occupation and period of availability) which shall first have been submitted to and approved in writing by the Planning Authority prior to development commencing.  
Reason: The permission has been granted for affordable housing, and development of the site for unrestricted market housing would not comply with development plan policies and guidance with respect to contributions to infrastructure and services, including local schools.
4. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation outlining an Archaeological Evaluation. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to conduct a programme of evaluation prior to development. This will include the below ground excavation of evaluation trenches and the full recording of archaeological features and finds. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered the nominated archaeologist(s) will contact the Archaeology Officer for further consultation. The developer will ensure that any significant data and finds undergo post-excavation analysis the results of which will be submitted to the Planning Authority  
Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford

a reasonable opportunity to record the history of the site.

5. No development to be commenced until a scheme of details for the play facilities shown on Site Development Plan AL PL 01 G is submitted to, and agreed in writing by, the Planning Authority. Once approved, the play facilities then to be completed in accordance with the details at a stage agreed within the Phasing Plan and maintained thereafter in accordance with the agreed scheme.

Reason: To ensure that the development is provided with childrens' play facilities.

6. No development shall commence until samples of materials and colours for all buildings within the development, and the plot layout distribution for those colours, has first been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved samples.

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

7. The landscaping proposals shown on the approved drawings shall be carried out in accordance with a programme of implementation and maintenance that shall first be submitted to, and agreed in writing by, the Planning Authority.

Reason: Further information is required to achieve an acceptable landscape scheme for the site.

8. No development to be commenced until an Arboricultural Impact Assessment, Tree Protection Plan and method statement are submitted to, and approved in writing by, the Planning Authority, including the woodland boundary, access routes and trees within the site. Once approved, the development to proceed in accordance with the agreed details.

Reason: To safeguard existing woodland and protect the natural environment at the site.

9. No development shall commence, (notwithstanding the details provided in the approved drawings), until a detailed scheme of boundary treatments has first been submitted to and approved in writing by the Planning Authority. The scheme shall include the layout/route of all proposed walls and fencing, and their detailed design, height and materials. All boundary treatments within the application site shall accord with the approved scheme and shall be implemented in accordance with an agreed schedule.

Reason: Further information is required to achieve an acceptable boundary treatment scheme for the site.

10. No development to be commenced until proposals for the retention, future maintenance and treatment at the access junctions of the roadside wall along the southern edge of the B6362 are submitted to, and approved in writing by, the Planning Authority. Works to the wall and maintenance are then to be undertaken in accordance with the agreed proposals, including timing for the works.

Reason: To safeguard the visual amenity of the area.

11. Prior to commencement of development, a Species Protection Plan for badger shall be submitted to and approved in writing by the Planning Authority. The SPP shall incorporate provision for a predevelopment supplementary survey and a mitigation plan. No development shall be undertaken except in accordance with the approved in writing SPP.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2, EP3 and NPF4 Policies 3 and 4

12. Prior to the commencement of development, the developer shall provide to the Planning Authority a copy of the relevant Species Licence for badgers.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2, EP3 and NPF4 Policies 3 and 4
13. Prior to the commencement of development, the developer shall submit for approval in writing by the Planning Authority a comprehensive Species Protection Plan for bats, including a sensitive lighting scheme for the site. Thereafter, no development shall take place except in strict accordance with the approved plan.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3 and NPF policies 3 and 4
14. No development shall be undertaken during the bird breeding season (March to August), unless in strict compliance with a Species Protection Plan for breeding birds, including provision for pre-development supplementary survey, that shall be submitted to and approved in writing by the Planning Authority.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3 and NPF policies 3 and 4
15. Prior to the commencement of development, the developer shall submit for approval by the Planning Authority, details of the proposed Biodiversity Enhancement scheme for the site which shall include measures for soil management, breeding birds, bats, badgers and reptiles. Thereafter, no development shall take place except in strict accordance with the approved scheme.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and NPF4 policies 3 and 4.
16. No development shall be commenced until a scheme of phasing has been submitted to, and agreed in writing by, the Planning Authority. This shall include a programme for completion of all roads, parking spaces, EV charging points, footpaths, drainage, the SUDs/open space features, new planting and all, or a substantial proportion, of the dwellinghouses within each phase.  
Reason: To ensure the development is carried out in a manner which ensures that occupied residential units are provided with necessary infrastructure, services and landscaping.
17. Samples of the surfacing materials for the proposed roads, footpaths and parking spaces to be submitted to, and approved in writing by, the Planning Authority before the development commences. The development is then to be completed in accordance with the approved details.  
Reason: To ensure that the proposed development is laid out in a proper manner with adequate provision for traffic and in a manner which enhances the character and visual appearance of the development.
18. The proposed roads, footpaths and parking spaces/areas indicated on the approved drawings shall be constructed to ensure that each dwellinghouse, before it is occupied, shall be served by a properly consolidated and surfaced carriageway, parking area and footpath/shared surface.  
Reason: To ensure that the proposed development is laid out in a proper manner with adequate provision for traffic and pedestrians.
19. No development to be commenced until a fully designed and detailed surface water drainage scheme with SUDs features, attenuation and outfall, is submitted to, and approved in writing by, the Planning Authority in liaison with Scottish Water

or SEPA. The scheme shall include an implementation and maintenance programme. The scheme then to be implemented in accordance with the approved details.

Reason: To ensure the sustainable disposal of surface water in a manner that safeguards neighbouring land/property and to ensure future maintenance for the scheme.

20. No development shall commence until written evidence is provided on behalf of Scottish Water that the development will be serviced by mains foul drainage and water supply. The development then to be implemented fully in accordance with the drainage drawings, numbered 147383/8005 A, 147383/8003 A and 147383/8004 A .

Reason: To ensure the development can be adequately serviced.

21. The footpath links shown to the north-eastern and south-eastern corners of the development, together with the footpath along the southern side of the B6362, to be completed at an agreed stage within the development, in line with the agreed phasing plan and once precise details of the route, geometry and construction of each footpath have been submitted to, and approved in writing by, the Planning Authority, This shall include a form of barrier or bollard system to prevent usage of the link to Allanbank Gardens by vehicles.

Reason: In the interests of road and pedestrian safety.

22. No development to be commenced until revised upper floor front elevation window designs are submitted to, and approved in writing by, the Planning Authority in relation to house types A10 and A27. Those house types then to be constructed in accordance with the agreed window designs.

Reason: To safeguard the visual amenity of the area

23. No development to be commenced on Plots 17, 18 and 25 until revised window positions for the houses on those plots are submitted to, and approved in writing by, the Planning Authority to better address the linear park bordering the plots. The houses then to be developed in accordance with the revised designs.

Reason: In the interests of visual amenity and placemaking.

24. No development to be commenced on Plots 9 and 22 until revised window proposals for the houses on those plots are submitted to, and approved in writing by, the Planning Authority to minimise overlooking between houses. The houses then to be developed in accordance with the revised designs.

Reason: In the interests of residential amenity.

25. No development to be commenced until a revised drawing is submitted to, and approved in writing by, the Planning Authority detailing an additional four communal parking spaces within the affordable housing element of the development. The spaces then to be completed in accordance with the programme set by Condition 16.

Reason: In the interests of road safety.

### Informatives

1. All prospectively adoptable roads, pavements and associated infrastructure will require Road Construction Consent. The applicant should discuss this separately with the Council's Roads Planning Service to establish the scope and requirements of Council adoption.

All works within the public road boundary must be undertaken by a contractor first approved by the Council.

2. Development should be carried out in a manner consistent with British Standard guidance on construction works, to maintain neighbouring amenity, in particular BS5228

### DRAWING NUMBERS

Location Plan	AL/Loc 01 A 2206 PL05 A
Site Development Plan	AL PL 01 G
Site Development Plan Landscaping Boundaries	AL PL 02 A
Site Development Plan Roads and Parking	AL PL 03 A
Site Development Plan External Finishes	AL PL 18 A
Site Elevations	AL PL19 A
Site Elevations	AL PL 21
Landscape Layout 1 of 3	2017/01 B
Landscape Layout 2 of 3	2017/02 B
Landscape Layout 3 of 3	2017/03 B
Drainage Construction Details	147383/8005 A
Drainage Sheet 1	147383/8003 A
Drainage Sheet 2	147383/8004 A
Levels Sheet 1	147383/8000 A
Levels Sheet 2	147383/8001 A
Swept Path Analysis	147383/8002 A
Block Plans & Elevations A1-4	2206 PL 06 A
Block Plans & Elevations A5-8	2206 PL 07 A
Block Plans & Elevations A9-14	2206 PL 08 A
Block Plans & Elevations A15-16	2206 PL 09 A
Block Plans & Elevations A17, 18 & 27	2206 PL 10 B
Block Plans & Elevations A19-22	2206 PL 11 B
Block Plans & Elevations	2206 PL 12 A
Plans & Elevations Type 6	2206 PL 05 A
Elevations 3BS BT (Draft)	AL (PL) 07 A
Floor Plans 3BS BT	AL (PL) 06 A
Elevations 3BS (Draft)	AL (PL) 05 A
Floor Plans 3BS	AL (PL) 04 A
Elevations 3BT Semi (Draft)	AL (PL) 09
Elevations & Floor Plans 4BS (Draft)	AL (PL) 10 A
Plans & Elevations 4BD V1	AL (PL) 11
Plans & Elevations 4BD V2	AL (PL) 12
Plans & Elevations Soutra	AL (PL) 13 A
Floor Plans Ailsa	AL (PL) 11
Elevations Ailsa Detached	AL (PL) 12
Floor Plans & Elevations Ronan Detached	AL (PL) 20
Floor Plans & Elevations Ronan Detached V1	AL (PL) 20 A
Floor Plans & Elevations Ronan Detached V2 Plot 13	AL (PL) 22



**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

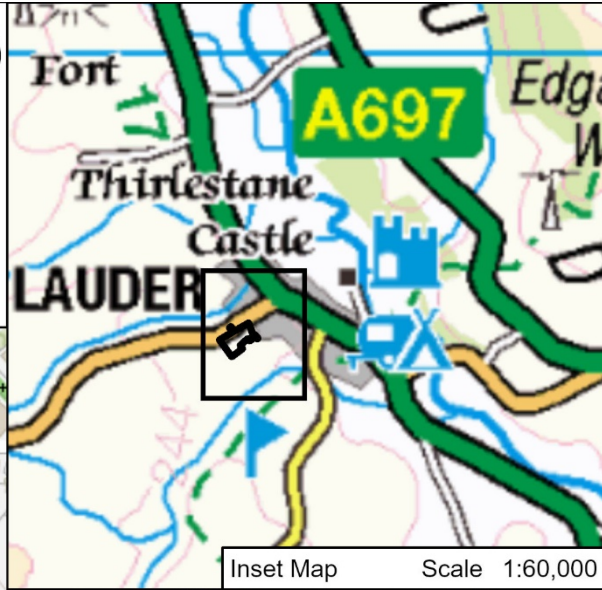
**Author(s)**

Name	Designation
Craig Miller	Principal Planning Officer

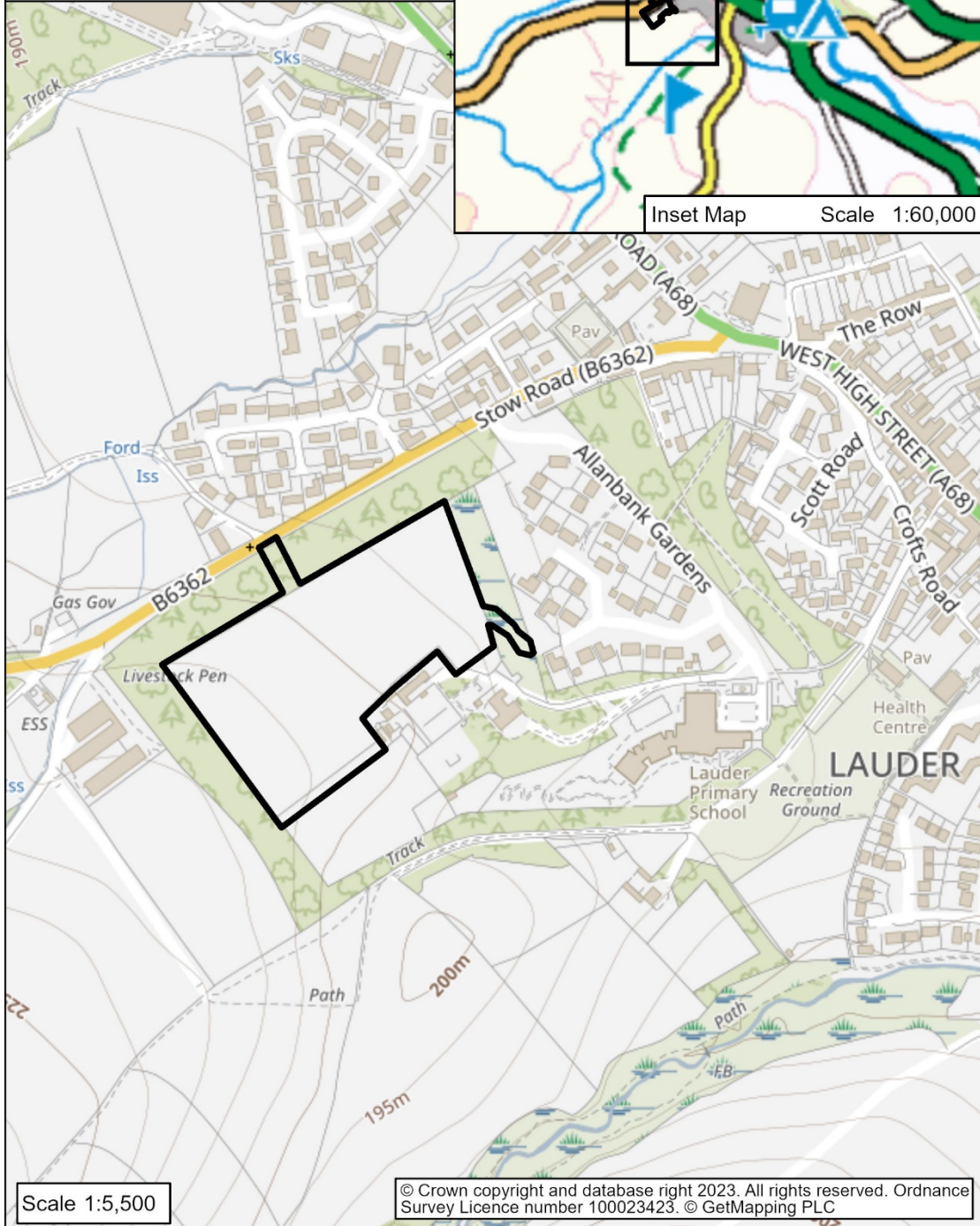


22/01734/FUL

Allanbank, Lauder



Inset Map Scale 1:60,000



Scale 1:5,500

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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**5 JUNE 2023**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 23/00131/PPP

**OFFICER:** Mr C Miller  
**WARD:** Mid Berwickshire  
**PROPOSAL:** Residential development with access, landscaping and associated works  
**SITE:** Land East of Kirkwell House, Preston Road, Duns  
**APPLICANT:** Robert Lamont  
**AGENT:** Ferguson Planning

**PLANNING PROCESSING AGREEMENT**

No processing agreement in place as the application is being presented for determination within the statutory 4 month period.

**SITE DESCRIPTION**

The site is located on the northern edge of Duns, north-west of the A6112 road to Preston and the A1. It consists of 2.48 HA of arable agricultural land that slopes moderately down to the road from north-west to south-east, then more steeply in the form of grassed embankment adjoining the road. The embankment is steeper and more substantial to the south-western edge of the site, becoming lower and the levels less pronounced to the north-east. The embankment contains sporadic trees and there is a footpath between the embankment and the road. A small stone retaining wall runs with decreasing height along part of the site frontage from the south-west. A more established hedgerow borders the north-eastern end of the site and trees and shrubs border the south-western boundary with Kirkwell House. There is no defined boundary to the north-west, this being an open continuation of the agricultural field sloping up to Duns Law. To the south of the A6112, lies a row of established dwellinghouses lying at a lower level than the site, terminating in the cemetery to the north-east. A field access enters the site from the A6112 at its north-eastern edge.

The site is peripheral to the town and not within the Conservation Area. It consists of prime quality agricultural land (see later section in this report) and also lies within the designated Duns Castle Garden and Designed Landscape, the whole of Duns Law hill lying within the designated boundary, the A6112 forming the south-eastern extremity of the designation. Duns Law stands above the site 400m to the north and contains a designated Scheduled Monument, the designated boundary some distance outwith the application site boundary. There are also a number of B and C Category Listed Buildings to the south and west of the site, the nearest being Kirkwell House and Wellfield Cottage.

## PROPOSED DEVELOPMENT

The application is submitted as planning permission in principle for residential development on the site with associated works including access and landscaping. The location plan has been accompanied by a conceptual layout plan that indicates a row of ten detached houses, following the extent of housing to the south-east of the A6112. The houses are expected to provide accommodation over two floors, though not necessarily in full two-storey form. The applicant aims to provide family housing of private tenure, which is claimed to be in demand in Duns.

The site is intended to be provided within one vehicular access taken from the A6112 at the north-eastern corner of the site, the access running above and along the back of the houses, parallel with the public road. Turning heads would be provided at each edge of the roadway. This access road would provide a footpath along its southern edge but the main pedestrian access to each plot would be taken from the existing roadside footpath. Further connectivity would be provided by a footpath and steps leading from the western edge of the proposed roadway, back to the A6112.

The dwellinghouse plots only take up approximately half the depth of the site, the remainder consisting of the rear roadway and new planting to the north-western boundary of the site. Indicative planting is also proposed to the north-east of the proposed roadway and along the edge of the housing with the proposed roadway and footpath.

The drainage proposals have been explained in Drainage Strategy and Flood Risk Assessment reports. Foul sewerage from the development will be conveyed to the public network. Surface water run-off will incorporate SUDS measures to attenuate with outfall via 1.8km of new pipe to watercourses away from flood risk or via 12m borehole soakaway on site. There is little risk of fluvial flooding given the elevation of the site from the Cumledge Burn. With regard to surface water flooding, the Assessment states that the proposals will provide sufficient attenuation to accommodate a 1:200 year (plus 40% climate change) return period storm, or limit the peak discharge rate from the site.

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

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

- Planning Statement
- Landscape and Visual Appraisal
- Pre-Application Consultation Report
- Design and Access Statement
- Preliminary Ecological Appraisal
- Access Appraisal
- Drainage Strategy
- Flood Risk Assessment
- Archaeology Impact Assessment

## PLANNING HISTORY

A planning application was submitted for 9 houses on the site in October 2005 but was withdrawn before being registered. The more recent history is explained by Forward Planning in their consultation response:

*'The site was previously submitted for consideration as part of the Housing SG and was not taken forward. The site was then submitted at the 'Pre MIR' stage of the LDP2 process and was not included within the MIR for the reasons outlined below. The site was recently re-submitted at the 'MIR consultation' stage, as part of the LDP2 process. It is acknowledged that the agent has submitted a response to the points raised in the previous site assessment conclusion. However, it is not considered that any additional or new information was submitted which required a re-consultation. Therefore, the conclusion from the 'Pre MIR' stage remains valid and is outlined below.'*

The site was also the subject of a pre-application enquiry for housing development in 2021, which elicited a negative response from the Department due to contravention of Policy PMD4 and failure to meet any of the exception criteria. There was also a Screening approach (which concluded no EIA was required) and a PAN in 2022 preceding the community consultation procedures.

## CONSULTATION RESPONSES:

### Scottish Borders Council Consultees

**Roads Planning Service:** No objections. Site has been subject of consideration under the Proposed LDP and a pre-application enquiry. Concerns over indicative layout which does not integrate with existing dwellings and creates an isolated street against Designing Streets guidance. Layout should have houses closer to street frontage with direct individual accesses and/or communal parking. Embankment not used for access will need stopping up through Orders. Future application will need detailed drainage proposals to mitigate against surface water drainage problems in the area.

**Education Officer:** Response awaited.

**Landscape Architect:** Objection. The proposals underestimate substantial changes to local landscape character, diminishing the strong containing edge to Duns as identified in the Landscape Capacity Study, regrading the open slopes to Duns Law and unacceptably altering the distinct landscape gateway entrance to Duns. The viewpoints do not indicate the full impacts of the development, not accounting for the slower growth rate of backdrop planting and there being no indication of the significant and overbearing visual amenity impacts on the existing residents south of the A6112. Also expresses concerns over layout and design of plots not complying with the Placemaking and Design SPG and the significant landscape and engineering impacts caused by the requirements of the Roads Officer in creating a stronger street frontage.

**Housing Strategy:** No comment.

**Flood Protection:** No objections. Site not at risk from fluvial flooding but have been issues with surface water flooding due to site topography. If development is approved, condition required for a detailed drainage system to ensure no increase in greenfield run-off rate, boundary drainage and ensure capacity of receiving system

**Ecology Officer:** No objections, the Preliminary Ecological Assessment revealing low suitability for protected species. Hedge and trees should be retained with Arboricultural

Impact Assessment and avoidance of tree root protection areas. Welcome new planting but seeks further details. Checking surveys for protected species may be necessary.

**Access Officer:** Core Path 52 uses the public footpath on the north side of the A6112, part of the circular Duns Law Route 2 and also used for locals to the cemetery. Should be preserved free from obstruction, albeit refuse storage should be designed to take into account the amenity of path users. Footpath link to west of site welcomed, design and maintenance controlled by condition.

**Archaeology Officer:** No objections subject to a condition seeking a written scheme of investigation including field evaluation. The Archaeology Assessment indicates moderate potential for further finds within the site, necessitating trial trenching across the site and adjustment to house locations and positions if any discoveries justify that. Some indirect impacts on the scheduled monument and other monuments on the summit and slopes of Duns Law, choice and location of screen planting to be the subject of further condition, to respect the monument locations and settings.

**Heritage Officer:** No objections but concerns over appropriate details of design and layout to minimise impact on varied group of listed buildings at the site. Uniformity and rear gardens fronting onto the public road could erode streetscape character and the setting of the listed buildings. Concerns should be addressed should the application reach the detailed planning stage.

**Forward Planning:** Opposes the application. The site is outwith the settlement boundary for Duns as shown in the Proposed Local Development Plan and does not comply with any of the four exceptions in Policy PMD4. It is not job-generating, affordable housing nor does it offer significant community benefits worth outweighing protection of the boundary. Although the Planning Statement is noted in relation to perceived housing land supply shortfall, the 2021 SBC Housing Land Audit confirms a 5-year effective land supply and 14 years supply in the Berwickshire Housing Market Area.

Response also confirms the site has been rejected at the current LDP, Housing SG, pre Main Issues Report (MIR) and MIR Consultation stage, repeating the reasons based mainly on landscape impacts. The height and prominence of the site would result in significant detrimental landscape impact at this location, also identified by the Reporter as a result of the LDP Inquiry, who was concerned at the views, character and setting of Duns being adversely impacted. There was sufficient housing development opportunity within Duns without the need to allocate this site for further housing development.

Further response clarifies that the 14 years supply did in fact refer to the 2020 HLA whereas the 2021 HLA reveals 869 units in the Berwickshire Housing Market Area, which equates to 12 years effective housing land supply. Disagrees with applicant methodology of calculating land supply, the undelivered backlog from SESPlan should not be added in, this gives an unrealistic and unjustified housing land requirement.

Explains that calculations should be derived from 2021 HLA and that the Council's methodology for the Audit is set out in the adopted LDP and was accepted by the Reporter. Reiterates that PMD4 exception on housing land supply is only if the Council have identified a shortfall through the HLA – it is not appropriate for applicants or agents to provide their own calculations. There is no justification for exception to PMD4 and continues to oppose application.

**Neighbourhood Services:** Response awaited.

**Waste Services:** No objections but bins to be presented for collection at kerb on main Preston Road.

### **Statutory Consultees**

**SEPA:** Relies on standing advice in relation to surface water flood risk.

**Scottish Water:** No objections. Water and foul drainage capacity subject to formal application. No surface water connection allowed into combined sewer system except in exceptional circumstances for brownfield sites. Provides further general notes and advice.

**Historic Environment Scotland:** No objections. Some visibility to Duns Law Scheduled Monument but viewed as extension to Duns with no significant impact on setting. Site is within Duns Castle Garden and Designed Landscape, along outer agricultural part of the designation. Provided the stone retaining wall is retained, no significant negative impact on the designation is envisaged.

**Duns Community Council:** Objection on grounds of being outwith the LDP settlement boundary, ribbon development, prime arable land, inadequate surface water proposals to deal with problems, errors in reports, impact on health services, traffic issues at cemetery junction etc.

### **Non Statutory Consultees**

**Berwickshire Civic Society:** Response awaited.

## **REPRESENTATION SUMMARY**

As a result of the neighbour notification and press advertisement, a total of twelve households lodged objections to the application and two were in support. The full representations can be viewed in Public Access and the main comments included the following:

### Objections

- The housing is not affordable and does not meet local needs
- The loss of prime quality agricultural land which has not been laid fallow
- Site access risks road and pedestrian safety, forming a crossroads, in a blind spot with poor sightlines, with a narrow carriageway, high traffic volumes, exacerbated when there is a funeral being opposite the cemetery access and with speeding, lack of parking and agricultural traffic being an issue
- Unattractive walk into Duns town centre from site, due to narrow road, speeding and volume of traffic
- Inadequate and lack of detailed surface water drainage provision, failing to take into account flooding events such as May 2021 which caused damage to property, not detailing the SUDs arrangements, overwhelming existing surface water and foul drainage, lack of knowledge of existing surface water drains etc
- Contravention of SPP in relation to brownfield, suburbanisation, prime agricultural land, listed building and Scheduled Monument Policies
- Contravention of LDP settlement boundary for Duns
- Will place strain on local health services

- Ribbon development
- Detrimental dominant impacts on landscape setting of Duns and Duns Castle scheduled monument and designed landscape
- Detrimental impacts on setting of listed buildings
- Visual amenity impacts breaking beyond a clear urban edge
- Lack of development detail including cross sections
- Residential amenity impacts including overlooking, loss of daylight, vehicle disturbance, impacts of footpath
- No demonstrated need for new housing, allocations providing for 293 homes in Duns
- Proposed housing out of character with existing, presenting rear gardens to the main road and of greater height
- Precedent for further development if approved
- Committee site visit recommended
- The requests of the Roads and Refuse Officers will exacerbate visual and road safety impacts
- Impacts on hydrology and wildlife of area, including Wellfield House and Common Myres
- Local MP in conflict of interest as site is owned by his family

#### Support

- Improves family housing choice in Duns, especially self-build detached housing
- Will offer construction jobs
- Improves local economy by increasing housing
- Development will resolve surface water flooding problems

#### **DEVELOPMENT PLAN POLICIES:**

##### **Scottish Borders Local Development Plan 2016**

- PMD1 Sustainability
- PMD2 Quality Standards
- PMD4 Development Outwith Development Boundaries
- IS2 Developer Contributions
- IS4 Transport Development and Infrastructure
- IS5 Protection of Access routes
- IS6 Road Adoption Standards
- IS7 Parking Provision and Standards
- IS8 Flooding
- IS9 Waste Water Treatment Standards and Sustainable Urban Drainage
- ED10 Protection of Prime Quality Agricultural Land and Carbon Rich Soils
- EP3 Local Biodiversity
- EP7 Listed Buildings
- EP8 Archaeology
- EP10 Gardens and Designed Landscapes
- EP12 Green Networks
- EP13 Trees, Woodlands and Hedgerows
- EP15 Development Affecting the Water Environment
- HD1 Affordable and Special Needs Housing
- HD2 Housing in the Countryside
- HD3 Protection of Residential Amenity

##### **Scottish Borders Proposed Local Development Plan 2022**



- IS5 Protection of Access Routes
- IS6 Road Adoption Standards

#### **NATIONAL PLANNING FRAMEWORK 4**

- Policy 1 – Climate Crisis
- Policy 2 – Climate Mitigation
- Policy 3 – Biodiversity
- Policy 4 – Natural Places
- Policy 5 – Soils
- Policy 6 – Forestry, Woodland and Trees
- Policy 7 – Historic Assets
- Policy 12 – Zero Waste
- Policy 13 – Sustainable Transport
- Policy 14 – Design Quality and Place
- Policy 15 – Local Living
- Policy 16 – Quality Homes
- Policy 18 – Infrastructure
- Policy 20 – Blue and Green Infrastructure
- Policy 21 – Play and Recreation
- Policy 22 – Flood Risk
- Policy 23 – Health and Safety

#### **OTHER PLANNING CONSIDERATIONS**

- Scottish Borders Development and Landscape Capacity Study – Duns 2007
- PAN 44 Fitting New Housing into the Landscape 2005
- PAN 61 Planning and Sustainable Urban Drainage Systems 2001
- PAN 65 Planning and Open Space 2008
- PAN 67 Housing Quality 2003
- PAN 75 Planning for Transport 2005
- Designing Streets 2010

- SPG Affordable Housing 2015
- SPG Development Contributions 2023
- SPG Trees and Development 2020
- SPG Landscape and Development 2008
- SPG Green Space 2009
- SPG Placemaking and Design 2010
- SPG Guidance on Householder Development 2006
- SPG New Housing in the Countryside 2008
- SPG Waste Management 2015
- SPG Biodiversity 2005
- SPG Local Biodiversity Action Plan 2018
- SPG Sustainable Urban Drainage Systems 2020

#### **KEY PLANNING ISSUES**

The main determining issues with this application are compliance with Development Plan Policies and Supplementary Planning Guidance on development outwith settlement boundaries, landscape, cultural heritage, road safety, residential amenity and infrastructure.

## ASSESSMENT OF APPLICATION

### Planning Policy

The principle of the development should be assessed primarily against the provisions of the Development Plan in the first instance, as required by Section 25 of The Town and Country Planning (Scotland) Act 1997. It is only if there are material factors of sufficient significance that outweigh the provisions of the Development Plan, then determination could be against the provisions of the Plan.

The application site lies wholly outwith the settlement boundary for Duns as defined within the LDP. Policy PMD4 "Development Outwith Development Boundaries" is, therefore, the most relevant Policy to be applied to the site. This policy states that any development should be contained within that defined boundary and that any development outwith will normally be refused. Forward Planning also confirm that the site lies outwith the settlement boundary within the Proposed Local Development Plan and that, as the settlement boundary is not contested, it is a material factor in determining this application.

NPF4 contains a number of relevant Policies relating to large housing developments and their impacts within settlements, including Policy 3 Biodiversity, 4 Natural Places, 9 Brownfield, 13 Sustainable Transport, 14 Design Quality and Place, and especially 15 Local Living and 16 Quality Homes. The applicant has also commented on NPF4 within their Planning Statement, stating the compliance of the proposals with the Local Living and Green Belt Policies.

Members will note the planning history of the proposed development on this site as mentioned earlier in this report. A planning application was submitted for nine houses on the site in October 2005 but was withdrawn before being registered. The site was also considered under the preparation of the current adopted Local Development Plan but rejected at Inquiry by the Reporter. The more recent history is explained by Forward Planning in their consultation response:

*"The site was previously submitted for consideration as part of the Housing SG and was not taken forward. The site was then submitted at the 'Pre MIR' stage of the LDP2 process and was not included within the MIR for the reasons outlined below. The site was recently re-submitted at the 'MIR consultation' stage, as part of the LDP2 process. It is acknowledged that the agent has submitted a response to the points raised in the previous site assessment conclusion. However, it is not considered that any additional or new information was submitted which required a re-consultation. Therefore, the conclusion from the 'Pre MIR' stage remains valid and is outlined below."*

That conclusion took into account the following constraints:

- The site is located within an area of Prime Quality Agricultural land;*
- Consideration to surface water runoff;*
- The site is located within the Designed Landscape 'Duns Castle';*
- The site is located within the SBC Designed Landscape 'Duns';*
- The site is constrained within the Landscape Capacity Study;*
- There are a number of Historic Environment Records identified within the site;*
- The site lies adjacent to the Category C listed building, 'Wellfield Cottage'; and*
- Archaeological investigations are required."*

The conclusion at pre-MIR stage was considered pertinent and valid at MIR stage, resulting in the settlement boundary in the Proposed Local Development Plan not being altered to accommodate the site. The conclusion was as follows:

*“In respect of landscape and visual impacts, the bank rises up steeply and therefore, any development would be quite a prominent addition to the settlement in terms of visual impact. It is therefore doubtful as to how well the site would integrate within the landscape. A slightly smaller site boundary was considered as part of the Local Plan Inquiry, where the Reporter endorsed the Council's assessment that its development would have an adverse impact on the views, character and setting of Duns and would unnecessarily elongate the town away from local services and facilities.”*

The site was also the subject of a pre-application enquiry for housing development in 2021. This elicited a negative response from the Department due to contravention of Policy PMD4 and failure to meet any of the exception criteria. There was also a Screening Opinion (which concluded no EIA was required) and a Proposal of Application Notice (PAN) in 2022 preceding the community consultation procedures.

This history demonstrates that the site has consistently been rejected at all stages in the LDP and pre-application processes in recent years and Members should be aware of this. Until now, there has not been any planning application taken to a decision. What is important in assessing this planning application is to be both fully aware of the Development Plan position and the planning history of the site, but also to ensure that all material issues are assessed as they now stand. This includes the submission of any additional or enhanced information and whether there has been any Policy or other changes that would have a bearing on the determination of the application. This should take into account all submissions made in support of the planning application by the applicant, as well as the advent and application of NPF4.

The applicant makes reference to Policy PMD4 being the most directly relevant LDP Policy to the proposal. This Policy will normally advise rejection of applications outside the defined development boundary of settlements unless one or more qualifying criteria can be met. Only then, would secondary criteria then also need to be met. The main qualifying criteria are discussed as follows:

#### A job generating development with economic justification

Whilst a new housing development will deliver construction employment opportunities and, thereafter, will feed into the local economy through additional population, it is not, in itself, a job-generating development meant in the context of this criterion.

#### An affordable housing development

The agent has not stated that this will be an affordable housing development and, indeed, has contended it could provide market family housing. Whilst, if approved, there would need to be commuted sum payments towards the offset provision of affordable housing in the locality away from the site, this criterion refers to a wholly affordable housing proposal which is not the case with this application.

#### A housing shortfall identified by the Council in the Housing Land Audit in provision of an effective five year land supply

This is the main criterion that the agent considers is met by the proposal, considering that the site could provide an important contribution to the local housing land supply. The Planning Statement contends that the site is in compliance with Scottish Planning Policy, providing family housing and contributing to a perceived shortfall in the 5 year supply of effective housing land. It examines the Council's 2020 Housing Land Audit

(HLA) and quotes from a Reporter's Decision Notice on a Peebles site in May 2021 where the Reporter concluded a shortfall of 631 housing units.

The agent assesses the Council's housing land supply in Appendix 1 of their Planning Statement, concluding that a shortfall of 5,062 units equates to a housing land supply of 2.49 years. However, it is noted that figure (k) contained within the table is incorrect and should total 7,210 units and not 8,647 units, based on the calculation (j\*5). As a result, figure (n) is also incorrect and should be 3,625, based on the agent's calculations. The agent, thus, contends that the site is needed to help bring the total back up to five year's supply and that justification is provided to meet the relevant qualifying criterion in Policy PMD4. Their assessment was based upon the most recent Housing Land Audit (2020) at the time of their report preparation.

Within paragraph (5.9) of the Planning Statement, the agent states they assess that more than 125 sites of the identified effective housing land supply sites are not deliverable within five years. However, it should be noted that the agent has not provided any further information regarding which sites are being referred to, where they are located or the reasons why these sites are not deliverable. Furthermore, they have not deducted these sites from the calculations set out within the table and have used the Council's five year effective housing land supply figure (3,585 units), as referred to under figure (l).

The agent's submissions on housing land supply have been considered and the views of the Forward Planning Team, who prepare the Housing Land Audit, are as follows: *"In respect to Housing Land Supply, it is noted that the Planning Statement (Paras 4.39-4.41, page 23) make reference to an appeal decision (LPA ref: PPA-14-2088) published on 18th May 2021 in relation to the erection of 22 dwellings at 54 Edinburgh Road, Peebles, where the reporter concluded that there was a "Significant five-year effective land shortfall". However, it is noted that the Housing Land Audit 2021 concludes that the Scottish Borders has a 5 year effective housing land supply. As part of the Housing Land Audit process, the Council engages with Homes for Scotland and house builders for information regarding programming for development and any potential constraints on sites. This is taken into consideration in the programming of individual sites within the audit annually. In respect of the Berwickshire Housing Market Area, the 2021 Housing Land Audit found that there are 14 years supply when completions are compared to the five year effective land supply."*

In a further response to the applicant's submissions, the Forward Planning Team have clarified that the 14 years supply did in fact refer to the 2020 HLA whereas the 2021 HLA reveals 869 units in the Berwickshire Housing Market Area which equates to 12 years effective housing land supply. They continue to disagree with the applicant's methodology of calculating land supply and contend that the undelivered backlog from SESPlan 2013 should not be added in, which gives an unrealistic and unjustified housing land requirement.

Forward Planning explain that calculations should be derived from the 2021 HLA and that the Council's methodology for the Audit is set out in the adopted LDP and was accepted by the Reporter at the time of adoption. They state that the PMD4 exception on housing land supply is only if the Council have identified a shortfall through the HLA – it is not appropriate for applicants or agents to provide their own calculations. For the full Forward Planning response, Members should look on the Public Access Portal at the document tagged 18 May 2023.

Given that exception criterion c) of Policy PMD4 requires there to be a shortfall in provision of a five year effective housing land supply as identified by the Council in their Housing Land Audit, this is not the case with the application. The Council, through

Forward Planning, have maintained there is no shortfall when based upon the 2021 HLA – indeed, there is 12 years supply. The agent’s conclusions have been based upon one Reporter’s decision of more than two years ago and their own assessment - through the discounting of numerous sites from the effective supply without any further explanation or detail and the rolling over of undelivered backlog. There is a risk of lack of objectivity and accuracy in third party assessment of the Council’s housing land position and this was also recognised by the Reporter on the Venlaw decision in Peebles, who sided with the Council’s assessment on site effectiveness, stating:

*“Both sides have clearly looked at this issue very closely. However, the council has the advantage of having access to confidential pre-application discussions with site owners and prospective developers and has provided examples of sites that the appellant thought to be ineffective that have subsequently made progress towards development. Therefore, having regard to all of the submitted commentary on the sites in question, I am more persuaded by the council’s site by site assessments of effectiveness.”*

The agent does assess one allocated housing site in Duns, arguing that the allocation ADUNS023 has been sterilised by flooding and has resulted in the loss of 60 units to the local housing land supply, part of a wider issue where it is claimed the Council has failed to ensure sufficient land for housing choice in Duns. They claim that active development across three other allocated sites in Duns shows that there is healthy demand. The application referred to by the agent on allocation ADUNS023 was submitted on only part of the allocation and, whilst there were flood risk issues, this did not apply to the whole of the application site. As the Officer stated in his Committee Report:

*“The findings of the FRA may not have been positive for this development, nevertheless there are no suggestions that residential development cannot take place in the remainder of the allocated site and it may be possible that a co-ordinated development across the whole of the allocation can address the wider flood issue which has been identified.”*

The conclusion of the agent that the allocated site ADUNS023 has been sterilised by flooding is, therefore, not fully accurate nor should it justify the automatic deduction of 60 units from the housing land supply. It is still reasonable to conclude that 60 units could be achievable across the whole allocation, including those parts of the planning application site that were not subject to flood risk.

Including allocation ADUNS023, the Proposed Local Development Plan identifies five allocated sites for development, totalling a potential 232 units. Whilst it is accepted some development has since occurred on some of these sites, this figure does not take into account other infill sites with permission in Duns, redevelopment allocations or, indeed, the longer term identification of housing land south of Earlsmeadow. It is, therefore, considered that there is sufficient housing land within Duns which contributes towards maintaining a five year effective housing land supply and provides housing choice without the need to breach the settlement boundary north of the town to find more land.

The Council stands by the HLA 2021 and maintains there is an effective five-year housing land supply in line with all current guidance and the Development Plan. The agent’s justification does not provide a robust baseline for establishing there is a housing land shortfall, nor should it be a position that can be objectively established by third parties. Consequently, the relevant exception clause in Policy PMD4 is not complied with and the development is contrary to the Local Development Plan.

### Significant community benefits outweighing the need to protect the development boundary

There has been insufficient evidence advanced within the application to suggest that this criterion would be met. Whilst the applicant estimates construction costs of £1.5m, net additional household expenditure per annum of £297,500 and more housing land supply to meet with national and local needs, the visual, landscape, access and agricultural land impacts together with the need to contribute to meeting the impacts on local infrastructure and services, determine that there is insufficient demonstration of net community benefits arising from the development to outweigh the need to protect the development boundary in this instance. The existence of adequate housing land supply in the area adds weight to the protection of the current development boundary. Only one of the four qualifying criteria would need to be met under Policy PMD4 to then consider it as an exceptional approval outwith the settlement boundary, against which secondary criteria would then need to be applied and met. As none of the qualifying criteria are met, the secondary criteria do not need to be applied or considered regarding the proposal. Nevertheless, of those criteria that relate to logical settlement extensions, character of the built-up edge and adverse effects on the landscape setting of the settlement, it would be unlikely that the proposed site would meet one or more of these secondary criteria. Similarly, of the three matters that would be taken account of in deciding whether to grant an exceptional approval, the settlement profile for Duns identifies the strong landscape framework of the town and the impediment to longer-term housing development to the north due to the Duns Castle Designed Landscape and associated steep slope. The Settlement Profile also mentions the surrounds of Duns being prime agricultural land. These are, therefore, further reasons within one of the additional matters to be taken account of under Policy PMD4, not to grant an exceptional approval for development in this instance.

NPF 4 Policies have also been considered in relation to whether the breaching of the development boundary would be outweighed by other aims and provisions but it is concluded that there are no Policies that are incompatible with Policy PMD4. Whilst the Policies on sustainable transport (13) and local living (15) could apply to the application as outlined by the agent, they equally apply to other allocated sites within Duns and do not provide a justifiable case for allowing a breach of the boundary in this instance. Other Policies relating to protection of the natural and cultural heritage environment (4, 7), land quality (5) and avoidance of greenfield development (9) add more weight to the protection of the development boundary in this instance.

### Landscape

The site lies at, and within, the southern edge of the Duns Castle Garden and Designed Landscape, which is centred on Duns Castle, featuring extensive parks, woodland and a loch dating from the 18<sup>th</sup> Century. The boundary of the designated area is formed by the A6112 road and the site forms part of the outer agricultural fringe of the area. LDP Policy EP10 seeks to safeguard or enhance the landscape features, character or setting of such areas. Design Statements are sought for any development affecting Designed Landscapes and any development with an unacceptable adverse impact will be refused. Landscape impacts must also be considered in relation to the relevant LDP Policies PMD2, PMD4 and EP13, relating to landscape setting of settlements and protection of features such as trees, woodlands and hedgerows. Similarly, NPF4 Policies 4 Natural Places, 7 Historic Assets, 9 Brownfield and 14 Design Quality apply.

The applicant and agent have addressed Designed Landscape and local landscape impacts by submitting a Landscape and Visual Appraisal and an Archaeology Impact Assessment. These summarise that the proposal would not be visible from Duns Castle or associated loch. Whilst there would be a landscape impact, this would be mitigated by relationship with the rest of the town. The agent contends that with new

planting, the development will integrate with the natural and built setting of Duns from various viewpoints assessed and that, as landscape impacts will be no more than moderate, the development can be considered to comply with Policies EP10 on Designed Landscapes and EP12 on Green Networks.

The application is submitted as an application for planning permission in principle and, apart from the location and dimension of the site, the layout, number and design of houses within the site would still be for further agreement, should the application be approved. Nevertheless, given the sloping nature of the site, the elevation above the A6112 and the indicative details of the layout provided, various assumptions about single sided development and housing above single storey can be made. Allowing for this nature of development, it is necessary to consider the impacts both on the Duns Castle Designed Landscape but also on local landscape character, in how the site contributes to the rural fringe and character of Duns at its northern edge.

Historic Environment Scotland raise no objections to the application, accepting that the development will change the character of this part of the Designed Landscape but that there would be no significant negative impact on the inventory site. They do identify mitigation through the retention of the modest stone retaining wall along the edge of the site bordering the A6112, albeit as has been mentioned elsewhere in this report, the integrity and retention of the wall is adversely impacted by the access requirements expected by the Roads Officer. Nevertheless, in terms of impact on the Designed Landscape, it is accepted that the impacts would not be significant given the distance from Duns Castle and loch, the agricultural fringe character of the site and the concealment from the heart of the designation. The Landscape Officer does comment on various adverse impacts on the Designed Landscape but does not object in terms of impacts on the designation itself. There is also no evidence that Historic Environment Scotland would have objected, had they known the potential impacts on the roadside retaining wall. It is, therefore, concluded that the proposal complies with Policy EP10 and Policy 7 of NPF4.

Whilst it is accepted that the landscape impacts of the development are not likely to be significant on the integrity and character of the Duns Castle Designed Landscape, the site must also be assessed in terms of local landscape character and how it contributes to the rural fringe and character of Duns at its northern edge. Policies PMD2, PMD4 and EP13 apply, as do Policies 9 and 14 of NPF4. The LDP Policies require compatibility with the landscape character, attractive boundary treatments and avoidance of adverse impacts on trees and landscape setting of settlements.

NPF4 Policy 9 relates to brownfield development but includes criterion b) which states: *“Proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by Policies in the LDP”*. NPF4 Policy 14 lists six qualities of successful places, but also has a concluding requirement stating : *“Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places will not be supported.”*

The agent contends that the proposed is simply extending the line of built development to mirror the existing development south of the A6112, whilst accepting that there is a level difference between the north and south sides of the road in this location. The various viewpoints in the LVIA show the expected impacts on the overall integrity and landscape setting of the settlement. Their submissions conclude that whilst there would be a landscape impact, this would be mitigated by relationship with the rest of the town. The agent contends that with new planting, the development will integrate with the natural and built setting of Duns from various viewpoints assessed and that

landscape impacts will be no more than moderate and, therefore, acceptable in the overall planning balance.

However, it is clear that landscape impact and prominence have been influential in the reasons why the site has not been accepted as a suitable extension of the Duns settlement boundary, in previous stages of the current adopted and Proposed LDP processes. The Forward Planning Team refer to the location of the site within the Designed Landscape of Duns Castle but also to constraint within the Landscape Capacity Study. They reiterate that the Reporter rejected the site at the stage of adoption of the current LDP, endorsing the Council's assessment that its development would have an adverse impact on the views, character and setting of Duns and would unnecessarily elongate the town away from local services and facilities.

The aforementioned Landscape Capacity Study was one of eleven carried out for the Council and NatureScot in 2007, covering different settlements and aimed at guiding the Council on suitable locations for future housing development in landscape terms. The findings of the report were used to guide the location and allocation of new developments within those 11 settlements, as the previous LDP process evolved. The Duns Landscape Capacity Study findings on page 24 recognised the boundaries of the Duns Castle Designed Landscape as a constraint, but also stated:

*“The steep slopes of Duns Law also provide a strong containing edge to existing settlement lying at its foot and development of these slopes would be physically difficult and result in significant modification of the distinct landform of this focal hill. In addition, development on steeper hill slopes would be contrary to existing settlement form which is associated with more gently sloping ground to the south”.*

It is clear that these findings were accepted by the Council in relation to the exclusion of the application site from the settlement boundary and the subsequent attempts to have the site included in the LDP and Proposed LDP process. The resistance to the site was also backed by the Reporter at Inquiry stage during the adoption of the current LDP. Whilst all landscape impacts have been fully reconsidered with this application, including consideration of the Design and Access Statement and LVIA, there is nothing in the submissions nor in current Development Plan Policy that would make the proposals more acceptable now than they were previously.

The local landscape character formed by the rising land leading to Duns Law, the initial steep grassed embankment, occasional roadside trees and partial stone retaining wall would all be significantly and detrimentally altered by development of the site. Whilst in plan and geometrical form there would appear to be logic in allowing single sided development to extend up the Preston Road to the extent mirrored on the south side of the road, full consideration of the level differences and landscape features of the site determine that landscape capacity does not exist at this location without significant change and harm to the character and quality of the landscape and adverse visual impacts.

It is clear that access works and development platforms will cause significant alterations to landform, irrespective of how the site is accessed and laid out. It is also likely that there would be even more visual intrusion and impacts caused by the methods of accessing the site that would be required by the Roads Planning Service. Given RPS has stated they would object to the suggested single access point and rear access road, the landscape impacts of the alternative direct accesses they consider would be acceptable in road safety terms, must be considered when assessing the likely landscape and visual impacts of the development at this PPP stage. This would involve repeated breaching of the embankment and retaining wall, formation of visibility



splays, associated earthworks to the embankment, loss of trees and significant cuttings to form the required gradients for the accesses. There would also then be issues with pedestrian access to the houses and what level the houses would be set at on the site.

The Landscape Officer has also objected to the application on grounds of local landscape character impacts. The officer identifies a number of the issues mentioned above, stating that the proposal underestimates what are substantial changes to local landscape character, diminishing the strong containing edge to Duns as identified in the Landscape Capacity Study, regrading the open slopes to Duns Law, impacting on regionally important views and unacceptably altering the distinct landscape gateway entrance to Duns. The Officer provides commentary on the viewpoints that do not indicate the full impacts of the development, nor the slower growth rate of backdrop planting. She also considers there is no indication of the significant and overbearing visual amenity impacts on the existing residents south of the A6112. She also expresses concerns over the layout and design of plots not complying with the Placemaking and Design SPG and the consequent significant landscape and engineering impacts caused by the requirements of the Roads Officer in seeking a stronger street frontage that would be more compliant with the SPG and "Designing Streets".

Whilst the applicant's landscape submissions are noted and have been considered fully, there is no reason not to accept the advice of the Council Landscape Architect and reflect previous expressed concerns that the development of this site should be opposed on grounds of significant landscape and adverse visual impacts, within designated landscape on a sensitive edge of the town settlement boundary and against LDP Policies PMD2, PMD4, EP13, the Placemaking and Design SPG and Policies 9 and 14 of NPF4.

### Residential Amenity

Local Development Plan Policies PMD2 and HD3 contain safeguards regarding residential amenity, both in terms of general use compatibility but also direct impacts such as privacy and light. This is explored further in the Council's "Privacy and Sunlight" SPG. NPF4 contains limited guidance on residential amenity, concentrating within Policy 16 "Quality Homes" on the impacts of householder developments on their neighbours. A number of neighbouring objectors also raise issues relating to residential amenity including the height of the proposed houses above existing houses, privacy, daylight and sunlight impacts.

Unless it is absolutely unavoidable that development of land will cause residential amenity issues through a combination of scale, location, proximity, elevation and position of neighbouring properties, then it would not normally be justifiable to refuse planning permission in principle. Issues of privacy, daylight and sunlight can only properly be examined when there are detailed proposals for development submitted, indicating height, window positions, separation distances etc. Policy HD3 does refer to the details of development within its criteria including impacts as outlined above. However, it also asks for consideration of the level of visual impact which is a valid concern at this site where the development will inevitably be elevated above the Preston Road and the houses on the southern side of the road.

These houses will experience the greatest visual impact. Some have generous setbacks and screening from the public road whilst others are immediately on the roadside with windows facing the site. The fact that the site is elevated determines that increased privacy separation distances are normally sought above the 18m minimum

when measuring directly between habitable room windows. The figure rises by two metres for every one metre difference in window levels. However, even allowing for the fact that windows, especially to upper floors, may be several metres higher than the existing windows, the proposed plots are sufficiently sized to allow privacy setbacks in line with those advised in the supplementary planning guidance. Even where affected existing houses are adjoining the roadside, the application site is sufficiently deep and long to enable design solutions to avoid breaching the required separation distances.

Residents have also raised the issue of daylight and sunlight impacts which are addressed in the SPG. Whilst proposed houses will be on elevated ground, the length and depth of the application site would allow for adequate separation from the affected houses. Daylight assessment is usually measured from the mid point of affected windows in a 25 degree line from the horizontal. Given the separation distances and the location of the proposed houses within the north-western quadrant from the existing houses, it is not envisaged that there would be daylighting impacts to any adverse extent. Similarly, sunlight would only be affected in the evenings and, even then, the existing houses are sufficiently separated with unaffected main south-easterly aspects.

Impacts to the adjoining house to the south-west, Kirkwell House, are also mitigated by separation distance, intervening screening and fewer windows on the existing house side elevation. The design of the nearest plot to Kirkwell House could also be adjusted to respect privacy by ensuring a blank gable and additional separation distance, with further intervening planting. Whilst the application submissions have not concluded upon residential amenity impacts, it is considered that in terms of privacy, daylight and sunlight impacts, there are no grounds to oppose a PPP application on the basis of the length and depth of the site.

Whilst it is also accepted that the development complies with other criteria set out in Policy HD3, such as being residential development in an adjoining residential area, the elevation and constantly rising levels of the site from the existing houses will cause inevitable visual impacts. This has been identified by Forward Planning in their response to the planning application when reiterating the history of landscape concern over previous approaches to extend the settlement boundary, stating:

*“In respect of landscape and visual impacts, the bank rises up steeply and therefore, any development would be quite a prominent addition to the settlement in terms of visual impact. It is therefore doubtful as to how well the site would integrate within the landscape. A slightly smaller site boundary was considered as part of the Local Plan Inquiry, where the Reporter endorsed the Council's assessment that its development would have an adverse impact on the views, character and setting of Duns and would unnecessarily elongate the town away from local services and facilities.”*

The embankment and rising field are very much part of the northern aspect of the houses located south of the road, with little screening to interrupt visibility up towards Duns Law. Given the concerns expressed elsewhere in this report over landscape, embankment and gateway entrance impacts in this part of Duns, there will be levels of visual impact experienced by the houses south of the road which, in the overall planning balance, would be considered adverse and unjustified in relation to the need to breach the settlement boundary in this location. There will be unacceptable elements of prominence and dominance caused by developing this rising field, exacerbated by the engineering works required for access, development platforms etc. It is, therefore, concluded that in terms of levels of visual impacts, the application would not comply with Policy HD3 of the Local Development Plan.

## Access

Policies PMD2 and IS6 require safe access to and within developments, which should also be capable of being developed to the Council's adoptable standards and in accordance with the guidance in "Designing Streets" and various other relevant Government publications and Guidance Notes. NPF4 Policies 13 Sustainable Transport, 14 Design Quality and Place and 15 Local Living also provide a framework requirement for local access connectivity and sustainable transport methods. In terms of compliance with relevant Policies and Guidance, it is necessary to consider the potential impacts of the development on the traffic network leading to the site, then the actual road, footpath and parking layout of the development itself.

The application is submitted for planning permission in principle and the road access and number of units proposed would still require to be determined at the stage of Approval of Matters Specified as Conditions. However, the applicant has submitted an indicative layout to suggest that the houses would be accessed via a single roadway to the rear, entering the field at the existing field gate opposite the road serving the cemetery. The roadway would have two turning heads and also provide a footpath, albeit the applicant also expects each property to have direct pedestrian connections onto the existing footpath alongside the A6112.

The application was also supported by an Access Appraisal based upon the indicative layout of a single roadway. The Appraisal anticipates low traffic generation in the morning and evening peak hours not exceeding 9 vehicles (two-way) which they consider will have no material impacts on road safety either at the new junction or on the A6112 itself. The Appraisal confirms the access is already a field access and that suitable visibility splays can be formed to achieve required safety standards. The applicant also submits information in the Design and Planning Statements to contend the site is within Government NPF4 Policies relating to local living, the site being a six minute walk from the town centre and readily accessible to a range of different transport modes.

Members will note that the traffic impacts associated with the proposal have led to a number of objections from local residents and also from the Community Council. The concerns are in relation to capacity on the A6112, traffic volumes, speeds, HGVs and the impacts of forming an effective crossroads at the cemetery, especially on funeral days. However, there has been no road safety objection from the Roads Officer on the principal of the development for ten houses as this site. He accepts that the public road has the capacity to accept the development albeit it is a qualified acceptance, based upon any detailed application being submitted on an entirely different access basis. This would be a series of individual or communal, direct vehicular accesses through the embankment and out onto the A6112, with the houses moving nearer to the road. This would be to comply better with Government Policy such as "Designing Streets", aiming to achieve active street frontages and also introduce an element of traffic calming. The Officer states:

*"If an application with a street layout similar to the indicative layout shown in this proposal were to be submitted in the future, I would be minded to object to this because it doesn't address the principles outlined in the Scottish Government policy document "Designing Streets"."*

Clearly, the Officer does not object to the application as the application is for Planning Permission in Principle only, the precise road and pedestrian access arrangements to be detailed and agreed in any follow-up application. It is also clear, however, that he would not support such an application if based upon the arrangements currently

proposed. Given the issues and concerns outlined elsewhere in this report, to make this site suitable in terms of road access and road safety, there would be adjustments and alterations that will simply exacerbate the issues already identified. These would include the following:

- Significant loss, disturbance and adjustments to the roadside embankment for the formation of accesses, with associated creation of visibility splays.
- Loss of roadside trees and impacts on a retaining wall sought to be retained by Historic Environment Scotland.
- Impacts on Core Path 52 in terms of attraction and amenity to users, potentially conflicting with the requirements stated by the Access Officer and Policy IS5
- Significant additional engineering works to create several direct accesses, including the need for appropriate driveway gradients, surface water drainage etc.
- Greater visual impact and dominance of proposed houses in relation to the street scene and houses south of the site, potentially leading to overlooking and daylight/sunlight issues

Whilst there are no specific road safety reasons, therefore, to oppose this application and whilst the potential contribution to local living is noted, the alternative methods of road and pedestrian access would simply increase the adverse visual and landscape impacts to be expected at this site, which add further weight to those reasons why the proposal is not considered to be acceptable at this location.

#### Prime Agricultural Land

The applicant states at paragraph 5.34 of the submitted Planning Statement, that the site is Category 4.1 land according to the Macaulay Institute Soil classification and that it is, therefore, not resulting in the loss of any prime agricultural land – which are Categories 1- 3.1. However, the response from Forward Planning clarifies that the land is prime land. The applicant appears to have applied the information contained within the National Scale Land Capability map, which provides information on the types of crops that may be grown in different areas dependent on environmental and soil characteristics. However, on the same web page, there is a second, more detailed layer of map. This more detailed map is entitled ‘Land capability for agriculture (partial cover) map’, was published later and is at greater resolution. It is seen as the definitive mapped assessment. The note on the Government web page states:

*“Where coverage exists, the Land Capability for Agriculture (Partial Cover) Map takes precedence over the National Scale Land Capability for Agriculture Map”.*

The more detailed map shows that the majority of the site is Category 2 in the Macaulay Institute Soil classification and is, therefore, prime agricultural land. The lower slopes of Duns Law down to the A6112 appear as Category 2 in common with much of the land north-east of Duns, the remainder of Duns Law being non-prime Category 4.1. A smaller part of the site in the south-western corner is termed “Urban” and is greyed out from soil classification.

LDP Policy ED10 and NPF4 Policy 5 apply to the proposals. Policy ED10 states that the loss of such prime land will not be permitted unless the site is allocated in the LDP, meets an established need with no other site available, or is small scale and directly related to a rural business. None of these exceptions apply to this proposal – it is not allocated land, the need is not justified according to the 2021 HLA and the site is neither small scale (2.48 HA) nor related to a rural business. The land certainly appears to

have been ploughed and cropped in recent years and, given the prime land classification and the lack of compliance with the exceptions under Policy ED10, it is considered to be contrary to that Policy.

ED10 was augmented recently by Policy 5 of NPF4 with similar but, perhaps, even more stringent exclusions relating only to essential infrastructure, small scale development directly linked to a rural business or development associated with the land produce. There is no exclusion within Policy 5 to meet established need. The proposed development does not comply with any of these exclusions and is, therefore, also contrary to Policy 5.

### Drainage and Flood Risk

Local Development Plan Policies IS8 and IS9 are the most relevant in consideration of the impacts of development of this site on the water environment. Policy IS8 relates to flood risk and IS9 to Waste Water Treatment Standards and Sustainable Urban Drainage. The Council have also produced a SUDs SPG. NPF4 Policies 20 Blue and Green Infrastructure and 22 Flood Risk and Water Management are also relevant to the proposals. Policy IS8 requires development not to be at risk of flooding but also not to materially increase the risk of flooding elsewhere.

The drainage proposals have been explained in Drainage Strategy and Flood Risk Assessment reports. Foul sewerage from the development will be conveyed to the existing publicly owned combined sewerage network. Surface water run-off from areas of new external hardstanding will incorporate SUDS measures to treat and attenuate the surface water run-off to the agreed discharge limit with attenuation features tested for 1: 200 year rainfall events with an additional uplift of 40% for climate change resilience. The discharge would then be via 1.8km of new pipe to watercourses away from flood risk or via 12m borehole soakaway on site.

Scottish Water has confirmed that there is capacity in the Rawburn Water Treatment Works for water supply and the Duns Waste Water Treatment Works for connection of the site to foul drainage networks. Whilst they state that direct approaches still need to be made to them by the developer at the appropriate time, there is no indication at this stage that water or foul drainage capacity would be an issue in approving the proposed development. Had the application been supported, it would be standard practice to impose suspensive conditions to ensure water provision and foul drainage are proposed in detail and approved by the Council, after liaison with Scottish Water, before any development can commence on the site.

In terms of surface water discharge, given the responses and evidence from the respondents, there can clearly be issues at this location with the discharge of surface water from storm events. Whilst there is a presumption from objectors that allowing development of the site will exacerbate the surface water flooding, the issue is whether the site can be developed without doing so. Some even suggest that development may be an opportunity to achieve betterment of attenuation and run-off from the site, compared to its undeveloped greenfield state.

Scottish Water have commented that they may not accept connection of surface water into their combined sewer system but that there may be exceptions in the case of brownfield sites. They also state:

*“In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to*

*making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.”*

The Drainage Strategy proposes attenuation and discharge rates in accordance with statutory requirements. The applicant accepts that if Scottish Water will not accept the outfall of storm water, then they will need to seek alternatives as outlined above – a long pipe to a non-flood risk watercourse or soakaway boreholes on site. SEPA rely on standing advice for such matters. The Council’s Flood Risk Officer has raised no objections. If development is approved, he requests a condition seeking a detailed drainage system to ensure no increase in greenfield run-off rate, boundary drainage and ensure capacity of receiving system is adequate.

There is little doubt that there is a surface water flooding issue in this locality, evidence having been submitted of storm water flowing down the field and over or through the roadside wall within the application site. However, had the application been supported for other reasons, then it would have been justified to impose a fully suspensive condition on the development to seek the design, agreement and completion of a surface water drainage system with attenuation, before the remainder of the development was commenced. In this way, the development would not place other property at flood risk, even during its construction phase.

There is no suggestion from the Council’s Flood Risk Officer that there would be any insurmountable flood risk issues in developing the site for housing, provided the drainage system met required attenuation and run-off rates. It is, therefore, concluded that the application could not be considered to be contrary to Development Plan Policies IS8, IS9, 20 and 22.

### Ecology

The application requires assessment principally against Local Development Plan Policies EP1-EP3 covering international, national and local nature conservation and protected species and the Biodiversity SPG. NPF4 Policies also require to be considered, particularly Policy 3 Biodiversity and Policy 4 Natural Places. Policy 3 requires major applications to restore, conserve and enhance biodiversity.

The application has been supported by a Preliminary Ecological Assessment, which identified low suitability of habitat for protected species, the trees outwith the site not being affected by the development. The hedgerow to the east had some potential for breeding birds and the Assessment recommends works avoid the breeding bird season. Some ecological enhancements are also recommended including bat and bird boxes, bat-friendly lighting and native species planting. There were third party objections to potential impacts on wildlife including bats, badger and breeding birds.

The Council Ecology Officer responded to the submissions accepting the conclusions of the Preliminary Ecological Assessment. Had the proposal been supported, she would have requested that hedgerows and trees be retained, future submissions supported by an Arboricultural Impact Assessment which demonstrates avoidance of tree root protection areas. She welcomes the new planting but seeks further details, together with checking surveys for protected species that may be necessary if the time gap to submission is lengthy.

Given the findings of the Assessment and the responses from the Ecology Officer, it is not considered that the proposals would be contrary to Development Plan Policies with respect to ecology and wildlife.

## Cultural Heritage

Archaeology matters are principally controlled by LDP Policy EP8 and NPF4 Policy 7, requiring any significant adverse effects to either be avoided or weighed up in the overall planning balance, when considering the other social or economic benefits of the proposal. This includes the setting of archaeological assets and proposals should be backed by Cultural Heritage Assessments or field evaluations where significant impacts are identified.

A number of third party representations object to the potential impacts of the development on the setting of Duns Law Fort and Covenanters' Camp Scheduled Monument. The applicant submitted an Archaeology Assessment with the application which identified that there would be no visibility from the summit of Duns Law but some visibility from the southern edge of the scheduled area. It concludes that given the open aspect from the summit and intervening screen landscaping filtering limited views of the development, there would be no adverse effects.

Whilst full assessment on setting could only be possible through consideration of a full planning application, including heights, designs and numbers of houses, there is sufficient information on location, layout, landscape screening and numbers of houses for Historic Environment Scotland to raise no objections to the application. They accept that some elements of the development may be visible from the monument but conclude that those elements would be read as an extension to Duns and there would not be a significant impact on the setting of the fort and camp.

The Archaeology Officer also raises no objections to the application after considering the site and supporting submissions. He recommends a condition seeking a written scheme of investigation including field evaluation. The Archaeology Assessment indicates moderate potential for further finds within the site, necessitating trial trenching across the site and adjustment to house locations and positions if any discoveries justify that. He identifies indirect impacts on the scheduled monument and other monuments on the summit and slopes of Duns Law, requiring the choice and location of screen planting to be the subject of further condition, to respect the monument locations and settings. Subject to relevant conditions, there is no objection from the Archaeology Officer to impacts on monuments or below-ground archaeology.

Cultural Heritage impacts are also relevant in relation to the proximity of the site to various listed buildings ie. nine to the south-west of the site, the town cemetery and within the GDL and setting of the Category A Listed Duns Castle. The closest to the site are Category B Kirkwell House to the east, Category B Wellfield House and Category C Coach House and Stables (Wellfield Cottage) to the south. A number of third party representations object to the potential impacts of the development on the setting of Kirkwell House and Wellfield Cottage in particular.

Policies EP7 of the Local Development Plan and 7 of NPF4 support development that respects the setting and integrity of statutorily listed buildings, supported by Government online advice from Historic Environment Scotland. NPF4 Policy 7 seeks submission of a specific heritage assessment where potentially significant impacts have been identified – and this was submitted by the applicant in the aforementioned Archaeology Assessment. The Assessment, however, makes no reference to impacts on the setting of the listed buildings, only stating the grades of sensitivity to change.

Whilst there are windows facing the site from the nearest listed buildings, especially from Wellfield Cottage, there is no question that the main aspects are looking away from the site and there would be extremely limited impact on any setting considered

important or integral to the listed buildings. The impacts would be more in relation to residential amenity than cultural heritage setting. The Heritage Officer also raises no objections although she does express concerns over the need for appropriate details of design and layout to minimise impact on varied group of listed buildings at the site, should the application reach the detailed planning stage. The indicative layout would suggest uniformity and rear gardens fronting onto the public road which the Heritage Officer considers could erode streetscape character and the setting of the listed buildings.

It is, therefore, concluded that in terms of potential impacts on cultural heritage both directly and indirectly, in relation to scheduled monuments, listed buildings and unknown archaeology, there is no reason to consider that the application would be contrary to Policy EP7 of the LDP and Policy 7 of NPF4. Precise design and landscaping could provide further mitigation, if needed, at the detailed planning stage.

### Development Contributions

Local Development Plan Policy IS2 requires all housing developments to contribute to infrastructure and service provision where such contributions are considered necessary and justified, advised by the Development Contributions SPG. NPF4 Policy 18 “Infrastructure First” also states :

*“The impacts of development proposals on infrastructure should be mitigated. Development proposals will only be supported where it can be demonstrated that provision is made to address the impacts on infrastructure.”*

In addition, NPF4 Policy 16 Quality Homes requires any development to ensure at least 25% affordable homes on-site provision.

In relation to the development of this site for housing development, it is identified that mitigation in the form of developer contributions are required for education, play and affordable housing, to be secured by legal agreement.

For any development of fewer than 17 houses, affordable housing provision will require to be met by a one-off commuted sum payment, to be secured within a legal agreement, the money then to contribute towards affordable provision in the local area. This would be sought on the basis of total number of houses (minus one) divided by 25% then multiplied by the agreed figure for the Housing Market Area (£8,000) – bringing in a possible contribution figure of £18,000 based on a suggested 10 house development. Given the application is submitted only for Planning Permission in Principle, the figure will vary depending on the final number of houses that may be developed on the site, should the application have been supported otherwise.

The site also requires developer contributions to schools and play facilities in the area. The Council Policy is to seek a standard contribution per market unit where school capacity and rolls are of concern to Education and Lifelong Learning. Contributions towards Berwickshire High and Duns Primary Schools are advised – levied upon each house. For play, the standard contribution is £500 per house. These elements of development contribution Policy would also be met through the Section 75 Agreement.

The Community Council refers to the current health care provision in Duns and they are concerned at placing more pressure on the provision. Such concerns frequently arise in many towns across the Borders when faced with housing development and population growth. Whilst the Development Contributions SPG states that “...Any services, infrastructure or facilities may require contributions...” health care is not listed



in the examples of the predominant types of facilities that could be supported with contributions. There has hitherto been no identified need to oppose developments or seek financial contributions on the basis of health care capacity, perhaps reflecting the variety of reasons why there currently may be capacity issues. These may not only relate to population and development growth but also to funding and resource matters which lie outwith the control of the Local Authority or developers. There is also the difficulty of not only assessing how much contribution should be sought, but also how to ensure it is diverted to local facilities that may require it when such services are centrally funded. Ultimately, it would be difficult to establish a clear causal link (and justification to seek contributions) between a proposal to add 10 units to the town and the potential impact on health care in the town.

In summary, had the application been supported, then it is considered that the development could comply with the relevant Development Plan Policies, including IS2, 16 and 18, through contributions being secured by legal agreement.

## **CONCLUSION**

The proposal is considered to be contrary to Policies PMD2, PMD4, HD3 and EP13 of the Local Development Plan 2016, Policies 9 and 14 of NPF4 and the “Placemaking and Design” SPG as the site is outwith the Development Boundary for Duns and the development would not constitute a justifiable extension to the settlement, in that it is not a job generating development, not affordable housing, there is no shortfall in the 5 year effective housing land supply and there are no significant community benefits sufficient to justify development outwith the Development Boundary. The proposed development would also cause significant adverse effects on the landscape setting of the settlement, local landscape character, visual and residential amenity, representing a prominent and elevated greenfield incursion out of character with the settlement pattern and surroundings.

The development is also considered contrary to Policy ED10 of the Local Development Plan 2016 and Policy 5 of NPF4 as the development would result in the permanent loss of prime quality agricultural land, which is a valuable and finite resource. Furthermore, the land has not been demonstrated to be necessary for housing or infrastructure development, alternative sites are available and the proposal is neither small scale nor directly related to a rural business.

Other issues relating to road safety, ecology, drainage, and cultural heritage are either acceptable or could be addressed by planning conditions, had the development been supported.

## **RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:**

I recommend the application be refused for the following reasons:

1. The proposal is contrary to Policies PMD2, PMD4, HD3 and EP13 of the Local Development Plan 2016, Policies 9 and 14 of NPF4 and the “Placemaking and Design” SPG as the site is outwith the Development Boundary for Duns and the development would not constitute a justifiable extension to the settlement, in that it is not a job generating development, not affordable housing, there is no shortfall in the 5 year effective housing land supply and there are no significant community benefits sufficient to justify development outwith the Development Boundary. The proposed development would also cause significant adverse effects on the landscape setting of the settlement, local landscape character, visual and residential amenity, representing a prominent

and elevated greenfield incursion out of character with the settlement pattern and surroundings.

2. The development is contrary to Policy ED10 of the Local Development Plan 2016 and Policy 5 of NPF4 as the development would result in the permanent loss of prime quality agricultural land which is a valuable and finite resource. Furthermore, the land has not been demonstrated to be necessary for housing or infrastructure development, alternative sites are available and the proposal is neither small scale nor directly related to a rural business.

#### DRAWING NUMBERS

Location Plan	100 Rev D
Site Layout Plan as Proposed	101 Rev A
Topography	
Illustrative Visualisations	

#### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

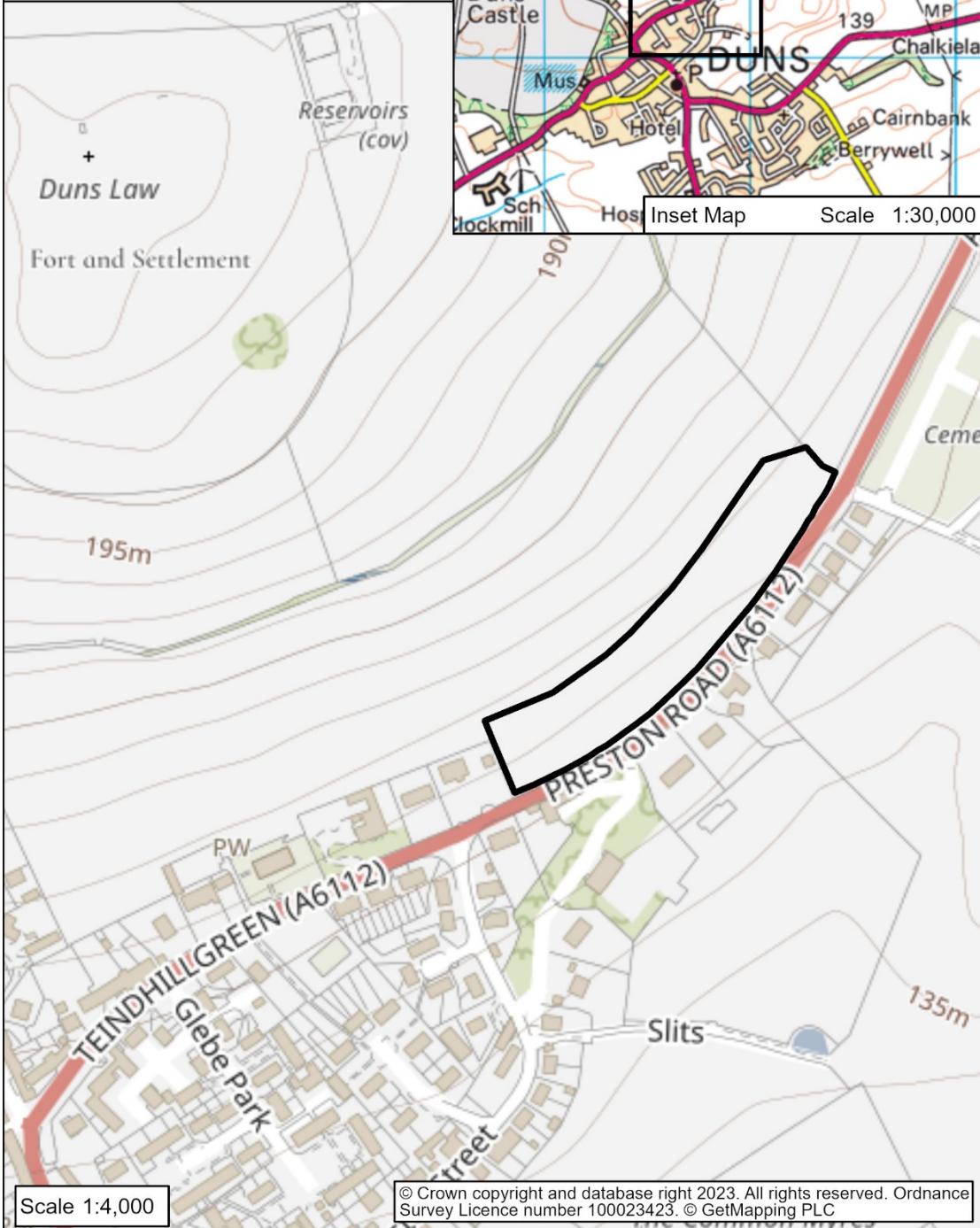
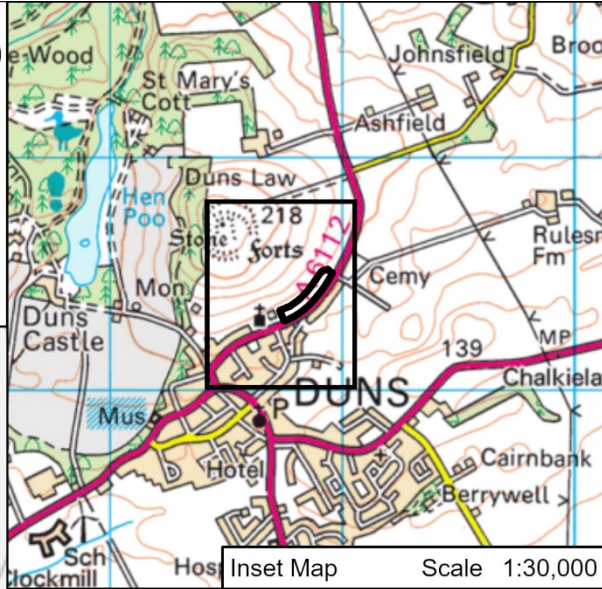
#### **Author(s)**

Name	Designation
Craig Miller	Principal Planning Officer



23/00131/PPP

Preston Road, Duns



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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**5 JUNE 2023**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 21/01804/FUL

**OFFICER:** Ranald Dods  
**WARD:** Tweeddale West  
**PROPOSAL:** Erection of 8 no dwellinghouses with ancillary building/garage, associated access and landscaping  
**SITE:** Land south west and south east of Bowbank Cottages, Bellfield Road, Eddleston  
**APPLICANT:** Eddleston Development Ltd  
**AGENT:** CSY Architects

**PLANNING PROCESSING AGREEMENT:** 6 June 2023

**SITE DESCRIPTION**

The site is approximately 1.35 hectares, located on the eastern edge of Eddleston. It lies within the settlement envelope and outwith the conservation area, although part of the western edge of the site adjoins the kirkyard of Eddleston Parish Church, which is a category B listed building and within the conservation area.

The site comprises two distinct areas separated by a path (reference EDDL/1/1) which connects a section of private road with Eddleston Primary School and Burnside. The area to the south west of the path is to the side and rear of the property known as Weltevreden. That property was the subject of planning permission 10/01505/FUL, dated 6 April 2011. The land currently has no use and, although it was formerly a horticultural nursery, it has now naturalised and can be considered greenfield. Mature trees grow alongside the public path to the north east. The south eastern half of this parcel of land is wooded with mature trees.

The parcel of land lying to the north east of the path is also within the settlement envelope and is rough grazing land and is greenfield. In the north west corner are two properties known as Bowbank Cottages, dating from the late 20<sup>th</sup> century.

Topographically, the land is generally flat to the north west, sloping uphill to the north east. The land slopes gently from north west to south east although there is a pronounced fall away to southern edge of the site. The private road known as Calderbank runs from the parish church at Bellfield Road (D19-1), along the north western boundary of the site and behind Calderbank and along the southern boundaries of six late 20<sup>th</sup> century properties on the south west side of Bellfield Crescent. The road gives access to Weltevreden, Bowbank Cottages and the farmland lying to the north east of the settlement. The road lies on the route of core path EDDL/154/1.

## **PROPOSED DEVELOPMENT**

The application seeks planning permission for the erection of eight dwellinghouses with ancillary buildings, associated access and landscaping.

## **PLANNING HISTORY**

17/00236/MOD75 (for land to the north western section of the site) was granted in April 2017 thereby discharging the planning obligation which related to planning permission T199-88. That obligation prohibited any further dwellinghouse being constructed on the entire 2 acres of land to which the permission related.

Subsequent to that, planning permission in principle was granted in October 2018, on conclusion of a legal agreement, for a residential development of up to 15 dwellinghouses (reference 17/00767/PPP).

10/01505/FUL for the erection of a dwellinghouse on land to the north east of the Parish Church is also relevant. This house, now constructed is outwith the application site boundary but lies immediately to the north west of Plot 1.

## **REPRESENTATION SUMMARY**

Seven representations were received in respect of the original submission.

The proposals having been revised, neighbours were re-notified and an advert was placed in the local press. As a result of that process, five additional representations in the form of objections were received. The material grounds contained within those representations can be summarised as follows: loss of light; privacy; impact on setting of area; road and pedestrian safety; increased traffic; lack of parking; site not suitable for development of this scale; loss of amenity; contrary to policy PMD5; water and drainage provision; surface water flooding; waste collection difficulties; unallocated site.

In addition, one comment was made regarding the consent of adjoining owners being required to upgrade the access to the site. It should be noted that those are matters of private law and outwith the realms of planning.

Members can view copies of all representations in full on *Public Access*.

Given the number of individual objections and that received from the community council, in terms of the current Scheme of Delegation, the application is required to be determined by committee.

## **APPLICANTS' SUPPORTING INFORMATION**

- Planning statement
- Design statement
- Tree survey and arboricultural impact assessment
- Ecological appraisal and surveys

## **DEVELOPMENT PLAN POLICIES:**

### **Scottish Borders Council Local Development Plan 2016**

PMD2 - Quality standards  
PMD3 - Land use allocations  
PMD5 – Infill development  
ED5 - Regeneration  
HD1 - Affordable and special needs housing  
HD3 - Protection of residential amenity  
EP1 - International nature conservation sites and protected species  
EP13 - Trees, woodlands and hedgerows  
EP15 – Development affecting the water environment  
EP16 – Air quality  
IS2 - Developer contributions  
IS4 - Transport development and infrastructure  
IS5 - Protection of access routes  
IS6 - Road adoption standards  
IS7 - Parking provision and standards  
IS8 - Flooding  
IS9 - Waste water treatment standards and sustainable urban drainage  
IS13 – Contaminated land

### **National Planning Framework 4**

Policy 1 - Tackling the climate and nature crises  
Policy 3 - Biodiversity  
Policy 4 - Natural places  
Policy 5 - Soils  
Policy 6 – Forestry, woodland and trees  
Policy 9 - Brownfield, vacant and derelict land and empty buildings  
Policy 14 – Design, quality and place  
Policy 16 – Quality homes  
Policy 18 – Infrastructure first  
Policy 22 – Flood risk and water management  
Policy 23 – Health and safety

## **OTHER PLANNING CONSIDERATIONS:**

The following supplementary planning guidance notes are material considerations:

PAN 61 - Planning and sustainable urban drainage systems 2001;  
PAN 65 - Planning and open space 2008;  
PAN 67 - Housing quality 2003;  
PAN 79 – Water and drainage 2006;  
Designing Streets 2010;  
SPG - Affordable housing 2015, updated April 2023;  
SPG – Biodiversity 2005;  
SPG – Contaminated land inspection strategy 2001;  
SPG - Development contributions 2016;  
SPG - Green space 2009;  
SPG - Landscape and development 2008;  
SPG - Placemaking and design 2010;  
SPG - Privacy and sunlight guide 2006;  
SPG – Sustainable urban drainage systems 2020;

SPG - Trees and development 2008;  
SPG – Waste management 2015.

## **CONSULTATION RESPONSES:**

The following were consulted on the application. Their comments are summarised below:

### **Scottish Borders Council Consultees**

**Roads Planning Service (RPS):** RPS has had numerous discussions with the agent regarding this site. Recent correspondence was in response to the revised layout. The drawings go a long way to addressing the points RPS previously raised although there are some outstanding matters, including the need for a suspensive condition for the completion of the proposed public road to an adoptable standard on any intervening land between the site boundary and the existing public road boundary of Bellfield. In addition (per condition 6 of the outline planning consent for the site) a suspensive condition will be required for improvements at the junction of Bellfield Road and the A703. The applicant has provided a '*Drainage Strategy and Surface Water Management Plan*'. This confirms preliminary site investigation results indicate that a porous sub-strata is present on site and that infiltration is proposed for road surface water drainage. Further geotechnical investigations are proposed to better inform a detailed design. The proposal is for infiltration trenches in road verges and other grassed areas but the outcome of future infiltration testing will determine whether additional infiltration and storage (cellular) is required. If so, the plan is to use the open space at the top of the development area or under the car park near the entrance to the site. If required, the report confirms an option for discharging the road surface water positively (piped) to the water environment, either to the unnamed tributary entering the Eddleston Water adjacent to Old Manse Road and the A703 or to Longcote Burn.

RPS notes that it would have been preferable if a detailed drainage design had been proposed and shown on a site plan at this stage, as the eventual solution may have an impact on landscaping and aesthetics. Furthermore, the areas required for SUDS measures may have an impact on the developable area of the site. That said, RPS would be content with a planning condition covering the requirement for surface water drainage measures to be submitted and agreed. In any event, a detailed surface water drainage design will be required as part of the Road Construction Consent process.

**Flood Risk Officer (FRO):** Having assessed the application and the submitted drainage strategy, the FRO raised no objection but stated that a suspensive condition requiring the submission of a detailed drainage scheme.

**Environmental Health Officer (EHO):** The EHO noted that the proposed development is unlikely to have a negative impact on existing amenity. No objection was made to the proposal. Conditions are, however, recommended.

**Contaminated Land Officer (CLO):** The CLO noted that application appears to be proposing the redevelopment of land that previously housed a quarry and glasshouses. Those land uses are potentially contaminative and in such circumstances, it is the responsibility of the developer to demonstrate that the land is suitable for the use proposed. The CLO recommended a suspensive condition relating to site investigations.



**Ecology Officer (EO):** The EO reviewed the submitted preliminary ecological assessment (PEA) and the tree report. The PEA was carried out at an acceptable time for bats in trees but a sub-optimal time (February) for breeding birds and badgers. Further survey reports were submitted and, having assessed those, the EO commented that the submitted ecological survey by Stone's Wildlife Management found no bats using any of the trees within the site for roosting. During the survey, several species of song birds were found nesting either on the ground or in the old shed/ hen houses within the site. The loss of these nesting places will need to be compensated through the provision of appropriate nest boxes. The rookery within the trees to the south of plot one is very active and given the presence of other breeding birds within the site, a Species Protection Plan for breeding birds should be submitted. The EO also commented on the water environment/ Tweed SAC noting from the drainage strategy document that the final drainage arrangements for the development have not been determined yet. The strategy states that "*During the surface water network design if required, the option to discharge water positively to the water environment to either the unnamed tributary entering the Eddleston Water adjacent the Old Manse Road and A703 or separately the Longcote Burn are to be investigated*". Since the Eddleston Water is part of the river Tweed SAC, the EO stated that they could support this proposal only if any runoff to the unnamed burn or Langcote Burn is treated prior to discharge. The river Tweed SAC will need to be taken into account in any conditions relating to SUDS. In conclusion, the EO raised no objection, subject to conditions.

**Landscape Architect (LA):** The LA noted that whilst the introduction of native hedging along the boundary of plots 1, 3 & 8 is welcomed, there is scope for much more hedging throughout the site – at the very least along both sides of the path into the centre of the site from the existing path along the west boundary. Also, consideration could be given to using more hedging, in conjunction with post and wire fencing, to demarcate boundaries between plots. The LA stated this would provide a much softer and visually pleasing option than timber fences or post and wire fences on their own. The LA requested consideration for more tree planting and suggested back gardens and along or near plot boundaries to avoid overshadowing the houses. 2-5no in each plot, depending on the size, would greatly enhance the development and be a legacy into the future.

**Heritage and Design Officer (HDO):** The HDO noted that despite the revisions, no updated Cultural Impact Assessment or assessment of the surrounding context has been provided to demonstrate how the proposal has been amended to better integrate with the surroundings and provide a site-specific response. It was noted that the stepped roofscapes to those buildings set perpendicular to the slope of the ground was an improvement, although it would benefit from further stepping in line with the topography or avoidance of long forms running perpendicular to the slope, to avoid excessive land level alteration. The roofscape has the potential to be the more visible element of the scheme, including potential visibility from Eddleston conservation area and the B listed church. The HDO commented that whilst some standing seam zinc may be acceptable, its use across the whole development would not be characteristic of the area and some slate should be used.

In addition, the HDO commented that the house styles would merit from slightly greater variation. It was noted that boundary treatments require refinement. Timber fences should be avoided to boundaries fronting public spaces, such as the rear and side of plot 2. The boundary to the front and front-side of plot 8 along the path should be low to allow passive surveillance. The need for significant banking to the access road is unfortunate. The banking should be designed to be as naturalistic as possible with planting and allowing existing trees to be retained. Protection of trees (as the backdrop

to views / the church) and soft landscaping across the site as a whole remains important in minimising the impact of the scheme of the listed church, conservation area and wider surrounding context

**Archaeology Officer (AO):** The AO assessed the application against the Scottish Borders Historic Environment Record (HER). It was noted that the site lies immediately to the east of the churchyard and has received previous archaeological commentary. There is the potential in the western parts in the progression of this development for archaeological evidence for a different churchyard or church to be encountered. Archaeological evaluation was recommended as a condition of any granted planning permissions to the two applications 17/00767/PPP and 10/01505/FUL. There is also a background potential for other materials from prehistoric periods to the medieval period. The submitted details anticipate the applying of a planning condition to this fresh application based on the previous archaeological interest in the area. Within the design statement it is noted that an archaeological written scheme of investigation (WSI) is to be prepared and submitted to satisfy condition number seven of the granted planning permission 17/00767/PPP although that has yet to be submitted to the Archaeology Officer. An archaeological evaluation is recommended for the current proposal.

**Outdoor Access Officer (OAO):** The OAO noted that the proposed site layout shows path EDDL/1/1 as remaining open and free. That should remain open and free before, during and after any development works.

### **Statutory Consultees**

**Scottish Water:** No objection. The site would be fed from Bonnycraig Water Treatment Works and serviced by Eddleston Waste Water Treatment Works.

**Community Council:** Objects to the application. The community council (CC) considered the proposal to: be on an unallocated site; be contrary to the development plan; be out of keeping with the area; have an unsuitable access; have adverse topography; raise road and pedestrian safety concerns and increase traffic; have a negative impact on active travel; reduce available parking spaces for the church; have a negative impact on privacy and amenity; have a negative impact on trees and wildlife; have a negative impact on drainage, water supply and services.

### **KEY PLANNING ISSUES:**

- Whether a development of eight dwellinghouses could be accommodated on the proposed site without conflicting unacceptably with the statutory development plan policies where they relate to (a) infill development; (b) placemaking and design; (c) residential amenity; (d) ecology and (e) road safety.
- Whether there are material considerations that would justify a departure from the provisions of the statutory development plan and material considerations.

### **ASSESSMENT OF APPLICATION:**

#### **Principle**

The site is within the settlement envelope of Eddleston as defined by the Scottish Borders Local Development Plan 2016 (LDP). It is not allocated for a particular use, nor is it safeguarded from development. Although the land has not been allocated for housing or any other use within the LDP and broad support is found in terms of PMD5,

policy 9 b) of NPF4 states that “Proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policies in the LDP”. In this instance, as planning permission in principle for a residential development has been granted (reference 17/00767/PPP), the principle of development on the site has been established and there would be no immediate tension with policy 9 of NPF4.

### **Planning policy – infill development**

The council is generally supportive to suitable infill development within settlements, provided they meet certain criteria. Such development will usually be unplanned and policy PMD5 of the LDP and policies 14 and 16 of NPF4 are relevant. The general principles set out in those policies are the starting point for the consideration of new housing developments. Provided other policy criteria and material considerations are met, the LDP confirms that development on non-allocated, infill or windfall site, within development boundaries will be approved where the following criteria are satisfied:

- a) it does not conflict with the established land use of the area;
- b) it does not detract from the character and amenity of the surrounding area;
- c) the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over-development or ‘town and village cramming’;
- d) it respects the scale, form, design, materials and density in context of its surroundings;
- e) adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity;
- f) it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

In this case, the site is within the settlement envelope of Eddleston and the established land use in the surrounding area is substantially residential, although there is agricultural land to the east. A residential development is unlikely to detract from the character and amenity of the surrounding area. The site has constraints imposed on it due to topography, mature trees and access arrangements. The pattern of density evident in the surrounding area would not be compromised through the proposed development, which would appear to be less dense than most of the developments in the area and, given permission has already been granted in principle for a 15 house development, 8 houses on the site would not be considered over-development. The design of the development would be different from the surrounding housing stock although there is sufficient variation in the village and the site is secluded enough to accommodate that. Access issues have been the matter of discussions with the RPS and, after revisions, that service is now able to support the proposal. Services would not be affected adversely although conditions are recommended. The development would not impact significantly upon the amenity of adjoining properties although consideration is given to that below. Given the proposed development would appear to comply with the above criteria, the development considered to be in accordance with the principal aims of policy PMD5.

Assessing the proposal against policies 14 and 16 of NPF4, the proposal would be broadly acceptable, especially as the principle of development on the site has been previously established.

## **Layout and design**

The development would be split over the two distinct areas of the site. The western part would see only one house built (plot 1). The balance of the houses would be constructed to the east of the public path (plots 2 – 8). Those seven houses would be set out, for the most part, with their principal elevations facing the access road. The exceptions would be three houses in the northern, south eastern and southern corners (plots 3, 6 and 8 respectively). The first two of those would be tucked into the corners and would have only part of their principal elevations visible from the road with plot 6 exhibiting a minimal amount of visibility. The house on plot 8 would be gable on to the street and, whilst it would be better that this faced the street, it would at least address the proposed pedestrian link to the existing footpath. Plots 4, 5 and to a lesser extent 2 and 7, are very close to the road and have little defensible space in the way of front gardens. Although further improvements could be made, particularly in relation to the houses on the southern edge of the site, the layout can, on balance, be accepted.

The layout and design of the houses was revised during the consideration of the application. Whilst it may have been preferable to have greater variety of houses across the site, there are 5 basic types. All would be single storey with attic accommodation. A split level has been introduced into the ridge line of the houses on all but plots 4 and 5. As well as breaking up the strong horizontal appearance evident in the original submission, the split level would help accommodate the slope which is evident in the topography of the site. The external walls would be finished in a render material with large panels of vertical timber boarding, with fenestration by and large having a strong vertical emphasis. Both the boarding and the fenestration would help to further break up the horizontality. The applicant proposes that the roofs be clad in metal sheeting. In their response to the proposal and taking account of the visibility of the site from the conservation area and the B listed church, the HDO noted that although the use of some standing seam roofing may be acceptable, its use across the whole site would not be in keeping with the character of the area. It was recommended that some slate should be used. The break in the ridge line of the majority of the houses would appear to create that opportunity and the applicant was asked to revise the materials to show slate on the majority of the roofs with the roofs of the stepped areas (where present) being finished in standing seam. That revision was not, however, forthcoming and a condition is therefore recommended. On balance and subject to conditions, the design of the houses is acceptable.

All of the plots would have a detached ancillary building and those would be located towards the extremities of the plots. Those would be clad with vertical timber boarding and the roofs would be finished with metal sheeting and that would be an appropriate pallet of materials for those buildings.

## **Impact on residential amenity**

The concerns raised in representations regarding privacy and residential amenity are noted. The distance between the house proposed for plot 3 and the nearest house on Bellfield Crescent, number 12, would be approximately 29m. That is more than sufficient to ensure there would be no privacy or amenity issues, even accounting for the difference in level between the properties.

Looking at the rest of the site, the orientation, distance between properties and fenestration layout of the houses on plots 2 and 8, 3 and 4, 6 and 7, and in addition plot 3 and Bowbank Cottage, raise issue of concern regarding privacy. Those matters could, however, be resolved quite simply by a condition requiring the submission and

approval of drawings showing revised fenestration details. In terms of plots 2 and 8, the distance between the two proposed properties would require to be increased to be more in line with the minimum distance for direct window to window relationships. That could be similarly covered by condition.

### **Road safety, access and parking**

The principle of development on the site has been established through the granting of 17/00767/PP and that is a significant material consideration. In relation to that proposal, the RPS initially recommend refusal on the basis of road safety, particularly in relation to the A703 junction with Bellfield Road. The RPS indicated that the issue of visibility at the junction with the A703 could be addressed by altering the existing junction arrangement. They also noted that the gradient of Bellfield Road, the main access route to the site, is steep and that could be problematic in wet or wintry conditions. There is, however, an alternative, if longer and more convoluted route to the A703 via Bellfield Crescent.

In the processing of the current application, although the RPS did not object, it noted that as this was a detailed planning application, the applicant was not bound by the conditions previously imposed. The RPS stated that the plans which were submitted initially did not address the two main areas of concern, being: providing an adoptable road and; altering the junction with the A703 to improve visibility. The matter of visibility at the junction with the A703 can, as previously, be covered by a suspensive condition. In relation to the access to the site, the major issue for consideration was the ability of the applicant to provide a suitably constructed road to adoptable standards. Ordinarily, matters of land ownership are outwith the remit of planning. In this instance however, as the access to the site would need to be adopted, the RPS had to be satisfied that a connection could be made between the proposed access and the existing public road network. It appeared from the submissions that the applicant did not have control over all of the access track and its connection with the public road network. The applicant subsequently made a submission stating that an agreement had been reached with landowners enabling them to make the connection to the public road network. A revised certificate was submitted stating that notice had been given to everyone who was the owner of any part of the land to which the application relates was also submitted.

Revisions to the road layout and parking provision were undertaken in response to comments from the RPS. Included were provision of some additional public parking spaces outside plot 1 and the provision of a footpath connecting the site to Bellfield Road. RPS noted that the revisions had addressed many of the points raised previously but there were still some issues outstanding. In order to address those, the RPS recommended the imposition of suspensive conditions. One of the issues raised by the RPS was the matter of drainage. The applicant submitted a drainage strategy in response. The RPS noted that although this would be covered in a Road Construction Consent application, it would be preferable to have full details of drainage at this stage. That having been said, the matter can be covered by a suspensive planning condition and it should be noted that the FRO is content to have those details submitted by means of a suspensive condition. In order to accord with LDP policy IS9 and NPF4 policy 18, conditions should be imposed should Members consider the proposal acceptable.

### **Impact on setting of listed building**

The site is located on rising ground to the east of Eddleston Parish Kirk, a category B listed building. In their assessment of the proposal, the HDO raised a concern about

the impact of the standing seam roofing proposed across the site on the setting of that building and also on the conservation area, as noted above. A recommendation was made regarding the use of slate and a condition is recommended in that regard. Subject to compliance with that, it is unlikely that the development would be detrimental to the setting of the listed buildings, ensuring compliance with LDP policy EP7 and NPF4 policy 7.

### **Impact on trees**

There are several mature trees within the south western part of the site. Those are of high value to the site and this part of the area. The LA and the EO have assessed the submitted reports and, whilst no objection was raised, additional tree and hedge planting was recommended. A revised site plan was submitted showing that. As the landscape plans have not been updated since the original submission, a condition is now recommended. Should Members consider the proposal to be acceptable, to accord with LDP policy EP13 and NPF4 policy 6, tree protection could be ensured by suitably worded planning conditions covering the trees proposed for retention, both within and adjacent to the site.

### **Ecology**

Having reviewed the various submitted ecological reports together with the arboricultural reports, the EO raised no objection but recommended conditions. In addition, the EO commented on the water environment / Tweed SAC noting from the drainage strategy document that the final drainage arrangements for the development have not been determined yet. Since the Eddleston Water is part of the river Tweed SAC, the EO stated that they could support this proposal only if any runoff to the unnamed burn or Langcote Burn is treated prior to discharge. The River Tweed SAC will need to be taken into account in any conditions relating to SUDS. In order to comply with LDP policies EP1, EP2, EP3, EP13, EP15 and NPF4 policies 1, 3, 4, 6 and 22 condition should be imposed should Members consider the proposal acceptable.

### **Contamination**

The CLO has recommended a condition be imposed requiring the submission of reports regarding potential contamination of the site. Should Members consider the proposal to be acceptable, to accord with LDP policy IS13 and NPF4 policy 9, the necessary reports could be secured by a suitably worded planning condition.

### **Archaeology**

Members will note that the council's Archaeology Officer has stated that there is the potential in the western parts of this development for archaeological evidence for a different churchyard or church to be encountered. As archaeological evaluations were recommended as a condition for 17/00767/PPP and 10/01505/FUL, it is now recommended that a similarly worded condition be imposed requiring an archaeological evaluation for the current proposal.

### **Developer contributions**

The proposals, if granted, will require the payment of developer contributions towards education provision and affordable housing. This would ensure compliance with policy IS2 of the LDP and NPF4 policies 16 and 18. The contributions would be secured by means of a legal agreement.

## **Air quality**

The houses would be fitted with flues for solid fuel stoves. It should be noted that Environmental Health has not objected to those on the grounds of local air quality. A condition is recommended regarding the appearance of the flues.

## **Services**

The application form indicates that the site will be connected to the public water mains and foul drainage network. The precise details of both the surface water and foul water drainage can be secured by condition and through the building warrant and road construction consent processes.

## **Bin storage**

The precise location of refuse and recycling bin storage is not shown on the site plan but there appears to be sufficient space within each plot to accommodate waste and recycling containers away from the front elevations of the buildings.

## **CONCLUSION**

The principle of residential development of eight houses on the site is acceptable, albeit subject to conditions. Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the statutory development plan 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 a legal agreement addressing contribution towards the education provision and affordable housing, together with the following conditions:

- 1 The development hereby permitted shall be begun before the expiry 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 Unless otherwise required by conditions elsewhere in this schedule, the development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the planning authority.  
Reason: To ensure that the development is carried out in accordance with the approved details.
- 3 Unless otherwise agreed in writing and in advance by the planning authority, prior to any development commencing on site, a scheme will be submitted to identify and assess potential contamination on site. No construction work shall commence until that scheme has been submitted to and approved in writing by the planning authority. Once approved the works shall thereafter be implemented in accordance with the scheme.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the

most up-to-date version(s) of any subsequent revision(s) of and/or supplement(s) to these documents. That scheme should contain details of proposals to investigate and remediate potential contamination and must include:

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the planning authority prior to addressing parts b, c, d, and e of this condition;

Thereafter,

- b) where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site and assessment of risk such contamination presents;
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan);
- d) submission of a Validation Report (should remedial action be required) which will validate and verify the completion of works for the written approval of the planning authority;
- e) submission, if necessary, of monitoring statements at periods to be agreed with and for such time period as is considered by the planning authority to be appropriate.

Written confirmation from the planning authority that the scheme has been implemented, completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the planning authority.

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

- 4 Notwithstanding the description of the materials on the drawings and supporting statements, no development shall be commenced until precise details of the materials to be used in the construction of the external walls, windows, doors and roofs of the buildings have been submitted to and approved in writing by the planning authority. Where necessary, colours shall be specified by means of a RAL or BS4800 code. Once approved, no development shall be undertaken otherwise in strict accordance with those details.

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

- 5 Notwithstanding the approved drawings and further to condition 4 above, no development shall commence until revised drawings have been submitted to and approved in writing by the planning authority showing amended roofing proposals and materials. The proposed roofing materials shall show the greater part of the roofs finished in natural slate (or a suitable alternative to be agreed in writing by the planning authority). Once approved, the development shall not be undertaken otherwise in complete accordance with the approved details.



Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.

- 6 Notwithstanding the approved plans, no development shall commence until revised drawings have been submitted to and approved in writing by the planning authority showing a revised layout for plots 2 and 8. The revised layout shall comply with the Council's approved supplementary planning guidance note – Privacy and Sunlight Guide (July 2006) regarding privacy and overlooking distances between windows of principal rooms (Table 1). Once approved, the development shall not be undertaken otherwise in accordance with the approved revision.

Reason: In order to safeguard the privacy and amenity of adjoining proprietors.

- 7 Notwithstanding the approved plans, no development shall commence until revised drawings have been submitted to and approved in writing by the planning authority showing a revised fenestration layout or scheme of mitigation for the properties on plots 3; 4; 6 and 7. Once approved, the development shall not be undertaken otherwise in accordance with the approved revisions.

Reason: In order to safeguard the privacy and amenity of adjoining proprietors.

- 8 No development shall commence until a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include, as a minimum:

- i. location of new trees, shrubs, hedges and grassed areas;
- ii. schedule of plants to comprise species, plant sizes and proposed numbers/density;
- iii. location and design, including materials, of walls, fences and gates;
- iv. a programme for completion and subsequent maintenance.

Once approved, the development shall be implemented in accordance with the approved drawings. None of the trees identified for retention within the application site shall be felled, thinned, lopped, topped, lifted or disturbed without the prior written consent of the planning authority.

Reason: To ensure the satisfactory form, layout and assimilation of the development within the wider area.

- 9 Notwithstanding the approved plans, no development shall commence until an updated Tree Protection Plan (per section 5.5 of BS 5837:2012 Trees in relation to design, demolition and construction - recommendations) and an updated Arboricultural Method Statement have been submitted to and approved in writing by the planning authority. That plan shall show: the footprint of proposed buildings in relation to the existing trees with a clear indication of those being retained, those being removed to accommodate the development (or due to condition as detailed in the approved Arboricultural Impact Assessment, Report 1); details and location of protective fencing. Once approved, the protective fencing shall be erected in accordance with the approved details prior to development commencing and shall be retained until the completion of construction works. Any groundworks within the root protection areas of trees shall be undertaken only by means of hand digging and works within the RPAs should be kept to an absolute minimum to limit any potential negative impact on the trees.

Reason: To ensure that existing trees representing an important visual feature are retained and given adequate protection during construction.

- 10 No development, vegetation removal or works to trees shall commence during the breeding bird season (March-August inclusive) unless in strict compliance with a Species Protection Plan for breeding birds, to include provision for a pre-

development checking survey and mitigation, that shall be submitted to and approved in writing by the planning authority. Thereafter the works shall not be undertaken otherwise in accordance with the approved details.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3 and NPF4 policies 1, 3 and 4.

- 11 No development shall commence unless in accordance with a construction method statement that has been submitted to and approved by the planning authority. The method statement should detail issues relating to the control of noise and nuisance from the site during the construction phase and control of run-off and pollution from the site.

Reason: In the interest of the amenity of the neighbouring properties.

- 12 No development shall commence until a scheme of details has been submitted to and approved by the planning authority, showing the improvement works to the junction of the A703 and the D19-1 Bellfield Road. The scheme of details shall include engineering details of the altered kerbing and any associated alterations to the roadside drainage, along with the required visibility splays. All works to be carried out by a contractor first approved by the council prior to works commencing on site. Thereafter, the junction improvements shall be retained in perpetuity.

Reason: In the interest of road safety.

- 13 No development shall commence until the existing private road is upgraded to adoptable standards from a point where the private road meets the D19-1 Bellfield Road adjacent to the church. The works will be subject to Road Construction Consent. The development shall be served throughout by roads and pavements constructed to the council's adoptable standards.

Reason: To achieve a satisfactory form of development and in the interest of road safety.

- 14 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation outlining an archaeological evaluation. That will be formulated by a contracted archaeologist and approved in writing by the planning authority. Access should be afforded to allow investigation by a contracted archaeologist(s) who shall be nominated to and agreed in writing by the planning authority. The archaeologist(s) shall be allowed to conduct a programme of evaluation prior to development. That will include the below ground excavation of evaluation trenches and the full recording of archaeological features and finds. Results will be submitted to the planning authority for review in the form of a Data Structure Report. If significant archaeology is discovered the nominated archaeologist(s) will contact the Archaeology Officer for further consultation. Any significant data and finds shall undergo post-excavation analysis, the results of which will be submitted to the planning authority

Reason: The site is within an area where ground works may interfere with or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

- 15 No development shall commence until precise details of surface 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.

- 16 No water supply other than the public mains water supply shall be used to supply the development without the written agreement of the planning authority. No drainage system other than the public mains sewer shall be used to service the properties without the written consent of the planning authority. No development shall commence until evidence has been provided to the planning authority that the proposed dwellinghouses are to be connected to the public water and foul drainage networks. Thereafter, the dwellinghouses shall not be occupied until the above connections are made. All services shall be maintained throughout occupancy of the dwellinghouses

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and that the development is connected to the foul drainage network.

- 17 The finish of the flues shall be matt black or dark grey, unless otherwise agreed in writing with the planning authority.

Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.

### **Informatives**

- 1 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](http://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/bats_and_buildings.html)

[http://www.bats.org.uk/pages/existing\\_buildings.html](http://www.bats.org.uk/pages/existing_buildings.html)

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

- 2 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 7, mitigation may include amongst other things, deletion or relocation of windows or the fitting of obscure glazing, the degree of which should be specified.
- 4 **Solid fuel stoves**  
 If a stove is to be installed with an output of more than 45kw, contact should be made with the council's Environmental Health Service to provide further information in order that a screening assessment can be carried out. Stove installations can cause smoke and odour complaints and planning permission for the flue's installation does not indemnify the applicant in respect of statutory nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted planning permission, including for changes to the height and position of the flue. The flue should be terminated with a cap that encourages a high gas efflux velocity. The flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly. The appliance should burn only fuel of a type and grade that is recommended by the manufacturer.

### **DRAWING NUMBERS**

1. 10074/0\_01 REV B Location plan
- 2 10074/0\_02 REV B Existing site plans
- 3 10074/3\_01 REV O Proposed site plans
- 4 20220065-SK101 REV B Proposed plans
- 5 10074/3-14 REV D Proposed plans & elevations
- 6 10074/3-13 REV D Proposed plans & elevations
- 7 10074/3-15 REV E Proposed plans & elevations
- 8 10074/3-10 REV D Proposed plans & elevations
- 9 10074/3-11 REV D Proposed plans & elevations
- 10 10074/03\_09 Proposed plans & elevations
- 11 10074/3-16 REV B Proposed plans & elevations
- 12 2021-602-SK100 Proposed plans
- 13 20220065-SK100 REV D Proposed sections
- 14 Report Report 1

### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

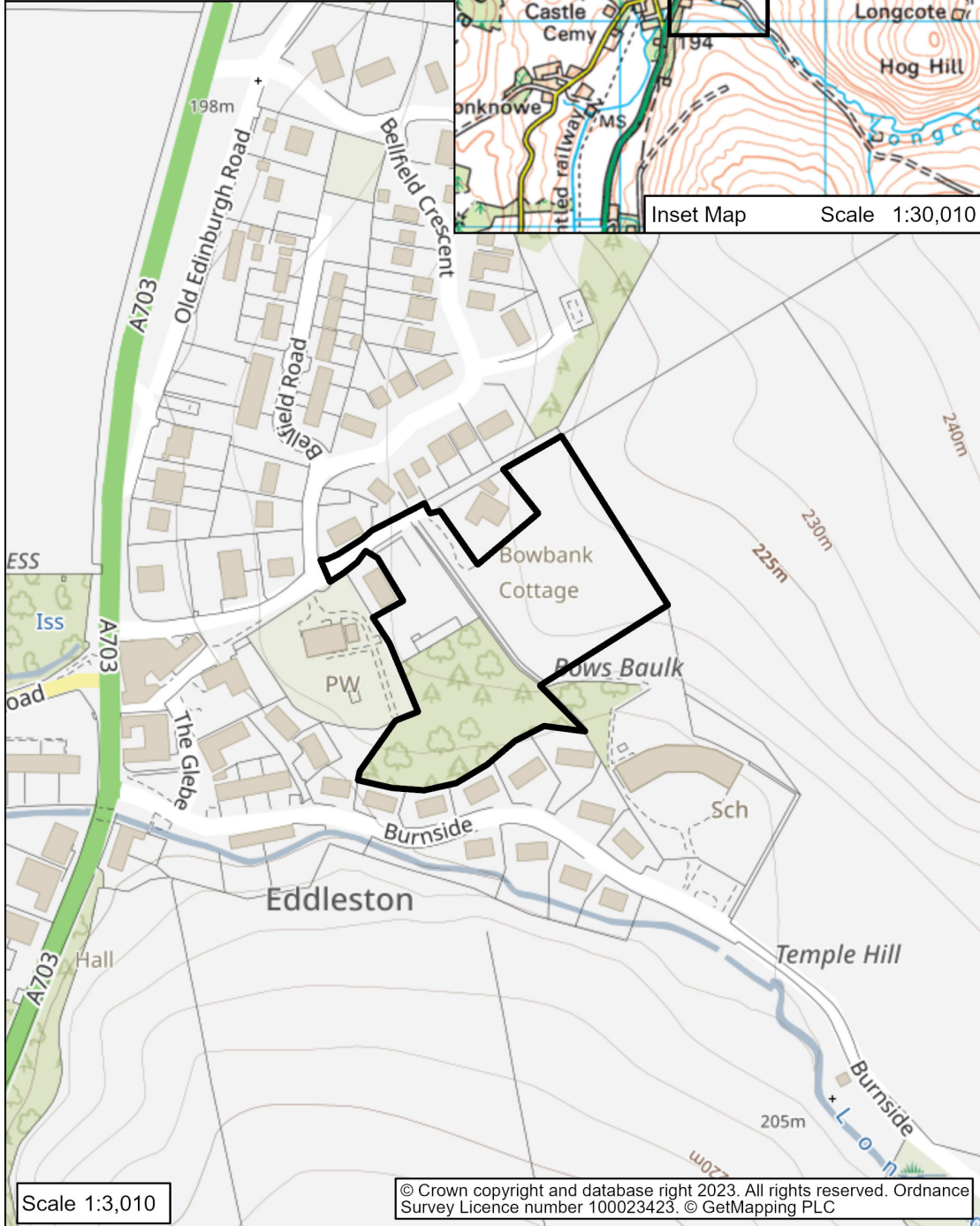
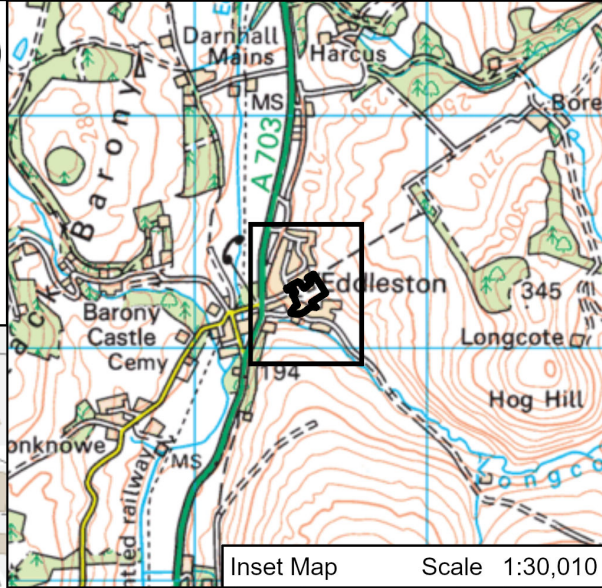
### **Author(s)**

Name	Designation
Ranald Dods	Planning Officer



21/01804/FUL

Bowbank, Eddleston



Scale 1:3,010

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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**5 JUNE 2023**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 23/00422/FUL

**OFFICER:** Stuart Small  
**WARD:** Hawick and Hermitage  
**PROPOSAL:** Erection of 25 high telecommunications Lattice Tower and associated ancillary works.  
**SITE:** Land North Of Flatt Farm, Newcastleton  
**APPLICANT:** Hutchison 3G UK Ltd  
**AGENT:** WHP Telecoms Limited

**PLANNING PROCESSING AGREEMENT:**

A Planning Processing Agreement is in place until 5 June 2023.

**SITE DESCRIPTION:**

The application site is located around three miles south of Newcastleton close to the border of England. The site is currently unallocated greenfield land outside of any development boundary. Access to the site is taken from a private track leading to the property known as Abbotshaws Cottage. The site is surrounded by other greenfield and agriculture land, individual farms and isolated houses. The site is of no historic or natural significance.

**PROPOSED DEVELOPMENT:**

This application is a proposed telecommunications installation comprising a 25 metre high lattice tower fitted on a concrete base and associated ancillary works including the extension of an existing track for access. The Lattice Tower will feature nine antennas and six transmission dishes with anti-climb gates installed. The base of the structure will be bounded by a 1.2 metre high post and rail fence with two access gates. The extended access track will be 350 metres long and 3 metres wide. Existing vegetation on site will be carefully removed from any land that will be disturbed by the construction of the tower and stored local to the works. This vegetation will then be re-laid once works are completed, the land graded and reinstated with topsoil.

The development is part of the Shared Rural Network and is a collaboration between Mobile Network Operators and the Government to improve 4G coverage for people living, working and travelling in poorly served rural areas. The network will ensure coverage from at least one operator to 95% of the UK by the end of 2025. The proposed equipment considered under this application will be hosted by H3G (Three) and will be shared with Vodafone and Virgin Media O2

## **PLANNING HISTORY:**

22/00411/FUL: Erection of 25m lattice tower supporting 9 no. antennas, 6 no. transmission dishes, 5 no. equipment cabinets, 1 no. meter cabinet and ancillary development with fenced compound and formation of access track and hard standing. Withdrawn 9<sup>th</sup> December 2022.

The current application follows pre-application discussions with the Council.

## **REPRESENTATION SUMMARY:**

21 representations have been received, one general comment, two support comments and 18 objection comments. These can be viewed in full on Public Access.

The general comment and objection comments raised the following planning issues:

- Contrary to Local Plan.
- Health issues.
- Existing telecommunication masts nearby.
- Other appropriate sites located elsewhere.
- Disruption to wildlife / impact on bats.
- Visual impact on landscape / loss of view.
- Height of the tower / inadequate screening.
- Inadequate access.
- Increased traffic / impact on road safety.
- Loss of privacy / impact on neighbouring amenity.
- Impact on trees / lack of screening.
- Inadequate drainage.
- Impact on water supply.

The two comments of support emphasised the importance of improved mobile coverage in rural areas and the benefits of masts which allow for multiple operators to share infrastructure.

## **APPLICANTS' SUPPORTING INFORMATION:**

- Covering letter
- SSSI
- ICNIRP
- Photomontage report
- Protected species survey

## **DEVELOPMENT PLAN POLICIES:**

The development plan currently comprises National Planning Framework 4 and the Local Development Plan 2016. Certain policies of the Council's Proposed Plan 2020 which are not at Examination are also a material consideration but do not form part of the development plan. None are considered to be relevant in this instance.

### **National Planning Framework 4**

Policy 1: Tackling the climate and nature crises

Policy 3: Biodiversity

Policy 6: Forestry, woodland and trees



Policy 24: Digital infrastructure

**Local Development Plan 2016:**

PMD2: Quality Standards

HD3: Protection of Residential Amenity

ED6: Digital connectivity

EP1: International Nature Conservation Sites and Protected Species

EP2: National Nature Conservation Sites and Protected Species

EP3: Local Biodiversity

EP13: Trees, woodlands and hedgerows

IS15: Radio telecommunications

**OTHER PLANNING CONSIDERATIONS:**

Trees and Development 2020

PAN62 Radio Telecommunications

**CONSULTATION RESPONSES:**

**Scottish Borders Council Consultees**

**Ecology Officer:** No objection, subject to conditions

Designated or protected sites

There are no protected sites of an international, national or local designation in or in the vicinity of the proposed site.

Protected species

The submitted protected Species Survey report by Highland Ecology is acceptable.

No signs of otters or pine martens were found.

The habitat within the surveyed area is suitable for water voles and badgers but no field signs of either were found. Anecdotal evidence was included that suggested badgers were previously found outside the survey area, more than 100m from the site.

Anecdotal evidence suggest the shelterbelt/felled plantation used to be used by red squirrel but no field evidence was found during the survey.

The small number of trees which are suitable for bats are approximately 30m away from the proposed works and are not proposed for felling.

A breeding bird survey was not carried out. However, the remaining shelterbelt and rough grassland is likely to be used by some birds for nesting and a Species Protection Plan for breeding birds would be required for any works carried out during the breeding season.

Peat

The Carbon and Peat map for Scotland (2016) identifies the application site, including the entire length of the proposed and existing access track, as mineral soils (no peat) with no peat vegetation.

## Trees

The proposal would require the removal of 2 trees and 7 tree root balls. The trees proposed for felling will need to be compensated at a ratio of 2:1.

A detailed method statement for works around trees should be submitted.

To meet the requirements of NPF4 policy 3, appropriate biodiversity enhancements will need to be provided (appropriate to the scale of the development). Although, this does not necessarily have to be through tree planting. This can be covered by condition.

## Watercourses

The ditch closest to the existing access track is at least 15m from the track. The land between the ditch and the track is rough grassland with some rushes and sedges. This should help reduce any impacts the widening works to the track could have on the water quality of the ditch or the watercourse downstream.

Additionally, two new culverts are proposed to be created to facilitate the development.

To ensure good practice is followed in relation to water quality/the protection of the water environment, a Construction Method Statement for the construction of the track and the equipment compound should be submitted.

**Community Council:** Community Council raised concerns with the proposed application, particularly the lack of engagement with the community prior to submission. Other concerns raised were as follows:

- No detail on power connection, further details requested.
- Lack of certainty over network connection
- Photomontage does not reflect an accurate image of the proposed structure as it would appear in the landscape. A new one was requested.

The community council also noted that residents and businesses need access to 4G/5G technology to ensure the community can continue to attract residents. They also noted that the tower would be hosting multi-suppliers providing more choice to users lowering mobile subscription costs. The CC recognises this as hugely beneficial to residents as well as providing wider access to networks for visitors, who are significant users, and are an important element to consider economically.

## Other Consultees

**Ministry of Defence:** No objection, subject to conditions

The application site occupies the statutory safeguarding zones surrounding RAF Spadeadam and the Tactical Training Area Southern Scotland (TTA 20T). In particular, the range and bird strike statutory safeguarding zones surrounding RAF Spadeadam with the operational centre lying 19.2km away, and the remote mobile threat radars technical safeguarding zone surrounding the assets associated with RAF Spadeadam.

The application site occupies the statutory safeguarding zone surrounding the Southern Scotland Tactical Training Area (TTA 20T). In particular, the UK Military Low flying System designated TTA, an area within which fixed wing aircraft may operate as low as 100 feet or 30.5 metres above ground level to conduct low level flight training. The development proposed will cause a potential obstruction hazard to these military low flying training activities. To address this impact, and given the location and scale of the development, the MOD require that conditions are added to any consent issued requiring that the development is fitted with aviation safety lighting, and that sufficient data is submitted to ensure that structures can be accurately charted to allow the coordination of flights and manoeuvres.

### **KEY PLANNING ISSUES:**

The main determining issue with this application is whether the proposed tower and ancillary works would adversely affect the visual landscape of the area to an unacceptable extent that would justify the refusal of planning permission. Impacts on neighbouring amenity, ecology, access and safeguarding are also key considerations.

### **ASSESSMENT OF APPLICATION:**

#### Planning Policy

The principle of development is agreeable when applying Policy IS15 and ED6 of the LDP, and Policy 24 of NPF4 as the development will improve 4G coverage in this rural location. Policy PMD2 (b) also supports digital connectivity and associated infrastructure. The Council will support proposals that lead to the expansion and improvement of the electronic communications network provided it can be achieved without unacceptable detrimental impacts on the natural and built environment. There continues to be a presumption in favour of developments that extend electronic telecommunications.

Under Part a) of Policy IS15 of the LDP telecoms equipment should be positioned and designed sensitively to avoid unacceptable effects on the natural and built environments, including areas of landscape importance and areas of ecological interest.

In addition, under Part b) developers must demonstrate that they have considered options for minimising impacts, including the scale and type of equipment, the potential for mast sharing, measures for concealment, the timing and method of construction, arrangements for access during construction and operation, and the potential for siting on existing buildings or structures. Where mast sharing is shown to be impractical, under Part c), the developer must demonstrate that there is no alternative location, which will satisfy their operational requirement.

Furthermore, paragraph Policy 24 of NPF4 states that "Development proposals that deliver new digital services or provide technological improvements, particularly in areas with no or low connectivity capacity, will be supported". It is well known that Newcastleton and the surrounding area suffer for poor digital and telecommunications network coverage. This proposal will go some way to improving existing levels and providing more comprehensive coverage.

A total of 7 other sites have been considered in the surrounding area as part of the site selection process, but have been discounted for various reasons including the lack of reasonable screening, visual impact and conflict with landowners. As a result, the key

considerations for this application will be whether the additional impacts (discussed later in this report) are acceptable.

### Landscape and visual impacts

Policy PMD2 requires all new development to be of high quality in accordance with sustainability principles, designed to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development. Policy IS15 (para a) is also relevant to this application, requiring telecoms equipment to be positioned and designed sensitively to avoid unacceptable effects on the natural and built environments, including areas of landscape importance and areas of ecological interest.

The applicant has provided a helpful photomontage and zone of theoretical visualisation report in support of the application. This demonstrates there will be limited visibility of the proposed mast from Newcastleton village although it is anticipated there will be theoretical visibility along a 2km stretch of the B6357 south of Newcastleton. The surrounding landscape is relatively low lying and represents a suitable unobtrusive location for a telecommunications tower. The tower would be set against a backdrop of rolling countryside, which will help the mast recede into the wider landscape. From the key viewpoints identified in the supporting photomontages and ZTV report, for the most part, the mast will not extend above the skyline in the surrounding landscape. Where the mast may extend above the skyline, this will be in longer views where intervening landscaping will help screen the proposed development.

The site is predominantly surrounded by other vacant greenfield and agricultural land and a small wooded area which will provide some degree of screening. The nearby wooded area demonstrates that the tower will be partially screened from views from the north, including on the B6357, west and east. The upper part of the mast may be visible in longer views but provided it is finished in matt dark green colour it is considered that it will not harm the landscape or visual character of the surrounding area. The ground based equipment should not be exposed to public view. Again, a dark green matt finish of this equipment would best suit and this can be covered by condition.

An existing private track will be extended a short distance to provide access to the site and will not have visual consequences of significant note. It is considered that the development would not have an unacceptable adverse impact on the surrounding landscape that would be of sufficient concern to override the benefits that this mast will provide in terms of digital connectivity and coverage. Subject to appropriately worded conditions, the proposals are considered acceptable and in compliance with Development Plan policies.

### Neighbouring Amenity

LDP policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. It details considerations for assessment including overlooking, sunlight provisions and the generation of traffic. NPF4 policy 23 (Health and Safety) criterion a) states that development proposals which are likely to have a significant adverse effect on health will not be supported.

The proposed development is located nearby to Abbotshaws Cottage but the distance is sufficient enough for it not to pose any significant adverse visual impact on any nearby dwellings. The application is also accompanied by a standard ICNIRP

declaration which confirms that the mast (and associated equipment) is design in full compliance with the requirements of the radio frequency exposure guidelines and will not have any health implications for those living nearby.

Overall, the proposed development is not considered to give rise to any significant neighbouring amenity concerns ensuring compliance with Policy ED3 and Policy 23.

#### Vehicular Access, Road Safety and Parking

Policy PMD2 requires developments to have no adverse impact on road safety and ensures that adequate vehicular access is provided.

The development is partially served by existing vehicular access infrastructure from a minor public road to the east of the site. The existing track (550m long) will be upgraded to 3m wide to allow plant and machinery to access the site. This track would be extended from a point north of Abbotshaws Cottage by a further 350m. This would also be 3m wide and would follow existing field fence lines, before cutting through the former tree belt.

The upgrading works to the existing track and the proposed extension are not considered to give rise to any road safety impacts. The proposal would have limited impact on the local road network through the generation of additional traffic to and from the site during construction and future maintenance. It is considered that the development satisfies relevant planning policies in relation to road/pedestrian safety and vehicular access.

#### Ecology

Policy EP1-3 protects against development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern. NPF4 policy 3 (Biodiversity) is also relevant to this proposal.

There are no ecological designations on or nearby the site and the application is supported by a protected species survey that identifies no issues that cannot reasonably be mitigated by appropriately worded conditions. The Ecology Officer has no objections in principle to the proposed development provided suitably worded conditions are added to any granted of consent that may be issued. This will ensure that any potential impacts on the ecological resource will be suitably mitigated.

A Construction Method Statement and details of a Biodiversity Enhancement Scheme are required to be submitted prior to the commencement of development. This can also be covered by condition.

It is considered, subject to compliance with conditions, that the proposed development is acceptable and will comply with the provisions of Policy EP1 and Policy 3 (Biodiversity).

#### Trees

Policy EP13 of the Local Plan and Policy 6 of NPF4 prevent development that would result in the loss of or serious damage to woodland resources including trees. The proposed mast and compound will not directly affect the woodland resource but the proposed track extension will break through an existing, partially felled tree belt. The proposal includes the removal of 2 trees and 7 tree root balls. The trees for felling will need to be compensated at a ratio of 2:1. As per the Ecology Officers response, a

detailed method statement will be required to be submitted prior to the commencement of development.

Subject to compliance with the terms of a condition, the proposed development will not have a significant adverse impact on the woodland resource and will ensure compliance with Policies EP13 and 6.

### Safeguarding

As noted by the Ministry of Defence, the application site occupies the statutory safeguarding zone surrounding the Southern Scotland Tactical Training Area (TTA 20T). In particular, the UK Military Low flying System designated TTA, an area within which fixed wing aircraft may operate as low as 100 feet or 30.5 metres above ground level to conduct low level flight training. The development proposed will cause a potential obstruction hazard to these military low flying training activities. As a result conditions have been included.

Having assessed the proposal, including all matters raised in the objections against all other relevant provisions of the statutory development plan including all other environmental impacts, no areas of conflict have been found.

### Representations

It is acknowledged that there are a number of third party representations objecting to the proposed development. The principal grounds of objections are summarised earlier in this report. It is also acknowledged that the Community Council raises concerns particularly with regards to lack of consultation with the local community in advance of the application being submitted

The third party objections are noted and have been considered as part of the assessment process, however, it is felt that the benefits of improved digital connectivity and the potential for the mast to be shared with other operators in the future, when considered against the wider planning balance, outweigh any potential impacts on the landscape, wildlife or woodland resource. There will no adverse impacts on residential amenity and adequate access can be provided. The proposed development, subject to compliance with conditions set out below, will comply with the relevant provisions of the development plan.

## **CONCLUSION**

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the National Planning Framework 4 and 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. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.  
Reason: To ensure that the development is carried out in accordance with the approved details.
  
3. The mast and all antennae, dishes and other fixtures on the mast hereby approved, shall all be coloured dark green (RAL 6009 or equivalent) and all ground based equipment shall be coloured dark green (RAL 6009 or equivalent) and all finishes shall be non-reflective/matt, unless an alternative scheme of colours has been agreed in writing with the Planning Authority.  
Reason: To integrate the development sympathetically with the setting and landscape
  
4. No development shall be undertaken during the breeding bird season (March to August), unless in strict compliance with a Species Protection Plan for breeding birds, including provision for pre-development supplementary surveys, that shall be submitted to and approved in writing by the Planning Authority.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3
  
5. Prior to the commencement of the development hereby approved, a detailed 'Method Statement' in relation to all works within the Root Protection Area (RPA) of retained trees shall be submitted to and approved in writing by the Planning Authority. Specific issues to be dealt with in the Method Statement:
  - a) A scaled plan and section (s), where relevant, showing the position, size, RPA, species and unique identification reference of each retained tree affected by the works and including details of the extent and nature of all works within the RPA of retained trees.
  - b) A written statement detailing the proposed works including hand digging, use of filter cloth, timber edging, cellular ground reinforcement, porous surfaces etc. as relevant.
  - c) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
  - d) A specification for ground protection within tree protection zones.
  - e) Arboricultural supervision and inspection by a suitably qualified tree specialist.
 The development thereafter shall be implemented in strict accordance with the approved details.  
Reason: To ensure that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality.
  
6. Prior to commencement of development a Construction Method Statement incorporating the latest good practice guidelines and statutory advice to protect the water environment, shall be submitted to and approved in writing by the Planning Authority. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3
  
7. Prior to the commencement of development, the developer shall submit for approval in writing by the Planning Authority, details on the proposed Biodiversity Enhancement scheme for the site. Thereafter, no development shall take place except in strict accordance with the approved scheme.

Reason: To enhance the ecological interest in accordance with Local Development Plan policy EP3 and NPF4 policy 3.

8. Prior to the commencement of development, the developer shall submit for approval in writing by the Ministry of Defence, details of the proposed aviation safety lighting scheme to be fitted to the Lattice Tower.

Reason: In the interests of air traffic safety

9. During construction of the mast hereby approved, no cranes exceeding a height of 15.2m above ground level to the tip of any jib or other point shall be used. Where the crane(s) is to be extended above 15.2m above ground level, precise details of the dates that the crane is to be present at site, its specific location within the site, and the specific timing of the height extension shall be provided via DIO-safeguarding-statutory@mod.gov.uk no less than 28 days before its arrival at site.

Reason: In the interests of air traffic safety

10. Prior to the commencement of development, the developer must notify UK DVOF & Powerlines at the Defence Geographic Centre with the following information:

- 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.

Reason: In the interests of air traffic safety and to ensure aeronautical charts and mapping records are amended accordingly.

#### Informatives

1. The applicant is reminded that it is an offence to disturb, kill, injure or otherwise harm species protected by national and international law. Planning consent for a development does not provide a defence against prosecution in accordance with protected species legislation.

In the event that bats are discovered following the commencement of works, works must stop immediately and the developer must contact NatureScot for further guidance. Works can only recommence by following any guidance given by NatureScot. The developer and all contractors are to be made aware of accepted standard procedures of working with bats at [www.bats.org.uk](http://www.bats.org.uk).

2. The MOD advises that mobile threat transmitters systems operate in this location, and these could potentially interfere with mobile networks.
3. The MOD must emphasise that the advice provided within their letter is in response to the data and information detailed within the developer's document, submitted in support of application 23/00422/FUL, as referred to in the consultation letter dated 29th March 2023, received from Scottish Borders Council. Any variation of the parameters (which include the location, dimensions, form, and finishing materials) detailed may significantly alter how the development relates to MOD safeguarding requirements and cause adverse impacts to safeguarded defence assets or capabilities. In the event that any amendment, whether considered material or not by the determining authority, is submitted for approval, the MOD should be consulted and provided with adequate time to carry out assessments and provide a formal response.



DRAWING NUMBERS

**Plan Ref**

**Plan Type**

A Location Plan  
SRN1089\_M002 REV B

Location Plan  
Proposed Drawings

**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.

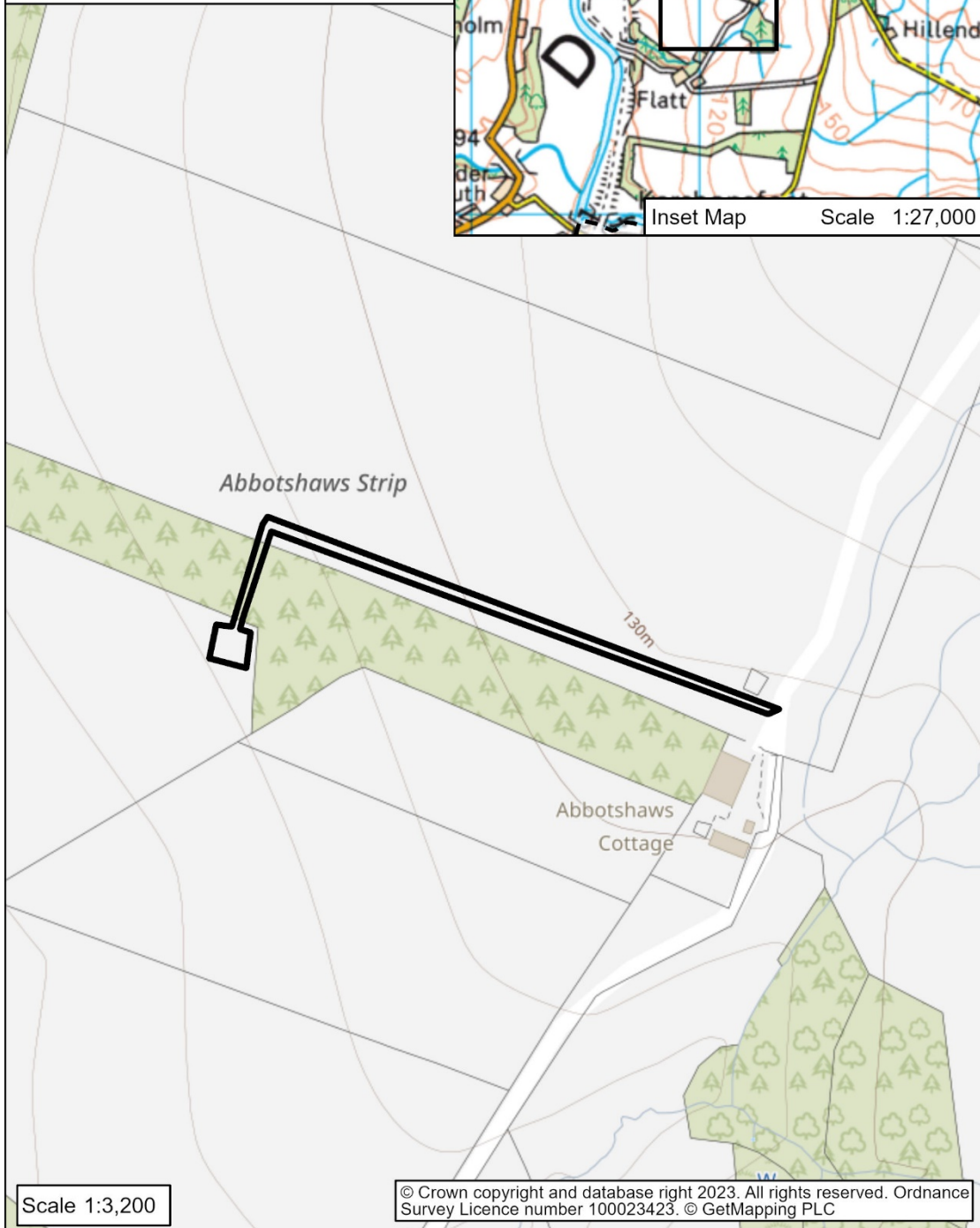
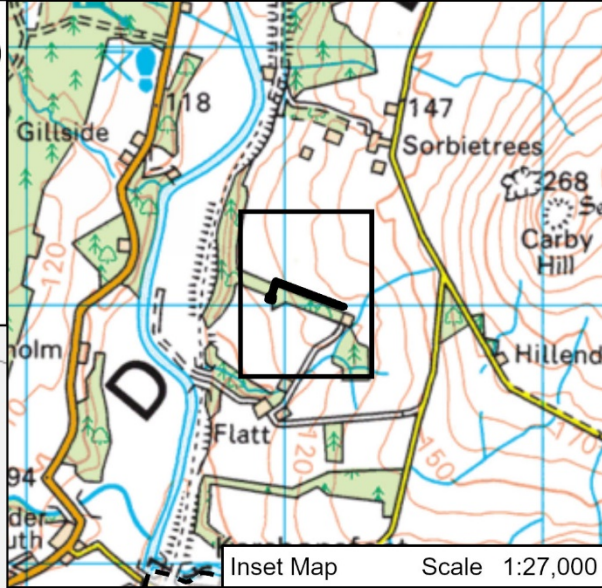
**Author(s)**

Name	Designation
Stuart Small	Assistant Planning Officer



23/00422/FUL

Flatt Farm Newcastleton



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## PLANNING APPEALS & REVIEWS

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### Briefing Note by Chief Planning & Housing Officer

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## PLANNING AND BUILDING STANDARDS COMMITTEE

5<sup>th</sup> June 2023

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### 1 PURPOSE

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

### 2 APPEALS RECEIVED

- 2.1 Planning Applications

Nil

- 2.2 Enforcements

Nil

- 2.3 Works to Trees

Nil

### 3 APPEAL DECISIONS RECEIVED

- 3.1 Planning Applications

- 3.1.1 Reference: 22/01589/ADV  
Proposal: Installation of signage to gable wall (retrospective)  
Site: 1 Hall Street, Galashiels  
Appellant: Unit8 Gym

Reasons for Refusal: 1. The advertisement would be contrary to Policy IS16 of the Local Development Plan 2016 in that it would represent a threat to road safety and would, as a result, impact adversely on public safety at this location. 2. The advertisement would be contrary to Policy IS16 of the Local Development Plan 2016 in that it would not relate well to the location at which it is displayed, or be in keeping with the character of the building to which it is attached, and would contribute to unsightly clutter, thereby having an adverse impact on the amenity of the surrounding area.

Reasons for Appeal: The Appellant believes the sign blends in well with the surroundings, is secure and not a hazard to adjacent road users, not being any more distracting than any other sign adjacent to any other roadway. It promotes health and wellbeing, has been generally well accepted by local people in the immediate surrounding area, none of whom objected to the application. All objections received were from another local gym and their members.

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

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: Summary of Decision: The Reporter, Andrew A Sikes, stated the proposal is a 3-metre-wide x 2-metre-high non-illuminated static advertisement set within a matt black aluminium frame, attached at first floor level to the gable end of a two-storey stone built terraced residential property. The advert promotes a gym in Tweedbank, located approximately 5 kilometres (3.5 miles) from the appeal site. While simple in design and production, the advertisement is large, inappropriately positioned high on the gable end of a residential property and sited in a prominent location close to a principal road. As such, the reporter considers the advertisement obtrusive. Neither does the advertisement relate to the location at which it is being displayed. Moreover, the street in which it is located is residential in character and, in the vicinity of the appeal site, free of advertising. While there are advertisements in the wider area these are restricted to retail and commercial properties and relate directly to the location at which they are being displayed. Taking these factors together, the Reporter agrees with the council in that the advertisement would be harmful to the character of the building, the amenity of Hall Street and the wider area. The reporter observed the pedestrian and vehicle movement that occur at the junction during the site visit and agrees with the council that the advertisement could cause driver distraction and unacceptably increase risk to public safety. The Reporter therefore concluded that the proposed advertisement would be contrary to the interest of amenity and public safety and, accordingly, that advertisement consent should not be granted.

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

### 3.2 Enforcements

Nil

### 3.3 Works to Trees

Nil

## 4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 19<sup>th</sup> May 2023. This relates to sites at:

- |                             |                              |
|-----------------------------|------------------------------|
| • The Old Cow Shed, Lennel, | • 68 High Street, Coldstream |
|-----------------------------|------------------------------|

## 5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 22/00869/PPP  
 Proposal: Erection of dwellinghouse  
 Site: Land South of Greenbraehead Farmhouse,  
 Greenbraehead, Hawick  
 Appellant: Mr Stephen Murray

Reason for Refusal: The development would be contrary to Policy HD2 of the Local Development Plan 2016, the New Housing in the Borders Countryside Guidance 2008 and Policy 17 of NPF4 in that the development would be unrelated to a building group and it has not been demonstrated that there is a robust economic case that the development will support a viable rural business. This would lead to an unsustainable form of development which would have a detrimental impact on the character and amenity of the rural area. This conflict with the development plan is not overridden by any other material considerations.

- 5.2 Reference: 22/01903/AMC  
 Proposal: Demolition of shed and erection of dwellinghouse  
 (approval of all matters specified in planning  
 permission 20/00874/PPP)  
 Site: Land North West of Rosebank Cemetery Lodge,  
 Shedden Park Road, Kelso  
 Appellant: Mr M Curtin

Reason for Refusal: The proposal would be contrary to National Planning Framework 4 Policy 14 and Policies PMD2 and PMD5 of the Local Development Plan 2016 and Supplementary Planning Guidance: Placemaking and Design 2010 in that, due to the scale and design of the proposal, it would result in development which is out of keeping with the character of the existing development pattern and would represent over-development and town cramming to the detriment of the amenity and character of the surrounding area, with specific reference to the adjacent Conservation Area.

- 5.3 Reference: 22/01947/FUL  
 Proposal: Erection of dwellinghouse with detached garage  
 Site: Land South of Headshaw Farmhouse, Ashkirk,  
 Selkirk  
 Appellant: Mrs Nancy Margaret Hunter

Reason for Refusal: The development is contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008, and Policies 9 and 17 of the National Planning Framework 4 because it would constitute housing in the countryside that would be unrelated to a building group and would lead to an unjustified sporadic expansion of development into a previously undeveloped field. Furthermore, there is no overriding economic justification to support the development. The resulting visual impact of the development would be adverse and, therefore, also conflict with policy PMD2. This conflict with the development plan is not overridden by any other material considerations.

- 5.4 Reference: 22/01973/AMC

Proposal: Erection of dwellinghouse with outbuilding and formation of new access (approval of all matters specified in conditions of planning permission 21/00030/PPP)  
Site: Land at Rachan Woodlands, Broughton  
Appellant: Mr Jim Warnock

Reason for Refusal: The siting of the proposed development would not be well related to the existing building group. As a result, the proposal does not fulfil the requirements of condition 1 of the planning permission in principle. In doing so, the application fails to comply with Scottish Borders Local Development Plan 2016 policies PMD2 and HD2; NPF4 policies 14; 16 and; 17. In addition, the development does not comply with supplementary planning guidance on New Housing in the Borders Countryside and; Placemaking and Design. Other material considerations have been accounted for but these do not outweigh the harm that would result from the development.

5.5 Reference: 23/00236/FUL  
Proposal: Amendment to Condition 3 of planning application 19/01646/PPP pertaining to occupation of dwellinghouse  
Site: Land South East of Tarf House, West Linton  
Appellant: Mr & Mrs Erlend and Karen Milne

Review against non-determination of Application.

## 6 REVIEWS DETERMINED

6.1 Reference: 22/00032/FUL  
Proposal: Erection of Class 4 joinery workshop with associated access and parking  
Site: Land North and East of Clay Dub, Duns Road, Greenlaw  
Appellant: Marchmont Farms Ltd

Reasons for Refusal: 1. The proposal is contrary to policy PMD4 of the Local Development Plan 2016 as the site is outwith the Development Boundary for Greenlaw and the development would not constitute a logical extension to the settlement. The proposed development would prejudice the character and natural edge of Greenlaw and cause significant adverse effects on the landscape setting of the settlement and would not enhance the landscape. There are no significant community benefits of the proposal that justify development outwith the Development Boundary. 2. The proposal is contrary to policy ED7 of the Local Development Plan 2016 as it has not been substantially demonstrated that the proposal requires this particular countryside location or that the development proposed cannot be satisfactory accommodated within allocated business and industrial site within an identified settlement boundary. The development would be visually intrusive and would not respect the amenity and character of the surrounding area. 3. The development is contrary to Policy ED10 of the Local Development Plan 2016 as the site is within an agricultural field and the development would result in the permanent loss of prime quality agricultural land, which is a valuable and finite resource.

Method of Review: Review of Papers, Site Visit & Further Written Submissions

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

6.2 Reference: 22/00371/FUL  
Proposal: Alterations and extension to dwellinghouse  
Site: 17 George Street, Eyemouth  
Appellant: Mr and Mrs Craig Fletcher

Reasons for Refusal: 1. The proposed development does not accord with policies PMD2 (Quality Standards) and EP9 (Conservation Areas) of the Local Development Plan 2016. The proposed development, by reason of its scale, form, detailing and proportions, would not be appropriate for the existing building and would harm the special architectural and historic character and appearance of the Conservation Area. 2. The proposed development does not accord with policy HD3 (Protection of Residential Amenity) of the Local Development Plan 2016. The extension, by reason of its siting and height, would result in the loss of light to habitable rooms of neighbouring residential properties to the south and east. In addition, its height and blank walling on its south and east elevations would have an overbearing relationship and adverse visual impact upon the same neighbouring residential properties. These adverse impacts would harm the amenity of occupants in neighbouring residential properties.

Method of Review: Review of Papers & Further Written Submissions

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

6.3 Reference: 22/00575/FUL  
Proposal: Erection of holiday let accommodation  
Site: Land North East of Runningburn Farm, Stichill  
Appellant: James Neil And Son

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 an undeveloped rural landscape. The need to site the development in this particular rural location has not been adequately justified. Furthermore, the proposal has not fully assessed the requirement of Policy ED7 to reuse existing buildings, brownfield sites and/or to locate the proposal adjacent to existing buildings. The proposed development would appear divorced from the operation of Runningburn Farm and wedding venue, and within previously undeveloped land. As a result, the proposed development would represent a sporadic and unjustified form of development in the countryside, which would set an undesirable precedent for similar unjustified proposals. 2. The development would be contrary to Policy PMD2 of the Local Development Plan 2016 in that its siting and design would not respect and be compatible with the character of the surrounding area, and would result in a significantly adverse impact upon existing landscape character and rural visual amenity. The proposed private vehicular access to the site would pass through a working farm steading which would conflict with agricultural movements and would result in adverse impacts on road safety and design standards contrary to PMD2.

Method of Review: Review of Papers, Site Visit & Further Written Submissions

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

6.4 Reference: 22/00679/FUL  
Proposal: Erection of boundary fence (retrospective)  
Site: 100 Abbotseat, Kelso  
Appellant: Mr Alan Hislop

Reason for Refusal: The development is contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 in that it represents a prominent and incongruous form of development that has an adverse impact on the character and appearance of the surrounding area and harms visual amenities. This conflict is not overcome by other material considerations.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

6.5 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.

Method of Review: Review of Papers & Further Written Submissions



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

6.6 Reference: 22/00961/PPP  
Proposal: Erection of 2no dwellinghouses  
Site: Land at Silo Bins Edington Mill Chirnside, Edington Mill Road, Chirnside  
Appellant: Mr & Mrs O McLaren

Reasons for Refusal: 1. The development is contrary to Policy HD2 (Housing in the Countryside) of the Local Development Plan 2016 and the New Housing in the Borders Countryside Supplementary Planning Guidance 2008 in that it would constitute piecemeal, sporadic new housing development in the countryside that would be poorly related to an established building group and no other supporting justification has been presented. This conflict with the development plan is not overridden by any other material considerations. 2. The proposed development is contrary to Local Development Plan 2016 policies PMD2 (Quality Standards) and HD3 (Protection of Residential Amenity) as the erection of dwellinghouses at this location would be incompatible with neighbouring farm uses, with a reasonable likelihood of unacceptable residential amenity impacts arising for the future occupants of the proposed dwelling units. Other material considerations do not justify a departure from the development plan in this regard.

Method of Review: Review of Papers & Further Written Submissions

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

6.7 Reference: 22/01125/FUL  
Proposal: Alterations and extensions to dwellinghouse  
Site: Dove Cottage Gate Lodge Press Castle, Coldingham, Eyemouth  
Appellant: Mr W Hannah

Reason for Refusal: The proposed development is contrary to Local Development Plan 2016 policy EP7 (Listed Buildings) as it would not respect the original structure due to its excessive scale and poorly related design. The proposed development would not maintain the special architectural or historic quality of the building and would have a significant adverse impact on its special character and appearance.

Method of Review: Review of Papers & Further Written Submissions

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

## 7 REVIEWS OUTSTANDING

7.1 There remained 15 reviews previously reported on which decisions were still awaited when this report was prepared on 19<sup>th</sup> May 2023. This relates to sites at:

• Land South West of West Loch Farmhouse, Peebles	• Ravelaw Farm, Duns
• Land West of Greenburn Cottage	• The Millers House Scotsmill

Auchencrow	Kailzie, Peebles
<ul style="list-style-type: none"> <li>Land South of Ebbastrand, Coldingham Sands, Coldingham</li> </ul>	<ul style="list-style-type: none"> <li>Ratchill Farmhouse, Broughton</li> </ul>
<ul style="list-style-type: none"> <li>Land at Disused Railway Line Rachan, Broughton</li> </ul>	<ul style="list-style-type: none"> <li>Scott House, Douglas Square, Newcastleton</li> </ul>
<ul style="list-style-type: none"> <li>Land West of The Old Barn Westwater, West Linton</li> </ul>	<ul style="list-style-type: none"> <li>Paddock West of Hardens Hall, Duns</li> </ul>
<ul style="list-style-type: none"> <li>11 Tweed Avenue, Peebles</li> </ul>	<ul style="list-style-type: none"> <li>Land North of Belses Cottage, Jedburgh</li> </ul>
<ul style="list-style-type: none"> <li>2 Rowan Court, Cavalry Park, Peebles</li> </ul>	<ul style="list-style-type: none"> <li>Land South of 1 Kelso Road, Coldstream</li> </ul>
<ul style="list-style-type: none"> <li>Church House, Raemartin Square, West Linton</li> </ul>	<ul style="list-style-type: none"> <li></li> </ul>

**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 19<sup>th</sup> May 2023. This relates to a site at:

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

**Ian Aikman**  
**Chief Planning & Housing Officer**

**Signature .....**

**Author(s)**

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

**Background Papers:** None.  
**Previous Minute Reference:** None.

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

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

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