

# Public Document Pack



## PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 7TH AUGUST, 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, 7TH AUGUST, 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,

28 July 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 - 8) Consider Minute of the Meeting held on 3 July 2023 for approval and signature by the Chair. (Copy attached.)
5.	<b>Applications</b> Consider the following applications for planning permission:
	(a) <b>Building East Of Peel Lodge, Craigmyle Park, Peel, Galashiels - 23/00033/FUL</b> (Pages 9 - 24) Change of use and alterations to derelict building to form recreational hut with new access and parking (retrospective). (Copy attached.)
	(b) <b>Land at Menzion Forest Block, Quarter Hill, Tweedsmuir - 23/00777/FUL</b> (Pages 25 - 34) Installation of communication lattice tower 35m high c/w headframe on new 6.5m x 6.5m RC concrete base and associated ancillary works. (Copy attached.)
	(c) <b>Land South of Olivers Transport Ltd, Main Street, Eccles - 23/00816/FUL</b> (Pages 35 - 42) Replacement tank, new tanker layby and associated work. (Copy attached.)

	(d) <b>Land North Of Eccles Substation, Eccles, Coldstream - 23/00249/FUL</b> (Pages 43 - 56) Extension to the existing substation and erection of two hybrid synchronous compensators. (Copy attached.)
6.	<b>Appeals and Reviews</b> (Pages 57 - 62) 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

---

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

---

Please direct any enquiries to William Mohieddeen  
Tel: 01835 826504; Email: [william.mohieddeen@scotborders.gov.uk](mailto:william.mohieddeen@scotborders.gov.uk)

---

**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, 3 July 2023 at 10.00 am

-----

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

In Attendance:- Lead Planning Officer (C. Miller), Lead Roads Planning Officer (D. Inglis), Senior Roads Planning Officer (A. Scott), , Solicitor (S. Thompson), Democratic Services Team Leader (L. McGeoch)

1. **MINUTES**

There had been circulated copies of the Minutes of the Meetings held on 5 and 15 June 2023.

**DECISION**

**AGREED to approve the Minutes for signature by the Chairman.**

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 the Appendix to this Minute.**

3. **APPEALS AND REVIEWS**

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

**DECISION**

**NOTED that:-**

**(a) Appeals had been received in respect of:-**

**(i) Installation of illuminated signage (retrospective), 35 Horsemarket, Kelso; and**

**(ii) Erection of a double garage, 32 Dunglass Road, Coldstream.**

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

**(i) Change of Use of an existing agricultural building to dwellinghouse, The Old Cow Shed, Lennel, Coldstream – Dismissed; and**

**(ii) Installation of insulated plasterboard system to walls, 68 High Street, Coldstream – Sustained.**

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

- (i) Erection of dwellinghouse with access, landscaping and associated works, Land South and West of Greywalls, Gattonside;
  - (ii) Erection of dwellinghouse, Land Northeast of The Bungalow, Crosshill, Chirnside;
  - (iii) Demolition of stable and erection of dwellinghouse, Site Adjacent The Steading Whiteburn Farm, Lauder;
  - (iv) Erection of raised decking (retrospective), 33 Weensland Park, Hawick;
  - (v) Change of use of shop and alterations to form 2 no dwellinghouses, Shop, 22 - 24 South Street, Duns;
  - (vi) Erection of dwellinghouse, W Pearce and Sons St Ronan's Works, 2 Miller Street, Innerleithen; and
  - (vii) Erection of a dwellinghouse with access, landscaping, garden space, and associated works, Land West of Greywalls, Gattonside.
- (d) the following reviews had been determined as shown:-
- (i) Erection of timber storage and processing facility with new access junction, yard area, landscaping, tree planting, SUDs and associated works and planning permission in principle for associated dwellinghouse with office for the timber processing facility, Land South West of West Loch Farmhouse, Peebles - Decision of Appointed Officer Overturned (Subject to Conditions and a Legal Agreement);
  - (ii) Alteration and extension to dwellinghouse, Ratchill Farmhouse, Broughton - Decision of Appointed Officer Overturned (Subject to Conditions);
  - (iii) Modification of condition No.1 of planning permission 15/01355/FUL to allow the holiday chalet to be occupied as dwellinghouse, Land at Disused Railway Line Rachan, Broughton - Decision of Appointed Officer Upheld; and
  - (iv) Installation of photo voltaic array to roof, Scott House, Douglas Square, Newcastleton - Decision of Appointed Officer Overturned (Subject to Conditions)
- (e) Decision were still awaited in respect of Reviews for the following as at 22 June 2023:-

• Ravelaw Farm, Duns	• Land West of Greenburn Cottage, Auchencrow
• The Millers House Scotsmill Kailzie, Peebles	• Land South of Ebbastrand, Coldingham Sands, Coldingham
• Land West of The Old Barn Westwater, West Linton	• Paddock West of Hardens Hall, Duns
• 11 Tweed Avenue, Peebles	• Land North of Belses Cottage, Jedburgh
• 2 Rowan Court, Cavalry Park, Peebles	• Land South of 1 Kelso Road, Coldstream
• Church House, Raemartin Square, West Linton	• Land South of Greenbraehead Farmhouse, Greenbraehead, Hawick

<ul style="list-style-type: none"> <li>• Land North West of Rosebank Cemetery Lodge, Shedden Park Road, Kelso</li> </ul>	<ul style="list-style-type: none"> <li>• Land at Rachan Woodlands, Broughton</li> </ul>
<ul style="list-style-type: none"> <li>• Land South of Headshaw Farmhouse, Ashkirk, Selkirk</li> </ul>	<ul style="list-style-type: none"> <li>• Land South East of Tarf House, West Linton</li> </ul>

- (f) there remained One S36 PLI previously reported on which a decision was still awaited as at 22 June 2023 in respect of Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick.

*The meeting concluded at 11.10 am*

**APPENDIX**  
**APPLICATION FOR PLANNING PERMISSION**

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
23/00479/FUL	Change of use of garage blocks and alterations to form three dwellinghouses	Garage Blocks, Bothwell Court, Hawick

Decision: Refused for the following reasons:

1. The development is contrary to Policy PMD2 (i) of the Scottish Borders Local Development Plan 2016 in that it is inappropriate for the surrounding area due to its scale, mass and density
2. The development is contrary to Policy PMD5 of the Scottish Borders Local Development Plan 2016 in that it will result in the loss of privacy to adjoining properties, detract from the character and amenity of the surrounding area and lead to overdevelopment
3. The development is contrary to Policy HD3 b.ii of the Scottish Borders Local Development Plan 2016 in that it will result in overlooking, a loss of privacy and sunlight provisions to existing and surrounding properties.

**VOTE**

*Councillor Mountford, seconded by Councillor Scott moved approval of the application.*

*Councillor Richards, seconded by Councillor Thomson, moved as an amendment that the application be refused for the reasons detailed above.*

*On a show of hands Members voted as follows:-*

*Motion - 4 votes*  
*Amendment - 5 votes*

*The amendment was accordingly carried.*

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
22/01588/FUL & 22/01587/LBC	Reinstatement, alterations and alterations to dwellinghouse	Cavers House

Decision: Continued to a future meeting of the Planning and Building Standards Committee to enable the submission and consideration of further ecological surveys.

**Note**

Declaration of Interest - Councillor Cox declared an interest in the application detailed above in terms of Section 5 of the Councillors Code of Conduct and left the Meeting during the discussion.

Councillor Richards stated that he did not consider he had an interest to declare and remained in the Chamber.

Councillor Cox re-joined the meeting for consideration of the following application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
22/01887/FUL	Variation of Condition 1 to extend operational life of wind farm by additional 10 years	Land East of Kingledores Farm (Glenkerie), Broughton

Decision: Approved subject to the following conditions and a S75 legal agreement:

1. This permission shall be for a period of 35 years from the date of final commissioning. Within twelve months of the end of the period, unless a further planning application is submitted and approved, all wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site and the land restored to its former condition, or other such condition as may agree, to the satisfaction of the Planning Authority.

Reason: The anticipated design life of the wind farm is 35 years.

2. With the exception of the Condition hereby amended as above, the development shall be implemented in accordance with the plans, drawings, supporting information and schedule of conditions approved under application 07/02478/FUL and in accordance with all agreements/approvals under the terms of those conditions.

Reason: To ensure the development is implemented and operated in accordance with all measures within the approved schedule of conditions under the original wind farm planning consent, to ultimately ensure compliance the Development Plan and relevant planning policy guidance.

#### Informative

1. The Community Fund contribution per MW should match current Government guidance at the time when the ten year operating life extension commences.

#### NOTE

The Committee also asked for it to be noted in general that any agreed monitoring of Habitat and Woodland Management Plans should be carried out fully in accordance with the agreed schedules and timescales. The Planning Officer undertook to raise the matter with the Enforcement and Ecology Officers in this regard.

This page is intentionally left blank



**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**7 AUGUST 2023**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 23/00033/FUL

**OFFICER:** Carlos Clarke  
**WARD:** Tweeddale East  
**PROPOSAL:** Change of use and alterations to derelict building to form recreational hut with new access and parking (retrospective)

**SITE:** Building East Of Peel Lodge, Craigmyle Park, Peel, Galashiels

**APPLICANT:** Mr Adam Elder  
**AGENT:** Lowland Planning Associates Ltd.

**SITE DESCRIPTION**

The site comprises a derelict former kennels building sited within a woodland subject to Tree Preservation Order, located north-east of Craigmyle Park within the Peel Estate residential area. The site also includes that of a proposed new access road from Craigmyle Park to serve a new parking area to the west of the kennels building. To the east of the kennels building is Glenkinnon Burn Special Area of Conservation and Site of Special Scientific Interest.

**PROPOSED DEVELOPMENT**

Full Planning Permission is sought for the conversion and alteration of the former kennels building to a 'hut', for which the application submission states, "all requirements for the development of a hut, under the terms of SPP 2014 (Scottish Planning Policy 2014) will be met in terms of intermittent recreational use". Externally, the building's footprint and walls would be unaltered, with the walls reinstated and repointed; timber windows and doors installed; the roof replaced with black corrugated sheeting, incorporating solar/pv panels; and external walls and railings enclosing the yard retained and refurbished. Internally, 15sqm of usable space would be provided, within which a composting toilet, stove and sleeping deck above, are proposed. The application initially included a proposed extension to the building, which was omitted during the processing of the application (and for which renotification of neighbours was not necessary). As noted above, a new access road and parking area are also proposed.

**PLANNING HISTORY**

The relevant planning history for the site comprises:

17/01008/FUL: Erection of replacement dwelling house – Refused in September 2017 for the following reasons:

- 1 *The proposed development is contrary to policy EP13 (Trees, Woodland and Hedgerows) of the Scottish Borders Local Development Plan (2016), and*

*contrary to adopted supplementary guidance on Trees and Development in that the development will result in significant removal of trees subject to Tree Preservation Order which provide a positive landscape contribution. Furthermore, the proposed development would lead to increased pressure to remove further trees in the future.*

- 2 *The proposed development is contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), in that the proposed development would not sympathetically relate to the existing building group in terms of siting, scale, form or design. The existence of a building on site is inadequate justification for the proposed development*

The decision was upheld by the Local Review Body in April 2018, principally on the basis the proposed development would be contrary to Policies HD2 and EP13 of the Local Development Plan 2016.

22/01285/FUL - Change of use, alterations and extension to building to form recreational hut - Withdrawn in October 2022

## **REPRESENTATION SUMMARY**

Objections on behalf of fourteen households have been submitted in response to the initial application and during its processing. As noted above, renotification of neighbours was not necessary for the omission of the extension (and all original representations remain material) though some objectors chose to comment again in response to that revision, and the submission of a structural survey. The representations can be viewed in full on *Public Access*. The following is a summary of the key issues raised:

- The application contains misleading information.
- This is the third application. A previous application was refused and appeal dismissed. This is a back door means of getting a house, a 'foot in the door', and the development is more akin to a residential dwelling.
- The site is subject to enforcement action, work is ongoing at an alarming pace, and there is a lack of confidence in the applicant complying with designs and specifications. Work is continuing, as is vehicular access which is affecting trees.
- The definition of the proposal as a 'hut'; its compliance with 'hutting regulations' and Building Standards; the need for it; and the benefit of it are all challenged, as is the need for overnight accommodation. The proposal is not in the spirit of hutting and there is no guarantee it will be used as a hut in the future. Hutting regulations were not intended to be used this way. Effective management of the woodland does not need a residential property, and the applicant lives less than 15 minutes away.
- Residents use the woodlands for recreation, and this proposal will result in loss of landscape, ecological, historic and shelter value with no public benefits whatsoever.
- Impact on woodland and wildlife already has occurred, including damage from vehicles, and this will result from the development. The woodland has not been managed sensitively, and should be left in peace, and the site is part of an ancient deciduous woodland, close to a SSSI (Glenkinnon Burn), the regulations for which the development 'blatantly' contravenes. There is no attempt to safeguard Tree No 22 behind the building.

- The composting toilet is challenged regarding waste disposal, seepage, contamination.
- Concerns regarding visitor volumes, and resulting litter, noise and security concerns.
- The development has no support under the Local Development Plan or LDP2 and there are no material considerations to warrant a departure.
- External materials are challenged regarding eco friendliness, and the development is not in keeping with other nearby structures. The need for the extension is challenged.
- The structure survey report does not inspire confidence, is superficial and the stability of the structure is questioned.
- Increase in traffic, parking issues and the access has not been upgraded as required.
- Solar panels and the stove are not required.
- The toilet and sleeping accommodation are unnecessary.
- Smoke and fire risk from stove flue.
- Waste management methods are queried.
- Processing of the application is most unsatisfactory, objections remain and additional information provided by the applicant does not persuade otherwise.

A supporting letter also raises the following key issues, in summary:

- Time and effort have been invested by the applicant in the woodland and structures, including safety and stability. Renovating the building and adding a small unobtrusive wooden structure will allow the applicant a secure base to continue to actively manage the woodland.
- The woodland is private, not public and the applicant should be allowed intermittent recreational occupation. Hutting principles are not restricted to the wilds of Rannoch Moor.
- The revised design remains within the overall building footprint and yard; the extension is in keeping with the woodland; and though slate is preferred for the roof, the corrugated material will be black and unobtrusive.
- A well-managed stove should not present a hazard.
- A dedicated off-road parking space is a positive step.
- No effects on neighbouring privacy.
- The development being off-grid should be applauded, including solar panels and composting toilet, which should present no concerns regarding odours
- It's close to but not within a SSSI and the survey indicates no adverse impacts on wildlife; and there are permanently occupied properties within the wildlife corridor now.
- The applicant continues to actively manage the woodland, and has at no time restricted access to it. Development would encourage long term positive management of it, and have immediate and lasting benefits to the aesthetic value of the building.

## **APPLICANT'S SUPPORTING INFORMATION**

The initial application was supported by a Tree Survey and Arboricultural Impact Assessment; Supporting Statement; Phase 1 Habitat Survey; and Otter and Badger Survey. During the processing of the application, a structural survey report was also submitted.

## **DEVELOPMENT PLAN POLICIES:**

### **National Planning Framework 4**

Policy 1: Tackling the Climate and Nature Crises  
Policy 2: Climate Mitigation and Adaptation  
Policy 3: Biodiversity  
Policy 4: Natural Places  
Policy 6: Forestry, Woodland and Trees  
Policy 7: Historic Assets and Places  
Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings  
Policy 11: Energy  
Policy 12: Zero Waste  
Policy 13: Sustainable Transport  
Policy 14: Design, Quality and Place  
Policy 20: Blue and Green Infrastructure  
Policy 22: Flood Risk and Water Management  
Policy 23: Health and Safety  
Policy 30: Tourism

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

PMD1 – Sustainability  
PMD2 – Quality standards  
ED7 – Business, Tourism and Leisure Development in the Countryside  
HD3 – Protection of residential amenity  
EP1 – International nature conservation sites and protected species  
EP2 – National nature conservation sites and protected species  
EP3 – Local biodiversity  
EP5 – Special Landscape Areas  
EP8 – Archaeology  
EP13 – Trees, woodlands and hedgerows  
EP16 – Air Quality  
IS2 – Developer Contributions  
IS5 – Protection of access routes  
IS7 – Parking provision and standards  
IS9 – Waste water treatment standards and SUDS  
IS13 – Contaminated Land

## **OTHER PLANNING CONSIDERATIONS:**

Supplementary Planning Guidance:

Landscape and Development (2008)  
Sustainable Urban Drainage Systems (2020)  
Trees and Development (2020)  
Waste Management (2015)  
Guidance on Householder Development (2006)  
Local Landscape Designations (2012)

## **CONSULTATION RESPONSES:**

All consultations were undertaken on the basis of the original application submission, prior to omission of the proposed extension to the kennels building.

## **Scottish Borders Council Consultees**

**Roads Planning Service:** No objections were raised to previous applications, and they have no reason to object to this proposal. The application is retrospective and previously they had requested information prior to works commencing. As such, the information must be provided prior to any further works taking place. Their main concern is that the initial section of the access track is at an unacceptable gradient. This will result in additional strain on the public road as vehicles are not sitting at an acceptable gradient on a suitable surface. A planning condition is recommended in this regard, as is one requiring the parking and turning to be made available prior to the use becoming operational.

**Archaeology Officer:** The building is of some architectural and historic interest, likely dating to when the Peel Estate established at the start of the 20th century. The landscape of Peel Estate has changed substantially with the introduction of the Second World War temporary hospital, before for the northern part its eventual replacement by a housing estate, but the immediate surroundings of the kennels building in all editions of the Ordnance Survey mapping from the mid-19th century onwards woodland. The building would be radically changed for the layout of the building and the characteristic railed yards of kennels overall would now enclose the new extension. The subdivisions of the railed yards, however, would be lost in the progression of this application. In this new application the extension proposed is parallel to the main length of the building and is to be within the yards and with the railings retained. There are no archaeological sites recorded in this area and it is perhaps unlikely that the limited groundworks would reveal any archaeological features and/or deposits. The historic nature of the building will be radically changed if this application is to occur though it is recognised that the building will have seen a number of changes and would further do so in any progression of this application. A historic building recording condition would be recommended.

**Contaminated Land Officer:** The requirement for a full site assessment and potential remediation may not be practical or proportionate, so an Informative Note is recommended so the applicant is advised of potential land contamination issues.

**Ecology Officer:** The otter and badger survey found no signs of either species in the vicinity of the derelict kennels. In a previous application, an ecological survey found that none of the trees within 30m of the kennels showed potential roosting features suitable for bats. The proposal should have no negative impacts on protected species.

From the submitted documents, it appears no trees are proposed for felling, and the Ecology Officer has no objection to the conversion of the building but raised strong concerns regarding the solar panels. The woodland is very dense and dark and the Ecology Officer cannot see how the panels would work. It seems likely trees will have to be felled to allow them to function properly. Most of the TPO-woodland trees are beech which grow about 30-35m tall, and the kennels and ancient woodland are circa 32m (south) and 20m (south-east) distant. It is likely a large number of TPO'd trees, and some Ancient Woodland trees will need felled to make the solar panels work. Even if no trees within the ancient woodland are felled, large scale removal of semi-mature and mature trees from the boundary could still have adverse impacts on its ecological condition. The proposal goes against LDP Policy EP13 and falls into the category of NPF4 Policy 6b

Following submission of information on the solar panels, the Ecology Officer subsequently removed her above-noted concerns in that regard. A comprehensive Construction Method Statement will, however, be required to protect the SSSI/Ancient

Woodland. With adequate protection, the Ecology Officer considers it unlikely there will be any impacts on the SAC.

**Landscape Architect:** The woodland which includes the site, is covered by Tree Preservation Order SBC No 20 – Peel House and grounds, and the woodland immediately to the east of the TPO woodland is part of the Glenkinnon burn SSSI. A Tree Survey and Arboricultural Impact Assessment shows that no trees will require to be felled to accommodate the development and a detailed method of construction will mitigate any potential damage to trees. The landscape architect is confident a track could be taken through these trees as detailed using a Cellweb track base to spread load and avoid potential root damage. Tree Inspection and Arboricultural Safety Audit reports have also been submitted that include woodland management and planting proposals that have formed the basis of applications to do work to the woodland which is covered by TPO. It is acknowledged that the track could be developed without significant impact on the adjacent trees and could be low key and not impact on the woodland overall. The landscape architect is less confident that the existing building, which includes a small additional lean-to extension and solar panels, could function successfully in this location surrounded by tall trees. The dense cover could put pressure on further tree removals and could in time effectively remove the central core of the woodland despite the modest nature of the proposal. For that reason, the landscape architect suggests the proposal does not comply with LDP Policy EP13 cannot be supported.

**Environmental Health Service:** No reply

#### **Statutory Consultees**

**Clovenfords and District Community Council:** Key issues and commentary raised by the Community Council are noted below, with their full response (including quotes from the code of practice referred to below) available to view on *Public Access*.

The objective of this application is in most respects the same as previous ones, the first of which went to Appeal at the Local Review Body and was refused (for the two reasons as noted above).

Under the first reason for refusal, the LRB ruling was right and, since it was made, many trees have been felled in Peel Wood, including in the SSSI. This present application would result in many more trees being removed. The proposed building would be under the present canopy with solar panels and a woodburning stove. Obviously, trees will have to be removed to allow light into the solar panels and to reduce the fire risk from the stove. The reasons for refusal of the original application and the appeal remain pertinent to this renewed attempt. On these grounds alone, the CC objects to this application. The reasons for refusal of the original application and the appeal remain pertinent to this renewed attempt. On these grounds alone, the CC objects to this application.

The CC refer to and quote from Reforesting Scotland's code of practice for hutting developments. In considering this, a summary of their points is noted below:

- The CC do not consider Peel Wood a suitable location for hutting developments
- There has been no participatory decision making
- The CC is concerned this will pave the way for a higher impact development and there are no safeguards to prevent this

- It will have a material impact on the current use of the land (particularly the SSSI) and a negative effect on the immediate and wider community's enjoyment of the site
- The CC is concerned this is a potential 'foot in the door' for a higher impact development. If hutting legalisation were used to support this application, the spirit and intent of it would be devalued and whole ethos of Scotland's hutting initiative brought into disrepute. Any person with a bit of woodland could maim the need to have to live in it and apply to building a hut, or convert any convenient old building into a dwellinghouse, calling it a hut.

The CC is in the early stages of introducing Placemaking under the auspices of the Tweeddale Area Partnership Placemaking Working Group. Applying the principles of Placemaking to the potential development of Peel Wood, the views of the surrounding community would be sought and input into the Local Development Plan. The conversion of the old derelict kennels into a dwelling is extremely unlikely to be supported by the "bottom up" process of Placemaking because of the known lack of support from the local community and, hence, a development such as that being proposed would not be permitted.

The reduction of the woodland amenity available to at least 50 residents to allow the intermittent recreational use by the applicant, does not constitute sensible Placemaking and is not supported by the majority of the immediate community.

The CC object for similar reasons to the previous application and because of lack of support from surrounding communities. It's simply another attempt to get permission to build a dwelling on land sold and bought as woodland, not a building site. A 'hut' could be a foot in the door leading to more significant development such as that initially refused, appealed and finally refused by the Local Review Body. Work has already started and been progressing for several weeks so its difficulty to see how escalation from a 'foot in the door' to a higher impact development would be prevented in the longer term.

### **KEY PLANNING ISSUES:**

The key planning issues are whether the proposed development would comply with the Statutory Development Plan as regards leisure development in the countryside, having accounted for relevant supplementary guidance, particularly as regards the visual and amenity impacts of the development; risk to the woodland resource and ecology; and, whether there are sufficient material considerations to justify a departure from the Development Plan.

### **ASSESSMENT OF APPLICATION:**

#### Principle

This application seeks to convert a former kennels building to a 'hut'. It should be clarified that there is no planning legislation that provides greater scope to build a 'hut', or convert a building to one, than any other recreational building in the countryside. Whether the proposed development is a 'hut' or not does not alter the need for Planning Permission for what is proposed, nor to account for the normal considerations required to be applied to policies within the Statutory Development Plan. National Planning Framework (NPF4) Policy 30 provides support for hutting developments, though the NPF also defines a hut as "*A simple building used intermittently as recreational accommodation (i.e. not a principal residence); having an internal floor area of no more than 30 square metres; constructed from low impact materials;*

*generally not connected to mains water, electricity or sewerage; and built in such a way that it is removable with little or no trace at the end of its life. Huts may be built singly or in groups.*” This proposal comprises refurbishment and reuse of a permanent building which, at the end of its life, will obviously leave a trace, as it has done to date following the cessation of its previous kennels use. Regardless of the size and use of the proposal, it does not comprise a ‘hut’ for which Policy 30 can provide direct support. Furthermore, Scottish Planning Policy 2014 no longer applies.

That said, Policy 9 of NPF4 does however support sustainable reuse of brownfield land and includes vacant and derelict buildings, as is the case here. Furthermore, Policy ED7 of the Local Development Plan 2016 (LDP) also provides support for leisure developments appropriate to a countryside location. Given this is for small scale leisure use associated with the applicant’s management and enjoyment of the woodland, this would comply with Policy ED7 in principle, and the inclusion of a sleeping deck (described in the supporting statement as being for the applicant to ‘bunk down overnight on an occasional basis’) does not undermine the merits of the application in that regard. There is no requirement under ED7 to demonstrate need for the development and, regardless of the proximity of the applicant’s place of residence, the proposed use complies with ED7 fundamentally. The proposal is not for a business use, so no business case is required. Nor is it for a tourism use, so compliance with the region’s tourism strategy is not required. Though the occupancy of the building may potentially generate more activity, it would do so on a small scale, providing amenity for the owner of the land and facilitate existing woodland management activities. A condition can regulate the use to that effect.

The sustainability of the proposed use is, however, a key consideration, as applied by Policy PMD1 of the LDP. This service raised concerns with the applicant that the financial investment in extending and refurbishing the building may result in a need for a more intensive use being required in order to justify the costs associated with redeveloping it. In response, the applicant has not provided information that would allay that concern. Instead, the originally proposed extension has been omitted, which has significantly reduced concerns in that regard. Combining the policy support for reuse of derelict buildings; the general benefit to be derived from restoring a building that would otherwise continue to fall to ruin in an area frequented by the public; and the small scale of the building which is unchanged from the footprint that currently exists, this aspect is not of overriding concern. Fundamentally, the scale of development is minimal, no greater than what exists now, and if an alternative use were proposed in future, any such application would not only be treated on its own merits but be based on what is a small-scale building with limited potential for an alternative use. Whether this proposal is an attempted ‘foot in the door’ or not, does not undermine the appropriateness of bringing a ruinous building back to use, as doing so is supported both at national and local policy level.

A structural survey also provides sufficient comfort, for planning purposes, that the building is capable of conversion without substantial rebuilding. Albeit criticism of the report from an objector is acknowledged, if it transpires that the building is unable to accommodate the alterations proposed such that the development is not capable of being implemented as proposed, then any prospective planning consent issued for it will be extinguished.

### Services

Water is to be carried in, supplemented by rainwater capture. Ultimately, this is acceptable for planning purposes, as there is no need to provide a dedicated water supply for the type of use proposed. If private or public water supply connections are,



however, instead required, these are regulated by the Environmental Health Service and Scottish Water respectively.

For foul drainage, a composting toilet is proposed. Again, for planning purposes, this causes no concerns as there is no planning policy requirement to ensure this type of use is serviced with foul drainage nor that it is 'off-grid'. However, the applicant has been advised that a composting toilet will not comply with the Building Standards, and this proposal may, therefore, affect their ability to obtain a Building Warrant for the conversion. If a mains connection or private treatment plant is required, then these are suitably regulated again by Scottish Water and the Building Standards.

Surface water drainage from the building will be for the Building Warrant. As regards the proposed track, aside from the entrance, this will be cellweb construction, which should be able to provide sustainable drainage. A planning condition can ensure no increase in off-site run-off.

In all regards, however, provision of services, whether these are water supply pipes or drainage measures, have the potential to undermine trees within the woodland. A condition should therefore regulate those aspects and it will be for the applicant to ensure that, if required to adjust their servicing methods to satisfy the Building Standards, the servicing routes do not undermine trees.

#### Archaeology

The site is not designated, formally or informally. However, the building retains considerable character, and the Archaeology Officer recommends its recording. A condition to that effect is considered justifiable and will be required to be satisfied to ensure compliance with the prospective consent, regardless of any works having been undertaken to date.

#### Ecology

The development is not within a designated ecological site and, as noted below, there is no loss of woodland associated with the proposed development. The Glenkinnon Burn Special Area of Conservation/Site of Special Scientific Interest (SAC/SSSI) designations are approximately 80 metres and 20 metres to the east respectively. The application is supported by habitat and protected species surveys that identify no adverse impacts and that the woodland is of little habitat value. As noted, our Ecology Officer raises no concerns in those regards. A condition should ensure that construction activity associated with the development is managed in a manner that does not present any risk the SAC/SSSI, as required by the Ecology Officer. Also, in order to comply with the requirements of Policy 3 of NPF4, a condition should secure ecological enhancements.

#### Access and parking

The access and parking measures proposed will provide for improved accessibility to the building, albeit not fully to it. Given the type of use, this is acceptable, and the Roads Planning Service raise no concerns other than as regards gradient of the initial section. In that regard, the applicant has since provided further information and, in response, the RPS has confirmed acceptance, subject to the initial junction surfacing meeting their specification.

### Trees and woodland

NPF4 Policy 6 supports developments that improve woodlands. This proposal will not require tree removal, and will facilitate its management, if used for the purposes specified. It will not fragment or sever woodland habitats, since the development comprises reuse of an existing building without any change to its footprint, with an improved vehicular access and parking arrangement over only part of the woodland, with no requirement to remove trees. Nor will it undermine the scope for the public to access the woodland as they are entitled to do now using their countryside access rights for the same reason.

The application is supported by an Arboricultural Impact Assessment which indicates that with a cellweb track as proposed, no trees will require removal to facilitate the development and, as regards direct impacts, our Landscape Architect is content (as noted above) on the basis the method statement within the AIA is complied with. As regards Tree 22 (which is directly behind the building) this will require tree protection around it as recommended by the AIA and its method statement.

In terms of future pressure to remove trees, the provision of solar panels generated a concern in this regard, however, the applicant's prospective installer advises that the calculations used to define the system factor in tree coverage, and the batteries will recharge from the solar panels in inclement weather and in shade. The Ecology Officer considers her concern in this regard satisfied and the Landscape Architect has less concern regarding the development if conditions on construction management/tree protection as noted above are complied with. Otherwise, given the type of use proposed, it is not considered that conflict with woodland management should arise. It is, fundamentally, better to have a building in viable use, facilitating management of the site, than it is to have a ruin within it and it is not considered the development would undermine the integrity of any decisions that may be required as regards removal of trees in the future.

### Landscape and visual impacts

The access would comprise a tarred entrance with a cellweb construction for the remainder. The landscape and visual implications of the development, even with some upfill at the entrance, will be very minor. Its surfacing finish should, however, be clarified as references are made within the submissions to both gravel surfacing and block paving.

As noted, the proposal is now no longer to extend the building. The remaining works, therefore, comprise conversion and reinstatement of the existing building and will, fundamentally, retain its character and integrity, including the walling and railings around the yard. Albeit a slate roof rather than a corrugated roof, as proposed, would be preferred, this roofing finish is not inappropriate for this type of building or setting. The remaining works include timber windows and doors and repointed and reinstated walls. The alterations are fundamentally minimal and will be sympathetic to the character of the building. A planning condition can regulate details.

### Neighbouring and countryside amenity

The alterations to the building itself will not undermine neighbouring amenity as regards light or privacy impacts, nor will the improved access and parking area. Though the use of the building may, potentially, generate more activity than at present, the current level of activity associated with management of the woodland cannot be regulated in any case, and the small scale of the development will considerably limit

its potential. Conditional control (as noted above) of the building will provide sufficient management of the likely level of activity, whereas the behaviour of persons on site is a matter for other authorities should anti-social behaviour or nuisance result.

#### Air quality

The location of the stove and chimney are unlikely to risk neighbouring amenity. If nuisance does arise, then that is a matter for regulation by the Environmental Health Service. The stove will require compliance with the Building Standards as part of the Building Warrant application, so fire risk would be for that process to account for.

#### Waste storage

The application submission states that waste will be removed following every visit. This is a matter for the applicant, just as it is now. For planning purposes, the primary concern is that, where external storage is required, it is sited appropriately. The applicant requires none according to the submission. A planning condition can regulate external storage if, however, it is ultimately required.

#### Contamination

An Informative Note can address the recommendation of the Contaminated Land Officer.

### CONCLUSION

Subject to 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 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. This consent shall only permit the conversion and adaptation of the existing building in accordance with the approved plans and drawings, unless otherwise amended by any other condition in this schedule. It shall not purport to grant permission for the erection of a new building nor for any extensive rebuilding which would be tantamount to the erection of a new building.  
Reason: To ensure the development is implemented in accordance with the approved plans and drawings, and complies with the statutory Development Plan
3. The development shall be implemented in accordance with the approved plans and drawings, including external material specifications and retention of yard, walls and railings, and subject to:
  - a) The roofing material being matt finished, and the frames of the solar panels being black
  - b) Design details and colours of the doors and windows, and the colour(s) of exposed rafter ends and eave/verge fascias (which shall all be timber), being

implemented in accordance with details approved in writing by the Planning Authority

c) All external walls including cills, lintels and quoins, being constructed of either stone salvaged from the existing building or matching stone

d) Notwithstanding the approved site plan 002, no extension to the existing building is approved under this consent

Reason: To ensure the development is sympathetic to the character of the building and its setting

4. The use of the building shall be limited to purposes wholly ancillary to the management and recreational use of the woodland within which it is located only by the owner of the building and woodland. The building shall not be sold or leased separately from the woodland, which incorporates the area identified in blue on the approved location plan 001. It shall not be used for any other purpose, including residential, holiday letting or other commercial or business purposes, and sleeping accommodation shall be limited to intermittent overnight use only by the owner.

Reason: To ensure the use of the building complies with the statutory Development Plan and does not have an adverse impact on the amenity of the surrounding area

5. No development shall commence under this consent until a Construction Method Statement has been submitted for the approval in writing of the Planning Authority, which incorporates measures to minimise risk to the integrity of the Glenkinnon Burn SAC and SSSI. Where water and/or drainage services are required, details of the same shall be included in the CMS.

Reason: To minimise the risk of the construction of the development, and services where required, of adversely impacting the Glenkinnon Burn SAC or SSSI

6. No development shall commence under this consent until the applicant/developer has secured the implementation of a programme of archaeological work (which may include excavation) in accordance with a Written Scheme of Investigation outlining a Historic Building Survey which has been formulated by, or on behalf of, the applicant/developer and submitted to and approved in writing by the Planning Authority. Access should be afforded to allow archaeological investigation, at all reasonable times, by a person or persons nominated by the applicant/developer and agreed to by the Planning Authority. Results will be submitted to the Planning Authority for review in the form of a Historic Building Survey Report

Reason: To preserve by record a building of historical interest.

7. No development shall commence under this consent until details of a scheme of post-construction ecological enhancements, including timescale for implementation, have been submitted to and approved in writing by the Planning Authority. The approved details shall be implemented within the approved timescale

Reason: To provide a reasonable level of ecological enhancement relative to the environmental impact of the development in accordance with the statutory Development Plan

8. The development shall be implemented in accordance with the method statement tree protection measures specified in "Tree Survey and Arboricultural Impact Assessment – Sam Lowe Tree Management – November 2022". There shall be no provision of external water or drainage measures to service the development unless in accordance with details that demonstrate that trees will be safeguarded in accordance with BS5837:12 and National Joint Utility Guidelines 4 during their

installation, which have been submitted to and approved in writing by the Planning Authority. The installation of all services shall comply with the approved details  
Reason: To safeguard the integrity of the woodland, including trees subject to Tree Preservation Order

9. The access, parking and turning area shall be implemented in accordance with the approved plans and drawings prior to the use of the building commencing under this consent, subject to the initial two metres being constructed in accordance with the specification in Informative Note 3; the top surfacing finish being agreed in writing with the Planning Authority; surface water drainage being sustainably managed to ensure no off-site run-off; and all banking to be graded to the lowest practicable level outwith tree protection barriers. Following implementation, the access, parking and turning area shall be retained free from obstruction.

Reason: To ensure the development is adequately serviced with off-street parking in the interests of safeguarding road and pedestrian safety, has minimal visual implications and sustainably manages surface water

10. There shall be no external storage of bins associated with the consented use unless in accordance with details which have first been submitted to and approved in writing with the Planning Authority

Reason: To ensure that external storage of waste, where required, is visually sympathetic and appropriate to setting

#### Informatives

1. The former use of the site is potentially contaminative and may have resulted in land contamination. The land is not currently identified as contaminated land and the Council is not aware of any information which indicates the level of risk the potential contamination presents. The historic use of the site is recorded within a Council database. This database is used to prioritise land for inspection within the Council's Contaminated Land duties. Should the applicant wish to discuss these duties their enquiry should be directed to the Council's Environmental Health Service.
2. For the purposes of this Planning Permission, intermittent use described in Condition 4 should comprise overnight stays not exceeding periods of two nights within any calendar week and which shall occur during no more than two weeks in any calendar month
3. In relation to Condition 9 above, the initial two metres of the access track shall be constructed in accordance with the following specification: 75mm of 40mm size single course bituminous layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming blinded with sub-base, type 1.

#### DRAWING NUMBERS

001	Location Plan
002	Existing Site Plan
003	Existing Plans
005 - 1B	Proposed Plans
006 - 1B	Proposed Elevations
TR23-4292_RUR_CEL_ - cross section	Proposed Sections
TR23-4292_RUR_CEL - longitudinal section	Proposed Sections

Report – Tree Survey and Arboricultural Impact Assessment – Sam Lowe Tree Management – November 2022

**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

**Author(s)**

Name	Designation
Carlos Clarke	Team Leader



This page is intentionally left blank



**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**7 AUGUST 2023**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 23/00777/FUL

**OFFICER:** Ranald Dods  
**WARD:** Tweeddale West  
**PROPOSAL:** Installation of communication lattice tower 35m high c/w headframe on new 6.5m x 6.5m RC concrete base and associated ancillary works.

**SITE:** Land at Menzion Forest Block,  
Quarter Hill,  
Tweedsmuir

**APPLICANT:** Hutchison 3G UK Ltd  
**AGENT:** WHP Telecoms Limited

**PLANNING PROCESSING AGREEMENT:**

A planning processing agreement is in place until 14 August 2023.

**SITE DESCRIPTION:**

The site is a short distance to the south of the summit of Quarter Hill, some 5km south of Tweedsmuir and is within the Tweedsmuir Uplands special landscape area. The hillside is planted with commercial forestry. The site would be accessed using an existing forestry track known as Silver Jubilee Road and located immediately to the west of that track.

**PROPOSED DEVELOPMENT:**

This application is a proposed telecommunications installation comprising a 35-metre-high lattice tower, coloured fir green (RAL 6009) and erected on a concrete base, together with associated ancillary equipment, all within a 13m by 10m compound, surrounded by a 1.8m high deer fence. The lattice tower would feature 15 antennae and six transmission dishes. No trees would be affected as a result of the construction of the development.

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:**

There is no planning history associated with this site.

## **REPRESENTATION SUMMARY:**

A total of 12 representations has been received, including multiple submissions from individuals at the same address. That number comprises: five objections and; three support comments. Those representations can be viewed in full on Public Access.

The material grounds contained in the objections can be summarised as follows: Impact on tourism; impact on amenity; landscape and visual impact; impact on trees; impact on designated site; impact on historic environment; impact on ecology.

The three letters 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
- Site selection supplementary information
- ICNIRP
- Photomontage report including zone of theoretical visibility (ZTV) and wireframes

## **DEVELOPMENT PLAN POLICIES:**

The statutory development plan currently comprises the Scottish Borders Local Development Plan 2016 and National Planning Framework 4. The relevant policies are noted below.

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

PMD2 – Quality standards  
ED6 – Digital connectivity  
HD3 – Protection of residential amenity  
EP5 – Special landscape areas [Tweedsmuir Uplands]  
EP7 – Listed buildings  
EP13 – Trees, woodlands and hedgerows  
IS15 – Radio telecommunications

### **National Planning Framework 4**

Policy 4 – Natural places  
Policy 6 – Forestry, woodland and trees  
Policy 7 – Historic assets and places  
Policy 23 – Health and safety  
Policy 24 – Digital infrastructure  
Policy 29 – Rural development

## **OTHER PLANNING CONSIDERATIONS:**

SPG – Local Landscape Designations  
SPG – Trees and Development

PAN62 – Radio Telecommunications

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Landscape Architect:** The visualisation from view point 2 at the north end of Talla reservoir is unfortunate, showing the mast prominent on the skyline in a valued landscape setting (Tweedsmuir Uplands SLA). The zone of theoretical visibility shows that there will be potential visibility from much of the road along Talla reservoir, although increased distance and the angle of view will diminish the visual effects. The visualisation demonstrates the stark contrast between the vertical tower and its position on the saddle between two hills but this visualisation is the worst case scenario as the forestry (itself a modified landscape, albeit more 'natural' than a phone mast) has partially been felled – the part which will back drop the mast and the foreground trees are still relatively young and when fully grown both these blocks of forestry will help to mitigate the visual effects and screen the lower part of the mast.

Although there is a change to the landscape when seen from the northeastern side of the reservoir, given the open nature of the view, the limited amount of the view occupied by the mast and the focus of the view up and down the valley, does not consider the magnitude of change is so great as to be an unacceptable significant effect.

### **Other Consultees**

**Community council:** Objection. The community council commented as follows:

Although it is quite difficult to identify the exact location of the proposed mast it appears it will be located on or near to the Silver Jubilee Road, overlooking Talla reservoir, potentially visible from Talla Dam.

The views of Talla Reservoir and the valley in which it sits are iconic and featured in materials promoting the area as a beautiful and unspoilt place to visit. It is enjoyed by locals and visitors as a place to walk, cycle, fish and watch birds.

A review and update of Tweedsmuir's Community Action Plan was completed in Autumn 2022. The updated plan highlighted that residents really value Tweedsmuir's beautiful landscape and stressed the importance of retaining the unique, unspoilt and special landscape of the area. The progressive 'industrialisation' of our community through siting of communication masts such as the one proposed, undermine the community's enjoyment of their locality.

The Community Action Plan also identified, as a strategy to support ongoing sustainability, the importance of developing Tweedsmuir as a place to visit to experience the unique natural environment and heritage. The siting of the proposed mast with associated potential negative impact upon the visual landscape will impact upon our ability to attract visitors to the area.

Concern has also been expressed about the possibility, under provisions for permitted development, that the height of the mast may in the future be increased, without the need for community consultation.

### **KEY PLANNING ISSUES:**

The main determining issue with this application is whether the proposed tower and ancillary works would affect adversely the visual landscape of the area to an

unacceptable extent that would justify the refusal of planning permission. Impacts on neighbouring amenity and access are also key considerations.

## **ASSESSMENT OF APPLICATION:**

### Planning Policy

The principle of development is acceptable in terms of LDP policies IS15 and ED6 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 supports 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 criterion a) of LDP policy IS15, telecoms equipment should be positioned and designed sensitively to avoid unacceptable effects on the natural and built environments, including areas of landscape importance.

In addition, under criterion 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 criterion c), the developer must demonstrate that there is no alternative location, which will satisfy their operational requirement.

Furthermore, paragraph b) of NPF4 policy 24 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”. In addition, policy 29 supports proposals in remote rural areas such as Tweedsmuir, where amongst other things, they would support and sustain existing communities through provision of digital infrastructure. This proposal would improve existing levels of connectivity within the Tweedsmuir area and providing more comprehensive coverage.

A total of 8 other sites have been considered in the surrounding area as part of the site selection process but have been discounted for various reasons including access difficulties, signal coverage issues and the lack of reasonable screening on completion of felling operations. As a result, the other considerations relevant to this application will be considered below and will set out whether or not any additional impacts 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. Criterion a) of IS15 is also relevant as that requires telecoms equipment to be positioned and designed sensitively to avoid unacceptable effects including, amongst others, on areas of landscape importance.

The applicant has provided wireframes, photomontages and a zone of theoretical visibility report in support of the application. Those demonstrate that the proposed mast would be theoretically visible from a number of locations in the surrounding area. Included in that is the public road along the eastern side of Talla Reservoir and it is

from this road that most people are likely to be able to view the site. It is acknowledged that, as noted by the Landscape Architect, the visual impact of the proposed mast shown in the photomontages appears somewhat unfortunate, with the mast being skylined when viewed from the northern end of the reservoir. The visibility would, however, be decreased as the commercial forestry is restocked and the trees grow to help screen the mast. From other viewpoints, the majority if not all the mast would be screened by topography and forestry.

If the structure were to be finished in a matt dark green colour, the development would not be significantly detrimental to the landscape setting or to the visual character of the surrounding area. Given the low height of the associated ground-based equipment, those would not be visible other than at very close quarters. An appropriate dark green colour would provide further visual mitigation.

Subject to appropriately worded conditions, the proposals are acceptable and can, on balance, be accepted.

#### 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 application is accompanied by a standard ICNIRP certificate which confirms that the mast and associated equipment is designed in full compliance with the requirements of the radio frequency exposure guidelines and will not have any health implications for those living nearby.

The proposed development is located approximately 1km south west of White Cottage and Double Cottage and 1.1km south west of Victoria Lodge. The distance is sufficient enough for it not to pose any significant adverse visual impact on the nearby dwellings, especially as the commercial forestry grows. The trees within the grounds of the latter property providing some additional screening.

Overall, the proposed development is not considered to give rise to any significant neighbouring amenity concerns ensuring compliance with LDP policy HD3 and NPF4 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 would be served by the existing forestry track, accessed directly opposite Menzion Farm. The development site would be immediately to the west of the track, approximately 2.5km from the junction with the public road.

The proposal would have a very limited impact on the local road network through the generation of additional traffic to and from the site during construction and for future maintenance. The development would not have an adverse effect on road or pedestrian safety.

## Ecology

There are no ecological designations within close proximity to the site. It was stated in representations that the mast would have a negative effect on a SSSI. The nearest such site is the Tweedsmuir Hills SSSI to the east and the closest point of that would be approximately 2km. As such, the development would not have a negative effect on that designated site.

It is unlikely that there would be a detriment to the current ecology of the immediate area as a result of this development. Policy 3 of NPF4 requires that proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development. A condition is recommended in that regard.

## Trees

The trees which were present in the area were of a commercial crop. Felling operations have taken place in recent times and the proposed mast and compound would not affect directly the remaining commercial forestry.

## Historic Environment

There are no scheduled monuments which would be affected by the proposed development. The closest listed building is Victoria Lodge, a category B building, located approximately 1.1km northeast of the site. The development would not adversely affect that property's setting.

## Representations

There are several third-party representations objecting to the proposed development. The principal grounds of objections are summarised earlier in this report. Comments were made about the potential to increase the height using permitted development rights. The applicant responded that it was extremely unlikely that there would be a need to do that. In order to address the concerns expressed about that however, the applicant suggested that a condition be imposed removing permitted development rights.

The third party objections are noted and have been considered as part of the assessment process. The benefits of improved digital connectivity, when considered against the wider planning balance, outweigh any potential impacts on the landscape or woodland resource. There would be no adverse impacts on residential amenity and adequate access can be provided. The proposed development, subject to compliance with conditions set out below, would comply with the relevant provisions of the statutory development plan.

## **CONCLUSION**

Subject to 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 the following conditions and informatives:

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 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. The mast and all antennae, dishes and other fixtures on the mast hereby approved, shall all be coloured dark green (RAL 6009) and all ground-based equipment shall be coloured dark green (RAL 6009). All external finishes shall be non-reflective/matt, unless an alternative scheme of colours has first been agreed in writing with the planning authority.  
Reason: To better integrate the development into the landscape setting.
4. No development shall commence until details of a scheme of post-construction ecological enhancements, including timescale for implementation, have been submitted to and approved in writing by the planning authority. The approved details shall be implemented within the approved timescale.  
Reason: To provide a reasonable level of ecological enhancement relative to the environmental impact of the development in accordance with the statutory development plan.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), the overall height of the telecommunication mast hereby approved shall not be increased unless an application for planning permission in that behalf is first submitted to and approved in writing by the planning authority.  
Reason: To retain control over the height of the development, in the interest of landscape and visual amenity.

DRAWING NUMBERS

<b>Plan Ref</b>	<b>Plan Type</b>
SRN1123_M003 REV C	Proposed drawings, 6 sheets in total.

**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

**Author(s)**

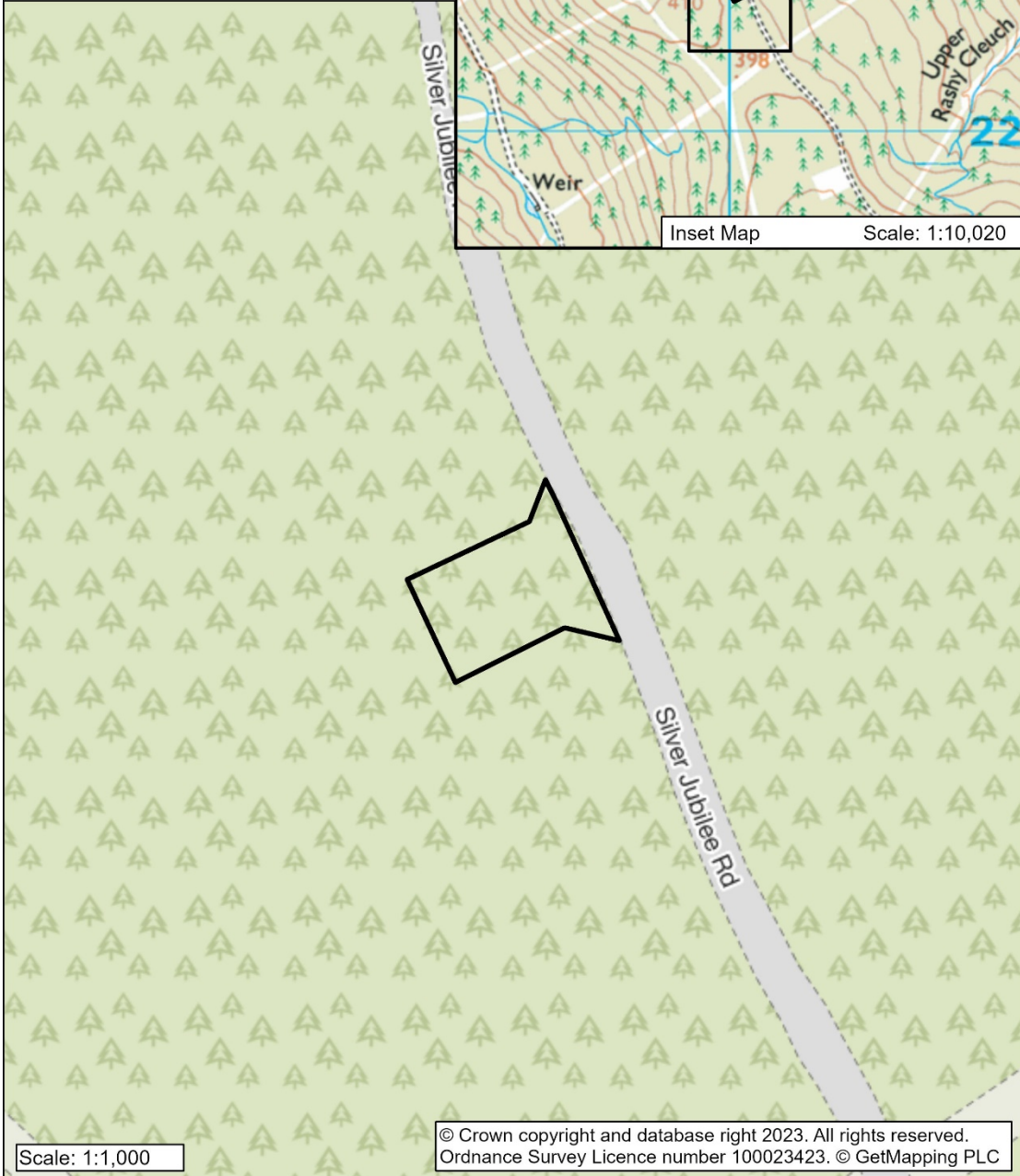
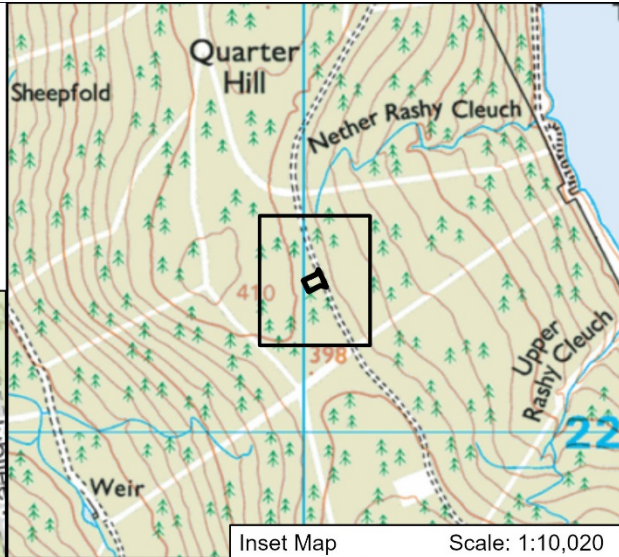
Name	Designation
Ranald Dods	Planning Officer





23/00777/FUL

Quarter Hill Tweedsmuir



This page is intentionally left blank

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**7 AUGUST 2023**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 23/00816/FUL

**OFFICER:** Cameron Kirk  
**WARD:** Mid Berwickshire  
**PROPOSAL:** Replacement tank, new tanker layby and associated work  
**SITE:** Land South of Olivers Transport Ltd, Main Street, Eccles  
**APPLICANT:** Scottish Water  
**AGENT:** Scottish Water

**SITE DESCRIPTION**

The application site relates to an area of land to the southeast corner of Olivers Transport Ltd, a haulage and storage company, which is located within the settlement of Eccles. The application site is level and currently an area of grass. The public road (B6461) flanks the southeast boundary of the application site. A section of the southeast boundary of the application site is delineated by a mature hedge. Residential properties lie to the east, south and west of the application site. Eccles Mains Farmhouse, a category C listed building, lies approximately 30 metres to the west of the application site. The application site is identified as being an area of prime quality agricultural land.

**PROPOSED DEVELOPMENT**

Planning permission is sought to install a replacement epoxy effusion tank, which would measure approximately 7 metres in diameter and be approximately 2.5 metres in height, and it would be finished with epoxy coated steel with GRP roof coloured juniper green (BS-12-B-29). The proposed tank would be positioned approximately 0.8 metres below existing ground level and it would be sited on a concrete base which would measure approximately 12.7 metres by 13.2 metres. A new stair access would be constructed from the proposed lay-by which would provide pedestrian access to the tank.

A 1.8 metre-high timber feather board fence would be erected around the perimeter of the top of the banking. Planting would be provided to the southeast and southwest boundaries of the application site.

An existing access gate would be repositioned with new timber post and rail fencing, approximately 1.1 metre in height, to the rear of the existing service lay-by.

A new tanker layby, approximately 27.5 metres long x 4 metres wide, comprising of 400mm asphalt surface laid on 60mm of 20mm dense binder course laid on 350mm broken stone bottoming on type-1 sub-base, would replace the existing lay-by.

## **PLANNING HISTORY**

22/00373/FUL Erection of replacement tank, formation of layby and boundary fence. Withdrawn 09 May 2023.

The previous planning application was withdrawn at the request of the Planning Authority as the amendments made to the design of the proposed development resulted in a change to the red line boundary. The red line boundary cannot be changed once a planning application has been validated. Therefore, the applicant was required to withdraw the planning application and submit a new planning application for the amended proposal.

## **REPRESENTATION SUMMARY**

A total of 14 letters of representation, 12 objections and 2 general comments, have been received by the Planning Authority. This does not include multiple representations from the same household which equates to 21 letters in total. All issues raised have been considered. The key material planning considerations raised are summarised below:

- The location of the proposed tank;
- The scale, character and appearance of the proposed development;
- The impact the proposed development would have on the visual appearance of the settlement;
- The location of the proposed lay-by and the impact this would have upon road safety;
- Additional traffic created by the proposed development;
- The loss of planting, including hedges and trees, and the visual impact this has had on the visual appearance of the settlement;
- Odour associated with the effluent tank being emptied;

## **APPLICANTS' SUPPORTING INFORMATION**

- Planning Statement

## **DEVELOPMENT PLAN POLICIES:**

### **National Planning Framework 4**

Policy 5: Soils

Policy 6: Forestry, woodland and trees

Policy 7: Historic assets and places

Policy 14: Design, quality and place

Policy 18: Infrastructure first

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

PMD2: Quality Standards

ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils

HD3: Protection of Residential Amenity

EP7: Listed Buildings

EP13: Trees, Woodlands and Hedgerows

IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

## **OTHER PLANNING CONSIDERATIONS:**

Scottish Borders Supplementary Planning Guidance:

Trees and Development (2020)

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Roads Planning:** No objection. They do not raise any concerns regarding the proposed development. They recommend that a condition is attached to ensure that further details are provided for the service lay-by, as well as informatives.

## **KEY PLANNING ISSUES:**

The key planning issues under consideration for the assessment of this application are the principle of the development, the visual and amenity impact the proposed effluent tank would have on the immediate area, and the impact the proposed development may have on road safety.

## **ASSESSMENT OF APPLICATION:**

### Principle

In order to establish the principle of development it must be assessed against Policy IS9: Waste Water Treatment Standards and Sustainable Urban Drainage. Policy IS9 aims to achieve satisfactory disposal of sewage and to maintain and improve standards of public health. It establishes the Council's hierarchy of preference for dealing with waste water associated with development. It emphasises that private septic tanks are regarded as a last resort and not encouraged.

Permission is sought to install an epoxy effluent tank that would deal with the trade effluent associated with an established business, Olivers Transport Ltd. The trade effluent discharge arising from the aforementioned business is unable to be discharged to the public sewerage network. Therefore, alternative arrangements are required to be put in place to manage the effluent discharge from the business. The discharge effluent must be stored and then removed to Galashiels Wastewater Treatment Works for further treatment.

The applicant, Scottish Water, advises that previous arrangements commenced in 2001 when the business connected to the public sewerage network and this resulted in a significant pollution issue discharging into the Eccles Burn, a tributary of the River Tweed. This arrangement has been in place since 2001 and the proposed development would address this pollution issue. It would replace a smaller, temporary tank system, located elsewhere at Olivers Transport Ltd, and which often overflows into neighbouring gardens.

It is acknowledged that the proposal would be the least preferred option in the hierarchy of preference for dealing with waste water. However, the applicant has demonstrated that a connection to the public sewerage network is not possible as it would overload the existing system, impacting on public health, the environment and the quality of watercourses. The proposed effluent tank would ensure that the current arrangements, that have operated successfully since 2001 could continue, and would

ensure that there is sufficient provision for dealing with wastewater without adversely impacting upon public health, the environment and the quality of watercourses.

The principle of the development is therefore considered to be acceptable, subject to further policy consideration below.

#### Layout, design and materials

The proposed effluent tank would be located to the north of the public road. Concerns have been raised regarding the location of the tank and the impact this would have on the visual amenities of the area. It was suggested to the applicant that the effluent tank be sited elsewhere under the previous planning application 22/00373/FUL but the applicant advised that this is the only section of land that was offered to them by the landowner. The proposed location can be considered, subject to the scale and design of the proposed development.

The replacement tank, which would measure approximately 7 metres in diameter and be approximately 2.5 metres in height, would be finished with a GRP roof coloured juniper green. The proposed tank would be positioned approximately 0.8 metres below existing ground level and it would be sited on a concrete base measuring approximately 12.7 metres by 13.2 metres. A new stair access would be constructed from the proposed lay-by which would provide pedestrian access to the tank.

The earlier concerns mentioned regarding the location of the tank also extend to its scale and design. It is acknowledged that it would be preferable for the proposed tank to be located below ground to minimise the visual impact it would have on the immediate area. Under the previous planning application 22/00373/FUL, the Planning Authority suggested that the effluent tank was also located below ground. The applicant advised that this would not be feasible due to the associated costs.

In light of the applicant's response an alternative design was suggested for the development which included a timber fence to be erected around the perimeter of the proposed tank, as well as planting to be provided in front of the fence to help soften the development within its setting. The approach was considered and accepted by the applicant.

It is considered that the amended application addresses the primary concerns raised with regards to the scale and design of the proposed development. The proposed fence would screen the tank from view and it would not appear readily visible from the public realm. The fence would be similar in scale and design to those found to the boundaries of nearby residential properties, notably, the south boundary of the neighbouring property, Eccles Mains Farmhouse.

In addition, the proposed planting would help to soften the development over time as it would partially screen the fence and provide some greenery that would tie in with the existing landscaping at Olivers Transport Ltd. A condition is proposed to ensure that the precise details for the planting are provided prior to any works commencing on site.

Together, the proposed fence and planting would ensure that the proposed effluent tank does not appear overly conspicuous within the street scene and it can be accepted in this location. Consequently, it is considered that the proposal would not have a significant adverse impact on the visual amenities of the area.

### Residential amenity

The proposed development would not unduly impact upon the residential amenity or nearby properties in respect of daylight or sunlight. Considering the position and orientation of the proposed effluent tank relative to neighbouring properties, it would not result in overshadowing.

Concerns have been raised regarding the impact the proposed development would have on residential amenity, particularly odour, when the proposed effluent tank would be emptied. It is not expected that the proposed effluent tank would give rise to unacceptable levels of odour when in use as it is a sealed unit. There may be a degree of odour arising from when the effluent tank is emptied but it is expected that this would not be significant enough to adversely impact upon neighbouring residential properties.

### Roads

A new, larger, lay-by would be formed to replace the existing lay-by to the north of the public road. The proposed lay-by would ensure that there is sufficient space for a tanker to safely park to empty the proposed effluent tank.

Concerns have been raised regarding the proposed lay-by and its location on the public road, particularly given that it would be located opposite the junction to Stable Park. The proposed lay-by would however replace an existing lay-by at this location with a larger arrangement. There is no known issues associated with the existing lay-by and the proposals will continue to allow tankers to park clear of the public road when emptying the tank.

Furthermore, concerns have also been raised that the proposed development would generate additional traffic movements. There is a temporary effluent tank store elsewhere within the grounds of Olivers Transport Ltd. The temporary tank must be emptied on a regular basis which requires regular traffic movements. The proposed development would replace the temporary tank. The applicant has confirmed that the proposed effluent tank would be emptied once a week. Therefore, it is not expected that the proposal would generate significantly more traffic than the current temporary arrangements.

Roads Planning Service has been consulted as part of the application process and they do not raise any concerns regarding the location of the proposed lay-by or traffic to be generated by the proposal. Therefore, it is not expected that the proposed development would have a detrimental impact upon road safety.

### Impact on built heritage

Eccles Mains Farmhouse, a category C listed building, lies to the west of the application site. The west boundary of the application site lies approximately 30 metres from the west elevation of Eccles Mains Farmhouse. The intervening land is made up of garden ground associated with Eccles Mains Farmhouse. There is a mature beech hedge and planting which creates a degree of visual separation between the listed building and the proposed development.

The application site is located within the grounds of a commercial business. The proposed development would be viewed in context with the existing buildings to the north and a small electricity pylon to the west of the application site.

Considering the scale and design of the proposed effluent tank and its location, relative to the aforementioned listed building, it is not expected that the proposal would have an adverse impact upon the setting of this listed building. The Council's Heritage and Design Officer has confirmed, verbally, that the proposed development does not raise any concerns in respect of the impact the proposal would have on the setting of the listed building.

#### Impact on natural heritage

The construction of the proposed lay-by would result in the loss of a small section of roadside hedge. Whilst this loss is regrettable, it is necessary to allow for the construction of the proposed lay-by as it is larger than the existing lay-by. As part of the proposed planting, a new roadside hedge would be planted along the southeast boundary of the application site. This would compensate for the loss of a section of the existing hedge. This approach is acceptable.

Comments have been received in regard to the loss of trees and hedges that were planted within the grounds of Olivers Transport. The Planning Authority can only consider the loss of trees or hedges relating directly to the application site and not the wider area, under the cover of this application. As mentioned above, the proposed development would result in the loss of a small section of roadside hedge which would be compensated for.

#### Prime quality agricultural land

The application site is identified as being an area of prime quality agricultural land, however the application site lies within the grounds of Olivers Transport, a haulage and storage company. The land is not in agricultural use (it has not been in agricultural use for a number of years) and the proposal would not result in the loss of prime quality agricultural land.

### **CONCLUSION**

Subject to 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 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. Within 2 months of the effluent tank being installed, the fence and gate, as shown on the approved drawing (drawing no. 2122-814-SW-100-4 6), shall be erected on site, unless otherwise agreed in writing by the Planning Authority. Thereafter, the fence and gate shall be permanently retained and maintained, as such.  
Reason: To ensure the timeous installation and completion of the fence and in the interests of the visual amenities of the area.



3. No works in connection with the development hereby approved shall commence unless 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:
  - a) The location of new trees, scrubs or hedges;
  - b) A schedule of planting to comprise species, plant sizes and proposed numbers and density;
  - c) A programme for the implementation, completion and subsequent management of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

4. The proposed development hereby approved shall not be brought into use unless the lay-by has been provided in accordance with the approved scheme as shown on the approved drawing (drawing no. 2122-814-SW-100-2 5). Thereafter, the lay-by shall be permanently retained and maintained, as such.

Reason: To ensure the development is served by safe access from the public road.

#### Informatives

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

#### DRAWING NUMBERS

2122-814-SW-100-1 5	Location Plan
2122-814-SW-100-2 5	Proposed Site Plan
2122-814-SW-100-3 5	Proposed Site Plan
2122-814-SW-100-4 6	Proposed Elevations

#### **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.

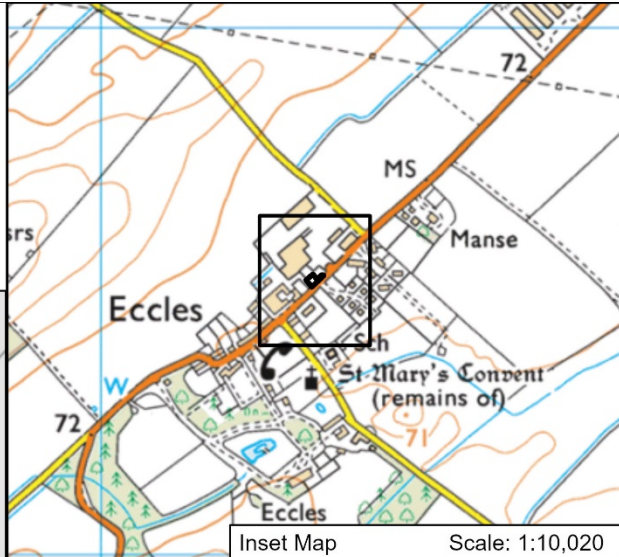
#### **Author(s)**

Name	Designation
Cameron Kirk	Assistant Planning Officer

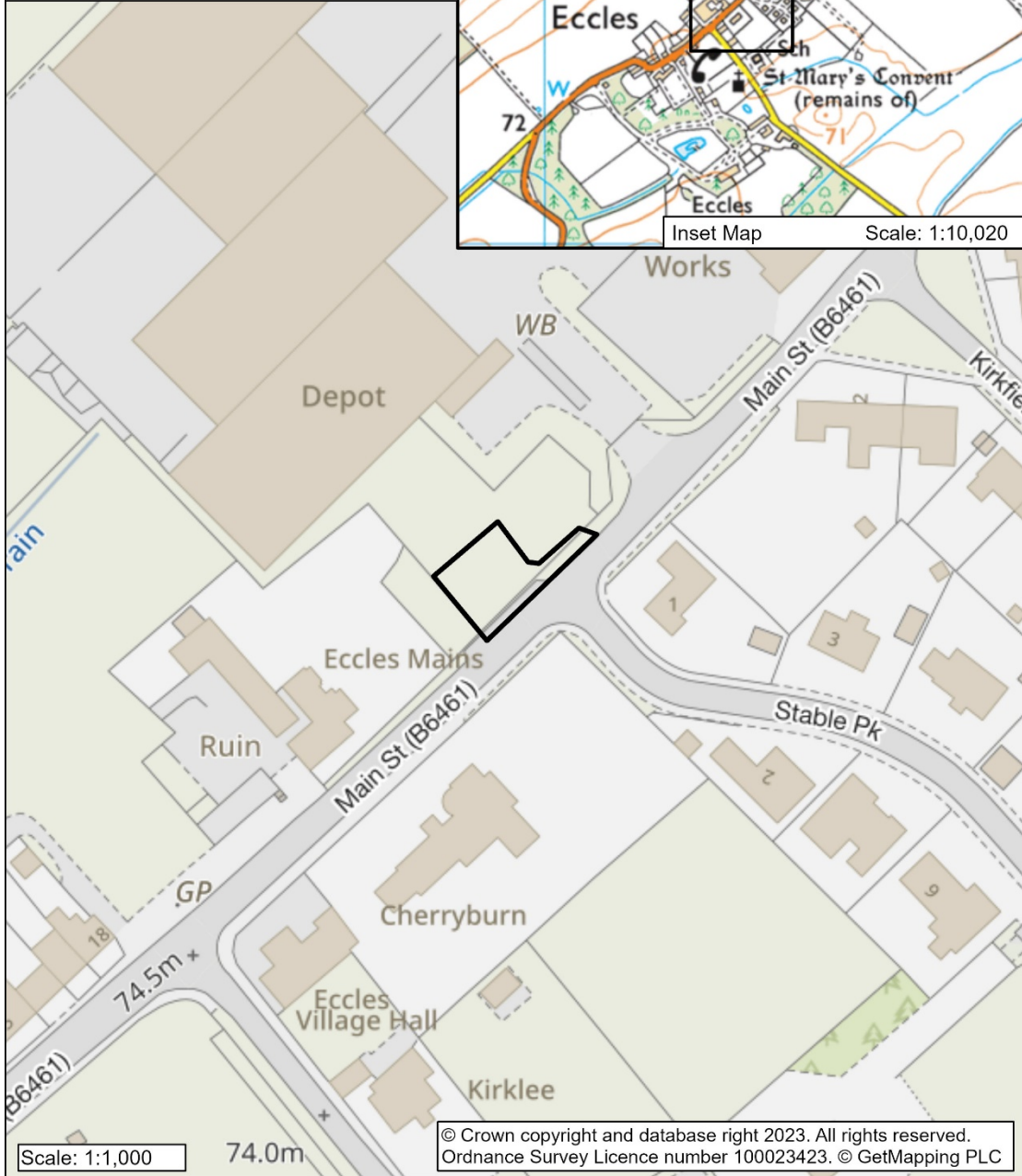


23/00816/FUL

Land South of Olivers Transport Ltd, Eccles



Inset Map Scale: 1:10,020



Scale: 1:1,000

© Crown copyright and database right 2023. All rights reserved. Ordnance Survey Licence number 100023423. © GetMapping PLC

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**7 AUGUST 2023**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 23/00249/FUL

**OFFICER:** Mr Scott Shearer  
**WARD:** Mid Berwickshire  
**PROPOSAL:** Extension to the existing substation and erection of two hybrid synchronous compensators  
**SITE:** Land North Of Eccles Substation  
Eccles  
Coldstream  
**APPLICANT:** SP Energy Networks (SPEN)  
**AGENT:** AECOM

**PLANNING PROCESSING AGREEMENT:**

The application has a PPA for determination at the August P&BS Committee.

**SITE DESCRIPTION**

The application site is located approximately 2.6km to the east of Eccles on gently sloping farmland which descends in a south-easterly direction. The majority of the site lies to the rear of the existing Eccles electricity substation which is managed by the applicant. A portion of the site also extends to the west adjacent to the A697. Large overhead electricity lines cross the site, importing and exporting electricity from the substation.

An unnamed watercourse runs through the site. Todrig Farm is to the north east and the surrounding land is in agricultural use. Access is provided through the existing substation via its access with the A697. A small collection of other residential properties are located on the southern side of the A697.

The site is not located within or adjacent to any designated landscapes. No ecological or heritage designations lie within or immediately adjacent to the site. The site is designated as Prime Quality Agricultural Land (PQAL) within the Local Development Plan 2016 (LDP).

**PROPOSED DEVELOPMENT**

The development effectively consists of two main elements;

1. Consent is sought to extend the existing substation with additional electrical apparatus measuring up to 12.5m in height, to support overhead powerlines.
2. The proposal also includes the siting of two Hybrid Synchronous Compensators positioned at either side of the extended substation. The compensators are rotating electrical machines used to maintain the stability of the electricity network. Each compensator is to be housed within a pitched roof steel profile building which

will have a maximum height of 15m. Indicative drawings of the proposals of the structures have been included within the submission, their final design is to be informed by the procurement process following confirmation of the precise specification of the Hybrid Synchronous Compensators. No other buildings are proposed.

Access to the site is to be provided by extending the existing substation access. The extended site will be cut in to the site to provide a level platform with earthworks enclosing the northern and western sides of the substation extension. Soft landscaping will enclose the outer edges of the extension, in addition to an area of woodland planting to the east and a planting belt to the west, adjacent to the A697.

## **PLANNING HISTORY**

The following planning history is relevant to the proposal and the immediate surrounding area;

- 21/00507/FUL - Erection of synchronous condenser and associated ancillary infrastructure - Land East Of Eccles Substation – Approved
- 21/01299/FUL - Formation of access junction and track to provide maintenance access for the Eccles Synchronous Condenser - Withdrawn
- 21/01567/FUL - Formation of access junction and track to provide maintenance access for the Eccles Synchronous Condenser – Land South East Of Eccles Substation – Approved
- 22/01532/S36 - Erection of Battery Electricity Storage System (BESS) and Associated Infrastructure - Land East Of Fernyrig Farm – SBC recommended approval to the Energy Consents Unit (ECU), final determination is awaited from ECU
- 22/01988/FUL - Construction and operation of battery energy storage system facility with ancillary infrastructure and access - Land West Of Eccles Substation Eccles – Approved
- 23/01038/S36 – Development of Battery Energy Storage System – Land West of Eccles Sub Station

## **REPRESENTATION SUMMARY**

No third party representations have been received.

## **APPLICANTS' SUPPORTING INFORMATION**

- PAC Report
- Planning Statement
- Landscape and Visual Assessment
- Archaeological Assessments
- Ecological Assessment
- Preliminary Environmental Assessment
- Noise Survey
- Flood Risk Assessment
- Transport Statement

## DEVELOPMENT PLAN POLICIES:

### Local Development Plan 2016 (LDP):

Policy Reference	Policy Name
PMD1	Sustainability
PMD2	Quality Standards
ED9	Renewable Energy Development
ED10	Protection of Agricultural Land and Carbon Rich Soils
HD3	Protection of Residential Amenity
EP1	International Nature Conservation Sites and Protected Species
EP2	National Nature Conservations Sites and Protected Species
EP3	Local Biodiversity
EP8	Archaeology
EP10	Gardens and Designated Landscapes
EP13	Trees Woodlands and Hedgerows
EP15	Development Affecting the Water Environment
IS8	Flooding
IS9	Waste Water Treatment Standards and Sustainable Urban Drainage
IS13	Contaminated Land

### Supplementary Planning Guidance

- Biodiversity (2005)
- Landscape and Development (2008)
- Local Biodiversity Action Plan: Biodiversity in the Scottish Borders (2001)
- Local Landscape Designations (2012)
- Placemaking and Design (2010)
- Renewable Energy (2018)
- Trees and Development (2008)

### National Planning Policy Framework 4 (NPF4)

Policy Reference	Policy Name
1	Tackling the climate and nature crises
2	Climate mitigate and adaptation <sup>3</sup>
3	Biodiversity
5	Soils
6	Forestry woodland and trees
7	Historic assets and places
11	Energy
14	Design, Quality and Place
22	Flood risk and water management
23	Health and safety
29	Rural Development

## Other Planning Considerations

### Energy Policy

- The Scottish Energy Strategy (SES): The Future of Energy in Scotland (2017)
- The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019
- The Scottish Government, Update to the Climate Change Plan 2018-2032: Securing a Green Recovery on a Path to Net Zero (2020)
- The UK Government Energy White Paper 'Powering our Net Zero Future' 2020
- Climate Change Committee (CCC), The UK's Sixth Carbon Budget (December 2020)
- Scotland's Energy Strategy Position Statement 2021

### CONSULTATION RESPONSES:

**Archaeology Officer:** No objection. Acknowledge that there are archaeological and historic sites within the surrounding environment. Findings of recent archaeological surveys confirm there is no need for any further investigation.

**Contaminated Land Officer:** No objection. The proposed development is taking place in an area of ground which included a sheep wash. This use was potentially contaminative. Recommend a site investigation and risk assessment of land contamination is undertaken before development commences.

**Ecology Officer:** No objection. The development is not judged to impact on and nationally designated ecological sites. Following species surveys recommend that species protection plans for badgers, otters and breeding birds are required. Due to the extent of works a CEMP is recommended.

**Landscape Architect:** No objection. Consider that the works may pose major adverse impacts for residents using the minor road to Todrig Farm to the east of the site and the development may be visible from the NW where hedge boundaries are lacking. Further soft landscaping is recommended to mitigate the impact of the development and the precise finish of the compensator buildings is required to be agreed.

**Roads Planning:** No objection. The development will be remotely operated and construction traffic is not anticipated to have a major impact on the road network.

**Scottish Environmental Protection Agency (SEPA):** No objection. Recommend that the development constitute essential infrastructure which is supportable within areas of flood risk against Policy 22 of NPF4. Accept the findings of the FRA. Although no compensatory storage is proposed to offset land rising, the works do not increase risk of flooding elsewhere. The applicants should be satisfied that their development will remain operational during any flood event.

**Scottish Badgers:** Recommend bat surveys are required and depending on findings agreement of a Badger Protection Plan.

### KEY PLANNING ISSUES:

- Planning Policy Principle
- Impact on Prime Quality Agricultural Land
- Landscape and Visual Impacts
- Impacts on Road Safety
- Impacts upon the Built and Natural Environment, including Protected Species

- Noise impacts
- Impact on Drainage

## **ASSESSMENT OF APPLICATION:**

### **Planning Policy Principle**

The Eccles substation is recognised as a nationally important substation where it forms a key part of the electricity network, enabling cross-borders electricity transmission. It is also the primary supplier of electricity for homes and businesses within the Scottish Borders between Eccles and Galashiels. As more power is being generated from renewable sources, the grid network is required to expand to address current and future energy demands and this has resulted in the need to extend the substation. The manner in which the national grid operates in changing following the closure of coal and gas power plants with the transition towards green energy. The Planning Statement advises that conventional gas and coal power plants operated in a way which provided stability to the grid but as these plants are being decommissioned this stability is being lost. New technology is therefore required in the form of Hybrid Synchronous Compensators which will address grid stability pressures.

The proposed development will not generate electricity, instead it will provide key infrastructure which supports the transition towards net zero targets and meets demands of the grid network. NPF4 lists eighteen National Developments which are considered to be critical to meet the delivery of the national planning strategy. The proposed development is categorised as a National Development by NPF4 as it represents the development of strategic renewable electricity generation and transmission infrastructure. The classification of the proposal as a National Development does not prescribe any 'permitted development' weight, nevertheless, at national level it is recognised that the proposal will help to support the national planning strategy in the delivery of a sustainable environment.

The proposal represents a form of grid transmission and distribution infrastructure which are specifically supported by NPF4 Policy 11 (Energy), criteria ii. The role the development will play in the transition towards net zero also draws support from Policy 1 (Sustainable Places) of NPF4 which requires that significant weight is given to developments which seek to address the climate emergency and Policy 2 (climate mitigation and adaptation) by helping to reduce the need for energy to be supplied from coal or gas power stations.

At a local level, Policy ED9 Renewable Energy Development and the Renewable Energy SG confirm SBC are supportive of a range of renewable energy developments to reduce carbon dioxide emissions and address the global climate emergency. Although the proposal will not generate any renewable energy it is accepted that it provides required expansion of the grid network and stability to support the continued expansion of renewable energy development.

It is accepted that this proposal will play an important role by providing essential grid infrastructure which is required to help to decarbonise electricity supplies, meet the commitments of the Climate Change Act and demands of the grid network. The proposal aligns favourably Policies 1, 2 and 11 of NPF4 which promote electricity infrastructure developments which help to meet net zero targets and complies with the aims of Policy ED9 of the LDP. The primary test for this development is whether it can be accommodated without unacceptable significant adverse impacts or effects, giving due regard to relevant environmental, community and any cumulative impact considerations. This will be assessed in subsequent sections of this report.

## **Impact on Prime Quality Agricultural Land**

The site is allocated as PQAL within the LDP. The Macaulay Institute has classified the site as being Class 2 PQAL where the land is noted as being capable of producing a wide range of crops.

Policy ED10 of the LDP and Policy 5 (Soils) of NPF4 seek to avoid developments which results in the permanent loss of PQAL unless the proposals represent a form of exceptional development listed within both policies. Both policies make allowances for developments which are essential infrastructure or meets an established need. This development is considered to satisfy these requirements whereby an extension to the substation is required to meet the demands of the grid and the Hybrid Compensators are essential pieces of equipment, necessary to enable the substation to support renewable energy demands. There is a clear locational requirement for this infrastructure to be developed as an extension to the existing Eccles substation to meet operational requirements of the grid network.

Development plan policies permit renewable energy development to take place on PQAL. Although this development won't generate electricity, as stated above the proposal will make a significant contribution towards the transition to net zero by helping to facilitate grid connection for renewable sources and allowing the expansion of green energy.

Overall, the development represents a form of essential infrastructure with a justifiable locational need also contributes to renewable energy development which is supported on PQAL against Policy ED10 of the LDP and Policy 5 of NPF4.

## **Landscape and Visual Impact**

NPF4 Policy 11 and LDP Policy ED9 requires consideration of the proposed developments landscape and visual impacts. The application has been supported by a Landscape and Visual Appraisal which includes a zone of theoretical visibility (ZTV) and photographs from selected viewpoints which have been updated to identify where the development would be located. Policy PMD2 of the LDP also requires that the development is of a high quality design and respects the visual amenity of its environment.

The development is positioned to the rear of the existing substation where it is set back from the A697. The layout of the proposal follows the regular pattern of the equipment within the existing substation while attempting to address the south-easterly aspect of the site. Limited elevation plans of the proposals have been provided. The elevation drawing which provides sections through the layout confirms that the equipment associated with the substation extension generally replicate the scale and appearance of the existing infrastructure. Precise details of the two buildings which will house the compressor buildings are not yet available, however from the information presented they are anticipated to have a pitched roof and an appearance which is similar to a large enclosed agricultural building.

The development is located within landscape character type (LCT) 106 Lowland with Dumlins which is a gently undulating landscape dominated by the regular pattern of large arable fields. The proposals do involve a reasonable amount of cut and fill works. These works allow a level platform to be formed adjacent to the existing substation site. The earthworks follow the topographical direction of the landform and will allow the development to occupy a lower ground level where it will be contained by the enclosing embankment to the north, western and eastern sides. Final agreement of



the existing and proposed site levels will however be necessary. This should also clearly demonstrate the transition of the ground levels of the site with the surrounding land to avoid the creation of any engineered edges which may be visible across large areas as a result of the low lying landscape.

The ZTV identifies that the greatest potential visibility of the development is to the north east and south west of the site. Viewpoint 1 is representative of views from Todrig Farm and road users on the minor road to the east. From this location the footprint of the development will appear significant, however it will be viewed as an extension to the existing substation. In particular the building housing the Compensator at the east of the site will likely appear tall but the taller pylons will still appear dominant in the landscape. Views of the development from the east will be mitigated once the woodland belt at this side of the development matures.

Viewpoint 8 is representative of views from the north and in particular the holding at Grizelrig. From this location the development will be cut into the land to reduce its prominence. The distant rising hills to the south will help contain any views with landscaping proposed around the northern edge of the development helping to provide screening. Ensuring the ground works are carried out sensitively will be important to avoid distorting the Dumfries landscape from views from this direction. The same can be said from Viewpoint 7 from the NW on the A697. From this location the upper portion of the western Hybrid Compensator building will likely be visible but again the scale of the existing pylons will ensure these are still the dominant features in the landscape.

Elsewhere visibility from the west on the A697 and at a further distance from Eccles, will be screened by the structure planting proposed to the west of the development adjacent to the main road. It will be important that this planting is commenced early on in the development of the site to ensure screening is provided as early as possible. There are no concerns about any views from the south where the development will be tucked to the rear of the existing substation, provided the embankments within the site is suitably treated with a soft landscaped finish.

There will be visibility of the proposed development within the surrounding landscape, however this impact is mitigated to an extent by the presence of the existing substation and tall electricity pylons which will continue to dominate views. The Landscape architect has suggested that the inclusion of intervening hedgerow planting in particular at locations between viewpoints 7 and 8 and the application site. This planting would add further screening however it would be on land which is not under the control of the applicant and would result in further loss of PQAL. It is considered that setting the development down into the site will help reduce its prominence across this lower lying landscape. Provided that the final site levels and suitable soft landscaping details are agreed (which includes suitable planting around the northern edge of the extended compound) and appropriate planting within the two woodland belts commences early in the phasing of the development, on balance, appropriate levels of landscape mitigation will be provided. Furthermore it will be imperative to agree the precise design, scale and material finish details of the two Hybrid Synchronous Compensator buildings. Provided these structures are sympathetically designed to reflect modern agricultural buildings, preferably with a dark green external finish, they will sit comfortably on the site and will not have an unacceptable impact on the character of the surrounding rural area.

From the information presented it is considered that the development would not adversely impact on the landscape character or visual amenity of the surrounding area subject to final agreement of the design and external material finish of the two Hybrid Synchronous Compensator buildings, site levels and soft landscaping. If Members

were minded to approve this application, it is recommended that these matters can be addressed by suitably worded planning conditions.

### **Access**

The impact of the development on road traffic are considered against Policy 11 of NPF4 and LDP Policy EP9. In addition Policy LDP Policy PMD2 requires all development to avoid causing any adverse impacts on road safety.

The site will utilise the existing access via the A697. Roads planning are satisfied that this existing access and road network can safely accommodate traffic movements associated with this development (which will largely be restricted to the construction phase). Once the development is operational it will be unmanned. This will result in very low vehicle movements which are likely to revolve around maintenance requirements.

It is anticipated that some of the infrastructure requiring to be delivered to the site may be of a large scale, therefore it would be sensible if a Traffic Management Plan were to be agreed to ensure that the public road network has capacity to safely accommodate the delivery of any abnormal loads to the site. This can be addressed via a planning condition.

### **Residential Amenity**

Policy ED9 requires the impacts on communities and individual dwellings (including noise impacts) to be considered with Policy 11 of NPF4 seeking impact on amenity to be addressed by the project design and mitigation. Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted and Policy 23 (Health and safety) of NPF4 seeks to guard against developments which pose unacceptable noise issues.

The closest neighbouring residential property lies to the east at Todrig Farm, other properties lie to the south on the opposite side of the A697. A Noise Impact Assessment has been carried out which has considered noise impact from the operation of the equipment on neighbouring residential properties. The Council's EHO would have preferred a Noise Rating calculation to have been included within the assessment to demonstrate that noise impacts had been measured from neighbouring properties. Noise emanating from the proposed development should not breach Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR30 at all other times. Rather than carrying out further assessments the applicants have accepted a standard condition to ensure noise from this development does not breach these levels. This will ensure the development does not pose any noise nuisance to nearby residential properties.

Visually, the siting and scale of the development works do not pose any harmful impacts on the residential amenity on any neighbouring properties by way of loss of light, sunlight or outlook.

### **Flood Risk and Hydrology**

Policy IS8 of the LDP and Policy 22 of NPF4 requires consideration of flood risk. The site is at risk of flooding from an unnamed burn which runs through part of the southern boundary of the site. The categorisation of the development providing essential infrastructure confirms it is an exceptional form of development which can take place in an area with a risk of flooding against LDP Policy IS8 and NPF4 Policy 22. SEPA

have accepted the findings of the FRA and are satisfied that the development will not increase the risk of flooding elsewhere. An applicant informative is recommended to be used to alert the applicants of their responsibility to ensure that the equipment is appropriately protected from any damage in the event of a flood.

The development creates a sizeable area of hard surface which will generate surface water. Policies IS9 of the LDP and Policy 22 (Flood risk and water management) seek for surface water to be handled through sustainable urban drainage systems (SUDS). It will be important that surface water does not impact on the public road. Agreement of a detailed drainage layout, in accordance with SUDS principle can be agreed by planning condition.

## **Ecology**

In terms of ecology interests, the proposal has to be assessed against policies EP1, EP2 and EP3 of the LDP and Policy 3 of NPF4. They seek to protect international and national nature conservation sites, protected species and habitats from development.

The site is not located with or in close proximity to any designated ecological sites. The developers have assessed the impacts that the development would have on protected species and do not raise any issues that cannot reasonably be covered by condition. It is recommended that Species Protection Plans for badger, otter and breeding birds are required. These surveys can be agreed by suspensive conditions.

In accordance with Policy 3 of NPF4 and EP3 there are opportunities for biodiversity enhancements to take place, most notably the provision of wildlife strips and hedgerow management. Again, these matters can be addressed by suitably worded planning conditions.

## **Land Contamination**

The historical use of part of the site as a sheep wash has been identified as being potentially contaminative. LDP Policy IS13 seeks to ensure that where contamination is suspected that it is properly investigated and where required remediation measures are undertaken. It is recommended that a suspensive planning condition can seek to ensure that any contrition is properly investigated before development commences and this will determine if a remediation strategy is necessary.

## **CONCLUSION**

The development would provide essential infrastructure which is required to meet energy demands and assist with decarbonising the energy sector in order to meet net zero energy targets. The proposal would result in some minor landscape and visual impacts, but these will be localised and will not result in unacceptable adverse impacts, subject to suitable landscaping, agreement of site levels and agreement of the final appearance of the compensator buildings. Noise impacts have not been found to be unacceptable subject to conditions regulating noise emissions from the site. Suitably worded planning conditions can also agree appropriate access to the site during both the construction and operational phase of the development. Overall, it is accepted that the development complies with prevailing policies of the Scottish Borders Council Local Development Plan and NPF4 and there are no material considerations that would justify a departure from these provisions, subject to the agreement of matters covered within the recommended planning conditions.

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

I recommend the application is approved subject to the following 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.
2. No development shall commence 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 the main elements within the development, including extension of the existing substation, siting of two Hybrid Synchronous Compensators, erection of buildings to house the two Hybrid Synchronous Compensators and commencement of landscaping works. Once approved, the development shall then be carried out in accordance with the approved scheme.  
Reason: To ensure that the development of the estate proceeds in an orderly manner.
3. Prior to the installation of the two Hybrid Synchronous Compensators, precise elevation drawings of the two buildings which will house this apparatus, including external finishes and colours shall be submitted to and agreed in writing with the Planning Authority and thereafter the development shall be completed in accordance with the agreed details.  
Reason: Final details of the structures to house the Hybrid Synchronous Compensators are required to ensure a satisfactory form of development which respects the character and amenity of the rural area.
4. No development shall commence until a scheme of landscaping works has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include;
  - a) Existing and finished ground levels in relation to a fixed datum (preferably ordnance) to illustrate the full extent of all ground works including how the site levels tie in with surrounding topography.
  - b) Indication of existing trees and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration and thereafter no trees or hedges shall be removed without the prior consent of the Planning Authority.
  - c) Location of all new trees, shrubs and hedges, which includes extending the landscaping around the northern boundary of the site and landscaping at the reinstated roadside verge following closure of the construction access.
  - d) Landscaped treatment for the embankment within the site compound
  - e) Schedule of plants to comprise species, plant sizes and proposed numbers/density
  - f) Programme for completion and subsequent maintenance.  
Reason: To ensure the satisfactory form, layout and assimilation of the development.
5. No development shall commence until the detailed drainage design which complies with SUDs principles has first been submitted to, then approved in writing by the Planning Authority. Thereafter the agreed details shall be fully implemented prior to the site becoming operational, unless otherwise agreed in writing.  
Reason: To ensure the site is adequately drained and does not increase the likelihood of flooding within and beyond the site

6. Noise levels emitted by any plant and machinery used on the premises should not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR30 at all other times when measured within any noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2.

Reason: In order to protect the residential amenity of nearby properties.

7. On receipt of any noise complaint relating to plant and machinery noise associated with the development hereby approved, the site operators shall:

- a) 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 site operator shall, at its expense, employ a consultant to assess an appropriate background level and the level of noise immissions from the plant on site at the complainant's property. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to.

- b) The methodology for the assessment of the background level and the rating level of noise immissions shall be undertaken in accordance with BS 4142:2014+A1:2019. The assessment procedure shall be submitted for approval by the Planning Authority prior to assessment. The proposed time of day for assessing the background level shall be those times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph (a), and such others as the independent consultant considers likely to result in a breach of the noise limits.

- c) The site operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken within 2 months of the date of the written request of the Planning Authority unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the assessment. The instrumentation used to undertake the measurements shall be calibrated and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions. The assessment shall contain recommended mitigation measures that should ensure compliance with the condition if non-compliance is determined.

Reason: To ensure Condition 7 is adhered to and nearby residential amenity is protected

8. No development shall commence until a detailed Traffic Management Plan has first been submitted to and approved in writing by the planning authority. Thereafter, no development shall take place except in strict accordance with the approved plan.

Reason: In the interests of road safety.

9. No development shall commence until a scheme of decommissioning and restoration of the site including aftercare measures has been submitted for the written approval of the Planning Authority. The scheme shall set out the means of reinstating the site to agricultural use following the removal of the components of the development. The applicants shall obtain written confirmation from the Planning Authority that all decommissioning has been completed in accordance with the approved scheme and the scheme shall be implemented within 12 months of the final date electricity is exported from the site.

Reason: In to ensure that the site is satisfactorily restored following the end of the operational life of the development in the interests of the amenity of the area.

10. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved. 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. This 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 Council prior to addressing parts b, c, d, and, e of this condition. and 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) by the developer which will validate and verify the completion of works to the satisfaction of the Council.
  - e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by th Council.

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

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.

11. No development shall commence until the following Ecological Mitigation Measures have been submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with those details. The submitted details shall include:
- a) a Species Protection Plan (SPP) for badgers and otters
  - b) evidence that a Badger licence has been obtained from NatureScot
  - c) a SPP for breeding birds which shall include a pre-development supplementary survey, in the event that development works are sought to be commenced during the breeding bird season (March to August)
  - d) a proportionate Biodiversity Enhancement Plan

Reason: To ensure that species and habitats affected by the development are afforded suitable protection during the construction and operation of the development.

Informatives

1. The applicant is advised that they should ensure that they are satisfied that the development can remain operational during and flooding and further flood risk advise is available within Section 5 of SEPAs standing advice on flood risk.

**APPROVED DRAWING NUMBERS**

**TITLE**

Figure 1	Location Plan
Plan 2	Layout Plan
BT2581-2-0000-DA-SPENEC-1004	Proposed Elevations
BT2581-2-0000-DA-SPENEC-1003	Proposed Layout
60635450-ACM-XX-00-L-006	Landscape General Arrangement Plan

**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

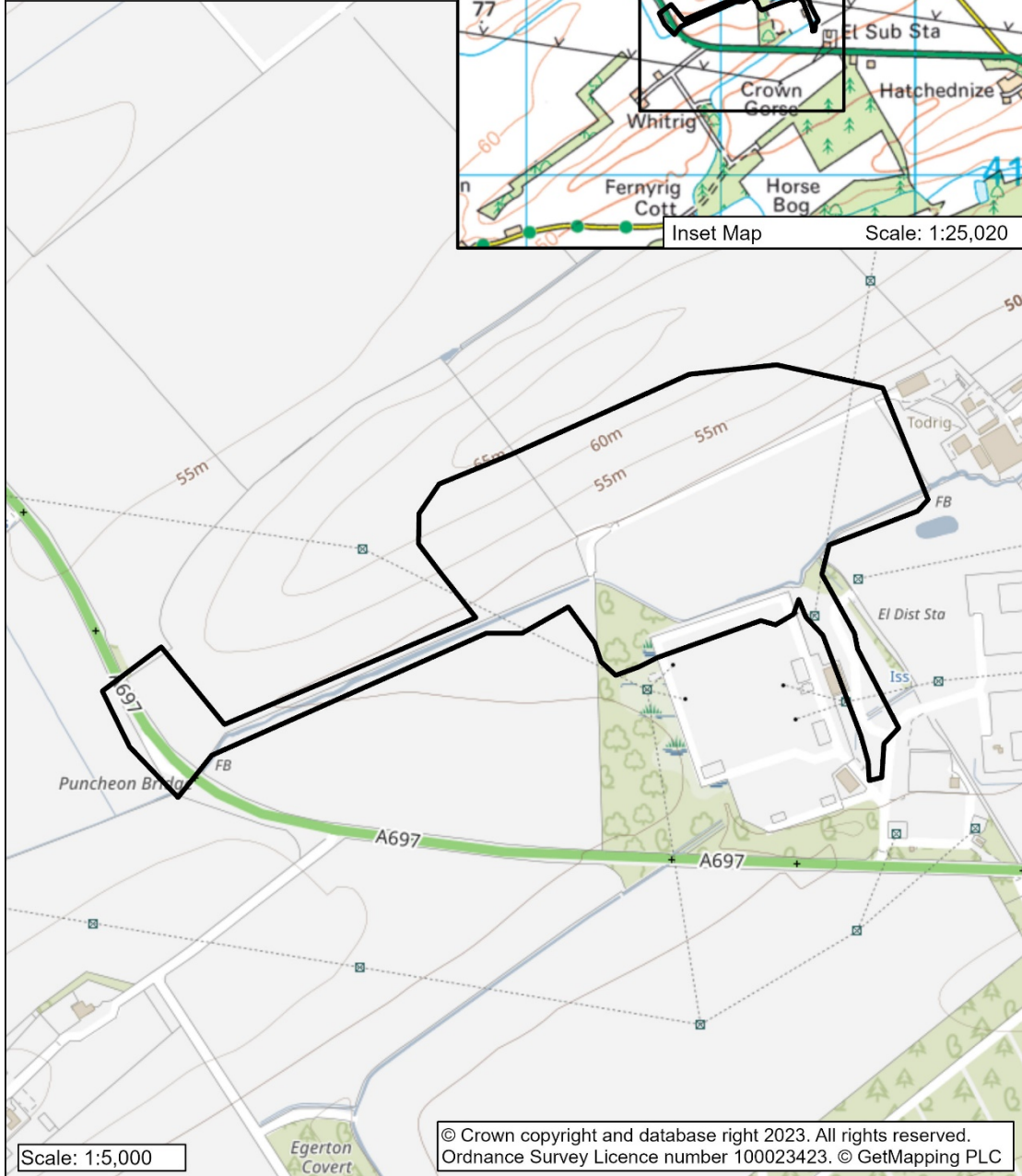
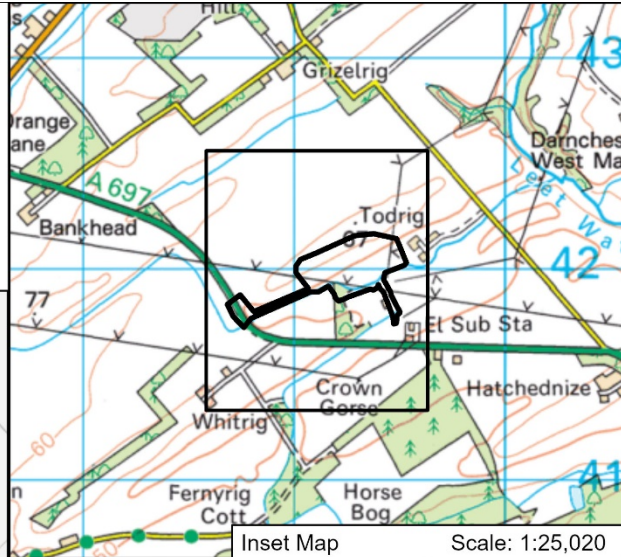
**Author(s)**

Name	Designation
Scott Shearer	Peripatetic Planning Officer



23/00249/FUL

Eccles substation





---

## PLANNING APPEALS & REVIEWS

---

### Briefing Note by Chief Planning & Housing Officer

---

## PLANNING AND BUILDING STANDARDS COMMITTEE

7<sup>th</sup> August 2023

---

### 1 PURPOSE

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

### 2 APPEALS RECEIVED

#### 2.1 Planning Applications

- 2.1.1 Reference: 23/00648/CLEU  
Proposal: Erection of Stable  
Site: Keppel Gate Nettleingflat, Heriot  
Appellant: Mrs Lindsey Campbell

Reason for Refusal: On the basis of present evidence, it has not been demonstrated, on the balance of probability, that the stable building was substantially completed more than four years ago, as required by Section 124(1) of the Planning (Scotland) Act 1997. The application is, therefore, refused since the building comprises development under Section 26 of the Planning (Scotland) Act 1997 for which no Planning Permission has been granted or has been deemed to be granted.

Reasons for Appeal: The Council has denied the Certificate on the basis of 3 inconclusive photographs it holds, taken around July/September 2018. However, for the stables to be deemed unlawful, the Council must be able to provide evidence that contravenes both the Appellant's Affidavits and demonstrate that the stables were not substantially completed by 13 July 2019 (4 years from Appeal date). The Council has acted unreasonably in taking the delegated decision to refuse to issue a Certificate.

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

Method of Appeal: Written Representations

#### 2.2 Enforcements

Nil

#### 2.3 Works to Trees

Nil

### 3 APPEAL DECISIONS RECEIVED

#### 3.1 Planning Applications

Nil

#### 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 21<sup>st</sup> July 2023. This relates to sites at:

- |                         |                                |
|-------------------------|--------------------------------|
| • 35 Horsemarket, Kelso | • 32 Dunglass Road, Coldstream |
|-------------------------|--------------------------------|

### 5 REVIEW REQUESTS RECEIVED

5.1 Reference: 23/00325/FUL  
Proposal: Proposed change of use for Units 8-2 and 8-3 to mixed use include Classes 1 and 10  
Site: U-Stor Business Units, Spylaw Road, Kelso  
Appellant: U-Store Business Units Ltd

Reasons for Refusal: 1. The proposal is contrary to National Planning Framework 4 Policy 26 as the proposal is not for business and industry uses on a site allocated for such uses in the Local Development Plan, and the Class 1 and Class 10 uses are not compatible with the business and industrial character of the area and would prejudice the function of the area. In addition, the proposal is contrary to National Planning Framework 4 Policy 27 and the Town Centre First Approach, as it has not been adequately demonstrated that the proposed uses cannot be accommodated within the town centre or edge of centre or that there will be no significant adverse effect on the vitality and viability of the town centre; the proposal would set an undesirable precedent when town centres should be supported. 2. The proposal is contrary to Policy ED1 of the Local Development Plan 2016 in that the proposal would result in the loss of safeguarded business and industrial land and the Class 1 and Class 10 uses are not compatible with the predominant surrounding uses and would set an undesirable precedent for other retail uses, which are more suited to town centre locations, prejudicing the long term provision of business and industrial land in Kelso. In addition, the proposal is contrary to Policy ED3 of the Local Development Plan 2016, which seeks to develop

and enhance the role of town centres by guiding retail development to town centres.

## 6 REVIEWS DETERMINED

6.1 Reference: 22/01421/FUL  
Proposal: Formation of access and boundary fence (retrospective)  
Site: The Millers House Scotsmill Kailzie, Peebles  
Appellant: Mr And Mrs Peter Nowell

Reason for Refusal: The development would be contrary to policy PMD2 of the Local Development Plan 2016 in that it would fail to ensure there is no adverse impact on road safety, including but not limited to the site access. 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)

6.2 Reference: 22/01740/PPP  
Proposal: Erection of dwellinghouse  
Site: Paddock West of Hardens Hall, Duns  
Appellant: Ms Norma Conroy

Reason for Refusal: The proposed development is contrary to Policy HD2 of the Scottish Borders Local Development Plan 2016 as the scale of addition for the existing building group has been exceeded during the current Local Development Plan period and there is no spare capacity to add an additional dwellinghouse. Furthermore, the proposed development would fail to comply with Policy PMD1 and Policy PMD2 as there is no footway to support pedestrian movements between the application site and the settlement of Duns. This would unduly impact upon pedestrian safety and it would not provide adequate access to sustainable transport modes, which would result in over reliance on the private car.

Method of Review: Review of Papers

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

6.3 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.

Method of Review: Review of Papers

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

## 7 REVIEWS OUTSTANDING

7.1 There remained 20 reviews previously reported on which decisions were still awaited when this report was prepared on 21<sup>st</sup> July 2023. This relates to sites at:

• Ravelaw Farm, Duns	• Land West of Greenburn Cottage, Auchencrow
• Land South of Ebbastrand, Coldingham Sands, Coldingham	• Land West of The Old Barn Westwater, West Linton
• 11 Tweed Avenue, Peebles	• Land North of Belses Cottage, Jedburgh
• 2 Rowan Court, Cavalry Park, Peebles	• Land South of 1 Kelso Road, Coldstream
• Church House, Raemartin Square, West Linton	• Land South of Greenbraehead Farmhouse, Greenbraehead, Hawick
• Land North West of Rosebank Cemetery Lodge, Shedden Park Road, Kelso	• Land at Rachan Woodlands, Broughton
• Land South of Headshaw Farmhouse, Ashkirk, Selkirk	• Land South and West of Greywalls, Gattonside
• Land West of Greywalls, Gattonside	• Land Northeast of The Bungalow, Crosshill, Chirnside
• Shop, 22 – 24 South Street, Duns	• Site Adjacent The Steading Whiteburn Farm, Lauder
• W Pearce and Sons St Ronan's Works, 2 Miller Street, Innerleithen	• 22 Weensland Park, Hawick

## 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 21<sup>st</sup> July 2023. This relates to a site at:

• Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick	•
--	---

**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)

This page is intentionally left blank