

# Public Document Pack



## PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 4TH SEPTEMBER, 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, 4TH SEPTEMBER, 2023 at 10.00 AM

J. J. WILKINSON,  
Clerk to the Council,

25 August 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 - 12) Consider Minute of the Meeting held on 7 August 2023 for approval and signature by the Chair. (Copy attached.)
5.	<b>Applications</b> Consider the following application for planning permission:
	(a) <b>Land North Of Eccles Substation, Eccles, Coldstream - 23/00249/FUL</b> (Pages 13 - 28) Extension to the existing substation and erection of two hybrid synchronous compensators. (Copy attached.)
	(b) <b>Land North East of The Lodge Philiphaugh Mill, Ettrickhaugh Road, Selkirk - 23/00787/FUL</b> (Pages 29 - 40) Erection of dwellinghouse. (Copy attached.)
6.	<b>Appeals and Reviews</b> (Pages 41 - 48) Consider briefing note by Chief Planning and Housing Officer. (Copy attached.)
7.	<b>Any Other Items Previously Circulated</b>
8.	<b>Any Other Items which the Chair Decides are Urgent</b>

## **NOTE**

**Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

**Members are reminded that any decisions taken by the Planning and Building Standards Committee are quasi judicial in nature. Legislation , case law and the Councillors Code of Conduct require that Members :**

- **Need to ensure a fair proper hearing**
- **Must avoid any impression of bias in relation to the statutory decision making process**
- **Must take no account of irrelevant matters**
- **Must not prejudge an application,**
- **Must not formulate a final view on an application until all available information is to hand and has been duly considered at the relevant meeting**
- **Must avoid any occasion for suspicion and any appearance of improper conduct**
- **Must not come with a pre prepared statement which already has a conclusion**

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

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

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

MINUTES of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Committee Room 2, Council Headquarters, Newtown St. Boswells and via Microsoft Teams on Monday, 7th August, 2023 at 10.40 am

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

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

**MEETING**

Due to technical issues in the Council Chamber, the meeting was moved to Committee Room 2, Council Headquarters, Newtown St Boswells and commenced at 10.40 am.

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 3 July 2023.

**DECISION**

**AGREED to approve the Minute for signature by the Chair.**

2. **APPLICATIONS**

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

**DECISION**

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

3. **APPEALS AND REVIEWS**

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

**DECISION**

**NOTED that:**

(a) **An appeal had been received in respect of:**

(i) **Erection of Stable, Keppel Gate Nettlingflat, Heriot - 23/00648/CLEU**

(b) **There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 21 July 2023 which related to sites at:**

• **35 Horsemarket, Kelso**

• **32 Dunglass Road, Coldstream**

- (c) A review request had been received in respect of:
- (i) Proposed change of use for Units 8-2 and 8-3 to mixed use include Classes 1 and 10, U-Stor Business Units, Spylaw Road, Kelso – 23/00325/FUL;
- (d) The following reviews had been determined as shown:
- (i) Formation of access and boundary fence (retrospective), The Millers House, Scotsmill, Kailzie, Peebles – 22/01421/FUL – Decision of Appointed Officer Overturned (Subject to Conditions);
- (ii) Erection of dwellinghouse, Paddock West of Hardens Hall, Duns – 22/01740/PPP – Decision of Appointed Officer Upheld (Terms of Refusal Varied);
- (iii) Amendment to Condition 3 of planning application 19/01646/PPP pertaining to occupation of dwellinghouse, Land South East of Tarf House, West Linton – 23/00236/FUL;
- (e) There remained 20 reviews previously reported on which decisions were awaited when the report was prepared on 21 July 2023 which related 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

- (f) There remained one Section 36 Public Local Inquiry previously reported on which a decision was still awaited when the report was prepared on 21 July 2023 which related to a site at Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick.

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

<b><u>Reference</u></b>	<b><u>Nature of Development</u></b>	<b><u>Location</u></b>
23/00033/FUL	Change of use and alterations to derelict building to form recreational hut with new access and parking (retrospective)	Building East Of Peel Lodge, Craigmyle Park, Peel, Galashiels

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

**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. 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 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.

## NOTE

Mr Adam Elder, participating via Microsoft Teams, and Mr Dudley Kitching, spoke in support of the application.

**Reference**

23/00777/FUL

**Nature of Development**

Installation of communication lattice tower 35m high c/w headframe on new 6.5m x 6.5m RC concrete base and associated ancillary works

**Location**

Land at Menzion Forest Block, Quarter Hill, Tweedsmuir

DECISION: Refused for the following reasons:

1. The proposed telecommunications mast is contrary to Policy 24 (e) of National Planning Framework 4 in that development would not minimise visual and amenity impacts. The proposed mast would also be contrary to Policy 25 of National Planning Framework 4 in that it does not contribute to community and local economy development that focuses on community and place benefits.
2. The proposed telecommunications mast is contrary to Policy ED6 of the Scottish Borders Local Development Plan 2016 in that it will have an adverse impact on the natural environment, particularly landscape and visual impact. The proposed development is also contrary to Policy IS15 (a) in that equipment would not be positioned or designed sensitively and would have an adverse effect on the environment, in particular, the Tweedsmuir Upland Special Landscape Area. The developers have not adequately demonstrated that an alternative location has been sought.

**VOTE**

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

Councillor Thomson, seconded by Councillor Small, moved as an amendment that the application be refused on the grounds that it would be contrary to NPF4 policies 24 and 25. The proposed development contravened policy 24 (e) that the proposed development would not minimise visual and amenity impacts. The proposed development contravened policy 25 in that it did not contribute to community and local economy development that focused on community and place benefits. The proposed development contravened policy ED6 of the Local Development Plan in that it would have an adverse impact on the natural environment, particularly landscape and visual impact. The proposed development was contrary to policy IS15 A in that equipment would not be positioned or designed sensitively and would have an adverse effect on environment in particularly Tweedsmuir Upland Special Landscape Area. The developers had not adequately demonstrated that an alternative location had been sought.

On a show of hands, Members voted as follows:

Motion - 4 votes  
Amendment - 5 votes

The amendment was accordingly carried.

**NOTE**

Mr Matthew Toomey spoke against the application.



**Reference**

23/00816/FUL

**Nature of Development**Replacement tank, new  
tanker layby and associated  
work**Location**Land South of Olivers  
Transport Ltd, Main Street,  
Eccles

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

**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. 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.

## VOTE

Councillor Richards, seconded by Councillor Small, moved that the application be approved as per officer recommendation.

Councillor Thomson, seconded by Councillor Moffat, moved as an amendment that the application be refused on the grounds that the application be refused on the grounds that it contravened NPF4 policy 14 (c) in that the proposed development was poorly designed and would be detrimental to the amenity of the surrounding area. The proposed development contravened policy PMD2 (k) of the Local Development Plan as it was not compatible nor respectful to the surrounding area.

On a show of hands, Members voted as follows:

Motion	-	6 votes
Amendment	-	3 votes

The motion was accordingly carried.

## NOTE

Mr Gregg Pearson (Leitholm, Birgham and Eccles CC) spoke against the application.

**Reference**  
23/00249/FUL

**Nature of Development**  
Extension to the existing  
substation and erection of  
two hybrid synchronous  
compensators

**Location**  
Land North Of Eccles  
Substation, Eccles,  
Coldstream

DECISION: Continued to a future meeting to allow the applicant to provide additional supporting information.

**VOTE**

Councillor Douglas, seconded by Councillor Moffat, moved that the application be continued to a future meeting to allow the applicant to provide additional supporting information.

Councillor Scott, seconded by Councillor Cox, moved as an amendment that the application be not continued and determined at the meeting.

On a show of hands, Members voted as follows:

Motion - 6 votes  
Amendment - 3 votes

The motion to continue the application to a future meeting was accordingly carried.

**NOTE**

The Committee agreed that the applicant should submit the following supporting information:

1. The total acreage of the application site;
2. The total acreage of Todrig Farm;
3. The percentage of agricultural land lost to the proposed development and the potential impact this would have on the viability of the farm;
4. What the applicant's long-term plans for the substation were? Was there a strategic plan in place for the future development of the wider substation site? If so, a copy should be submitted for members consideration;
5. Had the applicant considered any other sites for the proposed substation extension? If so, what sites were considered?
6. Was the applicant aware of other proposals for energy infrastructure from other providers at this site? If so, what was proposed and where?

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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**4 SEPTEMBER 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 (HSC) 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.

## **DETERMINATION AT PLANNING AND BUILDING STANDARD COMMITTEE**

Following a majority vote at the P&BS Committee on the 7<sup>th</sup> August 2023, Members agreed to continue the application to the next available committee meeting to allow the applicant to provide additional supporting information. Members requested responses to a range of observations which are summarised as follows:

- The total acreage of application site
- The total acreage of Todrig Farm
- Assessment of the impact on the development on the viability of Todrig Farm
- Applicants long term plans for future development at Eccles and if strategic proposals exist for the future development on land around the existing substation.
- Sequential assessment of other sites to accommodate the proposed extension.
- Whether other energy developments are proposed in the surrounding area.

The applicants (SP Energy Networks) have submitted additional supporting information in response to these observations. The following key points are noted in response to each request;

### **1. Size of application site**

The total area of the application site extends to 10.47ha (25.58 acres). The applicants are seeking to acquire 5.66 Ha (14 acres) from Todrig Farm. The remaining area of the application site is either already within their control or is due to remain in the ownership of Todrig Farm and will be accessible for their use after construction has been completed.

### **2. Size of Todrig Farm**

Todrig Farm currently extends to 67.6Ha (167 acres), excluding all buildings. If approved, post development the farm would extend to 62Ha (153 acres)

### **3. Assessment of the impact on the development on the viability of Todrig Farm**

The proposal would result in the development of less than 10% of the total area of existing land farmed by Todrig Farm. The applicants have advised that they have been actively negotiating the purchase of the land to extend the substation with the owners of Todrig Farm and the purchase is expected to be concluded by a voluntary agreement. SPEN have advised that the landowner is satisfied that the remaining land will continue to provide a viable farming enterprise.

#### **4. Future development of Eccles**

SPEN have confirmed that it is their responsibility to; develop and maintain an efficient, co-ordinated and economic electricity transmission system; facilitate competition in the supply and generation of electricity and provide connections for new customers. This development is required as a result of these obligations. The applicants seek to respond to the demands of the network therefore it is out with their control to confirm whether future proposals would be required to further develop Eccles substation at this time. However, the land use planning constraints associated with this location are noted by SPEN and would continue to be carefully considered should any further developments be required.

The applicants have confirmed that they are not party to any strategic development proposals for wider energy developments at Eccles.

#### **5. Alternative Sites**

The development consists to two main elements as described under the section 'Proposed Development'. The extension to the substation is a direct requirement to allow the network to accommodate increased volume of electricity which is being generated and this includes network demands of the battery storage development neighbouring the site. The applicants have re-affirmed that this infrastructure needs to be developed as an extension to the existing substation to ensure that the national grid operates efficiently.

Seven sites for the proposed development were considered within the Eccles area, these are identified within the Appendix supporting the applicant's additional submission. The application site was deemed to be the preferred option as it would maximise the efficacy of the technology and avoid the need to develop additional over ground lines or underground cables, the cost of which would be borne by the consumer.

#### **6. Other Energy Developments**

SPEN have confirmed that they are not aware of any other development proposed at the application site. It is recognised that other energy development are being advanced in the surrounding land, however SPEN has no role within or control over these third party developments. The applicant has also advised which developments are contracted for connection into the proposed extended substation within table 3.6.1 of their supporting information.

#### **Conclusion**

The additional information provided by the applicants has responded to the points raised by the P&BS Committee. It is recognised that the development will result in the loss of PQAL and the planning policy implications of this are assessed in relevant sections of this report below. The applicants have now provided comfort that the development will not undermine the viability of Todrig Farm to continue to operate as a successful rural enterprise.

Further justification has been provided to reaffirm why the proposed expansion of the energy network is required to be delivered by SPEN in order to meet energy demands. The additional information endorses why this is the most appropriate location for this infrastructure in operational terms. It also confirms that by seeking to extend the existing substation it significantly limits the need for new overhead lines or

underground cables to connect any new sites back to Eccles substation which would potentially result in landscape impacts and the loss of additional areas of PQAL.

The merits of seeking a strategic approach to electricity related developments surrounding the Eccles substation is acknowledged, however this is out with the control of the applicants and the Planning Authority. It is incumbent on the Council to consider the merits of any planning or Section 36 application accordingly, and on their own individual merits.

Members are recommended to determine the application in accordance with the recommendation of the Chief Planning Officer noted below.

## **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 seeking 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.

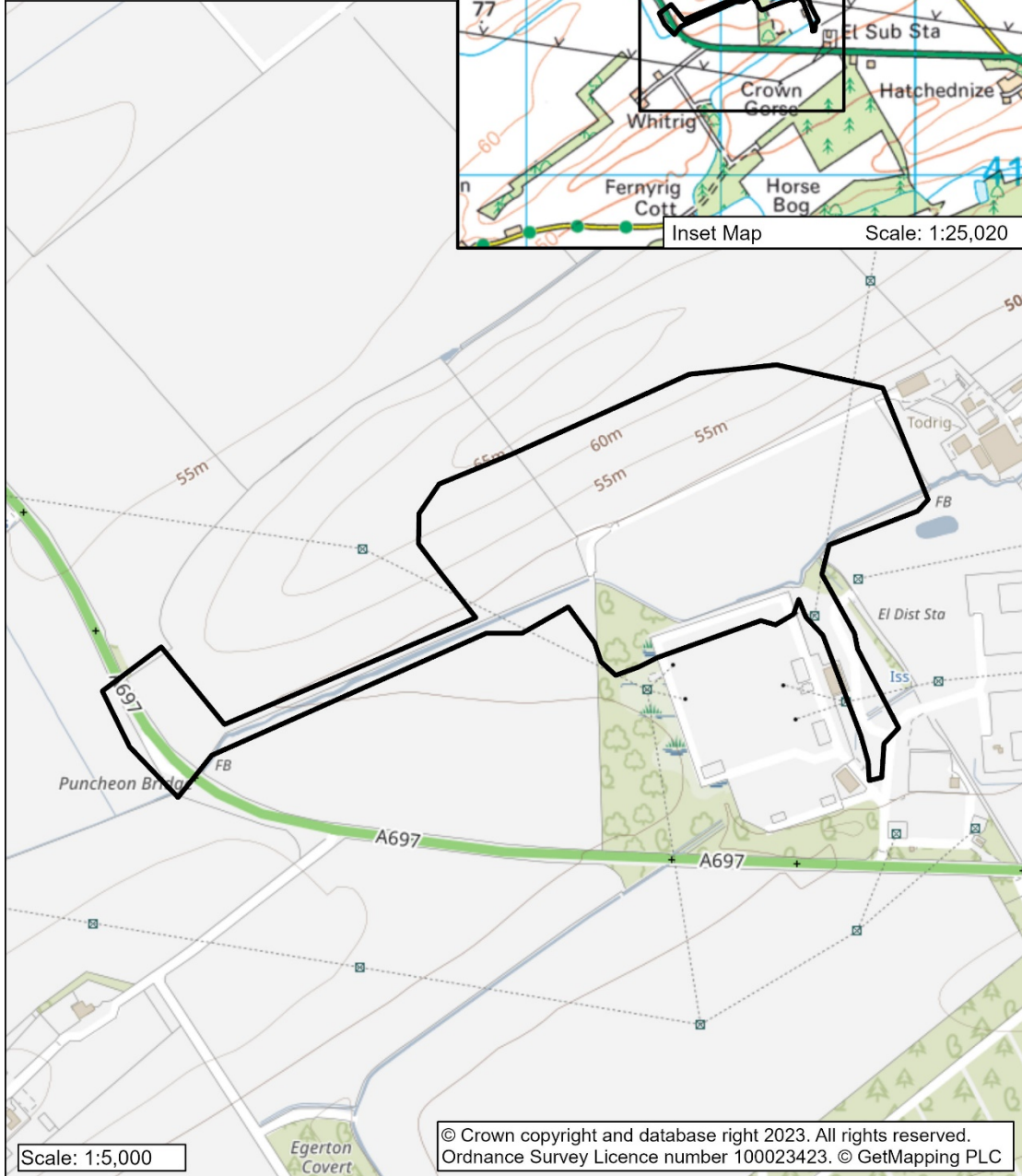
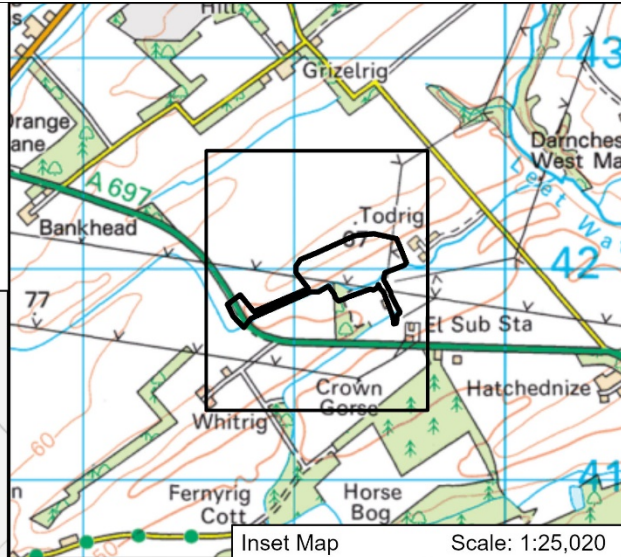
**Author(s)**

Name	Designation
Scott Shearer	Peripatetic Planning Officer



23/00249/FUL

Eccles substation



**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**4 SEPTEMBER 2023**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 23/00787/FUL

**OFFICER:** Carlos Clarke  
**WARD:** Selkirkshire  
**PROPOSAL:** Erection of dwellinghouse  
**SITE:** Land North East of The Lodge Philiphaugh Mill  
Ettrickhaugh Road, Selkirk  
**APPLICANT:** Rural Renaissance  
**AGENT:** Camerons Strachan Yuill Architects

**SITE DESCRIPTION**

The site is located at the south-westerly end of Selkirk, on the south-easterly side of Ettrickhaugh Road which it fronts, beyond which is a row of detached and semi-detached dwellinghouses. There are further residential neighbours to the north-east and south-west. The site is located to the rear of Plot 4 of a six-house development previously granted under consents 19/01687/PPP and 22/00019/AMC and currently being constructed.

**PROPOSED DEVELOPMENT**

This application seeks approval of a single storey detached house to be located on what is now referred to as Plot 7. The house would be accessed via the turning head and private driveway consented under 22/00019/AMC to serve Plot 6. It would be roofed with fibre cement tiles, and wall finishes include coloured smooth render, reconstituted stone basecourse and precast surrounds. The positioning and orientation of the house were revised during the processing of the application in response to placemaking and design considerations (see the assessment section of this report). The amendments did not require renotification of neighbouring properties.

**PLANNING HISTORY**

04/02026/OUT – Outline planning permission for eight dwellinghouses was refused in 2005 due to serious flood concerns.

19/01687/PPP – Planning Permission in Principle was granted for six houses in March 2021

22/00019/AMC – Approval of matters referred to in conditions imposed on 19/01687/PPP was approved in September 2022

## **REPRESENTATION SUMMARY**

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

- The approved houses are higher than expected and completely out of character, failing to blend in
- Road drainage and adaptations have not been carried out, road widening is still insufficient; and Condition 7 of 22/0019/AMC is being ignored
- Traffic issues and insufficient parking, which would be exacerbated by the proposed house
- Drainage plans don't show the proposed house
- The site is being overdeveloped and the proposal will increase the density
- Flooding concerns, including impact on other properties – it's essential to provide flood prevention rather than exacerbating the situation
- Will add to the 'original build timetable'
- Would be of further detriment to residential amenity

## **APPLICANT'S SUPPORTING INFORMATION**

The application is supported by the following:

- Tree Survey Report
- Drainage Strategy and Surface Water Management Plan
- Planning Statement

## **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 7: Historic Assets and Places

Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings

Policy 12: Zero Waste

Policy 13: Sustainable Transport

Policy 14: Design, Quality and Place

Policy 16: Quality Homes

Policy 18: Infrastructure First

Policy 22: Flood Risk and Water Management

Policy 23: Health and Safety

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

PMD1 – Sustainability

PMD2 – Quality standards

PMD5 – Infill Development

HD3 – Protection of residential amenity

EP1 – International nature conservation sites and protected species

EP2 – National nature conservation sites and protected species

EP3 – Local biodiversity

EP8 – Archaeology

EP13 – Trees, woodlands and hedgerows  
EP15 – Development Affecting the Water Environment  
EP16 – Air Quality  
IS5 – Protection of access routes  
IS6 – Road adoption standards  
IS7 – Parking provision and standards  
IS8 – Flooding  
IS9 – Wastewater 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)  
Placemaking and Design (2010)  
Guidance on Householder Development (2006)  
Designing out crime in the Scottish Borders (2007)

#### **CONSULTATION RESPONSES:**

##### **Scottish Borders Council Consultees**

**Roads Planning Service:** The first 6 units in the site were approved with conditions attached relating to infrastructure upgrades on Ettrickhaugh Road. These upgrades included:

- Ettrickhaugh Road to be widened to 5.5 metres along the frontage of the site, including kerbing. New footway to be provided along the frontage of the site.
- New surface water drainage provision to account for the widened section of road.
- A review of the current street lighting provision and any improvements identified to be incorporated into the design.
- A formal turning head at the southwestern end of Ettrickhaugh Road needs to be provided.

Whilst most of these upgrades are due to be completed prior to the first of the initial 6 dwellings being occupied, the road has already been widened and the turning head has been provided, excluding its final surface course. These works are currently subject to Road Construction Consent through application 22/01420/RCC.

Parking for the first 6 units were provided at a rate of 200% + 25% visitor parking for in curtilage parking. The 6 units all have in curtilage parking and therefore 2 visitor parking spaces were provided. Therefore, the Roads Planning Service is content that the site would still meet their requirements for visitor parking if the proposed new dwelling was to be approved. They have no objections to this application provided the infrastructure upgrades which were agreed through the previous applications are in place prior to the dwelling being occupied.

Conditions are recommended requiring parking within the curtilage of the plot, and the footway formed prior the house being occupied.

**Landscape Architect:** No reply

**Outdoor Access Officer:** No reply

**Flood Officer:** SEPA mapping indicates that the site is at risk from a flood event with a return period of 1 in 200 years. Review of the application shows that the application site is located within the 1:200 year (0.5% annual probability) flood map and is at medium to high risk of flooding from the Ettrick Water. The site is defended from the Ettrick Water by the Selkirk Flood Protection Scheme, (SFPS), completed in 2016 which offers 1:200 year + 20% standard level of protection. SEPA's flood maps do not consider SFPS or show the area(s) defended by the scheme.

The proposal forms part of a wider development which was approved in September 2022. The previous development was assessed for flood risk and a flood risk assessment (FRA) was submitted. As a result, the finished floor level (FFL) of the plots were agreed and exceeded the suggested level in the FRA. The current proposal for a single dwelling to the rear of the development is acceptable and whilst the FFL is slightly lower than adjacent units, it is still above the FFL suggested in the FRA. Given the above, the Flood Officer has no objections.

**Education and Lifelong Learning:** No reply

### **Statutory Consultees**

**Royal Burgh of Selkirk and District Community Council:** No reply

**Scottish Water:** Have no objection, though this does not confirm the development can currently be serviced. There is sufficient capacity at Howden Water Treatment Works and for a foul only connection at Selkirk Waste Water Treatment Works. Capacity at either cannot be reserved. There is also live infrastructure in the proximity of the development area that may impact on existing Scottish Water assets. No surface water connections into their combined sewer system will be accepted, unless in limited exceptional circumstances.

**Scottish Environment Protection Agency:** SEPA object in principle to the application and recommend that planning permission is refused. This is because the proposed development may put people or property at risk of flooding which is contrary to national planning policy. SEPA have a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and promote sustainable flood risk management. The cornerstone of sustainable flood risk management is the avoidance of flood risk as a first principle, and this is set out in National Planning Framework 4 (Policy 22). They therefore object in principle and recommend refusal of the application because the proposed development is expected to put people or property at risk of flooding, which is contrary to their above duties.

They previously objected in principle to the 6-house development proposed under application 19/01687/PPP and their position remains unchanged. They have assessed this application against current policy and guidance.

NPF4 Policy 22 requires a precautionary approach to flood risk be taken by avoiding development within flood risk areas or areas at risk of flooding (land or built form with an annual probability of being flooded of greater than 0.5% which must include an appropriate allowance for future climate change). There is a long history of flooding in Selkirk from the Ettrick Water and the Long Philip Burn (detailed in their comments). SEPA acknowledge that the Selkirk Flood Protection Scheme (FPS) will reduce the risk of flooding to Selkirk, including some protection to this site. However, they consider



that the primary purpose of a flood protection scheme is to protect existing development from flooding rather than facilitate new development.

Assessment of the “as built” standard of protection of the Selkirk FPS was undertaken in August 2020. This involved a revision of the hydrology and assessed the protection offered by the scheme during a 200 year plus 33% climate change event. The report concluded that “the main area of weakness within the scheme is at the upstream extent on the Yarrow” where the defences would be bypassed upstream allowing overland flow pathways to travel towards the site. Modelled flood depths are generally below 1m however there is inundation behind defences at properties on Ettrickhaugh Road, in the region of the site. This would result in flows from the Yarrow Water surrounding and partly inundating the wider 6 house development site, meaning this site would effectively become an island of development. These flows would accumulate on the landward side of the defences without being able to freely discharge to the River Ettrick. Ongoing periods of inundation can increase the risk of damage to property and extend the time taken for services and access/egress to be fully restored following a flood event.

The required climate change uplift for the Tweed River Basin Region is 53% in line with current guidance. To comply with NPF4, it would therefore need to be demonstrated that the development would not be at risk of flooding during a 200 year plus 53% climate change flood event. As the 200 year plus 33% climate change scenario has been shown to impact the site, it is reasonable to assume that the risk would increase when considering a 53% uplift. For this reason, they are not requesting any additional information be provided in relation to flood risk.

As well as high flows bypassing the upstream extent of the FPS, they would stress that defences can be breached or fail leading to a scenario that can be significantly worse than if there are no defences present. Flooding in such cases would be sudden and unexpected; and floodwater trapped behind defences could extend the period of inundation leading to greater damage. FPSs also have a finite design life, which may be less than that of the proposed and future development.

The intent of NPF Policy 22 is to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding. For new development such as the proposed, this can only be achieved by ensuring that development is outwith flood risk areas. The information available to SEPA demonstrates that this cannot be achieved and they therefore object in principle.

**Historic Environment Scotland:** Have assessed the application accounting for Philiphaugh Scheduled Monument and the Battle of Philiphaugh Battlefield Ste and have no comments to make.

#### **KEY PLANNING ISSUES:**

The key planning issues are whether the proposed development complies with Statutory Development Plan policies principally as regards visual and amenity impacts; road safety; servicing; and flood risk and, if not, whether there are other material considerations that would justify a departure from the Development Plan.

## **ASSESSMENT OF APPLICATION:**

### Principle

The site is on unallocated land within the settlement boundary, on a site already granted consent for six houses under 19/01687/PPP and 22/00019/AMC, which is not bound (under its planning consents) to build to a 'specified timetable'. Local Development Plan 16 (LDP) Policy PMD5 supports appropriate infill. National Planning Framework 4 (NPF) Policy 9 supports brownfield development. This is a development site within the settlement boundary so, therefore, comprises brownfield land. Policy 16 of the NPF is also not conflicted with by adding a further house to the six already consented. The general principle of additional residential development is not, therefore, contrary to planning policies. The suitability of the site as regards site-specific matters is, however, considered further below.

### Flood risk

Policy IS8 of the LDP requires that avoidance of flood risk be applied as a first principle, and development should be free of significant flood risk and not increase its probability elsewhere. Policy 22 of NPF4 is the most recent expression of policy and that supports development in flood risk areas only if meeting certain exemptions, and none of those apply here. It does, however, state that the protection offered by existing flood protection schemes can be taken into account when determining flood risk.

In this case, the site is protected by the Selkirk Flood Protection Scheme to the 1 in 200 year risk level plus 20% climate change. The approved six houses have floor levels that are above anticipated risk levels, and this current proposal also has a floor level exceeding the risk level.

SEPA, however, objected to the principle of any residential development on this site previously, and maintain their objection to this further house. They advise that flood protection schemes are to protect existing development, not new development. However, NPF4 specifically allows for flood protection schemes to be accounted for when determining the level of risk to a development, albeit such schemes will clearly have a finite lifespan. Since a primary purpose of NPF4 is to guide new spatial development, it must be presumed that accounting for existing protection schemes is directly material to the planning merits of proposed new developments.

The other principal concern raised by SEPA is that the flood protection scheme will not provide protection to recommended climate change uplift levels, which they refer to as being 53% (though this is understood to be 59% in SEPA's current guidance). As NPF4 requires that 'appropriate' allowance for climate change must be accounted for, and the level of 'appropriate allowance' should be taken from the latest available guidance and evidence, SEPA's objection on this point is understandable and a substantial consideration. Had this been an undeveloped site, then it would be entirely reasonable to apply the higher threshold to any proposed new development as recommended by SEPA.

However, a material consideration in this case is that this proposal is for an additional house within the same site boundary as six houses currently being constructed, and not yet occupied. That consent would not have expired until September 2024, and where works have lawfully commenced on a development, the consent will never expire. Also, this additional house would also be served by the same means of access to and from the public road as Plot 6. Its floor level would be above the same level of risk as the adjacent six houses, which is greater than a 1 in 200 year plus 20% climate

change risk level and includes freeboard allowance. SEPA refer to the as-built modelling for 33% climate change indicating risk of partial inundation for the consented six houses, leaving the site as an 'island of development' though they do not refer to the proposed plot itself becoming inundated. The Flood Officer has been advised of SEPA's concerns regarding the climate change uplift but considers that this does not change their view that the development would be acceptable in flood risk terms. Also, neither SEPA nor our Flood Officer raise concerns that this development would increase the likelihood of flooding elsewhere.

Therefore, a decision on this application as regards flood risk rests on whether this proposed house should be permitted only if it is protected to a higher level than six houses already consented, and not yet completed and occupied. Or, whether the fact it is within the same application site, at the same level of risk as, and protected to the same level, as those six consented houses, accessed by the same means (and, therefore, the same issues as regards access/egress) is a more substantial material consideration.

Significant weight must be given to climate change (as per NPF 4 Policy 1), and that has been given due consideration. Having regard to our Flood Officer's advice who raises no concern with this additional house, and the relationship of this development to the consented development, however, it is considered that accepting the proposed house, in this particular case, would be a reasonable decision when accounting for the fact that six consented houses on this site have not yet been completed but for which construction is underway. Account should, however, be had to potential breaches and/or failing of the flood protection scheme, by incorporating water resilient materials/design and ensuring an evacuation scheme. A planning condition could require both but, again, given the extent of existing residential development (which is not bound by such a requirement), it is not considered reasonable to impose greater obligations on this dwellinghouse. An Informative is, however, recommended.

As SEPA are a statutory consultee, and this application would increase the number of buildings at risk of being damaged by flooding, any decision by the Council to approve it would have to be referred to the Scottish Ministers, with the potential for the application to be 'called-in' for their approval.

### Ecology

The AMC consent for six houses was subject to agreed species protection plans and enhancement measures, which include bat and bird boxes in ladeside trees outside this plot. This proposal would not conflict with approved measures and raises no further ecological concerns. Conditions and an Informative Note can address these.

### Archaeology

Historic Environment Scotland raise no concerns with potential risk to the designated Battlefield of Philiphaugh site. The AMC consent referred to above was subject to an agreed watching brief and Metal Detecting Survey that satisfied Condition 14 of the 19/01687/PPP. Implementation and reporting under that will fully satisfy requirements. This proposal within the same site raises no additional need for mitigation.

### Services

Water supply and foul drainage would be serviced from the mains. The application's drainage report does not account for this additional plot, but Scottish Water note there are no capacity issues. A condition can suitably regulate.

Approval for the six houses under 22/00019/AMC included sustainable urban drainage measures. This proposal initially had no measures specified. However, the proposal now includes a basic indication for an infiltration trench, as approved on other plots. The driveway would be gravelled, so should be specified as permeable. This will be sufficient for planning purposes, with details considered under the Building Warrant application.

### Placemaking and Design

The site is in a 'backland' location. However, the house's scale, form, design and materials would be complementary to the single-storey house already approved on Plot 6, which is also in a backland location. The siting of Plot 6 was accepted under 22/00019/AMC because it would reflect the siting anticipated at the PPP stage; be loosely characteristic of existing houses to the south-west; and it would have a low-key visual impact. The currently proposed 'Plot 7' would add to the extent of 'backland' development, but the plot itself would effectively mirror that of Plot 6 and be served by the same access road.

However, this proposed house was initially sited far to the north-east side of the plot, potentially being visible between houses when viewed from Ettrickhaugh Road. Even allowing for the principle established by Plot 6, its siting would not be visually sympathetic, albeit it was sited such to maintain the outlook from Plot 4. The applicant has since responded positively, by relocating the house in a manner that effectively mirrors that on Plot 6. This will provide for a better visual relationship between the plots and, albeit there will be some compromise to the proposal's solar gain, this is a better means by which to relate the proposal to the sense of place.

The proposal would not risk trees subject to protection under 22/00019/AMC, and a condition can require the hedging proposed to the same specification as required under that consent. The house's specification has also been modified by slimming the eave and verge treatments to reflect those approved already.

Plot 6's construction is regulated by planning condition on 22/00019/AMC requiring implementation of plots 1-5 first, and that should also be applied to this additional plot.

### Neighbouring amenity

The proposal would not adversely affect the amenity of existing neighbouring properties in terms of daylight, sunlight, outlook or privacy loss. As regards adjacent plots within the development itself, the proposal will not have adverse consequences for the amenity of adjacent plots in these regards either. It may be that occupiers may wish to add screen fencing on their boundaries, though using their Permitted Development rights to do so would not have adverse visual impacts.

### Road safety and parking

Two parking spaces are proposed, accessed from the same access serving Plot 6. The RPS raise no concerns as regards parking implications from this additional house.

Condition 7 on 22/00019/AMC required the widening of Ettrickhaugh Road and turning head into Plot 6 before development commenced. As the RPS notes, the widening and turning head have been provided, excluding its final wearing course. These works are subject to Roads Construction Consent too. Compliance with 22/00019/AMC will facilitate the servicing of Plot 7, since its completion will not be permitted until plots 1-

5 are completed, though requiring the road works' completion before its occupancy by means of a planning condition will ensure this.

#### Waste storage

The proposal provides for suitable waste storage.

#### Development contributions

Contributions towards the Waverley Line and Flood Protection Scheme are required. A legal agreement will, therefore, be necessary if the application is to be approved.

#### CONCLUSION

The development is compliant with the statutory Development Plan as regards most matters referred to above. Though there will be conflict with the Development Plan as regards flood risk this is considered balanced, in this case, by the context and history of the site, which already is to be developed for six houses. Subject to referral to the Scottish Ministers, completion of a legal agreement and compliance with the schedule of conditions, the proposed dwellinghouse is considered acceptable.

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

I recommend the application is approved subject to referral to the Scottish Ministers, a legal agreement and compliance with the schedule of conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. No development shall commence until evidence confirming that mains water and foul drainage connections have been approved by Scottish Water has been submitted for the written approval of the Planning Authority. The development shall be serviced only using the approved mains water and foul drainage connections, unless otherwise agreed in writing with the Planning Authority.  
Reason: To ensure the development is adequately serviced.
3. The development shall be implemented in accordance with the plans and drawings, including external material specifications, approved under this consent unless otherwise required by any other condition in this schedule.  
Reason: To ensure the development has a sympathetic visual impact.
4. The development shall be serviced only using mains water and foul drainage connections, unless otherwise agreed in writing with the Planning Authority.  
Reason: To ensure the development is adequately serviced.
5. Development shall be implemented in accordance with the ecological mitigation measures approved under Conditions 11 and 12 of 19/01687/PPP and under 22/00019/AMC, where applicable to the approved site.  
Reason: To ensure suitable ecological mitigation is implemented during construction of the development.
6. Hedging specified on the approved site plan 10349-CSY-XX-XX-D-A-1302 Rev C shall be implemented to the same specifications as approved for Plots 1-6 under

22/00019/AMC within the first planning season following completion of the development and subsequently maintained in accordance with the measures agreed under that consent for Plots 1-6.

Reason: To ensure the development has a sympathetic landscape and visual impact.

7. Surface water drainage within the site shall be provided to the same specification as approved for Plots 1-6 under 22/00019/AMC prior to occupancy of the dwellinghouse, and the parking area/driveway shall be of permeable construction unless alternative means are otherwise agreed in writing with the Planning Authority.

Reason: To ensure sustainable management of surface water.

8. Protective fencing, of a specification that accords with BS5837:12, shall be erected along the route shown on the approved site plan (10349-CSY-XX-XX-D-A-1302 Rev C) prior to development commencing and shall be retained until development is complete. No works shall be carried out within the protected areas unless compliant with BS5837:12.

Reason: To minimise risk to trees with public amenity value.

9. Bin storage shall be provided within the site in accordance with the approved site plan 10349-CSY-XX-XX-D-A-1302 Rev C prior to the dwellinghouse being occupied sufficient for one general waste and one recycling wheelie bin and subsequently retained unobstructed for such purposes.

Reason: To ensure the visually sympathetic and accessible storage of bins.

10. The parking area specified on the approved site plan 10349-CSY-XX-XX-D-A-1302 Rev C, and access to and improvement works, including footway, on Ettrickhaugh Road (all in accordance with 22/00019/AMC) shall be implemented prior to occupancy of the dwellinghouse. The parking area shall be subsequently retained free from obstruction for the movement and parking of at least two cars.

Reason: To ensure the development is adequately serviced in the interests of road and pedestrian safety.

11. The approved dwellinghouse shall not be completed prior to the completion of all houses within plots 1-5 approved under 22/00019/AMC.

Reason: To ensure the development has a sympathetic visual impact

### Informatives

1. The new footway, turning head, road widening, drainage, and any enhanced street lighting required on Ettrickhaugh Road is currently subject to a Road Construction Consent (22/01420/RCC) and these features will potentially be adopted by the Council upon satisfactory completion. The carriageway widening will have to tie in with the existing carriageway in a manner acceptable to the Council as Roads Authority. All prospectively adoptable work must be undertaken by a contractor first approved by the Council.
2. Scottish Water advise that there is live infrastructure in the proximity of the site that may impact on existing Scottish Water assets. The applicant must identify any potential conflicts with Scottish Water assets and contact their Asset Impact Team via their Customer Portal for an appraisal of the proposals.
3. It is recommended that the Applicant signs up to FLOODLINE at [www.sepa.org.uk](http://www.sepa.org.uk) or by telephone on 0845 988 1188; review the Online Planning Advice on Flood

Risk; develop an evacuation plan for the building during times of flood warning and adopt water resilient materials and construction methods as appropriate within the development. Flood protection products such as floodgates and air-vent covers should also be considered for the development. Details of these can be provided by SBC Flood & Coastal Management team who will be able to offer advice and provide discounts for the products.

**DRAWING NUMBERS**

Location Plan 10349–CSY-XX-XX-D-A-1301 rev A  
 Proposed Site Plan 10349–CSY-XX-XX-D-A-1302 rev C  
 Proposed Plans and Elevations 10349–CSY-XX-XX-D-A-2301 rev A

**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.

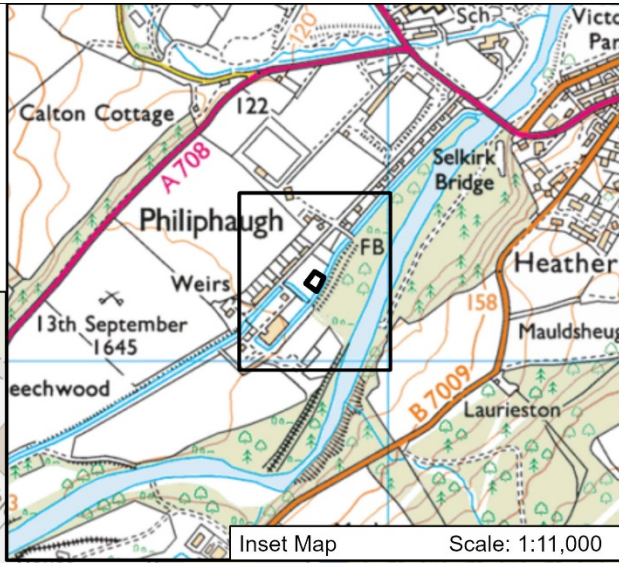
**Author(s)**

Name	Designation
Carlos Clarke	Team Leader

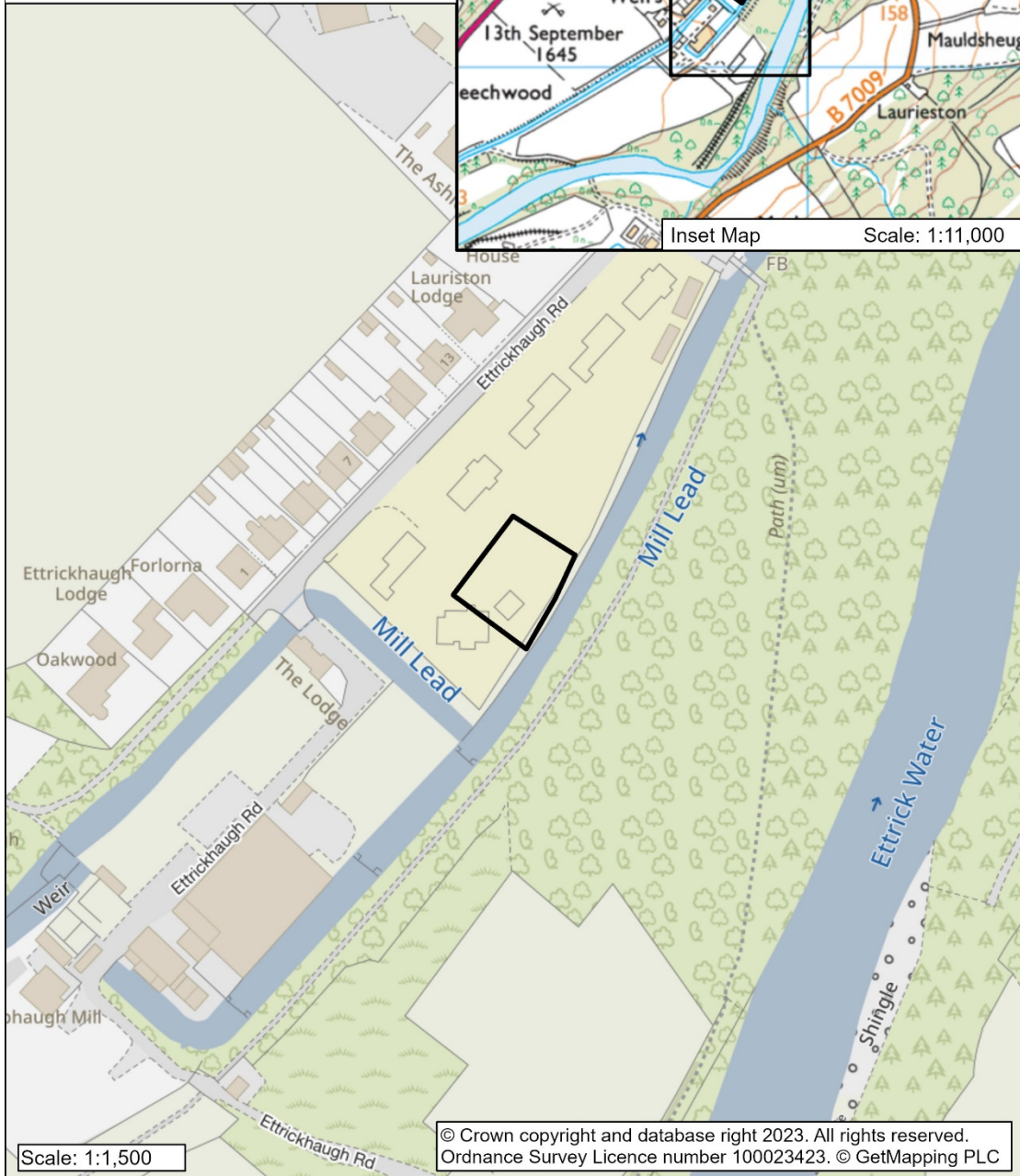


23/00787/FUL

Erection of dwellinghouse  
Ettrickhaugh Rd Selkirk



Inset Map Scale: 1:11,000



Scale: 1:1,500

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## PLANNING APPEALS & REVIEWS

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### Briefing Note by Chief Planning & Housing Officer

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## PLANNING AND BUILDING STANDARDS COMMITTEE

4<sup>th</sup> September 2023

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### 1 PURPOSE

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

### 2 APPEALS RECEIVED

- 2.1 Planning Applications

Nil

- 2.2 Enforcements

Nil

- 2.3 Works to Trees

Nil

### 3 APPEAL DECISIONS RECEIVED

- 3.1 Planning Applications

- 3.1.1 Reference: 23/00332/ADV  
Proposal: Installation of illuminated signage (retrospective)  
Site: 35 Horsemarket, Kelso  
Appellant: Mr Anthony Khoury

Reason for Refusal: The signage, by reason of the size, scale, design and materials, is contrary to Policy 14 of National Planning Framework 4 in terms of creating distinctive places and policies PMD2, EP9 and IS16 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance on Shop Fronts and Shop Signs in that the signage has an adverse detrimental impact on the traditional character of the host building and the character and appearance of the conservation area.

Reasons for Appeal: Refusal was based on the size, design and material used for the new shop sign, along with an illuminated strip light. Existing shop fronts in the near vicinity have similar installations, with some gaining planning approval. The new signage is not entirely different from other shop fronts, and the applicant feels he has been unfairly singled out with an enforcement notice.

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

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Trudi Craggs, determined the issues in this appeal on whether the signage is contrary to the interests of amenity or public safety. The reported noted there were no public safety issues cited in the reason for refusal. The roads authority did not object to the signage subject to the imposition of a condition controlling the illumination. There is a wide variation of signage along the street. Only a couple of signs seemed to be capable of being illuminated; these were for businesses that would operate in the evening. Given the eclectic mix of buildings and signs which, in the reporters view is a characteristic of the conservation area, the signage does not look inappropriate or out of place. The style is similar to the lighting on other buildings and is the preferred style in the supplementary guidance on shop fronts and shop signs. The reporter therefore granted planning permission subject to one condition.

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

### 3.2 Enforcements

Nil

### 3.3 Works to Trees

Nil

## 4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 24<sup>th</sup> August 2023. This relates to sites at:

- |                                |                                    |
|--------------------------------|------------------------------------|
| • 32 Dunglass Road, Coldstream | • Keppel Gate Nettlingflat, Heriot |
|--------------------------------|------------------------------------|

## 5 REVIEW REQUESTS RECEIVED

Nil

## 6 REVIEWS DETERMINED

6.1 Reference: 22/00576/FUL  
Proposal: Erection of agricultural building (retrospective)  
Site: Ravelaw Farm, Duns  
Appellant: Mr Robert Gaston

Reason for Refusal: The development fails to comply with Policy HD3 of the Scottish Borders Local Development Plan 2016, in that the addition of a further agricultural building to house livestock at the farm could potentially exacerbate existing issues, which would negatively impact upon the amenity of nearby residential properties.

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

Review Decision: Decision of Appointed Officer Overturned (Subject to a Legal Agreement)

- 6.2 Reference: 22/00788/FUL  
Proposal: Alterations and dormer extension to dwellinghouse  
Site: 11 Tweed Avenue, Peebles  
Appellant: Mr Gary Neale

Review against non-determination of Application.

Method of Review: Review of Papers & Further Written Submissions

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

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

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

Method of Review: Review of Papers

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

- 6.4 Reference: 22/01416/PPP  
Proposal: Erection of 2no dwellinghouses  
Site: Land South of 1 Kelso Road, Coldstream  
Appellant: Mr Andrew Douglas-Home

Reason for Refusal: The proposed development would be contrary to Policy PMD4 and Policy HD2 of the Scottish Borders Local Development Plan 2016, as well as the Council's Supplementary Planning Guidance 'New Housing in the Borders Countryside 2008' in that it would erode the integrity of the development boundary for the settlement of Coldstream, it would not relate well to an existing building group, it would break into an undeveloped field outwith the group's sense of place, to the detriment of

the character and appearance of the building group. Furthermore, the development is contrary to Policy ED10 of the Local Development Plan 2016 as the development would result in the permanent loss of prime quality agricultural land, which is a valuable and finite resource. This conflict with the development plan is not overridden by any other material considerations.

Method of Review: Review of Papers

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

- 6.5 Reference: 22/01666/PPP  
Proposal: Erection of 4 no dwellinghouses  
Site: Land West of Greenburn Cottage, Auchencrow  
Appellant: W A Mole & Son

Reason for Refusal: The proposed development is contrary to policy HD2 (Housing in the Countryside) of the Local Development Plan 2016 and Supplementary Planning Guidance New Housing in the Borders Countryside 2008 in that by virtue of topography and being located beyond the well established western edge of Auchencrow, the proposed site would not be well related to an existing building group of three or more dwellinghouses. The proposed development would extend beyond Auchencrow's sense of place, into an undeveloped field, and would result in ribbon development to the detriment of both the village's character and the surrounding landscape.

Method of Review: Review of Papers & Site Visit

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

- 6.6 Reference: 22/01739/FUL  
Proposal: Erection of dwellinghouse with detached garage  
Site: Land West of The Old Barn Westwater, West Linton  
Appellant: Mr Ian Swan

Reasons for Refusal: 1. The development would be contrary to policies HD2 and PMD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside guidance in that the proposed development is unsympathetic to the adjoining buildings and the surrounding context in terms of siting, access, orientation, form, scale, height, massing and materials. Furthermore, no account has been taken of the trees within to the site meaning the proposal is also contrary to policy EP13. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations. 2. The development would be contrary to policies HD2 and PMD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside guidance in that the proposed development is unsympathetic to the adjoining buildings and the surrounding context in terms of siting, access, orientation, form, scale, height, massing and materials. Furthermore, no account has been taken of the trees within to the site meaning the proposal is also contrary to policy EP13. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations.

- Method of Review: Review of Papers, Site Visit & Further Written Submissions
- Review Decision: Decision of Appointed Officer Upheld
- 6.7 Reference: 22/01824/PPP  
 Proposal: Erection of dwellinghouse with access, landscaping and associated works  
 Site: Land South and West of Greywalls, Gattonside  
 Appellant: Mr & Mrs N & C Cameron

Review against non-determination of Application.

- Method of Review: Review of Papers
- Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions and a Legal Agreement)
- 6.8 Reference: 22/01903/AMC  
 Proposal: Demolition of shed and erection of dwellinghouse (approval of all matters specified in planning permission 20/00874/PPP)  
 Site: Land North West of Rosebank Cemetery Lodge, Shedden Park Road, Kelso  
 Appellant: Mr M Curtin

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

- Method of Review: Review of Papers
- Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions)
- 6.9 Reference: 22/01935/FUL  
 Proposal: Installation of timber gates (retrospective)  
 Site: Church House, Raemartin Square, West Linton  
 Appellant: Mr JM And Mrs G Barton

Reason for Refusal: The development would be contrary to policies EP9 and PMD2 of the Local Development Plan 2016 in that the alterations to the gates would have an unacceptably adverse impact on the character and appearance of the conservation area and on the visual amenity of this residential area. There are no other material considerations that are sufficient to overcome the adverse visual impact resulting from the proposed development.

- Method of Review: Review of Papers
- Review Decision: Decision of Appointed Officer Overturned

6.10 Reference: 22/01973/AMC  
Proposal: Erection of dwellinghouse with outbuilding and formation of new access (approval of all matters specified in conditions of planning permission 21/00030/PPP)  
Site: Land at Rachan Woodlands, Broughton  
Appellant: Mr Jim Warnock

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

Method of Review: Review of Papers

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

6.11 Reference: 23/00026/FUL  
Proposal: Change of use of shop and alterations to form 2 no dwellinghouses  
Site: Shop, 22 - 24 South Street, Duns  
Appellant: Mr Hugh Garratt

Review against non-determination of Application.

Method of Review: Review of Papers

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

6.12 Reference: 23/00056/FUL  
Proposal: Change of Use from Class 4 to Class 2 Veterinary Practice  
Site: 2 Rowan Court, Cavalry Park, Peebles  
Appellant: Two Rivers Veterinary Practice Ltd

Reason for Refusal: The development would be contrary to Policy 26 of the NPF4 and Policy PMD3 and Policy ED1 of the Local Development Plan 2016 in that the use as a veterinary practice (falling within Class 2 of The Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended, would be a commercial activity that would not be complementary, or ancillary, to the Cavalry Park Strategic High Amenity Site and a use such as that would prejudice its primary function. Furthermore, it would ultimately lead to the loss of allocated business and industrial land when there is a known need for such sites. Other material considerations, including the applicant's need for new premises, are fully acknowledged but, on balance, do not override the loss of the site to Class 4 uses, nor the potentially undesirable precedent that would result from the loss of this extent of floorspace to a non-compliant use.

Method of Review: Review of Papers

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

6.13 Reference: 23/00260/PPP  
Proposal: Erection of a dwellinghouse with access, landscaping, garden space, and associated works  
Site: Land West of Greywalls, Gattonside  
Appellant: Mr & Mrs N & C Cameron

Review against non-determination of Application.

Method of Review: Review of Papers

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

## 7 REVIEWS OUTSTANDING

7.1 There remained 8 reviews previously reported on which decisions were still awaited when this report was prepared on 24<sup>th</sup> August 2023. This relates to sites at:

• Land South of Ebbastrand, Coldingham Sands, Coldingham	• Land North of Belses Cottage, Jedburgh
• Land South of Headshaw Farmhouse, Ashkirk, Selkirk	• Land Northeast of The Bungalow, Crosshill, Chirnside
• Site Adjacent The Steading Whiteburn Farm, Lauder	• W Pearce and Sons St Ronan's Works, 2 Miller Street, Innerleithen
• 22 Weensland Park, Hawick	• U-Stor Business Units, Spylaw Road, Kelso

## 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 24<sup>th</sup> August 2023. This relates to a site at:

• Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick	•
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**Approved by**

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

**Signature .....**

**Author(s)**

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

**Background Papers:** None.

**Previous Minute Reference:** None.

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

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