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## SCOTTISH BORDERS COUNCIL PLANNING AND BUILDING STANDARDS COMMITTEE

MINUTES of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Council Chamber, Council Headquarters, Newtown St. Boswells and via Microsoft Teams on Monday, 2nd October, 2023 at 10.00 am

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

Apologies:- Councillors J. Cox

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

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 4 September 2023.

**DECISION**

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

2. **APPLICATION**

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

**DECISION**

**NOTED that:**

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

(i) **Erection of dwellinghouse, Land Adjacent Rose Cottage, Maxwell Street, Innerleithen – 22/01993/FUL;**

(ii) **Residential development with access, landscaping and associated works, Land East of Kirkwell House, Preston Road, Duns – 23/00131/PPP; and,**

(iii) **Installation of communication lattice tower 35m high c/w headframe on new 6.5m x 6.5m RC concrete base and associated ancillary works, Land at Menzion Forest Block, Quarter Hill, Tweedsmuir – 23/00777/FUL;**

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

- (i) **Erection of a double garage, 32 Dunglass Road, Coldstream – 23/00430/CLPU – reporter’s decision: sustained; and,**
  - (ii) **Erection of Stable, Keppel Gate Nettleflat, Heriot – 23/00648/CLEU – reporters’ decision: dismissed;**
- (c) **Review requests had been received in respect of:**
- (i) **Erection of dwellinghouse, Land South of 1 Netherwells, Jedburgh – 23/00331/FUL;**
  - (ii) **Erection of dwellinghouse, Plot C Land West of Hedgehope Cottage, Winfield – 23/00507/PPP;**
  - (iii) **Erection of dwellinghouse, Land East of Dunedin Lodge, Crossrig – 23/00508/PPP;**
  - (iv) **Erection of dwellinghouse, Land North East of Alba Cottage, Fishwick – 23/00509/PPP;**
- (d) **The following reviews had been determined as shown:**
- (i) **Erection of dwellinghouse, Land Northeast of The Bungalow, Crosshill, Chirnside – 22/01236/FUL – Decision of Appointed Officer Upheld;**
  - (ii) **Erection of dwellinghouse and associated work, Land South of Ebbastrand, Coldingham Sands, Coldingham – 22/01357/FUL – Decision of Appointed Officer Upheld;**
  - (iii) **Erection of raised decking (retrospective), 33 Weensland Park, Hawick – 22/01936/FUL – Decision of Appointed Officer Upheld;**
  - (iv) **Erection of dwellinghouse, Land North of Belses Cottage, Jedburgh – 23/00034/PPP – Decision of Appointed Officer Overturned (Subject to Conditions);**
  - (v) **Erection of dwellinghouse, W Pearce and Sons St Ronan's Works, 2 Miller Street, Innerleithen – 23/00129/FUL – Decision of Appointed Officer Overturned (Subject to Notification to Scottish Ministers)**
- (e) **There remained 3 reviews previously reported on which decisions were awaited when the report was prepared on 22 September 2023 which related to sites at:**

<ul style="list-style-type: none"> <li>• <b>Land South of Headshaw Farmhouse, Ashkirk, Selkirk</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Site Adjacent The Steading Whiteburn Farm, Lauder</b></li> </ul>
<ul style="list-style-type: none"> <li>• <b>U-Stor Business Units, Spylaw Road, Kelso</b></li> </ul>	

- (f) **There remained one Section 36 Public Local Inquiry previously reported on which a decision was still awaited when the report was prepared on 22 September 2023 which related to a site at Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick.**

*The meeting concluded at 11.18 am.*

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

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

DECISION: Approved as per officer recommendation subject to a legal agreement and 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 by the Planning etc. (Scotland) Act 2006.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Local Planning Authority.  
Reason: To ensure that the development is carried out in accordance with the approved details.
3. The use of the development hereby permitted shall fall within Use Class 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, and no other use shall be permitted unless further written consent is obtained from the Planning Authority.  
Reason: to allow the Planning Authority the ability to exercise control future intensification of the application site.
4. Prior to the commencement of development, the developer shall submit for approval in writing by the Planning Authority, details on the proposed Biodiversity Enhancement scheme for the site. Thereafter, no development shall take place except in strict accordance with the approved scheme.  
Reason: To enhance the ecological interest in accordance with Local Development Plan EP3 and NPF4 policy 3.
5. Prior to commencement of development, a Species Protection Plan for badgers shall be submitted to and approved in writing by the Planning Authority. The SPP shall incorporate provision for a pre-development supplementary survey and a mitigation plan. No development shall be undertaken except in accordance with the approved in writing SPP.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.
6. Prior to commencement of development, a Species Protection Plan for breeding birds and barn owls shall be submitted to and approved in writing by the Planning Authority. The SPP shall incorporate provision for a pre-development supplementary survey and a mitigation plan. No development shall be undertaken except in accordance with the approved in writing SPP.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.
7. Prior to the commencement of development, the developer shall submit for approval in writing by the Planning Authority a sensitive lighting scheme for the site. Thereafter, no

development shall take place except in strict accordance with the approved plan. Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.

8. No development shall take place unless in strict accordance with the tree protection measures and Method Statement contained in the Arboricultural Impact Assessment (TD Tree & Land Services Ltd, March 2023).  
Reason: To ensure that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality.
9. Only the trees identified on site (as per approved Arboricultural Impact Assessment) and agreed in writing by the Planning Authority shall be removed.  
Reason: The existing trees represent an important visual feature which the Planning Authority considers should be substantially maintained.
10. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which shall be first have been submitted to and approved in writing by the Planning Authority, and shall include:
  - i. Details of proposed tree planting (including species, sizes, indicative numbers) which is referred to but not detailed at Item T1 of the Operations Schedule 2023-2028 Woodland Management Plan
  - ii. Details of all fencing and boundary treatment
  - iii. Details of all surfacesReason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.
11. No development shall take place except in strict accordance with the Woodland Management Plan. All works, amendments and updates to the plan must be agreed in writing by the Planning Authority and thereby implemented.  
Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings
12. 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.
- 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 a 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 the 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 approved 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.

13. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.

This should include historic building recording and evaluation work, but it may not be limited to these aspects alone;

Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

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

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

15. No development shall take place until the applicant 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 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 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.

16. No development shall commence until precise engineering details for the upgrading of the access route (to include construction and visibility) have first been submitted to and approved in writing by the Council. Thereafter, the agreed upgrading works to the access track shall be completed in accordance with the agreed details prior to the commencement of development hereby approved.

Reason: To ensure the access route is suitable for the anticipated vehicular traffic generated by the development hereby approved.

17. The parking area and access specified on the approved site plan shall be implemented prior to the occupancy of the dwellinghouse and subsequently retained free from obstruction for the parking of four vehicles in perpetuity thereafter.

Reason: To ensure the provision of adequate off-street parking.

18. Before any works commence a scheme shall be submitted to and approved in writing by the Local Planning Authority indicating proposals for the satisfactory storage of refuse in accordance with BS.5906. The approved scheme shall be implemented upon occupation of the development and thereafter retained.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse.

19. No development is to commence until a report has been submitted to and approved in writing by the Planning Authority that the public mains water supply is available and can be provided for the development. Prior to the occupation of the building(s), written confirmation shall be provided to the approval of the Planning Authority that the development has been connected to the public mains water supply.

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

20. The development hereby permitted shall not be commenced before a fully detailed foul drainage strategy, demonstrating that there will be no negative impact to public health has been submitted to and approved by the Planning Authority.

Reason: in the interests of public health.

21. No development shall commence until detailed proposals for surface water drainage have first been submitted to and approved in writing with the planning authority. The dwellinghouse hereby approved shall not be occupied until the approved surface water drainage arrangements are installed. All hardstanding areas shall be drained by means of porous surfacing, or drained to a permeable or porous area or surface within the application site. All drainage measures shall be maintained in perpetuity in order to manage surface water run-off within the site.

Reason: To ensure surface water is sustainably managed.

22. Notwithstanding the details shown in the consented application, samples and sample panels of all external materials and finishes shall be prepared on site for prior approval by the planning authority. Thereafter, no development shall take place except in strict accordance with the approved materials.

Reason: The materials to be used require further consideration to ensure a satisfactory form of development.

23. Large scale details for all new windows and doors (1:20 sample elevations and sections, and 1:1 moulding profile sections), other architectural features and key junctions should be submitted to and approved in writing by the planning authority. Thereafter, no development shall take place except in strict accordance with the approved details.

Reason: To ensure satisfactory form of development.

24. Construction or remediation work comprising the use of plant, machinery, or equipment, or deliveries of materials shall only take place between the hours of 0800 to 1800 Monday to Friday and 0900 to 1300 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In the interests of residential amenity. No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by the Planning Authority.

25. The approved statement shall be adhered to throughout the construction period. The Statement shall include:

- Details of sequence of operations
- Details of segregated non-vehicular access
- Site delivery management and frequency
- Site waste management
- Site lighting
- Noise dust and dirt mitigation measures

Reason: In the interest on residential amenities, road safety and public access to core path.

26. Prior to the commencement of works on the new footpath around the existing pond, a barrier fence should be erected comprising of newt barrier fencing separating the construction area from the pond. The fence should be constructed using 1000-gauge polythene newt and reptile barrier fencing held tightly in place with wooden stakes. The top 10cm of the polythene should be folded back on itself so that it faces the outside area of the fence. The fence should be installed by preparing a narrow trench by hand and burying the polythene sheeting such that it extends 50cm down into the ground. The fence should be checked daily in the morning and any damaged parts should be repaired, as necessary. The fence should remain in place until all works are completed.

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

### Informatives

1. In the event that bats are discovered following the commencement of works, works must stop immediately and the developer must contact NatureScot for further guidance. Works can only recommence by following any guidance given by NatureScot. The developer and all contractors are to be made aware of accepted standard procedures of working with bats at [www.bats.org.uk](http://www.bats.org.uk).
2. The ALGAO Scotland Historic Building Recording Guidance can be found at; [ALGAO Scotland Buildings Guidance 2013.pdf](#).
3. The responsibility of any tree works identified lies with the land owner. Any constraints in relation to trees, such as felling licences, should be applied for through the relevant Government Body. All tree works will be carried out by qualified arborists in accordance with British Standard BS3998:2010.

4. With regards to Condition 16, the required engineering details should include the proposed construction makeup, clarification over which area this is to be implemented, areas where vegetation is to be trimmed back to provide adequate visibility and areas where widening is to be provided to allow vehicles to pass within the carriageway.
5. Core path 128 is on the shared use tarmac road and corridor and includes the verge of the route. Core Path 128 is outwith the curtilage of a residential property. Public rights of access apply for non-vehicular path users on the Core path. There is public interest for recreation to use the Core path and woodland area to access locations where it is possible to view the outside of the derelict building of Cavers House.

## **22/01587/LBC**

I recommend the application be approved subject to compliance with the following 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 the provisions of Section 16 of the Town and Country Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. No development shall commence until the following have been submitted to and approved in writing by the planning authority:
  - a) Schedule, with methodology and specifications, for repairs to existing fabric at Caver House, the walled garden and other landscape features
  - b) Details of internal wall finishes, including materials (which shall be vapour open) and treatment of historic features.Thereafter, no development shall take place except in strict accordance with the approved details.  
Reason: To ensure satisfactory preservation of this Listed Building
3. Notwithstanding the details shown in the consented application, samples and sample panels of all external materials and finishes shall be prepared on site for prior approval by the planning authority. Thereafter, no development shall take place except in strict accordance with the approved materials.  
Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which preserves the Listed Building
4. Large scale details for all new windows and doors (1:20 sample elevations and sections, and 1:1 moulding profile sections), other architectural features and key junctions should be submitted to and approved in writing by the planning authority. Thereafter, no development shall take place except in strict accordance with the approved details.  
Reason: To ensure satisfactory preservation of this Listed Building

## VOTE

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

Councillor Orr, seconded by Councillor Richards, moved as an amendment that in respect of access the development is contrary to NPF4 Policy 17 Rural Homes (c) (iii) in that the development proposals are not suitable in terms of location, access, siting design and



environmental impact. The proposed development is contrary to Local Development Plan Policy HD2 Housing in the Countryside in that the proposed access road even with conditions to mitigate the risk would not be sufficient to make the development acceptable on safety grounds of all road users. The development is contrary to Local Development Plan PMD2(q) Quality Standards in that the proposed development does not adequately ensure that there is not an adverse impact on road safety, including but not limited to the site access. In respect of residential amenity, the proposed development is contrary to LDP Policy HD3 (b) (ii) & (iii) in that the development would adversely impact the residential amenity and character of adjacent properties particularly in terms of overlooking and loss of privacy provisions particularly in relation to garden ground including the generation of traffic or noise.

On a show of hands, Members voted as follows:

Motion	-	6 votes
Amendment	-	2 votes

The motion was accordingly carried.

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