

# Public Document Pack



## PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 6TH NOVEMBER, 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, 6TH NOVEMBER, 2023 at 10.00 AM

J. J. WILKINSON,  
Clerk to the Council,

27 October 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 2 October 2023 for approval and signature by the Chair. (Copy attached.)
5.	<b>Application</b> Consider the following application for planning permission:
	(a) <b>Auction Mart and Land Northeast of Auction Mart, Newtown St Boswells - 19/00210/PPP</b> (Pages 13 - 74) Re-development of auction mart facilities including mixed use development comprising Class 1 retail, Class 2 professional, Class 3 (including sui generis) food and drink, Class 4-6 business/light industry, Class 7 hotel, Class 8 residential institutions (college/training centre), Class 9 dwellinghouses (including sui generis - flats) Class 10 non-residential institutions, Class 11 Assembly and leisure, access (including roundabout on A68), car parking, demolition of buildings and associated works. (Copy attached.)
6.	<b>Appeals and Reviews</b> (Pages 75 - 82) Consider Briefing Note by Chief Planning and Housing Officer. (Copy attached.)
7.	<b>Any Other Items Previously Circulated</b>
8.	<b>Any Other Items which the Chair Decides are Urgent</b>

## **NOTE**

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

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

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

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

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

MINUTES of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Council Chamber, Council Headquarters, Newtown St. Boswells and via Microsoft Teams on Monday, 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 Nettleingflat, 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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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**6 NOVEMBER 2023**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 19/00210/PPP

**OFFICER:** Mr Scott Shearer  
**WARD:** Selkirkshire  
**PROPOSAL:** Re-development of auction mart facilities including mixed use development comprising Class 1 retail, Class 2 professional, Class 3 (including sui generis) food and drink, Class 4-6 business/light industry, Class 7 hotel, Class 8 residential institutions (college/training centre), Class 9 dwellinghouses (including sui generis - flats) Class 10 non-residential institutions, Class 11 Assembly and leisure, access (including roundabout on A68), car parking, demolition of buildings and associated works.

**SITE:** Auction Mart and Land Northeast of Auction Mart, Newtown St Boswells, Scottish Borders

**APPLICANT:** H & H Group  
**AGENT:** Ferguson Planning

**PLANNING PROCESSING AGREEMENT**

It has been agreed that the applicant will be presented to the 6 November P&BS Committee.

**BACKGROUND**

A recommendation to approve the proposed development was agreed by Members of the Planning & Building Standards Committee on 29 March 2021. This decision to approve was subject to a range of conditions and legal agreement covering development contributions associated with the Borders Railway, education and affordable housing, a landscape framework, delivery of open and play space and retail controls. The applicants have sought to progress the conclusion of the Section 75 Legal Agreement covering all of the aforementioned matters however, its final conclusion has not yet been possible due to the original 'red-line' application site boundary including third party land, outwith the control of the applicants. As the legal agreement has not been concluded, planning permission has not yet been issued.

In order to allow the Section 75 Legal Agreement to be concluded and planning consent to be released, the applicants have revised the extent of the application site by removing third party land from the site boundary. This is illustrated within the revised plans received on the 3<sup>rd</sup> of July 2023 superseding the proposals previously considered and approved. This revision represents a material change to the original submission and must be referred to the Planning & Building Standards Committee for further consideration. On receipt of the updated proposals the Council have carried out re-notification and re-consultation exercises as well as re-advertising the application.

This report seeks to consider the suitability of the proposed changes against the development plan and any other material considerations including any representations which have been received in response to the proposed amendment. The decision of the P&BS Committee to approve the original proposals is a material consideration alongside the previous Committee Report which should be read as Appendix A to this assessment.

## **SITE DESCRIPTION**

The site is located within the centre and eastern edges of Newtown St Boswells. A detailed Site Description is noted within the previous Committee Report. The updated application site covers the same land as the previous proposal with the following areas being removed from the application site boundary:

- A68
- Old Station Court
- Co-op buildings and car park
- Public and Council carparks
- Waverly Place including industrial units.
- B6398 between Old Station Court and Waverly Place
- Access to N of Langlands Mill
- Woodend embankment of the Sprouston Burn
- Sewage Works
- Wooded embankment of the Newtown Burn

## **PROPOSED DEVELOPMENT**

The application continues to seek planning permission in principle for the proposed development. Updated Masterplan proposals have been provided which detail some minor variations around the edges of the site accounting for changes made to the application site boundary. Importantly, no changes have been made to the principle of the proposed development, which retains all the elements assessed within the previous Committee Report. The key elements of the (approved in principle) development are as follows:

- The Auction Mart will have 2,000sqm of additional covered pens as well as new Auction rings, canteen, car parking, servicing and office accommodation.
- The creation of a new central spine road via a new roundabout on the A68, which will remove the need for, articulated/farm vehicles and other Mart traffic to travel via the internal village road.
- The reorganisation of the Mart will remove old pens and mart buildings and release space to create an enhanced village centre with high quality public realm, retail, employment, and community facilities. 3,500sqm (Gross) of town centre retail accommodation based around the new Town Square and Market Square with a further 3,750 sq. m. (Gross) of retail floor space planned across the wider Masterplan area and as part of the rural business hub.
- This will enable a mix of residential uses including 150 housing units of mixed and affordable tenure and a proposed Hotel facing onto the A68.
- Unlocking land to the east side of the A68 will enable the wider development but also a rural retail / business hub together with an educational campus. The roundabout would allow access to rural retail, business and industrial of up to 8,800 sq. m and Educational Facilities of around 4,000sqm.
- The development is claimed to bring significant investment, employment and opportunities to NSB providing a catalyst for growth.

The application has been supported by a series of Landscape and Masterplan submissions, which divide the site into four development areas:

- North-East (Zone B) – rural business uses.
- South-East (Zone C) – agricultural education and associated land
- North-West (Zone A) – mainly residential with hotel, retail and agriculture
- South-West (Zones D/E) – upgraded auction mart with mixed residential, retail, agriculture, and transport.

Indicative floor spaces are also shown as:

Zone A – 125 residential units (incl 30 flats) and 1520 m2 hotel Classes 7 and 9

Zone B – Class 1 (ancillary) and 4-6 uses 8800 m2.

Zone C – 4000 m2 education campus Class 8

Zone D – 3750 m2 retail plus employment/business uses and auction mart, Classes 1, 2, 4 and 5

Zone E – 25 residential units and 3500m2 retail (neighbourhood type and service uses) Classes 1-4 and 9-11

## **PLANNING HISTORY**

In addition, the decision of the P&BS Committee to approve the current development on the 29<sup>th</sup> March 2021, subject to conditions and a legal agreement, the planning history of the site is detailed in full within the previous Committee Report.

## **REPRESENTATION and CONSULTATION SUMMARY**

All material third party representations and consultee comments raised in response to the original proposals remain material considerations for this latest proposal. These comments are summarised in full within the previous Committee Report. To avoid duplication these are not copied within this updated report, but they do remain relevant to the overall determination of this application.

All representations and consultation comments which have been received in response to the revised application site boundary are summarised below.

### **Representations**

No third-party representations have been received.

Scottish Power was not formally consulted but have made the following comments:

No objection, advise that overhead and underground apparatus are located within the vicinity of the development and Scottish Power reserve the right to protect or deviate their infrastructure at the applicant's expense.

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Ecology Officer:** No objection. A 15m buffer from the SAC/SSSI woodland is still required along with the need to now provide biodiversity enhancements as per Policy 3 of NPF4. Conditions 16 and 20 should be revised accordingly.

**Flood Risk Officer:** No objection, previous comments still applicable.

**Landscape Architect:** No objection. Removal of land may negate the need to development further interrelationship between the development and any future railway line but accept that this fell out with the control of the applicant. All trees and hedgerows on both sides of the A68 should be protected and suitable biodiversity enhancements as per NPF4 requirements should be pursued.

**Roads Planning:** No objection, all previous comments and recommended conditions are still applicable.

### **Statutory Consultees**

**Community Council:** No objection, preference remains for the proposals to include detailed proposals for the redevelopment of the village centre.

**NatureScot:** No objection provided a 15m buffer between the development and the boundaries of the Borders Woods Special Area of Conservation is retained.

**Scottish Water:** No objection. Recommend that the applicants contact Scottish Water to assess whether there is water and wastewater capacity within their infrastructure to fully service the development. Surface water discharge should avoid using connections to their combined sewer system.

**SEPA:** No objection. Following adoption of NPF4 an additional condition is recommended to seek an updated Flood Risk Assessment to determine the flood risk areas associated with the blockage scenarios when applied to the 200-year plus climate change flows. This should include the revision of the climate change uplift to 35% in line with current guidance.

**Transport Scotland:** No objection. Original conditions still required to mitigate trunk road impacts.

## **DEVELOPMENT PLAN POLICIES:**

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

Policy PMD1 Sustainability

Policy PMD2 Quality Standards

Policy PMD3 Land Use Allocations

Policy PMD4 Development out with Development Boundaries

Policy PMD5 Infill Development

Policy ED1 Protection of Business and Industrial Land

Policy ED2 Employment Uses out with Business and Industrial Land

Policy ED3 Town Centres and Shopping Development

Policy ED5 Regeneration

Policy ED7 Business, Tourism and Leisure Development in the Countryside



Policy HD1 Affordable and Special Needs Housing  
Policy HD3 Protection of Residential Amenity  
Policy HD5 Care and Retirement Homes  
Policy EP1 International Nature Conservation Sites and Protected Species  
Policy EP2 National Nature Conservation Sites and Protected Species  
Policy EP3 Local Biodiversity  
Policy EP4 National Scenic Areas  
Policy EP5 Special Landscape Areas  
Policy EP6 Countryside around Towns  
Policy EP7 Listed Buildings  
Policy EP8 Archaeology  
Policy EP13 Trees, Woodlands and Hedgerows  
Policy EP15 Development Affecting the Water Environment  
Policy IS1 Public Infrastructure and Local Service Provision  
Policy IS2 Developer Contributions  
Policy IS3 Developer Contributions Related to the Borders Railway  
Policy IS4 Transport Development and Infrastructure  
Policy IS5 Protection of Access Routes  
Policy IS6 Road Adoption Standards  
Policy IS7 Parking Provisions and Standards  
Policy IS8 Flooding  
Policy IS9 Wastewater Treatment Standards and Sustainable Urban Drainage  
Policy IS13 Contaminated Land

#### **National Planning Framework 4**

Policy 1 Tackling the climate and nature crises  
Policy 2 Climate mitigation and adaptation  
Policy 3 Biodiversity  
Policy 4 Natural Places  
Policy 6 Forestry, woodlands and trees  
Policy 7 Historic assets  
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 15 Local living and 20-minute neighbourhoods  
Policy 16 Quality homes  
Policy 18 Infrastructure first  
Policy 21 Play, recreation and sport  
Policy 22 Flood risk and water management  
Policy 25 Community wealth building  
Policy 26 Business and industry  
Policy 27 City, town, local and commercial centres  
Policy 28 Retail  
Policy 30 Tourism  
Policy 31 Culture and creativity

#### **OTHER PLANNING CONSIDERATIONS**

SSG: Housing Land  
SBC SG: Housing 2017  
PAN33 - Development of Contaminated Land  
PAN 52 - Small Towns  
PAN 59 - Improving Town Centres

PAN 66 - Trunk Roads  
PAN 67 - Housing Quality  
PAN 68 - Design Statements  
PAN 83 - Master Planning

Newtown St Boswells Development Framework 2012

SPG - Auction Mart Site 2007  
SPG - Affordable Housing  
SPG - Biodiversity  
SPG - Countryside around Towns  
SPG - Green Space  
SPG - Trees and Development  
SPG - Privacy and Sunlight  
SPG - Placemaking and Design  
SPG - Development Contributions  
SPG - Landscape and Development  
SPG - Local Landscape Designations  
SPG - Sustainable Urban Drainage Systems  
SPG - Waste Management  
SPG - Addendum Urban Design Study

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

- Whether the reduction in the size of the application site boundary affects the acceptability of the proposed development
- In the period since the Council were minded to grant PPP consent for this proposed development whether any new material considerations are raised including the adoption of NPF4 which would result in a different conclusion being reached against current development plan provisions.

#### **ASSESSMENT OF APPLICATION:**

##### **Planning Principle**

Before specifically considering the principle of the proposed development against planning policy, it is important to understand the purpose and implications of the proposed amendment. This revision is to simply reduce the application site boundary so that it removes land which is out with the control of the applicant. This will allow the Section 75 legal agreement to be concluded. The only change sought is the removal of land from the northern, western and southern edges of the site along with the A68 corridor from the application site boundary. The application site boundary now follows what was previously identified as the 'blue line' boundary of the original Location Plan Drawing Ref NS13.AR (PL)001. Fundamentally, no revisions are being made to the development which is proposed to be delivered within the revised application site boundary. Each of the original Zones for specific areas of development are being fully retained.

The removal of land from around the edges of some of the development zones, may affect the integration of the development with: its surrounding environment, existing and future neighbouring land uses and its linkage with the expansion of the main village centre. Nevertheless, each of these areas of land were outwith the ownership of the applicants meaning they did not previously have any control over developing these parts of the application site and nor did any of these areas fall within the zones identified for

development. The removal of these areas does not present any challenges which would not have been faced by the original 'red line' application site boundary.

Despite being central to the proposed development matters such as the delivery of a roundabout on the A68 and access from Waverly Place and Old Station Court would have required their own specific planning (and other relevant) consents. The 'future development area' directly to the west of the site, including provision for the restored railway were also out with the scope of this application and would still require to be progressed separately for this approval. Although the application site boundary is further removed from existing urban development within surrounding areas at Newtown St Boswells is still provides sufficient connectivity with the existing settlement and provides the potential to facilitate the formation of an improve village centre.

### *Planning Policy Context*

Since the decision to support the original proposal on what was a larger application site boundary in March 2021, the Scottish Borders Local Development Plan 2016 remains part of the Councils development plan. The proposal was thoroughly assessed against the current LDP within the previous Committee Report (see Appendix 1) as well as other pertinent considerations such as: Newtown St Boswells Development Framework 2012 and Auction Mart Site 2007 SPG. These documents have not been amended in the subsequent period and continue to remain relevant.

On the basis that the development proposal itself is not being altered and nor is there any deviation to the development zones, there is considered to be sufficient space within the site to undertake the proposed development and all required mitigation in planning permission in principle terms. The reduction to the extent of the site boundary does not alter the findings of the robust assessment of the proposal against the current LDP provisions within the previous Committee Report. The development remains compliant with all relevant provisions of the current LDP.

In the intervening period since March 2021, the Council have progressed the preparation of a new LDP (LDP2). LDP2 is now at an advanced stage and following its adoption, it will replace the current LDP. LDP2 represents a material consideration in the determination of this proposal. The western part of the application site remains allocated within LDP2 under the same terms as the current LDP. LDP2 does not include any revised or new policy provisions which would change the original officer recommendation.

The original proposal was considered against National Planning Framework 3 (NPF3) and Scottish Planning Policy (SPP). National Planning Framework 4 (NPF4) has replaced both NPF3 and SPP and brought a significant legislative change, including NPF4 as part of the Councils statutory development plan. The update to this proposal is now required to be considered against NPF4. All relevant NPF4 policies are listed above within the section 'Development Plan Policies'. The proposed development has been assessed against relevant policy provisions of NPF4 and is found, in principle, to be compliant.

NPF4 promotes the long-term spatial strategy to 2045 for Scotland whereby all new developments follow clear spatial principles to ensure developments support the delivery of:

- Sustainable places
- Liveable places

- Productive places

The proposed development represents a large mixed used development across an extensive site. Key to establishing whether the principle of the development is suitable against NPF4 is its compatibility with Policy 9 - Brownfield, vacant and derelict land and empty buildings.

The western part of the site is allocated in the LDP and represents brownfield land. The development aligns favourably with Policy 9 of NPF4 by seeking to redevelop brownfield land in a sustainable manner. The eastern part of the site represents greenfield land. Policy 9 of NPF4 seeks to generally avoid the development of greenfield land unless the site is either allocated or is explicitly supported by policies within the LDP. The eastern part of the application site falls out with the allocation within the LDP (site ref: MNEWT001). However, it is still considered that the development of this greenfield land is explicitly supported by policies within the LDP, in particular PMD4, for the reasons set out in the previous Committee Report:

- The proposals will provide job generating uses.
- The development avoids housing development outwith the settlement boundary with retail, business, general industrial, storage and residential institution land uses proposed within these zones
- Provides significant community benefits which include the applicant cross-funding the auction mart upgrading and freeing up land and buildings for the structured and appropriate growth of the village

This proposal remains a substantial development covering a large area of ground in relation to the existing village but will revitalise pivotal locations, such as the auction mart and village centre. The proposal seeks to provide a Masterplan layout which would guide the detailed development of the site in general terms for different mixes of uses within different zones. The uses proposed across each of the six zones are compatible in land use planning terms against all relevant Policies of NPF4, in particular:

- Policy 14 Design, quality, and place
- Policy 15 Local living and 20-minute neighbourhoods
- Policy 16 Quality homes
- Policy 18 Infrastructure first
- Policy 26 Business and industry
- Policy 27 City, town, local and commercial centres
- Policy 28 Retail
- Policy 30 Tourism

The proposal is judged to redevelop and expand Newtown St Boswells in a sustainable manner which follows the Place Principle by seeking to create connected and compact neighbourhoods with a development which understands and utilises its sense of place, provides clear economic and social benefits and seeks to sympathetically integrate with the surrounding environment. Overall, it is considered that the principle of this proposal aligns with the overarching spatial planning principles and policy provisions of NPF4 while still complying all relevant policies of the LDP 2016, subject to agreeing all required mitigation identified within the previous Committee Report by condition and legal agreement.

## **Other Matters**

The previous Committee Report thoroughly considered the implications of the proposal against a range of key material considerations including:

- Access
- Landscape and visual
- Ecology
- Cultural Heritage
- Residential Amenity
- Noise
- Lighting
- Air Quality and Odour
- Waste Management
- Water, Drainage and Flood Risk
- Contamination
- District Heating
- Developer Contributions/Legal Agreement

The reduction to the site area does not materially alter the impacts of the development against each of these considerations and has not resulted in any new impacts. No new objections were raised following the re-consultation and notification of the change to the site boundary.

The matters above have been assessed against all relevant policy provisions within NPF4 and there are no areas of conflict. It is noted however that an additional planning condition is required to ensure the Flood Risk Assessment (FRA) is updated in accordance with current climate change requirements. An updated FRA will inform the development of the site as a whole and should be addressed at the outset of any detailed development of the land. This matter can be covered by condition.

Modification to ecological mitigation is necessary and Condition 16 (Habitat management) has been revised to make provision for biodiversity enhancement requirements in accordance with Policy 3 of NPF4. Also, the reduction to the site boundary removes part of the site from the Newtown St Boswells Wood Special Area of Conservation and Site of Special Scientific Interest. Condition 20 has been revised to ensure it provides appropriate mitigation for parts of the site which are within and adjacent to the designated sites.

Since the application was considered by Members in 2021, the physical context of the site has not been altered. The mitigation previously sought by planning conditions and legal agreement requirements covering all matters noted above (and detailed within the previous Committee Report) will continue to mitigate potential impacts against all relevant provisions of the LDP and Policy considerations within NPF4.

## **CONCLUSION**

In conclusion, the proposed modification of the application site boundary ensures that the proposal continues to represent an important and pivotal development that will make a positive contribution to growth of Newtown St Boswells. It will allow for the retention and restoration of the auction mart facility and listed building whilst creating opportunities for the creation of an improved village centre. The supporting uses will assist in cross-subsidising the development and will create new and improved access from the A68, complying with the development plan and aspirations set out in the Newtown St Boswells

development framework. The economic benefits of the development have been assessed and demonstrated to justify expansion of the settlement outwith the development boundary. This is consistent with previous decisions made by the Council. Other impacts can be successfully addressed and mitigated through preparation of a detailed masterplan, conditions and a legal agreement. Overall, the proposed development remains compliant with Policies of the Local Development Plan, associated Planning Brief, Development Framework and Addendum Urban Design Study as well as relevant Policy provisions within National Planning Framework 4.

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

I recommend the application is approved subject to the following conditions, Informatives and legal agreement.

Timescale

1. Approval of the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site shall be obtained from the Local Planning Authority.  
Reason: to achieve a satisfactory form of development and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
  - (a) the expiration of five years from the date of this permission, or
  - (b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.  
Reason: to achieve a satisfactory form of development and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.  
Reason: to achieve a satisfactory form of development and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

General

4. A detailed master plan for the site, including a phasing programme, detailed design, built form and layout guidance, to be submitted to and approved in writing by the Planning Authority with the first application for approval of matters specified in conditions. The development then to be designed and implemented in accordance with the approved master plan.  
Reason: To ensure a well-planned and phased development and minimise adverse impacts on the scenic qualities of the National Scenic Area.

5. Any retailing elements within Zone B not to be stand-alone units and remain ancillary to the main Class 4-6 Uses, occupying no more than 10% of the overall gross floor area of each Use.  
Reason: To ensure that the scale and nature of retailing elements remain ancillary to the main uses in compliance with LDP Policies PMD4 and ED3.

### Landscape

6. Further details and specification of all landscape proposals to be submitted for the approval of the Planning Authority, in consultation with Scottish Natural Heritage, as part of the required Masterplan, including areas of open space, tree and hedgerow retention along the A68, B6395 and within and adjoining the wooded deans, measures to reduce landscape and visual impacts and provide visual containment to the development along the boundaries of the site, maintenance and management. Existing trees should be protected in accordance with BS 5837.  
Reason: To protect the tree and hedge resource along the A68 and character of the NSA and to retain the amenity, screening effect and green corridor connectivity of the trees in this location until the detail of the future railway is known.
7. Prior to commencement of the development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland.  
Reason: To ensure that there will be no distraction to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.
8. No development to occur within a buffer zone of at least 15 metres from the boundary of the woodland SAC/SSSI within the application site boundary and no development to commence until the planting of the buffer zone and boundary details with the development are submitted and agreed in writing by the Planning Authority, in consultation with Scottish Natural Heritage.  
Reason: To protect the existing woodland SAC/SSSI from damage during and after the development process and offset the impacts on the NSA and designed landscapes.
9. No development to occur within the "Community Rural Recreation Area" shown on the approved drawing NSB.AR(PL)012, the landscape and boundary treatments of this area to be submitted for the approval of the Planning Authority, in consultation with Scottish Natural Heritage, with the submission of the Masterplan and overall landscape proposals.  
Reason: To protect the existing woodland resource from damage during and after the development process and offset the impacts on the NSA and designed landscapes.
10. No development to be commenced until a scheme of children's' play space is submitted to, and approved in writing by, the Planning Authority. Once approved, the scheme to be implemented in accordance with an agreed timescale consistent with the provisions of the legal agreement.  
Reason: To ensure the development makes adequate provision for children's' play space.

### Ecology

11. No development, other than works to existing footpaths approved separately under this consent, to be carried out within the boundaries of the River Tweed and Borders Woods SACs.

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

12. Prior to the commencement of development, the developer shall provide to the Planning Authority:
  - a) a copy of the relevant European Protected Species licence, or, Bat Low Impact Licence as appropriate
  - b) a copy of a statement in writing from Scottish Natural Heritage (licensing authority) stating that such a licence is not necessary for the specified development

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

13. Prior to commencement of development, a Species Protection Plan for bats, otter, badger, other mammals, breeding birds, reptiles and amphibia 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, including demonstration through the design of the development that mammals will still be able to move freely between the fingers of the woodland SAC/SSSI. 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.

14. Prior to commencement of development a Construction Environmental Management Plan incorporating the latest good practice guidelines and statutory advice (including as outlined in GPP1, GPP2, GPP4, GPP5 and PPG6 and BS5837:2012 and consistent with any CAR licence requirements), to protect the River Tweed SAC, Borders Woods SAC, local waterbodies and biodiversity, shall be submitted to and approved in writing in writing by the Planning Authority in consultation with Scottish Natural Heritage. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme

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

15. Prior to commencement of development a Construction Method Statement to manage, store and protect soils shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme

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

16. Prior to commencement of development, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted for approval in writing by the Planning Authority. The BEMP shall include the provision and long-term maintenance of a minimum 15m buffer no-development planted area around the designated woodland habitat, the creation and long-term maintenance of species rich grassland habitat and the creation of other habitats to enhance biodiversity as appropriate for the site context and scale of the development. No development shall be undertaken except in accordance with the approved in writing BEMP.

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

17. Prior to the commencement of development an Ecological Clerk of Works (ECoW) shall be appointed to carry out pre-construction ecological surveys in order to



monitor compliance with the Construction Environmental Management Plan, Species Protection Plans and Landscape and Habitat Management Plan and Invasive Non-Native Species Management Plan.

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

18. Prior to commencement of development a sensitive lighting scheme incorporating the latest good practice guidelines (as outlined: Guidance Note 8/18 (2018): Bats and artificial lighting in the UK and consistent with the lighting submissions made to satisfy the Trunk Roads and Environmental Health conditions), to protect bats shall be submitted to and approved in writing by the Planning Authority. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme

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

19. Prior to commencement of development, an Invasive Non-Native Species Management Plan, shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage, including measures to prevent non-native species becoming established in the SAC/SSSI woodland and buffer zone. Meadow seed mix should not include sainfoin *Onobrychis viciifolia*, or musk mallow *Malva moschzta*. No development shall be undertaken except in accordance with the approved in writing INNMP.

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

20. Prior to commencement of development, a Woodland Management Plan for the SAC/SSSI woodland within and adjacent to the site boundary, shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. The Plan shall address planting of native tree and shrub species of local origin and the long-term maintenance of the woodland. No development shall be undertaken except in accordance with the approved in writing WMP.

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

### Cultural Heritage

21. Detailed proposals for the retention, restoration, phasing, use and maintenance of the Category B Listed Auction Ring building, including preservation of its setting, must be submitted to and approved in writing by the Local Planning Authority with the first application for approval of matters specified in conditions. No development should commence until the proposals have been agreed. The development should then proceed in accordance with the agreed proposals, including timescale and phasing, and maintained in perpetuity

Reason: To ensure the preservation and after-use of a building of special historic character.

22. The design, uses and layout of Zone "E" and the area marked for "future development", in proximity to the Category C Listed former Railway Hotel, should provide for the conservation and enhancement of the setting of the building and its features.

Reason: To safeguard the setting of a building of special historic character.

23. 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.

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.

### Trunk Road

24. Prior to the occupation of any part of the development hereby permitted, and following consultation with Transport Scotland as Trunk Roads Authority, the new roundabout junction with the A68(T), generally as illustrated on Goodson Associates Drawing No. 700 Rev. B, shall be completed and fully operational.

Reason: To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished.

25. No development, including the construction of the western arm from the proposed new access roundabout on the A68(T), shall be commenced on the east side of the A68 trunk road, until such times as a scheme for the provision of appropriate pedestrian / cycle crossing facilities across the A68(T) has been submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland.

Reason: To ensure that the movement of pedestrians and cyclists is confined to the permitted means of access, without interfering with the safety and free flow of traffic on the trunk road.

26. The agreed pedestrian / cycle crossing facilities referred to in condition 25 will require to be constructed and fully operational, in consultation with Transport Scotland, prior to the commencement of any development on the east side of the A68 trunk road.

Reason: To ensure that the movement of pedestrians and cyclists is confined to the permitted means of access, without interfering with the safety and free flow of traffic on the trunk road.

27. Unless otherwise agreed in writing by the Planning Authority, after consultation with Transport Scotland, the number of residential units hereby permitted within the development shall not exceed 150.

Reason: To ensure that the scale of development does not exceed that assessed by the supporting Transport Assessment, and to ensure that the scale and operation of the proposed development does not adversely affect the safe and efficient operation of the trunk road network.

28. Prior to the commencement of the development details of the lighting within the site (consistent with the lighting submissions made to satisfy the Ecology and Environmental Health conditions) shall be submitted for the approval of the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority.

Reason: To ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

29. Prior to commencement of the development, details of the barrier proposals along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland.  
Reason: To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents

### Roads

30. All access roads, and form of development, must take account of the potential future expansion of the Borders Rail Line, including levels for the western arm of the proposed roundabout, surrounding development and accesses to the Council and public car parks and industrial units.  
Reason: To safeguard the extension of the Border Railway Line as per Policy IS3 of the Council's Local Development Plan.
31. All parking levels must be in accordance with SEStrans Parking Standards.  
Reason: To ensure the development hereby approved is served by an adequate level of parking.
32. Detailed engineering drawings must be provided at detailed planning stage relating to matters such as, but not limited to, road layouts, building floor levels, parking ratios, road and parking levels.  
Reason: To ensure all development hereby approved is designed to acceptable gradients that allow for future development potential.
33. Swept path analysis for all prospectively public roads shall be required as part of any detailed application.  
Reason: To ensure that all prospective public roads can accommodate all associated traffic including service, emergency and public transport vehicles where applicable.
34. A Transport Assessment must be submitted to, and agreed in writing by the Planning Authority, at detailed stage covering all aspects of transport associated with such a development and cover pedestrian, cycle and vehicular transport (including public transport). All measures identified via the agreed TA must be included within the detailed stage submission unless otherwise agreed in writing with the Planning Authority, following discussions with Transport Scotland if required, and completed to an agreed timescale thereafter.  
Reason: To ensure the adjacent public road network can accommodate the traffic associated with the development hereby approved.
35. A Traffic Management Plan (TMP) covering each individual phase of the development hereby approved must be submitted to and agreed in writing by the Planning Authority prior to works commencing on each relevant phase of the development.  
Reason: To ensure that all appropriate measures are in place to ensure the safety of residents and other road users during the construction phases of the development.
36. The development within Zone E to accommodate a new road link for access from the site to the Waste Water Treatment Works, as per planning consent ref. 19/01626/FUL.  
Reason: To facilitate improved access for vehicles to the Waste Water Treatment Works.

### Pedestrian Access

37. A Path Planning Study should be commissioned within the title deed extent of the landowner affected. A detailed plan of public access (pedestrian, cycle, horse, all ability routes), across and out with the site, (existing, during construction and upon completion) should be provided by the developer for the consideration of the Planning Authority, in liaison with Scottish Natural Heritage. This should show:
1. All existing rights of way, core paths or other paths/ tracks used for public access;
  2. Any diversions of paths - temporary or permanent - proposed for the purposes of the development;
  3. Details of improvements which the developer will implement in terms of:
    - a. Upgrading the existing path network within the site boundary e.g. widening and surfacing the path as shown blue on map 2, replacing existing old timber steps as shown green on map 2, with raised steps and walkway;
    - b. Provision of high-quality public access routes linking the site with the wider access network of paths and tracks;
    - c. Provision of high-quality public access routes within the proposed development site, for example the creation of an easy access path/ footway around the development boundary constructed to an adoptable standard, as shown in red on the map 2;
    - d. Provision of additional path furniture required in terms of signage and interpretation.
    - e. Mitigation relating to the potential impacts of the footpath improvements on the character and integrity of the Borders Woods and River Tweed Special Areas of Conservation.

Reason: To ensure full pedestrian connectivity between the development and the existing path networks and to preserve the natural heritage of the designated sites containing the paths.

### Environmental Health

38. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing 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 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.

- 39. Information on impacts on local air quality, including cumulative impacts with other development, should be submitted with the first application for approval of matters specified as conditions and no development to commence until the information has been assessed and any recommendations arising from assessment have been agreed. The development should then proceed in accordance with any recommendations agreed.

Reason: To ensure that impacts on local air quality are fully assessed and mitigated.

- 40. No development shall take place within any of the development zones west of the A68 until an Odour Impact Assessment on the potential for odour from the auction mart affecting new residential, commercial or public uses proposed in those zones, has been submitted to and been approved in writing by the Planning Authority. The Assessment shall be submitted with the first application for matters specified as conditions for any of the aforementioned zones and any mitigation then implemented in accordance with the approved Assessment and timescales.

Reason: In order to protect residential amenity and ensure compatibility between proposed and existing uses.

- 41. No development shall take place until an assessment on the potential for noise from the development affecting residential or commercial properties in the area has been submitted to and been approved in writing by the Planning Authority. The assessment shall include, but not be limited to, noise sources identified in the submitted Noise Impact Assessment (neo Environmental, 3/1/19).

If the assessment indicates that noise from the development is likely to affect neighbouring residential or commercial properties, then a detailed scheme of noise mitigation measures shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development. The approved scheme shall be implemented prior to the operation of any uses and be permanently maintained thereafter.

Reason: In order to protect residential or other amenity.

- 42. A report detailing the lighting scheme and predicted light levels at residential properties (and consistent with the lighting submissions made to satisfy the Trunk Roads and Ecology conditions) must be submitted to and be approved in writing by

the Planning Authority with the first application for approval of matters specified as conditions. No development should commence until the report has been assessed and any recommendations arising from assessment have been agreed. The development should then proceed in accordance with any recommendations agreed, including timescale and phasing, and maintained in perpetuity

Reason: To ensure that impacts of light pollution on residential amenity are fully assessed and mitigated.

### Water and Drainage

43. A scheme of water and drainage provision must be submitted to and be approved in writing by the Local Planning Authority, in consultation with SEPA, with the first application for approval of matters specified as conditions. No development should commence until the scheme has been agreed. The development should then proceed in accordance with the agreed scheme including timescale and phasing. The scheme shall include the following:

1. Detailed SUDs proposals in relation to site topography, taking into account the proximity of the River Tweed SAC/SSSI.
2. Maintenance of the drainage systems including SUDs.
3. No drainage connections to the trunk roads network.
4. Overland flow pathways identified within the appendix of the submitted Flood Risk Assessment are maintained and no built development should be proposed or carried out within these areas.
5. All building finished floor levels are set a minimum of 600mm above existing ground levels.

Reason: To ensure that the site is fully serviced and connected to public services, to ensure the long-term functionality and maintenance of the system, to minimise flood risk, to safeguard the River Tweed SAC/SSSI and to ensure that the efficiency of the existing trunk road drainage network is not affected.

### Other matters

44. An Energy Statement shall be submitted with the first application for approval of matters specified as conditions and no development to commence until the Statement and any recommendations have been agreed. The Statement should demonstrate feasibility studies into District Heating and its findings incorporated into the design of the development, illustrated in the required Design and Access Statement.

Reason: To ensure sustainable development and use of energy resources.

45. A Site Waste Management Plan shall be submitted with the first application for approval of matters specified as conditions and no development to commence until the Plan and any recommendations have been agreed. The Plan should incorporate provision for both construction and operation of the development and its findings incorporated into the design of the development, illustrated in the required Design and Access Statement.

Reason: To ensure sustainable waste management provision.

### Flooding

46. Prior to the submission of the first AMC application, an updated Flood Risk Assessment (FRA) should be submitted to and approved by the Planning Authority in consultation with SEPA. The updated FRA should determine the flood risk areas associated with the blockage scenarios when applied to the 200-year plus climate change flows. This should be accompanied by an updated site plan clearly showing

the site layout avoids all flood risk areas including those associated with the 200 year plus climate change plus culvert blockage overland flow pathways. Thereafter, all AMC applications should account for the conclusions of the updated FRA.

Reason: To ensure that the baseline flood risk scenario is 200 year plus climate change and that all development is outwith the flood risk area, as required by NPF4.

## **Informatives**

1. In terms of Class 1 Retail development, there is preference for this to be concentrated within Zone E or the “Future Development Area” within the village centre rather than within Zone D towards the A68. Any applications for retail submitted within Zone D will be assessed sequentially, including an assessment of what opportunities there are for more central location for the proposed development.

2. Advice from SBC Access Officer

Mapping of the wider path network across the Scottish Borders can be found at:  
[www.scotborders.gov.uk/mapadvanced](http://www.scotborders.gov.uk/mapadvanced)

3. Advice from SBC Archaeology Officer

The ALGAO guidance for historic building recording can be found at:  
[www.algao.org.uk/sites/default/files/documents/ALGAO\\_Scotland\\_Buildings\\_Guidance\\_2013.pdf](http://www.algao.org.uk/sites/default/files/documents/ALGAO_Scotland_Buildings_Guidance_2013.pdf)

4. Advice from SBC Heritage Officer

The Masterplan required in Condition 4 should be prepared in full compliance with the “Placemaking” SPG and “Designing Streets” Guidance.

The retention of other historic structures and spaces associated with historic mart use could positively inform new design interventions and reinforce connection to the past and strong placemaking.

Similarly, the potential impact of development upon the setting and longer views of heritage assets and historic viewpoints out with the site should be demonstrably conserved and enhanced.

5. Advice from SBC Flood Risk Officer

The applicant should be made aware that flooding can occur from other sources including run-off from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts.

6. Advice from SBC Environmental Health

In relation to air quality, new applications should be supported by such information as is necessary to allow a full consideration of the proposal on local air quality. It may also be necessary to consider cumulative impacts from other developments in the local area. Consideration should be given to the Institute of Air Quality Management ‘Land-Use Planning & Development Control: Planning for Air Quality’.

In relation to lighting, consideration shall be given to the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Lighting (2020).

In relation to odour assessment, this should be guided by Institute of Air Quality Management "Guidance on the assessment of odour for planning".

In relation to noise assessment, this shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS 8233:2014 Guidance on sound insulation and noise reduction for buildings, and BS 4142:2014 Methods for rating and assessing industrial and commercial sound.

#### 7. Advice from Transport Scotland

The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Roads Directorate. Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal.

Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.

Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.

The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges.

Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

#### 8. Advice from Roads Planning

All prospectively public roads shall be subject to a Road Construction Consent application. This must include details of, but not restricted to, road levels, geometry, lighting and drainage (including SUDS).

Technical Approval shall be required for any retaining structures which are to be adopted by the Council.

Design details of all retaining structures which are adjacent to prospectively public roads but are to remain private must be submitted to the Council for approval.

#### 9. Advice from SEPA

Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).

Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or



screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.

A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which:

- a. is more than 4 hectares,
- b. is in excess of 5km, or
- c. includes an area of more than 1 hectare or length of more than 500m on ground with a slope in excess of 25°

See SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) for details.

Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.

Below these thresholds you will need to comply with CAR General Binding Rule 10 which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment. The detail of how this is achieved may be required through a planning condition.

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office.

**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

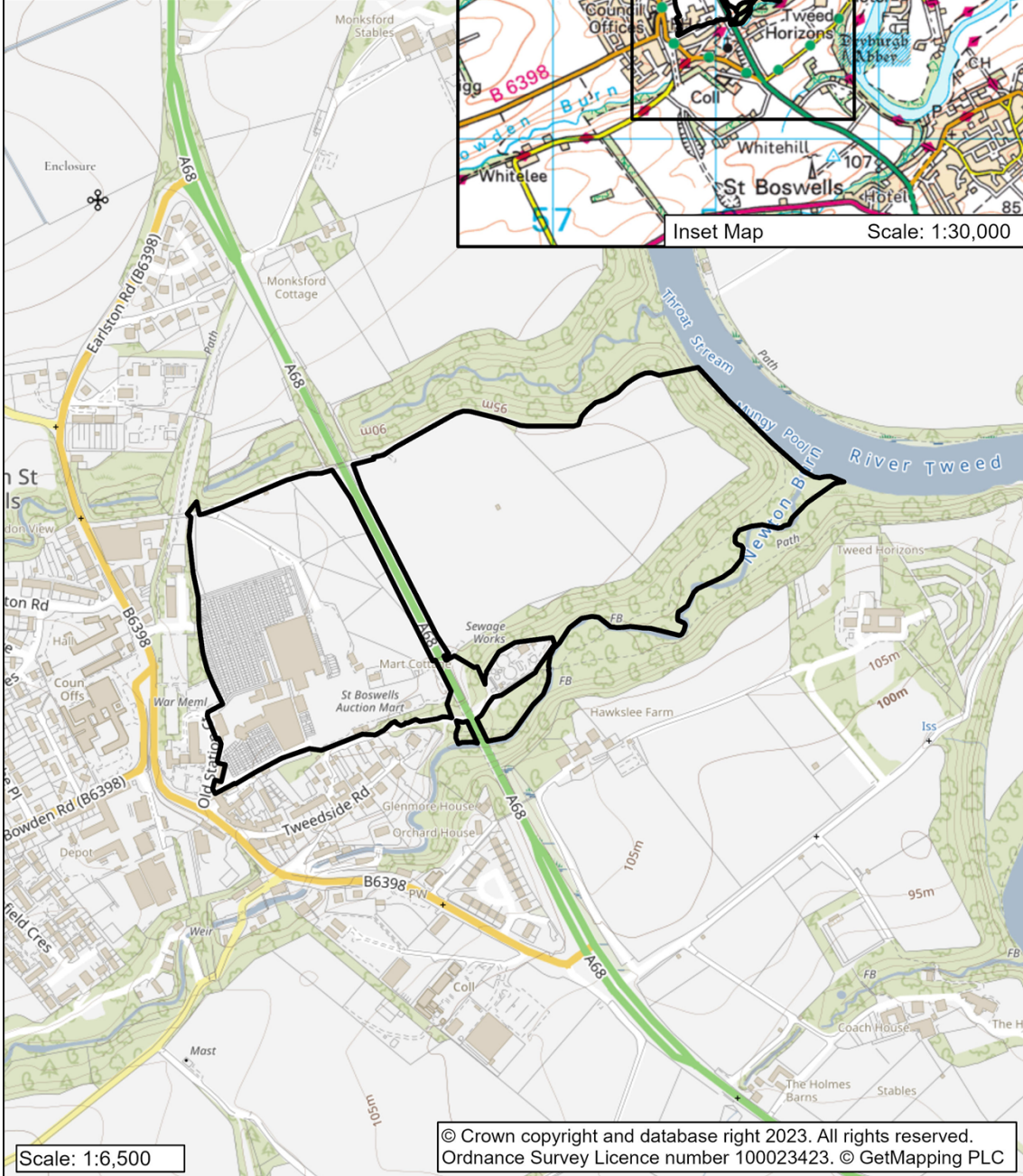
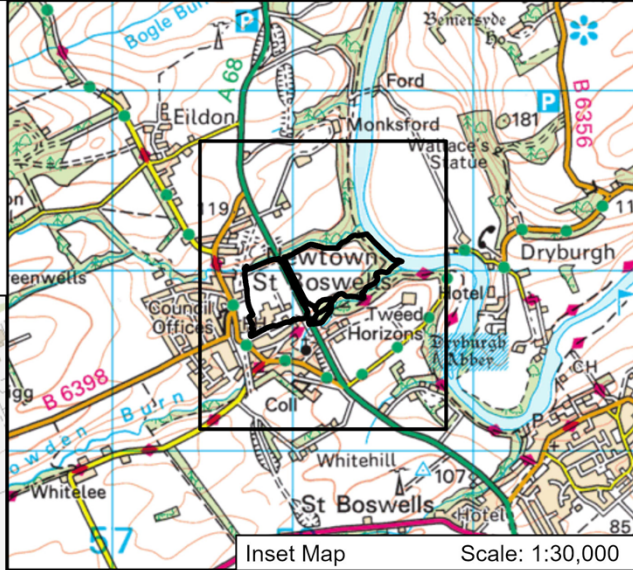
**Author(s)**

Name	Designation
Scott Shearer	Principal Planning Officer (Local Review and Major Developments)



19/00210/PPP

Auction Mart and land NE of Auction Mart  
Newtown St Boswells, Scottish Borders.



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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**29 MARCH 2021**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 19/00210/PPP
<b>OFFICER:</b>	Mr C Miller
<b>WARD:</b>	Selkirkshire
<b>PROPOSAL:</b>	Re-development of auction mart facilities including mixed use development comprising Class 1 retail, Class 2 professional, Class 3 (including sui generis) food and drink, Class 4-6 business/light industry, Class 7 hotel, Class 8 residential institutions (college/training centre), Class 9 dwellinghouses (including sui generis - flats) Class 10 non-residential institutions, Class 11 Assembly and leisure, access (including roundabout on A68), car parking, demolition of buildings and associated works.
<b>SITE:</b>	Auction Mart and Land North East Of Auction Mart, Newtown St Boswells, Scottish Borders
<b>APPLICANT:</b>	H & H Group
<b>AGENT:</b>	Ferguson Planning

**PLANNING PROCESSING AGREEMENT**

A Planning Processing Agreement exists for extension to decision up until 29 March Committee.

**SITE DESCRIPTION**

The overall site comprises of approximately 30.3HA of land and is located within the centre and eastern edges of Newtown St Boswells. The site is divided by the A68. The western part comprises of the existing auction mart, livestock pens, grazing land, associated buildings (including the "B" listed octagon) and offices. This part also includes land out with the ownership of the applicant and in the control of the Council, consisting of the Co-op food store, doctor's surgery, sheltered housing, industrial units and areas of public and Council car parking along the former railway line. The main access is taken from Old Station Court. The western part, at its northern end, also includes part of the steep wooded slopes of the Sprouston Burn which is part of the Borders Woods SAC and Newtown St Boswells SSSI. The southern end borders onto existing housing along Tweedside Road and the existing village centre, including the "C" listed former Railway Hotel.

The site east of the A68 comprises of lower level grazing land used by the auction mart and is bordered to the north and south by the steep wooded deans carrying the Sprouston and Bowden Burns and comprising part of the Borders Woods SAC and Newtown St Boswells SSSI. The site boundary extends into the woodland more significantly to the south where it includes the Bowden Burn. The site boundary to the east is the wooded edge of the River Tweed SAC/SSSI. The eastern part of the site also includes the NSB Waste Water Treatment Works and the A68. The eastern part

of the site lies within the Eildon and Leaderfoot National Scenic Area. The Tweed Lowlands Special Landscape Area lies out with the site to the edge of St Boswells.

## **PROPOSED DEVELOPMENT**

The application is submitted for planning permission in principle. The applicant explains that it is a long held intention to upgrade the auction mart in Newtown St Boswells, involving improvements for customers such as canteen, parking and covered facilities as well as staff and office accommodation. Land within the control of the applicant but not needed for the upgraded mart is intended to be released for mixed development, thereby cross-funding and ensuring the viability and retention of the auction mart. Although the 2006/7 proposals were for relocation of the auction mart across the A68, this was considered to be prohibitively expensive with current lower level land values. The current application, therefore, retains the mart in its existing location and seeks permission for mixed development on under-utilised mart land.

The main elements of the PPP application are:

- The Auction Mart will have 2,000sqm of additional covered pens as well as new Auction rings, canteen, car parking, servicing and office accommodation.
- The creation of a new central spine road via a new roundabout on the A68, which will remove the need for, articulated/farm vehicles and other Mart traffic to travel via the internal village road.
- The reorganisation of the Mart will remove old pens and mart buildings and release space to create an enhanced village centre with high quality public realm, retail, employment and community facilities. 3,500sqm (Gross) of town centre retail accommodation based around the new Town Square and Market Square with a further 3,750 sq. m. (Gross) of retail floor space planned across the wider Masterplan area and as part of the rural business hub.
- This will enable a mix of residential uses including 150 housing units of mixed and affordable tenure and a proposed Hotel facing onto the A68.
- Unlocking land to the east side of the A68 will enable the wider development but also a rural retail / business hub together with an educational campus. The roundabout would allow access to rural retail, business and industrial of up to 8,800 sq. m and Educational Facilities of around 4,000sqm.
- The development is claimed to bring significant investment, employment and opportunities to NSB providing a catalyst for growth.

The application has been supported by a series of Masterplan and Landscape Masterplan submissions, which divide the site into four development areas:

- North-East (Zone B) – rural business uses
- South-East (Zone C) – agricultural education and associated land
- North-West (Zone A) – mainly residential with hotel, retail and agriculture
- South-West (Zones D/E) – upgraded auction mart with mixed residential, retail, agriculture and transport

Indicative floor spaces are shown as:

Zone A – 125 residential units (incl 30 flats) and 1520 m2 hotel Classes 7 and 9

Zone B – Class 1 (ancillary) and 4-6 uses 8800 m2

Zone C – 4000 m2 education campus Class 8

Zone D – 3750 m2 retail plus employment/business uses and auction mart, Classes 1, 2, 4 and 5

Zone E – 25 residential units and 3500m<sup>2</sup> retail (neighbourhood type and service uses)  
Classes 1-4 and 9-11

The Masterplans show the roundabout and new east/west spine roads dividing up the aforementioned areas. Building forms and blocks are also shown but these remain indicative as the application is for planning permission in principle. A Phasing Masterplan indicates that the auction mart will be in Phase 1 but that its completion could span all four phases. Phase 2 would be Zones E and A, Phase 3 would be Zone B and A68 section of Zone D and Phase 4 would be Zone C. A “Future Development Area” is also shown for all land out with the ownership of the applicant but still within the application site. This is partially linked in with Zone E for the village centre/market square.

The history, context and proposed concept are fully explained in the submitted Design and Access Statement. Albeit the application is submitted as a PPP, the Statement seeks to provide more detail on the rationale behind the development and the intended uses and forms for each stage of the development. This includes sketches of how the railway could interface with the development.

During processing of the application, further landscaping information was submitted and added to the Masterplan, including a more detailed specification for the area east of the A68. This included;

- 10m buffer offset from Borders Woods SAC
- Large area of undeveloped meadow at eastern edge next to River Tweed
- Additional woodland buffer planting around site next to 10m buffer offset
- Retention of woodland within deans that are part of the site
- Retention of hedgerows along A68
- New tree planting throughout, especially within the area east of the A68. Area west will be designed at later date.
- Delineation of outdoor educational learning spaces

The application is classed as a ‘Major’ development under the Hierarchy of Developments (Scotland) Regulations 2009. The applicants publicised and held a public event in March 2018 as well as consultation with Newtown & Eildon Community Council and the Ward Councillors.

The outcome of the public consultation exercise has been reported in a Pre-Application Consultation Report submitted with the application. The requirements of the Development Management Procedure (Scotland) Regulations 2013 have now been satisfied.

In addition to the PAC Report, submitted plans and drawings, there are also statements, assessments and reports in support of the application. Their findings are taken into account in the relevant sections of the report below. The supporting submissions were initially as follows:

- Planning Statement
- Design and Access Statement
- Landscape and Visual Impact Assessment
- Cultural Heritage Impact Assessment
- Noise Impact Assessment
- Ecological Impact Assessment
- Drainage Strategy

- Transport Assessment
- Preliminary Environmental Assessment
- Flood Risk Assessment
- H & H Background Document

During the processing of the application, further information was submitted as follows:

- Cover letter from agent 2 June 2020
- Preliminary Roost Assessment
- Bat Activity Surveys
- Further roost surveys
- Badger and Otter Survey
- Habitat Regulation Appraisal
- Road Safety Audit
- LVIA Response
- LVIA Response to SBC/SNH Comments
- H & H Viability Statement
- Additional Ecology Response
- Design Development
- H & H Business Interest letter (Confidential but included as separate Members' paper)

## **PLANNING HISTORY**

The most valid planning history is of minded to grant outline planning permissions on the site, split by the A68, that have never had consents issued due to legal agreements not being concluded. The applications were supported by Officers and the Committee in December 2007. The agent explains that the financial crash in 2008/9 had a major effect on land values and progressing the agreements and development. The applications involved moving the auction mart east of the A68 with associated development attached, freeing up the existing site for residential and mixed-use development. The applications were as follows:

06/02506/OUT – Land east of the auction mart and A68 - Erection of mixed use rural centre comprising livestock auction mart, tourist visitor centre, business space, retailing and restaurant facilities with associated infrastructure and highway improvements. The retailing space was intended to amount to 3600 square metres with office accommodation for environmental organisations and a manager's dwellinghouse. A new roundabout was proposed on the A68.

07/00547/OUT – Auction Mart - Mixed use development including residential and medical healthcare facility. This proposed up to 220 dwellinghouses, a village centre and a replacement healthcare facility.

The Legal Agreements were intended to secure controls and development contributions covering landscape management, footpath provision/improvement, retail, education, Waverley line, open space, restoration of the auction mart ring building, affordable housing, land for a new health centre and enhancement of the village centre and setting of the Station Hotel. The requirements were challenged by the applicant at the time who sought reductions in contributions to restore the viability of the projects and presented supporting information. A Report was taken to Committee in January 2011 but Members sought more information and the issues remained unresolved with no final decision being taken over any reduced levels of development contribution.

Of relevance to the site and proposals is a more recent planning permission 19/01626/FUL approved for a new link road for Scottish Water, from the auction mart site onto Tweedside Road, thereby allowing more direct access to the waste water treatment works.

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Roads Planning:** The development now results in different loading on the proposed roundabout and efforts will be sought to achieve traffic slowing, achieved by the proposed four arm roundabout. This will create more pedestrians crossing the A68, however, and this should be designed in liaison with Transport Scotland. This should provide an opportunity to rationalise or close other A68 junctions and will reduce the amount of heavier vehicles using the village roads. The development should have connective and strong street layouts in each zone with adequate and well-positioned parking, incorporating “Designing Streets” guidance. Whilst the Waverley Line extension is recognised, raises a number of questions over its relationship with the proposals including the car parking for Council HQ.

Upon receipt of additional information and in light of Transport Scotland agreement, requires a Transport Assessment to ensure village roads can accommodate construction traffic before roundabout and western arm is formed. Would still prefer this as early as possible but connectivity sought in meantime. Requests levels for western arm of road, adjoining development and access to HQ car park and industrial units to ensure railway passes over it. Series of other queries that can be addressed at the next planning stage, including conditions covering parking, road adoption, stopping up orders, public transport routes, access route to the waste water treatment works etc.

**Forward Planning:** The development should be assessed against the Planning Brief for the site (2007) and the NSB Development Framework (2012). Given the intention to retain the auction mart on the west side of the A68, the application should also have regard to the “Addendum Urban Design Study”. As part of the development is out with the development boundary in the LDP, must be considered against PMD4 although business use has previously been approved on this land. Required further detail on justification for the business units and education campus east of the A68 and evidence of market interest for the retail units and hotel.

Upon consideration of further information, requests further verification of business and education campus interest, albeit generally supportive of the development as positive for the village.

**Landscape Architect:** Considers the additional LVIA information and seeks further information in relation to cumulative impacts from certain viewpoints, visual representations of Areas A and B and from the A68 at VP1. Although a PPP, recommends reworking of Masterplan to improve open space, green corridors, railway interface, 15m woodland buffer, protection of A68 trees, tree surveys etc.

After further re-consultation, requests conditions to retain trees within and adjoining the deans, increase the buffer space to 15m, plant the buffer space, submit a fully detailed landscaping plan with indications of tree and hedge retention and planting along the A68 and B6395.

**Ecology Officer:** Further information required in relation to bats prior to determination, including surveys, roost assessments and activity surveys. Habitat Regulations Appraisal also required informed by the SNH response. Potential impacts on designated sites of Borders Woods SAC, Newtown St Boswells SSSI and River Tweed SAC/SSSI. Mitigation required in form of CEMP and sensitive lighting scheme.

Upon submission of an Ecological Impact Assessment, further bat surveys of the Nissan huts and measures to protect the SAC/SSSIs, recommends the following as conditions:

- Evidence of any bat licence.
- Species Protection Plans for bats, otter, badger, other mammals, breeding birds, reptiles and amphibian.
- Submission of a Construction Environmental Management Plan (CEMP)
- Submission of a Construction Method Statement
- Submission of a Landscape and Habitat Management Plan
- Appointment of an Ecological Clerk of Works
- Sensitive Lighting Scheme
- Submission of an Invasive Non-Native Species Management Plan
- Submission of a Woodland Management Plan

Also concludes Appropriate Assessment on both the Borders Woods and River Tweed SAC/SSSI, summarising that there is unlikely to be any significant adverse effects subject to the aforementioned conditions.

**Environmental Health:** No objections at this planning stage but further information needed at next stage including noise, light and air pollution impacts and water/drainage information. In terms of contaminated land, a condition should be imposed requiring a site investigation and risk assessment to be carried out before commencement.

Notes Noise Impact Assessment and that impacts can be mitigated to acceptable levels. However, accept the findings that once more specific uses are known at the next planning stage, a more detailed Assessment can be submitted, by condition. Same for lighting impact, odour associated with the auction mart, impacting on new development and air quality.

**Archaeology Officer:** No objections. History of the area and findings suggest archaeological potential within the site and the auction mart building and Nissan huts are of local heritage significance. Site needs assessment and investigation controlled by condition. The auction mart and other buildings require historic building recording. One condition incorporating a Written Scheme of Investigation can cover all matters.

**Access Officer:** Rights of Way and Core Paths within the site boundary. Development provides opportunity to create access link around site linking to the Borders Abbeys Way and St Cuthbert's Way. Woodland paths should also have condition improved.

**Heritage & Design:** The listed auction ring building and its setting should be preserved and associated structures and spaces could be utilised as part of placemaking. Zone E and the "future development" area should preserve setting of listed Railway Hotel and there should be consideration of views from heritage assets and historic viewpoints out with the site. Perimeter trees should be retained and all new development should embody principles from the "Placemaking" SPG.



**Economic Development:** Supportive of the additional business development but the railway and developer contributions have changed since the original Development Framework and SPG, resulting in challenges to this and other developments in the village.

**Education and Lifelong Learning:** Response awaited.

**Flood Risk Officer:** Part of site is within 1 in 200-year flood risk of Sprouston and Bowden Burns but Flood Risk Assessment and drawings show that the development area will not be at risk. Note the Drainage and SUDs Strategy submitted with application but requires further SUDs details at next planning stage.

Upon receipt of further information, requires full surface water run-off details, complying with stated flood risk events and Greenfield run-off rates, controlled by condition.

**Social Work:** Response awaited.

**Neighbourhood Services:** Response awaited.

**Housing Strategy:** The need for affordable housing in Newtown has reduced due to other developments. SBHA likely delivery agent on site although socially rented market may be met and might be need to look for other affordable housing tenures. Understands SBHA and developer now agreed to collaborate to deliver affordable housing.

**Waste Services:** Should be a main loop for waste collection and any cul-de-sacs should have collection points to avoid the need for reversing.

### **Statutory Consultees**

**Transport Scotland:** Initially commented on deficiencies in the Transport Assessment and requested more details including traffic generation by floor space, incorporation of Scoping comments, impacts caused by other developments, query over closure of the northernmost A68 junction, pedestrian crossing proposals, detailed proposals for the new roundabout and queries over the traffic figures at all the junctions.

Upon receipt of further information including roundabout and pedestrian crossing design, raised no objection subject to a number of conditions including no development to be commenced on the east side of the A68 nor the western arm of the roundabout until pedestrian and cycle crossing provision has been approved. Also housing numbers limited to 150 units and all lighting, landscaping and barrier treatments along the A68 to be agreed in consultation with Transport Scotland.

**Scottish Natural Heritage:** Initially objected due to the requirement for additional information in terms of impacts on the Eildon and Leaderfoot National Scenic Area, the Borders Woods SAC and the River Tweed SSSI/SAC. It was not clear that such impacts could be mitigated. The land east of the A68 is not within the LDP and there has been no pre-application discussion. Given the lack of information on the development, there could be significant adverse impacts, combined with loss of trees and vegetation along the A68 boundary. Similarly, significant effects identified on the Borders Woods SAC and River Tweed SSSI/SAC due to the development boundary including such designated areas, disturbance by access and development boundary infringement, loss of ecological connectivity and cumulative impacts with other LDP development allocations. HRA requires to be carried out by SBC. Also requires surveys

on protected species and integrated nature conservation, landscape and recreation management.

Upon submission of additional information, which consisted of responses back to SNH based upon the LVIA, maintained objection on the basis the information was still insufficient to resolve their concerns over impact on the NSA. Similarly, although the applicant has carried out an HRA and suggests a CEMP, maintains objection over household impacts on the Borders Woods SAC with the 10m buffer and also improvements to the paths through the SAC.

Also requests further bat survey work of the Nissan huts and a more robust assessment of roosts, given the dates of the surveys previously undertaken.

Following further information being submitted on ecology, landscape and visual matters, maintains a conditional objection unless permission is granted subject to conditions and a legal agreement. If these are not imposed, then notification to the Scottish Ministers would be necessary. They should address the following points:

- No development other than works to existing footpaths within the woodland SAC/SSSI
- No development within a minimum 15m buffer zone from the boundary of the woodland SAC/SSSI
- Woodland Management Plan for the woodland SAC/SSSI and buffer zone, including measures to prevent non-native species
- Proposals submitted for footpath works within the application site and SAC/SSSI
- Construction Management Plan to prevent contamination of the SAC/SSSIs
- Method Statement for movement, storage and protection of soil
- SUDs details required in relation to topography and River Tweed
- Masterplan needed to ensure development is well designed and phased to minimise impacts on NSA

SNH also recommend safeguarding the green area to the east of the site as unimproved grassland to ensure mammals can move between the fingers of woodland SAC/SSSI. They also support a Biodiversity Management Plan and a CEMP for the site and note that the Council have carried out an Appropriate Assessment.

**Scottish Water:** Response awaited.

**SEPA:** No objections but advise that SBC assesses flood risk, albeit they note development is 20m above the water. Blockages will still allow water to pass safely downstream but recommends overland flow pathways are maintained free of development and finished floor levels are 600mm above ground levels. An Energy Statement backed by a Feasibility Study should be attached as a condition. It should demonstrate to the Authority that a District Heating system is proposed, to comply with climate change legislation. This should include an associated Design and Access Statement. Also requires SUDs drainage system and contact between the developer and Scottish Water for public waste water connection. Seeks enhancement to River Basin management through avoidance of non-native vegetation and advises on pollution prevention, sustainable waste management, contaminated land and air quality.

Upon receipt of further information, whilst intention to utilise renewable energy is recognised, still recommends District Heating and an Energy Statement.

**Newtown & Eildon Community Council:** Fully supports the scheme as it fulfils large part of SBC Development Framework for village. Requests consideration of village centre, public square with food store, health centre, children's' soft play etc., housing development in compliance with "Placemaking" SPG, extra-care housing, auction mart building for community use, pedestrian linkages, job creation for local people, new roundabout, community greenspace, adequate car parking, access to waste treatment plant through Mart site and improvement/linkages to St Cuthbert's Way.

Explains in detail the history of the need for a new health centre in the village and the support from the Council, including provision in the "Development Framework". Choice of location for health centre has been narrowed down to NSB, Melrose or in between but also understand GPs have sold the building. NHS decision awaited but provision should be made in the application.

Upon re-consultation with further information, reiterates same use suggestions but also non-agricultural and local user business space, with the use of renewable technologies for public space areas. The auction mart building should have the roof repaired and made safe, ready for community use. The village centre requires to be progressed in more detail as a first phase, especially what agreements have been reached with the Council as landowners of part of the area. Continues to request space provided for a health centre, which does not seem to feature in current plans. Planning permission for new access road to water treatment plant not shown. Existing footpaths within the woodland are in need of repair.

**St Boswells Community Council:** Response awaited.

#### **Non-Statutory Consultees**

**NHS Trust:** Response awaited.

**Scottish Civic Trust:** Only interest is the "B" Listed Auction Mart building. No information on the future use or setting of the building but would welcome consultation on any listed building consent application.

**River Tweed Commission:** No comments at present.

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

#### **REPRESENTATION SUMMARY**

Two general comments have been received and these can be viewed in full on the Public Access website. The points raised are:

- Will there be provision for relocated businesses.
- The development may result in loss of local businesses.
- Access provision for disabilities required.
- Ecological provision required.
- Street lighting needed at northern end of village.

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

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

Policy PMD1 Sustainability

Policy PMD2 Quality Standards  
 Policy PMD3 Land Use Allocations  
 Policy PMD4 Development out with Development Boundaries  
 Policy PMD5 Infill Development  
 Policy ED1 Protection of Business and Industrial Land  
 Policy ED2 Employment Uses out with Business and Industrial Land  
 Policy ED3 Town Centres and Shopping Development  
 Policy ED5 Regeneration  
 Policy ED7 Business, Tourism and Leisure Development in the Countryside  
 Policy HD1 Affordable and Special Needs Housing  
 Policy HD3 Protection of Residential Amenity  
 Policy HD5 Care and Retirement Homes  
 Policy EP1 International Nature Conservation Sites and Protected Species  
 Policy EP2 National Nature Conservation Sites and Protected Species  
 Policy EP3 Local Biodiversity  
 Policy EP4 National Scenic Areas  
 Policy EP5 Special Landscape Areas  
 Policy EP6 Countryside around Towns  
 Policy EP7 Listed Buildings  
 Policy EP8 Archaeology  
 Policy EP13 Trees, Woodlands and Hedgerows  
 Policy EP15 Development Affecting the Water Environment  
 Policy IS1 Public Infrastructure and Local Service Provision  
 Policy IS2 Developer Contributions  
 Policy IS3 Developer Contributions Related to the Borders Railway  
 Policy IS4 Transport Development and Infrastructure  
 Policy IS5 Protection of Access Routes  
 Policy IS6 Road Adoption Standards  
 Policy IS7 Parking Provisions and Standards  
 Policy IS8 Flooding  
 Policy IS9 Waste Water Treatment Standards and Sustainable Urban Drainage  
 Policy IS13 Contaminated Land

## **OTHER PLANNING CONSIDERATIONS**

SESplan Strategic Development Plan 2013  
 SSG: Housing Land  
 SBC SG: Housing 2017  
 Scottish Planning Policy  
 National Planning Framework 3  
 PAN33 - Development of Contaminated Land  
 PAN 52 - Small Towns  
 PAN 59 - Improving Town Centres  
 PAN 66 - Trunk Roads  
 PAN 67 - Housing Quality  
 PAN 68 - Design Statements  
 PAN 83 - Master Planning

Newtown St Boswells Development Framework 2012  
 SPG - Auction Mart Site 2007  
 SPG - Affordable Housing  
 SPG - Biodiversity  
 SPG - Countryside around Towns  
 SPG - Green Space  
 SPG - Trees and Development

SPG - Privacy and Sunlight  
SPG - Placemaking and Design  
SPG - Development Contributions  
SPG - Landscape and Development  
SPG - Local Landscape Designations  
SPG - Sustainable Urban Drainage Systems  
SPG - Waste Management  
SPG - Addendum Urban Design Study

## **KEY PLANNING ISSUES**

The main determining issues with this application are compliance with Local Development Plan Policies, Supplementary Planning Guidance and Planning Briefs on development of the village, development out with settlement boundaries, access, impacts on designated and local landscapes, cultural heritage, ecology, provision of services including water and drainage, development contributions and other material factors.

## **ASSESSMENT OF APPLICATION**

### Planning Policy

Local Development Plan:

The site, on the west side of the A68, is zoned for Mixed Uses MNEWT001 with an indicative maximum housing capacity of 220 units. The allocation refers to the approved Planning Brief for the site for further details. The site also includes industrial allocation zEL36 Waverley Place which is a safeguarded District Industrial and Employment site under Policy ED1.

Planning Brief:

The Brief was prepared in March 2007 following submission and processing of the outline planning application for the relocation of the auction mart with an associated mixed use rural centre across the A68. It was based upon the relocation of the auction mart and set main objectives including the creation of an inclusive village centre and an appraisal of existing and future facilities. It identified the opportunity for retail and business units on the site of the current auction mart and listed a series of general aspirations and development requirements for the site. It also identified the need for a village centre fund, contributed to by other developments as well as the Council themselves.

Development Framework:

The Brief was incorporated into an overall Development Framework in 2012 for Newtown St Boswells, which covered other major development sites around the village, setting out the Council's approach to the long term development and regeneration of the village. This included the entire current application site as well as Western and Southern Expansion Areas, Milestone, Tweed Horizons and other sites with older planning permissions. The Framework identified how important the redevelopment of the auction mart site was to the vision for the area, particularly the creation of an enhanced village centre.

#### Addendum Urban Design Study:

Although not subject to any form of public consultation, the Council commissioned an Addendum Urban Design Study which was prepared by Bain Swan Architects in 2016. This reflected the change in ownership of the auction mart site and provided alternative urban design options based upon the mart being retained and improved in situ. Whilst the Study did not concern itself with the land across the A68, it did set out in sketch form how a mixed-use development with village centre could still be successfully achieved, whilst alongside the retained auction mart and with the railway restored. Although not part of any LDP or approved SPG, the Urban Design Study is considered to be less outdated in relation to the current proposals.

#### Developments part of the Development Framework:

There have been relatively recent consents on the western and southern edges of the village relating to affordable housing at Sergeant's Park and the Milestone development. In terms of development contributions, the affordable housing contributed towards playspace in the village and the Milestone development contributed to education, play space and the Waverley Line. As with the original decisions on the auction mart sites, other developer contributions were sought for the 2010 application for 900 houses within the Southern Expansion Area, including landscaping and contributions to village centre enhancement. Although Draft S75 Agreements were prepared, they have not been concluded and the consent has not yet been issued

#### Site History:

Application 06/02506/OUT set a precedent for support of development east of the A68 out with the current defined settlement boundary of Newtown St Boswells, albeit this was based around a relocated auction mart together with support accommodation, retail and other business development. The Department supported that application as it was an important step in the regeneration and redevelopment of the village centre, freeing up more central development land. The Committee also supported the application along with its associated outline application on the site of the current auction mart. The final consents did not get issued due to lack of conclusion of legal agreements and, consequently, the settlement boundary in the LDP was not adjusted. Nevertheless, the "minded to grant" status of both applications is a significant material factor in assessing the new applications and in considering the part of the proposed new development east of the A68 which remains out with the defined LDP settlement boundary.

#### Purpose of current application:

In many ways, the current application could be seen as an updating of the position with regard to the previous outline planning applications which were minded to grant, but with the auction mart being refurbished and improved in situ and any supporting development, intended to help subsidise the refurbishment, extending north and across the A68 in place of the previous relocation plans. Various submissions from the agent and applicant explain the purpose behind the current application, the applicant stating that the mart has largely remained untouched since it opened in 1871 and also recognising as the only remaining auction mart in the Borders, it is a life-line for local farmers. The applicant believes they can now achieve improvements on the existing site including better canteen, parking, viewing, office and customer facilities.

They explain that in 2007, the movement of the auction mart east of the A68 would have been funded by residential and mixed use development on the existing site but the financial crash in 2008/9 resulted in plummeting land values which made the relocation no longer viable. Revised viability assessments made it clear that an improved facility on the current site could be achieved provided "The development of all under-utilised elements of H & H land is required to subsidise the redevelopment and reorganise the Mart". This includes parts of the site on both sides of the A68.

Taking into account the Local Development Plan background, the SPGs and Urban Addendum Design Study and the aspirations for expansion of Newtown St Boswells, it is clear that the auction mart site is a vital and necessary early part of the overall expansion. It would not be successful urban planning to allow full housing development on the edges of the village with no redevelopment of the site containing most of the potential village centre at an early stage. Whilst approval of this development cannot guarantee early development compared to other expansion, there is acceptance that the proposals are important both for the retention of the existing auction mart facility in the village (and the Borders) and to facilitate refurbishment and improvement of the heart of the village. There have been no objections to the overall proposals from consultees, including Economic Development and Newtown St Boswells Community Council, the latter wanting to see progress and the creation of a successful village centre with appropriate facilities.

#### Development West of the A68:

In terms of the development west of the A68, Zones A, D and E are contained within the village settlement boundary and are a mixture of uses that generally comply with Infill Policy PMD 5. General zonings are still intended with the more commercial "town centre" uses concentrated in Zone E, intended to allow formation of a village centre and square/street townscape as identified in the Brief and Urban Design Study. Central to this would be the restored Auction Ring Listed Building and land/buildings would be available for uses such as retail, Classes 2-4 offices and service businesses, housing, care housing and community uses such as Class 11 Assembly and Leisure.

Although the site also contains land, buildings and car parks west of Zone E that are not shown in the drawings for any intervention, the layout does allow either for an appropriate village centre to be formed whilst alongside the current uses and buildings, or crucially, for a redevelopment of that area to accommodate the railway and potential relocation and improvement of uses. This could include the existing foodstore and Health Centre which the developer is allowing for either within Zones D or E. Although the NHS Trust were consulted on the application, they have not responded. Nevertheless, retention of the Health Centre is an aspiration of the current Brief and Design Study and it is accepted that the application makes provision by appropriate use (Class 2) being zoned within Zones D and E. The applicant has stated that they can make a site available and this is considered a sufficient safeguard. There is no justification to seek financial developer contributions given the lack of response from the NHS Trust and lack of information about their precise intentions and requirements.

Zone D does stretch to the A68 and this does include Class 1, 2, 4 and 5 Uses, also accommodating the refurbished auction mart. Whilst there may be some concern at the expansion of retail facilities out with the immediate village centre environs of Zone E, it must be accepted that retail expansion was allowed across the A68 under the 2006 application for the relocated auction mart. Under this current proposal, the only retail east of the A68 will now be ancillary elements of any particular Class 4-6 use, controlled by planning condition. Whilst the zoning would potentially allow for the relocation of the existing food store out with the "Future Development" Area, jumping

Zone E altogether and into Zone D, it is hoped that the requirement for retention and strengthening of the landscape edge along the A68 will naturally deter such relocation in favour of a more central location within Zone E or a section of Zone D away from the A68.

In terms of Policy ED3, Newtown St Boswells is not included in the hierarchy of town centres and there is no locational requirement for siting retail centrally, albeit Criteria a)-h) do show a preference for consideration of central sites first. However, criterion h) also states that retail sites should be located within existing settlements and there is a preference for vacant sites or sites deemed to be surplus to requirements – the application site complies with both of these requirements in Zones D and E. Subject to more detailed analysis and assessment of any future planning applications for retail at that stage, it is not considered in conflict with Policy to allow for mixed uses, including retail, within Zone D. However, there is also the risk that without controls over the scale of the retail units and the goods sold, there is a chance that a new food retailer may site next to the A68 and be in conflict with existing shops in the village. To control this matter and shape future development, it is recommended to include controls within the Legal Agreement much as was intended under the previous application for retailing associated with the relocated auction mart. An Applicant Informative would also be recommended explaining the preference for retail to be concentrated within Zone E or the “Future Development Area”.

Zone A is separated from other Zones by the main feeder road in from the roundabout to the west. This area will accommodate most of the residential development and a hotel, designed to assist in subsidising the auction mart development. The location of the uses seems appropriate and in line with the Brief and Urban Design Study as well as with Policy PMD5 on Infill Development. Although the LDP states a housing capacity of 220 houses overall, Transport Scotland have insisted on a maximum number of 150 as commensurate with the vehicular and pedestrian access arrangements, unless otherwise agreed. The agent is aware of this restriction and an appropriate planning condition will be attached. In terms of a hotel, there is no specific LDP Policy covering such a use and it is, therefore, acceptable within a settlement as an infill development in principle and subject to scale, design and siting being considered at the appropriate detailed planning stage. Such considerations will then take into account impacts on the local economy and any conflicts with other hotel operations in the area.

In summary and subject to the above mentioned conditions, legal agreements and further consideration upon submission of future planning applications, the principle of the proposed uses and developments west of the A68 are in compliance and will allow both the retention and rehabilitation of the existing auction mart, and also the formation of a central village focus whilst enabling some cross-subsidising development.

#### Development East of the A68:

The previous development proposed a relocated auction mart with associated retailing east of the A68 and this was considered acceptable in order to keep the auction mart in the village and release land for village centre enhancement and development. As with that application, this part of the development remains outside the defined settlement boundary of Newtown St Boswells, reflecting the fact that whilst development has been accepted by the Council, no consent has yet been issued due to lack of conclusion of the legal agreement.

Consideration of Policy PMD4 should take into account the aforementioned planning position on development out with the settlement boundary to facilitate village development and help achieve the aims of the growth and regeneration of the village.



PMD4 would normally reject applications outside the defined development boundary unless one or more qualifying criteria can be met. Only then, would secondary criteria then also need to be met. Taking into account the background, the main qualifying criteria are discussed as follows:

A job generating development with economic justification – the types of uses proposed east of the A68 are clearly ones that would provide job opportunities, intending to consist of 8800m<sup>2</sup> of Class 4-6 uses with ancillary Class 1 use and, to a lesser, extent job opportunities from the education campus. Although consultees such as Forward Planning and Economic Development sought further details on what market interests there had been and how the offer would differ from, or conflict with, LDP allocation BNEWT001 at Tweed Horizons, the response from the agent has met with no objection from these consultees. The response was supported by a viability statement from the applicant in which they point to similar developments that are associated with marts at Carlisle and Stirling and list the benefits of the development, particularly to agri-business units close to the A68. They consider their development, overall, will create hundreds of jobs and investment will run into millions of pounds, based upon the benefits identified in Table 6 of the Planning Statement. On the basis of all of the submissions and in consideration of the acceptance of the previous application out with the settlement boundary, it is considered that economic justification has been advanced to allow an exception to the settlement boundary in this particular case.

An affordable housing development – no housing is proposed east of the A68 so this criterion is not relevant.

A housing shortfall identified by the Council in the Housing Land Audit in provision of an effective five-year land supply – no housing is proposed east of the A68 so this criterion is not relevant.

Significant community benefits outweighing the need to protect the development boundary – for the aforementioned reasons relating to precedent and job creation, it is considered that the overall development would provide significant community benefits that would outweigh the need to protect the settlement boundary in this instance. Further justification is provided by the village centre benefits which will result from the applicant cross-funding the auction mart upgrading and freeing up land and buildings for the structured and appropriate growth of the village. The various landscape and environmental safeguards requested by SNH and the Landscape Architect for the land out with the settlement boundary also reinforce the case for the development creating sufficiently significant community benefits to allow an exception.

As two of the four qualifying criteria are considered to be met under this Policy to consider it as an exceptional approval out with the settlement boundary, the secondary criteria would then need to be applied and met. Assessing these and taking into account both the history of approval and improvements sought with the current application in relation to landscape framework, it is considered that the site is a logical extension, in scale with the expanding village and not likely to cause significant adverse impacts on the character of the settlement or the receiving landscape. Policy PMD4 is, therefore, considered to be complied with.

Apart from Use Classes 4-6 within Zone B, there is also mention of Class 1 Retail. However, the agent has clarified acceptance that any retail elements will not be stand alone units and will be no more than 10% ancillary parts of any Class 4-6 Uses. This can be controlled by planning condition but, as retail scale and goods sold will also be

controlled via legal agreement for the land West of the A68, it is justified to also secure the 10% ancillary element on the uses East of the A68 by the same agreement.

### Masterplan and Phasing

This is a substantial development covering a large area of ground in relation to the village and pivotal locations, such as the auction mart and village centre. Whilst a full Design and Access Statement was submitted with several different drawings known as Masterplans, the application remains in general terms for different mixes of uses and only for Planning Permission in Principle. The previous application was also made in outline and, in the Report to Committee on that application, it was explained that a more detailed Masterplan would need to be submitted with any future applications on the site. This was to avoid incremental development without adherence to an agreed strategic plan, layout and design.

The responses from Scottish Natural Heritage and the Landscape Architect also explain how important it is for a more detailed Masterplan to be provided to deliver the landscape framework and open spaces, as indicated in the additional landscaping submissions from the agent. Similarly, the requirement for a Masterplan is, therefore, incorporated into the general and landscaping conditions.

The Masterplan should also include a full and detailed phasing programme. There has been discussion over phasing with the agent and there are many elements which impact on the order of development. These include:

- The aims of the Brief and Urban Design Study to secure a village square and centre at an early stage.
- Local Development Plan Policies supporting development out with the settlement boundary once the development within the boundary has been committed.
- The developer needing to fund the roundabout
- The developer needing to fund the restoration of the auction mart and auction ring building
- The phasing requirements set by Transport Scotland, including the need for the roundabout before development occupation and no western arm or development commencing east of the A68 before full pedestrian crossing proposals are approved.

The latest Phasing Plan submitted by the agent suggests the first phase will be the auction mart (part of Zone D) followed by the village centre (Zone E)/Zone A, then Zone B with the A68 frontage of Zone D, then finally the college site Zone C. However, as pointed out by the Roads Planning Service, this places the roundabout into Phase 3, yet the roundabout must be complete before any use is occupied. This demonstrates that more detailed submissions on phasing, within the Masterplan, need to be submitted for approval. The aim would be to ensure that the development delivers on the main elements such as the village centre, restored auction mart/ring building and roundabout before expanding out with the settlement boundary on land to the East of the A68.

The agent has raised the issue of the standard time periods for submission of further applications and commencement, which would normally allow only three years for submission of all applications and a further two years from approval of the last application for matters specified as conditions. Given the substantial scale of the development, the mix of uses, the complications of land in other ownership, the future

of the railway and the number of conditions to be met, it is accepted that a five year time period for submission of applications is more justified. The agent has exhibited a similar condition for a large Masterplan development in Edinburgh and similar timescales were also accepted by this Council on the outline planning permission for the 900 house development within the Southern Expansion Area at Newtown St Boswells. Appropriate conditions are attached later in this report.

### Access

Policies PMD2 and IS6 require safe access to and within developments, capable of being developed to the Council's adoptable standards and in accordance with the guidance in "Designing Streets". PMD4 also requires consideration of the service and infrastructure capacity of the settlement, in assessing whether to grant exceptional approvals or not. PMD2, in particular, has an "Accessibility" section of five criteria to be met, including integration into existing street layouts and no adverse impacts on road safety, both at the site entrance and on approaches to it. Policy IS4 relates to specific Transport Development and Infrastructure developments, including the Borders Railway extension from Tweedbank to Carlisle, seeking the safeguarding of the corridor. Policy IS5 relates to the protection of existing access routes available to the public. Whilst not part of the current application, the land is reserved for it within the site boundary and consideration must be given to the impacts of the potential return of the railway, in relation to road and traffic impacts.

The development site straddles the current A68 Trunk Road and, although submitted as a PPP at this stage, the intention is to service both main parts of the development via a new roundabout from the A68. This would be positioned centrally in relation to the two existing accesses to Newtown St Boswells and would provide a main eastern spur road serving Zones B/C and a main western link road joining up with both Langlands Place and with an extended road from the village centre, serving Zones A, D and E.

There have been detailed and prolonged discussions with Transport Scotland over the access from the A68, culminating in a detailed drawing of the roundabout being provided. This has been considered generally acceptable by Transport Scotland although they still have several concerns over pedestrian movements across the A68, the amount of residential development to be serviced and the precise phasing of the development. They request a number of conditions to be imposed which have a significant impact on the scale of the development and phasing, as follows:

- The new roundabout must be completed as per the drawing submitted before any part of the development is occupied.
- Pedestrian/cycle crossing details must be agreed before any development on the east of the A68, or the western arm of the roundabout is commenced and, once approved, completed before development commencement.
- A limit of 150 residential units unless otherwise agreed with Transport Scotland.

The applicant is aware of these conditions and understands that this is another reason why development east of the A68 will be in later phases. It is expected that the applicant will need to fund the roundabout partly from release of development land in the earlier phases such as Zones A, D and E. Subject to the above conditions, Transport Scotland accepts the application and has made no recommendations with regard to the existing accesses into Newtown St Boswells, one of which is likely to be formed into another roundabout to service the approved development adjoining

Milestone Garden Centre. The other matters raised by Transport Scotland relate to lighting, drainage and barrier treatments and can be addressed by further conditions.

The Roads Planning Service are particularly concerned to ensure that connectivity with the village is uppermost in any detailed design for the site, especially as they envisage more traffic, road and pedestrian, between the village and east of the A68. They accept that the new roundabout will slow traffic down but they are still concerned that pedestrian connections should follow desire lines and be effective routes. Their concerns can be addressed when considering the pedestrian crossing scheme sought in the condition relating to the roundabout. They also seek a new Transport Assessment at the next planning stage, to address their concerns over impacts of the construction and operation of the development on existing village roads.

Other concerns expressed by Roads Planning, including parking levels, public transport routes and interaction of the development and roads with a restored railway, can be reserved for agreement at the next planning stages, by the imposition of appropriate conditions. These will also include incorporation of the new access route (granted separate planning permission) to the Waste Water Treatment Works, streets and frontages based on Designing Streets, full details of pedestrian linkages etc. Roads Planning also refer to the requested wording by Transport Scotland in relation to no development being “permitted” on the east side of the A68 until a scheme of pedestrian crossing has been agreed. This has been discussed with Transport Scotland and they have confirmed that they meant “commenced” – thereby allowing this application to be determined without the submission of a detailed scheme.

In terms of Policy IS4, the development takes account of the railway return by including land within the site for “Future Development” and not proposing specific development along the transport corridor. There has been no objection from the Roads Planning Service to this reservation of land for future provision and it is also accepted, in line with the Addendum Urban Design Study, that the village centre development and square can be formed around the Auction Ring, irrespective of whether the railway returns or not. Whilst there will be more detailed design issues to address at later stages, such as displacement of parking, industrial units and road/land levels around the railway line, the general zonings and uses shown in the current application comply with Policy IS4 and safeguard the line for future railway reinstatement. An additional condition is also suggested by Roads Planning to ensure adjoining development accommodates for the railway’s return.

In terms of Policy IS5, the Access Officer has requested that paths be improved within and around the boundary of the site, in order to link up the development and the paths with the Borders Abbeys Way and St Cuthbert’s Way. The applicant is concerned that such improvements, especially out with the site, need to be justified and proportionate to the development, especially given the increased pedestrian traffic resulting from other developments that have been approved. Nevertheless, the previous developments on the application site were approved on the basis of developer contributions towards path improvements and there is no question that this is a significant development that will pressure the pedestrian linkages out with the site boundaries. The Access Officer has asked for a condition securing a Path Planning Study. This is considered to be justified and proportionate, allowing the applicant to demonstrate what improvements are planned and, if necessary, have further dialogue with the Council over the nature and necessity of the improvements.

The path improvements also concern SNH as they have a responsibility for preserving the integrity and characteristics of the Borders Woods and River Tweed SACs that carry the existing paths. Nevertheless, they have removed their objections provided

there is no development within the SAC boundaries and the full details of any path improvements are agreed with them. The condition suggested by the Access Officer will be adjusted to include liaison with SNH.

Subject to the aforementioned conditions and informatives, it is considered that the development is in compliance with Policies IS4, IS5, IS6, PMD2 and PMD4

### Landscape and visual impact

The scale and location of the development, being partially across the A68 out with the visual envelope of the existing settlement of Newtown St Boswells, has led to a number of initial objections and concerns being expressed by Scottish Natural Heritage and the Council's Landscape Architect. The eastern part of the site is contained within the Eildon and Leaderfoot National Scenic Area and is covered by LDP Policy EP4 which would only allow development which did not compromise the very reasons for the landscape designation. Other landscape protection policies are also relevant, especially several criteria within Policy PMD2 Quality Standards, Policy PMD4 Development out with Development Boundaries, EP10 Gardens and Designed Landscapes and EP13 Trees, Woodlands and Hedgerows. Several SPGs also need to be considered including Placemaking and Design, Landscape and Development and Trees and Development.

Whilst the northern and southern boundaries of the site are well defined and partially screened by the wooded deep ravines carrying the Sprouston and Bowden Burns, the site spreads onto more open land east of the A68 where the hedgerows and tree cover bordering the A68 and around the eastern edges of the site are less effective at screening. As noted elsewhere in this report, the three wooded boundaries to the North, South and East consist of mature broadleaved tree cover and are designated SACs and SSSIs. The eastern part of the site, in particular, is visible from the A68, from houses to the north and west of the site and especially from locations to the east, such as the Wallace Statue 1km away.

The applicant has made several landscape submissions to accompany the application, including an LVIA with 4km Study Area ZTV. The Council's Landscape Architect makes detailed comment on these submissions and expressed initial concerns over landscape impacts, highlighting Viewpoints 6 (looking east), Viewpoint 8 (Wallace Statue) and Viewpoint 10 (Eildon Hill) as of some concern. The landscape architect was also concerned at the impacts of the loss of tree and hedgerow cover as a result of the new roundabout on the A68.

SNH formally objected to the initial submission in terms of impacts on the Eildon and Leaderfoot National Scenic Area, there being insufficient demonstration that the impacts of the development could be successfully mitigated. Given the lack of information on the landscape impacts of the development, they felt there could be significant adverse impacts, combined with loss of trees and vegetation along the A68 boundary.

After further discussion, the applicant made new submissions to attempt to address the objections, primarily based around improving the development east of the A68 and reducing both its urban footprint and green network connection with the surrounding landscape. SNH reassessed the submissions whilst accepting that with any PPP application, the nature and scale of development will lack exact detail. In terms of impacts on the National Scenic Area, they viewed the additional masterplan landscape framework information as helpful, but still maintain an objection unless several conditions/obligations are agreed.

The most important relates to the need for submission of a Masterplan at the next planning stage, indicating aspects of the development that could have an impact on the NSA such as building height, massing, external appearance etc. together with levels, greenspace and a robust landscape framework. SNH refer to previous conditions agreed on the site as a reference point. Looking at the original Committee decision to approve the development east of the A68, the first condition sought the submission of a Masterplan for approval "in conjunction with Scottish Natural Heritage". There was also a full landscape submission requested for submission for the approval of the Council and Scottish Natural Heritage and the requested planted buffers also to be specified in agreement with them. SNH also feel that the buffer should be increased from 10-15m around the development, both for ecological and landscape reasons.

Whilst it is considered justified to include SNH again in relevant conditions, the wording is no longer considered to be appropriate as planning conditions should not be subject to approval from a third party. What is suggested is that the Council retain the ultimate control to approve such details but only after consultation with Scottish Natural Heritage. Masterplan, landscaping plan and wooded buffer conditions are proposed and worded accordingly. By the time this report is presented to Committee, SNH will have seen and hopefully accepted such conditions.

Whilst SNH refer to both conditions and agreements, the landscape-related Section 75 clause in the previously approved development was never agreed by the developer and the S75 reached no conclusion. The clause looked for the "*long term maintenance and management of existing and proposed landscaping, hedgerows and woodlands*". This links with the requirements for various conditions related to the protection of the SACs and SSSIs, including woodland management and buffer space planting/management. Whilst it is difficult to quantify any form of developer contribution for such works, it is accepted that implementation and long term maintenance of the landscape framework is pivotal to acceptance of the landscape impacts of this development, especially on the NSA. It is, therefore, recommended that, whilst conditions should still be imposed, the planting, maintenance and management are included in the Legal Agreement as a more effective way of securing the requirements across a significant development which may take many years to develop. Both the conditions and the legal agreement should also include provision for open space and play space within the development.

The Council Landscape Architect has considered the revised landscape information and the enhanced LVIA, and continues to have concerns over landscape impacts of this development, combined with others in the Development Framework. However, provided various conditions and a masterplan are imposed on the consent, consistent with those requested by SNH, the landscape architect would not object to the application. Specific recommendations are conditions covering:

- Protection of existing trees in the masterplan with 15m wide woodland buffer
- Detailed landscaping plan with exact tree/hedge removals necessary for access
- No removal of trees along the B6395 until railway interface agreed

These requests and those of SNH are incorporated into the Conditions below. Subject to the conditions, which incorporate the requirement for a masterplan, it is considered that the development would be able to comply with landscape related Policies in the Local Development Plan, including PMD2, PMD4, EP4, EP10 and EP13. It is also considered that the securing of a robust landscape framework via a masterplan and

legal agreement would allow compliance with other landscape related Policies such as EP6 Countryside around Towns and EP12 Green Networks.

### Ecology

As previously mentioned, the site is surrounded on three sides by the River Tweed, Sprouston and Bowden Burns, incorporating the Borders Woods SAC, Newtown St Boswells SSSI and Tweed SAC/SSSI. Parts of the site do impinge on these designations. The relevant Local Development Plan Policies are EP1 International Nature Conservation Sites, EP2 National Nature Conservation Sites and Protected Species and EP3 Local Biodiversity. The Policies are precautionary and are designed to afford protection, preserving the integrity of the habitats and ensuring no adverse impacts and appropriate mitigation where necessary and justified.

The application has been supported by an initial Ecological Impact Assessment, an additional Ecology response and additional bat surveys. In terms of designated sites, the additional information provides guidance on good practice to avoid adverse impacts, including commitment to plant a wooded buffer around the edge of the sites. A Construction Environmental Management Plan is also proposed which includes supplementary surveys for protected species.

SNH and the Ecology Officer have considered all of the additional information in relation to designated sites. Neither have any objections provided relevant and appropriate conditions are attached. The Ecology Officer has carried out an Appropriate Assessment, including a Habitat Regulations Appraisal, and has concluded that, subject to conditions and mitigation, the development will not adversely affect the integrity of the Borders Woods or River Tweed SACs. SNH, having previously objected, are now recommending that provided certain conditions are attached, they will no longer object.

The conditions affecting designated sites have been amalgamated between the requests of SNH and the Ecology Officer and are listed in the appropriate section at the end of this Report. By the time this report is considered by the Committee, the conditions will have been verified with SNH. They cover:

- No development other than works to existing footpaths within the woodland SAC/SSSI
- Landscape and Habitat Management Plan including no development within a minimum 15m buffer zone from the boundary of the woodland SAC/SSSI
- Woodland Management Plan for the woodland SAC/SSSI and buffer zone, including measures to prevent non-native species through an Invasive Non-Native Species Management Plan
- Proposals submitted for footpath works within the application site and SAC/SSSI
- Construction Environmental Management Plan to prevent contamination of the SAC/SSSIs
- Construction Method Statement for movement, storage and protection of soil
- SUDs details required in relation to topography and River Tweed

In terms of Protected Species, the Ecology Officer had noted the findings of initial surveys within stone buildings on the site, indicating two non-breeding bat roosts. However, further information was sought regarding justification for bat surveys being carried out later in the year than normal guidance would suggest and, also, further assessment of the Nissan huts on the site in relation to their suitability for bat roosts.

Upon submission of the additional information, both the Ecology Officer and SNH were satisfied over the potential impacts on bats, subject to conditions relating to a bat licence, species protection plan and sensitive lighting scheme.

Other protected species have also been considered, taking into account the Ecological Impact Assessment findings. There have been no objections from the Ecology Officer or SNH, subject to appropriate conditions on species protection plans and further surveys covering otter, badger, other mammals, breeding birds, reptiles and amphibian.

Subject to the above mentioned conditions and verification from SNH that they accept the conditions, the development can be considered to be in compliance with LDP Policies EP1-EP3.

### Cultural Heritage

Local Development Plan Policies EP7 and EP10 seek to preserve and enhance listed buildings, historic designed landscapes and their settings. The applicant submitted a Cultural Heritage Impact Assessment to consider these impacts and what mitigation may be appropriate. In terms of such interests within the site, the Auction Ring building is Category B listed. The eastern part of the site also lies within the locally recognised historic landscape of Monksford. Immediately out with the southern edge of the site is the former Railway Hotel and associated features, which is Category C Listed.

The Heritage Officer has considered the proposals and the Cultural Heritage Impact Assessment against the Planning Brief for the site. It is noted that the applicant identifies the Auction Ring building as having considerable architectural interest and the Impact Assessment suggests that the retention of the building be enhanced by designing an appropriate buffer space setting around the building. The Design and Access Statement uses the Auction Ring as a retained building within a new village square, possibly housing a café/restaurant.

The retention, refurbishment and maintenance of this building is important to all who wish to see a successful development and implementation of the masterplan for Newtown St Boswells. The current proposals are in compliance with the Addendum Urban Design Study which identified the pivotal role of the retained Auction Ring building, should the railway return and the village centre be orientated around the Auction Ring building. The retention of the building was also secured by condition on the original outline planning decision on this site. The Heritage Officer seeks a scheme of retention and restoration of the building, including appropriate treatment and buffer space around the building. This will be secured by appropriate condition.

The Heritage Officer also identifies the importance of the treatment of the southern edge of the development within Zone E and the "Future Development Area", in relation to the potential impacts on the "C" Listed former Railway Hotel. Conservation and enhancement of the setting of this building will need to inform the design of the adjoining development and this can also be secured by an appropriate condition. Additional advice from the Heritage Officer can be included as Informatives on any consent. The impacts on the Monksford historic landscape have already been taken into account in the previous decision to support development east of the A68. However, the landscaping and open space requests from SNH and the Council Landscape Architect, discussed above, will reduce the landscape impacts of the development in this regard. Subject to the aforementioned conditions and appropriate mitigation, it is considered that the development can comply with Policies EP7 and EP10.



Local Development Plan Policy EP8 refers to development that could adversely affect archaeological assets. It states that any development creating an adverse effect on assets or their setting will be balanced against the benefits of the proposal and consideration of any mitigation strategies.

In terms of archaeology, the applicant's Cultural Heritage Impact Assessment carries out assessments of indirect effects on the setting of heritage assets other than listed buildings, such as scheduled monuments and inventory gardens and designed landscapes. It then assesses the potential for direct impacts within the site. In summary it assesses the indirect impacts as moderate to low and the direct impacts as low, mitigated through an appropriate planning condition, including historic building surveys of the demolition of the Nissan huts.

The Council Archaeology Officer agrees with the findings of the Cultural Heritage Impact Assessment, identifying that the site will require evaluation potentially involving trench excavation, together with historic building recording. All the archaeological requirements can be addressed within an appropriate condition seeking a written scheme of investigation.

Subject to the aforementioned conditions and appropriate mitigation, it is considered that the development can comply with Policy EP8.

#### Other issues

##### Residential Amenity

Policy HD3 seeks to preserve residential amenity within existing residential areas and avoid any adverse impacts. In terms of impacts on existing residential properties, there will be little direct impact despite the scale of the development. Houses near to Langlands Mill will be separated from the proposed hotel and other residential development by both the former railway line and existing industrial units. Houses on Tweedside Road will face onto the auction mart as they do at present. Only the former Railway Hotel and property to the rear may be in close proximity to village centre development but this will not represent incompatibility of uses. Precise proximity and impacts on light and privacy can only be judged and protected when the detailed applications are submitted for this part of the development.

In terms of residential amenity within the proposed development, this has been considered and safeguarded by way of grouping of particular uses within different zones, keeping the largest elements of housing together in the north-western part of the site (Zone A) adjoining car parking, the former railway line and included alongside the proposed hotel. Zones B-D grouped around the A68, roundabout and auction mart will be free from residential development and thus, potential conflict. There will be an element of residential within Zone E but this will be amidst a mix of village centre uses that would be typical of a central area and is very much in line with the Brief and Development Framework ideals. More precise impacts on proposed residential amenity can only be properly assessed at the more detailed planning stages.

##### Noise

The main LDP Policy relating to impacts from noise is HD3 which seeks to avoid impacts on residential amenity in predominantly residential areas. However, PMD2 also indirectly addresses such impacts through use compatibility requirements

A Noise Impact Assessment was submitted with the application. The assessment considers the impacts of road noise on the proposed development and also noise from the proposed activities on existing and new receptors. Environmental Health have considered the assessment and accept that, in principle, the proposed development can be designed so the impacts to proposed and existing noise sensitive receptors are controlled to an acceptable level. However, due to the limited detail available at this stage on the potential noise sources, Environmental Health accept the Impact Assessment's findings that a more detailed noise impact assessment should be submitted when this detail becomes available in future applications. This can be secured by an appropriate condition.

### Lighting

Policy HD3 seeks to preserve residential amenity and avoid any adverse impacts. Environmental Health have identified the potential for light pollution from the development, especially as it mixes uses with residential development and there are also significant business/commercial uses proposed. They recommend a condition to seek submission of a lighting scheme with prediction, assessment and mitigation of light levels at sensitive residential receptors. This should be submitted with the first application for approval of matters specified as conditions.

### Air Quality and Odour

Given that the auction mart is no longer being relocated and will have additional development surrounding it, including residential and public uses, Environmental Health are wishing to ensure that full consideration is given to impacts of odour and compatibility of uses, when the detailed planning stages are reached. Whilst impacts and use incompatibility between the auction mart and existing uses are the current position and should not be liable for any re-assessment under the planning legislation, Policy EP16 does require impacts to be taken into account for any new development. Although it is accepted that a redeveloped and refurbished auction mart facility may reduce the amount of odour issues, the retention of the facility in its central location and addition of new odour-sensitive receptors adjoining it determine that it is still justified to seek the Odour Impact Assessment required by Environmental Health in a planning condition as they advise, albeit restricted to any development in the zones including and surrounding the auction mart, solely west of the A68.

Environmental Health have also commented, after the submission of further information, that the development does not appear to have included any consideration of impacts on local air quality and should have provided relevant information, taking into account cumulative impacts from other development and taking into account relevant national guidance. However, the initial response of Environmental Health suggested that such information was not required at the PPP stage but was necessary at the next planning stage. SEPA also raise the issue of air quality in relation to developments generating significant traffic volumes and suggest consideration be given to assessing cumulative impacts in future planning submissions.

To comply with Policy EP16 on Air Quality, the first application for approval of matters specified as conditions should be accompanied by information to enable assessment of impacts from the development on local air quality. An appropriate condition and associated Informative will be able to control this matter.

### Waste Management

The Council's Waste Management SPG and Policy PMD1 seek efficient and sustainable waste management based upon the Council's Waste Strategy of minimisation of waste. SEPA also refer to the need for the development to agree and implement such a strategy across the different parts of the development. The Council's Waste Team have also commented on the need for the design and layout to facilitate efficient waste collection with connectivity and avoidance of cul-de-sacs and reversing manoeuvres. An appropriate condition will be attached to ensure the submission of a site waste management plan for approval with the first application for approval of matters specified as conditions.

#### Water, Drainage and Flood risk

LDP Policies IS8 and IS9 are the most relevant in consideration of the impacts of development of this site on the water environment. A Drainage Strategy Plan was submitted with the application which proposed separate foul connection to the existing sewers and surface water collected via SUDs, attenuated and discharged to the surrounding watercourses

In terms of provision of public water supply and drainage connections, there has been no response from Scottish Water on the application and applications for their consent will need to be made for all of the development proposed. Should there be any capacity issues identified, then Scottish Water will require direct contributions from the developer to facilitate connection to public services. There is no justification for the Council to seek contributions within a legal agreement, simply to pass them on to Scottish Water. The detailed provision of water and foul drainage provision can be controlled by planning condition.

Surface water drainage is encouraged by SEPA, Roads Planning and the Council's Flood Risk Officer via SUDs systems. This is in compliance with Policy IS9 which seeks sustainable surface water management for new developments, to avoid flooding, pollution run-off and extensive interventions such as culverts. The various recommendations from the relevant bodies on surface water drainage will be incorporated into an appropriate condition and informatives.

In terms of flood risk, Policy IS8 seeks development to avoid flood risk areas and not to create unmanageable risk for other development. A Flood Risk Assessment (FRA) was submitted with the application which demonstrated that the development was sufficiently elevated above the sources of flooding (Tweed and Sprouston/Bowden Burns) that there was no risk to development. However, SEPA and the Flood Risk Officer still recommend protection of overland pathways as identified in the FRA and all finished floor levels 600mm above existing ground levels.

In terms of Policies IS8 and IS9, there is no reason to consider that compliance will not be possible at the detailed planning stages, subject to all relevant conditions.

#### Contamination

The Council's Contaminated Land Officer has identified that parts of the site have accommodated the auction mart, fuel storage, railway and refuse tip. To comply with Policy IS13, there is justification to seek site investigation, risk assessment and a remediation strategy. This can be controlled by condition which will ensure that the development cannot commence until the strategy has been approved and a remediation scheme implemented accordingly. This scheme may introduce a phasing based upon the findings of the risk assessment, different from the phasing elsewhere in the development.

## District Heating

SEPA have made a recommendation for the Council to consider requiring an Energy Statement from the developers, given the substantial scale of the development. Whilst it is noted that the agent intends to utilise renewable energy technologies such as solar panels and air source heat pumps, SEPA still recommend that the Council formalises this requirement in the form of submission of an Energy Statement for approval, including a feasibility exploration into District Heating and an associated Design and Access Statement. This would comply with climate change Policy and with LDP Policy PMD1 on Sustainability. Although the agent has stated that he is unaware of this requirement in the Borders as yet, it is considered justified given the large scale nature of the development and the mix of different uses intended. An appropriate condition will be attached to the consent ensuring submission of an Energy Statement with the first application seeking approval of matters specified as conditions.

## Developer Contributions/Legal Agreement

Policy IS2 of the Local Development Plan states that when a site is acceptable in terms of planning policy but cannot proceed due to deficiencies in services, infrastructure or environmental impacts, the Council will be justified in seeking full or partial development contributions towards the cost of addressing such deficiencies. This is supported by two SPGs on “Developer Contributions” and “Affordable Housing”. Policy IS3 also states that the Council will seek contributions towards the reinstatement of the Borders Railway.

In terms of the proposed development, the 150 houses would attract developer contributions in relation to the railway, education (NSB PS and Earlston HS) and affordable housing. The latter would be in the form of on-site provision at a rate of 25% of the overall number of units. Given that the application is submitted in PPP and the precise number of houses is not known (apart from an upper limit imposed for road capacity reasons), it would be normal for the Legal Agreement to work out the contributions based on per unit.

A number of the previous planning decisions, supported by the Planning Briefs and Development Framework, sought developer contributions towards other aspects of development and infrastructure, such as landscaping, footpaths, sewerage capacity and village centre improvements. For a variety of different reasons, including a very different economic climate to that which existed in the early 2000s, these financial obligations have not been seen through into concluded Legal Agreements and many were contested over a number of years. Another issue was that it was not justifiable to seek contributions for developments or works that were not fully designed or costed.

The current economic climate is even more challenging than the climate following the financial crash in 2008, with the whole impact of Covid-19 pressing National and Local Government into actions over economic recovery. For all of these reasons and to recognise the importance of this development at the heart of the village regeneration and expansion, no further financial contributions are viewed as justified given the background. However, the Legal Agreement is also required to regulate and provide additional controls over the following matters:

- implementation and long term maintenance of the landscape framework and woodland management plan
- implementation and long term maintenance of open space and play space

- controls over the floor space and nature of goods sold within Zone D and E Class 1 retail uses
- a 10% ancillary retailing element within Zone B

If Members are minded to approve the planning application, consent can only be issued upon conclusion and registration of an appropriate Legal Agreement to secure the aforementioned contributions and controls.

## **CONCLUSION**

In conclusion, the application complies with the Policies of the Local Development Plan and associated Planning Brief, Development Framework and Addendum Urban Design Study. It represents an important and pivotal stage in the growth of Newtown St Boswells, allowing for the restoration and retention of the auction mart facility and listed auction ring building whilst creating opportunity for formation of an improved village centre and focal point. The supporting uses assist in cross-subsidising the development and creation of an access roundabout from the A68, whilst complying with Local Development Plan Policies and aspirations for the site within the framework of development expansion of Newtown St Boswells. The economic benefits of the development have been demonstrated and justify expansion out with the settlement boundary, following the precedent set by previous decisions of the Council on auction mart land. The landscape, use and other impacts of the development can be successfully addressed and mitigated through preparation of a detailed masterplan, conditions and a legal agreement.

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

I recommend the application is approved subject to the following conditions, Informatives and a legal agreement.

### Timescale

1. Approval of the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site shall be obtained from the Local Planning Authority.  
Reason: to achieve a satisfactory form of development and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
  - (a) the expiration of five years from the date of this permission, or
  - (b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: to achieve a satisfactory form of development and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: to achieve a satisfactory form of development and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

#### General

4. A detailed master plan for the site, including a phasing programme, detailed design, built form and layout guidance, to be submitted to and approved in writing by the Planning Authority with the first application for approval of matters specified in conditions. The development then to be designed and implemented in accordance with the approved master plan.

Reason: To ensure a well-planned and phased development and minimise adverse impacts on the scenic qualities of the National Scenic Area.

5. Any retailing elements within Zone B not to be stand-alone units and remain ancillary to the main Class 4-6 Uses, occupying no more than 10% of the overall gross floor area of each Use.

Reason: To ensure that the scale and nature of retailing elements remain ancillary to the main uses in compliance with LDP Policies PMD4 and ED3.

#### Landscape

6. Further details and specification of all landscape proposals to be submitted for the approval of the Planning Authority, in consultation with Scottish Natural Heritage, as part of the required Masterplan, including areas of open space, tree and hedgerow retention along the A68, B6395 and within and adjoining the wooded deans, measures to reduce landscape and visual impacts and provide visual containment to the development along the boundaries of the site, maintenance and management. Existing trees should be protected in accordance with BS 5837.

Reason: To protect the tree and hedge resource along the A68 and character of the NSA and to retain the amenity, screening effect and green corridor connectivity of the trees in this location until the detail of the future railway is known.

7. Prior to commencement of the development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland.

Reason: To ensure that there will be no distraction to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

8. No development to occur within a buffer zone of at least 15 metres from the boundary of the woodland SAC/SSSI within the application site boundary and no development to commence until the planting of the buffer zone and boundary details with the development are submitted and agreed in writing by the Planning Authority, in consultation with Scottish Natural Heritage.

Reason: To protect the existing woodland SAC/SSSI from damage during and after the development process and offset the impacts on the NSA and designed landscapes.

9. No development to occur within the "Community Rural Recreation Area" shown on the approved drawing NSB.AR(PL)012, the landscape and boundary treatments of this area to be submitted for the approval of the Planning Authority,

in consultation with Scottish Natural Heritage, with the submission of the Masterplan and overall landscape proposals.

Reason: To protect the existing woodland resource from damage during and after the development process and offset the impacts on the NSA and designed landscapes.

10. No development to be commenced until a scheme of children's' playspace is submitted to, and approved in writing by, the Planning Authority. Once approved, the scheme to be implemented in accordance with an agreed timescale consistent with the provisions of the legal agreement.

Reason: To ensure the development makes adequate provision for children's' play space.

### Ecology

11. No development, other than works to existing footpaths approved separately under this consent, to be carried out within the boundaries of the River Tweed and Borders Woods SACs.

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

12. Prior to the commencement of development, the developer shall provide to the Planning Authority:

a) a copy of the relevant European Protected Species licence, or, Bat Low Impact Licence as appropriate

b) a copy of a statement in writing from Scottish Natural Heritage (licensing authority) stating that such a licence is not necessary for the specified development

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

13. Prior to commencement of development, a Species Protection Plan for bats, otter, badger, other mammals, breeding birds, reptiles and amphibia 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, including demonstration through the design of the development that mammals will still be able to move freely between the fingers of the woodland SAC/SSSI. 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.

14. Prior to commencement of development a Construction Environmental Management Plan incorporating the latest good practice guidelines and statutory advice (including as outlined in GPP1, GPP2, GPP4, GPP5 and PPG6 and BS5837:2012 and consistent with any CAR licence requirements), to protect the River Tweed SAC, Borders Woods SAC, local waterbodies and biodiversity, shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme

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

15. Prior to commencement of development a Construction Method Statement to manage, store and protect soils shall be submitted to and approved in writing by

the Planning Authority in consultation with Scottish Natural Heritage. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme

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

16. Prior to commencement of development, a Landscape and Habitat Management Plan (LHMP) including measures identified in the EclA (neo Environmental, 03/10/2018) and additional ecological information, and ensuring the provision of a minimum 15m buffer no-development planted area around the designated woodland habitat and maintenance and creation of species rich grassland habitat, shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. No development shall be undertaken except in accordance with the approved in writing LHMP.

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

17. Prior to the commencement of development an Ecological Clerk of Works (ECoW) shall be appointed to carry out pre-construction ecological surveys in order to monitor compliance with the Construction Environmental Management Plan, Species Protection Plans and Landscape and Habitat Management Plan and Invasive Non-Native Species Management Plan.

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

18. Prior to commencement of development a sensitive lighting scheme incorporating the latest good practice guidelines (as outlined: Guidance Note 8/18 (2018): Bats and artificial lighting in the UK and consistent with the lighting submissions made to satisfy the Trunk Roads and Environmental Health conditions), to protect bats shall be submitted to and approved in writing in writing by the Planning Authority. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme

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

19. Prior to commencement of development, an Invasive Non-Native Species Management Plan, shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage, including measures to prevent non-native species becoming established in the SAC/SSSI woodland and buffer zone. Meadow seed mix should not include sainfoin *Onobrychis viciifolia*, or musk mallow *Malva moschzta*. No development shall be undertaken except in accordance with the approved in writing INNMP.

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

20. Prior to commencement of development, a Woodland Management Plan for the SAC/SSSIs and associated buffer zone, shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. The Plan should address planting of native tree and shrub species of local origin within the buffer. No development shall be undertaken except in accordance with the approved in writing WMP.

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

## Cultural Heritage



21. Detailed proposals for the retention, restoration, phasing, use and maintenance of the Category B Listed Auction Ring building, including preservation of its setting, must be submitted to and approved in writing by the Local Planning Authority with the first application for approval of matters specified in conditions. No development should commence until the proposals have been agreed. The development should then proceed in accordance with the agreed proposals, including timescale and phasing, and maintained in perpetuity  
Reason: To ensure the preservation and after-use of a building of special historic character.
22. The design, uses and layout of Zone “E” and the area marked for “future development”, in proximity to the Category C Listed former Railway Hotel, should provide for the conservation and enhancement of the setting of the building and its features.  
Reason: To safeguard the setting of a building of special historic character.
23. 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.  
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.

#### Trunk Road

24. Prior to the occupation of any part of the development hereby permitted, and following consultation with Transport Scotland as Trunk Roads Authority, the new roundabout junction with the A68(T), generally as illustrated on Goodson Associates Drawing No. 700 Rev. B, shall be completed and fully operational.  
Reason: To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished.
25. No development, including the construction of the western arm from the proposed new access roundabout on the A68(T), shall be commenced on the east side of the A68 trunk road, until such times as a scheme for the provision of appropriate pedestrian / cycle crossing facilities across the A68(T) has been submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland.  
Reason: To ensure that the movement of pedestrians and cyclists is confined to the permitted means of access, without interfering with the safety and free flow of traffic on the trunk road.
26. The agreed pedestrian / cycle crossing facilities referred to in condition 25 will require to be constructed and fully operational, in consultation with Transport Scotland, prior to the commencement of any development on the east side of the A68 trunk road.

Reason: To ensure that the movement of pedestrians and cyclists is confined to the permitted means of access, without interfering with the safety and free flow of traffic on the trunk road.

27. Unless otherwise agreed in writing by the Planning Authority, after consultation with Transport Scotland, the number of residential units hereby permitted within the development shall not exceed 150.

Reason: To ensure that the scale of development does not exceed that assessed by the supporting Transport Assessment, and to ensure that the scale and operation of the proposed development does not adversely affect the safe and efficient operation of the trunk road network.

28. Prior to the commencement of the development details of the lighting within the site (consistent with the lighting submissions made to satisfy the Ecology and Environmental Health conditions) shall be submitted for the approval of the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority.

Reason: To ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

29. Prior to commencement of the development, details of the barrier proposals along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland.

Reason: To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents

### Roads

30. All access roads, and form of development, must take account of the potential future expansion of the Borders Rail Line, including levels for the western arm of the proposed roundabout, surrounding development and accesses to the Council and public car parks and industrial units.

Reason: To safeguard the extension of the Border Railway Line as per Policy IS3 of the Council's Local Development Plan.

31. All parking levels must be in accordance with SEStrans Parking Standards.

Reason: To ensure the development hereby approved is served by an adequate level of parking.

32. Detailed engineering drawings must be provided at detailed planning stage relating to matters such as, but not limited to, road layouts, building floor levels, parking ratios, road and parking levels.

Reason: To ensure all development hereby approved is designed to acceptable gradients that allow for future development potential.

33. Swept path analysis for all prospectively public roads shall be required as part of any detailed application.

Reason: To ensure that all prospective public roads can accommodate all associated traffic including service, emergency and public transport vehicles where applicable.

34. A Transport Assessment must be submitted to, and agreed in writing by the Planning Authority, at detailed stage covering all aspects of transport associated with such a development and cover pedestrian, cycle and vehicular transport (including public transport). All measures identified via the agreed TA must be

included within the detailed stage submission unless otherwise agreed in writing with the Planning Authority, following discussions with Transport Scotland if required, and completed to an agreed timescale thereafter.

Reason: To ensure the adjacent public road network can accommodate the traffic associated with the development hereby approved.

35. A Traffic Management Plan (TMP) covering each individual phase of the development hereby approved must be submitted to and agreed in writing by the Planning Authority prior to works commencing on each relevant phase of the development.

Reason: To ensure that all appropriate measures are in place to ensure the safety of residents and other road users during the construction phases of the development.

36. The development within Zone E to accommodate a new road link for access from the site to the Waste Water Treatment Works, as per planning consent ref. 19/01626/FUL.

Reason: To facilitate improved access for vehicles to the Waste Water Treatment Works.

#### Pedestrian Access

37. A Path Planning Study should be commissioned within the title deed extent of the landowner affected. A detailed plan of public access (pedestrian, cycle, horse, all ability routes), across and out with the site, (existing, during construction and upon completion) should be provided by the developer for the consideration of the Planning Authority, in liaison with Scottish Natural Heritage. This should show:

1. All existing rights of way, core paths or other paths/ tracks used for public access;
2. Any diversions of paths - temporary or permanent - proposed for the purposes of the development;
3. Details of improvements which the developer will implement in terms of:
  - a. Upgrading the existing path network within the site boundary e.g. widening and surfacing the path as shown blue on map 2, replacing existing old timber steps as shown green on map 2, with raised steps and walkway;
  - b. Provision of high-quality public access routes linking the site with the wider access network of paths and tracks;
  - c. Provision of high-quality public access routes within the proposed development site, for example the creation of an easy access path/ footway around the development boundary constructed to an adoptable standard, as shown in red on the map 2;
  - d. Provision of additional path furniture required in terms of signage and interpretation.
  - e. Mitigation relating to the potential impacts of the footpath improvements on the character and integrity of the Borders Woods and River Tweed Special Areas of Conservation.

Reason: To ensure full pedestrian connectivity between the development and the existing path networks and to preserve the natural heritage of the designated sites containing the paths.

#### Environmental Health

38. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing 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 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.

39. Information on impacts on local air quality, including cumulative impacts with other development, should be submitted with the first application for approval of matters specified as conditions and no development to commence until the information has been assessed and any recommendations arising from assessment have been agreed. The development should then proceed in accordance with any recommendations agreed.

Reason: To ensure that impacts on local air quality are fully assessed and mitigated.

40. No development shall take place within any of the development zones west of the A68 until an Odour Impact Assessment on the potential for odour from the auction mart affecting new residential, commercial or public uses proposed in those zones, has been submitted to and been approved in writing by the Planning Authority. The Assessment shall be submitted with the first application for matters specified

as conditions for any of the aforementioned zones and any mitigation then implemented in accordance with the approved Assessment and timescales.

Reason: In order to protect residential amenity and ensure compatibility between proposed and existing uses.

41. No development shall take place until an assessment on the potential for noise from the development affecting residential or commercial properties in the area has been submitted to and been approved in writing by the Planning Authority. The assessment shall include, but not be limited to, noise sources identified in the submitted Noise Impact Assessment (neo Environmental, 3/1/19).

If the assessment indicates that noise from the development is likely to affect neighbouring residential or commercial properties then a detailed scheme of noise mitigation measures shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development. The approved scheme shall be implemented prior to the operation of any uses and be permanently maintained thereafter.

Reason: In order to protect residential or other amenity.

42. A report detailing the lighting scheme and predicted light levels at residential properties (and consistent with the lighting submissions made to satisfy the Trunk Roads and Ecology conditions) must be submitted to and be approved in writing by the Planning Authority with the first application for approval of matters specified as conditions. No development should commence until the report has been assessed and any recommendations arising from assessment have been agreed. The development should then proceed in accordance with any recommendations agreed, including timescale and phasing, and maintained in perpetuity

Reason: To ensure that impacts of light pollution on residential amenity are fully assessed and mitigated.

#### Water and Drainage

43. A scheme of water and drainage provision must be submitted to and be approved in writing by the Local Planning Authority, in consultation with SEPA, with the first application for approval of matters specified as conditions. No development should commence until the scheme has been agreed. The development should then proceed in accordance with the agreed scheme including timescale and phasing. The scheme shall include the following:

1. Detailed SUDs proposals in relation to site topography, taking into account the proximity of the River Tweed SAC/SSSI.
2. Maintenance of the drainage systems including SUDs.
3. No drainage connections to the trunk roads network.
4. Overland flow pathways identified within the appendix of the submitted Flood Risk Assessment are maintained and no built development should be proposed or carried out within these areas.
5. All building finished floor levels are set a minimum of 600mm above existing ground levels

Reason: To ensure that the site is fully serviced and connected to public services, to ensure the long term functionality and maintenance of the system, to minimise flood risk, to safeguard the River Tweed SAC/SSSI and to ensure that the efficiency of the existing trunk road drainage network is not affected.

#### Other matters

44. An Energy Statement shall be submitted with the first application for approval of matters specified as conditions and no development to commence until the Statement and any recommendations have been agreed. The Statement should demonstrate feasibility studies into District Heating and its findings incorporated into the design of the development, illustrated in the required Design and Access Statement.

Reason: To ensure sustainable development and use of energy resources.

45. A Site Waste Management Plan shall be submitted with the first application for approval of matters specified as conditions and no development to commence until the Plan and any recommendations have been agreed. The Plan should incorporate provision for both construction and operation of the development and its findings incorporated into the design of the development, illustrated in the required Design and Access Statement.

Reason: To ensure sustainable waste management provision.

### **Informatives**

1. In terms of Class 1 Retail development, there is preference for this to be concentrated within Zone E or the “Future Development Area” within the village centre rather than within Zone D towards the A68. Any applications for retail submitted within Zone D will be assessed sequentially, including an assessment of what opportunities there are for more central location for the proposed development.

2. Advice from SBC Access Officer

Mapping of the wider path network across the Scottish Borders can be found at: [www.scotborders.gov.uk/mapadvanced](http://www.scotborders.gov.uk/mapadvanced)

3. Advice from SBC Archaeology Officer

The ALGAO guidance for historic building recording can be found at: [www.algao.org.uk/sites/default/files/documents/ALGAO\\_Scotland\\_Buildings\\_Guidance\\_2013.pdf](http://www.algao.org.uk/sites/default/files/documents/ALGAO_Scotland_Buildings_Guidance_2013.pdf)

4. Advice from SBC Heritage Officer

The Masterplan required in Condition 4 should be prepared in full compliance with the “Placemaking” SPG and “Designing Streets” Guidance.

The retention of other historic structures and spaces associated with historic market use could positively inform new design interventions and reinforce connection to the past and strong placemaking

Similarly, the potential impact of development upon the setting and longer views of heritage assets and historic viewpoints out with the site should be demonstrably conserved and enhanced

5. Advice from SBC Flood Risk Officer

The applicant should be made aware that flooding can occur from other sources including run-off from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts.

6. Advice from SBC Environmental Health

In relation to air quality, new applications should be supported by such information as is necessary to allow a full consideration of the proposal on local air quality. It may also be necessary to consider cumulative impacts from other developments in the local area. Consideration should be given to the Institute of Air Quality Management 'Land-Use Planning & Development Control: Planning For Air Quality'.

In relation to lighting, consideration shall be given to the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Lighting (2020).

In relation to odour assessment, this should be guided by Institute of Air Quality Management "Guidance on the assessment of odour for planning".

In relation to noise assessment, this shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS 8233:2014 Guidance on sound insulation and noise reduction for buildings, and BS 4142:2014 Methods for rating and assessing industrial and commercial sound.

7. Advice from Transport Scotland

The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Roads Directorate . Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal.

Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.

Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.

The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges.

Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

8. Advice from Roads Planning

All prospectively public roads shall be subject to a Road Construction Consent application. This must include details of, but not restricted to, road levels, geometry, lighting and drainage (including SUDS).

Technical Approval shall be required for any retaining structures which are to be adopted by the Council.

Design details of all retaining structures which are adjacent to prospectively public roads but are to remain private must be submitted to the Council for approval.

#### 9. Advice from SEPA

Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).

Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.

A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which:

- a. is more than 4 hectares,
- b. is in excess of 5km, or
- c. includes an area of more than 1 hectare or length of more than 500m on ground with a slope in excess of 25°

See SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) for details.

Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.

Below these thresholds you will need to comply with CAR General Binding Rule 10 which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment. The detail of how this is achieved may be required through a planning condition.

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office at:



DRAWING NUMBERS

Location Plan – NSB.AR(PL)001  
Existing Site Plan - NSB.AR(PL)002  
Proposed Development Uses - NSB.AR(PL)003  
Proposed Parameters Plan - NSB.AR(PL)004  
Proposed Roads Layout - NSB.AR(PL)005  
Primary Edges Plan - NSB.AR(PL)006  
Masterplan Design Proposed Uses - NSB.AR(PL)007  
Masterplan Design Parking Allocation - NSB.AR(PL)008  
Masterplan Design Proposal – NSB.AR(PL)009 Rev C 9  
Masterplan Design Proposal – Landscape Concept – NSB.AR(PL)011  
Masterplan Design Proposal – Landscape Layout – NSB.AR(PL)012  
Masterplan Design Proposal – Phasing – NSB.AR(PL)013  
Masterplan Design Proposal - NSB.AR(SK)022  
Landscape Masterplan (E of A68) – Rev A  
Roundabout Layout – 700 Rev B

**Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

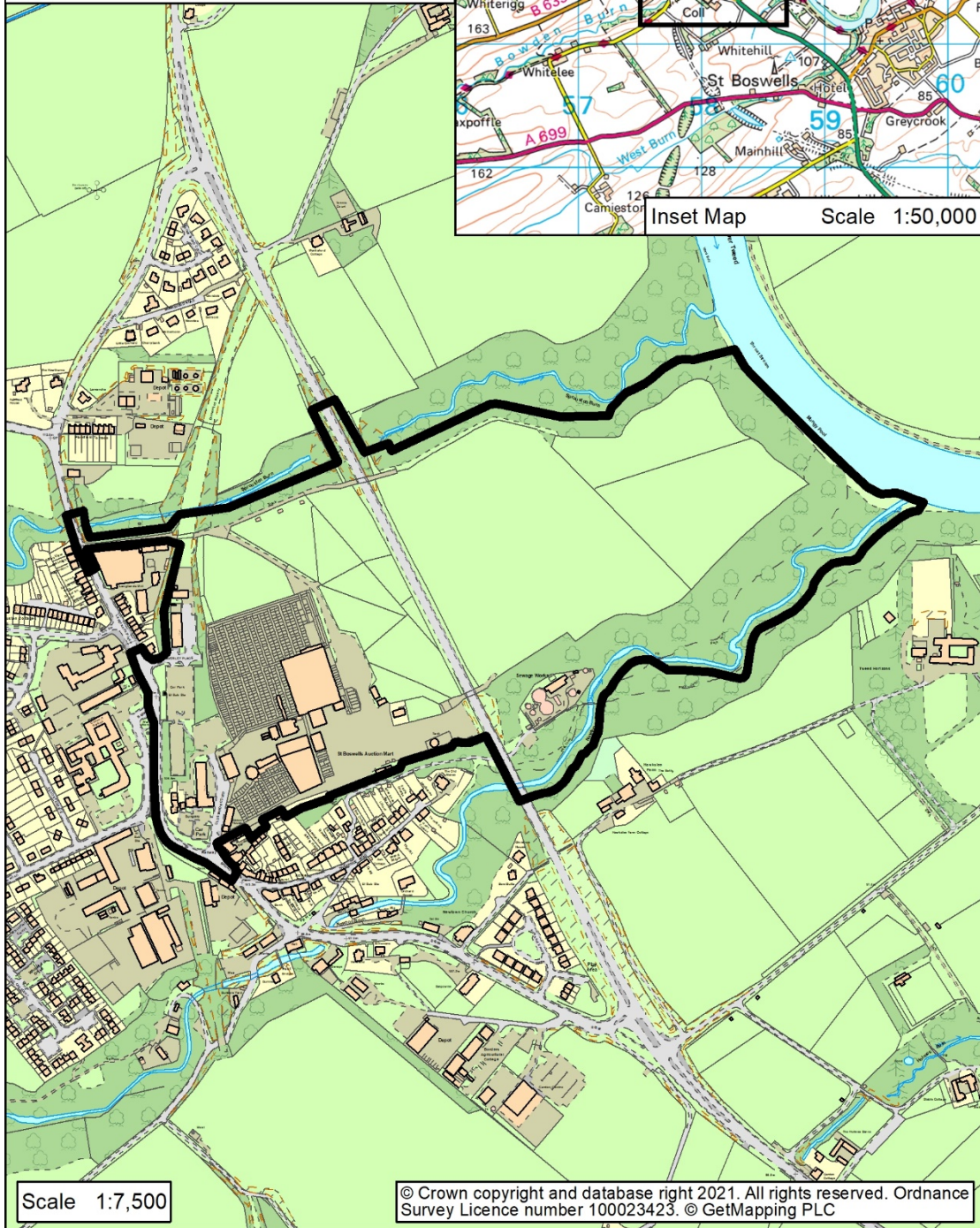
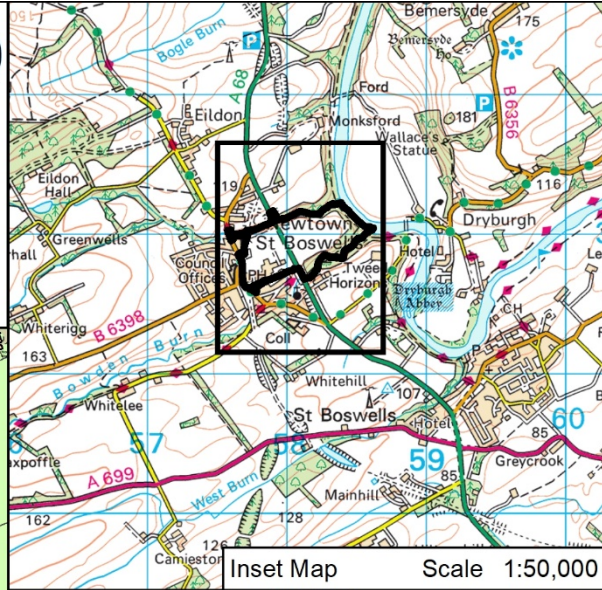
**Author(s)**

Name	Designation
Craig Miller	Principal Planning Officer



19/00210/PPP

Auction Mart And Land North East  
Of Auction Mart  
Newtown St Boswells  
Scottish Borders



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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

6<sup>th</sup> November 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

- 2.2.1 Reference: 23/00041/ADVERT  
Proposal: Erection of Advert on Gable  
Site: 2 Gladstone Street, Hawick  
Appellant: Katrina Yule

Reason for Notice: An advertisement has been installed at the property situated upon the Land Affected on the elevation facing The Loan, Hawick. The advertisement does not benefit from deemed consent under the Town and Country Planning (Control of Advertisement)(Scotland) Regulations 1984, failing under Class IV. The installed advertisement has not been subject to an advertisement consent application for express consent.

Grounds of Appeal: The notice was issued on the grounds set out in Class IV.1.1 of the Town and Country Planning (Control of Advertisement)(Scotland) Act 1984 which stipulates that an advertisement cannot be affixed to a wall of a shop unless that wall contains a shop window. The appellant is of the view that there are indeed windows in the wall to which the advertisement is affixed. Three windows in the wall in question.

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

Method of Appeal: Written Representations

#### 2.3 Works to Trees

Nil

### 3 APPEAL DECISIONS RECEIVED

#### 3.1 Planning Applications

Nil

#### 3.2 Enforcements

Nil

#### 3.3 Works to Trees

Nil

### 4 APPEALS OUTSTANDING

4.1 There remained 3 appeals previously reported on which decisions were still awaited when this report was prepared on 26<sup>th</sup> October 2023. This relates to sites at:

<ul style="list-style-type: none"><li>Land at Menzion Forest Block, Quarter Hill, Tweedsmuir</li></ul>	<ul style="list-style-type: none"><li>Land East of Kirkwell House, Preston Road, Duns</li></ul>
<ul style="list-style-type: none"><li>Land Adjacent Rose Cottage, Maxwell Street, Innerleithen</li></ul>	<ul style="list-style-type: none"><li></li></ul>

### 5 REVIEW REQUESTS RECEIVED

5.1 Reference: 23/00553/FUL  
Proposal: Change of use from agricultural land to lorry storage yard and erection of building  
Site: Land East of Unit 3 Croft Park Industrial Estate, Morebattle, Kelso  
Appellant: James Y Burn Haulage

Conditions Imposed: 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended. 2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority. Reason: To ensure that the development is carried out in accordance with the approved details. 3. No development of the shed (hereby approved on site plan 102 Rev B) shall be commenced until the following precise details: i. Proposed plans and elevations of the building; ii. Full details of the external materials, including colour, to be used in the construction of the building; iii. The finished floor levels of the building hereby approved; have been submitted submitted to and approved in writing by the Planning Authority. Thereafter development to be completed in accordance with the approved details. Reason: To protect the character and amenity of the area. 4. The site and building hereby approved shall only be used for Class 4 (office, reseach and development or light industry), Class 5 (general industry) or Class 6, (storage and distribution) of Schedule of The

Town and Country Planning (Use Classes) (Scotland) Order 1997, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order. Reason: To ensure that the use remains compatible within the site.

5. No septic tank, washbay or building hereby approved may be developed before fully detailed design proposals for foul and surface water drainage, demonstrating that there will be no negative impact to public health, the environment or the quality of watercourses or ground water, have been submitted to and approved in writing by the Planning Authority. Thereafter development to be undertaken in accordance with these details. Reason: The Planning Authority requires consideration of full details of surface water drainage (SUDS), foul water connections and/or any private systems proposed.

6. No development shall be commenced until the precise construction details of the bell mouth and pavement (and precise streetlighting details, if required) shown on site plan, 102 Rev B, has been submitted to and approved in writing by the Planning Authority. Thereafter the bell mouth and pavement to be completed in accordance with these details before the site is brought in to use, or a timescale which has been prior agreed with the Planning Authority. Reason: To ensure the development hereby approved is served by an appropriate form of access, in the interests of road safety.

7. No development shall commence until precise details of: i. location of new trees, shrubs, hedges and grassed areas; ii. schedule of plants to comprise species, plant sizes and proposed numbers/density; iii. programme for completion and subsequent maintenance. of the proposed tree and hedge planting shown on Site Plan 102 Rev B have been submitted to and approved in writing by the Planning Authority. Thereafter this scheme shall be carried out in the first planting and seeding seasons following the site coming in to use, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing. Reason: To ensure that the proposed landscaping is carried out as approved.

8. Before any part of the permitted development is commenced, the hedge to be retained on the site shall be protected by a fence 1.5 metres high placed at a minimum distance of 2.0 metres from the edge of the hedge, and the fencing shall be removed only when the development has been completed. During the period of construction of the development the existing soil levels around the boles of the hedges so retained shall not be altered. Reason: In the interests of preserving the hedges which contribute to the visual amenity of the area.

9. The visibility splay (2.4m x 160m) as shown on Site Plan, 102 Rev B must be provided on site before the site is brought in to use and retained free of visual obstruction (when viewed from drivers eye height of 1.05m) in perpetuity. Reason: To ensure adequate drivers visibility for access and egress to the B-classified road.

10. No external flood lighting of the site is permitted except in accordance with an exterior lighting plan which shall first have been submitted to and approved in writing by the Planning Authority. The lighting plan shall be designed in accordance with the guidance produced by The Institution of Lighting Professionals and the Bat Conservation Trust, Aug 2018 (as outlined: Guidance Note 8/18 (2018): Bats and artificial lighting in the UK). Thereafter no development shall take place except in strict accordance with the approved lighting plan. All lights shall be suitably shuttered/shielded and directed to prevent unwanted light flood. Reason: In the interests of protecting bats, biodiversity, residential amenity and the character of the predominantly rural area.

5.2 Reference: 23/00716/FUL  
 Proposal: Erection of dwellinghouse  
 Site: Garden Ground of Cheviot View, Eden Road, Gordon

Appellant: Mr Nigel Carey

Reason for Refusal: The proposed development is contrary to policies PMD2 and PMD5 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance on Placemaking and Design 2010, in that the small size of the site and cramped layout would constitute overdevelopment that fails to respect or respond to the character or density of the surrounding area resulting in adverse impacts on the character and amenity of the surrounding area. The proposed development is contrary to policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance on Householder Development in that the small size of the site would result in the proposed dwellinghouse being positioned in close proximity to the new house being built to the east, harming the residential amenities of future occupants of the new house in terms of light, privacy and outlook.

## 6 REVIEWS DETERMINED

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

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

Method of Review: Review of Papers & Further Written Submissions

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

6.2 Reference: 23/00331/FUL  
Proposal: Erection of dwellinghouse  
Site: Land South of 1 Netherwells, Jedburgh  
Appellant: Mr Peter Caunt

Reasons for Refusal: 1. It is considered that the proposals are contrary to National Planning Framework 4 policy 17 and policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance New Housing in the Borders Countryside (2008) in that the proposed development would be sited within a previously undeveloped field, beyond the natural and man-made boundaries of the Netherwells building group, outwith the sense of place of the building group and out of keeping with the character of the building group resulting in an unacceptable adverse impact on the landscape and amenity of the surrounding area. Accordingly, the proposed development would represent a sporadic and unjustified form of development in the countryside, which would set an



undesirable precedent for similar unjustified proposals. 2. The proposal would be contrary to policy PMD2 of the Local Development Plan 2016 as the poor quality design, over development of the site and inappropriate ribbon development would not be compatible with or respect the character of the surrounding area or building group to the detriment of the character and amenity of the building group.

Method of Review: Review of Papers

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

- 6.3 Reference: 23/00507/PPP  
Proposal: Erection of dwellinghouse  
Site: Plot C Land West of Hedgehope Cottage, Winfield  
Appellant: Aver Chartered Accountants

Reason for Refusal: The development is contrary to policies 1, 2 and 17 of National Planning Framework 4 and PMD1 and HD2 of the Local Development Plan 2016 because it would constitute unsustainable, car dependent, sporadic housing development in the open countryside, unrelated to any existing building group and would be out of keeping with the character of the 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 Upheld (Terms of Refusal Varied)

- 6.4 Reference: 23/00508/PPP  
Proposal: Erection of dwellinghouse  
Site: Land East of Dunedin Lodge, Crossrig  
Appellant: Aver Chartered Accountants

Reasons for Refusal: 1. The development is contrary to policy HD2 (Housing in the Countryside) of the Local Development Plan 2016 because it would not be well related to any existing building group, would break into an undeveloped field with strong natural boundaries, and no other supporting justification has been made. The development gains no support from policy 17 of National Planning Framework 4. This conflict with the development plan is not overridden by any other material considerations. 2. The proposed development is contrary to Local Development Plan 2016 policy ED10 (Protection of Prime Quality Agricultural Land and Carbon Rich Soils) and National Planning Framework 4 policies 5 (Soils) and 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) as it would result in the permanent loss of greenfield, prime quality agricultural land without any necessary exceptional justification.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.5 Reference: 23/00509/PPP  
Proposal: Erection of dwellinghouse  
Site: Land North East of Alba Cottage, Fishwick  
Appellant: Aver Chartered Accountants

Reason for Refusal: The development is contrary to policies 1, 2 and 17 of National Planning Framework 4 and HD2 of the Local Development Plan 2016 because it would constitute unsustainable, car dependent, sporadic housing development in the open countryside, unrelated to any existing building group and would be out of keeping with the character of the 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 Upheld (Terms of Refusal Varied)

## 7 REVIEWS OUTSTANDING

7.1 There remained 2 reviews previously reported on which decisions were still awaited when this report was prepared on 26<sup>th</sup> October 2023. This relates to sites at:

<ul style="list-style-type: none"> <li>Site Adjacent The Steading Whiteburn Farm, Lauder</li> </ul>	<ul style="list-style-type: none"> <li>U-Stor Business Units, Spylaw Road, Kelso</li> </ul>
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## 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 26<sup>th</sup> October 2023. This relates to a site at:

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

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

**Signature .....**

### Author(s)

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



**Background Papers:** None.

**Previous Minute Reference:** None.

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

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

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