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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 4TH DECEMBER, 2023

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in COMMITTEE ROOM 2/3, COUNCIL HEADQUARTERS, NEWTOWN ST. BOSWELLS on MONDAY, 4TH DECEMBER, 2023 at 10.00 AM

N. MCKINLAY,
Director Corporate Governance,

24 November 2023

BUSINESS	
1.	Apologies for Absence
2.	Order of Business
3.	Declarations of Interest
4.	Minute (Pages 3 - 16) Consider Minute of the Meeting held on 6 November 2023 for approval and signature by the Chair. (Copy attached.)
5.	Applications Consider the following applications for planning permission:
	(a) Land Southeast of Mounthooly House, Jedburgh - 23/00657/FUL (Pages 17 - 26) Formation of accesses and change of use of land to storage (part retrospective). (Copy attached.)
	(b) Glenfinn Quarry Neuk, Cockburnspath - 23/01144/FUL (Pages 27 - 34) Variation of condition 4 of planning consent 14/01186/MIN to increase the rate of extraction. (Copy attached.)
6.	Appeals and Reviews (Pages 35 - 44) Consider Briefing Note by Chief Planning and Housing Officer. (Copy attached.)
7.	Any Other Items Previously Circulated
8.	Any Other Items which the Chair Decides are Urgent

NOTE

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

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

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

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

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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, 6 November, 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 (B. Fotheringham), Lead Roads Planning Officer (D. Inglis), Solicitor (S. Thomson), and Democratic Services Officers (L. Cuerden and F. Henderson).

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 2 October 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 an application 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 Advert on Gable, 2 Gladstone Street, Hawick – 23/00041/ADVERT;**

(b) **Review requests had been received in respect of:**

(i) **Change of use from agricultural land to lorry storage yard and erection of building, Land East of Unit 3 Croft Park Industrial Estate, Morebattle, Kelso – 23/00553/FUL;**

(ii) **Erection of dwellinghouse, Garden Ground of Cheviot View, Eden Road, Gordon – 23/00716/FUL;**

(c) **The following reviews had been determined as shown:**

- (i) **Erection of dwellinghouse with detached garage, Land South of Headshaw Farmhouse, Ashkirk – 22/01947/FUL – Decision of Appointed Officer Overturned (Subject to Conditions);**
 - (ii) **Erection of dwellinghouse, Land South of 1 Netherwells, Jedburgh– 23/00331/FUL – Decision of Appointed Officer Upheld (Terms of Refusal Varied);**
 - (iii) **Erection of dwellinghouse, Plot C Land West of Hedgehope Cottage, Winfield – 23/00507/PPP - Decision of Appointed Officer Upheld (Terms of Refusal Varied);**
 - (iv) **Erection of dwellinghouse, Land East of Dunedin Lodge, Crossrig – 23/00508/PPP – Decision of Appointed Officer Upheld;**
 - (v) **Erection of dwellinghouse, Land North East of Alba Cottage, Fishwick – 23/00509/PPP – Decision of Appointed Officer Upheld (Terms of Refusal Varied);**
- (d) **There remained 3 appeals previously reported on which decisions were awaited when the report was prepared on 26 October 2023 which related to sites at:**

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

- (e) **There remained 2 reviews previously reported on which decisions were awaited when the report was prepared on 26 October 2023 which related to sites at:**

<ul style="list-style-type: none"> • Site Adjacent The Steading, Whiteburn Farm, Lauder 	<ul style="list-style-type: none"> • U-Stor Business Units, Spylaw Road, Kelso
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- (f) **There remained one Section 36 Public Local Inquiry previously reported on which a decision was still awaited when the report was prepared on 26 October 2023 which related to a site at Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick.**

The meeting concluded at 10.30 am.

APPENDIX I
APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
19/00210/PPP	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.	Auction Mart and Land Northeast of Auction Mart, Newtown St Boswells

DECISION: Approved as per officer recommendation, 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 developmentReason: 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 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-excitation 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

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

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 round 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.

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

4 DECEMBER 2023

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 23/00657/FUL

OFFICER: Euan Calvert
WARD: Jedburgh and District
PROPOSAL: Formation of accesses and change of use of land to storage (part retrospective)
SITE: Land Southeast of Mounthooly House, Jedburgh
APPLICANT: Ramsay Mounthooly Ltd
AGENT: Lothian Estates

SITE DESCRIPTION:

The application site relates to a small grass field located south of Mounthooly Farm. The field is bounded to the south by the A698 which sits on a slight embankment. Mounthooly House is located to the west and Mounthooly Cottages to the east. The field and farm are accessed by an adopted road junction adjacent to the site. The application site is slightly concave and is laid to grass. There are several other residential properties, as well as the Caddyman Restaurant located east and north-east of the application site. The field is bounded by agricultural stock fencing. The application site is identified as being an area of prime quality agricultural land.

PROPOSED DEVELOPMENT:

Planning permission is sought for change of use of land to storage and formation of accesses. Changes have been made to the proposals following submission of the application and only one access is now proposed. One vehicular access would be taken from the private road serving the Farm. A topographic survey and sections have been provided which show proposals to surface a yard area (roughly the eastern half of the field) in type-1 crushed stone. A 5-metre strip of landscape planting would be created on the east and south boundaries of the site. A detailed plan showing a hedgerow (west – south and east boundaries) has now been provided. The proposal for an east road junction has been removed to accommodate this landscape strip.

PLANNING HISTORY:

The following planning history is relevant to this application, although not all previous planning decisions relate to the current application site.

13/01081/FUL	Erection of dwellinghouse – Approved
13/01082/FUL	Erection of dwellinghouse – Approved
18/00748/FUL	Variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years- Refused

18/00749/FUL	Variation of Condition 1 of planning permission 13/01082/FUL to allow the lifespan of the application to be extended by a further three years- Refused
20/00010/RREF	Variation of Condition 1 of planning permission 13/01082/FUL to allow the lifespan of the application to be extended by a further three years - Refused
20/00011/RREF	Variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years - Refused
22/01282/FUL	Erection of workshop/store shed - Approved.
23/00058/UNDEV	Enforcement Enquiry – unauthorised development
23/00682/AGN	Formation of agricultural storage area from field and new access – Application returned

REPRESENTATION SUMMARY:

A total of seventeen letters of representation comprising fifteen objections and two general comments, have been received by the Planning Authority. The key material planning considerations raised are summarised below:

- The density of site is detrimental to residential amenity.
- The development is out with the natural boundary of the farm buildings / steading.
- Mounthooly has turned in to a busy industrial estate out of keeping with the character of the area.
- The farm steading has changed from agriculture use to a machinery storage and maintenance facility.
- Concern for the scale, character, and appearance of the proposed development/ buildings.
- The impact the proposed development would have on the visual appearance of the area. Preference for the area to become a wildlife area.
- The location of the new junction and impact this would have upon road safety.
- Additional traffic created by the proposed development.
- The loss of wildflower meadow, including trees, and the visual impact this has had on the visual appearance.
- Detrimental effect on business and well-being and safety of residents of Mounthooly.
- Existing noise and light pollution.
- Loss of this natural soakaway presents flood risk concerns.
- Concerns for land raising and corresponding increased flood risk/ flooding of homes and businesses.
- Pedestrian safety.
- Lack of drainage.
- Inadequate screening.
- Road safety/ horse hazard.
- Creeping industrialisation.
- Contrary to PMD4: Development out with Development Boundaries
- Proposal is contrary to Policy 9 of NPF4 which promotes brownfield development over greenfield site development.
- Proposal is contrary to Policy 26 Business and industry of NPF4 a – e.
- Designated industrial sites in the local area would be more suitable for this proposed industrial use. The proposed application is not in-keeping with the surrounding area and is not agricultural related.

- Contrary to LDP Policy ED10 and Policy 5 of NPF4 concerning Protection of Prime Quality Agricultural Land
- Lack of information within the submission as to the intended operating arrangements. Proposals should be advertised as “Bad Neighbour” development. (Schedule 3 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)

DEVELOPMENT PLAN POLICIES:

National Planning Framework 4

Policy 5: Soils

Policy 6: Forestry, woodland, and trees

Policy 14: Design, quality, and place

Policy 22: Flood Risk and Water Management

Policy 26: Business and industry

Scottish Borders Council Local Development Plan 2016

Policy PMD2: Quality Standards

Policy ED7: Business, Tourism and Leisure Development in the Countryside

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

Policy HD3: Protection of Residential Amenity

Policy EP13: Trees, Woodlands, and Hedgerows

Policy IS8: Flooding

OTHER PLANNING CONSIDERATIONS:

Scottish Borders Supplementary Planning Guidance:

Trees and Development (2020)

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: Further information required on use and frequency of use.

Second response: No objections to revised proposals.

Flood Engineer: Site is at risk from a flood event with a return period of 1 in 200 years. The proposed use of the area is considered as a “least vulnerable use” in terms of SEPA’s Land Use Vulnerability Guidance. No objection subject to conditions to ensure no land raising takes place and no structures or buildings are erected.

Crailing Eckford and Nisbet Community Council:

- All neighbours are against proposal as it conflicts with amenity of residential and business neighbours.
- Unapproved activity appears to have been taking place apparently unchallenged.
- Flood lighting and hours of operation causing concerns presently.
- Road safety with A698

If approval is granted planning conditions should be applied to mitigate the matters that are a challenge to residential neighbours.

KEY PLANNING ISSUES:

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

ASSESSMENT OF APPLICATION:

Principle

In order to establish the principle of development the application must be assessed against NPF4 Policy 26 – Business and Industry and LDP Policy ED7 – Business Tourism and Leisure Development in the Countryside. Policy 26 (d) states that “Development proposals for business, general industrial and storage and distribution uses outwith areas identified for those uses in the LDP will only be supported where:

- i. It is demonstrated that there are no suitable alternatives allocated in the LDP or identified in the employment land audit; and
- ii. The nature and scale of the activity will be compatible with the surrounding area.”

In terms of the Local Development Plan, Policy ED7 identifies opportunities for business development in the countryside. A careful balance however needs to be struck between the needs of expanding an existing (and established) business and the potential impacts on the countryside. The site is not within an allocated Industrial Estate. The site is near to Jedburgh but not within the settlement boundary as defined in the Local Development Plan.

A fundamental requirement of Policy ED7 is that any business proposal in the countryside should both prove a need for the countryside location and also that there are no brownfield sites or existing building opportunities within existing development boundaries that would be suitable for the intended use.

The extant use (historical and current use) at Mounthooly Farm has been for processing and storing potatoes, over and above historic farming practices. The adjacent storage buildings (approved under 98/01133/FUL – erection of a potato store and 98/01134/FUL – erection of a storage building) were permitted but not restricted to agricultural use. There is also an office of Premium Potatoes in the courtyard of the farm buildings. It must be identified that this is now a mixed-use site comprising business and storage uses. Uses other than agricultural have previously been accepted as being appropriate at this location. No planning condition or legal agreement was applied therefore it is considered that these buildings can legally be used for class 6 storage and distribution. There have been objections to the use of the wider site for uses that not agriculture. Members should be aware that there is a recent approval for a further shed in the courtyard located to the north of the site (22/01282/FUL), and the proposed storage area would compensate for that loss of hardstanding.

Members will note from the planning history section above that the applicant has previously submitted a Prior Notification application for this field (23/00682/AGN) for the creation of additional storage/ yard space. However, the application did not meet the criteria defined by Class 18 of the general permitted development order and the applicant was not able to exercise his permitted development rights.

The land area related to this farm holding (Mounthooly Farm Steading) does not exceed 0.4 hectares and is therefore too small to exercise permitted agricultural rights under Class 18.

Members should also be aware of the provisions of Class 18C of the GDPO now allows for the submission of prior notification applications for a change of use of an agricultural building and any land within its curtilage to a flexible commercial use. There are a host of limitations and conditions for those wishing to exercise permitted development rights under Class 18C, but Members must be aware that the GDPO does allow agricultural buildings to become a "flexible commercial use" through permitted rights in the future. The extent of this permitted development includes class 1A (shops and financial, professional, and other services), class 3 (food and drink), class 4 (business), class 6 (storage or distribution), class 10 (non-residential institutions).

It is acknowledged that there may be suitable industrial sites within Jedburgh for Class 6 storage use, but it would be unreasonable for the Planning Authority to object to expansion of an existing (and established) use on this particular site, particularly if this proposal is policy compliant. Firstly, the GDPO now allows a wider range of uses on agricultural holdings. Secondly, the nature and scale of the activity in this application will be similar to the existing operations and therefore suitable for the chosen site. The uses proposed are primarily for agriculture storage but not limited, although this can be restricted or linked to the existing planning unit by way of condition.

The Agent has clarified that the proposals will be used by tractors, trailers, forklifts, and agricultural and forestry equipment, all of which are already operating at this location. These proposals are related to the use and operation of the farm as a single planning unit.

It is contended that this further storage area can be substantiated at this site. It would be unreasonable for the Planning Authority to require an existing agricultural and storage operation to be accommodated within the Development Boundary of Jedburgh for example. The applicant's business is based at this location and although the use goes beyond just solely agricultural use, this was accepted in 1998 by the earlier grant of planning permission for the storage shed. The expansion of hardstanding to accommodate further storage is compatible with the adjacent buildings and the surrounding area.

The proposals are now considered to be in accordance with Policy ED7 of the LDP and "the Council is satisfied that there is an economic and/or operational need for the particular countryside location". Expansion of this operation can be accepted on this site, provided it does not prejudice the amenity of neighbours or character of the surrounding area. Objections from third parties and neighbours are discussed below.

Layout, design, and materials

The proposed layout and construction makeup of the site has now been demonstrated on proposed plans and sections and it is considered that the proposals will not harm the visual amenities of the area. A robust landscape strip and boundary hedge is shown on amended drawings between the site and residential neighbours. The development will be in-keeping with the rural character of the area. Hardstanding surrounded by landscape planting is appropriate in appearance for this area and will assimilate well in time. The visual impact on the immediate area is considered to be acceptable. No security fencing and no lighting is proposed therefore the scheme will not appear suburban or industrial in character. The scale and design of the proposed development can therefore be accepted.

The Council's Flood Engineer has considered the proposals as the site is at risk from a flood event with a return period of 1 in 200 years and has raised no objections in principle. NPF4 Policy 22 identifies the Planning Authority's approach to flooding and

Policy IS8 of LDP encourages development to be located away from areas free from significant flood risk.

Storage use on permeable hardstanding is considered as a “least vulnerable use” in terms of SEPA’s Land Use Vulnerability Guidance. In this instance, provided there is no land raising and no buildings or structures placed on the site, the use change can therefore be accepted. Objections to the proposals from third parties on the grounds of flood risk have been considered but the response of the Flood Engineer confirms that the use change should not affect the function of the site as a functional flood plain therefore should not increase flood risk for others. Conditions can be applied to manage site levels and to prevent buildings and structures being erected without planning approval. Only porous surfaces can be allowed. These conditions ensure that the proposal is in accordance with NPF4 Policy 22 and LDP Policy IS8 in so much as there will not be a reduction in floodplain capacity arising from the proposed surfacing and will not materially increase the probability of flooding elsewhere.

The proposed planting will help to soften the development over time by screening the site from the residential receptors, the public road and nearby restaurant. A condition is proposed which will require further full details of soft landscaping and a programme for completion and subsequent maintenance.

The proposed landscaping will ensure that the development does not appear overly conspicuous and can be accepted in this location. Consequently, it is considered that the proposal would not have a significant adverse impact on the visual amenities of the area.

Residential amenity

The proposed development would not unduly impact upon the residential amenity or nearby properties in respect of daylight or sunlight. Potential overshadowing, noise, generation of traffic and flood lighting are not considered to be determinant factors to this application. Objections of the neighbours are acknowledged. These relate (but are not limited) to complaints about nuisance from existing operations including light, noise, and hours of operation.

Concerns have been raised regarding the impact the proposed development would have on residential amenity, particularly noise. It is not expected that the expansion of storage on this site would give rise to increasingly unacceptable levels of noise or nuisance, and it is considered that restrictions on the storage is not necessary to satisfy residential amenity concerns. This is an extant mixed use industrial and agricultural site. It is acknowledged that additional residential dwellings have been developed to the north and east of Mounthooly Cottages, however the expansion of residential use has been around an established industrial/agricultural use.

Objectors consider that the scale, form, and type of development no longer fits the site and state that this area is now predominantly residential in character. It is acknowledged that there are a number of residential units within this group of buildings, but the proposed use would not be incompatible with the existing land use pattern or the residential amenity of neighbouring properties.

It is accepted that there may be a degree of noise arising from the extant operation, but it is felt that the proposals will not compound this to the detriment of residential amenity. The choice of site, layout and scale of proposals will not result in further adverse impacts. The adopted access road provides a suitable level of offset and separation from the surrounding residential units. Furthermore, the Agent has now

made attempts to address any visual concerns by introducing a landscape strip and boundary hedge to function as a visual buffer. This can be covered by condition and will provide a robust landscape boundary between the site and neighbouring dwellings.

Roads and Access

Access will now be taken from the existing private road located north of the site. The Roads Planning Officer now supports the amendments as this removes proposals for improving an existing access to the adopted road junction.

Concerns have been raised regarding frequency of movements, size of vehicles and road safety at this junction. It is not expected that the proposal would generate significantly more traffic than the current arrangements and the Roads Planning Officer notes that the junction with the A698 offers good visibility and adequate forward visibility of vehicles travelling on the A698.

Roads Planning Service do not raise any road safety concerns therefore the layout will not have a detrimental impact upon road safety. There are no requirements for conditions on construction of the entrance as this is a private road at this point.

Impact on built heritage

Despite the character of several residential buildings in the surroundings, none are listed for their architectural or historic merits. Considering the scale and design of the proposals no adverse impacts upon the setting of neighbouring buildings are identified.

Impact on natural heritage

This has historically been an improved grass field used for grazing livestock. Surfacing and landscape proposals are considered acceptable and will have neutral impacts on local biodiversity. The site is unlikely to be habitat for any protected species therefore the proposals can be accepted in accordance with NPF4 Policy 3 and LDP Policy EP3, concerning biodiversity. The need for post construction biodiversity enhancements is not considered appropriate in this case, given the existing use of the site. Furthermore, additional hedgerow tree planting is proposed (and covered by condition) that will, in time provide additional, and improved local biodiversity enhancement.

Prime quality agricultural land

The application site is identified as being an area of prime quality agricultural land, however given the marginal size and present use it is not considered that the proposal will result in any meaningful loss of prime quality agricultural land.

Other objections

Comments of the Community Council are acknowledged. Other objections regarding planning enforcement of the current operation are not material considerations of this application. Concerns of nuisance for noise and hours of operation arising from the current operation are acknowledged but in order to avoid duplication of resources, these matters are best considered by the Council's Environmental Health service who are better placed to investigate these claims. In any event it is not considered that these issues will be exacerbated by the proposed hardstanding and storage of potato boxes and agricultural machinery.

CONCLUSION

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the statutory Development Plan and there are no material considerations that would justify a departure from these provisions.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved subject to the following conditions and informatives:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
3. The storage area hereby approved to be used for Agriculture or Class 6 (Storage and Distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 or in any provision equivalent to these Classes in any statutory instrument revoking and re-enacting that Order). ancillary to the use of Mounthooly Farm Steading as a single planning unit and shall not be let, subdivided, or severed from the ownership of Mounthooly Farm Steading.
Reason: To ensure compliance with the statutory development plan concerning business and general industrial whereby this use has been identified as being ancillary to the primary business function of the Farm and outwith the areas identified for those uses in the LDP.
4. No works or development in respect of this planning permission shall take place from the date of this Decision Notice until a detailed plan has first been submitted to, then approved in writing by the Council showing existing and proposed levels across the site to ensure there is no land raising across the site to the detriment of flood risk to others. Thereafter the agreed levels shall be adhered to.
Reason: To ensure the proposed development does not increase flood risk for others.
5. No buildings or other structures to be erected on site without prior approval from the Council.
Reason: To ensure there is no significant loss of functional flood plain within this flood risk area.
6. No surfaces other than porous surfaces are permitted without prior approval from the Council.
Reason: To ensure there is no significant loss of functional flood plain within this flood risk area.
7. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Planning Authority, and shall include:

i indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration.

ii location of new trees, shrubs, hedges and grassed areas.

iii schedule of plants to comprise species, plant sizes and proposed numbers/density.

iv programme for completion and subsequent maintenance.

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

DRAWING NUMBERS

Location Plan

A001 Proposed Site Plan

A002 Proposed Section and landscape

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

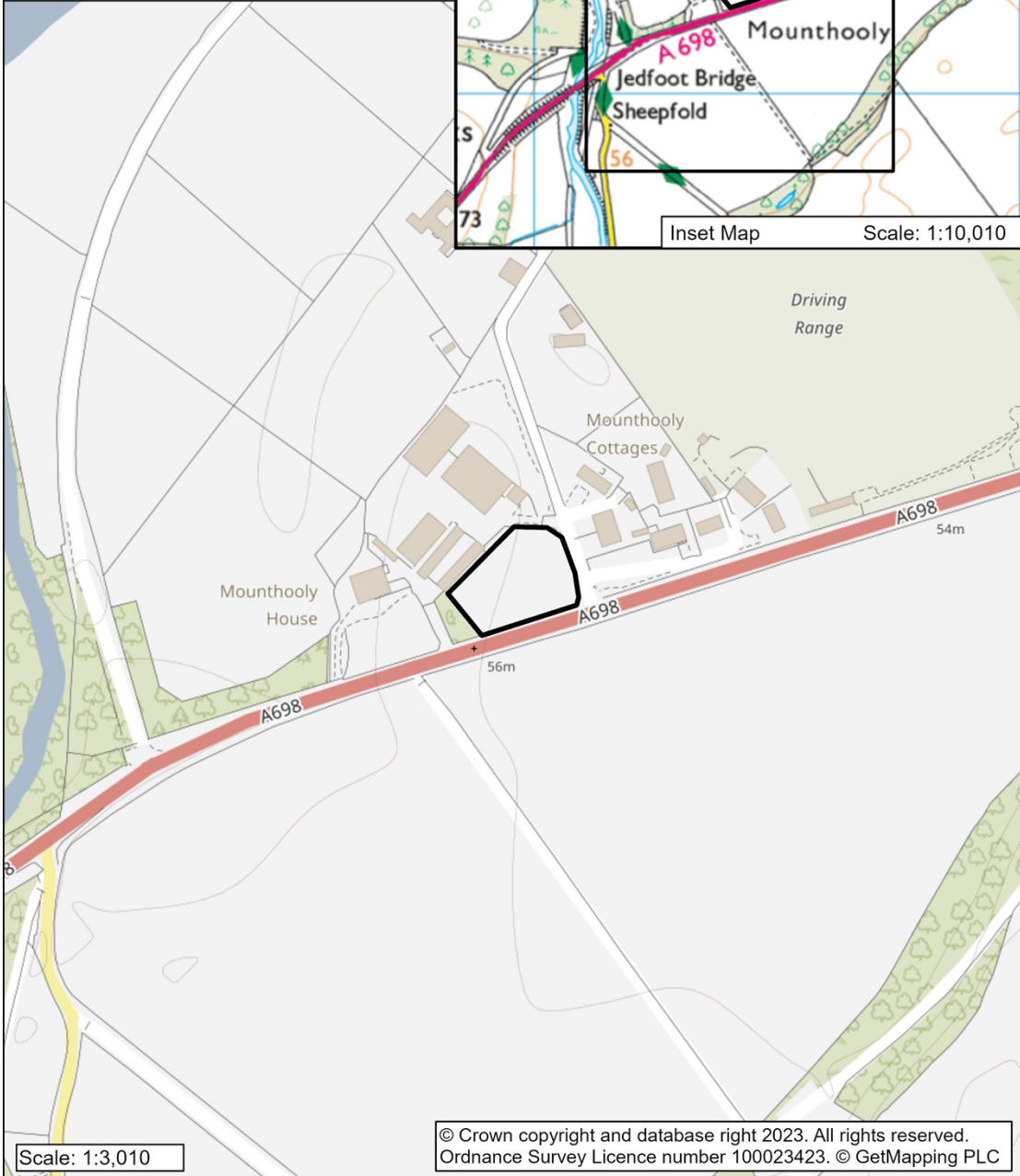
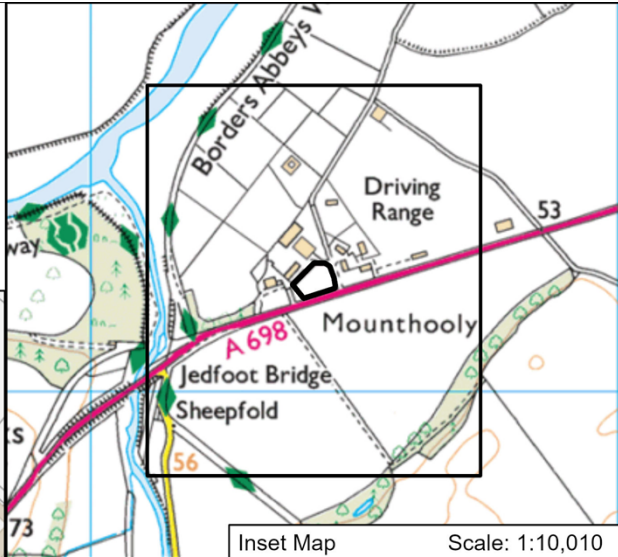
The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

Author(s)

Name	Designation
Euan Calvert	Assistant Planning Officer



23/00657/FUL
Land South East Of Mounthooly House
Jedburgh



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

4th DECEMBER 2023

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 23/01144/FUL
OFFICER:	Mr Scott Shearer
WARD:	East Berwickshire
PROPOSAL:	Variation of condition 4 of planning consent 14/01186/MIN to increase the rate of extraction
SITE:	Glenfinn Quarry Neuk Cockburnspath
APPLICANT:	Kinegar Quarries Ltd
AGENT:	AMS Associates Limited

SITE DESCRIPTION

Glenfinn Quarry is an existing hard rock quarry which is located 2.5km to the southeast of Cockburnspath. The application site includes the existing quarry and also land to the southwest through Gledstane Forrest and towards Ewieside Hill where planning permission has been obtained to extend the quarry under minerals consent 14/01186/MIN. Access is provided via a short access road which connects the site directly to the A1.

The site lies in-between the Berwick Coast Special Landscape Area (SLA) and the Lammermuir Hill SLA however it does not fall within either of these designations. Ewieside Hill fort, a Schedule Monument, lies immediately to the western corner of the site. The site is not subject of any nature designations.

PROPOSED DEVELOPMENT

The application is submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997, as amended, to vary Condition 4 of planning consent 14/01186/MIN. Condition 4 controls the volume of material which could be removed from the land each year and exported from the quarry. The proposal requests that the volume of extracted material is increased from 100,000 tonnes per annum over any period of three year to 175,000 tonnes per annum over any period of three years.

PLANNING HISTORY

The site is understood to have been operated as a quarry for approximately 33 years. In 2016 a recommendation to extend the quarry to the southwest under 14/01186/MIN was approved by the Planning and Building Standards (P&BS) Committee, subject to a range of planning conditions and a Section 75 Legal Agreement to cover the cost of restoration works. Following conclusion of the Legal Agreement, consent was issued in July 2023.

REPRESENTATION SUMMARY

No third-party representations have been received.

APPLICANTS' SUPPORTING INFORMATION

A Supporting Statement has been provided. A full copy is available to view on *Public Access*

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: Access to the quarry is directly from the A1 trunk road therefore Transport Scotland are responsible for considering the impact of the development upon the affected road network.

Statutory Consultees

Community Council: No objection, on the basis that further information is provided to satisfy Transport Scotland that any increase in the volumes of traffic can safely access the site.

Transport Scotland (first response): Request the submission of swept path analysis of A1 / Tower Farm junction to demonstrate that large haulage vehicles can safely navigate the junction.

Transport Scotland (second response): No objection following submission of the swept path analysis.

Other Consultees

None.

DEVELOPMENT PLAN POLICIES:

National Planning Framework 4

Policy 1 Tackling the climate and nature crisis
Policy 2 Climate mitigation and adaptation
Policy 3 Biodiversity
Policy 4 Natural places
Policy 7 Historic assets and places
Policy 12 Zero waste
Policy 18 Infrastructure first
Policy 23 Health and safety
Policy 26 Business and industry
Policy 29 Rural Development
Policy 33 Minerals

Scottish Borders Local Plan 2016

Policy PMD1 Sustainability
Policy PMD2 Quality Standards
Policy HD3 Protection of Residential Amenity

Policy ED7 Business, Tourism and Leisure Development in the Countryside
Policy ED11 Safeguarding of Mineral Deposits
Policy ED12 Mineral and Coal Extraction
Policy EP1 International Nature Conservation Sites and Protected Species
Policy EP2 National Nature Conservation Sites and Protected Species
Policy EP3 Local Biodiversity
Policy EP8 Archaeology
Policy EP13 Trees, Woodlands, and Hedgerows
Policy EP15 Development Affecting the Water Environment
Policy EP16 Air Quality
Policy IS4 Transport Development and Infrastructure
Policy IS5 Protection of Access Routes
Policy IS7 Parking Provisions and Standards
Policy IS9 Wastewater Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Circular 4/98 Use of Conditions

KEY PLANNING ISSUES:

- Justification for increased rate of mineral removed from the land and whether it would adversely affect the surrounding environment.
- Impacts on road safety.
- Any other material changes since the original decision.

ASSESSMENT OF APPLICATION:

Existing consent

The proposed variation of condition relates to the consent for the extension of the existing quarry only. It does not involve the extraction of material from the original quarry site. Although the application to extend the quarry was approved by the P&BS Committee in Jan 2017, consent 14/01186/MIN was not issued until the 5th of July 2023 following the lengthy conclusion of its associated legal agreement. This consent remains implementable until 5th July 2026 and the developers are actively progressing submissions to discharge suspensive conditions attached to the existing permission to allow it to be implemented.

A Section 42 application for variation of condition does not alter the original consent which will remain in place. Should the variation of Condition 4 be granted (with a new limit for mineral extraction), then it will be necessary to re-attach all relevant conditions as per the existing planning consent. This would effectively result in two permissions being in place, one expiring in July 2026 and one in December 2026, albeit the latter consent permitting an increase in annual extraction rates.

Due to there being an implementable permission, this application should only be assessed against matters listed as Key Planning Issues.

Justification for increased rate of extraction

The original condition was attached to control the volume of material to be removed from the land to ensure that the quarrying activities do not adversely affect the amenity of the surrounding environment. Seeking to control this is standard planning

practice for a quarry development. The current consent which permits extraction levels up to 100,000 tonnes per annum over a three-year period was consistent with the volumes being extracted from the quarry when application 14/01186/MIN was lodged to extend the quarry in 2014. The applicants originally sought to increase this limit to 240,000 tonnes however through the course of this Section 42 application, this request has been reduced to 175,000 tonnes.

This proposal only seeks to increase the limit of the volume of mineral which can be extracted from the quarry each year. No changes are sought to the depths of extraction which will take place. This will remain as per the original consent and will be limited to 184 metres Above Ordnance Datum during Phases 1-7 and 190 metres Above Ordnance Datum during Phases 8-13. These limits will remain controlled by Condition 1 of the original consent. It is still estimated that this development will result in the quarrying of 5.1 million tons of hard rock as per the assessment which was conducted when the original application was considered.

This proposal would effectively increase the speed of extraction but would not affect the overall level of material which will be extracted over the life of the quarry. This change has been driven by the sale of the quarry to a different operator. The supporting statement notes that the working processes of the new operator would increase the efficiency of the volume of minerals which can be extracted and processed at the site. Increasing the volume of material which can be mined and exported from the quarry will respond to market demand for building material where required and help to further boost the economic impact of the development.

In terms of the environmental impacts associated with the proposal, no changes are sought to the operational times permitted under Condition 6 of 14/01186/MIN. Importantly, the environmental mitigation which includes the requirement for amenity bunds, noise limits, dust management, operational requirements and all other mitigation specified in the Conditions attached the previous consent would still be appropriately controlled and help mitigate the impacts of the development on the surrounding environment.

Impacts on Road Safety

The development is accessed (via a short length of private track) directly from the A1. The applicant has advised that the intended fleet of lorries (assessed as part of the original submission) would have generated thirty-three journeys in and out of the quarry in any given day to export the approved 100,000 tonne annual limit. Despite the proposed increase in the volume of material to 175,000 tonnes per annum, the applicant has advised that modern HGVs would be used which have an increased carrying capacity and would reduce the number of daily vehicle movements to twenty-six trips in and out of the quarry.

The Roads Planning Service have not raised local road safety concerns associated with this proposed variation. In response to the initial consultation response of Transport Scotland, a swept path analysis has been provided to demonstrate that larger articulated vehicles can safely navigate the sites access road junction with the A1 in each direction. Transport Scotland are satisfied that the proposal poses no trunk road safety implications. The swept path analysis also confirms that vehicle movements do not impact on the adjacent access road to Tower Farm. The development complies with relevant development plan policy requirements covering access and road safety.

Material Changes Since Decision

If the proposed rate of mineral removal is to be supported at this site, it is also necessary to consider whether there have been any changes in planning policy or any other material considerations that would be of significance in terms of the acceptability of the development.

Planning Policy

The original development was principally considered against the Development Plan in force in 2017 which consisted of the Consolidated Local Plan 2011 and SES Plan alongside the Proposed LDP, SPP and NPF3.

National Planning Policy

National Planning Framework 4 (NPF4) has replaced both NPF3 and SPP and brought a significant legislative change whereby NPF4 now forms part of the Councils statutory development plan and directly influences planning decisions. The proposed variation to Condition 4 is therefore required to be considered against the relevant policies contained within NPF4.

Key to establishing whether the principle of the development is suitable against NPF4 is its compatibility with Policy 33: Minerals. This policy seeks to support the sustainable management of minerals resources and minimise the impact of extraction of minerals on both communities and the environment. Subject to full compliance with the schedule of conditions and the legal agreement covering the financial bond for site restoration works, it is considered that the development is fully compliant with criteria d) of Policy 33. The merits of the proposal have also been against other relevant NPF4 Policy considerations including policies covering biodiversity, historic assets, health and safety and residential amenity, and raise no areas of concern or conflict.

Local Development Plan

The proposal was considered against the Proposed LDP which has been subsequently adopted and remains the current LDP. There has not been any change to LDP Policy that would justify any re-examination of the earlier decision to approve the development or alter its proposed rate of extraction. The original planning conditions and legal agreement associated with the earlier consent will remain in place to mitigate and control the appropriate development and operation of the site in accordance with LDP requirements.

SES Plan has now been superseded by NPF4 and no longer forms part of the Councils Development Plan.

Other Matters

Since the last report to Members in 2016, there has been no significant changes to the context of the site. The mitigation sought by planning conditions and legal agreement requirements detailed within the previous Committee Report will continue to mitigate the impacts of the development against all relevant provisions of the LDP and Policy considerations within NPF4. There has been no shift in policy, or other material considerations, which would justify a full examination of the principle of development on this site.

CONCLUSION

There is a valid consent in place to extend Glenfinn Quarry, allowing for commencement of these works up until July 2026. It is considered that the variation sought to Condition 4 of consent 14/01186/MIN which would increase the average volume of extracted material from 100,000 tonnes to 175,000 tonnes will not result in any operations or impacts which will adversely affect the surrounding environment, subject to requirement that the development is operated in accordance with the requirements and mitigation specified by the conditions and legal agreement attached to the original permission.

Furthermore, there has been no significant shift in policy or other material changes that would determine that the original decision should be re-examined, and the decision reversed. The proposed development remains compliant with Policies contained within the Scottish Borders Local Development Plan and relevant Policy provisions of National Planning Framework 4.

RECOMMENDATION BY SERVICE DIRECTOR (REGULATORY SERVICES):

I recommend the application is approved subject to the following conditions:

1. The rate of mineral extraction from the site shall not exceed 175,000 tonnes per annum over any period of three years. Written records shall be kept by the operator of all Heavy Goods Vehicle movements off site including the weight of minerals carried by each vehicle and that information shall be made available for inspection by the Planning Authority on an annual basis on the last day of March each year.
Reason: To safeguard the amenity of the surrounding area and avoid excessive extraction levels.
2. With the exception of Condition 4 of consent 14/01186/MIN hereby amended as per Condition 1 above, the development shall be implemented in accordance with the plans, drawings, supporting information and schedule of conditions approved under application 14/01186/MIN and in accordance with all agreements/approvals under the terms of those conditions.
Reason: To ensure the development is implemented and operated in accordance with all measures within the approved schedule of conditions under the original planning consent, to ensure compliance the Development Plan and relevant planning policy guidance.

DRAWING NUMBERS

Location Plan	A Location Plan
Existing Site Plan	104
Phasing Plan	101
Swept Path	MTS 11031 SK01

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning 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.

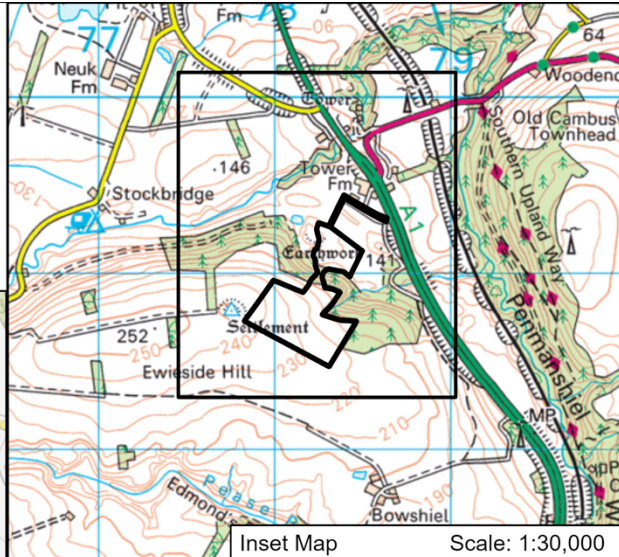
Author(s)

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

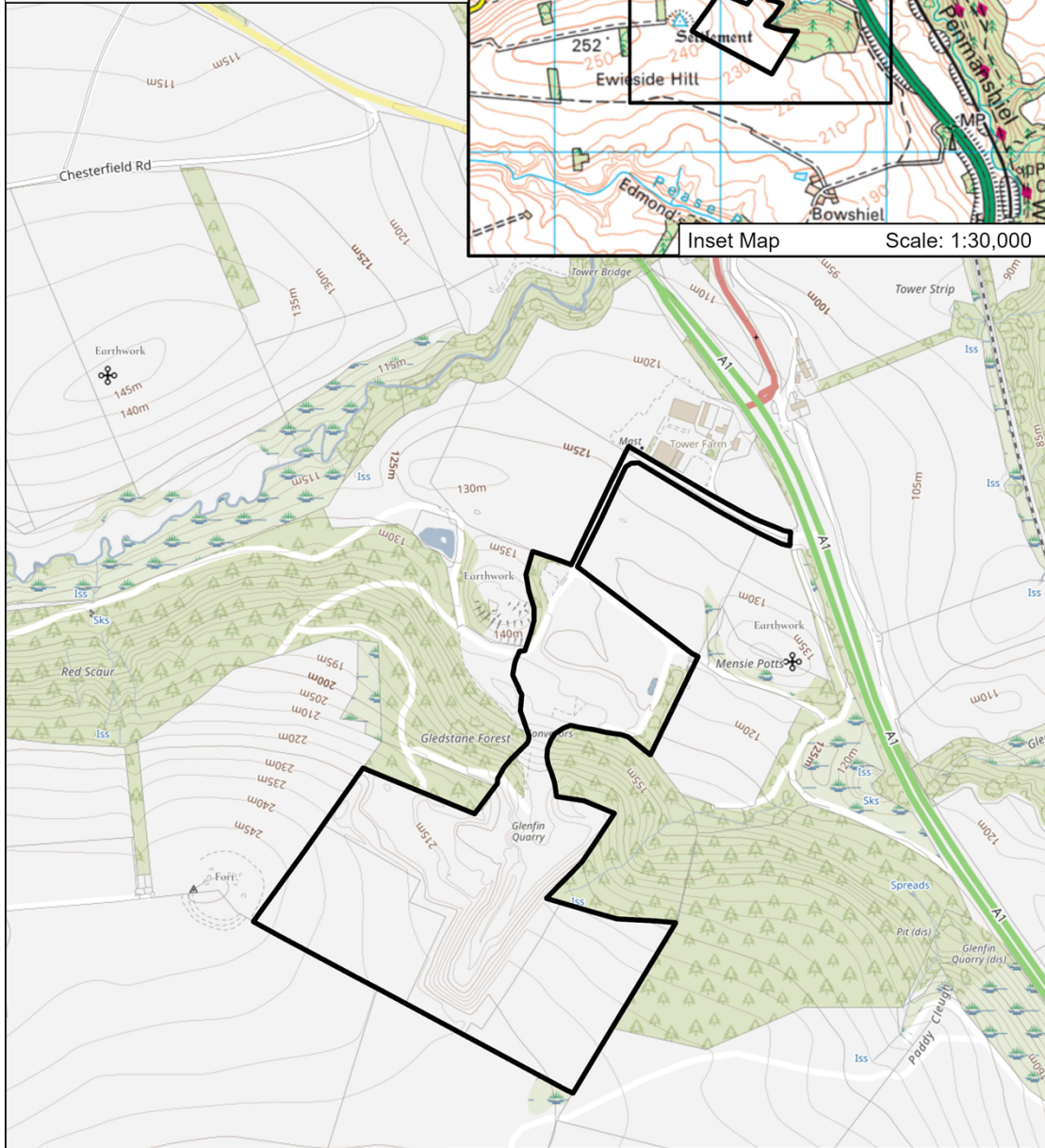


23/01144/FUL

Glenfinn Quarry
Cockburnspath



Inset Map Scale: 1:30,000



Scale: 1:7,500

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PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

4th December 2023

1 PURPOSE

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

2 APPEALS RECEIVED

- 2.1 Planning Applications

Nil

- 2.2 Enforcements

Nil

- 2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

- 3.1 Planning Applications

- 3.1.1 Reference: 22/01993/FUL
Proposal: Erection of dwellinghouse
Site: Land Adjacent Rose Cottage, Maxwell Street,
Innerleithen
Appellant: Mr Raymond Keddie

Reason for Refusal: The proposals are contrary to Policies PMD2 and PMD5 of the Scottish Borders Local Development Plan 2016 in that the site is not allocated for housing, the scale and density of the proposals are not appropriate for this site, and the erection of a house would result in inappropriate infill development. The proposals are also contrary to Policies EP9 and EP11 of the Scottish Borders Local Development Plan 2016 and Policy 7 of National Planning Framework 4 in that the erection of

a house on this site will result in the loss of an area of green space and will not enhance the character of the conservation area.

Reasons for Appeal: The Committee's decision to refuse planning permission is contrary to the Planning Officer's recommendation to approve. The Local Review Body granted planning permission to erect a single house on the same site back in 2019 with an intentions notice. No LRB decision notice has been issued yet as the Legal Agreement has still to be concluded. The proposal complies with Policies PMD2, PMD5, ED9 & EP11 of the LDP. The proposal also complies with criteria (d) and (e) of the National Planning Framework 4 Policy 7.

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

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Rosie Leven, noted that the site is not specifically allocated for housing. While representations suggest it is a valued amenity space, neither the reporters site visit or any detailed evidence presented suggests that the open space has a particular environmental, social or economic value. The Council was minded to grant an application for planning permission in principle on the site in 2019. As the planning obligation was not concluded, permission was not granted. Nevertheless, the reporter has taken account of that decision in the assessment. Representations indicate ongoing concerns over drainage in the area. The proposal includes a soakaway to address surface water runoff. Percolation test results have been provided and an indication given of the size of soakaway required. The reporter stated that the principle of residential use on the site is in line with the LDP policies PMD5 and EP11, and NPF4 policy 16. She considered that the detailed design would be compatible with the surrounding area and preserve the character of the conservation area, in line with the relevant aspects of LDP policies PMD2, PMD5 and EP9 and NPF4 policy 7, and that there would be no significant loss of daylight, sunlight or privacy as set out in policy PMD5. The reporter concluded that the proposed development accords overall with the development plan and that there are no material considerations which would justify refusing to grant planning permission, subject to conditions and a legal agreement.

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

- 3.1.2 Reference: 23/00777/FUL
Proposal: Installation of communication lattice tower 35m high c/w headframe on new 6.5m x 6.5m RC concrete base and associated ancillary works
Site: Land at Menzion Forest Block, Quarter Hill, Tweedsmuir
Appellant: Hutchison 3G UK Ltd

Reasons for Refusal: 1. The proposed telecommunications mast is contrary to Policy 24 (e) of National Planning Framework 4 in that development would not minimise visual and amenity impacts. The proposed mast would also be contrary to Policy 25 of National Planning Framework 4 in that it does not contribute to community and local economic development that focuses on community and place benefits. 2. The proposed telecommunications mast is contrary to Policy ED6 of the Scottish Borders Local Development Plan 2016 in that it will have an adverse impact on the natural environment, particularly landscape and

visual impact. The proposed development is also contrary to Policy IS15 (a) in that equipment would not be positioned or designed sensitively and would have an adverse effect on the environment, in particular, the Tweedsmuir Upland Special Landscape Area. The developers have not adequately demonstrated that an alternative location has been sought.

Reasons for Appeal: The installation of the proposed upgrade would not be contrary to but would contribute to the achievement of the Policy objectives of SBC's Development Plan, the NPF4 and PAN62. The proposal would not be to the detriment of visual amenity or result in harm to the character of the area. The proposal would further the delivery of sustainable development through intelligently managed and considered change. There will not be a 4G coverage hole in the area (as is currently the case) and all efforts have been injected into the site selection process to deploy a proposal where the visual amenity or landscape character of the area will not be adversely affected. Any perceived impact on amenity the site will be outweighed by the many positive benefits that telecommunications bring to the economy and community. The development meets the requisite criteria and standards, as well as contributing to and according with the 'Planning for Growth' objectives. [Please see the DPEA Website for the Appeal Documents](#)

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Trudi Craggs, noted that the appellants landscape and visual impact assessment was not before the Council at the time of determining this application, however, it was submitted as part of the appeal and the Council has had an opportunity to comment on it. Following the site inspection, the reporter did not feel that the mast, once operational, would be visible in some views, given the vastness and scale of the landscape and the expansive open views across it. The hard standing, equipment cabinet and fencing would be partially screened by woodland, vegetation and topography. The upper part of the mast would be clearly visible, breaking the skyline. In the Reporter's view, the integrity of the Tweedsmuir Uplands special landscape area and its landscape quality would not be significantly adversely affected. The Reporter was also satisfied that the appellants had demonstrated there is no suitable alternative location. On the site inspection the reporter noted that mobile reception in the area was patchy and at times non-existent. This is reflected in the Tweedsmuir Community Action Plan 2023-2028. The reporter considers that the key policies against which this proposal should be assessed are policies 1, 3, 4, 24 and 25 of the NPF4 and policies IS15, ED6 and EP5 of the local development plan. The reporter therefore concluded that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusing to grant planning permission. [Please see the DPEA Website for the full Appeal Decision Notice](#)

3.2 Enforcements

Nil

3.3 Works to Trees

4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 23rd November 2023. This relates to sites at:

• Land East of Kirkwell House, Preston Road, Duns	• 2 Gladstone Street, Hawick
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5 REVIEW REQUESTS RECEIVED

5.1 Reference: 23/00262/FUL
 Proposal: Change of use of derelict agricultural building and extension to form dwellinghouse and erection of 17.8m high wind turbine (tip height)
 Site: The Blue House Near Swansfield Farm, Reston, Eyemouth
 Appellant: Mr Graeme Forsyth

Reason for Refusal: The proposed dwellinghouse would be contrary to Policy HD2 (C - Conversions) of the Local Development Plan 2016 in that the proposed conversion and extension would not be in keeping with the scale and character of the existing building. The new extension would dominate the more subservient conversion of the existing building in height and footprint resulting in the appearance of a new build dwellinghouse in the open countryside extending off a more subservient old stone outbuilding. The development would contribute to the sense of sporadic residential development in the countryside, to the detriment of the character of the existing building, and the surrounding area. Other material considerations have been accounted for but they do not outweigh the harm that would result from the development.

5.2 Reference: 23/00492/PPP
 Proposal: Erection of dwellinghouse
 Site: Land North of Ivanhoe, Dingleton Road, Melrose
 Appellant: Rivertree Residential Ltd

Reason for Refusal: The development would be contrary to policy 6 of the National Planning Framework 4 and policies EP10 and EP13 of the Scottish Borders Local Development Plan 2016 and SBC Supplementary Planning Guidance: Trees and Development 2020 in that there would be an unacceptable loss of protected trees, which would undermine the value of the site as a historic orchard of amenity value, compromising the character and amenity of the local area, the setting of the Dingleton Hospital redevelopment and the integrity of the Dingleton Designed Landscape, prejudicing the health and future retention of the remaining trees whilst allowing insufficient space for adequate compensatory planting. Furthermore, it has not been demonstrated that the public benefit of the development would outweigh the loss of, and impacts on, the protected trees.

5.3 Reference: 23/00684/FUL
 Proposal: Change of use from amenity land to garden ground
 Site: 58 Waldie Griffiths Drive, Kelso

Appellant: M&J Ballantyne Ltd

Reason for Refusal: The proposal would be contrary to Policy 20 of National Planning Framework 4 and Policies PMD2 and EP11 of the Local Development Plan 2016 and the Supplementary Planning Guidance on Placemaking and Design 2010 in that it would result in the loss of public open space that would be out of character with the existing and proposed development pattern to the detriment of the visual amenity and character of the surrounding area. In addition, it has not been demonstrated that there is a social, economic or community benefit for the loss of open space or that the need for development outweighs the need to retain the space. No comparable or enhancement of existing open space has been provided to mitigate the potential loss.

5.4 Reference: 23/00844/FUL
Proposal: Erection of dwellinghouse
Site: Land South of 1 Old Edinburgh Road, Eddleston
Appellant: Mr Francis Gilhooley

Reasons for Refusal: 1. The development would be contrary to policies PMD2, PMD5 and HD3 of the Local Development Plan 2016 and NPF4 policies 14 and 16 together with Placemaking and Design and; Privacy and Sunlight guidance in that the scale and form of the development would not fit within the existing pattern of development in the area, the proposal would be over-development of the site and the design would have a undue visual impact on the area, the existing property to the north and on the approach to and exit from the village. In addition, the fenestration layout, siting of the house and its orientation in relation to the properties to the east would lead to an unacceptable adverse impact on the privacy of the proposed house through overlooking. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations. 2. The development would be contrary to policy EP13 of the Local Development Plan 2016 and NPF4 policy 6 together with Trees and Development guidance in that no account has been taken of the tree within the site. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations. 3. The development would be contrary to policies PMD2 and IS9 of the Local Development Plan 2016 and NPF4 policy 22 together with Sustainable Urban Drainage Systems and Waste Management guidance in that the proposed surface water drainage is unlikely to be able to be provided within the site and there is not adequate provision for waste and recycling containers away from the elevation of the building which faces the public road. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations.

5.5 Reference: 23/00847/FUL
Proposal: Erection of boundary fence (retrospective)
Site: 24 - 1 Ettrick Terrace, Hawick
Appellant: Mr Gary Johnstone

Reason for Refusal: The development would be contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 and Policy 14 of NPF4 in that it would constitute a prominent and incongruous form of development that would have an adverse impact on the character and appearance of the surrounding area.

- 5.6 Reference: 23/01014/FUL
Proposal: Erection of dwellinghouse
Site: Garden Ground of Glenbield, Redpath
Appellant: Mr Keith Robertson

Reasons for Refusal: 1. The proposed development would fail to comply with Policy 14 of National Planning Framework 4 and Policies PMD2 and PMD5 of Scottish Borders Local Development Plan 2016 and the Council's Supplementary Planning Guidance Placemaking and Design 2010 in that, due to the small size of the site and its narrow nature, the proposal would constitute overdevelopment that would not respect the character of the area or existing pattern of development in Redpath. 2. The proposed development would fail to comply with Policies 7 and 14 of National Planning Framework 4 and Policies PMD2, PMD5 and EP9 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance Placemaking and Design 2010 in that the orientation, layout and density of the proposal would be out of keeping with the established character and pattern of the street scene resulting in adverse impacts on the character and appearance of the Conservation Area. 3. The proposed development would fail to comply with Policies 7 and 14 of National Planning Framework 4 and Policies PMD2, PMD5 and EP9 of Scottish Borders Local Development Plan 2016 and the Council's Supplementary Planning Guidance Placemaking and Design 2010 in that the proposed dwellinghouse is poorly designed, detrimental to the surrounding area, adversely affecting the character and appearance of the Conservation Area. 4. The proposed development would not comply with Policies PMD2 and IS7 of the Scottish Borders Local Development Plan 2016 in that the layout and car parking proposed would not operate adequately due to the constrained nature of the layout and site resulting in vehicular access and parking to the detriment of road safety.

6 REVIEWS DETERMINED

- 6.1 Reference: 22/01905/FUL
Proposal: Demolition of stable and erection of dwellinghouse
Site: Site Adjacent The Steading Whiteburn Farm, Lauder
Appellant: Ms Elaine McKinney

Reason for Refusal: The proposal is contrary to policy 17 of National Planning Framework 4 and policy HD2 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 as the site is outwith the defined boundaries of the building group and sense of place and does not relate well to the existing houses within the building group in terms of their spacing. The development would read as isolated and divorced from the group, to the detriment of the character, amenity and setting of the building group.

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

Review Decision: Decision of Appointed Officer Upheld

- 6.2 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, research 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.

Method of Review: Review of Papers

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

6.3 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.

Method of Review: Review of Papers

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

7 REVIEWS OUTSTANDING

7.1 There remained One review previously reported on which a decision was still awaited when this report was prepared on 23rd November 2023. This relates to a site at:

• U-Stor Business Units, Spylaw Road, Kelso	•
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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 23rd November 2023. This relates to a site at:

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

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