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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 25TH MARCH, 2024

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST. BOSWELLS AND VIA MICROSOFT TEAMS on MONDAY, 25TH MARCH, 2024 at 10.00 AM.

All attendees, including members of the public, should note that the public business in this meeting will be livestreamed and video recorded and that recording will be available thereafter for public view for 180 days.

N. MCKINLAY,
Director Corporate Governance,

15 March 2024

BUSINESS	
1.	Apologies for Absence
2.	Order of Business
3.	Declarations of Interest
4.	Minute (Pages 3 - 8) Consider Minute of the Meeting held on 4 March 2024 for approval and signature by the Chair. (Copy attached.)
5.	Applications Consider the following applications for planning permission:
	(a) Land Southwest of Brockhouse Farmhouse, Fountainhall, Galashiels - 21/01808/S36 (Pages 9 - 48) Onshore wind farm of 14 turbines with a maximum tip height of 180 metres, and ancillary infrastructure.
	(b) Land At The Croft Dingleton Road Melrose - 23/01782/FUL (Pages 49 - 60) Removal Condition no. 24 of planning permission 18/01385/FUL pertaining to a scheme of woodland management.
	(c) Land West of the Eccles Substation - 23/01038/S36 (Pages 61 - 76) Construct of a Battery Energy Storage System and associated infrastructure.
	(d) Land at, and including, Howdenburn Primary School and School House, Howdenburn Drive, Jedburgh - 23/01466/FUL (Pages 77 - 104) Erection of 70 no. dwellinghouses and associated infrastructure.
	(e) Land South-East Of The Beeches, Howpark, Grantshouse, Duns, Scottish

	<p>Borders - 23/01682/PPP (Pages 105 - 126) Caravan Park comprising of static caravans, landscaping, formation of new access and associated work.</p>
6.	<p>Appeals and Reviews (Pages 127 - 132) Consider Briefing Note by Chief Planning and Housing Officer. (Copy attached.)</p>
7.	<p>Any Other Items Previously Circulated</p>
8.	<p>Any Other Items which the Chair Decides are Urgent</p>

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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Public Document Pack Agenda Item 4

SCOTTISH BORDERS COUNCIL

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, 4th March, 2024 at 10.00 am

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

Apologies:- Councillors E. Small and V. Thomson

In Attendance:- Lead Planning Officer (B. Fotheringham), Lead Roads Planning Officer (D. Inglis), Solicitor (S. Thompson) and Democratic Services Officer (W. Mohieddeen).

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 5 February 2024.

DECISION

AGREED to approve the Minute for signature by the Chair.

2. **APPLICATIONS**

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

DECISION

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

The meeting concluded at 11.50am.

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APPENDIX I
APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
23/01838/FUL	Change of use of visitor parking and land to form garden ground, erection of shed and raised decking	Land West of and Incorporating 19 Birks View, Galashiels

DECISION: Refused (contrary to officer recommendation) for the following reasons:

The application is contrary to Policy IS7 – Parking Provision and Standards and Policy PMD2 – Quality Standards of the Scottish Borders Local Development Plan 2016 in that the loss of existing visitor car parking spaces and the relocation of those spaces will have a significant adverse impact on road safety. The proposed relocation of visitor spaces will result in additional and unacceptable vehicle manoeuvres for existing road users and residents.

NOTE

Mr Stuart Stoddart spoke as an objector to the application.

Reference

21/01808/S36

Nature of Development

Onshore wind farm of 14 turbines with a maximum tip height of 180 metres, and ancillary infrastructure

Location

Land Southwest of Brockhouse Farmhouse, Fountainhall, Galashiels

DECISION: Continued for site visit.

Reference

23/01782/FUL

Nature of Development

Removal Condition no. 24 of
planning permission
18/01385/FUL pertaining to
a scheme of woodland
management

Location

Land At The Croft Dingleton
Road Melrose

DECISION: Deferred to future meeting.

Reference

23/00980/FUL

Nature of DevelopmentAlterations and extension to
dwellinghouse**Location**24 Davidson Place
Newtown St Boswells
Melrose

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

Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.
2. 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. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the extensions have been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 MARCH 2024

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 21/01808/S36
ECU REFERENCE NUMBER: ECU00003341

OFFICER: Mr Scott Shearer
WARD: Galashiels And District
PROPOSAL: Onshore wind farm of 14 turbines with a maximum tip height of 180 metres, and ancillary infrastructure
SITE: Land Southwest of Brockhouse Farmhouse
Fountainhall
Galashiels
APPLICANT: Greystone Knowe Wind Farm Limited

1.0 PLANNING PROCESSING AGREEMENT

1.1 There is a planning processing agreement for the Council to determine its response at the Planning and Building Standards (P&BS) Committee on the 4th of March 2024.

2.0 PURPOSE OF REPORT

2.1 To advise the Scottish Government of the response from Scottish Borders Council on an application which has been submitted under section 36 of The Electricity Act 1989 (as amended) to construct 14 wind turbines and associated infrastructure on Land Southwest of Brockhouse Farmhouse, Fountainhall.

2.2 This application was first presented to the Planning & Building Standards Committee on 4 March 2024 where members resolved to defer determination to a future meeting for a site visit. At the time of writing, the site visit was scheduled to take place on 19 March 2024.

3.0 PROCEDURE

3.1 Scottish Borders Council (SBC) is a consultee in the Section 36 application process as a 'relevant planning authority'.

3.2 The views of SBC will be provided to the Energy Consents Unit at Scottish Government (ECU), the body responsible for processing onshore Section 36 planning applications. The proposal is required to be determined via Section 36 (S36) of the Electricity Act 2017 because it consists of a wind farm with a generating capacity in excess of 50MW. The ECU advertises the application and carries out consultation with other interested bodies. There is, therefore, no need for SBC to undertake a tandem process although consultation has taken place with relevant specialists within the Council. Any S36 approval granted by the Scottish Ministers would benefit from deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997.

- 3.3 Given the nature of the application, an Environmental Impact Assessment (EIA) has been submitted.
- 3.4 It should be noted that if permission is granted, the Council (rather than the ECU) would become the relevant enforcement authority responsible for monitoring compliance with the terms of an approval including discharging any suspensive conditions attached to any consent.

4.0 SITE DESCRIPTION

- 4.1 The application site lies to the west of the Gala Water Valley and borders the Moorfoot hills. The A7 and Borders Railway run in a north – south direction to the east of the site. The site is located between two settlements with Fountainhall lying approx. 2.5km to the southeast and Heriot approx. 2 km to the north. The site consists of predominantly upland rough grazing land with improved pasture and blocks of forestry plantation.

Landscape Character

- 4.2 In terms of the 1998 Scottish Borders Landscape Character Assessment (1998), the site is located in the northeast part of Scottish Landscape Character Type (LCT) 90 - Dissected Plateau Moorland as described in NatureScot National Landscape Character Assessment. It is an Upland LCT and occurs in two areas within Scottish Borders - the Moorfoot and Lammermuir Hills. The LCT is characterised as a plateau landform with hill masses separated by steep-sided valleys of differing scales. It is perceived to have a high degree of naturalness, with a sense of wildness resulting from wide horizons and long distance, unobstructed views.
- 4.3 Immediately to the east of the site is LCT 114 Pastoral Upland Valley which is the Gala Water Valley corridor, stretching from Galashiels to Heriot. This is a medium scale valley landscape which carries the A7 and Borders Railway. Within the valley there are numerous scattered farms, villages and building groups, located both on the valley floor but also in more elevated locations on the valley sides. Views are largely medium to long range along the valley, with interlocking spurs and woodlands prominent with occasional glimpses of Long Park Wind farm, located southeast of Stow. To the east of the Gala Water valley and still within 5km of the development is LCT 91 Plateau Grassland – Borders. This lies between the Moorfoot and Lammermuir plateau and is characterised by large scale, rolling plateau topography with gentle slopes and smooth relief.
- 4.4 The site is not located within or adjacent to any National Scenic Areas (NSA's) or Special Landscape Areas (SLA's).

Cultural Heritage Designations

- 4.5 There are no designated heritage assets located within the application site boundary. Outwith the application site a number of Scheduled Monuments and Listed Buildings are located within a 10km radius of the application site, these are identified on Figure 6.2 of the EIA.

Designated Nature Conservation Sites

- 4.6 The Moorfoot Hills SAC and SSSI bounds the entire western boundary of the application site. The River Tweed SAC (Gala Water) is located to the east of the site and (Heriot Water) north of the application site.

Access and Paths

- 4.7 The site is accessed via the A7 and the Old Stage Road where its access crosses another minor public road to the east of Pirntaton Farm. The site is not crossed by any public paths.

5.0 PROPOSED DEVELOPMENT

- 5.1 The proposal would comprise of a wind farm development with the following components:

- 14 wind turbines with a maximum tip height of 180m and a rotor diameter of 150m. Each turbine would have a generating capacity of approximately 5MW,
- A Battery Energy Storage System (BESS) facility.
- Two permanent metrological masts.
- New access road Approximately 12km of new access tracks with associated watercourse crossings retained throughout the lifetime of the development.
- An operations control building.
- A substation compound.
- Up to 3 borrow pits and
- Telecommunications equipment.

- 5.2 The applicant is seeking consent for an operational period of 30 years. At the end of this period, unless 're-powered' or unless a new planning permission is granted that would extend the wind farm's life, it would be decommissioned, and the site restored in agreement with a decommissioning method statement.

6.0 PLANNING HISTORY

- 6.1 The site benefits from the following planning history:

- 18/00469/FUL - Erection of anemometer mast up to 90m – Approved.
- 23/00396/FUL - Erection of anemometer mast up to 90m high (renewal of planning permission 18/00469/FUL) – Approved.

7.0 REPRESENTATION SUMMARY

- 7.1 Third party representations are submitted to the ECU and it is for that authority to take these in to consideration when assessing the proposed developments on behalf of the Scottish Ministers. Third party representations are available via the ECU's public portal here; [Public Representations](#)

8.0 APPLICANTS' SUPPORTING INFORMATION

- 8.1 The application has been supported by a full EIA, split across 3 Volumes of text, figures, visualisations, specialist assessment and a Non-Technical Summary. In addition to the EIA the application has been supported by;

- A Planning Statement
- Pre-Application Consultation Report

- 8.2 Additional Information was submitted on 8th August 2022 comprising of further information regarding hydrology and peat, ecology, ornithology, noise, forestry, traffic and transport, aviation and planning matters.
- 8.3 Subsequently the following submissions have also been provided to SBC;
- Planning Statement Addendum (incorporating NPF4 and other Energy Policy updates)
 - Response to Scottish Borders Council's Landscape Officer's consultation response

9.0 CONSULTATION RESPONSES:

- 9.1 The following consultation responses have been received by specialist officers within Scottish Borders Council. A summary of the consultation responses received from each is provided below.
- 9.2 **Archaeology:** No objection. Advise that the development will result in slightly adverse cultural heritage impacts. No significant adverse impacts on the settings of any hillfort or settlement Scheduled Monuments are caused. Turbine 3 does detract from the setting of Corsehope Rings (SM1166) and its view towards Halltree Rings Settlement (SM1170), it is recommended this turbine is removed or relocated. Development has limited potential to cause any direct impacts, despite low potential agreement of a programme of archaeological works is still required.
- 9.3 **Ecology Officer:** No response.
- 9.4 **Environmental Health (Noise):** Recommend conditions to agree the final specification of candidate turbine which meet noise limits and noise operation mitigation plans.
- 9.5 **Flood Risk Officer:** No objection on the grounds of flood risk provided that mitigation and design details set out in the Drainage Impact and Watercourse Crossing Assessment are adhered to and, further details on the proposed watercourse crossing, culverts and SUDS are submitted at the detailed planning stage.
- 9.6 **Landscape Architect:** Provided a detailed assessment of the proposal on landscape character, visual effects, cumulative landscape and visual impacts, effects of aviation lighting and residential amenity impacts. Object on grounds that the development will have an unacceptable visual effect on the Pastoral Upland Valley (Gala Water) Landscape Character Type where some turbines appear prominent to visual receptors within the valley landscape. Recommend that this could be addressed by removing or relocating the eastern most turbines (T3, T13, T14, T8 and T9). Removal of some turbines would improve the visual impact of the development at Upper Corsehope Cottage. Also note the T1 appears prominent from a number of viewpoints. Recommend that a revised scheme could address the most significant impacts.
- 9.7 **Roads Planning:** No objection. Proposed route of transporting abnormal loads via A7 and Old Stage Road is acceptable. Identify that alterations to the Old Stage Road and the minor access roads will likely be required. Recommend conditions requiring;
- a Transport Assessment

- scheme of all remedial and engineering works
- precise details of access roads crossing with public road at Pirntaton Farm
- Traffic Management Plan
- Abnormal load test runs and timetables for delivery

10.0 Other Consultation Responses Submitted to the ECU

10.1 As members are aware, the Council is a consultee in the Section 36 application process and does not undertake any outside consultation itself. Consultation responses provided by other bodies are returned to the ECU and are available via the ECU's public portal here; [Other Consultation Responses](#)

11.0 LEGAL FRAMEWORK

- The Electricity Act 1989
- The Town and Country Planning (Scotland) Act 1997
- The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended)
- The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019

12.0 DEVELOPMENT PLAN POLICIES:

12.1 National Planning Framework 4

Policy 1: Tackling the Climate and Nature Crises

Policy 3: Biodiversity

Policy 2: Climate mitigation and adaption

Policy 4: Natural Places

Policy 5: Soils

Policy 6: Forestry, Woodland and Trees

Policy 7: Historic Assets and Places

Policy 11: Energy

Policy 22: Flood Risk and Water Management

12.2 Scottish Borders Local Development Plan 2016 (LDP):

Policy PMD1: Sustainability

Policy PMD2: Quality Standards

Policy ED9: Renewable Energy

Policy HD3: Protection of Residential Amenity

Policy EP1: International Nature Conservation Sites

Policy EP2: National Nature Conservation Sites and Protection Species

Policy EP3: Local Biodiversity

Policy EP5: Special Landscape Areas

Policy EP7: Listed Buildings

Policy EP8: Archaeology

Policy EP9: Conservation Areas

Policy EP10: Gardens and Designated Landscapes

Policy EP13: Trees, Woodlands and Hedgerows

Policy EP15: Development Affecting the Water Environment

Policy IS4: Transport Development and Infrastructure

Policy IS5: Protection of Access Routes

Policy IS8: Flooding

Policy IS9: Wastewater Treatment Standards and Sustainable Urban Drainage

13.0 OTHER PLANNING CONSIDERATIONS:

13.1 Adopted SBC Supplementary Planning Guidance (SPG) and other documents:

- Renewable Energy (2018) including Update of Wind Energy Landscape Capacity and Cumulative Impact Study (2016)
- Visibility Mapping for Windfarm Development (2003)
- Local Landscape Designations (2012)
- Sustainable Urban Drainage Systems (2020)
- Developer Contributions (2010)
- Trees and Development (2008)
- Biodiversity (2005)

13.2 Scottish Government Advice and Guidance:

- Onshore Wind Turbines: Planning Advice [Online]
- Circular 3/2011 Environmental Impact Assessment (S) Regulations (2011)
- PAN 60 Planning for Natural Heritage (2008)
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 3/2010: Community Engagement (2010)
- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 1/2013 Environmental Impact Assessment
- PAN 61: Planning and Sustainable Urban Drainage Systems
- PAN 69 Flood Risk (2015)
- PAN 73: Rural Diversification
- PAN 75 Planning for Transport
- PAN 81 Community Engagement Planning with People
- Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Development (2016)

13.3 Historic Scotland Publications:

- Scottish Historic Environment Policy (2011)

13.4 NatureScot Publications:

- Siting and Designing Windfarms in the Landscape Version 3 February 2017
- Visual Representation of Wind Farms Version 2.2 February 2017
- Assessing the Cumulative Impact of Onshore Wind Energy Developments 2012
- Spatial Planning for Onshore Wind Turbines – Natural Heritage Considerations 2015
- Good Practice during Wind Farm Construction 2019

13.5 Other Publications:

- ETSU-R-97 - The Assessment and Rating of Noise from Wind Farms

14.0 ENERGY POLICY

- Onshore Wind Policy Statement (OWPS) 2022
- Draft Energy Strategy and Just Transition Plan 2023
- The Climate Change Act 2008 (2050 Target Amendment Order 2019)

- United Nations Climate Change - The Paris Agreement 2015
- Climate Change Committee - The Sixth Carbon Budget: The UK's path to Net Zero (2020)
- Scottish Government (2020) Securing a green recovery on a path to net zero: climate change plan 2018-2032
- Climate Change (Scotland) Act 2009
- Climate Change (Emissions Reduction Targets) (Scotland) Act 2019
- Powering Up Britain (March 2023)
- British Energy Security Strategy (April 2022)

15.0 KEY PLANNING ISSUES:

- 15.1 Bearing in mind that SBC is a consultee rather than the determining authority, the key issues are whether the development of a wind farm in this location accords with all relevant policies within the adopted development plan and other material planning considerations.

16.0 ASSESSMENT OF APPLICATION:

The Electricity Act 1989

- 16.1 This proposal is required to be assessed under section 36 of the Electricity Act 1989. The Electricity Act requires that in formulating proposals to generate electricity, regard shall be had to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural or historic interest and to mitigating the impact any proposals may have on these: and that Scottish Ministers shall have regard to these matters in considering an application under Section 36. The Development Plan is a material consideration in the determination of a Section 36 application.

Planning Policy

- 16.2 This revised proposal must be assessed against current national and local planning policy provision.

National Planning Framework 4

- 16.3 NPF4 sets out the Scottish Governments long-term spatial principles until 2045 and by applying these the national spatial strategy will support the planning and delivery of: sustainable places, liveable places and productive places. NPF4 contains cross-cutting outcomes including Policy which affords significant weight to both the global climate emergency and reducing greenhouse gas emissions, and to the nature crisis and protecting and enhancing the environment.
- 16.4 NPF4 acknowledges that meeting net zero climate ambitions will require rapid transformation across all sectors of our economy and society and every decision on future development must contribute to making Scotland a more sustainable place. Unlike its predecessors, NPF4 has elevated status as it forms part of the statutory development plan. Therefore, it must be afforded considerable weight as part of the decision-making process for all planning decisions.
- 16.5 NPF4 recognises that large scale electricity generation from renewable sources are essential to meet net zero emissions targets. The framework designates 18 National

Developments to support the delivery of the spatial strategy. Any on or offshore wind farm which would generate in excess of 50 megawatts of electricity is designated a National Development. The volume of electricity generated by this proposal would exceed this threshold. This proposal represents a National Development which would contribute towards delivering the spatial strategy.

- 16.6 Part 2 of NPF4 sets out the national planning policy framework to meet policy aspirations under the three themes of; sustainable places, liveable places and productive places. A range of Policies are relevant to this proposed development and NPF4 must be applied as a whole however when considering the principle of the development; Policy 1: Tackling the Climate and Nature Crisis and Policy 11: Energy, stand out.
- 16.7 Policy 1 seeks to promote development which addresses the global climate emergency and nature crises. This development would generate electricity from a renewable source and provides battery storage capacity which will also play an important role in meeting net zero emissions targets. This development draws clear support from this policy.
- 16.8 Energy policy principles are set out in Policy 11 which encourages, promotes and facilitates all forms of renewable energy development, including onshore wind farms and battery storage. The policy does not permit wind farm development to take place within National Parks or National Scenic Areas. The site is not located in either of these designations. This confirms that the proposal is located within an area which may be suitable for wind farm development. The policy also seeks for proposals to maximise net economic impacts, this matter will be discussed below.
- 16.9 Part (c) of the policy only gives support where proposals maximise net economic impact, including local and community socio-economic benefits. Part (e) of the policy provides a list of impacts that the project design and mitigation will be expected to address. This includes impacts on communities and individual dwellings, significant landscape and visual impacts, public access, historic environment, aviation and defence interests including seismological recording, as well as other cumulative and environmental impacts. The policy now requires that in considering these, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.

Onshore Wind Policy Statement (OWPS)

- 16.10 Published on 21st December 2022, the OWPS reaffirms that the deployment of onshore wind is critical for meeting Scotland's energy targets. The statement renews the commitment to onshore wind technology and sets ambition for a minimum installed capacity of 20GW of onshore wind in Scotland by 2030. It recognises at paragraph 3.6.1 that; "*Meeting the ambition of a minimum installed capacity of 20 GW of onshore wind in Scotland by 2030 will require taller and more efficient turbines. This will change the landscape.*" (Original emphasis).
- 16.11 Despite the acceptance that more wind energy deployment is necessary, this is still not development at any cost with the Vision Statement for OWPS (see Annex 5) confirming that a balanced approach is still necessary in particular to ensure developments still respect biodiversity, natural heritage and landscape.

Scottish Borders Local Development Plan (LDP) 2016

- 16.12 Policy ED9 is the principal LDP Policy dealing with renewable energy development and supports commercial wind farms where they can be accommodated without unacceptable significant adverse impacts or effects, giving due regard to relevant environmental, community and cumulative impact considerations. If there are judged to be significant adverse impacts or effects which cannot be satisfactorily mitigated, the development will only be approved if the Council is satisfied that the wider economic, environmental and other benefits of the proposal outweigh the potential damage arising from it.
- 16.13 The applicants consider that ED9 is now inconsistent with NPF4 primarily due to its age and attribution of weight to the climate and nature crises and meeting updated renewable energy targets. Despite this, Policy ED9 does still permit the decision maker to attribute weight to environmental and other benefits arising from the development as they see fit. This would allow the decision maker to place greater weight on a developments contribution to energy targets as part of the wider planning balance. Policy EP9 is not considered to be wholly incompatible with NPF4.

Scottish Borders Proposed Local Development Plan 2 (LDP2)

- 16.14 The Proposed Plan was submitted to Scottish Ministers on 13 December 2023. The Scottish Ministers have extended the period for their consideration of the Councils intention to adopt the Proposed LDP. Proposed Policy ED9 is the principal Policy within LDP2 dealing with renewable energy development. After Examination, the Reporters recommendation to revise Proposed Policy ED9 so it reflects Policy 11 of NPF4 was accepted by the Council. This policy remains supportive of renewable energy developments, including wind farms and battery storage developments. The policy requires that development proposals will be assessed in accordance with NPF4 Policy 11, paragraphs b) to f) as well as all other relevant provisions of NPF4.
- 16.15 In addition under proposed ED9, reference to the Councils Renewable Energy Supplementary Guidance is to be removed from the Policy. Instead, the Guidance intended to form Supplementary Planning Guidance to assist in the determination of planning applications as a complement to LDP policies and national policy and guidance.
- 16.16 The Proposed Plan is not yet adopted therefore it does not yet form part of the Councils Development Plan. The Proposed Plan is however now at an advanced and settled stage. Proposed Policy ED9 reflects the national position which is supportive to the principle of renewable energy developments. It seeks to guide development to appropriate locations and to advise on the factors to be taken into account in considering proposals.

Planning Policy Conclusion

- 16.17 In principle, NPF4, OWPS and the Councils LDP are supportive of renewable energy development in this location however the benefits of energy production are still required to be weighed against any disbenefits arising from the proposed development as part of the wider planning balance. When this careful balancing exercise is being carried out, NPF4 explicitly requires decision makers to give significant weight to the contribution a development will make towards renewable energy targets as part of their consideration. This requirement shifts the balance in favour of renewable energy development, but it is still not seen to be a complete

acceptance of the development of a wind farm on any land outside of a national park or NSA. It is the act of the planning balance which will still determine the suitability of a wind farm against prevailing development plan policies. This assessment is considered below.

Climate Change and Renewable Targets

16.18 The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 introduced a target of net zero greenhouse gas emissions by 2045 at the latest. To reach net zero, national target has been set to reduce emissions by at least 75% by 2030 and 90% by 2040. Scotland’s Climate Change Plan 2018-2032 sets out the road map for achieving those targets and has set the goal of 50% of Scotland’s energy need to be met by renewable energy by 2030. The deployment of further renewable energy developments is necessary to meet national energy targets and also assist with the delivery of a green economic recovery.

16.19 The Scottish Governments OWPS states that to meet net zero emissions targets a minimum installed capacity of 20GW of onshore wind will be required in Scotland by 2030. The OWPS calculated that 8.7GW of energy is being generated by existing wind farms as of June 2022. There was also found to be 11.3GW of onshore wind ‘pipeline’ projects which are spread across the following stages;

Status	GW
In Planning/Consenting	5.53
Awaiting Construction	4.56
Under Construction	1.17

(Source: OWPS paragraph 1.1.5)

16.20 Although the pipeline projects bring the energy generated close to the 20GW target, the following factors need to be considered;

- Not all projects currently in the planning/consenting process will obtain permission.
- There is duplication in the figures where some projects have consent and are also seeking consent for changes, i.e. tip height increases (such as Cloich) so they feature in both the ‘awaiting construction’ and ‘in planning’. Only one of these possible consents can be built.
- Some existing wind farms contributing towards the existing installed capacity will have reached the end of its operational life by 2030 and it is not known if these schemes will be repowered.

16.21 The OWPS is clear that further onshore wind development will be necessary to meet renewable energy targets. Each of the 14 turbines proposed by this development are anticipated to have an approximate generating capacity of between 4-5MW. The precise generating capacity will be influenced once the final turbine model is chosen which normally happens as part of the procurement process after the granting of any planning approval. The level of energy generated by each turbine is consistent with other wind farms of this scale. Based on MW predictions for each turbine is it estimated that Greystone Knowe wind farm would have an anticipated installed capacity of between 56 – 70MW. The development also offers the benefit of battery storage which contributes to the wider energy mix.

- 16.22 The EIA predicts that once the development is operating it is anticipated to save up to 64,800 tonnes of CO₂ per annum. The carbon calculator confirms that the majority of carbon emissions associated with the development will stem from the manufacture, construction and decommissioning of turbines which against the energy generated by the development will result in a carbon pay back period of 1.5 years. After this payback period it is anticipated that the development will provide over 1.9 million tonnes of carbon saving over its 30-year operational life.
- 16.23 The applicants have also advised that the development has an agreed grid connection for 2030 therefore if consented the development can be operational in time to make an important contribution towards the 20GW installed onshore wind target for 2030.
- 16.24 The predicted level of energy generated by this proposed development and its carbon savings will make an important contribution to meeting renewable energy targets and as stated previously, NPF4 requires that this contribution now carries more weight in the 'planning balance'.

Economic and Socio-Economic Benefits

- 16.25 Wind energy developments can make an important contribution to the UK economy. Net economic impact is a material planning consideration, local and community socio-economic benefits include employment, associated business and supply chain opportunities. NPF4 Policy 11 Part c) now specifically requires that a development maximises its net economic impact and local and community socio-economic benefits.
- 16.26 The ES outlines that the economic and socio-economic benefits of the development will include:
- Creation of up to 79 jobs in the 21-month construction programme (*estimated*)
 - During construction the Scottish Borders could secure contracts worth £10 million and Scotland securing contracts with up to 30.5million (*estimated*)
 - Overall Capital expenditure is predicted to be £90 million across the developments operational life with the Scottish Borders could secure operational and maintenance contracts work £1.26million each year (*estimated*)
 - During operational phase 13 jobs created in Scotland (including 10 in Scottish Borders) (*estimated*)
 - The development will contribute £5k annually per MW of installed capacity towards community benefit funds, potentially generating between £300,000 - £375,000 per annum.
 - Potential for shared ownership with Fountainhall and Heriot communities.
- 16.27 It is accepted that jobs would be created during construction and should the developer use local firms and businesses, greater economic impact would be generated. Following the construction phase the development would sustain a low number of jobs although this would increase during decommissioning.
- 16.28 The developers proposed contribution to community benefit funds aligns with the £5,000 level prescribed by the *Good Practice Principles (GPPs) for Community Benefits from Onshore Renewable Energy Developments*. Since NPF4 placed a requirement on renewable energy development to '*maximise*' community socio-economic benefits, this aspect has remained an evolving issue. It is reasonable to consider that as wind farms become larger and potentially result in more significant community impacts that the affected communities should see genuine benefits as a

result of the development. This matter is still accepted by the Scottish Government to represent a non-material planning consideration and remains separate from the planning process. Instead, community benefit is still a matter for the agreement of the developers and the relevant communities.

- 16.29 NPF4 Policy 11, criteria c) requires wind farms development to maximise net economic and socio-economic impacts. At this stage no guidance is available to corroborate if these effects are indeed being maximised. Nevertheless, it is accepted that the proposed Development has the potential to provide positive net economic benefits both the local communities within the Scottish Borders and the national economy.

Landscape and Visual Impacts

- 16.30 Policy 11 of NPF4 and LDP Policy ED9 requires consideration of the landscape and visual impacts, including cumulative impacts. Account must be taken of the position adopted by NPF4 Policy 11 which acknowledges that significant landscape and visual impacts are to be expected from some forms of renewable energy development. Where these impacts are localised and/or appropriate design mitigation has been applied, NPF4 deems that these landscape and visual effects are acceptable.
- 16.31 Account should also be taken of the Renewable Energy SG and relevant guidance within the Ironside Farrar Landscape Capacity and Cumulative Impact Study.

Theoretical Visibility

- 16.32 The Zone of Theoretical Visibility (ZTV) illustrates the potential visibility of the turbines to hub and tip. Figure 5.3 Zone of Theoretical Visibility (Tip Height) – Bare Ground illustrates where the development would theoretically be visible from.
- 16.33 The ZTV identifies that within the Scottish Borders, visibility of the development generally extends in an easterly direction within the 20km distance. Within 5km of the development, there is increased visibility of the proposed wind farm. This area does include the settlements of Fountainhall, Heriot as well as a scattering of farm holdings along the Gala Water Valley and includes the busy A7 trunk road. Out with these locations, habitation within this area is low, particularly to the southwest where the Moorfoothills enclose the development and generally screen visibility from the Tweeddale area.
- 16.34 Visibility reduces from the 5-10km distance and is concentrated to the eastern side of the Gala Water Valley extending down around elevated parts of Stow. Beyond the 10km range it appears visibility is largely restricted to more isolated pockets of elevated ground, hill summits including the Eildon Hills National Scenic Area (NSA) and Twin Law Cairns to the east. Figure 7.3 does suggest parts of Galashiels would have visibility of the wind farm but when assessing Figure 5.5 ZTV – including screening, this corroborates that the settlement would have very limited views with views limited from the hills to the south of the town.
- 16.35 Visibility extends in a south easterly direction with areas of theoretical visibility around the southern side of and extending towards the Eildon Hills. Theoretical visibility also extends further southeast, but this is at a far greater distance and generally avoids extending across the whole of larger towns in this direction.

- 16.36 It is acknowledged that, within the Scottish Borders visibility of the development is generally limited to the eastern part of the Moorfoot hills and the Gala Water Valley. Outwith 10km of the development, the proposal does not appear to affect any substantially populated parts of the Scottish Borders. The extent of the landscape and visual impacts of the development are discussed below.

Landscape Effects

- 16.37 The development is located within an upland landscape area which is generally perceived to be suitable for wind farm development. The host LCT (LCT 90 - Dissected Plateau Moorland) and neighbouring LCT 114 (Gala Water Valley - Pastoral Upland Valley) and LCT 91 (Plateau Grassland – Borders) are closely interlinked and have a strong relationship to each other. The transition between valley sides and upland plateau is indistinct and visibility and impacts are often dependant on the location of the receptor.

- 16.38 The proposed development is acknowledged to have significant effects (Major/Moderate) within 2.5km of the development, reducing to Moderate significance (not significant) on the host LCT (LCT 90). The Council's landscape specialist agrees with this assessment on the basis that the host LCT is an upland type of landscape.

- 16.39 The proposal is deemed to have significant effects (Major/Moderate) on LCT 114 with a High/Medium sensitivity to the proposed development. The Landscape Architect agrees with this assessment and advises that:

“the medium scale enclosed landscape would experience a substantial adverse magnitude of change. As this LCT is a medium scale landscape with a wide range of sensitive receptors including commuters on the A7, Borders railway and other minor roads, local residents and recreational receptors enjoying the area, the intrusion of large scale turbines into this well settled valley landscape, albeit on the hills enclosing this LCT, will, on landscape grounds, have a disproportionate impact in the Gala Water valley.”

- 16.40 Turning to LCT 91 on the plateau to the east of the Gala Water Valley. The development will be visible from elevated open areas within LCT 91 where the development will be visible across the valley. Although it may appear large across the valley, it is seen within it underlying upland landscape.

- 16.42 The development is judged to result in significant effects on landscape character. Landscape character effects are mostly experienced within 5km of the development however the proposal is not necessarily considered to be completely out of scale with its host upland landscape. The greatest effect on landscape character is considered to be experienced from the neighbouring LCT 114 where the height and proximity of the turbines to the western edge of the valley has the potential to dominate this section of the settled Gala Water Valley landscape. SBC's Landscape Architect did recommend that removing turbines nearest the valley edge could reduce these impacts.

Visual Effects

- 16.43 The LVIA considers 19 viewpoints (VP's) which provide a sample of the potential effects of the development from identified locations for a range of receptors. 16 VP's are located within the Scottish Borders and key viewpoints are discussed below with their distance and direction to the development noted in brackets.

Viewpoint 1 – B6368, Crookston (2.4km northeast)

- 16.44 This VP is both a minor road which links the A7 to the A68 at Soutra and a dispersed settlement located in an elevated location on eastern side of the Gala Water valley. All 14T's are visible across the valley. T8, 4 and 9 are separated from the main group and T's 13, 14 and 3 appear prominent across the front to the front of the array. The rising land behind the core of the array offers some containment to this part of the layout. From this location it is appreciated that the turbines are located within an upland area. To the east, receptors along the B6368 are already aware of wind farm development where Toddleburn is visible although the two windfarms are not seen together. It is accepted that the development is seen within an upland landscape but it the scale of the turbines dominate the valley landscape below.

Viewpoint 2 – Core path Heriot 2.5km (north)

- 16.45 At this location the core path is descending from the plateau to the north of the Heriot Water from a popular local walk. 9 of the 14T's are largely visible where the introduction of turbines at this distance will result in a high magnitude of change. The hill which screens T5, 6, 1 and 7 along with the rising land towards T3 on the opposite side of the array offers some containment. Figure 5.5 ZTV – including screening from woodland and buildings does predict that there is limited visibility from residential properties at Heriot which align the B709 with properties located further afield at Heriot Way only predicted to have visibility of blade tips.

Viewpoint 3 A7, Hangingshaw 2.9km (east) and illustrative visualisation E, H and F

- 16.46 These VPs have been selected to consider the effect of the development from the A7. The A7 is an important trunk road which connects Edinburgh to the Scottish Borders and continues south to England. It passes the development to the east within the Gala Water Valley.
- 16.47 From VP3 at Hangingshaw, the 14T's are seen along the skyline with T3, 14 and 13 appearing more prominent above the valley edge. Visualisation E is located approx. 6.7km to the north at the junction with the B6367 past Falahill. This is a view experienced for southbound traffic. All turbines are visible but only from the hubs with rising land to the west giving some containment. Visualisation F is located 8.1km to the south to represent a view of traffic approaching Stow. Fewer turbines are visible here. Arguably T4 sits up but the view is mitigated by the rolling valley landform. Visualisation H is directly to the east near Hazelbank Quarry at 2km from the development. From this point the central hill helps to screen a large amount of the array but T3 and 8 amt either end stick out past the hill and appear quite prominent.
- 16.48 Views of the development from the A7 are transient views but it is worth noting that that trunk road also forms part of the Borders Historic Route where users may be more likely to appreciate the landscape. The development introduces very large turbines along the top of the western valley which encloses the landscape where the trunk road passes the development. The VP and visualisations demonstrate the views of the development are more significant for south bound traffic from close to Falahill down to Fountainhall. In places visibility of the development along this stretch may be high and the development is more prominent than other windfarms which are already visible from parts of the A7. Removing some turbines nearest the valley edge may have helped to reduce some of its impacts on the A7 but it is accepted that despite the very large height of the turbines, they are only visible for a

relatively short distance along the trunk road, close to the development as shown by Figure 5.10 A7 Sequential Visibility.

Viewpoint 4 – Fountainhall 2.km (east)

16.49 The VP is to the southeast of Fountainhall Farmon Old Stage Road as it descends down into the village. T's 11-14 appear detached from the main group and arguably T1, 4 and 8 appear a separate cluster with T3 a further outlier. The overall siting of the wind farm does not read well from this location.

16.50 The village occupies an elevated location above the Gala Water. Despite being 3km away the wind farm is extremely prominent with the siting of the development towards the edge of the valley landscape and the scale of the turbines severely dominating this view. This view would not necessarily be representative of the view of all receptors within the village as there will be a number of properties which are not visually affected by the development; however, some will have dominating visibility which could potentially affect properties on facing west on Old Stage Road, Fleming Place and the rear of properties at Still Haugh. The Landscape Architect recommended that the removal of three T's nearest Fountainhall (T8, 9 and 13) may help reduce the development's impact on the settlement and valley water landscape.

Viewpoint 5 Nettlingflat – 4.5km (north)

16.51 This VP is from an elevated location across the valley landscape from a farm holding and residential building group of approx. 17 properties. The wind farm is very prominent across the skyline. Again, the development is seen in an upland landscape where some mitigation is provided by the distance to the wind farm where the receptor can still appreciate the larger landscape albeit one largely dominated by the development.

Viewpoint 6 B7007 – 5.4km (north west)

16.52 This is a minor road that travels through the Moorfoot hills connecting Mid-Lothian and Innerleithen. The windfarm does appear behind the ridgeline where its latitude is apparent, but it is not significantly adverse with this visibility only apparent over a relatively short section of this road.

Viewpoint 9 Stow – 7.3km (east)

16.53 This VP is on the street ascending the valley side. Only tips of turbines are visible with intervening conifer woodland providing screening. If this is felled more of the turbines would be revealed (and possibly some aviation lights) but this would still only be the uppermost parts of turbines. The impact would remain negligible.

Viewpoint 13 Lauder Common – 8.6km (southeast)

16.54 The VP is away from the road across Lauder Common which connects Lauder and Stow. The development is visible across a settled landscape but arguably not necessarily out of proportion with the underlying landscape. The two turbines at each end of the array T1 and T3 appearing as outliers which is unfortunate. The development is most visible from the western most part of the Lauder Common, which is nearer the development, large areas of the Common including a long stretch of road would be unaffected.

16.55 There will be a cumulative impact of the development with Toddleburn and Dun Law WF's with this proposal introducing another wind farm into another quarter of the view from this location where wind farm is not significantly visible.

Southern Upland Way Viewpoints 13 (14.4km east) and Viewpoint 17 (22.4km east)

16.56 From VP13, 5T's are visible with T1 sitting up more than any others along the skyline. From VP17 (Twinlaw Cairn), this is a scenic VP where the development will extend the spread of turbines by extending the spread of turbines where the view is already impacted by Toddleburn in the foreground. The distance of the development from both VP's and its positioning results in the development not being detrimentally prominent on the skyline and it is not judged to adversely affect the SUW.

Visual Impact – Residential Amenity

16.57 Visual impacts on residential amenity, whether from settlements or individual properties, tend to use a type of methodology that has become known as the "Lavender Test". The "Test" is an assessment approach that has been taken in a number of appeal cases to assess impacts, even though it is not universally applied nor is there any agreement or Scottish Government guidance recommending its usage. The "Lavender Test" not only refers to the impact on houses but also their gardens. It sets quite a severe threshold of whether a wind farm would be so overbearing and dominant on a property that it would make it an unattractive place to live. Much would contribute to that assessment including proximity, elevation, main outlook from windows, interruption by screening or buildings, location of garden ground, approach roads and tracks etc. These matters are considered and advised in the Renewable Energy SG. Policy 11 of NPF4 delegates that residential amenity is a matter to be addressed by project design and mitigation.

16.58 Whilst all matters must be considered in the overall assessment, the greatest weight simply has to be given to direct and unavoidable impacts from inside dwellinghouses and, in particular, main habitable room windows. There is also evidence that decisions are taken on the number and proportion of properties within an area that may experience such impacts. The fewer the properties impacted, the less weight that would hold in the overall planning balance.

16.59 A Residential Visual Amenity Assessment (RVAA), forming part of the EIA has assessed the impact of the development on a total of 17 individual properties and 13 groups of residential properties within a 2.5km study area which was previously agreed with SBC. The RVAA identifies that Major or Major/Moderate or Moderate effects will occur at nine separate residential properties and a further seven groups of properties.

16.60 Where Moderate effects have been identified, properties tend to experience views of a lesser number of turbines or possibly only blades and views of the windfarm are partly screened or filtered by boundary enclosures or woodland. These impacts are not judged to be significantly adverse.

16.61 Moderate/Major effects are identified to be experienced from:

- 6 Pirntaton Farm Cottages
- The Bower
- Crookston House & Garden Flat
- Heriot Toun Farmhouse
- Crookston Old House

- Haltree Cottage Group
- Haltree Farm Group
- Cortleferry Group
- South Mains Steading

16.62 These properties will often experience prominent views of turbines, including viewing turbines on the skyline. The RVAA often concludes that the turbines would not be the main focus of views but in places these are limited to views from only parts of the property. These effects are nevertheless substantial in the majority of these cases.

Major effects are identified from:

- Upper Corsehope Cottage (Corsehope Farm)
- Corsehope House
- The Neuk, Crookston

16.63 The magnitude of change at The Neuk, has been identified as being Substantial/Moderate as the development would be visible from oblique view from the property, nevertheless the turbines would be prominent from the property and its garden.

16.64 Both Upper Corsehope Cottage and Corsehope House were identified to experience the greatest effects. Their assessment has been accompanied by photomontages (see Figures P02A, P02B, P03B respectively). From both properties the turbines appear very prominent. From Upper Corsehope Cottage intervening tree belts offer a level of screening with the hill saddle at Corsehope House giving some containment. Nevertheless, both properties are extensively impacted however these properties are located within the upland setting of the development where significant impacts would otherwise be anticipated.

16.65 It would be expected that a development of this scale would directly affect the residential amenity of properties located within a 2.5km of the development. Given the scale of the proposed development, the number of properties experiencing significant impacts is relatively low. Where major impacts are experienced, these are significant however, informed by the assessment by the Councils Landscape Architect, residential visual amenity impacts are on balance not sufficiently adverse where a property is perceived to become so overbearing and dominant on a property that it would make it an unattractive place to live.

Cumulative Landscape and Visual Impacts

16.66 Policy ED9 requires all cumulative landscape and visual impacts to be considered and recognises that in some areas the cumulative impact of existing and consented development may limit the capacity for further development. Both the Policy Renewable Energy SG advise that there will be a presumption against development where cumulative impacts are expected to be significant, adverse and unacceptable. Policy 11 of NPF4 seeks project design and mitigation to address cumulative impacts.

16.67 Table 5.7: Cumulative Development within 20km, in the EIA sets out all operational, consented and proposed projects which may have cumulative impacts in association with this proposal. Figure 5.12 Cumulative ZTV – Operational and Consented shows theoretical visibility of where; existing operational/ consented schemes are visible (yellow shading), the proposal is visible in isolation (blue

shading) and where the proposal and operation/consented wind farms are visible (green shading). This reveals that there are few locations (shaded blue) where the proposed WF would be visible in isolation. From a number of VPs especially VPs on higher ground, the development is visible from locations where other wind farms are already visible. This will result in the development introducing a wind farm into another field of view from locations such as VP11 where westward views are not already impacted by wind farm development. Despite this concern, the proposal is not considered to pose any significantly detrimental cumulative impacts which result in a high magnitude of change. The cumulative impacts of the development are judged to be acceptable against Policy ED9, Policy 11 and associated guidance.

Aviation Lighting

- 16.68 All of the proposed turbines are over 150m tall. Under Civil Aviation Authority (CAA) regulations it is a legal requirement for all structures over 150m to be fitted with a visible red aviation warning light. The applicants have already agreed a reduced Aviation Lighting scheme with the CAA where only 4 prominent turbines will be lit (T1, 2, 3 and 8). The lights are required to be a 2000candela (cd) steady red light. Under CAA approval the lights include a 'dimming' mitigation which is permitted by CAA Policy to allow the intensity of the lights to be reduced to 10% of their capable illumination. Sensors would be fitted to turbines to measure atmospheric conditions and when conditions enable visibility around the site in excess of 5km (i.e. in the absence of low cloud cover, rain, mist, haze or fog) the intensity of the light would be reduced from 2000cd to 200cd by technology built into the light. This is the same mitigation which was approved by the Scottish Government following appeal to the Crystal Rig IV wind farm.
- 16.69 The development is located within a rural area which by their nature are often darker areas due to their lower levels of habitation. In this case the development is adjacent to a major trunk road which will generate occurrences of bright light by passing traffic. The site is also relatively close to urbanised environments of Gorebridge to the north which leads into Edinburgh and also Galashiels further south. The proximity of the development to large urban areas and the presence of the A7 means that the receptors travelling through the environment at night are more accustomed to experience light.
- 16.70 It is welcomed that the applicants have agreed a reduced lighting scheme with the CAA as the impact of 14 lit turbines within this environment would have been far more significant than the impact of 4 lit turbines. The introduction of aviation lighting will affect residential receptors within 5km of the development where they would appear to have visibility of multiple lights along the skyline. These impacts would be greatest from elevated areas. The reduction in the number of lights from potentially 14 to 4 and the inclusion of 'dimming' technology is considered to provide mitigation which reduces the impact of aviation lighting to more tolerable levels in accordance NPF4 Policy 11 part e) and LDP Policy ED9.

Landscape and visual impact of associated infrastructure

- 16.71 The proposed associated infrastructure which includes, roads, borrow pits, control compound and BESS facility are not considered to give rise to any significantly adverse and unacceptable landscape and visual impacts accounting for its associated with a large wind farm development. Final details of all new structures, surfaces and enclosures can be agreed by condition.

Landscape and Visual Impact Conclusions

- 16.72 The proposed development does result in landscape and visual impacts. The proposal affects the character of its host landscape as well as the character of the neighbouring Gala Water valley landscapes and outward views from the plateau on the opposite side of the valley. From a number of Viewpoints, particularly VP's 1, 3, 4 and 5 some turbines appear visually very prominent. It was accepted that the development will be located within an upland landscape, however concerns remain about the magnitude of some of the resulting visual impacts of this development. These concerns led the Councils Landscape Architect to object to the proposal. Residential Amenity concerns also resonate regarding the visual impact of the development on properties in close proximity to the development in particular Upper Corsehope Cottage and Corsehope House.
- 16.73 Informed by the observations of the Landscape Architect it was established that turbines along the eastern side of the array T3, 8, T9, T13 and T14 appeared overly prominent and disproportionate with the surrounding landscape. It was discussed with the applicants whether the scheme could be revised to remove and/or relocate these turbines. Revisions to these turbines may also have further mitigated some of the visual effects caused on residential amenity.
- 16.74 The applicants have provided written response to the Landscape Architect's Consultation comments. The response has outlined that the removal of these turbines would only result in a slight reduction in the prominence of turbines from a small number of locations. It is unfortunate that this assessment has not been aided by additional visual information to support these findings. It is accepted that either removing or relocating these turbines would not completely remove the introduction of large turbines along the skyline from these viewpoints. However, it may have helped in potentially pushing the turbines back from the outer edge of LCT 90 and so they may not have appeared as dominant from the Gala Water Valley. It is also acknowledged that the removal of the suggested turbines may detract from the array when viewing from other locations, but information is not available to quantify this assumption. It is disappointing that the applicant has not agreed to remove some of the proposed turbines to bring the scheme in line with SBC landscape architects comments. The application must therefore be considered against relevant development plan policies as originally submitted.
- 16.75 The removal of five turbines from this development would reduce its contribution towards the government energy targets by up to 25MW. This is a material consideration. It is accepted that Policy 11 of NPF4 accepts that significant landscape and visual impacts will be caused by renewable energy developments and where they are found to be localised these detrimental impacts are deemed to be generally acceptable by NPF4. No definition is provided about what is considered to be a localised impact or the extent of that impact. There are examples of Reporters appeal decisions at Achany Extension Wind Farm in the Highlands (ECU Ref: ECU00001930) where significant landscape and visual impacts were identified but these were accepted to occur within 10km. At Glendye Wind Farm in Aberdeenshire ECU Ref: ECU00000676 significant effects were identified within 5km and at Sanquhar II in Dumfries and Galloway (ECU Ref; ECU00001801 significant effects extended to 7km. From these decisions it is clear that there is no precise definition of a localised impact, and it remains a basic planning premise that each wind farm must be assessed on its own individual merits. At national level there is now greater tolerance to perceived detrimental landscape and visual impacts arising from some wind farm developments.

16.76 In the case of this development the proposal has been accepted by the Council's Landscape Architect to not be fundamentally out of scale with the receiving landscape. Detrimental visual impacts are experienced within the host landscape, most significantly around Fountainhall, the A7 corridor adjacent to the development and on the opposite side of the valley. It is accepted that these landscapes have a close interrelationship with each another. Outwith these locations the impact of the development is limited. Assessment of the proposals suggest that detrimental landscape and visual impacts are experienced within 5km of this proposal where the scale of the wind farm will detract from the visual amenity of the area and affect local residents. The affected area is not a densely populated part of the Scottish Borders. The concerns posed about the landscape and visual impacts of this development are legitimate and acknowledged but against the tests prescribed by Policy 11 of NPF4 where significant weight is to be afforded to the contribution a development would make towards renewable energy targets it is arguable that these impacts are in fact localised. This view has latterly been acknowledged by the Landscape Architect, although they remain concerned about the prominence of the proposed development.

Residential Amenity

16.77 Policy ED9 of the LDP and Policy 11 of NPF4 requires the impacts on communities and individual dwellings (including visual impact, residential amenity, noise and shadow flicker) to be considered. LDP Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. Members will note that visual impacts have been considered earlier in the report.

16.78 A noise assessment has been provided and this has been assessed by an acoustic consultant on behalf of SBC. The predicted noise levels are confirmed to be within the relevant limits at all receptor locations with no cumulative assessment found to be required owing to its distance to other wind farms.

16.79 The acoustic specialist and Environmental Health Officers advise that there are no noise-related reasons to consider that the scheme would not be in compliance with development plan policies and Supplementary Guidance. If Members were minded to support this application, planning conditions could be recommended to the ECU to set appropriate noise levels and confirm the sound power level of the turbine which is to be installed at the site. In event of any noise complaints, the Council as 'relevant enforcement authority' could seek suitable investigation and resolution of any noise nuisance caused by the development.

Traffic Management, Road Safety and Access

16.80 Policy ED9 of the LDP and Policy 11 of NPF4 requires impacts of the construction of wind farms on public and trunk roads are to be considered. The approved Renewable Energy SG also requires full consideration of the impacts including the structural and physical ability of the network to accommodate the traffic and impacts on local communities.

16.81 Access for abnormal loads within Scottish Borders road networks is from the A7 and Old Stage Road. In principle this route is advised to be acceptable by Roads Planning Officers. The site access will cross a minor road east of Pirntaton Farm. Careful consideration will have to be given to how this proposal is laid out to ensure the safety of existing road users and also ensure site security.

- 16.82 It is recommended that further agreement of the access route as well as its suitability to accommodate abnormal loads and any upgrades and remedial works thereafter can be addressed by a condition seeking the agreement of a detailed Traffic Management Plan (TMP), including conditions for a dry run and timetable for all abnormal deliveries is recommended to ensure the route can serve the traffic movements and avoid detrimental impact to other users.

Cultural Heritage

- 16.83 Against Policy 11 of NPF4 impacts arising from an energy development on the historic environment are required to be addressed by the project design and mitigation. Policy 7 is directly concerned with historic assets and takes a stronger line whereby a development should protect and enhance historic environment assets.
- 16.84 The LDP requires the application to be assessed against Policy ED9 in respect of impacts on the historic environment and principally Policies EP7 and EP8 which seek to protect the appearance, fabric or setting of Listed Buildings and Scheduled Monuments or other national, regional or local assets. Development proposals that adversely affect such assets would only be permitted if it is demonstrated that the benefits of the proposal clearly outweigh the heritage value of the asset and there are no reasonable alternative means of meeting the development need. The supporting text of Policy EP8 establishes the aim of the policy is to give Scheduled Ancient Monuments and any other archaeological or historic asset or landscapes strong protection from any potentially damaging development.

Direct Archaeological Impacts

- 16.85 There are no Scheduled Monuments (SMs) within the application site. The Archaeology Officer is content that the development has a low potential to directly impact on any archaeological interests. There is however still potential that archaeological material could be discovered, especially as the site is located within an area where there its surroundings include a number of archaeological sites. It is recommended that a suitably worded planning condition to agree a programme of archaeological mitigation is recommended to ensure the historic environment is protected in accordance with NPF4 Policy 7 and EP8 of the LDP.

Indirect Archaeological Impacts

- 16.86 A number of archaeological sites including Scheduled Monuments are located within the surrounding environment. Within the 5km area SMs are located to the north, east and south of the development. Viewpoints have been chosen to assess the impact of the development on the following SMs;
- the fort at Corsehope Rings (SM1166),
 - settlement at Halltree Rings (SM1170),
 - the fort at Hodge Cairn (SM1171),
 - fort at Symington Hillhead (SM1179),
 - Middlehill Fort (SM1176),
 - Kirktonhill Fort (SM4628),
 - Hillhouse Fort (SM4627)
- 16.87 The hillforts and settlement are a noted feature of the historic landscape which are of a national significance. These SMs are often located on hilltops where they have often strategically placed to overlook the lower valleys of the streams beneath, in

particular the Gala Water. Having considered the wirelines, the Councils Archaeologist generally satisfied that although the wind farm will change the landscape and turbines will be seen from the majority of SMs, generally the development is not considered to adversely affect their setting.

- 16.88 The Archaeologist has identified that T3, does appear detached from the main array and prominent from Corsehope Rings (SM1166) when viewing southeast towards Halltree Rings (SM1170). Similarly, from SM1170, the proximity to T3 is judged to impact the setting of Halltree Rings. The Council's Archaeologist has identified that both of these effects are determined to be "slightly adverse". The Policy test prescribed by Policy 7 of NPF4 requires that proposals affecting scheduled monuments can only be supported where; "*significant adverse impacts on the integrity of the setting of a scheduled monument are avoided*".
- 16.89 It is agreed that the siting of T3 does, to an extent, detract from the setting of the two identified SMs, nevertheless the potential harm does not breach the threshold of being significantly adverse as prescribed by Policy 7 of NPF4. In the absence of this development giving rise to significantly adverse impacts on historic environment assets it is not considered that the proposal would fail to comply with prevailing planning policies, subject to condition requiring agreement of a programme of archaeological works.

Other Cultural Heritage Impacts

- 16.90 The development does not detrimentally affect the setting of any listed buildings or Conservation Areas which are located within the Scottish Borders.

Natural Heritage

Ecology, Habitats, Protected Species and Ornithology

- 16.91 The proposal has to be assessed against policies EP1, EP2 and EP3, which seek to protect international and national nature conservation sites, protected species and habitats from development. Policy ED9 requires consideration of the impacts on natural heritage, hydrology and the water environment, augmented by the Renewable Energy SG. Policy 3 of NPF4 seeks for national developments to conserve, restore and enhance biodiversity.
- 16.92 The EIA has fully examined the developments potential direct and indirect impacts of both the construction and operation of the development on designated sites, habitats, flora, fauna and species.
- 16.93 The site has potential connectivity to both the Moorfoot Hills SAC and River Tweed SAC. NatureScot are satisfied that the development will not adversely affect the integrity of either SAC with the adjoining Moorfoot Hills SAC separated from the site by a drystone dyke. This has been acknowledged to act as a barrier to guard against hydrological connectivity from the development to the blanket bog in the SAC. Any potential impacts on the SAC's and SSSI including drainage impacts through construction operations can be appropriately mitigated through agreement of a Construction Environmental Management Plan (CEMP) along with the appointment of an Ecological Clerk of Works (ECoW).
- 16.94 The EIA recommends that pre-construction species surveys are required for otter, badger, red squirrel and reptiles. The requirement to carry out these surveys can be addressed by condition and overseen by the ECoW.

16.95 Against Policy 3 of NPF4, as a national development, this proposal is sought to 'enhance biodiversity'. No guidance has been issued yet to determine how such enhancements are to be measured however it is understood that the Scottish Government have commissioned research to explore this. Nevertheless, the agreement of a Habitat Management and Enhancement Plan in accordance with the mitigation proposed in the EIA by condition can seek to ensure that a suitable level of positive biodiversity improvements are provided by the developer.

Carbon Rich Soils, Deep Peat and Priority Peatland Habitat

16.96 Policy ED9, ED10 and the Renewable Energy SG require consideration of the impact of the development on carbon rich soils. Policy 5 of NPF4 protect carbon rich soils, restore peatlands and minimise soil disturbance. The policy does however permit renewable energy development to be acceptable in principle on peatlands.

16.97 The site does contain pockets of carbon rich soil and peat. Figure 9.3b demonstrates that the layout take account of avoiding construction activities in area of deep peat. Some construction infrastructure is being located in areas of occasional peatland or carbon rich soils. It is recommended that impacts of development on areas of peat can be addressed by suitably worded conditions which include a peat management plan.

Hydrology

16.98 ED9 of the LDP and Renewable Energy SPG seeks to avoid proposals for wind farms being located within an area which is likely to be affected by flooding. The developments should avoid polluting any water courses and the development should be designed to ensure that the proposal causes no risk to any private water supplies. Policy 11 of NPF4 requires the project design and mitigation to address these impacts.

16.99 In terms of flood risk, the Councils flooding engineers are satisfied that the development will not result in any flood risk. Conditions requesting further agreement of proposed watercourse crossing, culverts and SUDS are recommend ensuring final designs appropriately address the water environment and do not pose any flood risk.

16.100 There are no private water supplies or known Private Water Supply (PWS) sources are located within the application site boundary from SBCs records. Several are located outwith the development boundary. The Council does not have any 'in house' hydrologist to provide specific response to hydrology aspects of PWS impacts. SEPA have considered this matter and following the submission of additional supporting information, SEPA are now content that no adverse impacts on PWS should arise subject to ensuring that any micro-siting does not encroach on any agreed PWS or water course buffers. This matter can be addressed by condition.

Aviation Defence and Seismological Recording

16.101 Policy ED9 of the LDP and Policy 11 of NPF4 requires impacts of the construction of wind farms on aviation and defence interests including seismological recording are to be considered.

16.102 The consideration of aviation defence interests and seismological recording are matters which the Ministry of Defence (MoD) provide specialist advice on. Unlike

Planning Applications, the MoD return their observations to the ECU as part of the Section 36 process and not to Planning Authorities. The development is within the MoD's safeguarding zone of the Eskdalemuir Seismological Recording Station where noise from turbines can interfere with the functionality of the recording station.

16.103 The MoD have advised the ECU that they object to the proposal on grounds that there is currently no noise budget available to accommodate further wind farm development within the Eskdalemuir safeguarding zone.

16.104 Members will be aware that SBC are a separate consultee for this proposed development, and we do not have the remit to provide any specialist advice on aviation defence or matters concerned with the impact of the development on the functionality of their equipment. The concerns raised by the MoD are recognised and suggest that the proposal would not align with policy provision covering aviation defence and seismological recording. Members are however advised that these concerns are for the ECU to consider as decision makers, and fall out with the scope of SBC's consideration of a Section 36 application.

Other Matters

16.105 The proposed development has not been found to raise any other significantly adverse effects on any other matters which are for the consideration of the Council listed in Policy ED9, including shadow flicker and telecommunications.

17.0 CONCLUSIONS

17.1 NPF4 makes it clear that the renewable energy deployment remains a key priority for the Scottish Government. NPF4 and the OWPS 2022 confirm that more onshore wind farms will be required to be developed to meet legally binding net zero emissions targets. It is clear that planning decisions have a key role to play to tackle the climate emergency. However, development proposals must be balanced against prevailing development plan policies where the benefits of energy production, and the disbenefits of environmental impact are weighed carefully against one another as part of the wider planning balance. It is contended that the applicant has had regard to the criteria listed in Schedule 9 of the Electricity Act 1989.

17.2 NPF4 now explicitly requires that decision makers must give significant weight to the contribution a development would make toward renewable energy and climate change targets. Also, projects which can be delivered within set target dates for increased onshore wind capacity are increasingly valuable. The proposal also provides battery storage capacity (surplus energy can be stored on site and released into the electricity network as and when required to meet specific periods of demand) which has an important role to play in the transition to net zero in addition to the developments wider net economic benefits.

17.3 It is accepted that the predicted landscape and (in particular) the visual effects of this development are significant. These effects are experienced by several residential receptors, users of the A7 trunk roads as well as other minor roads and paths. These effects are experienced from locations within the host landscape and the adjoining Gala Water Valley landscape immediately to the east. Where significant effects are experienced, the development would appear prominent. It is unfortunate that it has not been possible to seek to further mitigate these visual significant effects through the removal of suggested turbines, however NPF4 does recognise that significant landscape and visual impacts are a consequence of wind

farm development and where these are localised, the effects are deemed to be acceptable. Having thoroughly considered the extent of the significant landscape and visual effects against the thresholds applied by Policy 11 of NPF4 they are, on balance, found to be localised and will not affect protected landscapes.

Following the requirement of NPF4 to attribute significant weight on the contribution the development would make to meeting Scottish Government energy targets and other economic and environmental benefits, in this case it is considered that these benefits outweigh the identified significant landscape and visual effects. It is recommended therefore that, on balance, Scottish Borders Council do not object to this development.

18.0 RECOMMENDATION BY CHIEF PLANNING AND HOUSIUNG OFFICER:

18.1 It is recommended that Scottish Borders Council do not object to the proposed development and, subject to an approval being granted by the ECU, recommend the following conditions:

1. Duration of Consent

The consent is for a period of 30 years from the date of Final Commissioning. Written confirmation of the date of First Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

Reason: To define the duration of the consent

2. Commencement of Development

Commencement of Development shall be no later than five years from the date of this consent, or in substitution such other period as the Scottish Ministers may hereafter direct in writing. Written confirmation of the intended date of Commencement of Development shall be provided to the Scottish Ministers and the Planning Authorities no later than one calendar month before that date.

Reason: To avoid uncertainty and ensure that consent is implemented within a reasonable period, and to allow the Scottish Ministers and the Planning Authorities to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.

3. Non Assignment

The company shall not be permitted to assign this consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may assign the consent (with or without conditions) or refuse assignation as they may, in their own discretion, see fit. The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure. The company shall notify the local planning authority in writing of the name of the assignee, principal named contact and contact details within 14 days of written confirmation from the Scottish Ministers of an assignation having been granted.

Reason: to safeguard the obligations of the consent if it is assigned to another company

4. Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the development during the period of this consent, the company will provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/ or to be taken to rectify the breach, within 24 hours of such an incident occurring.

Reason: to keep the Scottish Ministers informed of any such incidents which may be in the public interest.

5. Implementation in accordance with approved plans and requirements

Implementation in accordance with approved plans and requirements except as otherwise required by the terms of this section 36 consent and deemed planning permission, the Development shall be undertaken in accordance with the Application (including the EIA as amended or supplemented by the AI).

Reason: To ensure that the Development is carried out in accordance with the approved details.

6. Design and operation of turbines

a. There shall be no Commencement of Development unless full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour (which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus have been submitted to and approved in writing by the planning authority.

b. The turbines shall be consistent with the candidate turbine or range assessed in the environmental statement, and the tip height thereof shall not exceed 180 metres above ground level.

c. The development shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned.

d. All wind turbine blades shall rotate in the same direction.

e. None of the wind turbines, anemometers, power performance masts, switching stations or transformer buildings/enclosures, ancillary buildings or above ground fixed plant shall display any name, logo, sign or other advertisement (other than health and safety signage) unless otherwise approved in advance in writing by the planning authority.

Reason: To ensure that the environmental impacts of the turbines forming part of the development conform to the impacts of the candidate turbine assessed in the environmental statement and in the interests of the visual amenity of the area

7. Design of sub-station and ancillary development

There shall be no Commencement of Development unless final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, any construction compound boundary fencing, external lighting and Battery Energy Storage System (BESS) facility and parking areas have been submitted to and approved in writing by the planning authority. The substation building, associated compounds, fencing, external lighting and BESS facility and parking areas shall be constructed in accordance with the approved details.

Reason: to ensure that the environmental impacts of the sub-station and ancillary development forming part of the development conform to the impacts

assessed in the Environmental Statement and in the interests of the visual amenity of the area

8. Micro-siting

All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the location shown on plan reference Figure 2.1. Wind turbines, buildings, masts, areas of hardstanding and tracks may be adjusted by micro-siting within the site. However, unless otherwise approved in advance in writing by the Planning Authority (in consultation with SEPA and NatureScot, micro-siting is subject to the following restrictions:

- a. No wind turbine foundation shall be positioned higher, when measured in metres Above Ordinance Datum (Newlyn), than the position shown on plan reference Figure 2.1;
- b. No wind turbine, building, mast or hardstanding shall be moved more than 50m from the position shown on the original approved plans;
- c. No access track shall be moved more than 50m from the position shown on the original approved plans;
- d. No micro-siting shall take place within areas of peat of greater depth than the original location;
- e. No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
- f. All micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW)

No later than one month after the date of First Commissioning, an updated site plan must be submitted to the Planning Authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure forming part of the Development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW [ACoW] or Planning Authority's approval, as applicable. Reason: to control environmental impacts while taking account of local ground conditions.

9. Borrow Pits

There shall be no Commencement of Development unless a scheme for the working of each borrow pit forming part of the development has been submitted to and approved in writing by the planning authority in consultation with SEPA. The scheme shall include;

- a. A detailed working method statement;
- b. Details of the handling of any overburden (including peat, soil and rock);
- c. Drainage, including measures to prevent surround areas of peatland from drying out;
- d. A programme of implementation of the works described in the scheme; and
- e. Full details of the reinstatement, restoration and aftercare of the borrow pit(s) at the end of the construction period. The approved scheme shall thereafter be implemented in full.

Reason: to ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and the environment, and that the mitigation measures contained in the environmental statement accompanying the application, or as otherwise agreed, are fully implemented. To secure the restoration of borrow pit(s) at the end of the construction period.

10. Planning Monitoring Officer

There shall be no commencement of development unless the planning authority has approved the terms of appointment by the company of an independent and suitably qualified environmental consultant to assist the council in the monitoring of compliance with conditions attached to this deemed planning permission during the period from commencement of development to the date of Final Commissioning and thereafter throughout the period of operation of the wind farm.

Reason: to enable the development to be suitably monitored during the construction phase to ensure compliance with the consent issued.

11. Ecological Clerk of Works

There shall be no commencement of development unless the planning authority has approved in writing the terms of appointment by the company of an independent Ecological Clerk of Works (in consultation with NatureScot and SEPA). The terms of appointment shall:

- a. Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental statement and other information lodged in support of the application, the Construction and Environmental Management Plan and other plans approved in terms of the Construction Method Statement and Habitat Management and Enhancement Plan (conditions 12 and 15); and
- b. Require the Ecological Clerk of Works to report to the company's nominated construction project manager any incidences of non-compliance with the works for which the Ecological Clerk of Works is responsible for monitoring at the earliest practical opportunity.

The Ecological Clerk of Works shall be appointed on the approved terms from commencement of development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 12.

No later than 18 months prior to decommissioning of the development or the expiration of this consent (whichever is the earlier), the company shall submit details of the terms of appointment by the company of an independent Ecological Clerk of Works throughout the decommissioning, restoration and aftercare phases of the development to the planning authority for approval in consultation with Scottish Natural Heritage and SEPA. The Ecological Clerk of Works shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

Reason: to secure effective monitoring compliance with the environmental mitigation and management measures associated with the development.

12. Construction Method Statement

There shall be no commencement of development unless a Construction Method Statement outlining site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the planning authority in consultation with NatureScot and SEPA. The Construction Method Statement shall include (but shall not be limited to):

- a. Construction Environmental Management Plan outlining the procedures, mechanisms and responsibilities for implementing the environmental controls

outlined in the Construction Method Statement and the separate management plans listed below;

- b. site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- c. details of the formation of the construction compound, welfare facilities, any areas of hard-standing, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- d. details of borrow pit excavation and restoration;
- e. a dust management plan;
- f. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- g. a pollution prevention and control method statement, including arrangements for the storage of oil and fuel on the site;
- h. soil storage and management;
- i. a peat management plan;
- j. a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources
- k. sewage disposal and treatment;
- l. temporary site illumination;
- m. the construction of the access into the site and the creation and maintenance of associated visibility splays;
- n. the method of construction of the crane pads;
- o. the method of construction of the turbine foundations;
- p. the method of working cable trenches;
- q. the method of construction and erection of the wind turbines and meteorological masts;
- r. details of watercourse crossings;
- s. post-construction restoration/ reinstatement of the working areas not required during the operation of the development, including construction access tracks, borrow pits, construction compound and other construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;
- t. a wetland ecosystems survey and mitigation plan, where appropriate; and
- u. a felling and forestry wastes management plan, where appropriate;
- v. a strategy for monitoring, control and mitigation in respect of construction noise, and a methodology to be applied in instances where complaints are received in relation to construction noise.

The development shall be implemented thereafter in accordance with the approved Construction Method Statement unless otherwise approved in advance in writing by the planning authority in consultation with NatureScot and SEPA.

Reason: to ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the environmental statement accompanying the application, or as otherwise agreed, are fully implemented.

13. Construction Hours

Construction work which is audible from any noise-sensitive receptor shall only take place on the site between the hours of 07.00 to 19.00 on Monday to Friday inclusive and 07.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or on Bank Holidays or Public Holidays. Outwith these specified hours, development which is audible from any noise sensitive property shall be limited to turbine foundation construction, turbine installation, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the relevant Planning Authority.

Reason: In the interests of local amenity.

14. Traffic Management Plan

There shall be no commencement of development until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the Planning Authority. The TMP to include:

- a. The detailed delivery route and vehicle numbers for all cars, HGV deliveries and abnormal loads associated with the development and measures to ensure that the specified routes are adhered to, including monitoring procedures;
- b. Details of all ancillary works required to the public road network to facilitate deliveries, including all signage and lining arrangements, a programme and timescales for implementation and reinstatement proposals after the development is complete and a programme and timescales for completion;
- c. Road condition survey of all proposed access routes carried out prior to the development commencing and details of any upgrading works and a regime for routine maintenance during construction of the development. Any remedial works required as a result of damage/deterioration by construction traffic (to be highlighted in a post-construction road condition survey) to be rectified at the expense of the developer after the development has been completed in accordance with an agreed timescale. Any emergency repairs identified during the construction period to be rectified within one week, unless otherwise agreed;
- d. Details of tree or hedge removal along the route for the abnormal loads and a scheme for replacement planting and a timescale for its implementation and completion;
- e. Swept path analysis drawings for agreed areas of concern along the route for the abnormal loads and remedial measures;
- f. Details of the access track merge/cross with the existing public road serving Pirntaton Farm must be submitted to, and approved by, the Council. Thereafter the approved details to be completed within an agreed timescale.
- f. Areas of the abnormal load route where the removal of street furniture, including lighting, is required and all temporary lighting measures required for the duration of the abnormal load movements;
- h. Name and contact details of a nominated person to whom any road safety issues can be referred.
- i. Details of all dry runs associated with the delivery of abnormal loads to be communicated to the Council prior to the run.
- j. Timetables for all deliveries of abnormal loads to be submitted to the Council prior to the deliveries taking place.

The approved TMP thereafter to be implemented in full, unless otherwise agreed in advance in writing by the Planning Authority and all work within the

public road boundary to be undertaken by a contractor first approved by the Council.

Reason: To ensure all construction traffic access the site in a safe manner and that any upgrading works or repairs to public roads are carried out timeously to the Council's specifications, in the interests of road safety.

15. Habitat Management and Enhancement Plan

There shall be no commencement of development unless a Habitat Management and Enhancement Plan has been submitted to and approved in writing by the planning authority in consultation with RSPB Scotland, Forestry Commission Scotland and SEPA. The Habitat Management and Enhancement Plan shall set out proposed long term management and enhancement of the wind farm site and shall provide for the maintenance, monitoring and reporting of habitat on site in relation to bats, schedule 1 raptors, breeding birds, reptiles, amphibians, woodland, wetland, grassland and heathland management.

The approved Habitat Management and Enhancement Plan will be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted to the planning authority for written approval in consultation with RSPB Scotland, Forestry Commission Scotland and SEPA. Unless otherwise agreed in advance in writing with the planning authority, the approved Habitat Management and Enhancement Plan shall be implemented in full.

Reason: in the interests of good land management and the protection and enhancement of habitats.

16. Biodiversity Monitoring and Management

Prior to the commencement of the development and, in the case of items (b) and (c) prior to the commencement of any on-site works or development, the following plans, programmes and/or survey results shall have been submitted to, and approved by the Planning Authority:

- (a) a programme of monitoring of Schedule 1 raptor species and protected mammals including bats and badgers, agreed with the Planning Authority and in consultation with Scottish Natural Heritage and RSPB Scotland;
- (b) supplementary surveys for protected species (including otter, badger, red squirrel, reptiles, breeding birds), carried out by a suitably qualified person or persons in a manner appropriate to the phasing of the development, to inform a Species Mitigation and Management Plan;
- (c) a Species Mitigation and Management Plan relating to the species identified in clause (b);
- (d) an Integrated Water Quality and Fisheries Management Plan agreed with Marine Scotland-Freshwater Laboratory and River Tweed Commissioners (at least 12 months before construction starts), with a programme of pre-construction water quality and fisheries surveys to establish a baseline, plus during and after construction water quality monitoring (in addition to visual checks required under the Construction and Environmental Monitoring Plan).

In the case of (a), the programme shall be undertaken pre-construction, during construction, and for years 1, 2, 3, 5, 10 and 15 once the wind farm becomes operational. In the case of (b), the results of these surveys should be used to inform construction activities and any required mitigation proposals for protected species on the site and shall be strictly adhered to in the course of

development. In the case of (c) and (d), all on-site works and development shall thereafter be carried out in accordance with the approved plan(s).

Reason: To ensure that reasonable protection is given to biodiversity on and utilising the site; species protected by law are not harmed as a result of the development taking place; the protected species are afforded due protection (and to enable greater understanding of the impacts of development of this nature); and proposed mitigation measures are effective in protecting fisheries within and downstream of the proposed development.

17. Breeding Bird Protection Plan

There shall be no commencement of development unless a Breeding Bird Protection Plan (BBPP) has been submitted to and approved in writing by the planning authority in consultation with RSPB Scotland and thereafter shall be implemented in accordance with the agreed details.

Reason: To ensure suitable protection is given to breeding birds and ensure they are not harmed as a result of any effects of the development.

18. Programme of Archaeological Works

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

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

19. Private Water Supplies

There shall be no commencement of development unless the following private water supply matters have been submitted to and agreed in writing with the Planning Authority:

- a. a method statement (private water supply plan) has been submitted to and approved in writing by the planning authority, detailing all avoidance and/or mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties which are served by private water supplies at the date of this consent and which may be affected by the development. In particular, the method statement shall include a water quality and quantity (yield) monitoring plan for every private water supply which may be affected by the development during the construction, operational and decommissioning phases of the development.
- b. a site-specific emergency response plan has been submitted to and approved in writing by the planning authority, detailing all additional (emergency) measures to be delivered in the event of the avoidance and/or mitigation measures (identified as part a.) unpredictably failing to secure a sufficient supply of wholesome water to properties which are served by private water supplies at the date of this consent and which may be affected

by the development. In particular, the plan shall identify all measures necessary to secure a sufficient and continuous supply of wholesome water to the properties until such time as the pre-development water supply conditions (quality, quantity and continuity) are reinstated, along with the criteria necessary for liability for the unpredicted event(s) to be attributed to the development and the duration of this liability, as far as reasonably practicable. Finally, in the event that the pre-development water supply conditions cannot be reinstated or the additional measures include new infrastructure (e.g. source, pipework, tank, treatment, etc.), the plan must include consideration of any long-term additional operation and maintenance tasks, including running costs, and confirmation of where liability for and/or responsibility thereof is to be attributed to the development/applicant.

Reason: To maintain a secure and adequate quality water supply to all properties with private water supplies which may be affected by the development.

20. Water and Flood Risk Management

There shall be no commencement of development unless the following matters have been submitted to and approved in writing by the planning authority and thereafter the development shall be carried out in accordance with the approved details:

- a. design details of new crossings or alterations to previous crossings to ensure that there is no decrease in flow conveyance and subsequently increased flood risk caused by the crossings;
- b. details of regular maintenance relating to new water crossings and drains, to mitigate by reducing surface water runoff impact;
- c. details of levels of discharges from SUDS or other drainage, confirming how it will be kept to existing Greenfield run-off rates;
- d. written explanation of how it is proposed to manage the minimisation of sediment entering the surrounding water courses.

Reason: to minimise impact on the water environment and to ensure that flood risk is ameliorated.

21. Redundant turbines

If one or more turbine fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the planning authority, the Company shall:

- a. by no later than the date of expiration of the 12-month period, submit a scheme to the planning authority setting out how the relevant turbine(s) and associated infrastructure will be removed from the site and the ground restored; and
- b. implement the approved scheme within six months of the date of its approval, all to the satisfaction of the planning authority.

Reason: To ensure that any redundant wind turbine is removed from Site, in the interests of safety, amenity and environmental protection

22. Aviation Lighting

Aviation lighting shall be installed in accordance with the aviation lighting scheme within Section 5.9 of the EIAR as approved by the CAA on 10 February 2021. The Aviation Lighting Scheme shall be fully implemented throughout the lifetime of the Development, unless any change to the Aviation Lighting Scheme is approved in writing by the Scottish Ministers.

Reason: In the interest of air safety.

23. Site Decommissioning, Restoration and Aftercare

The development will be decommissioned and will cease to generate electricity by no later than the date falling twenty five years from the date of Final Commissioning. The total period for restoration of the site in accordance with this condition shall not exceed three years from the date of Final Commissioning without prior written approval of the Scottish Ministers in consultation with the Planning Authority.

There shall be no commencement of development unless a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the planning authority in consultation with NatureScot and SEPA. The scheme shall detail measures for the decommissioning of the development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the above ground elements of the development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.

No later than 3 years prior to decommissioning of the development or the expiration of this consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare method statement, shall be submitted to the planning authority for written approval in consultation with NatureScot and SEPA. The detailed decommissioning, restoration and aftercare plan will provide updated and detailed proposals for the removal of above ground elements of the development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include:

- a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- b. details of the formation of the construction compound, welfare facilities, any areas of hard-standing, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c. a dust management plan;
- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a pollution prevention and control method statement, including arrangements for the storage of oil and fuel on the site;
- f. soil storage and management;
- g. sewage disposal and treatment;
- h. temporary site illumination;
- i. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- j. details of watercourse crossings;
- k. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

The development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise

agreed in writing in advance with the planning authority in consultation with NatureScot and SEPA.

Reason: to ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

24. Financial Guarantee

There shall be no commencement of development unless the company has delivered a bond or other form of financial guarantee in terms acceptable to the planning authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in condition 25 to the planning authority. The financial guarantee shall thereafter be maintained in favour of the planning authority until the date of completion of all restoration and aftercare obligations.

The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in condition 23. The value of the financial guarantee shall be reviewed by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason: to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.

25. Noise

The rating level of noise immissions from the combined effects of the wind turbines forming part of the development (including the application of any tonal penalty) shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this consent. The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria and:

- a. The company shall continuously log power production, wind speed and wind direction. These data shall be retained for a period of not less than 24 months. The company shall provide this information to the planning authority within 14 days of receipt in writing of a request to do so.
- b. There shall be no First Commissioning of the Development until the company has received written approval from the planning authority of a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the planning authority.
- c. Within 21 days from receipt of a written request from the planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the company shall, at its expense, employ a consultant approved by the planning authority to assess the level of noise immissions from the wind farm at the complainant's property. The written request from the planning authority shall set out at least the date, time and

location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

- d. The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the planning authority. The protocol shall include the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the planning authority under condition 19 paragraph c above, and such others as the independent consultant considers likely to result in a breach of the noise limits.
- e. Where the property to which a complaint is related is not listed in the tables attached to this condition, the company shall submit to the planning authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's property for compliance checking purposes. The proposed noise limits are to be those limits selected from the tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's property. The rating level of noise immissions resulting from the combined effects of the wind turbines shall not exceed the noise limits approved in writing by the planning authority for the complainant's property.
- f. The company shall provide to the planning authority the independent consultant's assessment of the rating level of noise immissions within 2 months of the date of the written request of the planning authority for compliance measurements to be made under paragraph e, unless the time limit is extended in writing by the planning authority. Certificates of calibration of the instrumentation used to undertake the measurements shall be submitted to the planning authority with the independent consultant's assessment of the rating level of noise immissions.
- g. Where a further assessment of the rating level of noise immissions from the wind farm is required, the company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant paragraph d above unless the time limit has been extended in writing by the planning authority.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods

Property	Standardised 10m Wind Speed (m/s)								
	4	5	6	7	8	9	10	11	12
Wester Corsehope	37.0	37.0	37.0	37.0	38.0	40.9	44.1	47.7	47.7
Corsehope Farm	37.0	37.0	37.0	37.0	38.0	40.9	44.1	47.7	47.7
6 Pirntaton Farm Cottage	37.0	37.0	37.0	37.0	39.9	43.6	47.8	52.7	58.2
Brockhouse Farm	37.0	37.0	37.0	37.0	37.9	39.5	41.5	44.3	47.8
Brockhouse Cottages	37.0	37.0	37.0	37.0	37.9	39.5	41.5	44.3	47.8
Pirntaton Farmhouse	37.0	37.0	37.0	37.0	39.9	43.6	47.8	52.7	58.2
Haltree Cottages	35.0	35.0	35.0	35.0	35.0	35.0	35.0		
Overshiels Farmhouse	35.0	35.0	35.0	35.0	35.0	35.0	35.0		
Corsehope House	35.0	35.0	35.0	35.0	35.0	35.0	35.0		

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Property	Standardised 10m Wind Speed (m/s)								
	4	5	6	7	8	9	10	11	12
Wester Corsehope	43.0	43.0	43.0	43.0	43.0	43.0	43.0	46.1	49.8
Corsehope Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.0	46.1	49.8
6 Pirntaton Farm Cottage	43.0	43.0	43.0	43.0	43.0	43.0	44.1	48.3	53.0
Brockhouse Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Brockhouse Cottages	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Pirntaton Farmhouse	43.0	43.0	43.0	43.0	43.0	43.0	44.1	48.3	53.0
Haltree Cottages	35.0	35.0	35.0	35.0	35.0	35.0	35.0		
Overshiels Farmhouse	35.0	35.0	35.0	35.0	35.0	35.0	35.0		
Corsehope House	35.0	35.0	35.0	35.0	35.0	35.0	35.0		

Reason: to protect nearby residents from undue noise and disturbance; to ensure that noise limits are not exceeded; and to enable prompt investigation of complaints.

DRAWING NUMBERS

Drawing Number	Plan Reference
Figure 2.1	Proposed Development Layout
Figure 2.3	Turbine Elevations
Figure 2.4	Indicative Turbine Foundations
Figure 2.5	Indicative Turbine Hardstanding Arrangement
Figure 2.6	Indicative Access Tracks and Cable Runs
Figure 2.7	Indicative Substation
Figure 2.8	Indicative Substation Building
Figure 2.9	Indicative Control Building
Figure 2.10	Indicative Battery Storage Facility
Figure 2.11	Indicative Battery Storage Containers, HVAV and PCS
Figure 2.12	Indicative Wind Monitoring Mast
Figure 2.13	Indicative Construction Compounds

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

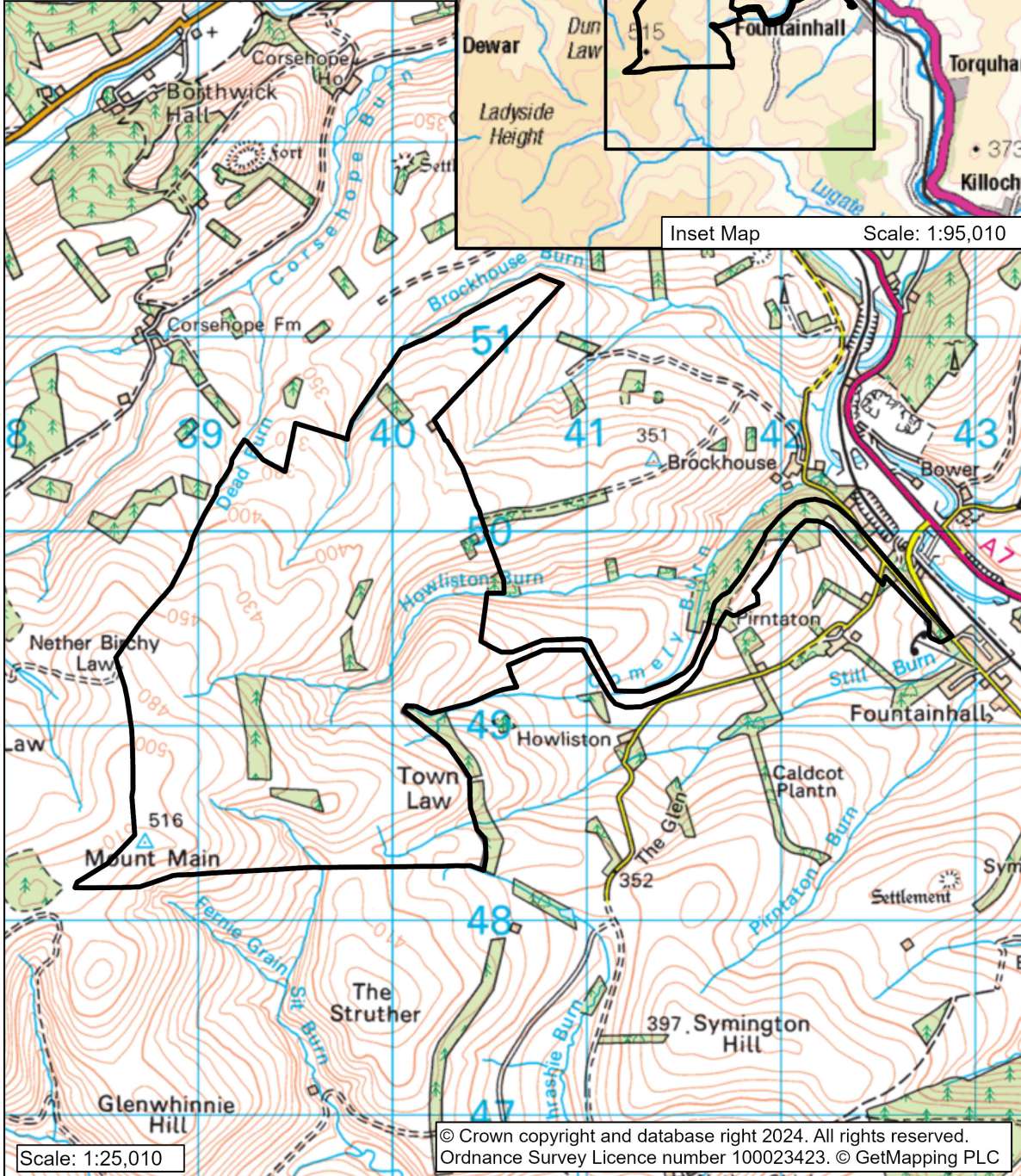
The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

Author(s)

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



21/01808/S36
Greystone Knowe Wind Farm



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 MARCH 2024

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 23/01782/FUL

OFFICER: Julie Hayward
WARD: Leaderdale And Melrose
PROPOSAL: Removal Condition no. 24 of planning permission 18/01385/FUL pertaining to a scheme of woodland management

SITE: Land At The Croft Dingleton Road Melrose
APPLICANT: Rural Renaissance Ltd
AGENT: Hypostyle Architects

PLANNING PROCESSING AGREEMENT:

A Planning Processing Agreement is in place until 25th March 2024.

SITE DESCRIPTION:

The site is located on the southeastern edge of Melrose adjoining the lower slopes of the Eildon Hills and consists of 2.56 hectares of grazing land (the top soil has been stripped) with the Croft at its centre, accommodating the Cherrytrees Children's Nursery.

The site includes part of Dingleton Road, which borders the northwestern edge of the site, partly delineated with stone walling. An existing access road and bridge cross the Malthouse Burn and currently connects the nursery with Dingleton Road. Existing housing lies along Dingleton Road to the northwest/west and to the southern boundary of the site along Dingleton Loan.

The Malthouse Burn with associated riparian vegetation lies between Dingleton Road and the main part of the site, being part of the River Tweed Special Area of Conservation. The site is bordered to the northeast and south west by rights of way, tree belts and agricultural land. The site is within the Eildon and Leaderfoot National Scenic Area.

PROPOSED DEVELOPMENT

Planning permission (18/01385/FUL) for the erection of 28 dwellinghouses with associated parking, roads and landscaping was granted by the Planning and Building Standards Committee on 1st July 2019 and the decision was issued on 4th May 2023 following completion of a Section 75 legal agreement. This was a major application under the Hierarchy of Developments (Scotland) Regulations 2009.

Condition 24 states:

No development shall be commenced until a Scheme of Woodland Management is submitted to, and approved in writing by, the Planning Authority. The Scheme shall identify an area of woodland outwith the site to its southeastern edge and proposals for the retention, maintenance, regeneration and management of the woodland. Once approved, the Scheme then to be operated in perpetuity in accordance with the agreed details.

Reason: To safeguard the visual amenity of the area.

This current application is submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 As Amended seeking removal of the above condition.

PLANNING HISTORY:

18/00016/PAN: Residential development with associated roads, car parking, landscaping and new access.

18/01385/FUL: Erection of 28 dwellinghouses with associated parking, roads and landscaping. Approved 4th May 2023.

REPRESENTATION SUMMARY:

Eight representations (from 6 households) have been received objecting to the application and are available to view in full on Public Access, raising the following planning issues:

- The Council has stipulated that the development cannot go ahead without a scheme of woodland management being submitted. The woodland is critical to the mitigation of the development's visual impact on an area of local importance and natural beauty. The Planning Committee assured objectors that the development would only proceed with appropriate screening provided by the existing woodland.
- The removal of the condition can only be agreed by the Planning Committee.
- The owner of the land must comply with the condition. It cannot be removed or un-required as to do so would negate the right to planning permission.
- The condition ensures that the loss of habitat and environmental assets within the Croft is balanced by well-managed woodland, habitat and environment outwith the boundaries, particularly during construction to ensure it is not damaged.
- The applicant could enter into an agreement with JS Farming, owners of the land in question, to develop a management plan.
- Residents and visitors who use the paths surrounding the Croft and access to the Eildons, including the General's Walk, to the south, would benefit from this condition, which guarantees that the development does not detract from the character, accessibility and environmental richness of the locality.
- Development on this site has been strongly contested by the public from the start for over 18 years, since before the Croft Planning Brief was approved. The application (18/01385/FUL) was contentious, and the condition was considered essential to lessen the visual impact of the development and to ensure this

visual screen would endure. Without the trees the development would be intrusive.

- The site is sensitive on the lower slopes of the Eildons within the National Scenic Area, and visible from the higher parts of the Eildons, though currently the trees obscure most of the site. Condition 24 seeks to protect the trees to safeguard visual amenities. Without the woodland, the visual impact would be significant, exposing the development to open views from the Eildons, impairing views. The condition must be enforced. The public and Council are stewards of vulnerable and precious landscapes and must seek to protect it.
- The approved location plan for 18/01385/FUL shows the entire block of land, including the development site, the belt of trees and the fields above it, labelled as being owned by JS Farming Partnership. Both Rural Renaissance Ltd and JS Farming Partnership are understood to be part of the greater "Crawford's" business empire. If ownership of the development site has been transferred internally to Rural Renaissance from JS Farming Partnership, both "Crawford's" businesses, then presumably the conditions for site development were inherited along with it.
- There is no justification for the removal of trees around the site, other than road access, and this may result in an application to increase the site.
- The condition provided some mitigation to the effect on the landscape of a sizable building development at the foot of the Eildons within the National Scenic Area. If the condition cannot be met, then the permission should fall and no building or tree removal should be allowed or a new screening belt of trees should be planted along the south eastern edge of the site on land in the control of the applicant.
- No evidence has been provided that the developer does not have sufficient control over ownership of the land. To remove this condition the Committee would be required to establish that the developer is not able to work with JS Farming Partnership to achieve the requirements of the condition. The Planning Authority judged in 2019 when the decision was made, that the relationship between the applicant Rural Renaissance Ltd and the landowner JS Farming Partnership, was sufficient to impose condition 24 and to approve planning permission on land not owned by the applicant. JS Farming Partnership has been involved in applications for the Croft and surrounding land since proposals were first brought forward in 2006. While no longer owning the land, JS Farming Partnership retains a material stake in the success of the development at the Croft.
- When considering previous applications in 2006, the Scottish Government's Reporter concluded that the site at the Croft was acceptable for development (but surrounding land was not) because of the site's unique setting and woodland screening. Development on the Croft has only been approved by the Council and the Reporter on the condition that the site is adequately screened. Condition 24 is material to maintaining and developing that screening.
- While Rural Renaissance Ltd may be the legal owners of the site, there seems to be an almost indiscernible difference between that business and "Crawfords", and an obvious historic (and presumably ongoing) connection between the owners of the Croft site and the owners of the land that the tree screen is on.

Using ownership transfer to sidestep a condition previously considered vital has the air of underhand behaviour and should not be used as a reason to remove the condition.

- JS Crawford Farming Partnership does not seem to exist on the public website for Companies House, even though all partnerships need to be registered. There may be a question as to whether JS Crawford Farming Partnership has ever legally existed so presumably cannot own or transfer property.
- The land ownership may have changed but the nature of the site has not, it continues to have visual and environmental sensitivities relating to the National Scenic Area. The established framework of mature trees and woodland within the site and around its perimeter is still an important landscape resource to be conserved and positively managed; the conditions attached to any development of this site should not change either. If the change in land ownership means that the '6 tests for conditions' can no longer be met, then it follows that the planning permission must be suspended.
- The removal of this condition could result in other critically important conditions being removed.
- No formal notice was given of the removal of this condition or statutory consultations carried out.
- Developments elsewhere in Melrose and partially built sites meet the demand for housing without damaging this sensitive landscape.
- Without enforcement of condition 24, there would be areas of conflict with National Planning Framework 4 policies regarding biodiversity, historic assets and residential amenity.
- Trees have already been removed from the site (including a thriving orchard that was chopped down by the applicant following their acquisition of the site). Once built on the damage cannot be undone.
- The Planning Brief under Landscape/Ecology states that 'there is an established framework of mature trees and woodland within the site and around its perimeter and that this woodland is an important landscape resource to be conserved and positively managed' (to safeguard the visual amenity of the area).
- Irrespective of who owned what land and when, no development on this site should commence without condition 24 being met. The Council's Landscape Architect confirmed the requirement for a management scheme to be agreed with the developer for the surrounding woodland to safeguard the visual amenity of the area. Condition 24 was considered to be the most appropriate way to secure the long-term protection and management of the woodland.
- The real key planning issue is whether or not the development would be acceptable without the particular protection afforded by condition 24 and the potential impact, and spread, of the development without such a scheme. Retaining Condition 24 might in fact "assist" the applicant in finding a way to fulfil it.

- The very narrow focus on the six tests listed in Planning Circular 4/1998: The Use of Conditions in Planning Permissions without referring to the five preceding tests represents a major flaw as it fails to indicate planning policy which, when considering the removal of a condition, is far more useful and relevant than the six tests.

APPLICANTS' SUPPORTING INFORMATION:

Supporting Statement

DEVELOPMENT PLAN POLICIES:

National Planning Framework 4

Policy 1: Tackling the Climate and Nature Crises
 Policy 2: Climate Mitigation and Adaptation
 Policy 3: Biodiversity
 Policy 4: Natural Places
 Policy 6: Forestry, Woodland and Trees
 Policy 7: Historic Assets and Places
 Policy 14: Design, Quality and Place
 Policy 15: Local Living and 20 Minute Neighbourhoods
 Policy 16: Quality Homes
 Policy 18: Infrastructure First
 Policy 22: Flood Risk and Water Management

Scottish Borders Council Local Development Plan 2016

Policy PMD1: Sustainability
 Policy PMD2: Quality Standards
 Policy PMD3: Land Use Allocations
 Policy HD1: Affordable and Special Needs Housing
 Policy HD3: Protection of Residential Amenity
 Policy EP1: International Nature Conservation Sites and Protected Species
 Policy EP2: National Nature Conservation Sites and Protected Species
 Policy EP3: Local Biodiversity
 Policy EP4: National Scenic Areas
 Policy EP5: Special Landscape Areas
 Policy EP8: Archaeology
 Policy EP9: Conservation Areas
 Policy EP13: Trees, Woodlands and Hedgerows
 Policy EP15: Development Affecting the Water Environment
 Policy IS2: Developer Contributions
 Policy IS3: Developer Contributions Related to the Borders Railway
 Policy IS4: Transport Development and Infrastructure
 Policy IS6: Road Adoption Standards
 Policy IS7: Parking Provision and Standards
 Policy IS8: Flooding
 Policy IS9: Wastewater Treatment Standards and Sustainable Urban Drainage
 Policy IS13: Contaminated Land

OTHER PLANNING CONSIDERATIONS:

- Town and Country Planning (Scotland) Act 1997 As Amended

- Circular 4/1998: The Use of Conditions in Planning Permissions
- Designing Streets 2010

Supplementary Planning Guidance

- Affordable Housing 2015
- Developer Contributions 2016 (Amended 2023)
- Trees and Development Updated 2020
- Landscape and Development 2008
- Green Space 2009
- Placemaking and Design 2010
- Guidance on Householder Development 2006
- Waste Management 2015
- Biodiversity 2005

"The Croft" Planning Brief 2006

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Landscape Architect: No response.

Statutory Consultees

None

Other Consultees

None

KEY PLANNING ISSUES:

- Whether the principle of removing the condition would be acceptable, having particular regard to the six tests of planning conditions set out in Policy 18 of National Planning Framework 4 and in Planning Circular 4/1998: The Use of Conditions in Planning Permissions.
- The impact of the development at the Croft on the trees and woodland, the visual amenities of the area and special landscape qualities of the National Scenic Area should the condition be removed.

ASSESSMENT OF APPLICATION:

Planning Policy

Policy 18 of National Planning Framework 4 lists the six tests all planning conditions should meet. These are set out in greater detail within Planning Circular 4/1998: The Use of Conditions in Planning Permissions. The existing condition must be considered against the six tests below:

1) necessary, 2) relevant to planning, 3) relevance to the proposed development, 4) enforceable, 5) precise, 6) reasonable in all other respects.

Should a condition not meet one of the six tests it would not be appropriate to impose the requirement or obligation sought by the condition.

Existing Consent

Planning application 18/01385/FUL was submitted for the site in October 2018 for the erection of 28 dwellinghouses with associated parking, roads and landscaping. Planning permission was granted in May 2023. Condition 24 sought to secure a Scheme of Woodland Management for the area of woodland outwith the site to its southeastern edge and proposals for the retention, maintenance, regeneration and management of the woodland.

This current application seeks the removal of this condition. The applicant's Supporting Statement advises that the area referred to in the condition is outside the original application site boundary and outwith the ownership of the applicant, therefore, Rural Renaissance Ltd (the applicant) has no control over the land to which the condition relates.

In respect of policy 18 of National Planning Framework 4 and Circular 4/1998: The Use of Conditions in Planning Permissions, the first test in respect of conditions is that there is a need for the condition. The Circular states that in considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification. The same principles must be applied in dealing with applications for the removal of a condition under Section 42 of the Act; a condition should not be retained unless there are sound and clear-cut reasons for doing so.

The site is allocated for housing development in the Local Development Plan as EM4B with an indicative site capacity of 25 units.

There is also an approved Planning Brief for the site (adopted in July 2006). This sets out the main opportunities and constraints for the site to create a framework for its future development. The Development Vision included the retention and enhancement of the landscape framework surrounding the site. There is an established framework of mature trees and woodland within the site and around its perimeter, which is an important landscape resource that should be conserved and positively managed. An appropriate management scheme for the woodland is recommended in the Planning Brief between SBC and the developer.

Significant concern was expressed by objectors over the felling of trees along the southeastern boundary of the site before application 18/01385/FUL was submitted. However, the trees are not protected in any way, either by designation or planning condition, and could be replaced with new planting to comply with the terms of any felling licence.

During the consideration of planning application 18/01385/FUL, the Council's Landscape Architect provided extensive comments, including the requirement for a management scheme to be agreed with the developer for the surrounding woodland.

The committee report (18/01385/FUL) stated that the site retains strong landscape and topographical containment despite recent felling. This would be replaced and there is sufficient strong woodland cover behind the site to continue to screen the development from the rear and provide a backdrop from Dingleton Road. Continuation of this screen can be controlled within a Woodland Management Scheme, which is a requirement of

the Planning Brief. As the applicant owns this woodland, securing a Scheme can be achieved through a planning condition. At that time, when the 2018 application was assessed and determined by members, it was considered that the application complied with the Planning Brief, Local Development Plan Policies and Supplementary Planning Guidance.

Circular 4/1998 advises that landscape quality and the appearance of a proposed development and its relationship to its surroundings can be important material considerations in determining many planning applications; the visual impact of a development will often need to be assessed as a whole. Planning Authorities should not refuse permission if development can be permitted subject to conditions that will prevent damaging impacts on important physical features; Planning Authorities should also bear in mind that a number of areas valued for their landscape quality or nature conservation interest are afforded statutory protection; National Scenic Areas provide the national designation for landscape. Section 159 of the Planning Act places an express duty on the Planning Authority, when granting planning permission, to ensure whenever appropriate that adequate conditions are imposed to secure the preservation or planting of trees.

The protection and augmentation of the landscape framework surrounding the site is identified in the Planning Brief as being of fundamental importance to the design and success of a development on the site, respecting the rural edge of Melrose and the setting and qualities of the Eildon and Leaderfoot National Scenic Area. The requirements of the Brief are reinforced by Local Development Plan Policies PMD2: Quality Standards, EP4: National Scenic Areas and EP13: Trees, Woodlands and Hedgerows, together with Supplementary Planning Guidance on Trees and Development and Landscape and Development. There should also be consideration of the proximity of the site to the Tweed, Ettrick and Yarrow Confluences Special Landscape Area (policy EP5) and Melrose Conservation Area (policy EP9).

Since the original application was determined National Planning Framework 4 has been adopted and forms part of the development plan and so is a material consideration in assessing the removal of condition 24. In particular, policy 4: Natural Places states that development proposals that will affect a National Scenic Area will only be supported where the objectives of designation and the overall integrity of areas will not be compromised or any significant effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

Policy 6: Forestry, Woodland and Trees states that proposals that enhance, expand and improve woodland and tree cover will be supported. Development proposals will not be supported where they will result in adverse impacts on native woodlands; development proposals on sites which include an area of existing woodland will only be supported where the enhancement and improvement of woodlands and the planting of new trees on the site are integrated into the design.

Therefore, the condition is necessary to ensure the retention, maintenance, regeneration and management of the woodland and the justification for it was clearly set out in the original committee report, this accords with current development plan policies. In this respect, the condition meets the first 3 tests outlined in Circular 4/98 in that condition 24 is justified by the nature of the development permitted and its effect on the surrounding landscape, is relevant to planning and relevant to the development that has been approved at the Croft.

Circular 4/1998 also requires conditions to be enforceable; it must be possible to detect an infringement, prove a breach has occurred and monitor compliance.

The Circular advises that a condition may raise doubt about whether the person carrying out the development to which it relates can reasonably be expected to comply with it. If not, subsequent enforcement action is likely to fail on the ground that what is required cannot reasonably be enforced. In relation to this, conditions should be precise and clear to ensure a condition is enforceable. A condition must also be reasonable and avoid onerous requirements.

The Circular advises that particular care needs to be taken over conditions which require works to be carried out on land in which the applicant has no interest at the time when planning permission is granted. If the land is outside the site, a condition requiring the carrying out of works on the land cannot be imposed unless the authority is satisfied that the applicant has sufficient control over the land to enable those works to be carried out. Therefore, it is unreasonable to impose a condition worded in a positive form which developers would be unable to comply with themselves, or which they could comply with only with the consent or authorisation of a third party.

Although it would be ultra vires (acting or done beyond one's legal power or authority) to require works which the developer has no powers to carry out, or which would need the consent or authorisation of a third party, it may be possible to achieve a similar result by a condition worded in a negative form, prohibiting development until a specified action has been taken. A House of Lords ruling (in the British Railways Board v the Secretary of State for the Environment and Hounslow LBC [1994]) established that the mere fact that a desirable condition, worded in a negative form, appears to have no reasonable prospects of fulfilment does not mean that planning permission need necessarily be refused as a matter of law. Thus, while an authority will continue to have regard to all relevant factors affecting a planning application and whether it should be granted with or without conditions, there is no longer a legal requirement to satisfy a reasonable prospects test in respect of any negative condition they may decide to impose.

In this particular case, application 18/01385/FUL was submitted by Rural Renaissance Ltd in October 2018. The location plan (AL_0_100 B) states that both the site (within the red line boundary) and the surrounding land, including the woodland, (land identified by a blue line) is owned by JS Farming Partnership. The Land Ownership Certificate on the application form also states the land belongs to JS Crawford Farming Partnership (Cert B).

Therefore, at the time the application was determined, the application site and adjoining woodland were within the same ownership and condition 24 met the 6 tests for conditions; the condition was considered to be the most appropriate way to secure the long-term protection and management of the woodland.

The current application has also been submitted by Rural Renaissance Ltd. The revised location plan (AL_0_100 C) shows that the site within the red line is owned by Rural Renaissance Ltd and the surrounding land, including the woodland, (land identified by a blue line) is still owned by JS Farming Partnership. The Land Ownership Certificate on the application form states that Rural Renaissance Ltd now own the application site (Certificate A).

The justification from the agent for the removal of the condition is that the applicant, Rural Renaissance Ltd, does not own the woodland and has no control over it.

However, the condition has been worded in such a way that it is a negative suspensive condition (or Grampian condition), as explained above, which means that that it remains both reasonable and enforceable, notwithstanding the change of ownership. Taking into account the landownership of this site and the woodland, there is a reasonable prospect that this condition can be complied with. The onus is, therefore, on the developer to comply with the condition before the development can commence on-site. The condition is considered to meet the reasonable test and has been worded in such a way as to be clear and precise about what is required and when, and so is enforceable.

Material Changes Since Decision

National Planning Framework 4 has replaced both NPF3 and Scottish Planning Policy and now forms part of the Councils statutory development plan and directly influences planning decisions. The proposed removal of condition 24 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 National Planning Framework 4 is its compatibility with policy 16: Quality Homes, which seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland. The proposed development would see the development of a site allocated in the Local Development Plan 2016 for housing.

The merits of the proposals have also been considered against other relevant NPF4 policies, including those covering design quality, biodiversity, historic assets and residential amenity, and there are no areas of conflict that cannot reasonably be covered by the remaining conditions, where relevant.

The proposal was also considered against the Local Development Plan 2016, which remains the Council's prevailing Local Development Plan. There has not been any change to this document and there is no requirement under the current proposals to re-examine the earlier decision to approve the residential development.

CONCLUSION:

It is considered that condition 24 of planning permission 18/01385/FUL meets the tests contained within policy 18 of National Planning Framework 4 and Planning Circular 4/1998: The Use of Conditions in Planning Permissions.

The trees and woodland are an important landscape resource that is vital in screening and providing a backdrop to the approved development, to protect the visual amenities of the area and the special qualities of the National Scenic Area.

The retention, protection and long-term management of the woodland is therefore important to the design, setting and success of the development and can be achieved through the Woodland Management Scheme, to be secured by condition 24. This is a requirement of the Planning Brief and reinforced by National Planning Framework 4 policies 4 and 6 and Local Development Plan 2016 policies PMD2, EP4 and EP13. The removal of this condition has not been adequately justified and so the application cannot be supported.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is refused for the following reason:

The proposed removal of condition 24 of planning permission 18/01385/FUL would be contrary to National Planning Framework 4 policies 4 and 6 and Local Development Plan 2016 policies PMD2, EP4 and EP13 and The Croft Melrose Planning Brief in that the case has not been adequately made for the removal of the condition, without which the long-term future of the woodland cannot be secured, to the detriment of the design, setting and success of the approved development and therefore the visual amenities of the area and special qualities of the National Scenic Area.

DRAWING NUMBERS

AL_0_100 C Location Plan

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

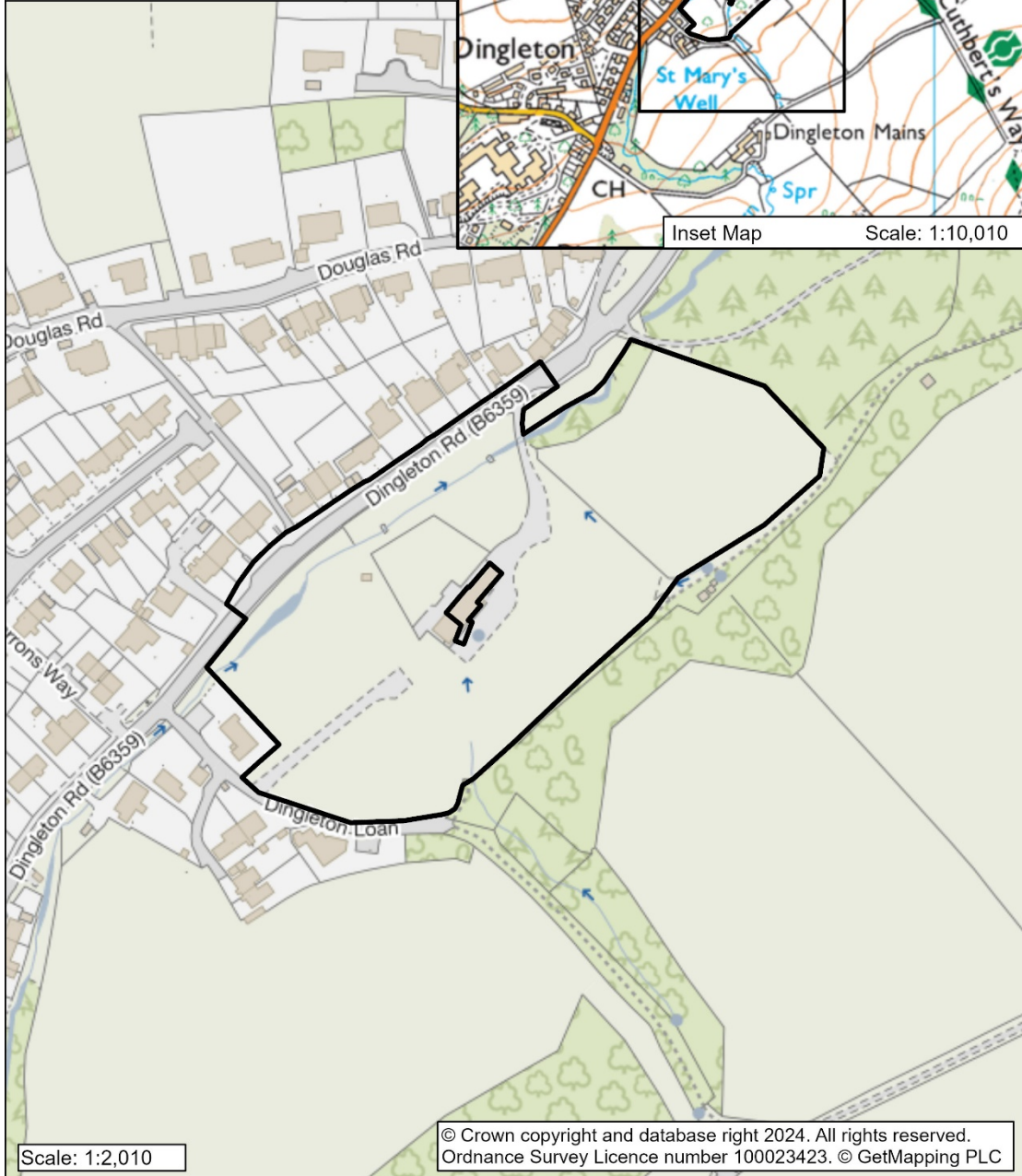
The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

Author(s)

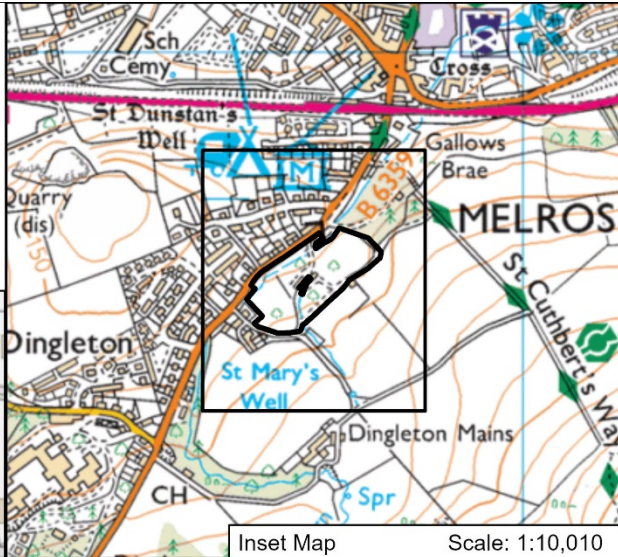
Name	Designation
Julie Hayward	Team Leader Development Management



23/01782/FUL
Land At The Croft
Dingleton Road
Melrose



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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 MARCH 2024

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 23/01038/S36

OFFICER: Mr Scott Shearer
WARD: Mid Berwickshire
PROPOSAL: Construct of a Battery Energy Storage System and associated infrastructure
SITE: Land West of the Eccles Substation
APPLICANT: Eccles Energy Centre Ltd
AGENT: AECOM

1.0 PLANNING PROCESSING AGREEMENT:

1.1 Scottish Borders Council (SBC) have advised the Energy Consents Unit that a response to the Section 36 consultation will be provided on 25 March 2024.

2.0 PURPOSE OF REPORT

2.1 To advise the Scottish Government of the response from Scottish Borders Council on an application which has been submitted under section 36 of The Electricity Act 1989 (as amended) for the development of Battery Electricity Storage System (BESS) and Associated Infrastructure on Land West of Eccles Substation.

3.0 PROCEDURE

3.1 Scottish Borders Council (SBC) is a consultee as a 'relevant planning authority'.

3.2 The views of SBC will be provided to the Energy Consents Unit at Scottish Government (ECU) who are the body responsible for determining developments involved with electricity generation in excess of 50MW, under the Electricity Act 1989. The ECU advertises the application and carries out consultation with other interested bodies. There is, therefore, no need for Scottish Borders Council to undertake a parallel consultation exercise although internal consultation has taken place with relevant specialists within SBC.

3.3 It should be noted that if permission is granted, the Council (rather than the ECU) would become a relevant enforcement authority responsible for monitoring compliance with the terms of an approval and any conditions imposed thereon.

4.0 SITE DESCRIPTION

- 4.1 The site is located approximately 2.8km to the east of the village of Eccles in Berwickshire. The application site is a triangle of agricultural land directly to the west of the Eccles substation and woodland buffer. The A697 bounds the site to the south. A small burn runs along the northern boundary of the site separating it from agricultural land to the north. Overhead electricity lines dissect the northern corner of the site connecting to the adjacent substation.
- 4.2 The access to Whitrig Farm is located directly opposite the site to the south with the farmhouse located approximately 300m from the development. Todrig Farm is located 400m to the northeast, with Woodside Sawmill and two further residential properties located on the southern side of the A697 to the east.
- 4.3 The site is not located within or adjacent to any designated landscapes. No ecological or heritage designations lie within or immediately adjacent to the site. The site is designated as Prime Quality Agricultural Land (PQAL) within the Local Development Plan 2016 (LDP).

5.0 PROPOSED DEVELOPMENT

- 5.1 The applicant is seeking consent for the installation of a Battery Energy Storage System (BESS) and associated infrastructure with a storage capacity of 500MW.
- 5.2 The main components of the proposals are:
- Approximately 216 containerised battery energy storage units approximately 3.1 m in height, with each set of four battery units supported by a transformer unit and inverter cabinet.
 - Internal access tracks.
 - Electrical substation compounds including 2 x 400 kV transformers and associated switchgear.
 - Electrical equipment (up to 12 m in height) to facilitate connection to the electricity grid.
 - Welfare facility.
 - Infrared CCTV fixed on poles.
 - Perimeter fencing.
 - Underground surface water drainage infrastructure.
 - Vehicular parking area, and
 - Landscaping and biodiversity areas.

6.0 PLANNING HISTORY

- 6.1 The site itself does not have any direct planning history. The following planning history is however relevant to the proposal and the immediate surrounding area;
- 22/01532/S36 - Erection of Battery Electricity Storage System (BESS) and Associated Infrastructure - Land East of Fernyrig Farm – Consented by ECU subject to conditions – 11 August 2023

- 22/01988/FUL - Construction and operation of battery energy storage system facility with ancillary infrastructure and access - Land West of Eccles Substation Eccles – Approved, subject to conditions & informatives – 15 June 2023
- 23/00249/FUL - Extension to the Eccles substation – Approved, subject to conditions and informatives – 4 September 2023

7.0 DEVELOPMENT PLAN POLICIES:

7.1 National Planning Policy Framework 4 (NPF4)

Policy Reference	Policy Name
1	Tackling the climate and nature crises
2	Climate mitigate and adaptation3
3	Biodiversity
5	Soils
6	Forestry woodland and trees
7	Historic assets and places
11	Energy
14	Design, Quality and Place
22	Flood risk and water management
23	Health and safety
29	Rural Development

7.2 Local Development Plan 2016 (LDP):

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

7.3 Supplementary Planning Guidance

- Biodiversity (2005)
- Landscape and Development (2008)
- Local Biodiversity Action Plan: Biodiversity in the Scottish Borders (2001)
- Local Landscape Designations (2012)

- Placemaking and Design (2010)
- Renewable Energy (2018)
- Trees and Development (2008)

8.0 REPRESENTATION SUMMARY

8.1 Third party representations are submitted directly to the ECU and it is for that authority to take these in to consideration when assessing the merits of the proposed developments on behalf of the Scottish Ministers. Third party representations are available to view on the ECU's public portal [Public Representations](#)

9.0 APPLICANTS' SUPPORTING INFORMATION

9.1 The Section 36 application is supported by the following documents;

- Planning and Design Statement
- Landscape and Visual Impact Appraisal
- Noise Impact Assessment
- Flood Risk Assessment
- Ecological Impact Assessment
- Biodiversity Net Gain Assessment
- Transport Statement

10.0 CONSULTATION RESPONSES:

10.1 The following internal consultation responses have been received by specialist SBC officers. A summary of the consultation responses received to each is provided below.

10.2 **Archaeology Officer:** No objection. Note that a milepost was recorded on the northern side of the A697 but has not previously been found. Accept applicants' proposals for evaluation trenching in this area to mitigate potential archaeological impacts. Otherwise consider that the site has a low potential to encounter buried archaeology elsewhere in the site.

10.3 **Environmental Health:** No objection. Recommend conditions are attached to ensure that noise from equipment and machinery does not exceed suitable levels when measured from any noise sensitive properties and that all plant and machinery is suitability maintained to avoid noise breaching noise limits.

10.4 **Landscape Architect:** Initially raised concerns that the dense layout of the development and limited landscaping would result in the development appearing prominent within the rural landscape where its appearance would conflict with the character of the rural area. Recommended that screen planting may be more successful in mitigating visual impact.

10.5 Revised proposals show that the development would be screened from view within 15 years which is acceptable. The proposed planting belt along the road edge is 15m but if it were increased to 20m it would reinforce its screening and set a good precedent. Recommend more conifers are added to the planting to improve winter screening, link to the adjacent woodland (and add biodiversity). Relocation of the compound area may enable units BESS units to be pushed further back within the site or if there is potential for soft

landscaping in this area after its construction is complete. Recommend conditions are attached covering the precise details of soft landscaping.

- 10.6 **Roads Planning:** Accept that it is not possible to connect the development to an SPEN access to limit number of new access on to the A Class road. Recommend that the new access is required to be formed to an agreed standard and visibility splays should be completed and retained before construction works commence.

11.0 Other Consultation Responses Submitted to the ECU

- 11.1 As the Council is a consultee in the Section 36 application process, the planning authority does not undertake any external consultations. Consultation responses provided by other third party bodies are returned directly to the ECU and are available via the ECU's public portal here; [Other Consultation Responses](#)

12.0 KEY PLANNING ISSUES:

- 12.1 The key issues are whether the development of a battery energy storage system in this location accords with all relevant matters of the Council's local development plan and material planning considerations the Council are responsible for.

13.0 ASSESSMENT OF APPLICATION:

Planning Policy

- 13.1 The development will not generate electricity, instead, it provides a location where it can be imported, stored and exported to meet the demands of the electricity grid network. Policy 11 (Energy) of NPF4 promotes battery storage as a renewable technology which can assist in meeting zero emissions targets. It is anticipated that the development will store energy from both renewable and non-renewable sources. The development also draws support from Policy 1 (Sustainable Places) of NPF4 which requires that significant weight is given to developments which seek to address the climate emergency and Policy 2 (climate mitigation and adaptation) by reducing future energy emissions.
- 13.2 At a local level, Policy ED9 Renewable Energy Development of the Scottish Borders Local Development Plan and the Council's Renewable Energy Supplementary Guidance confirm SBC are supportive of a range of renewable energy developments to reduce carbon dioxide emissions and address the global climate emergency. To achieve net zero, it is understood that there will be greater demands to store energy. This is as a result of nuclear power stations and other non-renewable energy technologies reaching the end of their operational life where it is the national intention to stop generating energy from these sources. Greater emphasis is being placed on meeting our energy demands from renewable sources such as wind and solar. During and after the transition to net zero, there will be times when these technologies are not able to generate enough electricity or have operational issues. At these times, surplus energy stored at battery storage stations can be used to meet grid demands. It is also worth considering that by having greater storage potential in the short term it may help to reduce the

amount of non-renewable energy which is required to be generated which can help to lower carbon levels over this period.

- 13.3 Members will be aware that land around the Eccles substation has recently attracted other BESS developments and the Eccles substation received planning approval for an extension so it can accommodate increased electricity demands. Similar to the other consented development, this site is strategically positioned immediately next to the substation where it can take advantage of short connections to the substation which significantly limits the need for extensive supporting structures such as new pylons and/or underground cables which would pose other impacts and disruption. The close proximity of the development to the substation is understood to assist with the efficiency of the BESS development to ensure it can meet the future demands of the electricity network. Additionally, the applicants have advised that the existing substation can accommodate the transfer of electricity to and from this latest proposal.
- 13.4 This development will play an important role as part of the wider mix of renewable energy technologies to help decarbonise electricity supplies and meet the commitments of the Climate Change Act. From an operational perspective, it is acknowledged that the site is an optimum and logical location for a BESS development. In principle, the proposal aligns favourably with Policies 1, 2 and 11 of NPF4 and Policy EP9 of the LDP which in principle support renewable energy developments which help to meet net zero targets.

Impact on Prime Quality Agricultural Land (PQAL)

- 13.5 The Macaulay Institute classifies the quality of land and its capability for agricultural purposes where classes 1, 2 and 3.1 are defined as PQAL. Under these classifications the southeastern corner of the site is class 2 land which is defined as land capable of producing a wide range of crops with the remainder of the site being class 3.1 defined as Land capable of producing consistently high yields of a narrow range of crops and/or moderate yields of a wider range. The whole of the site is therefore defined as PQAL in the LDP.
- 13.6 Policy ED10 seeks to avoid developments which result in the permanent loss of PQAL unless certain policy criteria are met or the proposal is for renewable energy development which is compliant with the objectives and requirements of Policy ED9. Policy 5 (Soils) of NPF4 has adopted a similar position where development on PQAL is only acceptable under certain criteria, one of which is that the development is for the generation of renewable energy.
- 13.7 This proposal represents a recognised form of renewable energy development consistent with the underlying aims of the development plan. While respective LDP and NPF4 policies covering PQAL seek to protect this land as a valuable resource, they both make critical policy exceptions for renewable energy developments. Given the location of the field immediately next to the Eccles substation it makes perfect sense to locate such technology in this location.
- 13.8 Regrettably, if consented, the proposed development will result in the permanent (for the duration of the consent) loss of PQAL. However, a plentiful supply of Class 2 and Class 3.1 PQAL would be retained in this part of the Scottish Borders.

In terms of the impact that the development would have on the viability of the existing farm, that is ultimately a commercial decision for the affected farm holding as part of any negotiations they would have with the developers over the sale or lease of this land.

- 13.9 Despite resulting in the loss of PQAL, both Policy 5 of NPF4 and Policy ED10 of the LDP are supportive of renewable energy developments as being an exceptional form of development which can take place on prime quality agricultural land. The layout of the proposed development would minimise the amount of PQAL that would be lost by restricting the development to the triangular field to the west of the substation, and not extending across any other neighbouring fields.

Landscape and Visual Impacts

- 13.10 NPF4 Policy 11 and LDP Policy ED9 requires consideration of the proposals landscape and visual impacts. The application has been supported by a Landscape and Visual Appraisal which includes a zone of theoretical visibility as well as a series of photographs from selected viewpoints. Policy PMD2 of the LDP also requires that the development is of a high-quality design and respects the visual amenity of its environment.
- 13.11 Members are advised that the proposed layout and appearance of the equipment is indicative only at this stage, the batteries are shown to be set in containers which will be approximately 3.1m in height. Other infrastructure and buildings which include substations, transformers, switchgear and welfare facilities are detailed on the drawings. The final technical choice of all infrastructure is informed by a tender process which would take place at a later stage in the project. The design and scale of the equipment shown within the submission is commensurate with BESS apparatus approved under other consents nationally, but as it is indicative, it is possible that their appearance could change, in the event of an approval being granted by the ECU.
- 13.12 A Landscape and Visual Appraisal (LVA) supports the submission. Figure 3 of the LVA does show visibility extending to the northwest and southeast towards and beyond a 5km distance but given the relative low-lying nature of the development, visibility should generally be restricted within close proximity of the site. The original photography in the LVA did not superimpose the development to provide a photomontage, but this has been resolved in the updated photomontages.
- 13.13 Following previous BESS development at Eccles and the substation extension to the north, including compensatory planting belt to the west of this application site and the burn to the north, in a visual sense this field has in some way been segregated from the rest of the farm. Due to the location of the site directly next to other large energy infrastructure the site presents itself in an appropriate location for further BESS development. The site is flat and relatively low lying and the presence of the substation, along with the existing tree belts will help screen the development from the east. There were however concerns that the site is potentially exposed when approaching from the west on the A697 and on passing the site to the south. The proposal does involve a high-density layout surrounded by high fencing, which was not considered to benefit from an appropriate layout or landscaping to help to mitigate its visual impact as required by Policy 11 of NPF4.

- 13.14 The overhead electrical lines which dissect the northern corner of the site requires a 30m exclusion zone which restricts equipment being placed underneath these lines. The layout has been refined with the boundary fence realigned so that it is closer to the equipment particularly along its northwestern edge. This pulls the fencing further from its boundaries and helps to reduce the extent of hard surfaces within the site. It was questioned if the number of batteries could be reduced to further limit the density of the development and provide additional space landscaping, however the applicant has advised that a reduction to the number of batteries would affect the viability of the development, however it should be noted that the proposed layout does represent a 'worst case' scenario in the event of any approval.
- 13.15 In comparison with the original proposals the depth of landscaping has been improved along the front and northwestern boundaries of the site. A strong landscaped tree belt is required to enclose the development in a similar way the existing woodland directly to the east encloses the substation. It has not been possible to provide the same extent of landscaping within the site, however the proposal now includes bunding along the site's boundary with the A697 which will help provide early screening to the proposal including the security fencing. A greater depth of planting is provided at the western corner of the site and along the site's northwestern boundary. Once this is established, SBC's Landscape Architect acknowledges that this will help to suitably screen the development on approach. The appearance of the equipment and electrical infrastructure is commensurate with other consented and existing electricity apparatus already evident at this location.
- 13.16 Once the final equipment and apparatus is chosen, it will be important to ensure that the final layout of the revised planting proposals allow it to be further enhanced. Additionally agreeing suitable materials and dark colour finishes for the apparatus would help to further minimise its visual impact, especially for the initial period it takes for the landscaping to establish.
- 13.17 It is considered that the revised layout and landscape proposals provide mitigation which now tempers the landscape and visual impact of the proposed development. Once established the landscaping will provide screening and enclosure to the proposal. Additionally, this landscaping will provide an important sense of containment to consolidate the extent of energy development in and around the Eccles substation. Agreement of suitable planting species and the height and gradient of the bund are necessary. Provided precise details of landscaping are agreed which includes planting species and height and gradient of bund along with a requirement that all soft landscaping is implemented early in the development process, ideally before batteries are installed on site, in time the development will be suitably screened from the surrounding environment.
- 13.18 Subject to conditions seeking to agree final siting and design of all equipment, finished site levels, all external materials and colours and precise details of all landscaping around the boundaries of the site (including its implementation and future management) it is considered that the development would not adversely impact on the landscape character or visual amenity of the surrounding area. It is recommended that these matters can be addressed by suitably worded planning conditions.

Access

- 13.19 The impact of the proposed development on existing roads and traffic numbers are considered against Policy 11 of NPF4 and LDP Policy EP9. Policy LDP Policy PMD2 requires all development to avoid causing any adverse impacts on road safety. The proposal has been supported by a Transport Statement.
- 13.20 The site will be accessed directly via the A697 and via a series of A class roads. It is anticipated that the vast majority of the traffic generated by this development would be during the construction stage (anticipated to be a maximum of 83 two-way HGV movements) and any decommissioning stages. Once the development is operational, vehicle movements are anticipated to be low. The precise delivery route has yet to be chosen, but this can be confirmed via a Transport Management Plan which will ensure that the chosen route is suitable and traffic movements are appropriately controlled.
- 13.21 The development will require a new access on to an A Class Road. Generally, there is a preference to limit the number of new accesses on to A Class Roads. RPS investigated if it was possible to utilise the existing access through the neighbouring Eccles substation however due to ownership restrictions this connection is not possible. It is proposed to form a new access towards the southeastern corner of the site. RPS have accepted the principle of a new access being formed in this location in road safety terms and that suitable visibility should be achievable. It is recommended that precise details of the new access which includes its visibility splays and construction details are agreed by condition. As the development will generate additional traffic movements, its greatest impact on traffic anticipated during the construction stage, the new access should be completed before construction works commence within the site itself.

Residential Amenity

- 13.22 Policy ED9 requires the impacts on communities and individual dwellings (including noise impacts) to be considered with Policy 11 of NPF4 seeking impact on amenity to be addressed by the project design and mitigation. Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted and Policy 23 (Health and safety) of NPF4 seeking to guard against developments which pose unacceptable noise issues.
- 13.23 The closest neighbouring residential properties lie to the southwest on the opposite side of the public road. The development will not pose any adverse impacts on the visual amenity of these dwellinghouses. A Noise Impact Assessment has been carried out which has considered potential noise impacts from the operation of the equipment on neighbouring residential properties. The noise assessment concludes that the development will not generate noise levels to the detriment of residential amenity of neighbouring properties and the Councils Environmental Health Officer is satisfied with these findings. It is recommended that a planning condition sets standard noise limits for the equipment to ensure it operates within appropriate levels, i.e. noise emanating from the development not exceed NR30 during the day and NR20 at night, in accordance with best practice measures.

Cultural Heritage

- 13.24 The application also has to be assessed against Policy ED7, EP8 and EP9 of the LDP and Policy 7 of NPF4 in respect of impacts on the historic environment.
- 13.25 The Council's Archaeologist has identified a milepost, of archaeological interest, may be located within the site. The applicants are aware of this and have proposed mitigation in the form of evaluation trenching within the site. This would provide an acceptable form of archaeological mitigation and the precise details can be agreed as part of a condition covering and Archaeological Evaluation.
- 13.26 The development does not adversely affect the setting of any Listed Buildings or Conservation Areas.
- 13.27 Having considered the proposal against relevant LDP policies covering cultural heritage, including archaeology and NPF4 policy provision on these matters, the development is not considered to pose any conflicts subject to condition to secure suitable boundary planting.

Flood Risk and Hydrology

- 13.28 Policy IS8 of the LDP and Policy 22 of NPF4 requires consideration of flood risk. A burn runs along the northwestern boundary of the site which connects into the Leet Water. SEPA flood maps suggest that the northwestern boundary of the site has a low to medium flood risk. The proposed layout avoids the proposal seeking to develop the small area which is at risk of flooding. Any flood risk will be further mitigated by the improved planting which is to be provided along this boundary.
- 13.29 The development creates a sizeable area of hard surface which will generate surface water. Policies IS9 of the LDP and Policy 22 (Flood risk and water management) seek for surface water to be handled through sustainable urban drainage systems (SUDS). To ensure that the development provides suitable surface water discharge rates an attenuation pond is proposed to its northern point. In principle, the proposed handling of surface water does comply with SUDS principles. As the final layout of the development is still to be confirmed, it is recommended that the final design of the SUDS measures should be agreed by condition to ensure it caters for the final site design and avoids any surface water flood risk.

Ecology

- 13.30 The proposal has to be assessed against policies EP1, EP2 and EP3 of the LDP and Policy 3 of NPF4 which seek to protect international and national nature conservation sites, protected species and habitats from development.
- 13.31 The site is not located within or in close proximity to any designated ecological sites. An Ecological Assessment has been carried out which identifies a range of embedded mitigation which includes the appointment of an Ecological Clerk of Works, pre commencement surveys, and a Construction Environment Management Plan can address Ecological impacts. Other than potential impacts on badgers the development was not found to

impact any other protected species. Suitable badger impacts can be addressed by seeking a species protection plan.

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

Other Matters

Fire safety

- 13.33 It is acknowledged that BESS developments have the potential to create a fire safety hazard. Officers are aware that interested parties are increasingly raising concerns to both planning and S36 applications for BESS's on the grounds of fire safety, noting that they have the potential for environmental impacts and contaminated water run-off. However, fire safety is not a material planning consideration and the safety of BESS's themselves are subject to regulation from outwith the planning system in terms of their design, technology and operation.

Duration of Consent

- 13.34 The development is to operate for a period of 40 years. It is understood that this has been informed by the projected operational life of the equipment and as noted above there is a clear operational need for battery storage to address the predicted energy use. In the event that the development reaches the end of its operational life and is no longer required the site should be decommissioned with the site restored to its former condition. This process can be addressed by a planning condition seeking to address site decommissioning, restoration and aftercare to ensure the development is removed in a safe and timely manner which will avoid any long standing visual or potentially health and safety issues when the batteries and ancillary equipment is no longer required.

14.0 CONCLUSIONS

- 14.1 The development would contribute towards meeting Scottish Government national energy targets and the transition towards net zero. The proposal would result in some minor landscape and visual impacts, but these will be localised and will not result in unacceptable adverse impacts, subject to suitable landscaping/boundary treatments and agreement of the final appearance of the equipment. Noise impacts have not been found to be unacceptable subject to conditions regulating noise emissions from the site. Suitably worded planning conditions can agree appropriate access to the site during both the construction and operational phase of the development. Overall, whilst the development would result in the loss of prime quality agricultural land, it is accepted that the development complies with prevailing policies of the Scottish Borders Council Local Development Plan and NPF4 and there are no material considerations that would justify a departure from these provisions, subject to the agreement of matters covered within the recommended planning conditions.

15.0 RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

15.1 I recommend that the Council indicate to the Energy Consents Unit that it does not object to the proposed development, subject to the imposition of the following planning conditions;

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.

2. The battery storage facility and associated infrastructure hereby approved shall be removed from the site no later than 40 years after the date when electricity is first generated unless otherwise approved by the Planning Authority through the grant of a further planning permission following submission of an application. Written confirmation of the commencement date of electricity storage shall be provided to the planning authority within one month of that date.

Reason: In order to limit the permission to the expected operational lifetime of the battery storage facility and to allow for restoration of the site in the event that the use is not continued by a further grant of planning permission for a similar form of development.

3. No development shall commence until the following precise details have been submitted to and agreed in writing with the Planning Authority and thereafter the development shall be completed in accordance with the agreed details;

- i. the final site layout,
- ii. the design and appearance of all buildings and equipment to be installed within the site including their external material finish and colour
- iii. the design and appearance of all acoustic barriers, fences and means of enclosure including their material finish and colour
- iv. details of any lighting

Reason: The final proposed site layout has not yet been determined therefore further details are required to achieve a satisfactory form of development which respects the character and amenity of the rural area.

4. No development shall commence until a scheme of landscaping details, which has first been submitted to and approved in writing by the Planning Authority and thereafter the development should be undertaken in accordance with the agreed details of the scheme shall include ;

- i. Existing and finished ground levels in relation to a fixed datum preferably ordnance
- ii. Indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
- iii. Location of new trees, shrubs and hedges
- iv. Precise details of the gradient and height of the bund being provided along the southern boundary of the site
- iv. Schedule of plants to comprise species, plant sizes and proposed numbers/density
- v. A programme of completion and subsequent maintenance and in the event of failure proposals for replacement planting.

Once agreed all soft landscaping shall be implemented before development works commence within the site.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

5. No development shall commence until a scheme of decommissioning and restoration of the site including aftercare measures has been submitted for the written approval of the Planning Authority. The scheme shall set out the means of reinstating the site to agricultural use following the removal of the components of the development. The applicants shall obtain written confirmation from the Planning Authority that all decommissioning has been completed in accordance with the approved scheme and (unless otherwise dictated through the grant of a new planning permission for a similar form of development) the scheme shall be implemented within 12 months of the final date electricity is generated at the site and in any case before the expiry of the time period set by Condition 2.

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

6. There shall be no commencement of development until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the Planning Authority. The TMP to include:
 - a. The detailed delivery route and vehicle numbers for all cars, HGV deliveries and abnormal loads associated with the development and measures to ensure that the specified routes are adhered to, including monitoring procedures;
 - b. Name and contact details of a nominated person to whom any road safety issues can be referred.
 - c. Details of all dry runs associated with the delivery of any abnormal loads to be communicated to the Council prior to the run.
 - d. Timetables for all deliveries of abnormal loads to be submitted to the Council prior to the deliveries taking place.

The approved TMP shall be implemented in full, unless otherwise agreed in advance in writing by the Planning Authority and all work within the public road boundary to be undertaken by a contractor first approved by the Council.

Reason: To ensure all construction traffic access the site in a safe manner and that any upgrading works or repairs to public roads are carried out timeously to the Council's specifications, in the interests of road safety.

7. No development shall commence until precise details of the site access, which shall include detailed drawings of its construction specification and its visibility splays in both directions, have first been submitted to and approved in writing with the Planning Authority. Thereafter, the access road shall be completed before any other construction works are undertaken on site.

Reason: To ensure the development is served by an acceptable form of access.

8. No development hereby approved shall commence until the detailed design of all drainage arrangements has first been submitted to, and approved in writing by the Planning Authority. Thereafter the agreed

details shall be fully implemented prior to the site becoming operational, unless otherwise agreed in writing.

Reason: To ensure the site is adequately drained and does not increase the likelihood of flooding within and beyond the site.

9. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation outlining an Archaeological Evaluation. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to conduct a programme of evaluation prior to development. This will include the below ground excavation of evaluation trenches and the full recording of archaeological features and finds. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant Council Headquarters, Newtown St Boswells, MELROSE, Scottish Borders, TD6 0SA Customer Services: 0300 100 1800 www.scotborders.gov.uk archaeology is discovered the nominated archaeologist(s) will contact the Archaeology Officer for further consultation. The developer will ensure that any significant data and finds undergo post-excavation analysis, the results of which will be submitted to the Planning Authority.

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

10. No development shall commence until the following Ecological mitigation and enhancement measures have been submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with those details. The submitted details shall include:

- a) a Species Protection Plan (SPP) for badgers
- b) a scheme detailing compensatory planting and habitat enhancements

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

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

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

DRAWING NUMBERS

Drawing Number:

Plan Type:

401-12504655-ECC-L002	Elevation
60650570 - ACM - XX – 001	Location Plan
60650507-ACM-XX-00-L-0003	Landscape Plan and Site Layout
60650507-ACM-XX-00-L-0001	Landscape Arrangement
60650507-ACM-XX-00-L-0002	Landscape Arrangement

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

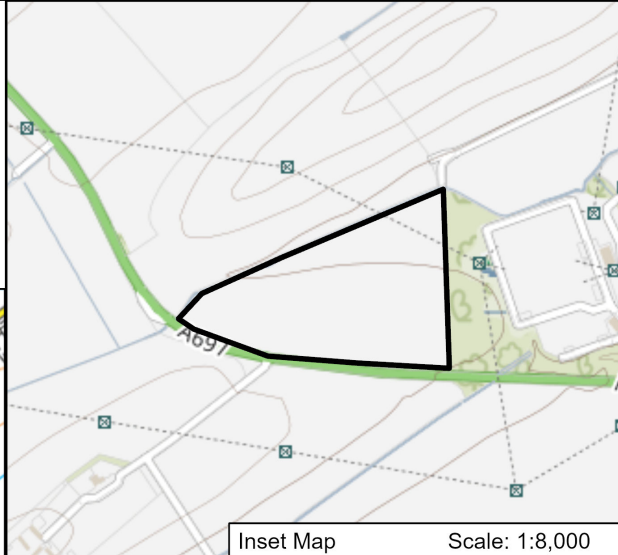
The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

Author(s)

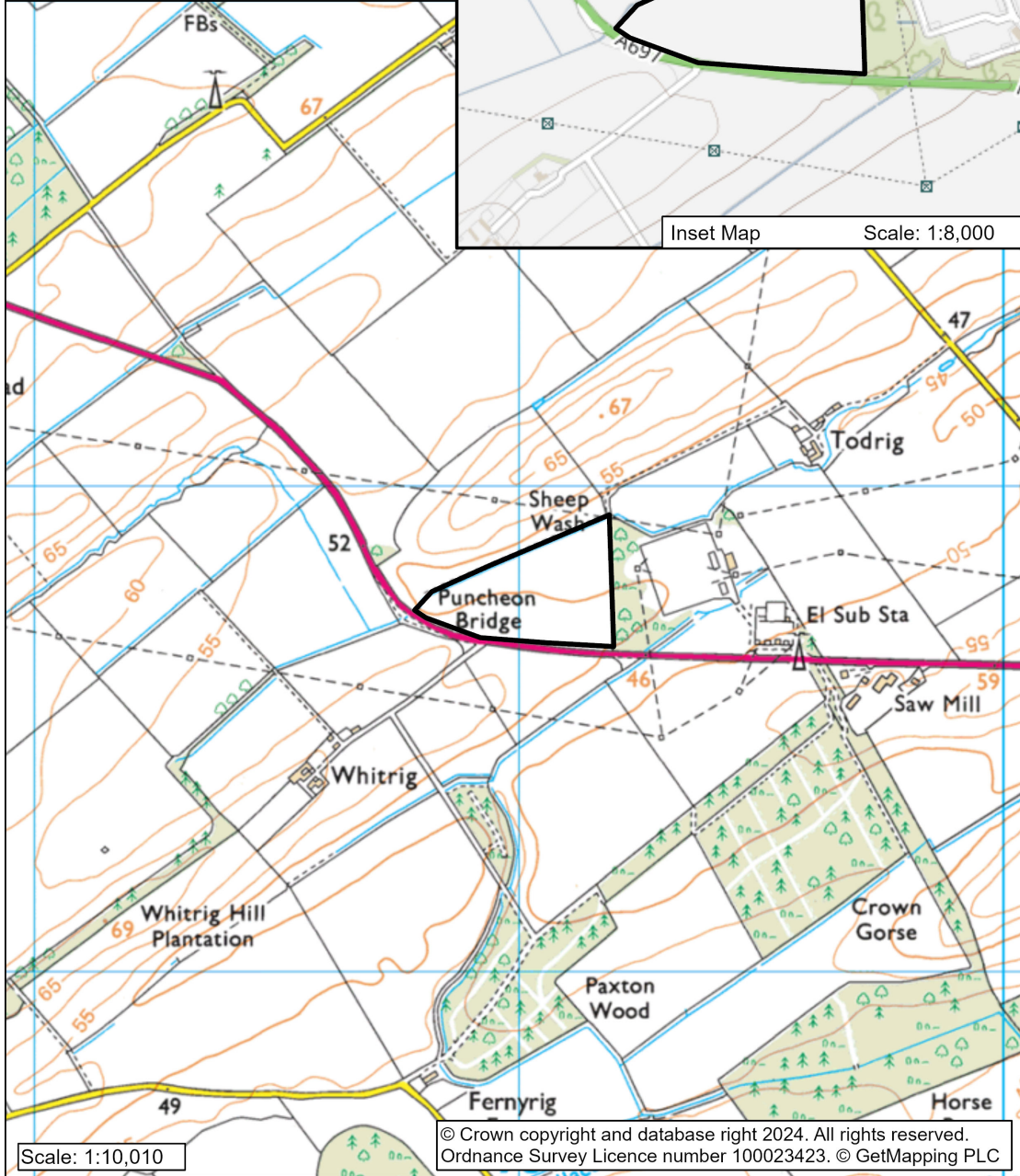
Name	Designation
Scott Shearer	Principal Planning Officer (Local Review and Major Development)



23/01038/S36
Eccles Battery Energy Storage System



Inset Map Scale: 1:8,000



Scale: 1:10,010

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 MARCH 2024

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 23/01466/FUL

OFFICER: Mr Kyle Wise

WARD: Jedburgh And District

PROPOSAL: Erection of 70 no. dwellinghouses and associated infrastructure

SITE: Land at, and including, Howdenburn Primary School and School House, Howdenburn Drive, Jedburgh

APPLICANT: Cruden Homes

AGENT: Aitken Turnbull Architects Ltd

PLANNING PROCESSING AGREEMENT: There is a PPA in place for the application to be considered at the Planning and Building Standards Committee on the 25 March 2023.

SITE DESCRIPTION

The application site is a brownfield site to the south-east of Jedburgh measuring 2.34 Ha in size and is broadly rectangular in shape. The site is the former Howdenburn Primary School, which was demolished in March 2021 and has been vacant since. The site comprises of hardstanding where the school buildings and play areas once were, and open green space, which is used informally by local people. This open space has a number of hardstanding paths and trees. The site is accessed from the east boundary off Howdenburn Drive and whilst the site has fencing around this boundary, there are a number of informal entrances. The site is relatively flat, but steps down from the hardstanding area to the green open space which is generally lower. The site slopes down towards the west boundary and the existing residential properties on Grieve Avenue, particularly in the north-west and south-west corners. This west boundary has a tree/hedge belt boundary and an informal access to Grieve Avenue to the north-west corner.

The site is surrounded by housing developments of mixed styles and ages. To the north and south are modern bungalows and 1.5 storey dwellings, which have a mix of render and brick walls with concrete roof tiles. They are generally bounded by hedging and fencing. Those to the north are a mix semi-detached and detached dwellings with beige/brown render, and the semi-detached units to the south have grey render. A mix of terraced houses are found to the east of the Howdenburn Drive with associated garages and gardens, many are finished in grey render, with concrete roof tiles from single to three storey. A set of single storey garages consented for redevelopment (conversion) into 2 no. dwellings (23/00482/FUL) are located to the south-east corner of the site. Grieve Avenue to the west of the site, has a number of 3 storey flatted accommodation, finished in grey/off-white render with timber detailing and a brick base. A more modern affordable housing development of 32 no. units was recently constructed (2020), with a mix of housing types to the south-east, finished in render and red facing brick (18/00006/FUL).

The site is unallocated in the current Local Development Plan but is allocated as a redevelopment opportunity (RJEDB003) in the emerging Local Development Plan 2 (2024). SEPA Flood Maps shows the site has areas of Medium and Low Surface Water flood risk, concentrated close to the east boundary of the site. There are otherwise no site-specific allocations or designations.

PROPOSED DEVELOPMENT

The application seeks consent for a 70-no. unit affordable housing residential development. A range of semi-detached, terraced and flatted accommodation dwellings are proposed. The buildings are two storeys in scale, with 6 no. building types proposed which include a combination of dwellinghouses, and cottage flats with colony style external stair accesses. Each dwelling type is set under a pitched roof. The external material finishes proposed are dry dash render for the walls, with facing brick, concrete roof tiles and uPVC doors, windows and water goods.

The site will be accessed from Howdenburn Drive on the east boundary, with these roads linking through the site to the west via a spine road, providing access to houses and parking courts. 125 no. car parking spaces are proposed, which are a mixture of curtilage parking, parking courts and visitor spaces, including 5 no. accessible spaces. The roads, paths and parking areas would be delineated by different surface finishes. A green open space and Sustainable Urban Drainage System (SUDS) area are proposed on the east boundary of the site facing onto Howdenburn Drive. The SUDS area will have an access track running along its west boundary for maintenance vehicles and pedestrians, with 2 no. sitting benches. An informal path with steps is proposed to the north-west corner of the site linking to Grieve Avenue, providing access through the site from the west and east. A substation building is found close to this access on the north boundary of the site. The west boundary of the site has a tree/hedgerow belt which will be retained by the proposals. A number of existing trees will be removed to allow for the development, but a number of new trees and hedges will be planted, and a landscaping plan will be prepared at a later date.

The proposed development being considered is a revised scheme which has been amended during the determination period after requests to address concerns over; layout, placemaking, landscape, trees, accessibility, design and appearance.

PLANNING HISTORY

95/00884/BRC – Change of use to educational/non-residential. Approved – 23 May 1995

22/01914/PAN – Erection of a residential development and associated infrastructure including roads footpaths, SUDS system and open space. Pre-application consultation notice agreed – 12 December 2022

REPRESENTATION SUMMARY

4 no. public comments were made to the application, 3 no. in objection and 1 no. neutral comment. The comments raised the following matters:

- Environmental impacts.
- Impact to residential amenity, including concerns over; overlooking of existing properties, noise, including noise from air source heat pumps, privacy and loss of daylight.

- Overshadowing of neighbouring properties and their solar panels.
- Overdevelopment, density of the site is too high.
- Health issues from development.
- Access.
- Increase in traffic and parking on Howdenburn Drive.
- Trees impact.
- Landscape impact.
- Limited education and healthcare capacity.
- Lack of traffic capacity for Oxnam Road to/from town centre, which is deteriorating and needs maintenance.
- Lack of good alternate routes to site via Oxnam Road if this road is closed. Currently alternate route are quiet country roads which will be dangerous with increased traffic.
- Limited employment opportunities for new residents.
- Insufficient supermarkets in Jedburgh to meet demand.
- Loss of views; and
- Impact on value of property.

APPLICANTS' SUPPORTING INFORMATION

The applicants have submitted the following information in support of the application:

- Design and Access Statement
- Planning Statement
- Transport Statement
- Drainage Layout
- Preliminary Ecological Appraisal
- Arboricultural Impact Assessment
- Pre-Application Consultation (PAC) Report

DEVELOPMENT PLAN POLICIES:

National Planning Framework 4

- Policy 1 Tackling the climate and nature crises
- Policy 2 Climate mitigation and adaptation
- Policy 3 Biodiversity
- Policy 4 Natural Places
- Policy 6 Forestry, woodlands and trees
- Policy 9 Brownfield, vacant and derelict land and empty buildings
- Policy 12 Zero Waste
- Policy 13 Sustainable transport
- Policy 14 Design, quality and place
- Policy 15 Local living and 20-minute neighbourhoods
- Policy 16 Quality homes
- Policy 18 Infrastructure first
- Policy 20 Blue and green infrastructure
- Policy 21 Play, recreation and sport
- Policy 22 Flood risk and water management
- Policy 23 Health and safety
- Policy 25 Community wealth building
- Policy 27 City, town, local and commercial centres
- Policy 31 Culture and creativity

Scottish Borders Council Local Development Plan 2016

PMD1: Sustainability
PMD2: Quality Standards
PMD3: Land Use Allocations
PMD5: Infill Development
ED5: Regeneration
HD1: Affordable and Special Needs Housing
HD3: Protection of Residential Amenity
EP2: National Nature Conservation and Protected Species
EP3: Local Biodiversity
EP8: Archaeology
EP11: Protection of Greenspace
EP13: Trees, Woodland and Hedgerows
EP15: Development affecting the Water Environment
EP16: Air Quality
IS1: Public Infrastructure and Local Service Provision
IS2: Developer Contributions
IS6: Road Adoption Standards
IS7: Parking Provision and Standards
IS8: Flooding
IS9: Wastewater Treatment and Sustainable Urban Drainage
IS13: Contaminated Land

OTHER PLANNING CONSIDERATIONS:

Proposed Scottish Borders Council Local Development Plan 2024

Regeneration Allocation: RJEDB003 Howdenburn Primary School

PMD1: Sustainability
PMD2: Quality Standards
PMD3: Land Use Allocations
HD1: Affordable and Special Needs Housing
HD3: Protection of Residential Amenity
HD6: Housing for Particular Needs
EP2: National Nature Conservation and Protected Species
EP3: Local Biodiversity and Geodiversity
EP8: Historic Environment Assets and Scheduled Monuments
EP9: Conservation Area
EP10: Gardens and Designed Landscapes
EP11: Protection of Greenspace
EP13: Trees, Woodland and Hedgerows
EP15: Development affecting the Water Environment
EP16: Air Quality
IS1: Public Infrastructure and Local Service Provision
IS2: Developer Contributions
IS6: Road Adoption Standards
IS7: Parking Provision and Standards
IS8: Flooding
IS9: Wastewater Treatment and Sustainable Urban Drainage
IS13: Contaminated and Unstable Land

Supplementary Guidance

- Affordable Housing (2015)
- Biodiversity (2005)
- Contaminated land inspection strategy (2001)
- Designing out crime in the Scottish Borders (2007)
- Development contributions (2011) updated January 2023
- Green Space (2009)
- Housing (2017)
- Landscape and Development (2008)
- Placemaking and Design (2010)
- Privacy and Sunlight Guide (2006)
- Sustainable Urban Drainage Systems (2020)
- Trees and Development (2008)
- Waste Management (2015)

Other documents

Strategic Housing Investment Plan (SHIP) 2024 - 2029

Scottish Government Policy Statements:

- Designing Streets 2010
- Designing Places 2013

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Archaeology Officer: Do not object, subject to conditions.

The site of a possible moot hill has been identified to the north of this site, from the Ordnance Survey first edition mapping of the area labelling the eminence (now beneath the housing estate) as Doom Hill (Canmore ID 356174). It is suggested by the accompanying Object Name Book of the Ordnance Survey that this was a previous place of execution, but it is unclear at what date this took place and whether the trials and judgements also took place here though these are possible as well. These activities may have left archaeological finds and features behind.

There is the chance there may be some remains associated with Doom Hill be found in the groundworks for the houses and gardens on the northern edges of this site where these are located off the platform and levelled ground, though there is some distance between them and the hill. The northern boundary of this site with the Doom Hill is shown as the same boundary of the Ordnance Survey first edition.

As such smaller scale archaeological works would be recommended. A developer funded watching brief is recommended.

Ecology Officer: Do not object, subject to conditions

An arboricultural impact assessment has been provided but not a preliminary ecological appraisal or ecological impact assessment.

The arboricultural impact assessment includes some information on protected species for the site. The trees present are of planted origin and comprise of species such as European lime, sycamore, whitebeam, and Norway maple. The trees are scattered and do not form a closed canopy woodland on any area of the site.

Overall, the site is likely to be of low ecological interest.

Recommended conditions: Measures should be incorporated into the development to promote and enhance biodiversity. Such measures include simple steps such as the provision of bird nesting boxes.

Environmental Health Officer: Further Information Required

Note the proposed electrical substation location is to be confirmed. The location of the substation noted in plans is located within 5m of an existing dwelling. Request the applicant provide information as to the expected noise from the substation including any intended mitigation measures.

Recommended Condition for Construction Noise to protect the amenity of nearby residential properties.

Environmental Health Officer (Contaminated Land): Do not object, subject to conditions

It is recommended that planning permission should be granted on condition that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority.

Any requirement arising from this assessment for a remediation strategy and verification plan would become a condition of the planning consent, again to be submitted and agreed upon by the Planning Authority prior to development commencing.

Flood Risk and Coastal Management: Do not object, subject to conditions

Whilst the site is not at risk from fluvial flooding, there is a small pocket of surface water flooding shown in the southern portion of the site. Note there is a drainage drawing submitted but there is a lack of information in terms of the drainage strategy and associated calculations. A SUDs Pond is proposed in the southern portion of the site and this would need to be designed to accommodate a 1 in 200 plus climate change (59%) return period with appropriate freeboard to ensure there is no flood risk to neighbouring properties. Details of the SUDs infrastructure will need to be provided for consideration such as any control measures to control the discharge rate. Confirmation that the receiving infrastructure/watercourse can accommodate the additional volume of water from the development and the necessary approvals are in place.

As such a condition for submission of a detailed drainage design and strategy is recommended.

Heritage and Design Officer: Do not object, subject to conditions

A number of informal discussions between the case officer and the Heritage and Design Officer were had, alongside online meetings with the Applicant and their Agent during the design's development throughout the application's determination, raising concerns on the following items;

- Alterations to layouts to improve placemaking, accessibility and appearance.
- Central block of plots behind green space requiring re-siting to create more residential amenity space.
- SUDS pond and need for this to be integrated into the site and accessible, with habitat creation.
- Re-siting of parking courts on prominent corners and softening of edges to reduce dominance in character.
- Better quality external materials.
- Need for strong building line facing open space.
- Articulation of gable ends on prominent corners.
- Need to widen internal access to NW path to Grieff Avenue.
- Breaking up of elevation of G2/G3 plot on central access.
- Alter external staircases of G type plots to align with wall-line.
- Focus on east boundary facing Howdenburn respecting existing site's green/open character and creating a strong entrance, with soft landscaping.
- Request for play space, furniture and SUDS education materials.

Final Comments – 22 February 2024

The proposed layout as amended is generally accepted, but raised the following matters which would need addressed by condition and details.

- Importance of the two key green spaces (main and SUDS) providing positive street frontage and integrating the development with the wider area.
- Care should be taken to ensure the green is pleasant, useable and activated.
- Interpretation at the SUDs, to improve residents' understanding of its importance for climate change, flooding and biodiversity, which in turn raises the value they place on the feature and their interest in ensuring it is not damaged / littered.
- The path to the north-west of the site should consider the security of the route to ensure safe use.

The house designs shown are generally acceptable, but raised the following matters which would need addressed by condition and details;

- One small window has been included to side elevations visible in the public realm. It would be appropriate for greater relief and activation to be included in these elevations, through additional windows and/or a change in material.
- Details of windows, doors and other architectural features can be secured by condition.
- Materials can also be secured by condition.
- Whilst alternatives to brick would be preferred, a high quality brick of a colour / texture that responds to the stones characteristic of Jedburgh may be an appropriate response.
- Variation should be achieved in render colour (perhaps two shades of white / cream).

Housing Strategy: Support

Proposal will deliver much needed affordable housing.

Landscape and Tree Officer: Do not object, subject to conditions

A number of informal discussions between the case officer and the Landscape and Trees Officer were had, alongside online meetings with the Applicant and their Agent during the design's development throughout the application's determination, raising concerns on the following items:

- Alterations to layouts to improve placemaking, landscape and habitat creation.
- Retention of existing trees/hedges and planting of new trees/hedges.
- Clarification on whether the trees/hedges on west boundary would be retained and whether there was a need for any groundworks/levelling of site.
- SUDS pond and the need for this to be integrated into the site and accessible, with habitat creation.
- Softening of parking courts edges to reduce dominance in character.
- Better quality external materials.
- Design of NW path to Grieff Avenue.
- Request for play space, furniture and SUDS education materials.

Final Comments – 29 February 2024

Satisfied with the proposals subject to the conditions and comment on the most recent landscape drawings as follows:

Boundary treatments – No timber fencing should be forward of the housing line to ensure. All fencing to be subject to agreement. Walls or hedges at the streetside of parking courts adjacent to plots 70 and 56 should be walls or hedges as discussed and as per other parking courts. Reason: To ensure continuity of approach and visual amenity in the streetscape.

Parking layout – at 'the green' should be reduced to 8 spaces and be positioned equidistant from the junctions. Reason: to improve the layout of 'the green' and aspect for householders.

Landscape Layout – as discussed would it be possible to retain trees T11 and T12 by repositioning the adjacent houses as retention of these trees would contribute to the sense of place by providing a focal point at the end of the street.

Public Art – needs to be meaningful to be of value and contribute to a sense of place. Suggest that it involves play (relating to the school) and is possibly subject to a competition maybe involving families once they have moved into the estate if possible.

Conditions requested to secure:

- Hard and Soft Landscaping Works.
- Landscape and Maintenance Management Plan.
- Public art/play space/street furniture/education boards.
- Details of proposed and existing ground levels and fixed floor heights to be provided for approval and retained, unless otherwise agreed.
- Trees planted and protected as per the Tree Protection Plan within the Arboricultural Impact Assessment.
- Construction Environmental Management Plan.
- Scheme of details for path and landscaping in north-west corner
- Details of the design of the SUDS scheme

Neighbourhood Services: Do not object

Refuse Collection: Do not object

Roads Planning Service (RPS): Do not object, subject to conditions

Initial response – 22 November 2023

Further Information Required - Requesting the following items and conditions:

- Requires the pedestrian footpath to the northwest of the site linking the development to Grieve Avenue to be formal and constructed to an adoptable standard with suitable street lighting and be formed as part of this development.
- Central access road – concerns over standard; width, visibility and geometry.
- Spaces for EV charging should be provided in line with current Building Standards Mandatory Standard 7.2 unless agreed otherwise in writing with the Planning authority.
- Plot 3 requires accessible parking space.
- Confirmation that the minimum length of nose to tail parking indicated is at least 11m.
- Footway between Plot 19 and 20 does not seem aligned with pedestrian desire line.
- Road construction outside Plot 50 should be clarified.
- Any boundary treatment enclosing the SUDs Pond should be clarified. Concerns that this may affect visibility at the southern access.
- Confirmation should be given as to what Scottish Water intend to vest upon completion.
- It should be noted that Road Construction Consent will be required for all roads and footways/paths that are to be considered for adoption.
- 92 no. spaces for visitor parking required but only 87 no. shown.

Follow up comments – 12 December 2023

- Require further clarification on the parking arrangement at Plot 11, need for a swept path analysis.
- Plot 10 - Fences should be 1m maximum height for a distance of 1m from the public footway or stopped short at the same position to ensure suitable visibility at the corner of plot 10.

Final Comments – 26th February 2024

Do not object, subject to conditions - Noting the following items and conditions:

- The majority of the issues have been suitably addressed.
- The area of the proposed footpath to the northwest of the site has now had a topographical survey. Due to the extent of the level difference between the site and Grieve Avenue, it has been agreed that a more informal design for the footway will be considered and this will be maintained by SBHA. In order to gain a suitable gradient for the path to be adopted, a vast number of trees would need removed and the route of the path would be meandering. On balance, provision of an adoptable footpath link does not justify the level of engineering work that would be required, in this instance.
- No EV charging spaces have been indicated as was previously advised. This will be a requirement for gaining Building Warrant approval and so should be considered at the earliest opportunity.

- Condition – each dwellinghouse, prior to occupation should be served by a consolidated and surfaced carriageway, parking area and footpath/shared surface.
- Informative – All prospectively adoptable roads, pavements and associated infrastructure will require Road Construction Consent.
- Informative – All works within the public road boundary must be undertaken by a contractor first approved by the Council.

Statutory Consultees

Jedburgh Community Council: No comments received

Scottish Water: Do not object

Water Capacity Assessment - There is currently sufficient capacity in the Robertson Water Treatment Works to service the development, subject to further investigations.

Wastewater Capacity Assessment - There is currently sufficient capacity for a foul only connection in the Jedburgh Wastewater Treatment works to service the development, subject to further investigations.

Surface Water - Scottish Water will not accept any surface water connections into their combined sewer system, with limited exceptional circumstances.

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water

SportScotland: Do not object

Guided by the provisions of NPF4 (2023) Policy 21: Play, Recreation and Sport in conjunction with Policy EP11: Protection of Greenspace of Scottish Borders LDP (2016).

The proposed development would involve the loss of the existing grass pitch. A supporting statement has been provided to justify the loss of the pitch. It states that the new school campus at Priors Road (approx. 1.2 miles away) provides new sports facilities which are a betterment to the current situation. The new school provides a MUGA, 2G Hockey pitch, 3G pitch and 100m synthetic track.

It is considered that the proposal would comply with part iii, of Policy 21a) and that appropriate compensation has already been provided elsewhere to improve overall playing capacity within the area.

KEY PLANNING ISSUES:

The principal planning issues with this application are whether the principle of affordable housing is acceptable on this site, and whether the layout, siting and design of the proposed dwellings are appropriate in terms of placemaking policy and guidance. In addition, the principal planning issues also include impacts on residential amenity, vehicular access and parking and whether the proposals would have an adverse impact on landscape or visual amenities of the surrounding area.

ASSESSMENT OF APPLICATION:

a) Principle

The site is a non-allocated site under SBC's adopted Local Development Plan (2016), hereon referred to as 'LDP', and is an existing brownfield site within Jedburgh's settlement boundary. SBC's development plan position currently stands as the National Planning Framework 4 (2023), hereon referred to as 'NPF4', taking precedence over the LDP where there is conflict, given it is the most recently adopted policy position. SBC's Proposed Local Development Plan 2 (2024), hereon referred to as 'LDP2', is in the final stages of the Scottish Ministers considering the post-examination modifications to LDP2 before SBC can adopt the plan.

NPF4

Based on this hierarchy, NPF4 is the primary planning document when considering the principle of this affordable housing application on a brownfield site. Part a) of Policy 9 of NPF4 considers brownfield sites and supports proposals which will result in a sustainable reuse of brownfield land. As noted, the site is brownfield and a former primary school, and is considered a sustainable reuse of the land. The school was demolished relatively recently in 2021, so there has been limited growth for biodiversity in this hardstanding area, and whilst there is an extensive amount of green space surrounding the hardstanding area, it is considered to be of limited biodiversity value.

As noted, whilst the site is generally considered a brownfield site, it was a primary school, so its surrounding green space and former playing fields have been retained. The green space surrounding these formal school areas, has been used as informal green space whilst the school was in operation and this green space is still accessible, and well used by the local community given its existing paths and connections. Although the Proposals will reduce the area of this green space, the quality and new habitat generation proposed by the new green spaces will enhance the biodiversity value of the site. A landscaping plan would be agreed, with initial proposals seeking the planting of a number of trees and hedges, and installation of street furniture, public art and education boards, which will compensate for the loss of this existing green space and trees which are not retained, and it is thus not considered to be a detrimental loss of green space.

The development is also in compliance with Policy 20 which states proposals which result in the loss of green infrastructure will only be supported where (a) it can be demonstrated that the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision, and the overall integrity of the network will be maintained. Development proposals for or incorporating new or enhanced blue and/or green infrastructure will be supported, particularly where it is well integrated into the overall proposals (b).

Part c) of NPF4 Policy 9 seeks any unstable or contaminated land to be made safe for the proposed use. SBC's Environmental Health Officer (Contaminated Land) has raised no objection and recommended a condition for a site investigation to take place to consider this and for any resulting remediation strategy to be conditioned.

It is considered the principle of the development complies with NPF4 Policy 9.

NPF4 Policy 16 considers Housing, with part c) supporting proposals for homes which improve affordability and choice, including, affordable homes (iv), a range of size of homes such as those for larger families (v) and accessible, adaptable and wheelchair

accessible homes (ii). The proposal for 70 no. housing units seeks 100% of these to be affordable, with a range of housing types and sizes, providing homes with 1 no. to 4 no. beds, and ground floor accessible units. Part e) of NPF4 Policy 16 further supports proposals for new homes with affordable housing provision where there is an identified need, which is the case here, with SBC's Housing team supporting the Proposal for this type of housing, stating it is much needed.

Part b) of NPF4 Policy 16 requires a Statement of Community Benefit which explains the proposals' contribution towards, meeting local housing requirements, including affordable homes, local infrastructure, facilities and services, and improving the residential amenity of the surrounding area. A statement has been provided by the Applicant which seeks to demonstrate how these points are met. It is agreed that the Proposals demonstrates these contributions, providing affordable homes, and will support existing local infrastructure and services, whilst improving the residential amenity of the wider area and community.

Part f) of NPF4 Policy 16 considers proposals for new homes on land not allocated for housing in the LDP, and notes there will only be limited circumstances where this will be supported. As such, this is a key to the principle of this Application. The circumstances where they are allowed include:

- i) the proposal is supported by an agreed timescale for build-out; and*
- ii) the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20-minute neighbourhoods;*
- iii) and either:*
 - delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained: or*
 - the proposal is consistent with policy on rural homes; or*
 - the proposal is for smaller scale opportunities within an existing settlement boundary; or*
 - the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.*

The proposal is compliant with part ii) in that the Proposal will otherwise comply with the LDP's spatial strategy (see further below) and will promote local living and 20-minute neighbourhoods. Likewise, part iii) can arguably be complied with as the Proposal is a relatively smaller scale opportunity within Jedburgh's settlement boundary. However, part i) is not demonstrated in the Application submission, with no timescale for build out given or agreed, however it is considered one could be, if required. As such it is considered Part f) of NPF4 Policy 16 could be complied with if required to demonstrate the principle of the Application is acceptable. As such, it is considered that the Proposal complies with Policy 16 of NPF4.

LDP

When considering the Adopted LDP, PMD5 (Infill Development) and ED5 (Regeneration) are key considerations for the principle of the development. Both are very similar in terms of policy wording and criteria, stating that development on non-allocated, infill or windfall (PMD5), and brownfield (ED5) sites will be approved where the following criteria are met:

- a) 'Where relevant, it does not conflict with the established land use of the area; and*

- b) *it does not detract from the character and amenity of the surrounding area; and*
- c) *the individual and cumulative effects of the development can be sustained by the social and economic infrastructure, and it does not lead to over-development or 'town and village cramming'; and*
- d) *it respects the scale, form, design, materials and density in context of its surroundings; and*
- e) *adequate access and servicing can be achieved, particularly taking account of water and drainage and schools' capacity; and*
- f) *it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.*

All applications will be considered against the Council's Supplementary Planning Guidance on Placemaking and Design. Developers are required to provide design statements as appropriate.'

With regards to part a) the Site is vacant with no existing use other than use by the community as open space. The surrounding uses are predominantly residential, so the proposed affordable housing, would not conflict with this land use or detract from its character and amenity (part b). Whilst the Proposals introduces 70 no. residential units to the currently vacant site, the layout is considered to be of a similar density to surrounding residential development and improves accessibility for the local community to local infrastructure and services. No concerns have been raised by SBC internal consultees with regards to infrastructure or services capacity, similarly, access in terms of vehicles and roads safety, is considered to be adequate by SBC's Roads Planning Officer, thus the Proposal is considered to comply with parts c) and e) of Policies PMD5 and ED5.

Part d) considers that the design and appearance of the Proposals should respect their context. As noted in the Site Description section of this Report, there is a real mixture of housing types, design and materials surrounding the Site. Whilst the proposal does respect this aspect and proposes similar materials, the quality of these is not generally supported by SBC's Supplementary Planning Guidance (SPG) Placemaking and Design (2010), which seeks to avoid the use of facing brick and dry dash render for walls and concrete roof tiles, which have been proposed. It is considered therefore that the materials proposed are of low quality and do not reflect the wider traditional character of Jedburgh and the Scottish Borders. Discussions were held with the Applicant to improve the quality of materials, particularly the brick type to help break up the massing of the buildings and help the proposal have a lasting character of quality and visual amenity, with the suggestion of a lighter buff brick, which they were amenable to. As such it was proposed a condition can be used to agree these materials at a later date. It is considered to be an acceptable solution, should the application be granted.

It is considered the scale, form, density and design is otherwise in character with the surrounding built development, and subject to this condition to be agreed on the materials of the external finish of the dwellings, the Proposals would meet part d) of Policy PMD5 and ED5.

Part f) seeks to protect residential amenity of adjoining properties. The separation distance to most neighbouring properties is generally suffice, with regards to loss of daylight/sunlight and privacy, which has been demonstrated with additional site sections being provided by the Applicant on the southern boundary. Furthermore, the proposed plots are offset from the existing properties in terms of orientation to reduce overshadowing and impacts on daylight.

There are some areas of the proposed layout, particularly towards the north boundary of the site, where mutual overlooking of existing and proposed dwellings may occur, but accounting for SBC's approved Privacy and Sunlight Guide, there will be no direct window to window overlooking of habitable rooms (first floor bathroom windows will have obscure glazing) and ground floor windows will be obscured by existing planting and boundary treatments. The orientation of proposed dwellings will avoid direct window to window overlooking and will assist in protecting the residential amenity of occupants of both existing and proposed dwellings, ensuring compliance with Part e) of Policy PMD5 and ED5.

It is considered that the Proposal complies with Policy PMD5 and ED5 of the LDP.

Policy EP11 seeks to protect existing green spaces such as the Site, with proposals which will result in the loss of other green spaces only being permitted in limited circumstances. There is a need for affordable housing in the local area and wider region, and the green space, whilst it is of social value, is of limited quality and biodiversity. Whilst the Proposals, will reduce the amount of green space, they will improve its quality, providing biodiversity enhancements, as well as improved accessibility, street furniture, public art and education boards, as discussed earlier under Policy 9 and 20 of NPF4. There is ample open space in the vicinity of the site, including a much larger and better-quality sports and play space provision close to the site with a play park and sport pitches to the North-East, and the nearby new Priors Road school campus. Furthermore, the Proposals will provide developer contributions towards off-site play space.

Whilst the Proposals will result in the loss of informal green space, these are justified and the quality of the new open spaces and habitats created by the Proposals will be of high quality, well connected and improve open space provision in the local area, and comply with Policy EP11 of the LDP.

Policy HD1 considers Affordable and Special Needs Housing, the proposed use, requiring 25% provision on-site for windfall sites, which the Proposal complies with 100% on-site provision proposed, which is supported by SBC's Housing Strategy team.

Proposed LDP2 (2024)

As noted, whilst LDP2 is not yet formally adopted by SBC, it is a significant material consideration. When considering LDP2, the site is allocated for regeneration (including housing uses), the requirements of the allocation (RJEDB003) are considered in part b) of this assessment.

As the site is allocated, Policy PMD3 which considers allocated sites, would be relevant. The policy states development will be approved in principle for the land uses allocated within the settlement profile, and that development should be in accordance with the requirements for the site, under its allocation, as noted this will be considered in part b) of this assessment. The policy notes, sites proposed for redevelopment may be developed for a variety of uses subject to other LDP policies, where there is evidence of demand for specific uses or a specific mix of uses, and the site requirements detailed within the LDP. As noted, NPF4, LDP and LDP2 all support affordable housing development, and with this proposal seeking 100% on-site provision it is considered the proposal is acceptable in principle, with the requirements of the allocation considered later in part b) of this assessment.

Many of the other LDP2 policies are similar in wording to the LDP, including those which consider the principle of the proposal. Policy ED5 and EP11 has the same wording as the equivalent LDP policy, whilst HD1 (Affordable Housing Delivery) is slightly different in that it makes reference to SBC's Supplementary Planning Guidance (SPG) on Affordable Housing and the need for an agreed mechanism for securing the delivery of affordable housing. With regards to the SPG, this seeks provision of at least 25% affordable housing on sites of 17 no. or more residential units, again the site has 100% as noted. As there is provision of 100% affordable housing, a legal agreement is not considered necessary and a condition restricting the use of the residential units to affordable housing tenures only, will cover this, which is considered further below.

Mechanism/Tenure

The inclusion of the development within SBC's Strategic Housing Investment Plan 2024-2029 (SHIP) confirms that it is a priority affordable housing project. Once completed, the development will be managed by Scottish Borders Housing Association (SBHA) who will ultimately own and operate the housing stock. If Members are minded to support the recommendation, it is advised that a planning condition to control the occupancy of the development for affordable housing tenures only (which comply with the Council's definition of affordable housing listed in the SPG) is required. This will ensure that the development is delivered in accordance with its proposed tenure. As the site will be 100% affordable housing, the development will be exempt from developer contributions (with the exception of play space contributions).

It is considered the principle of the Proposal is acceptable against the currently adopted development plan, specifically NPF4 Policy 9 and 16, and LDP Policy PMD5, ED5 and HD1. The Proposal also complies with relevant policies set out in LDP2 (which will be adopted imminently) and is considered further below in part b) of this assessment.

b) Allocation Requirements of LDP2

- Consideration must be given to surface runoff, early discussions with Flood Officer are recommended (i)
- Protected species may be present within the site and further assessment on nature conservation will be required (ii)
- Archaeological evaluation is required for the site and necessary mitigation measures should be implemented (iii)
- There is an existing outdoor sports facility within this site, and any development must take this into account in line with Scottish Planning Policy (iv)
- Existing trees within the site should be retained where possible (v)
- Due to the prominence of the site, consideration must be given to scale and massing to respect the residential amenity of neighbouring properties (vi)
- Appropriate structure planting/ screening should be provided to assist with site integration, wind protection and landscape mitigation (vii)
- The site design should include a strong street frontage onto Howdenburn Drive, good internal street connectivity will also be required (viii)
- A pedestrian link between the northwestern corner of the site and Grieve Avenue should be explored to help integrate the development site with the existing street network. Existing pedestrian links through the site should be maintained and enhanced where possible (ix)
- A Transport Statement will be required to address accessibility and sustainable travel (x)
- Any potential contamination on site to be investigated and mitigated (xi)

- A Drainage Impact Assessment may be required to establish water impact (xii)
- A Water Impact Assessment may be required depending on the flow demand (xiii)
- Potential flood risk to be investigated (xiv)

Flooding and drainage (i, xii and xiv)

Whilst there are areas of the Site with Medium and Low Surface Water flood risk, concentrated close to the east boundary, from consultation with SBC's Flood Risk Officer, they have responded that they have no objections, subject to a condition for submission of a detailed drainage design and strategy. Whilst a Drainage Impact Statement hasn't been provided, a drainage layout has, which the SBC Flood Risk Officer has raised no objection. As such subject to this condition being applied to any granted consent, it is considered that the site poses no flood risk, and as such complies with these requirements, as well as Policy 22 of NPF4, and EP15 and IS8 of the LDP.

Ecology/Protected Species (ii)

From consultation with SBC's Ecologist, they have stated the site is likely to be of low ecological interest and as such have raised no objections, subject to condition/s to promote and enhance biodiversity. The Proposals seek to create a number of new habitats via enhanced landscaping (trees/hedges) and a SUDS area, which will be secured by condition and additional biodiversity measures can be included by condition such as bird boxes.

As such, it is considered the Proposals comply with this requirement, as well as Policy 1 and 3 of NPF4, and EP1 to EP3 of the LDP.

Archaeology (iii)

SBC's Archaeologist has raised no objection to the Proposals subject to conditions. As it is unlikely there are any significant archaeological assets on-site, they have recommended smaller scale archaeological works and a developer funded watching brief.

As such, it is considered the Proposals comply with this requirement, as well as Policy 7 of NPF4, and EP8 of the LDP.

Sports Facilities (iv)

Whilst Scottish Planning Policy (SPP) has been replaced by NPF4, there remain requirements within NPF4 to ensure the retention and provision of outdoor sports facilities.

It is noted that whilst there will be the loss of an existing outdoor sports facility at the site, there is alternative, much larger and better-quality sports and play space provision close to the site to the North-East. This is noted in the Applicant's supporting statement which further notes there is the new school campus at Priors Road (approx. 1.2 miles away to the north) which provides new sports facilities which are a further betterment to the current situation. Modest play space provision is also proposed on the site, which will be secured by condition, including its design and there will be a developer's contribution towards off-site play space. SportsScotland have raised no objection to the Proposals. It is considered the Proposals comply with this requirement, as well as Policy 21 of NPF4, and IS2 of the LDP.

Trees / Structure planting and screening (v and vii)

The tree/hedge group along the west boundary will be retained, as well as trees on the east boundary. Unfortunately, a number of existing trees at the site will be removed to facilitate the development.

Discussions were held with the Applicant, and suggestions made to save some of the better specimen trees, and the row of trees along the east boundary. However, the retention of these trees would result in a number of units having to be removed. Whilst unfortunate, a number of new trees, hedges and habitats have been proposed in communal/shared areas, which will enhance the provision within the site and provide biodiversity enhancements, alongside structure and screening, and as such on balance, given these enhancements and the need for affordable homes, the loss of existing trees is considered acceptable. Subject to conditions to secure a landscaping plan, and landscape and habitat management plan, it is considered the Proposals comply with these allocation requirements, as well as Policy 3 and 6 of NPF4, and EP13 of the LDP.

Design (scale and massing, street frontage, internal street connectivity) (vi and viii)

Much of the site forms a large informal green space within the local area, which is well used by the local community, and as such does have prominence in character. This character has been retained by the retention of green space on the street frontage, with strong building lines, which are articulated, and appropriate in terms of scale and massing. This has been emphasised as a requirement by SBC officers, and revisions to the scheme have provided a street frontage which has strong building lines, but softened through design, materials, and the siting of open spaces and landscaping.

The residential buildings proposed are in character with those surrounding and will respect the residential amenity of existing neighbouring properties, see part a) (LDP) for further assessment of residential amenity. A condition will be used should the application be granted to secure the external treatments of the buildings, to ensure the massing is articulated and provides visual amenity, be it through the use of materials and/or fenestration.

In terms of internal street connectivity, this has been considered in the design, and again after revisions and requests from SBC's officers, a path network has been created for pedestrians, and suitable roads and access layouts. The paths to be created in the north-west corner and SUDS corner of the site, will help improve connectivity to the site, allowing local residents to move through and around the site. Subject to conditions to secure the landscaping, the north-west corner path and SUDS area, it is considered the Proposals comply with these allocation requirements, as well as Policy 14, 15 and 16 of NPF4, and Policy PMD3, PMD5, HD3 and ED3 of the LDP.

Pedestrian links, existing and potential for new link in North-West corner to Grieve Avenue (ix)

A number of pedestrian links have been included in the Proposals, including a new informal link in the north-west corner connecting to Grieve Avenue. Whilst initially SBC's Road Planning Service (RPS) Officer sought a formal/adopted path, after further review discussions with the Applicant, this was considered to be unsuitable, given the steep gradient of this part of the Site, and would result in a winding accessible path, which would result in the loss of existing habitat and trees, harming the existing character of this area of the Site and creating an awkward and undesirable route for many. An accessible route along the south/west boundaries of the Site still exists, so

an informal solution was proposed, which sought to limit intervention, and would be much more in character with its surroundings. The solution utilises timber, and gravel steps and path, and it was agreed this solution would be much more suitable and desirable route for future users.

Plots 14 and 15 were re-sited further north to open the area up and additional landscaping was provided to help provide a sense of entrance to the path. SBC's Heritage and Design Officer advised the security of the route should be considered to ensure safe use. A condition will require the submission of further details of the north-west path for approval. Further paths and links have been proposed through the site, along the green space and SUDS area.

SBC's RPS officer raised no objection to the Proposals, subject to conditions and informatives, which would secure accessible routes at the site, including each dwellinghouse to be served by a consolidated and surfaced footpath/shared surface prior to occupation. It is considered the revised drawings are acceptable and promote accessibility within the site, and it is considered the Proposals comply with this allocation requirement, as well as Policy 1, 2, 13, 14 and 15 of NPF4, and PMD2 and IS6 of the LDP.

Transport Statement (x)

A Transport Statement was provided with the Application, as no objections have been raised by SBC's RPS officer, subject to conditions, it is considered acceptable and in compliance with the allocation requirement, as well as Policy 13 and 18 of NPF4, and PMD2, IS4, IS6 and IS7 of the LDP.

Contaminated Land (xi)

As previously noted in part a) of the assessment, SBC's EHO has raised no objection and recommended a condition for a site investigation to take place to consider this and for any resulting remediation strategy to be conditioned.

Water Impact Assessment (xiv)

A Water Impact Assessment has not been provided, however consultation with Scottish Water has raised no objections, and it is noted there is water and wastewater capacity, subject to a Pre-Development Enquiry (PDE) Form being submitted directly to Scottish Water.

c) Layout / Placemaking

NPF4 Policy 14, seeks proposals to be designed to help improve the quality of an area, and promote the six qualities of successful places; healthy, pleasant, connected, distinctive, sustainable and adaptable. Similarly, Policy 15 seeks to promote local living and 20-minute neighbourhoods.

Policy PMD2 of the LDP and the Councils SPG on Placemaking and Design strives to ensure that all new development is of a high quality, and it respects the environment it is contained within.

With these principles in mind, a number of revisions were made to the site layout to help meet placemaking principles and provide a development of high quality and amenity. The surrounding area is of poor quality in some cases and the proposed development was seen as an opportunity to help improve the quality, appearance and

amenity of the area. Providing a strong site frontage onto Howdenburn Drive, was seen as key, alongside enhancing habitats and biodiversity, and improving and retaining active travel connections (paths), as per the LDP2 allocation.

Following negotiation with Council officials, it is considered that the latest proposed layout provides a good layout, which provides a high quality development, of high amenity value, which is accessible, retains and enhances much of the site's character, and enhances biodiversity, whilst providing much needed housing.

Whilst it is acknowledged the area of green space will reduce, it is considered the quality of it will be much improved. The proposed open spaces will be key to the success of the proposals, but further detail is required. Similarly, a Landscape Plan will be conditioned, which will secure play space, street furniture, public art and education features, as well as planting/hedging to help provide a sense of place and improve the quality of the spaces, promoting community ownership.

Car parking spaces have been limited to meet the necessary minimum requirements, to avoid a visually car-dominant development and parking courts have been placed in less prominent locations, with their edges greened with hedging and trees to soften them visually. Internal and external connections for active travel are also proposed.

The layout proposed layout will provide an acceptable amount of private amenity space for residents which meets SBC's Privacy and Sunlight Approved Planning Guidance. Waste storage is also provided, and it is considered acceptable in terms of accessibility by SBC's Refuse officers.

Subject to conditions to secure appropriate levels of landscaping, the north-west corner path and SUDS area, it is considered the proposals provide a layout which respects the character of the existing site, promotes placemaking and will provide a high-quality development, which will improve the quality of the surrounding area. The proposal complies with NPF4 Policy 12, 14, 15, 23 and 31, and LDP Policy PMD2.

d) Design and appearance

As per part a), b) and c) of this assessment, the general design and layout of the proposals, and house types are considered acceptable, subject to conditions which will provide further clarity on design and materials. This includes details of the external finish materials, and the elevations of the housing to ensure the massing's are articulated, with fenestration and provide visual amenity, and surveillance.

Furthermore, for the wider design and layout, particularly in terms of providing a strong frontage to Howdenburn Drive, green spaces, accessible routes and landscaping, as per part c) above, conditions are recommended. This will ensure the character and setting of the proposals are appropriate.

Subject to these aforementioned conditions, the latest revised drawings are acceptable, and will provide a high-quality design and appearance in compliance with Policies 1, 2, 13, 14 and 15 of NPF4, and PMD2 and IS6 of the LDP.

e) Residential amenity

As noted in part a) of the assessment, it was considered that the Proposals retained an acceptable level of residential amenity for existing residents and complied with part e) of LDP Policy PMD5 and ED5.

When considering the future residents' amenity, the layout and design of the proposal is considered acceptable and promotes good placemaking as per part c) and d) of this assessment. Adequate private green space is provided in each residential unit proposed, meeting the requirements of SBC's Privacy and Sunlight Approved Planning Guidance.

A potential concern is noise levels from the Air Source Heat Pumps (ASHPs) raised in public comments and the substation sited close to the north boundary by SBC's EHO. With regards to the ASHPs a pre-installation condition is recommended, which would seek further details of the ASHPs specification, siting and noise levels to ensure acceptable noise levels for residents.

With regards to the substation, this will be reviewed and approved by SBC's Building Standards Service, and thereafter noise levels will be controlled to an acceptable level by SBC's EHO. Subject to a condition being applied to control the ASHPs, the proposals are in compliance with NPF4 Policy 14 and 16, and LDP Policy PMD3, PMD5, HD3 and ED3.

f) Parking, access and roads safety

SBC's Roads Planning Service have raised no objections to the proposals, subject to a condition to ensure each dwellinghouse has a consolidated and surfaced carriageway, parking area and footpath/shared surfaces prior to occupation. There are considered to be no concerns in terms of additional traffic and parking on Howdenburn Drive as raised in public comments, nor the condition of and lack of alternatives to Oxnam Road to access the area.

The level of parking will meet the minimum requirement for the 70 no. of housing units. There will be a need for electric vehicle (EV) charging, but this will be captured by SBC Building Standards. No concerns have been raised in terms of waste and recycling access, by SBC's Refuse team. The proposals are acceptable in terms of parking, access and roads safety, and complies with Policy 13 and 18 of NPF4, and PMD2, IS4, IS6 and IS7 of the LDP

g) Trees

As noted in part b) of this assessment, the proposals will result in the loss of some existing trees. This will be mitigated by planting number of new trees, hedges and further landscaping.

The existing trees and hedges will be protected during the construction phase as suggested by the Arboriculture Impact Assessment (AIA). Ensuring these are secured by condition will be necessary, via compliance with a Construction Environmental Management Plan (CEMP) and/or the AIA.

Concerns were raised by SBC's Landscape and Tree Officer with regards to whether the group of trees/hedges along the west boundary of the Site would be damaged with the potential need for earthworks to create rear private gardens for new residential dwellings. The Applicant noted whilst much of the Site's levels will be retained as they are, although there may be some earthworks required, particularly near the south-west corner of the Site. To prevent these works harming this tree/hedge group on the west boundary, a condition for the levels of the site to be submitted for approval can be sought, should the application be granted. Subject to conditions to secure a landscaping plan, a landscape and habitat management plan, a CEMP and site levels

details, it is considered the Proposals comply with these allocation requirements, as well as Policy 6 of NPF4, and EP13 of the LDP.

h) Landscape

The Site is considered to be of limited landscape value in terms of long-range views or similar, with no landscape-related designations in the LDP (or LDP2) and is surrounded by existing development within the settlement boundary. Whilst there have been considerations in terms of local character, setting and trees (soft landscaping), these have been covered in other sections of this assessment.

SBC's Landscape and Officer raised no objection, subject to conditions and a number of issues being addressed. These issues have been addressed in the assessment of this report and will be secured by condition.

i) Developer Contributions

Policy IS2 of the LDP is relevant and is supported by approved SPG on development Contributions.

As previously noted, the site will be 100% affordable housing, and as such the development will be exempt from most developer contributions, in exception of play space contributions. A financial contribution towards off site play facilities is preferred at a rate of £500 per dwelling unit (£35,000 total). The developer has agreed to meet this requirement which can be secured through a legal agreement. Subject to the conclusion of a legal agreement for play space contributions, the proposed development will comply with the requirements of NPF4 Policy 16 and 21, and Policy IS2 of the LDP.

j) Any other material considerations or issues?

The following issues were raised in public comments and are considered below:

Health issues from development

It is unclear which specific health issues were being referred to, but as noted in part e) of this assessment, the proposals are considered to provide an acceptable level of residential amenity and promotes a healthy and accessible place. The assessment has considered forms of pollution, such as noise, air, odour and vibration, and the Proposals are considered to be in compliance with NPF4 Policy 14 and 16, and LDP Policy PMD3, PMD5, HD3, EP16 and ED3.

Limited education and healthcare capacity

No education or healthcare capacity concerns have been raised or identified from internal SBC consultations, and it is considered the Proposals are in compliance with NPF4 Policy 18 and LDP Policy IS1. Members will be aware that healthcare capacity is for the healthcare provider to address, independently of the planning process. Where sites are identified for housing, or in this case redevelopment opportunity, the Health Board are consulted, along with other stakeholders, through the Local Development Plan process and have at that point, the opportunity to raise any concerns regarding capacity.

Other issues such as employment opportunities, supermarket provision, impacts on solar panels, loss of view and impacts on property prices have been considered but do not raise any material planning considerations. Members will be aware that

potential impacts on property prices and a loss of view are not material planning considerations.

CONCLUSIONS

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the development plan (and the emerging Local Development Plan 2) and there are no material considerations that would justify a departure from these provisions.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend that the application be approved, subject to a legal agreement (covering development contributions towards play space) and the following conditions:

1. The residential units hereby approved shall meet the definition of "affordable housing" as set out in the adopted Scottish Borders Local Development Plan 2016 (and emerging Local Development Plan 2) and accompanying supplementary planning guidance and shall only be occupied in accordance with arrangements (to include details of terms of occupation and period of availability) which shall first have been submitted to and approved in writing by the Planning Authority.
Reason: The permission has been granted for affordable housing, and development of the site for unrestricted market housing would attract contributions to infrastructure and services, including local schools.
2. No development shall commence until precise details (including samples, where requested by the Planning Authority) of all external wall and roof materials for the approved buildings (which shall include more than one wall render colour), and full details of the surfacing of all shared surfaces and footways have first been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing with the planning authority.
Reason: To ensure the material finishes respect the character and appearance of the surrounding area.
3. Notwithstanding the details shown on the plans hereby approved, no development shall commence until revised elevation drawings of House Type B, C, D, G1/G2/G3 and M have first been submitted to and agreed in writing with the Planning Authority. The amended elevations shall include additional architectural interest through the use of additional and complementary materials as well as adjustments to the fenestration. Thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing with the planning authority.
Reason: Further details are required to ensure the external appearance of the colony units respects the character of the surrounding area.
4. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority, thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing with the planning authority. Details of the scheme shall include:
 - i. existing and finished ground levels in relation to a fixed datum preferably ordnance
 - ii. soft and hard landscaping works
 - iii. precise design of nodes/feature planters

- iv. a programme for completion and subsequent maintenance
 - v. public art, play space, street furniture and education boards
- Reason: To ensure the satisfactory form, layout and assimilation of the development.

5. No development shall commence until precise details of the design of the SUDS scheme has first been submitted to and approved in writing with the Planning Authority. The sustainable urban drainage system shall comply with CIRA C753 SuDS Manual. Once approved the development shall be carried out in strict accordance with the agreed details. Prior to occupation of the first dwellinghouse hereby approved written evidence shall be supplied to the planning Authority that the development has been connected to the public water drainage network.
Reason: To ensure that the development does not have a detrimental effect on public health or ecological interests.
6. No development shall commence until a scheme of details relating to the following pedestrian improvements has first been submitted to and agreed in writing with the Planning Authority. Thereafter, the development shall be completed in accordance with the agreed details. The details shall include (i) improvements to the pedestrian route to the north-west of the Site to/from Grieve Avenue (ii) creation of a pedestrian link in the south-east corner of the Site from Howdenburn Drive, through the Proposed SUDS Area and (iii) a programme for completion.
Reason: To ensure that the development hereby approved is served by appropriate pedestrian facilities upon completion.
7. The development hereby approved shall only be carried out in strict accordance with a programme of phasing which has first been submitted to and approved in writing by the Planning Authority.
Reason: To ensure that the development of the estate proceeds in an orderly manner.
8. No development shall commence until a Construction Traffic Management Plan has first been submitted to and agreed in writing with the Planning Authority and thereafter the development shall be completed in accordance with the agreed details. The details shall include (i) access arrangements for construction traffic (ii) temporary traffic measures required during the construction period (iii) access arrangements for staff traffic during the construction phase.
Reason: To ensure the traffic associated with the construction of the development does not have a detrimental impact on the existing road network within the vicinity of the site and its users.
9. No development shall commence until a scheme submitted by the Developer to identify and assess potential contamination on site has first been submitted to and approved in writing by the planning authority. Thereafter no construction work shall commence unless in strict 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.

10. No development shall commence until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.
Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

11. No development shall commence until written evidence is provided to the Planning Authority that mains water and foul drainage connections are available to serve the development. All public mains services shall be provided prior to occupancy of the dwellinghouses hereby approved and shall be maintained thereafter throughout occupancy of the dwellinghouses.

Reason: To ensure the development is adequately serviced and to maintain existing surface water run-off levels from the site.

12. No development shall commence until a Construction Environmental Management Plan has first been submitted to and agreed in writing in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved scheme.

Reason: To ensure that trees and residential amenity which will be affected by the development are afforded suitable protection during the construction and operation of the development.

13. Prior to occupation of the first dwellinghouse a scheme of street lighting details shall be submitted to and agreed in writing by the Planning Authority and thereafter the lighting shall be installed as per the approved details.

Reason: In the interests of road and pedestrian safety and to safeguard residential amenities and limit light pollution.

14. No development shall commence until a Landscape and Habitat Management Plan, including measures to protect wildlife and light pollution in accordance with the Preliminary Ecological Appraisal (TD Tree & Land Services Ltd, September 2023), shall be submitted to and approved in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved scheme.

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

15. Notwithstanding the details shown on the drawings hereby approved, no development shall take place until a revised site plan showing all existing and proposed ground levels, as well as finished floor levels of the dwellings and their private amenity spaces hereby approved, has been submitted to and approved in writing by the planning authority. Thereafter the development shall be completed in accordance with the approved plan. The revised plan should ensure that the finished floor levels of all residential properties are satisfactorily above the adjoining finished ground levels.

Reason: To mitigate surface water flood risk and impacts to existing trees/hedges.

16. Prior to installation, details of the Air Source Heat Pumps (ASHPs) including specification, siting and noise levels shall be submitted to and agreed in writing by the Planning Authority and thereafter the ASHPs shall be installed as per the approved details, and kept in perpetuity, unless otherwise agreed in writing.

Reason: To ensure acceptable noise levels for residential amenity.

17. Prior to commencement of development, biodiversity enhancements in accordance with those proposed in the Preliminary Ecological Appraisal (TD Tree & Land Services Ltd, September 2023), shall be submitted to and approved in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved biodiversity enhancements scheme and shall be completed prior to occupation of the 65th residential unit.

Reason: To ensure the development provides biodiversity enhancements for species and habitats in accordance with Policy 3 of NPF4.

18. The proposed roads, footpaths and parking spaces/areas indicated on the approved drawings shall be constructed to ensure that each dwellinghouse, before it is occupied, shall be served by a properly consolidated and surfaced carriageway, parking area and footpath/shared surface.

Reason: To ensure that the proposed development is laid out in a proper manner with adequate provision for traffic and pedestrians.

19. No development shall take place, except in strict accordance with the recommendations of the Arboricultural Impact Assessment (TD Tree & Land Services Ltd, September 2023), including the protection of retained trees, and works and removals of trees.

Reason: To protect the existing trees which will be retained and ensure works are undertaken by arborists with the appropriate insurance and qualifications and approved contractors of the Arboricultural Association

Informatives

1. The applicant shall give consideration to the provision of electric vehicle charging points and associated infrastructure.
2. All prospectively adoptable roads, pavements and associated infrastructure will require Road Construction Consent. The applicant should discuss this separately with the Council's Roads Planning Service to establish the scope and requirements of Council adoption.
3. All works within the public road boundary must be undertaken by a contractor first approved by the Council.
4. Please note Scottish Water's consultation comments and that all proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water.

DRAWING NUMBERS

Drawing Number	Plan Description	Date
LOC01	Location Plan	22.09.2023
L(01)01 Revision G	Site Plan	06.09.2023
L(02)B.10 Revision E	House Type B Plans and Elevations	July 2023
L(02)C.10 Revision D	House Type C Plans and Elevations	July 2023
L(02)D.10 Revision B	House Type D Plans and Elevations	July 2023
L(02)G.12 Revision C	House Type G1/G2/G3 Elevations	July 2023
L(02)G.10 Revision C	House Type G1/G3 Plans	July 2023
L(02)G.11 Revision C	House Type G2/G3 Plans	July 2023
L(02)G.13	House Type G2/G3 Plans varied position	July 2023
L(02)M.10 Revision B	House Type M Plans and Elevations	July 2023
L(04)01 Revision B	Streetscapes 1	March 2023
L(04)02 Revision C	Streetscapes 2	March 2023
L(04)03 Revision B	Streetscapes 3	March 2023
L(04)04	Streetscapes and Site sections 4	March 2023
22-154-30 Revision D	Levels Layout	06.04.2023
L(01)10 Revision E	Fencing and Boundary Finishes	06.09.2023
L(01)11 Revision D	SUDS area Landscape Strategy	06.09.2023
L(01)12 Revision E	Landscape Strategy	06.09.2023
22-154-20 Revision E	Drainage Layout	19.12.2022
22-154-40 Revision B	SPA REFUSE VEHICLE	03.03.2023

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

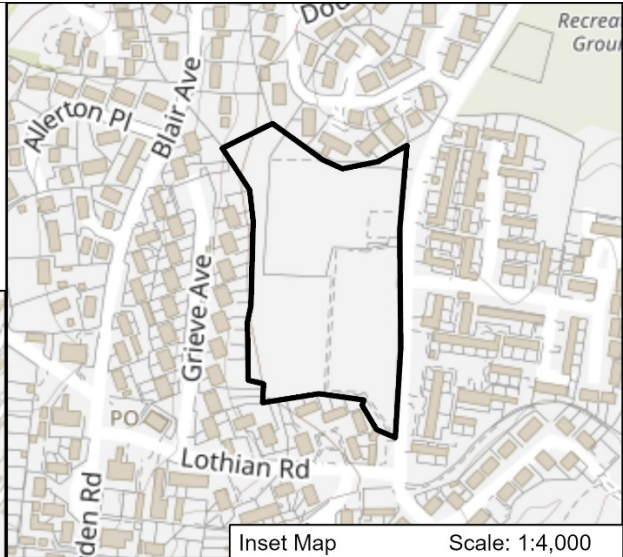
The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

Author(s)

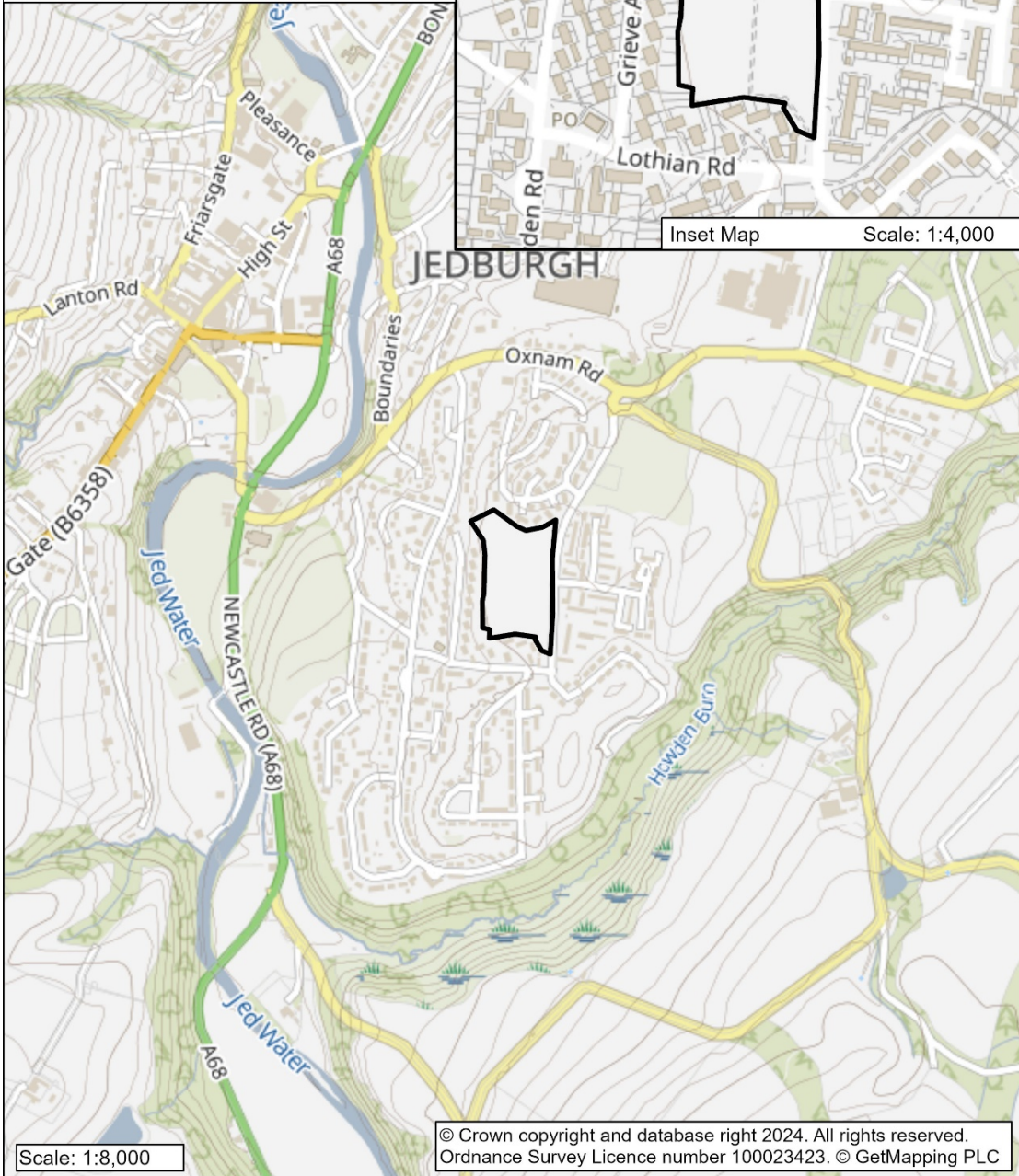
Name	Designation
Kyle Wise	Peripatetic Planning Officer



23/01466/FUL
Former Howdenburn Primary School,
Jedburgh



Inset Map Scale: 1:4,000



Scale: 1:8,000

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 MARCH 2024

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 23/01682/PPP

OFFICER: Paul Duncan
WARD: East Berwickshire
PROPOSAL: Caravan Park comprising of static caravans, landscaping, formation of new access and associated work
SITE: Land South-East Of The Beeches, Howpark, Grantshouse, Duns, Scottish Borders
APPLICANT: Grantshouse Limited
AGENT: Ironside Farrar

PLANNING PROCESSING AGREEMENT

A Planning Processing Agreement (PPA) is in place until Monday 25 March, or Monday 22 April if a site visit is required.

SITE DESCRIPTION

The application site is located at the Harelawside hamlet around half a mile east of Grantshouse in Berwickshire. It is situated to the east of the “Old A1”, which is now a minor public road forming a loop which connects with the “New” A1 trunk road at junctions to the west and south of the site.

An old stone wall bounds the site to the north-west where the Howpark Road and the Old A1 meet. The Cedar Café and two detached dwellinghouses lie on the opposite side of Howpark Road. The Howpark Burn flows in a south-westerly direction beyond, joining the Eye Water at a confluence on the far side of the New A1.

The site can be broken down into fairly distinct compartments. A native woodland park area with picnic benches and semi-mature trees is situated in the north-west corner, to the south of the old stone wall. A pyramidal roofed toilet block separates this area from a conifer plantation (predominantly Scots Pine) to its south. The toilet block is owned by the applicant and managed by the cafe. The conifer plantation extends outwith the application site boundary and is the subject of a Tree Preservation Order (TPO). Vehicular access would be taken from the Old A1 to the south of the TPO.

To the east of these compartments is a larger, vacant area of greenfield land that lies at the foot of steeply sloping hillside. The flatter area is within the application site and features a gentle fall from north to south. The steeper hillside lies outwith the site.

PROPOSED DEVELOPMENT

The application seeks planning permission in principle (PPP) for a new static caravan park, a new vehicular access and associated infrastructure.

The application contains an indicative proposed site plan which illustrates one approach to site design. As the application is for PPP only, the proposed layout could change at the detailed application (AMC) stage.

The indicative site plan shows the proposed new vehicular access connecting with the old A1 Road at the southern end of the site. Internally, the access serves a reception building and small number of caravan pitches before splitting into two internal roads each with static caravan pitches laid out along with either side and both terminating with turning circles to the north-west. Two large SUDS basins are shown fairly centrally to the east of the toilet block.

PLANNING HISTORY

There is a lengthy planning history at this site. Relevant planning history is summarised below. Of particular significance is the 2015 permission (reference 14/01187/PPP) for a chalet development and associated works.

- 96/00610/FUL - Change of use to holiday park; site layout; reception block and toilet facilities. Refused on grounds of road safety.
- 10/00194/FUL – Formation of lorry park and access. This proposal was to be located on the opposite side of the public road. Withdrawn.
- 10/00200/FUL – Erection of seven dwellinghouses. This was proposed on the north-western side of the site. Refused against housing in the countryside policies as an inappropriate addition to the building group and due to loss of public open space.
- 11/00728/FUL - Change of use of woodland/agricultural land to form amenity area and associated parking. This application for a replacement amenity area to compensate for the potential loss of an existing amenity area. The application was approved but the consent appears to have lapsed.
- 12/00085/FUL - Erection of four dwellinghouses. This application sought to address the reasons for refusal of 10/00200/FUL however the department viewed that this site remained inappropriate for residential development. The application was subsequently withdrawn.
- 14/01187/PPP - Chalet development and associated works. An indicative site plan illustrated the proposals which included access tracks, parking areas, reception and toilet blocks, picnic tables, play space and landscaping. Planning Permission in Principle was granted in 2015 but the development was not delivered, and the consent has lapsed. The permission is a significant material consideration for this current application.
- 23/01173/SCR – Screening Request for a static caravan development. This Screening Request was submitted in advance of the current application to establish whether an Environmental Impact Assessment (EIA) was required. The applicant was advised that an EIA was not required.

REPRESENTATION SUMMARY

16 objections from 12 separate households have been received in response to the application. All are available to view in full on *Public Access*. Key issues raised were:

- Proposal is out of scale with the local area
- Oversupply of caravan parks
- LDP does not allocate Harelawside and Howpark for tourism development
- No community benefits
- Few local amenities/ safe walks
- Noise, litter and lorries will not make this an attractive location for visitors
- Sustainability/ climate impacts
- Increased traffic/ road safety concerns on A1/ Howpark Road/ Harelawside
- Lack of public transport/ nearest bus stop is in Grantshouse village
- The footway to Grantshouse is dangerous/ narrow and runs parallel to the A1 with no safety barriers
- Road/ footway/ infrastructure at Harelawside is inadequate/ too busy and traffic speeds are high/ no streetlighting
- HGVs will park in visibility splays of new junction
- The site and old A1 Road flood
- The drainage assessment is based on a different layout and lower unit numbers
- The flood risk assessment does not reflect the actual flow of groundwater
- Surface water drainage proposals unclear
- Noise
- Light pollution
- Privacy impacts
- Litter
- Conflict with working farm and livestock
- Impacts on wildlife (including hedgehogs, buzzards, bats, owls and heron)
- Pollution
- Impacts to infrastructure Council services
- Increased crime/ bringing strangers to the area
- Neighbour notification process concerns
- Application provided incorrect applicant company name
- Impact on property values [not a material planning consideration]

APPLICANT'S SUPPORTING INFORMATION

- Design and Access Statement (Including Planning Statement)
- Drainage Assessment
- Flood Risk Assessment
- Tree Survey
- Transport Statement
- Business Case
- Preliminary Ecological Appraisal Report

DEVELOPMENT PLAN POLICIES:

At the time of writing the development comprises National Planning Framework 4 and the Council's Local Development Plan 2016.

National Planning Framework 4

Policy 1: Tackling the Climate and Nature Crises

Policy 2: Climate Mitigation and Adaptation

Policy 3: Biodiversity

Policy 4: Natural Places

Policy 5: Soils

Policy 6: Forestry, Woodland and Trees

Policy 7: Historic Assets and Places

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

Policy 13: Sustainable Transport

Policy 14: Design, Quality and Place

Policy 22: Flood Risk and Water Management

Policy 23: Health and Safety

Policy 29: Rural Development

Policy 30: Tourism

Scottish Borders Council Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

ED7: Business, Tourism and Leisure Development in the Countryside

ED8: Caravan and Camping Sites

HD3: Protection of Residential Amenity

EP1: International Nature Conservation Sites and Protected Species

EP2: National Nature Conservation Sites and Protected Species

EP3: Local Biodiversity

EP5: Special Landscape Areas

EP7: Listed Buildings

EP8: Archaeology

EP13: Trees, Woodlands and Hedgerows

EP15: Development Affecting the Water Environment

EP16: Air Quality

IS7: Parking Provision and Standards

IS8: Flooding

IS9: Wastewater Treatment and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Biodiversity Supplementary Planning Guidance 2005

Placemaking and Design Supplementary Planning Guidance 2010

Sustainable Urban Drainage Systems Supplementary Planning Guidance 2020

Trees and Development Supplementary Planning Guidance 2008

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Archaeology: No objection, subject to conditions to secure a developer funded watching brief.

There are no sites recorded in the Historic Environment Record for this area, but a row of houses is shown by the older editions of the Ordnance Survey mapping. The row may have been demolished in road-widening work. If anything remains of this row, any impact could be suitably covered with an appropriate planning condition.

Therefore, a watching brief is recommended to briefly examine and record any survival, and for recovery and recording.

Ecology Section: No objection and content with the ecological report submitted but recommends planning conditions to secure the recommendations made in the report.

Economic Development: Endorse the proposed development and the foreseeable contribution it can make towards the visitor economy. The Regional Economic Strategy Delivery Plan included a commitment to “Develop a South of Scotland Responsible Tourism destination and Marketing Plan”. Tourism is a key area for the region and the strategy translates the National Shared Vision, Outlook 2030, recognising the visitor economy is a huge area of opportunity for the Scottish Borders and can contribute to the successful delivery of the National Strategy for Economic Transformation. The strategy has been developed with significant consultation and with an ambitious vision to inspire visitors, develop the visitor experience, support business and encourage responsible practices.

Environmental Health: No objection in principle. Due to the close proximity of residential dwellings some concern exists over the potential for existing amenity to be adversely impacted. Whilst not enough detail is provided on this application in principle, the applicant should be aware that any outdoor decking or external amenity areas attached to the individual pitches in any subsequent full application (outdoor spas, for example) may not be supported by this team. This may also be the case for any social space(s) proposed. It is also likely that a condition would be recommended to control the noise output of any pump-house that may be included in a full application.

Flood Risk: No objection, subject to a condition relating to drainage and surface water management. SEPA’s flood risk mapping indicates that the site is at risk from a flood event with a return period of 1 in 200 years. A Flood Risk Assessment (FRA) was submitted and concludes that only a small southern section of the site is at risk from flooding, although there are surface water flow paths through the site. Generally, content with the proposed development, given the contents of the FRA.

Landscape: No response.

Roads Planning Service: On balance and particularly due to the planning history at this location, the Service does not object to this proposal, but does note some concerns. The site is somewhat detached from local service provision but benefits from convenient access to the A1, the existing café, and Reston Station is around 6 miles away. Overall, however, there is a lack of sustainable transport links and local service provision resulting in general car/vehicle reliance. The existing footpath link to Grantshouse/ the nearest bus stop is narrow with only a small verge separating pedestrians from the A1. It does not fully continue through Harelawside to the proposed site. There are also some concerns with the potential for increased vehicular traffic on the Howpark road, as this appears narrow along its extent. Furthermore, Transport Scotland have not requested conditions on junction and signage improvements on the A1 as they have in previous proposals.

Although the reliance on cars is not ideal, customers will likely travel to other settlements within NE Berwickshire and make use of the amenities there which may help them remain sustainable. Although this proposal appears somewhat at odds with local living policies the site can act as a base for visiting local settlements and passenger transport provision is available in relatively close proximity via the main road network for trips further afield. Conditions covering the new vehicular access and internal road, parking, and the proposed new footpath to Howpark Road requested.

Statutory Consultees

Grantshouse Community Council: Noted observations from the local community including those summarised below, none of which were in favour of the proposal:

- Lack of local amenities/ services to support the development
- Road and pedestrian safety
- Environmental impact
- Detrimental impact on local inhabitants
- The proposed location is totally dependent on access by road. This could mean walkers will either use the Howpark road or venture into adjacent farmland.
- The alternative will be to use cars to visit other facilities. This will put pressure on the two junctions with the A1 trunk road – there have been several serious accidents at these junctions. Additional pressure will also be put on the Howpark road – this is a single-track road with passing places, several blind corners, and hidden dips. This coupled with likely additional pedestrian use will present a serious risk.
- Due to the lack of amenities, it is felt the amount of predicted vehicular journeys is understated in the supporting documents.
- None of the properties in Harelawside are connected to the main sewer system – the facility that serves the main village is already undersized.
- The transport analysis suggests the site is served by a bus route – the nearest bus stop is in the main village over 800m from the site and accessed via a path adjacent to the A1 trunk road. This path has already been identified as a high risk to walkers and cyclists and has no lighting anywhere along its length.
- A bat survey should be carried out and the introduction of lighting will be detrimental to wider bat activity.
- Residents recently voted overwhelmingly in favour of measures to enhance the environment; this will do the opposite removing a wild area from the area.
- Police coverage is too thin locally to prevent incidents or react should they occur. Local residents may experience the sharp end of visitors not necessarily staying to enjoy the view of a lorry park and the A1. Many local households are remote, isolated, and vulnerable.

Scottish Water: No response.

SEPA: No objection. Note that parts of the site are shown at risk of flooding on SEPA Future Flood Maps from the Howpark Burn and the Eye Water. Welcome the Flood Risk Assessment (FRA) which is based on appropriate methods and state that its representation of flood risk is in line with all other evidence that is currently available.

Note that the FRA indicates that the majority of the site is out with the 1 in 200 year plus climate change floodplain. A small southern portion is within the flood plain however no development is proposed in this area. SEPA recommend that a minimum 600 mm freeboard allowance is used to account for uncertainties in the modelling. All flood modelling has an inherent degree of uncertainty, and it is essential that appropriate freeboard is allowed above all modelled flood levels to account for that.

SEPA are satisfied that safe access and egress for persons on foot, or with assistance, is achievable in an emergency and therefore have no objection on this basis. The vehicular access and egress route is likely to be at risk of flooding. SEPA consider vehicular emergency access and egress to largely be the remit of local authorities. In non-flooding matters, SEPA refer to standing advice.

Transport Scotland: No objection and no conditions requested. The response made additional comments, including the following:

- The Transport Statement includes an assessment of accident history within the study area. A total of 1 'Fatal', 1 'Serious' and 4 'Slight' accidents have been identified on the trunk road during the assessment period (2017 to 2021). The report concludes given the low trip generation rates associated with the proposed development that no increased risk in accidents is expected. The information presented reflects that held on Transport Scotland's system.
- Appendix C of the Transport Statement includes the location type "Edge of Town Centre". The proposed development site location cannot be described as such; however the anticipated peak periods reflect the proposed land-use, and are insignificant when compared with the traffic volumes on the A1(T).
- The Transport Statement confirms that the existing footway adjacent to the A1(T) is narrow. No proposals are presented to improve the provision.
- The village is served by public transport services with 5 services in each direction. The bus stops are around 800m from the site, exceeding the generally accepted acceptable walking distance of 400m.
- Noted that there is no existing count data available. Nevertheless, the existing junctions are appropriate to accommodate the anticipated "modest" increase in traffic volumes using these junctions.

Other Consultees

Visit Scotland: No response.

ASSESSMENT OF APPLICATION:

Principle

Policy Principle

The Local Development Plan (LDP) does not allocate land within the Scottish Borders specifically for tourism. Proposals for tourism development must be considered be assessed against relevant development plan policies as set out within the LDP and National Planning Framework 4 (NPF4).

LDP 2016 policy ED8 (Caravan and Camping Sites) is particularly relevant and sets out criteria for assessing caravan park proposals. NPF4 policy 30 (Tourism) provides additional criteria for all types of tourism development. Finally, because the Grantshouse settlement boundary does not extend to Harelawside LDP policy ED7 (Business, Tourism and Leisure Development in the Countryside) and NPF4 policy 29 (Rural development) are also applicable.

Policy ED8 states that the Council will support proposals for new caravan sites in locations that can support the local economy and regenerate towns, and which accord with the Scottish Borders Tourism Strategy. Developments on appropriate sites within or immediately outwith the development boundary of settlements that can support local shops and services will be favoured over countryside locations.

The criteria provided by NPF4 policy 30 b) include: the contribution made to the local economy; compatibility with the surrounding area; impacts on communities, for example by hindering the provision of homes and services for local people; and sustainability considerations, including sustainable travel opportunities.

The application site is distant from the nearest town and is not immediately outwith the development boundary of a settlement. However, it is located on the edge of a built-up area peripheral to Grantshouse. There are no remaining shops or services within the village that this development could support, but the local café is actually outwith the settlement and directly opposite the site. The proposed development could also support the wider local rural economy however sustainable travel opportunities at the site are limited (see 'Economic Benefits' and 'Climate & Sustainability' sections below).

The development would be used directly for tourism appropriate to a rural location. The Council's Economic Development team are supportive of the application and confirm it aligns with current tourism strategies. The development is therefore considered to satisfy the relevant criterion b) of LDP policy ED7 (Business, Tourism and Leisure in the Countryside).

NPF4 policy 29 (Rural development) encourages rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced. The proposals would not conflict with these aims, which are considered further elsewhere in this report.

In summary, the proposed development is considered to broadly satisfy policies ED7, ED8, 29 and 30. However, it does not gain the stronger support from ED8 and NPF4 that a more connected proposal on the edge of a town may secure.

Planning History

Planning history is a significant material consideration. Planning permission was previously granted for a similar tourism development at this location in 2015 (planning reference 14/01187/PPP). Since then, the Council's Local Development Plan 2016 and National Planning Framework 4 have come into force and together now form the development plan. The previous application was assessed against policies including D1 of the Consolidated Local Plan 2011 which contained similar provisions to the current LDP 2016 policy ED7. This history is relevant to the assessment of this new application, though it should also be acknowledged that the proposals and planning policy context have shifted in certain respects since the previous approval.

Compatibility With Neighbouring Uses

The Old A1 is used by lorry drivers as an informal rest stop. Objectors question the compatibility of this with what is proposed. Road safety implications are considered further below, but in amenity terms, the development would be screened and separated from the informal lorry parking area by mature trees. Whilst the informal rest stop and associated issues identified by objectors (including litter and noise) may make the development less attractive to potential visitors, there is not considered to be a fundamental conflict of uses in planning terms.

Objectors have also identified the potential for disturbance to neighbouring farmland and livestock. However, it is not uncommon for caravan developments to be located adjacent to arable or pastoral farmland and there is no known reason to believe such uses should be inherently incompatible.

Scale of Development

The scale of the proposed caravan park is significant in proportion to the small hamlet of Harelawside and even in the context of the wider settlement of Grantshouse. The

character of the surrounding area is partly defined in part by busy the A1 trunk road. Overall, it is not considered that the proposal would be out of keeping with the character of the area. Impacts to amenity are considered elsewhere in this report.

Existing Toilet Block

The existing toilet block is located within the application site boundary and is available for the public to use. The application supporting statement describes it as a Visitor Toilet Facility. It states that the toilet will be maintained as a public facility, open and available to the public through the duration of works. It further states that flooding and other studies will allow consideration of further improvements to and/or provision of an upgraded/ renewed Toilet Facility. These would be matters for future applications if they were brought forward.

Climate and Sustainability

National Planning Framework 4 (NPF4) states at Policy 1 that significant weight should be given to the global climate when considering all development proposals. NPF4 promotes sustainable forms of transport at policies including 13 (Sustainable transport), 14 (Design, quality and place) and 30 (Tourism).

The application supporting statement acknowledges that the vast majority of visitors would arrive by car. This is likely to be the case for most rural caravan site developments. In the East Berwickshire area, most visitors are likely to arrive via the A1 trunk road. The proximity of the A1 trunk road to the site provides the development with strategic positioning to benefit from easy access to attractions and facilities throughout the Eastern Borders. Whilst many Berwickshire attractions are coastal, there are significant inland visitor destinations (for example the Lammermuir Hills, Paxton House and Ayton Castle) which could be accessed easily via the A1 trunk road. The proposed development would also be located around 6 miles from the new Reston Station. This would provide good sustainable connectivity to visitor attractions at Edinburgh, Berwick and Newcastle but is unlikely to serve as the primary method of transportation for visitors to the proposed development.

The nearest bus stop is at Grantshouse around 800m from the site. As objectors have noted, pedestrian access to the bus stop is along a narrow footway to the side of the busy A1 trunk road and there is no safety barrier or streetlighting in place. Bus travel is therefore unlikely to be used to any great extent. Furthermore, as the response on behalf of Transport Scotland notes, there are also few opportunities to walk, wheel, or cycle for leisure purposes. With only one café within walking distance, it must be concluded that the development would be largely car dependent.

In summary, therefore, the proposed development would not generate significant support from NPF4 in respect of policies promoting sustainable forms of transport.

Regarding other lifecycle sustainability considerations, the Supporting Statement notes that caravans are exempt from the Scottish Building Standards.

Economic Impacts

Economic impacts, including economic benefits, are a significant material consideration. A Business Case was submitted in support of the application setting out the economic and business aims and rationale for the development. It identifies the Scottish Borders and A1 Corridor is an important tourism gateway and states that the development would offer high-quality year-round experiences for visitors,

supporting existing tourism and leisure operators and associated local businesses. It further states that the proposal supports VisitScotland's encouragement for exploration away from major 'hotspots' that are at peak capacity. It also notes that the development would be well placed for access to the Lammermuir Hills and Southern Uplands (including southern Upland Way), as well as the coast.

It is agreed that the proposed development has the potential to support the Berwickshire economy by increasing visitor numbers to local attractions and by supporting shops and services, though it is acknowledged these are generally found within the wider local area. The Council's Economic Development team was consulted and support the application. The team consider that the development would contribute towards the visitor economy, aligning with relevant tourism strategies.

As the proposal is for holiday accommodation, a standard condition is recommended to secure control over the use of the development. The condition wording attached includes similar restrictions on duration of stay as the condition attached to the 2015 permission (reference 14/01187/PPP). In this regard, it is considered that greater economic benefits would be accrued by the occupation of the development by short-stay holidaymakers rather than as holiday homes, though the condition wording could be adapted as Members see fit.

No significant economic disbenefits have been identified.

Vehicular Access, Road Safety and Parking

LDP policy PMD2 requires developments to have no adverse impact on road safety and adequate vehicular access.

NPF4 policy 13 (Sustainable transport) sets out various policy aspirations and requirements with a particular focus on sustainable forms of transport. At g) the policy sets out requirements in respect of the Strategic Transport Network, which includes the trunk road network.

Trunk Road Impacts

There would be no direct access between the application site and trunk road. Vehicular access to the site would be taken from the "Old" A1 Road, which has long been "de-trunked" and is now part of the local road network (see comments on local road network below). The "Old" A1 Road connects to the "New" A1 trunk road around 150m to the south and 300m to the west of the application site.

Transport Scotland are the relevant authority for the assessment of trunk road impacts. The Transport Statement submitted with the application has been reviewed on behalf of Transport Scotland and detailed comments have been provided in response. Ultimately Transport Scotland do not object to the application, nor do they require any form of upgrade works to facilitate the development or to cater for the additional traffic demand it would generate.

At the time of the previous application (reference 14/01187/PPP) Transport Scotland had required the construction of a right-hand turning lane at the southerly access from the A1. The subsequent change in stance has been queried and Transport Scotland has explained that the previous response considered the aggregate impact from a range of developments including the lorry park application, which was still live at the time of the consultation response. Considering this current application in isolation,

Transport Scotland consider the type and scale of development to be a modest generator of traffic in relation to traffic on the A1, and not a peak hour generator.

Transport Scotland acknowledge that the footway to Grantshouse is narrow. Objectors note that it is not separated from the A1 by any form of barrier. Transport Scotland does not raise any road safety concerns regarding its potentially increased usage.

Based on Transport Scotland's assessment, the development satisfies NPF4 policy 13 g) and LDP policy PMD2 in respect of trunk road impacts.

Local Road Network Impacts

The Roads Planning Service (RPS) has assessed impacts to the existing local road network, including the effect of the additional traffic demand that would be generated.

In road safety terms, the RPS is satisfied with the principle of the proposed vehicular access arrangements between the Old A1 minor road and the site. Further details of the proposed access, internal road layout, parking and footpath to Howpark Road would be required at the detailed application stage.

Objectors expressed concerns regarding the prospect of increased traffic, particularly during the tourist season, along the Howpark Road and at Harelawside. They noted the latter has no streetlights, pavements or bus stop. They are also concerned that the lorry park may conflict with the proposed usage, for example should lorries block visibility splays. The RPS has also expressed reservations regarding the potential for increased vehicular traffic on the Howpark Road but ultimately has not objected to the application.

Parking

Policy IS7 of the Local Development Plan requires that car parking should be provided in accordance with the Council's adopted standards.

The indicative site plan identifies one parking place per caravan with further parking bays shown towards the vehicular access to the site. The Roads Planning Service has not raised any concerns with these indicative arrangements at this time. It should be noted that some parking appears to be located close to protected trees and further information would be needed to establish the acceptability of this. This also applies to the proposed new vehicular access. Ultimately the final arrangements for parking would be a matter for the detailed application (AMC) stage.

Flood Risk and SUDS

SEPA's flood risk maps identify part of the site as being at risk of flooding from the Howpark Burn. The Howpark Burn flows in a south-west direction on the far side of the Howpark Road before joining the Eye Water at a confluence to the west of the application site beyond the A1 trunk Road. A Flood Risk Assessment (FRA) was submitted with the application and the Council's Flood Team were consulted at the outset of the application as well as SEPA. Neither object to the application.

Policy IS8 of the Local Development Plan states that development will not be permitted if at significant risk of flooding or if it would materially increase the probability of flooding elsewhere. The policy requires developers to submit an FRA to allow the acceptability of development to be assessed.

National Planning Framework 4 policy 22 (Flood risk and water management) states that development proposals at risk of flooding or in a flood risk area will only be supported in certain circumstances. The NPF4's glossary definition for "flood risk area or at risk of flooding" explains that the risk of flooding is indicated on SEPA's future flood maps or may need to be assessed in a flood risk assessment.

NPF4 states that for planning purposes, at risk of flooding or in a flood risk area means land or built form with an annual probability of being flooded of greater than 1 in 200 years and must include an appropriate allowance for future climate change. The FRA indicates that the majority of the site is out with the 1 in 200 year plus climate change floodplain. SEPA has confirmed that the FRA is based on appropriate methods and its representation of flood risk is in line with all other evidence that is currently available.

The FRA identifies a small portion of the site within the flood plain at the southern boundary where the vehicular access is proposed. The Flood Risk Officer has verbally confirmed that they would not object to the proposed vehicular access at this location. Whilst vehicular access may be affected during a flood event, NPF4's glossary confirms that safe egress refers to the movement of people (not vehicles) between the development and a place of safety. The Flood Risk Officer recommends a planning condition to secure an evacuation plan to ensure appropriate measures were put in place in the event of any flood. The indicative site plan shows a footpath link to Howpark Road which the FRA does not identify to be at risk of flooding. This could form part of such a plan. SEPA is also satisfied that safe access and egress for persons on foot, or with assistance, is achievable in an emergency.

SEPA recommend a minimum 600mm freeboard allowance is used to account for the inherent degree of uncertainty involved in all flood modelling. This can be relayed by means of an applicant informative for consideration at the detailed application stage.

The application supporting statement confirms that the development will comply with relevant SUDS requirements and a Drainage Assessment outlines a strategy for handling surface water drainage at the site though it varies from the indicative site plan drawing. It shows a single SUDS pond to the southern corner of the site whereas the indicative site plan shows two SUDS ponds to the east of the toilet block. The Flood Risk Officer recommends a condition relating to drainage and surface water management covering layout details, specifications and calculations. Ultimately, this issue can be covered off at the detailed application stage.

Landscape and Visual Impacts

The application site is out with any area designated for special landscape protection. The development would also not be visible from any such area, including the Berwickshire Coast Special Landscape Area (SLA). The SLA extends across the coastal side of the Coldingham tourism road, with which the Howpark Road connects, several miles from the application site. The development would therefore provide additional tourist accommodation in good proximity to the SLA and its visitor attractions, without affecting its landscape qualities.

In visual terms, the site is well contained to the north-east by landform, and to the north-west and south-west by mature trees. The site is seen clearly from the north access to Renton House.

The Council's Landscape section has not provided formal comments on this occasion but did comment on the previously approved development and did not object. The section noted that the sloping ground to the north-east provides screening and a

backdrop to views. In combination with the woodlands these were assessed as provided very good visual containment and a good degree of amenity benefit for visitors. The section concluded that there was no landscape or visual reason in principle why the site could not be developed for visitor accommodation. However, the layout shown on the indicative site plan is particularly dense and further consideration would be needed at the detailed application stage as to the suitability of this, in conjunction with details of soft and hard landscaping.

Trees

A tree report was submitted with the application. The report confirms that no tree felling is required to enable the development. All trees within the conifer plantation (protected by Tree Preservation Order), the native woodland park and the boundary hedging and trees along Howpark Road would be retained. The report also makes recommendations for the construction phase of development.

The tree report is useful and informative but does not identify an author or their professional qualifications and it is considered that a detailed tree survey (to the appropriate British Standards) would be required at the detailed application stage to establish with certainty the root protection areas of trees that may be impacted by the development. This can be secured by condition and would inform the ultimate capacity of the development. However, there is no reason to believe that the development could not be carried out within a minimal impact on the tree resource and, if necessary, compensatory planting and mitigation could be secured in the event of any unavoidable minor adverse impacts arising.

The tree report recommends woodland enhancement and management including restocking and removal of invasive species. Given the significant screening function the woodlands would serve, a planning condition securing woodland management is considered appropriate. This could also contribute to the requirement for biodiversity enhancement.

Listed Building Impacts

LDP policy EP7 (Listed Buildings) states that the Council will support development proposals that conserve, protect and enhance the setting of Listed Buildings. NPF4 policy 7 (Historic assets and places) states at c) that Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.

There are no listed buildings within the proposed site therefore no listed buildings would be directly affected by the proposed development.

A number of Listed Buildings are located within the wider surroundings of the site including the Category 'A' listed Renton House, located to the south-west. Harelawside Farmhouse sits on the hillside to the north of Harelawside and is listed at Category 'C'. Owing to distance and intervening screening, the proposed development have a neutral impact on the setting of these listed buildings, ensuring compliance with the relevant provisions of LDP policy EP7 and NPF4 policy 7.

Archaeology

Policy EP8 (Archaeology) states that development proposals which will adversely affect local archaeological assets will only be permitted if it can be demonstrated that

the benefits of the proposal outweigh the heritage value of the asset. All proposals that adversely affect such an asset must include an acceptable mitigation strategy.

NPF4 policy 7 (Historic assets and places) states at o) that where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts.

The Archaeology Officer was consulted at the outset of this application and has drawn attention to a row of buildings, thought to be dwellinghouses, identified on historic mapping for the area. These were shown in the southern corner of the site where the proposed new vehicular access would be located.

The Archaeology Officer is satisfied that the significance of such remains should be capable of being addressed with a watching brief. This would allow any remains to be examined and recorded.

Subject to a planning condition to secure a watching brief the proposed development is considered to satisfy relevant planning policies 7 and Policy EP8 in respect of archaeological impacts.

Residential Amenity

The nearest dwellinghouses to the site are Riverside House and The Beeches, both located on the far side of the site on Howpark Road.

Policy HD3 (Residential Amenity) of the LDP states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. A broad range of impacts can be considered and assessed against Policy HD3, including light and noise. NPF4 contains further provisions.

Noise

Unwanted noise can have a significant impact upon environmental quality, public health and amenity. Noise impacts can be assessed against Local Development Plan policies HD3 (Residential Amenity) and NPF4 policy 23 (Health and safety). Policy HD3 lists noise as a general residential amenity consideration; NPF4 policy 23 states at e) that proposals likely to raise unacceptable noise issues will not be supported.

The development would have the potential to impact the amenity of dwellinghouses in the surrounding area through increased noise and traffic. However, the surrounding area can be busy and the proximity of the A1 and East Coast Main Line already generate local noise. The proposed vehicular access is away from neighbouring dwellings. The separation distances involved suggest the development could, in principle, be carried out without giving rise to inherent noise issues. The Environmental Health Service has reviewed the application and does not raise any objections. The Service would need to review any detailed proposals in further detail and note that certain features such as outdoor decking or social spaces may not be supported.

Visual Impact

The private visual receptors most affected by the proposed development would be the occupants of Riverside House and The Beeches on Howpark Road. Given the intervening screening and separation from the development there are no significant visual impact concerns.

Light Pollution

Ecological requirements in respect of bats should ensure external lighting is low level. This can be controlled by suitably worded condition and considered further at the detailed application stage.

Privacy/ Loss of Light and Sunlight

The proposed development should not give rise to significant overlooking or loss of light/ sunlight impacts given the separation distances involved however this would be considered further at the detailed application stage

Other Amenity Impacts

It is acknowledged that there is a risk of short time impacts arising from the construction process. These effects are largely unavoidable but would normally be short-lived.

Objector concerns regarding existing litter issues in the area are noted. There is no reason to believe the proposed development should give rise to further litter issues. Communal bin storage is shown on the indicative site layout plan and can be considered further at detailed application stage.

Designated Sites

There are no designated sites within 2km of the site. No connectivity to designated sites has been identified. There would be no likely significant impacts to designated sites.

Protected Species

A Preliminary Ecological Appraisal (PEA) report was submitted with the application. The report covers the findings of a desk study and an extended Phase 1 habitat survey including a walkover survey of the site. The report covers findings in respect of protected species including bat, badger, otter, water vole, birds and red squirrel.

Bat roosting potential was identified within the site at the toilet block and trees however no works are proposed at either. Further surveys would be required should this change at the detailed application stage.

The Council's Ecology Officer has reviewed the PEA report and is satisfied with its findings and recommendations, and requests these be secured by planning condition. The recommendations include the requirement for a low impact lighting scheme for bats, a Construction and Environmental Management Plan (CEMP) and species protection for potentially impacted protected species.

NPF4 policy 3 requires the provision of biodiversity enhancement. The tree report suggests this could be delivered within or alongside the existing woodlands. The requirement for enhancement can be secured by planning condition.

Subject to the mitigation and enhancement measures attached, the proposed development is considered to satisfy relevant ecology and biodiversity policies EP1-3 of the Local Development Plan and Policy 3 of National Planning Framework 4.

Soils

LDP policy ED10 (Protection of Prime Quality Agricultural Land and Carbon Rich Soils) seeks to ensure finite agricultural land is retained for farming and food production.

The application site comprises vacant, undeveloped, greenfield land however it is not categorised as Prime Quality Agricultural Land by the James Hutton Institute. There is therefore no conflict with LDP policy ED10.

NPF4 policy 5 (Soils) introduces further protections for soils on undeveloped land. These include considerations relating to the manner of design and construction. It is considered that the requirements of this policy could be considered at the detailed application stage.

Foul Waste

The supporting statement, supported by a Drainage Assessment, indicate that the development would connect to the existing public foul sewer, which discharges to the Grantshouse Wastewater Treatment Works with final outfall to the Eye Water. The Drainage Assessment envisages an on-site pumping station would be required.

Scottish Water was consulted but did not respond. Objector comments suggest that properties at Harelawside are not connected to the public foul sewer, and it is noted that private foul drainage arrangements were required and accepted at the time of the 2015 permission (reference 14/01187/PPP). It is considered that a fully suspensive planning condition can again be applied to secure control over foul waste arrangements.

Water Supply

The application supporting statement advises that the development would connect to the public mains water supply, as was proposed under the previous application (reference 14/01187/PPP). Scottish Water has not responded however a fully suspensive planning condition can be applied to secure control over water supply.

Contaminated Land

The Contaminated Land Officer reviewed the application as part of his application screening process. No land contamination issues were identified.

Other Matters

Objectors note that certain documents submitted with the application provided the incorrect name of the application. Other documents correctly identified the applicant as 'Grantshouse Limited'. The cause of this error is not known however it was addressed promptly and appropriately when identified.

The planning system does not currently seek to regulate the supply of holiday accommodation. Any oversupply of tourist and visitor accommodation is a commercial decision for the applicant/ developer, and for the market to resolve.

There is no reason to believe the proposed development would lead to increased crime in the surrounding area and this would ultimately be a matter for Police Scotland.

The application was advertised in the Berwickshire News and was subject to standard neighbour notification and consultation processes. Neighbour notification is carried out by the Council in accordance with clear guidelines.

CONCLUSION

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the 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:

1. No development shall commence until the precise details of the following have been submitted to and approved in writing by the Planning Authority:
 - a) the siting, design and external materials of caravans and building(s):
 - b) the means of pedestrian and vehicular accesses to the site:
 - c) the internal road network and parking arrangements:
 - d) surface water drainage arrangements, including precise details of site drainage and surface water management (covering layout details, specifications and calculations), which shall utilise SUDS techniques and shall include details of landscaping (including planting to provide additional habitat):
 - e) external lighting (which shall be low level and bat friendly and shall incorporate the measures set out in Section 4.4.1 of the Direct Ecology V1.2 report dated 8.11.23); and
 - f) hard and soft landscaping of the site (which shall incorporate the measures set out in Section 4 of the Direct Ecology V1.2 report dated 8.11.23).

Thereafter, the development shall be carried out in strict accordance with the agreed details and shall not become operational until the agreed pedestrian and vehicular accesses, internal road and path networks, parking, and surface water drainage arrangements are completed and operational. Further, no external lighting shall be installed within the development except that so approved. All unless otherwise agreed in writing by the 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.

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 three 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.

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.

4. All planting, seeding or turfing comprised in the approved scheme of soft landscaping under condition 1 shall be carried out in the first planting and seeding seasons following the occupation or completion of the development, whichever is the sooner, and shall be maintained thereafter and replaced as may be necessary for a period of five years from the date of completion of planting, seeding or turfing.
Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

5. No development shall take place until the applicant has secured a programme of archaeological work in accordance with a Written Scheme of Investigation outlining a Watching Brief. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to observe relevant below ground excavation during development, investigate and record features of interest and recover finds and samples if necessary. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered below ground excavation should cease pending further consultation with the Planning Authority. The developer will ensure that any significant data and finds undergo post-excavation analysis, the results of which will be submitted to the Planning Authority
Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site. out the prior written consent of the Planning Authority.

Reason: To safeguard a site of archaeological interest.

6. No development shall commence until a Scheme for Woodland Management and Tree Protection has been submitted to, and approved in writing by, the Planning Authority. The Scheme shall include:
 - a. proposals for Woodland Management, including the retention, maintenance, and regeneration of the trees and hedges within the site and all trees protected by the Tree Preservation Order BCC4 and proposals for the removal of invasive species;
 - b. a detailed drawing, showing the position, species and root protection area of trees and hedging within and adjacent to the site, those to be retained, those to be felled, tree protection measures for the construction phase and the routes of all services. The drawing shall be based on an Arboricultural Impact Assessment which covers all trees within and adjacent to the site in accordance with the most up to date British Standards.

Once approved, a) the agreed Woodland Management measures shall be carried out in perpetuity and b) the agreed tree protection measures shall be put in place prior to and throughout the construction process. All unless otherwise agreed in writing by the Planning Authority.

Reason: To safeguard the existing woodland and tree resource, to secure visual containment of the development, to ensure adequate protection or replanting of trees and hedging is secured and for visual amenity of the area.

7. No development shall commence until the following have been submitted to and approved in writing by the Planning Authority:

- a. scheme of post-construction ecological enhancements, including a timescale for implementation. The scheme shall incorporate the measures set out in Section 4 of the Direct Ecology V1.2 report dated 8.11.23;
- b. A Species Protection Plan for breeding birds and badgers which shall incorporate provision for a pre-development supplementary survey and a mitigation plan and shall demonstrate how the recommendations set out within Section 4.5.1 of the Direct Ecology V1.2 report dated 8.11.23 have been and will be addressed.
- c. A Construction and Environmental Management Plan, which shall incorporate the measures specified in sections 4.2.1 and 4.10 of the Direct Ecology V1.2 report dated 8.11.23.

Thereafter no development shall be carried out except in strict accordance with the agreed measures and the approved scheme of post-construction ecological enhancements shall be implemented within the approved timescale. All unless otherwise agreed in writing by the Planning Authority.

Reason: For the protection of protected species and to provide a reasonable level of ecological enhancement relative to the environmental impact of the development in accordance with the statutory development plan.

8. No development shall commence until a detailed foul drainage scheme has been submitted for the written approval of the Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details prior to the development hereby approved becoming operational and shall remain operational throughout its occupancy. There shall be no variation to the approved scheme unless such variation has been approved in writing by the Planning Authority.
Reason: To ensure the development is adequately serviced.

9. No development shall commence until written evidence is provided on behalf of Scottish Water that a mains water connection shall be made available to serve the development, unless otherwise agreed in writing by the Planning Authority. Thereafter, the approved water supply shall be operational prior to occupancy of the development and no alternative water supply shall be used without the prior written agreement of the Planning Authority.
Reason: To ensure the development can be adequately serviced.

10. Prior to the occupation of the development hereby approved, a flood event evacuation plan shall be submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be operated in strict accordance with the agreed evacuation plan.
Reason: to reduce the impact of flooding during flood events.

11. The development hereby approved shall be occupied for holiday use only and shall not be used as a person's sole or main residence or as temporary or permanent residential accommodation. The occupation of the caravans shall be restricted to genuine holidaymakers and shall not be let to the same individual, and/or to different individuals within the same family, group and/or party, for any period of time in excess of 4 weeks in total within any consecutive period of 13 weeks. The operator shall maintain an up-to-date register of the names of all holiday makers staying in the caravans and their main home addresses. This information shall be made available for inspection at all reasonable times by an authorised officer of the Planning Authority.
Reason: To ensure compliance with the adopted development contributions policy, to retain effective control over the development and to ensure that the caravans, in line with the details presented in support of the planning application, are only used

as holiday accommodation and are not used as private dwellinghouses by any long term or permanent residents.

Informatives

1. Bat roosting potential was identified within the site at the toilet block and trees however no works are proposed at either. Further surveys would be required should this change at the Approval of Matters Specified in Conditions (AMC) stage.
2. SEPA recommend a minimum 600mm freeboard allowance is used to account for the inherent degree of uncertainty involved in all flood modelling. Detailed proposals at the Approval of Matters Specified in Conditions (AMC) stage. should reflect this requirement.
3. In respect of condition 7, the applicant is advised that approval under the planning condition by the Planning Authority will not purport to grant technical approval of the scheme on behalf of the Council as regards Building Regulations under the Building (Scotland) Act 2003. It is for the applicant to secure compliance with the Building Regulations separately (regulated by the Council's Building Standards Authority), and to also comply with registration/licensing requirements in the Water Environment (Controlled Activities) Regulations as implemented by SEPA. The applicant should therefore ensure that any scheme is first designed to comply with the Building Regulations and CAR requirements before making any submissions seeking compliance with the planning condition. Submission of the following is recommended:
 - A basic scaled site plan showing the location and layout of the treatment tank and discharge system (e.g. soakaway), and any connection to (and details of) any watercourse outfall. If the soakaway is to be mounded, basic sectional drawings should be provided. The discharge system should be sized in accordance with the Building Regulations and the applicant should confirm that is the case. Not doing so risks the need for subsequent changes that will need to be subject to a revised condition submission
 - If the scheme has a Building Warrant and/or CAR Registration/License from SEPA, then confirmation to that effect should be included with your submission.

DRAWING NUMBERS

Location Plan – 13 November 2023

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

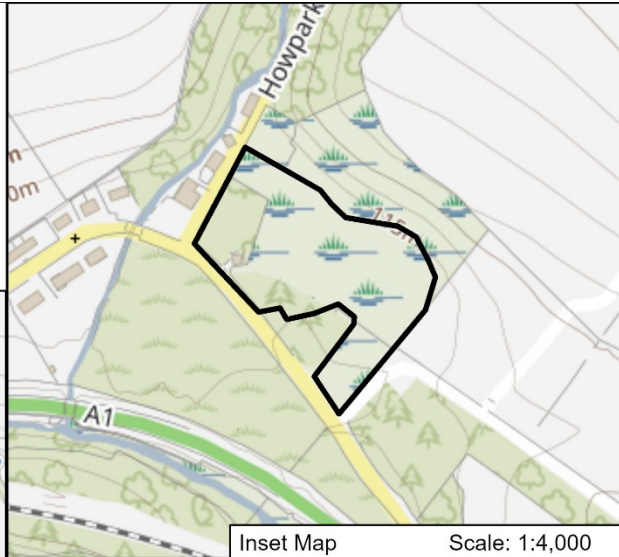
The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

Author(s)

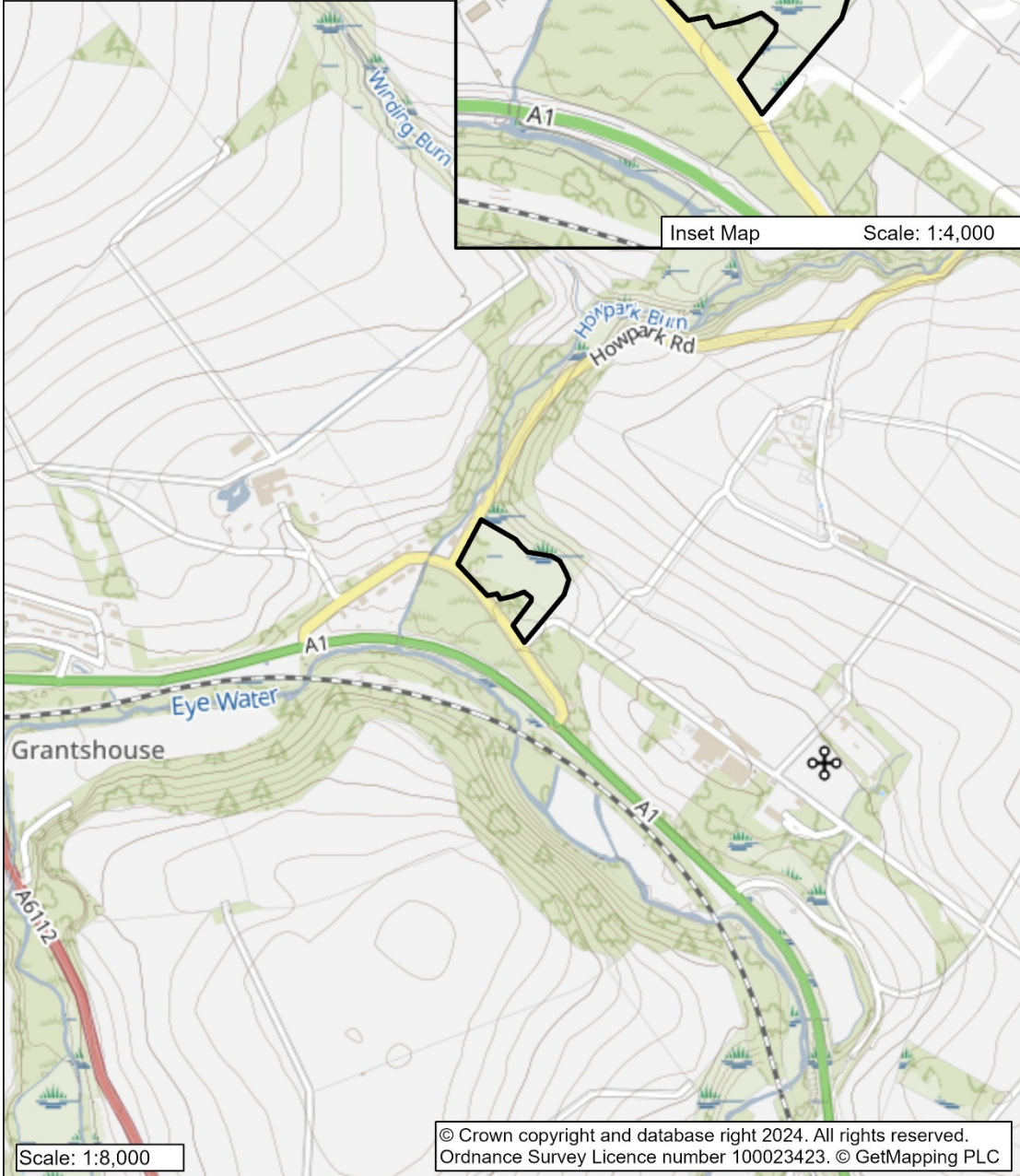
Name	Designation
Paul Duncan	Planning Officer



23/01682/PPP
Grantshouse Caravan Park



Inset Map Scale: 1:4,000



Scale: 1:8,000

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PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

25th March 2024

1 PURPOSE

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

2 APPEALS RECEIVED

2.1 Planning Applications

- 2.1.1 Reference: 23/00646/LBC
Proposal: Replacement roof to glasshouse
Site: Garden House Linthill, Melrose
Appellant: Mr Geoff Longstaff

Reason for Refusal: The proposed development does not preserve the special architectural and historic interest and therefore harms the significance of the listed building. The proposal fails to comply with Policy 7 of the National Planning Framework 4 and Policy EP7 of the Scottish Borders Local Development Plan 2016.

Reasons for Appeal: The building subject to this appeal is a Category B Listed Building that sits within the walled garden at Linthill. In 2019, the glass house was dismantled and reconstructed, with a link introduced, integrating the glass house as a habitable room of the existing dwelling. At the time of dismantlement, it was widely accepted that the original glass house was in a deteriorated condition and that the majority of the original, historic fabric was beyond repair. It is considered that taking into account the addition of the contemporary dwelling within the Walled Garden, and loss of the historic fabric of the glass house, this has resulted in a detrimental impact on the significance of the glass house and Walled Garden itself. Special architectural and historic interest in the Listed Building remains, albeit moderately reduced. Furthermore, the integration of the glass house into the dwelling has altered the character of the once autonomous nature of the structure itself.

It is considered that the proposed development is required to ensure a neglected historic building is brought back into a sustainable and productive use, that is resilient to current and future impacts of climate change. It is also considered that the existing glass house has already been subject to loss of its historic fabric and experienced harm to its special architectural and historic interest, whilst this has been

retained/recreated where possible, it is not considered that the introduction of a shingled roof brings any further harm to the Listed Building. In addition, the proposed development is essential in order to create a resilient and future proofed building that brings a neglected historic building back into active use.

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

2.2 Enforcements

Nil

2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

Nil

3.2 Enforcements

Nil

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained 3 appeals previously reported on which decision were still awaited when this report was prepared on 15th March 2024. This relates to sites at:

<ul style="list-style-type: none">• Land East of Kirkwell House, Preston Road, Duns	<ul style="list-style-type: none">• Middle House, Kingsmuir Hall, Bonnington Road, Peebles
<ul style="list-style-type: none">• Land South East of Mounthooly House, Jedburgh	<ul style="list-style-type: none">•

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 23/00647/FUL
Proposal: Replacement roof to glasshouse
Site: Garden House Linthill, Melrose
Appellant: Mr Geoff Longstaff

Reason for Refusal: The proposed development does not preserve the special architectural and historic interest and therefore harms the significance of the listed building. The proposal fails to comply with Policy 7 of the National Planning Framework 4 and Policy EP7 of the Scottish Borders Local Development Plan 2016.

- 5.2 Reference: 23/01003/FUL
Proposal: Commercial storage facility comprising 30 no. storage containers with associated works
Site: Former Gas Works, Princes Street, Innerleithen
Appellant: Mr M Campbell

Reason for Refusal: The development would be contrary to Policy IS8 of the Local Development Plan 2016 and Policy 22 of National Planning Framework 4 in that it would be sited within a flood risk area and would potentially lead to increased flood risk affecting surrounding properties, thus putting the safety of persons at risk, and risking damage to property. Furthermore, the proposal would, by having such flood implications, fail to account for and adapt to climate change risks, to the detriment of neighbouring properties and public safety, thus conflicting with Policies 1 and 2 of National Planning Framework 4. Other material considerations do not outweigh these policy conflicts and the resulting harm that would potentially arise from the development.

- 5.3 Reference: 23/01381/FUL
Proposal: Change of use of church and alterations to form dwellinghouse (revision to planning permission 22/01508/FUL)
Site: Westruther Parish Church, Westruther
Appellant: Mr Graeme Wright

Reason for Refusal: The proposed development fails to comply with Policy 14: Design, quality and place of National Planning Framework 4 and Policy PMD2: Quality Standards of the Scottish Borders Local Development Plan 2016 in that the scale and design of the proposed sliding doors to the south elevation of the building would have a detrimental impact upon its character and appearance.

- 5.4 Reference: 23/01845/FUL
Proposal: Change of use of public house, alterations and extension to form dwellinghouse
Site: Public House, 3 Orrock Place, Hawick
Appellant: Mr & Mrs David McLean

Reason for Refusal: The development would be contrary to Policy IS8 of the Local Development Plan 2016 and Policy 22 of National Planning Framework 4 in that the proposed site is located within an area at risk of flooding and the proposed change of use from a public house (Sui Generis) to a residential dwellinghouse (Class 9) would result in a higher class of vulnerability as defined in SEPA's Flood Risk and Land Use Vulnerability Guidance. The resulting threat to future occupants of the property would not be overridden by material considerations.

6 REVIEWS DETERMINED

- 6.1 Reference: 22/00532/PPP
Proposal: Erection of dwellinghouse
Site: Land West of The Garden House, Brieryyards, Hornshole Bridge, Hawick
Appellant: Mr Michael Johnson

Reasons for Refusal: 1. The proposed development would be contrary to Policy HD2 of the Scottish Borders Local Development Plan 2016, New Housing in the Borders Countryside Supplementary Planning Guidance and Policy 17 of National Planning Framework 4 in that the site does not form part of an existing building group of at least three houses or buildings currently in residential use, or capable of conversion to residential use and it has not been adequately demonstrated that the proposed house is a direct operational requirement to support an established rural business or other enterprise at this location. This would lead to an unsustainable form of development which would have a detrimental impact on the character and amenity of the rural area. This conflict with the development plan is not overridden by any other material considerations. 2. The development is also contrary to policy PMD2 of the Scottish Borders Local Development Plan 2016 in that the proposed dwellinghouse would result in additional vehicular traffic on a sub-standard access to the public road to the detriment of road safety. This conflict with the development plan is not overridden by any other material considerations.

Method of Review: Review of Papers

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

6.2 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.

Method of Review: Review of Papers and Site Visit

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

6.3 Reference: 23/01007/PPP
Proposal: Erection of dwellinghouse with access and associated works
Site: Land East of Mos Easley, Teviothead
Appellant: Buccleuch Estates Ltd

Reason for Refusal: The development would be contrary to Policy HD2 of the Scottish Borders Local Development Plan (2016), Policies 9 and 17 of NPF4 (2023) and the New Housing in the Borders Countryside Guidance (2008) because it would constitute housing in the countryside that would lead to an unjustified sporadic expansion of development into a previously undeveloped field likely leading to extension of the group that would adversely affect its character. These policy conflicts are not sufficiently overridden by other material considerations.

Method of Review: Review of Papers

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

6.4 Reference: 23/01014/FUL
Proposal: Erection of dwellinghouse
Site: Garden Ground of Glenfield, 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.

Method of Review: Review of Papers and Site Visit

Review Decision: Decision of Appointed Officer Upheld

7 REVIEWS OUTSTANDING

7.1 There remained 8 reviews previously reported on which decisions were still awaited when this report was prepared on 15th March 2024. This relates to sites at:

• The Blue House Near Swansfield Farm, Reston, Eyemouth	• Land Adjacent Carnlea, Main Street, Heiton
• Middle House, Kingsmuir Hall, Bonnington Road, Peebles	• Land East of Blinkbonny Farmhouse, Kelso
• Land East of Buckletons, Stichill Stables, Kelso	• 8 St Dunstan, Lilliesleaf
• Land East of Morebattle Mains Cottages, Morebattle	• 11A Roxburghe Drive, Hawick

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained no S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 15th March 2024.

Approved by

Ian Aikman
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