

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

4 NOVEMBER 2019

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 18/01620/FUL
OFFICER:	Paul Duncan
WARD:	East Berwickshire
PROPOSAL:	Erection of poultry building and associated works
SITE:	Hutton Hall Barns, Hutton, Scottish Borders
APPLICANT:	MacLean Eggs Ltd
AGENT:	Hodgson And White Ltd

PLANNING PROCESSING AGREEMENT: A PPA was previously agreed with the applicant with provision for extension to Monday 4 November 2019 to allow Members to visit the site prior to determination.

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE: The application was continued from the October meeting of the Planning and Building Standards Committee to allow for a site visit. The site visit is scheduled to take place on Wednesday 30th October 2019.

SITE DESCRIPTION

The proposed site is situated in the gently rolling arable farmland found between the Berwickshire villages of Hutton and Allanton.

This area hosts existing large poultry units. Around 110m north of the proposed building, a similar poultry unit (known as Shed 3) has recently been erected following planning approval on appeal to the Scottish Ministers last year. Further from the site, to the north-west, Sheds 1 and 2 sit west of Hutton Castle Barns. Additional poultry developments are located to the north-east of the proposed site.

The host field slopes down gently from a low ridge to the south of the proposed site to the Cabby Burn, which bounds the field to the north, and dissects it to the west. To the east and south, the field is bound by farm tracks which connect to the applicant's home farm (Hutton Hall Barns farm). In bounding the field, the Cabby Burn provides a natural boundary between the fields hosting Shed 3 and the proposed Shed 4. Overhead lines follow the burn. It meanders east, north then west to the rear of Sheds 1 and 2, before discharging into the Whiteadder Water roughly a mile from the site. The Whiteadder, in turn, is a tributary to the River Tweed. Both are designated as Special Areas of Conservation (SAC) and Sites of Special Scientific Interest (SSSI).

The nearest dwellinghouse, 'Four Seasons' is located around 400m to the south of the proposed site. A mature woodland block separates the house from the site. Hutton Castle Barns hamlet is located around 500m to the north of the site, which together with Hutton Hall Barns farm comprises a significant cluster of dwellinghouses and farm buildings. Broomdykes Farm and building group lie further from the site at a distance of around 700m to the west of the site.

The nearest public road connects Hutton Hall Barns with the B6460 road around 1km to the south of the site. A former field access has now been upgraded as part of the Shed 3 development to provide formal vehicular access. This would also serve Shed 4. There are no Core Paths or recorded Rights of Way within the surrounding area.

PROPOSED DEVELOPMENT

The proposed site is irregular in shape and roughly 1.7 hectares in size. A single poultry building with a footprint of 147m by 29m, a ridge height of 7m and an eaves height of less than 3m would be erected to house 32,000 free-range birds for the purpose of egg production. The size of the proposed shed increased by 25m in width (from 122m to 147m) during the course of the application. Stocking numbers would not change; instead, lower stocking density would result.

The building would stand around 150m east of the minor road which connects Hutton Hall Barns with the B6460, and roughly 110m to the south of Shed 3. The building would be of steel portal frame construction, finished using juniper green steel cladding as Sheds 1-3 were. A large flat site would be formed to accommodate the building via cut and fill earthworks across the proposed site. A substantial landscaping scheme involving the formation of earth mounds and tree planting has been designed to help screen the development. Together with the landscaping for Shed 3, this would produce a large riparian woodland adjoining the Cabby Burn.

Ventilation would be computer controlled and provided by 4 gable wall fans and 40 exhaust air chimneys and fresh air inlet chimneys. As well as the main area for hens, the building would also house a staff toilet. 9m high feed bins would be sited on concrete plinths outside the poultry building. Part of the south-facing roof of the building would host PV panels.

The vehicular access junction which serves Shed 3 would also serve the proposed development, via a new access track spur. A large area of hardstanding would be formed around the building. Surface water would be treated via a Sustainable Urban Drainage System (SUDS) system prior to discharge to the Cabby Burn during both the operational and construction phases.

PLANNING HISTORY

There is no planning history at the proposed site. As noted above, poultry developments have been approved previously in the locale and these are relevant to the consideration of this application. There are three distinct clusters of these developments, which are grouped accordingly and detailed below.

East and North East of Hutton Castle Barns hamlet

- 06/00326/FUL - Mobile Poultry Unit. Approved March 2006 (time limit condition modified by approval of 07/01741/FUL).
- 07/01752/FUL - Erection of Mobile Poultry Unit etc. Approved October 2007.
- 08/02047/FUL - Erection of Mobile Poultry Unit etc. Approved March 2009.
- 10/00036/FUL - Erection of Poultry Unit etc. Approved May 2010.
- 14/01347/FUL - Siting of Mobile Poultry Unit. Approved February 2015.

West of Hutton Castle Barns hamlet

- 15/01173/FUL – Shed 1 - Erection of poultry building etc. Approved by the Planning and Building Standards Committee in February 2016.
- 16/01430/FUL – Shed 2 - Erection of poultry building etc. Approved by the Planning and Building Standards Committee in March 2017.

South/ South-West of Hutton Castle Barns hamlet

- 17/00623/FUL – Shed 3 - Erection of poultry building and associated works. Refused by the Planning and Building Standards Committee November 2017 as contrary to LDP policies ED7 (Business, Tourism and Leisure Development in the Countryside), ED10 (Prime Quality Agricultural Land), HD3 (Residential Amenity) and EP1 (International Nature Conservation Sites and Protected Species). Approved on appeal to the Scottish Ministers in November 2018.

REPRESENTATION SUMMARY

Objections were received from 6 households raising the issues summarised below:

- Scale of development out of keeping with the area
- Cumulatively, poultry developments have now reached a point of imbalance in local area
- Greenfield site/ loss of good quality farmland
- Risk of environmental harm to River Tweed via Cabby Burn and the Whiteadder Water
- Chicken manure harms soil structure
- Adverse residential amenity and general impacts including vermin, odour, litter, and noise nuisance
- Buildings could be used to stock pigs
- Proposals contrary to comments provided in Reporter's Appeal Report
- Lack of a masterplan or framework for future poultry building developments
- Landscape and visual impacts (including cumulative impacts)
- Insufficient information to determine the visual impact of the proposed development
- The current landscaping proposals do not compare favourably with the proposals for shed 4 in terms of tree numbers or maintenance
- Landscaping proposals accepted for Shed 3 do not accord with the Reporter's comments at the time of approving Shed 3
- Insufficient information submitted [no Environmental Statement, Drainage Impact Assessment, Flood Risk Assessment, SUDS details, or Design and Access statement]
- Increased traffic (construction and operational)
- Road safety
- Over-provision [not a material planning consideration]
- Loss of view [not a material planning consideration]

APPLICANTS' SUPPORTING INFORMATION

The applicant submitted the following supporting information:

- Supporting Statement
- Section Drawings
- Landscape and Visual Impact Assessment
- Ecological Impact Assessment
- Operational Plan
- Manure Management Plan

- SEPA PPC Inspection Assessments
- Supporting Letters

DEVELOPMENT PLAN POLICIES:

Scottish Borders Council Local Development Plan 2016

PMD1: Sustainability
 PMD2: Quality Standards
 ED7: Business, Tourism and Leisure Development in the Countryside
 ED9: Renewable Energy Development
 ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils
 HD3: Protection of Residential Amenity
 EP1: International Nature Conservation Sites and Protected Species
 EP2: National Nature Conservation Sites and Protected Species
 EP3: Local Biodiversity
 EP7: Listed Buildings
 EP8: Archaeology
 EP10: Gardens and Designed Landscapes
 EP13: Trees, Woodlands and Hedgerows
 EP15: Development Affecting the Water Environment
 EP16: Air Quality
 IS7: Parking Provision and Standards
 IS8: Flooding
 IS9: Waste Water Treatment and SUDS

OTHER PLANNING CONSIDERATIONS:

- Biodiversity Supplementary Planning Guidance 2005
- Landscape and Development Supplementary Planning Guidance 2008
- Local Biodiversity Action Plan Supplementary Planning Guidance 2001
- Renewable Energy Supplementary Guidance 2018
- Trees and Development Supplementary Planning Guidance 2008
- Waste Management Supplementary Guidance 2015
- Planning Circular 4/1998: The Use of Conditions in Planning Permissions
- Planning Circular 1/2017: Environmental Impact Assessment regulations
- River Tweed Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) - Advice for developers and competent authorities when considering projects which could affect the River Tweed SAC and SSSI
- Planning Advice Note 39: Farm and Forestry Buildings
- Scottish Planning Policy 2014

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Ecology Officer - first response: Ecological considerations include impacts during the construction and operational phases, including potential impacts on designated sites, and potential impacts on protected species present on, or near the development sites. Construction impacts could include destruction of habitat, disturbance and killing and injury of protected species, dust, noise, lighting, pollution and sediment run-off. Operational impacts could include surface water run-off and waste water impacts on freshwater habitat and lighting causing disturbance of protected species. Mitigation could include surface and waste water

treatment, sensitive lighting scheme and badger-proof fencing to avoid interactions with poultry. SuDS basins may require badger-proof fencing. The submitted plans include creation of a bund and landscape planting of mainly native species that may provide biodiversity enhancement.

A proportionate Ecological Impact Assessment (EclA) is required, prior to determination, informed by an initial assessment (Preliminary Ecological Appraisal), including a report of the biological records in the desk-top appraisal. The EclA should include an assessment of impacts on designated sites, protected species, terrestrial and freshwater habitats.

Ecology Officer - second response (following submission of EclA and following submission of revised proposals to increase size of the proposed building): No objection, subject to conditions.

Designated Sites

There is potential drainage connectivity via the Cabby Burn to the Whiteadder Water part of the River Tweed SAC/SSSI (qualifying interest SAC: European otter, atlantic salmon, brook lamprey, river lamprey, sea lamprey and Water courses of plain to montane levels with the *Ranunculon fluitantis* and *Callitricho-Batrachion* vegetation).

SNH's response (4th December 2018) advises that mitigation for control of sediment run-off during construction and pollution prevention from waste during operation including use of SuDS, is required. SEPA require a variation to an existing Pollution Prevention and Control (PPC) licence.

The *Preliminary Ecological Appraisal & Impact Assessment (Confluence Consulting, 3 April 2019)* in its summary states that there should be little impact on the River Tweed SAC, although assessment has only been made in relation to otter. The Supporting Statement (McLean Eggs) includes a commitment to implement a SUDS system to treat surface water. A construction SuDS is also to be designed and built to mitigate impacts on the watercourse. SAC Consulting are to design a suitable SUDS system. No further details have been provided. The PPC licence includes a requirement for construction SuDS to CIRIA standards.

Manure storage and emissions of dust and ammonia are controlled under the PPC licence. A SCAIL assessment has been carried out indicating negligible impacts on the designated site. A Habitat Regulations Appraisal has been carried out [appended to the Ecology Officer's second consultation response dated 25 July and available via *Public Access*]. In conclusion the proposal will not have an adverse effect on the integrity of the River Tweed SAC.

Other habitats

The submitted *Preliminary Ecological Appraisal & Impact Assessment (Confluence Consulting, 3 April 2019)* is satisfactory. A Phase 1 habitat survey was carried out, the majority of the development area is arable field, other habitats recorded in the survey area include running water (adjacent to the development), standing open water (ponds), improved grassland, hedgerows, walls and dykes and broadleaved plantation woodland.

Habitat loss is likely to be mainly arable field and defunct hedgerow (species-poor). The ecology report states that sedimentation into the Cabby Burn should be minimised through a wide buffer strip of new broadleaved trees. The habitats are of low value and impacts will be negligible. Landscape planting may compensate for habitat loss and it is preferable that this includes a native & riparian woodland mix, planted at the relevant density for native woodland, along the north and west boundaries could provide an enhancement.

Protected Species

Otter

An otter survey was carried out in September 2018 in support of the application for Shed No.3. No updated survey was carried out (or required) but otter signs were looked for during the Phase 1 habitat, badger and breeding bird surveys, a single, old spraint was recorded at the pond in Cannybank covert. The results of the 2018 survey show that the watercourse (Cabby Burn) is largely unsuitable for regular use by otter, being seasonally dry in stretches and lacking obvious populations of prey. Signs of activity (2 spraints and a single otter footprint) were recorded at the in-stream ponds (Canny bank covert- single spraint & footprint, pond adjacent to shed No.1- single spraint). There is unlikely to be more than occasional use of the watercourse by otter and there is no evidence of resting places. Mitigation measures are included in the 2018 report and on a precautionary basis these measures could be included in a Species Protection Plan.

Badger

A badger survey was carried out within 400m of the centre of the site. Within the survey area a main badger sett and four satellite setts, latrines, snuffle holes and a network of badger paths was recorded. No badger setts are currently located within disturbance distance from the development. Badger activity in and around the proposed development site means that mitigation measures will be required in a Species Protection Plan. Mitigation measures are included in the report including badger-proof fencing around the SuDS ponds.

Breeding birds

Survey based on Common Bird Census methodology was carried out on 29 March 2019. A single visit will only provide a snap shot of activity and survey was carried out very early in the breeding season. 23 bird species were recorded including barn owl (Schedule 1 species), starling, yellowhammer and house sparrow (*Red-listed species: Birds of Conservation Concern*). A skylark was recorded on territory within the field where the development is proposed. The report does not recommend mitigation on the basis that "Low threat" to farmland birds and small area of habitat loss. In accordance with good practice, mitigation is required to ensure that wild birds, their nest, eggs and young are not killed, injured or disturbed by the development. Mitigation measures for breeding birds are required in a Species Protection Plan including habitat clearance out with the breeding season and supplementary surveys if works are to commence during the breeding season (March-August).

Conclusion

Provided the mitigation is implemented in full, the proposed development is acceptable in terms of LDP policies EP1, EP2 and EP3.

Environmental Health: No objection.

Poultry sheds have the potential to give rise to issues that can adversely impact nearby residential amenity including odour, noise, insects, vermin, local air quality and light nuisance. The applicant has submitted an Operational Plan that adequately demonstrates how the Poultry Unit will be managed to minimise the likelihood of these issues occurring.

The poultry sheds will likely contain ventilation machinery that will run continuously. This machinery can produce noise that may impact on nearby residential amenity. As such, it is recommended to use conditions to ensure the noise levels are controlled and machinery maintained.

It is noted that development will be serviced by public mains water supply and there will be new septic tank with soakaway for the toilet.

The applicant should implement the submitted Operational Plan to ensure reduced likelihood of impacts to local residential amenity with regards to odour, pests, light nuisance, insects and air quality. Noise from machinery related to development should be controlled. Machinery related to development should be regularly maintained to ensure noise levels are minimised.

Flood Risk Officer - first response: Review of the application shows that that proposed site is located within SEPA's 1:200 year flood hazard map and is at risk of flooding from the Cabby Burn. Given the proximity of the proposed development to the Cabby Burn topographical information such as cross sections is required to further assess the flood risk of the proposed development and should be provided by the applicant.

Drawing 001C indicates that an access track to the proposed development will 'utilise existing burn crossing point within the field. It should be noted that any culverts, water crossings or alterations to existing crossings should not reduce the flow conveyance of the watercourse. Further details of the proposed crossing should also therefore be provided. Drawing 001C also shows another crossing point downstream of this indicated crossing. Clarification of the crossing(s) should be provided by the applicant.

Flood Risk Team - second response (following submission of further information): No objection. The proposed development is suitably sited above the 1:200 year floodplain of the Cabby Burn. The information supplied confirms that the culvert has the capacity to convey the 1:200 flood flow.

Landscape Officer - first response: No objection. The main visual receptors are the short stretches of the local minor road on the western boundary; the approach from Broomdykes to the west; the western end of the road to Hutton (LVA viewpoint 1) and some properties at Hutton Castle Barns.

Generally the mature hedgerows and hedgerow trees combined with the undulating landform and intervening tree belts should limit potential visibility when travelling along local routes with glimpses of the site being visible where there are breakages in the field boundaries. Where this is the case to the north as well as from properties at Hutton Castle Barns the proposal combined with the approved shed 3 development may appear as a long rigid linear element clearly visible within the landscape, with feed bins rising up above the shed roof line. If the shed 3 goes ahead its screen planting, once established should assist in partially filtering the views of shed 4 from the north.

The scale of the receiving landscape, in terms of the woodland cover, landscape form and field size, is sufficient to accommodate the proposal. It is evident that the existing hedges, hedgerow trees and woodland belts provide localised containment and enclosure and filter views across the landscape. With adequate bunding, well designed planting and appropriate building colours, the landscape and visual impacts although likely to be significant from one or two local view points in the early years, will reduce over time and views of the building will become largely filtered from view.

The following concerns and issues were raised:

- The proposed site plan should be amended to incorporate broader swathes of screen planting, hedgerow trees and adjusted bunding to ensure that the landscape and visual impacts of the development are adequately mitigated. Preference for greater use of tree planting to 'wrap around' the development, linking to the screen planting of shed 3; in due

- course creating the appearance of one woodland block, to relate in a more meaningful way to the existing woodland cover and field boundaries within the landscape.
- Reinforcement of existing field hedgerow boundaries including hedgerow tree planting along the boundary to the west, would also assist in reducing visibility of the site on approach roads and relate well to the character of the area.
 - A fully detailed topographical survey to ensure the siting of the building is in the most suitable location.
 - Adequate maintenance key to ensuring success of tree planting.
 - The vehicular access to the site will be prominent [note: this access has permission via the approval for Shed 3].

Landscape Officer - second response (following submission of revised proposals to increase size of the proposed building): No objection, but further detailed changes required to the proposed landscaping scheme.

Visibility of the proposed building gable end and the feed bins will be closer to receptors in views when travelling on minor roads to the west of the site. The extension to the proposed shed can be accommodated within the overall scheme if some minor adjustments are made to the landscape layout proposals and planting implementation. To this end it is recommended that the planting of approximately 6no.hedgerow trees to gap up existing trees on the western field boundary as per my previous reply of 05/02/19. These could be feathered trees of mixed native species, positioned approximately 6m apart and protected with spiral tree guards and short stakes.

Sections KW-165-ME 003D show a level ridge line of the bunding to the north and east shown in green on the drawing. This would be improved by some gentle undulations reflecting the bunding for Shed 3. The bunds should blend more gradually on the edges into the surrounding landform, particularly at the eastern and southern edges. The narrowness and steepness of the bunding on the east and north east corner would be a concern. If sufficient material is available an increased width (and height if possible) to the bund in this location would improve the landscape fit and screening benefit. As a minimum, a more meaningful width of woodland planting to the east and south west of the shed is should reflect the 15 -20m planting widths proposed elsewhere and ensure adequate mitigation of the landscape and visual effects of the development.

With regard to the planting design it is noted that the proposals are for planting at 5m minimum spacing. It would be preferable to see the trees on the mounded areas planted at 2.5m centres maximum (1600 per hectare) or closer on the tops of the bunding. In the lower areas where planting relates to the waters' edge this should be riparian woodland to improve opportunities for bio-diversity and could be planted at a maximum of 5m centres (400 trees per hectare).

Maintenance will be important for successful establishment and effective screening of the development.

Roads Planning: No objection. This poultry unit is unlikely to create a significant increase in traffic as it is anticipated that linked journeys for feed, manure, egg collection etc. with the neighbouring unit will be undertaken. The passing place constructed as part of application 17/00623/FUL (approved on appeal) is sufficient to also cater for the slight increase in traffic associated with this proposal.

Statutory Consultees

Scottish Environment Protection Agency (SEPA) - first response: No objection. A PPC variation permit to include the 4th shed and its operation will be required.

The application for a permit variation shall consider the following in line with the Standard Farm Installation Rules for Intensive Agriculture PPC permitted sites; housing and ventilation; slurry (and manure) storage; odour management; noise management; point source and fugitive emissions – mainly of dust and ammonia; SUDS (including suds for the construction site) – to CIRIA standard; containment of contaminated water (i.e. house cleaning, vehicle wash); energy use and production; general management of the site and good housekeeping; operational and emergency procedures; site condition prior to the permit; and decommissioning.

Consentability under these Regulations depends on evidence from the applicant that the site shall meet Best Available Techniques (BAT) conclusions and BAT for SuDS (CREW Rural SuDS Practical Design and Build Guide). The applicant will need to carry out a Simple Calculation of Atmospheric Impact Limits (SCAIL) for the whole site (that being all 4 sheds). If the site shows exceedances then site-specific emission modelling may be required.

The new access track uses an existing burn crossing. Assuming there is no requirement to upgrade the existing crossing, no Controlled Activities Regulations engineering authorisation will be required.

The application site lies adjacent to the medium likelihood (0.5% annual probability or 1 in 200 year) fluvial flood extent of the SEPA Flood Map, and may therefore be at medium to high risk of flooding. As the site is adjacent to the indicative flood envelope and we hold no additional information to indicate that the site is at flood risk, we have no objection to the proposed development on flood risk grounds.

SEPA - second response (following submission of revised proposals to increase size of the proposed building): No objection. The amendments do not affect the comments made in the original consultation response and as such we have no objection to the application. Advise that with regard to the proposed use of soils to build a bund - the operator should follow Green Soils Guidance and demonstrate that the bund is required and is not a waste disposal operation.

Scottish Natural Heritage (SNH) - first response: The proposal is adjacent to a small tributary of the Whiteadder Water, which is part of the River Tweed SAC and SSSI.

The proposal has the potential to affect water quality through release of waste of high nitrogen content. The appeal recognised this threat but also affirmed pollution prevention measures identified by SEPA. Provided these measures are translated into this current planning proposal SNH does not consider that waste from the poultry shed will have an adverse impact on the SAC or SSSI.

Given proximity to the Cabby Burn, there is potential for the construction process to release silt-laden run-off. The reporter's appeal notice (paragraph 28) identified a requirement for SUDS facilities to treat run-off from the poultry facility, including construction-related run-off. Expect similar requirements with this proposal, in order to prevent impacts on local watercourses and thereby the designated site.

Drawing number 001C indicated that a new crossing point for the Cabby Burn might therefore be required. This should be clarified by the applicant.

As noted from the appeal, there was no evidence of otter in the vicinity of the previous application. It is considered likely that otter would similarly be absent from the location of the current proposal. Survey work and licencing for protected species are therefore not required.

However, SEPA may wish to comment on, or regulate construction of a new crossing point, to ensure that working practices do not impact on river quality, for example through the release of silt into the Cabby Burn, and thereby into the SAC.

SNH - second response: Since the new bridge is now in place, and was licenced by SEPA, SEPA have further observations to make on this application.

SNH - third response (following submission of revised proposals to increase size of the proposed building): SEPA note that changes that have been made. SNH has no further observations to make on this proposal.

Hutton and Paxton Community Council: “Residents affected by this application have already made their views known. There is no need to repeat these again in similar detail however, members of Hutton & Paxton CC are in full support of the comments made. It is our role as a Community Council to do so and to report the same to SBC.

There are also certain issues related to those comments that we must expand upon.

When asked at a previous Community Council meeting, the applicant responded to a query on future intentions beyond the recent shed recently approved. The reply was that no further sheds were intended for Hutton Castle Barns. The Minute of that meeting reflects this assurance.

This latest application would increase the number of poultry sheds to nine, all within a confined area and surrounding a hamlet with industrial scale egg production. This surely contravenes the Local Plan which emphasise the need for sustainability and balance.

The expression “tipping point” has now been used three times, first by an elected member of SBC, later reiterated by myself as a community councillor at a planning committee and later by the Reporter. If the expression is to mean anything, particularly when used by the latter having the final say in such matters, the tipping point towards unsustainability and a balanced regard for the environment was regarding the previous shed. Taking account of what was said both in the first paragraph and the above, surely no further sheds are admissible.

A resident makes the valid point that sheds can remain visible even with screening which includes inadequate earth mounds. Integrating sheds into the landscape at this location is impossible without completely altering both the landscape and the environment and thereby must be contrary to SBC’s stated regard for balance.

CC members are astonished that SEPA remain seemingly unconcerned at the risk of pollution into the burn which flows directly into the Whiteadder River nearby. One resident comments that those with specialist knowledge has suggested that declining numbers of young fish in the river may well be at risk of declining further if another shed is positioned close to the aforementioned burn. Young fish are very susceptible to pollution, however mild it may be, from run-off to a burn.

The site in question is now overdeveloped, environmentally unsustainable and carries associated inherent risks. The Community Council objects to the proposal and recommends it be refused.”

KEY PLANNING ISSUES:

The key planning considerations are:

- Impacts on the character and amenity of the surrounding area, including but not limited to residential amenity impacts, taking account of cumulative impacts of the development in combination with existing poultry developments;
- Landscape and visual impacts of the proposed poultry building and associated works, including consideration of cumulative impacts of the proposed development in combination with existing poultry developments;
- Biodiversity impacts, including those to the Cabby Burn, protected species and designated sites, and including consideration of cumulative impacts of the proposed development in combination with existing poultry developments.

ASSESSMENT OF APPLICATION:

Policy Principle

The principle of these proposals can be assessed against the Council's Local Development Plan policy ED7 (Business, Tourism and Leisure Development in the Countryside). Policy ED7 aims to enable appropriate employment generating rural development whilst protecting the environment and ensuring development is appropriate for a rural location. The policy is supportive of development that would be used directly for agricultural operations or for uses which by their nature are appropriate to the rural character of an area. The policy requires such development to respect the amenity and character of the surrounding area and have no significant adverse impact on nearby uses, particularly housing.

The Planning and Building Standards Committee concluded that the previously considered Shed 3 development would be contrary to LDP policy ED7. The Committee judged that the poultry unit would not respect the amenity and character of the surrounding area, and the additional impact on the expansion and intensification of uses as well as the scale of the development would be inappropriate for the rural character of the site. The refusal of the application was appealed to the Scottish Ministers, and the Reporter appointed by Ministers overturned the decision and granted planning permission.

The Reporter concluded that - in principle - poultry developments satisfy the overarching requirements of Policy ED7, which is not worded so as to preclude large scale agricultural developments, provided adverse impacts can be avoided or mitigated.

Whilst large scale poultry developments are not fundamentally incompatible with a rural location, they may magnify the usual impacts associated with standard agricultural developments, particularly where cumulative impacts may arise.

The Reporter's comments at paragraph 25 of the appeal report for Shed 3 have been quoted in objections and subsequently by the applicant in response. The Reporter considered whether a tipping point had been reached in the number and distribution of large poultry developments around Hutton Castle Barns. Evidently, in approving the application, the Reporter found this was not the case. As the Reporter's comments have been a significant point of discussion, they are quoted in full below for reference.

"As well as the afore-mentioned issues, the representations have raised concerns that the residents of Hutton Hall Barns are gradually being encircled by poultry sheds, and that the proposed shed would be a tipping point in this regard. I agree that, on plan, there are poultry sheds to the east, north east and west of Hutton Hall Barns: the appeal site would add another

shed to the south. However, while the five sheds to the east and north east are in relatively close proximity to residential properties in the hamlet, the 2016 and 2017 sheds are at least 450 metres west of the westernmost properties (Merlewood and Hutton Castle Barns); the proposed shed would be approximately 400 metres to the south. At the site inspection I did not observe such a feeling of enclosure, given the relative distances and the vegetation that acts to screen some of these sheds from view, and I therefore consider that the proposal is acceptable in this regard."

The Reporter's comments do not indicate that the surrounding area has limited capacity to accommodate further poultry developments. The proposed erection of a further poultry unit demands fresh assessment. This must take account of cumulative impacts, including - but not limited to - impacts in combination with Shed 3.

The proposed site is a significant distance to neighbouring residential properties, and neighbouring uses (mainly arable farming) would not be compromised by the proposed development or related operations. The decision to site poultry sheds relatively close to each other is broadly welcomed, as this secures a relationship between the units erected and reduces the overall spread of the developments across the area, which could otherwise contribute to a sense of sprawling or sporadic rural development.

Whilst objectors are concerned they may be encircled by these developments, the distances and intervening landforms between neighbouring properties are significant. The efforts to screen Sheds 3 and 4 would also substantially reduce the prominence and amenity effect of the developments, safeguarding the rural character and amenity of the area. Detailed consideration of landscape, visual and residential amenity impacts is set out further below, under the relevant section. In principle however, it is considered that a further poultry development could be accommodated at this location in a manner which respects the character and amenity of the surrounding area, as Policy ED7 requires.

The supporting statement submitted with the application confirms that the development would generate full time employment.

Landscape and Visual Impacts

Policy Context

The proposed site is not located within or near to an area designated for landscape quality or special landscape protection. Landscape impacts must therefore be assessed against the LDP's standard policies for landscape protection, including PMD1 (Sustainability) and PMD2 (Quality Standards). Policy PMD1 states that landscape protection is a fundamental principle which underpins all the LDP's policies. Supplementing this, Policy PMD2 requires all new development to integrate with its landscape surroundings and encourages the incorporation of appropriate hard and soft landscape works (including structure planting or screen planting where necessary), to help integration with surroundings and the wider environment. Policy ED7 criterion (e) specifically notes that rural business proposals must also satisfy Policy PMD2. Policy HD3 (Protection of Residential Amenity) states that any development will be assessed against visual impact effects on existing residential areas.

Key Public and Private Visual Receptors

The proposed site is visible from various public and private receptor locations. The key public receptor locations are on the public road network, including the public road where it passes to the south-west and west of the site, and the Broomdykes Road. Farm tracks to the south and east of the site do not form part of any known and recorded access routes or rights of way, but may be used by the public.

The development would not be visible from the nearest dwellinghouse ('Four Seasons', roughly 400m south of the proposed site), from the public road within the Hutton Castle Barns hamlet, or from dwellings north of the public road within the hamlet. The two dwellinghouses south of the public road would however be private visual receptors. One of these houses is owned by the applicant. The remaining dwellinghouse, Hutton Castle Barns, would be the most affected private visual receptor.

More distantly, Shed 3 was faintly visible from the 'Chirnside Viewpoint' (east of Chirnside off the B6355 around 3km to the north) prior to the completion of earth screening mounds, although from this perspective other large farm buildings are more prominent in the foreground. The completed mounds may now screen Shed 3 entirely, and in time tree planting should do so. This location – and other elevated areas to the north - may be distant public visual receptors.

Assessment of Landscape and Visual Impacts

The selection of the proposed site has ensured that a tangible relationship would be achieved between the proposed development and Shed 3. Whilst the distance between the two buildings would be substantial (around 110m) the two buildings would share the same vehicular access and the structures would be viewed together from multiple locations. The adverse landscape effect of an entirely isolated farm building in the countryside is therefore avoided.

Modern farm buildings are a common and established feature of the Borders landscape and their design is now fairly standardised. The proposed building would feature many of the familiar characteristics of such buildings: a low pitched roof; profiled sheet cladding; and a matt juniper green finish. The scale - particularly the length of the proposed building - would be great. It is how such scale can fit in the receiving landscape that requires particular attention. The proposed feed bins, which are greater in height than the building itself, are an additional consideration.

For the applicant, the Landscape and Visual Impact Assessment submitted with the application describes the supporting landscape and how the proposed development would fit with it. The Council's Landscape Officer has also described the surrounding landscape in detail, concluding that the scale of the receiving landscape, despite its rolling character, could adequately accommodate development of this size. Landform and landscape features would serve to soften or screen the development to a large extent. Siting the development on the lower north-facing slopes of a modest ridge is appropriate. The ridge should partially screen the building when viewed from the south-west and the south, although without a full topographical survey of the field the full effect of this is not entirely clear. In addition, views would be filtered by existing hedges, dry stone dykes and hedgerow trees, particularly when travelling through the area along the public road. Woodland belts to the south of the site, and on the north side of the Broomdykes road would obscure certain views entirely.

Nevertheless, the proposed development would introduce a large object into the receiving landscape which would require mitigation. As detailed above, this would be achieved by the formation of smooth flowing earth mounds and by a substantial tree planting scheme. The 7m high building would be erected at 58m AOD, 1m below Shed 3 which was erected at 59 AOD. Earth mounds to the west and south would reach a height of 61-61.5m. Mounds erected for Shed 3 vary in height, reaching up to 65m in places but generally along the roadside, sitting at 63m. The lower half of the building would therefore be screened by earth mounds from main key public receptor locations to the south and west. The building may be fully screened when viewed from the north-west before planting matures.

The proposed tree planting area has been modified through the course of the application so that it extends north to the Cabby Burn. The tree planting scheme agreed for Shed 3 will also extend down to the burn. Together, by utilising a mix of native and riparian woodland species, a riparian woodland would be formed along the sides of the Cabby Burn as part of a larger woodland that would almost fully envelop Sheds 3 and 4. This would aid landscape integration and fit, as well as delivering an enhancement to habitat potential in the vicinity of the burn. In addition, the Landscape Officer has outlined further refinements which would further aid the integration of the development into the surrounding landscape and which would be sought as revisions to the scheme via condition.

In the short term, the development would be visible in combination with Shed 3 and other poultry developments in the surrounding area, both from individual viewpoints and from separate viewpoints which would be seen successively whilst travelling through the area. However, once planted trees mature, the development, including the proposed feed bins, would be almost fully screened from the key public receptor viewpoints. Over time, sheds 1-3 will also reduce in prominence.

As noted above, the primary private receptor would be the dwellinghouse known as Hutton Castle Barns, which is located around 500m to the north of the proposed building. Significant concern has been raised regarding the effect of the proposed development on the amenity enjoyed by this dwellinghouse, particularly given the proximity of Shed 3 and the likelihood of cumulative effects of the proposed development in combination with Shed 3.

Whilst the planning system does not seek to protect the views enjoyed by private residential properties, visual effects are considered. The Reporter at the time of the Shed 3 appeal noted that this property would be subject to cumulative impacts owing to the existing visibility of Shed 1 to the west of the house. The dwellinghouse appears to be orientated to enjoy expansive views of the open undulating landscape to the south of the site, towards the proposed development. The Reporter concluded that with mitigation in place, the development would be unlikely to result in significant effects to such views. The objector raises a concern that the mitigation agreed for Shed 3 was inadequate. The objector quotes paragraphs 14 and 15 of the Reporter's appeal statement. This statement was clear – in paragraph 16 - that the building would remain visible in the short term, and would only be softened by the earth mounding. In the longer term, once established, the proposed planting would effectively screen and filter views of Shed 3, including those from Hutton Castle Barns. The details agreed by condition follow the guidance set by the Reporter.

The applicant has recently submitted photographs of the completed screening mounds, including a viewpoint adjacent to the curtilage associated with that dwellinghouse. This shows that the earth mounds have already screened all but the upper roof of Shed 3, and the upper portion of the feed bins. In time, as the Reporter expected, the agreed tree planting arrangements would effectively screen and filter views of the site. The agreed earth mounds have already been shown to be effective in mitigating the landscape and visual impact of Shed 3.

This history is relevant to the current application as it helps set the context by which cumulative effects can be considered against, and demonstrates the successful mitigatory effect that may be achieved by methods which would also be used with the proposed development.

The applicant has gone to significant lengths to reduce the visual effect of these developments. This is appropriate given the scale the building and the cumulative impacts of multiple such developments, but there should be no expectation that modern farm buildings will be entirely concealed from view. Planning policies make no attempt to secure such an outcome. It is also noted that whilst the Reporter expected mitigation for Shed 3 to screen *and filter* views, the

appeal statement did not state that the complete screening of the development was required to achieve policy compliance.

On plan, from 'Hutton Castle Barns', the siting of Shed 4 could be expected to produce a long singular linear intrusion within the landscape in combination with Shed 3 which without mitigation would be inappropriate. However, Shed 3 is now partially screened and in time should be fully screened. Furthermore, mitigation for Shed 4 would further reduce visual effects when viewed from Hutton Castle Barns. This is illustrated in the applicant's submitted section drawing KW-165-ME.

A concern was raised that the section drawing provided does not show the full impact of the building, as it represents the section where Shed 3 earth mounds are in place. The information lodged is considered sufficient to make an assessment. It is acknowledged that screening for the eastern end of the development would be less effective in the short term, but it is anticipated that the first 3m of the building would be obscured immediately. Again, in the longer term, tree planting should screen the building completely. The objector is also concerned that there may be a gap between the earth mounds for Sheds 3 and 4 as viewed from the north-east. Where possible, it would be sensible to address this when landscaping revisions are considered through condition.

Aside from the poultry buildings and feed bins, vehicular access junctions for Sheds 1, 2 and 3 are significant interventions in the surrounding landscape. In the longer term, once planting for Shed 3 matures, the upgraded vehicular access junction may be the most prominent feature of that development. To integrate the access into the surrounding landscape, dry stone walling at the entrance will be rebuilt. This was secured by condition. The shared usage of this vehicular access avoids the need for a further intrusive access, which is to be welcomed.

Finally, PV panels would be installed on the south-facing roof of the proposed building. This would not be a significant concern. PV panels are a prevalent form of renewable energy which planning policies are broadly supportive of. They have been installed on the equivalent elevation of Shed 3 without undue prominence or issues. In time they would be screened when planted trees mature. In the interim, a negligible adverse visual effect would result. Their specification can be controlled by condition.

Landscape and Visual Impacts - Conclusion

The effect of the very substantial scale of the structure on the receiving landscape shall be mitigated to an acceptable degree by the proposed robust planting and screening scheme, subject to some further minor revisions. Once planting becomes established, the landscape effect of the development shall be relatively limited for a building of such scale.

To secure the required mitigation, robust planning conditions are recommended. The Reporter attached more onerous conditions than the Planning Authority has attached to developments of this kind in the past. It is appropriate to attach similarly worded conditions to control both the forming of earth screening mounds and tree planting.

The latest revised site plan does not show the location of the proposed feed bins or water tanks. Their siting and design details can be adequately controlled by planning condition. The elevation drawing for the building does not specify which gable elevation faces east/ west, and which side elevation faces north/ south. A condition to control this was considered, but as either arrangement is acceptable, is unnecessary.

It is considered that the proposed development would have a modest short term adverse landscape impact, but in time, once the proposed tree planting scheme is implemented and the resulting woodland matures, any adverse landscape and visual impact arising would be

minimal. Cumulative impacts would not be significant in the longer term. Policies PMD1 (Sustainability), PMD2 (Quality Standards) and Policy ED7 criterion (e) are considered to be satisfied on this basis. Furthermore the proposed development would raise no conflict with Policy HD3 (Protection of Residential Amenity) in terms of visual effects specifically related to residential properties.

Ecology and Natural Heritage

The proposed development would have the potential to affect ecological interests of local, national and international importance during the construction and operational phases of development. There is also potential for cumulative impacts in combination with Sheds 1-3 and other development within the surrounding area.

The applicant has outlined a range of measures which would seek to avoid or mitigate potential environmental harm. An Ecological Impact Assessment (EclA) has also been submitted, informed by a Preliminary Ecological Appraisal.

Designated Sites

The Cabby Burn is located just over 50m from the proposed building. The submitted section drawing shows it sits 4m below the ground level of the proposed building. Screening mounds would be formed between the proposed building and the burn. The Cabby Burn connects to the Whiteadder Water roughly 1km downstream of the proposed site. The Whiteadder in turn is a tributary to the River Tweed and forms part of the latter's Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) designations. The qualifying interests for the SAC include otter, Atlantic salmon, and river lamprey. The SSSI is notified for beetles, flies and plants. SNH have noted that these qualifying features require excellent water quality.

Local Development Plan policy EP1 (International Nature Conservation Sites and Protected Species) aims to give designated Natura sites (including SACs) protection from potentially adverse development. Development which would have a likely significant effect on a Natura site is only permissible where an Appropriate Assessment has demonstrated that it would not adversely affect the integrity of the site or there are no alternative solutions and there are overriding public interest reasons.

For SSSIs, protection is provided by Local Development Plan policy EP2 (National Nature Conservation and Protected Species). This states that developments which would be likely to have a significant adverse effect on a SSSI will not be permitted unless the development will not adversely affect the integrity of the site and any harm would be outweighed by benefits of national importance.

More broadly, Local Development Plan policy EP15 (Development Affecting the Water Environment) states that proposals which would result in a significant adverse effect on the water environment through impacts on its natural or physical characteristics will be refused. This policy applies to all watercourses and wetlands.

For the designated sites, the main concerns would mainly relate to potential contamination via the Cabby Burn, either during the construction or operational period. Contamination could be caused by dust, pollution spills (e.g. chemicals, oils or concrete), or silt, sediment or surface water run-off. Ammonia associated with manure can also affect water quality. As covered later in the report, there is no risk of fluvial flooding associated with this development, and therefore no risk of pollution via flooding.

In terms of the construction period, mitigation is proposed in the form of a Construction SUDS system which would ensure surface water is discharged to the burn following treatment,

preventing risk of contamination or silt-laden run-off. Shed 3 was approved subject to similar requirements, and an agreed system was approved via condition, in consultation with SEPA. Whilst SEPA have not requested a similar condition on this occasion, a condition to this effect is recommended and it is envisaged that SEPA would be consulted on any proposals emerging, as SNH have sought. For Shed 3, a Construction Environmental Management Plan (CEMP) was also agreed in advance of development commencing. This outlined a package of measures to prevent contamination to the burn and the construction phase was completed in line with these measures. This approach has been successful and it is anticipated that a very similar scheme can be agreed for this development. The CEMP would need to cover the formation of earth mounds. The Construction SUDS scheme would be agreed as a component of the wider CEMP and agreed under a single condition.

Once operational, a separate Operational SUDS system would be in place to prevent contamination of the burn. Previous sheds required the agreement and implementation of operational SUDS in consultation with SEPA. This approach is tried and tested and a similar condition is recommended.

SEPA would also take the lead regulatory control role during the operational phase. This would be via the Pollution Prevention and Control (PPC) permit process. A range of environmental effects would be monitored and controlled via the PPC process and its well-established inspection regime. A PPC permit is in place for Sheds 1-3. The applicant has confirmed that they are seeking a variation of this permit to cover Shed 4. SEPA have been consulted on this application and have no objection to what is proposed.

Concerns regarding the effect of hen manure on soil structure during the operational phase are noted. Hen manure would be removed twice a week and stored within the home farm's covered manure store before being spread on the applicant's arable fields or sold. Consent under the PPC process would depend on further detailed environmental analysis.

A Manure Management Plan was also submitted with the application which details arrangements for the disposal of hen manure produced by the development. Manure would be stored in covered manure stores before being spread on the applicant's arable land, or being exported to other farms.

No evidence of environmental harm resulting from the construction or operation of the existing poultry developments has been presented through the course of this application. To the contrary, the applicant has presented the findings of the SEPA's recent PPC site inspections for the existing poultry buildings, which found no such evidence. No dust, diffuse emissions or unauthorised emissions to air, land or groundwater was observed (groundwater and soil monitoring/ testing forms part of the inspection process). The Cabby Burn and operational SUDS schemes were also inspected. The full findings can be viewed on *Public Access*. Whilst not directly relevant to this application, these findings demonstrate that high standards of environmental protection can be secured by developments of this kind. Should Members be minded to approve this application, Shed 4 would be subject to similar inspections.

Protected Species

LDP policies EP1 and EP2 also aim to protect European Protected Species including otters, and nationally protected species such as badgers.

The proposed site itself is in an arable field with fairly limited habitat potential, but the Cabby Burn offers more significant habitat potential. As noted above, the Whiteadder and Tweed are designated in part for the habitat they provide otters. A 2018 survey found the Cabby Burn to be largely unsuitable for regular use by otter however the Ecology Officer recommends mitigation measures be put in place, but only on a precautionary basis.

Badgers are active within the surrounding area, but over 300m from the development site. Mitigation is however required. The PEA carried out found a low risk to breeding birds, but this can change over time: the Ecology Officer considers that habitats within and adjacent to the site could be used by breeding birds in the future. Appropriate mitigation can be secured for breeding birds and badgers via condition.

Subject to the delivery of the identified mitigation requirements via the recommended planning conditions, the proposals shall satisfy Local Development Plan policies relating to protected species.

Other Natural Environment Considerations

The proposals qualify as Schedule 2 development under The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. The proposed development has been screened and is not considered to constitute environmental impact assessment development. No Environmental Statement was therefore required.

There was some minor confusion raised by consultees regarding the culvert crossing over the Cabby Burn which serves the site. It has since been confirmed that this was constructed prior to the submission of the application under CAR license from SEPA. No planning permission was required.

Finally, as noted under the Landscape and Visual Impacts section, the proposed riparian woodland block around the Cabby Burn could provide habitat enhancement. This would be secured via the landscaping scheme for the proposed development in combination with the implementation of the agreed landscaping scheme for Shed 3. This would more than offset the minimal habitat loss resulting from the proposed development.

Taking into account potential cumulative effects, and subject to compliance with the recommended conditions, the proposed development would be considered to satisfy policies EP1 (International Nature Conservation Sites and Protected Species), EP2 (National Nature Conservation and Protected Species), EP3 (Local Biodiversity and EP15 ((Development Affecting the Water Environment).

In terms of the Planning Authority's duties under the Conservation (Natural Habitats, &c.) Regulations 1994 (aka Habitat Regulations), an Appropriate Assessment has been carried out and the Authority considers that the proposal would not adversely affect the integrity of the River Tweed SAC.

Neighbouring amenity

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.

The nearest residential properties are: 'Four Seasons', roughly 400m to the south of the proposed site; dwellings at Hutton Castle Barns building group, the nearest of which is around 500m to the north of the proposed building; and dwellinghouses at Broomdykes, approximately 700m to the west of the proposed site. The village of Hutton is over 1.5km from the site.

A broad range of amenity impacts can be considered and assessed against Policy HD3. Given the distances to neighbouring properties, there are no concerns in terms of the usual residential amenity considerations of privacy and access to light/ sunlight. Impacts which can affect residential areas over greater distances do however require close consideration. These include nuisance impacts such as noise, odour and dust. Visual impact issues have been assessed above under 'Landscape and Visual Impacts'.

Members will be aware that the free-range poultry business is heavily regulated and modern poultry buildings are set up to minimise impacts on neighbouring dwellings. The proposed building would incorporate many of the latest technologies, including computer controlled climate system connecting to fans and chimneys which would help reduce the amount of noise, smells and dust emanating from the building.

An Operational Plan has been submitted which sets out a suite of detailed operational procedures and practices that the applicant would follow to minimise nuisance. Sheds 1-3 are required to operate in accordance with similar plans. The Environmental Health team are satisfied with the Operational Plan and the practices set out within the Plan would be secured by condition.

In addition, the development would be subject to the aforementioned PPC permit and inspection regime. As noted above, SEPA's PPC site inspections of the existing sheds found no evidence of odour, dust, noise or vibrations.

Environmental Health also recommend further conditions which are commonly used to control noise from plant and machinery. Whilst the proposed poultry building would be located at a significant distance from the nearest residential properties, these conditions are nonetheless considered to be appropriate and would give the Planning Authority suitable control over potential noise effects arising from the development.

Similarly to previous applications, a condition would be attached to control the hours of deliveries and collections which should protect the night-time tranquillity which rural residents can reasonably expect to enjoy.

Concerns that the proposed development could be used to house pigs are noted. Since the previous application was assessed, the applicant has raised the prospect of housing pigs in an existing farm building at Hutton Hall Barns, though this is unrelated to the proposed development, and the applicant has not done so to date. There is no reason to infer that the proposed development would be used for this purpose.

Road safety, access and parking

The site would connect to the public road network via the existing upgraded vehicular access that was required to serve Shed 3. A new access track would connect Shed 4 with the existing access, crossing the Cabby Burn over an existing culvert. As well as reducing the landscape impact of the development, the use of an existing vehicular access is welcomed in road safety terms as it reduces the number of junctions with the public road. It is worth noting that a new passing place required to accommodate traffic associated with Shed 3 is now in place.

The applicant has confirmed that vehicle trip numbers would be similar to the Shed 3, and where possible, shared with Shed 3. One load of feed would be delivered to the site per week. Eggs would be collected by the three existing egg collection lorries per week which already service the existing poultry buildings. No additional egg collection trips are therefore anticipated. Manure would be collected by trailer twice per week. At the end of the flock cycle every 14 months, birds would be removed from the building to allow it to be cleaned and made ready for restocking. This would require four loads over two days. Young birds would then be delivered to the site by another four loads over two days. It is considered that the anticipated increase in traffic would be minimal, considering the overall scale of the development.

Overall, the road network is considered capable of accommodating the trips associated with the development, both during construction and during the operational phase. The Roads Planning Service have raised no concerns.

Built Heritage and Archaeology

Setting of Listed Buildings

Policy EP7 (Listed Buildings) states that the Council will support development proposals that conserve, protect and enhance the setting of Listed Buildings.

The character of the Hutton Hall Barns building group is defined to a great extent by the category 'C' listed 19th century farm steading and associated former farm cottages that lie to the north of the public road serving the hamlet. Broomdykes is similarly characterised largely by its B listed farm steading with retained stack. The distances and natural barriers between these buildings and the proposed site are significant, and there would be few if any viewpoints from which these buildings would be observed in combination with the proposed development. The setting of these buildings would be suitably protected.

Setting of Designed Landscape

Policy EP10 seeks to safeguard the setting of sites listed in the Council's record of gardens and designed landscapes.

A historic designed landscape around the grounds of Hutton Castle is recorded within the Council's list of Designed Landscapes. Its southern boundary is the public road through Hutton Castle Barns. It is not recognised by Historic Environment Scotland. The distance to the site, the intervening natural barriers and the proposed mitigation screening and planting, shall ensure the designed landscape's setting is not harmed.

Archaeology

Policy EP8 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.

At the time of the Shed 3 development, the applicant provided evidence which suggests buried archaeology will not be present within the field. Following decades of farming activities (including ploughing, subsoiling and stone removal) any archaeological finds are likely to have been disturbed. On account of this, no archaeological mitigation was sought. These routine farming activities have occurred in this field also. The Archaeology Officer has confirmed verbally that the same principles would apply, meaning archaeological mitigation is not required in this instance. There are archaeological interests within the surrounding fields and in the Merse generally, and any future applications could require mitigation.

Prime Quality Agricultural Land

Scottish Planning Policy defines Prime Agricultural Land as being within Class 1, 2 or 3.1 in the James Hutton Institute's 'Land Capability for Agriculture' records. Scotland's Environment Map shows that the site is identified within Class 3.1, meaning it is capable of producing consistently high yields of a narrow range of crops or moderate yields of a wider range. This is the least productive of the three classes.

LDP policy ED7 (Business, Tourism and Leisure Developments within the Countryside) does not preclude the development of green-field land but seeks to tightly control such developments. Local Development Plan policy ED10 (Protection of Prime Quality Agricultural Land and Carbon Rich Soils) seeks to ensure our finite agricultural land resource is retained for farming and food production. The policy states that development which results in the

permanent loss of prime agricultural land will not be permitted unless the land is allocated for development; the development meets an established need and no other site is available; the development is small scale and directly related to a rural business. The policy does not state that each of these criteria must be met, and bears some similarity to the criteria listed at Paragraph 80 of Scottish Planning Policy, which states that meeting any of the three criteria is acceptable.

The Reporter's appeal decision in relation to Shed 3 judged the development not to be out of step with Policy ED10, and that the overall loss of agricultural land would not be significant. The same principles apply to this development, and it is deemed that there is an established need for the development based on apparent demand, and that there is no obvious alternative site within the locale that would avoid the loss of prime agricultural land. The cumulative loss of land over multiple applications would not change this position.

Flooding

The proposed site sits partially within the 1 in 200 year fluvial flood risk event area associated with the Cabby Burn, per SEPA's flood risk maps. The poultry shed itself is not within the flood risk area and would sit several metres above the level of the burn both where it passes to the north and to the west. The Flood Risk Officer is satisfied that the building would sit suitably above the flood plain. SEPA have also examined flood risk and do not object to the proposals. No Flood Risk Assessment was required and the proposals satisfy policy IS8 (Flooding).

Services

As referred to above, surface water would be handled by Construction SUDS and Operational SUDS schemes. These would be designed by consultants from the Scottish Agricultural College.

Discharge from the single staff toilet would be treated by septic tank with discharge to land via a soakaway. As noted elsewhere, poultry manure would be removed from the site by trailer. As the development would not connect to the mains sewer there is no need for a Drainage Impact Assessment.

Connection to the public mains water supply is proposed. A detailed report with accompanying correspondence from Scottish Water has been provided with the application. This indicates that there is a public supply available to service the development.

Other Matters

Concerns regarding over-provision of poultry units within the vicinity are noted, but the planning system does not seek to control market supply of goods and it is for the applicant to satisfy themselves that suitable demand exists. The applicant's supporting statement advises that a contract is available for the eggs that would be produced from this development. In any event, there is understood to be strong consumer demand for free-range eggs; the applicant's supporting statement notes that a number of large supermarket chains plan to go "cage-free" by 2025. This shift in demand has in turn resulted in a demand for large poultry units with associated outside space. Consequently, these free-range developments cannot be contained in the more concentrated arrangement of traditional farm steadings. The landscape and visual impacts of this have been considered above.

It has been suggested that the lack of a masterplan or framework for future shed developments could justify the refusal of the application. It would not be appropriate to refuse this application on that basis, however the objector raises a valid consideration. A masterplan or framework or more generic pre-application advice could be useful in the future, should the applicant intend

to submit any further applications for consideration. An informative has been added to invite the applicant to consider this should any further applications for poultry buildings be forthcoming, although there is nothing in the current application to suggest this is the case.

CONCLUSIONS

There is clear policy support for the principle of this development, which meets the key requirements of the Council's rural business policies.

The proposed building is appropriate in terms of massing and materials. The effect of the very substantial scale of the structure on the receiving landscape will be mitigated to an acceptable degree through the implementation of a robust planting and screening scheme. Once planting becomes established, the landscape effect of the development shall be relatively limited for a building of such scale.

Potential effects on designated sites, protected species and the nearby watercourse have been explored in detail by the appropriate specialists and regulatory authorities. The mitigation measures identified shall ensure compliance with policies that seek to protect designated sites, protected species and biodiversity interests generally. The establishment of a significant riparian woodland block in the margins of the Cabby Burn would provide a habitat enhancement, in addition to achieving a suitable landscape fit.

In terms of amenity considerations, the building would be located around 400m from the nearest residential properties. Subject to compliance with the planning conditions that follow, the development will not lead to unacceptable adverse impacts on residential amenity.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

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

Conditions

1. The development hereby approved shall not be carried out other than in complete accordance with the plans and specifications approved by the Planning Authority, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
2. Notwithstanding the details supplied in support of the planning application, no development shall commence until a Landscape Management Plan has first been submitted to and approved in writing by the Planning Authority. The Plan shall include:
 - a) An updated landscape plan for the development.
 - b) A management plan for the woodland associated with the development hereby permitted to ensure that, in future, all planting is managed in good silvicultural order to remain fit for purpose, including thinning and maintenance. The Plan shall include a programme for the on-going maintenance and protection of all planting, during the first five years of implementation.
 - c) Confirmation that any trees or plants provided for landscaping that die or are removed or damaged for whatever reason within the period from commencement of the development to a date five years after the completion of the development shall be replaced in the next planting season with others of the same size and species.

The approved Landscape Management Plan shall be implemented in accordance with the approved details, supervised by a qualified arboricultural consultant, before the end of the first planting season following commencement of operation of the poultry unit hereby

permitted. Documentation which demonstrates compliance shall be submitted by the developer to the Planning Authority on an annual basis for a five-year period.

Reason: To ensure that the landscape and visual impacts of the development hereby permitted are adequately mitigated and that planting is properly implemented and maintained.

3. All planting, seeding or turfing comprised in the approved Landscape Management Plan agreed under condition 2 shall be carried out in the first planting and seeding seasons following the occupation or completion of the development hereby permitted, whichever is the sooner, and the Planning Authority shall be advised once works are completed. All planting, seeding and turfing shall be maintained thereafter in accordance with the approved Landscape Management Plan and replaced as may be necessary for a period of five years from the date of completion of the planting, seeding or turfing.

Reason: To ensure that the proposed planting is carried out as approved.

4. Notwithstanding the details supplied in support of the planning application, no development shall commence until further details of proposed screening mounds have first been submitted to and approved in writing by the Planning Authority. Thereafter, the agreed screening mounds shall be fully formed prior to the occupation of the building, and shall be so retained thereafter in perpetuity, unless otherwise agreed by the Planning Authority.

Reason: To ensure that the landscape and visual impacts of the development hereby permitted are adequately mitigated.

5. No development shall commence until:

- i. details of materials to be used on all exterior surfaces of the development hereby permitted have been submitted to and approved in writing by the Planning Authority;
- ii. details of the design and siting of external food storage bins/ silos, water tanks and manure collection equipment/ hoppers have been submitted to and approved in writing by the Planning Authority; and
- iii. design proposals for the placement of photovoltaic panels and security lighting have been submitted to and approved in writing by the Planning Authority.

Thereafter, the development shall be undertaken wholly in accordance with the approved details.

Reason: To ensure that the landscape and visual impacts of the development hereby permitted are adequately mitigated.

6. No development shall commence until a Construction and Environmental Management Plan (CEMP) has first been submitted to and approved in writing by the Planning Authority in consultation with the Scottish Environment Protection Agency. The CEMP shall cover the periods of site clearance and preparation, the erection of the building hereby approved and the formation of associated tracks, earth mounds and hard landscaping works. The CEMP shall include: the standards outlined in *British Standard 42020 : 2013 – Biodiversity Code of Practice for Planning and Development*; details of a Construction SUDS; and a method statement detailing measures to control sediment runoff during the period of construction to comply with General Binding Rule 10 of the Controlled Activities Regulations. Thereafter, construction works shall only be commenced and progressed in accordance with the approved details. The provisions of the approved plan shall be operated and maintained throughout the period of construction.

Reason: To protect the Cabby Burn, the Whiteadder Water and the River Tweed from the adverse effects of sediment runoff during construction.

7. No development shall commence until details of an operational sustainable drainage scheme (SUDS), which shall include a maintenance plan for the scheme, have been submitted to and approved in writing by the Planning Authority in consultation with SEPA.

Thereafter, the agreed scheme shall be implemented in full and operational prior to the occupation of the development.

Reason: To ensure adequate protection of the water environment from surface water runoff.

8. The development hereby approved shall at all times be operated in compliance with the nuisance management plan titled 'Operational Plan' (dated December 2018) unless otherwise agreed by the Planning Authority.

Reason: To ensure that the operation of the poultry building hereby approved has no unacceptable impacts upon the amenity of the surrounding area or upon the amenity of any neighbouring residential properties, by ensuring that all potential sources of nuisance are appropriately managed and controlled.

9. No development shall commence until a Species Protection Plan for otter, badger and breeding birds has first been submitted to and approved in writing by the Planning Authority. No development shall be undertaken during the breeding bird season (March to August), unless in strict compliance with the approved Species Protection Plan for breeding birds and which incorporates provision for a pre-development supplementary survey and mitigation plan. No development shall be undertaken except in accordance approved Species Protection Plan.

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

10. Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within all noise sensitive properties (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: To protect the residential amenity of residential properties.

11. All plant and machinery shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.

Reason: To protect the residential amenity of residential properties.

12. During construction and operation all vehicle movements to and from the development hereby permitted shall be within the hours of 07:00 to 22:00 on any day unless in cases of emergency.

Reason: To safeguard the amenity of the area, including surrounding residential properties.

Informatives

1. The applicant is invited to consider engaging the Planning Authority in pre-application discussions prior to the submission of any further poultry building planning applications, or should further such buildings be envisaged.
2. The applicant should be aware that flooding can occur from other sources including run-off from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts. The Flood Risk Officer recommends that the developer utilises water resilient materials and construction methods as appropriate, and reviews the Online Planning Advice on Flood Risk.
3. Details of SEPA's regulatory requirements and good practice advice for the applicant can

be found on the [Regulations section](#) of SEPA's website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office at: *Burnbrae, Mossilee Road, Galashiels, TD11 1NF, tel 01896 754797* or *Intensive Agriculture Team* at intensiveagriculture@sepa.org.uk

4. The applicant is advised that a license may be required under the Controlled Activities Regulations if the access track over the existing burn crossing requires to be upgraded.

DRAWING NUMBERS

Type	Reference	Received
ELEVS	107MC-DR-0003 REV P02	25.06.19
SITE PLAN	KW-165-ME DRAWING NO 001 REV G	08.05.19
LOCATION PLAN	KW-165-ME DRAWING NO 002 REV D	21.11.19
SECTIONS	KW-165-ME DRAWING NO 003 REV D	08.05.19

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	Assistant Planning Officer



18/01620/FUL

Hutton Hall Barns
Hutton

