

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

MINUTE of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in the Council Chamber, Council Headquarters, Newtown St Boswells on Monday, 2 March, 2020 at 10.00 am

Present:- Councillors T. Miers (Chairman), A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage, N. Richards and E. Small.

In Attendance:- Planning and Development Standards Manager, Lead Planning Officer (B. Fotheringham), Lead Roads Planning Officer, Chief Legal Officer, Democratic Services Team Leader, Democratic Services Officer (F. Walling).

1. **MINUTE.**

There had been circulated copies of the Minute of the Meeting held on 3 February 2020.

DECISION

APPROVED for signature by the Chairman.

2. **APPLICATIONS.**

There had been circulated copies of reports by the Service Director Regulatory Services on applications for planning permission requiring consideration by the Committee.

DECISION

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

3. **APPEALS AND REVIEWS.**

There had been circulated copies of a briefing note by the Chief Planning Officer on Appeals to the Scottish Ministers and Local Reviews.

DECISION

NOTED that:-

(a) Scottish Ministers had dismissed Appeals in respect of:-

- (i) the erection of a windfarm comprising of 7 wind turbines 126.5m high to tip, associated infrastructure, ancillary building and temporary borrow pits on land North West of Gilston Farm, Heriot – 17/00226/FUL; and**
- (ii) the erection of a boundary fence forward of the front elevation greater than 1m in height at Silver Grange, Old Greenlaw Farm, Greenlaw, Duns – 19/00160/UNDEV.**

(b) there remained no appeals outstanding.

(c) Review requests had been received in respect of:-

- (i) Erection of dwellinghouse, garages and associated access on Land North West of Town O Rule Farmhouse, Bonchester Bridge, Hawick – 18/01194/FUL; and**
- (ii) Erection of dwellinghouse and associated infrastructure at the Walled Garden, Ashiestiel Mansion House, Galashiels - 19/01629/PPP.**

(d) the decision of the Appointed Officer had been overturned in respect of :-

- (i) the Erection of a dwellinghouse on Land South West of Carlenrig Farm, Teviothead, Hawick, (subject to Conditions, informatives and an S75 Legal Agreement) - 19/00514/FUL; and
 - (ii) the Erection of dwellinghouse and garage on Land East of Auburn Cottage, Ashkirk – 19/01000/PPP
- (e) the decision of the Appointed Officer had been upheld in respect of the erection of a fence on Land South East of Bungalow, Denholm Mill, Denholm – 19/00857/FUL.
- (f) there remained one review previously reported on which a decision was still awaited when the report was prepared on 20 February 2020.

<ul style="list-style-type: none"> • Garden Ground of 7 Heriot House, Heriot 	
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- (g) there remained 3 S36 PLI's previously reported on which decisions were still awaited when the report was prepared on 20 February 2020. These related to:

<ul style="list-style-type: none"> • Fallago Rig 1, Longformacus 	<ul style="list-style-type: none"> • Fallago Rig 2, Longformacus
<ul style="list-style-type: none"> • Crystal Rig Wind Farm, Cranshaws, Duns 	

4. **URGENT BUSINESS**
 Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to keep Members informed.

5. **PLANNING PERFORMANCE FRAMEWORK FEEDBACK 2018-19**
 The Planning and Development Standards Manager, John Hayward, referred to the Planning Performance Framework Feedback 2018-19, from Scottish Government, which had been circulated to Members prior to the meeting. The Performance Markers Report 2018-19 showed Red, Amber and Green ratings based on evidence provided in the Planning Performance Framework reports. Mr Hayward explained that the framework gave a more rounded assessment of the authority's performance over and above measurements of speed of processing. He welcomed the feedback which showed that Scottish Borders Council had been given green ratings for 13 of the 15 Performance Markers and that there was clear improvement in performance. There was one amber rating relating to progress on improvement commitments and one red which related to timescales for determining applications with legal agreements. Mr Hayward explained that timescale around the conclusion of legal agreements, mostly relating to developer contributions, was not wholly within the planning authority's control as the speed of the process was partly reliant on the extent to which these were prioritised by developers and their legal representatives. Members welcomed the feedback and congratulated the Planning team for the improvements noted.

**DECISION
 NOTED**

The meeting concluded at 11.45 am

APPENDIX I
APPLICATION FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
19/01687/PPP	Residential development with associated Works and new access	Land North East of the Lodge, Philiphaugh Mill, Ettrickhaugh Road, Selkirk

Decision: Approved subject to the approval of the Scottish Ministers, the following conditions and informatives and the completion of a legal agreement for development contributions:

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto including two parking spaces (excluding garages) per house, refuse and recycling bin storage and the landscaping of the site, have first been submitted to and approved 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. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the planning authority. Thereafter the development shall only take place except in strict accordance with the details so approved.
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 subsequent application for the approval of matters specified in conditions application shall be accompanied by:
 - i. a site layout plan at a scale of 1:500 showing the position of all buildings, roads, footpaths, parking areas (distinguishing, where appropriate, between private and public spaces), walls and fences and landscaping;
 - ii. plans and elevations of each house and garage type showing their dimensions and type and colour of external materials;
 - iii. a landscaping plan at a scale of 1:200 showing the location, species and ground spread of existing and proposed trees, shrubs and hedges;
 - iv. details of any proposed phasing of the development;
 - vi. details of existing and finished ground level, and finished floor levels, in relation to a fixed datum, preferably ordnance datum. The finished floor levels of the buildings shall not be below 119 AOD.Reason: To ensure a satisfactory form of development.
4. No development shall commence until a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - a) location and design, including materials and detailed specifications, of all boundary treatments;
 - b) indication of existing trees, shrubs and hedges to be retained (including root protection areas), those to be removed and, in the case of damage, proposals for their restoration;
 - c) location of new trees, shrubs, hedges and grassed areas;

- d) schedule of plants to comprise species, plant sizes and proposed numbers/density;
c) a programme for completion and subsequent maintenance;
d) bin storage measures;
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 commence until a scheme of details has first been submitted to and approved in writing by the Planning Authority detailing improvements required to Ettrickhaugh Road. Thereafter the approved scheme of details shall be fully implemented prior to occupation of the first dwelling hereby approved, unless otherwise agreed in writing with the Council.
Reason: To ensure appropriate road infrastructure is in place to accommodate the additional traffic movements associated with the proposed development.
6. The public path located on the access road between the north eastern boundary of the site and the property known as 'Lauriston Cottage' shall be kept open and free from obstruction, before during and after development.
Reason to allow an adequate width of public path to be kept open and free of obstruction for the use of the public exercising rights of responsible access along the public path.
7. No development shall commence until a scheme to identify and assess potential contamination on site, in addition to measures for its treatment/removal, validation and monitoring, and a timescale for implementation of the same, has been submitted to and approved by the Planning Authority. Once approved, the development shall only proceed in accordance with the approved scheme.
Reason: To ensure that potential contamination within the site has been assessed and treated and that the treatment has been validated and monitored in a manner which ensures the site is appropriate for the approved development.
8. No development shall commence until precise details of water supply and a surface water and foul drainage scheme have first been submitted to and approved by the planning authority which demonstrates that surface water run-off from the site will be maintained at pre-development levels using sustainable drainage methods during construction of the development and subsequent occupancy. Thereafter no development shall take place except in strict accordance with the approved scheme.
Reason: To ensure the development can be adequately serviced and to safeguard the public road and neighbouring properties from potential run-off.
9. The approval of the siting and layout of the development under Condition 1 shall include an Arboricultural Impact Assessment that specifies the root protection areas of trees adjacent the site to the south east and south west of the site. No part of the development, including buildings or structures, ground level changes and services, shall be sited within the root protection areas of the trees unless the AIA specifies measures to protect the trees from damage that are compliant with BS5837:12. The development shall be carried out only in accordance with the approved AIA.
Reason: To reduce the risk of damage to trees adjacent the site that have public amenity value.
10. No development shall commence until the trees to be retained on the site shall be protected by means of protective fence (compliant with BS5837:12) which shall be erected along the root protection areas for trees. No works shall be permitted within the fenced area unless agreed with the planning authority as being compliant with BS5837:12. The fencing shall be removed only when the development has been

completed. During the period of construction of the development the existing soil levels around the boles of the hedges so retained shall not be altered. No trees or hedges within the application site or on the site boundary shall be felled, removed, lopped, lifted or disturbed in any way without the prior consent of the planning authority.

Reason: In the interest of preserving the trees which contribute to the visual amenity of the area.

11. Prior to commencement of development a Construction Environmental Management Plan (CEMP) incorporating the latest good practice guidelines and statutory advice (as outlined *Guidance for Pollution Prevention, GPP5: Works and maintenance in or near water*) to protect the River Tweed SAC/SSSI shall be submitted to and approved in writing by the Planning Authority. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme.

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

12. Prior to commencement of development, a Species Protection Plan for otter and breeding birds shall be submitted to and approved in writing by the Planning Authority. The SPP shall incorporate provision for a pre-development supplementary survey and a mitigation plan. No development shall be undertaken except in accordance with the approved in writing SPP.

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

13. Prior to commencement of development a proportionate Biodiversity Enhancement Plan (BEP) including measures (as outlined in *Damside Field, Ettrickhaugh Road, Selkirk, Extended Phase 1 Habitat Survey Ellendale Environmental, 31 July 2019*) shall be submitted to and approved in writing by the Planning Authority. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme. Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.

14. No development shall take place within the development site as outlined in red on the approved plan until a Written Scheme of Investigation (WSI) detailing a programme of archaeological works has been secured. 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 no later than 1 month prior to the start of development works and approved in writing by the Planning Authority before the commencement of any development. Thereafter the programme of archaeological works shall be fully implemented and all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results shall be undertaken as 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

Informatives

It should be noted that:

1. Improvement works to Ettrickhaugh Road may include, but shall not be limited to, the widening of the existing carriageway to 5.5 metres, new footway, surface water drainage measures and enhanced street lighting provision.

NOTE

Mr Tim Ferguson, Ferguson Planning, spoke in support of the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
19/01813/FUL & 19/01812/LBC	Change of use from former mill and Alterations to form 10 No residential flats with associated parking (revision to planning permission 18/00498/FUL) & Internal and external alterations to form 10 No residential flats (revision to Listed Building Consent 18/00499/LBC)	Factory 7 -11 Buccleuch Street Hawick

Decision: In the case of Planning Application 19/01813/FUL, approved subject to the following conditions and informatives:

1. The ground floor area of the building within the site boundary shall not be used in whole or in part, to accommodate any residential unit and/or any business or employment use(s), including any uses within Class 5, Class 4 and/or Class 6 of the Town and Country Planning (Use Classes) (Scotland) Amendment Order 1997 (as amended). It shall only be used for domestic purposes ancillary to the operation of the dwellingflats on the two upper floors. Furthermore, the existing Class 5 use of the site shall have ceased completely (and shall be held to have ceased completely) ahead of the first occupation of the first dwellingflat within the development hereby consented.

Reason: To retain effective control over the use(s) of the ground floor area in the interests of ensuring that the uses of the site are, and remain, appropriate to this locality in terms of their impacts upon the amenity of the dwelling flats on the upper floors and to ensure that there would be no residential properties exposed to any unacceptable flood risk.
2. No development shall commence until precise details of the accommodation of the two Juliet balconies on the Northwest Elevation have first been submitted to, and approved in writing by, the Planning Authority, which address in full the concerns of **Informative Note 1**. Thereafter, the development shall be implemented in accordance with the approved details and the respective dwelling flats shall not be occupied for the first time until all of the approved measures required to protect the residential amenity of properties in Buccleuch Terrace, have themselves all first been fully installed in accordance with the approved details. Thereafter, the approved mitigation measures in both cases, shall be maintained at all times and in perpetuity.

Reason: To help conserve the residential amenity of neighbouring residential dwellings; and to ensure an appearance that is sympathetic to the character of the Listed Building and Conservation Area; and to retain effective control over an aspect of the development that is inconsistently described within the supporting details.
3. All of the windows on the Southwest Elevation shall be fully obscurely glazed in full accordance with a scheme of details which itself shall first have been submitted to, and approved in writing by, the Planning Authority and in advance of the installation of these same windows. Moreover, the rooms lit by these same windows shall not be occupied until the approved glazing has first been fully installed in accordance with the approved details. Thereafter, this glazing shall be maintained at all times and in perpetuity in accordance with these same approved details. (Please see **Informative Note 2** for related advice).

Reason: In the interests of ensuring that an appropriate level of privacy can be maintained between the dwelling flats and adjacent residential properties to protect

the residential amenity of the latter and to safeguard the character of the Listed Building.

4. Notwithstanding the description of the Approved Drawings, all of the windows/glazing panels that are described on the Approved Elevations Drawing by orange shading, shall only be installed as non-openable (fixed) glazing units. Thereafter, these same units shall, and shall at all times and in perpetuity, be maintained as non-openable (fixed) glazing units.

Reason: In the interests of ensuring that an appropriate level of privacy can be maintained between the dwelling flats and adjacent residential properties to protect the residential amenity of these same adjacent residential properties.

5. Notwithstanding the description of the supporting details, no new or replacement windows or external doors shall be installed until a scheme of details, which: describes precisely, the proposed appearance and operation of the proposed new and replacement window units and external doors – including their proposed material(s); their proposed opening mechanism(s); and their proposed finished external colour(s); and which, addresses in full the concerns of **Informative Note 3** attached to this same planning consent, has first been submitted to, and approved in writing by, the Planning Authority. Thereafter, the development shall only be implemented in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to safeguard the historic character of the Conservation Area.

6. Notwithstanding the details presented in support of the planning application, no development shall commence until precise details of all of the following, have first been submitted to, and approved in writing by the Planning Authority:
 - (a) the material and finish of the external infills for the window-openings;
 - (b) the materials and finishes of all of the balcony structures on the Northwest Elevation including the divisions between different properties' balcony areas.
 - (c) the accommodation of the cast iron columns within the interior layouts; and
 - (d) the proposed materials and finishes of the supports for the under-croft car parking area.

Thereafter, the development shall only be implemented in accordance with the approved details. (Please see **Informative Note 4** for related advice).

Reason: To safeguard the historic character of the Listed Building and Conservation Area.

7. None of the dwelling flats hereby approved, shall be occupied for the first time, until:
 - (a) the vehicular site access to the car parking area is first improved in accordance with a scheme of details that shall itself, first have been submitted to, and approved in writing, by the Planning Authority (Please see **Informative Note 5** for related advice); and
 - (b) the bin storage facility has first been established in accordance with a scheme of details describing the proposed design, operation and finished appearance of the same facility. Thereafter, the site access, car park and bin storage area shall be implemented, maintained and operated in accordance with the approved details.

Reason: To ensure that appropriate site access, parking and bin storage arrangements are in place and available to serve the dwellingflats in the interests of road safety, residential amenity and waste management; and to ensure a finished appearance that is as sympathetic as possible to the appearance, character and setting of the Listed Building and Conservation Area.

8. None of the dwelling flats hereby approved shall be occupied for the first time until their water supply and foul drainage arrangements have all first been fully implemented, and are fully functional, prior to that same flat's occupation.

Reason: To ensure that the site is; and individual flats are; adequately serviced and fit for habitation prior to occupation.

9. No development shall take place until the applicant has secured and implemented an approved programme of archaeological work in accordance with a Written Scheme of Investigation outlining a Historic Building Survey. This will be formulated by a developer contracted archaeologist(s) and approved in writing by the Planning Authority. Development and archaeological investigation shall only proceed in accordance with the WSI.

The requirements of this are:

- i) The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA) approval of which shall be in writing by the Planning Authority.
- ii) Historic Building Survey will be in accordance with the ALGAO: Scotland guidance as requested by the Planning Authority.
- iii) In accordance with the WSI, access shall be afforded to the nominated archaeologist(s) to allow archaeological investigation, at all reasonable times.
- iv) Initial results shall be submitted to the Planning Authority for approval in the form of a Historic Building Survey Report (HBSR) within one month following completion of all on-site archaeological works.
- v) Once approved the site archive and HBSR shall also be reported to the National Record of the Historic Environment (NRHE) via the OASIS system within three months of on-site completion.
- vi) Results will be summarised in Discovery and Excavation in Scotland (DES) within one year of on-site completion.
- vii) The results of the DSR will be used by the Council's Archaeologist to make recommendations to the Planning Authority for further archaeological investigations, reporting and dissemination of results as required. The developer will be expected to fund and implement all further archaeological work.

Reason: To preserve by record a building of historical interest.

10. No development (including any ground works and the demolition of any built structures) and no other site clearance works (including the removal or treatment of any vegetation, hedgerows and/or trees on the site or its boundaries) shall be commenced during the breeding bird season (01 March - 31 August, inclusive) without the prior written approval of the Planning Authority. (Please see **Informative Note 6**).

Reason: To prevent unnecessary disturbance to birds during the breeding season.

11. Unless otherwise agreed in writing and in advance by the Planning Authority, no development shall commence until a ground investigation report has first been submitted to and approved in writing by the Planning Authority. The report shall include identification and assessment of potential contamination on the site [in accordance with PAN 33 (2000) and BS10175:2011 or subsequent revisions/replacements] and shall include [as applicable] a remediation strategy, validation report and monitoring statements, including timescales for the implementation of all such measures. Development shall not commence until the report is approved by the Planning Authority. Thereafter, the development shall be carried out only in accordance with the approved report, including approved remediation, validation, monitoring measures and timescales for their implementation.
- 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.

12. The screen around the balcony walkway and ramp on the Southeast Elevation and Southwest Elevation shall be fully obscure in full accordance with a scheme of details which itself shall first have been submitted to, and approved in writing by, the Planning Authority and in advance of the installation of the balcony walkway. Moreover, neither of the flats served by this balcony walkway shall be occupied for the first time until the approved screen has first been fully installed in accordance with

the approved details. Thereafter, this screen shall be maintained at all times and in perpetuity in accordance with these same approved details.

Reason: In the interests of ensuring that an appropriate level of privacy can be maintained between the dwelling flats hereby consented and adjacent residential properties to protect residential amenity.

13. Notwithstanding the description of the supporting details, no development shall commence until a scheme of details which addresses in full the concerns of **Informative Note 10** attached to this same planning consent, has first been submitted to, and approved in writing by, the Planning Authority. Thereafter, the development shall only be implemented in accordance with the approved details.

Reason: In the interests of ensuring that an appropriate level of privacy can be maintained between the dwelling flats hereby consented, to protect their residential amenity.

Informatives

It should be noted that:

1. **INFORMATIVE NOTE 1:**

The Proposal Drawings are inconsistent in their description of the accommodation of the Juliet Balconies relating to the properties identified as 'Flat 5' and 'Flat 10' in that these features are not described in profile on the elevation drawings but are not described as occupying any inset area on the floor plans. Accordingly, a coherent description of how these features are in fact to be accommodated, needs to be provided for prior approval.

There is however, also an ulterior concern that the balconies should not lead to any unacceptable level of overlooking of properties in Buccleuch Terrace, and to this end, there is a requirement for some form of mitigation to be incorporated to prevent accidental overlooking from the Juliet Balcony areas of these residential properties to the southwest. This could be met appropriately in one of three ways: (i) the balconies are inset, and the rail accommodated flush to the walls as the Northeast Elevation and Southwest Elevation drawings describe; (ii) these balconies are removed entirely, and the elevation drawing of the Northwest Elevation amended to describe only windows (and not French doors or balcony) in this location; or (iii) if the Juliet balcony is to be accommodated projecting from the wall, some form of screen feature is added to the southwest side of each of the balconies to prohibit overlooking of properties in Buccleuch Terrace. In the event of the latter, the screen feature would need to be described on the revised drawings.

2. **INFORMATIVE NOTE 2:**

With regard to the obscure glazing, please note that the Planning Authority wishes the details required under Condition No 3, to demonstrate the adequacy of the opaqueness of the proposed glazing. Accordingly it is not details of the specific design or pattern that is required, but a measure of the proposed glazing's actual opaqueness. In order to be supported, this should be the maximum opaqueness within the supplier's range.

3. **INFORMATIVE NOTE 3:**

The design of the replacement windows should replicate as closely as possible the appearance of the existing windows. Any details or aspects that depart from the details of the existing windows should be substantiated and justified within the details presented in support of Planning Condition No 5.

4. INFORMATIVE NOTE 4:

With regard to the most appropriate treatment of the infilled window-openings, firstly, the infill area should be recessed a perceptible distance behind the sills and surrounds; and secondly, the infill material should be natural stone to match the existing south west elevation of the building.

5. INFORMATIVE NOTE 5:

While there is capacity for minor alterations to the vehicular site access, please note that the specific proposals required under this planning consent will require to be assessed by the Planning Authority, and in the event of more substantial alterations to the wall or site, the need for any ulterior Planning and/or Listed Building Consent would require to be assessed at that time.

6. INFORMATIVE NOTE 6:

Please note that the Planning Authority would not be agreeable to any works proceeding during the breeding bird season (01 March to 31 August) unless, or until, it has first reviewed and approved an updated survey for breeding birds, including an assessment of the building on site's potential for breeding bird interest and habitat suitability for breeding birds.

Where it is established that there is a breeding bird interest, no development shall be carried out during the breeding bird season unless it is implemented wholly in accordance with a Species Protection Plan for birds, which itself has first been submitted to, and approved in writing by, the Planning Authority.

7. INFORMATIVE NOTE 7:

The ALGAO guidance for historic building recording can be found at:
https://www.algao.org.uk/sites/default/files/documents/ALGAO_Scotland_Buildings_Guidance_2013.pdf

Consideration should be given to Historic Building Recording for the whole mill complex including those areas not impacted by development. This would ensure a complete record is made, precluding the need for future mitigation exercises.

8. INFORMATIVE NOTE 8:

Please note that this consent does not permit any works, including any demolition works or site clearance works, out with the application site boundary. Any and all other proposals for the remainder of the Peter Scott Factory Site will need to be made the subject of new planning applications.

9. INFORMATIVE NOTE 9:

Please note that only one or other of the schemes consented under Planning Consent 18/00498/FUL or Planning Consent 19/01813/FUL can be implemented on the site, and any 'hybrid' proposal would be liable to require to be made the subject of a new full planning application to ensure that full and proper regard could be had by the Planning Authority, by the public and by statutory consultees, to the precise layout, configuration, appearance and operation of any such proposed variation to this or the other planning consent.

10. **INFORMATIVE NOTE 10:**

It is unclear how the amenity of windows relating to Flat 5 at First Floor Level and Flat 10 at Second Floor Level would be maintained vis-à-vis the balcony areas associated with Flats 1, 3 and 4; and with Flats 6, 7, 8 and 9, respectively. Accordingly appropriate mitigation requires to be accommodated, either, or both, in the form of obscure glazing to the affected bedroom windows; or in the form of screens intervening between the flats.

11. **INFORMATIVE NOTE 11:**

The use of snow boards on the south west facing roof slope of the building (those roof slopes facing the rear elevation of properties on Buccleuch Terrace) should be considered in order to prevent accumulations of snow from falling into gardens of neighbouring properties.

Decision: In the case of Listed Building Consent Application 19/01812/LBC, approved subject to the following conditions and informatives:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with the provisions of Section 16 of the Town and Country Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. No development shall commence until precise details of the accommodation of the two Juliet balconies on the Northwest Elevation have first been submitted to, and approved in writing by, the Planning Authority, which address in full the concerns of **Informative Note 1**. Thereafter, the development shall be implemented in accordance with the approved details and the respective dwelling flats shall not be occupied for the first time until all of the approved measures required to protect the residential amenity of properties in Buccleuch Terrace, have themselves all first been fully installed in accordance with the approved details. Thereafter, the approved mitigation measures in both cases, shall be maintained at all times and in perpetuity.
Reason: To ensure an appearance that is sympathetic to the character of the Listed Building.
3. All of the windows on the Southwest Elevation shall be fully obscurely glazed in full accordance with a scheme of details which itself shall first have been submitted to, and approved in writing by, the Planning Authority and in advance of the installation of these same windows. Moreover, the rooms lit by these same windows shall not be occupied until the approved glazing has first been fully installed in accordance with the approved details. Thereafter, this glazing shall be maintained at all times and in perpetuity in accordance with these same approved details. (Please see **Informative Note 2** for related advice).
Reason: To safeguard the character of the Listed Building.
4. Notwithstanding the description of the supporting details, no new or replacement windows or external doors shall be installed until a scheme of details, which describes precisely, the proposed appearance and operation of the proposed new and replacement window units and external doors – including their proposed material(s); their proposed opening mechanism(s); and their proposed finished external colour(s); and which addresses in full the concerns of **Informative Note 3** attached to this same planning consent has first been submitted to, and approved in

writing by, the Planning Authority. Thereafter, the development shall only be implemented in accordance with the approved details.

Reason: To safeguard the historic character of the Listed Building.

5. Notwithstanding the details presented in support of the planning application, no development shall commence until precise details of all of the following, have first been submitted to, and approved in writing by the Planning Authority:
- (a) the material and finish of the external infills for the window-openings;
 - (b) the materials and finishes of all of the balcony structures on the Northwest Elevation including the divisions between different properties' balcony areas.
 - (c) the accommodation of the cast iron columns within the interior layouts; and
 - (d) the proposed materials and finishes of the supports for the under-croft car parking area.

Thereafter, the development shall only be implemented in accordance with the approved details. (Please see **Informative Note 4** for related advice).

Reason: To safeguard the historic character of the Listed Building

6. No development shall take place until the applicant has secured and implemented an approved programme of archaeological work in accordance with a Written Scheme of Investigation outlining a Historic Building Survey. This will be formulated by a developer contracted archaeologist(s) and approved in writing by the Planning Authority. Development and archaeological investigation shall only proceed in accordance with the WSI.

The requirements of this are:

- i) The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA) approval of which shall be in writing by the Planning Authority.
- ii) Historic Building Survey will be in accordance with the ALGAO: Scotland guidance as requested by the Planning Authority.
- iii) In accordance with the WSI, access shall be afforded to the nominated archaeologist(s) to allow archaeological investigation, at all reasonable times.
- iv) Initial results shall be submitted to the Planning Authority for approval in the form of a Historic Building Survey Report (HBSR) within one month following completion of all on-site archaeological works.
- v) Once approved the site archive and HBSR shall also be reported to the National Record of the Historic Environment (NRHE) via the OASIS system within three months of on-site completion.
- vi) Results will be summarised in Discovery and Excavation in Scotland (DES) within one year of on-site completion.
- vii) The results of the DSR will be used by the Council's Archaeologist to make recommendations to the Planning Authority for further archaeological investigations, reporting and dissemination of results as required. The developer will be expected to fund and implement all further archaeological work.

Reason: To preserve by record a building of historical interest.

7. The screen around the balcony walkway and ramp on the Southeast Elevation and Southwest Elevation shall be fully obscure in full accordance with a scheme of details which shall first be submitted to, and approved in writing by, the Planning Authority and in advance of the installation of the balcony walkway. Moreover, neither of the flats served by this balcony walkway shall be occupied for the first time until the approved screen has first been fully installed in accordance with the approved details. Thereafter, this screen shall be maintained at all times and in perpetuity in accordance with these same approved details.

Reason: In the interests of safeguarding the character of the Listed Building.

8. Notwithstanding the description of the supporting details, no development shall commence until a scheme of details which describes the finished appearance of the Northeast Elevation at ground floor level, has first been submitted to, and approved in

writing by, the Planning Authority. Thereafter, the development shall only be implemented in accordance with the approved details.

Reason: To safeguard the character of the Listed Building.

Informatives

It should be noted that:

1. INFORMATIVE NOTE 1:

The Proposal Drawings are inconsistent in their description of the accommodation of the Juliet Balconies relating to the properties identified as 'Flat 5' and 'Flat 10' in that these features are not described in profile on the elevation drawings (e.g. they are shown to have no projection at all on either of the Northeast Elevation or Southwest Elevation drawings) but are not described as occupying any inset area on the floor plans. Accordingly, a coherent description of how these features are in fact to be accommodated, needs to be provided for prior approval.

There is however, also an ulterior concern that the balconies should not lead to any unacceptable level of overlooking of properties in Buccleuch Terrace, and to this end, there is a requirement for some form of mitigation to be incorporated to prevent accidental overlooking from the Juliet Balcony areas of these residential properties to the southwest. This could be met appropriately in one of three ways: (i) the balconies are inset, and the rail accommodated flush to the walls as the Northeast Elevation and Southwest Elevation drawings describe; (ii) these balconies are removed entirely, and the elevation drawing of the Northwest Elevation amended to describe only windows (and not French doors or balcony) in this location; or (iii) if the Juliet balcony is to be accommodated projecting from the wall, some form of screen feature is added to the southwest side of each of the balconies to prohibit overlooking of properties in Buccleuch Terrace. In the event of the latter, the screen feature would need to be described on the revised drawings.

2. INFORMATIVE NOTE 2:

With regard to the obscure glazing, please note that the Planning Authority wishes the details required under Condition No 3, to demonstrate the adequacy of the opaqueness of the proposed glazing. Accordingly it is not details of the specific design or pattern that is required, but a measure of the proposed glazing's actual opaqueness. In order to be supported, this should be the maximum opaqueness within the supplier's range.

3. INFORMATIVE NOTE 3:

The design of the replacement windows should replicate as closely as possible the appearance of the existing windows. Any details or aspects that depart from the details of the existing windows should be substantiated and justified within the details presented in support of Planning Condition No 4.

4. INFORMATIVE NOTE 4:

With regard to the most appropriate treatment of the infilled window-openings, firstly, the infill area should be recessed a perceptible distance behind the sills and surrounds; and secondly, the infill material should be natural stone to match the existing south west elevation of the building.

5. INFORMATIVE NOTE 5:

The ALGAO guidance for historic building recording can be found at: https://www.algao.org.uk/sites/default/files/documents/ALGAO_Scotland_Buildings_Guidance_2013.pdf

Consideration should be given to Historic Building Recording for the whole mill complex including those areas not impacted by development. This would ensure a complete record is made, precluding the need for future mitigation exercises.

6. INFORMATIVE NOTE 6:

The use of snow boards on the south west facing roof slope of the building (those roof slopes facing the rear elevation of properties on Buccleuch Terrace) should be considered in order to prevent accumulations of snow from falling into gardens of neighbouring properties.

NOTE

Mr Bertram Lancaster spoke against certain aspects of the application.