

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**5 OCTOBER 2020**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 20/00109/FUL

**OFFICER:** Mr Scott Shearer  
**WARD:** Jedburgh and District  
**PROPOSAL:** Erection of 2 No distilleries with associated visitor centres, bottling hall, maturation warehousing, office, gatehouse with associated roads and infrastructure, and change of use of hotel to form office and staff accommodation previously approved under consent number 16/00744/FUL

**SITE:** Land North Of Former Jedforest Hotel and Jedforest Hotel (now known As Mossburn House)  
Jedburgh, Scottish Borders

**APPLICANT:** Jedforest BV  
**AGENT:** Blyth And Blyth

**PLANNING PROCESSING AGREEMENT:** This application has a Planning Processing Agreement which seeks determination at the Planning and Building Standards Committee on the 5<sup>th</sup> October 2020.

**SITE DESCRIPTION**

The application site is the same site which obtained planning permission for the development 2 No distilleries and associated works on land of the former Jedforest Hotel, now known as Mossburn House. The site is located approximately 5km to the south of Jedburgh and is accessed directly to the east of the A68.

The majority of the site is vacant land. An escarpment runs through the site, splitting its levels with the western part sitting at a lower topography which forms part of the floodplain of the Jed Water which terminates the western boundary of the site. A finger of planting extends into the site from the north adjacent to a pond. Further mature woodland is found in the southern half of the site around Mossburn House, Cleathaugh Stables and the three residential properties which sit in the site to the west of the former hotel. The southern corner of the site is enclosed by mature woodland out with the site. There is a former filling station located towards the centre of the site. Two further residential properties lie directly out with the site to the north east.

**PROPOSED DEVELOPMENT**

This proposal represents a repeat application following consent 16/00744/FUL lapsing prior to the commencement of development works. The application was originally submitted with the understanding that it fell under Section 42 of the Act and sought to extend the time period of this previously consented development. The proposal was originally described as an "Extension of commencement time period for erection of 2 No distilleries with associated visitor centres, bottling hall, maturation warehousing, office, gatehouse with associated roads and infrastructure, and change of use of hotel

to form office and staff accommodation previously approved under consent number 16/00744/FUL.”

Through the course of the application it was established that proposals to vary commencement time periods of planning permissions cannot be handled under Section 42 of the Act. This is because the time period for commencement of development is a direction of the planning permission and not a condition. Therefore there are no powers available to the planning authority under Section 42 to change or extend the period of commencement of the proposed development. Reference to the proposal being an “Extension of time period” was removed from the description of development and the proposal has instead been considered as a repeat application which seeks the development of the same commercial distillery approved under 16/00744/FUL. The proposed works are summarised as follows;

- Erection of 2 separate distilleries with visitor centres and cafeterias (one known as Jedhart Distillery and other Mossburn Distillery)
- Installation of 8 storage tanks (tank farm)
- Erection of maturation warehousing, bottling facilities and cased goods storage buildings
- Development of office buildings at Cleathaugh Steading
- Change of use of former Jedforest Hotel to form office and staff accommodation
- Associated works which include; new access, internal roads, parking areas, landscaping

The development of the site remains proposed across two phases. The first phase consists of Jedhart Distillery and other related works to enable the business to operate (i.e. tank farm, maturation warehouse, bottling hall etc.) with the landscaping of the southern part of the site being undertaken. The Mossburn Distillery, related works and the landscaping of the northern part of the site fall within the second phase.

Further details of the proposals is noted within the Committee Report for 16/00744/FUL.

## **PLANNING HISTORY**

The following planning history is relevant to the determination of this latest application;

**14/00253/PAN** – Jedforest BV made notification to the Council of Pre Application Consultation for construction of distillery including production/bottling plant, storage and visitor facilities, new access and associated landscaping in February 2014. This related to a different proposal and smaller site than the current application.

**14/00487/FUL** - External alterations, alterations to access road and parking area and associated works at Jedforest Hotel. The Council granted conditional approval for refurbishment of the Hotel for "Private corporate and domestic use". The house has been completely renovated and has been boarded up. Heras fence encloses the immediate grounds.

**15/00349/FUL** - External alterations, alterations to access road and parking area and associated works at former Jedforest Hotel. The applicant proposed for a formal landscaped garden, enclosed by stone gate piers, traditional parkland fencing and a ha-ha wall. High stone walls, enclosing a paved courtyard on the east elevation, would complete the layout of the grounds. None of these proposals have been implemented.

**16/00744/FUL** - Erection of 2 No distilleries with associated visitor centres, bottling hall, maturation warehousing, office, gatehouse, associated roads and infrastructure, and change of use of hotel to form office and staff accommodation.

This application was approved in principle by the P&BS Committee, in accordance with Officer Recommendation subject to notification to the Scottish Ministers as a result of an objection raised by SEPA on flood risk grounds. On accepting this recommendation, delegated authority was granted to Officers to resolve detailed regulatory matters with SEPA concerning Groundwater Dependent Terrestrial Ecosystems (GWDTEs) issues and Pollution Prevention and Control (PPC) measures.

On the 21<sup>st</sup> of December 2016, SEPA confirmed that they were satisfied that outstanding GWDTEs and PPC matters could be addressed by planning conditions along with relevant SEPA licence requirements.

On 31<sup>st</sup> January 2017 the Scottish Government resolved to determine that under The Town and Country Planning (Notification of Applications (Scotland) Direction 2009 that they were satisfied to not intervene in this application by either issuing a direction restricting the granting of planning permission or by calling in the application for their own determination. Scottish Borders Council were authorised to determine the application with approval granted subject to conditions agreed by the P&BS Committee.

Since determination, the applicants provided information to respond to some of the suspensive conditions which were attached to consent 16/00744/FUL. Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, it was a direction that the consented development must be implemented within 3 years of the date of the permission. On 31<sup>st</sup> January 2020, consent 16/00744/FUL lapsed after all suspensive conditions were not purified and development was not commenced with the period prescribed by the consent.

## **REPRESENTATION SUMMARY**

No third party representations have been received.

## **APPLICANTS' SUPPORTING INFORMATION**

The application has been supported by an updated Environmental Impact Assessment Report (EIAR). The changes are summarised in the Environmental Impact Assessment – Update Summary dated 23.04.2020.

Otherwise the application is supported by the same information which was submitted in support of the previous application.

## **DEVELOPMENT PLAN POLICIES:**

PMD1: Sustainability

PMD2: Quality Standards

PMD4: Development out with Development Boundaries

HD3: Protection of Residential Amenity

ED7: Business, Tourism and Leisure Development in the Countryside

EP1: International Nature Conservation Sites and Protected Species

EP2: National Conservation sites and Protected Species

EP3: Local Biodiversity

EP5: Special Landscape Areas

EP8: Archaeology  
EP13: Trees, Woodland and Hedgerows  
EP15: Development Affecting the Water Environment  
EP16: Air Quality  
IS4: Transport Development and Infrastructure  
IS5: Protection of Access Routes  
IS6: Road Adoption Standards  
IS7: Parking Provision and Standards  
IS8: Flooding  
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

## **OTHER PLANNING CONSIDERATIONS:**

Scottish Planning Policy (SPP) 2014

Supplementary Guidance on;

- Waste Management 2015
- Local Landscape Designations 2012
- Placemaking and Design 2010
- Use of Timber in Sustainable Construction 2009
- Trees and Development 2008
- Landscape and Development 2008
- Privacy and Sunlight Guide 2006
- Biodiversity 2005
- Local Biodiversity Action Plan: Biodiversity in the Scottish Borders 2001

Scottish Borders Tourism Strategy (SBTS) 2013-2020

Scottish Borders Tourism Action Plan

Planning and Building Standards Committee Report for 16/00744/FUL dated 5 December 2016

Decision Notice for 16/00744/FUL

Circular 4/98 Use of Planning Conditions

Circular 3/2013: Development Management Procedures

The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017

## **CONSULTATION RESPONSES:**

### **Statutory Consultees**

**Historic Environment Scotland (HES):** No objection. The development does not impact on any heritage assets within HES remit.

**Jed Valley Community Council:** No objection is raised however the concerns raised in response to the original application in relation to the industrial nature of the development generating noise, traffic volumes, landscape and visual impacts and artificial lighting within the picturesque Jed Valley setting are reiterated.

**Scottish Environment Protection Agency:** No objection. A Pollution Prevention Plan is required in accordance with Construction Site Licence.

**Scottish Natural Heritage:** No objection.

**Scottish Water:** No objection. Note that there is sufficient capacity in the Roberton Water Treatment Works to service the development. The provision of private waste water treatment should be investigated and the applicant should discuss surface water discharge proposals with Scottish Water.

**Transport Scotland:** No objection.

**Visit Scotland:** No response at the time of writing.

**Scottish Borders Council Consultees;**

**Access Officer:** No response at the time of writing.

**Archaeology Officer:** No objection. Recommend condition attached to previous consent relating to developer funded; watching brief and historic building survey should be re-attached to any consent.

**Contaminated Land Officer:** No objection. The site previously operated as a filling station, store and a steading. These land uses are potentially contaminative. Planning permission should be granted on condition that development is not be permitted to start until a site investigation and risk assessment has been carried out

**Ecology Officer:** No objection. The impacts of the development are likely to be as predicted in the earlier EIA and updated supplementary EclA information. Recommend that the planning conditions attached to the previous consent to mitigate the impact of the development on ecological interests would be re-attached.

**Economic Development:** No response at the time of writing.

**Flood and Coastal Management Engineer:** No objection to this previously consented development however identify pertinent points raised during the previous application whereby;

- The Flood Risk Management (Scotland) Act 2009 does not consider land raising to be a sustainable approach to managing flood risk on an undeveloped site. For this reason, and in line with SPP, the principle of protecting the role of the functional flood plain to store and/or convey water should be adopted and it is recommended that the development be relocated out with the 0.5% annual probability flood extent as shown in Figure 2-7.
- The SEPA hazard map also shows that the proposed site is at risk from surface water flooding for the 1 in 200 year event. Figure 2-17 and 2-18 show the areas expected to be subjected to surface water flooding and the flood risk assessment recommends that a surface water management plan is produced in order to manage this risk. We would request this is submitted for approval.

**Landscape Architect:** No response at the time of writing.

**Roads Planning Service:** No objection.

## **Other Consultees**

**Association For The Protection Of Rural Scotland:** No response at the time of writing.

**RSPB:** No response at the time of writing.

**Scottish Badgers:** No objection. Recommend that due to the proximity of the site to the A68 it would be prudent to retain vegetation at the eastern edges of the site to allow for safe passage of badgers.

**Scottish Wildlife Trust:** No response at the time of writing.

**The Tweed Foundation:** No response at the time of writing.

## **KEY PLANNING ISSUES:**

The key determining issues are whether or not this repeat application still complies with the Councils Local Development Plan 2016 or if any new material considerations are raised which would justify a departure from policy provision.

## **ASSESSMENT OF APPLICATION:**

### PAC Report

Members will be aware that prior to lodging a major planning application that it is incumbent on applicants and developers to engage with the local community under the Pre Application Consultation (PAC) process. The applicants have relied on the PAC which was undertaken for application 16/00744/FUL.

Circular 3/2013 Development Management Procedures advises that;

*It is for the planning authority (and ultimately the courts) to satisfy themselves that an application is sufficiently linked to the proposals consulted upon at the pre-application stage.*

The development proposed in this repeat application is materially the same as a previous development which PAC was undertaken and a disproportionate period of time has not elapsed since the PAC process was previously undertaken. In these circumstances it is acceptable for the applicants to rely on the previous PAC/PAN process.

### Legislative Changes

Since the determination of 16/00744/FUL, the EIA regulations have been updated. The Environmental Impact Assessment Directive (2014/52/EU) was published by the European Commission in 2014 and transposed into Scottish law by the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (the EIA Regulations). The updated Regulations cover a wider scope of assessment topics in line with modern best practice for impact assessment and superseded the 2011 EIA Regulations which the previous application was considered against.

The applicants have noted changes made to the submission as a result of the new EIA regulations in Table 1 of the EIAR Update Summary which is available on Public Access. The EIA regulations require consideration of four additional topics: human

health, climate change, biodiversity and risk of major accidents and disasters. These topics are included in the updated EIAR.

The Ecology Chapter has been updated in the EIAR with new surveys to reflect the current baseline. Otherwise as the proposal has not materially changed the content of the EIA and it remains largely unaltered from the previous submission. Its findings are considered as part of this repeat application.

### Planning Principle

Since the determination of 16/00744/FUL there has been no planning policy changes at a national level which this proposal would require further consideration against. At a local level, the Councils development plan which 16/00744/FUL was considered against remains unchanged.

The proposal remains located on an unallocated site within the countryside. Policy PMD4 aims to ensure that most development is located within defined Development Boundaries. It does still recognise that exceptional approvals may be granted where it is a job generating development in the countryside which is justified under Policy ED7. Policy ED7 remains to support business and employment generating developments where the Council is satisfied that there is an operational need for the development within a rural location and the development cannot be accommodated within the Development Boundary. The Committee Report for 16/00744/FUL provided a robust assessment against these policy requirements. Given that the proposal and the policy principle has remained unchanged these arguments are not repeated however the main points are summarised below;

1. Malt whiskey operations are often situated in rural Scotland with many relying on their countryside setting to positively market their brand with their unique rural locations helping to characterise the product and draw tourists.
2. The site allows for the Jed Water to provide the water supply required for the distillery process.
3. Having the distillery, warehousing and bottling operations all on one site will reduce vehicle movements, specifically HGV.
4. The site is readily accessible from the A68.
5. VisitScotland considered that the development would draw tourists and complement existing tourism assets in the Scottish Borders.
6. Economic Development section highlight that this development fits with Scottish Borders Tourism strategy 2013-2020 (which is still the current SBTS)
7. The development would create jobs. When fully complete it suggested the distillery could provide up to 70 full time jobs. The construction operation could provide employment opportunities for up to 1500 personnel.

No information has been provided to suggest that the economic benefits outlined in the previous submission no longer exist. Following determination of 16/00744/FUL the developers were seeking to discharge their suspensive planning conditions, however this exercise was not completed prior to the permission lapsing. Nevertheless their decision to reapply for consent indicates that they are still seeking to pursue this significant investment within the Scottish Borders.

This development remains a unique opportunity for the Scottish Borders. The proposal and the policy context which this development was previously justified against has remained unchanged since the determination of 16/00744/FUL. Members are advised that proposal remains a suitable job generating development in the countryside with a sustained economic justification. Therefore, this development continues to represent

a justifiable exceptional approval against Criteria a) of Policy PMD4 and Criteria c) of Policy ED7.

### Design and Landscape and Visual Impacts

No design changes are proposed and since the determination of 16/00744/FUL there have been no significant changes to the setting of the site in the immediate and wider landscape. The design and landscape implications posed by this development were thoroughly assessed within 16/00744/FUL and it was determined that the development complied with relevant LDP policy provision covering these topics, subject to conditions.

The two distillery buildings are still modern landmark visitor attractions however the topography of the site will still adequately contain these structures. The proposals involving the former Jedforest Hotel and Cleathaugh Steading continue to be handled in a sensitive manner. Concerns about the visual impact of the scale of the warehouse structures within the Teviot Valleys Special Landscape Area (SLA) linger, however it is still possible to mitigate all landscape and visual impacts of these proposals by reattaching previous conditions which seek to agree;

1. Precise details of all external materials used across the development which include the perusal of dark coloured material finishes for the warehouse buildings.
2. A detailed landscape scheme across the site including future maintenance to ensure that the development integrates with the surrounding rural area
3. A lighting management plan which will avoid the development appearing unduly prominent during darkness.

In the absence of any changes to the landscape and visual context of this site it is recommended that conditions covering the above detailed requirements are re-imposed and will ensure that the development appropriately integrates with the character and appearance of the surrounding area in accordance with policies covering Placemaking and Design (PMD2) and Special Landscape Areas (EP5).

### Impacts of Traffic, Road Safety and Parking

Neither the Councils Roads Planning Service (RPS) nor Transport Scotland have objected to this repeat application. The development would still pose the same traffic and road safety implications which were assessed under 16/00744/FUL. Since the determination of the previous application no new vehicular or pedestrian considerations have been raised. The detailed assessments undertaken previously by Transport Scotland and our RPS Officers remain valid and confirm that the new access to the A68 remains acceptable in principle. Detailed issues affecting the trunk road, parking and public transport provision were sought to be agreed by conditions to address the following matters;

1. Closure of the existing road leading to the site and the construction of the new access road in accordance with Transport Scotland's construction requirements before development commences.
2. Agreement of a traffic management plan for construction traffic
3. Wheel washing facilities
4. Provision of Traffic bollards
5. A parking study
6. Provision of connections from the site to the nearest bus stop on the A68



To ensure that safe access is provided which does not adversely affect road safety on the trunk road, mitigation is put in place to address impacts of construction traffic, sufficient parking is provided within the site and adequate access to public transport is available conditions covering the above matters are recommended. Agreement of these conditional matters will ensure that the proposal complies with development plan policy provision covering access, road safety, parking and sustainable transport.

### Flooding

Under 16/00744/FUL both SEPA and the Councils Flood Engineers objected on grounds that land raising was proposed on a greenfield site within the functional floodplain of the Jed Water. The Councils flooding advisors also raised concerns about the creation of an informal flood defence (a small bund or berm) as part of proposed Pollution Prevention and Control Measures to protect the river in the event of spillage or fire incident.

The PBS Committee accepted the recommendation of Officers which observed that;

*Flooding is clearly a material planning consideration. However, appropriate weight must be apportioned to the potential wider social and economic benefits of this proposal and cognisance must be given to the efforts of the Agent and their engineering consultants to design mitigating measures. Given, also, the relatively small proportion of flood plain affected, combined with the relative isolation from centres of population, it is considered that while the risk must be acknowledged it is not considered so great as to warrant refusal of the scheme.*

The decision of the PBS Committee to approve a development where there was an unresolved objection from SEPA triggered referral to Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009. The case was considered by the Scottish Ministers in January 2017 a direction was issued allowing the Council to determine the application. In effect, Scottish Ministers did not find that the development should be opposed on flood grounds and no additional mitigation was necessary.

In terms of this repeat application, the same small proportion of the site still lies within the floodplain which has a 0.5% annual probability of flooding. Compensatory storage is proposed on the floodplain north of Mossburn House. Clearly, flooding is still a material consideration, however both SEPA and the Councils Flood Officers recognise the decisions by the PBS Committee and Scottish Ministers in relation to 16/00744/FUL and have not objected to this repeat application. The development proposals and the LDP provision concerning flooding has not changed since the determination of 16/00744/FUL and neither SEPA nor the Councils Flood Risk Officers have advised that the flooding scenario has changed. There is no reason therefore to oppose this development on grounds of flood risk.

In line with the advice provided by the Councils Flood Officers is it recommended that an additional condition is added agree a surface water management plan to avoid flooding from this source.

### Ecology

This site's eastern boundary is defined by the Jed Water which is part of the River Tweed Special Area of Conservation (SAC). The river is an important habitat for Otter, a European Protected Species. SNH have not objected to this repeat application.

SEPA did object to 16/00744/FUL on grounds that the development would impact on Ground Water Dependent Terrestrial Ecosystems (GWDTEs) identified as Marshy grassland where the Mossburn Distillery was being proposed. After the application was presented to Members, agreement with SEPA was reached that these impacts could be adequately mitigated via an appropriately worded suspensive planning condition seeking the agreement of a Construction Environmental Management Plan (CEMP).

Updated ecological surveys have been submitted in support of this repeat application to record the current ecological baseline where previous assessments will have lapsed owing to the time between the previous application and this re-submission. These assessments have been considered by our Ecologist and have not raised any concerns.

Provided conditions covering; the appointment of an Ecological Clerk of Works, a CEMP, a Species and Habitat Protection Plan and a Landscape and Habitat Management Plan (all of which were attached to consent 16/00744/FUL) are reattached to this repeat application, the ecological implications of this development will be adequately mitigated in accordance with Policies EP1, EP2 and EP3 of the LDP.

### Other Matters

During the processing of the 16/00744/FUL a wide range of other topics not covered above were thoroughly assessed by Council Officers and relevant external consultees. These matters include;

- Impact on nearby uses
- Residential Amenity
- Air Quality
- Nuisance and Noise
- Impact on the Jed Water and other regulatory issues
- Drainage
- Handling of Waste
- Cooling/Process Water Abstraction and Cooling Water discharge
- Pollution Prevention Control (PPC) Regulations and Control of Major Accident Hazards Regulations (COMAH)
- Cultural Heritage

Officers provided a robust assessment to Members on these matters within the Committee Report for 16/00744/FUL. The updated EIAR confirms that barring modest administrative changes there has been no need to update or reconsider the impacts of the development on any of these topics.

Since the last report to Members in 2016, the physical context of the site has remained unaltered and importantly the LDP which this proposal was previously considered against is still the Councils adopted local development plan. In consultation to this repeat application no internal or external consultees raised any objections or new concerns in response to any of the above matters. In the absence of any changes it is still appropriate to rely on the detailed assessment of the developments impact on all of the topics above as considered in the report to Members on the 5<sup>th</sup> December 2016 which was accepted by Scottish Ministers. This recommendation found that the proposed development complied with LDP provisions on all of the above matters and where any potentially adverse impacts were raised, these could be adequately addressed via a suite of suitably worded planning conditions.

Since the determination of 16/00744/FUL it is acknowledged that the applicants provided information to seek to address some of the suspensive conditions however none of these conditions were formally discharged.

To ensure the proposal continues to comply with all relevant LDP policy provision and is appropriately regulated, it is recommended that all conditions which were attached to the original permission are re-imposed, should Members be minded to approve the application. This would regulate the following matters;

- Hours of construction operations
- Archaeological evaluation of the site
- Historic building surveys
- Noise
- Maintenance of plant and machinery
- Agreement of appropriate means of private drainage and waste handling
- Contaminated land investigations

The proposal is otherwise found to be acceptable and no concerns have been raised against any of the new topics included in the updated EIA which would fail to comply with the policy constraints set out the Councils LDP.

## **CONCLUSION**

The proposed development would still represent a significant economic investment within the Scottish Borders. Although consent for this development has lapsed, the development proposed in this repeat application is the same development which was previously supported by the P&BS Committee and did not require any further intervention by the Scottish Ministers following notification to address flooding matters.

The current proposals have remained unchanged since the earlier approval and have received no objection from internal or external consultees and no objections from third parties. The Councils development plan has not changed since the previous application was determined and the merits of this repeat application have been re-assessed against the same development plan policies.

In the absence of any changes to the proposals and the development plan, it is recommended that (subject to compliance with the schedule of conditions and informatives) the development will accord with all the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

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

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

1. No development shall commence until the following details have been submitted to and approved in writing by the Planning Authority;
  - a) A detailed construction programme and projected timetable for implementation of the development, to include proposals for the phasing of the development, including phasing of the landscaping plan, provision of all building and associated infrastructure including access roads, parking and drainage;
  - b) The location, design and layout of any temporary construction compound(s), to include (but not limited to) areas for staff welfare accommodation, areas for

storage of construction materials including plant and machinery, etc., the positioning of any static plant as far as practicable from site boundaries, the location orientation, size and height of all site compound buildings to be stationed on the site, (and positioned to act as a sound barrier) and the location and design including height of any barriers to be erected around the site to reduce the level of noise, etc.

- c) Detailed specifications and/ or samples of all external finishing materials for all buildings to be erected on the site. This shall include the use of dark coloured external materials for the warehouse buildings.

Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure an acceptable form of development and to mitigate the landscape and visual impact of the development (as recommended in the applicant's submitted ES) in the interests of the landscape and visual appearance and amenity of the development upon the surrounding Special Landscape Area.

- 2. All landscaping works including tree and shrub planting, hedgerows; grass and hard landscaping features to be undertaken in accordance with the drawings hereby approved. Notwithstanding the following changes;
  - a) Changing specification of River birch *Betula nigra* in 'Riverside Trees' since this is not native.
  - b) Using cell grown or pot grown stock as opposed to bare root stock.
  - c) Further details of hard landscaping features
  - d) Further details of Landscape Art Feature

No part of the development shall commence until details have first been submitted to and approved in writing by the Planning Authority including the timescale for undertaking all planting and seeding works which form part of the approved landscaping works together with a programme for the long-term management and maintenance of all landscape areas within the site. This timetable shall be informed by the construction and phasing programme as required by Condition 1 above and include provision for early establishment of all planting following earth works around the site boundary, including the vehicular access. Thereafter, all landscaping shall be provided and implemented in accordance with the approved details.

Reason: Details of the timetable for implementing the proposed/required landscaping arrangements are lacking from the submission and in order to ensure that the approved landscaping works are carried out timeously, including boundary treatments, to ensure the development is screened and absorbed into the landscape and to reduce the landscape and visual amenity impact of the development upon the Special Landscape Area.

- 3. Any trees, shrubs and seeding/turfing (within a period of 5 years from planting) are removed or become damaged shall be replaced by the end of the first planting season thereafter with others of similar size, number species and or seeding mix, unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure that all approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the character, appearance and amenity of the development and the surrounding areas.

- 4. Construction works associated with the development, audible at any point on the boundary of any noise sensitive dwelling, shall be permitted between 0700-1900 hours, Monday to Friday and 0700-1600 hours on Saturday only, and at no other times out with these permitted hours. No other construction works shall take place out with these times unless otherwise first agreed in writing with the Planning Authority.

Reason: To minimise the potential disturbance and impact from construction operations occurring within the site upon the amenity of the surrounding area including the nearest noise sensitive properties.

5. No development shall commence until a lighting plan for limited unidirectional lighting has first been submitted to and approved in writing by the Planning Authority. This lighting plan should be designed by a qualified lighting designer in accordance with The Institution of Lighting Engineers; "Guidance Notes for the Reduction of Obtrusive Light". Thereafter development to only be undertaken and lit in accordance with this plan.

Reason: To protect neighbouring residential amenity and protect the rural character and appearance of the surrounding landscape.

6. No development shall take place until the applicant has secured and implemented an approved programme of archaeological work and reporting in accordance with a Written Scheme of Investigation (WSI) outlining an Archaeological Field Evaluation. Development and archaeological investigation shall only proceed in accordance with the WSI.

The requirements of this are:

- a) 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.
- b) If significant finds, features or deposits are identified by the attending archaeologist(s), all works shall cease and the nominated archaeologist(s) will contact the Council's Archaeology Officer immediately for verification. The discovery of significant archaeology may result in further developer funded archaeological mitigation as determined by the Council.
- c) Limited intervention of features, or expansion of trenches will only take place if approved by the Council's Archaeology Officer
- d) Initial results shall be submitted to the Planning Authority for approval in the form of a Data Structure Report (DSR) within one month following completion of all on-site archaeological works. These shall also be reported to the National Monuments Record of Scotland (NMRS) and Discovery and Excavation in Scotland (DES) within three months of on-site completion.
- e) Further development work shall not take place until the Planning Authority has determined the potential for further archaeological impacts and, if required, a further requirement for mitigation.
- f) Development should seek to mitigate the loss of significant archaeology through avoidance by design in the first instance according to an approved plan.
- g) If avoidance is not possible, further developer funded mitigation for significant archaeology will be implemented through either an approved and amended WSI, a new WSI to cover substantial excavation, and a Post-Excavation Research Design (PERD).

The results of additional excavations and an appropriately resourced post-excavation research design shall be submitted to the Council for approval within 1 year of the final archaeological works, and published in an appropriate publication within 3 years.

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

7. 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 an 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:

- a) 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.
- b) Historic Building Survey will be in accordance with the ALGAO: Scotland guidance as requested by the Planning Authority.
- c) In accordance with the WSI, access shall be afforded to the nominated archaeologist(s) to allow archaeological investigation, at all reasonable times.
- d) 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.
- e) Once approved the site archive and HBSR shall also be reported to the National Monuments Record of Scotland (NMRS) via the OASIS system within three months of on-site completion.
- f) Results will be summarised in Discovery and Excavation in Scotland (DES) within one year of on-site completion.
- g) 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.

8. No development shall commence until a new access to the site has been constructed and the existing access closed off. The new access to the development shall substantially match the new junction which accesses the site as detailed in the drawing (Dwg No EC21062:95:001) submitted by Blyth + Blyth dated 9 May 2016, in support of the application, but excluding the right turn lane. The access shall be constructed in accordance with details that shall first be submitted and approved in writing by the Planning Authority, in consultation with Transport Scotland.

Reason: To ensure that the use of the existing access is discontinued and the safety of traffic on the trunk road is improved; to maintain safety for both the trunk road traffic and the traffic moving to and from the development; to ensure that vehicles entering or exiting the access can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the trunk road; and to ensure that water run-off from the site does not enter the trunk road.

9. No development shall commence until a Traffic Management Plan for construction traffic has first been submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland.

Reason: To maintain safety for both the trunk road traffic and the traffic moving to and from the development

10. The full junction on the A68(T) as detailed in the drawing dated 9 May 2016 (Dwg No EC21062:95:001), submitted by Blyth + Blyth in support of the application, shall be constructed prior to the occupation of the development hereby approved.

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

the development. To ensure that vehicles entering or exiting the access can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the trunk road and ensure that water run-off from the site does not enter the trunk road.

11. The gradient of the access road shall not exceed 1 in 40 for a distance of 15 metres from the nearside edge of the trunk road carriageway; the first 15 metres shall be surfaced in a bituminous surface and measures shall be adopted to ensure that all drainage from the site does not discharge onto the trunk road.

Reason: To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished. To maintain safety for both the trunk road traffic and the traffic moving to and from the development. To ensure that vehicles entering or exiting the access can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the trunk road and ensure that water run-off from the site does not enter the trunk road.

12. Wheel washing facilities shall be provided within the site.

Reason: To ensure that material from the site is not deposited on the trunk road to the detriment of road safety

13. No development shall commence until a detailed plan identifying the precise location of traffic bollards (Glasdon Admiral bollard or similar) to be erected within the trunk road verge, either side of the proposed access at agreed locations has first been submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. Thereafter the development shall be carried out in complete accordance with the approved details before the development is operational.

Reason: To ensure that road safety is improved by highlighting the location of the access.

14. No development shall commence until a Parking Study has first been submitted to and agreed in writing by the Planning Authority in consultation with Transport Scotland. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure that sufficient parking spaces are provided within the development.

15. No development shall commence until plans detailed plans are first submitted to and approved writing by the Planning Authority in consultation with Transport Scotland. The plans shall illustrate the following information;

- a) Pedestrian connections to and from the nearest bus stop on the A68.
- b) Plans to demonstrate replacement of the nearest bus stop on the A68
- c) Plans to demonstrate how the existing access road will be physically stopped up.

Thereafter the development shall be carried out in complete accordance with the approved details before the development hereby approved is operational.

Reason: To ensure sufficient access to the development by sustainable transport methods and in the interests of road safety.

16. 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 the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery

used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2

Reason: To protect the residential amenity of nearby properties.

17. 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 nearby properties.

18. No development shall commence until the applicant has provided evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition.

Reason: To ensure that the development does not have a detrimental effect on public health.

19. Waste arising from the development shall not be disposed of other than in complete accordance with Chapter 2 Section 5.5 of the Environmental Statement, unless he otherwise agreed in writing with the Planning Authority.

Reason: To ensure that the development does not have a detrimental effect on public health.

20. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition; and thereafter

- a) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- b) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- c) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- d) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.



Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

21. No development shall commence until an Ecological Clerk of Works (ECoW) has been appointed to carry out pre-construction ecological surveys, to inform a Construction Environmental Management Plan and to oversee compliance with the Construction Environment Management Plan (CEMP) and Species Protection Plan, ("the ECoW works"). The terms of the appointment shall be submitted for the approval in writing by the Council, as Planning Authority, in consultation with SEPA and SNH. The terms shall include the requirement to
- a) Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Statement and other information lodged in support of the application, the Construction Environmental Management Plan and other plans; and
  - b) Require the ECoW to report to the Company's nominated construction project manager, the Planning Authority, SNH and SEPA any incidences of non-compliance with the ECoW works.

Reason: To ensure the protection of the Tweed SAC and European protected species.

22. No development shall commence until a Construction Environment Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The CEMP shall include:
- a) Risk assessment of potentially damaging construction activities
  - b) Identification of biodiversity protection zones
  - c) Method Statements to avoid or reduce impacts during construction, to include the location and timing of sensitive works to avoid harm to biodiversity features, the times during construction when specialist ecologists need to be present on site to oversee works include the use of protective fences, exclusion barriers and warning signs
  - d) A Drainage Management Plan
  - e) A Site Waste Management Plan
  - f) An Accident Management Plan
  - g) Responsible persons and lines of communication
  - h) The role and responsibilities on site of an ecological clerk of works ECoW
  - i) Actual location of outfall and abstraction as identified in the CAR Licence.

The approved CEMP shall be implemented throughout the construction period and operational phase as appropriate, strictly in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the protection of the River Tweed SAC and European protected species.

23. No development shall commence until a Species and Habitat Protection Plan including supplementary surveys and measures for Ground Water Dependent Terrestrial Ecosystems (GWDTEs), bats, otter, badger, breeding birds and amphibia as appropriate has been submitted to and approved in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure the protection of the River Tweed SAC, European protected species and GWDTEs.

24. No development shall commence until a Landscape and Habitat Management Plan, including measures to compensate for habitat loss and enhance existing habitats including through woodland creation and management, conservation

management of grassland and wetlands, provision of a scheme of bat and bird boxes, an artificial otter holt and provision of appropriate access and interpretation, has first been submitted to and approved in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved scheme.

Reason: To ensure the protection of the River Tweed SAC, European Protected species and enhancement of the ecological interest.

25. No development shall commence until a surface water management plan is submitted to and agreed in writing by the Planning Authority in accordance with the recommendations of the flood risk assessment. Thereafter the development shall be carried out in accordance with the approved details.

Reasons: To ensure appropriate management of surface water

### Informatives

- 1) Transport Scotland:

The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Trunk Road and Bus Operations. Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal. Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation. Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation. The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges. Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

- 2) Environmental Health:

Private drainage systems often cause public health problems when no clear responsibility or access rights exists for maintaining the system in a working condition. Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law. To discharge the Condition relating to the private drainage arrangements, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified. The Applicants should liaise with the Council's Licensing Section to establish whether or not the proposed staff accommodation requires to be licenced as a House in Multiple Occupation. [liquorandlicensing@scotborders.gcsx.gov.uk](mailto:liquorandlicensing@scotborders.gcsx.gov.uk)

- 3) SEPA

The applicants should contact SEPA's local team to discuss their draft Pollution Prevention Plan (PPP) in due course. No construction can commence until a PPP is agreed in accordance with the construction site licence CAR/L/1178951.

- 4) With regards to Condition 14, the Applicant should be advised that the Parking Study is required due to discrepancies within the Visitor Appraisal Study. Parking is based on visitor numbers and car occupancy which is stated as being assumed

to be 2.7 people per car but Paragraph 2.7 in the same report states that Department of Transport figures indicate 1.51 people per car. This discrepancy must be resolved and the Parking Study should also include figures from similar development types to validate the assumed figures in the Transport Statement, based on the Visitor Appraisal Study.

#### DRAWING NUMBERS

See Appendix A – Drawing Schedule

#### **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
Scott Shearer	Peripatetic Planning Officer



20/00109/FUL

Land North And South Of Former  
Jedforest Hotel And Jedforest Hotel  
(now Known As Mossburn House)  
And Jedforest Filling Station  
Jedburgh

