

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

MINUTE of Meeting of the PLANNING AND
BUILDING STANDARDS COMMITTEE held
via Microsoft Teams on Monday, 1 March
2021 at 10.00 a.m.

Present:- Councillors S Mountford (Chairman), A. Anderson, J. Fullarton, S. Hamilton, H. Laing, D. Moffat, C. Ramage, N. Richards, E. Small.
Apologies:- Councillor J. Fullarton.
In Attendance:- Lead Planning Officer (B. Fotheringham), Lead Planning Officer (Craig Miller), Lead Roads Planning Officer, Solicitor (Fraser Rankine), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 1 February 2021.

DECISION

APPROVED for signature by the Chairman.

ORDER OF BUSINESS

The Chairman varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

2. **APPLICATIONS**

There had been circulated copies of reports by the Chief Planning and Housing Officer 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) **the Reporter had sustained appeals against refusal in respect of the erection of dwellinghouse on Land North East of Burnside, Lower Green, West Linton – 20/00378/PPP; and**

(b) **there remained one outstanding appeal previously reported on which decisions were still awaited when the report was prepared on 18 February 2021.**

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| <ul style="list-style-type: none">• Land North West of Willowdean House, Foulden |
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(c) **review requests had been received in respect of the following:-**

(i) **erection of a dwellinghouse on Land North West of Whinneybrae, Skirling – 20/00932/PPP; and**

- (ii) **Replacement windows at the Angling Club, 5 Sandbed, Hawick – 20/01236/FUL**
- (d) **The decision of the appointed officer had been upheld in respect of the demolition of garage and erection of dwellinghouse on garden ground of Clifton Cottage, High Street, Kirk Yetholm – 20/00453/FUL**
- (e) **there remained one review previously reported on which a decision was still awaited when the report was prepared on 18 February 2021 and related to the site at:**
- **Land North East of Balcladah, Easter Ulston, Jedburgh**
- (f) **The Reporter had sustained the Section 36 Public Local Inquiry in respect of the Variation of condition 2 to extend operational life of wind farm by additional 5 years at Fallago Rig 1, Longformacus.**
- (g) **The Reporter had dismissed the Section 36 Public Local Inquiry in respect of the erection of 12 additional; turbines at Fallago Rig 2, Longformacus.**
- (h) **there remained one S36 PLI's previously reported on which decisions were still awaited when the report was prepared on 18 February 2021 and related to sites at:**
- **Crystal Rigg Wind Farm, Cranshaws, Duns**

The meeting concluded at 13.30 a.m.

APPENDIX I
APPLICATION FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
19/00756/S36	Erection of 45 No wind turbines and associated access tracks, infrastructure including substation/control room buildings and compound, temporary construction compound, meteorological mast and temporary borrow	Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick

Decision: That the Council indicate to the Scottish Government that it objects to the proposed development for the following reasons:

Reason for Objection 1: Impact on Landscape Character

The proposed development would be contrary to Local Development Plan Policy ED9 the Renewable Energy Supplementary Guidance and the Landscape Capacity and Cumulative Impact Study, in that the scale, form, layout and location of the development would represent a significant and unacceptable adverse change to the existing landscape character of the area, particularly impacting on the scale, appreciation and character of the Cauldcleuch Head and Craik Landscape Character Areas.

Reason for Objection 2: Visual Impact

The proposed development would be contrary to Local Development Plan Policy ED9 the Renewable Energy Supplementary Guidance and the Landscape Capacity and Cumulative Impact Study, in that the excessive scale and layout of the proposed development will result in significant and unacceptable adverse visual impacts to sensitive receptors using the minor road to Commonbrae and travelling to and from the Scottish Borders on the A7.

Reason for Objection 3: Aviation Lighting

The proposed development would be contrary to Local Development Plan Policy ED9 and the Renewable Energy Supplementary Guidance in that the visual impact of red aviation lights on the wind turbines, will create significant and unacceptable adverse visual effects, incongruous and visible over considerable distance. This will introduce urban characteristics into a dark rural environment largely unaffected by artificial light experienced by receptors travelling on public roads and paths within the area and would also detract from the sense of remoteness and tranquillity of the Cauldcleuch Head and Craik Landscape Character Areas.

Reason for Objection 4: Archaeology Impacts

The proposed development would be contrary to Local Development Plan Policies ED9, EP8 and the Renewable Energy Supplementary Guidance in that the applicant has failed to demonstrate that the direct physical impacts of the development would not be significant and unacceptable on sites of national, regional and local archaeological significance within the site. Furthermore, the size and location of turbines 8 and 19 would have an unacceptable and significantly adverse impact on the setting of Pikethaw Cairn, without adequate mitigation or demonstration that the benefits of the scheme outweigh such impact.

Should the development be considered for approval, then conditions and a Legal Agreement have been identified covering a range of different aspects including, Micrositing, noise limits, roads matters, flooding, ecology, site restoration and decommissioning.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
18/01456/FUL	Variations of conditions 1 and 14 of planning Consent 13/00789/FUL for an extension to time to initiate development and to allow commencement prior to approval of an ATC Radar Mitigation Scheme	Land North East and North West of Farmhouse Braidlie, Hawick

Decision: Approved subject to the following conditions and informatives:

Conditions

Time limit

1. The development shall be begun no later than 3 years from the date of this permission.
Reason: To specify the time period within which development should start.

Siting, Design and Appearance

2. Prior to commencement of the development, the developer shall submit details of the proposed make and model of turbine that will be utilised. Clarification of proposed external colour, rotational direction, noise output and rotational speeds shall be included in the specification provided in response to this condition. No other model of turbine shall be utilised.
Reason: For the avoidance of doubt to enable detailed consideration of any variation from the turbines assessed as part of this application.
3. The overall height of the wind turbines shall not exceed 110 metres for Turbines 1, 2 and 4, and 125 metres for Turbines 3, 5,6,7,8 and 9, to the tip of the blade when the blade is in the vertical position, when measured from natural ground conditions immediately adjacent to the turbine base. The overall height of the hub/nacelle shall not exceed 65 metres for Turbines 1, 2, and 4; and 80 metres for Turbines 3, 5,6,7,8 and 9. The wind turbine blades on all the turbines hereby permitted shall rotate in the same direction.
Reason: To ensure that the development is carried out in accordance with the turbines portrayed within the application, in the interests of visual amenity.
4. Prior to the commencement of development, the confirmed 9 turbine wind farm layout including the locations of all turbines, buildings, borrow pits, hardstandings and temporary and permanent access tracks, plus the location of all on-site cabling trenches shall be submitted to the planning authority. The layout shall be provided on an adequately detailed drawing which includes contours, and shall take account of the 50m micrositing allowance identified within the Environmental Statement where such allowance is known to be required prior to the commencement of development. Supporting commentary shall be provided with the drawing explaining the rationale behind the micrositing and demonstrating that it has taken account of consultee advice relating to impact on the peat environment and groundwater resource. The development shall be carried out in strict accordance with the details included in the drawings submitted in response to this condition. Any further micrositing required during construction within the agreed 50m allowance, adhering to the requirements of condition 24, will be submitted to the planning authority for their information on an amended layout drawing.
Reason: To enable the planning authority to understand precisely where each component of the site will be sited in relation to other elements of the site (including its boundaries), and to allow for minor changes to be made to overcome potential difficulties arising in respect of archaeology, ecology, hydrology.
5. Notwithstanding the details shown in the submitted Environmental Statement, details of external materials relating to construction of the access tracks, crane hardstandings, the

control building and any other on site apparatus/equipment shall be submitted to, and approved in writing by the planning authority. The development shall be undertaken in strict accordance with the details approved in response to this condition.

Reason: In the interests of visual amenity.

6. All cables between the turbines and the substation shall be laid underground.

Reason: In the interests of visual amenity.

Safety:

7. All turbines and components shall be installed to meet the safety standards set by British Standard BS EN 61400-1: 2005 'Wind turbine generator systems: Safety requirements' or International Electro-technical Commission IEC 16400.

Reason: In the interests of health and safety of all users of the site and its environs.

Site Decommissioning, Restoration and Aftercare:

8. This consent expires 25 years from the date on which the last wind turbine generator forming part of the development is commissioned and exporting electricity to the national grid (Final Commissioning Date). Confirmation of the Final Commissioning Date must be given in writing to the Planning Authority within 28 working days of that event.

Reason: To define the duration of the consent.

9. No later than 12 months before the decommissioning of the site or expiry of the consent associated with this permission (whichever is the earlier) a decommissioning, restoration and aftercare scheme shall be submitted to the Planning Authority for its written approval which shall provide for the removal of the wind turbines, and associated development above and on the ground (including tracks and hardstanding), and the foundations of the wind turbines to a depth of 1.2 metres below ground level. The scheme shall include proposals for the management and the timing of the works and for the restoration of the site. The scheme shall be implemented as approved within 3 years of the expiry of the consent.

Reason: To ensure that all wind turbines and associated development are removed from site at the expiry of the consent.

- 9a In the event that no turbines have been erected within 25 years of the commencement of development, a decommissioning, restoration and aftercare scheme shall be submitted to the Planning Authority for its written approval within six months of the expiry of the aforementioned date. This scheme shall provide for the removal of any associated development above and on the ground (including tracks and hardstanding), and any foundations of wind turbines/cranes to a depth of 1.2 metres below ground level. The scheme shall include proposals for the management and the timing of the works and for the restoration of the site. The scheme shall be implemented as approved within 3 years of the expiry of aforementioned period.

Reason: To ensure that all associated development is removed from site at the expiry of the specified period.

Financial Guarantee:

10. There shall be no commencement of development unless the Company has delivered a bond or other form of financial guarantee in terms acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations contained in Condition 9 to the Planning Authority. The financial guarantee shall thereafter be maintained in favour of the Planning Authority until the date of completion of all restoration and aftercare obligations. The value of the financial guarantee shall be determined by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations contained in Condition 9. The value of the financial guarantee shall be reviewed by a suitably qualified independent

professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with restoration and aftercare obligations and best practice prevailing at the time of each review.

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

- 10a. The bond or other form of financial guarantee required in Condition 10 shall also include clauses securing the cost of performance of all decommissioning, restoration and aftercare obligations, should no wind turbines be erected on the site within the period specified in Condition 9a following commencement of development.

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

Turbine Failure/Removal:

11. In the event of any wind turbine failing to produce electricity supplied to the local grid for a continuous period of 12 months, not due to it being under repair or replacement then it will be deemed to have ceased to be required, and the wind turbine foundation to a depth of 1.2m below ground level, the wind turbine and its ancillary equipment shall be dismantled and removed from the site and the site restored to a condition to be agreed by the Planning Authority. The restoration of the land shall be completed within 12 months of the removal of the turbine.

Reason: To safeguard against the landscape and visual environmental impacts associated with the retention of any turbines that are deemed no longer to be operationally required.

Air Traffic Safety:

12. The turbines shall be fitted with MOD-accredited 25 candela omni-directional aviation lighting OR infra – red warning lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on the turbines. The turbines will be erected with this lighting installed and the lighting will remain operational throughout the duration of this consent.

Reason: In the interests of aviation safety.

13. Prior to the erection of the first wind turbine, the developer shall provide written confirmation to the Planning Authority and the Ministry of Defence of the anticipated date of commencement of and completion of construction; the maximum height above ground level of construction equipment and the anemometry mast; the position of each wind turbine in latitude and longitude; and the hub height and rotor diameter of each turbine (in metres). The developer shall give the Planning Authority and the Ministry of Defence notice as soon as reasonably practicable if any changes are made to the information required by this condition.

Reason: In the interests of aviation safety.

MoD Air Traffic Control radar:

14. No part of any turbine shall be erected above ground until an Air Traffic Control Radar Mitigation Scheme to address the impact of the wind turbine upon air safety has been submitted to and approved in writing by the Planning Authority.

The Air Traffic Control Radar Mitigation Scheme is a scheme designed to mitigate the impact of the development upon the operation of the Air Traffic Control Radar at Spadeadam (“the Radar”) and the air traffic control operations of the Ministry of Defence (MOD) which is reliant upon the Radar. The Air Traffic Control Radar Mitigation Scheme shall set out the appropriate measures to be implemented to mitigate the impact of the development on the

Radar and shall be in place for the operational life of the development provided the Radar remains in operation.

No turbines shall become operational unless and until all those measures required by the approved Air Traffic Control Radar Mitigation Scheme to be implemented prior to the operation of the turbines have been implemented and the Planning Authority has confirmed this in writing. The development shall thereafter be operated fully in accordance with the approved Air Traffic Control Radar Mitigation Scheme.

Reason: In the interests of aviation safety.

NATS Radar

15. No part of any Turbine shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by the Scottish Borders Council in order to avoid the impact of the development on the Primary Radar of the Operator located at Great Dun Fell and associated air traffic management operations.

Reason: In the interests of aviation safety.

16. No blades shall be fitted to any Turbine unless and until the approved Primary Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme.

Reason: In the interests of aviation safety.

For the purpose of conditions 15 and 16 above:

"Operator" means NATS (En Route) plc, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act).

"Primary Radar Mitigation Scheme" or "Scheme" means a detailed scheme agreed with the Operator which sets out the measures to be taken to avoid at all times the impact of the development on the Great Dun Fell primary radar and air traffic management operations of the Operator."

Signage:

17. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, no symbols, signs, logos or other lettering (other than those required for health and safety reasons) shall be displayed on the turbines, other buildings or structures within the site without the written approval of the Planning Authority.

Reason: To ensure that the development does not unduly prejudice public amenity.

18. No signage, other than that required for health and safety and for traffic management, shall be erected within the application site without the written consent of the Planning Authority.

Reason: To ensure that the development does not unduly prejudice public amenity.

Road Safety & Traffic Management:

19. No construction traffic shall access the site until a Traffic Management and Road Safety Plan has been submitted to and approved in writing by the Planning Authority, which includes detailed information relating to the following matters:

- a) detailed design of any widening or other alteration to the road network and proposals for reinstatement once the loads have been delivered;

- b) management of abnormal vehicle movements and other associated construction traffic movements (including trial runs following agreed road widening works);
- c) date and time schedules for delivery of all components of the development involving abnormal loads;
- d) road condition survey, detailed proposals of finalised road widening/surfacing/improvements to accommodate abnormal loads and a method of ensuring that any damages to the road due to construction and/or abnormal loads associated with the development are repaired in an agreed manner and to an agreed timetable;
- e) all new signage identifying to road users the presence of the site, access and potential to encounter construction traffic; and
- f) wheel washing facilities at the site access.
- g) details of the delivery times for construction materials or equipment taking into account impact on residential amenities

The development shall be undertaken in strict accordance with the details approved in response to this Condition.

Reason: To ensure that the development is compatible with road user amenity, road safety and traffic management objectives, and also to provide adequate restoration to offset the environmental impact of the measures proposed.

Rights of Way:

20. There shall be no obstruction, diversion or closure (caused by implementation of the development) of any Right of Way/public access path within or adjacent to the application site and its proposed accesses before, during or after development unless such actions have been formally agreed in writing by the planning authority.

Reason: To protect the amenity and safety of users of the public path network.

Ecology and Ornithology:

21. Prior to the commencement of development a scheme for the protection of species and habitat enhancement shall be submitted and approved in writing by the Planning Authority. The submitted scheme shall include:
- a) Supplementary/checking surveys for protected species (including schedule 1 birds, otter, badger, bats, water vole, red squirrel and nests of all breeding birds) shall be carried out by a suitably qualified person or persons to inform construction activities and any required mitigation
 - b) Species mitigation and management plan
 - c) A Before-After-Control-Impact (BACI) monitoring programme for schedule 1 raptors and breeding birds survey (black grouse and wader) at 1, 3, 5, 10 and 15 year intervals
 - d) A landscape Habitat Management and Enhancement Plan, including measures appropriate for hen harrier

Upon approval the scheme shall for the protection of species and habitat enhancement shall be implemented unless otherwise agreed in writing by the Planning Authority

Reason: To make sure protected and other species are not harmed during construction and the site is enhanced for the benefit of biodiversity.

Environmental Management:

22. At least 2 months prior to the commencement of development (other than agreed enabling works in terms of Condition 23) a full site specific environmental management plan (EMP) shall be submitted to and approved in writing by the Planning Authority (in consultation with

SEPA and other agencies such as SNH as appropriate) and all work shall be carried out in accordance with the details in the plan approved in response to this condition. The plan shall include the following components (this list is not exhaustive):

- a) a study of the site and its environs to establish precisely how local water sources and supplies relate to and/or would be affected by the implementation of the development, plus mitigation in relation to this matter;
- b) a drainage management strategy, demonstrating how all surface and waste water arising during and after development will be managed and prevented from polluting any watercourses or sources (based on SUDS principles – Sustainable Urban Drainage Systems);
- c) a plan for the management of flood risk, in particular in relation to parts of the site close to watercourses and proposed crossings of the watercourse;
- d) a focussed waste management strategy;
- e) a strategy for the management of peat, in the form of a Peat Management Plan;
- f) a strategy for management of dust arising during construction of the tracks, hardstandings and foundations;
- g) details of measures proposed to contain all materials and fuels to be utilised during construction; and
- h) details of borrow pit excavation and reinstatement (including the profile); including proposals for how any groundwater will be dealt with, if encountered.
Reason: To control pollution of air, land and water.

23. Prior to Commencement of Development, the wind farm operator shall prepare a Construction Method Statement (to include a Risk Assessment) for the approval of the Planning Authority, in consultation with SNH and SEPA. The Construction Method Statement shall comprise the following details:

- a) all on-site construction, and construction of access tracks, including drainage; mitigation, post-construction restoration, and reinstatement work, as well as the timetables for such work;
- b) details relating to a 'tool box talk' on archaeology to on-site contractors preparing the site infrastructure;
- c) any temporary diversions of rights of way and associated signage;
- d) surface water drainage measures to comply with national guidance on pollution prevention, including surface water run-off from internal access roads;
- e) details of waste water management during construction;
- f) the arrangement for the on-site storage of fuel oil and other chemicals;
- g) the method, frequency and duration of ecological monitoring, particularly of watercourses, over the Construction Period of the wind farm development;
- h) details of the phasing/timing of construction of all components of the development including dates for delivery of components;
- i) details of water supply;
- j) details of measures to reduce soil erosion;
- k) details of assessment and mitigation in respect of construction noise, including measures adopted during evenings, night time, early mornings, weekends and public holidays
- l) details relating to minimisation of environmental impact of road construction;
- m) details of any watercourse engineering works and measures for the implementation of buffer zones around existing watercourses and features;
- n) details of timescale for the restoration of the site, including the site compound and crane hard-standing areas; and
- o) details of contingency planning in the event of accidental release of materials which could cause harm to the environment.

Subject to the following paragraph, no work shall begin on the development, apart from the enabling works, until the Construction Method Statement has been approved. Once approved, the works specified in the Construction Method Statement shall be carried out as approved.

The enabling works shall not be carried out until details of them (including any necessary measures for public road improvements outwith the site, traffic management, works to be implemented at the entrance to the site to prevent dust and mud entering the public highway, or any related programme of monitoring the condition of public roads) have been submitted to and approved in writing by the Planning Authority, in consultation with SNH and SEPA. All of the enabling works shall be carried out in accordance with the approved details.

Reason: It is essential to ensure that all construction works are carried out in a controlled manner which minimises environmental damage; the CMS will provide a useable document identifying guidelines and conditions for construction, but which also gives recourse to mitigating action in the event of construction deviating from the CMS. The document, with the Environmental Management Plan required by Condition 22 of this permission, shall provide the (Ecological) Clerk of Works (required by Condition 24 of this permission) with information with which to monitor construction and environmental management.

24. Prior to the Commencement of Development and for the period of the enabling works, the wind farm operator shall appoint an independent Ecological Clerk of Works (ECoW) under terms which have first been submitted to and agreed in writing by the planning authority, in consultation with SNH and SEPA, and shall include that the appointment shall be for the period of wind farm construction, including micro-siting and the finalisation of the wind farm layout, as well as subsequent post-construction restoration.

The ECoW's terms of appointment are to impose a duty to monitor compliance with all the ecological and hydrological aspects of the Construction Method Statement, including post-construction restoration, which have been approved under the terms of Condition 23 above. The ECoW's terms of appointment are to require the ECoW to report promptly to the wind farm operator's nominated Construction Project Manager any non-compliance with the hydrological or ecological aspects of the Construction Method Statement. The wind farm operator shall confer on the ECoW (and comply with instructions given in the exercise of) the power to stop any construction or restoration activity on-site which in his or her view (acting reasonably) could lead to significant effects on the environment, and shall without delay, report the stoppage, with reasons, to the wind farm operator's nominated Construction Project Manager and to the Planning Authority, SNH and SEPA.

Reason: The presence of an ECoW at the site is essential to enable unforeseen or unplanned occurrences relating to the environment on and in relation to the site, in particular when it relates to impact on biodiversity and/or the water environment, to be mitigated.

Archaeology:

25. No development shall take place until the applicant has secured a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) outlining a Watching Brief which must be implemented during relevant development works. The requirements of this are:
- a) The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Institute for Archaeologists (IfA) approval of which shall be in writing by the Planning Authority;
 - b) Access shall be afforded to the nominated archaeologist to supervise relevant development works, investigate and record features of interest, and recover finds and samples;
 - c) If significant finds, features or deposits are discovered all works shall cease and the nominated archaeologist(s) will contact the Council's Archaeology Officer immediately for consultation which may result in further developer funded archaeological mitigation;
 - d) If significant archaeology is identified by the contracted archaeologists and in agreement with the Planning Authority, a further scheme of mitigation subject to an amended WSI shall be implemented;
 - e) 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.

- f) In the event that significant archaeological materials (deemed so by the Planning Authority in consultation with the developer's archaeological contractor) are recovered either during the course of archaeological investigation or development, the developer will ensure that these undergo post-excavation research by a contracted archaeologist in accordance with a separate Post-Excavation Research Design (PERD) approved in writing by the Planning Authority.
- g) The results of post-excavation research will be submitted to the Planning Authority and disseminated appropriately through publication and community engagement within one year of the final on-site archaeological investigations and reporting; and
- h) The applicant's archaeological contractor shall ensure that the full archive of materials and records be submitted to Treasure Trove within one year of the completion of post-excavation research and archived appropriately according to national guidelines
The developer shall give a minimum of two weeks' notice of the commencement of the approved archaeological works in writing to the nominated archaeological contractor and to the Planning Authority. No works shall commence until the two week notice period has expired.

No development shall take place until fencing has been erected, in a manner to be agreed in writing by the Planning Authority, about the identified area of archaeological interest and no work shall take place inside the fencing without the prior written consent of the Planning Authority

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains. This condition affords a reasonable opportunity to record the history of the site, secure appropriate analysis, allow sufficient time to commence archaeological works and safeguard any sites of archaeological interest.

Noise:

- 26. Noise levels from the combined effects of the wind turbines forming this development at any noise sensitive premises (in existence at the time of permission) where the occupier of the property has no financial interest in the development shall not exceed an external free field LA90, 10min level of 35dB (A), at any 10 metre height wind speed up to 12 m/s. For properties where the occupier has a financial interest in the development, the above levels should not exceed 45dB (A). Any tonal elements in the noise spectra shall be assessed using the joint Nordic Method and the tone level shall not exceed 2dB above the 'masking Threshold for Tones in Noise'.

Reason: To give protection to residents/occupiers of noise sensitive properties in proximity to the development, in the interests of private amenity.

- 27. In the event of a complaint, which in the view of the Planning Authority is justified, being received by the Planning Authority following implementation of the development and the wind farm becoming operational, within 21 days of being notified of the complaint by the Planning Authority the wind farm operator shall, at its expense, undertake a professional assessment of the nature of the alleged noise disturbance. The selected consultants used in the analysis shall first have been approved by the planning authority. Thereafter, in the case of each complaint where a noise nuisance is proved to be occurring, mitigation shall be carried out of a nature and within a timeframe to be agreed in writing by the planning authority.

Reason: To give protection to residents/occupiers of noise sensitive properties in proximity to the development, in the interests of private amenity.

Informatives

Relevant scheme: All conditions above relate to the details of the development and supporting information that was granted planning consent following appeal on 9 June 2016, under application reference 13/00789/FUL.

Notice of the start of development: The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

Notice of the completion of the development: As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

Display of notice: A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations.

NOTE

1. Councillor Watson McAteer spoke against the application
2. Mr Duncan Taylor, Energiekontor spoke in support of the application

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
20/00753/FUL	Erection of 22 dwellinghouses with new access Road and associated works	Land East of Knapdale, 54 Edinburgh Road, Peebles

Decision: Following submission of an Appeal against non-determination, Members were asked to consider the application and form their views. Members agreed that the application would have been refused as per the Officer recommendation. The views of Members will be passed to the DPEA as part of SBC's observations on the appeal.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
20/01246/FUL	Erection of 2 No buildings comprising up to 10 No. units for industrial/commercial/storage uses and associated works	Land South of 10 Malestroit Court, Jedburgh

Decision: Approved subject to the following conditions:

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
2. The Units hereby approved shall only be used for Class 4 (Office, research and development or light industry) of the Schedule of The Town and Country Planning (Use Classes) (Scotland) Order 1997, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order), unless otherwise agreed in writing by the planning authority.
Reason: To ensure that the use remains compatible within the site.
3. The Finished Floor levels of the buildings hereby approved shall be 70.93mAOD for the building located in the former Bongate Mill footprint (towards the north of the site) and

71.19m AOD for the smaller building towards the south, unless otherwise agreed in writing by the planning authority and in consultation with SEPA. The Floor levels must be set in accordance with the 'With Slab' build scenario, as modelled in the JBA Consulting Flood Risk Assessment (September 2020)

Reason: To comply with the Flood Risk Assessment and to mitigate flooding.

4. No development shall commence until full details of the materials to be used in the construction of the road, footpaths, courtyard and parking area hereby approved, have first been submitted to and approved in writing by the Planning Authority. Thereafter development to be undertaken in strict accordance with the approved details.

Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting and to ensure appropriate SUDS design.

5. No development shall commence until full details of the materials to be used in the construction of the external walls, roofs and doors of the buildings hereby approved, have first been submitted to and approved in writing by the Planning Authority. Thereafter development to be undertaken in strict accordance with the details unless otherwise agreed in writing by the planning authority.

Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.

6. Notwithstanding drawing reference number 003A, Site Plan – Fence Proposals, no development shall commence until a full scheme of details showing proposed boundary treatments (which may include proposals for a flood wall) has first been submitted to and approved in writing by the Planning Authority. Thereafter these boundary treatments and wall details shall to be implemented prior to the buildings being occupied.

Reason: To ensure development is in accordance with the Flood Risk Assessment in the interests of flooding and in the interests of protecting visual amenity of the surroundings.

7. No development shall commence on above ground works until an exterior lighting plan has first been submitted to and approved in writing by the planning authority. The lighting plan shall be designed in accordance with the guidance produced by The Institution of Lighting Professionals and the Bat Conservation Trust, Aug 2018. Thereafter no development shall take place except in strict accordance with the approved plan. All lights shall be suitably shuttered/shielded and directed to prevent unwanted light flood prior to occupation of the development hereby approved.

Reason: In the interests of protecting residential amenity and character of the Jed Water riverside.

8. No development shall commence until a scheme of soft landscaping has first been submitted to and agreed in writing by the Planning Authority. The landscaping shall include precise details of hedging and specimen tree planting, including a programme for future maintenance, along the northern boundary of the site. Thereafter the approved scheme shall be implemented concurrently with development, or the first planting season thereafter, and shall be maintained and replaced as may be necessary for a period of two years from the date of completion of the planting.

Reason: To ensure an appropriate landscaped boundary treatment with the adjoining residential cul-de-sac is formed.

9. No development shall commence unless in accordance with a fully detailed design proposal for foul and surface water drainage (including SUDS), demonstrating that there will be no negative impact to surface water flooding, public health, the environment or the quality of watercourses or ground water, which has first been submitted to and approved in writing by the Planning Authority. Thereafter development to be undertaken in accordance with these details.

Reason: The Planning Authority requires consideration of full details of surface water (SUDS) and foul water connections in the interest of protection of flooding.

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

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

11. Public access to Core Path 1, (Borders Abbeys Way) (riverside walk) shall not be obstructed during construction of the buildings or services for those buildings hereby approved. Any proposals for temporary closure or diversion of the path must first be submitted to the Planning Authority for prior written approval. Thereafter any temporary closures or diversions only to be undertaken in accordance with these details.

Reason: To maintain public access along Core Path 1.

12. No property flood level protection measures are permitted in the design and use of these buildings.

Reason: The Flood Risk Assessment requires buildings to be designed to be flooded thereby minimising harmful impacts from flooding on neighbouring properties and downstream impacts.

13. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme shall be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved. The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

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

and thereafter

- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).

- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

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

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

- 14. Any noise emitted by plant or machinery used on the premises shall not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within all noise sensitive properties (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2
Reason: To protect the residential amenity of nearby properties.

- 15. 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.

- 16. Prior to the development becoming operational, the parking and turning areas shown on the approved site plan to be formed in accordance with the details agreed in Condition 4, and retained thereafter in perpetuity.
Reason: To ensure the development is served by adequate parking and turning at all times.

Informatives

- 1. The applicant must adopt water resilient materials and finishes as advised in the submitted FRA section 4.2.
- 2. In respect of the condition requiring consideration of the future SUDS Design, any future proposals must demonstrate non-return valves for the drainage pipes, as set out in the FRA.

NOTE

- 1. Mr Alistair MacDonald, Resident spoke against the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
20/01282/FUL	Erection of 2 No glamping pods	Land South of the Visitor Centre Northfield Farm St Abbs

Decision: Approved subject to the following conditions:

Conditions

- 1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.

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

2. Prior to the commencement of a development, a revised site plan shall be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing by the Planning Authority, the revised site plan shall incorporate revised siting of the approved glamping pods away from the root protection areas of neighbouring mature trees. Thereafter the development shall be carried out wholly in accordance with the approved site plan.

Reason: to secure adequate control over the development hereby approved and to minimise any risk of harming neighbouring mature trees.

3. No development shall commence until details of toilet facility provision have been submitted to and approved in writing by the Planning Authority. Thereafter, the development hereby approved shall only be occupied whilst the agreed in writing toilet facility is functional and available for the use of guests.

Reason: To ensure that the development affords adequate provision of toilet facilities, in the interests of public health.

4. Prior to the commencement of development, a Scheme for Privacy and Boundary Planting shall be submitted to and agreed in writing by the Planning Authority. The scheme shall include: further details of the recently existing boundary hedging; details of privacy trellising and/ or hedging between the two pods; a timetable for delivery and details of maintenance. Thereafter the agreed Scheme for Privacy and Boundary Planting shall be delivered in strict accordance with the agreed details and so maintained and retained thereafter, unless otherwise agreed in writing by the Planning Authority.

Reason: to secure adequate privacy for guests and ensure the existing boundary hedging is retained and maintained, to help screen the development.

5. Prior to the commencement of development, precise details of timber cladding and any other external materials/ colours of the glamping pods hereby approved shall be submitted to the Planning Authority for approval. Thereafter the development shall be carried out wholly in accordance with the agreed details.

Reason: to secure control over the approved materials in the interests of landscape and visual amenity.

6. The development hereby approved shall be carried out without any below ground excavations, and no adjacent trees shall be felled, lopped or harmed during the course of construction, unless otherwise agreed in writing by the Planning Authority.

Reason: to secure control over the manner of construction and ensure no harm to any potential archaeological resource or to neighbouring mature trees.

7. Prior to the occupation of the development hereby approved, the development shall be connected to the public mains water supply, unless otherwise agreed in writing by the Planning Authority. Thereafter, the development shall only be occupied whilst an approved water supply is functional and made available for the use of guests.

Reason: To ensure the development is adequately serviced.

8. The occupation of the development hereby approved shall be restricted to genuine holidaymakers for individual periods not exceeding 4 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers occupying the accommodation shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.

Reason: to ensure the development is not used as a permanent residency.

Informatives

1. The former use of the site is potentially contaminative and may have resulted in land contamination. The land is not currently identified as contaminated land and the Council is not aware of any information which indicates the level of risk the potential contamination presents. The historic use of the site is recorded within a Council database. This database is used to prioritise land for inspection within the Council's Contaminated Land duties. Should the applicant wish to discuss these duties their enquiry should be directed to Environmental Health.