

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**28 JUNE 2021**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 20/01355/FUL
<b>OFFICER:</b>	Julie Hayward
<b>WARD:</b>	Leaderdale And Melrose
<b>PROPOSAL:</b>	Erection of eight holiday lodges, installation of ground based solar panel array and formation of associated access and parking
<b>SITE:</b>	Land East of Thirlestane Castle Lauder
<b>APPLICANT:</b>	Mr and Mrs E Maitland-Carew
<b>AGENT:</b>	Richard Amos Ltd

**PLANNING PROCESSING AGREEMENT:** 28<sup>th</sup> June 2021

**SITE DESCRIPTION**

The application site is located to the east of Lauder and is within an area of woodland called Broomy Braes, situated to the north of the B6362.

Thirlestane Castle, a category A Listed Building, is to the north west of the site, which is within Thirlestane Castle Garden and Designed Landscape (GDL). The Thirlestane Castle caravan site is to the south west of the site. The bridge over the Leader Water on the B6362 (Lauder Bridge/Eagle Bridge) to the west of the access to the site is a category B listed structure.

The Leader Water, part of the River Tweed Special Area of Conservation, runs along the western edge of the woodland.

There are a number of paths through the woodland served by an informal car park adjacent to the public road and there is a further area for parking within the woodland at a former quarry. The Southern Upland Way (SUW) runs to the north of the site.

Hawthorn Cottage is situated to the south of the B6362 and entrance to the site (02/00361/FUL: Erection of dwellinghouse).

**PROPOSED DEVELOPMENT**

The proposal is to erect eight holiday lodges in the north western corner of the woodland. There would be six two bedroom lodges (42 by 20ft) and two three bedroom lodges (45 by 20ft), each with decking, hot tub, bike shelter and a ground source heat pump (GSHP). The lodges would be clad in timber. Tree and shrub planting is proposed between each unit.

Access would be from the B6362 and the existing access would be upgraded. Five car parking spaces would be provided in a car park to be used by walkers. A visibility splay would be provided to the west of the access. The existing track would be

upgraded and three passing places would be provided, with the parking area at the quarry backfilled. A 3.4m wide track would lead from the main track to serve the lodges.

An electricity sub-station and bin/recycling store surrounded by a 6ft high fence would be provided within the site. Bollards with reflective disks and LED lights would mark the track. Each unit would have one parking space.

Water supply would be from the mains supply. Drainage would be via a septic tank to a soakaway discharging via a tail drain to the Leader Water.

An array of four rows of solar panels is proposed for the field to the north of the lodges beyond the Southern Upland Way, with the pipework for the ground source heat pumps beneath.

## **PLANNING HISTORY**

There is no planning history for this site.

## **REPRESENTATION SUMMARY**

Twelve representations were received in respect of the application as originally submitted (eleven objections and one of support). These can be viewed in full on the Public Access website and raise the following planning issues:

- Loss of mature trees/woodland. The full extent of the mature trees which would need to be felled is not shown and there are more appropriate areas on the estate for this development.
- The site is in an area of natural beauty and the development will be detrimental to the rural nature and views in the area. The Local Development Plan supports the heritage of the area and recommends robust boundary treatments for developments.
- The woodland is enjoyed by walkers, cyclists and horse riders and is one of few such locations near Lauder. The paths through the woods will disappear or be curtailed by the development.
- The Southern Upland Way (SUW) runs between the lodges and the solar array affecting the rural nature and beauty of the path, altering the experience of walkers. Construction would block the SUW and it is unlikely that the solar array can be adequately screened.
- Impact on wildlife, insects and birds. The area is made up of a variety of woodlands and grasslands home to protected species such as badgers, bats, red squirrel and otters and other animals including deer, rabbits, hares, foxes, and a wide range of bird species and fungi. The development will result in a loss in biodiversity from disturbance and habitat loss and a local decline or loss of some rare species.
- The compensation measures proposed are inadequate to offset impacts on biodiversity and habitat loss.

- The assessment within Preliminary Ecological Appraisal (PEA) was not made with a full understanding of the development and the mitigation has not been developed with a full understanding of the potential impact of the proposed development. There is no assessment on the likely impact of the development of the instream fauna of the Leader Water at the proposed site, part of the Tweed Special Area of Conservation (SAC). The area adjacent to the development is heavily utilised for spawning by salmon, sea trout and lamprey species.
- The proposed siting of the outflow from the water treatment works would impact on fish species. No details or assessment is available on the waste water treatment system and the risk to fish. The outflows are set in an area of flood plain area and will overflow during period of heavy rain. There are also a number of amphibian species, such as frogs, toads and newts in the woods and overgrown pond which will be detrimentally affected by this development
- Considerable disturbance will occur during the construction phases and the continued year-round occupation. The associated noise and light generated by the lodges will have a long-term effect on the local wildlife.
- Detrimental impact on the environment and the development is not sustainable.
- The lodges are substantial habitable buildings which will be occupied all year. The large number and size are out of context with the area.
- The proposed solar array is in open grassland and also will be highly visible, in the surrounding area.
- Planning has been granted for 200+ caravans off the A68 which could accommodate these lodges.
- Access is on a tight bend near a narrow bridge on a busy road and there have been many accidents and near misses. Trees and hedgerows have already been removed or cut back to allow for improved visibility.
- The proposed access provides minimal car parking for the current usage. The current access point provides enough space for approximately five cars but there is also an area used for further parking (the "quarry" ). These areas can be fully utilised with in excess of 20 cars at one time.
- Visual impact of signage.
- Fencing and gates will block access to the woodland by walkers and deer.
- Headlights from vehicles entering and leaving the site will affect Hawthorn Cottage opposite.
- Power and water supply will necessitate the road being dug up and it is proposed to take power from the pole the garden of Hawthorn Cottage and take it underground to the entrance point; this would disturb the property's septic tank, soakaway and garden and no notification of this or prior consent has been given.

- The entrance to the proposed development should be at the Eagle Gates, a straight road with existing power supply and water supply. The entrance, road and passing places would be easier for visitors and staff, with no intrusion to the castle, retains the forestry and is within walking distance of Lauder.
- This area has been intermittently inhabited since prehistoric days. No archaeological survey has been provided and loss of historical material during the disturbance caused by the construction of the access roads and lodges is a concern.
- Inaccuracies in the submission and contradictory statements, with paragraphs taken from a previous submission for the large caravan site that are not relevant to this application. Also the statement claims that the lodges will have great views of the castle but also that they would be screened by woodland.
- The minimal contribution of eight lodges to the Lauder economy cannot compensate for the damage to the woodland used by walkers and to the Southern Upland Way.
- The woodland is enjoyed by walkers, mountain bikers and horse riders, who will be impacted by restrictions in the woodland when the fences are erected..
- The application should be considered as an additional phase to the current static caravan park, currently in its second phase of its three-phase expansion to accommodate approximately 130 units. The proposal may set a precedent for future expansion resulting in incremental loss of woodland habitat and access.
- The proposed site consists of native woodland, including semi-natural woodland and commercial conifer plantation. Restoring and enhancing native woodland and preventing further loss of this habitat forms part of Scottish Borders Local Biodiversity Action Plan. Woodland fragmentation resulting from fencing proposed should be kept to a minimum.
- Trees and vegetation were severely cut back at the access in July 2020 and the fallen vegetation and brash have been left and not cleared away and is an eyesore. Any condition to keep the vegetation cut back will not be done annually because the applicant does not own the land on which said vegetation grows.

#### Support

- Thirlestane Castle Estate is the beating heart of The Royal burgh of Lauder. People enjoy the walks and open space at the castle. The benefit is solely down to the Maitland Carew family who have gone over and above to accommodate Lauder's townsfolk, not because they need to but because their love of the town itself.

#### **APPLICANTS' SUPPORTING INFORMATION**

- Supporting Statement
- Preliminary Ecological Appraisal
- Tree Survey
- Photographic record of watercourse at Broomy Braes

- Planting scheme for the solar array
- Photographic record and comment of views to and from the site from Thirlestane Castle and Lauder
- Woodland Work Plan
- Addendum to Preliminary Ecological Appraisal
- Biodiversity Enhancement Plan
- Construction Environmental Management Plan
- Species Protection Plan
- Tree Impact Assessment and Woodland Management Plan
- Flood Risk Assessment
- Planning Response Letters

## **DEVELOPMENT PLAN POLICIES:**

### **Scottish Borders Council Local Development Plan 2016**

PMD1: Sustainability

PMD2: Quality Standards

PMD4: Development Outwith Development Boundaries

ED7: Business, Tourism and Leisure Development in the Countryside

HD3: Protection of Residential Amenity

EP1: International Nature Conservation Sites and Protected Species

EP2: National Nature Conservation Sites and Protected Species

EP3: Local Biodiversity

EP7: Listed Buildings

EP8: Archaeology

EP10: Gardens and Designed Landscapes

EP13: Trees, Woodland and Hedgerows

IS7: Parking Provisions and Standards

IS8: Flooding

IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

IS16: Advertisements

## **OTHER PLANNING CONSIDERATIONS:**

Supplementary Planning Guidance

Biodiversity (2005)

Householder Development (incorporating Privacy and Sunlight Guide) (2006)

Landscape and Development (2008)

Local Biodiversity Action Plan: Biodiversity in the Scottish Borders (2001)

Placemaking and Design (2010)

Trees and Development (2008)

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Roads Planning Service:** RPS are concerned about visibility at the junction of the site access and the B6362. The forward visibility for a driver waiting to turn right into the site is severely restricted by overgrown foliage. The applicants have tried to address this by showing the required visibility splay on the Access Plan, however, the area required to form the visibility splay is out with the public road boundary and appears to be out with the ownership of the applicants. Written confirmation that the applicants

have the ability to form this visibility splay, which requires all foliage, hedges, bushes etc. to be removed from the area is required. Confirmation that the applicants have the ability to ensure this visibility splay is maintained in perpetuity is also required.

**Re-consultation:** This site is served by an existing vehicular access from the B6362 which currently has sub-standard visibility, is excessively large in terms of geometry and has vehicles parked indiscriminately throughout the day. As part of the proposal for this development it is proposed to improve the junction visibility, particularly forward visibility for right turners, reduce the overall size of the junction to ensure junction manoeuvres are carried out at the most appropriate location in terms of junction visibility. It is also proposed to provide a parking area for walkers.

The main concern on this proposal was whether the applicants were able to provide the forward visibility splay required for right turning vehicles, however they have now supplied written confirmation from the land owners that they are content for this work to be undertaken and maintained on an ongoing basis.

RPS do not object subject to conditions.

**Ecology Officer:** Largely satisfied with the Preliminary Ecological Appraisal however, the appraisal has not covered all areas of the submitted development, notably the solar array. Additional information is required to include the footprint and zone of influence of the submitted planning red line boundary.

#### Designated sites

The Leader water (River Tweed SAC) is approximately 90m from the nearest area of the proposed development. Small drains may provide connectivity from the car park area at the southern end of the development and a drainage ditch runs through the coniferous plantation connecting with the Leader water. Pollution prevention measures are proposed. There is limited connectivity and unlikely to be a significant effect. Pollution prevention measures are proposed.

Taking into account a construction environmental management plan/pollution prevention plan proposed in mitigation, it is unlikely there will be a significant adverse effect on the integrity of the River Tweed SAC.

#### Habitats

The site largely consists of coniferous plantation, with areas of mixed woodland plantation and broadleaved plantation and native woodland areas. There is an area of wet woodland at the north end of the development and lowland mixed deciduous woodland (immature) at the southern end. There are open areas of marsh and marshy grassland habitat at the north-west of the site.

#### Protected species

Based on the appraisal to date, evidence of otter was recorded on the Leader Water and a potential resting place identified, although this is said to be out with areas of potential disturbance.

Trees that may be affected by the development are said to be of negligible suitability for bat roosts. Bats are likely to use the woodland and woodland edge for foraging and commuting and may be affected by new lighting for the proposed development.

No evidence of badger setts or activity was found, although it is likely that badgers will use the site for foraging and commuting. Red squirrel are considered to be absent from this site.

Habitats (including woodland and scrub) that may support breeding birds may be affected by the development.

Mitigation is proposed including a Pollution Prevention Plan, supplementary surveys for bats, badger, breeding birds and invasive species as appropriate, establishment of biodiversity protection zones during construction and a sensitive lighting scheme for bats. The lighting scheme will need to meet the requirements of good practice guidance including appropriate types of lighting and bollard.

Biodiversity enhancement measures are proposed including provision of bat and bird boxes. A woodland management plan is proposed.

These matters can be covered by condition.

#### Compensatory Replanting Scheme

A proposal for compensatory replanting has been submitted at an off-site location. This could be secured under a Section 75 agreement. Further details should be submitted including a species map and confirmation that the replacement plot meets the equivalent standards of the Forestry Grant Scheme including minimum width. Details of ongoing maintenance and any felling and restocking should be included. Preference would be for an area of native woodland, removing any requirements for felling and restocking.

**Re-consultation:** Satisfied with the addendum to the Preliminary Ecological Appraisal, no significant impacts are likely to arise in relation the solar array. Habitat that could support nesting birds may be affected and mitigation will be required accordingly.

A potential otter resting place was recorded but this is greater than 30m from any proposed construction area.

Pollution prevention measures will be required to protect the watercourse and Leader water (River Tweed SAC).

#### Lighting scheme

No lighting scheme has been submitted. The trees affected by the development are assessed as being of negligible suitability for bat roosts. The tree and woodland cover will provide suitable habitat for foraging and commuting by bats. It is unlikely that bat roosts will be affected by the lighting. A condition will be required for a suitable lighting scheme to safeguard bat foraging and commuting habitat that is in accordance with good practice.

#### Compensatory replanting scheme

Further details have been provided on compensatory replanting but this did not include planting densities or species mixes within compartments. Further details will be required.

Satisfied with the mitigation included in the Species Protection. An amended version which indicates that the pre-development supplementary surveys and the mitigation

are to be carried out by a suitably qualified ecologist would enable the relevant condition to be discharged.

Satisfied with the mitigation measures included in the outline Construction Environmental Management Plan. Further detail can be secured by a condition for a revised CEMP, including further detail of the tail drain construction, noise prevention and lighting.

Satisfied with the proposed enhancements included in the Biodiversity Enhancement Plan. Further detail can be secured by condition to provide more detail on measures to be implemented and a plan of the locations of planted areas, species mix, establishment and maintenance, location and type of bird and bat box and who will carry out implementation of the measures.

**Economic Development:** No response.

**Landscape Architect:** The Thirlestane Castle estate is registered in the National Inventory of Gardens and Designed Landscapes (GDL) for its high scenic qualities and outstanding historic values. The features of the GDL include informal 18<sup>th</sup> and 19<sup>th</sup> century parkland following the meandering Leader Water and valley, enclosed by curving woodland belts with the existing woodland generally following the historic layout. The site is located in the eastern blocks of policy woods which although were historically stocked as broad leaved woods are now predominantly coniferous plantations. Some remnants of broadleaf trees remain in association with woodland edges, paths, access and bordering the Leader Water.

The GDL shares its eastern boundary with the Lammermuir Hills Special Landscape Area (SLA).

#### Tree Survey

The tree survey provided is inadequate. It should be produced in accordance with BS5837:2012 and identify all the trees/tree groups that border the site and access road as well as the areas to be removed for the lodges and site perimeter areas to be retained undisturbed. All individual trees and tree groups identified should be subject to a condition survey. Where tree groups are retained for screening purposes at the woodland edge these should be included in the survey.

#### Landscape and Visual Effects

This proposal including the solar array risks potential visual effects on the views from local footpaths, especially the SUW, the woodland paths, estate drives and access roads as well as from the B6362, A68 and upper floors of adjacent housing and Thirlestane castle. With exception of the A68 and a short section of the SUW views of the lodge site and the solar array site have not been assessed for potential visual effects. The potential for both landscape and visual effects will be dependent on the siting of the lodges and the changes intended for the woodland and for longer term woodland management.

The supporting statement talks of the spectacular views that will be seen from the lodges. It is evident from photographs submitted and the tree survey that the trees in front of the lodges on the western edge of the woodland are quite close together. Without the removal of trees in this location it is unlikely that the views will appear spectacular, as only glimpses of the view will be seen between the tree trunks. As described in the supporting documents the Norway spruce could act as a 'natural



screen' and minimise visual effects, as long as trees are to be retained coupled, with discreet siting of the lodges. For this to be successful, it will be dependent on a long term woodland management plan to minimise the loss of screening effect over time and ensuring appropriate replacement planting when necessary.

Key to minimising visual impact will also be the colour of the units. A shade of brown or green with a grey tone (including roofing and facings) would help the lodges 'recede' in the view. Minimising clutter at the lodge frontages such as railings, steps, bin stores and shelters will be important too as these can draw attention and increase visual effects.

### Placemaking and Design

The supporting statement states that the lodges are designed to provide a sense of seclusion and the intention is for them to blend into their surroundings. For this to be successful and the lodges to sit in a truly wooded setting there would need to be greater retention of trees between the lodges which may require wider spacing. The fairly rigid layout shown is disappointing as it doesn't appear to make best use of the wooded setting or reflect the sinuous lines of the woodland edge.

### Solar Array

The native species hedge proposed to screen the solar array from the Southern Upland Way is unlikely to be effective as most walkers will be able to see over a traditional hedge. The considerable size of two panels at 25m length would make the array quite a difficult feature to 'hide' in the landscape particularly from close up and from higher ground. The reflective nature of solar panels is such that they can stand out across the landscape and appear incongruous and this element of the proposals is out of place in the parkland setting, potentially industrialising the parkland character. The potential landscape and visual effects on sensitive receptors using footpaths close to and further afield and on higher ground should be further explored.

### Compensatory replanting scheme

While the principle of compensatory planting is welcome, it will not be within the national designation of Thirlestane GDL and therefore does not compensate the designation and its policy woods directly. Compensatory planting positioned away from the site will not offset the negative impacts on this part of historic policy woodland, the recreational resource and the visual impacts. Some if not all of the compensatory planting should be considered in relation to the policy woodland affected to ensure satisfactory mitigation of the proposals.

From a landscape and visual perspective these proposals raise a number of concerns firstly that the need to remove trees to create the opening for the plots in addition to the further tree removal for services installation, access roads, parking, fencing and gates may mean that the historic policy woodland becomes eroded and fragmented. Furthermore there is potential for the western edge of the woodland to appear as a narrow screen of trees in front of a visible clearing of lodges rather than appearing as a woodland with discreet lodges within it. The pressure to remove trees to open up views for guests and allow light in to the development could further risk the loss of tree resource and the 'natural screen' on the western edge. These factors together unless carefully controlled could result in a weakening of the structure and integrity of the historic policy woods.

The proposals also prompt the question with regard to the future long term intention for the Sitka spruce plantation and whether future felling or further lodge type development is anticipated as this could have additional landscape and visual impacts on the historic woodland resource

**Re-consultation:** Concerns remain regarding these proposals. There is a risk that the site becomes a visible clearing of lodges rather than appearing as a woodland with discreet lodges within it and as a result the important woodland feature of the GDL starts to become eroded.

### Woodland Margin

Accepting that the lodges will be on a raised elevation behind this tree group there remains the potential for the woodland margin to be compromised opening up views into the site due to the desire for views out of the site and increased light levels. This need has to be balanced with the requirement for the site to be discreet in the landscape, to protect the qualities and character of this historic designed landscape and the setting of Thirlestane castle. Where tree removal is proposed, it should be evenly distributed across the woodland so that large gaps do not appear, opening views into the site.

It is crucial that the visible edge is not compromised to retain the structure and integrity of the historic policy woods. This may be an opportunity to consider long term restoration of this area and to reinstate the former mixed broadleaf policy woods through sustainable woodland management.

A tree survey should detail which trees are proposed for retention in this sensitive area taking into account the screening benefits of existing trees and their significance in views from across the landscape.

### PV Solar Array

Although the arrangement of PV panels in the solar array has been adjusted to reduce visual impact, remain concerned that this proposal is out of place in the parkland setting. The PV panels have the potential for considerable landscape and visual impact on the sensitive core area of parkland landscape within the designed landscape and is likely to have adverse effects on the visual amenity of those using the Southern Upland Way. The proposed hedging is unlikely to provide an adequate screen for walkers on this path.

### Compensatory Planting

No further compensatory planting has been included to directly offset the negative impacts on this part of the historic policy woodland. Consideration should be given to under planting of the areas of woodland edge thinned by 50%.

### Public Access

The western path and boundary wall of the car park should be retained

### Driveway Access

The roundabout along the new road access would be an inappropriate intrusion and a suburban approach in the discreet, very low trafficked woodland setting and should be removed.

Further information is required.

**Flood Protection Officer:** In terms of information that this Council has concerning flood risk to this site, that The Indicative River, Surface Water & Coastal Hazard Map (Scotland) known as the “third generation flood mapping” prepared by SEPA indicates that a small part of the site is at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year.

The SEPA flood maps indicate that the wooded area and location of the proposed holiday lodges is outside the 1:200 and 1:1000 year flood plain. Only the southernmost part of the area of the proposed drainage pipe from the proposed septic tank to the Leader Water is within the 1:200 year floodplain of the Leader Water.

Recommend the applicant install a non-return valve in the drainage pipe to reduce the risk of flood waters entering the pipe and raising up to the proposed holiday cabins.

The flood maps also indicate that during a 1:200 year flood event the road bridge across the Leader Water and part of the B6362 to the west of it, are likely to flood. As such access and egress from the proposed site to the west, towards Lauder, may be impeded and unsafe.

However, the flood maps indicate that the eastern part of the B6362 is unlikely to flood during a 1:200 year event. Safe access and egress from the site would still be possible via this road going south from the proposed site and onto the A697.

Recommend the applicant include the potential road flooding in their site evacuation plan. During incidences of heavy rainfall and sever river flooding, egress from the site to the west and the A68 may be obstructed. During such events, the recommended egress route from the site should be towards the south east on the B6362 and onto the A697.

**Access Officer:** According to Scottish Borders Council records there is one core path adjacent to this area of land, Core path 189: the Southern Upland Way, one of Scotland’s Great Trails, starting in Port Patrick in the west and terminating at Cockburnspath on the east coast.

There are other tracks in the area that the public would have a ‘right of responsible access’ to under the Land Reform (Scotland) Act 2003.

The solar array will be visible from the SUW, but do not consider this to be an issue. According to the plans submitted a cable requires to be installed directly under the route of the SUW; request that the route is kept open and free from obstruction at all times.

**Environmental Health:** No response.

**Archaeology Officer:** The site of this application lies wholly within the Inventory of Gardens and Designed Landscapes of Thirlestane. This is an outstanding example of

a Scottish Designed Landscape that has developed through time and incorporating a number of elements, initially from formal arrangements located close to the castle to a much more extensive and natural parkland style through time.

The submitted details do not define how much ground disturbance will be required.

The appearance of a solar array in this area would be incongruous and at variance to the historic nature of the parkland. The intrusion of any screened area for the array would break the sinuous curves of the parkland edge. It is unclear whether the solar array and its screening would be visible from Thirlestane Castle. The nature of any screening would require species suitable for the historic parkland. Visualisations would be useful to assess the possible impacts upon the parkland and setting of the castle. There is the potential for glare or reflection from the panels to be encountered from the castle. Any screening would damage the integrity of the historic parkland and have potential below-ground implications for what archaeological finds or features may be revealed.

A number of finds have been made in the area and there is a further potential for archaeological sites and finds to be made. At the southern end of the proposed application the lines of proposed septic tank and tail drain's drainage to the Leader Water is noted of archaeological interest.

Further information is required on the impact upon the parkland and views from the castle. Conditions are recommended to secure a programme of archaeological works.

### **Statutory Consultees**

**Community Council:** No response.

**Visit Scotland:** No response.

**Tweed Foundation:** No response.

**Historic Environment Scotland:** Assessed this proposal and while satisfied that the Thirlestane Castle Inventory site could accommodate a development of this kind in principle, request further information regarding the visibility of both the lodges and the solar array in views from Thirlestane Castle and across the designed landscape from Lauder.

The proposed development is located within the Thirlestane Castle designed landscape which is included in the Inventory of Gardens and Designed Landscapes in recognition of its national importance. Eight holiday lodges are proposed for an area of conifer woodland less than 500m from Thirlestane Castle, which is listed at Category A and forms the focal point of the GDL. There is also a proposed ground based solar array to be installed in open parkland immediately to the north of the conifer plantation.

Satisfied that the erection of a small number of timber-clad holiday lodges in the modern conifer plantation would not have an adverse impact on the GDL and setting of the Castle, in principle.

However, HES have concerns regarding the visibility of the lodges in views from both Thirlestane Castle and across the GDL from Lauder towards the development site. The submitted material states that the lodges would be screened from view by a stand of mature Norway spruce. However, elsewhere in the Supporting Statement it states that the lodges 'will be afforded spectacular views through the mature Norway spruce

trees over the Leader Water and Thirlestane Estate towards the castle.' We are therefore concerned that these statements are contradictory.

We have similar concerns regarding the erection of a solar array in open parkland less than 500m to the east of Thirlestane Castle. This may be visible in views from the Castle, including its principal rooms on the 1st floor, and across the GDL from Lauder. It is difficult to assess the impact based on the submitted information. According to the submitted Supporting Statement, 'The array will be appropriately screened by shrubs and low growing trees to minimise visual impact...It is noted that this is within the Designed Landscape and therefore care has been taken to choose a site which can be sympathetically screened to minimise visual impact.' These statements are not supported by any visualisations, nor are there any details of the proposed planting. Great care would be needed to plant screening vegetation in this location without changing the open parkland character of this area of the GDL.

Request further information regarding the layout and planting proposed for the solar array as well as photomontages which demonstrate the visibility of both the lodge development and the solar array in views from the principal rooms of Thirlestane Castle and in views across the GDL from Lauder.

**Re-consultation:** Content with the proposal to plant parkland trees to screen views towards the solar array. Also satisfied that the woodland management proposals would ensure that the lodges would be largely screened by existing vegetation in both views from the Castle and from Lauder. Satisfied that if the lodges were constructed in a recessive colour and with minimal or low-level external lighting, this development would not have a significant adverse impact on either the Inventory site or on the setting of Thirlestane Castle.

**SEPA:** Insufficient information is provided with the application for us to assess flood risk at the site. Object to this development until a Flood Risk Assessment or other appropriate information is provided on flood risk.

**Re-consultation:** Further information has been submitted. This information demonstrates that the small man-made drainage ditch has a very limited catchment area and due to the steep gradient, it is unlikely to pose a risk to the proposed holiday accommodation. A new bridge crossing will be constructed, and this should be designed appropriately to ensure it does not impact on channel conveyance. No concerns regarding the risk of the Leader Water to the most vulnerable due to the significant elevation difference and the small watercourse concerns have now been addressed.

Based on the above, SEPA are now in a position to withdraw previous objection to the application.

**Transport Scotland:** No objections or comments.

**Scottish Forestry:** Thirlestane Castle and grounds currently have a ten year approval from Scottish Forestry to undertake certain woodland management practices as detailed within the Lauderdale Estate Long Term Forest Plan. This plan expires during 2022 and will require to undergo a formal review prior to any additional approval being offered by Scottish Forestry for further management of the woodlands on the Estate.

During September 2019, the Estate applied to vary the Long Term Forest Plan to include compartments 14a to 14h (compartment 13a already had thinning approval). These areas incorporate the proposed planning development site. Approval was given

to thin and selectively fell these woodlands, as some wind blow was noted in the mature stands adjacent to the Leader Water as well as being seen as good silvicultural practice to thin the younger crop.

Scottish Forestry would request that should planning be approved, that the Estate formally amend the Long Term Forest Plan to reflect any changes. The proposed development is subject to meeting strategic and regulatory requirements.

Approval for woodland removal should be conditional on achieving significant net public benefit, this taking account of the current and future benefits/dis-benefits of the existing woodland. There is not enough detail proposed within the application to fulfil this requirement of the Control of Woodland Removal Policy. This makes it extremely difficult to assess the value (social, economic and environmental) of the existing woodland and any impact the proposal will have.

The developer has proposed compensatory planting, however would we request further details to fully inform our response, including a detailed tree survey. It is understood that approximately 0.65ha of tree removal will be required, but further clarity is required to ensure adequate compensatory planting is provided.

Further assessment and information provided of the wider environmental and societal characteristics and benefits of the woodland to fully inform a compensatory planting proposal which addresses this loss.

Further details of the provision of any compensatory planting proposed is required. Compensatory planting should offer as a minimum a like-for-like replacement where possible, including scale and benefits. It is understood that the existing woodland offers informal recreation and little information has been provided to suggest that the compensatory offering will do likewise. A suitable compensatory planting plan should be agreed before the developer can proceed with the development and the felling of the trees. This plan must flesh out all the details of the proposed planting, including its maintenance over the entire life-span of the development.

**Re-consultation:** Having reviewed the newly submitted Tree Impact and Woodland Management Plan, we are broadly in favour of additional amenity and biodiversity planting; however, to be in line with the Control of Woodland Removal policy, the current proposals for productive conifers do not sufficiently offer "like-for-like". Consequently, we would suggest an increase in productive planting.

**NatureScot:** The proposal is close to the River Tweed SAC, designated for its fish species, otter and as a whole river system characterised by water crowfoot species. The Council is required to consider the effect of the proposal on the SAC before it can be consented.

The site plan shows a small ditch passing through the proposal site, eventually leading to the Leader Water, part of the River Tweed SAC. It is possible that pollutants or silt caused during construction of the lodges could enter the Leader Water via this drain. Furthermore, it is proposed that a septic tank at the southern end of the proposal will collect and treat sewage from the eight lodges. A drain leading from this would empty into the Leader Water, potentially causing water quality issues. Little information is available on the septic tank and outflow, although the site plan notes that the design will be in accordance with SEPA approval.

Regarding the first concern, the applicant has submitted an ecological report, as well as a series of photographs to illustrate the burn. Provided standard good practice is

followed during construction work, as referenced in the ecological report, there should be no impact on the River Tweed SAC. In addition, the photographs illustrate a thickly vegetated ditch that should retain any silt or contaminants before they reach the Leader Water.

Regarding sewage management, I note the flood-related comments from SEPA and the Council Flood Protection Officer. It should be noted that the actual channel of the Leader Water in this area has migrated across the flood plain in recent years, as evidenced by aerial imagery. Design of the outflow should accommodate this to ensure that any outflow infrastructure is not affected by river channel change, and that flooding is not likely to cause pollution of the water course.

Provided the design of the septic tank and outflow drain is acceptable to SEPA, NatureScot raises no further concerns.

### **Other Consultees**

None

### **KEY PLANNING ISSUES:**

- Siting and design
- Impact on the woodland, Designed Landscape and visual amenities
- Impact on Thirlestane Castle Listed Building
- Impact on residential amenity
- Access, parking and road safety
- Flooding
- Ecology impacts
- Archaeology
- Whether the development can be adequately serviced

### **ASSESSMENT OF APPLICATION:**

#### **Planning Policy**

Policy ED7 of the Local Development Plan 2016 states that proposals for tourism development in the countryside will be approved provided that the development is to be used directly for tourism appropriate to a countryside location and is in accordance with the Scottish Borders Tourism Strategy and Action Plan.

The Supporting Statement advises that Thirlestane Park Ltd operates the four star caravan park that caters for holiday home owners and seasonal tourers. This was expanded recently but is already at capacity. This proposal seeks to provide additional year-round accommodation that provides an alternative type of accommodation to that already available, attracting more visitors to the area and contributing to the aim of developing the Scottish Borders as a destination for longer stays.

The Council encourages a variety of holiday accommodation and this development would contribute to that aim. The operator has demonstrated that the caravan park is a success, well run and attractive to visitors. It is considered that the proposal is appropriate for this rural location and that the accommodation that would be provided would be of a high quality. The site is well located close to Lauder for shops and facilities, to the A68, the A697 and Southern Upland Way for access and to attractions within the Borders, Lothians and Edinburgh.

A condition would ensure that the units are occupied by holidaymakers only to ensure full compliance with tourism related policies. Residential units in this location for permanent occupation would not be supported.

### **Siting, Layout and Design**

Policy ED7 requires that the development meets the siting and design criteria of policy PMD2; this policy requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development.

The lodges would be located within the north west corner of the woodland and positioned in a north-to-south row. The woodland in this area would be felled to accommodate the lodges.

The agent was requested to reconsider the siting of the lodges, as a more appropriate approach would be to keep the woodland, which is one of the main attractions of the site, and re-position the lodges, spaced out amongst the trees. This would provide a less uniform and linear layout that is informal within the woodland, resulting in less tree removals.

The agent advises that this plantation of Sitka spruce is a commercial venture and holds very little aesthetic or ecological value. The Sitka spruce was planted 25 years ago and would normally be clear felled to make way for new planting within 40 years from initial planting. Any re-planting of this commercial plantation could be done in a different species/mixture of species. Creating pockets within the existing plantation and linking these pockets up would require a greater amount of felling than the current proposal. No value should be placed on the existing Sitka spruce plantation. The proposed re-planting in native species would provide a visually attractive and ecologically diverse setting for the lodges.

The impact of the development on the woodland is discussed below. It is considered that with appropriate re-planting to enhance the setting of the lodges, the proposed layout can be supported.

The indicative size, design and materials of the lodges are acceptable. The external larch cladding would ensure the lodges integrate into the woodland setting. A condition would secure detailed floor and elevation drawings and the colour/finish prior to commencement to ensure the development is not prominent and recedes into the woodland.

The development has been designed to be sustainable for all year round occupation, with timber frames and larch cladding, GSHP and the solar array, in compliance with the aims of policy PMD1.

### **Impact on Trees, Woodland, Visual Amenities and Designed Landscape**

Policy ED7 requires that the development respects the amenity and character of the surrounding area. Policy EP13 seeks to protect trees from development. Policy EP10 states that the Council will support development that safeguards or enhances the landscape features, character or setting of sites listed in the Inventory of Gardens and Designed Landscapes or sites included in historic gardens and designed landscapes records.



The site is within a woodland within the Thirlestane estate and part of the Designed Landscape. The woodland is a valuable component of the landscape and the broadleaf woodland merits retention. The majority of the woodland is out with the red line site boundary but is owned by the applicant.

This proposal risks potential visual effects on the views from local footpaths, especially the SUW, the woodland paths, estate drives and access roads as well as from the B6362, A68 and upper floors of adjacent housing and Thirlestane castle. The potential for both landscape and visual effects will be dependent on the siting of the lodges, the proposed felling of parts of the woodland, replanting and for longer term woodland management.

A Tree Survey has been submitted with the application outlining tree removals and replacement planting. The main woodland is a commercial plantation and comprises semi-mature Sitka spruce and Norway spruce. There are also areas of broadleaf woodland including oak, ash, birch and beech and an area of marshy grassland in the north west corner.

Tree felling would be required at the individual sites of the eight lodges (Sitka spruce), the passing places (2 oak), the septic tank, soakaways and trench for services (14 Norway spruce) and the site of the walkers' car park (10 trees: oak, willow, ash and birch). Selective thinning would also be carried out in areas of Sitka spruce.

The Supporting Statement advises that the lodges will be located on individual sites carved out of the fairly dense Sitka spruce plantation, an area which does little to enhance the biodiversity of the location, with the focus on retaining the mature stands of Norway spruce to the west. This will provide a natural screen and will help minimise any visual impact. The mature broadleaves and Norway spruce growing on the steep slope to the west of the site would effectively screen the proposed development from view. These stands will be selectively thinned to promote continuous cover, with enrichment planting undertaken to develop successor trees in the longer term.

A Woodland Management Plan has been drawn up to guide the future management of the woodlands. The woodland has been divided into eight sub-compartments and each has been described in detail and management objectives and planting proposals set out for each.

The Council's Landscape Architect has been consulted. The main concern is the risk that the site becomes a visible clearing of lodges due to a desire for views out of the site and increased light levels rather than appearing as a woodland with discreet lodges within it. As a result, the important woodland feature of the Thirlestane Designed Landscape would become eroded. Where tree removal is proposed, it should be evenly distributed across the woodland so that large gaps do not appear, opening views into the site, harming the qualities and character of the designed landscape and the setting of Thirlestane castle. It is crucial that the visible edge is not compromised to retain the structure and integrity of the historic policy woods. This may be an opportunity to consider long term restoration of this area and to reinstate the former mixed broadleaf policy woods through sustainable woodland management.

The Landscape Architect has requested a tree survey of the trees on the western woodland margin, identifying which trees will be removed, those to be retained and any individual trees of value through the rest of the application site that can be retained and a detailed annotated drawing and schedule of all proposed compensatory planting for all areas of the site.

A more detailed planting plan has been submitted for the areas between the lodges. The majority of the trees to the west of the site are shown as being retained but no detailed tree survey has been submitted for this area.

It is accepted that the majority of the woodland is commercial Sitka spruce plantation that would eventually be clear felled (probably within the next 15 years). The aim, therefore is to retain the trees that are worthy of retention and supplement the woodland with appropriate replacement planting to ensure the lodges are not prominent in the Designed Landscape and to maintain the recreational value of the woodland. More information in relation to tree felling and replacement planting proposals is required at this stage, and it is recommended that if members support the application, these matters are secured and agreed via planning conditions, and Section 75 legal agreement for those areas out with the application site.

Key to minimising visual impact of the lodges would be the colour of the units. A shade of brown or green with a grey tone (including roofing and facings) would help the lodges 'recede' in the view. The precise details of all external materials and colour of the lodges can be secured via planning condition.

The solar array is proposed for the field to the north of the lodges, adjacent to the Southern Upland Way and this aspect of the development has the potential to be highly prominent in the landscape. The agent advises that this is essential for the energy efficiency of the development. The array has been revised to four rows of single panels rather than two rows of double panels; each panel would be 1.6m deep between 400mm and 1200mm in height. Parkland tree planting and a hedge for the field boundary comprising of native species are proposed to help screen the array from the Southern Upland Way.

The location and size of the solar array within the Designed Landscape has the potential to result in considerable landscape and visual impacts, out of keeping with the historic nature of the parkland and harmful to the visual amenity of those using the Southern Upland Way.

It is considered that the proposed hedge is unlikely to be effective as most walkers will be able to see over it and the size of the array makes it a difficult feature to 'hide' in the landscape. The reflective nature of solar panels is such that they can stand out across the landscape and appear incongruous and out of place in the parkland setting.

The applicant's supporting information advises that there has been a loss of parkland trees over the years; the Estate has begun a replacement planting programme, and this will be bolstered by parkland tree planting in the vicinity of the solar panels.

Any proposals to screen the array with planting must be carefully considered to ensure the species are suitable for the historic parkland whilst ensuring effective screening. As this parkland is out with the site boundary, this planting will be agreed and secured by the legal agreement.

Exact details of the solar panels will be secured by condition, including the requirement for the frames and supports to have a dark grey colour to help minimise the impact.

Compensatory planting is proposed on a site at Greenside to the north of Lauder and west of the A68, comprising of Sitka spruce, Norway spruce and native broad leaves (oak, wild cherry, rowan, crab apple, hazel and hawthorn). This is out with the site so cannot be controlled by condition and would be secured by the legal agreement.

Compensatory planting positioned away from the site would not offset the negative impacts on this part of historic policy woodland, therefore compensatory planting is also required within the policy woodland affected to ensure satisfactory mitigation of the proposals. This would be covered by condition and also be secured by the legal agreement for parts of the woodland out with the application site.

The wall on the road boundary of the site would be retained and replacement planting is proposed. The proposed signage at the entrance to the site would be controlled by condition and advertisement consent where necessary.

### **Impact on Listed Buildings**

Policy EP7 of the Proposed Local Development Plan states that the Council will support development proposals that conserve, protect and enhance the character, integrity and setting of Listed Buildings.

Thirlestane Castle is a category A Listed Building and forms the focal point of the Designed Landscape.

Historic Environment Scotland (HES) is satisfied that the erection of the lodges in the conifer plantation would not have an adverse impact on the Designed Landscape and setting of the Castle in principle. However, they requested further information regarding the visibility of both the lodges and the solar array in views from Thirlestane Castle and across the Designed Landscape from Lauder as they had concerns regarding the visibility of the lodges. The Supporting Statement is contradictory about the screening provided by the woodland.

HES is concerned about the impact of the solar array, which may be visible in views from the Castle and insufficient information was submitted to assess the impact. They advise that care is required to plant screening vegetation in this location without changing the open parkland character of this area of the GDL.

Photographs, with sightlines, were submitted by the agent of views of the application site from the castle and Lauder. The supporting text highlights that the castle is screened by mature broadleaf trees and the lodges would be sited behind mature woodland that is to be retained. The photos demonstrate that even in winter the lodges would not be prominent when viewed from the castle or Lauder.

HES was re-consulted and confirm that they are content with the proposal to plant parkland trees to screen views towards the solar array and are satisfied that the woodland management proposals would ensure that the lodges would be largely screened by existing vegetation in both views from the castle and from Lauder. They conclude that if the lodges are constructed in a recessive colour and with minimal or low-level external lighting, this development would not have a significant adverse impact on either the Inventory site or on the setting of Thirlestane Castle. These issues can be controlled by conditions and would ensure compliance with Policy EP7.

### **Impact on Residential Amenities**

Policy ED7 requires that development has no significant adverse impact on nearby uses, particularly housing. Policy HD3 also states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The closest residential property to the site is Hawthorn Cottage, approximately 50m to the south of the entrance to the site from the public road. This property benefits from intervening tree and shrub planting and it is considered that there would be no loss of privacy or light to occupants of this property.

The issue of light pollution has been raised from lights within the development and from headlights of cars entering and leaving the site.

A condition would secure exact details of all lighting within the site (along the access and for each individual lodge) to prevent light pollution and any disturbance to Hawthorn Cottage. Disturbance from headlights is not felt to be significant enough to warrant a revision to the scheme, given the distance from the access and intervening planting. Furthermore the access is currently used by vehicles accessing the woodland for leisure purposes and it is felt that there would be no unacceptable adverse impacts over and above existing levels.

Adequate spacing between units and the proposed planting would ensure an acceptable environment for holidaymakers without adverse impacts on amenity through loss of privacy, overlooking or over shadowing.

A condition will secure the exact details of the GSHP and noise levels to ensure no unacceptable adverse noise nuisance occurs.

Subject to conditions set out below it is considered that the proposed development would not result in unacceptable adverse effects on the residential amenity of existing (and proposed) properties and would comply with Policies ED7 and HD3 of the LDP.

### **Access, Parking and Road Safety**

Policy ED7 states that the development must take into account accessibility considerations. Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards.

This site is served by an existing vehicular access from the B6362 which currently has sub-standard visibility, is excessively large in terms of geometry and has vehicles parked indiscriminately throughout the day. It is proposed to improve the junction by reducing the width of the existing access and locating the entrance at the point with clearest visibility. A visibility splay would be provided to the west to improve forward visibility for right turners, and visibility has already been improved by tree and hedge removal and maintenance. Signage is proposed to warn traffic on approach.

A car park for walkers would be provided adjacent to the access, with 5 spaces. Passing places would be formed along the access track at 150m intervals. The track would be widened and upgraded and each lodge would have one parking space.

The Roads Planning Service was concerned with visibility at the junction of the site access and the B6362. The forward visibility for a driver waiting to turn right into the site is severely restricted by overgrown foliage. The required visibility splay is shown on the Access Plan, however, the area required to form the visibility splay is out with the public road boundary and the ownership of the applicants. The Roads Planning Service requested written confirmation that the applicants have the ability to form this visibility splay, which requires all foliage, hedges and bushes to be removed from the area and confirmation that the applicants have the ability to ensure this visibility splay is maintained in perpetuity.

The applicants have now supplied written confirmation from the land owners they are content for this work to be undertaken and maintained on an ongoing basis. The Roads Planning Service has therefore removed their objection to this proposal, provided conditions to secure the upgrading of the access, the provision and maintenance of the visibility spay and surface water drainage measures are attached to any planning permission that may be granted.

Members will note that Transport Scotland has no objections to the proposed development.

Members will be aware that the existing woodland is well used by walkers in the area. Several of the representations received in relation to the application object to the gates and fencing proposed as this would restrict access. Although there are no claimed rights of way within the woodland, there are paths that the public would have a 'right of responsible access' to under the Land Reform (Scotland) Act 2003.

A revised site plan has been submitted that shows the fencing removed and the removal of the first gate so that access would be retained to the majority of the woodland via the existing tracks and paths.

The Southern Upland Way runs along the northern edge of the existing woodland beyond which would be located the proposed GSHP pipework and solar array. The Council's Access Officer offers no objections to the proposal provided the route is kept open and free from obstruction. It is noted that a cable would be installed underneath the path to serve the solar array but this matter can be controlled by a condition.

## **Flooding**

Policy IS8 of the Local Development Plan advises that as a general principle, new development should be located in areas free from significant flood risk and developments will not be permitted if it would be at significant risk of flooding or would materially increase the probability of flooding elsewhere. The ability of flood plains to convey and store flood water should be protected.

The Leader Water is to the south west of the site and a small man-made drainage ditch flows through the woodland, bisecting the site, north east to south west

The location of the proposed holiday lodges is outside the 1:200 and 1:1000 year flood event. Only the southernmost part of the area of the proposed drainage pipe from the proposed septic tank to the Leader Water is within the 1:200 year floodplain of the Leader Water. The flood maps also indicate that during a 1:200 year flood event the road bridge across the Leader Water and part of the B6362 to the west of it are likely to flood.

Members will note that SEPA originally objected to the application, on the grounds that insufficient information was provided to assess flood risk at the site and requested a Flood Risk Assessment (FRA) or other appropriate information be provided. The applicant submitted a FRA and following re-consultation, SEPA has withdrawn their objections. They consider that the small man-made drainage ditch has a very limited catchment area and due to the steep gradient, and it is unlikely to pose a risk to the proposed holiday accommodation. A new bridge crossing will be constructed, and this should be designed appropriately to ensure it does not impact on channel conveyance. SEPA has confirmed that they have no concerns regarding the risk of flooding from the Leader Water.

The Council's Flood Protection Officer recommends that the applicant installs a non-return valve in the drainage pipe to reduce the risk of flood waters entering the pipe and raising up to the proposed holiday cabins.

Access and egress from the proposed site to the west, towards Lauder, may be impeded and unsafe due to flooding. The food maps indicate that the eastern part of the B6362 is unlikely to flood during a 1:200 year event and therefore the Flood Protection Officer is content that safe access and egress from the site would still be possible via this road going south from the proposed site and onto the A697.

During incidences of heavy rainfall and severe river flooding, egress from the site to the west and the A68 may be obstructed. During such events, the Flood Protection Officer advises that the recommended egress route from the site should be towards the south east on the B6362 and onto the A697 and the potential road flooding should be included in the site evacuation plan. This can be secured by condition.

## **Ecology**

Policy EP3 states that development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused unless it can be demonstrated that the public benefits of the development outweigh the value of the habitat for biodiversity conservation.

The Leader Water flows to the south/south west of the site, approximately 90m from the closest part of the site, and is a tributary of the River Tweed, designated as a Special Area of Conservation (SAC).

A Preliminary Ecological Appraisal (PEA) has been submitted that identifies small drains which may provide connectivity from the car park area at the southern end of the development and a drainage ditch runs through the coniferous plantation connecting with the Leader Water. Pollution prevention measures are proposed. The Council's Ecology Officer considers that there is limited connectivity and it is unlikely to have a significant effect on the integrity of the River Tweed Special Area of Conservation.

Evidence of otter was recorded on the Leader Water although this is said to be out with areas of potential disturbance. Trees that may be affected by the development are said to be of negligible suitability for bat roosts; bats are likely to use the woodland and woodland edge for foraging and commuting and may be affected by new lighting for the proposed development. No evidence of badger setts or activity was found, although it is likely that badgers will use the site for foraging and commuting. Red squirrel are considered to be absent from this site. Habitats that may support breeding birds may be affected by the development.

Mitigation is proposed including a Pollution Prevention Plan, supplementary surveys for bats, badger, breeding birds and invasive species as appropriate, establishment of biodiversity protection zones during construction and a sensitive lighting scheme for bats. Biodiversity enhancement measures, including provision of bat and bird boxes, and a woodland management plan is proposed.

Members will note that the Council's Ecology Officer requested further information to inform the PEA, including the areas within the red line boundary where the solar array and tail drain would be located as well as details of the lighting scheme.

In response to these comments the agent has submitted the following: an addendum to the PEA that includes the solar array; a Biodiversity Enhancement Plan, which proposes appropriate locally native species for the replacement planting, bird and bat boxes; a Construction Environmental Management Plan (CEMP) that identifies construction activities that may have an adverse impact on the environment and mitigation, and a Species Protection Plan (SPP) for badger, otter, bats and birds.

The Ecology Officer is broadly satisfied with these documents and their conclusions/recommendations but requires further revisions/details, as well as further information in relation to the proposed sensitive lighting scheme. These matters can be covered by appropriately worded planning conditions.

NatureScot advises that it is possible that pollutants or silt caused during construction of the lodges could enter the Leader Water via the existing ditch and the drain from the septic tank serving the lodges, potentially causing water quality issues. Provided standard good practice is followed during construction, as referenced in the PEA, NatureScot advises that there should be no impact on the River Tweed SAC. In addition, the photographs submitted in support of the application illustrate a thickly vegetated ditch that should retain any silt or contaminants before they reach the Leader Water. Provided the septic tank and outflow infrastructure are designed to account for possible river channel change (and is acceptable to SEPA), NatureScot has no objections to the proposal.

Compensatory replanting is proposed off-site and would be secured by the Section 75 agreement. The Ecology Officer requested further details of off-site planting and preference would be for an area of native woodland, removing any requirements for felling and restocking. Further details have been provided but this did not include planting densities or species mixes within compartments. Further details will be required as part of the Section 75 agreement should members support the application.

### **Archaeology**

Policy EP8 states that development proposals which will adversely affect local archaeological assets will only be permitted if it can be demonstrated that the benefits of the proposal outweigh the heritage value of the asset. All proposals that adversely affect such an asset must include an acceptable mitigation strategy.

The Council's Archaeology Officer has outlined the history of the area and is concerned that the submitted details do not define how much excavation, levelling and ground disturbance is proposed. He concludes that there is insufficient information to make a full assessment of the potential impacts upon the archaeology in the area. However, conditions requiring a programme of archaeological works is recommended to ensure compliance with EP8.

### **Water, Drainage, Servicing and Waste Disposal**

Policy IS9 states that the preferred method of dealing with waste water associated with new development would be a direct connection to the public sewerage system. In this case, drainage would be via a septic tank and tail drain to the Leader Water.

The Supporting Statement advises that the site lies on a gentle gradient towards the river basin so benefits from good natural drainage. A network of perforated drainage pipes would be set into underground channels as part of the upgrading works to the access road. This will ensure that the water run-off from the hillside is directed away

from the lodges and road. This, and the water runoff from the access road and car park, will be directed to a gully soakaway to the west of the site.

Members will note that no objections have been received from Environmental Health or SEPA.

The application confirms that water supply would be from the mains supply located on the B6362.

A bin store would be provided for general waste and recycling and a condition would secure details of waste disposal and ongoing management.

The Supporting Statement advises that a power supply would be taken from the existing pole mounted transformer close to the B6362 to the west of Hawthorn Cottage and undergrounded to the site where a ground mounted substation will be installed

The owner of Hawthorn Cottage has objected to the application as the pole for the electricity supply is in the garden of Hawthorn Cottage although the agent has confirmed that the pole to be utilised is out with the garden of Hawthorn Cottage. Notwithstanding the location of the pole, it is the applicant's responsibility to ensure that all necessary permissions are in place including that of utility companies. This is not a matter for the planning application process.

## **CONCLUSION**

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with 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 a legal agreement (covering the extent of proposed tree felling and to secure additional and compensatory planting out with the site boundary) and to the following conditions and informatives:

1. The development hereby approved shall be occupied for holiday use only and shall not be used as a person's sole or main residence or as temporary or permanent residential accommodation. The occupation of the holiday units shall be restricted to genuine holidaymakers for individual periods not exceeding 4 weeks in total within any consecutive period of 13 weeks. The operator shall maintain an up-to-date register of the names of all holiday makers staying in the holiday units and their main home addresses. This information shall be made available for inspection at all reasonable times by an authorised officer of the Planning Authority.

Reason: The accommodation on the site is not designed for permanent occupation and permanent residential use would be contrary to the council's housing in the countryside policies.

2. No development shall commence until the applicant has secured a programme of archaeological work in accordance with a Written Scheme of Investigation outlining a Watching Brief. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer



and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to observe relevant below ground excavation during development, investigate and record features of interest and recover finds and samples if necessary. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered below ground excavation should cease pending further consultation with the Planning Authority. The developer will ensure that any significant data and finds undergo post-excavation analysis, the results of which will be submitted to the Planning Authority.

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

3. No development shall commence 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.

4. Detailed floor plans and elevation drawings of the proposed lodges, including external materials and colour/finishes, details of the decking, cycle storage and bins store to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved details.

Reason: To protect the visual amenities of the area.

5. Details of all fencing and gates (position, height, material, colour/finish) to be submitted to and approved in writing by the Planning Authority before the development commences. The fences and gates shall then be installed in accordance with the approved details before the lodges are occupied. The existing wall at the entrance to the site adjacent to the B6362 shall be retained.

Reason: To protect the visual amenities of the area.

6. Precise details of the solar panels hereby approved shall be submitted to and approved in writing by the Planning Authority before the development commences. The frames and supports of the solar array shall be dark grey and matt finished. The solar panels shall then be installed in accordance with the approved details.

Reason: To protect the visual amenities of the area and the special qualities of the Designed Landscape.

7. Precise details of the ground source heat pumps, including noise levels, shall be submitted to and approved in writing by the Planning Authority before the development commences. The ground source heat pumps shall then be installed in accordance with the approved details.  
Reason: To protect the visual amenities of the area and the amenities of occupiers of the lodges and nearby houses.
8. Precise details of the surfacing materials for the access road, passing places and car parking spaces to be submitted to and approved in writing by the Planning Authority before the development commences. The access track, passing places and car parking spaces shall be formed in accordance with the approved details before the lodges are occupied. The car park  
Reason: To protect the visual amenities of the area and to ensure the lodges can be accessed safely.
9. Prior to commencement of development the visibility splay shown on Drawing Number 19-B689-PL06 A: Access Plan shall be provided and the visibility splay shall be maintained to the agreed level thereafter in perpetuity.  
Reason: To ensure safe access and egress to the site in perpetuity.
10. Prior to the development becoming operational the existing junction with the B6362 to be upgraded in accordance with the specification detailed in Informative Note 1 and the car parking area to be completed in accordance with Drawing Number 19-B689-PL06 A: Access Plan.  
Reason: To ensure safe access to and egress from the site and to provide for displaced parking.
11. Prior to the development becoming operational the private access to be surfaced from the B6362 to a point where it no longer serves the parking area to a specification first submitted to and approved in writing by the Planning Authority.  
Reason: To protect the integrity of the public road and to help prevent loose material being dragged onto the public road in the interests of road safety.
12. Prior to the commencement of development precise details of the measures to be put in place to prevent the flow of water onto the public road shall first be submitted to and approved in writing by the Planning Authority. The approved measures to be installed and fully functional before the first lodge is occupied.  
Reason: In the interest of road safety and to prevent the free flow of water onto the public road.
13. The Southern Upland Way shall be kept open and free from obstruction at all times while the cable and any other associated infrastructure required to serve the solar panels is installed, unless details of a temporary diversion have first been submitted to and approved in writing by the Planning Authority.  
Reason: To ensure the right of way is kept open for walkers.
14. An Evacuation Plan demonstrating safe access to and egress from the site during a flood event to be submitted to and approved in writing by the Planning Authority before the development commences. The lodge development shall then be managed in accordance with the approved Evacuation Plan.  
Reason: The road bridge across the Leader Water and part of the B6362 to the west of it, are prone to flooding.

15. Details of waste disposal and waste management to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be operated in accordance with the approved details.  
Reason: To ensure the site is adequately serviced and managed.
16. The water supply and foul water drainage arrangements shall be installed and operational before the lodges hereby approved are occupied.  
Reason: To ensure the site is adequately serviced.
17. Details of all proposed signage and advertisements within the site and at the entrance to the site (position, size, material, colour, design, content) to be submitted to and approved in writing by the Planning Authority before the development commences. The signage then to be installed in accordance with the approved details.  
Reason: To protect the visual amenities of the area.
18. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Planning Authority, and shall include (as appropriate):

  - i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration;
  - ii. location of new trees, shrubs, hedges and grassed areas;
  - iii. schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - iv. programme for completion and subsequent maintenance.

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.
19. Prior to commencement of development, a Species Protection Plan (SPP) for otter, bats, badger and breeding birds shall be submitted to and approved in writing by the Planning Authority. The SPP shall incorporate provision for a pre-development supplementary survey and a mitigation plan. No development shall be undertaken except in accordance with the approved in writing SPP.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.
20. Prior to commencement of development a Construction Environmental Management Plan (CEMP) incorporating the latest good practice guidelines and statutory advice (including as outlined GPP1, GPP2, GPP4, GPP5 and PPG6) to protect River Tweed Special Area of Conservation and local waterbodies and biodiversity, shall be submitted to and approved in writing in writing by the Planning Authority. Any works shall thereafter be carried out strictly in accordance with the approved CEMP.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.
21. Prior to commencement of development, a Biodiversity Enhancement Plan (BEP) including measures outlined in the Biodiversity Enhancement Plan (Findlay Ecology Services, March 2021) shall be submitted to and approved in writing by the Planning Authority. No development shall be undertaken except in accordance with the approved BEP.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.

22. Prior to commencement of development a sensitive lighting scheme incorporating the latest good practice guidelines (as outlined: Guidance Note 8/18 (2018): Bats and artificial lighting in the UK) to protect bats, and including details of the position and height of the lighting columns along the access road and for each lodge, shall be submitted to and approved in writing by the Planning Authority. Any works shall thereafter be carried out strictly in accordance with the approved lighting scheme Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3 and to prevent light pollution and disturbance to residential properties.

### Informatives

1. In respect of condition 10, the specification for the access is as follows: a 40mm layer of 14mm size close graded bituminous surface course to BS 4987 laid on a 100mm layer of 28mm size dense base (roadbase) to the same BS laid on a 310mm layer of 100mm broken stone bottoming blinded with sub-base, type 1. It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.
2. In respect of condition 14, the Council's Flood Protection Officer recommends that the applicant installs a non-return valve in the drainage pipe to reduce the risk of flood waters entering the pipe and raising up to the proposed holiday lodges.
3. In respect of condition 16, the design of the septic tank and outflow drain should be acceptable to SEPA. A CAR Construction Site Licence, including a Construction Environmental Management Plan, would be required by SEPA if the site is >4ha.
4. In respect of condition 17, Advertisement Consent may be required for the proposed signage.

### DRAWING NUMBERS

Plan Ref	Plan Type
19-B689-PL01	Landownership
19-B689-PL02	Location Plan
19-B689-PL03	Existing Block Plan
19-B689-PL04 A	Proposed Block Plan
19-B689-PL05 A	Proposed Site Plan
19-B689-PL06 A	Access Plan
19-B689-PL07 A	Aerial Plan
19-B689-PL09	Proposed Sections

### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

### **Author(s)**

Name	Designation
Julie Hayward	Team Leader Development Management



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Land East Of Thirlestane Castle  
Lauder

