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FAO Paul Duncan (Planning Department)

Scottish Borders Council
Council Headquarters
Newtown St. Boswells
Melrose
TD6 0SA

20th June 2022

Planning Consultation Response

**22/00297/FUL -Erection of 3 no holiday pods and associated parking | Land West Of Burnmouth
Church Stonefalls Burnmouth Eyemouth Scottish Borders**

Dear Paul,

Further to the submission of updated information (uploaded to the portal on the 9th of May) for the above application, and the subsequent consultation responses, we are writing to set out the following reply:

Firstly, it is our understanding that none of the consultees have visited site yet and this is a crucial part of this application to understand the context. This is particularly true in relation to the Landscape and Ecology Officers responses, as well as the Roads Officer. Secondly, the response of the Roads Officer appears to be contradictory to the application in process immediately adjacent to the site (22/00725/FUL). We will take each response in turn below.

Roads / Vehicular Access:

We note the response dated 10th June 2022 (uploaded on the 14th of June) from consultee Keith Patterson – Roads Planning Officer.

'I have now had the opportunity to review the submitted additional information and in particular the Access Appraisal (AA) and would comment as follows: The swept path analysis demonstrates that for a vehicle to turn left into the site, they have to utilise the opposite side of the carriageway on approach to the access. As this manoeuvre would also be on the approach to a bend in the road, I would consider it to be unacceptable. The AA also suggests that to allow vehicles to manoeuvre in and out of the junction, a section of the roadside crash barrier will have to be removed. There is a significant level difference between the public road and the private access at this location and it is extremely difficult to ascertain how acceptable gradients could be provided.'

In response to the above we reconfirm that the swept path analysis submitted as part of Modus Transport Solutions indicate access and egress being possible in a forward gear by utilising the opposite side of carriageway. This is a pre-existing maneuver to access the site, and is currently used by a number of vehicles (as made clear by public responses to the application). The proposal for the site will improve the access in line with the recommendations in the access appraisal and provides a safer arrangement in



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contrast to that proposed by the neighbouring site under consideration (*Application referred to 22/00725/FUL*), and which is supported by Mr Patterson.

Mr Patterson's repeated objection to our applicants proposal is contrary to his balanced support of the application immediately adjacent to the proposal (*Application 22/00725/FUL*).

'The parking arrangement proposed is not ideal in that it is quite constrained and is likely to result in vehicles either reversing onto or off the public road at a location where there is a double bend in the road and visibility is restricted, however vehicles are travelling at slow speeds due to these constraints. There appears no other alternative parking solution within the site boundary and on balance I am inclined to support the provision of parking. Given all of the above I will not object to this proposal.'

We strongly disagree with the current assessment and would make the case that existing buildings and grounds within the development boundary of Burnmouth should be considered equally.

Further information can be provided as part of the condition process to demonstrate successful gradients based on Modus Transport Solutions on site assessment, which concluded the ground levels can be adjusted accordingly during construction.

Ecology/NatureScot:



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Burnmouth Coast SSSI



SSSI Map 278

As outlined in the NatureScot consultation response and pictured above, the proposed site does not sit within the SAC or SSSI. Crucially, the risk of land slip is not of any significance on the basis of the site topography, which clearly hasn't been observed by the consultees. The site is within a valley of the SSSI area to the North and South of the site, and a long gradient (approximately 80m) and road separates the site from the SSSI site to the East (see photo below). Any landslip would have to be catastrophic in order to put the SSSI area at risk. Any minor risk of landslip would also be easily mitigated against by responsible construction methods as detailed in the submitted Methods Statement.



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Again, the contrary assessment, of what the above images shows is the greater landslip risk proposal given the presence of Japanese knotweed (application 22/00725/FUL) should be applied to our applicants application, as set out below by Raffaella Diesel below.

'A ground stability assessment would be required.' (email 26/05/22 to Paul Duncan)

A ground stability assessment would be agreeable as a condition to our applicants application.

In terms of Raffaella Diesel's (email dated 1st of June 2022 to Paul Duncan) updated assessment we would respond as follows:

1. *'The Phase 1 habitat and NVC survey for the site is required due to the site providing functional connectivity between the parts of the Burnmouth Coast SSSI (also mentioned by NatureScot). This is an additional survey which falls outside the remit of a PEA.*
2. *The additional breeding bird and invertebrates surveys are required due to the site's location between parts of Burnmouth Coast SSSI which is designated for coastal habitats and invertebrates.*



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And, as also mentioned by Nature Scot, the habitat within the site is likely similar to that of the SSSI.

- 3. Coastal grassland and cliffs are known to be used by birds such as Peregrine Falcon (Schedule 1 species) and Skylark (a red-listed bird of conservation concern). Therefore, pre-construction checks and surveys alone would be insufficient to alleviate concerns regarding any potential impact on breeding birds.'*

Items 1 and 2 would be agreeable conditions, and in terms of 3 an Ecological Clerk of Works would also be an agreeable condition to deal with this point. Dougie McKenna of Stones Wildlife Management (Project Ecologist) has over 35 years experience, is an approved Consultant and Contractor for Scottish Borders Council and was the Ecological Clerk of Works for the Waverley Line works. Dougie is therefore suitably qualified to carry out this task.

Associated Nature Scot Response

The objection by Nature Scot is maintained until further information is provided on the ground stability of the site, as per letter dated 1st of June 2022 from Crispin Hill to Paul Duncan.

We ask that either time should be afforded to the applicant to carry out the ground stability assessment to prove the above, or an application should be approved with this condition prior to works commencing on site.

Landscaping:

We note Catherine Andrews response dated 23rd of May 2022 (uploaded on the 14th of June) – 23/05/2022 below:

'This proposal will compromise both landscape and visual amenity of the Burnmouth valley and the Berwickshire Coast SLA. In policy terms it is contrary to EP13 which aims to protect the tree and woodland resource and associated ecology and EP5 which aims to afford adequate protection to the SLA'

We have adjusted the area of hard standing provision to mitigate any visual impact caused by the new parking provision (which is within the developable boundary of the site). The pods themselves are to be painted a green tone to blend into the hillside and as shown in our visual impact images. The visual impact assessment shows that the development will not cause detriment to the local area and will sit quietly on the hillside tucked behind the existing church building. The proposal isn't visible from two of the three crucial views. Sympathetic planting can be further developed as part of the condition process to agree any further balance between the development and the existing landscape.



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Conclusion:

Raffaella Diesel raised the following in her initial consultation:

'A recent EUCJ¹ ruling means that mitigation cannot be taken into account when considering the likely significant effect of a proposal on Natura/European sites and the need for an HRA at the screening stage.'

To determine 'likely significant effects' in relation to HRA, the EUCJ ruled that "the question is simply whether the plan or project concerned is capable of having an effect. It is in that sense that the English 'likely to' should be understood."²

¹ People over Wind & Sweetman v Coillte Teoranta ECLI:EU:C:2018:244 12 April 2018

<http://curia.europa.eu/juris/document/document.jsf?docid=200970&doclang=EN>

² Sweetman case, European Court of Justice C-127/02, [CURIA - List of results \(europa.eu\)](http://curia.europa.eu)

This assessment seems to be at the heart of the consultee responses. The points raised above are inappropriate, as it starts from the basis of a development that will have an impact within a protected area. This development does not affect a protected area as it isn't in the protected area. There is no question of mitigation, as there is no harm to the protected area. The minimal risk of affecting the neighbouring area is negated by topography, competent construction methods and safe guarding conditions as outline above.

The existing and proposed improved car park area is in the development area of Burnmouth and the proposed pods are being built with an unobtrusive construction method. On this basis we request that the balanced approach assessment of application 22/00725/FUL should also be afforded our applicants application. Finally, the application should be supported as it makes a positive contribution to Burnmouth and the Scottish Borders tourism economy and infrastructure.

Kind Regards,



Gavin Yuill,
Director

Camerons Strachan Yuill Architects



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