

16 March 2023

By email to: fhenderson@scotborders.gov.uk

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Dear Ms Henderson,

**Appeal against the delegated refusal of planning permission for the proposed erection of timber storage and processing facility with new access junction, yard area, landscaping, tree planting, SUDs and associated works and planning permission in principle for associated dwellinghouse with office for the timber processing facility
Land South West of West Loch Farmhouse, Peebles
On behalf of Mr Richard Spray, Pentland Biomass**

Scottish Borders Council References: 22/00933/FUL & 23/00001/RREF

Response to Planning Officer's Statement on NPF4 (email dated 7 March 2023)

We refer to your email of 7 March 2023 in connection with the above matter, and your invitation to submit comments on the Planning Officer's Statement on the impact of NPF4.

Having had an opportunity to review the Planning Officer's Statement (which constitutes an email dated 7 March 2023) it is clear that the Planning Officer has failed to take any account of the information set out in the submitted Arboricultural Assessment and Tree Protection Plan prepared by Arbor Vitae Arboriculture (Documents PB07 & PB08); the Noise Impact Assessment prepared by The Airshed (PB09); or the Ecology Appraisal prepared by David Dodds Associates (PB10).

The Planning Officer has also failed to take into account the comments and suggested Conditions that have been set out in some detail in our Appeal Statement dated 04 January and our Statement of Further Written Submissions dated 14 January 2023.

We raised these concerns directly with you during our subsequent telephone conversation on 8 March and you advised that the Planning Officer has been told not to assess the submitted reports or statements. We find this approach to be surprising, but this does to a degree explain the Planning Officer's comments in respect of NPF4.

However, and as the Planning Officer has quite clearly not assessed the application as it currently stands against the policies of NPF4, we would urge the Local Review Body (LRB) to give no weight to the Planning Officer's email of 7 March 2023.

The Planning Officer should instead, be requested by the LRB to assess the application afresh and with full and proper consideration of all of the submitted supporting information, including the submitted Arboricultural Assessment; Tree Protection Plan; Noise Impact Assessment; Ecology Appraisal and the suggested planning conditions set out in our Statements of 04 and 14 January.

A full and proper review of this information would allow the Planning Officer to reverse his original decision and recommend a conditional approval of this application, all in accordance with the relevant policies of the NPF4 and indeed, the adopted LDP.

We would therefore ask the LRB to give no consideration to the Planning Officer's Statement and would direct the LRB to our Statement dated 07 March which does provide a full and proper assessment of the planning application against all of the policies of NPF4.

We would, however, also wish to highlight that the Planning Officer has made two significant factually incorrect and potentially misleading comments in his email of 07 March.

The first relates to NPF4 Policy 5 which deals with Soils. In his email, the Planning Officer states that the proposal involves *"the removal of soil"* and goes on to consider that this results in non-compliance with Policy 5 of NPF4. This statement from the Planning Officer is, however, wrong. There will be no removal of soil from the application site. This is therefore an incorrect comment which should be withdrawn.

As we have confirmed in our Statement on NPF4, the application site does not contain any prime agricultural land; land of local importance; peatland or carbon-rich soils. All soil will be retained on site and will not be damaged or sealed. No soil will be removed from the site. The application proposals therefore meet the requirements of NPF4 Policy 5.

The second misleading comment from the Planning Officer is set out under NPF4 Policy 29 Rural Development, and the Planning Officer states that: *"The company also operates a timber haulage service and offers for hire curtain sided and fridge trailers"* and he goes on to infer that these uses will be undertaken on the application site leading to a conflict with Policy 29 of NPF4. This comment is also wrong and is wholly inaccurate. It suggests that the applicant is seeking to operate a haulage depot and HGV hire business from the application site. This is not correct, and is another misleading comment which should be withdrawn.

As we have quite clearly set out in our Statements of 04 January, 14 January and again on 07 March this application is seeking planning permission for the use of the site for timber storage with ancillary timber processing. We have offered a condition to ensure this, and have also suggested a further condition removing all permitted development rights to ensure that the site cannot be used for class 5 industrial or class 6 storage and distribution uses in the future. We have also offered a condition requiring all timber to be sourced from the Scottish Borders area.

For the Planning Officer to now suggest that the applicant is seeking to use the site as a haulage depot and for the hire of HGVs is therefore wrong and is misleading. This comment must be withdrawn.

Despite the efforts of the Planning Officer to suggest otherwise, this planning application quite clearly accords with and can be supported by NPF4 Policy 29 which specifically confirms that production and processing facilities for local produce and materials, for example sawmills, will be supported.

We would therefore request that the LRB takes no account of the information set out in the Planning Officer's Statement, and instead gives full and proper consideration of the factual evidence submitted on behalf of the applicant, which is set out in detail in the applicant's Arboricultural Assessment; Tree Protection Plan; Noise Impact Assessment; Ecology Appraisal and our Statements of 04 January, 14 January, and 07 March 2023 which confirm that the application can be approved in accordance with the relevant policies of NPF4 and the adopted LDP.

For the reasons set out above and in our earlier Statements, we would therefore respectfully request on behalf of the applicant that the LRB upholds this appeal and grants planning permission for the proposed development, subject to the conditions suggested in our Statement of 07 March.

We would be grateful if you could acknowledge safe receipt of this letter, and keep us advised of all further progress on this planning application.

Yours sincerely,



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Director
John Handley Associates Ltd

cc: Mr Richard Spray, Pentland Biomass