

Re application **22/00576/FUL**

Allanton Whitsome and Edrom Community Council are unable to give this application unanimous support for change of use as this is likely to cause further adverse environmental effects on the closest residents without specific enforceable agreed conditions regarding pig numbers, noise, odour and vehicle movements.

SEPA HQ
Per Mr R Wallace
SEPA Edinburgh Office
Silvan House
3rd Floor
231 Corstophine Road
Edinburgh
EH12 7AT

Officer Cameron Kirk
☎ 01835 825253
Application Ref : 22/00576/FUL
Date : 27th April 2022

NAME OF APPLICANT: Mr Robert Gaston
NATURE OF PROPOSAL: Erection of agricultural building (retrospective)
SITE: Ravelaw Farm Duns Scottish Borders

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

REQUEST FOR OBSERVATIONS OF: **Scottish Environment Protection Agency**

Your observations are requested on the above noted planning application. I shall be glad to have your response not later than 25th May 2022. If no reply is received by this date it will be assumed that you have no observations and a decision may be taken on the application.

The site is located at the following co-ordinates:

Map Eastings: 385012 Map Northings: 650795

The following constraints have been highlighted in determining which external consultees need to be consulted, some of which may not be directly relevant to your organisation:

Reason for Consultation: WASTE WATER/FOUL DRAINAGE

All documents relating to this application can be viewed by following this hyperlink:

<http://eplanning.scotborders.gov.uk/online-applications/>

To activate the hyperlink, place your cursor at the end of the line and press the return key.

Please create your consultation response in a MS Word document and email it to dcconsultees@scotborders.gov.uk

Has the case been through the SEPA triage framework and how does it meet the triage criteria/reason for consultation?	YES
Has SEPA been involved at a	<i>If at the Pre-App stage please attach our</i>

previous stage (please provide details)?	<i>previous response and any relevant documents not publicly available.</i> NO
Is this for a discharge of conditions requested by SEPA?	<i>Detail conditions</i> NO
Link to planning portal	http://eplanning.scotborders.gov.uk/online-applications/
Which documents require review by SEPA (please list)?	SEE FLOOD RISK REPORT
Other notes from the planning officer	
Planning Officer Contact Details	Name: Cameron Kirk Tel: 01835 825253 Email: cameron.kirk@scotborders.gov.uk

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Yours faithfully

John Hayward

Planning & Development Standards Manager

I

Cameron Kirk
Council Headquarters
Newtown St Boswells
MELROSE
Scottish Borders
TD6 0SA

Our Ref: 5107
Your 22/00576/FUL
Ref:

SEPA Email Contact:
planningsoutheast@sepa.org.uk

17 May 2022

By email only to dcconsultees@scotborders.gov.uk

Dear Cameron,

Town and Country Planning (Scotland) Acts

Planning Application: 22/00576/FUL

Erection of agricultural building (retrospective)

Ravelaw Farm Duns Scottish Borders

SEPA Reference: 5107

Thank you for your consultation which was received by SEPA on 27 April (deadline 25 May 2022) in relation to the above retrospective application for the erection of an agricultural building. We understand that the SEPA permitting team is in discussion with the applicant about this case as the site is currently being used to host pigs.

Advice for the planning authority

We have reviewed the information supplied with this planning application and have **no objection** to the development in relation to planning. Please also note the advice provided in our [triage framework and standing advice](#), as appropriate.

We have however some comments to make in relation to regulatory aspects which we have outlined in the section below.

It is an applicant's responsibility to ensure their proposals will meet all relevant regulatory requirements and they are working within regulatory guidelines. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. We consider it to be at the applicant's commercial risk if planning permission is granted for a development/process which cannot gain authorisation from us, or if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising.



Chairman
Bob Downes
Acting Chief Executive
Jo Green

Angus Smith Building
6 Parklands Avenue, Eurocentral,
Holytown, North Lanarkshire ML1 4WQ
tel 01698 839000 fax 01698 738155
www.sepa.org.uk - customer enquiries 03000 99 66 99

Regulatory advice for the applicant

Regulation 11 and Schedule 1 Section 6.9 part A of the Pollution Prevention and Control (Scotland) Regulations 2012 requires that an installation with more than 2,000 places for production pigs (>30kg) or 750 places for sows, can only operate to the extent authorised by a permit. By continuing to use this additional shed for housing pigs, Ravelaw farm will exceed this threshold and therefore the applicant is currently discussing the situation with the SEPA permitting team and will require a PPC permit, unless the number of units is reduced to below the threshold.

We are aware that there are several residential properties very close to the farm and the applicant PPC application will need to demonstrate how the installation can be operated so as to comply with conditions included in a permit.

Appendix 1 of this response provides more information about the detailed regulatory requirements.

We understand from recent updates that the applicant is intending reducing the stoking levels to below 2000 units. Evidence will need to be provided that this is the case.

Alternative uses for the agricultural building could also be considered, this would however need to ensure that there will be no unacceptable impact to the dwellings nearby and evidence will need to be provided.

If you have queries relating to this letter, please contact planningsoutheast@sepa.org.uk including our reference number in the email subject.

Yours sincerely

Silvia Cagnoni
Senior Planning Officer
Planning Service

Ecopy to: Cameron.Kirk@scotborders.gov.uk
c.anderson@edwin-thompson.co.uk

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages - www.sepa.org.uk/environment/land/planning/](http://www.sepa.org.uk/environment/land/planning/).

APPENDIX 1

[The Pollution Prevention and Control \(Scotland\) Regulations 2012](#), Schedule 1 Section 6.9. - Intensive farming - PART A imposes the following thresholds:

Rearing poultry or pigs intensively in an installation with more than—

- (a) 40,000 places for poultry,**
- (b) 2,000 places for production pigs (over 30 kilograms), or**
- (c) 750 places for sows.**

Please note the term 'places'. Where a planning application has not specified places the unit is capable of housing, SEPA cannot give a full planning response. In this instance, please notify the planning officer of the absence of detail of livestock places and ask to be notified of when this information is available and on the portal in support of the planning application

Where a proposal exceeds the PPC thresholds above, the requirements of section 1 below apply. For those proposals below the PPC thresholds, please see section 2. Section 3 covers those aspects of the planning application consultation that applies to both PPC and non-PPC sites.

Section 1: Above PPC Threshold

Where the proposal falls into PPC, the applicant must make an application to SEPA for a PPC permit which must consider the following:

1. Housing and ventilation design
2. Slurry and manure storage compliant with the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) General Binding Rules (GBRs) 31, 32, 33 and 34.
3. Noise and Odour management
4. Consideration of PM₁₀ emissions on human receptors within 250m
5. Point source and fugitive emissions.
 - a. In accordance with the Habitats Regulations (Conservation (Natural Habitats, &c.) Regulations 1994) and the Nature Conservation (Scotland) Act 2004, SEPA are the competent authority who must satisfy themselves that there will be no adverse impact on the notified features of any relevant designated nature conservation sites from ammonia concentration, acid deposition and nutrient nitrogen deposition as a consequence of the permitted activity. Applicants are expected to provide [SCAIL Agriculture](#) screening results indicating that there will be no likelihood of significant adverse effects or dispersion modelling results to inform a detailed assessment of the effect of the emissions to air from the intensive farming operation on statutory nature conservation sites that have not screened out.
 - b. If the proposal is located within an Nitrate Vulnerable Zone (NVZ), the applicant will need to demonstrate that any ranging areas will be sufficiently large to meet the 170Kg N/H level stipulated in the [NVZ rules](#). SEPA will seek specific comment from Scottish Government who regulate the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2015, as part of the PPC application process.
6. Collection and treatment of lightly contaminated surface water with reference to the [Crew Rural SuDs Practical Design and Build Guide](#).
7. Containment of contaminated water (i.e. house cleaning, vehicle wash)
8. Energy use and production
9. General management of the site and good housekeeping
10. Operational and emergency procedures
11. [Site condition](#) and [Baseline report](#)

Further information is available in SEPA's [Standard Farming Installation Rules](#)

The applicant may want to provide consideration of these points at the planning application stage, but, **with the exception of point 5a**, it is not essential. The habitats assessment needs to be carried out at the Planning stage.

The Habitats Regulations (Conservation (Natural Habitats, &c.) Regulations 1994) and the Nature Conservation (Scotland) Act 2004 requires that the Competent Authority for the issuing of consent conducts an assessment of the impact to designated nature conservation sites for a permitted/consented activity prior to issuing the consent. In Planning, the Competent Authority is the local planning authority. NatureScot conducts the assessment at the request of the planning authority, and NatureScot may consult SEPA for advice on whether dispersion modelling has been conducted appropriately, if relevant.

If carried out at planning, SEPA will accept the conclusions of that assessment and the applicant will not need to repeat the process for the PPC application, unless changes have been made to the proposal that affect emissions to air.

The BAT conclusions for the intensive rearing of poultry or pigs were published 21st February 2017 in the Official Journal of the European Union as Commission Implementing Decision (EU) 2017/302. Therefore all PPC pig and poultry units built after this date must reflect the Best Available Techniques (BAT) as stipulated in the IRPP BRef. The applicant should familiarise themselves with this document and ensure that their proposed housing design is compliant. Companies who design and build livestock buildings should also be aware of this document and should advise their clients accordingly. This is an absolute requirement for all farms over the PPC threshold but is also relevant for farms who may be seeking planning permission for a farm below PPC threshold but may look to expand in the future.

The BAT conclusions also applies to operators of installations already permitted under the PPC Regulations who wish to make changes to their unit as a variation to the permit.

Section 2: Below PPC Threshold

Where an applicant has satisfied SEPA that the proposal is below the PPC threshold, SEPA have no remit in relation to odour, noise or air quality. The Enforcing Authority is the Local Authority, however the following requirements apply:

Surface water proposals must adhere to with GBR's 10, 11 & 21

Vehicle Wash areas must adhere to [Pollution Prevention Guidelines 13](#)

All slurry stores must comply with the requirements of GBR's 31, 32, 33 and 34;

All slurry and manure storage and spreading must adhere to GBR 18;

The Habitats Regulations (Conservation (Natural Habitats, &c.) Regulations 1994) and the Nature Conservation (Scotland) Act 2004 requires that the Competent Authority for the issuing of consent conducts an assessment of the impact to designated nature conservation sites for a permitted/consented activity prior to issuing the consent. In Planning, the Competent Authority is the local planning authority. NatureScot conducts the assessment at the request of the planning authority, and NatureScot may consult SEPA for advice on whether dispersion modelling has been conducted appropriately, if relevant.

Section 3: Relevant to both

Abstractions

Any abstractions over 10m³ per day must be authorised by SEPA. Please contact your local office for further information.

Foul effluent discharge

Foul effluent from the offices should be served by an appropriately sized septic tank/treatment plant and soak away (where suitable). An application for registration will be required if under 15pe, otherwise a licence. The system must be designed in accordance with the Building Standard Technical Handbook Section 3 – Environment.

Oil Storage

All relevant oil storage must comply with the requirements of GBRs 26, 27 and 28.

**CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION**

Comments provided by	Officer Name and Post:	Contact e-mail/number:
	Environmental Health Fraser Smith	fraser.smith@scotborders.gov.uk
Date of reply	09/05/2022	Consultee reference: 22/00861/PLANCO
Planning Application Reference	22/00576/FUL	Case Officer: Cameron Kirk
Applicant	Mr Robert Gaston	
Agent	Edwin Thompson & Co (Berwick)	
Proposed Development	Erection of agricultural building (retrospective)	
Site Location	Ravelaw Farm Duns Scottish Borders	

The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.

Background and Site description	This retrospective application is for an agricultural building for livestock rearing within 100m from 9 residential dwellings, of which I understand 7 are not in financial control of the applicant. The building is currently stocked with pigs.
Key Issues (Bullet points)	<ul style="list-style-type: none"> • Application will result in unacceptable amenity impacts to nearby residences
Assessment	<p>The proposed development is contrary to Policy HD3 of the Scottish Borders Local Development Plan 2016 in terms of its fit with the adjacent group of residential properties. The type of development, livestock rearing, by its nature has odour and noise impacts that adversely affect residential amenity. These impacts are recognised by the Scottish Government. The <i>Code of Good Practice on the Prevention of Environmental Pollution from Agricultural Activity</i> from the Scottish Executive states that to minimise odour from livestock buildings:</p> <p>“When designing new buildings, consider their siting in relation to residential accommodation, and avoid sites within 400m of such developments.”</p> <p>I understand that these amenity concerns were raised when the land was sold by the owner of Ravelaw Farm at that time for the adjacent housing group to be developed.</p> <p>Environmental Health are currently investigating nuisance complaints from a number of nearby residences due to noise, odour, dust and insect issues from the pig rearing activities at Ravelaw Farm. Due to the seasonal nature of these issues it is anticipated that this investigation will not conclude until the summer.</p> <p>There are limited means of mitigating the impacts of odour and noise from pig rearing due to their natural behaviour to squeal, smell and excrete. The best means of managing the impacts is by ensuring there is sufficient distance from nearby sensitive receptors (dwellings) so that odour is dispersed and that noise is attenuated over distance. If distance cannot be altered as means of mitigation, then the number of pigs can be considered.</p>

	<p>Although Environmental Health have legislative powers to investigate and abate matters relating to nuisance from commercial activities such as noise, odours, dust, insects, etc., the powers are limited to minimising the nuisance. There are no powers to cease commercial activities once established even if nuisance is determined. Hence, if this building is permitted to contain livestock, the powers available to Environmental Health will not be able to cease pig rearing in this building if a statutory nuisance is determined.</p> <p>It is noted that there are agricultural buildings used for pig rearing closer to the group of dwellings. However, the number of current and previous occupants of the adjacent housing group who have complained about noise and odour issues from pig rearing at Ravelaw Farm to Environmental Health strongly indicates that amenity is being adversely impacted by the proximity of the livestock buildings to the dwellings.</p> <p>This application will increase the area for pig rearing and will likely increase the number of pigs kept at the Farm. An increase in the number of pigs will highly likely increase the noise and odour emanating from Ravelaw Farm impacting the adjacent group of dwellings. As such, I cannot support this application and recommend it is refused.</p> <p>I do not believe a noise impact assessment or odour assessment are appropriate for this application.</p>			
Recommendation	<input checked="" type="checkbox"/> Object	<input type="checkbox"/> Do not object	<input type="checkbox"/> Do not object, subject to conditions	<input type="checkbox"/> Further information required
Recommended Conditions				
Recommended Informatives				