

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

6 NOVEMBER 2023

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 19/00210/PPP

OFFICER: Mr Scott Shearer
WARD: Selkirkshire
PROPOSAL: Re-development of auction mart facilities including mixed use development comprising Class 1 retail, Class 2 professional, Class 3 (including sui generis) food and drink, Class 4-6 business/light industry, Class 7 hotel, Class 8 residential institutions (college/training centre), Class 9 dwellinghouses (including sui generis - flats) Class 10 non-residential institutions, Class 11 Assembly and leisure, access (including roundabout on A68), car parking, demolition of buildings and associated works.

SITE: Auction Mart and Land Northeast of Auction Mart, Newtown St Boswells, Scottish Borders

APPLICANT: H & H Group
AGENT: Ferguson Planning

PLANNING PROCESSING AGREEMENT

It has been agreed that the applicant will be presented to the 6 November P&BS Committee.

BACKGROUND

A recommendation to approve the proposed development was agreed by Members of the Planning & Building Standards Committee on 29 March 2021. This decision to approve was subject to a range of conditions and legal agreement covering development contributions associated with the Borders Railway, education and affordable housing, a landscape framework, delivery of open and play space and retail controls. The applicants have sought to progress the conclusion of the Section 75 Legal Agreement covering all of the aforementioned matters however, its final conclusion has not yet been possible due to the original 'red-line' application site boundary including third party land, outwith the control of the applicants. As the legal agreement has not been concluded, planning permission has not yet been issued.

In order to allow the Section 75 Legal Agreement to be concluded and planning consent to be released, the applicants have revised the extent of the application site by removing third party land from the site boundary. This is illustrated within the revised plans received on the 3rd of July 2023 superseding the proposals previously considered and approved. This revision represents a material change to the original submission and must be referred to the Planning & Building Standards Committee for further consideration. On receipt of the updated proposals the Council have carried out re-notification and re-consultation exercises as well as re-advertising the application.

This report seeks to consider the suitability of the proposed changes against the development plan and any other material considerations including any representations which have been received in response to the proposed amendment. The decision of the P&BS Committee to approve the original proposals is a material consideration alongside the previous Committee Report which should be read as Appendix A to this assessment.

SITE DESCRIPTION

The site is located within the centre and eastern edges of Newtown St Boswells. A detailed Site Description is noted within the previous Committee Report. The updated application site covers the same land as the previous proposal with the following areas being removed from the application site boundary:

- A68
- Old Station Court
- Co-op buildings and car park
- Public and Council carparks
- Waverly Place including industrial units.
- B6398 between Old Station Court and Waverly Place
- Access to N of Langlands Mill
- Woodend embankment of the Sprouston Burn
- Sewage Works
- Wooded embankment of the Newtown Burn

PROPOSED DEVELOPMENT

The application continues to seek planning permission in principle for the proposed development. Updated Masterplan proposals have been provided which detail some minor variations around the edges of the site accounting for changes made to the application site boundary. Importantly, no changes have been made to the principle of the proposed development, which retains all the elements assessed within the previous Committee Report. The key elements of the (approved in principle) development are as follows:

- The Auction Mart will have 2,000sqm of additional covered pens as well as new Auction rings, canteen, car parking, servicing and office accommodation.
- The creation of a new central spine road via a new roundabout on the A68, which will remove the need for, articulated/farm vehicles and other Mart traffic to travel via the internal village road.
- The reorganisation of the Mart will remove old pens and mart buildings and release space to create an enhanced village centre with high quality public realm, retail, employment, and community facilities. 3,500sqm (Gross) of town centre retail accommodation based around the new Town Square and Market Square with a further 3,750 sq. m. (Gross) of retail floor space planned across the wider Masterplan area and as part of the rural business hub.
- This will enable a mix of residential uses including 150 housing units of mixed and affordable tenure and a proposed Hotel facing onto the A68.
- Unlocking land to the east side of the A68 will enable the wider development but also a rural retail / business hub together with an educational campus. The roundabout would allow access to rural retail, business and industrial of up to 8,800 sq. m and Educational Facilities of around 4,000sqm.
- The development is claimed to bring significant investment, employment and opportunities to NSB providing a catalyst for growth.

The application has been supported by a series of Landscape and Masterplan submissions, which divide the site into four development areas:

- North-East (Zone B) – rural business uses.
- South-East (Zone C) – agricultural education and associated land
- North-West (Zone A) – mainly residential with hotel, retail and agriculture
- South-West (Zones D/E) – upgraded auction mart with mixed residential, retail, agriculture, and transport.

Indicative floor spaces are also shown as:

Zone A – 125 residential units (incl 30 flats) and 1520 m2 hotel Classes 7 and 9

Zone B – Class 1 (ancillary) and 4-6 uses 8800 m2.

Zone C – 4000 m2 education campus Class 8

Zone D – 3750 m2 retail plus employment/business uses and auction mart, Classes 1, 2, 4 and 5

Zone E – 25 residential units and 3500m2 retail (neighbourhood type and service uses) Classes 1-4 and 9-11

PLANNING HISTORY

In addition, the decision of the P&BS Committee to approve the current development on the 29th March 2021, subject to conditions and a legal agreement, the planning history of the site is detailed in full within the previous Committee Report.

REPRESENTATION and CONSULTATION SUMMARY

All material third party representations and consultee comments raised in response to the original proposals remain material considerations for this latest proposal. These comments are summarised in full within the previous Committee Report. To avoid duplication these are not copied within this updated report, but they do remain relevant to the overall determination of this application.

All representations and consultation comments which have been received in response to the revised application site boundary are summarised below.

Representations

No third-party representations have been received.

Scottish Power was not formally consulted but have made the following comments:

No objection, advise that overhead and underground apparatus are located within the vicinity of the development and Scottish Power reserve the right to protect or deviate their infrastructure at the applicant's expense.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Ecology Officer: No objection. A 15m buffer from the SAC/SSSI woodland is still required along with the need to now provide biodiversity enhancements as per Policy 3 of NPF4. Conditions 16 and 20 should be revised accordingly.

Flood Risk Officer: No objection, previous comments still applicable.

Landscape Architect: No objection. Removal of land may negate the need to development further interrelationship between the development and any future railway line but accept that this fell out with the control of the applicant. All trees and hedgerows on both sides of the A68 should be protected and suitable biodiversity enhancements as per NPF4 requirements should be pursued.

Roads Planning: No objection, all previous comments and recommended conditions are still applicable.

Statutory Consultees

Community Council: No objection, preference remains for the proposals to include detailed proposals for the redevelopment of the village centre.

NatureScot: No objection provided a 15m buffer between the development and the boundaries of the Borders Woods Special Area of Conservation is retained.

Scottish Water: No objection. Recommend that the applicants contact Scottish Water to assess whether there is water and wastewater capacity within their infrastructure to fully service the development. Surface water discharge should avoid using connections to their combined sewer system.

SEPA: No objection. Following adoption of NPF4 an additional condition is recommended to seek an updated Flood Risk Assessment to determine the flood risk areas associated with the blockage scenarios when applied to the 200-year plus climate change flows. This should include the revision of the climate change uplift to 35% in line with current guidance.

Transport Scotland: No objection. Original conditions still required to mitigate trunk road impacts.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

Policy PMD1 Sustainability

Policy PMD2 Quality Standards

Policy PMD3 Land Use Allocations

Policy PMD4 Development out with Development Boundaries

Policy PMD5 Infill Development

Policy ED1 Protection of Business and Industrial Land

Policy ED2 Employment Uses out with Business and Industrial Land

Policy ED3 Town Centres and Shopping Development

Policy ED5 Regeneration

Policy ED7 Business, Tourism and Leisure Development in the Countryside

Policy HD1 Affordable and Special Needs Housing
Policy HD3 Protection of Residential Amenity
Policy HD5 Care and Retirement Homes
Policy EP1 International Nature Conservation Sites and Protected Species
Policy EP2 National Nature Conservation Sites and Protected Species
Policy EP3 Local Biodiversity
Policy EP4 National Scenic Areas
Policy EP5 Special Landscape Areas
Policy EP6 Countryside around Towns
Policy EP7 Listed Buildings
Policy EP8 Archaeology
Policy EP13 Trees, Woodlands and Hedgerows
Policy EP15 Development Affecting the Water Environment
Policy IS1 Public Infrastructure and Local Service Provision
Policy IS2 Developer Contributions
Policy IS3 Developer Contributions Related to the Borders Railway
Policy IS4 Transport Development and Infrastructure
Policy IS5 Protection of Access Routes
Policy IS6 Road Adoption Standards
Policy IS7 Parking Provisions and Standards
Policy IS8 Flooding
Policy IS9 Wastewater Treatment Standards and Sustainable Urban Drainage
Policy IS13 Contaminated Land

National Planning Framework 4

Policy 1 Tackling the climate and nature crises
Policy 2 Climate mitigation and adaptation
Policy 3 Biodiversity
Policy 4 Natural Places
Policy 6 Forestry, woodlands and trees
Policy 7 Historic assets
Policy 9 Brownfield, vacant and derelict land and empty buildings
Policy 12 Zero Waste
Policy 13 Sustainable transport
Policy 14 Design, quality and place
Policy 15 Local living and 20-minute neighbourhoods
Policy 16 Quality homes
Policy 18 Infrastructure first
Policy 21 Play, recreation and sport
Policy 22 Flood risk and water management
Policy 25 Community wealth building
Policy 26 Business and industry
Policy 27 City, town, local and commercial centres
Policy 28 Retail
Policy 30 Tourism
Policy 31 Culture and creativity

OTHER PLANNING CONSIDERATIONS

SSG: Housing Land
SBC SG: Housing 2017
PAN33 - Development of Contaminated Land
PAN 52 - Small Towns
PAN 59 - Improving Town Centres

PAN 66 - Trunk Roads
PAN 67 - Housing Quality
PAN 68 - Design Statements
PAN 83 - Master Planning

Newtown St Boswells Development Framework 2012

SPG - Auction Mart Site 2007
SPG - Affordable Housing
SPG - Biodiversity
SPG - Countryside around Towns
SPG - Green Space
SPG - Trees and Development
SPG - Privacy and Sunlight
SPG - Placemaking and Design
SPG - Development Contributions
SPG - Landscape and Development
SPG - Local Landscape Designations
SPG - Sustainable Urban Drainage Systems
SPG - Waste Management
SPG - Addendum Urban Design Study

KEY PLANNING ISSUES:

- Whether the reduction in the size of the application site boundary affects the acceptability of the proposed development
- In the period since the Council were minded to grant PPP consent for this proposed development whether any new material considerations are raised including the adoption of NPF4 which would result in a different conclusion being reached against current development plan provisions.

ASSESSMENT OF APPLICATION:

Planning Principle

Before specifically considering the principle of the proposed development against planning policy, it is important to understand the purpose and implications of the proposed amendment. This revision is to simply reduce the application site boundary so that it removes land which is out with the control of the applicant. This will allow the Section 75 legal agreement to be concluded. The only change sought is the removal of land from the northern, western and southern edges of the site along with the A68 corridor from the application site boundary. The application site boundary now follows what was previously identified as the 'blue line' boundary of the original Location Plan Drawing Ref NS13.AR (PL)001. Fundamentally, no revisions are being made to the development which is proposed to be delivered within the revised application site boundary. Each of the original Zones for specific areas of development are being fully retained.

The removal of land from around the edges of some of the development zones, may affect the integration of the development with: its surrounding environment, existing and future neighbouring land uses and its linkage with the expansion of the main village centre. Nevertheless, each of these areas of land were outwith the ownership of the applicants meaning they did not previously have any control over developing these parts of the application site and nor did any of these areas fall within the zones identified for

development. The removal of these areas does not present any challenges which would not have been faced by the original 'red line' application site boundary.

Despite being central to the proposed development matters such as the delivery of a roundabout on the A68 and access from Waverly Place and Old Station Court would have required their own specific planning (and other relevant) consents. The 'future development area' directly to the west of the site, including provision for the restored railway were also out with the scope of this application and would still require to be progressed separately for this approval. Although the application site boundary is further removed from existing urban development within surrounding areas at Newtown St Boswells is still provides sufficient connectivity with the existing settlement and provides the potential to facilitate the formation of an improve village centre.

Planning Policy Context

Since the decision to support the original proposal on what was a larger application site boundary in March 2021, the Scottish Borders Local Development Plan 2016 remains part of the Councils development plan. The proposal was thoroughly assessed against the current LDP within the previous Committee Report (see Appendix 1) as well as other pertinent considerations such as: Newtown St Boswells Development Framework 2012 and Auction Mart Site 2007 SPG. These documents have not been amended in the subsequent period and continue to remain relevant.

On the basis that the development proposal itself is not being altered and nor is there any deviation to the development zones, there is considered to be sufficient space within the site to undertake the proposed development and all required mitigation in planning permission in principle terms. The reduction to the extent of the site boundary does not alter the findings of the robust assessment of the proposal against the current LDP provisions within the previous Committee Report. The development remains compliant with all relevant provisions of the current LDP.

In the intervening period since March 2021, the Council have progressed the preparation of a new LDP (LDP2). LDP2 is now at an advanced stage and following its adoption, it will replace the current LDP. LDP2 represents a material consideration in the determination of this proposal. The western part of the application site remains allocated within LDP2 under the same terms as the current LDP. LDP2 does not include any revised or new policy provisions which would change the original officer recommendation.

The original proposal was considered against National Planning Framework 3 (NPF3) and Scottish Planning Policy (SPP). National Planning Framework 4 (NPF4) has replaced both NPF3 and SPP and brought a significant legislative change, including NPF4 as part of the Councils statutory development plan. The update to this proposal is now required to be considered against NPF4. All relevant NPF4 policies are listed above within the section 'Development Plan Policies'. The proposed development has been assessed against relevant policy provisions of NPF4 and is found, in principle, to be compliant.

NPF4 promotes the long-term spatial strategy to 2045 for Scotland whereby all new developments follow clear spatial principles to ensure developments support the delivery of:

- Sustainable places
- Liveable places

- Productive places

The proposed development represents a large mixed used development across an extensive site. Key to establishing whether the principle of the development is suitable against NPF4 is its compatibility with Policy 9 - Brownfield, vacant and derelict land and empty buildings.

The western part of the site is allocated in the LDP and represents brownfield land. The development aligns favourably with Policy 9 of NPF4 by seeking to redevelop brownfield land in a sustainable manner. The eastern part of the site represents greenfield land. Policy 9 of NPF4 seeks to generally avoid the development of greenfield land unless the site is either allocated or is explicitly supported by policies within the LDP. The eastern part of the application site falls out with the allocation within the LDP (site ref: MNEWT001). However, it is still considered that the development of this greenfield land is explicitly supported by policies within the LDP, in particular PMD4, for the reasons set out in the previous Committee Report:

- The proposals will provide job generating uses.
- The development avoids housing development outwith the settlement boundary with retail, business, general industrial, storage and residential institution land uses proposed within these zones
- Provides significant community benefits which include the applicant cross-funding the auction mart upgrading and freeing up land and buildings for the structured and appropriate growth of the village

This proposal remains a substantial development covering a large area of ground in relation to the existing village but will revitalise pivotal locations, such as the auction mart and village centre. The proposal seeks to provide a Masterplan layout which would guide the detailed development of the site in general terms for different mixes of uses within different zones. The uses proposed across each of the six zones are compatible in land use planning terms against all relevant Policies of NPF4, in particular:

- Policy 14 Design, quality, and place
- Policy 15 Local living and 20-minute neighbourhoods
- Policy 16 Quality homes
- Policy 18 Infrastructure first
- Policy 26 Business and industry
- Policy 27 City, town, local and commercial centres
- Policy 28 Retail
- Policy 30 Tourism

The proposal is judged to redevelop and expand Newtown St Boswells in a sustainable manner which follows the Place Principle by seeking to create connected and compact neighbourhoods with a development which understands and utilises its sense of place, provides clear economic and social benefits and seeks to sympathetically integrate with the surrounding environment. Overall, it is considered that the principle of this proposal aligns with the overarching spatial planning principles and policy provisions of NPF4 while still complying all relevant policies of the LDP 2016, subject to agreeing all required mitigation identified within the previous Committee Report by condition and legal agreement.

Other Matters

The previous Committee Report thoroughly considered the implications of the proposal against a range of key material considerations including:

- Access
- Landscape and visual
- Ecology
- Cultural Heritage
- Residential Amenity
- Noise
- Lighting
- Air Quality and Odour
- Waste Management
- Water, Drainage and Flood Risk
- Contamination
- District Heating
- Developer Contributions/Legal Agreement

The reduction to the site area does not materially alter the impacts of the development against each of these considerations and has not resulted in any new impacts. No new objections were raised following the re-consultation and notification of the change to the site boundary.

The matters above have been assessed against all relevant policy provisions within NPF4 and there are no areas of conflict. It is noted however that an additional planning condition is required to ensure the Flood Risk Assessment (FRA) is updated in accordance with current climate change requirements. An updated FRA will inform the development of the site as a whole and should be addressed at the outset of any detailed development of the land. This matter can be covered by condition.

Modification to ecological mitigation is necessary and Condition 16 (Habitat management) has been revised to make provision for biodiversity enhancement requirements in accordance with Policy 3 of NPF4. Also, the reduction to the site boundary removes part of the site from the Newtown St Boswells Wood Special Area of Conservation and Site of Special Scientific Interest. Condition 20 has been revised to ensure it provides appropriate mitigation for parts of the site which are within and adjacent to the designated sites.

Since the application was considered by Members in 2021, the physical context of the site has not been altered. The mitigation previously sought by planning conditions and legal agreement requirements covering all matters noted above (and detailed within the previous Committee Report) will continue to mitigate potential impacts against all relevant provisions of the LDP and Policy considerations within NPF4.

CONCLUSION

In conclusion, the proposed modification of the application site boundary ensures that the proposal continues to represent an important and pivotal development that will make a positive contribution to growth of Newtown St Boswells. It will allow for the retention and restoration of the auction mart facility and listed building whilst creating opportunities for the creation of an improved village centre. The supporting uses will assist in cross-subsidising the development and will create new and improved access from the A68, complying with the development plan and aspirations set out in the Newtown St Boswells

development framework. The economic benefits of the development have been assessed and demonstrated to justify expansion of the settlement outwith the development boundary. This is consistent with previous decisions made by the Council. Other impacts can be successfully addressed and mitigated through preparation of a detailed masterplan, conditions and a legal agreement. Overall, the proposed development remains compliant with Policies of the Local Development Plan, associated Planning Brief, Development Framework and Addendum Urban Design Study as well as relevant Policy provisions within National Planning Framework 4.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved subject to the following conditions, Informatives and legal agreement.

Timescale

1. Approval of the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site shall be obtained from the Local Planning Authority.
Reason: to achieve a satisfactory form of development and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
 - (a) the expiration of five years from the date of this permission, or
 - (b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.
Reason: to achieve a satisfactory form of development and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.
Reason: to achieve a satisfactory form of development and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

General

4. A detailed master plan for the site, including a phasing programme, detailed design, built form and layout guidance, to be submitted to and approved in writing by the Planning Authority with the first application for approval of matters specified in conditions. The development then to be designed and implemented in accordance with the approved master plan.
Reason: To ensure a well-planned and phased development and minimise adverse impacts on the scenic qualities of the National Scenic Area.

5. Any retailing elements within Zone B not to be stand-alone units and remain ancillary to the main Class 4-6 Uses, occupying no more than 10% of the overall gross floor area of each Use.
Reason: To ensure that the scale and nature of retailing elements remain ancillary to the main uses in compliance with LDP Policies PMD4 and ED3.

Landscape

6. Further details and specification of all landscape proposals to be submitted for the approval of the Planning Authority, in consultation with Scottish Natural Heritage, as part of the required Masterplan, including areas of open space, tree and hedgerow retention along the A68, B6395 and within and adjoining the wooded deans, measures to reduce landscape and visual impacts and provide visual containment to the development along the boundaries of the site, maintenance and management. Existing trees should be protected in accordance with BS 5837.
Reason: To protect the tree and hedge resource along the A68 and character of the NSA and to retain the amenity, screening effect and green corridor connectivity of the trees in this location until the detail of the future railway is known.
7. Prior to commencement of the development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland.
Reason: To ensure that there will be no distraction to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.
8. No development to occur within a buffer zone of at least 15 metres from the boundary of the woodland SAC/SSSI within the application site boundary and no development to commence until the planting of the buffer zone and boundary details with the development are submitted and agreed in writing by the Planning Authority, in consultation with Scottish Natural Heritage.
Reason: To protect the existing woodland SAC/SSSI from damage during and after the development process and offset the impacts on the NSA and designed landscapes.
9. No development to occur within the "Community Rural Recreation Area" shown on the approved drawing NSB.AR(PL)012, the landscape and boundary treatments of this area to be submitted for the approval of the Planning Authority, in consultation with Scottish Natural Heritage, with the submission of the Masterplan and overall landscape proposals.
Reason: To protect the existing woodland resource from damage during and after the development process and offset the impacts on the NSA and designed landscapes.
10. No development to be commenced until a scheme of children's' play space is submitted to, and approved in writing by, the Planning Authority. Once approved, the scheme to be implemented in accordance with an agreed timescale consistent with the provisions of the legal agreement.
Reason: To ensure the development makes adequate provision for children's' play space.

Ecology

11. No development, other than works to existing footpaths approved separately under this consent, to be carried out within the boundaries of the River Tweed and Borders Woods SACs.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.

12. Prior to the commencement of development, the developer shall provide to the Planning Authority:
 - a) a copy of the relevant European Protected Species licence, or, Bat Low Impact Licence as appropriate
 - b) a copy of a statement in writing from Scottish Natural Heritage (licensing authority) stating that such a licence is not necessary for the specified development

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1 and EP3.

13. Prior to commencement of development, a Species Protection Plan for bats, otter, badger, other mammals, breeding birds, reptiles and amphibia 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, including demonstration through the design of the development that mammals will still be able to move freely between the fingers of the woodland SAC/SSSI. 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 EP2 and EP3.

14. Prior to commencement of development a Construction Environmental Management Plan incorporating the latest good practice guidelines and statutory advice (including as outlined in GPP1, GPP2, GPP4, GPP5 and PPG6 and BS5837:2012 and consistent with any CAR licence requirements), to protect the River Tweed SAC, Borders Woods SAC, local waterbodies and biodiversity, shall be submitted to and approved in writing in writing by the Planning Authority in consultation with Scottish Natural Heritage. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.

15. Prior to commencement of development a Construction Method Statement to manage, store and protect soils shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.

16. Prior to commencement of development, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted for approval in writing by the Planning Authority. The BEMP shall include the provision and long-term maintenance of a minimum 15m buffer no-development planted area around the designated woodland habitat, the creation and long-term maintenance of species rich grassland habitat and the creation of other habitats to enhance biodiversity as appropriate for the site context and scale of the development. No development shall be undertaken except in accordance with the approved in writing BEMP.

Reason: To protect and enhance the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3 and NPF4 policy 3.

17. Prior to the commencement of development an Ecological Clerk of Works (ECoW) shall be appointed to carry out pre-construction ecological surveys in order to

monitor compliance with the Construction Environmental Management Plan, Species Protection Plans and Landscape and Habitat Management Plan and Invasive Non-Native Species Management Plan.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.

18. 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 and consistent with the lighting submissions made to satisfy the Trunk Roads and Environmental Health conditions), to protect bats 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 in writing scheme

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.

19. Prior to commencement of development, an Invasive Non-Native Species Management Plan, shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage, including measures to prevent non-native species becoming established in the SAC/SSSI woodland and buffer zone. Meadow seed mix should not include sainfoin *Onobrychis viciifolia*, or musk mallow *Malva moschzta*. No development shall be undertaken except in accordance with the approved in writing INNMP.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.

20. Prior to commencement of development, a Woodland Management Plan for the SAC/SSSI woodland within and adjacent to the site boundary, shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage. The Plan shall address planting of native tree and shrub species of local origin and the long-term maintenance of the woodland. No development shall be undertaken except in accordance with the approved in writing WMP.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3.

Cultural Heritage

21. Detailed proposals for the retention, restoration, phasing, use and maintenance of the Category B Listed Auction Ring building, including preservation of its setting, must be submitted to and approved in writing by the Local Planning Authority with the first application for approval of matters specified in conditions. No development should commence until the proposals have been agreed. The development should then proceed in accordance with the agreed proposals, including timescale and phasing, and maintained in perpetuity

Reason: To ensure the preservation and after-use of a building of special historic character.

22. The design, uses and layout of Zone "E" and the area marked for "future development", in proximity to the Category C Listed former Railway Hotel, should provide for the conservation and enhancement of the setting of the building and its features.

Reason: To safeguard the setting of a building of special historic character.

23. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation

(WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.

Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

Trunk Road

24. Prior to the occupation of any part of the development hereby permitted, and following consultation with Transport Scotland as Trunk Roads Authority, the new roundabout junction with the A68(T), generally as illustrated on Goodson Associates Drawing No. 700 Rev. B, shall be completed and fully operational.

Reason: To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished.

25. No development, including the construction of the western arm from the proposed new access roundabout on the A68(T), shall be commenced on the east side of the A68 trunk road, until such times as a scheme for the provision of appropriate pedestrian / cycle crossing facilities across the A68(T) has been submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland.

Reason: To ensure that the movement of pedestrians and cyclists is confined to the permitted means of access, without interfering with the safety and free flow of traffic on the trunk road.

26. The agreed pedestrian / cycle crossing facilities referred to in condition 25 will require to be constructed and fully operational, in consultation with Transport Scotland, prior to the commencement of any development on the east side of the A68 trunk road.

Reason: To ensure that the movement of pedestrians and cyclists is confined to the permitted means of access, without interfering with the safety and free flow of traffic on the trunk road.

27. Unless otherwise agreed in writing by the Planning Authority, after consultation with Transport Scotland, the number of residential units hereby permitted within the development shall not exceed 150.

Reason: To ensure that the scale of development does not exceed that assessed by the supporting Transport Assessment, and to ensure that the scale and operation of the proposed development does not adversely affect the safe and efficient operation of the trunk road network.

28. Prior to the commencement of the development details of the lighting within the site (consistent with the lighting submissions made to satisfy the Ecology and Environmental Health conditions) shall be submitted for the approval of the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority.

Reason: To ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

29. Prior to commencement of the development, details of the barrier proposals along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland.
Reason: To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents

Roads

30. All access roads, and form of development, must take account of the potential future expansion of the Borders Rail Line, including levels for the western arm of the proposed roundabout, surrounding development and accesses to the Council and public car parks and industrial units.
Reason: To safeguard the extension of the Border Railway Line as per Policy IS3 of the Council's Local Development Plan.
31. All parking levels must be in accordance with SEStrans Parking Standards.
Reason: To ensure the development hereby approved is served by an adequate level of parking.
32. Detailed engineering drawings must be provided at detailed planning stage relating to matters such as, but not limited to, road layouts, building floor levels, parking ratios, road and parking levels.
Reason: To ensure all development hereby approved is designed to acceptable gradients that allow for future development potential.
33. Swept path analysis for all prospectively public roads shall be required as part of any detailed application.
Reason: To ensure that all prospective public roads can accommodate all associated traffic including service, emergency and public transport vehicles where applicable.
34. A Transport Assessment must be submitted to, and agreed in writing by the Planning Authority, at detailed stage covering all aspects of transport associated with such a development and cover pedestrian, cycle and vehicular transport (including public transport). All measures identified via the agreed TA must be included within the detailed stage submission unless otherwise agreed in writing with the Planning Authority, following discussions with Transport Scotland if required, and completed to an agreed timescale thereafter.
Reason: To ensure the adjacent public road network can accommodate the traffic associated with the development hereby approved.
35. A Traffic Management Plan (TMP) covering each individual phase of the development hereby approved must be submitted to and agreed in writing by the Planning Authority prior to works commencing on each relevant phase of the development.
Reason: To ensure that all appropriate measures are in place to ensure the safety of residents and other road users during the construction phases of the development.
36. The development within Zone E to accommodate a new road link for access from the site to the Waste Water Treatment Works, as per planning consent ref. 19/01626/FUL.
Reason: To facilitate improved access for vehicles to the Waste Water Treatment Works.

Pedestrian Access

37. A Path Planning Study should be commissioned within the title deed extent of the landowner affected. A detailed plan of public access (pedestrian, cycle, horse, all ability routes), across and out with the site, (existing, during construction and upon completion) should be provided by the developer for the consideration of the Planning Authority, in liaison with Scottish Natural Heritage. This should show:
1. All existing rights of way, core paths or other paths/ tracks used for public access;
 2. Any diversions of paths - temporary or permanent - proposed for the purposes of the development;
 3. Details of improvements which the developer will implement in terms of:
 - a. Upgrading the existing path network within the site boundary e.g. widening and surfacing the path as shown blue on map 2, replacing existing old timber steps as shown green on map 2, with raised steps and walkway;
 - b. Provision of high-quality public access routes linking the site with the wider access network of paths and tracks;
 - c. Provision of high-quality public access routes within the proposed development site, for example the creation of an easy access path/ footway around the development boundary constructed to an adoptable standard, as shown in red on the map 2;
 - d. Provision of additional path furniture required in terms of signage and interpretation.
 - e. Mitigation relating to the potential impacts of the footpath improvements on the character and integrity of the Borders Woods and River Tweed Special Areas of Conservation.

Reason: To ensure full pedestrian connectivity between the development and the existing path networks and to preserve the natural heritage of the designated sites containing the paths.

Environmental Health

38. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

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

and thereafter

- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

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

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

- 39. Information on impacts on local air quality, including cumulative impacts with other development, should be submitted with the first application for approval of matters specified as conditions and no development to commence until the information has been assessed and any recommendations arising from assessment have been agreed. The development should then proceed in accordance with any recommendations agreed.

Reason: To ensure that impacts on local air quality are fully assessed and mitigated.

- 40. No development shall take place within any of the development zones west of the A68 until an Odour Impact Assessment on the potential for odour from the auction mart affecting new residential, commercial or public uses proposed in those zones, has been submitted to and been approved in writing by the Planning Authority. The Assessment shall be submitted with the first application for matters specified as conditions for any of the aforementioned zones and any mitigation then implemented in accordance with the approved Assessment and timescales.

Reason: In order to protect residential amenity and ensure compatibility between proposed and existing uses.

- 41. No development shall take place until an assessment on the potential for noise from the development affecting residential or commercial properties in the area has been submitted to and been approved in writing by the Planning Authority. The assessment shall include, but not be limited to, noise sources identified in the submitted Noise Impact Assessment (neo Environmental, 3/1/19).

If the assessment indicates that noise from the development is likely to affect neighbouring residential or commercial properties, then a detailed scheme of noise mitigation measures shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development. The approved scheme shall be implemented prior to the operation of any uses and be permanently maintained thereafter.

Reason: In order to protect residential or other amenity.

- 42. A report detailing the lighting scheme and predicted light levels at residential properties (and consistent with the lighting submissions made to satisfy the Trunk Roads and Ecology conditions) must be submitted to and be approved in writing by

the Planning Authority with the first application for approval of matters specified as conditions. No development should commence until the report has been assessed and any recommendations arising from assessment have been agreed. The development should then proceed in accordance with any recommendations agreed, including timescale and phasing, and maintained in perpetuity

Reason: To ensure that impacts of light pollution on residential amenity are fully assessed and mitigated.

Water and Drainage

43. A scheme of water and drainage provision must be submitted to and be approved in writing by the Local Planning Authority, in consultation with SEPA, with the first application for approval of matters specified as conditions. No development should commence until the scheme has been agreed. The development should then proceed in accordance with the agreed scheme including timescale and phasing. The scheme shall include the following:

1. Detailed SUDs proposals in relation to site topography, taking into account the proximity of the River Tweed SAC/SSSI.
2. Maintenance of the drainage systems including SUDs.
3. No drainage connections to the trunk roads network.
4. Overland flow pathways identified within the appendix of the submitted Flood Risk Assessment are maintained and no built development should be proposed or carried out within these areas.
5. All building finished floor levels are set a minimum of 600mm above existing ground levels.

Reason: To ensure that the site is fully serviced and connected to public services, to ensure the long-term functionality and maintenance of the system, to minimise flood risk, to safeguard the River Tweed SAC/SSSI and to ensure that the efficiency of the existing trunk road drainage network is not affected.

Other matters

44. An Energy Statement shall be submitted with the first application for approval of matters specified as conditions and no development to commence until the Statement and any recommendations have been agreed. The Statement should demonstrate feasibility studies into District Heating and its findings incorporated into the design of the development, illustrated in the required Design and Access Statement.

Reason: To ensure sustainable development and use of energy resources.

45. A Site Waste Management Plan shall be submitted with the first application for approval of matters specified as conditions and no development to commence until the Plan and any recommendations have been agreed. The Plan should incorporate provision for both construction and operation of the development and its findings incorporated into the design of the development, illustrated in the required Design and Access Statement.

Reason: To ensure sustainable waste management provision.

Flooding

46. Prior to the submission of the first AMC application, an updated Flood Risk Assessment (FRA) should be submitted to and approved by the Planning Authority in consultation with SEPA. The updated FRA should determine the flood risk areas associated with the blockage scenarios when applied to the 200-year plus climate change flows. This should be accompanied by an updated site plan clearly showing

the site layout avoids all flood risk areas including those associated with the 200 year plus climate change plus culvert blockage overland flow pathways. Thereafter, all AMC applications should account for the conclusions of the updated FRA.

Reason: To ensure that the baseline flood risk scenario is 200 year plus climate change and that all development is outwith the flood risk area, as required by NPF4.

Informatives

1. In terms of Class 1 Retail development, there is preference for this to be concentrated within Zone E or the “Future Development Area” within the village centre rather than within Zone D towards the A68. Any applications for retail submitted within Zone D will be assessed sequentially, including an assessment of what opportunities there are for more central location for the proposed development.

2. Advice from SBC Access Officer

Mapping of the wider path network across the Scottish Borders can be found at:
www.scotborders.gov.uk/mapadvanced

3. Advice from SBC Archaeology Officer

The ALGAO guidance for historic building recording can be found at:
www.algao.org.uk/sites/default/files/documents/ALGAO_Scotland_Buildings_Guidance_2013.pdf

4. Advice from SBC Heritage Officer

The Masterplan required in Condition 4 should be prepared in full compliance with the “Placemaking” SPG and “Designing Streets” Guidance.

The retention of other historic structures and spaces associated with historic mart use could positively inform new design interventions and reinforce connection to the past and strong placemaking.

Similarly, the potential impact of development upon the setting and longer views of heritage assets and historic viewpoints out with the site should be demonstrably conserved and enhanced.

5. Advice from SBC Flood Risk Officer

The applicant should be made aware that flooding can occur from other sources including run-off from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts.

6. Advice from SBC Environmental Health

In relation to air quality, new applications should be supported by such information as is necessary to allow a full consideration of the proposal on local air quality. It may also be necessary to consider cumulative impacts from other developments in the local area. Consideration should be given to the Institute of Air Quality Management ‘Land-Use Planning & Development Control: Planning for Air Quality’.

In relation to lighting, consideration shall be given to the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Lighting (2020).

In relation to odour assessment, this should be guided by Institute of Air Quality Management "Guidance on the assessment of odour for planning".

In relation to noise assessment, this shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS 8233:2014 Guidance on sound insulation and noise reduction for buildings, and BS 4142:2014 Methods for rating and assessing industrial and commercial sound.

7. Advice from Transport Scotland

The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Roads Directorate. Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal.

Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.

Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.

The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges.

Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

8. Advice from Roads Planning

All prospectively public roads shall be subject to a Road Construction Consent application. This must include details of, but not restricted to, road levels, geometry, lighting and drainage (including SUDS).

Technical Approval shall be required for any retaining structures which are to be adopted by the Council.

Design details of all retaining structures which are adjacent to prospectively public roads but are to remain private must be submitted to the Council for approval.

9. Advice from SEPA

Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).

Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or

screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.

A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which:

- a. is more than 4 hectares,
- b. is in excess of 5km, or
- c. includes an area of more than 1 hectare or length of more than 500m on ground with a slope in excess of 25°

See SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) for details.

Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.

Below these thresholds you will need to comply with CAR General Binding Rule 10 which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment. The detail of how this is achieved may be required through a planning condition.

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office.

Approved by

| Name | Designation | Signature |
|------------|------------------------------------|-----------|
| Ian Aikman | Chief Planning and Housing Officer | |

The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

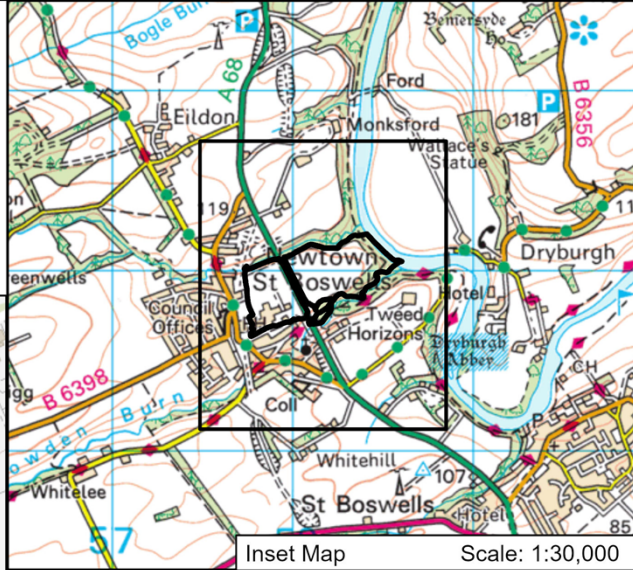
Author(s)

| Name | Designation |
|---------------|--|
| Scott Shearer | Principal Planning Officer (Local Review and Major Developments) |



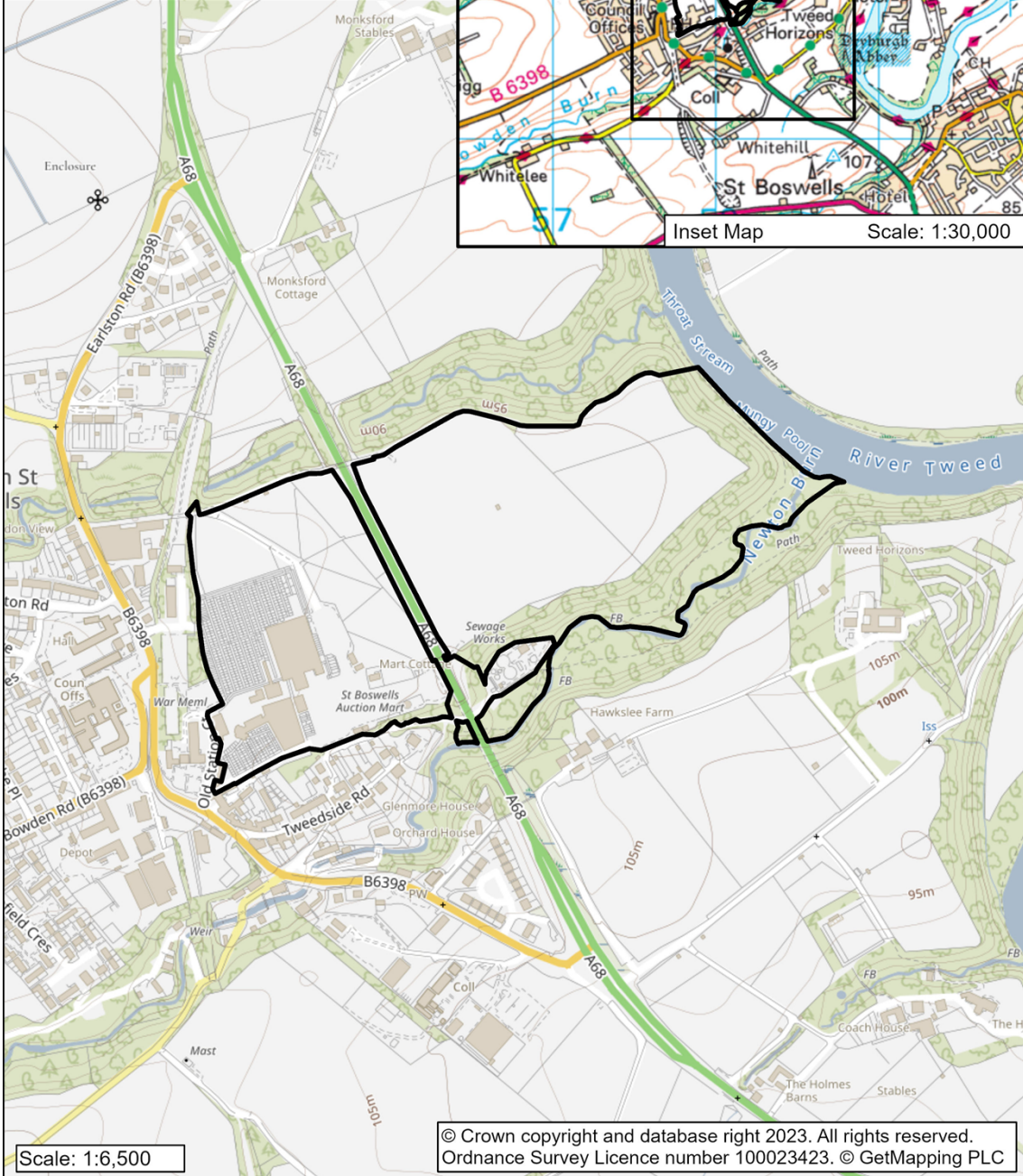
19/00210/PPP

Auction Mart and land NE
of Auction Mart
Newtown St Boswells, Scottish Borders.



Inset Map

Scale: 1:30,000



Scale: 1:6,500

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