

Reference (official use)



Petitions – submission form

If you wish to submit a petition for consideration by the Scrutiny & Petitions Committee, please complete the form below. You are advised to refer to the Guidance Questions and Answer sheet provided.

Details of Principal Petitioner

Please enter the name and contact details of the person raising the petition. The Principal Petitioner must be on the Register of Electors for the Scottish Borders Council area.

Name:	JOHN CAMPBELL
Address:	[REDACTED] DUNS
Postcode:	[REDACTED]
Telephone no:	[REDACTED]
Email:	[REDACTED]

Title of Petition and Petition Statement

Please enter the title of the Petition and a statement to cover the main subject of the Petition or the action you would like the Council to take.

Title: PLANNING PROCEDURES IN RESPECT OF S36 APPLICATIONS

Name of deputy PHILIP KERR.

Contact details [REDACTED]

Signature of deputy..... [REDACTED]

* please delete as app [REDACTED]

Signature of Principal Petitioner.

If you are satisfied your petition meets all the requirements as stated in the Guidance Questions and Answers please add your signature and date below.

Signature of Principal Petitioner.....


Date.....

Accompanying signatures.

Your petition must be accompanied by at least 10 signatures in total, from persons aged 16 and over, resident in the Scottish Borders. The signatures must be from a minimum of 3 separate addresses.

Please be aware that if the petition is on the agenda for a meeting of the Scrutiny & Petitions Committee the names and addresses, but not signatures, of all signatories will be published on the Council website.

	Name	Address	Signature
1	GAVIN WHITTAKER (SECRETARY, HERIOT CC)	[REDACTED]	[REDACTED]
2	JOHN WILLIAMS CHAIRMAN HERIOT CC	[REDACTED]	[REDACTED]
3	JENNY MUSHLIN SECRETARY PARISH OF STOW CC	[REDACTED]	[REDACTED]
4	JONATHAN MUSHLIN	[REDACTED]	[REDACTED]

5	MICHAEL WILCOX	
6	STUART BELL	
7	CHRISTOPHER WHITMORE	
8	SUSAN MEIKLE	
9	JOHN PATERSON	
10	PETER WALLER	

Attach additional sheets of signatures if you wish.

Please submit this form and any additional sheets to:-

Clerk to the Council, Scottish Borders Council, Council Headquarters, Newtown
St Boswells, Melrose, TD6 0SA,
or email to:

committeepapers@scotborders.gov.uk

11	WESLEY THORNTON	
12	PHILIP KERR	
13	GORDON HUGHES	
8		<u>As deputy</u>
9		
10		

Attach additional sheets of signatures if you wish.

Please submit this form and any additional sheets to:-

Clerk to the Council, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA,
or email to:

committeepapers@scotborders.gov.uk

Name of deputy PURVIS KERR

Contact details

Signature of deputy

* please delete

Signature of Principal Petitioner.
 If you are satisfied your petition meets all the requirements as stated in the Guidance Questions and Answers please sign and date below.

Signature of Principal Petitioner.....

Date 13.1.24.....

Accompanying signatures.
 Your petition must be accompanied by at least 10 signatures in total, from persons aged 16 and over, resident in the Scottish Borders. The signatures must be from a minimum of 3 separate addresses.
Please be aware that if the petition is on the agenda for a meeting of the Scrutiny & Petitions Committee the names and addresses, but not signatures, of all signatories will be published on the Council website.

	Name	Address	Signature
1			
2			
3			
4			

Petition to Scottish Borders Council

Statement

We ask that the Planning & Building Standards Committee of Scottish Borders Council review the procedures currently operated by Planning Officers in preparing documentation (including that posted on the Council's website), and their procedural advice given to Councillors when the Committee are considering and coming to their decisions on Wind Farm Planning Applications where the final decision will be made by Scottish Ministers guided by the Energy Consents Unit under the terms of Section 36 the Electricity Act 1989.

We particularly ask that the Committee instructs Officers to include in their Report to Committee representative comments and responses from Community Council formally consulted by the Energy Consents Unit, and also local residents clearly affected by the application, in line with the procedures of other local authorities.

Further Information

A number of signatories to this petition have independently raised our concerns directly with Council Planning Officers, and always met with the polite response that officers will not change the current practice. This current practice is in effect a procedural policy which is operate by Officers, but policy is the responsibility of Councillors in Committee, not the responsibility of officials acting independently. As far as we can establish this current practice in the handling of S36 Applications has not been the subject of agreement by the Planning Committee.

Also, the current practice was the subject of a Public Question to Council asked on 26th October in the following terms:-

"Notwithstanding an overwhelming workload on our planning staff:-

Whilst wind-farm applications decided under the Electricity Act S36 are administered by the Energy Consents Unit [ECU], the relevant Planning Authority is a significant consultee.

As normal practice, other Planning Authorities report on all known external consultee responses, including from members of the public; helping Councillors decide based on best evidence.

SBC don't put public representations to such applications on the SBC website — indeed officers on occasion asserted that "*.. third party representations are submitted direct to the ECU and it is for them to account for these matters. You will be aware that we have received a number of representations in relation to this application and I would remind members not to allow these representations to influence your decision making today.*"

By not taking into account important external consultee responses, our Councillors are potentially not appraised of the full picture of the representations; an approach that is certainly not "best practice" compared with other Planning Authorities.

When will Scottish Borders Council adopt best practice in respect of S36 applications?"

In answer to this question Councillor Mountford, Planning Convener, misrepresented – to Council – the current situation when he stated in reply that he did not know which other Planning Authorities report on all known external consulted responses. It may well be the case that the Planning Convener was unaware; but Council Officers have been specifically told (for example in correspondence to Mr John Hayward dated 21 Sept 23 – Re Planning

Application 23/00031/S36) of Highland Council's different practice. The Planning Convener in answering a public question was speaking on behalf of the Council - not on his own behalf and his response should have taken cognisance of Officers knowledge, not just his own.

The Highland Council's practice is also documented in the Raeshaw Farms Limited 'Further Objection' in respect of SBC application 21/01134/S36; dated May 2023 that:-

"a 3.2 – it is the normal practice with other Relevant Planning Authorities (for example Highland Council) to report on all known external consultee responses, including responses (both for and against) from interested members of the public, on an application. Indeed, some Reports of Handling actually assess and respond to the summarised representations by the members of the public. This is so that Councillors can make their critical procedural decisions on the best evidence. The approach of SBC Officers, basically not taking into account these important sets of external consulted responses, means that the Councillors do not know the full picture of the representations in respect of the application." [the quoted text is from the ECU website, reference ECU00003288].

The Raeshaw Farms representation clearly elaborates our underlying concerns about SBC's current procedure. That good decision-making must be based on the best evidence.

In effect we are asking.. can a Planning Committee member truly, exercising due care and attention as an informed, elected member of a Council, say what a Council's opinion is on an application under S36 if he, or she, doesn't know what their Community Council's and constituents think?

Direct representation to Council Planning Officers and a Public Question to Council on this subject have both effectively been stone walled, arguably in the case of the Question denying that there is an issue. Policy is the responsibility of Council or its Committees, it is not the sole responsibility of either Officers, or of the relevant Convener. We ask that the currently operated SBC procedure in respect of the handling of S36 Applications is discussed with and agreed by the SBC Planning Committee.