

List of Policies

Local Review Reference: 16/00005/RFEF

Planning Application Reference: 15/00100/FUL

Development Proposal: Erection of Class 1 retail foodstore with ancillary works including car parking, access and landscaping

Location: Land and Buildings as Wilton Mills, 31 – 32 Commercial Road, Hawick

Applicant: Wilton Mills Ltd

SESPLAN 2013:

Policy 1B – The Spatial Strategy : Development Principles

Local Development Plans will:

- Ensure that there are no significant adverse impacts on the integrity of international, national and local designations and classifications, in particular National Scenic Areas, Special Protection Areas, Special Areas of Conservation, Sites of Special Scientific Interest and Areas of Great Landscape Value and any other Phase 1 Habitats or European Protected Species;
- Ensure that there are no significant adverse impacts on the integrity of international and national built or cultural heritage sites in particular World Heritage Sites, Scheduled Ancient Monuments, Listed Buildings, Royal Parks and Sites listed in the Inventory of Gardens and Designed Landscapes;
- Have regard to the need to improve the quality of life in local communities by conserving and enhancing the natural and built environment to create more healthy and attractive places to live;
- Contribute to the response to climate change, through mitigation and adaptation; and
- Have regard to the need for high quality design, energy efficiency and the use of sustainable building materials.

Policy 3 - Town Centres and Retail

Local Development Plans will ;

- a. Identify town centres and commercial centres clearly defining their roles;
- b. Support and promote the network of centres as shown in Table 1, and identify measures necessary to protect these centres including setting out the criteria to be addressed when assessing development proposals; and
- c. Promote a sequential approach to the selection of locations for retail and commercial leisure proposals. Any exceptions identified through Local Development Plans should be fully justified.

Policy 15 – Water and Flooding

Local Development Plans will:

- a. Identify areas of flood risk and priority flood schemes to assist in the reduction of overall flood risk which accord with the principles of sustainable development;
- b. Avoid any new development in areas at medium to high flood risk and safeguard areas which will help contribute to reducing overall flood risk; and

c. Make provision to prevent deterioration of the water environment resulting from new development and promote water efficiency in all development proposals. Where appropriate, promote enhancement of the water environment.

Consolidated Scottish Borders Local Plan 2011

POLICY G1 - QUALITY STANDARDS FOR NEW DEVELOPMENT

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

1. It is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
2. it can be satisfactorily accommodated within the site,
3. it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements,
4. it creates developments with a sense of place, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
5. in terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance referred to in Appendix D,
6. it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
7. it provides open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
8. it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
9. it provides for linkages with adjoining built up areas including public transport connections and provision for bus laybys, and new paths and cycleways, linking where possible to the existing path network; Green Travel Plans will be encouraged to support more sustainable travel patterns,
10. it provides for Sustainable Urban Drainage Systems where appropriate and their after-care and maintenance,
11. it provides for recycling, re-using and composting waste where appropriate,
12. it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
13. it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,

14. it incorporates, where required, access for those with mobility difficulties,
15. it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

Developers may be required to provide design statements, design briefs or landscape plans as appropriate.

Policy 2 – CONTAMINATED LAND

Where development is proposed on land that is contaminated, or suspected of contamination, the developer will be required to:

1. Carry out any necessary site investigations and assessments to identify any actual or possible significant risk to public health or safety, or to the environment, including possible pollution of controlled waters that arise from the proposals;
2. consult with relevant agencies as part of their assessment, in particular the Scottish Environment Protection Agency in relation to impact on controlled waters and Scottish Natural Heritage and other relevant agencies in relation to other environmental risks; and
3. undertake effective remedial action to ensure the site is made suitable for any new use, in scale with planning permission given for that particular use.

Policy G4 - FLOODING

As a general principle, new development should be located in areas free from significant flood risk. Development will not be permitted if it would be at significant risk of flooding from any source or would materially increase the probability of flooding elsewhere. The ability of floodplains to convey and store floodwater should be protected.

Proposals for the development of land where there is evidence of flood risk that has been the result of unanticipated planning applications, historical land use allocations or the emergence of new information on flood risk, must give consideration to ensure any such risk is managed in accordance with the principles set out in the Risk Framework provided in the Scottish Planning Policy (SPP) or any subsequent government guidance which supersedes it.

In particular, within certain defined risk categories, particularly where the risk is greater than 0.5% annual flooding probability or 1 in 200 year flood risk, which will normally be the case for functional flood plains, some forms of development will generally not be acceptable. These include:

1. Development comprising essential civil infrastructure including schools, emergency services and telecommunications;
2. Additional built development in sparsely developed areas.

Other forms of development will be subject to an assessment of the risk and mitigation measures.

Developers will be required to provide, including if necessary at outline stage:

1. A competent flood risk assessment and/or drainage assessment in support of the application; and
2. A report of the measures that are proposed to prevent and minimise the flood risk.

The information used to assess the acceptability of development will include:

1. Information and advice from consultation with SEPA and where appropriate, the Flood Liaison and Advice Group;
2. Flood risk maps provided by SEPA including, when available, the second generation flood maps which will indicate the extent of the flood plain;
3. Historical records and flood studies held by the Council and other agencies, including past flood risk assessment reports carried out by consultants and associated comments from SEPA, held by the Council.

Policy G7 – INFILL DEVELOPMENT

Within Development Boundaries, as shown on Proposals Maps, development on non-allocated, infill or windfall, sites, including the re-use of buildings, will be approved if:

1. in the case of a gap site, it can be justified under Policies BE6 (Protection of Open Space), Policy NE3 (Local Biodiversity) and Policy Inf11 (Developments that Generate Travel Demand);
2. in the case of employment land the proposed new use can be justified under Policy ED1 to prevent the loss of employment land with prospects of future use;
3. in the case of garden ground or backland sites, it can be justified under Policy H2 to safeguard the amenity of residential areas;

In all cases, the following criteria will apply to proposed infill development:-

- i) where relevant, it does not conflict with the established land use of the area; and
- ii) it does not detract from the character and amenity of the surrounding area; and
- iii) the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over-development or 'town and village cramming'; and
- iv) it respects the scale, form, design, materials and density of its surroundings; and
- v) adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity; and
- vi) it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

All applications will be considered against the Council's Supplementary Planning Guidance on Placemaking and Design.

Policy BE1 - LISTED BUILDINGS

1. The Council will support development proposals that protect, maintain, and enhance active use and conservation of Listed Buildings.
2. All Listed Buildings contained in the statutory list of Buildings of Special Architectural or Historic Interest will be protected against all works which would have a detrimental effect on their listed character, integrity or setting.

3. Internal or external alterations and extensions to Listed Buildings, or new developments within their curtilage, must meet the following criteria:
 - i) must be of the highest quality,
 - ii) must respect the original structure in terms of setting, scale, design and materials, whilst not inhibiting contemporary and/or innovative design,
 - iii) must maintain, and should preferably enhance, the special architectural or historic quality of the building,
 - iv) must demonstrate an understanding of the building's significance.
 Applications for Listed Building Consent or applications affecting the setting of Listed Buildings may be required to be supported by Design Statements.
4. New development that adversely affects the setting of a Listed Building will not be permitted.
5. The demolition of a Listed Building will not be permitted unless there are overriding environmental, economic, social or practical reasons. It must be satisfactorily demonstrated that every effort has been made to continue the present use or to find a suitable new use.
6. Decisions on proposals for any alterations or demolition of a Listed Building will be made in accordance with the advice contained within the Scottish Historic Environment Policy (SHEP) produced by Historic Scotland and in consultation with the appropriate heritage bodies.

Policy BE2 - ARCHAEOLOGICAL SITES and ANCIENT MONUMENTS

Where development proposals impact on a Scheduled Ancient Monument, other nationally important sites not yet scheduled, or any other archaeological or historical site, developers will be required to carry out detailed investigations to ensure compliance with Structure Plan policies N14, N15 and N16.

Structure Plan Policy N14

Development proposals, which would destroy or adversely affect the appearance, fabric or setting of Scheduled Ancient Monuments or other nationally important sites not yet scheduled will not be permitted unless:

- (i) the development offers substantial benefits, including those of a social or economic nature, that clearly outweigh the national value of the site,*
- (ii) there are no reasonable alternative means of meeting that development need, and*
- (iii) the proposal includes a mitigation strategy acceptable to the Council.*

Structure Plan Policy N15

Development proposals which will adversely affect an archaeological site of regional or local significance will only be permitted if it can be demonstrated that the benefits of the proposal will clearly outweigh the archaeological value of the site or feature.

Structure Plan Policy N16

Where there is reasonable evidence of the existence of archaeological remains, but their nature and extent are unknown, the Council may require an Archaeological Evaluation to provide clarification of the potential impact of a development before a planning decision is reached. Where development is approved which would damage an archaeological site or feature, the Council will require that such development is carried out in accordance with a strategy designed to minimise the impact of development upon the archaeology and to

ensure that a complete record is made of any remains which would otherwise be damaged by the development. Such a strategy might include some or all of the following:

- (i) the preservation of remains in situ and in an appropriate setting,*
- (ii) surface or geophysical survey,*
- (iii) archaeological excavation,*
- (iv) study of the excavated evidence and publication of the results.*

The preferred solution will be influenced by the value of the site in national, regional or local terms.

Policy BE4 – CONSERVATION AREAS

1. Development within or adjacent to a Conservation Area that would have an unacceptable adverse impact on its character and appearance will be refused.
2. All new development must be located and designed to preserve or enhance the special architectural or historic character of the Conservation Area. This should accord with the scale, proportions, alignment, density, materials, and boundary treatment of nearby buildings, open spaces, vistas, gardens and landscapes.
3. Conservation Area consent, which is required for the demolition of an unlisted building within a Conservation Area, will only be considered in the context of appropriate proposals for redevelopment and will only be permitted where:
 - i) the building is incapable of reasonably beneficial use by virtue of its location, physical form or state of disrepair, and
 - ii) the structural condition of the building is such that it cannot be adapted to accommodate alterations or extensions without material loss to its character, and
 - iii) the proposal will preserve or enhance the Conservation area, either individually or as part of the townscape.In cases i) to iii) above, demolition will not be permitted to proceed until acceptable alternative treatment of the site has been approved and a contract for the replacement building or for an alternative means of treating the cleared site has been agreed.
4. Full consideration will be given to the guidance given in the Scottish Historic Environment Policy (SHEP) in the assessment of any application relating to development within a Conservation Area.
5. The Council may require applications for full, as opposed to outline, consent. In instances where outline applications are submitted, the Council will require a 'Design Statement' to be submitted at the same time, which should explain and illustrate the design principles and design concepts of the proposals. Design Statements will also be required for any applications for major alterations or extensions, or for demolition and replacement.

Policy NE3 - LOCAL BIODIVERSITY

1. The Council will seek to safeguard the integrity of habitats both within and outwith settlements which are of importance for the maintenance and enhancement of local biodiversity. The rationale and detail for this is set out in the Supplementary Planning Guidance for Biodiversity.
2. Where development is proposed on a site for which there is evidence to suggest that a habitat or species of importance exists, the developer may be required, at their own expense, to undertake a survey of the site's natural environment. Major developments, as defined by the categories of development identified in the Council's biannual Scottish Government Planning Application Returns, may require an Ecological Impact Assessment.
3. Development that could impact on local biodiversity through impacts on habitats and species should

- i) Be sited and designed to minimise adverse impacts on the biodiversity of the site, including its environmental quality, ecological status and viability,
 - ii) Aim to avoid the fragmentation or isolation of habitats,
 - iii) Aim to enhance the biodiversity value of the site through the creation or restoration of habitats and wildlife corridors and provision for their long term management and maintenance.
4. Development that would have an unacceptable adverse effect on habitats or species of Conservation Concern as identified in the regional listings in the Local Biodiversity Action Plan (LBAP) will be refused unless it can be demonstrated that the public benefits of the development clearly outweigh the value of the habitat for biodiversity conservation.

Where the reasons in favour of development clearly outweigh the desirability of retaining particular habitat features, mitigation measures aimed at ensuring no net loss of LBAP habitats will be sought, including the creation of new habitats or the enhancement of existing habitats, in accordance with Policy G5 Developer Contributions and the associated Supplementary Planning Guidance.

Policy NE4 – TREES, WOODLANDS AND HEDGEROWS

The Council supports the maintenance and management of trees, woodlands, including ancient woodlands and ancient woodland pastures, and hedgerows, (hereafter referred to as the 'woodland resource') and requires developers to incorporate, wherever feasible, the existing woodland resource into their schemes.

1. Development that would cause the loss of, or serious damage to the woodland resource, will be refused unless the public benefits of the development at the local level clearly outweigh the loss of landscape, ecological, recreational, historical or shelter value. Decision making will be informed by the Scottish Borders Woodland Strategy, expert advice from external agencies, the existing condition of the woodland resource and BS5837: Trees in Relation to Construction;
2. The siting and design of the development should aim to minimise adverse impacts on the biodiversity value of the woodland resource, including its environmental quality, ecological status and viability;
3. Where there is an unavoidable loss of the woodland resource, appropriate replacement planting will normally be a condition of planning permission. In some locations planning agreements will be sought to enhance the woodland resource;
4. Development proposals should demonstrate how the protection of the woodland resource will be carried out during construction, adopting British Standard 5837.

Policy ED3 – SHOPPING DEVELOPMENT

Proposals for new shopping development including changes of use to a shop will be assessed against Structure Plan policies E17 and E18.

Structure Plan Policy E17

In assessing applications for retailing development, both for food and non-food shopping, the Council will seek to support and enhance the role of town centres. Town centre locations will be preferred to edge-of-centre locations which, in turn, will be preferred to out-of-centre

locations. An out-of-centre location will only be considered favourably if there is no suitable site available in a town centre or edge-of-centre location.

Structure Plan Policy E18

The Council will have regard to the following considerations in assessing any application for out-of-centre retail development:

- (i) the individual or cumulative impact of the proposed development on the vitality and viability of existing town centres,
- (ii) the availability of a suitable town centre or edge-of-centre site,
- (iii) the ability of the proposal to meet deficiencies in shopping provision which cannot be met in town centre or edge-of-centre locations,
- (iv) the impact of the proposal on travel patterns and car usage,
- (v) the accessibility of the site by a choice of means of transport,
- (vi) the location of the proposal. Sites will be located within existing settlements and, within them, preference will be given to applications on vacant or derelict sites, or on sites deemed to be surplus to requirements.

Policy ED5 – TOWN CENTRES

Outwith the ground floor level of defined Prime Retail Frontages, the Council will support a wide range of uses appropriate to a town centre. Proposals for shopping development and other appropriate town centre development, will generally be approved within defined town centres of the larger settlements provided that the character, vitality, viability and mixed-use nature of the town centre will be maintained and enhanced. Appropriate development other than Class 1 shop uses could include:

1. Food and drink uses (Class 3 of the Use Classes Order),
2. Offices (Classes 2 and 4 of the Use Classes Order),
3. Commercial leisure and entertainment (including cinemas and theatres),
4. Residential, particularly flats above ground floor retail level,
5. Health care,
6. Education,
7. Tourism-related uses.

Any proposed developments which would create an unacceptable adverse impact on the town centre will be refused.

Policy H2 – PROTECTION OF RESIDENTIAL AMENITY

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

1. The principle of the development, including where relevant, any open space that would be lost; and
2. The details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,

- (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking and loss of privacy. These considerations apply especially in relation to garden ground or 'backland' development,
- (iii) the generation of traffic or noise,
- (iv) the level of visual impact.

Policy H3 – LAND USE ALLOCATIONS

1. Development will be approved in principle for the land uses allocated on the Land Use Proposals tables and accompanying Proposals Maps.
2. Development will be in accordance with any Council approved planning or development brief including where this has been prepared by developers, provided it meets the requirements for the site and its acceptability has been confirmed in writing by the Council.
3. Sites proposed for redevelopment or mixed use may be developed for housing, employment (classes 4, 5 and 6 of the Use Classes Order) or retailing, subject to the sequential test, or a mix of uses that could include community facilities and open space depending on the location of the site, the needs of the community and the deliverability of alternative uses. Redevelopment sites may be developed for a single use.
4. Sites proposed for commercial redevelopment will comprise appropriate town centre uses within Classes 1-4 of the Use Classes Order.
5. Any other use on allocated sites will be refused unless the developer can demonstrate that:
 - (i) it is ancillary to the proposed use and in the case of proposed housing development, it still enables the site to be developed in accordance with the indicative capacity shown in the Land Use Proposals table and/or associated planning briefs, or
 - (ii) there is a constraint on the site and no reasonable prospect of its becoming available for the development of the proposed use within the Local Plan period, or
 - (iii) the alternative use offers significant community benefits that are considered to outweigh the need to maintain the original proposed use, and
 - (iv) The proposal is otherwise acceptable under the criteria for infill development.

Policy Inf4 – PARKING PROVISIONS AND STANDARDS

Development proposals should provide for car and cycle parking in accordance with the Council's published adopted standards, or any subsequent standards which may subsequently be adopted by the Council (see Appendix D).

Relaxation of standards will be considered where the Council determines that a relaxation is required owing to the nature of the development and/or positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

POLICY Inf6 – SUSTAINABLE URBAN DRAINAGE

1. Surface water management for new development, for both greenfield and brownfield sites, must comply with current best practice on Sustainable Urban Drainage Systems (SUDS) to the satisfaction of the Council, Scottish Environment Protection Agency, Scottish Natural Heritage and other interested parties.
2. Development will be refused unless surface water treatment is dealt with in a sustainable manner that avoids flooding, pollution, extensive canalisation and culverting of watercourses.
3. A drainage strategy should be submitted with planning applications to include treatment and flood attenuation measures and details for the long term maintenance of any necessary features.

Policy Inf11 – DEVELOPMENTS THAT GENERATE TRAVEL DEMAND

1. The Council is committed to guiding development to locations which are accessible to existing or proposed bus corridors and train stations and which maximise the opportunities for walking and cycling.
2. Transport Assessments and Green Travel Plans will be required for significant travel generating developments guided by Scottish Government thresholds which may include large housing developments, schools, offices and retail developments.
3. Significant travel generating developments which are inaccessible to public transport nodes and/or are likely to lead to increased reliance on the private car will be refused where Transport Assessments and Travel Plans do not provide satisfactory sustainable solutions.
4. For other types of developments under the thresholds, where considered appropriate, planning agreements will be sought with developers to produce Green Travel Plans.
5. Developer contributions may be required to assist in making developments acceptable under Sustainability Principle 1.

Proposed Local Development Plan 2016 (incorporating Reporter's changes accepted by Scottish Borders Council)

Policy PMD2: Quality Standards

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

Sustainability

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,
- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,

- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,
- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
- g) it considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking & Design

- h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
- i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
- j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
- k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
- l) it can be satisfactorily accommodated within the site,
- m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
- n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

Accessibility

- o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,
- p) it incorporates, where required, access for those with mobility difficulties,
- q) it ensures there is no adverse impact on road safety, including but not limited to the site access,
- r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,
- s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Greenspace, Open Space & Biodiversity

- t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
- u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

Policy PMD3: Land Use Allocations

Development will be approved in principle for the land uses allocated on the Land Use Proposals tables and accompanying Proposals Maps.

Development will be in accordance with any Council approved planning or development brief provided it meets the requirements for the site and its acceptability has been confirmed in writing by the Council.

Sites proposed for redevelopment or mixed use may be developed for a variety of uses subject to other local plan policies. Where there is evidence of demand for specific uses or a specific mix of uses, these may be identified in a Planning Brief and the site requirements detailed within the Local Plan.

Within new housing allocations other subsidiary uses may be appropriate provided these can be accommodated in accordance with policy and without adversely affecting the character of the housing area. Planning Briefs and site requirements detailed within the Local Plan may set out the range of uses that are appropriate or that will require to be accommodated in specific allocations.

Any other use on allocated sites will be refused unless the developer can demonstrate that:

- a) it is ancillary to the proposed use and in the case of proposed housing development, it still enables the site to be developed in accordance with the indicative capacity shown in the Land Use Proposals table and/or associated planning briefs, or
- b) there is a constraint on the site and no reasonable prospect of its becoming available for the development of the proposed use within the Local Plan period, or
- c) the alternative use offers significant community benefits that are considered to outweigh the need to maintain the original proposed use, and
- d) the proposal is otherwise acceptable under the criteria for infill development.

Policy PMD5: Infill Development

Development on non-allocated, infill or windfall, sites, including the re-use of buildings within Development Boundaries as shown on proposal maps will be approved where the following criteria are satisfied:

- a) where relevant, it does not conflict with the established land use of the area; and
- b) it does not detract from the character and amenity of the surrounding area; and
- c) the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over-development or 'town and village cramming'; and
- d) it respects the scale, form, design, materials and density in context of its surroundings; and
- e) adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity; and
- f) it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

All applications will be considered against the Council's Supplementary Planning Guidance on Placemaking and Design. Developers are required to provide design statements as appropriate.

Policy ED3: Town Centres and Shopping Development

The Council will seek to develop and enhance the role of town centres. A network of centres and growth of the retail sector will be supported through directing development to the following district town centres:

Duns, Eyemouth, Galashiels, Hawick, Jedburgh, Kelso, Melrose, Peebles, Selkirk

To protect town centres, town centre locations will be preferred to edge-of-centre locations which, in turn, will be preferred to out-of-centre locations. An out-of-centre location will only be considered where there is no suitable site available in a town centre or edge-of-centre location.

The council will support a wide range of uses appropriate to a town centre. Proposals for shopping development and other town centre developments will generally be approved within defined district town centres provided that the character, vitality, viability, and mixed use nature of the town centre will be maintained and enhanced. For the avoidance of doubt, the council will apply the preferred order of locations set out above to appropriate uses generating significant footfall, including community and cultural facilities, offices, libraries, and education and healthcare facilities as well as retail and commercial leisure uses. It will also ensure that different uses are developed in the most appropriate locations.

Town centre enhancement, including the provision of new retail facilities and complementary non-retail uses, will be encouraged in centres both within the hierarchy and other centres which:

- (a) are council priorities for area regeneration because of special economic difficulties and/or population decline,
- (b) are subject to significant retail spending leakage,
- (c) play an important role in areas planned for substantial development under the development strategy.

The council will have regard to the following considerations, where relevant, in assessing applications for out of centre development, including retail proposals:

- (a) the individual or cumulative impact of the proposed development on the vitality and viability of existing town centres,
- (b) the availability of a suitable town centre or edge of centre site,
- (c) the ability of the proposal to meet deficiencies in shopping provision which cannot be met in town centre or edge of centre locations,
- (d) the impact of the proposal on travel patterns and car usage,
- (e) the accessibility of the site by a choice of means of transport,
- (f) the preference for commercial centres in the preferred order of locations, including appropriate retail clusters and parks, over other out of centre locations,
- (g) the extent to which a proposal would constitute appropriate small scale shopping provision designed to serve the needs of local rural communities,
- (h) the location of the proposal. Sites will be located within existing settlements and, within them preference will be given to applications on vacant or derelict sites, or on sites deemed to be surplus to requirements.

The council will encourage the use of town centres during the evening provided residential amenity is protected. Any proposed development which would create an unacceptable adverse impact on the town centre will be refused.

Policy ED5: Regeneration

Development on allocated and non-allocated brownfield sites will be approved in all cases where the following criteria are satisfied:

- a) where relevant, it does not conflict with the established land use of the area; and
- b) it does not detract from the character and amenity of the surrounding area; and
- c) the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over-development or 'town and village cramming'; and
- d) it respects the scale, form, design, materials and density in context of its surroundings; and
- e) adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity; and
- f) it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

All applications will be considered against the Council's Supplementary Planning Guidance on Placemaking and Design. Developers are required to provide design statements as appropriate.

Policy HD3 – Protection of Residential Amenity

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,
 - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or 'backland' development,
 - (iii) the generation of traffic or noise,
 - (iv) the level of visual impact.

Policy EP3: Local Biodiversity

Development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused unless it can be demonstrated that the public benefits of the development clearly outweigh the value of the habitat for biodiversity conservation.

Any development that could impact on local biodiversity through impacts on habitats and species should:

- a) aim to avoid fragmentation or isolation of habitats; and
- b) be sited and designed to minimise adverse impacts on the biodiversity of the site, including its environmental quality, ecological status and viability; and
- c) compensate to ensure no net loss of biodiversity through use of biodiversity offsets as appropriate; and
- d) aim to enhance the biodiversity value of the site, through use of an ecosystems approach, with the aim of creation or restoration of habitats and wildlife corridors and provision for their long-term management and maintenance

Policy EP7: Listed Buildings

The Council will support development proposals that conserve, protect, and enhance the character, integrity and setting of Listed Buildings.

Internal or external alterations and extensions to Listed Buildings, or new developments within their curtilage, must meet the following criteria:

- a) be of the highest quality,
- b) respect the original structure in terms of setting, scale, design and materials, whilst not inhibiting contemporary and/or innovative design;
- c) maintain, and should preferably enhance, the special architectural or historic quality of the building;
- d) demonstrate an understanding of the building's significance.

All applications for Listed Building Consent or applications affecting the setting of Listed Buildings will be required to be supported by Design Statements.

New development that adversely affects the setting of a Listed Building will not be permitted.

The demolition of a Listed Building will not be permitted unless there are overriding environmental, economic, social or practical reasons. It must be satisfactorily demonstrated that every effort has been made to continue the present use or to find a suitable new use.

Policy EP8: Archaeology

(A) National Archaeological Sites

Development proposals which would destroy or adversely affect the appearance, fabric or setting of Scheduled Monuments or other nationally important sites will not be permitted unless:

- a) the development offers substantial benefits, including those of a social or economic nature, that clearly outweigh the national value of the site, and
- b) there are no reasonable alternative means of meeting the development need.

(B) Battlefields

The Council may support development proposals within a battlefield on the Inventory of Historic Battlefields Register, or a regionally significant site, that seek to protect, conserve, and/or enhance the landscape characteristics or important features of the battlefield. Proposals will be assessed according to their sensitivity to the battlefield.

(C) Regional or Local Archaeological Assets

Development proposals which will adversely affect an archaeological asset of regional or local significance will only be permitted if it can be demonstrated that the benefits of the proposal will clearly outweigh the heritage value of the asset.

In all of the above cases, where development proposals impact on a Scheduled Monument, other nationally important sites, or any other archaeological or historical asset, developers may be required to carry out detailed investigations.

Any proposal that will adversely affect a historic environment asset or its appropriate setting must include a mitigation strategy acceptable to the Council.

Policy EP9: Conservation Areas

The Council will support development proposals within or adjacent to a Conservation Area which are located and designed to preserve or enhance the special architectural or historic character and appearance of the Conservation Area. This should accord with the scale, proportions, alignment, density, materials, and boundary treatment of nearby buildings, open spaces, vistas, gardens and landscapes.

The Council may require applications for full, as opposed to Planning Permission in Principle Consent.

Conservation Area Consent, which is required for the demolition of an unlisted building within a Conservation Area, will only be considered in the context of appropriate proposals for redevelopment and will only be permitted where:

- a) the building is incapable of reasonably beneficial use by virtue of its location, physical form or state of disrepair, and
- b) the structural condition of the building is such that it can not be adapted to accommodate alterations or extensions without material loss to its character, and
- c) the proposal will preserve or enhance the Conservation Area, either individually or as part of the townscape.

In cases a) to c) above, demolition will not be permitted to proceed until acceptable alternative treatment of the site has been approved and a contract for the replacement building or for an alternative means of treating the cleared site has been agreed.

Design Statements will be required for all applications for alterations, extensions, or for demolition and replacement which should explain and illustrate the design principles and design concepts of the proposals.

Policy EP13: Trees, Woodlands and Hedgerows

The Council will refuse development that would cause the loss of or serious damage to the woodland resource unless the public benefits of the development clearly outweigh the loss of landscape, ecological, recreational, historical, or shelter value.

Any development that may impact on the woodland resource should:

- a) aim to minimise adverse impacts on the biodiversity value of the woodland resource, including its environmental quality, ecological status and viability; and

- b) where there is an unavoidable loss of the woodland resource, ensure appropriate replacement planting, where possible, within the area of the Scottish Borders; and
- c) adhere to any planning agreement sought to enhance the woodland resource

Policy IS7 – Parking Provision and Standards

Development proposals should provide for car and cycle parking in accordance with approved standards.

Relaxation of technical standards will be considered where appropriate due to the nature of the development and/or if positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of seeking additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

Policy IS8: Flooding

At all times, avoidance will be the first principle of managing flood risk. In general terms, new development should therefore be located in areas free from significant flood risk. Development will not be permitted if it would be at significant risk of flooding from any source or would materially increase the probability of flooding elsewhere. The ability of functional flood plains to convey and store floodwater should be protected, and development should be located away from them.

Within certain defined risk categories, particularly where the risk is greater than 0.5% annual flooding probability or 1 in 200 year flood risk, some forms of development will generally not be acceptable. These include:

- a) development comprising essential civil infrastructure such as hospitals, fire stations, emergency depots etc., schools, care homes, ground-based electrical and telecommunications equipment unless subject to an appropriate long term flood risk management strategy;
- b) additional built development in undeveloped and sparsely developed areas.

Other forms of development will be subject to an assessment of the risk and mitigation measures.

Developers will be required to provide, including if necessary at planning permission in principle stage:

- (a) a competent flood risk assessment, including all sources of flooding, and taking account of climate change; and
- (b) a report of the measures that are proposed to mitigate the flood risk.

The information used to assess the acceptability of development will include:

- (a) information and advice from consultation with the council's flood team and the Scottish Environment Protection Agency;
- (b) flood risk maps provided by the Scottish Environment Protection Agency which indicate the extent of the flood plain;

- (c) historical records and flood studies held by the council and other agencies, including past flood risk assessment reports carried out by consultants and associated comments from the Scottish Environment Protection Agency, also held by the council;
- (d) the Scottish Environment Protection Agency's Land Use Vulnerability Guidance.

Policy IS9 - Waste Water Treatment Standards and Sustainable Urban Drainage

Waste Water Treatment Standards

The Council's preferred method of dealing with waste water associated with new development will be, in order of priority:

- a) direct connection to the public sewerage system, including pumping if necessary, or failing that:
- b) negotiating developer contributions with Scottish Water to upgrade the existing sewerage network and/or increasing capacity at the waste water treatment works, or failing that:
- c). agreement with Scottish Water and SEPA where required to provide permanent or temporary alternatives to sewer connection including the possibility of stand alone treatment plants until sewer capacity becomes available, or, failing that:
- d) for development in the countryside i.e. not within or immediately adjacent to publicly sewered areas, the use of private sewerage treatment may be acceptable, providing it can be demonstrated that this can be delivered without any negative impacts to public health, the environment or the quality of watercourses or groundwater.

In settlements served by the public foul sewer, permission for an individual private sewage treatment system will normally be refused unless exceptional circumstances prevail and the conditions in criteria d above can be satisfied,

Development will be refused if:

- a) it will result in a proliferation of individual septic tanks or other private water treatment infrastructure within settlements,
- b) it will overload existing mains infrastructure or it is impractical for the developer to provide for new infrastructure.

Sustainable Urban Drainage

Surface water management for new development, for both greenfield and brownfield sites, must comply with current best practice on sustainable urban drainage systems to the satisfaction of the council, Scottish Environment Protection Agency (where required), Scottish Natural Heritage and other interested parties where required. Development will be refused unless surface water treatment is dealt with in a sustainable manner that avoids flooding, pollution, extensive canalisation and culverting of watercourses. A drainage strategy should be submitted with planning applications to include treatment and flood attenuation measures and details for the long term maintenance of any necessary features.

Policy IS13: Contaminated Land

Where development is proposed on land that is contaminated, suspected of contamination, or unstable the developer will be required to:

- (a) carry out, in full consultation with, and to the satisfaction of Scottish Borders Council, appropriate phased site investigations and risk assessments; and
- (b) where necessary, and to the satisfaction of Scottish Borders Council design, implement, and validate appropriate remedial or mitigation measures to render the site suitable for its proposed use.

Other Material Considerations

National Planning Framework 3

Scottish Planning Policy

Scottish Historic Environment Policy 2011

Planning Advice Note 33 : Development of Contaminated Land 2000

Planning Advice Note 52 : Planning and Small Towns 1997

Planning Advice Note 59 : Improving Town Centres 1999

Planning Advice Note 1/2011 Planning and Noise

Planning Advice Note 2/2011 Planning and Archaeology

On-line Planning Advice on Flood Risk 2015

SBC Supplementary Planning Guidance on Contaminated Land Inspection Strategy 2001

SBC Supplementary Planning Guidance on Trees and Development 2008

SBC Supplementary Planning Guidance on Landscape and Development 2008

SBC Supplementary Planning Guidance on Biodiversity 2005

SBC Supplementary Planning Guidance on Privacy and Sunlight (Householder Developments) 2006

SBC Supplementary Planning Guidance on Placemaking and Design 2010

SBC Planning Brief on Commercial Road, Hawick 2009