

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 APRIL 2016

APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE

ITEM: REFERENCE NUMBER: 14/00848/PPP

OFFICER: Andrew Evans

WARD: Selkirkshire

PROPOSAL: Erection of 19 holiday lodges with proposed access and land treatment

SITE: Land North West Of Whitmuir Hall, Selkirk, Scottish Borders

APPLICANT: Mr Alan Williams

AGENT: Burnet Bell Architects & Enviroplan

PREVIOUS CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE:

This application was presented to the meeting of the Planning and Building Standards committee on 7th September 2015. Members resolved to continue the application at their September meeting, to enable:

- A site visit, and
- The agent to set out details of proposals for future investment in the existing accommodation and facilities at Whitmuir hall.

A site visit was subsequently arranged and carried out by the Planning and Building Standards Committee on 28th September.

The processing agreement for the application was also extended, to take the application through to the current (April 24th 2016) meeting of the PBS committee.

The Planning Officer wrote to the agent, initially on 8th October, and following further discussion, sent a subsequent email to the agent on 11th December, setting out what information was sought. It was suggested to the agent that any submission cover:

- *A synopsis of your clients investment plans for the existing business, including details of proposed investment in the leisure facilities.*
- *Phasing proposals, indicating how such investment would take place in parallel to the development proposals in application 14/00848/PPP.*
- *Consideration be given to entering in to a section 75 agreement, covering the site, and the neighbouring business, and committing to a the identified phased investment plan.*

The agent subsequently provided a brief position statement of January 11th. This can be viewed in full on the public access website. In brief summary, it sets out that:

- *The "In principle" nature of the current application means there is not yet detail on which to base financial viability and investment conclusions.*

- *Circa £10,000 of investment has been invested to upgrade the heating and air conditioning systems for the swimming pool and pool room.*
- *Whilst the agent believes enough material has been submitted to support the principle of the holiday lodge development at Whitmuir, the applicants are willing to accept appropriate planning condition/conditions to reassure the Council members that further detailed matters can be addressed at a later date.*

Following the submission of the position statement, the Economic Development service was re-consulted on the application, and advises that they have nothing additionally to say at this stage. The applicant has stressed that this is an “outline “in principle” application” and in turn, the Economic Development service advises that they remain “in principle” supportive. The applicant states that “such detailed concerns can only realistically be addressed at the detailed application stage” – in relation to the upgrading of existing swimming and other leisure facilities – The Economic Development service queries if this something SBC can make a condition at that stage, potentially via a section 75 agreement.

There is little robust evidence in the submission that is likely to fully satisfy the concerns expressed by Members at the meeting in September, although there is a commitment to continue to improve facilities at Whitmuir as part of the wider redevelopment. Accordingly, Members will need to consider whether the information submitted in response to the request by the Committee is sufficient to satisfy any outstanding concerns, and thus, whether to accept or refuse the application as it stands, or with the imposition of an additional planning condition/s or indeed a legal agreement.

Should Members be prepared to consider approval of the application, subject to imposition of an additional planning condition, great care should be taken with condition wording. Any condition relating to off- site investment / works being carried out would have to be very specifically worded to meet the relevant tests for the use of planning conditions. A suspensive planning condition (*a condition requiring works to be undertaken prior to any other development forming part of the permitted works*) may be appropriate depending on its requirements. Those requirements must however be reasonable and directly related to the development being proposed under this application. Advice on these matters can be provided by officers at the meeting as required.

The original report and recommendation relating to this planning considered by this Committee, at its September meeting is as follows:

SITE DESCRIPTION:

The site is located in rural countryside outside Selkirk. The site is directly to the north east of Whitmuir Hall, which is located in between the settlements of Selkirk and Midlem. The site is a southwest facing pasture, currently grazed, which generally slopes towards the southwest, but also contains localised peaks and ridges within the western half of the site which have been formed as a result from a previous quarry activity.

The south western corner was previously used as an off road bike track with tracks still delineated by rows of old tyres, now partly absorbed back into the ground. The site is bound to the east by a stone dyke wall which encloses the site from the minor road that connects Whitmuir to the A699. To the south and west, is Whitmuir Loch

Site of Special Scientific Interest (SSSI). This is a lowland basin mire of mesotrophic fen surrounding the loch which includes most of the mixed woodland that encloses the west and southern most corner of the site with further woodland enclosing the south-eastern edge of the site.

The wider landscape surrounding the site is a pastoral landscape with shelterbelts and large parkland trees interspersed within the field pattern. Notable surrounding features include;

- Selkirk Race course (“Gala Rig” on O.S.) to the north west of Whitmuir Loch,
- A path which runs along the eastern edge of Whitmuir Loch connecting the minor road to the south of Whitmuir Hall and the A699,
- A tree lined avenue along the northern access road at its connection with the A699
- Approximately 7 dwelling houses are located within the vicinity of Whitmuir Hall.

The site is not subject to any formal landscape designations.

PROPOSED DEVELOPMENT:

Planning Permission in Principle is sought for the erection of 19 Holiday Chalets. Although permission is sought in principle, the application includes an indicative road layout, and indicative proposals for the treatment of the land and for enhanced landscape planting.

PLANNING HISTORY:

- 90/01539/OUT - A previous planning approval obtained consent for the erection of 25 self-catering chalets with new internal road access within the site. No detailed application followed this approval.
- 08/00890/FUL - In 2008 planning approval was obtained for the extension to the existing leisure centre at Whitmuir Hall to provide function area, café and changing facilities as well as the formation of a new access.
- 09/00577/OUT - In 2009, a planning application sought consent for the erection of 28 holiday chalets, this application was withdrawn following a range of concerns expressed by the department about the application which most significantly related to; compliance with Scottish Borders Tourism Strategy (SBTS), landscape and visual impact, drainage concerns and impacts upon the SSSI.
- 10/01123/PPP - A resubmission of the withdrawn 2009 application was made in 2010, which sought to address the concerns previously raised. Subsequently, in December 2012 this application was refused by elected members, contrary to officer recommendation. The application was for the erection of 28 holiday lodges with proposed access and land treatment. A subsequent appeal to the DPEA was dismissed by the appointed Scottish Government Reporter. The Reporter’s Report is available in full on the DPEA website under Planning appeal reference: PPA-140-2040, with the reporter’s decision dated August 1st 2013.

REPRESENTATION SUMMARY:

This current application was publicised by means of a notice in the Southern Reporter, a notice on the national planning notification website, and via direct postal notification of the 4 immediate neighbours within the 20m buffer of the application site.

Objections were received to the application, and these can be viewed in full on the public access website. At the time of preparing the report a approximate total of 42 representations had been received. 40 of these were objections, with 2 representations (Neither supporting nor opposing).

A summary of the matters of relevance raised in these letters of objection and representation is as follows:

- Complaints about the process, fee arrangements, of there being multiple agents.
- Complaints about the Pre-Application consultation, Proposal of Application Notice timing.
- Extensive reference is made to the Reporter's Decision letter from the previous planning decision on the site, and that this should preclude any consideration of these proposals.

Objections were made that the proposals:

- are not a sustainable form of development
- will have overriding adverse visual impact
- will cause light pollution
- will have an adverse impacts on private water supplies
- will not suitably address foul drainage concerns
- will have an adverse impact on wildlife and habitat:
- Impact on protected species and a Site of Special Scientific Interest
- Adverse impact on local bird populations, and on their habitat

Further objections were made to **principle and detail of this business** in this location:

- Objectors highlight that Scottish Planning Policy (paragraph 95) stresses that the aim is not to see small settlements lose their identity nor to suburbanise the Scottish countryside.... If this development is allowed to go ahead the character of Whitmuir would be lost forever.
- Contended that Whitmuir Hall has only 12.5% occupancy which demonstrates that there is no demand for additional chalet/homes accommodation in this area
- The proposals will exacerbate the decline of the existing accommodation at Whitmuir Hall, not improve it.
- The type of accommodation proposed is not what is required in the Borders
- The proposals are not economically viable.
- SBC should support local businesses and ensure they are not undermined by "the wrong kind" of development.
- The Self Catering tourist accommodation market is declining
- The proposals have no connectivity with the existing tourist development.
- The proposals are seen as a means of establishing buildings on the site, to be subject to future housing conversion or development

- Poor internet reviews of the existing accommodation were reproduced, and provided to the Council.
- A spreadsheet showing occupation figures for the existing accommodation is provided (based on figures from Wyndhams marketing agency, and “local observations”)
- Extensive detailed comments regarding the adequacy of any business information to be lodged in support of the application.

Objections were received in terms of the **landscape impacts** arising from the proposed development as follows:

- The Borders Landscape Assessment sets out the hamlet lies within a designated national scenic area and an environmentally sensitive area - sensitive to change. It is especially important for any development to fit in with its surroundings.
- The surrounding area and hamlet cannot accommodate this scale of development.
- The proposals will have an adverse impact on the view from the Rig Racecourse during the common riding.

Traffic, Road Safety and access concerns and objections can be summarised as follows:

- Current maximum capacity of Whitmuir Hall is 80 persons, this combined with the proposed additional accommodation, would mean at least 150 people together with their cars totally swamping the existing settlement and existing tiny access roads.
- Conflict with local horse riding.

Finally, other objections can be summarised as:

- Loss of farmland.
- The applicant makes no effort to engage with neighbours or the local community
- Non-compliance with planning policies, particularly in relation to rural development, impacts on neighbouring amenity, travel and transport

APPLICANTS’ SUPPORTING INFORMATION:

The application is supported by:

- Supporting Planning Statement , which includes:
 - Phase 1 Ecology Report by Corvus Consulting
 - Environmental Impact Report
 - Engineers Report (URS)
 - Tourism Report (by Tourism Resources Company, 2010)
 - a community engagement report due to this application falling in to the category of “Major Development”
 - Landscape Strategy (By Circle)
- Landscape Design Statement

MAJOR DEVELOPMENT REQUIREMENTS

Due to the application site measuring 4.4ha, the application, as noted above, falls in to the category of “Major Development” in the Hierarchy of Development. This

means that Pre-Application Consultation had to be undertaken, and an event held by the applicant's agent, and a subsequent Pre-Application Consultation (PAC) report lodged with this planning application.

The PAC report is set out in appendix A of the Supporting Planning Statement, and reports on the public pre application even held on June 5th 2014. The Planning Department is satisfied that the statutory pre-application requirements have been fulfilled.

PROCESSING AGREEMENT

A planning processing agreement has been concluded with the applicant, which set out a route for the application to progress to a committee decision in August of 2015. Agreement was subsequently confirmed on an extension to the agreement to September meeting of the PBS committee.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees:

Outdoor Access Officer: **No response** received.

Roads Planning Service: Identified **no objection in principle**.

Confirmed this current submission appears to largely have taken account of the roads issues and concerns which the RPS had highlighted in previous correspondence. Pleased to see that the location of a new access into the site at the north eastern boundary on the brow of the hill is still proposed.

The RPS engineer was disappointed that the internal vehicular connection has been removed. This link is required to minimise and aid traffic flow throughout and in particular will assist with reducing traffic flow and conflict at the southern boundary of the overall Whitmuir site which has always been a cause of local concern. A link between the sites will ensure that vehicular trips on the public road network surrounding the site are kept to an absolute minimum. Chalet occupiers will utilise the new access to the north for the majority of their stay, whilst only really requiring to use the existing entrance on arrival to check-in before using the link to travel to their chalet. The impact on the existing exit to south will be minimal or potentially even no impact at all as chalet occupiers who are checking out are likely to travel back through the lodge park and exit via the new access. Should a link not be included, all check-ins and signing outs will result in the use of the southern exit. The RPS goes on to confirm:

- A review of the internal traffic management should be included as part of any 'detailed' application.
- The location of the new and upgraded passing places as shown on the marked up drawing accords well with RPS comments and site meeting's for previous proposals.
- A detailed junction layout will be required for the proposed new access onto the public road, including details of its construction. This should be included within any subsequent 'detailed' application.

- The passing places (localised road widening) are to be constructed generally as per the detail specified in RPS standard drawing, DC-1.

The RPS does not object to this tourism development. They are content that the proposed public road improvements, together with the new access, the improved visibility splays and the necessary measures described earlier to minimise traffic flow at the southerly exit are sufficient to enable their support for this development.

Ecology Officer: 23.09.14: (First Response): Confirmed **no objection** in principle, subject to appropriate mitigation.

Noted the SEPA response of August 5 2014 which provides standing advice at www.sepa.org.uk/planning.aspx . An SNH response is pending and the ecology officer indicated he may respond further once this document is lodged. Previous SNH responses for 10/01123/FUL (27 September 2011 & November 20 2012) highlighted concerns regarding foul and surface water treatment, construction methods and boundary/SSSI management and stated that the proposal submitted was to be in accordance with the advice of SEPA and SBC. The Planning Support Statement by EnvironPlan Consulting Ltd. of July 15 2014 proposes the construction of a Natural Ecological Wastewater Treatment Plant which will include a reed bed. The potential impacts of this proposal on Whitmuirhall Loch SSSI will be considered by SNH and I may then comment further.

Notes the Planning Support Statement by EnvironPlan Consulting Ltd. of July 15 2014. The development lies close to Whitmuirhall Loch SSSI designated for its basin fen and hydromorphological mire range. Most of the site is poor semi-improved grassland and tall ruderal vegetation with area of semi-improved neutral grassland associated with rocky knowes within the site. The Ecology response (19 September 2011) for a previous application on the same site (10/01123/PPP) indicated further survey and information requirements. The Planning Support Statement of July 15 2014 (Section 5) acknowledges that further survey and information is required. It refers to the need for more information on protected species such as bats and badgers, both on site and adjacent to the site; impacts of site lighting; that the used tyres should be carefully removed to avoid impacts on amphibians and reptiles, timing of works to avoid impacts on flora and fauna particularly during the breeding bird season; the need for sensitive habitat and biodiversity enhancement.

Bats

The proposed access track to the north (previously in the south) and the changes to chalet locations are welcomed as this has the potential to avoid disturbance, to the south, where bat species could have been impacted. The site and adjacent habitat is used as foraging habitat and potential roosting and perching by bats (according to the Phase 1 ecology report carried out by Corvus Consulting September 2009) therefore mitigation is required in the form of a 'Lighting design strategy for light sensitive biodiversity'. However, if any trees are to be disturbed or felled bat surveys will be required.

Bats are protected under The Conservation (Natural Habitats &c.) Regulations 1994 (as amended). It is illegal to intentionally or deliberately kill or injure them, intentionally, deliberately or recklessly damage, destroy, or obstruct access to any place used for shelter or protection including resting or breeding places (all roosts, whether occupied or not), or deliberately, intentionally or recklessly disturb them.

Badgers

Badgers are known to be present in this area and also use it for foraging and commuting. A Badger Protection Plan, to be informed by survey, is required.

The European Badger (*Meles meles*) is protected under the Protection of Badgers Act 1992 (as amended by the Nature Conservation (Scotland) Act 2004). Badgers are protected from being disturbed, killed, injured or taken and their setts are protected from damage, obstruction or destruction.

Birds

There is potential for breeding birds to use the trees and habitat in the vicinity. Potential impacts on breeding birds are to be avoided.

All wild birds are afforded protection and it is an offence to deliberately or recklessly kill, injure and destroy nests and eggs of wild birds. Additionally for those species protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) it is illegal to intentionally or recklessly disturb any bird whilst it is nest-building or at or near a nest containing eggs or young, or to disturb any of its dependent young. There may be a requirement, depending on habitats within the sites, to survey sites in the breeding season and to avoid damage to breeding birds, their nests and eggs by avoiding development or the commencement of development during the breeding birds season (March - September). Mitigation may involve provision of alternative nest sites, protection of breeding habitats where appropriate and the design of the site should protect and enhance foraging habitat for breeding birds as appropriate.

Recommendations

1. A mitigation plan is required in regard to lighting design which is sensitive to the needs of bats. The type of lighting and timing of lighting which minimises impacts on biodiversity, e.g. Bats and badgers, should be carefully considered for both the construction phase and the final development. The mitigation plan should include a 'Lighting design strategy for light sensitive biodiversity'. This may include darker wildlife corridors. If any mature trees are to be felled or disturbed they will need to be surveyed for bats to prevent impacts on roosting or foraging bats. If surveys are to be carried out any surveys likely to involve disturbance to bats or their roosts can only be carried out by a licensed bat worker. Activity surveys or roost surveys in trees should be conducted between May and September (optimally May - July). Preliminary roost assessments can be undertaken at any time of year. If evidence of bats or their roosts is found in surveys, the developer may be required to submit a mitigation plan for bats as part of their submission to the Planning Authority.
2. A Badger Protection Plan is required to protect any setts in the area and badger foraging and commuting across the site (including covering trenches and open pipes overnight/ providing a means of escape, safe storage of chemicals and oils, sensitive security lighting, timing of works, badger-proof fencing around settlement ponds). This Badger Protection Plan will need to be informed by a badger survey to be carried out by a suitably qualified person. It is also a requirement that prior to the commencement of works the site contractors are given a toolbox talk and information sheet by the developer's consultant ecologist to explain the requirements of the mitigation on site. Prior to the commencement of works the Badger Protection Plan including the details of the toolbox talk and the survey details will be

submitted, in writing, to the Planning Authority for approval. Any works shall thereafter be carried out in accordance with the approved scheme.

3. Site clearance to be carried out outside of the breeding season. No vegetation or scrub clearance shall be carried out during the breeding bird season (March-August) without the express written permission of the Planning Authority. Checking surveys and appropriate mitigation for breeding birds will be required if works are proposed during the breeding bird season.
4. Prior to commencement of works a Biodiversity and Habitat Management Plan is to be prepared by a suitably qualified person. It will relate to the proposed development, and is required to be submitted, in writing (including plan/maps), for approval by the Planning Authority. It will enhance the local habitat network for biodiversity and could include measures for locally native woodland and scrub, hedgerows and grassland enhancement with wildflower areas. A planting scheme may include native trees and shrubs (FCS Native seed zone 204). A pond or SUDS feature, which is proposed, can also enhance the local habitat network for bats. Well-designed this can form part of the wider green network and can promote biodiversity. The developer may also consider the provision of swift bricks and bird nesting sites such as the Schwegler 1N Deep Nest Box which can be attached to mature trees or posts to provide nesting opportunities for a range of bird species. Any works shall thereafter be carried out in accordance with the approved scheme.
5. Tyres on site to be carefully removed to avoid impacts on amphibians and reptiles. Works to be guided by a suitably qualified person.
6. Protect the water body which is in the vicinity of the development area. Adopt SEPA Pollution Prevention Guidelines PPG1, PPG5 (general guidance and works affecting watercourses), PPG 3, 4, 7, 13 (site drainage), PPG 2, 8 (oil storage) and PPG 6 (construction and demolition) as appropriate.

Second Response:

Confirmed on 05/08/15 that the Ecology Officer is content for these matters to be dealt with by means of planning conditions, as recommended in the earlier consultation response of the Assistant Ecology Officer

Landscape Architect:

Commented on all the previous applications and felt that due to the site topography and its relationship with the surrounding area the development of the site for holiday chalets accommodation would not have a negative impact on the wider landscape. Confirms has studied the revised layout submitted in support of this application and is of the opinion that the reduction in the number of units will have a beneficial impact on the development and has allowed a more considered layout to be developed. The access road appears to be more sympathetic to the site topography and the reduction in the number of units has resulted in smaller and more discrete groupings of chalets. While inevitably there will be some modifying of the topography to accommodate the chalets and any parking associated with each unit would expect this to be kept to the absolute minimum and detail to be provided at the more detailed planning stage to demonstrate this is the case. Every effort will have to be made to make any platforms and consequent changes in levels fit the undulating nature of the site. In respect of the main access road through the site the Landscape Architect suggests this is kept to the absolute minimum width in conjunction with suitably

located and frequent passing places, as this will significantly reduce their visual impact on the site and be in keeping with a development of this scale. The Outline Proposals drawing only indicates the main access road through the site and at the next stage we will need detail of the tracks and parking associated with each unit.

Planting should be native species with the concentration on reinforcing the existing woodland which surrounds the site. Management of the grassland should encourage and enhance the existing species. A management plan for all areas of the site, following development, will be required to ensure that the biodiversity of the site is being considered.

If all the above can be satisfactorily addressed at the more detailed stage of the process, sees no reason why this application cannot be supported.

Environmental Health:

22.10.14:

Amenity and Pollution - The application is for the development of 19 holiday chalets. The application form indicates that the development will be serviced with a water supply from Scottish Water. No indication has been given regarding how the chalets will be heated this may have an impact on noise and/or air quality. I would request that the applicant provides more details on the heating plan for the chalets, see conditions.

Contaminated land - It is recommended, that by way of an Informative Note, the applicant is made aware of potential land contamination that may have occurred through unrecorded infilling of the quarry. Should unexpected ground conditions e.g. made ground extending to depth, discolouration or malodorous substances be encountered in excavations, or evidence of potential contamination e.g. underground structures, remains of buried wastes or equipment be encountered during site works it is requested that Environmental Health are immediately consulted.

Economic Development:

22.10.14: First Response:

The provision of new holiday lodge accommodation fits with the Scottish Borders Tourism Strategy 2013-2020 strategic target by:

- Ensuring the region's accommodation offerings are in direct relation to consumer demands and where opportunities are available, act as an attractor of demand in themselves.
- Increasing volume of overnight visitors.
- Increasing overnight visitor spend.

Economic Development supports this application in principal, on condition that the following provisions are met:

- Submission of a full business plan that includes full financial projections, current occupancy levels for the existing accommodation and a marketing plan to identify key customers and target markets for the new development in the locality

- That there is a commitment by the applicant to work with Business Gateway (Tourism) advisors to ensure that both the existing and new facilities are of a high standard and quality.

11.06.2015: Second Response: Reiterated the first paragraph of their first response. Confirmed that the application fits with the Local Development plan policy ED7, Business Tourism and Leisure in the countryside as:

- a. The development is to be used for Leisure and recreation and is in accordance to the Tourism strategy (outlined above)
- b. The development has an economic/operational need that cannot be accommodated within a development boundary of a settlement due to unique nature of rural holiday let accommodation.

The Business Plan provided has identified that the projected break-even point of 8 weeks at 15% occupancy with no borrowing requirement for capital costs means that this is projected to be a viable business. We **remain supportive, in principle**, of this application, on condition that the following provision is met:

- i. That the applicant continues to work with Business Gateway (Tourism) Adviser throughout the development period to ensure that both the existing and new facilities are of a high standard, with an ambition to qualify for Visit Scotland Quality Assurance or other tourism industry standard award.
- ii. Applicant should also commit to submitting updated formalised business plans and financial information to Business Gateway where appropriate.

Statutory Consultees

Scottish Environmental Protection Agency (SEPA):

5.8.14: Direct the Planning Authority to their standing advice.

Scottish Natural Heritage (SNH):

25.8.14: Confirmed there are natural heritage interests of national importance near to the proposed development site, but these **will not be affected** by the proposal. A protected species licence may be required. SNH confirm they have previously responded to applications for similar proposals at this location on 27 September 2011, and 20 November 2012. The current application retains many elements of the original applications, including the provision for wastewater treatment.

The development site is close to Whitmuirhall Loch SSSI, which is designated for its basin fen and hydromorphological mire range. Basin mires such as Whitmuirhall Loch depend on high, stable water levels and low nutrient conditions in order to maintain their special interests. The SSSI lies at the foot of a sloping field, which is the site of the development. As such, SNH are primarily concerned with the potential impacts of nutrient enriched silt, soils, drainage waters and wastewater produced as a result of the construction and operational phases of the development.

SNH note that the foul water drainage system will incorporate a number of reed beds and swales, and that the entire arrangement will be lined with impermeable membranes. The final effluent will then be pumped to a watercourse outside the Whitmuirhall Loch catchment. The arrangement described above is essential to ensure that there is no nutrient leakage to groundwater which may affect the SSSI.

As detailed in SNH's responses to the previous planning applications, they would expect a Construction Method Statement, detailing how protection of the SSSI will be ensured during construction operations, to be agreed with SBC prior to the commencement of any development at the site. Ideally this would be submitted as part of a full planning application for the development.

European Protected Species – Bats

Protected Species - Badgers

Previous ecological surveys at this location have highlighted the presence of bats and badgers, with recommendations for further surveys to be carried out to inform the requirement for mitigation and/or species licences. SNH therefore advise that SBC ask the applicant to carry out surveys for bats and badgers. If they could be affected by the proposal, you should also request that the applicant submits a species protection plan before determining this application. Once you have received this information, we would be pleased to advise further if necessary.

NOTE – SNH subsequently clarified it was for SBC to confirm Survey requirements. SBC's Ecology Officer subsequently stated that he is content for these further species surveys to be required by planning condition.

Scottish Water:

No response received.

Selkirk and District Community Council:

11.09.14: The Royal Burgh of Selkirk and District Community Council remains in support of the provision of visitor accommodation in the Scottish Borders in appropriate locations - where it can be demonstrated there will be no significant adverse impacts. With regard to these latest outline proposals for Whitmuir, the Community Council is pleased to note the reduced numbers of chalets and appreciate the applicant's attempt to reduce the development impact upon the local environment and infrastructure.

However having discussed this application and its context at Whitmuir, the Community Council is concerned that the proposals still raise a number of fundamental issues concerning business viability, access, the planned sequence of development, impacts upon various aspects of the environment, servicing and design. None of these are - in the Community Council's opinion - satisfactorily addressed within this application and it is to be hoped that much more detailed evidence concerning the above will be forthcoming.

It is further noted that previously planned improvements and maintenance to the existing leisure facilities at Whitmuir are still to be completed and such an apparent lack of commitment hardly encourages any belief for the success of these latest proposals. The CC is also aware that the majority of the residents still seem strongly opposed to any development for both technical and environmental reasons and we consider that their concerns should be fully investigated and resolved.

Other Consultees:

Association for the Protection of Rural Scotland:

18.12.14: This APRS, whilst not directly consulted on the application **objected**, because the site is not allocated for development in the Scottish Borders Consolidated Local Plan, approved in 2011. In the view of the APRS the proposal is also:

- contrary to Structure Plan Policy N3, National Nature Conservation Sites, in that it could adversely affect the neighbouring Whitmuirhall Loch Site of Special Scientific Interest, in particular due to potential adverse effects on water quality from foul drainage and run-off from the site;
- contrary to Local Plan Principle 1, Sustainability, in that it will introduce light pollution to a rural area currently free of such pollution;
- contrary to Local Plan Policy D1, Business, Tourism and Leisure Development in the Countryside, in that it does not respect the amenity and character of the surrounding area and is of an excessive scale inappropriate to the rural character of the area;
- contrary to Local Plan Policy G1, Quality Standards for New Development, in that it is incompatible with and does not respect the character of the surrounding area;
- contrary to Local Plan Policy INF11, Developments that Generate Travel Demand, in that it is not accessible to existing or proposed bus corridors or train stations; indeed it will generate substantial additional vehicle traffic on a narrow single-track road with limited visibility, with consequent adverse effects on road safety;
- contrary to Local Plan Policy NE3, Local Biodiversity, due to its likely adverse effects on protected species known to be present on or near the site, particularly badgers and bats.

The Association therefore respectfully requests your Council to refuse this application on the grounds set out above.

DEVELOPMENT PLAN POLICIES:

SESPlan Strategic Development Plan 2013:

This plan has replaced the structure plan. However no specific policies relevant to the determination of this current application.

Consolidated Scottish Borders Local Plan 2011:

Policy D1	Business Development in the Countryside
Policy G1	Quality Standards for New Development
Policy G2	Contaminated Land
Policy G4	Flooding
Policy BE2	Archaeological Sites and Ancient Monuments
Policy H2	Residential Amenity
Policy Inf2	Access Routes
Policy Inf4	Parking Provisions and Standards
Policy Inf5	Waste Water Treatment Standards
Policy Inf6	Sustainable Urban Drainage
Policy NE2	National Nature Conservation Sites
Policy NE3	Local Biodiversity
Policy NE4	Trees, Woodlands and Hedgerows
Policy NE5	Development Affecting the Water Environment

OTHER PLANNING CONSIDERATIONS:

Adopted SBC Supplementary Planning Guidance (SPG) and other documents:

- Biodiversity (2005)
- Local Landscape Designations (2012)
- Householder Development (2008)

Scottish Government Policy and Guidance:
Scottish Planning Policy (SPP) (June 2014)

Scottish Government Directorate for Planning and Environmental Appeals:
Decision Notice – Case PPA-140-2040, appeal decision dated 1 August 2013

KEY PLANNING ISSUES:

The main determining issues are whether the proposal represents an appropriate tourism development within the countryside. Consideration must also be given to other matters relating in particular to the ability to provide safe access, impact on adjoining residential properties and impact on the adjacent Whitmuir Loch SSSI.

ASSESSMENT OF APPLICATION:

Revisions in Comparison to previous application / appeal:

The current application makes the following changes in comparison to the previous scheme:

- The number of lodges is reduced from 28 to 19.
- Revisions to layout and detailing of the indicative proposals

Land Use Planning Policy Principle:

In terms of the principle of development, the site is located within an area of rural countryside. Policy D1 of the Consolidated Scottish Borders Local Plan is therefore relevant. It sets out the Council position in relation to proposals for Business, Tourism and Leisure Development in the Countryside.

Members will recall their previous consideration of an application for a larger scheme on this site. That application was refused, and then appealed to Scottish Ministers. The reporter set out in his detailed reasoning as follows:

“There is no equivalent policy in SESplan to policy E21 Tourism Development of the consolidated structure plan and the broad strategies in SESplan have little direct bearing on the assessment of the proposal. The key policies therefore are local plan policies D1 Business, Tourism and Leisure Development in the Countryside, G1 Quality Standards for New Development and Inf11 Developments that Generate Travel Demand.”

The reporter confirmed he had:

“no reason to doubt the assurance that the details of the development will be of high quality. However, application of policies D1 and G1 requires that the issues of integration in the landscape and impact on the rural character of the area must be

assessed at the in principle application stage having regard to the indicative proposals.”

Integration in the landscape and impact on the rural character of the area

Placemaking and Design Considerations are set out in a relevant SPG and through the criteria of Policy G1 (Quality Standards for New Development) of the Consolidated Scottish Borders Local Plan. An indicative revised layout plan is considered to be capable of compliance with policy G1. Full arrangements will be subject to detailed consideration at any subsequent application for Approval of Matters Specified in Conditions.

Landscape and visual impacts, and impacts on rural character

The Reporter's decision noted:

According to the Borders Landscape Assessment the site lies broadly within the Eildon Hills landscape character area and within an area defined as an upland fringe type, Type 11 Grassland with hills. This lies within a designated national scenic area and an environmentally sensitive area. The council's supplementary planning guidance Landscape and Development advises that in these areas it is especially important for any development to fit in with its surroundings. According to the landscape appraisal the site is representative of the Type 11 landscape, which is described as sensitive to change. The site and its surroundings are acknowledged to be of a high scenic value. It adjoins Whitmuirhall Loch SSSI, which is accessible to walkers from the core path network.

In this respect, the comments of the Council's Landscape Architect are of significant. She advises that due to the site topography and its relationship with the surrounding area the development of the site for holiday chalets accommodation would not have a negative impact on the wider landscape.

The Council's Landscape Architect has studied the revised layout submitted in support of this application and is of the opinion that the reduction in the number of units will have a beneficial impact and has allowed a more considered layout to be developed.

The indicative position of the proposed access road appears to be more sympathetic to the site topography and the reduction in the number of units has resulted in smaller and more discrete groupings of chalets. This is also beneficial in terms of the impacts upon the rural character of the wider area. The resultant reduced development is now considered to be appropriate in terms of such considerations.

The Council Landscape Architect is quite clear in her consultation response that the site for holiday chalets accommodation would not have a negative impact on the wider landscape.

Economic case and consideration of proposed tourism business:

Policy D1 of the Consolidated Scottish Borders Local Plan encourages the development of tourist facilities and accommodation within the region, provided several criteria are met. These include the need for a proposal to accord with the provisions of Scottish Borders Tourism Strategy (SBTA); provide no adverse impact the local economy or surrounding and neighbouring uses, minimisation of the

impacts on the landscape and nature conservation, the ability to achieve satisfactory access and infrastructure as well positive visual impacts.

In respect of this current application, the proposal must be assessed against current development plan policies, but also against the background of approval for self-catering chalets in “outline” under consent 90/01539/OUT. The granting of this consent is material to the consideration of the current application. However, it is accepted that the time period that has lapsed since this previous approval and the evolution of planning policies and also tourism trends, which are an important consideration for any tourist related development, necessitates that the development is robustly tested against the policies of the current development plan.

Visit Scotland was consulted on the application. No response was forthcoming.

The Council Economic Development Service, and by extension its business advisors within the Business Gateway, were consulted on this latest application. The response from Economic Development confirms that the provision of new holiday lodge accommodation fits with the Scottish Borders Tourism Strategy 2013-2020 strategic target. It was further confirmed that the Economic Development service supports this application in principle, on condition that their identified comments were met, namely:

- the Submission of a full business plan that includes full financial projections, current occupancy levels for the existing accommodation and a marketing plan to identify key customers and target markets for the new development in the locality, and
- secondly that there is a commitment by the applicant to work with Business Gateway (Tourism) advisors to ensure that both the existing and new facilities are of a high standard and quality).

Following the submission of a business plan by the agent, a second consultation was carried out with Economic Development colleagues, who advised that the application fits with the Local Development Plan policy ED7, Business Tourism and Leisure in the Countryside, as it is in accordance to the Tourism strategy (outlined above) and that the development has an economic/operational need that cannot be accommodated within a development boundary of a settlement due to unique nature of rural holiday let accommodation.

Economic Development confirm in their final consultation response on this current application that the Business Plan provided has identified that the projected break-even point of 8 weeks at 15% occupancy with no borrowing requirement for capital costs means that this is projected to be a viable business. They remain supportive, in principle, of this application, on condition that the following provisions are met:

- i. That the applicant continues to work with Business Gateway (Tourism) Adviser throughout the development period to ensure that both the existing and new facilities are of a high standard, with an ambition to qualify for Visit Scotland Quality Assurance or other tourism industry standard award.
- ii. Applicant should also commit to submitting updated formalised business plans and financial information to Business Gateway where appropriate.

Archaeology

The Archaeology Officer in the determination of the previous application on this site identified that there is evidence of a medieval village, tower and garage at Whitmuir with the possibility that evidence of these features could be located within the site and due to the proximity of the development to the loch there is further potential to discover unknown prehistoric archaeology.

It is still considered that there is reasonable evidence that the development of this site could unearth archaeological remains, therefore in order to comply with development plan policies relating to archaeology, it is recommended that a condition be imposed to require the developer to undertake an archaeological site evaluation prior to commencing development. The undertaking should take the form of trial trenches and will permit diligent recording and analysis of its results and any archaeological features which may be uncovered.

Subject to appropriate archaeological conditions, the proposed development is considered to comply with policy BE2 of the Consolidated Scottish Borders Local Plan (2011) on Archaeology.

Impacts on Residential Amenity and Privacy

Policy H2 of the Consolidated Scottish Borders Local Plan sets out criteria to ensure the protection of residential amenity. This is supplemented by the adopted SPG on Householder Development which set out criteria to ensure the protection of residential privacy, amenity and outlook.

In this instance, the department is satisfied that the development proposals would be capable of complying fully with policy H2. Furthermore, the department is satisfied that a detailed development proposal could be brought forward which complied fully with the privacy and amenity standards set out in the SPG on Householder Development, in terms of the impacts of the proposed development upon the nearest residential dwellings.

In terms of neighbouring uses to the south and south east of the site there are a number of residential properties. However, in this case the distance, topography and existing woodland belts surrounding the application site provide sufficient separation and screening from neighbouring housing so that there is not considered to be any justifiable conflicts between this existing and the intensified tourism related use.

The further revised layout which has broken up and reduced the development from earlier proposals provides an indicative form and scale of development that is considered to be appropriate within this rural area and for such reason illustrates that the volume of self-catering units which are proposed can be provided in a manner which will respect the amenity and character of the surrounding area as required by criterion 4 of Policy D1.

Ecological and Habitat Effects (including impacts on Trees, Woodland and Hedgerows):

There are significant and important matters arising in relation to natural heritage and the water resource. These have been appraised carefully by specialist consultees:

- SBC Ecology Officer
- Scottish Natural Heritage
- Scottish Environmental Protection Agency

It remains the case with this latest application that issues relating to the ground environment, biodiversity and habitat have either been suitably addressed or are mitigatable. Conditions to address these matters are set out in detail in this report.

Ecology and Biodiversity issues are covered by Local Plan Policies. Policy NE2 of the Consolidated Scottish Borders Local Plan relates to National Nature Conservation Sites, and Policy NE3 of the same plan relates to Local Biodiversity. The application is accompanied by an ecological report from Corvus Consulting (Appendix 1 in the planning statement). The Council Ecologist and SNH were both consulted on this application, and whilst the adjoining SSSI is noted, and care will have to be taken so as not to adversely impact upon it, it is apparent that suitable arrangements can be made in any detailed development proposals to deal with concerns.

Policy NE4 of the Consolidated Scottish Borders Local Plan on Trees, Woodlands and Hedgerows seeks to protect these from adverse impacts and loss as a result of insensitive development. It is clear that the site could be developed in a detailed manner accommodating the requirements of this policy, and the requirements of the adopted SPG on Trees and Development.

With regards impacts on watercourses, Policy NE5 of the CSBLP on Development Affecting the Water Environment sets out that the Council will aim to protect the quality of the water resource, and requires developers to consider how their proposals might generate adverse impacts and to building in measures to minimise such impacts, and to restore and enhance the water environment.

Scottish Natural Heritage (SNH) are the body concerned with protecting natural heritage sites, including the Whitmuirhall Site of Special Scientific Interest (SSSI). This SSSI at Whitmuir is notified for its basin fen and hydromorphological mire features. SNH have advised that this proposed development is located outwith the designated site and that the proposed development is not considered to cause direct impacts upon it. However, the key issues that this development poses for the SSSI relate to the effects of the foul and surface water treatment methods and the construction methods and boundary / SSSI management methods to ensure that the development does not detract from its special qualifying features and the value of its setting.

SNH advised on the previous application on this site, that the detailed information in the form of the Engineering Report which accompanied that application and in particular drawing no S106427/A003/FD01, illustrated a satisfactory foul drainage treatment method which will not have any adverse implications upon the SSSI.

In terms of these current proposals, section 5.1 onwards of the planning statement supporting the application sets out arrangements for water management (which are elaborated on in the accompanying engineers report by URS in Appendix B), Surface Water Treatment and Waste Water Management. The URS report includes a Foul Water Drainage Strategy.

It is noted that the application site is located in close proximity to a number of sensitive receptors. Objectors have suggested that the proposed development will result in the pollution of the SSSI. It is legitimate for the planning authority to assess the impact of the development upon the water environment, but clearly it must take account very closely of the advice of the key regulators

A more detailed assessment of the potential for pollution will be undertaken as part of SEPA's decision to grant a Controlled Activities Regulations (CAR) licence for the works. In terms of the planning assessment, it is important to note that SEPA have previously suggested that the scheme which has been detailed is in principle capable of authorisation.

Fundamentally, it remains the case that both SEPA and SNH are satisfied that suitable drainage treatment methods exists and the precise detail of these works can be conditioned for conclusion at the detailed application stage.

Species

The Council's Ecology Officer has suggested the further surveys are required (via planning condition) to assess the impact of the development upon bats. SNH also has a role as the licensing authority for European Protected Species (which bats are listed as being). It has been clarified that these further surveys can be subject to planning condition in this case.

This position is logical, as further survey work can accompany any subsequent application for matters specified in conditions covering the specific design proposals for the site.

In order to protect the qualities of local biodiversity as required by Local Plan Policy NE3, further conditions relating to the appropriate clearance of the site to avoid the breeding bird season, suitable removal of the tyres on the site to avoid impact on reptiles and the need for a Landscape and Habitat Management Plan are recommended.

Trees Woodlands and Hedgerows

Policy NE4 of the CSBLP seeks to protect existing trees, woodlands, and hedgerows from adverse impacts arising from inappropriate development. The indicative proposals show a layout which could comply with policy NE4.

Drainage Arrangements

The Planning Support Statement by EnvironPlan Consulting Ltd. of July 15 2014 proposes the construction of a Natural Ecological Wastewater Treatment Plant which will include a reed bed. The potential impacts of this proposal on Whitmuirhall Loch SSSI will be considered by SNH and the Ecology Officer indicates may then comment further.

Contaminated Land

The Council's position with regards contaminated land is set out in policy G2 of the CSBLP, and expanded upon in the Contaminated Land Inspection Strategy. In this instance, the Contaminated Land Officer is content that any historic contamination issues can be dealt with by means of an applicant informative. Subject to such an informative, the proposals are considered acceptable in terms of policy G2 of the Local Plan, and the Contaminated Land Inspection Strategy.

Access. Strategic Transportation considerations, and Impacts on Road Safety and the Road Network:

Strategic Transportation considerations

The Reporter noted in his decision that:

Criterion 8 of policy D1 requires tourism and leisure development to take account of accessibility considerations in accordance with local plan policy Inf11 Developments that Generate Travel Demand. Policy Inf11, which aims to promote sustainable travel patterns, states that the council is committed to guiding development to locations which are accessible to existing or proposed bus corridors and railway stations and which maximise opportunities for walking and cycling.

The Reporter took the view that the scheme provided shared accommodation for families and other groups. It was likely, therefore, that the occupancy levels and traffic generation per unit would be significantly higher than average for longer established self-catering tourist developments. He considered that 28 holiday lodges had the potential to be a significant travel generating development.

The Reporter took the view that:

Selkirk town centre with its shops, restaurants and other facilities is approximately 5 kilometres away and the site is inaccessible to public transport except by taxi. There is no public bus route along the A699. It is not disputed that using a car may be the only method of transport for most of the visitors. Given the inconvenient distance from Selkirk for walking and cycling I am in no doubt that the majority of holidaymakers based in the lodges would be dependent on the private car during their stay and that there would be few exceptions to this pattern of travel by persons choosing to cycle or walk.

This view in effect would render large sections of the Scottish Borders unsuitable for tourist development. There are many roads within the Scottish Borders not served immediately by bus services. It is in the very nature of a rural tourist development, that it is not likely to be on an immediate public transport link. This does not in isolation, in the departments view, amount to a significant, or determinative reason for refusal of these proposals.

The Reporter concluded that the proposed development failed to accord with the development plan. This is not a view shared by your officers.

Access to Site and Road Safety

Policies Inf2 (Access Routes) and Inf4 (Parking Provisions and Standards) are relevant to the application. The application is supported by drawing S106427/A003/RD01. This sets out a series of improvements to the public road to better accommodate additional traffic.

The Roads Planning Service was consulted on the application, and confirms that the development proposed is acceptable in principle. Any issues arising can be dealt with fully through planning conditions.

In terms of access, the Roads Planning Officer has previously advised that the principle of a new opening along the north eastern boundary of the site addresses previous access concerns while reducing conflict with residential traffic to the south.

The Planning Department remains of the view that whilst piercing through this wall is regrettable, as it is an intrinsic feature of the site; however, the indicative plans reuse the removed stone within a new entrance which will provide a pleasing feature as the

entrance into this development. A junction detail will be required for this access onto the public road including construction details, should Members be minded to approve this application this can be sought by condition. In addition, construction specifications for the acceptably positioned passing places and road widening will be required. This was the same position as was taken by this department as during the processing of the previous application on the site.

It would be expected that, pending further information on the size, scale, design etc of each unit, there may be a requirement for two car parking spaces. The site is capable of accommodating these parking requirements. This will require being tested against the success of their integration within the site and will be a matter for assessment at the detailed application stage.

Balancing of Considerations

The Reporter's decision set out that:

25. Scottish Planning Policy requires planning authorities to proactively support development that will contribute to sustainable economic growth and to high quality sustainable places (paragraph 33). It urges them to support economic development in all areas by taking account of the economic benefits of proposed development in their decisions and promoting development in sustainable locations, particularly in terms of accessibility (paragraph 45). SPP notes that the tourism industry is one of Scotland's largest business sectors and states that planning authorities should support high quality tourism related development (paragraph 47). The aim should be to enable development in all rural areas, which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality (paragraph 92). The aim is not to see small settlements lose their identity nor to suburbanise the Scottish countryside but to maintain and improve the viability of communities and to support rural businesses (paragraph 95).

26. The Land Use Strategy for Scotland indicates that it is a principle of sustainable development that regulation should continue to protect essential public interests whilst placing as light a burden on businesses as is consistent with achieving its purpose. Another principle is that landscape change should be managed positively and sympathetically, considering the implications of change at a scale appropriate to the landscape in question.

27. On balancing these strands of national planning policy and land use strategy, I am mindful of the need for a positive approach to tourism development and support for rural business. However, the weight that may be attached to the potential economic benefits of the scheme is much reduced by the harm to the scenic and environmental quality of the area and the adverse effect on the promotion of sustainable travel patterns.

The Reporter concerns on the impacts arising from this development in terms of promotion of sustainable travel patterns are set out in para 27. He placed emphasis on the need for development to accord with sustainable patterns of transport. Such emphasis is not however present within policy D1 of the CSBLP. The reporter quite correctly identifies that policy D1 is not the sole policy against which these proposals must be tested. It is however the pre-eminent policy of the consolidated plan in relation to Tourist Development proposals in the Countryside.

The reporter concluded that

- *the proposal would cause unacceptable harm to the amenity and character of the scenic landscape surrounding Whitmuirhall Loch, which is sensitive to change and contributes significantly to the attractiveness of the area for tourism and public recreation, and*
- *that there was in his view no combination of material considerations of sufficient weight to offset the failure to accord with the provisions of the development plan aimed at protecting the amenity and character of the area. This of itself was sufficient reason to refuse planning permission.*
- *Failure to accord with the policy promoting sustainable patterns of travel adds further weight against the granting of permission.*

The planning department remains of the view that the proposed development is in fundamental compliance with adopted planning policies. The modified proposal illustrates a scheme that is sensitive to its location in terms of limited visual, landscape and environmental impacts. Matters pertaining to the specifics of the development, and its supporting infrastructure can all be suitably dealt with through planning conditions. This limited impact, aligned with the potential to generate economic growth and investment in the Borders through the expansion of an existing tourist facility, means that there is a significant planning balance in the development's favour.

CONCLUSION:

It is considered that the proposal complies with Council policies on tourism development in the countryside. The proposal would result in the extension of an existing tourist facility that would positively contribute to the local economy and Borders tourist industry. Provided that a high quality of layout, design, materials, landscaping, drainage proposals and construction methods are agreed at the detailed application stage, it is considered that the proposal would not have a detrimental impact on the environment or visual amenities of the area or have an adverse direct or indirect effect on the adjacent site of national natural heritage importance. The proposal would not harm the residential amenities of occupiers of properties in the surrounding area and adequate access can be provided.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to the undernoted conditions and informatives.

1. No development shall commence until the details of the layout, siting, design, external appearance of the building(s), the means of access thereto, the landscaping of the site have been submitted to and approved in writing by the 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 three 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. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.

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.
4. 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.
5. The development hereby approved shall only be carried out in strict accordance with a programme of phasing which has first been submitted to and approved in writing by the Planning Authority before the development is commenced. Details shall include; the phased construction of the units, construction of the surface water and foul drainage measures, construction of site access roads, construction of internal roads, implementation of internal and external planting framework and construction of site features/facilities.

Reason: To ensure that the development proceeds in an acceptable manner.
6. The occupation of the chalets shall be restricted to genuine holidaymakers/tourists for individual periods not exceeding 6 months in total within any consecutive period of 12 months and not as permanent residential occupation. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.

Reason: Permanent residential units in this location would be contrary to the Council housing in the countryside policies.
7. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation outlining an Archaeological Evaluation. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to conduct a programme of evaluation prior to development. This will include the below ground excavation of evaluation trenches and the full recording of

archaeological features and finds. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered the nominated archaeologist(s) will contact the Archaeology Officer for further consultation. The developer will ensure that any significant data and finds undergo post-excavation analysis the results of which will be submitted to the Planning Authority

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

8. The first planning application for the approval of reserved matters submitted subsequent to this planning permission shall be accompanied by a both bat and badger surveys carried out by a suitably qualified person and submitted for the approval of the Planning Authority, in liaison with Scottish Natural Heritage, with any mitigation measures to be implemented in line with approved guidelines.

Reason: To safeguard the ecological interests of the site.

9. A Badger Protection Plan is required to protect any setts in the area and badger foraging and commuting across the site (including covering trenches and open pipes overnight/ providing a means of escape, safe storage of chemicals and oils, sensitive security lighting, timing of works, badger-proof fencing around settlement ponds). This Badger Protection Plan will need to be informed by a badger survey to be carried out by a suitably qualified person . It is also a requirement that prior to the commencement of works the site contractors are given a toolbox talk and information sheet by the developer's consultant ecologist to explain the requirements of the mitigation on site. Prior to the commencement of works the Badger Protection Plan including the details of the toolbox talk and the survey details will be submitted, in writing, to the Planning Authority for approval. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To safeguard the ecological interests of the site.

10. Prior to commencement of works a Biodiversity and Habitat Management Plan is to be prepared by a suitably qualified person. It will relate to the proposed development, and is required to be submitted, in writing (including plan/maps), for approval by the Planning Authority. It will enhance the local habitat network for biodiversity and could include measures for locally native woodland and scrub, hedgerows and grassland enhancement with wildflower areas. A planting scheme may include native trees and shrubs (FCS Native seed zone 204). A pond or SUDS feature, which is proposed, can also enhance the local habitat network for bats. Well-designed this can form part of the wider green network and can promote biodiversity. The developer may also consider the provision of swift bricks and bird nesting sites such as the Schwegler 1N Deep Nest Box which can be attached to mature trees or posts to provide nesting opportunities for a range of bird species. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To safeguard the ecological interests of the site.

11. No development shall commence until a Construction Method Statement and an Environmental Management Plan which includes opportunities to enhance the biodiversity of the site has been submitted for the approval of the Planning Authority in liaison with Scottish Natural Heritage.

Reason: To safeguard the ecological interests of the site.

12. Any site clearance to be undertaken outside of the breeding bird season (March–August). Within the breeding season, the express written permission of the Planning Authority must be obtained for any clearance works to take place. Checking surveys and appropriate mitigation for breeding birds will be required if works are proposed during the breeding bird season. The tyres currently located within the site can only be removed by a suitably qualified ecologist.
Reason: To safeguard the ecological interests of the site.
13. The first planning application for the approval of reserved matters submitted subsequent to the planning permission shall be accompanied by a Tree Survey. The survey shall include the impacts that the development will have on the sites existing woodland boundaries and along the route of the proposed new southern access to the site. The survey shall include detailed drawings showing which trees are to be retained on the site. The survey shall be submitted to, and be approved in writing by the Planning Authority, and none of the trees so shown shall be felled, thinned, lopped, topped, lifted or disturbed without the prior written consent of the Authority.
Reason: To enable the proper effective assimilation of the development into its wider surroundings, and to ensure that those existing tree(s) representing an important visual feature are retained and maintained.
14. No development shall take place except in strict accordance with a scheme of soft and hard landscaping works for the site which includes off site planting provision to the north west of the site as intimated on Figure 2 of the Landscape Appraisal Report which shall first have been submitted to and approved in writing by the Planning Authority, and shall include:
- i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
 - ii. location of new trees, shrubs, hedges and grassed areas
 - iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
 - iv. other artefacts and structures such as furniture, play equipment and sculptures
 - v. programme for completion and subsequent maintenance.
- Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.
15. The first planning application for the approval of reserved matters submitted subsequent to this planning permission shall be accompanied by:
- i. a detailed junction layout including its detailed of construction for the new access to the north east of the site on to the public road, and
 - ii. a written review of the internal traffic management, to be submitted for approval by the Planning Authority.
- Reason: To provide safe vehicular access.
16. Prior to commencement of development, a scheme of details setting out the location and details of new passing places and localised road widening shall be submitted to and approved in writing by the Planning Authority. Thereafter the details set out in the approved scheme shall be constructed in accordance with the Council's Standard Drawing DC-1 and implemented prior to the bringing in to use of the first unit.
Reason: To provide safe vehicular access.
17. Details of the external lighting for the chalet development to be submitted to and approved in writing by the Planning Authority before the development is

commenced. The development then to be implemented in accordance with the approved scheme.

Reason: To prevent light pollution occurring from the development and safeguard ecological interests.

18. No walls, fences, hardstandings or ancillary buildings to be erected within the site without the prior approval of the Planning Authority.

Reason: To safeguard the visual amenity of the area.

19. Tyres on site to be carefully removed to avoid impacts on amphibians and reptiles. Works to be guided by a suitably qualified person.

Reason: To safeguard the ecological interests of the site.

INFORMATIVES

1. With regards condition 17, a mitigation plan is required in regard to lighting design which is sensitive to the needs of bats. The type of lighting and timing of lighting which minimises impacts on biodiversity, e.g. Bats and badgers, should be carefully considered for both the construction phase and the final development. The mitigation plan should include a 'Lighting design strategy for light sensitive biodiversity'. This may include darker wildlife corridors. If any mature trees are to be felled or disturbed they will need to be surveyed for bats to prevent impacts on roosting or foraging bats. If surveys are to be carried out any surveys likely to involve disturbance to bats or their roosts can only be carried out by a licensed bat worker. Activity surveys or roost surveys in trees should be conducted between May and September (optimally May - July). Preliminary roost assessments can be undertaken at any time of year. If evidence of bats or their roosts is found in surveys, the developer may be required to submit a mitigation plan for bats as part of their submission to the Planning Authority.
2. The applicant is advised to contact SEPA and SNH in advance of drawing up detailed development plans, to seek further guidance on steps to protect the water body which is in the vicinity of the development area. The developer should adopt SEPA Pollution Prevention Guidelines PPG1, PPG5 (general guidance and works affecting watercourses), PPG 3, 4, 7, 13 (site drainage), PPG 2, 8 (oil storage) and PPG 6 (construction and demolition) as appropriate.
3. The applicant is advised of potential land contamination that may have occurred through unrecorded infilling of the quarry. Should unexpected ground conditions e.g. made ground extending to depth, discolouration or malodorous substances be encountered in excavations, or evidence of potential contamination e.g. underground structures, remains of buried wastes or equipment be encountered during site works it is requested that Environmental Health are immediately consulted.

DRAWING NUMBERS

Figure 1.2 (March 2015) Application Boundary

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

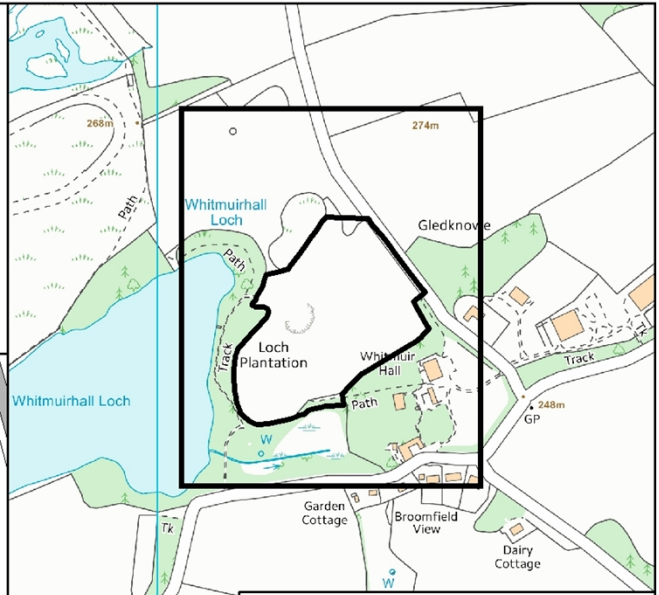
The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

Author(s)

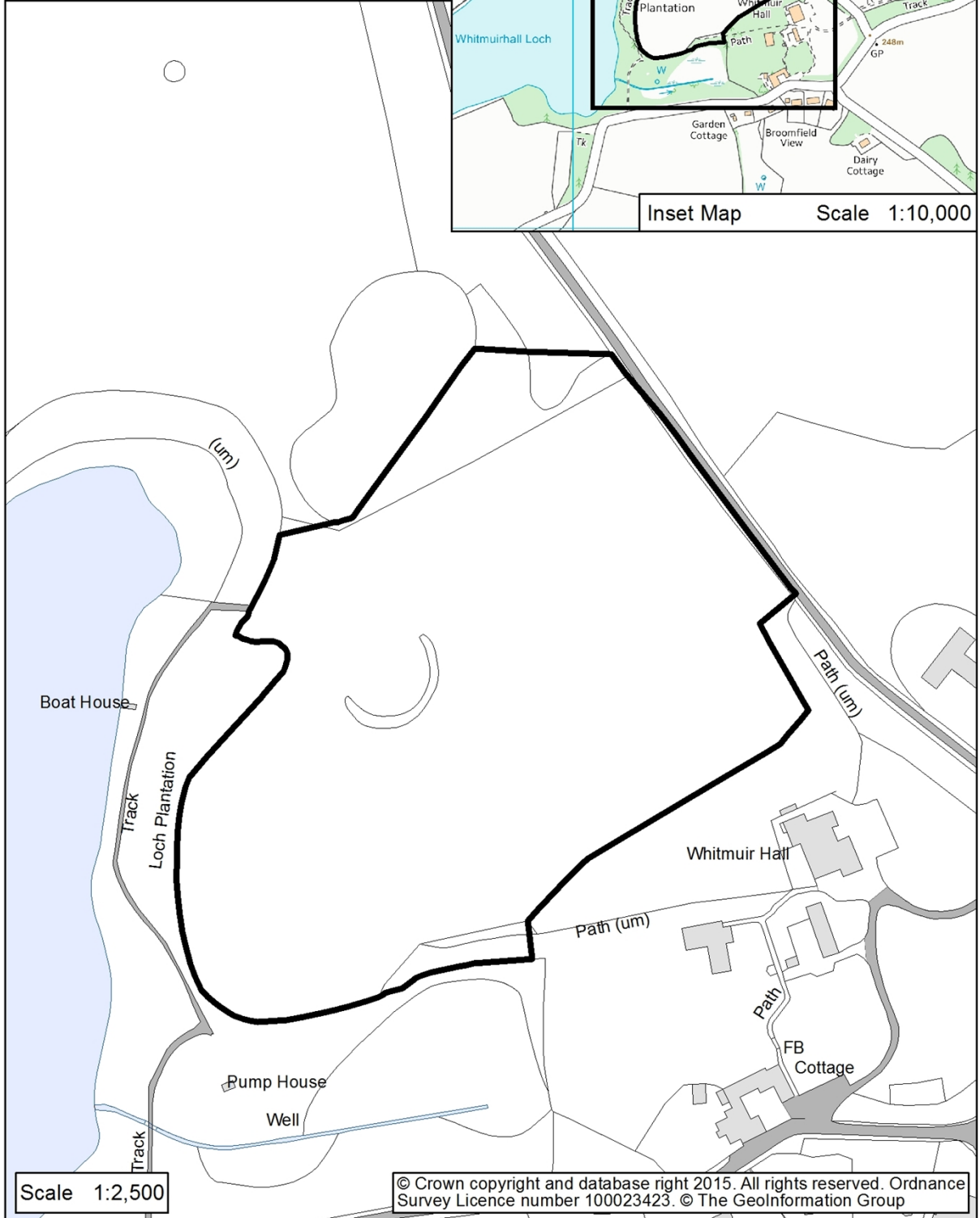
Name	Designation
Andrew Evans	Planning Officer (Development Management)



14/00848/PPP
Land North West Of Whitmuir Hall
Selkirk
Scottish Borders



Inset Map Scale 1:10,000



Scale 1:2,500

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