

Archived: 25 January 2021 13:12:38

From: [REDACTED]

Sent: Fri, 22 Jan 2021 17:51:24 +0000ARC

To:

Subject: Objection to the Proposed Scottish Borders Local Development Plan 2 - Proposed Plan 2020 - Proposed Local Biodiversity Site Ref. 118 - Land at Pickie Moss

Sensitivity: Normal

Attachments:

[REDACTED]

CAUTION: External Email

Good evening,

I write in relation to the current consultation concerning the Proposed Scottish Borders Local Development Plan 2 – Proposed Plan 2020.

Please find attached a formal objection on behalf of our client Ledgerwood Farming Partnership. The representation concerns the proposed designation of land under their ownership at [REDACTED] as a Local Biodiversity Site.

A detailed site assessment and review conducted by LUC is also attached for reference to be read in conjunction with the representation.

If any further information is required please let me know.

Please acknowledge safe receipt of this submission.

Kind regards,

Jay Skinner

[REDACTED]
For Galbraith | [59 George Street, Edinburgh EH2 2JG](#)

DD: [REDACTED]
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Forward Planning
Council Headquarters
Newtown St Boswells
Scottish Borders
TD6 0SA

Our Ref: 9541-3

22nd January 2021

By email (localplan@scotborders.gov.uk) only

Dear Sirs

OBJECTION TO THE SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2 – PROPOSED PLAN 2020 PROPOSED LOCAL BIODIVERSITY SITE REF. 118 – LAND AT PICKIE MOSS

I write on behalf of the farming partnership, [REDACTED], in relation to land under their ownership at Pickie Moss.

As detailed in Local Development Plan (LDP) Technical Note 4, it is proposed that 15.4 hectares of land at this location be designated as a Local Biodiversity Site in the Local Development Plan 2. Figure 1 below illustrates the extent of the proposed designation.

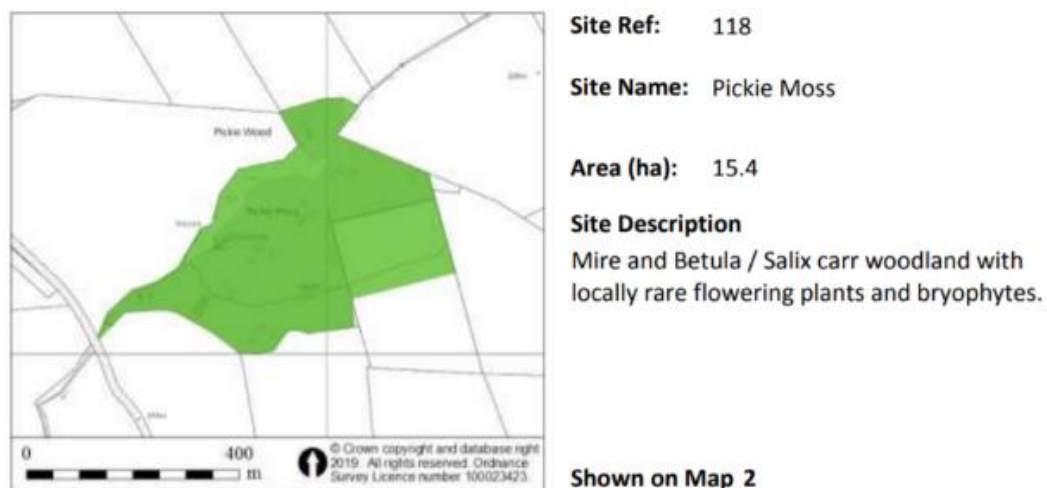


Figure 1: Extract from LDP Technical Note 4

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It is noted that the proposed designation is linked to LDP Policy EP3 – Local Biodiversity and Geodiversity. This policy advises that *“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 and ensure net gain 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.”*

In response to notification of the proposed designation at Pickie Moss, my client has sought independent ecological advice from LUC. As detailed in the appended assessment, ecologists at LUC have reviewed both the methodology adopted by the Council (in conjunction with The Wildlife Information Centre or TWIC) for the purposes of site selection, and the extent of the designation proposed at Pickie Moss in terms of its potential adverse impacts on future land use operations. In this latter regard, my client is concerned that confirmation of the site’s designation as a Local Biodiversity Site coupled with the extent of land affected (over 15 hectares) will negatively impact on agricultural, game shooting and forestry operations.

Supported by LUC’s independent review (as summarised below), R&J Scott Aiton wish to formally object to the proposed designation at Pickie Moss as outlined in the LDP Proposed Plan and accompanying Technical Note 4.

Procedural Points

As part of the scope of work undertaken by LUC, a review of the methodology that has informed the site selection process used to identify the proposed Local Biodiversity Sites (LBS) has been undertaken.

In LUC’s professional opinion, the site selection criteria used are robust and align with good practice generally adopted across Scotland. However, LUC has raised a number of issues and concerns in relation to the associated methodology. Specifically, the extent of field work undertaken as part of the designation process. In this respect, other than a small number of ‘TWIC excursions’, the proposed allocations have not been informed by any recent field work or site surveys.

In the absence of any field work and surveys, the Council’s methodology states that an assessment of a particular site’s suitability to be designated as a LBS was made by The Wildlife Information Centre (TWIC), provided that sufficient current data was available. For reference, TWIC deem plant lists collected within

the past 15 years to constitute 'current' data.

The identification of the proposed LBS sites has therefore been informed by a 'desk top' review utilising historic data and without the benefit of a recent site visit, our client advises that there was no record of any site visit having been undertaken. Both factors raise serious concerns over the suitability, appropriateness and extent of all of the LBS designations proposed in the LDP Proposed Plan given the potential implications of LDP Policy EP3 on land use activities.

Site Specific Considerations – Pickie Moss

Following the methodology supplied by the Council, boundaries for LBS are normally informed by areas of semi-natural or natural habitats. Areas of land not comprising natural or semi-natural boundaries will normally be excluded.

The proposed LBS at Pickie Moss is described as Mire and Betula / Salix (birch / willow) carr woodland. A large portion of the site however is commercial coniferous plantation forestry. This does not contain natural or semi-natural habitats, habitats of importance or notable habitats and therefore should not be included within the proposed designation boundary. Timber sourced from the site is used in part to run a biomass boiler. This arrangement allows both the houses and grain drying at Legerwood to be self-sufficient. This process relies on sustainable harvesting of the commercial forestry.

Conifer plantations may be included in LBS designations if they are too small in area to exclude and a clear rationale for including them has been provided. The area of conifer in this proposed LBS is almost half the site. Figure 3 and 4 show the edge and extent of the commercial woodland present within the site, and Figure 5 the bare commercial woodland floor. The area of conifer could be excluded relatively simply as there is a straight border separating the important natural habitats and man planted conifer plantation. No rationale for the inclusion of the plantation woodland has been given.

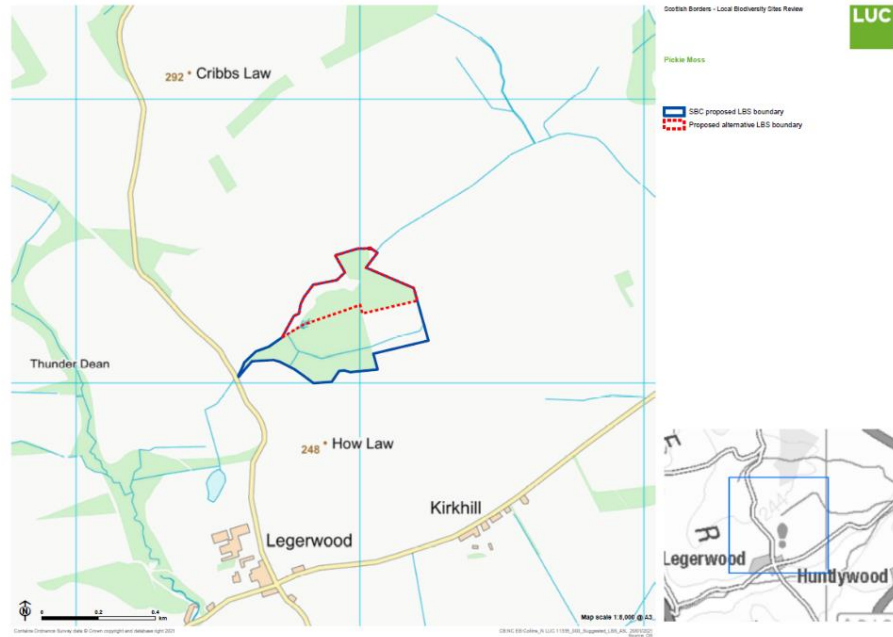


Figure 2: Proposed Reduced Designation Boundary



Figure 3 - Edge of commercial woodland



Figure 4 - Edge of commercial woodland



Figure 5 - Bare commercial woodland floor

Given the above comments and recommendations from LUC, the landowner objects to the designation boundary as currently proposed. Figure 2 above illustrates the suggested reduced designation boundary with the commercial forestry excluded.

Conclusions

In summary, it is considered that the proposed designation of all of the land (15.4 hectares) at Pickie Moss as a Local Biodiversity Site in the Local Development Plan 2 is not appropriate. In this respect, the landowner proposes that the extent of the designation be significantly reduced to exclude the area of conifer plantation as shown in Figure 2 above.

The independent review by LUC also identifies a number of fundamental issues regarding the approach adopted by the Council and TWIC in the designation of the proposed Local Biodiversity Sites (including poor communication with affected landowners), the use of historic data, and the lack of any recent on-site survey work.

Please acknowledge safe receipt of this letter and enclosure.

If any further information is required, please do not hesitate to get in touch.

Yours faithfully,

[Redacted signature]

**Jay Skinner MRTPI
for Galbraith**

Email: [Redacted email address]

Encls: LUC Site Review and Selection Process – Pickie Moss

Cc: [Redacted recipient]

Our reference

Scottish Borders - Local
Biodiversity Sites Review

Date

15 January 2021

Address

37 Otago Street
Glasgow G12 8JJ
Tel: 0141 334 9595

Scottish Borders Proposed Local Development Plan (2020) - Review of Local Biodiversity Site Selection Process

Introduction

In 2020, Scottish Borders Council published their Proposed Local Development Plan, setting out their vision for proposed land use within the Scottish Borders during the period 2021 – 2031.

Policy EP3 of the Proposed Local Development Plan, ‘*Local Biodiversity and Geodiversity*’ seeks to safeguard and enhance local biodiversity through the designation of Local Biodiversity Sites (LBS). While LBS do not confer any statutory protection, Policy EP3 states that these sites are ‘critical to the conservation of species’ and/or that they ‘support priority species and habitats that do not have statutory protection but are of national importance or occur in regionally important populations within the Scottish Borders’.

This report has been prepared to provide information to landowners (represented by Galbraith) who have received notice of Scottish Borders Council’s intention to designate LBS on parts of their land. The report includes a high-level review of the Scottish Borders Council’s methodology for the selection of LBS, based on the information provided in Technical Note 4 of the Proposed Local Development Plan¹.

Beyond this review of Scottish Borders Council’s selection method, LUC has also reviewed site-specific details and recommendations for a number of proposed sites. A pro-forma for each reviewed site is appended to this report.

¹ Scottish Borders Council. Proposed Local Development Plan. Technical Note 4 – Local Biodiversity Sites (2020)

Review of Selection Process

The approach by which Scottish Borders Council has identified proposed LBS is set out in a specific Technical Note¹ which, in turn, is supported by a series of additional methodological documents².

The selection criteria set out in the Technical Note follows well-established NatureScot guidance³ on identifying LBS and are robust and transparent. Usefully, Scottish Borders Council has made minor, locally relevant adaptations to selection criteria, including the inclusion of metrics for social and community value. A scoring system is used throughout the selection criteria which helps maintain consistency between sites and ensure each factor makes a contribution to the overall importance of the site. The scoring systems allow for consistency between surveyors, reducing the subjective human input.

The wider process by which LBS are authorised and approved includes a robust verification process involving a Steering Group, which largely comprises representatives of nature conservation organisations.

LUC considers that the selection criteria process adopted is scientifically robust and aligns with good practice generally adopted across Scotland. However, we highlight that other than a small number of 'TWIC excursions', the proposed allocations have not been informed by any field work or site surveys. Instead, the methodology states that an assessment on a site's suitability to be designated as a LBS will be made by The Wildlife Information Centre (TWIC), provided sufficient current data is available. 'Current' data for new sites is deemed as plant lists collected within the last 15 years.

Habitat and species distribution and abundance are highly dynamic and change constantly. We consider data that is 15 years old should not be treated as 'current'. In LUCs considerable experience with environmental data collection and interpretation, we consider recent site visits are essential for gaining 'current' baseline data and, where this is not possible, data no older than five years is recommended. We highlight that many planning authorities in Scotland take a similar position and routinely appoint professional ecologists to undertake the necessary habitat and vegetation surveys to inform LNCS allocations, as part of wider evidence collation for Local Development Plans.

Landowners and land managers are to be made aware of any site visits carried out on potential LBS. No landowners represented by Galbraith were approached regarding site visits therefore it is assumed none were conducted.

The condition of important habitats on sites is taken from The Berwickshire BSBI Botanical Site Register⁴ where possible. This is a detailed and scientific collection of habitat condition and rare species and was produced in 2011, so falls within the 15 year limit for 'current' data. However, many of the surveys informing this were conducted a number of years prior to its publication and are therefore not within the 15 year timescale. Using habitat quality data inferred from results of this age (often over 20 years old) is not appropriate for this selection methodology.

We understand that a number of your clients have raised significant concerns about the extent and coverage of proposed LBS and we consider much of this confusion may be attributable to the use of historical data and the lack of contemporary field surveys (or indeed land owner consultation), while LBS proposals were developed.

However, notwithstanding this particular constraint to the method, we consider that many of the issues and uncertainties raised by your clients relate to a lack of transparency and detail in the communication of the selection process.

² TWIC (2017). Local Biodiversity Sites System Methodology (v.4).

³ Guidance on Establishing and Managing Local Nature Conservation Site Systems in Scotland <http://www.snh.org.uk/publications/on-line/heritagemanagement/LNCS/default.asp>

⁴ Berwickshire BSBI Botanical Site Register, M E Braithwaite, 2011

As mentioned above, the methodology utilises scoring systems for the factors which must be considered, according to NatureScot³. No details of the completed assessment for each site has been included in the documents made available by Scottish Borders Council¹ as part of the consultation process. We understand that landowners have received letters from TWIC, advising them of the proposed designation, but again, other than general statements about broad biodiversity and social value, there are no further details. Therefore, it is not possible to determine whether the methodology stated was, in reality, followed. The small and often ambiguous paragraph with the site summary is very generic and does not provide many details. The summary often contains only the name of the site and often does not overlap with the 'notable habitats' listed. This provides confusion to the reader as to what the site is being designated for (i.e. what the important habitats are).

According to methodology documents^{1,2} each site designated by TWIC as a potential LBS should be accompanied by:

- A map of the proposed boundary
- A record for the reasons for selection
- A note on outcomes sought for biodiversity

As far as LUC is aware, with the exception of proposed boundaries, this information has not been made available, either publicly or to affected landowners.

We note that many of your clients have raised concern about the boundary extends of proposed LBS and have questioned why they have included productive and operational land (including grazing pasture and commercial forestry plantations). Again, in the methodology documents², the method states that;

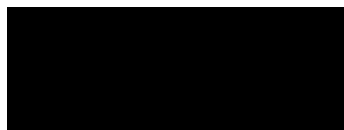
“where very small areas of non-biodiverse habitat (such as amenity grasslands, cultivated land, recently planted woods, conifer plantations) have to be included within a site because they are too small or too integrated into the site to be excluded, a clear rationale for including these areas must be given at the time of assessment”.

We can find no evidence of these justifications having been made as part of the selection process, again, presumably, because no supporting documentation has been provided as part of the consultation process.

Conclusion

In conclusion, the process by which Scottish Borders Council's purports to select Local Biodiversity Sites is scientifically robust, however we highlight that the historic nature of the data often used, and the absence of any field-survey or ground-truthing significantly undermines the value of the process. Moreover, as Scottish Borders Council does not appear to have published their selection assessments, as noted above, the process has not been transparent or accountable.

This is further compounded by a lack of engagement with landowners, which appears to have resulted in poorly defined LBS boundaries.



Steve Jackson-Matthews
 Board Director for Ecology
 MSci (Hons) CEnv MCIEEM MEECW

Pickie Moss

Designation Summary	Mire and Betula / Salix carr woodland with locally rare flowering plants and bryophytes	
Notified Notable Habitats	Semi-natural broadleaved woodland	
Notified Biodiversity Features	Berwickshire sites with good quality habitat, as indicated by 'axiophyte' flowering plants (habitats rated as 'good').	
Review Question	Answer	Further Information
Has selection criteria been appropriately applied?	Unclear	No detailed working has been made available to landowners to ascertain whether the methodology has been followed when designating this site as a potential LBS. The application of the selection criteria has not been transparent.
Have all documents associated with designation been made available to landowner?	No	The detailed working to determine whether each site meets the requirements to be designated as a LBS was not provided to landowners. These documents were not required to be released following the approved methodology, however, had these been made available this would have helped with landowner understanding of the designation process. Lack of transparency in the details of how each site was selected has caused confusion for many landowners. A site statement was provided to each landowner for each potential LBS. A boundary map of the proposed area has been provided and boundary choice reasoning can be inferred but is not explicitly stated.
Is the site statement compliant with the method*	No	The site statement does not include the following information, as required by the adopted methodology: <ul style="list-style-type: none"> – The reasons for selection as a LBS. – Assessment notes including boundary decisions detailing rationale for inclusion of non-notable habitats within boundary. – Outcomes for biodiversity. The method also requires that where small areas of non-biodiverse habitats are included in a designation, a clear rationale for this is provided at the assessment stage. No rationale has been provided in the site statement. The lack of information has led to landowners being unclear as to purpose of designation, with no information provided to indicate the importance of the site for biodiversity.
Has a site visit informed the selection process?	No	Landowners and land managers were at no point informed of surveys, as is specified in the assessment process.
Has contemporary data informed the selection process? **		A Phase 1 Habitat map has been used to identify notable habitats however it is not clear when this habitat data was collected. We cannot determine whether the habitat data was contemporary. Landowners have informed LUC that the habitats on site do not reflect the Phase 1 Habitat maps, it is assumed from this that the data is not contemporary.

Designation Summary	Mire and Betula / Salix carr woodland with locally rare flowering plants and bryophytes	
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Review Question	Answer	Further Information
		<p>Notable plant species data was last collected in 2012 (and is therefore not contemporary) and includes only 15 relatively common species.</p> <p>Moss data for the site was last collected in 1989 and is therefore not contemporary.</p> <p>Detailed notable insect data was collected in 2017 and 2018 and is therefore contemporary.</p>
Are notified notable habitats appropriate and based on data for the site?	Yes	<p>Semi-natural broadleaved woodland habitat is a Scottish Biodiversity List habitat and its inclusion is appropriate.</p> <p>No species list has been supplied with the Phase 1 mapping, it is not clear if the deciduous woodland is in fact Betula / Salix woodland, for which the site is notified.</p>
Are notable species appropriate and based on data for the site?	No	<p>All of the mosses listed for this site were recorded in 1989 therefore outwith the 15 year time scales specified in the methodology². Their inclusion is therefore not appropriate.</p> <p>Many of the notable species supplied by TWIC are not included in the notified notable species list. The lack of inclusion has not been explained.</p>
Are notified Biodiversity features appropriate and based on data for the site?	No	<p>The mire and carr woodland habitats on the site is classified as 'good' using the Berwickshire BSBI Botanical Site Register¹. This classification is based on data collected in 1997 and therefore falls outwith the 15 year timescale for valid data as stated in the council selection criteria.</p> <p>'Axiophyte' means a plant species which is important as it is an indicator of habitat that is considered important for conservation. It is not considered a sufficiently detailed notification for a LBS designation.</p>
Are the boundaries of the LBS appropriate?	No	<p>Following the methodology supplied by the council², boundaries for LBS are normally set by areas of semi-natural or natural habitats. Areas of land not-natural or semi-natural will normally be excluded. The LBS is described as Mire and Betula / Salix (birch / willow) carr woodland. A large portion of the site is commercial coniferous plantation forestry. This does not contain natural or semi-natural habitats, habitats of importance or notable habitats and therefore should not be included.</p> <p>Conifer plantations may be included in LBS designations if they are too small an area to exclude and a clear rationale for including these areas must be provided. The area of conifer in this LBS is almost half the site and could be excluded relatively simply as there is a straight border separating the important habitats and conifer. No rationale for the inclusion of the plantation woodland was given.</p> <p>A suggested boundary change for Pickie Moss pLBS has been included which removes the commercial forestry area from the site.</p>
Recommendations	Yes	The proposed LBS requires a site visit and contemporary data to ensure baseline data on which the designation is decided is robust.

¹ Berwickshire BSBI Botanical Site Register, M E Braithwaite, 2011

Designation Summary	Mire and Betula / Salix carr woodland with locally rare flowering plants and bryophytes	
Notified Notable Habitats	Semi-natural broadleaved woodland	
Notified Biodiversity Features	Berwickshire sites with good quality habitat, as indicated by 'axiophyte' flowering plants (habitats rated as 'good').	
Review Question	Answer	Further Information
		The site statement should be completed with all information which is required to be shared, as detailed in Technical Note 4*.
Land use considerations	Yes	<p>Notified notable habitat is not currently managed by the landowner and remains in a semi-natural state.</p> <p>A large portion of the potential LBS is used for commercial conifer forestry. If the site boundary is not to be updated, then the site statement should recognise the areas under current commercial forestry use.</p> <p>There is no onus on the landowner to alter land use in any way should the site be designated as an LBS. No change to access permissions is inferred by the designation of a site as a LBS.</p>
Any further points	Yes	<p>The lack of transparency of selection process has led to considerable confusion.</p> <p>Landowners have not been consulted during the selection process and, as a result, do not fully understand the outcomes in the event that their land becomes designated.</p> <p>The lack of data supplied to landowners has prevented landowners from fully participating in the decision-making process. Landowners have only been able to interrogate the data, having purchased it from TWIC at personal expense.</p> <p>The approach to LBS designation at Scottish Borders Council has not been transparent or collaborative and does not represent good practice in nature conservation efforts.</p>

* According to methodology as published in Chapter 6.9 of Technical Note 4² and NatureScot guidance in Chapter 3.

**'Contemporary' is classed as data collected within the last five years. Statements made are based on data search records provided by TWIC in January 2021.

² Scottish Borders Council. Proposed Local Development Plan. Technical Note 4 – Local Biodiversity Sites (2020)

Pickie Moss

- SBC proposed LBS boundary
- Proposed alternative LBS boundary

