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From:

Sent: Mon, 25 Jan 2021 17:35:21

To:

Subject: Representations on Scottish Borders Council Proposed Local Development Plan by Scottish Government Planning & Architecture Division

Sensitivity: Normal

Attachments:

[Redacted]

CAUTION: External Email

Hi,

Please find attached representations on Scottish Borders Council Proposed Local Development Plan.

Please do not hesitate to get in contact if you require further information or clarification on any matters.

[Redacted] | Planning & Architecture | Scottish Government | Victoria Quay, Edinburgh EH6 6QQ | [Redacted]



I normally work in Victoria Quay on Mondays, Tuesdays, Wednesdays and Thursdays between 9:45am and 2:15pm and work remotely outwith these hours on these days. I work at home on Friday mornings. I do not work Friday afternoons.

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REPRESENTATIONS ON SCOTTISH BORDERS PROPOSED LOCAL DEVELOPMENT PLAN BY SCOTTISH GOVERNMENT PLANNING & ARCHITECTURE DIVISION

SUBMITTED 25/1/2021

Policy Map Volume 1 – pages 182 – 187

- **Formal Representation (Object)**

Proposed change –

At this stage it is premature to include a preferred or single route/option for a potential extension of the rail line. The extension of Borders Rail from Tweedbank to Carlisle is one of a number of rail options being considered within the second Strategic Transport Projects Review. Should the review recommend the line be extended, further detailed work would be required to determine the preferred route. This should be reflected in the Plan.

Reason –

Policy IS4: 'Transport Development and Infrastructure' details the Council supports schemes to provide new and improved transport infrastructure including an extension to the Borders railway from Tweedbank through Hawick to Carlisle. Planned routes and locations to be safeguarded are shown on the Proposals Map. The Policy Map on pages 182 - 187 detail railway safeguarding and show a route from Tweedbank, via Hawick then heading southwards.

Transport Scotland is progressing with the second Strategic Transport Projects Review, which will inform transport investment for the next 20 years. The work is progressing with preliminary options to be taken forward for appraisal at the Pre-Appraisal stage commencing early 2020. This work includes options to enhance and extend rail services in the Borders, however it would be premature to comment on any specific option at this time.

It is noted that there are a number of possible options for a potential extension of the rail line between Tweedbank and Carlisle and at this point it is premature and misleading to include a preferred or single route/option.

Policy IS4: 'Transport Development and Infrastructure'

- **Formal Representation (Object)**

Proposed change –

For Policy IS4: ‘Transport Development and Infrastructure’ on page 156, further clarity and detail, including the status, is required for:

- the schemes included in points a – e,
- the improvements cited for the trunk roads of the A68, A7, A701 and A702

Reason –

Policy IS4: ‘Transport Development and Infrastructure’ details the Council supports schemes to provide new and improved transport infrastructure including improvements to key road routes which includes the trunk road of the A68, A7, A701 and A702. It also details the dualling of the A1 trunk road.

It is detailed within the Plan on page 156 paragraph 1.4, that Transport Scotland has no plans to dual the A1 or deliver a Selkirk bypass. However, it is considered that the plan could provide further clarity with Policy IS4 detailing the commitment of schemes in the list, and specifically describing which projects are aspirational. Furthermore, there is no detail provided on any of the improvements to the trunk roads of the A68, A7, A701 or A702.

SPP details in paragraph 30; *“Development plans should set out a spatial strategy which is both sustainable and deliverable, providing confidence to stakeholders that the outcomes can be achieved.”* Additionally, *paragraph 275 states; “Development plans should identify any required new transport infrastructure or public transport services, including cycle and pedestrian routes, trunk road and rail infrastructure. The deliverability of this infrastructure, and by whom it will be delivered, should be key considerations in identifying the preferred and alternative land use strategies.”*

It is considered that by declaring improvements to key routes without any detail is not meaningful or helpful to the reader. There are no schemes to provide details on what will be delivered when and by whom. It is not clear if the improvements are aspirational or required for another purpose.

Hawick

- **Formal Representation (Object)**

Proposed change –

A proportionate appraisal is required to be undertaken for the development sites of BHAWI004, BHAWI001, AHAWI027, BHAWI002, MHAWI001, AHAWI006, AHAWI013. The appraisal should determine the potential cumulative impact of the development sites on the A7(T) trunk road, including on the Galalaw Retail Park/A7(T) roundabout and identify any required mitigation. Any potential mitigation measures will require to be identified in the Plan and Action Programme with

information provided on their nature and scale, and responsibility for their funding and delivery in accordance with Scottish Planning Policy.

Reason –

Scottish Planning Policy states in paragraph 274, “In preparing development plans, planning authorities are expected to appraise the impact of the spatial strategy and its reasonable alternatives on the transport network, in line with Transport Scotland’s DPMTAG guidance. This should include consideration of previously allocated sites, transport opportunities and constraints, current capacity and committed improvements to the transport network.”

Additionally, paragraph 275 states “Development plans should identify any required new transport infrastructure or public transport services, including cycle and pedestrian routes, trunk road and rail infrastructure. The deliverability of this infrastructure, and by whom it will be delivered, should be key considerations in identifying the preferred and alternative land use strategies. Plans and associated documents, such as supplementary guidance and the action programme, should indicate how new infrastructure or services are to be delivered and phased, and how and by whom any developer contributions will be made.”

The Proposed Plan includes a significant amount of development allocations to the north of Hawick adjacent the A7 trunk road,. However, no information has been provided regarding the potential cumulative impact of these allocations on the A7(T), specifically the Galalaw Retail Park/A7(T) roundabout. Transport Scotland requires to understand the potential cumulative impact of the development sites and what, if any, mitigation measures are necessary to deliver the strategy. The sites which have the potential to cumulatively impact upon the A7(T) include:

- . BHAWI004
- . BHAWI001
- . AHAWI027
- . BHAWAI002
- . MHAWI001
- . AHAWI006
- . AHAWI013

Jedburgh

- **Formal Representation (Object)**

Proposed change –

A proportionate appraisal is required to be undertaken for the development sites of BJEDB001, AJEDB005, RJ14B, RJ7B, RJ2B, AJEDB018 and RJ30B. The appraisal should determine the potential cumulative impact of the development sites on the

A68(T)/Oxnam Road junction and identify any required mitigation. Any potential mitigation measures will require to be identified in the plan and Action Programme with information provided on their funding and delivery in accordance with Scottish Planning Policy.

Reason –

Scottish Planning Policy states in paragraph 274, *“In preparing development plans, planning authorities are expected to appraise the impact of the spatial strategy and its reasonable alternatives on the transport network, in line with Transport Scotland's DPMTAG guidance. This should include consideration of previously allocated sites, transport opportunities and constraints, current capacity and committed improvements to the transport network.”*

Additionally, paragraph 275 states *“Development plans should identify any required new transport infrastructure or public transport services, including cycle and pedestrian routes, trunk road and rail infrastructure. The deliverability of this infrastructure, and by whom it will be delivered, should be key considerations in identifying the preferred and alternative land use strategies. Plans and associated documents, such as supplementary guidance and the action programme, should indicate how new infrastructure or services are to be delivered and phased, and how and by whom any developer contributions will be made.”*

The Proposed Plan includes a significant amount of development to the east of the A68(T) trunk road. Given the location of these development proposals with regard to the available road network and how access will be afforded to the town centre, and therefore the A68 trunk road, the most likely option is via Oxnam Road. The plan does not provide any information on the potential cumulative impact on the A68(T), specifically at the A68(T)/Oxnam Road junction. Transport Scotland requires to understand the potential cumulative impact of the development sites and if any mitigation measures are required at the junction to support delivery of the strategy. The sites which have the potential to cumulatively impact upon the A68(T) include:

- . BJEDB001 – 7.6ha
- . AJEDB005 – 20 units
- . RJ14B – 67 units
- . RJ7B – 40 units
- . RJ2B – 43 units
- . AJEDB018 – 20 units
- . RJ30B – 80 units

Tweedbank site MTWEE003

- **Formal Representation (Object)**

Proposed change –

The 'Site Requirements' for allocated site MTWEE003 on page 529, should include any required transport interventions that have been identified through a cumulative transport appraisal including sites from within Galashiels that do not have planning permission, to fully understand the potential cumulative impact of the developments. Information should also be included within the Site Requirements on how any identified transport improvements will be funded and delivered.

Reason –

Scottish Planning Policy states in paragraph 274, *“In preparing development plans, planning authorities are expected to appraise the impact of the spatial strategy and its reasonable alternatives on the transport network, in line with Transport Scotland's DPMTAG guidance. This should include consideration of previously allocated sites, transport opportunities and constraints, current capacity and committed improvements to the transport network.”*

Additionally, paragraph 275 states *“Development plans should identify any required new transport infrastructure or public transport services, including cycle and pedestrian routes, trunk road and rail infrastructure. The deliverability of this infrastructure, and by whom it will be delivered, should be key considerations in identifying the preferred and alternative land use strategies. Plans and associated documents, such as supplementary guidance and the action programme, should indicate how new infrastructure or services are to be delivered and phased, and how and by whom any developer contributions will be made.”*

Site MTWEE002 within the Proposed Plan is allocated for 300 units and will also incorporate mixed uses including employment. The 'Site Requirements' on page 529 details that a comprehensive Transport Appraisal will be required stating *“the appraisal, proportionate to the nature and scale of the allocations, and the trunk road network in the area, would be required to determine any potential cumulative impact of the sites, and would identify appropriate and deliverable mitigation measures on the network including on the A6091, A68 and potentially the A7.”*

It is considered the mitigation should be identified within the Proposed Plan and the transport appraisal should take cognisance of the allocations within Galashiels which do not have planning permission, to identify the potential cumulative impact of the developments on the transport network. This is in accordance with SPP which requires plans to appraise the impact of their spatial strategies on the transport network and identify any required new infrastructure. It is not considered appropriate to include a large development site without fully understanding the potential transport implications, how the site can be accessed sustainably and how the site will accord with the National Transport Strategy travel hierarchy.

Section relating to specialist housing provision - Page 100

- **Formal Representation (Object)**

Proposed change -

The plan should state what the findings of the HNDA were in relation to Gypsy/Travellers and Travelling Showpeople and state what the role of the LDP will be in meeting this need if any was identified.

Reason

To meet the requirement of paragraph 133 of SPP that states local development plans should identify suitable sites for these communities if there is a need.

Older Peoples and Specialist Housing – Page 101

- **Formal Representation (Object)**

Proposed change -

Policy HD6 Housing for Particular Needs would benefit from clarifying in the plan what need, if any, was identified as part of the HNDA and what the LDP intends to do to support the delivery of specialist housing, if a need was identified.

Reason – To meet the requirements of paragraph 132 of SPP which states ‘*as part of the HNDA, local authorities are required to consider the need for specialist provision that covers accessible and adapted housing, wheelchair housing and supported accommodation, including care homes and sheltered housing. This supports independent living for elderly people and those with a disability. Where a need is identified, planning authorities should prepare policies to support the delivery of appropriate housing and consider allocating specific sites.*’

Meeting HLR of SDP – page 27

- **Formal Representation (Object)**

Proposed change –

The plan should clearly demonstrate how it has allocated a range of sites which are effective or expected to become effective in the plan period to meet the housing land requirement of the strategic development plan up to year 10 from the expected year of adoption.

Reason –

To be consistent with para 119 of SPP.

Policy EP14: Coastline – Page 140

- **Formal Representation (Object)**

Proposed change – The following text should be included in the list within the text box on page 140: “e) *the proposal is appropriate under the National Marine Plan policies*”

Reason – The proposed policy should reflect the National Marine Plan. Reference is made to both the National Marine Plan and responsibility between Marine Planning Partnerships and Local Authorities. However, as it stands, this policy doesn't reflect the statutory responsibilities of the National Marine Plan.

Section 8 – Delivering Sustainability and Climate Change Agenda

- **Formal Representation (Object)**

Proposed change – The plan should be modified to include a policy that fulfils the requirements of section 3F of the Town and Country Planning (Scotland) Act 1997.

Reason – To comply with the requirements of Section 3F of the Town and Country Planning (Scotland) Act 1997. The Act requires that all Local Development Plans must include policies requiring all developments in the Local Development Plan area to be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use, calculated on the basis of the approved design and plans for the specific development, through the installation and operation of low and zero-carbon generating technologies.

Examples of how other local development plans have approached this requirement are set out in the annex of the annual reporting published by the Scottish Government: Climate Change Act annual reports:

<https://www.gov.scot/publications/climate-act-annual-reports-2016-2018/>

Policy EP8: Historic Environment Assets and Scheduled Monuments - Page: 124

- **Formal Representation (Object)**

Proposed change – Remove the (B) battlefields section from Policy EP8 and create a standalone policy similar to Policy EP 10 Gardens and Designed Landscapes.

Reason – To align with paragraph 149 of Scottish Planning Policy (SPP) as planning authorities should seek to protect conserve and, where appropriate, enhance the key

landscape characteristics and special qualities of sites on the Inventory of Historic Battlefields. The Inventory of Historic Battlefields has the same status as the Inventory of Gardens and Designed Landscapes, they are not solely an archaeological resource.

Policy EP8: Historic Environment Assets and Scheduled Monuments -

Page: 124

- **Formal Representation (Object)**

Proposed change – Insert the following “Any works directly affecting a designated Scheduled Monument requires Scheduled Monument Consent (SMC) which is obtained from Historic Environment Scotland. Advice on the SMC process and requirements should be sought at an early stage from the Heritage Directorate, Historic Environment Scotland.”

Reason – To align with paragraph 145 of Scottish Planning Policy (SPP) as Historic Environment Scotland are the consenting authority for direct works affecting Scheduled Monuments. While National Archaeological Sites are mentioned, it should be made explicit that there is a separate Scheduled Monument Consent process for any direct works to a scheduled monument which is sought from Historic Environment Scotland.

Historic Environment Scotland - Page 191

- **Formal Representation (Object)**

Proposed change – On page 191, the first sentence of Part B: Sites Carried Forward from Previous Plans (LPA, LDP, LDP2) refers to ‘Historic Scotland’ - this should be updated to say either ‘Historic Environment Scotland’ or ‘Historic Scotland (now Historic Environment Scotland)’ whichever is more appropriate.

Reason – To accurately refer to the name of Historic Environment Scotland

Policy Ed11 Safeguarding Of Mineral Deposits & Policy Ed12 Mineral And Coal Extraction

- **Formal Representation (Object)**

Proposed change –

Policies ED11 and ED12 should take account of SPP paragraphs 237 and 238, to safeguard all workable mineral resources which are of economic or conservation value, to set out the factors that specific proposals will need to address, and support the maintenance of a landbank of permitted reserves for construction aggregates of at least 10 years at all times in all market areas through the identification of areas of search

Reason:

The policies state minerals make an important contribution to the economy, providing materials for construction, energy supply and other uses, and supporting employment. It is therefore important that the development plan policies align with those outlined in SPP and support appropriate extraction. Protecting minerals from sterilisation and communities from the potential impact of minerals, such as noise and dust are vital as well as protecting our environment.

The wording in Policy ED11, in particular, '*extraction of the mineral is likely to be environmentally and socially unacceptable*' does not align with SPP para 237 which states 'Local development plans should safeguard all workable mineral resources which are of economic or conservation value and ensure that these are not sterilised by other development' There are no caveats to this policy within SPP.

Para 237 also goes on to state 'Plans should set out the factors that specific proposals will need to address, including:

- disturbance, disruption and noise, blasting and vibration, and potential pollution of land, air and water;
- impacts on local communities, individual houses, sensitive receptors and economic sectors important to the local economy;
- benefits to the local and national economy;
- cumulative impact with other mineral and landfill sites in the area;
- effects on natural heritage, habitats and the historic environment;
- landscape and visual impacts, including cumulative effects;
- transport impacts; and
- restoration and aftercare (including any benefits in terms of the remediation of existing areas of dereliction or instability).'

Again these do not appear in either Policy ED11 or ED12.

SPP Para 238 also states 'Plans should support the maintenance of a landbank of permitted reserves for construction aggregates of at least 10 years at all times in all market areas through the identification of areas of search.' The policies also make no mention of a landbank.

Policy EP2 National Nature Conservation Sites And Protected Species (Page 107) & Policy EP4: National Scenic Areas (Page 112)

- **Formal Representation (Object)**

Proposed change (page 107) –

Amending text to include 'environmental':-

b) the development offers substantial benefits of national importance, including those of a social, **environmental** or economic nature, that clearly outweigh the national nature conservation value of the site.

Proposed change (page 112) –

b) any significant adverse effects on the qualities, for which the site or its surrounds have been designated are clearly outweighed by social **environmental** or economic benefits of national importance.

Reason –

These policies set out the criteria where development may be permitted on nationally important sites.

SPP paragraph 212 sets out that development proposal for sites of national significance should only be permitted in certain circumstances, including where significant effects are clearly outweighed by social, environmental or economic benefits or national importance.

This policy is missing circumstances where significant adverse effects are clearly outweighed by environmental benefits of national importance, which should also be considered.

Policy EP2 National Nature Conservation Sites And Protected Species. P107

- **Formal Representation (Object)**

Proposed change –

Include policy on nationally protected species in Policy EP2 -

Reason –

Policy EP1 - EP3 set out policies in relation to protected sites and species, at the International (EP1) National (EP2) and Local (EP3 levels)

The narrative of policy EP2 sets out that its aim is to protect nationally important nature conservation sites and protected species. The plan refers to its biodiversity supplementary guidance stating *'that the Council will ensure nationally important species are given full consideration in the assessment of development proposals which may affect them'*, which is helpful.

However, it is not clear from the principle policy in EP2, that the policy as worded extends to development considerations for nationally protected species themselves beyond their habitats, this is unlike policies EP1 for internationally important sites and species and policy EP3 for locally important sites and species, which set out development considerations for species based on different levels of statutory protection.

SPP sets out that the presence of a legally protected species is an important consideration in decisions on planning applications. If there is evidence to suggest that a protected species is on site, or may be affected by proposed development, steps must be taken to establish their protection. The level of protection afforded by legislation must be factored into the planning and design of development and any impact must be fully considered prior to determination on the application.

ED10 - Protection Of Prime Quality Agricultural Land And Carbon Rich Soils - 79-81

- **Formal Representation (Object)**

Proposed change –

Amend the policy to include text in bold;

Development, except proposals for renewable energy development, which results in the permanent loss of prime quality agricultural land or significant carbon rich soil reserves, particularly peat, will not be permitted unless:

- a) the site is otherwise allocated within this local plan
- b) the development meets an established need and no other site is available
- c) the development is small scale and related to a rural business.
- d) The development is for extraction of minerals where this accords with other policy objectives and there is secure provisions for restoration to return the land to its former status**

Proposals for renewable energy development, including proposals for wind energy development, will be permitted if they accord with the objectives and requirements of Policy ED9 on renewable energy development.

Reason –

Paragraph 80 of Scottish Planning Policy (SPP) states that development on prime quality agricultural land, or land of lesser quality that is locally important, should not be permitted except for a limited number of specified circumstances, this includes extraction of minerals.

The policy as worded doesn't include Mineral extraction as part of its policy.

Policy IS4 Transport Development and Infrastructure (omission) (Pages 156-157)

- **Formal Representation (Object)**

Proposed change –

The plan policies should make reference to supporting patterns of development which reduce the need to travel and in locations which allow walkable access to local amenities. This could be in policy IS4 or PMD4.

Reason –

SPP paragraph 275 states that the planning system should support patterns of development which reduce the need to travel. At present it is felt that there is a focus on transport improvements rather than locating developments in a way which reduces the need to travel.

Brownfield / Vacant Derelict Land

- **Formal Representation (Object)**

Proposed change –

A more proactive policy approach for **Brownfield / Vacant Derelict Land** is required with a dedicated policy and a clearer focus on promoting the reuse of brownfield, vacant or derelict land and buildings in order that redundant / latent assets are brought back into productive use as speedily as possible.

Reason –

SPP Para 40 states that *when directing the right development to the right place the planning system should consider the re-use or re-development of brownfield land before new development takes place on greenfield sites.*

There is evidence that the proposed plan recognises and references a requirement to consider the re-use or re-development of brownfield land before new development takes place on greenfield sites. However, whilst “Promote development of brownfield sites” (para 4.8, page 21) is a clear commitment amongst the aims to deliver the vision, it would appear that only two (semi/rural: Dolphinton and Greenlaw) settlements feature brownfield allocations. The extent to which opportunities to proactively promote the re-use of brownfield, vacant and/or derelict land and buildings in other (more ‘urban’, and/or at larger scale) locations could be more strongly considered and promoted.

Such an approach might include the proactive preparation of development/design briefs for sites and buildings. There may be scope to develop such an initiative in relation to Council owned property such as former school buildings or other public estate that is being disposed/marketed. (It is not clear if development / site briefs have been prepared for property that is in Council ownership and listed on pages 225-230.)

Policy IS10 - Waste Handling

- **Formal Representation (Object)**

Proposed change –

Additional wording to be included in policy IS10, box on page 167 to include additional suggested wording of “for example, ensuring that the allocation of land does not compromise waste handling operations”.

Reason

For greater alignment with para 184 of SPP which states that plans should safeguard existing waste management installations and ensure that the allocation of land on adjacent sites does not compromise waste handling operations, which may operate 24 hours a day and partly outside buildings.