

Archived: 02 February 2021 16:03:32

From: [REDACTED]

Sent: Mon, 1 Feb 2021 11:03:50 +0000ARC

To: [localplan](#)

Cc:

Subject: Objection to the Proposed Scottish Borders Local Development Plan 2 - Proposed Plan 2020 - Proposed Local Biodiversity Site Ref. 111 Land at Mincie Moss

Sensitivity: Normal

Attachments:

[REDACTED] [df](#)

CAUTION: External Email

Dear [REDACTED]

As discussed the above representation on behalf of Mellerstain Estate relates to LBS 111 Land at Mincie Moss.

Please can this supersede that submitted as per the below correspondence.

Kind regards,

[REDACTED]

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

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Galbraith 

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From: [REDACTED]

Sent: 25 January 2021 17:11

To: 'localplan' <localplan@scotborders.gov.uk>

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

Good afternoon,

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 Mellerstain Estate. The representation concerns the proposed designation of land under their ownership at Mincie Moss as a Local Biodiversity Site.

A detailed methodology 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,

[REDACTED]

[REDACTED]

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

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Mellerstain Estate
Mincie Moss

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;

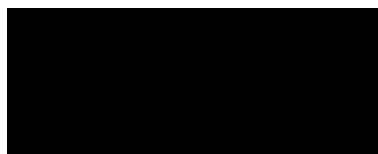
“where very small areas of non-biodiverse habitat (such as amenity grasslands, cultivated land, recently planted woods, conifer plantations) have to be included within a site because they are too small or too integrated into the site to be excluded, a clear rationale for including these areas must be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



Board Director for Ecology
MSci (Hons) CEnv MCIEEM MEECW

Forward Planning
Council Headquarters
Newtown St Boswells
Scottish Borders
TD6 0SA

Our Ref: 66-26

25th 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. 111 – LAND AT MINCIE MOSS**

We write on behalf of Mellerstain Estate in relation to land under their ownership at Mincie Moss.

As detailed in Local Development Plan (LDP) Technical Note 4, it is proposed that 36.8 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.

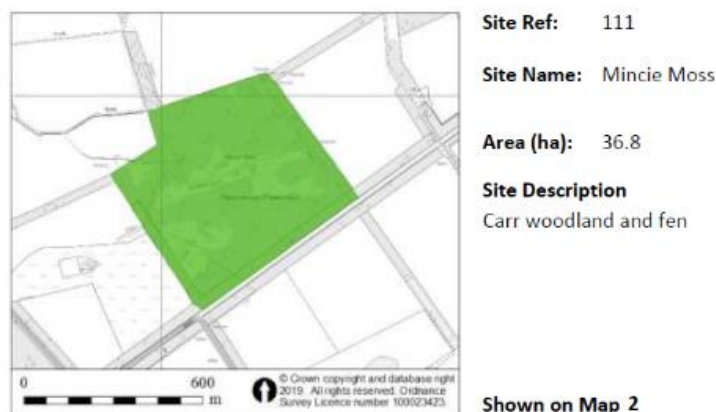


Figure 1: Extract from LDP Technical Note 4

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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 Mincie Moss, our client has sought independent ecological advice from LUC. 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 Mincie Moss in terms of its potential adverse impacts on existing and future land use operations. In this latter regard, our client is concerned that confirmation of the site’s designation as a Local Biodiversity Site coupled with the extent of land affected (over 36 hectares) will negatively impact on existing commercial forestry, sporting and surrounding agricultural operations.

Supported by LUC’s independent review (as summarised below), Mellerstain Estate wishes to formally object to the proposed designation at Mincie 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.

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 allocation has 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 – Mincie 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 site is predominantly plantation (the area is called Mincie Plantation on OS mapping) with areas of what appear to be semi-natural woodland amongst commercial forestry. The site is also integral to the efficient use and drainage of the surrounding agricultural land through a field drainage network.

The sites operational use for commercial forestry (with a felling and restocking plan) means that it is constantly changing as felling and restocking takes place. Rationale for the site boundary should have been included in the assessment notes so as to explain the inclusion of non-natural habitats within the site.

Given the above comments and recommendations from LUC, the landowner objects to the proposed designation as proposed.

Conclusions

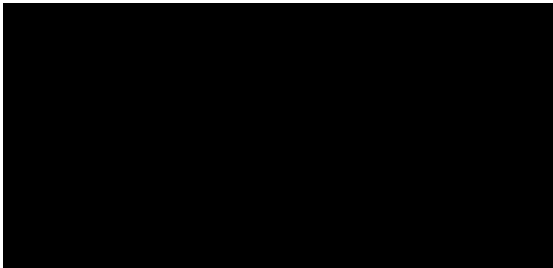
In summary, it is considered that the proposed designation of all of the land (36.8 hectares) at Mincie Moss as a Local Biodiversity Site in the Local Development Plan 2 is considered inappropriate.

The landowner wishes to draw the Council's attention towards the procedural issues noted with the designation process of the LBS. The independent review by LUC identifies a number of the fundamental procedural 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. Furthermore, the landowner would also like it noted that no coordinated efforts were made to engage in light of multiple landholdings being subject to proposed LBS designations.

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,



Encls: LUC Selection Process – Mincie Moss

cc: Client (+ Encls)