Archived: 02 February 2021 16:12:35
From: [redacted]
Sent: Mon, 1 Feb 2021 10:58:29 +0000ARC
To: localplan
Cc:
Subject: Objection to the Proposed Scottish Borders Local Development Plan 2 - Proposed Plan 2020 - Proposed Local Biodiversity Site Ref. 70 - Land at Butchercote Craigs
Sensitivity: Normal
Attachments:
[redacted]

CAUTION: External Email

Dear [redacted]

As discussed the above representation on behalf of Mertoun Estate relates to LBS 70 Land at Butchercote Craigs.

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

Kind regards,

[redacted]

[redacted]
For Galbraith | 59 George Street, Edinburgh EH2 2JG
[redacted]
galbraithgroup.com | Like us on Facebook| Follow us on Twitter

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From: [redacted]
Sent: 25 January 2021 15:46
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 Mertoun Estate. The representation concerns the proposed designation of land under their ownership at Butchercote Craigs 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. A site plan highlighting the proposed revised LBS boundary is also attached.

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
[redacted]
galbraithgroup.com | Like us on Facebook| Follow us on Twitter

Galbraith OnTheMarket.com

Energy Matters | Rural Matters | Commercial Matters | Forestry Matters | Property Matters

Galbraith COVID-19 Update

Galbraith

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

Our Ref: 5927-18

25th January 2021

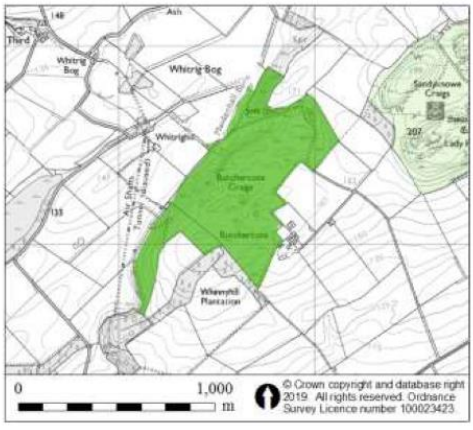
By email (localplan@scotborders.gov.uk) only

Dear Sirs

OBJECTION TO THE SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2 – PROPOSED PLAN 2020
PROPOSED LOCAL BIODIVERSITY SITE REF. 70 – LAND AT BUTCHERCOTE CRAIGS

We write on behalf of Mertoun Estate, in relation to land under their ownership at Butchercote Craigs.

As detailed in Local Development Plan (LDP) Technical Note 4, it is proposed that 48.3 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.



Site Ref: 70

Site Name: Butchercote Craigs

Area (ha): 48.3

Site Description
Grassland on knowes, flushes and wet meadow, with nationally scarce, Scottish priority and locally rare plants.

Shown on Map 2

Figure 1: Extract from LDP Technical Note 4

59 George Street, Edinburgh EH2 2JG
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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 Butchercote Craigs, our 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 Butchercote Craigs in terms of its potential adverse impacts on current 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 48 hectares) will negatively impact on the existing small stone quarry which provides bottoming for estate use, principally maintenance of estate tracks.

Supported by LUC's independent review (as summarised below), Mertoun Estate wishes to formally object to the proposed designation at Butchercote Craigs 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 – Butchercote Craigs

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 majority of this site is dominated by marshy grassland. This is not a notified notable habitat and is not included in the Scottish Biodiversity List. It is noted from the aerial imagery that large areas of scrub are present throughout the marshy grassland. Scrub has been highlighted in the local Biodiversity Action Plan as important for the maintenance of farmland bird populations and so qualifies as an important habitat. As the scrub is patchy in many areas, cutting the boundary around these areas would be difficult and so a general site boundary of the field margins has been assigned. This is appropriate, however the rationale should have been included in the assessment notes.

A section of site situated to the north east encompasses an area from which stone for estate use is recovered as per Figure 2. Given the proposed boundary includes the area which is worked stone, it is considered that such a designation is not appropriate in light of the existing land use in place. With potential constraints in terms of operational capacity.

The boundary also appears to encompass an area of land which is improved grassland. This is not semi-natural habitat and should be removed from the site boundary following the methodology.

Figure 2 - Aerial Image

Given the above comments and recommendations from LUC, the landowner objects to the designation boundary as currently proposed. Figure 3 illustrates the suggested reduced designation boundary with the quarrying operations, improved grassland and scrub all excluded. In particular, it is not considered appropriate for the quarry area to be included within the proposed designation due to it being an essential estate resource.

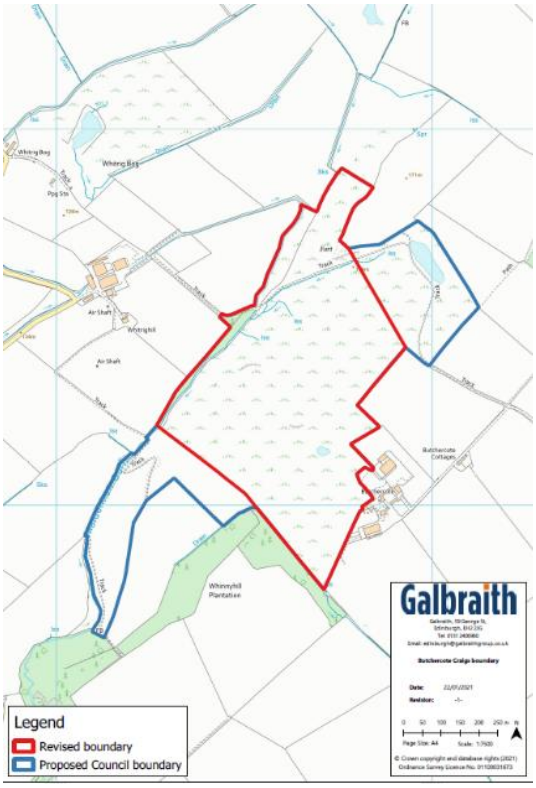


Figure 3 – Revised LBS boundary

Conclusions

In summary, it is considered that the proposed designation of all of the land (48.3 hectares) at Butchercote Craigs 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 reduced as indicated in Figure 3 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

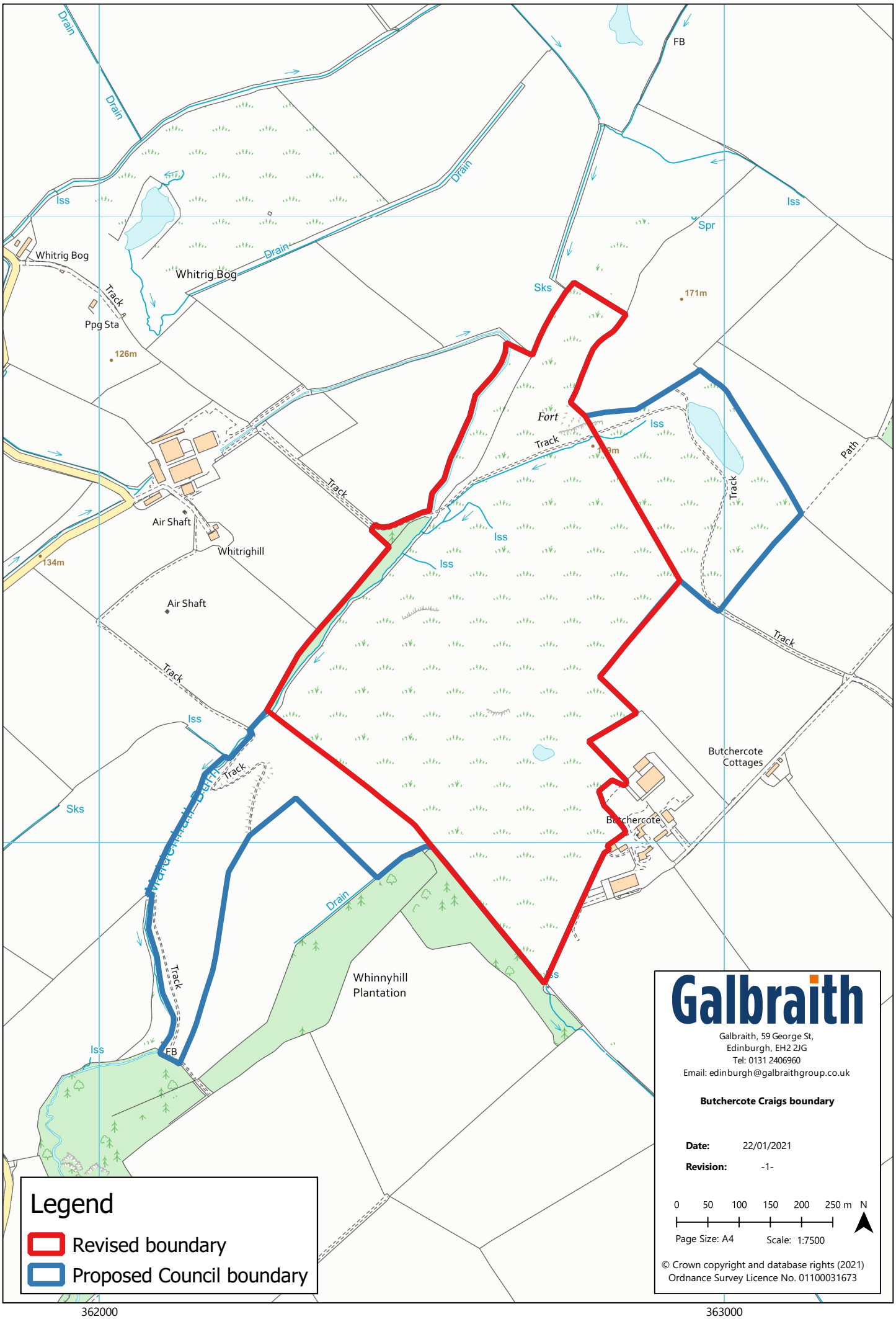
[redacted]

for Galbraith

[redacted]

Encls: LUC Site Review and Selection Process – Butchercote Craigs
Proposed LBS boundary amendment plan

Cc: Client (+ Encls)



Galbraith

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Butchercote Craigs boundary

Date: 22/01/2021

Revision: -1-

0 50 100 150 200 250 m N

Page Size: A4 Scale: 1:7500

Map Reference: 12274-1 _Butchercote Craigs boundary_A4_Rev 1_20210122

Mertoun Estate
Butchercote Craigs

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 Plan[1].

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 Note[1] which, in turn, is supported by a series of additional methodological documents[2].

The selection criteria set out in the Technical Note follows well-established NatureScot guidance[3] on identifying LBS and are robust and transparent. Usefully, Scottish Borders Council mas 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 Register[4] 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, not withstanding 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 NatureScot[3]. No details of the completed assessment for each site has been included in the documents made available by Scottish Borders Council[1] 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 documents[2], 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

Butchercote Craigs

Designation Summary	Grassland on knowes, flushes and wet meadow, with nationally scarce, Scottish priority and locally rare plants.	
Notified Notable Habitats	Standing water.	
Notified Biodiversity Features	Berwickshire sites with good quality habitat, as indicated by 'axiophyte' flowering plants (habitats rated as 'good in part')[1]	
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 the 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 a boundary choice reasoning can be inferred but is not explicitly stated.
Is the site statement compliant with the methodology applied?*	No	The site statement does not include the following information, as required by the adopted methodology: – 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?**	No	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 say whether the habitat data was contemporary. The aerial imagery of the site (dated 2021) differs substantially from the Phase 1 Habitat map provided by TWIC, from this we assume the Phase 1 Habitat data is not contemporary. The site statement states that quarrying is impacting the biodiversity of the site, yet no quarry is marked on the Phase 1 Habitat map.

Designation Summary	Grassland on knowes, flushes and wet meadow, with nationally scarce, Scottish priority and locally rare plants.	
Notified Notable Habitats	Standing water.	
Notified Biodiversity Features	Berwickshire sites with good quality habitat, as indicated by 'axiophyte' flowering plants (habitats rated as 'good in part')[1]	
Review Question	Answer	Further Information
		Notable plant species data was last collected in 2011 and so falls outwith what would be classed at contemporary but would be acceptable under the methodology applied.
Are notified notable habitats appropriate and based on data for the site?	Yes	Certain lowland fens are a Scottish Biodiversity List habitat and the inclusion of standing water is appropriate.
Are notable species appropriate and based on data for the site?	No	The notified notable species listed in the site statement are appropriate as they all appear in the TWIC data search. There are 136 notable species of birds as supplied by TWIC. None of these species has been included in the site statement. There are only five notable species listed, all of which are flowering plants. There is no explanation as to why other notable species (as supplied by TWIC) have not been included.
Are notified Biodiversity features appropriate and based on data for the site?	No	The rating of 'good' for this area has been taken from a number of different surveys ranging in date from 1989 – 2006[1]. None of these surveys was conducted within the last 15 years, therefore does not meet the definition of 'current' data required by the methodology.
Are the boundaries of the LBS appropriate?	No	Following the methodology supplied by the council[2], 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 majority of this site is dominated by marshy grassland. This is not a notified notable habitat and is not included in the Scottish Biodiversity List. It is noted from the aerial imagery that large areas of scrub are present throughout the marshy grassland. Scrub has been highlighted in the local Biodiversity Action Plan as important for the maintenance of farmland bird populations and so qualifies as an important habitat. As the scrub is patchy in many areas, cutting the boundary around these areas would be difficult and so a general site boundary of the field margins has been assigned. This is appropriate however, rationale should have been included in the assessment notes. The boundary appears to encompass an area of land which is improved grassland. This is not semi-natural habitat and should be removed from the site boundary following the methodology. a suggested site boundary has been provided.
Recommendations	Yes	The proposed LBS requires a site visit and contemporary data to ensure baseline data on which the designation is decided is robust. 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	The site is grazed under current land use. The quarry work which has been highlighted as a threat to the biodiversity of the site occupies less than half a hectare on a site which is almost 50 hectares large. There is no significant damage to the grassland habitat from quarrying activity. Scottish Borders Council has not explained why quarrying is a 'threat' to the

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

Designation Summary	Grassland on knowes, flushes and wet meadow, with nationally scarce, Scottish priority and locally rare plants.	
Notified Notable Habitats	Standing water.	
Notified Biodiversity Features	Berwickshire sites with good quality habitat, as indicated by 'axiophyte' flowering plants (habitats rated as 'good in part')[1]	
Review Question	Answer	Further Information
		biodiversity interests of the site. There is no evidence to support this position. 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.
Any further points	Yes	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. 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. 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.

* According to methodology as published in Chapter 6.9 of Technical Note 4[2] 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)