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From: [REDACTED]

Sent: Mon, 25 Jan 2021 08:35:17 +0000ARC

To:

Subject: Local Development Plan Representation - Local Biodiversity Site

Sensitivity: Normal

[REDACTED]

CAUTION: External Email

Good morning,

Please find attached, I would be grateful if you could please acknowledge receipt.

Kind Regards

Iain

Iain Wilkinson MLE MRICS
Director – Land Agency

[REDACTED]

www.bhsporting.co.uk



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The Forward Panning Team
Corporate Improvement & Economy
Scottish Borders Council
Newtown St Boswells
Melrose
TD6 0SA

19th January 2020

Our Ref: IW/M70

Dear Sirs,

**SCOTTISH BORDERS COUNCIL: PROPOSED LOCAL DEVELOPMENT PLAN
POLICY EP3: LOCAL BIODIVERSITY AND GEODIVERSITY
KILLMADE BURN & ROUGH CLEUGH – PROPOSED LOCAL BIODIVERSITY SITE ADOPTION**

We act for Cranshaws Ltd the owners of the above site and received a letter from The Wildlife Information Centre dated 20th November 2020 outlining that this site is being proposed for adoption as a Local Biodiversity Site under the Borders Council Local Development Plan. We write to object to the site's inclusion in the proposed Local Development Plan on the basis of the methodology employed to assess the site, as is outlined below.

The principal guidance on establishment criteria for Local Biodiversity Sites appears to be the 2006 Scottish Natural Heritage publication, "*Guidance on Establishing and Managing Local Nature Conservation Sites in Scotland*". Within this guidance document, it clearly sets out that the following groups of persons / groups / organisations should be considered for consultation:

- Local expert naturalists
- Local representatives of voluntary and statutory nature conservation organisations
- Land owners and managers
- Farmers and crofters
- Forestry managers
- Water resource managers
- Development planners
- Businesses
- Local communities.

Furthermore, within the Scottish Borders Local Biodiversity Action Plan 2018 – 2028 Draft Supplementary Guidance, it clearly states that Borders Council *“has worked with local partners and landowners to identify potential for new Local Biodiversity Sites”*.

With the above recommendation and statement from Borders Council in mind, we were somewhat surprised to learn about the extent of the site selection criteria, extract below from an email from Mr Andy Thane, Ecology Officer, Borders Council on 18th January 2021:

“According to the LBS database this site was assessed based on existing volunteer plant data (the biological recording scheme) rather than any TWIC Excursion visit. No surveys were commissioned by the Council or TWIC. Permission to survey may not have been sought beforehand, as volunteers are required only to abide by the outdoor access code when undertaking their recording work”.

We understand that Local Biodiversity Sites have no legal status, however we strongly disagree that there are no implications for the management of land. The letter of 20th November 2020 from the Wildlife Information Centre states that Local Biodiversity Site status *“does not affect the requirements of management of land”*. We fundamentally disagree with this statement. Whilst we acknowledge that any fundamental land use change, for example renewable energy development or woodland creation would require statutory consents, for which ecological survey data may be required, the designation places our client at considerable disadvantage, for instance any application to improve access through agricultural permitted development rights are likely to be denied or conditions imposed rendering unviable on the basis of the Local Biodiversity Site status.

We respectfully request that this site be removed from the proposed Scottish Borders Local Development Plan until such time as there has been opportunity for the Wildlife Information Centre / Borders Council to consult with our client and their tenant to ensure that the validity of the data, based on volunteer records at an unknown date has been reviewed and the site formally re-assessed to determine if the notable habitat features remain relevant.

Yours faithfully,




Iain Wilkinson MLE MRICS
Director – Land Agency
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