

Objection to Main Issues Report (MIR2)

Date: 17 January 2019

Signed: 

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1.0 Executive Summary

This author endorses and supports the objections and comments made by [REDACTED] Peebles. However, the basis of this author's objection is restricted to the additional housing development and potential industrial expansion proposed for South Parks, Peebles. This objection follows on from previous detailed objections lodged for the two developments proposed for South Parks and Tweedbridge Court, Peebles in 2018.

The main reason noted by this objector is the absolute lack of capacity for additional traffic to negotiate Caledonian Road and South Parks Road. A lack of capacity already recognised in Scottish Borders Council (SBC) documents written in 2012, 2013 and 2014 (Appendix 2), and alluded to in the "Western Rural Growth Area Development Options Study" 2018. Since 2014, additional construction has taken place and the situation has been exacerbated. Notwithstanding this, the two developments noted above, should they go ahead will lead to further congestion and a corresponding increase in risk to pedestrians, cyclists and other road users. The proposal in MIR2 is not rational given the foregoing.

It is necessary to remind the Scottish Borders Council of the position of the Community Council of the Royal Burgh of Peebles and District as written in their statutory response dated 04 January 2019 regarding the proposed South Parks development (18/01026/18). It is clear from this and numerous other objectors (100+), that there is serious concern relating to the additional traffic from a potential 71 new homes. **It is completely inconceivable that the road system can accommodate several hundred additional cars should the development proposed in MIR2 go ahead.** In effect these developments would more than double the traffic volume using Caledonian road for access and egress. SBC has a Common Law Duty, to follow both their own policies and guidelines, and those of the Scottish Government. These policies and guidelines require an effective transport analysis in advance of LDP2 designed to meet Scottish Government guidelines.

Once again, this writer notes that the only access and egress for the South Parks, Dukehaugh, Edderston Ridge enclave is via Caledonian Road. There is no alternative and there is no viable means of creating one. In discussions with SBC Councillors and with roads and planning executives, this point has been acknowledged. Further, a new bridge across the Tweed does not impact in any way positively or negatively on the situation noted.

Should the MIR2 proposals ultimately result in the further development of the South Parks area, Caledonian Road will stop flowing at peak times and also substantially during the construction phase. This will create a significant detriment to those living along Caledonian Road (including a fall in house price), to the Fire and Ambulance stations (due to delay caused by congestion, to road users (who already face significant delays) and by pedestrians and cyclists whose safety will be at greater risk on historically substandard pavements.

2.0 Introduction

Background to Objection

- 2.1 Persimmon homes have made application for planning consent to build a medium size estate of 71 homes at the west end of South Parks. The field in question is currently agricultural land and sits to the south of two small light industrial estates. The land is already included in the Local Development Plan 1 (LDP1) produced by the Borders Regional Council.
- 2.2 Contrary to Scottish Government Guidance and Planning documents there has been no individual Transport Assessment (TA) Conducted nor one produced to consider the implications of joint developments in LDP1.
- 2.3 This is equally the case with the Tweedbridge Court proposed development.
- 2.4 **There is no corresponding evidence of such assessments in MIR2.**
- 2.5 Over 100 objectors have noted that Caledonian road is at Capacity
- 2.6 Over 75 objectors have noted that increased development will lead to serious increased risk of accident and corresponding loss
- 2.7 The Community Council of the Royal Burgh of Peebles and District has been noted as supporting this view through documentation posted in relation to the above noted developments.
- 2.8 Existing historical documentation found on the SBC website from 2012, 2013 and 2014 consider that further development in South Parks be stopped due to the restrictions imposed by the nature of Caledonian Road.
- 2.9 Risk assessment for the existing proposed developments (LDP1) demonstrates an existing risk level of medium which becomes high in some cases when the construction phase is considered. This is exponential under MIR2.
- 2.10 Caledonian Road does not comply with minimum requirements for visibility and design of footpaths and cannot be modified to do so.
- 2.11 **Notwithstanding this information, SBC has seen fit to include plans in MIR2 for another substantial development in the area.**

3.0 Assessor & Report Author

3.1 The Assessor and Author of this objection is a [REDACTED]

3.2 The Assessor holds a [REDACTED]

4.0 Existing Conditions

Caledonian Road

- 4.1 South Parks Road and Edderston Road are the sole access roads from the proposed development and both meet Caledonian Road at a mini roundabout situated at the west end of the road.
- 4.2 South Parks Road from the point of development heading to the east drops in height to the east until it meets Caledonian Road at the mini roundabout. At this point there is a 5.3m pinch-point coupled with extreme road curvature and corresponding low visibility (Evidenced by SBC).
- 4.3 Caledonian Road links South Parks Road to the main road at the Tweed Bridge. The road stretches from a mini roundabout at the west end to the junction of the B7062. Four distributary roads join Caledonian Road:



Edderston Road joins from the south at the mini roundabout, Frankscroft joins from the south about half way down the road and Dukehaugh joins from the north side.

4.3.1 Edderston Road and South Parks between them service approximately 600 houses. Dukehaugh adds another 40+.

4.3.2 Caledonian Road has a standard width between kerbs of between 5.5m and 5.8m. However, in places it acts as a single carriageway (Evidenced by SBC)

Above - Caledonian Road – Looking west towards the min roundabout. Note the red car pulled out to allow the van to pass.

- 4.4 Pavements on the north side have a maximum width of 1.35m with many choke points created mainly by lamp posts of down to 0.8m. Pavements on the south side have a maximum width of 1.30m reduced by similar choke points to 0.8m. Pavements have been resurfaced on the north side. However, pavement surfaces on the south side require maintenance.



Caledonian Road – South side pavement

- 4.5 There is no cycle path either west or eastbound
- 4.6 The road is constrained on the north side by housing with narrow garden strips and by the location of the emergency services. On the south side, the road is similarly constrained by high walls with retaining garden banks.



Caledonian Road – North side with Fire Station & Ambulance Station



Caledonian Road – South side with garden walls & high banks

- 4.7 Both the fire and ambulance stations are situated towards the east end of Caledonian Road and need continuous 24-hour access. There is a section of double yellow (parking restriction) lines opposite the fire station.
- 4.8 Frankscroft road joins Caledonian Road at a severe angle going west-east. A left turn is possible only by swinging well out into the opposite lane. Visibility to the left is very poor because of the angle of approach. Most cars wishing to turn left exit to the east and then turn in the vacant ground at the east end of Caledonian road.



Photograph right – Frankscroft where it meets Caledonian Road

- 4.9 There is limited off road parking at the west end of Caledonian Road (south side) where there are 5 spaces adjacent to a small patch of grass. Cars in these parking spaces must reverse in or out of Caledonian Road
- 4.10 Cars parking in Caledonian Road (always south side) fluctuate in number between 8 and 28 (observed) and occasionally include delivery vans and trucks of up to 7 tonnes. Obstructed sections of road can extend for more than 100m (measured). There are two major areas for on street parking; one west and one east separated by Frankscroft. At both points of constriction there is a restricted view forward.

Photograph below – Caledonian Road looking west to the mini roundabout. Note the white van parked in Edderston Road and the continuous parking from the observer to the road end. Note also that cars are committed to the opposite lane before they can see approaching traffic from either Edderston road or South Parks

Photograph right – Caledonian Road opposite the entrance to Dukehaugh; cars parked up from the observer to Frankscroft. Again, westbound cars are committed to overtake without adequate visibility at the entrance to Frankscroft at the brow of the hill. Cars exiting Dukehaugh are committed before seeing a clear road in which to exit.



Photograph left - Caledonian Road looking west past the mini roundabout. Note the poor visibility when exiting into South Parks. Further, the roundabout road markings are now indistinct, and some drivers do not apply roundabout rules at the junction.



5.0 Comparison of existing conditions on Caledonian Road with rules and guidelines (“Roads for all: Good Practice Guide for Roads”, “Roads Development Guide – Strathclyde Roads”, etc.)

Ix	Reference	Item	Existing condition	Comment / compliance
1	GPG 4.1.6	Bus lay-bys - Appropriate access to and from bus stop - Raised bus boarding areas for disabled - Suitable crossing facilities on street	None None None	Does not comply
2	GPG 4.1.9	Pedestrian Crossing Points - Dropped kerbs must be used at all	None	Does not comply
3	GPG 4.1.10	Footway width - Minimum 2m - In existing constrained environments an absolute minimum of 1.5m may be used	In Caledonian Road, the footway fluctuates between 1m and 1.3m on both north and south sides. There are many choke points in both South Parks and Caledonian Road that reduce the pavement to 0.8m or less	Does not comply Caledonian Road does not even meet the absolute minimum requirements Considered a hazard
4	GPG 4.1.15	Shared Pedestrian /Cycle Routes - Research by “Guide dogs” and by the “RNIB” identifies shared surfaces as posing a threat to vulnerable road users - Shared routes are not recommended	There are no individual cycle routes and bicycles use either the roadway or the pavement as they see fit.	Does not comply Considered a hazard
5	GPG 4.2.4	Roundabouts - Roundabouts feature continuous flows and can be particularly difficult for pedestrians to negotiate – particularly those with mobility impairment	No facilities for disabled	Does not comply

Objection to Main Issues Report 2018

Ix	Reference	Item	Existing condition	Comment / compliance
6	RDG	Road Designation - >400 dwellings = Residential core road - >1,000 dwellings = Traffic Distribution Road	Caledonian Road services 600+ dwellings of which circa 150 are in South Parks and adjacent developments	Therefore, Caledonian Road is a <u>Traffic Distribution Road</u>
7	RDG 4.4.1	Traffic distribution roads are mainly vehicular traffic routes and are not suitable for frontage development with direct access	Caledonian Road is a historic road with a score of buildings fronting on to it and some direct access garages	Does not comply In modern terms this road would not have been constructed in this way
8	RDG 4.4.4	- On both sides of the road a 2m wide footway should be provided at all times and be provided with a 2m verge	Not possible in Caledonian Road	Does not comply
9	RDG 5.1.13	Junctions - Minimum forward sight 90m and absolute forward site 70m - Corner radius on junctions should be >10.5m. - Most vehicles should be able to turn without obstructing oncoming traffic	Exit from roundabout at west end of Caledonian Road into South Parks does not have this visibility. According to Persimmon TA, visibility is 33m.	Does not comply Does not comply Does not comply
10	RDG 5.1.9	Roundabouts Splayed curves at roundabouts should have minimum 6m radius	Exit from roundabout to South Parks has tight radius, a choke point to 5.25m and poor visibility HGVs obstruct traffic when entering South Parks	Does not comply
11	RDG 5.4.24	Cycle Network Cyclists should be kept away from high volumes of traffic, especially where roundabouts are located	There are no facilities to keep cyclists separate from either vehicle using Caledonian Road or pedestrians on the pavements	Does not comply
12	RDG 7.4.5	The maximum distance from allocated parking to residences should be <30m		For information

Ix	Reference	Item	Existing condition	Comment / compliance
13		Access Roads Access roads should be minimum of 5.5m and increased by 0.55m for bus routes	Caledonian Road is both an access road and a bus route and therefore should be > 6.05m wide. It fluctuates over its distance from 5.5m to 6.0m	Does not comply
14		Car Parking Cars should not have to reverse	Cars have to reverse both in/out of prepared bays and from garages on Caledonian Road	Does not comply
15		Conservation Area	The south side of Caledonian Road lies within the Peebles Conservation Area	

6.0 Proposed Development Site (MIR2)

6.1 MIR2 for Peebles identifies that the South Parks site should be able to accommodate a substantial number of houses and the figure 400+ has been identified. Considering the present proposed development, this figure is considered conservative. NOTE: No known TA was conducted prior to the inclusion of the site in MIR2 as recommended in Scottish Government Planning guidance.

6.2 There is no evidence to suggest that SBC has conducted a Transport Assessment and/or Road Safety Audit relating to the construction phase if the development were to proceed. Research suggests that the average house contains a minimum of 100 tonnes of materials. Further, there is scaffolding, road building, machinery and landscaping to consider.

450 (houses) x 100 tonnes = 45,000 tonnes

Taking 6.2 into account a factor of an additional 100% appears reasonable.

Therefore: 90,000 tonnes will require to be moved in and a quantity removed out again on completion. This equates to circa 4,500+ artic loads in and at least the same number of artic journeys out. 9,000 in total over the period. It is certain that these deliveries will be heavily loaded towards the start of the project. Scores of trips each way per day.

6.3 The only access for the traffic noted in 6.2 is via Caledonian Road. The reader should note that SBC's own documentation considers the road incapable of accommodating even low levels of additional traffic.

7.0 Travel Characteristics

7.1 Caledonian Road is the sole access for all residential and industrial traffic entering or exiting from Edderston Road, South Parks and Dukehaugh. Some traffic uses Frankscroft, most exiting east, although an occasional vehicle exits west; which is hazardous. It is estimated that Caledonian Road services 600+ houses and also the light industrial units in South Parks.

7.2 Transport Volumes and Delays – Caledonian Road

7.2.1 Data Collected by direct observation in August 2018.

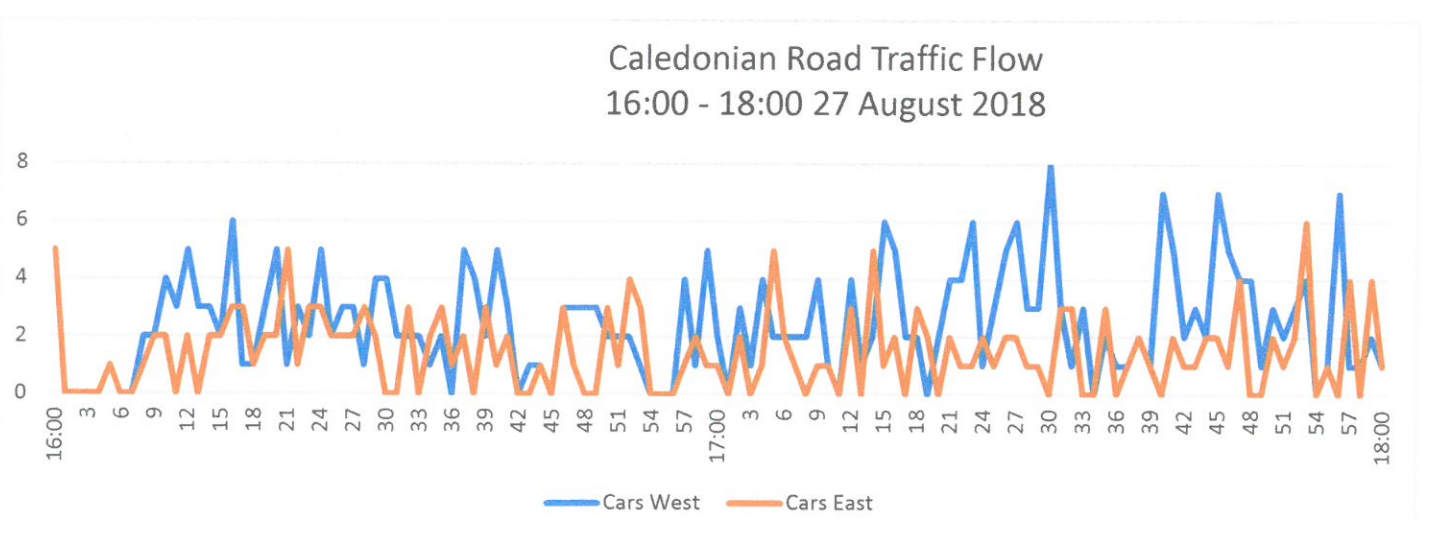
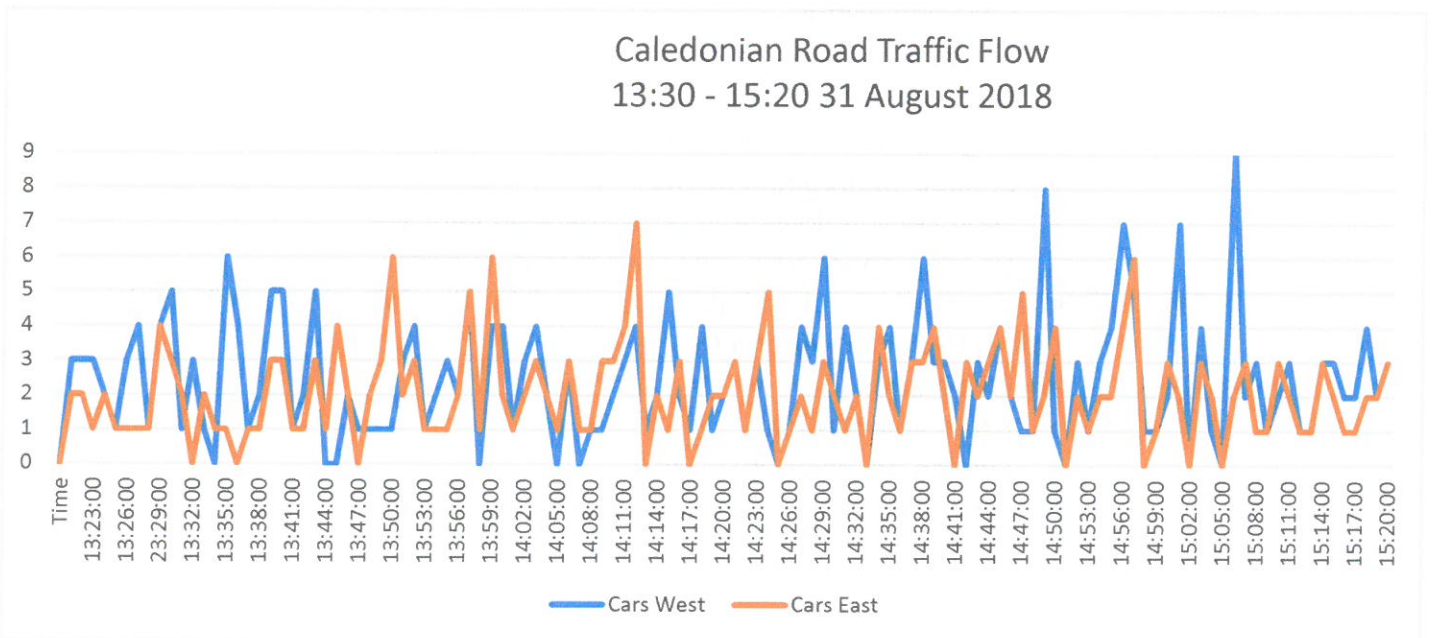
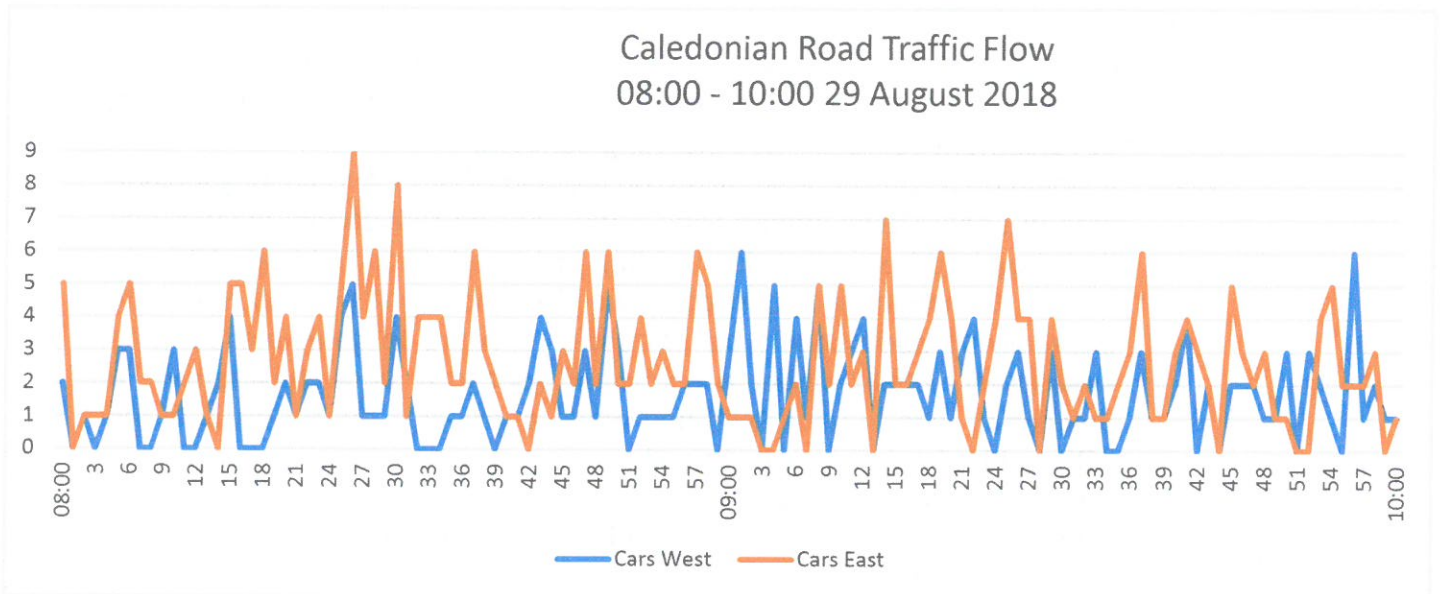
Item	08:00 -10:00	13:20 – 15:20	16:00 – 18:00
	East end	Frankscroft	West end
Total Vehicles during period	522	548	480
Vehicles per hour	261	274	240
Vehicles delayed	112	184	92
Percentage vehicles delayed	21.46%	33.58%	19.17%
Minimum delay	3 sec	2 sec	2 sec
Maximum delay	30 sec	30 sec	30 sec
Average delay	9 sec	7 sec	7 sec
Near misses	5	3	1
Pedestrians	33	82	9
Bicycles	8	12	1

7.2.2 Transport behaviour noted during observations:

Item	Comment	Instances
No bicycle lanes and narrow pavements	Bicycle forced pedestrian to step in the road Multiple bicycles on pavement or forcing traffic to crawl	1
Parking obstruction	This does not act as a traffic calming measure – majority of cars (including the writer) try to get by the obstruction before another car approaches [See visibility]	Continuous

Item	Comment	Instances
Visibility	There are three points where driver visibility is poor. 1) Opposite Dukehaugh 2) approaching the roundabout at the west end going west or leaving the roundabout 3) leaving or entering the roundabout at South Parks	
Speeding	In very rough terms: 10% of traffic may be circa 20mph, 80% circa 30mph, 25% circa 40mph and 5% circa 50mph [a black VW is always at the top end and sighted several times].	
Near misses	5 opposite Dukehaugh where visibility and parked cars together with racing to get by is an obvious risk. Additional cars/vans seen chancing it.	9 (Observed)
Delays	Single delays are probably not a major issue. However, some vehicles are caught multiple times. One vehicle was observed stopping 4 times. Some vehicles stop, try to proceed and are forced to stop again and again. Van held up 3 times and then had to reverse. 90% of delays are to westbound traffic	24% (of cars suffer one or more delays)
Articulated lorries and other goods vehicles	Most goods vehicles observed were 7 tonnes or less. However, 1 artic was observed both westbound and eastbound. There was no ability for it to pull in	
Chicane	Some of the faster westbound cars are ranging in and out at speed between the parked cars and the open eastbound lane	Multiple (cars observed)

Item	Comment	Instances
Frankscroft	Cars swinging out to turn left	2 (Observed)
Pedestrians	<p>One pedestrian noted to being scared on occasion. One pedestrian noted that she could not walk side by side with here husband</p> <p>Pedestrians walking in road with back to traffic</p>	<p>9 to 82</p> <p>Observed in 3 x 2-hour periods</p>
Bus stop	<p>1 bus was sighted in each observed period</p> <p>Cars were observed stopping at the bus stop at the west end</p>	<p>3</p> <p>Over 6 hours all with no passengers</p>
OAP with Zimmer	Having difficulty negotiating choke point on pavement	1
Pram	Tight negotiating choke point on pavement	2
Ambulance	Reversing into ambulance station and blocking traffic	1
Dog walker	Having difficulty walking the dog to heel on the narrow pavements	3



8.0 Accessibility Audit

- 8.1 From the Scottish Government publication, "Roads for all – Good Practice", an Accessibility Audit should be conducted prior to a development being granted planning consent.
- 8.2 It would be a considerable failure on the part of SBC, should they include land in Local Development Plan 2 that had no reasonable access and that they had been appraised of this fact in advance but had still gone ahead. Consequently, due diligence demands that prior to such, an accessibility audit should be completed. Failure to complete such an assessment could render a council subject to a legal challenge by a developer, who in good faith had made application on the basis of the LDP but had subsequently been turned down.
- 8.3 The following bullets identify a selection of prompts and considerations listed within this guidance to help with such an audit.
- Traffic flows
 - Crossing widths
 - Street furniture location
 - Footway surface quality
 - Segregation of pedestrians from vehicles
 - Limited width/pinch points
 - High vehicle flows and or high-speed vehicles
 - Sharing space with other users (e.g. cyclists)
- 8.4 This document also highlights the need for the following audits to be include in the planning process:
- Cycle audit
 - Road safety audit
 - Design accessibility audit
 - Equality impact assessment (Under the terms of the Equality Act (2010))

9.0 Compliance with Policy and Guidelines

The following tables identify policies and guidelines from both the Scottish Government and the Scottish Borders Council with which the SBC should be compliant when deciding on what land is suitable for inclusion in the Local Development Plan. See sections 9.1 and 9.2 below

9.1 Scottish Borders Council Policies and Guidelines

Ix	Document/ section	Requirement
	Local Development Plan	
1	PMD2	Quality Standards "It ensures there is no adverse impact on road safety, including, but not limited to site access".
2	HD3 (Page 85)	"Development which is judged to have an adverse impact upon the amenity of existing or proposed residential areas will not be permitted". a) "The principle of the development itself particularly in terms of: iii the generation of traffic and noise
3	IS5	Protection of Access Routes (Page 125) "Developers should integrate existing access routes into their site layouts and design to ensure that public access and egress remains as attractive and convenient as it was prior to the development".
4	Appendix A	"As a guide for housing proposals, the Council is likely to request a Transport Assessment for developments in excess of 25 Units"
5	IS5 Appendix 1B	"The planning and infrastructure issues assessment analysed issues about planning requirements. For instance, constraints regarding road access..... If a site was deemed to have poor access, then the site would probably be assessed as unacceptable or doubtful in terms of planning and infrastructure ".

9.2 Scottish Government Policies and Guidelines

Ix	Document/ section	Requirement
	Planning Advice Note PAN 75	
6	Section 21	"Analysis of the existing situation or base case is a crucial element "
7	Section 29	"No-Net-Detriment" "Should consider local characteristics"
	Scottish Planning Policy	
8	Section 80	"Should take into account – the individual and cumulative effects of the proposed development"
10	Section 168	"Recent developments, sites allocated for development in existing plans and unimplemented planning permissions should not set a precedent for the allocation of development sites in unsuitable locations".
	Transport Assessment Guidance	
12	Section 3.9	"Furthermore, local authorities must recognise that the importance or relevance of impacts is not related solely to size. Although as a general rule, the larger the proposed development, the more information will be required, there are exceptions whereby relatively small developments have potentially serious impacts ".

Ix	Document/ section	Requirement
13	Section 5.7 (Cumulative Impact)	"With several proposals in close proximity, a more detailed Transport Assessment of the cumulative proposals may be more appropriate than one for each proposal in isolation".
14	Planning Circular 6/2013	"Councils must be in a position to justify their decisions" See Section 5
15	Section 60	"Evidence is required to inform plan making, justify the plan's content, and provide a baseline for later monitoring. Information gathering, and analysis should serve efficient high-quality plan-making. Certain aspects of the evidence base (such as Housing Need and Demand Assessment, and Transport Appraisals are likely to be essential at each plan review".
16	Section 67	"The Main Issues Report is not a draft version of the plan. It will concentrate attention on the key changes that have occurred since the previous plan and on the authority's big ideas for future development. However, it still needs to be site specific and should set out the authorities' proposals for development where these developments should and should not occur. The selection of preferred sites should be based on an understanding of place, together with consideration of deliverability factors such as viability".
17	Section 80	"Planning authorities should be able to demonstrate the underlying reasons for their preferred development locations and policies". 80 "Planning authorities should be prepared to justify their position at any subsequent examination of the plan".
	Transport Assessment Guidance	
18	Section 1	"Most new developments and changes of use will have some form of transport implication. Given the policy significance of the links between land use and transport, the likely impacts of development proposals need to be identified and dealt with as early as possible in the planning process".
19	Section 1.1	"Chapter 5 describes the scope and detail required within a transport assessment (TA). A TA will be required where a development is likely to have significant transport impacts. The specific scope and contents of a TA will vary for developments, depending on location, scale and type of development".
20	Section 2.1	"Transport Assessments (TA) will assist local planning authorities to appraise the operational implications of a development within the context of the local development plan.
21	Section 2.9	"In conclusion, the TA process can be summarised as follows: ▪ It is essential that a clear definition of the basis of assessment is set out at the scoping stage. Where roads and planning authorities opt for a No-Net-detriment approach, their definition of no net detriment should be clear from the outset".

Ix	Document/ section	Requirement
22	Section 2.11	<p>“Local authorities have a key role in the TA process in their functions relating to land use planning, roads and transport. They should:</p> <ul style="list-style-type: none"> ▪ Set out in their development plans their preferred sites for future development, based on accessibility appraisal or transport modelling, prioritising those sites which enable good accessibility by walking, cycling and public transport and identifying residual traffic impacts and proposals for mitigation”. ▪
23	Section 3.10	<p>“A transport assessment will be required where the development or redevelopment is likely to have significant transport implications, no matter the size”.</p>
24	Section 3.11	<p>“More detail may be required for those developments that meet or exceed any of the following criteria:</p> <ul style="list-style-type: none"> ▪ Residential developments of 100 units or more ▪ 100 or more vehicle movements per day ▪ 10 freight movements per day ▪ Where the planning authority has significant concerns about the possible transport impact of the proposed development”.
25	Section 3.17	<p>“The completion of the transport assessment form will assist in determining whether a simple transport statement is appropriate or whether complex analysis and reporting is required”.</p>
26	Section 3.18	<p>“Another potential concern is that developers may submit planning applications on an incremental basis for parts of a site in order to avoid the requirement to prepare a detailed transport assessment for the whole site”.</p>
27	Section 3.19	<p>“Furthermore, local authorities must recognise that the importance or relevance of impacts is not related solely to size. Although as a general rule, the larger the proposed development, the more information will be required, there are exceptions whereby relatively small developments have potentially serious impacts”.</p>
28	Section 5.58	<p>“Transport assessments must identify both the volume and distribution of vehicle trips related to the development and set this within the context of existing traffic movements in the locality, the following should be noted:</p> <ul style="list-style-type: none"> ▪ Extent of transport assessments should be sufficient to identify significant traffic effects. These impacts may be some distance from the development. ▪ The significance of a traffic impact depends not only on the percentage increase in traffic, but the available capacity. A 10% increase on a lightly trafficked road may not be significant, whereas a 1% increase on a congested motorway will be. ▪ Whilst road traffic analysis should focus on peak periods, in line with current junction testing techniques, the effects of peak spreading and the impact during inter-peak periods should not be ignored. The transport assessment should indicate days and times when the combination of development and no development traffic will peak”.

Ix	Document/ section	Requirement
29	Section 5.69	"Changes in the risk of accidents result from changes to the volume and mix of traffic, the layout of footways, cycle ways and roadways, and access to roadways. These can be appraised before the introduction of the development by means of a "Safety Audit".
30	Section 5.77	"With several proposals in close proximity, a more detailed transport assessment of the cumulative proposals may be more appropriate than one for each proposal in isolation. If a planning authority wishes to promote several developments near each other, they should aim to assess the cumulative transport issues arising from the entire scheme. Ideally at the time the site or area is being designate in the development plan".
31	Section 5.78	Conversely, where proposals may emerge independently from one another, rather than as a single proposal, the situation is more complex. This can give rise to a domino effect when one successful application leads to further proposals, as may occur with housing. Planning authorities may be able to foresee when this is likely to occur (or react when it starts to happen) by aiming to assess the sites together, possibly as part of an area wide development brief or master plan".
32	Go Safe on Scotland's Roads – Scotland's Road safety Framework until 2020	<p>"Evidence has a major role to play in every stage of policy making and delivery"</p> <p>"A roads design has a major influence on its safety performance. The features of roads themselves effect the likelihood and severity of accidents"</p> <p>Councils' responsibilities are enshrined within the Transport Scotland Act</p>
33	Well Managed Highway Infrastructure	This document suggests a risk-based approach (Section A.5). This approach is consistent with ISO55000 and the document suggest using guidance enshrined within: ISO 31000:2009 BS 31100:20111

Appendix 1

Decision Making by Public bodies: How to Avoid a Legal Challenge

In the context of this objection the writer has drawn on his background as an HSEQ Lead Auditor and lecturer and additionally has conducted considerable research into the above question. This question is relevant to the analysis contained within this objection. The writer strongly recommends readers to consider the Fieldfisher publication with the above title written by Martin Smith, December 2008, from which several extracts have been taken.

- **Following correct procedure**
 - This may take the form of procedural requirements set out in statute, statutory instrument, **guidance (whether statutory or non-statutory)** or a procedure which the decision maker has set for himself.

- Departure from an established prescribed procedure in itself can give rise to a successful legal challenge.... Even if no unfairness results.
- The Sedley Requirements
 - The product of the consultation must be conscientiously taken into account in finalising proposals.
- Equally, if they [decision makers] have a duty to perform in determining some question or other, they must not shirk their duty. Doing otherwise would be to render their decision “ultra vires” and so void.
- Whether a public body has a duty or discretion to exercise in making its decision, that decision must be rational
 - An aspect of reaching a rational and evidence-based decision is by taking all relevant factors for consideration into account
 - Relevant factors include:
 - Effects of decisions on others
 - Responses to consultations
 - Irrelevant factors include:
 - Assumptions not based upon evidence
 - Personal experience of a different situation
- **Consultation**
 - Documents should be made widely available
 - Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and the reasons for decisions taken.
 - Departments should monitor and evaluate consultations, designating a consultation co-ordinator
- **Practical requirements**
 - Decision makers must read all the papers – Failure to do so is a failure in duty and possibly lead to a decision that was unlawful on the basis that it fails to take account of relevant considerations.
- **Minutes**
 - Some decision makers have procedural rules that require minutes and some that expressly preclude minutes.
 - Whatever the procedure, it should be followed, always provided that an adequate record is maintained of the decision, if any, that has been reached.

It is the writer’s considered opinion, that taking the above into account there is a Common Law duty to give specific feedback to Objectors on all relevant objections raised and that procedurally, there is a legal requirement under these particular circumstances to produce a Transport Assessment that meets Scottish Government guidelines and probably due to the unique circumstances of Caledonian Road, a formal Road Safety Audit as well.

Appendix 2

Reference to Historical Council Documents

- Main Issues Report for LDP 1
 - SPEEB006 – The Local Plan Amendment Reporter did not support the allocation of the site. “Traffic matters are also of concern and the **difficulties of access** via Caledonian Road and South Parks.
- Planning and Infrastructure Assessment
 - Issues with traffic capacity on the roads leading to this site, i.e. Caledonian Road and South Parks..... The issue with South Parks is the **tortuous nature of the initial length** of the road off the mini-roundabout
- Preferred and Alternative Site Report
 - Previously, I have expressed concern.....on the grounds of traffic capacity of the roads leading to the site, i.e. **Caledonian Road and South Parks**. The problem with Caledonian road is parking in the Carriageway, forcing single file traffic and the issue with South Parks is the tortuous nature of the initial length of the road off the mini-roundabout.
- Appendix A Response to Consultation Submission on MIR (2012)
 - Traffic Matters are also of concern and the **difficulties of access** via Caledonian Road and South Parks
- Employment Land National Strategy & Policy
 - However, the **Scottish Government Reporter** Ultimately recommended that these proposed sites were removed, primarily on access grounds relating to the ability of Caledonian Road to satisfactorily accommodate further vehicles.

Appendix 3

Sample of Objections from South Parks and Tweedbridge Court Developments

This document collated all the objections relating to both the South Parks and Tweedbridge Court Developments raised in 2018 relating to Caledonian Road, Peebles Infrastructure and the perceived Increased Risk to Safety posed by those developments.

It should be noted that at the time of collation, **more than one hundred persons** have stated that Caledonian Road is at capacity, is currently hazardous and further development will lead to increased danger of serious accident.

Index	Item	Description	Number Of Objections
1	Transport Assessment	No transport Assessment that considers multiple developments (South Parks, Tweedbridge Green and the Sware) – poor TA	22
2	Transport Assessment	Inadequate TA and road safety review provided	21
3	Residents perception that objections are being ignored	Council seemingly not taking reasonable concerns into account	10
4	Dukehaugh & Frankscroft Junction	Dukehaugh Junction of real concern, particularly with the proposed increase in traffic	24
5	Caledonian Road	Effectively single-track road	47
6	Caledonian Road	Road currently at capacity	107
7	Caledonian Road	Poor visibility at critical points	17
8	Caledonian Road	Unsuitable and unsafe for cyclists	7
9	Town infrastructure	Schools and Doctors, overcapacity now Congestion on high street	73
10	Health & Safety	Substantial increase in likelihood of an accident to road users and pedestrians in Caledonian Road and related areas	68

Index	Item	Description	Number Of Objections
11		Actual damage / injury incidents not recorded	8
12	Craigearne Lane	The only alternative to Caledonian Road should it be blocked or restricted Rat run – single track road, decants at the school, not safe and will probably see an increase in traffic seeking to avoid Caledonian Road	4

Appendix 4

Observations Relating to the “Western Rural Growth Area Development Options Study 2018”

1. The writer notes that typical rule of thumb for a development is 30 dwellings per hectare over 70% of site (Page 4). For the proposed development this equals 400 Houses+. This is potentially in addition to the 71 presently being considered for the adjacent site and the additional properties to be built at Tweedbridge court. In effect, traffic on Caledonian Road will be set to more than double.
2. Section 3 – Developer feedback notes that there is a relatively slow sales rate in Peebles (20 units per annum) as opposed to elsewhere in the Borders (30 units). The item identifies that small development sites are preferred. Sites of maximum 40 – 50 houses being mentioned.
3. Section 5.9 recognises that access to this site may be dependent on access upgrades, and any associated impacts of this would need to be considered”. Therefore, this report acknowledges that an assessment of impacts is required.
4. Section 6, Table 6.1 - P2 is dependent upon infrastructure upgrades and potentially a second Tweed crossing.
5. Page 23 – P2 – Key issues. Again, the consultant has identified “Problems with Access to the site through the town. Potentially requiring a new link road and/or upgraded Tweed crossing.
6. Pages 45 – The edge of the site is within the upper Tweeddale National Scenic Area and contributes to the special landscape area as part of the setting of Peebles.
7. Page 46 – Again the consultants note “It is likely that access issues will be key to the development of this area since it would require improved road access onto Edderston Road and could add pressure to the existing river crossing.
8. Road Access is considerate a moderate issue but does not look beyond Edderston road.
9. Infrastructure needs are considered high. There is no adequate detail of what this means.

Response ID ANON-7TG7-FAZQ-U

Submitted to LDP2 - Main Issues Report

Submitted on 2019-01-08 17:34:34

Data protection

About you

Are you responding as an: individual, organisation, or an agent acting on behalf of a client?

Individual

Individual

What is your name?

Individual name:

[REDACTED]

What is your address?

Address line 1:

[REDACTED]

Address line 2 :

Address line 3:

Town/City:

[REDACTED]

Post code:

[REDACTED]

What is your contact number?

Individual Phone No:

[REDACTED]

What is your email address?

Individual email:

[REDACTED]

Vision aims and spatial strategy

Question 1

Q1 Agree aims LDP2:

Agree

Growing our economy

Question 2

Q2:

Agree

Q2 upload:

No file was uploaded

Question 3

Settlement business allocated:

Strategically placed in the areas with the highest unemployment and deprivation

Upload Q3:

No file was uploaded

Question 4

Business Use Towns:

No

Upload Q4:

No file was uploaded

Question 5

Land delivery effectively:

No

Question 6

Agree?:

Agree

Upload Q6:

No file was uploaded

Planning for housing

Question 7

Housing agree?:

Strong objection to the inclusion of the land at south Parks and Edderston road, Peebles. A written submission will follow

Upload Q7:

No file was uploaded

Question 8

Housing countryside:

Housing allocations should be in areas:

with the best communications such as Tweedbank

with the highest levels of deprivation and housing need

in new towns allocated near the new border railway, with good road access to the main border towns

and as satellites to existing towns such as occurred with Cardrona next to Peebles

Upload Q8:

No file was uploaded

Question 9

Agree removed housing :

no comment

Supporting our town centres

Question 10

Core Activity Areas:

A rate reduction for business in town centre areas to encourage new business to use vacant properties. This would reduce business failures and encourage business startups in town centres

Question 11

Berwickshire supermarket:

No

Upload Q11:

No file was uploaded

Question 12

Develop contrib town:

Delivering sustainability and climate change agenda

Question 13

Support alternative option:

Use of cars should be discouraged through access to good bus and train services

Question 14

National park:

Yes

Broughton to Peebles to Melrose To Jedburgh
down to the English border
including the Pentland hills

Upload Q14:

No file was uploaded

Regeneration

Question 15

Agree redevelopment:

No comment

Upload Q15:

No file was uploaded

Settlement Map

Question 16

Oxnam settlement:

No comment

Question 17

Core frontage Newcastleton:

no comment

Planning policy issues

Question 18

Agree amendments appendix3:

I think Scottish Borders Council should always apply both their own policy and guidance and that of the Scottish government at all times

Any other comments

Question 19

Other main issues:

Development is too heavily weighted on Peebles in the plan and should be more evenly spread.

Landowner details

Have you submitted any site suggestions in this consultation?

No

If yes, please confirm the site and provide the landowner details (if known) for each site you have suggested.: