

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 NOVEMBER 2012

APPLICATION FOR PLANNING PERMISSION

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| ITEM: | REFERENCE NUMBER: 12/00929/FUL |
| OFFICER: | Mr Scott Shearer |
| WARD: | East Berwickshire |
| PROPOSAL: | Installation of pump house and associated works for effluent discharge |
| SITE: | Drysdale Old Cambus Cockburnspath TD13 5XX |
| APPLICANT: | Ian McLachlan |
| AGENT: | McKay and Partners |

SITE DESCRIPTION

Drysdale operate a vegetable production plant at their site within a former quarry at Old Cambus. The plant is accessed via an unclassified road from the A1107 and contains from east to west; a car park, range of specialist vegetable storage and production buildings which include office accommodation and staff facilities, water treatment system consisting of two activated sludge ponds and a 300m squared reed bed.

The narrow application site spans approximately 800m from behind the existing sludge ponds and around the reed bed towards the east before it extends outwith the existing compound in a north easterly direction across undulating farm land then descending down the steep sloping coast embankment and across shoreline rocks out to sea.

PROPOSED DEVELOPMENT

Full planning permission is sought for works associated with installing a new system to discharge effluent from the applicant's vegetable washing process.

The works which require consent involve the erection of a new pump house encased within a 2x2x2m fibreglass enclosure with piping connected to the existing pond and a new pipe 75mm in diameter excavated 800mm underground set within pipe bedding. Topsoil would be reinstated until the pipe reaches the boulders and shingle of the coast line where it will remain underground but set within a 600mm deep concrete trench cut through the sea bed. The applicant proposes to colour of the concrete surface to match the shore line sandstone and replace stone removed on excavation along the line of the pipe route. During the course of consideration, the application has been amended by the applicant with the effect that the outfall point has been extended to ensure that the functionality of the discharge is not compromised; this now details an extension to the pipe at outfall so it breaches the rock and is anchored to the sea bed

These new works will provide for an effluent discharge process with an enhanced capacity that will harvest rainwater from the plant's buildings and will extract all extraneous vegetable matter from the water via a system of filters, lagoons and a balancing pond before the wash water is discharged into the sea via the proposed works.

PLANNING HISTORY

The Drysdales site has a lengthily planning history, although no development history relates to the operations proposed for considerations as part of this application.

Recent planning applications include 12/00818/FUL for an extension to a processing building and 12/00819/FUL for extension to provide office and changed facilities have both been approved.

REPRESENTATION SUMMARY

There are 441 submissions objecting to this application. (There may be a small number of cases where households are potentially represented by more than one submission). Comments can be viewed in full on *Public Access*. Key concerns raised include:

- Development will discharge untreated agricultural waste into the sea.
- The proposal will pollute the environment with the discharge giving rise to the growth of slime and sea weed at its outfall deteriorating the quality of the rock outcrops and scenic beauty of the coastline.
- The protected marine environment, Berwickshire Coast and North Northumberland SAC and Berwickshire Coast Special Landscape Area will be placed at risk from the construction and outfall from the development.
- Development is very close to the site boundary of the Siccar Point SSSI which could give rise to sea water around Siccar Point being discoloured or material from the discharge being washed ashore affecting the setting of the SSSI.
- Siccar Point is an area of global geological significance as it was the location in the 18th century where James Hutton along with Sir James Hall and John Playfair observed and appreciated the discordant relationship of the gently dipping Upper Devonian and underlying, steeply inclined Silurian strata. Hutton's findings at Siccar Point informed his theory of Unconformity and that the earth was older than previously perceived. His theory is credited to be a vastly important in the evolution of modern geology. Any Development around this site of world wide importance should be resisted.
- Siccar Point is referred to as a significant geoheritage site has been proposed as a Global Geosite on the basis of its historical importance. Its significance is represented by a casting of the outcrop being housed in the American Museum of Natural History in New York to illustrate Hutton's unconformity.
- Proposal will desecrate a site of major cultural importance and part of the Scottish Enlightenment.
- The construction of a concrete cased pipe across the shore will visually scar the setting and scenic beauty of Siccar Point SSSI which is characterised by the meeting of the gently sloping Devonian red sandstone with the older near vertical Silurian greywacke.
- Cutting through the strata at right angles will be incapable of backfill with local rocks.
- The site is an internationally famous landmark which attracts global visitors because of its beauty and geological significance and although the

development is outside the SSSI boundaries, its construction and burial may have an adverse impact on visitors' appreciation of the Siccar Point.

- Fall in visitor numbers would be disadvantageous to the local economy.
- Site is a unique educational resource referred to in textbooks and attracts students and scholars from across the world to witness Hutton's findings.
- The proposed route of pipe across cuts across unstable terrain and could lead to land slippage or erosion.
- After construction, the steepness of the embankment will always place the pipe at risk from fracture caused by subsidence or erosion leading the pipe line to become visible, exacerbating its visual impact.
- Professional engineering geological advice should be sought regarding the stability of the terrain implication for construction and environmental impacts.
- Poor design
- Noise and smell nuisance
- Trees and landscape
- Development places risks on surrounding tourist industries and beauty spots at Coldingham and Eyemoth and St Abbs
- Discharge will impinge on the operations of the Marine reserve at St Abbs
- Development poses health risk
- Detrimental to residential amenity
- Loss of view
- Operation currently disposes of waste in an environmentally friendly manner this proposal is a cost saving measure which will destroy the environment
- Works conflict with Scots law and EU directives
- Proposal should be supported by an EIA

APPLICANTS' SUPPORTING INFORMATION

The following information has been submitted by the applicant and is available for Members to view in full on the *Public Access*:

- Drysdales has operated for 30 years growing and processing for vegetables distribution to UK supermarkets and seasonal exports to Europe.
- 225 people are employed.
- Current operation provides a £10m annual turnover.
- Engaged within two initiatives to assist with youth unemployment, one is in association with Eyemoth High School preparing students for the work place, the second is a pilot scheme funded by Drysdales for the long term unemployed and offering the prospect of employment on completion.
- Drysdales grow vegetables in areas of 2000 acres across the country, with production complying with all forms of growth and production legislation.
- Internally measure their environmental credentials against their own 'Lean Green Thinking' (LGT) system.
- Requirement for a new system is a result of increased production requiring to be serviced by a greater volume of discharge.
- SEPA confirmed that the existing discharge method via the flow of the Redhaugh burn is not adequate to accommodate any further increase.
- The discharge process will be controlled and monitored by SEPA
- Proposed development is a result of their LGT sustainability goals which will harvest rainwater for their vegetable washing and production process, reducing electrical and chemical usage and reduced noise impacts.

- The pipe system will not be visible with the exposed concrete surface finished in a colour to match surrounding rock and removed red sand stone replaced on the surface
- Discharge point will not be visible at 4m below sea level at low tide.
- An Ecological Impact assessment has been provided.
- Structural Engineers have provided a slope stability summary, comments that the extent of landslide deposits along the coastal embankment could not be avoided by re-routing the pipe, potential mitigation measures have been identified and are recommended to exist following a full survey
- The applicant has confirmed that a condition would be accepted for a full slope stability to be provided before development commences.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Structure Plan 2001-2018

E1 Prime Quality Agricultural Land
 E16 Rural Economic Development
 I13 Water Quality
 I15 Flood Risk
 N3 National Sites
 N5 Local Biodiversity Action
 N9 Maintaining Landscape Character
 N11 Areas of Great Landscape Value
 N12 Coastline
 N14 National Archaeological Sites
 N16 Archaeological Evaluation, Preservation and Recording
 N20 Design

Consolidated Scottish Borders Local Plan 2011

BE2 Archaeological Sites and Ancient Monuments
 D1 Business Development in the Countryside
 EP2 Area of Great Landscape Value
 EP4 Coastline
 G1 Quality Standards for New Development
 G5 Flooding
 H2 Residential Amenity
 Inf2 Access Routes
 NE2 National Nature Conservation Sites
 NE3 Local Biodiversity
 NE5 Development Affecting the Water Environment
 R1 Protection of Prime Quality Agricultural Land

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy
 SPG Landscape and Development
 SPG Biodiversity 2009
 SPG Local Landscape Designations 2012

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Archaeology Officer: Cite that the pipeline will pass through area known to have prehistoric or early medieval burials which these works have a moderate to high potential of encountering. Due to these sensitivities a condition should be imposed to require a written scheme of investigation outlining a watching brief by a contracted archaeologist with an archaeologist present to observe excavation works.

Comment that although it is beyond remit of specialism to make recommendations on the scientific value of Siccar Point. While there are no specific policies for cultural heritage sites that are not designated, archaeological or built it is our role to provide conservation and enhancement to the historic environment such as Siccar Point. It is suggested that the impact the proposal will have on the experience, appreciation and understanding of Siccar Point should be considered.

Access Ranger: The path affected by the development links Siccar Point to Redchaugh and is noted as a longer term aspirational route following a Report's recommendation to amalgamate this route. Hence it is recommended that if this application is approved that the developer is approached to willingly facilitate this project with the Council. Otherwise the path should be kept open and free from obstruction to a width of 2000mm during the course of development and in perpetuity thereafter. This route should not form a curtilage to a property or enclosures erected to deter future recreational use.

Ecology Officer: Satisfied with findings of the requested Ecological Impact Assessment. A planning condition should be used to require the submission and implementation of a Species and Habitat Mitigation Plan. It is advised that mitigation should also include provisions for wintering birds.

Environmental Health: Noise Levels from plant and machinery should not exceed Noise Rating Curve NR20 between 2033 -0700 and NR30 at all other times when measured from the nearest noise sensitive dwelling or contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2.

Flood Protection Officer: No objection.

Statutory Consultees

Community Council: Neither object or support. Note comments from SEPA and SNH. Recommend that rock plums should be included in surface of concrete surround across the beach and foreshore. Further questions were asked relating to operation of the system and material finishes and specifications.

Scottish Natural Heritage (SNH): No objection. Do not consider that the proposal will affect the qualifying interests of the Berwickshire and North Northumberland Coast Special Area of Conservation (SAC) or will impact on the geological interest of Siccar Point Site of Special Scientific Interest (SSSI) due to its location outwith the boundaries of the site. To minimise the extent of the proposals damage to the semi-natural coastal grassland habitats and species and habitats found in the inter-tidal area, a working method statement should be requested covering; vehicle movements, equipment storage locations, removal of foreign material, contingency plans to address spillages, replacement of large stones and boulders.

In response to objection comments SNH issued a further comment to justify their observations, key points made are summarised as follows;

- The route of the pipe does not go through Siccar Point SSSI, it runs 150m to the east over a stretch of intertidal rock of Devonian-Carboniferous age which represents good rock exposure supporting the geological interest of the site however it does not illustrate the unconformity feature which Siccar Point is internationally recognised.
- The Berwickshire and North Northumberland Coast European Marine Site (SAC) lies 5km to the east of Siccar Point. Due to the tidal movement of the water on the coastline, the vegetable matter discharged will not affect the marine SAC or Siccar Point, this is known from the findings of related previous modelling exercises.
- Normal tidal rock movement and colonisation by marine flora and faunal 'turf' will in time soften the visual impact of the concrete pipeline.

Scottish Environment Protection Agency (SEPA): No objection. Confirm that consultation with applicants has already been undertaken and their proposed discharge method is in principle capable of being authorised under The Water Environment (Controlled Activities) (Scotland Regulations) 2011 (as amended) (CAR). The applicant is yet to demonstrate compliance with dilution standards, however it is likely that the revisions placing the outfall pipe at a depth of 4m can meet the requirements of these regulations.

No flood risk issues are posed. Greenfield run off rate should be controlled by the Local Authority.

On reviewing the impacts of the development on an area of enhanced groundwater vulnerability, not adverse impacts as a result of the pipeline or discharge are likely to impact on groundwater.

Other Consultees

British Geological Survey:

The British Geological Survey is not ordinarily a consultee on planning applications, but given the international interest in the proposal, a view has been sought from the organisation: They have not objected, but make the following observations:

- Given the international significance of Siccar Point, the British Geological Survey recommends that any development visible from, and close to, the Siccar Point SSSI should be handled with extreme sensitivity.
- Part of the proposed pipeline route passes through an area of landslide deposits. This natural instability may be enhanced by the excavation of a pipeline trench. The British Geological Survey recommends that Scottish Borders Council request the applicant to carry out a slope stability survey to inform the design and route of this proposed pipeline through the area of landslide deposits.
- It should be noted that most of the surveyed route of the proposed pipeline will pass through an area of enhanced groundwater vulnerability. SEPA should be consulted on the implication of this for the proposed development.

KEY PLANNING ISSUES:

Whether the proposed development will comply with policies related to development in the countryside and, in particular, whether the proposed development will have an adverse effect on the qualifying features and the setting of; Siccar Point Site of Special Scientific Interest (SSSI), the Berwickshire Coast and North Northumberland Special Area of Conservation (SAC) and the Berwickshire Coast Special Landscape Area (SLA). Consideration also must be given to other matters including impacts on wildlife habitat.

ASSESSMENT OF APPLICATION:

Policy Principle

The development would comprise of a new piped drainage system to discharge effluent from the vegetable washing process from the existing plant operations at Drysdale to the North Sea. This proposal is a result of an operational requirement due to increased productivity and it is advised that their existing drainage system cannot accommodate the increased volume of discharge. The proposed development will serve a successful existing rural enterprise which currently employs approximately 225 people; the need for the development underlines the success of the applicants operation and their pressure to expand to meet the requirements of their market. Overall, the objectives for this new system are considered to satisfy the criteria which permit the expansion of rural enterprises within Structure Plan Policy E16 and Local Plan Policy D1, subject to having a satisfactory environmental impact.

Structure Plan Policy N12 and Local Plan Policy EP4 seek to preserve the coastline of the Scottish Borders from inappropriate developments with exceptions permitted for proposals which require coastal locations. The existing compound at Drysdale already falls within the coastal zone for the purposes of Policy EP4 and therefore the question over whether there is a requirement for a coastal location is not pivotal to this case. The key issue, therefore, is whether the impact of the proposal is acceptable in terms of its effect on the Coastal Zone more generally.

The application site is located within an area which is designated as Prime Agricultural Land (Structure Plan Policy E1 and Local Plan Policy R1). Within these locations there is a presumption against development which is irreversible to protect from causing the permanent loss of this resource. From the point at which the route of the pipe leaves the applicants' existing compound until it reaches the coastline it crosses agricultural land. Although the works will cover a long stretch of ground, the development will only be contained within a nominal 400mm wide trench which will be excavated with the upper ground levels reinstated which suggests that on completion of the works the land will be suitably restored for agricultural use. Combined with limited area affected, this ensures that the proposed development unlikely to prejudice the wider or long-term agricultural use of the land.

While the site is located within the Berwickshire Coast Special Landscape Area (SLA), it is sited 150m outwith the Siccar Point SSSI and some 5km to the west of the Berwickshire and North Northumberland Coast European Marine Site (SAC). The vast majority of this development poses no impact on the qualities of any of these designated landscape zones as the small pump house is wholly contained within the existing compound and the vast majority of the pipe is underground. It is only when the proposed works breach the coastal embankment and project across the sea rock before entering into the sea that there will be any visual consequences. Given the

scale of the proposed development, the visual impacts upon these designated landscape zones will be localised, however it is this local impact particularly upon the setting and appreciation of Siccar Point SSSI and the character and appearance of the SLA which will be considered in more detail later in this assessment.

Impact and Use of Pipeline and Pumphouse

Before considering the visual impacts of the proposed development it is worthwhile to consider the merits of the design of the pipeline and the legislation regulating its use.

Many of the objections suggest that the proposed development will result in pollution of the marine environment. It is not for the planning authority to assess the impact of the development upon the marine environment, as this regulatory role lies with SEPA. An assessment on the potential for pollution will be undertaken as part of their decision to grant a Controlled Activities Regulations (CAR) licence for the works. As it is covered by these Regulations, the Council should not duplicate the assessment by the proper controlling authority. As such, it is not appropriate to oppose this application on an argument that it will result in polluting the environment or give rise to health risks as this will be considered as part of the separate licensing process. For completeness, it is worth noting that SEPA have suggested that the applicants proposed discharge of effluent matter and methodology is, in principle, capable of meeting with their CAR regulations.

In terms of design, although this proposed development will cover a lengthy area of ground its scale and mass are small with the pipe being only 75mm in diameter and encased underground within a 400mm wide trench. The pumphouse to serve the pipe is similarly small and its fibre glass green casing will match the material finish of the majority of the buildings within the existing compound. The siting of the development underground significantly limits its visual impact; however, it is the effect of the proposal across the initial sea rock which requires specific attention. At this location, the applicant has opted to continue the works underground setting the pipe within a concrete encased trench buried to a depth of 500mm below ground level with the top of the encasement flush to the rock surface. The applicant proposes to colour the top of the concrete to match the red sandstone it will be set within and then to also re-lay the removed rock over the excavation.

During the consideration of the application, officers investigated with the applicant whether there were any other design solutions, with potential to fix the pipe on the surface of the rock, which would have been a reversible action. While the benefits of this approach would enable the development to be more easily removed, this fixing is likely to be at greater risk of damage to the pipe and would have meant that it would clearly be visible for its life time.

The applicant has favoured their original scheme and although this design approach will likely give rise to greater initial visual disruption in the short term, its surface will be coloured to match the surrounding rock with the rock removed on excavation replaced to limit the impact. Once weathering and the invasion of plant species are taken into account, the impact will be lessened further. On balance, the proposed design option which will appear to blend over time appears an acceptable solution, provided that an appropriate surface colour finish is agreed via planning condition.

Natural and Geological Heritage

Scottish Natural Heritage (SNH) are the body concerned with protecting natural heritage sites, including the Siccar Point Site of Special Scientific Interest (SSSI) and the Berwickshire Coast Special Area of Conservation (SAC).

The international geological importance of Siccar Point SSSI is acknowledged, and the significance of the site to geologists in particular is evidenced by the global interest generated by this application. The overriding concern raised in objections is the impact the development will have on the internationally renowned SSSI.

Siccar Point is a geological SSSI specifically notified for the unconformity feature and associated Red Sandstone sedimentary rocks. It is a reference site for these features and as such the geological interests are considered to be adequately represented within the boundary. The key interest feature of the SSSI is the specific rock formation on the north west side of the promontory of Siccar Point, where in 1788 James Hutton appreciated the significance of unconformities in the geological record.

However, the protected geological features are within the boundary of the SSSI. This proposed pipeline would be located completely outwith the boundary, some 150m distant at its nearest point and further from the Point itself.

It is also of significance that this proposal falls on the opposite side of the key interest feature of the SSSI which are the rock formations on the north west side of the promontory at Siccar Point. Throughout the course of this application, SNH have reiterated their position that the proposed development will not detract from the geological interest of the Siccar Point SSSI or its historical role within the evolution of geology. Similarly, on commenting on the impact of the proposed development upon the SAC it is advised that its qualifying interests will not be affected by this development.

It has been advised that the nature, quality and quantity of discharge from the proposed pipeline which extends beyond the intertidal area will not adversely impinge on the environment of the Siccar Point SSSI or the Berwickshire and North Northumberland Coast SAC, although as already noted, that remains an issue for SEPA as regulating authority.

The impact of the proposed development upon the wider setting of these natural heritage designations will be covered in the following section.

SNH have advised that the proposed development is located within a area of semi natural grassland habitats found at the inter tidal area, to minimise that extent of any damage that this proposed development will cause to these environs a working method statement is recommended to be requested, which should cover issues relating to vehicle movements and tyre types, locations of storing materials, removal of materials on completion of works, contingency plans to address spillages and appropriate replacement of large stones and boulders. This matter can be addressed by an appropriately worded condition.

Having regard to SNH's statutory role in the assessments of the impacts of the development of national nature conservation assets, their decision not to object to the proposed development subject to the agreement of a working method statement is very significant in the determination of this application. Their stated position is that the proposed development does not adversely affect the integrity of either the SSSI or the SAC, and therefore the proposed development ultimately accords with

Structure Plan Policy N3 Local Plan Policy NE2. There are not considered to be any overriding reasons to conclude otherwise.

Landscape and Visual Impacts

The site is located within an area of high landscape sensitivity which is reflected by the various designated landscape areas the application site falls within and adjacent to:

- Siccar Point Site of Special Scientific Interest (SSSI);
- Berwickshire Coast and North Northumberland Special Area of Conservation (SAC) and;
- Berwickshire Coast Special Landscape Area (SLA).

Before extending out across the shoreline where the proposal will give rise its only potential visual impact, as the underground pipe will extend down the coastal embankment known as Marley Brae which has been identified to contain landslide deposits. Siting a pipe in this ground environment could mean that the pipe would be vulnerable to, or have the potential to increase, the risk of land slips. Initial information of the stability of this slope has been provided by a suitably qualified engineer and this confirms that angle of the existing slope in the vicinity of the proposed pipe should be stable and any instability will only affect localised ground conditions along the route of the pipe.

The applicant has confirmed that a condition requiring a full slope stability survey undertaken along the pipe route before development commences would be accepted. While it cannot be confirmed that there is no risk associated with landslip at this stage, the structural engineers within their initial assessment have confirmed that it is expected that appropriate mitigation will exist to counter any findings of instability. It therefore appears likely that this development can be delivered without the risk of significant land slips which will affect the development or the slope on which it would be located.

It is only the section of pipe across the shore which raises visual implications. The localised scale of the development means it has no adverse visual impacts on the SAC which is located 5km from the application site. Crucially, the pipe is located some 150m to the east of the designated Siccar Point SSSI. Therefore, visually, the route of the pipe will not have an direct adverse impact on the key interest feature of the SSSI which is the formation of the Upper Devonian and sedimentary rocks on the North West point of the promontory.

The key question is whether or not the proposed development will affect the setting and appreciation of the SSSI and the SLA. The proposed development will cut through a stretch of intertidal rock of Devonian-Carboniferous age which is judged to represent a good rock exposure supporting the geological interest of the SSSI. However, it is considered that the scale of disturbance within a wider area of shoreline is negligible given its surface width of 400mm coupled with its distance from Siccar Point. Combined with the scope to colour any exposed surface to reflect those of the surrounding rocks can provide a development which will not adversely impact on the immediate setting or the appreciation of the rock formations at and around Siccar Point.

The replacement of the short width of removed rock surface will assist with affectively providing some screening and over time the weathering of the normal tidal and rock movements encountering the surface of the concrete casing coupled with the colonisation of marine flora and faunal 'turf' upon it as expected by SNH will soften the visual appearance of the development.

No neighbouring properties are within a close enough proximity to be adversely affected by a development of this scale.

Archaeology

The Archaeology Officer has identified that the proposed pipeline will pass through an area known to have had prehistoric or early medieval burials. Several were revealed at the end of the 19th century, and it is likely that more will exist in the area. Given the moderate to high potential of encountering archaeology, it will be necessary for an archaeologist to be present during all excavations associated with this development apart from those that only affect the solid geology. In order to comply with Structure Plan Policy N16 and BE2 the applicant will be required to undertake a Watching Brief with a archaeologist present during ground excavation to enable to afford sufficient mitigation on the probability of discovering archaeological remains. This matter can be dealt with by condition.

Ecology

Following the submission of the Ecological Impact Assessment, the Ecology Officer has expressed satisfaction with its findings. It is recommended that in accordance with the provisions of Local Plan Policy NE3 to protect the qualities of local biodiversity this development will impact upon a condition is recommending seeking the submission and implementation of a Species and Habitat Mitigation Plan. It is further advised that this recourse should include measure to avoid disturbing wintering birds on the rocky shore, and this observation can be relayed via an applicant informative.

Flooding and Groundwater Vulnerability

Both SEPA and the Council's Flood Prevention Officer are content that the proposed development does not pose any flood risk. Following the observations from the British Geological Survey who suggested that the proposed pipe route may pass through and area of groundwater vulnerability, a further consultation was undertaken with SEPA who have confirmed their view that the pipeline or discharge will be unlikely to impact on groundwater. This would remain a matter for licensing under Controlled Activities Regulations.

Rights Of Way

The Access Ranger observes that the proposed development will impact on a route which is classified as a long term aspirational path. This is an aspirational route which in not a current footpath, but it is nevertheless appropriate at this stage to ensure that the proposed route is safeguarded and not hindered by the proposed development. The pipe will be buried underground with the ground disturbed during excavation reinstated, therefore this development would not appear to cause any impediment to the works required to upgrade this route in the future.

It has been suggested that as a result of the development the applicant should be approached to facilitate the deliverance of this long term aspirational route as a Core Path. However, in the absence of a direct relationship between the proposed development and the provision of the path, it is not considered appropriate to seek funding from the developer to assist in its creation.

CONCLUSION

It is considered that the proposed development accords with relevant development plan policies as it is judged to represent an appropriate rural development which will not have an adverse direct or indirect effect on sites of international natural heritage importance. It would not impinge on the special quality or the character and appearance of the landscape and will not give rise to any detrimental environmental, ecological and archaeological implications, subject to the compliance with the Schedule of Conditions.

RECOMMENDATION BY HEAD OF PLANNING AND REGULATORY SERVICES::

I recommend the application is approved subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority, which includes the requirement to replace and affix removed rock along the surface of the route of the pipe across the shore.
Reason: To ensure that the development is carried out in accordance with the approved details.
3. No development shall commence until a sample of the concrete backfill with applied colour finish shall be submitted to and approved in writing by the Planning Authority.
Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
4. No development shall commence until slope stability survey assessing the route of the pipeline has been submitted to and approved in writing with the Planning Authority. Once approved the development shall be carried out wholly in accordance with the approved details and required methods of mitigation.
Reason: Further information is required to ensure that the excavation will not have an adverse effect on the stability of the coastline embankment.
5. No development shall take place until the applicant has secured a programme of archaeological work in accordance with a Written scheme of Investigation outlining a Watching Brief. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to observe relevant

below ground excavation during development, investigate and record features of interest and recover finds and samples if necessary. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered below ground excavation should cease pending further consultation with the Planning Authority. The developer will ensure that any significant data and finds undergo post-excavation analysis the results of which will be submitted to the Planning Authority

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

6. The development shall be undertaken in accordance with a working method statement, that shall first been submitted to and approved in writing by the Planning Authority.

Reason: To protect minimise the extent of the damage to the semi-natural coastal grassland habitats and to protect the species and habitats found in the inter-tidal area

7. Noise levels emitted by the installation should not exceed Noise Rating Curve NR20 between the hours of 2300 - 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from the installation should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2.

Reason: To safeguard the amenities of the occupiers of surrounding properties.

8. No development shall commencement until a Species and Habitats Mitigation Plan is to be submitted for the approval in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.

Reason: To safeguard the ecological interests and biodiversity of the area.

9. The Path as shown by a line of black dots on the attached plan, must be maintained open and free from obstruction to a width of 2000mm, during the course of development, and in perpetuity. No additional stiles, gates steps or barriers to access may be erected that could deter potential future recreational use.

Reason: To safeguard the route of the longer term aspirational Core Path proposed for this site.

Informatives

It should be noted that:

1. With reference to Condition 6, the working method statement should include the following points;
 - All vehicular movement on the coastal grassland and intertidal areas to be kept strictly within a tightly-defined working corridor;
 - all vehicular movement to be kept to an absolute minimum;
 - only vehicles with low-impact tyres/tracks to be used;
 - no storage of material on the shore;

- all foreign material to be removed from the shore on completion of the work;
 - contingency plans to be in place to address fuel/oil etc spillages;
 - any large stones or boulders in the inter-tidal area that are moved to facilitate the work must be placed the same way up as they were to start with, ideally the same distance up the shore as they were.
2. With reference to Condition 8, the Species and Habitats Mitigation Plan should include measures to avoid disturbing wintering birds on the rocky shore e.g. purple sandpiper (*Calidris maritima*) which are known to frequent this area of shore.

DRAWING NUMBERS

12/144/100 Location, Site and Section Plan
 12/144/101 Long Section

Approved by

| Name | Designation | Signature |
|--------------|--|-----------|
| Brian Frater | Head of Planning and Regulatory Services | |

The original version of this report has been signed by the Head of Planning and Regulatory Services and the signed copy has been retained by the Council.

Author(s)

| Name | Designation |
|---------------|----------------------------|
| Scott Shearer | Assistant Planning Officer |

12/00929/FUL



Drysdale
Old Cambus
Cockburnspath
Scottish Borders

