



APPLICATION FOR PLANNING PERMISSION 18/00741/DPP FOR ERECTION OF DWELLINGHOUSE/CAFÉ AND AMENITY BUILDING; THE SITING OF FIVE YURTS; THE FORMATION OF A POND; AND ASSOCIATED WORKS ON LAND AT NETHERTON, EAST OF THE A701, PENICUIK

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the erection of a dwellinghouse/café and amenity building; the siting of five yurts; the formation of a pond; and associated works on land at Netherton, east of the A701, Penicuik. There have been nine representations from six different households and consultation responses from Scottish Water, Howgate Community Council, the Council's Environmental Health Manager and the Council's Policy and Road Safety Manager.**
- 1.2 The relevant development plan policies are RD1, RD2, VIS2, ENV6, ENV9 and ENV10 of the Midlothian Local Development Plan 2017.**
- 1.3 The recommendation is to grant planning permission subject to conditions.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site lies to the east of the A701 and consists of gently undulating rough grazing with some areas, especially in the westernmost part, having a high water table (areas of reed grasses). The field boundaries are mainly made up of post and wire fencing with a line of deciduous and coniferous trees (mainly Scots pine) growing on both sides of the access road to Netherton House. There is a watercourse running through the site from south to north. This watercourse feeds into the Black Burn which is a tributary of the River North Esk. There is a power line on wooden pylons crossing the site from Cockburn Cottage in the south to Netherton House in the north. An area of woodland planting, covering approximately 6.1 hectares, was planted in 2018; the woodland planting is enclosed by 1.245 kilometres of deer fencing.**
- 2.2 The existing house at Netherton is a detached two storey building, with upper accommodation served by dormers. The house sits within a curtilage of 0.45 hectares; the house and its curtilage does not form**

part of the application site. To the east of the house is a paddock of 0.6 hectares; there are two Nissen hut outbuildings within the paddock. The larger building measures 165 sqm and the smaller building measures 95 sqm. There is a 140m long shared unsurfaced access track that provides access to the application site and the existing house. A further 120m long unsurfaced access track provides access from the shared access to the Nissen huts.

3 PROPOSAL

3.1 There are 5 elements to the proposal:

- A café/dwellinghouse comprising a timber clad building housing a café and a one bed dwellinghouse. The proposed building is 19.5m wide, 9m deep and has a maximum height of 7.3m. It is a modern Finnish design timber kit house and will be situated south of the access track approximately halfway between the A701 and the existing house at Netherton;
- An amenity building comprising a single storey timber building measuring 13.8m wide, 6.6m deep and 4.8m high. The building will act as the hub building for a glamping business and will provide showers, a sauna, a kitchen area and a small reception/lounge space. This building will be situated 140m east of the existing house;
- The siting of five yurts, which are timber framed structures clad in canvas and sited on timber decking. Two of the yurts will be 5.5m in diameter; the remaining three will be 4.9m in diameter;
- The formation of a pond for wild swimming measuring 18m long, 8m wide and a maximum depth of 2m. A wooden jetty will provide access to the central swimming area; and
- Three parking areas will be formed. The café will be served by parking adjacent to the entrance to the site. The house will be served by parking adjacent to the shared access track. The glamping and pond will be served by parking adjacent to the access track for the existing Nissen huts located on the site.

4 BACKGROUND

4.1 Application 09/00325/OUT for outline planning permission for the erection of a dwellinghouse at land to the southwest of Netherton House was withdrawn in December 2009.

4.2 Application 09/00326/OUT for outline planning permission for the erection of a dwellinghouse at land to the north of Cockburn Cottage was withdrawn in December 2009.

4.3 A pre application consultation (reference 10/00417/PAC) for residential development at land to the south of Netherton Cottage was carried out in August – October 2010. This consultation relates to the application site that was later the subject of application 11/00579/DPP.

- 4.4 A pre application consultation (reference 11/00560/PAC) for residential development to the south of Netherton House was carried out in August – October 2011. This consultation relates to the application sites that were later the subject of applications 12/00030/PPP and 12/00032/PPP.
- 4.5 Application 11/00579/DPP for the erection of a dwellinghouse at land to the south of Netherton Cottage was granted planning permission in August 2012.
- 4.6 Application 12/00030/PPP for the erection of a dwellinghouse at land to the southwest of Netherton House was granted planning permission in May 2016. This permission relates to a plot that includes the site of the dwellinghouse/café that forms part of the current application. The consent was not implemented and has now expired.
- 4.7 Application 12/00032/PPP for the erection of a dwellinghouse was withdrawn in May 2016. The application related to a plot to the south of application 12/00030/PPP.
- 4.8 Application 15/00629/DPP for the erection of a dwellinghouse and formation of an access track at land at Netherton was granted planning permission in January 2016. This permission relates to the erection of a house on land to the east of the existing two Nissen huts. Work started on the access track in June 2017, however work has not yet started on the house.
- 4.9 A pre application consultation (reference 19/00252/PAC) for residential development and associated access, drainage infrastructure and open space at land at Wellington School was submitted in March 2019 and relates to a former residential school situated 160m south of the southern boundary of the current application site.
- 4.10 The application has been called to Committee for consideration by Councillor McCall to consider the concerns raised by local residents and the Howgate Community Council.

5 CONSULTATIONS

- 5.1 **Scottish Water** does not object to the application, but state that this does not confirm that the site can be serviced.
- 5.2 **Howgate Community Council** objects to the application on the following grounds:
- The application could result in three houses at the Netherton low density rural housing site contrary to policy RD2;
 - There is no scope for additional development or alternative development in terms of a retail outlet, café and associated car park;

- Yurts, a business hub (*sic*) and car park do not enhance the landscape and are out of character with the rural setting;
- The vehicular access to the site is not safe;
- The application should be accompanied by a Flood Risk Assessment; and
- Foul and surface water drainage should be considered in conjunction with a Flood Risk Assessment.

5.3 The Council's **Environmental Health Manager** does not object to the application and has confirmed that the siting of five yurts may require a licence under the Caravan Sites Control and Development Act 1960. As the food business and camping provision will be supplied by a private water supply it is recommended that a condition is attached to any grant of planning permission requiring the applicant to demonstrate that there is a sufficient supply of potable water.

5.4 The Council's **Policy and Road Safety Manager** does not object to the application. However requests/states:

- Details of the proposed car park at the proposed house/café should be submitted for approval;
- Any advertising signage required for the new business should not encroach into the drivers visibility splay at the site entrance; and
- The SEPA flood maps do not identify this area as being at flood risk and the formation of a below ground level pond/swimming area within the development does not raise any major flooding issues.

6 REPRESENTATIONS

6.1 There has been nine representations from six different households objecting on the following grounds:

- There are no links to the local community;
- There is concern about the scale of development taking place and proposed in the local area;
- There is significant flora and fauna in the area; the natural wildlife of the area should remain intact;
- There are ongoing issues with services (sewage, water, electricity) in the area and further developments will put further pressure on these services;
- The glamping proposal will have a detrimental impact on the amenity of local residents due to noise from visitors and cars; smoke from campfires; and lights from car headlights;
- The yurts could be become long term residences;
- The use of the land for glamping will cause disruption to the wildlife in the area;
- The width and surface condition of the existing access track is insufficient to accommodate the proposed development;
- The existing track will not provide safe pedestrian access to the proposed developments;

- Increased pedestrian activity on the site will have a detrimental impact on the amenity of the neighbouring property;
- The site has poor access to public transport;
- The yurts will be a prominent feature in the landscape that will be out of character with the surrounding area;
- Insufficient detail has been provided on the proposed campsite.
- Clarification is sought on the location of the house approved by planning permission 15/00629/DPP;
- The MLDP supports two houses at the location; there is no support for the hub building;
- The application should be supported by a Flood Risk Assessment;
- Insufficient details have been provided of foul and surface water drainage;
- There are existing problems with water pressure in the area; the HOUS5 Supplementary Planning Guidance recommends that an appropriate water storage system be provided for commercial premises;
- Use of the land and buildings for tourism related uses is not compatible with the Low Density Rural Housing policy;
- The car park will have a detrimental impact on the visual character of the area;
- The weather in the area undermines the viability of a glamping business; and
- A photomontage of the five yurts should be submitted to allow assessment of their visual impact.

7 PLANNING POLICY

7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan, adopted in November 2017. The following policies are relevant to the proposal:

Midlothian Local Development Plan 2017 (MLDP)

- 7.2 Policy **RD1: Development in the Countryside** states that development in the countryside will only be permitted if:
- it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation or tourism; or
 - it accords with policies RD2, MIN1, NRG1 or NRG2; or
 - it accords with the Council's Supplementary Guidance on *Housing Development in the Countryside and Green Belt (which was adopted by the Committee at its meeting in May 2019 subject to notify Scottish Ministers)*.
- 7.3 The section on Business in the Countryside states that development opportunities that will enhance rural economic development opportunities will be permitted if:

- They are of a scale and character appropriate to the rural area and well integrated into the rural landscape;
- They are capable of being serviced with an adequate and appropriate access;
- They are capable of being provided with drainage and a public water supply at reasonable cost, or an acceptable private water supply; unacceptable and unnecessary discharges to watercourses should be avoided;
- They are accessible by public transport and services (where appropriate);
- They are not primarily of a retail nature; and
- They do not harm the amenity of nearby residents through unacceptable levels of noise, light or traffic.

7.4 Policy **RD2: Low Density Rural Housing** provides support for new low density housing linked to landscape enhancements. The MLDP identifies 4 sites in Midlothian where this policy applies; the application site is one such location. The suitability of low density rural housing proposals in the identified areas will be assessed against the following criteria:

- A. Proposals should demonstrate that the landscape and biodiversity value of the site is enhanced by the development;
- B. The design and layout of the development should be appropriate to the rural setting; and
- C. Proposals should demonstrate that they can be served by safe access arrangements, and a public sewerage and water supply (or acceptable private arrangements if public provision is not available).

The establishment of small-scale rural business in association with the low density housing is supported in principle, subject to the proposals satisfying policy RD1 Development in the Countryside.

7.5 Policy **VIS2: Tourist Accommodation** states that proposals for the development of hotels or self-catering tourist accommodation will be supported, provided that the proposal:

- A. Is in scale and keeping with the character of the local area;
- B. Is sited and designed to respect its setting and is located in an unobtrusive manner within the rural landscape (where applicable);
- C. Is well located in terms of the strategic road network and maximises public transport access; and
- D. Is in accordance with one of the other sections of policy VIS2.

7.6 The section on Self-catering tourist accommodation states that such proposals will be permitted where:

- The proposal is not in the Green Belt unless linked to some related existing development;
- The proposal is of a character and scale in keeping with the rural setting and can be located in an unobtrusive manner; and

- The applicant can demonstrate that the proposal is for the furtherance of a viable long-term business.
- 7.7 Policy **ENV6: Special Landscape Areas** states that development proposals will only be permitted where they incorporate high standards of siting and design and where they will not have significant adverse effect on the special landscape qualities of the area.
- 7.8 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.9 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) which ameliorates the water to an acceptable quality prior to release to the wider water environment.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

Principle of Development

- 8.2 The majority of the site is identified in the MLDP as being a site where low density rural housing will be considered. Two houses have previously been approved, in relation to this policy, at the application site. A plot to the east of the existing house has detailed planning permission for a house and this permission (reference 15/00629/DPP) has been partially implemented; this plot is referred to by the applicant as Black Barn. A plot to the south of the access track had planning permission in principle (reference 12/00030/PPP); however the timeframe for submitting Matters Specified in Conditions applications expired on 12 May 2019 and as such the permission has lapsed.
- 8.3 The applicant owns both plots; his intention is to build the house at Black Barn as permanent accommodation for him and his family. While the applicant is not currently resident in Midlothian he has owned the site at Netherton since 2015 and has planted approximately 16,500 trees across 8.5 hectares site as the first phase of the biodiversity enhancements that are fundamental to the low density rural housing

concept. The main area of tree planting is within a 6.1 hectares area that will grow to become a woodland; this area is enclosed by 1.245 kilometres of deer fencing. The remaining planting takes the form of shelter belt planting at the edges of the site and scattered glades across the remainder of the site. The woodland planting that has been carried out has highlighted the fact that the biodiversity improvements will require ongoing maintenance to ensure that they develop to their full potential and this will require an ongoing income stream.

- 8.4 The applicant's original intention had been to sell the other house plot to help fund the biodiversity improvements; however he has now concluded that a small business would provide a better prospect of an ongoing income stream. Rather than building a conventional house on this southern plot the applicant is now seeking consent for the erection of a building that can accommodate both a café and living accommodation for the café manager. The chosen building is a Finnish timber kit house whose interior can be easily adapted to provide the necessary uses; should the café prove unsuccessful it would be a relatively straightforward process to convert the interior to an entirely residential use, subject to planning permission for a change of use. The chosen location for the house/café is the same as housing plot 12/00030//PPP, the house/café has been sited on this plot to ensure that it would not be possible to implement both the current application and the earlier permission (now lapsed); the proposal will not result in third house on the Netherton low density rural housing site.
- 8.5 The Council's adoption of the low density rural housing policy in the 2008 Midlothian Local Plan was a new initiative by the Council which sought to provide opportunities for people to live in the countryside and operate rural businesses whilst at the same time providing benefits to the wider community from improved landscape and biodiversity. Four sites were identified in the 2008 plan and these were carried over into the MLDP; whilst no houses have been built at Netherton it is the low density rural housing site which has seen the most progress in terms of development and planting.
- 8.6 Supplementary Planning Guidance (SPG) on Low Density Rural Housing was adopted by Midlothian Council on 6 October 2009; the MLDP commits the Council to adopting updated Supplementary Guidance (SG) on Low Density Rural Housing in due course. In the absence of a new SG the previous SPG is a material consideration, however as time progresses the weight given to the SPG diminishes. The SPG provided some guidance on potentially acceptable forms of rural diversification that could be associated with low density rural housing sites. Craft industries, equestrian businesses and tourist or day visitor orientated development were all considered to be acceptable. Whilst tourist accommodation (other than bed and breakfast accommodation within houses) was considered to be not likely to be acceptable, it must be acknowledged that the SPG was written in 2008/2009 and that glamping was still an emerging concept at the time.

- 8.7 The size of the proposed café/dwellinghouse building will ensure that the scale of café use will be in keeping with the rural character of the surrounding area. The scale of the café can be secured by a condition specifying the maximum floor area. The glamping use will consist of five yurts and a domestic sized building that will house washing facilities, a small lounge and a small sauna. The scale of the glamping use is in keeping with the scale of the rural diversification activities that were originally envisaged as being compatible with the low density rural housing concept and meets the requirements of policy VIS2.

Flood Risk

- 8.8 A number of the objections have made reference to the need for the application to be supported by a Flood Risk Assessment (FRA). The assessment of flood risk in relation to planning applications is primarily a matter that is assessed by the local authority. For sites that are identified on SEPA's flood risk map as being at high risk of flooding it is necessary to consult SEPA, for all other sites the assessment is carried out by the local authority. The SEPA flood risk map does not identify any flood risk associated with the watercourse that runs through the Netherton site. The Council's flood risk responsibilities fall within the portfolio of the Policy and Road Safety Manager who has confirmed that the SEPA flood maps do not identify any risk and has not recommended the submission of a FRA; as the section of the Council that would have responsibility for assessing any FRA does not require the submission of one it would be unreasonable to request that the applicant submit a FRA.

Drainage/water supply

- 8.9 The application form states that the development will be served by private foul water drainage with each building (and the previously consented Black Barn) being served by its own septic tank and soakaway. The locations of the soakaways will be determined following percolation tests. The provision of safe and appropriate foul water drainage is primarily a matter that is assessed as part of the building warrant process rather than the planning process; it is common development practice to finalise details on these matters after planning permission has been granted. Details of the foul water drainage can be secured via condition.
- 8.10 The application form also states that the development will be connected to the public water supply. Scottish Water will not enter into detailed discussions with applicants until planning permission has been granted.

Vehicle access

- 8.11 The existing access arrangements onto the A701 are acceptable for a development of this scale; the Council's Policy and Road Safety Manager has not recommended any improvements to the junction. The

maintenance and upkeep of the access track from the junction to the existing house and the proposed plots is a private legal matter between the various parties with rights of access across the track.

Building Design

- 8.12 The surrounding landscape is gently rolling with wide horizons and open views. Buildings in the surrounding area are obvious features within the landscape and the various housing groups at Springfield, Wellington and Netherton give the surrounding area a distinctive character of a scattered settlement rather than that of a traditional tight village street pattern. The addition of two additional buildings and five yurts is in keeping with the scattered pattern of development in the surrounding area.
- 8.13 The café/house building will be a modern design with mono-pitch roofs and large areas of glazing; the building will have a modern 'Scandinavian' character, this is an approach that has been used successfully at rural sites throughout Scotland. The building will be timber clad and its scale will be in keeping with other houses in the surrounding area. The glamping hub building will also be timber clad, it will have a conventional pitched roof and its scale will ensure that it will not be overbearing when viewed from the A701. The yurts will be colourful circular structures whose shape and appearance will clearly indicate their intended use; while they will be visible it will be obvious that they are not additional houses in the landscape but examples of rural diversification. The extensive tree planting that has taken place will over time mean that the buildings and yurts become less obvious features in the landscape as the woodland matures.

Amenity

- 8.14 The existing house at Netherton has an unusual location with the house plot being entirely surrounded by land in the ownership of another party (the applicant). The Netherton plot has been an allocated low density rural housing plot since 2008 and it has been clear since then that there will be some change in the immediate surroundings. Whilst the SPG did not identify glamping as a potential rural diversification option it did make clear that visitor/tourism activities were considered acceptable.
- 8.15 The scale of the café and the glamping business are both in keeping with the scale of the Netherton low density rural housing site and they have been sited to provide as much privacy as possible for the occupants of the existing house at Netherton. The café/house will be 60m from the existing house and the existing long established trees along the drive and around the house will provide screening. The glamping hub and its associated outdoor swimming pond will be 140m from the house at Netherton; the yurts will be further away. The closest new feature will be the parking area for the glamping which will be 50m

from the house; the location for the parking has been chosen to ensure that the existing new access to Black Barn can be utilised for both that house and the glamping.

- 8.16 Netherton is a rural location but it is situated on a busy A road and in an area with a variety of forms of development including housing, farms, peat extraction and a sports pitch company. Whilst the proposed development may result in some loss of amenity to the occupants of Netherton, the impact will not be significant enough to warrant refusal of the application.
- 8.17 It would be reasonable to attach conditions to any grant of planning permission to control the scale of the café and to ensure that the yurts are only used as temporary accommodation. The café use can be controlled by conditioning that the floorspace does not exceed the area shown on the proposed floorplans. The earliest possible date for Easter in the Western Christian calendar is March 22; restricting the use of the yurts from March 14 to September 30 will allow the applicant to operate a conventional Easter to Autumn season while safeguarding the amenity of local residents.

9 RECOMMENDATION

- 9.1 That planning permission be granted for the following reason:

The character and appearance of the development are in keeping with the character of the surrounding area. Due to the scale and nature of the development it will not have a significant detrimental impact on the amenity of local residents. The proposal complies with the aims of policies RD2 and VIS2 of the Midlothian Local Development Plan 2017.

Subject to the following conditions:

1. The development shall not begin until a scheme to deal with any contamination of the site has been submitted to and approved by the Planning Authority. The scheme shall contain details of the proposals to deal with any contamination and include:
 - i. The nature, extent and types of contamination on the site;
 - ii. Measures to treat or remove contamination to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination originating within the site;
 - iii. Measures to deal with contamination encountered during construction work; and
 - iv. The condition of the site on completion of the specified decontamination measures.
2. On completion of any required decontamination/ remediation works, referred to in Condition 1, and prior to any building on the site being occupied, a validation report shall be submitted to the

Planning Authority confirming that the works have been carried out in accordance with the approved scheme. No building on the site shall be occupied unless or until the Planning Authority have approved the required validation.

Reason for conditions 1 and 2: *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

3. Prior to development commencing the following details shall be submitted to and approved in writing by the Planning Authority:
 - a. A scaled site plan showing existing and finished ground levels and floor levels for the dwellinghouse/café, amenity building, pond and decking, parking areas and access tracks;
 - b. Details of a scheme for the treatment and disposal of foul water drainage from the dwellinghouse/café and amenity building;
 - c. Details of a scheme for the treatment and disposal of surface water drainage from the dwellinghouse/café, amenity building and parking areas;
 - d. Details of the proposed water supply; and
 - e. Details of the car parking provision for the café, dwellinghouse and glamping.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the Planning Authority.

Reason: *To safeguard the character and amenity of the surrounding area.*

4. Prior to the external finish materials being applied to the dwellinghouse/café and amenity building details of the finish materials, including samples where requested, shall be submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the Planning Authority.

Reason: *To ensure that the finish materials respect the character of the building designs and of the surrounding area.*

5. The yurts shall only be used between the dates of March 14 and September 30.
6. The yurts shall only be used as short term accommodation and shall at no time be used as a main place of residence. The

maximum stay of any person in the accommodation shall be four weeks in any accommodation season.

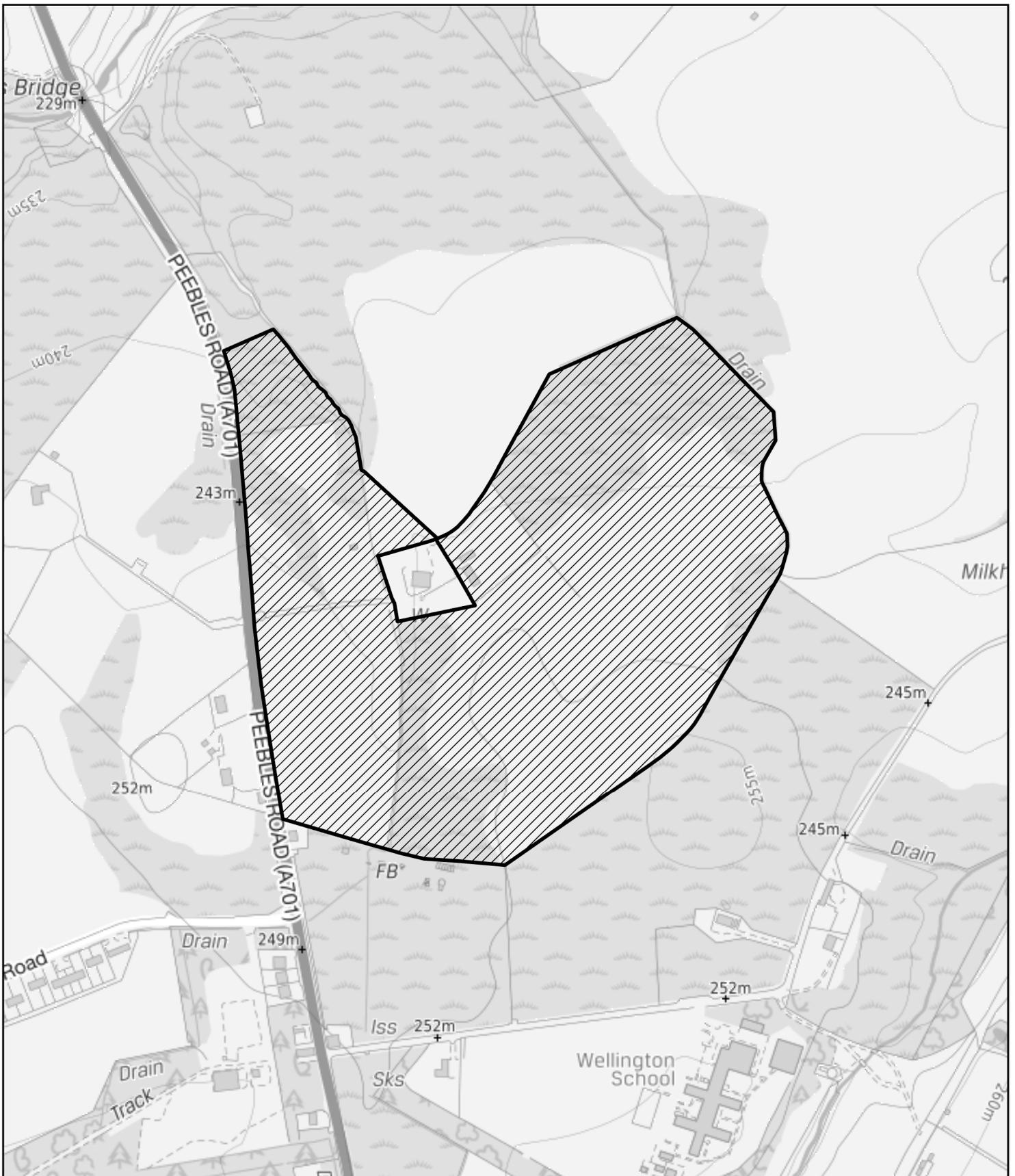
Reason: *To define the terms of the consent, to ensure the yurts are only used as temporary accommodation and to safeguard the amenity of local residents.*

7. The café use shall be restricted to a maximum internal floor area of 120 square metres and a maximum external decking area of 35 square metres.

Reason: *To ensure that the scale of the café is in keeping with the character of the surrounding area and to safeguard the amenity of local residents.*

Dr Mary Smith
Director of Education, Communities and Economy

Date:	7 June 2019
Application No:	18/00741/DPP
Applicant:	Mr Tom Moon, ReforestNation, Meadow, 62 Findhorn Foundation, Forres, Moray
Agent:	N/A
Validation Date:	15 November 2018
Contact Person:	Graeme King
Tel No:	0131 271 3332
Background Papers:	12/00030/PPP and 15/00629/DPP



Midlothian Council
 Fairfield House
 8 Lothian Road
 Dalkeith
 EH22 3AA

Erection of dwellinghouse/cafe and amenity building; siting of 5 yurts and formation of pond at Land At Netherton, Penicuik

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

File No: 18/00741/DPP

Scale: 1:5,000

Midlothian Council Licence No. 100023416 (2019)

