

Peebles & District Community Council

Planning Report

Thu 13 November 2025

Planning Reports represent the views of the Community Council (whereas Draft Planning Reports represent the views of the writer).

Key: **Red – important**; **Blue – new**; Black – unchanged since last report.
For those who wish to study more detail, [hyperlinks](#) have been provided.

1.0 General

- 1.1 **Caledonian Court (previously Tweedbridge)** – In progress
- 1.2 **Baptist Church Building** – Being taken forward by [Tweed Valley Community Collective](#)
- 1.3 **Victoria Park Centre** – No change
- 1.4 **Old Science Block, Peebles High School** – SBC noted the proposal (item 11, [21 Aug 2025 agenda](#)) from the Capital Investment Program Board “to demolish the surplus Science Block at Peebles High School.” Condition 2 of permission [22/00271/FUL](#) requires re-use of the Science Block, so demolition will require a new planning application (though this has not yet been submitted).
- 1.5 **Is SBC abiding by the Habitats Regulations?** (for details see 5.0 below)
SBC’s own guidance says: “**Before** considering whether or not to approve a planning application, Planning Authorities must establish whether European Protected Species (EPS), such as bats, are present on development sites and what the implications of this might be.”
[The legal standard requires rejection of proposals unless it has been proved, on the basis of objective information and beyond reasonable scientific doubt, that there will be no adverse effect on site integrity.](#)
 - 1.5.1 PCC is concerned that, given the lack of Habitats Regulations Appraisal (HRA), the recent South Parks storage permission may not have been granted lawfully. [\(See section 5.1 below.\)](#)
Awaiting promised review outcome.
 - 1.5.2 [SBC confirmed no HRA has been performed for Kingsmeadows \(appearing to make the 2016 and 2021 permissions unlawful\) and SBC are minded to decide the current applications without HRA.](#)
[The Environmental Rights Centre for Scotland \(ERCS\) has written to SBC explaining the legal requirement for HRA and that in their view approval would give grounds for judicial review.](#)
[\(For details and references, see section 2.1 below.\)](#)
In the absence of HRA (dating back to the 2016 permission in principle) PCC requests SBC reject the current S.42 applications.
- 1.6 **Is SBC abiding by the Planning Act?**
[Concerns planners had misinterpreted the law led SBC to defer section 42 application 24/00030/FUL from 3 June 2024 planning committee meeting on advice of the chief legal officer \(refusing that application in Dec 2024\).](#)
[ERCS advise that misunderstanding of section 42 also plays a role in poor decision making in respect of HRA for Kingsmeadows and have referred SBC to legal advice provided by Harper Macleod dated 26 Mar 2024.](#)
[Harper Macleod’s advice \(e.g. that the Kingsmeadows S.42 applications are invalid and cannot be considered\) was not mentioned in the officers’ reports or answered by SBC Legal Services.](#)
Recommend PCC notes its concern that Harper Macleod advice not included in officers’ reports in view of its obvious importance.

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- 1.6.1 The play area at Ballantyne Place is protected by a condition of the original 2002 permission for 28 homes. [PCC argues that](#) planners appear not to have the power to change that condition now those 28 homes are built. PCC asked SBC to clarify the law and reject the application to build on the play park on that basis (or restart the consultation). [Despite promising a full response to the issues raised with the benefit of legal advice from Council's Legal Services team, no explanation was provided. SBC approved the application 3 Nov 2025. The only way to challenge the approval is via judicial review. For details and references, see section 2.2 below.](#)
[Recommend PCC pursue the response from SBC Legal Services promised 14 Aug 2025 and request a meeting.](#)
- 1.6.2 The issues raised and precedent set by the Ballantyne Place decision may be relevant to protection of green space and play areas across the Borders. An [FOI request](#) identified 10 planning permissions granted within the last 2 years modifying conditions on completed developments. [PCC wrote to SBC Legal 10 Sep 2025](#) asking whether this is within SBC's power.
[Recommend PCC to chase for a response from SBC Legal. Meeting requests unanswered.](#)

2.0 Planning Applications – Current Interest

- 2.1 **Variation of conditions of expired Planning Permission in Principle** [19/00182/PPP](#) – Kingsmeadows House (Grantown Homes) Ref Nos: [24/00030/FUL](#) **Refused**, [24/00031/FUL](#) & [24/00247/FUL](#) Awaiting decision
- 2.1.1 Circa 250 objections, including from this Community Council.
- 2.1.2 26 Mar 2024 [Harper Macleod legal advice](#) section 42 has been misunderstood, applications are invalid and cannot be considered.
- 2.1.3 9 Dec 2024 [planning committee refuse](#) 24/00030/FUL.
- 2.1.4 20 Dec 2024 [PCC submission](#) calls for rejection of 24/00031/FUL & 24/00247/FUL for consistency with 24/00030/FUL.
- 2.1.5 18 Jun 2025 applicant submits new statement re: 24/00247/FUL
- 2.1.6 30 Jun 2025 applicant submits new statement re: 24/00031/FUL
- 2.1.7 9 Jul 2025 [Environmental Rights Centre for Scotland writes to SBC](#) over Habitats Regulations concerns and whether these planning applications will be determined without proper prior consideration of the potential effects on the River Tweed SAC.
- 2.1.8 14 Jul 2025 [SBC refuse to publish ERCS letter](#) but promise a reply.
- 2.1.9 15 Jul 2025 SBC consult NatureScot and SBC's Ecologist.
- 2.1.10 16 Jul 2025 NatureScot advise that "Construction of the Residential Development ... is likely to have a significant effect on the River Tweed SAC", consequently HRA is required. The watercourse buffer strips mandated by condition 7 are necessary for HRA.
- 2.1.11 17 Jul 2025 SBC ecologist advises that the no-development buffer and wider woodland protection mandated by condition 7 is required to protect the Tweed SAC, without which applications "would, in my opinion, likely fail an HRA/Appropriate Assessment because of potential impacts on otters."
- 2.1.12 21 July 2025 [PCC objects](#) based on NatureScot & Ecologist replies

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- 2.1.13 29 July 2025 [Peebles Civic Society objects](#) based on NatureScot & ecologist consultation responses.
- 2.1.14 17 Oct 2025 SBC confirm “It follows that an **appropriate assessment was not carried out.**” “The council is therefore minded to determine the applications **without an appropriate assessment** being carried out.” (See link below for email trail.)
- 2.1.15 3 Nov 2025 [ERCS write to SBC](#) advising
“There are two reasons why an appropriate assessment is required. First, NatureScot appears to have misunderstood the nature and implications of 24/00031/FUL and 24/00247/FUL. NatureScot’s advice should be interpreted accordingly.
Second, advice received from the Council’s ecology officer indicates that 24/00031/FUL and 24/00247/FUL are likely to have a significant effect on the River Tweed SAC.”
“Our view is that if the Council determines 24/00031/FUL and 24/00247/FUL without an appropriate assessment, there would be **grounds for a judicial review arising from a breach of the Regulation 48(1) duty.** We would be grateful if you could confirm that the Council will reconsider its position on this matter.”
- 2.1.16 **This could be decided at next planning committee, Mon 8 Dec 2025 SBC HQ** ([agenda](#) will be made public Fri 28 Nov 2025).
- 2.2 **Ballantyne Place Play Area – [25/00974/FUL](#)** – Erection of dwellinghouse and Section 42 application to remove condition no.4 of planning permission [02/01783/FUL](#) pertaining to include adequate provision for children’s play area – Land West Of 8 Ballantyne Place ([more info](#)).
 - 2.2.1 We believe the public opposes applications to build on play areas.
 - 2.2.2 Legal Issue 1: PCC challenges whether it is legal for SBC to remove planning conditions that protect play areas once building has been completed (applies across Scotland).
 - 2.2.3 Legal Issue 2: Ownership notification laws (which protect sellers by ensuring they are aware of planning permission on their land and thus its true market value) appear not to have been followed in respect of this section 42 application, but the law requires SBC not to consider planning applications unless these rules are satisfied.
 - 2.2.4 PCC resolved to: 1) clarify legal issues with SBC Legal & planners first; then 2) object on policy grounds similar to previous application [20/00691/FUL](#) and [reporter’s dismissal of appeal](#).
 - 2.2.5 PCC submitted 4 consultation responses ([29 Jul 2025](#), [7 Aug 2025](#), [18 Aug 2025](#) and [22 Aug 2025](#)) requesting clarification of legal issues and that consultation be paused until legal issues clarified.
 - 2.2.6 [14 Aug 2025](#) SBC refused to delay consultation, [promising](#) Legal clarification.
 - 2.2.7 3 Nov 2025 **SBC Planning Committee approves** – despite presentation from [planning convenor](#) and [chairman’s statement](#).
 - 2.2.8 Councillors requested legal advice before making their decision:
“But we have legal powers that allow the variation of conditions of a completed planning development. We have powers that allow the variation of section seventy-fives or planning obligations.” [SBC Legal Services solicitor, see [transcript](#) which includes link to SBC video of the decision.]

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SBC's solicitor did not explain which section(s) of the act gave SBC those powers, or answer [PCC's criticisms](#) that SBC appeared to be in breach of specific limits on those powers stated in the act, or address the questions of enforcing agreements for the benefit of the community or compensation payable to residents.

2.2.9 Councillor comments include:

“If we’re going to sacrifice play areas for new homes then I would agree with the officers, I think we should build a house on this one.” [See [decision video](#) 2:11:15]

- 2.3 **Edderston Farm change of use to Events Venue** – [21/01327/FUL](#) – Awaiting decision. No change since 21 July 2023
- 2.4 **Twenty dwellinghouses, Land West of Horsbrugh Ford** – [19/00332/FUL](#). Development appears stalled.
 - 2.4.1 Jul 2025 Eildon aware but site does not fit development profile. SBHA report risk and asking price prohibit involvement.
 - 2.4.2 Jun 2025 The development plot is said to be back on the market as the previous developer has run out of funding.
 - 2.4.3 The developer wrote (see [Jan report](#)) to confirm that work on site will resume shortly, with completion currently expected end 2025.

3.0 New Planning Applications

No action is recommended on the following, subject to PCC agreement:

- 3.1 [25/01391/FUL](#) – **Alterations to dwellinghouse – Beresford 8 Walkershaugh**. Improvements to existing dwelling, ventilation and flat roof insulation.
- 3.2 [25/01415/FUL](#) – **Alterations and extension to dwellinghouse – Westfield 62 Edinburgh Road**. New proposed rear extension, front bay window and a new garden building. Internal alterations to create new layout with expanded footprint on both levels.
- 3.3 [25/01432/FUL](#) – **Alterations to form off street parking – Newton Bank Frankscroft**. Take down section of low stone wall and remove sections of hedge to form access drive. Drive finished in block paving. Install metal gates to match existing.
- 3.4 [25/01433/FUL](#) – **Alterations and extension to dwellinghouse – Birch Villa 5 Springwood Terrace**. Proposed new single storey extension to rear of the property to form a new open plan dining / sitting room along with a new utility room. Associated internal alterations and landscaping. Replacement of existing sash and case windows.
- 3.5 [25/01446/PN](#) – **Formation of timber haulage road – Land North Of Falla Brae House Eshiels**. Formation of Glentress Ponds link road for timber haulage. Notification only (general permitted development).
- 3.6 [25/01480/FUL](#) – **Extension to dwellinghouse and extend existing driveway – 28 Edderston Road**. Single storey extension and alterations to add bedroom/study on front elevation. Extend drive into garden.
- 3.7 [25/01530/TCA](#) – **Work to trees – Land North of Deloraine Kingsmuir Drive**. Crow Wood (behind Bonnington Road and Kingsmuir Drive). Remove dead, fully mature Scott's Pine and snapped, ivy covered tree.

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Subject to PCC agreement, no action is recommended for any of these minor applications (replacement windows, interior alterations or external redecoration):

- 3.8 [25/01642/PNWIN](#) – **Replacement windows – 8 Cross Street**. Proposed installation of replacement windows, double-glazed in white UPVC frames.

No recommendation possible for the following (no info available on portal):

- 3.9 [25/01627/VAA](#) – **Vehicle Access Application to drop kerb – 21 Dalatho Street**.

4.0 Planning Applications – Wind Farms¹

Wind Farm applications are long-running and decided by the Energy Consents Unit (ECU) under [section 36 of the Electricity Act](#), with SBC acting as a consultee.

- 4.1 [Leithenwater](#) – [24/00512/S36](#) / [ECU00004619](#) – SBC S36 deadline 2 Jul 2025. Awaiting decision.
- 4.1.1 5 Jul 2024 [RSPB requests](#) 3 turbines deleted or moved, disagreeing with EIA report findings on impact to golden eagle² and citing impact to (red-listed) Black Grouse and breeding Curlew.
 - 4.1.2 1 Aug 2024 landowner [Raeshaw Farms object](#), citing multiple NPF4 policy failures e.g. “policy [3 biodiversity] requirement for betterment”
 - 4.1.3 23 Oct 2024 [Belltown Power reject RSPB’s request](#) “NatureScot did not raise any concerns” (see [NatureScot’s advice](#) 15 Jul 2024).
 - 4.1.4 14 Nov 2024 [PCC supports Leithenwater](#), subject to the advice of SSGEP & RSPB being followed.
 - 4.1.5 18 Dec 2024 Scottish Rights of Way and Access Society ([ScotWays](#)) [object](#), asking turbines to be placed blade tip height [here 180-200m] from any road or public right of way – not 20m as proposed.
 - 4.1.6 31 Jan 2025 SBC Ecology Officer raises concerns re: golden eagles. Requests turbines 11-13 reduced in number or moved.
 - 4.1.7 6 May 2025 SBC Landscape Architect objects. Impacts on National Scenic Area (NSA) and surrounding Special Landscape Areas (SLAs) are unacceptable. Suggests reduction in turbine height, removal of turbines 11-13 and relocation of turbine 1.
- 4.2 [Scawd Law](#) – [23/00013/S36](#) / [ECU00002111](#) – SBC S36 decision deadline 4 Jun 2025.
- [South of Scotland Golden Eagle Project](#) (SSGEP) [has objected](#) to the entire Scawd Law project on the grounds it is incompatible with the reintroduction of Eagles in the South of Scotland.
- NB: It is an offence³ to interfere with Golden Eagle nests or prevent any wild bird from using its nest in Scotland.

¹ Information on Community Benefits and Community Ownership available in the [Scottish Government Good Practice Principles](#) and the [Local Energy Scotland](#) website

² See this report from South of Scotland Golden Eagle project on a [golden eagle struck by wind farm in Galloway](#)

³ Section 1(1)(ba) of the [Wildlife and Countryside Act 1981](#) as it applies in Scotland, i.e. as amended by the [Nature Conservation \(Scotland\) Act 2004](#).

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Neighbouring Community Councils of [Clovenfords](#), [Heriot](#), [Stow](#) and [Walkerburn](#) object (issues include: need; harm to Eagles; damage to peat; visual impact; landscape). [Innerleithen](#) Community Council supports.

4.2.1 20 Feb 2023 [Walkerburn and District Community Council paper](#).

4.2.2 19 Sep 2023 [Rt Hon David Mundell MP objects](#).

4.2.3 2 Feb 2024 [NatureScot strongly advise turbines 7 & 8 removed](#) from ridge to protect golden eagles²/meet NPF4 biodiversity policy.

4.2.4 25 Feb 2025 Further environmental information (FEI) submitted re: impact to eagles and the potential removal of turbines 7 & 8.

4.2.5 8 May 2025 [PCC objects](#) on same grounds as SSGEP & other CCs

4.2.6 29 Oct 2025 [SBC decision deadline extended until 14 Jan 2026](#).

4.3 [Cloich Forest](#) – [21/01134/S36](#) / [ECU00003288](#) – Awaiting decision.

4.3.1 25 Apr 2023 SBC do not object provided Turbine 12 is relocated to a lower position within the site

4.3.2 2 Sep 2024 [Howgate Community Council](#) submissions

4.3.3 6 Sep 2024 [Midlothian Council objects](#) on biodiversity, landscape and transport (route pinch points) grounds especially at Howgate.

5.0 Is SBC abiding by the Habitats Regulations? (from section 1.5 above)

Protection of European Protected Species (EPS) and sites with connectivity to a Special Area of Conservation (SAC) is provided by the [Habitats Regulations](#). This includes many sites in Peebles (and across the Borders) near the River Tweed SAC, as explained in SBC's Technical Advice Notes on [bats](#) and [otters](#).

The Supreme Court's 22 Oct 2025 [CG Fry Decision](#) makes it clear that planning authorities must perform HRA during consideration of conditions if HRA wasn't performed earlier.

The Habitats Regulations make it illegal to approve a planning application without:

- Proof (beyond scientific doubt) of no 'likely significant effect' (Stage 3); or
- Performing an 'appropriate assessment' (Stage 4) and ascertaining the project will not adversely affect the integrity of the European site (Stage 5);
- Unless there are 'imperative reasons of overriding public interest' (Stage 8).

'Likely significant effect' is a much lower threshold than the name suggests, in fact requiring **proof** that there will be **no** likely significant effect. Screening must be:

- Performed by planning authorities
- Based on scientific evidence
- Standard is whether negative impact can be ruled out, on the basis of objective data, beyond scientific doubt
- Mitigation actions cannot be considered at this stage
- Must include consideration of cumulative effects of this proposal together with other proposals
- Must be an audit trail, i.e. record of this occurring.

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‘Appropriate (proportionate) assessment’ is a detailed assessment and must be:

- Performed by planning authorities and NatureScot must be consulted
- Based on scientific evidence
- The person applying for consent should provide such information as the competent authority may reasonably require to carry out the appraisal.
- Standard is whether negative impact can be ruled out, on the basis of objective data, beyond scientific doubt
- In cases where there is doubt over whether a plan or project will affect site integrity, the necessary level of certainty has not been met.
- Mitigation actions can be considered at this stage
- Must include consideration of cumulative effects of this proposal together with other proposals
- Must be an audit trail, i.e. record of this occurring.

‘Imperative reasons of overriding public interest’ include:

- the need to address a serious risk to human health and public safety
- the interests of national security and defence
- the provision of a clear and demonstrable direct environmental benefit on a national or international scale
- a vital contribution to strategic economic development or regeneration
- where failure to proceed would have unacceptable social and/or economic consequences.

[The above is a precis of guidance on Habitats Regulations from NatureScot “[How to consider plans and projects affecting Special Areas of Conservation](#)”⁴.]

- 5.1 FOI request indicates South Parks decision [24/01016/FUL](#) appears to have been made without Habitat Regulations Appraisal (HRA), against advice. Thus, that decision might not have been lawfully made. See [PCC 26 Feb 2025 letter](#) and SBC CEO [David Robertson’s 4 Mar 2025 reply](#).

6.0 Previous Planning Applications removed from report

No ongoing interest to PCC:

- 6.1 **[25/00904/FUL](#) – Change of use from Class 4 to Class 10 (Educational School of Dance) – 3 Rowan Court Cavalry Park.** Fiona Henderson School of Dance requests a change of use to operate from Cavalry Park.
- 6.1.1 PCC believes there is widespread public support for this application which has received 47 support comments and 0 objections to date.
- 6.1.2 The applicant submits a thoughtful [planning statement](#) comprehensively setting out reasons for supporting the proposal.
- 6.1.3 PCC submitted a letter of support endorsing the reasoning set out in FHSD’s planning statement in full.

⁴ Further guidance is available from NatureScot “[Habitats Regulations Appraisal](#)”. An excellent overview for the public is RSPB’s “[How do the Habitats Regulations protect our most important wildlife sites?](#)”.

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- 6.1.4 Approved for class 10 use as dance school only. Reverts to class 4 upon cessation of use as dance school. No other conditions of note.
- 6.2 [25/01289/FUL](#) – **Change of use to form holiday let accommodation – The Old School Elcho Street.** Change of use of residential dwelling to holiday let accommodation.
- 6.3 [25/01301/MOD75](#) – **Discharge of planning obligation pursuant to planning permission 18/00299/FUL – Tweeddale Kerfield Farm Innerleithen Road.** Discharge of section 75 agreement condition on basis payments were made in full on 20 Aug 2025.
- 6.4 [25/01320/LBC](#) – **Installation of 2no air source heat pumps – Northgate House 32 Northgate.** Listed building consent to match application [25/01096/FUL](#) (PCC agreed in August no action to be taken). Upgrade domestic hot water and heating system by replacing the existing gas boiler with two 12kW air source heat pumps
- 6.5 [25/01329/PNWIN](#) – **Replacement windows – 9 Bonnington Road.** Class 7A general permitted development. Replacement to be uPVC from timber.
- 6.6 [25/01366/TCA](#) – **Work to trees – Nithsdale 1 Venlaw Road.** Fell 1 Rowan tree causing damage to masonry boundary wall and paving.
- 6.7 [25/01377/FUL](#) – **Alterations and extension to dwellinghouse – 57 Glen Crescent.** Remove existing extension, new rear extension for garden room and associated landscape alterations.
- 6.8 [25/01327/TCA](#) – **Work to trees – The Lodge House Kingsmeadows.** Emergency work to lop trees touching roof in conservation area.

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