

From: Ben Christman <...@ercs.scot>
Subject: Proposed development at Kingsmeadows House, Peebles - appropriate assessment duty (...)
Date: 9 July 2025 at 12:28:09 BST
To: "Ranald Dods" <...@scotborders.gov.uk>
Cc: "prs@scotborders.gov.uk" <prs@scotborders.gov.uk>

Dear Mr Dods,

**Proposed development at the grounds of Kingsmeadows House,
Peebles
Planning applications 24/00031/FUL and 24/00247/FUL
Duty to carry out an appropriate assessment under the Habitats
Regulations
Our reference: ...**

We have been asked to write to you regarding the above by Dr Michael Marshall. Dr Marshall has objected to the above planning applications.

The planning applications concern a proposal to build residential apartments at the grounds of Kingsmeadows House. The site of the proposed development is adjacent to the River Tweed, which is designated as a special area of conservation ('SAC').

Regulation 48(1) of the Conservation (Natural Habitats, &c.) Regulations 1994 ('the Habitats Regulations') requires that:

*A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—
(a) is likely to have a significant effect on a European site in Great Britain [or a European offshore marine site] 2 (either alone or in combination with other plans or projects), and
(b) is not directly connected with or necessary to the management of the site, shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.*

SACs are included in the definition of European sites in Regulation 10(1) of the Habitats Regulations.

The Regulation 48(1) duty is recognised in Scottish Borders Council's planning policies. At page 98 of the Council's local development plan, in relation to policy EP1, it states that:

1.4 Where a proposal could have a 'likely significant effect' on a European site, an 'appropriate assessment' will be required, to demonstrate that the proposal will not adversely affect the integrity of the site. This is known as a Habitats Regulations Appraisal (HRA).

The Council recognised the need for an HRA with respect to a previous planning application relating to the proposed development. The attached EIA

screening opinion 21/01563/SCR mentions the need for an HRA at page 5.

Despite recognising the need for an HRA, there does not appear to be any information on the planning portal which confirms that the Council has carried one out in connection to the proposed development.

Dr Marshall is concerned that the above planning applications will be determined without proper prior consideration of the potential effects of the proposed development on the River Tweed SAC.

In order to help us advise Dr Marshall, we would be grateful if you could provide the following information:

1. Please confirm whether the HRA mentioned in screening opinion 21/01563/SCR was completed (and provide a copy if it was completed).
2. Please confirm whether any appropriate assessments have been carried out with respect to the proposed development (and provide copies if any have been carried out).
3. Please provide an explanation if no appropriate assessment has yet been carried out with respect to the proposed development.
4. Please confirm whether the Council intends to carry out an appropriate assessment vis-à-vis 24/00031/FUL and 24/00247/FUL prior to their determination.
5. Please provide an explanation if the Council does not intend to carry out an appropriate assessment vis-à-vis 24/00031/FUL and 24/00247/FUL prior to their determination.

Dr Marshall has also requested that, given the high levels of public interest in 24/00031/FUL and 24/00247/FUL (evidenced by the number of objections to both applications), if the Council decides to carry out an appropriate assessment that it exercises its discretion under Regulation 48(4) of the Habitats Regulations to consult the public during that process.

We look forward to hearing from you.

Yours sincerely,

Ben Christman

In-house solicitor

Mobile: ...

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