

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/00005/PPP

APPLICANT : Ms Gillian MacKay

AGENT : Ferguson Planning

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Land South Of Balmerino
Ashkirk
Scottish Borders

TYPE : PPP Application

REASON FOR DELAY: No Reason

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
161520/LOC	Location Plan	Refused
161520/PL/01	Site Plan	Refused

NUMBER OF REPRESENTATIONS: 2

SUMMARY OF REPRESENTATIONS:

ROADS PLANNING SERVICE: Confirms that the RPS has no objections in principle to a dwelling on this site. Will however require the following improvements to the access onto the public road to be addressed at detailed planning stage, should this development be granted consent.

- o Existing access to be widened on both sides to allow two vehicles to pass in the bellmouth area.
- o The first 5 metres of the access track to be surfaced to the following specification "40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1."
- o Vegetation on north side of the access to be cut back to stop overhanging which narrows the access.

Given that the land associated with the above works appears to be outwith the control of the applicant, the RPS engineer will require confirmation that the works detailed can be carried out with the agreement of the appropriate land owners. In addition to the above, parking and turning for a minimum of two vehicles, not including garages, must be provided within the curtilage of the plot prior to occupation and be retained thereafter in perpetuity. It should be noted that all work within the public road boundary must be undertaken by a contractor first approved by the Council.

EDUCATION AND LIFELONG LEARNING: Confirms the site is located within the catchment area for Lilliesleaf Primary School, St Joseph's R C Primary School and Selkirk High School. There are no contributions sought for this application.

LANDSCAPE ARCHITECT: The site lies at the north east edge of The Woll Designed Landscape, identified in the Borders Designed Landscapes Survey 2008 as a 'Simple layout of plantations on hillside' of locally high significance. The site is part of a larger field that slopes down north-eastward from Woodlands, the elevated property to the SW which owns the field and site. The larger field has been planted with a number of trees, both individually and in groups and there are a number of wide grass paths or tracks cut around and through the field/site. While these trees are generally young they are, in the main, establishing well. The Landscape Architect suggests the main access into the field is through the gate in the north -east corner, having come up the shared access track to the three adjacent properties.

While it looks like there would be enough space to develop a single house on this site, towards the middle/ western part, would want to see a site plan showing all the trees on site, with their Root Protection Areas (RPA) - see BS 5837:2012 Trees in relation to design, demolition and construction - recommendations, for method of establishing RPAs. This would allow the extent of the developable area to be established and would avoid future conflict with established trees. It may not be necessary to retain every tree on the site but ideally a good proportion should be retained, especially those offering some screening to adjacent properties, e.g. The 3 trees along the eastern boundary that effect a degree of separation and screening from The Floss. The groups of trees to the west, outwith the site, should be retained to provide screening and shelter from the west.

If consent is deemed appropriate in this location, would want a condition requiring details of boundary treatments, which ideally should be hedges in combination with any fencing and a planting scheme that would enhance the amenity and mitigate for any trees removed. In summary, the landscape architect does not have any serious reservation for the development of this part of the larger field as a single house, if a scheme of planting to ameliorate the development into the immediate area can be agreed.

COMMUNITY COUNCIL: No objection. Comment that the proposals seem to fit well into the settlement.

SEPA: Ask that a planning condition be attached to the consent. If this will not be applied, then please consider this representation as an objection. - Waste water drainage - We welcome the applicant's proposal to connect to the public sewer. It is unclear from the site plans how this will be achieved and therefore for the avoidance of doubt we request that connection to public sewer is secured by condition.

AGENT RESPONSE TO SEPA COMMENT: In response to SEPA's comment client has notified us that drainage will be private as there is no mains sewerage in Ashkirk. Everyone is on an individual septic tank apart from the houses in the core of Ashkirk village which share a communal septic tank.

PUBLICITY AND REPRESENTATIONS

This application was publicised by means of the direct postal notification of 4 neighbouring premises. Further publicity was carried out in the form of an advert in the Southern Reporter, and a notice on the national public notices website.

Objection was received from two neighbouring resident. These objections can be viewed in full on the public access website. Matters raised in the objections can be summarised as follows:

- Proposal is contrary to Local Plan
 - Detrimental to Residential Amenity
 - Siting - - The house could be built at the top end of the field where it would be more compatible with the existing cluster of houses near Woodlands and serviced by a more suitable access road.
 - Inadequate access - The track to the site is not suitable or sufficient for more traffic and construction vehicles entering and exiting will cause severe damage to an already poor track
 - Inadequate drainage - On the application the house is to be connected to the mains drains-there is no mains drains
- Anywhere near the site.
- Increased traffic
 - Legal issues

- Environmental / Ecology Issues - The application will have a serious detrimental effect on the local wildlife environment as deer have used this part of the field moving from the woods at the rear of Balmerino on a daily basis for the 30 years we have lived here.
- Loss of view
- Noise nuisance
- Over Provision of facility in area (No need for additional housing here). Furthermore, there is an access strip left between the proposed site and The Floss-Is this so further development could be applied for in the future
- Overlooking
- Privacy and amenity of neighbouring properties affected - The cumulative impact of the proposal will have amenity issues on the neighbouring dwellings
- Trees/landscape affected
- Value of property
- Water Supply
- The land is outwith the SBC development area
- Scale of the proposal does not fit well within the group and will look down and dwarf the existing properties
- On the application it states that the Daughter seeks to be an active part in the local community and staying on the proposed site will further strengthen the local Ashkirk community.---You don't have to build a house to do that ---you could buy one of the nine properties currently on the market.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016
PMD1, PMD2, PMD4, HD2, HD3, EP10, EP13, IS2, IS3, IS7, IS9

OTHER

Supplementary Planning Guidance

- Placemaking and Design
- Householder Development
- Development Contributions
- Trees and Development
- Landscape and Development
- Waste

Recommendation by - Andrew Evans (Planning Officer) on 24th February 2017

This application relates to an area of existing land on the edge of Ashkirk. The site is located outwith the Development Boundary set out in the Local Development Plan. The site is bound by the existing dwellings "Balmerino" to the North, and "The Floss" to the east. To the west of the site is a paddock, owned by the applicant, who owns the House "Woodlands" on the other side of the intervening hill. South of the site is garden ground of another neighbouring dwelling "Ninians".

Planning Permission in principle is sought for the erection of a single detached dwelling on the site. The site is located outside the Ashkirk Settlement boundary as set out in the Scottish Borders Local Development Plan 2016. The application is supported by a planning statement. The site is part of a larger field that slopes down north-eastward from Woodlands, the elevated property to the SW which owns the field and site.

POLICY CONTEXT

Policy PMD4 (Development outwith development boundaries) is applicable to this application. The policy sets out in detail, that where development boundaries are shown in the LDP, they indicate the extent to which towns and villages should be able to expand during the local plan period. Development should be contained within the development boundary, and proposals for new development outwith the boundary, not on allocated sites on the proposals maps, will normally be refused. The supporting statement sets out that the house is proposed for the applicant's daughter.

Whilst proposals for development outside the boundary would "normally" be refused, policy PMD4 goes on to set out four qualifying criteria against which any proposals for exceptional approvals contrary to the remainder of the policy, must be assessed, before the proposals are considered against the subsequent criteria of the policy. This current proposal for a single dwelling does not meet any of these four qualifying criteria. Specifically:

- a. It is not a job generating or economically justified dwelling on the countryside under policy ED7 or HD2,
- b. It is not an affordable housing proposal which can be justified under policy HD1,
- c. Though there is a shortfall of 916 houses identified though the housing land audit with regards provision of an effective 5 year housing land supply, a process has been undertaken to produce supplementary guidance on housing which will fully address this shortfall,
- d. The development is not considered to offer significant community benefits that would outweigh the need to protect the development boundary.

In this case I note that the agents supporting statement quotes from the supporting text of policy PMD4. However I would take issue with the emphasis placed in the agent's statement. The section of policy preamble quoted from paragraph 1.2 refers to cases where there is a noted, justified exception to the policy being considered. That is not the case here. This proposal does not meet any of the 4 qualifying criteria for exceptional approvals in the policy text. Section 1.2 of the preamble refers to cases where exceptional approvals might be granted for schools, or where in a village there is community support for a housing proposal that provides a population to support local services. That is not the case here. Ashkirk does not have any significant community services that require the support of additional housing.

The LDP which dates from 2016 makes specific mention in relation to Ashkirk that:

"There are some opportunities for small scale infill development within the settlement boundary ... The Plan does not identify any areas for future expansion beyond the period of this Local Development Plan."

The settlement development boundaries shown in the LDP exist so as to prevent sporadic housing development such as that set out in this current application.

The supporting statement goes on to quote parts of policy HD2 (on Housing in the Countryside). I would take issue with the quoting of the Building Group part of the policy. The surrounding houses which the agent contends form a "Building Group" are in fact dwellings within the settlement boundary of Ashkirk. Policy PMD4 on Development Outwith Development Boundaries is clearly the predominant and relevant policy against which the application should be considered, and for the reasons set out above, the proposal is considered to be on conflict with this policy.

The proposal does not amount to "natural rounding off of the building group" as set out in point 5.5 of the supporting statement. Rather, it represents an unacceptable development beyond a settlement boundary, contrary to policy PMD4.

I also note the comments in the agents supporting statement (paragraph 6.3) that the development "can also assist in meeting the housing shortfall in the Scottish Borders which is currently shown to be by some 916 houses". There is a mechanism in place to address this shortfall, by means of the call for sites undertaken last year, and subsequent supplementary guidance on housing, which has been produced, and will address fully this shortfall.

I acknowledge the relationship of the site to the existing structure of the settlement, set relatively inconspicuously behind existing houses. However, that, in itself, is insufficient to justify a departure from a policy designed to prevent unplanned, sporadic expansion of the village further into surrounding countryside. If accepted, this sporadic expansion could be repeated in other such locations, including further south-west into the same field. The varied pattern of Ashkirk's growth means it is particularly important to manage even small-scale extensions to it, thus the settlement boundary is a crucial policy consideration.

PLACEMAKING AND SITE

Policy PMD2 of the LDP sets out the Council position in relation to design and placemaking considerations. Whilst the indicative house design is uninspired, a suitable design could be secured at a later stage. I note the boundaries of the site, which are bound by a mixture of existing hedgerow, and post and wire fence. The proposed plot would feature hedging around the boundary. The indicative plans lodged with the

application show a house oriented to face the blank southern gable wall of "Balmerino". Two ground floor windows would face towards "The Floss". I note there is relatively mature beech hedging along this boundary. The indicative proposed plans for the house show a dormer bungalow, which would be of greater overall height than the single storey bungalows at "Balmerino", and "The Floss; but of lesser height than the Storey and 3/4 dwelling at "The Mill House" to the north.

TREES AND HEDGEROWS

The site is located in the corner of an existing field, bound by post and wire fence to the north, and a domestic fence and beech hedge in the garden of "The Floss" to the east. The larger field, of which the site is part, has been planted with a number of trees, both individually and in groups and there are a number of wide grass paths or tracks cut around and through the field/site. Policy EP13 of the LDP on Trees, Woodland and Hedgerows sets out that existing trees and hedgerows will be protected. A dwelling in the site proposed would require removal of a number of young trees to permit the development to take place. There are no significant trees which would be affected by the proposed development.

LANDSCAPE

The site lies at the north east edge of The Woll Designed Landscape, identified in the Borders Designed Landscapes Survey 2008 as a 'Simple layout of plantations on hillside' of locally high significance,

The Landscape Architect advises that whilst the development will impact on some trees, these trees are generally young and they are, in the main, establishing well. The Landscape Architect suggests that while it looks like there would be enough space to develop a single house on this site, towards the middle/ western part, she would want to see a site plan showing all the trees on site, with their Root Protection Areas (RPA) as this would allow the extent of the developable area to be established and would avoid future conflict with established trees.

If consent had been deemed appropriate in this location, conditions could cover matters regarding tree protection, to establish a developable area, and new planting and boundary treatments. However, the site is fundamentally considered unacceptable for policy reasons, in terms of its unacceptable expansion beyond the settlement boundary. Had it otherwise been acceptable, I would have been content that the tree and landscaping issues could be dealt with via planning condition.

ROAD SAFETY

Road safety is a material planning consideration. The Roads Planning Service was consulted on the application, and advises of no significant concerns to the principle - detailed requirements for safety are set out in the consultation reply and could be addressed via planning conditions. The requirements of the condition should be drafted to overcome any land ownership issues, by ensuring the works are carried out before any development of the site. Subject to a condition to address the RPS requirements then it could be possible for the proposals to be considered acceptable in terms of impacts on road safety.

AMENITY

Policy HD3 of the Scottish Borders Local Development Plan sets out that residential amenity will be afforded protection. The Council has adopted supplementary planning guidance on Householder Development which sets out standards for privacy and amenity. In the case of these current proposals, the site is indicatively located in a manner sufficiently distant from, or oriented relative to, the nearest residential dwellings that I am satisfied that the proposed development of a house could be possible in a manner not resulting in an adverse impact on neighbouring amenity. The position of the house is such that acceptable privacy relationships could be achieved, and compliance with policy HD3 and the SPG standards on privacy and amenity could be achieved.

WATER SUPPLY AND DRAINAGE

Policy IS9 of the Local Development Plan on Waste Water Treatment Standards and Sustainable Urban Drainage is relevant to this application. Water and drainage services would require confirmation in due course, and this could be ensured via standard planning condition, were the application otherwise acceptable.

I note the consultation response of SEPA, who ask that a planning condition be attached to the consent. If this will not be applied, then SEPA would object. SEPA welcome the applicant's proposal to connect to the public sewer on the application form. The agent, in response to SEPA's comment advise that drainage will be private as there is no mains sewerage in Ashkirk. Surrounding properties are to individual septic tanks apart from the houses in the core of Ashkirk village which share a communal septic tank. Given there is no available public sewer, this is not objectionable in principle.

Were the application acceptable in principle, I would be content that drainage and water supply issues could be addressed via a suitably worded suspensive planning condition.

DEVELOPMENT CONTRIBUTIONS

Policy IS2 Developer Contributions of the LDP is relevant to this application. The policy is further set out in the adopted SPG on development contributions. The site would attract development, development contributions in terms of the Borders Railway. A legal agreement would have been necessary to collect these contributions were the proposed development otherwise acceptable. The applicant has indicated acceptance of meeting the identified contribution requirements.

REASON FOR DECISION :

The proposed development would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016, in that the proposed development would be located outwith the Ashkirk Development Boundary, and insufficient reason and justification for an exceptional approval has been advanced. Other material considerations do not justify a departure from the Development Plan in this case

Recommendation: Refused

- 1 The proposed development would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016, in that the proposed development would be located outwith the Ashkirk Development Boundary, and insufficient reason and justification for an exceptional approval has been advanced. Other material considerations do not justify a departure from the Development Plan in this case.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.