



Newtown St Boswells Melrose TD6 0SA Tel: 01835 825251 Fax: 01835 825071 Email: ITSystemAdmin@scotborders.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100060336-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

|                       |                         |  |                    |
|-----------------------|-------------------------|--|--------------------|
| Company/Organisation: | Smith & Garratt         |  |                    |
| Ref. Number:          |                         | You must enter a Building Name or Number, or both: * |                    |
| First Name: *         | Hugh                    | Building Name:                                       | The Guildhall      |
| Last Name: *          | Garratt                 | Building Number:                                     |                    |
| Telephone Number: *   | 01289382209             | Address 1 (Street): *                                | Ladykirk           |
| Extension Number:     |                         | Address 2:   |                    |
| Mobile Number:        |                         | Town/City: *   | Berwick-upon-Tweed |
| Fax Number:           |                         | Country: *   | United Kingdom     |
|                       |                         | Postcode: *  | TD15 1XL           |
| Email Address: *      | ahg@smithandgarratt.com |  |                    |

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity



## Applicant Details

Please enter Applicant details

|                      |                                      |  |  |
|----------------------|--------------------------------------|--|--|
| Title:               | <input type="text" value="Mr"/>      | You must enter a Building Name or Number, or both: * |  |
| Other Title:         | <input type="text"/>                 | Building Name:                                       | <input type="text" value="4b Carrer Cap de Moro"/> |
| First Name: *        | <input type="text" value="Malcolm"/> | Building Number:                                     | <input type="text"/>                               |
| Last Name: *         | <input type="text" value="Pearson"/> | Address 1 (Street): *                                | <input type="text" value="La Drova"/>              |
| Company/Organisation | <input type="text"/>                 | Address 2:   | <input type="text" value="Barx"/>                  |
| Telephone Number: *  | <input type="text"/>                 | Town/City: *   | <input type="text" value="Valencia"/>              |
| Extension Number:    | <input type="text"/>                 | Country: *   | <input type="text" value="Spain"/>                 |
| Mobile Number:       | <input type="text"/>                 | Postcode: *  | <input type="text" value="46758"/>                 |
| Fax Number:          | <input type="text"/>                 |  |  |
| Email Address: *     | <input type="text"/>                 |  |  |

## Site Address Details

|   |   |
|---|---|
| Planning Authority:   | <input type="text" value="Scottish Borders Council"/> |
| Full postal address of the site (including postcode where available): |   |
| Address 1:  | <input type="text"/>                                  |
| Address 2:  | <input type="text"/>                                  |
| Address 3:  | <input type="text"/>                                  |
| Address 4:  | <input type="text"/>                                  |
| Address 5:  | <input type="text"/>                                  |
| Town/City/Settlement:   | <input type="text"/>                                  |
| Post Code:  | <input type="text"/>                                  |

Please identify/describe the location of the site or sites

|   |
|---|
| <input type="text" value="Land north east of the old church, Lamberton"/> |
|---|

|          |                                     |         |                                     |
|----------|-------------------------------------|---------|-------------------------------------|
| Northing | <input type="text" value="657407"/> | Easting | <input type="text" value="396948"/> |
|----------|-------------------------------------|---------|-------------------------------------|

## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \* (Max 500 characters)

Erection of dwellinghouse with attached garage (16/00947/FUL).

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

The Appellant does not agree with the analysis made by the Case Officer, or the two reasons given for the refusal. His Statement of Case is attached.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Statement of Case Copy of application (Appendix I) Copy of Case Officer's Report (Appendix II)

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

16/00947/FUL

What date was the application submitted to the planning authority? \*

03/08/2016

What date was the decision issued by the planning authority? \*

09/06/2017

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

A site inspection is required in order to assess the building group and the relationship the proposed dwelling will have with the building group, including heights and privacy; to review the anchor points and the sense of place; to review the proposed access and road improvements; and to explore the degree of impact the proposal will have on the ruined church (a Scheduled Ancient Monument), if any.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

**Note:** You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

**Note:** Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Hugh Garratt

Declaration Date: 25/07/2017



SMITH &  
GARRATT  
HERITAGE · RURAL · PRIVATE CLIENT

Scottish Borders Council  
Planning Department  
Council Offices  
Newtown St Boswells  
Scottish Borders  
TD6 0SA

3<sup>rd</sup> August 2016

Dear Sirs,

**Re: Proposed Dwelling at Lamberton**

We are applying for planning consent to erect a single dwelling at Lamberton. Our clients, Mr and Mrs Pearson, have owned the paddock beneath the old kirk for many years. They lived and worked locally before retiring to live in Spain. Due to uncertainty following the Brexit vote concerning their ability to stay in Spain long-term they are considering returning to live in the Scottish Borders once again.

This is not the first application on this land. In 2007 a local developer made a conditional offer to buy the site, subject to outline planning, which was refused (and the decision was upheld at appeal). The 2007 application was in outline, for three dwellings across the whole site. The current proposal is in full, for a single dwelling at the southern side. The dwelling is sensitively designed and oriented. It relates to the group and to existing landscape features. The site, which is separated from the remainder of the paddock, is to be benched with a modest cut-and-fill to ease the footprint of the house into the natural easterly slope.

The proposed house will be energy-efficient and will make the best of natural solar gain. It is designed so as not to overlook neighbours behind. It is to have a new access, slightly further down the slope from the existing gate and running east of the house, which will keep traffic away from the existing dwellings. The unused path that once ran eastwards from this gate can be reinstated to run eastwards from the new access. A little additional planting will provide a windbreak.

Since obtaining pre-application advice the new local plan has been adopted, so the artificial limit on additions to this rural building group has been lifted. We believe this well-considered application merits support.

Yours faithfully,



A H Garratt LL.B FRICS FAAY

Enc

## Appeal to Local Review Body

### On Behalf of Mr M Pearson, in Respect of Scottish Borders Council Decision 16/00947/FUL

#### Statement of Appellant's Case

I, Alexander Hugh Garratt LL.B FRICS FAAV, senior surveyor at Smith & Garratt – a surveying firm based in Ladykirk, near Berwick-upon-Tweed – acting on behalf of Mr Malcolm Pearson (hereinafter referred to as ‘the Appellant’), wish to provide the following Statement of the Appellant’s case.

I hold a Bachelor of Laws with Honours, am a Fellow of the Royal Institution of Chartered Surveyors (‘RICS’), an RICS-registered valuer of real property, and a Fellow of the Central Association of Agricultural Valuers. I qualified as a rural practice surveyor in the mid-1980s, spent 20 years as the resident agent or resident factor on rural estates, and have been working with Smith & Garratt in the North of England and Southern Scotland for about fourteen years. The firm specialises in planning and development work, historic buildings and heritage work, and the provision of private-client surveying services.

#### FACTS

The Appellant and his wife moved from the Scottish Borders to live in Spain several years ago. Their only UK property is his 1.18 Ha of waste ground above the A1 at Lamberton, shown on the adjacent satellite photo (outlined in blue). They are concerned that, following ‘BREXIT’, they may have to return to the UK. Accordingly, the Appellant has applied for planning permission to build their UK home on that land. The application is for full planning for a single dwelling, so is supported with design drawings and other materials describing the home the Appellant wishes to build. The Appellant has no plans to build anything other than a single dwelling for occupation by himself and his family.



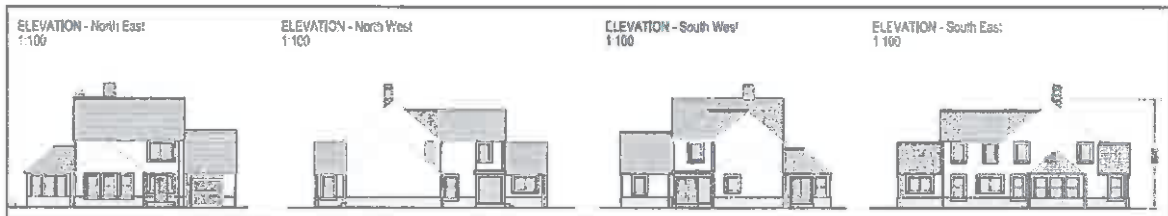
The application, exhibited at Appendix I, was validated on 5<sup>th</sup> August 2016. It took until 9<sup>th</sup> June 2017 (ten months) for the Planning Department to make its determination. It was clearly considered to be a borderline case. The application was refused on two grounds – (i) that the site would not have a satisfactory relationship to the existing building group or contained sense of place at this location resulting in an adverse impact on the wider landscape setting; and (ii) the development would have an unacceptable adverse impact on the setting of the Scheduled Ancient Monument (‘SAM’), Lamberton Church. The Planning Officer’s report is exhibited at Appendix II.

This area of ground has planning history. It is thought that until the middle of the 20<sup>th</sup> century a farmstead stood here; the ground is unlevel and strewn with building stone. After moving abroad, the Appellant permitted a developer to apply for planning permission for up to three dwellings in 2006/7. The developer divided the area into three and submitted three outline applications, each for one house. The applications lacked detail and were refused. The developer abandoned the northernmost, below the ruined church, and the refusals in respect of the other two were upheld at appeal in 2008. The Reporter found the development would not be well related to the existing group, being a departure from its character and built form; and he found an adverse impact on the setting of the SAM Lamberton Church and the wider landscape.

It will be noted that consents have been granted in the same building group, including one in September 2015. Examination of the relationship between the building group, the recent additions and the Appellant's plot follows.

Local Review Bodies ('LRBs') are required to take a *de novo* approach<sup>1</sup>. This allows the LRB to review, not just the Planning Officer's recommendation, but the case as a whole. It is, therefore, appropriate to look at the design, matters raised by objectors and supplementary submissions, as well as the two reasons given for the refusal.

## **DESIGN AND LOCATION**



The design provides a four-bedroom house with an integral garage. It is in the form of a two-storey building with lower out-shoots and traditional roof pitches, which minimises the massing and mimics a typical rural dwelling that has been added to over time. The materials are traditional – slate roofs over harled walls and timber windows with vertical emphasis – all typical of the building group. It is considerably smaller than the building opposite, which commands the high spot on the open, south-east side of the building group.

The proposed house has been oriented to benefit from natural solar gain. Its access drive will turn in below the house, not between it and its neighbour, which will help reinforce the separation between this – the easternmost in the building group – and the open countryside below; this will also provide a passing-place on the lane down to the junction on the A1. Landscape planting will enhance the sense of containment.

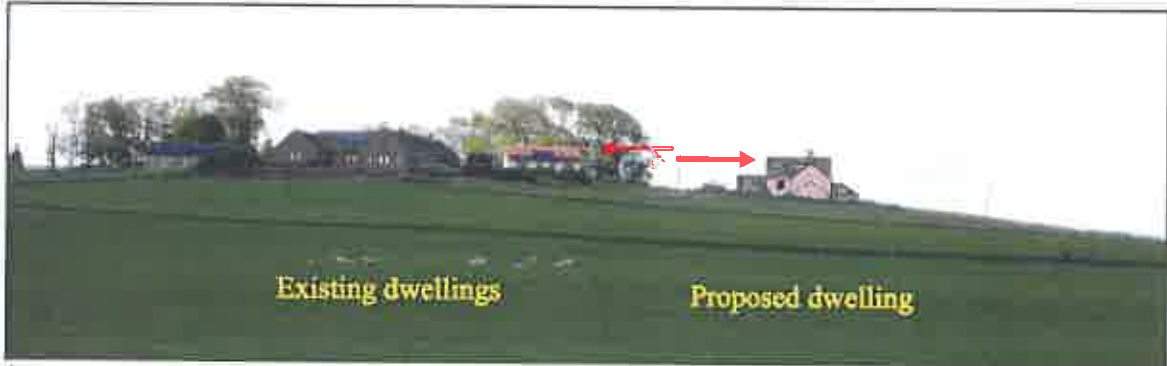
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<sup>1</sup> Chief Planner's letter to Heads of Planning, 29<sup>th</sup> July 2011.





The proposed dwelling has been positioned in the southernmost corner of its plot – with a close relationship to others in the group – on a cut-and-fill platform which both provides a level base for building and reduces the height of the floor-plate such that the ridge is below that of the neighbouring dwellings. The ground floor windows cannot overlook the neighbour; the only upper window in the south-west elevation faces a sycamore tree. The neighbour will only see the building through the one narrow window in his east gable elevation ... at a distance of around 20 metres.



**Photo-montage showing an image of the proposed dwelling and neighbours from the Border lay-by on the A1.**

**REPRESENTATIONS**

There were five private objections to the application. The main points, and our responses, are as follows:

|  |  |
|--|--|
| Impact on landscape setting                                      | The council’s Landscape Architect is only concerned to protect tree roots, and has no wider concerns.  |
| Impact on setting of Scheduled Ancient Monument Lamberton Church | The house will not be visible from the monument, or vice-versa. The two will only be in the same view if looked at from fields to the north-west. Historic Environment Scotland (‘HES’) does not object. |
| Outwith Building group   | See dedicated paragraph and images (below).  |
| Impact on Right of Way that should be maintained                 | The right of way is not currently used or maintained; its line is not discernible on the ground. The house will be to the east of the right of way and the right of                                      |

|                            |   |
|----------------------------|---|
|                            | way will not be affected. Irrespective, the Access Officer recommends diversion to a better route – to provide access to the monument.  |
| Traffic/road safety during | The site provides plenty of room for contractors' vehicles to enter, turn and exit in forward gear. There is no record of a road traffic accident nearby, including during construction of other recent additions to the building group. The proposed development will, in any case, deliver road improvements. |
| Impact on water supplies   | The house will have a mains water supply. Scottish Water's Asset Capacity Search reveals it has current capacity for 1,258 more dwellings in this area.   |
| Ribbon development         | The proposal does not create ribbon development.  |
| Design and scale of house  | These have been carefully considered (see above).   |

**In addition, the following statutory consultees commented (listed alphabetically):**

**Access Officer:** No objection. Points out the presence of Right of Way BB53. Recommends conditions to ensure the path is maintained open and free in perpetuity. Suggests possibility for diversion of pathway to more beneficial route, accessing the old church. The Access Officer's map (below) is adjusted to show the corrected plot boundary plus the footprint of the dwelling (in blue). It will be noted that the path is unaffected by the development.



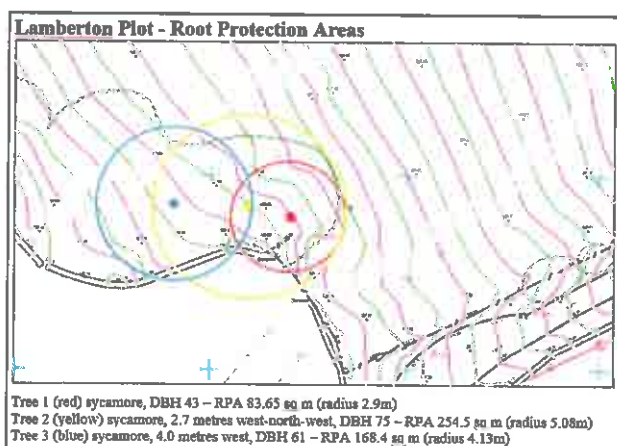
**Archaeologist:** No objection. Concurs with HES that the impact on the setting of the Scheduled Ancient Monument (Lamberton Church) is not significant. Notes the presence, within the plot, of earlier farmstead remains, demolished mid-20<sup>th</sup> century, so recommends that archaeological evaluation takes place, with a 'watching brief' during works.

**Education:** The development is located within the catchment area for Eyemouth Primary School and Eyemouth High School. A contribution of £2,438 is sought for Primary School and £3,428 is sought for the Secondary School.

**Environmental Health Officer:** No objection. Conditions recommended in respect of water and drainage.

**Historic Environment Scotland:** No objection. The HES letter of 19<sup>th</sup> August 2016 says, “From the plans provided it is our view that the house will not interrupt any known relationships between the monument and other archaeological sites or landscape features in the vicinity. Due to its proposed scale and location, the new house will not challenge the monument for dominance within its setting, fitting the existing dispersed settlement pattern of the area. It is unlikely therefore that the proposed development will represent a substantial change to the character of the setting of the monument and will not interrupt any obvious key views of the monument from the surrounding area.”

**Landscape Architect:** No objection. The LA’s consultation response of 15<sup>th</sup> August 2016 says, “There is no problem, in principle, in adding a single house to the existing settlement provided it appears to fit with existing features, which includes some buildings and a group of trees which provide a visual anchor point. However, there appear to be some practical difficulties with the site layout in relation to adjoining trees and this is exacerbated by the high visibility of the site position making the issue more sensitive. Basically, the proposed platforming would dig deeply into the root protection area (RPA) of the nearest adjoining tree, a sycamore, and would probably lead to the tree being lost. This would result in the new house being more exposed both physically and visually. The matter can be resolved by changing the house design to reduce the amount of platforming required (e.g. by underbuilding so that the house can sit on a sloping site) and also by re-locating the house further away from the tree so that the RPA of the tree is not disturbed. Guidance on RPA calculation and distances is available from BS5837:2012. There appears to be ample room on the site to allow for this.” In response, whilst it is agreed that there is ample room to redesign the layout, the three nearest trees were measured in accordance with BS5837:2012, their RPAs were calculated, and the resulting diagram was sent to the Planning Officer on 5<sup>th</sup> October 2015. The diagram is exhibited below, with a contour-draped satellite photograph alongside. BS5837:2012 recommends that incursions into RPAs should not exceed 20%. It will be observed that the platforming works skirt the RPAs, with less than 20% incursion into the nearest, so it was not necessary to change the house design or to move it further away. The appellant offered, in the same letter, to erect a retaining wall on the west side of the dwelling – outside the RPAs – approximately 500mm high and four or five metres long, to make absolutely certain that no soil within the RPAs is disturbed while benching for a level foundation. Neither the Planning Officer nor the Landscape Architect have responded to that letter.



**Roads Planning:** No objection. Conditions recommended in respect of service layby, passing place, parking and turning, and measures to prevent the flow of water onto the public road.

### **GUIDANCE**

The application is to be considered in the light of Local Plan policy HD2 'Housing in the Countryside' and supplementary planning guidance 'New Housing in the Borders Countryside'. Policy HD2(A) says,

#### **(A) BUILDING GROUPS**

Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or buildings currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such conversion has been implemented;
- b) the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts;
- c) any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.

In addition, where a proposal for new development is to be supported, the proposal should be appropriate in scale, siting, design, access, and materials, and should be sympathetic to the character of the group.

The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point.

**The key parts of the supplementary guidance are the Standard Criteria:**

1. *No adverse effect on the viability of a farming unit or conflict with the operations of a working farm;*
2. *Satisfactory access and other road requirements;*
3. *Satisfactory public or private water supply and drainage facilities;*
4. *No adverse effect on countryside amenity, landscape or nature conservation;*
5. *No adverse impact on ancient monuments, archaeological sites, or on gardens or designed landscapes in the Inventory of Gardens and Designed Landscapes in Scotland;*
6. *Appropriate siting, design and materials in accordance with the relevant Local Plan policies;*
7. *The safeguarding of known mineral resources from sterilisation unless this is acceptable following an assessment of the environmental implications.*



**And the factors to be taken into account:**

- *The scale and siting of new development should reflect and respect the character and amenity of the existing group, and the individual houses within the group;*
- *New development should be limited to the area contained by that sense of place;*
- *Any new build should be located within a reasonable distance of the existing properties within the building group, the distance between existing properties and proposed new build should be guided by the spacing between the existing properties within the group;*
- *Proposals which involve the formation of new public roads for access (and public street lighting) will normally be of too large a scale;*
- *Sites should not normally break into a previously undeveloped field or require the removal of mature trees in good condition;*
- *Sites within 400m of existing intensive livestock units, will not normally be permitted unless required in connection with the farm or business itself;*
- *Sites close to working farm buildings or other rural industries will be given careful consideration to ensure no potential conflict;*
- *Existing groups may in themselves be complete, such as terraces of farm cottages and may not be suitable for further additions;*
- *Extensions of ribbon development along public roads will not normally be permitted;*
- *There will be a presumption against development which would result in the coalescence of a group with a nearby settlement;*
- *The use of Section 75 Agreements will be considered, for example, to restrict further housing at a building group.*

**THE BUILDING GROUP**

The immediate building group consists of seven dwellings, the ruin of the old church, the village hall and a number of ancillary buildings. As identified by HES, it is a dispersed group, with many buildings scattered beyond. A map of the central part of it is adjacent – the dwellings coloured orange and other buildings coloured green; the location of the proposed house is indicated by the red circle. There can be little doubt that the proposal relates appropriately and properly to the group. Recent additions to the group, lying to the south-west, are both more dispersed and further from the core dwellings.



The parcel in question is said to be previously developed land – the site of the former Lamberton Farmstead, demolished around 70 years ago. It is easily distinguished from the open fields to the north and east because it is unlevel, strewn with building stone, and grows nothing but weeds. It naturally attaches to the cluster of buildings

rather than to the open fields below. The plot is within the parcel of waste ground, at the southern end, separated off by a fence. It does not break into a previously undeveloped field. The council's Landscape Architect described it well, saying, "There is no problem, in principle, in adding a single house to the existing settlement provided it appears to fit with existing features, which includes some buildings and a group of trees which provide a visual anchor point."



**1. The plot from the A1**



**2. View from the A1. One building group, or two?**



**3. The plot relates better to the core of the group than does the ribbon of newer additions to the west.**



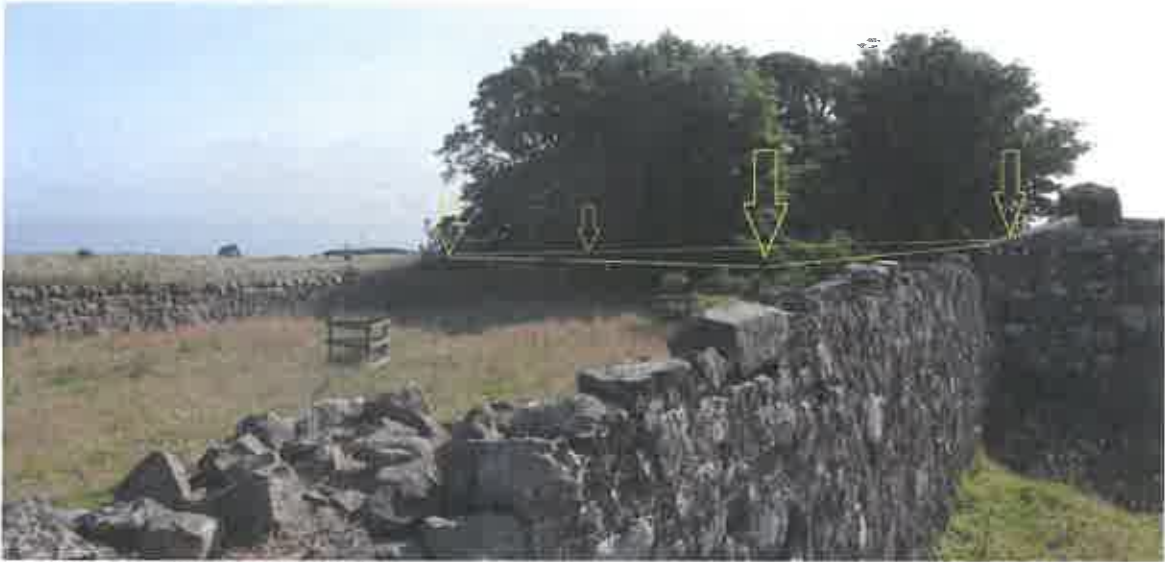
4. From the Border lay-by ... this looks like one big, dispersed group.



5. Close relationship seen from the bridge over the A1 at the Lambertton junction – plot edged and shaded red.



6. From the junction to the west – the arrow marks the ruined church and the ellipse indicates the location of the plot, which is screened by the trees.



7. From the ruined church, a Scheduled Monument. The plot is entirely screened by trees (yellow arrows, scaled in perspective, indicate the location of plot corners).



8. Another view from the ruined church. The plot is entirely screened. Yellow arrows indicate the NE and SE corners.



9. Looking east from the farm track above the building group – the ruined church is circled in red; the location of the plot, screened beyond the trees, is indicated by the yellow ellipse.



### CASE ON BEHALF OF THE APPELLANT

The principal reason for refusal at first instance says, "*The proposal for a dwellinghouse at this location is contrary to Scottish Borders Local Development Plan Policy D2 – Housing in the Countryside – and Supplementary Planning Guidance New Housing in the Borders Countryside, as the site is not located within an existing building group of three or more houses and there are no overriding economic needs or benefits to the local community that would justify a departure in this case. The site would not have a satisfactory relationship to any existing building group or contained sense of place at this location resulting in an adverse impact on the wider landscape setting.*" Yet we see the site is, in fact, located within an existing building group of seven dwellings – its relationship secured by the 'anchor points' referred to by the council's Landscape Architect; and with the sense of place identified by Historic Environment Scotland. The group is described as 'dispersed' and the distances between group members are greater than the distances between existing dwellings and the proposed house. The proposal thus meets the test of policy HD2(A). It also meets the seven Standard Criteria from the supplementary guidance; and satisfies all eleven of the other factors to be taken into account in determining such applications. The Appellant believes the Planning Officer simply made the wrong call in this instance.

The second reason for refusal at first instance says, "*The proposal would be contrary to Scottish Borders Local Development Plan Policy EP8 – Archaeology – in that the development would have an unacceptable adverse impact on the setting of the Scheduled Ancient Monument – Lamberton Church.*" Yet we see unequivocal support from Historic Environment Scotland, concurred with by the council's Archaeology Officer ... with the addition of practical suggestions for researching the history of the plot while construction works are carried out. It was just plain wrong to offer non-compliance with policy EP8 as a reason for refusal.

The Appellant's full and detailed application for permission to erect one new dwelling at the south end of the parcel of waste ground provided more and better information than did the outline applications of 2006/7. There are no objections to the current proposal from statutory consultees. The Appellant has answered all points raised by local objectors. It is difficult to see how the recommendation for refusal arose; it appears ill-founded.

The Appellant is from the Borders and he wishes to return to the Borders. He owns a parcel of waste land -- described in the Planning Officer's report as 'overgrown scrub' -- which is eminently suitable for the erection of a single dwelling. Access is good, services are nearby and septic tank drainage will work well. The Appellant has invested considerable resources in making his planning application; it includes a topographical survey and full plans, and has involved additional work in response to representations -- notably the RPA calculations in accordance with BS5837:2012. There is a regional shortage of housing land and Scottish Borders Council is currently processing a 'call for sites' to resolve a shortfall of housing land in its Local Plan. This proposal will, in its own small way, contribute to supply. The grant of consent will procure a local road improvement (a service lay-by and passing place); and, notwithstanding that the Appellant's own children are well beyond school age, his consent will raise £5,866

towards the provision of local education facilities. Construction of the house will benefit the local economy; and the Appellant will become a Council Tax payer.

The proposed house has been carefully designed and sited to complement the existing settlement. Careful consideration has been given to height, massing, traditional appearance, orientation, precise positioning, relationship with neighbouring buildings and fenestration. It affects neither the right of way nor the ruined church. The nearby trees are not at risk. An archaeological 'watching brief' during construction will reveal and record whether any older buildings existed on the building platform.

This application has compelling merits. It should not have been considered borderline; determination at first instance should not have taken ten months and it should not have been refused.

**PLEA**

The Appellant craves that this appeal is allowed and planning consent for application reference 16/00947/FUL is granted with conditions to accord with the comments made by statutory consultees.

Prepared 23<sup>rd</sup> July 2017 by:

**A H Garratt LL.B FRICS FAAV**



The Guildhall, Ladykirk, Berwickshire, TD15 1XL.  
Tel: 01289 382209 / 07702 091626.  
E-mail: ahg@smithandgarratt.com



Newtown St Boswells Melrose TD6 0SA Tel: 01835 825251 Fax: 01835 825071 Email: ITSystemsAdmin@scofborders.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100020059-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

### Type of Application

What is this application for? Please select one of the following: \*

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application. (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

### Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

Erection of dwellinghouse

Is this a temporary permission? \*

Yes  No

If a change of use is to be included in the proposal has it already taken place? (Answer 'No' if there is no change of use.) \*

Yes  No

Has the work already been started and/or completed? \*

No  Yes - Started  Yes - Completed

### Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

|                       |                         |  |                    |
|-----------------------|-------------------------|--|--------------------|
| Company/Organisation: | Smith & Garratt         |  |                    |
| Ref. Number:          |                         | You must enter a Building Name or Number, or both: * |                    |
| First Name: *         | Hugh                    | Building Name:                                       | The Guildhall      |
| Last Name: *          | Garratt                 | Building Number:                                     |                    |
| Telephone Number: *   | 01289382209             | Address 1 (Street): *                                | Ladykirk           |
| Extension Number:     |                         | Address 2:   |                    |
| Mobile Number:        | 07702 091626            | Town/City: *   | Berwick-upon-Tweed |
| Fax Number:           |                         | Country: *   | United Kingdom     |
|                       |                         | Postcode: *  | TD15 1XL           |
| Email Address: *      | ahg@smithandgarratt.com |  |                    |

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

|                       |         |  |                       |
|-----------------------|---------|--|-----------------------|
| Title:                | Mr      | You must enter a Building Name or Number, or both: * |                       |
| Other Title:          |         | Building Name:                                       | 4b Carrer Cap de Moro |
| First Name: *         | Malcolm | Building Number:                                     |                       |
| Last Name: *          | Pearson | Address 1 (Street): *                                | La Drova              |
| Company/Organisation: |         | Address 2:   | Barx                  |
| Telephone Number: *   |         | Town/City: *   | Valencia              |
| Extension Number:     |         | Country: *   | Spain                 |
| Mobile Number:        |         | Postcode: *  | 46758                 |
| Fax Number:           |         |  |                       |
| Email Address: *      |         |  |                       |

## Site Address Details

Planning Authority:

Scottish Borders Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

657407

Easting

396948

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Pre-Application Discussion Details Cont.

In what format was the feedback given? \*

Meeting  Telephone  Letter  Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

Refers to our proposal to revisit 08/00022/OUT (refused and decision upheld at appeal). Policy D2 limit reached in local plan period. Poor relationship to group. These points are overcome by the adoption of the new Local Plan and redesign.

Title:

Miss

Other title:

First Name:

Lucy

Last Name:

Hoad

Correspondence Reference Number:

Date (dd/mm/yyyy):

26/11/2014

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Site Area

Please state the site area:

0.25

Please state the measurement type used:

Hectares (ha)  Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

Disused paddock.

## Access and Parking

Are you proposing a new altered vehicle access to or from a public road? \*

Yes  No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? \*

Yes  No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? \*

4

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

## Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? \*

Yes  No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? \*

- Yes – connecting to public drainage network  
 No – proposing to make private drainage arrangements  
 Not Applicable – only arrangements for water supply required

As you have indicated that you are proposing to make private drainage arrangements, please provide further details.

What private arrangements are you proposing? \*

- New/Altered septic tank.  
 Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).  
 Other private drainage arrangement (such as chemical toilets or composting toilets).

What private arrangements are you proposing for the New/Altered septic tank? \*

- Discharge to land via soakaway.  
 Discharge to watercourse(s) (including partial soakaway).  
 Discharge to coastal waters.

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: \*

Septic tank and tall drain soakaway. Details to be provided post percolation test.

Do your proposals make provision for sustainable drainage of surface water?? \*  
(e.g. SUDS arrangements) \*

Yes  No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? \*

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

## Assessment of Flood Risk

Is the site within an area of known risk of flooding? \*

Yes  No  Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \*

Yes  No  Don't Know

## Trees

Are there any trees on or adjacent to the application site? \*

Yes  No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \*

Yes  No

If Yes or No, please provide further details: \* (Max 500 characters)

The proposal includes bin storage in the large garage.

## Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \*

Yes  No

How many units do you propose in total? \*

1

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

## All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

Yes  No

## Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013? \*

Yes  No  Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

Yes  No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

Yes  No

Is any of the land part of an agricultural holding? \*

Yes  No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A



# Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Hugh Garratt

On behalf of: Mr Malcolm Pearson

Date: 03/08/2016

Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

Yes  No  Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

Yes  No  Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

Yes  No  Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

Yes  No  Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

- |  |  |
|--|--|
| A copy of an Environmental Statement. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. *                                   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. *   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Covering letter.

## Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Hugh Garratt

Declaration Date: 03/08/2016

## Payment Details

Cheque: Pearson, 007

Created: 09/08/2016 10:50

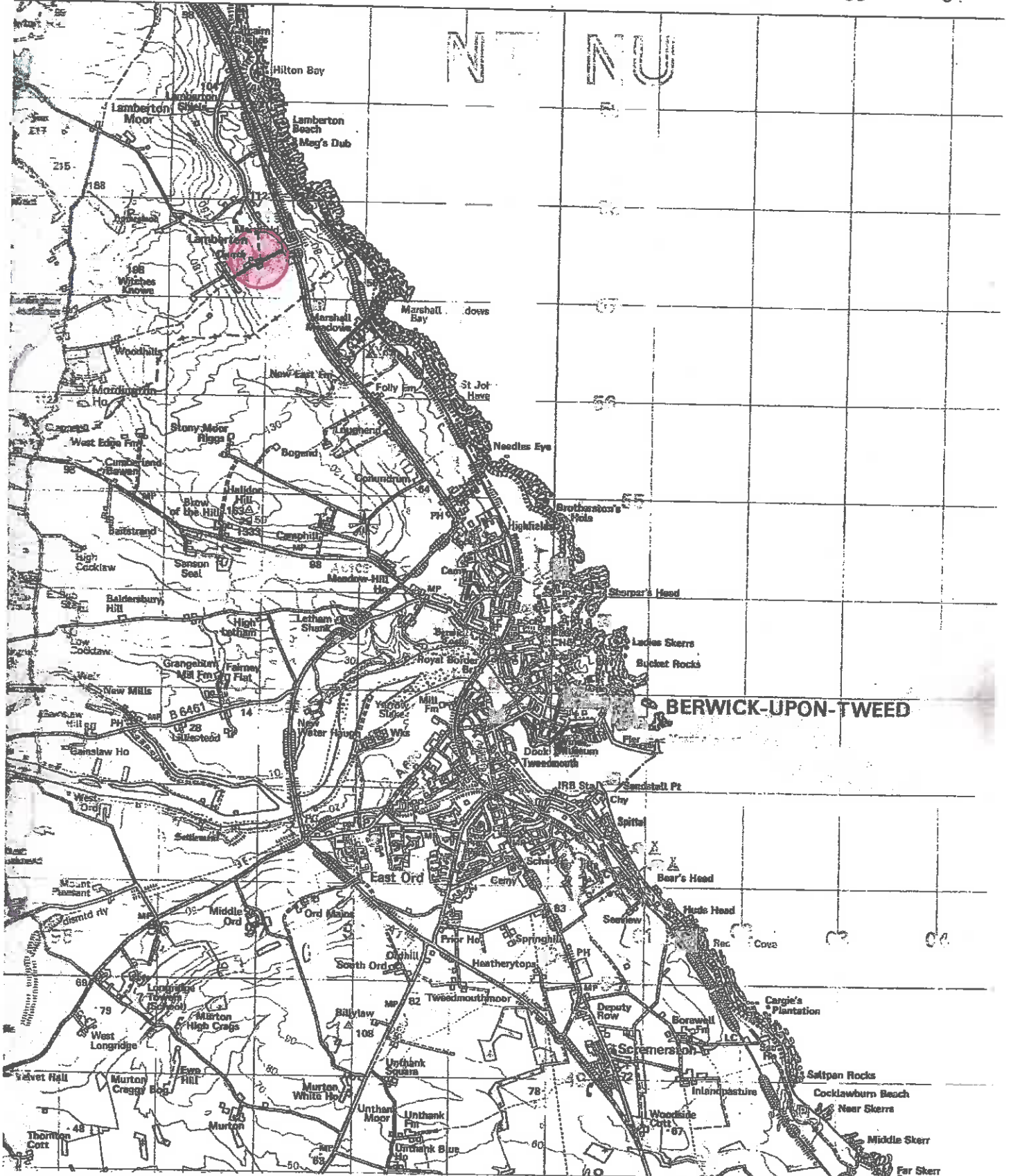
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7117

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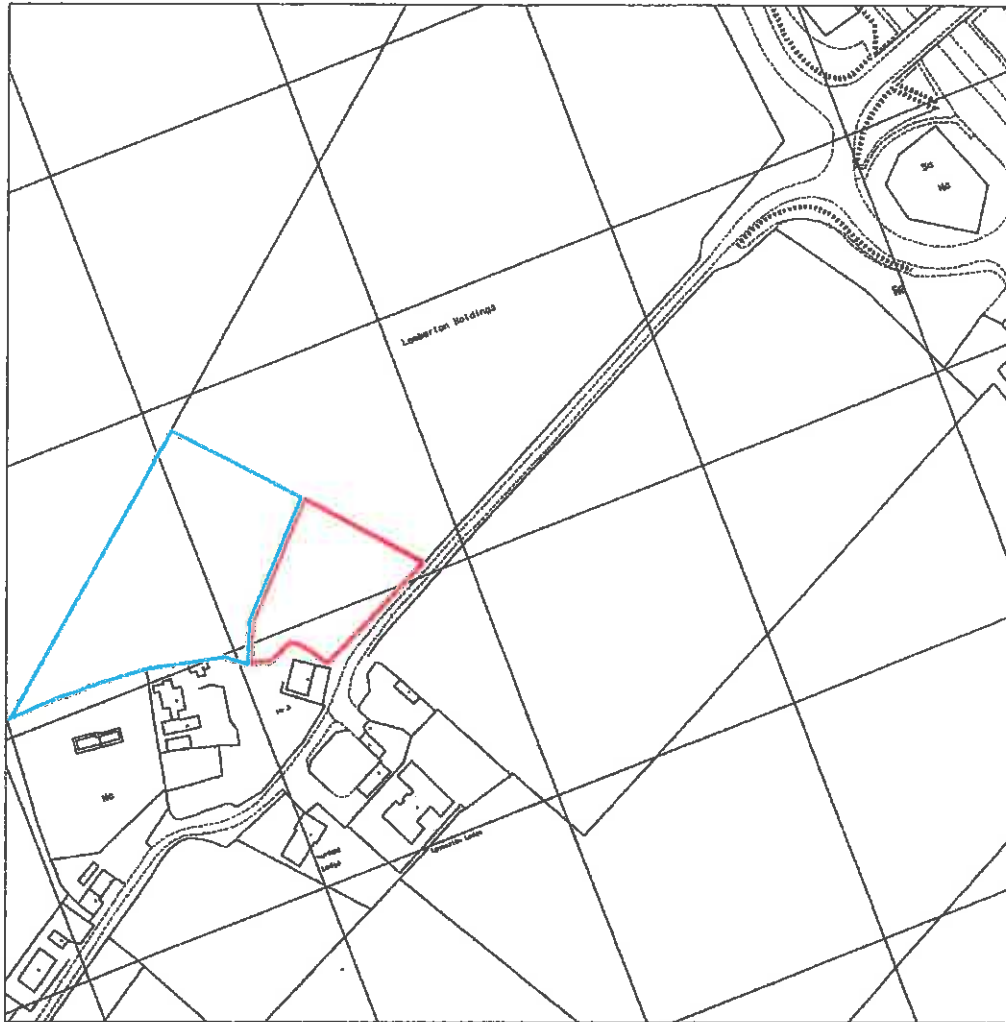
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BERWICK-UPON-TWEED

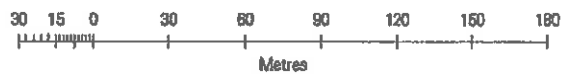
Proposed dwelling at Lamberton. Application site bounded in red; other land in the applicant's control bounded in blue.



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Centre Coordinates: 397022 667410

National Grid sheet reference at centre of this Siteplan: NT9757

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