

**SCOTTISH BORDERS COUNCIL**

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

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 16/00617/PPP

**APPLICANT :** Mr & Mrs Brian Soar

**AGENT :** Aitken Turnbull Architects Ltd

**DEVELOPMENT :** Erection of dwellinghouse

**LOCATION:** Land East Of Keleden  
Ednam  
Scottish Borders

**TYPE :** PPP Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
AT2748 PP-01	Location Plan	Refused

**NUMBER OF REPRESENTATIONS: 1**

**SUMMARY OF REPRESENTATIONS:**

RPS: I shall have no objections to this proposal provided the following points are included in any subsequent detailed application:

- o The access to be formed with a service layby as per my standard specification DC-3.
- o The first 5m of the access to be no steeper than 1 in 15.
- o Measures to be put in place to prevent the flow of water onto the public road.
- o Two parking spaces, not including any garage, to be provided within the site and retained in perpetuity.

It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

CC: No response

E&LL: No response

Other representations

One letter of objection has been received in connection with this application. The objector, who live in Keleden adjacent to the application site, objects on the grounds that permission was previously refused on the site, and traffic is heavy on this stretch of road with few passing places.

**PLANNING CONSIDERATIONS AND POLICIES:**

SBC LDP 2016

Policy PMD4  
Policy ED10  
Policy HD2  
Policy IS5  
Policy IS7

**Recommendation by** - Barry Fotheringham (Lead Planning Officer) on 28th June 2016

This application seeks planning permission in principle for the erection of a dwellinghouse on land to the East of the property known as Keleden, Ednam. The application site is an area of previously undeveloped land which is currently laid to grass and is used as a paddock/storage area by the applicant/landowner. The application site is located on the south side of the minor public road between Ednam and Highridgehall and extends to 0.136 Ha or thereby. The nearby properties known as The Old Smithy, River Cottage and Oaklands as well as the land extending south towards the Eden Water, are within the ownership of the applicant. The site is currently defined by road side hedging to the north, a post and wire fence to the east and timber fence and coniferous hedging to the west. The south boundary is currently undefined.

The application site is located outwith the development boundary as defined by the Local Development Plan 2016. Policy PMD4 of the Plan aims to ensure that development is located within defined development boundaries. These boundaries indicate the extent to which town and villages should be allowed to expand during the local plan period and proposals for development outwith this boundary, and not on allocated sites, will normally be refused. Exceptional approvals may be granted however, provided a number of criteria can be met.

It should be noted that the Planning Authority provided the applicant with pre-application advice on the acceptability of a dwellinghouse on this site on three separate occasions. In 2008, 2009 and 2015, the case officer advised that the proposed erection of a dwelling on this site would be contrary Policy G8 of the Consolidated Local Plan, and in the case of the 2015 enquiry, contrary to Policy PMD4 of the Emerging Local Development Plan 2016 in that the site would be outwith the development boundary. Furthermore, the proposed development would not meet the essential criteria for an exceptional approval. The applicant was advised that the planning authority would not be in a position to support the proposals if an application was forthcoming.

The application has been submitted without additional supporting information that would justify an exceptional approval. In order to qualify as an exceptional approval the proposals must meet one of the four following criteria, provided strong reasons can be given that it is a job generating development that has an economic justification under Policy ED7 - Business, Tourism and Leisure Development in the Countryside or HD2 - Housing in the Countryside; OR it is an affordable housing development that can be justified under Policy HD1 - Affordable and Special Needs Housing; OR the Council has identified a shortfall through the housing land audit with regards to the provision of an effective 5 year housing land supply; OR the proposed development is considered to offer significant community benefit that would outweigh the need to protect the development boundary. Policy PMD4 also requires the proposals to represent a logical extension of the built up area and to be of an appropriate scale in relation to the size of the settlement. It must not prejudice the character of the settlement and not cause a significant adverse impact on the landscape character of the settlement. Notwithstanding the fact that the proposed development does not meet any of the principal criteria contained within Policy PMD4, the erection of a dwelling on this site may represent a logical extension of the built up area. It would be acceptable in terms of its scale relative to the existing village but it is considered that it would extend the village in a linear fashion along the minor public road towards the Cliftonhill building group. This would be to the detriment of the built up edge of the settlement and would lead to a coalescence of Ednam village with the nearby Cliftonhill building group.

Although not relating specifically to this application site, the planning history associated with the land to the NE of the application site is relevant in this case. Planning permission in principle (11/00750/PPP) was granted for the erection of 2 dwellings on land to the south west of Milburn, Cliftonhill. These dwellings were approved following a successful appeal to the Local Review Body where Members expressed their concerns regarding the coalescence of the group with the village. They were satisfied that the development of two dwellings on land adjacent to Milburn would not result in coalescence with Ednam or constitute an inappropriate form of ribbon development. They agreed that due to the degree of separation from the village

and the nature of the existing topography and vegetation, the development was clearly related to the Cliftonhill building group. Members accepted that the group could be added to along the roadside in a sympathetic way and allow the group to be balanced with the two detached houses to the east of the group; "The Seasons" and "Hillend". Detailed planning consent has been granted on both plots and both houses have been constructed (Plot 2 now occupied). It is clear from the LRB decision that Members were concerned about the potential coalescence of Ednam village with the nearby Cliftonhill building group. Although not directly opposite the dwelling on Plot 2, the proposed dwelling on the current application site would extend the settlement towards Cliftonhill and would remove the degree of separation between the village and Cliftonhill. Members were keen to ensure that Cliftonhill remains detached from the village.

In terms of application consultees, the CC and E&LL have not responded. Roads Planning have no objections provided a number of points relating to vehicular access and parking are included in any subsequent detailed application.

#### **REASON FOR DECISION :**

Taking into account the planning history associated with the related sites and the pre-application advice given in relation to the current application site, it is felt that the proposed erection of a dwellinghouse would be contrary to Policy PMD4 of the Local Development Plan 2016 in that it would result in development outwith the development boundary. Furthermore and strong reasons have not been given to justify an exceptional approval. The proposed dwelling is not a job generating development in the countryside, it is not an affordable housing development that can be justified in terms of Policy HD1, a shortfall in the provision of an effective 5 year land supply has not been identified and it is not a development that would offer significant community benefits that would outweigh the need to protect the development boundary.

#### **Recommendation: Refused**

- 1 The proposals would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the erection of a dwellinghouse on this site would result in development outwith the development boundary of the village as defined on the settlement profile map for Ednam, leading to unjustified encroachment into the open countryside and coalescence with the Cliftonhill building group. The proposed dwelling is not a job generating development in the countryside that has economic justification under Policy ED7 or HD2; it is not an affordable housing development that can be justified in terms of Policy HD1; a shortfall in the provision of an effective 5 year land supply has not been identified and it is not a development that would offer significant community benefits that would outweigh the need to protect the development boundary.

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



**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

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

**Application for Planning Permission**

**Reference : 16/00617/PPP**

**To : Mr & Mrs Brian Soar per Aitken Turnbull Architects Ltd 9 Bridge Place Galashiels Scottish Borders TD1 1SN**

With reference to your application validated on **19th May 2016** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Erection of dwellinghouse**

**At : Land East Of Keleden Ednam Scottish Borders**

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s) stated on the attached schedule**.

**Dated 29th June 2016  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed**



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**Chief Planning Officer**

**APPLICATION REFERENCE : 16/00617/PPP**

**Schedule of Plans and Drawings Refused:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
AT2748 PP-01	Location Plan	Refused

**REASON FOR REFUSAL**

- 1 The proposals would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the erection of a dwellinghouse on this site would result in development outwith the development boundary of the village as defined on the settlement profile map for Ednam, leading to unjustified encroachment into the open countryside and coalescence with the Cliftonhill building group. The proposed dwelling is not a job generating development in the countryside that has economic justification under Policy ED7 or HD2; it is not an affordable housing development that can be justified in terms of Policy HD1; a shortfall in the provision of an effective 5 year land supply has not been identified and it is not a development that would offer significant community benefits that would outweigh the need to protect the development boundary.

**FOR THE INFORMATION OF THE APPLICANT**

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

**SCOTTISH BORDERS COUNCIL**

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

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 16/01425/PPP

**APPLICANT :** Mr & Mrs Brian Soar

**AGENT :** Aitken Turnbull Architects Ltd

**DEVELOPMENT :** Erection of dwellinghouse

**LOCATION:** Land East Of Keleden  
Ednam  
Scottish Borders

**TYPE :** PPP Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
PP-01	Location Plan	Refused

**NUMBER OF REPRESENTATIONS: 1**  
**SUMMARY OF REPRESENTATIONS:**

RPS: I shall have no objections to this proposal provided the following points are included in any subsequent detailed application:

- o The access to be formed with a service layby as per my standard specification DC-3.
- o The first 5m of the access to be no steeper than 1 in 15.
- o Measures to be put in place to prevent the flow of water onto the public road.
- o Two parking spaces, not including any garage, to be provided within the site and retained in perpetuity.

It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

CC: No response

E&LL: A contribution of £2718 will be sought for the High School.

**Third Party Representations**

One letter of objection was received in connection with this application. The grounds of objection can be summarised as follows:

- Contrary to Local Plan
- Increased traffic
- Road safety

As before this development is outwith the village boundary with houses being refused permission in the past on this site. This is on a narrow unlit fairly busy road with no passing places. Indeed the last house built on this side of the road was constructed without the stipulated service lay-by contributing to traffic problems.

#### **PLANNING CONSIDERATIONS AND POLICIES:**

SBC LDP 2016

Policy PMD4  
Policy ED10  
Policy HD2  
Policy IS5  
Policy IS7

**Recommendation by** - Barry Fotheringham (Lead Planning Officer) on 4th January 2017

This application seeks planning permission in principle for the erection of a dwellinghouse on land to the East of the property known as Keleden, Ednam. The application site is an area of previously undeveloped land which is currently laid to grass and is used as a paddock/storage area by the applicant/landowner. The application site is located on the south side of the minor public road between Ednam and Highridgehall and extends to 0.136 ha or thereby. The nearby properties known as The Old Smithy, River Cottage and Oaklands as well as the land extending south towards the Eden Water, are within the ownership of the applicant. The site is currently defined by road side hedging to the north, a post and wire fence to the east and timber fence and coniferous hedging to the west. The south boundary is currently undefined.

The application site is located outwith the development boundary as defined by the Local Development Plan 2016. Policy PMD4 of the Plan aims to ensure that development is located within defined development boundaries. These boundaries indicate the extent to which town and villages should be allowed to expand during the local plan period and proposals for development outwith this boundary, and not on allocated sites, will normally be refused. Exceptional approvals may be granted however, provided a number of criteria can be met.

This application follows an earlier planning application in principle for the erection of a dwelling on the same site (16/00617/PPP). This application was refused on 29.06.2016 for the following reasons:

The proposals would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the erection of a dwellinghouse on this site would result in development outwith the development boundary of the village as defined on the settlement profile map for Ednam, leading to unjustified encroachment into the open countryside and coalescence with the Cliftonhill building group. The proposed dwelling is not a job generating development in the countryside that has economic justification under Policy ED7 or HD2; it is not an affordable housing development that can be justified in terms of Policy HD1; a shortfall in the provision of an effective 5 year land supply has not been identified and it is not a development that would offer significant community benefits that would outweigh the need to protect the development boundary.

It should be noted that the Planning Authority provided the applicant with pre-application advice on the acceptability of a dwellinghouse on this site on three separate occasions prior to the submission of the 2016 application. In 2008, 2009 and 2015, the case officer advised that the proposed erection of a dwelling on this site would be contrary Policy G8 of the Consolidated Local Plan, and in the case of the 2015 enquiry, contrary to Policy PMD4 of the Emerging Local Development Plan 2016 in that the site would be outwith the development boundary. Furthermore, the proposed development would not meet the essential criteria for an exceptional approval. The applicant was advised that the planning authority would not be in a position to support the proposals if an application was forthcoming.

As with the earlier 2016 application, the current proposals have been submitted without additional supporting information that would justify an exceptional approval. In order to qualify as an exceptional approval the proposals must meet one of the four following criteria, provided strong reasons can be given that it is a job generating development that has an economic justification under Policy ED7 - Business, Tourism and



Leisure Development in the Countryside or HD2 - Housing in the Countryside; OR it is an affordable housing development that can be justified under Policy HD1 - Affordable and Special Needs Housing; OR the Council has identified a shortfall through the housing land audit with regards to the provision of an effective 5 year housing land supply; OR the proposed development is considered to offer significant community benefit that would outweigh the need to protect the development boundary. Policy PMD4 also requires the proposals to represent a logical extension of the built up area and to be of an appropriate scale in relation to the size of the settlement. It must not prejudice the character of the settlement and not cause a significant adverse impact on the landscape character of the settlement. Notwithstanding the fact that the proposed development does not meet any of the principal criteria contained within Policy PMD4, the erection of a dwelling on this site may represent a logical extension of the built up area. It would be acceptable in terms of its scale relative to the existing village but it is considered that it would extend the village in a linear fashion along the minor public road towards the Cliftonhill building group. This would be to the detriment of the built up edge of the settlement and would lead to a coalescence of Ednam village with the nearby Cliftonhill building group.

Although not relating specifically to this application site, the planning history associated with the land to the NE of the application site is relevant in this case. Planning permission in principle (11/00750/PPP) was granted for the erection of 2 dwellings on land to the south west of Millburn, Cliftonhill. These dwellings were approved following a successful appeal to the Local Review Body where Members expressed their concerns regarding the coalescence of the group with the village. They were satisfied that the development of two dwellings on land adjacent to Millburn would not result in coalescence with Ednam or constitute an inappropriate form of ribbon development. They agreed that due to the degree of separation from the village and the nature of the existing topography and vegetation, the development was clearly related to the Cliftonhill building group. Members accepted that the group could be added to along the roadside in a sympathetic way and allow the group to be balanced with the two detached houses to the east of the group; "The Seasons" and "Hillend". Detailed planning consent has been granted on both plots and both houses have been constructed. It is clear from the LRB decision that Members were concerned about the potential coalescence of Ednam village with the nearby Cliftonhill building group. Although not directly opposite the dwelling on Plot 2, the proposed dwelling on the current application site would extend the settlement towards Cliftonhill and would remove the degree of separation between the village and Cliftonhill. Members were keen to ensure that Cliftonhill remains detached from the village.

In terms of application consultees, the CC has not responded. Roads Planning have no objections provided a number of points relating to vehicular access and parking are included in any subsequent detailed application. The Director of E&LL advises that a development contribution towards Kelso High School would be required by this development. There is one letter of objection in relation to this application for the owner/occupier of the neighbouring dwelling. The grounds of objection are consistent with his previous objections and can be summarised as follows:

Contrary to Local Plan - outwith the village boundary with houses being refused permission in the past.  
Increased traffic

Road safety - the site is on a narrow unlit fairly busy road with no passing places. The last house built on the site of the road was constructed without the stipulated service lay-by.

Since the last application was submitted and refused there has been no change in policy or circumstances that would warrant a different decision in this case. The application has not been justified as an exception under Policy PMD4 and the proposed erection of a dwellinghouse on this site remains outwith the development boundary of the village and contrary to adopted LDP policy.

#### **REASON FOR DECISION :**

Taking into account the planning history associated with the related sites and the pre-application advice given in relation to the current application site, it is felt that the proposed erection of a dwellinghouse would be contrary to Policy PMD4 of the Local Development Plan 2016 in that it would result in development outwith the development boundary. Furthermore, strong reasons have not been given to justify an exceptional approval. The proposed dwelling is not a job generating development in the countryside, it is not an affordable housing development that can be justified in terms of Policy HD1, a shortfall in the provision of an effective 5 year land supply has not been identified and it is not a development that would offer significant community benefits that would outweigh the need to protect the development boundary.

There has been no shift in policy or a change in circumstances since the earlier decision (16/00617/PPP) that would warrant a difference decision in this case.

**Recommendation:** Refused

- 1 The proposals would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the erection of a dwellinghouse on this site would result in development outwith the development boundary of the village as defined on the settlement profile map for Ednam, leading to unjustified encroachment into the open countryside and coalescence with the Cliftonhill building group. The proposed dwelling is not a job generating development in the countryside that has economic justification under Policy ED7 or HD2; it is not an affordable housing development that can be justified in terms of Policy HD1; a shortfall in the provision of an effective 5 year land supply has not been identified and it is not a development that would offer significant community benefits that would outweigh the need to protect the development boundary.

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

**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING  
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND  
LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

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**Local Review Reference:** 17/00001/RREF

**Planning Application Reference:** 16/01425/PPP

**Development Proposal:** Erection of dwellinghouse

**Location:** Land East of Keleden, Ednam

**Applicant:** Mr & Mrs Brian Soar

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**DECISION**

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice on the following grounds:

- 1 The proposals would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the erection of a dwellinghouse on this site would result in development outwith the development boundary of the village as defined on the settlement profile map for Ednam, leading to unjustified encroachment into the open countryside and coalescence with the Cliftonhill building group. The proposed dwelling is not a job generating development in the countryside that has economic justification under Policy ED7 or HD2; it is not an affordable housing development that can be justified in terms of Policy HD1; a shortfall in the provision of an effective 5 year land supply has not been identified and it is not a development that would offer significant community benefits that would outweigh the need to protect the development boundary.

**DEVELOPMENT PROPOSAL**

The application relates to the erection of a dwellinghouse on land East of Keleden, Ednam. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	PP-01

## **PRELIMINARY MATTERS**

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 20<sup>th</sup> March 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Officer's Report; c) Papers referred to in Report; d) Consultations ; e) Objection and f) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case. In coming to its conclusion the LRB considered the request from the applicant for further procedure in the form of a site visit.

## **REASONING**

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the most relevant of the listed policies were:

- Local Development Plan policies: HD3, PMD4, ED10, HD2, IS2, IS5 and IS7

### **Other Material Considerations**

- Scottish Planning Policy
- SBC Supplementary Planning Guidance on Development Contributions 2015
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Householder Development 2006

The Local Review Body noted that the application site lay outwith, but adjoining, the settlement boundary of Ednam, as defined in the Local Development Plan. Members acknowledged that the boundary defined the extent a settlement should grow within a Local Plan period and that the proposed development could only be approved in the exceptional circumstances set out in Policy PMD4.

The Review Body then proceeded to test the proposal against the four qualifying criteria set out in Policy PMD4, namely: a) whether it was a job-generating development in the countryside that had an economic justification; b) whether it is was for affordable housing; c) whether there is a shortfall identified in the housing land supply for this area; and d) whether it would offer significant community benefits that outweighed the need to protect the Development Boundary.

In respect of a), Members noted that the building of the new house would release the applicants existing residence "Oaklands" for holiday lets, expanding their existing tourism business in the village. After debating the matter, the Review Body came to the conclusion that, in the absence of a sufficiently persuasive business case, the proposals did not meet the policy test and an economic justification had not been proven.

The Review Body concluded that no case had been made that the house would meet the terms of the Council's affordable housing policy. The development did not comply with policy criteria b) of Policy PMD4.

Members were satisfied that the current Housing Land Audit identified sufficient housing land for this Housing Market Area. There was no shortfall that would permit the release of the site. The proposal could not be justified under criteria c) of Policy PMD4.

Members considered the potential community benefits that may arise from the development, especially the enhancement of the tourism offer in the area, but again did not feel that a persuasive case had been met the policy test. The proposal could not be justified under criteria d) of Policy PMD4.

In coming to their conclusion on these matters, Members gave weight to the fact the Development Boundary had only been adopted relatively recently and had been subject to public consultation. They also noted that there was other land allocated and available for housing within the village, so there was no overriding need to release this site for development.

The Review Body acknowledged that the construction of the two houses to the western edge of the Cliftonhill building group had reduced the distance between it and the edge of the settlement. However, they agreed with the previous Review Body's assertion that it:

*"...would not result in coalescence with Ednam or constitute inappropriate ribbon form of development... the degree of separation from the village and the nature of the existing topography and vegetation, the development was clearly related to the Cliftonhall building group."*

In Members view, the erection of the proposed house would bridge this gap and result in coalescence.

The Local Review Body felt the future development potential of the area should be considered as part of the review of the Local Development Plan. This would allow consideration of the extent to which the village should expand in the future and would take into account the need for improvements such as road widening, footpath links and street lighting. This would also allow for full consultation and engagement with the local community in this decision.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was refused.

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### **Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.**

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application

to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.
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**Signed...**Councillor R Smith  
Chairman of the Local Review Body

**Date.....**23 March 2017

**SCOTTISH BORDERS COUNCIL**

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO THE HEAD OF PLANNING  
AND REGULATORY SERVICES**

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 11/00750/PPP

**APPLICANT :** Cliftonhill Farm Partnership

**AGENT :** AMS Associates

**DEVELOPMENT :** Erection of two dwellinghouses

**LOCATION:** Land South West Of Cliftonhill  
Ednam  
Scottish Borders

**TYPE :** PPP Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
7040	Location Plan	Refused
7041	Site Plan	Refused
7042	Site Plan	Refused
7043	Site Plan	Refused
7044	Site Plan	Refused
7045	Site Plan	Refused

**NUMBER OF REPRESENTATIONS: 5**

**SUMMARY OF REPRESENTATIONS:**

Five objections have been received in relation to this application.

The objections are summarised as follows:

- The development would lead to an increase in light pollution that would degrade from the character of the village;
- Infrastructure improvements would be required - in particular sewage works, improved drainage, roads improvements and traffic calming measures;
- The blind corner at the bottom of Cliftonhill is prone to flooding and the discharge of water to the road would result in increased flooding;
- Ednam does not have sufficient facilities within the village to accommodate further development;
- The land is prime agricultural land and should not be developed on - manure was dumped on this land at the beginning of 2011 at the time when the planning application claimed it was not suitable for farming. The granting of permission may result in precedence being set for residential development on prime agricultural land;
- The development would result in disturbance to local wildlife;
- Alternative sites may be more appropriate;
- Building closer to Birgham is more appropriate as there are more adequate facilities;
- The proposal should be more acceptable to the needs of the local community;

- The proposed plot 1 would enclose the property of Millburn (No 11);
- The plots would extend the size of Cliftonhill considerably;
- The applicant may submit further applications for additional houses at a later date;
- The privacy of the property at No11 would be affected. Anything higher than one storey would impact on the privacy of No11;
- The policy information listed on the supporting statement is no longer relevant and the housing shortfall mentioned by the applicant has been met through the recent alteration to the local plan;
- The land has not been identified for housing as part of the Local Plan;
- The building group is substantially complete and not suitable for further extensions;
- The proposal is linear / ribbon development;
- It is difficult to access the level of landscape and visual impact of this proposal due to the absence of detailed plans;
- The frontage of the proposed properties (combined) is in the region of 60m;
- The application for two properties on the grounds of balancing the existing two detached properties at the eastern end of the settlement is one too many.

#### Applicant's Supporting Information

A Supporting Statement has been submitted by the applicant. The supporting statement quotes a number of national, regional and local planning policies and raises the following planning issues:

- There are at present 11 properties occupied, two of which are separate from the terrace at the eastern edge;
- The proposed development would be formed within an existing group providing a natural extension to the group with the proposed dwellings keeping the same front elevation line. As the proposal is for two units this balances the development with the two detached properties at the eastern edge of the settlement, which has no development boundary;
- The nearest settlement is the village of Ednam, which is 250m centre to centre;
- The area of field proposed to build on is used for the storage of fertilizer due to the poor nature of the ground in this corner of the field. It also forms the access into the field;
- The existing terrace has 2 houses built on the eastern edge, which this proposal would complement by balancing the settlement and providing a balanced design;
- The proposal does not create ribbon development as the proposed development would be at an angle to the public road with soft landscaping;
- The proposal does not constitute coalescence of a group with a nearby settlement;
- The development would constitute an acceptable small scale round-off to the building group, reflects and respects the character, cohesiveness, spacing and amenity of the existing group and houses within the group;
- The development does not create an inappropriate intrusion into a previously undeveloped field or overwhelm their landscape setting due to its proposed setting;
- The development does not impact on mature trees, conflict with adjacent land uses and is serviceable by the local road network without the need for improvements and upgrades, which would be out of keeping with the character of the housing group or countryside;
- The access proposed would be by the existing field access and would service the 2 properties entailing one entry onto the public road;
- Surface and foul water drainage would be to a new on-site septic tank;
- The design and materials of the proposed houses would fit into the countryside setting with dry dash render, slate or tile roofs and timber windows. Landscaping would be carried out.



The Statement concludes that the proposal for 2 dwellings on that site is within a group of buildings all presently occupied and provides the basis to develop a number of units in keeping with the properties which presently exist, and that a balanced design is created with the 2 properties on the eastern side of the boundary.

The agent has submitted a letter in response to the Roads Planning Service comments. The letter is summarised as follows:

- The agent questions why there is a requirement widening of carriageway, constructing a footpath and the addition of street lighting.
- The visibility splay of 2.40m x 70m is achievable without the removal of existing hedging.
- All surface and foul water drainage will be contained within the site and surrounding land.

#### Consultations

Community Council: The Community Council regard this as infill and not ribbon development.

Roads Planning Service: I have several concerns regarding this application:

- The site is outwith the settlement boundary and is somewhat detached from it despite it being relatively close to it. If there is to be additional development on this side of the village then it should not be without proper infrastructure being put in place i.e. carriageway widening and footway provision including street lighting.
- When considering the access proposed to the site, the applicant has indicated that the new access will utilise an existing access. However, the existing access appears to be adjacent to the existing garage adjacent to plot 1, not at the south west end of the site as indicated on the submitted plans.
- To achieve the required visibility of 2.4m x 70m in either direction at the junction with the public road may require the removal of the existing mature hedging.
- With regards to the drainage of the site, the application form states that the surface water is to be taken to the existing roadside drainage. We would not be prepared to accept any drainage into our existing system which may cause the system to overload. However, when you read the supporting statement, it states that the surface drainage is to be taken to a new septic tank. This conflicts with the information on the application form.

I have to recommend against the proposal at this time.

Director of Education and Lifelong Learning: There is no requirement for an education contribution.

#### **PLANNING CONSIDERATIONS AND POLICIES:**

Consolidated Scottish Borders Structure Plan 2001- 2018

H7 - Housing in the Countryside: Building Groups

Consolidated Scottish Borders Local Plan (Adopted 2011)

G1 - Quality Standards for New Developments

G5 - Developer Contributions

D2 - Housing in the Countryside

H2 - Protection of Residential Amenity

Inf4 - Parking Provisions and Standards

Supplementary Planning Guidance New Housing in the Borders Countryside December 2008

**Recommendation by** - Colm McKee (Planning Officer) on 22nd September 2011

This is an application for planning permission in principle for the erection of two dwellinghouses at land south west of Cliftonhill, Ednam. As the application is for permission in principle only, detailed plans have not been submitted.

The proposed materials are brick and render for walls, slates or tiles for roofs and sash and case windows. The application states each dwelling will have parking space for 2No cars.

Site description

The site is situated on land at Cliftonhill Farm, approximately 150 m to the east of Ednam on the Ednam to Highridgehall road. The area of the site is approximately 0.49 acres.

The site is bound to the south by the roadside. There is boundary hedging along the southern boundary. There is no physical boundary to the north of the site. The site is bound to the east by the properties at Cliftonhill Cottages. There are no physical boundaries to the east and north of the site, beyond which is agricultural land.

Planning History

The site and adjacent land has been subject to a number of previous planning applications:

99/00957/OUT: Residential Development (30 Dwellings on 2.5 acre site) - Committee Decision: Refused (08.11.1999). The applicant appealed the decision and the appeal was dismissed. The Reporter stated the reason for refusal was "the proposal would be contrary to policy 5 of the Roxburgh Local Plan in that it would constitute housing development in the countryside outwith any recognised settlement or building group and the need for the houses has not been adequately substantiated."

01/00782/OUT: Residential Development (30 dwelling on 2.5 acre site) - Committee Decision: Refused (08.10.2001). The application was refused by the Committee for the following reason "the proposal would be contrary to policy 5 of the Roxburgh Local Plan in that it would constitute housing development in the countryside outwith any recognised settlement or building group and the need for the houses has not been adequately substantiated."

04/02140/OUT: Residential Development (0.85 acres site - site to the west of the existing application site.): Committee Decision: Refused (04.07.2005). The application was refused for the following reason: "The proposal would be contrary to policy 5 of the Roxburgh Local Plan in that it would constitute housing development in the countryside outwith any recognised settlement or building group and the need for the houses has not been adequately substantiated."

Planning Policies

The proposal must be assessed against the relevant Structure Plan and Local Plan policies:

The site is outwith the Ednam Development Boundary and therefore must be assessed against policy G8 of the Scottish Borders Consolidated Local Plan (Adopted 2011). Policy G8 states that where Development Boundaries are defined on Proposals Maps, they indicate the extent to which towns and villages should be allowed to expand during the Local Plan period. Development should be contained within the Development Boundary and proposals for new development outwith this boundary and not on allocated sites identified on the proposals maps will normally be refused.

This is a proposal for development outwith a settlement boundary on a non-allocated site and therefore the proposal would be contrary to policy G8. Policy G8 states that exceptional approvals may be granted provided strong reasons can be given. These are as follows:

1. it is a job-generating development in the countryside that has an economic justification under Policy D1 or D2, OR

2. it is an affordable housing development that can be justified under in terms of Policy H1, OR
3. there is a shortfall identified by Scottish Borders Council through the housing land audit with regard to the provision of an effective 5 year housing land supply, OR
4. It is a development that it is considered would offer significant community benefits that outweigh the need to protect the Development Boundary.

AND the development of the site:

5. represents a logical extension of the built-up area, and
6. is of an appropriate scale in relation to the size of the settlement, and
7. does not prejudice the character, visual cohesion or natural built up edge of the settlement, and
8. does not cause a significant adverse effect on the landscape setting of the settlement or the natural heritage of the surrounding area.

The decision on whether to grant exceptional approvals will take account of:

1. any indicators regarding restrictions on, or encouragement of, development in the longer term that may be set out in the settlement profile in Section 5;
2. the cumulative effect of any other developments outwith the Development Boundary within the current Local Plan period;
3. the infrastructure and service capacity of the settlement.

No supporting information has been submitted by the applicant or agent to demonstrate that the proposed two dwellinghouses are required in connection with any business or job-generating development and no reference has been made to an economic justification for the houses under policy D1 or D2 of the Local Plan. No information has been submitted to demonstrate that the proposed housing would be affordable housing in terms of the Council's definition of affordable housing and therefore the proposal cannot be justified under policy H1. There has been no justification detailing significant community benefits that would outweigh the need to protect the Development Boundary. It is therefore considered that there are no reasons to justify this proposal as an exception to policy G8. The proposal would not represent a logical extension to the built up area. It is considered that the proposal does not comply with policy G8.

As the development would be outwith the development boundary of Ednam the proposal has to be assessed against the Council's housing in the countryside policies.

Policy H7 Housing in the Countryside - Building Groups of the Consolidated Scottish Borders Structure Plan states that proposals for new housing in the countryside outwith settlements identified in the Local Plan but associated with existing building groups will be supported where they fit the character of the adjacent group and the surrounding area, and avoid overdevelopment.

Policy D2: Housing In the Countryside of the Scottish Borders Consolidated Local Plan Adopted 2011 states that the Council wishes to promote appropriate rural housing development:

1. in village locations in preference to the open countryside,
2. associated with existing building groups where this does not adversely affect their character or that of the surrounding area, and
3. in dispersed communities in the Southern Borders housing market area.

Policy D2 (A) Building Groups states that 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:

1. The Council is satisfied that the site is well related to an existing group of at least three houses or building(s) 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,

2. 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,

3. 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.

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 Plan period. This will include those units under construction or nearing completion at that point.

The Council's Supplementary Planning Guidance New Housing in the Borders Countryside encourages new housing development in appropriate locations. All applications for new houses at existing building groups will be tested against an analysis of:

- a) the presence or, otherwise of a group; and
- b) the suitability of that group to absorb new development.

The Supplementary Planning Guidance states that sites should not normally break into previously undeveloped fields particularly where there exists a definable natural boundary between the existing group and field. The scale and siting of new development should reflect and respect the character and amenity of the building group and new development should be limited to an 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 the existing properties and new build should be guided by the spacing between the existing properties and the group. 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.

It is accepted that there is a building group at Cliftonhill as there are more than three existing houses. The building group is characterised by a mix of detached and terraced properties. The proposal for two dwellinghouses would not exceed two dwellings or a 30% increase in addition to the group during the Local Plan period.

The site would break into an undeveloped field, although there is only a fence between the site and neighbouring property. The site is part of a large agricultural field and so it can be argued that it is not within the area contained by the sense of place relating to the building group. The site is well related to the existing building group but it has a wide road frontage and the indicative layout plan shows that the proposal would not mirror the two detached houses at the eastern end of the building group. Instead, it would constitute ribbon development along the public road towards Ednam and the properties to the south west within the development boundary.

It is considered that given the size of the building group and its proximity to Ednam, this building group is complete and is not suitable to absorb new development and there is no scope for further additions on the western edge of it. Further encroachment along the public road would eventually result in a coalescence of the building group with the settlement. In this instance the proposal would result in an adverse cumulative impact on the character of the building group and on the landscape amenity of the area and therefore does not comply with Policy D2 (A).

The Planning Authority has resisted residential development within this field between Ednam and Cliftonhill in the past, as the planning history shows. Although approval of this application would not result in direct settlement coalescence, it must be noted that approval would bring development closer to Ednam Village; this continuation of ribbon development would increase in the potential for Ednam and Cliftonhill to be joined and this should be resisted.

The indicative site layout drawing shows that the garden of plot 1 would extend around to the rear of no.11 Cliftonhill Cottages. This is considered to be an unsatisfactory planning layout that has the potential to affect

the residential amenities of the occupants of this property and so be contrary to policy H2 of the Scottish Borders Consolidated Local Plan.

For the reasons outlined above the proposal is considered to be contrary to the Consolidated Structure Plan policy H7, the Consolidated Local Plan policy D2 and the Supplementary Planning Guidance New Housing in the Borders Countryside (2008).

At present the Roads Planning Service objects to the proposal. A number of amendments have been outlined in order to support the proposal. As the Planning Authority are minded to refuse this proposal, at this stage the authority have not requested amended details identified by the Roads Planning Service. The agent has responded to some of the issues raised by the Roads Planning Service, however all the issues raised have not been addressed in full. The Roads Planning Service has advised that street lighting would be required in relation to this proposal. As the building group at Cliftonhill is outwith the development boundary of Ednam the introduction of street lighting in this rural area would be resisted due to the impact this would have on the rural nature of the area.

In terms of developer contributions, there is no requirement for education provision. There is a requirement for affordable housing however as the application is being recommended for refusal, the contribution is not requested. Had the application been recommended for approval, the contribution requirement would have been £3875.

#### **REASON FOR DECISION :**

The proposed development would be contrary to Consolidated Scottish Borders Structure Plan 2001 - 2011 Policy H7 (Housing in the Countryside: Buildings Groups), Scottish Borders Consolidated Local Plan Adopted 2011 Policies G8 (Development Outwith Development Boundaries) and D2 (Housing in the Countryside), and the Council's Supplementary Planning Guidance: New Housing in the Borders Countryside (December 2008) in that it would constitute inappropriate housing development in the countryside outwith a settlement boundary and inappropriate ribbon development along the public road and would constitute development outwith the area contained by the sense of place adjacent to a building group that is complete and unable to absorb further residential development, to the detriment of the character of the building group and landscape amenity of the area.

#### **Recommendation: Refused**

- 0 The proposed development would be contrary to Consolidated Scottish Borders Structure Plan 2001 - 2011 Policy H7 (Housing in the Countryside: Buildings Groups), Scottish Borders Consolidated Local Plan Adopted 2011 Policies G8 (Development Outwith Development Boundaries) and D2 (Housing in the Countryside), and the Council's Supplementary Planning Guidance: New Housing in the Borders Countryside (December 2008) in that it would constitute inappropriate housing development in the countryside outwith a settlement boundary and inappropriate ribbon development along the public road and would constitute development outwith the area contained by the sense of place adjacent to a building group that is complete and unable to absorb further residential development, to the detriment of the character of the building group and landscape amenity of the area.

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



**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND)  
ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW  
PROCEDURE) (SCOTLAND) REGULATIONS 2008**

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**Local Review Reference:** 11/00044/RREF

**Planning Application Reference:** 11/00750/PPP

**Development Proposal:** Erection of two dwellinghouses

**Location:** Land South West of Cliftonhill, Ednam

**Applicant:** Cliftonhill Farm Partnership

**Date Review Received:** 21/12/11

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## **DECISION**

The Local Review Body stated in its Intentions Notice of 29 March 2012 it was minded to reverse the decision of the appointed officer and grant planning permission subject to conditions and a legal agreement, as specified in this notice.

The necessary legal agreement has now been concluded and the decision can now be issued.

## **DEVELOPMENT PROPOSAL**

The application is for the erection of two dwellinghouses on land south west of Cliftonhill, Ednam. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	7040
Site Plan	7041
Site Plan	7042
Site Plan	7043
Site Plan	7044
Site Plan	7045

## **PRELIMINARY MATTERS**

The application was presented to the Local Review Body at its meeting on 20<sup>th</sup> February 2012. After examining the review documentation, which included: (a) Decision Notice, (b) Notice of Review and supporting papers, (c) Report of Handling, (d) Correspondence from Objectors, (e) Correspondence from Consultees and (f) List of Policies, Members considered that they had sufficient information to conclude the review and that further procedure was not required. In coming

to this conclusion, members considered the applicant's request for further procedure in the form of a site visit and written representations.

The Review Body noted that new evidence in the form of Drawings No. Fig 1 & Fig 2 had been lodged by the applicant but had not been before the appointed officer when the application was determined. There was also reference in the Notice of Review to additional information on housing figures and the purpose of the proposal as an enabling development for Cliftonhill Farm Partnership.

The Review Body considered the terms of Section 43 B of the Act. They concluded that the appellant had not demonstrated that the new material could not have been raised before that time, nor, that its not being raised before that time was as a consequence of exceptional circumstances. The material was therefore not properly submitted and was not considered by the Review Body in their determining of the review.

The Local Review Body considered the Review competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

## **REASONING**

The determining issues in this review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: consolidated Scottish Borders Structure Plan 2001-2018 and consolidated Scottish Border's Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- Structure Plan Policies: H7 & E1
- Local Plan Policies: G1, G5, G8, H2, R1, D2 & INF4

Other material key consideration the Local Review Body took into account related to:

- Supplementary Planning Guidance on Placemaking & Design 2010
- Supplementary Planning Guidance on Developer Contributions 2011
- Supplementary Planning Guidance on New Housing in the Borders Countryside 2008

The Local Review Body noted that the site lay approximately 125m from the eastern extent of the settlement boundary of Ednam. Members considered that whilst the appointed officer had referred to Policy G8 – Development Outwith Development Boundaries in the Report of Handling, as the site was some distance from the settlement, the housing in the countryside policies H7 and D2 were more relevant to their consideration of the case. In this respect, the Review Body was content that a building group existed at Cliftonhill, consisting of 11 properties along the northern side of the minor public road from Hillend in the west, to Milburn in the east.

The Review Body accepted that the addition of a further two houses would not exceed the 30% rule identified in Policy D2 and that no evidence had been presented to determine that the group had been declared complete. In their view, the group had the potential for further housing development. Members' deliberations, thereafter, focussed on whether the development was a suitable addition to the group and whether there was sufficient justification to break into the undeveloped field adjoining the site.

After considering the later at length, the Review Body concluded that the field adjoining Cliftonhill was contained within its sense of place and that a detailed landscaping plan could be developed to ensure that the new housing integrated into the surrounding landscape, maintained a visual separation from the village and provided definition to the edge of the group. Indeed, Members felt



that there was an opportunity to enhance the western edge of the group through the development and associated landscaping.

Members were satisfied that the development would not result in coalescence with Ednam or constitute inappropriate ribbon form of development. They agreed that due to the degree of separation from the village and the nature of the existing topography and vegetation, the development was clearly related to the Cliftonhall building group. Members accepted that the group could be added to along the roadside in a sympathetic way and that the development would allow a balancing of the form of the group with the two detached houses to the east of the group; known as "The Seasons" and "Hillend".

However, with the addition of the two new houses, it was also the Review Body's opinion that the group would be complete and that further development should be resisted.

Members noted that the site was classified as prime quality land and that Policies E1 and R1 were relevant to their deliberations. On reflection, they felt that in its current condition the land was of limited agricultural value and that the loss of such a small area of land was not sufficient justification to refuse the application.

The Review Body acknowledged the concerns expressed by the Roads Planning Officer regarding the need to provide a pedestrian route back to the village from the development site. However, they did not consider that it was appropriate or reasonable that this be an adoptable footpath along the public road side or that it have street lighting. They considered that an access route within the boundary of the field adjoining the site, with gated access at each end should be made available. There was no requirement that this footpath be surfaced in any way. Members noted that this land was in the control of the applicant.

The Review Body was satisfied that a suitable access could be provided to serve the development and that this would not involve the removal of the hedgerow, which formed the roadside boundary to the land and which was an attractive feature that should be retained.

## **CONDITIONS**

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority.  
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:  
(a) the expiration of three years from the date of this permission, or  
(b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.  
Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.  
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
3. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.  
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

4. Prior to the commencement of the development, a details of the proposed site access to be submitted to and approved by the Planning Authority. The proposed access to the site to incorporate measures to prevent the free flow of water onto the public road. Provision to be made off-street parking and vehicular access to the adjoining properties at Cliftonhill. Parking and turning for two vehicles, excluding garages, must be provided within the each plot before the dwellinghouse on that plot is occupied and retained in perpetuity.  
Reason: In the interests of road safety.
  
5. The means of water supply and of both surface water and foul drainage to be submitted for the approval of the Local Planning Authority.  
Reason: To ensure that the site is adequately serviced.
  
6. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
  - i. Details of a planted zone along the western boundary of the site and to the boundary with the settlement of Ednam
  - ii. existing and finished ground levels in relation to a fixed datum preferably ordnance
  - iii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
  - iv. location and design, including materials, of walls, fences and gates
  - v. soft and hard landscaping works
  - vi. existing and proposed services such as cables, pipelines, sub-stations
  - vii. other artefacts and structures such as street furniture, play equipment
  - viii. A programme for completion and subsequent maintenance.
 Reason: To ensure the satisfactory form, layout and assimilation of the development into the countryside and provide an appropriate landscaped framework to define the western edge of the building group.
  
7. Prior to the commencement of the development, a scheme for the provision of a pedestrian access route from the application site to Ednam, which runs through the field to the west of the application site and incorporates suitable field gates at each end, to be submitted to and approved planning authority. Thereafter the access route shall be provided and retained for use thereafter.  
Reason: to ensure that a safe pedestrian route is available for residents between Cliftonhill and Ednam village.

## INFORMATIVE

The Local Review Body in considering the case has come to the conclusion that the building group at Cliftonhill is now complete and that further expansion of the group, beyond that now approved, would not be appropriate or consistent with Council's policies and guidance on housing in the countryside.

## **SECTION 75 AGREEMENT**

The Local Review Body required that a Section 75 Agreement or other suitable legal agreement be entered into regarding payment of financial contribution towards the provision of affordable housing.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

**Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.**

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

**Signed**.....  
Chairman of the Local Review Body

**Date: 5 June 2012**

