

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/01308/FUL

APPLICANT : Mr J Main

AGENT : RM Architecture Ltd

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Land North East Of 16
Craig Brown Avenue
Selkirk
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Approved
17-011/PP/02 b	Site Plan	Approved
17-011/PP/01 b	Elevations	Approved

NUMBER OF REPRESENTATIONS: 4

SUMMARY OF REPRESENTATIONS:

Four representations were received. The material grounds can be summarised as follows:

Position of proposed property on the site in relation to others within street; loss of light and amenity; backland development contrary to policy; impact on right of way; increased pressure on parking.

Consultation responses were received from: Roads - no objection. There is sufficient on-site parking available; Environmental Health - no objection. Informative suggested; Archaeologist - no known archaeological implications; community council - objection on grounds of amenity, backland development, privacy and parking.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016
PMD2 - Quality standards
HD3 - Protection of residential amenity
EP8 - Archaeology
EP13 - Trees, woodlands and hedgerows
IS2 - Developer contributions
IS5 - Protection of access routes
IS7 - Parking provision and standards

The site is not strategic, therefore the policies contained within SESplan have not been considered.

The following council guidance is material:

Development contributions
Placemaking and design
Privacy and sunlight guide
Trees and development

Recommendation by - Randal Dods (Planning Officer) on 21st November 2017

The proposal is to erect a single storey house in the garden ground of 3 Tait's Hill, Selkirk. The site lies to the north east of 16 Craig Brown Avenue. It should be noted that an application for an extension to that property (17/01409/FUL) has been submitted. To the south east of the site lies number 4 Russell Place, a 2 storey, late 20th century house. To the south is number 6 Russell Place, a 2 storey Edwardian villa which is category C listed. A well maintained evergreen hedge, approximately 3m in height, lies on the mutual boundary with 6 Russell Place. There is high vegetation along the boundary with number 4 but this has not been as well maintained. The north eastern and north western boundaries are defined by stone dykes, about 1.8m and 1m respectively. Prior to the application being submitted, a mature tree in the south west corner of the site was felled. That tree was not protected by a TPO and the site is not within the conservation area. The applicant intends to retain a semi-mature tree in the north east corner of the site.

The site is the southern half of the garden ground of 3 Tait's Hill. It is approximately 28m deep and 16m wide. Access would be gained from Craig Brown Avenue, utilising an unused piece of ground which leads directly to the western boundary of the garden. A driveway would lead to a garage and a small turning head would be formed to allow vehicles to turn and leave the site in a forward gear. There will be sufficient space available to park two cars within the site.

The proposed house has been amended from the original submission. The length of the house was reduced by 1.5m and the width by 1m, thereby reducing the building to plot ratio and the available private garden ground. The location of the house on the plot has also been moved by 1m to increase the distance between it and number 16 Craig Brown Avenue. A further increase in garden area has been achieved by aligning the north western boundary with that of 16 Craig Brown Avenue. The height of the house has been reduced by 300mm. This allowed a rationalisation of the elevation around the building entrance and a more logical eaves line, as well as improving the proportions and appearance of the area around the garage entrance. The walls will be finished with a mixture of smooth render and timber boarding. The roof will be clad with slate. Although these are not likely to be detrimental to the appearance of the area, a condition requiring the approval of materials is recommended. The house will be connected to the public water supply and drainage system.

The fenestration has been designed to respect the privacy of the adjoining properties. Windows on the north eastern and south western elevations are either high level or light non-habitable rooms. The windows in the north western elevation light bedrooms and the living / dining areas of the house. These are full height windows to maximise the light. There is sufficient distance (approximately 25m) between the proposed house and number 3 Tait's Hill to maintain privacy. The privacy of those properties to the south will not be affected as the only window on that side of the building lights a garage. Notwithstanding that, in order to maintain a suitable level of privacy, it is recommended that permitted development rights are removed, preventing further extensions and insertion of windows without obtaining planning permission and that a condition is imposed preventing the garage from being converted to habitable accommodation. The applicant has been able to demonstrate that there will not be a loss of light to adjoining properties and that any overshadowing which results will not be significant.

The house is located within the site in such a way that, when viewed from the south west, it creates a visual termination to the street. To the south west, number 16 was constructed forward of the established building line. The introduction of another building away from the building line is not, therefore, without precedent. The single storey nature of the house is in line with the majority of properties in Craig Brown Avenue. The direct access to and the principal elevation facing Craig Brown Avenue ensures that the building is not backland development.

The plans indicate that the new northern boundary will be formed with a timber fence but it would be more appropriate to have it formed by a stone dyke to match the existing boundary treatment. A condition is

recommended in that regard. The hedge on the mutual boundary with those properties on Russell Place adds to the amenity of the area. The applicant has indicated that any digging within 2m of the centre line of the hedge will be carried out by hand. It is recommended that a condition is imposed requiring that the hedge is protected by protective fencing during construction works.

The development will not have an adverse effect on the listed building to the south. There are no known archaeological implications likely to arise from developing the site. There are no protected routes or rights of way within or adjacent to the site. Any rights of access over the site from other properties are outwith the control of planning.

A developer contribution is required for the Waverley Line reinstatement. The applicant has agreed to pay this by means of a section 69 agreement.

REASON FOR DECISION :

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

Recommendation: Approved - conditions, inform & LA

- 1 Parking and turning space for two cars shall be provided within the curtilage of the property in accordance with the approved site layout. They must be fully consolidated and available for use prior to the occupation of the dwellinghouse. Parking and turning shall be retained in perpetuity thereafter.
Reason: To ensure the dwellinghouse is adequately serviced with off-street parking and turning, in the interests of road and pedestrian safety.
- 2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (as amended):
(i) There shall be no addition or extension to the dwelling hereby approved (including the insertion of dormer windows);
(ii) no additional window or other opening shall be made in the south west or north east elevations;
(iii) the garage shall not be converted to residential accommodation;
unless an application for planning permission in that behalf has first been submitted to and approved by the planning authority.
Reason: The planning authority considers that the development hereby permitted is the maximum that can be reasonably allowed without causing detriment to the amenities of adjoining properties and for this reason would wish to control any future proposals or alterations or extensions.
- 3 Prior to the commencement of development details of the windows, all external materials, finishes and colours of the house and of hard surfacing within the site shall be submitted to and approved by the planning authority. The development shall be completed using the approved schedule of materials, finishes and colours.
Reason: To visually integrate the development as sympathetically as possible with its context
- 4 Before any part of the permitted development is commenced, the hedge to be retained on the southern boundary of the site and the tree in the north eastern corner of the site shall be protected by a fence compliant with BS5837:2012 "Trees in relation to design, demolition and construction. Recommendations". The fencing shall be removed only when the development has been completed. The hedge and tree shall thereafter be retained in perpetuity. During the period of construction of the development the existing soil levels around the boles of the hedge and tree so retained shall not be altered.
Reason: In the interest of preserving the hedges which contribute to the visual amenity of the area.

- 5 Notwithstanding the approved plans, the boundary between the site and 3 Tait's Hill, to the north west, shall be formed from a stone wall to match the existing south western boundary wall of the site. No development shall commence until details of that wall have been submitted to and approved by the planning authority. Once approved, the wall shall be erected prior to the occupation of the house and shall be retained in perpetuity.
Reason: To visually integrate the development as sympathetically as possible with its context.
- 6 Surface water drainage shall not be taken to the public sewer but shall be disposed of elsewhere and the development hereby permitted shall not be commenced until that means of disposal has been submitted to and approved in writing by the planning authority.
Reason: To ensure that the existing combined sewerage system is not overloaded.

Informatives

It should be noted that:

- 1 Stove installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do not indemnify the applicant in respect of Nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted building/planning permission.
Accordingly this advice can assist you to avoid future problems.
The location of the flue should take into account other properties that may be downwind.
The flue should be terminated with a cap that encourages a high gas efflux velocity.
The flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.
The appliance should burn only fuel of a type and grade that is recommended by the manufacturer.
- <http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is approved for use in it
<http://smokecontrol.defra.gov.uk/fuels.php?country=s> .
In wood burning stoves you should only burn dry, seasoned timber. Guidance is available on -
[http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuelwoodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuelwoodasfuelguide.pdf)
Treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel.
Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

“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 : 17/01308/FUL****To : Mr J Main per RM Architecture Ltd Bloomfield Heatherlie Park Selkirk TD7 5AL**

With reference to your application validated on **19th September 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse**at : Land North East Of 16 Craig Brown Avenue Selkirk Scottish Borders**

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, subject to the following direction:

- That the development to which this permission relates must be commenced within three years of the date of this permission.

And subject to the conditions on the attached schedule imposed by the Council for the reasons stated

**Dated 15th December 2017
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed
.....
Depute Chief Planning Officer

APPLICATION REFERENCE : 17/01308/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
17-011/PP/02	Location Plan	Approved
17-011/PP/01	Site Plan	Approved
	Elevations	Approved

REASON FOR DECISION

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

SCHEDULE OF CONDITIONS

- Parking and turning space for two cars shall be provided within the curtilage of the property in accordance with the approved site layout. They must be fully consolidated and available for use prior to the occupation of the dwellinghouse. Parking and turning shall be retained in perpetuity thereafter.

Reason: To ensure the dwellinghouse is adequately serviced with off-street parking and turning, in the interests of road and pedestrian safety.
- Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (as amended):

 - There shall be no addition or extension to the dwelling hereby approved (including the insertion of dormer windows);
 - no additional window or other opening shall be made in the south west or north east elevations;
 - the garage shall not be converted to residential accommodation;

unless an application for planning permission in that behalf has first been submitted to and approved by the planning authority.

Reason: The planning authority considers that the development hereby permitted is the maximum that can be reasonably allowed without causing detriment to the amenities of adjoining properties and for this reason would wish to control any future proposals or alterations or extensions.
- Prior to the commencement of development details of the windows, all external materials, finishes and colours of the house and of hard surfacing within the site shall be submitted to and approved by the planning authority. The development shall be completed using the approved schedule of materials, finishes and colours.

Reason: To visually integrate the development as sympathetically as possible with its context
- Before any part of the permitted development is commenced, the hedge to be retained on the southern boundary of the site and the tree in the north eastern corner of the site shall be protected by a fence compliant with BS5837:2012 "Trees in relation to design, demolition and construction. Recommendations". The fencing shall be removed only when the development has been completed. The hedge and tree shall thereafter be

retained in perpetuity. During the period of construction of the development the existing soil levels around the boles of the hedge and tree so retained shall not be altered.

Reason: In the interest of preserving the hedges which contribute to the visual amenity of the area.

- 5 Notwithstanding the approved plans, the boundary between the site and 3 Tait's Hill, to the north west, shall be formed from a stone wall to match the existing south western boundary wall of the site. No development shall commence until details of that wall have been submitted to and approved by the planning authority. Once approved, the wall shall be erected prior to the occupation of the house and shall be retained in perpetuity.
Reason: To visually integrate the development as sympathetically as possible with its context.
- 6 Surface water drainage shall not be taken to the public sewer but shall be disposed of elsewhere and the development hereby permitted shall not be commenced until that means of disposal has been submitted to and approved in writing by the planning authority.
Reason: To ensure that the existing combined sewerage system is not overloaded.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

- 1 Stove installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do not indemnify the applicant in respect of Nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted building/planning permission.
Accordingly this advice can assist you to avoid future problems.
The location of the flue should take into account other properties that may be downwind.
The flue should be terminated with a cap that encourages a high gas efflux velocity.
The flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.
The appliance should burn only fuel of a type and grade that is recommended by the manufacturer.
<http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is approved for use in it <http://smokecontrol.defra.gov.uk/fuels.php?country=s> .
In wood burning stoves you should only burn dry, seasoned timber. Guidance is available on -
[http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuelwoodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuelwoodasfuelguide.pdf)
Treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel. Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable. A form is enclosed with this decision notice for this purpose.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

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