

SCOTTISH BORDERS COUNCIL

DEVELOPMENT AND BUILDING CONTROL COMMITTEE

APPLICATION FOR PLANNING PERMISSION – PART II REPORT

REF : 06/01038/OUT
APPLICANT : Mr M C Hogg
AGENT :
DEVELOPMENT : Erection of dwellinghouse
LOCATION : Land North East Of 14
Craig Brown Avenue
Selkirk
Scottish Borders

TYPE : Outline Application

Observations by Development Control Officer - Mr Hamish Bell

This is an outline proposal for the erection of a single dwellinghouse in garden ground on the eastern side of an existing dwelling which is situated at the terminus of a residential cul de sac. The site measures approximately 14.5x20.5 metres. The site has previously held outline planning permission for the erection of a dwellinghouse at this site, although this permission has lapsed (date of expiry, November 1993).

Two objections have been received regarding the proposals, the following is a summary of objections made:

- The proposals are an overdevelopment of the site and would result an inadequate area of garden ground being assigned to the development. Garden space is already at a premium in the area due to previous house building in the vicinity.
- The proposals would result in a loss of privacy and amenity to No 5 Tait's Hill to the South West and would block out sunshine to an existing mature garden for large parts of the day.
- The proposals would increase in traffic volumes along the access road which is already congested with parked and moving vehicles. This increase would be to the detriment of road safety especially to school children who use the street as a through route to the High School.

Initial comments from the Director of Technical Services (Roads) requested clarification of matters relating to land ownership and control of the access with related concerns relating to parking and turning within the site. Further information has since been supplied confirming that the access strip is in the ownership of the applicant. The Director of Technical Services (Roads) has since confirmed he has no objections although a condition regarding parking and turning facilities is recommended.

Comments from the Community Council raise no objections to the proposal although it was noted that the site was considered 'tight'.

The Officer for Education and Lifelong Learning has confirmed that no contributions would be sought from this development. This application falls within an area subject to the Council's policy seeking developer contributions towards the funding of the Waverley project. Any decision to approve would therefore require be subject to the conclusion of a Section 75 or alternative agreement securing the appropriate developer contribution. The applicants have confirmed they have no difficulties with this requirement.

The site whilst relatively small is flat and free from obvious constraints and is considered to be an appropriate site for infill development. The comments regarding loss of light and privacy to garden grounds are not accepted to be valid reasons to withhold planning permission at the outline stage. The primary reasons for this are that the plans as submitted are indicative and the ultimate design and siting of the property would be subject to further discussion. It is considered that such objections can be resolved to an acceptable degree through the final design. Overall it is considered that both the existing house and the proposed site would have sufficient grounds and that the proposals would not constitute overdevelopment.

Based on the advice of the Roads Officer, the Department can accept this limited increase in overall traffic volumes without requiring further road improvements. The requirements for parking and turning for the site can be set by an appropriate condition to meet the standards set out in the Finalised Local Plan.

Recommendation

It is recommended that the application be approved subject to the following condition(s) :-

- 1 The subsequent approval by the Planning Authority of the means of access, the layout of the site, the design and siting of any buildings and the landscape treatment of the site.
Reason: Approval is in outline only.
- 2 The means of water supply and of both surface water and foul drainage to be submitted to and approved by the Planning Authority before the development is commenced.
Reason: To ensure that the site is adequately serviced.
- 3 A vehicle turning area and two parking spaces to be provided within the site.
Reason: In the interests of road safety.

DELEGATED PROCEDURE

It is considered that this application can be determined in accordance with the procedure for delegation to the Chairman, the Local Member and the Head of Planning & Building Standards.

_____ (Local Member) 23/9/06 (Date)
_____ (Chairman) 12/10/06 (Date)

22/9/06

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (General Development Procedure) (Scotland) Order 1992

Application for Outline Planning Permission

Reference : 06/01038/OUT

To : Mr M C Hogg Greendykes Craig Brown Avenue Selkirk TD7 4NB Mr M C Hogg per

With reference to your application validated on **26th May 2006** for outline planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse

at : Land North East Of 14 Craig Brown Avenue Selkirk Scottish Borders

The Scottish Borders Council hereby **grant outline planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 **subject to the standard conditions** on the attached schedule:-

and **subject to the conditions on the attached schedule** imposed by the Council for the reasons stated:-

**Dated 2nd November 2006
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed


Head of Planning & Building Standards

APPLICATION REFERENCE : 06/01038/OUT

STANDARD CONDITIONS

- a) In the case of any reserved matter, the application for approval must be made not later than the expiration of **three years** beginning with the date of grant of this outline planning permission.
- b) That the development to which this permission relates must be begun not later than whichever is the later of the following dates:-
 - i) the expiration of **five years** from the date of this outline planning permission,
 - ii) the expiration of **two years** from the final approval of the reserved matters, or, in the case of approval on different dates, the **final approval** of the last such matter to be approved.

SCHEDULE OF CONDITIONS

- 1 The subsequent approval by the Planning Authority of the means of access, the layout of the site, the design and siting of any buildings and the landscape treatment of the site.
Reason: Approval is in outline only.
- 2 The means of water supply and of both surface water and foul drainage to be submitted to and approved by the Planning Authority before the development is commenced.
Reason: To ensure that the site is adequately serviced.
- 3 A vehicle turning area and two parking spaces to be provided within the site.
Reason: In the interests of road safety.

FOR THE INFORMATION OF THE APPLICANT

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 consent are obtained.

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 the applicant is aggrieved by the decision of the Planning Authority, an appeal may be made to the Scottish Ministers under section 47 of the Town and Country Planning (Scotland) Act 1997,

SCOTTISH BORDERS COUNCIL

EILDON AREA COMMITTEE

21 MAY 2007

APPLICATION FOR PLANNING PERMISSION

ITEM: REFERENCE NUMBER: 07/00387/REM
OFFICER: Hamish Bell
WARD: Selkirkshire
PROPOSAL: Erection of dwellinghouse with integral garage
SITE: Land North East Of 14 Craig Brown Avenue, Selkirk
APPLICANT: Mr Harry Thomson

SITE AND APPLICATION DESCRIPTION:

This is a detailed application for the erection of a single dwellinghouse within garden ground to the east of an existing dwelling No 14. The site is situated at the terminus of a residential cul-de-sac and direct access would be provided from the site onto the public road. The site measures approximately 12x 20 metres. The site has existing outline consent for a single dwelling within the site.

The proposed two storey dwelling would measure approximately 10.5x 9 metres and 8.2 metres in height with a natural slate hipped profile roof. 2 No parking spaces would be provided in front of the dwelling. An integral garage is also proposed. The accommodation would provide kitchen, dining room, utility and lounge areas on the ground floor with a three bedrooms, a study and two no bathrooms proposed upstairs.

PLANNING HISTORY: The site was granted outline planning consent for a single dwelling in September 2006 (06/01038/OUT) thereby renewing a historic lapsed consent which expired in 1993.

DEVELOPMENT PLAN POLICIES:

Approved Structure Plan 2001-2011

Policy N20 applies which states:

POLICY N20 - Design

The Council will encourage a high quality of layout, design and materials in all new developments, including redevelopments and alterations. Favourable consideration is more likely where development proposals:

- (xv) provide a design brief or design statement, where required, as part of a submission for planning permission
- (xvi) incorporate a landscape plan, where required, as part of the application,
- (xvii) demonstrate an appropriate use of building materials in keeping with their surroundings,
- (xviii) promote the use of recycled building materials where possible,
- (xix) demonstrate a consideration of energy efficiency in orientation and design,
- (xx) demonstrate a consideration of water minimisation measures, and
- (xxi) demonstrate a consideration of safety and security.

Ettrick and Lauderdale Local Plan 1995

Policies 2, 4,18 and 94 apply which state:

Policy 2

In the following settlements opportunities may exist for appropriate infill developments: Clovenfords, Earlston, Galashiels, Lauder, Melrose/Darnick, Newtown St Boswells, Oxton, Selkirk, St Boswells, Stow, and

other villages as identified by Village Plans. Development proposals should normally satisfy the following criteria:

- 1 The proposal will not intrude into open countryside or have an adverse impact on the landscape;
- 2 The proposal will be consistent with, and complement, the character of the settlement;
- 3 The proposal will be consistent with, and conform to, the form of the settlement;
- 4 The proposal does not have a significant adverse effect on the amenity of adjoining property;
- 5 Adequate access and servicing can be achieved;
- 6 Other policies of the Local Plan are not prejudiced.

Policy 4

Infill development, including backland development, will only be appropriate where it can be shown that a development will not adversely affect the open space characteristics of a settlement.

Policy 18

In established residential areas there will be a presumption in favour of retaining existing uses. To protect the amenity and character of these areas any development should meet the following criteria:-

- 1 Appropriate form of development for a residential area;
- 2 Appropriate scale of development for a residential area;
- 3 No unacceptable increase in traffic or noise;
- 4 Not visually intrusive.

Policy 94

The Regional Council will continue its efforts to ensure that existing off street car parking is retained, and the provision of additional spaces is pursued where possible. On site parking for new and redevelopment schemes will normally be required.

Scottish Borders Finalised Local Plan 2005

Policies G1, G7, H2 and Inf 4 apply which state:

POLICY G1 – QUALITY STANDARDS FOR NEW DEVELOPMENT

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. As a general principle, the Council will encourage full planning applications in preference to outline. The standards which will apply to all development are that:

1. it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
2. it can be satisfactorily accommodated within the site,
3. it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements,
4. it creates developments with a sense of place, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
5. in terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources and the incorporation of sustainable construction techniques,
6. it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
7. it provides open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards and incorporating as a minimum, the National Playing Fields

Association "Six Acre Standard". In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,

8. it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
9. it provides for linkages with adjoining built up areas including public transport connections and provision for bus lay-bys, and new paths and cycleways, linking where possible to the existing path network; Green Travel Plans will be encouraged to support more sustainable travel patterns;
10. it provides for Sustainable Urban Drainage Systems where appropriate and their after-care and maintenance,
11. it provides for recycling, re-using and composting waste where appropriate,
12. it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
13. it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
14. it incorporates, where required, access for those with mobility difficulties,
15. it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on "designing out crime".

Developers may be required to provide design statements, design briefs or landscape plans as appropriate.

POLICY G7 – INFILL DEVELOPMENT

Within Development Boundaries, as shown on Proposals Maps, development on non-allocated, infill or windfall, sites, including the re-use of buildings will be approved if:

1. in the case of a gap site, it can be justified under Policies BE6, Policy NE3 and Policy Inf11 to protect open space and local biodiversity and control travel generating development; and
2. where relevant, it does not conflict with the established land use of the area; and
3. it does not detract from the character and amenity of the surrounding area, and
4. the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over-development or "town and village cramming"; and
5. it respects the scale, form, design, materials and density of its surroundings; and
6. adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity; and
7. it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking,

All applications will be assessed against the Council's Proposed Supplementary Planning Guidance on Infill Development.

POLICY H2 – PROTECTION OF RESIDENTIAL AMENITY

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

1. The principle of the development, including where relevant, any open space that would be lost; and
2. The details of the development itself particularly in terms of:
 - (a) the scale, form and type of development in terms of its fit within a residential area,
 - (b) the generation of traffic or noise,
 - (c) the level of visual impact.

POLICY Inf4 – PARKING STANDARDS

Development proposals should provide for car and cycle parking in accordance with the Council's published adopted standards, or any subsequent standards which may subsequently be adopted by the Council (see Appendix D).

Relaxation of standards will be considered where the Council determines that a relaxation is required owing to the nature of the development and/or positive amenity gains can be demonstrated that do not compromise road safety.

OTHER PLANNING CONSIDERATIONS:

Guidance Note, Privacy and Overlooking, Scottish Borders Council 2006 (Approved July 2006)

CONSULTATION RESPONSES:

Statutory Consultees:

Director of Technical Services (Roads): No objections in principle to this application, provided parking for two vehicles is provided in addition to the garage.

Other Consultees:

Selkirk and District Community Council: No objections although it was noted that the proposed dwelling would be a very 'tight fit' within the site.

OTHER RESPONSES:

2 No objections have been received from properties No's 7/9 and 5 to the North West of the Site (copies attached). The following is a summary of objections made:

- The proposed dwelling is a modern two storey design which would be out of character with the rest of the properties in this area.
- The proposed footprint would represent overdevelopment compared to the modest size of the plot.
- The proposed dwelling would overlook and dominate the existing dwellings to the North of the site.
- The three windows proposed at the upper level to the rear of the dwelling would totally remove all privacy from No 5 Tait's Hill.
- The existing site is a garden not a building plot.
- The proposed dwelling would block the view of No 5 Tait's Hill and both overshadow the mature garden at No 5 and block sunlight to this area.
- Neighbour notifications were not received when the application was first submitted.
- The development would only provide one additional parking space and one garage space whereas the development is likely to generate 3-4 additional cars to the area.
- Access to the wider road network would be from Tait's Hill which is not of a sufficient standard to accommodate the increased traffic.
- Tait's Hill is a substandard road with a section of public footway missing and with a substandard junction with poor visibility where several accidents have occurred. The road is already congested with parked cars and there is no turning area at the end of Tait's Hill and cars have to reverse back onto Craig Brown Road in order to turn. The route is also a popular thoroughfare of children heading to local schools.
- The proposals would require the rerouting of existing sewers which cross the site. Verification that Scottish Water is content with the proposals at this stage is required.

PLANNING ISSUES:

It must be considered whether the proposed dwelling represents an overdevelopment of the site and whether the design is in keeping with surrounding residential properties. In addition, it must be considered whether the development would have an impact adverse or otherwise on the privacy and amenity of residential properties to the North West of the site and whether the application is acceptable in terms of road safety.

ASSESSMENT OF APPLICATION:

The site is an infill type development, situated between existing houses and associated garden grounds. The site already benefits from valid outline planning permission for a single dwelling unit and the applicant now seeks approval for the detailed design. The principle of a dwelling on this site is therefore not in question.

Policies 2 and 4 in the Ettrick and Lauderdale Local Plan and Policy G7 in the Finalised Local Plan would allow appropriate infill development provided a variety of criteria including amenity and design

considerations are met. In addition, Policy 18 in the Ettrick and Lauderdale Local Plan and Policy H2 in the Finalised Local Plan relating to the protection of existing residential amenity and 'development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted'.

Impacts on privacy amenity and on the character of the area are seen to be main concerns of the objectors who are located directly to the North West of the application site. At the time of writing it is expected that a further objection will be received from the owner of No 6 Russell Place to the South East. Members will be advised on the content of any further objections at the meeting. In terms of amenity, the Department is guided in its assessment of the site by the Council's adopted Privacy and Amenity Guidance document. The development as proposed would feature 2 No frosted bathroom windows at first floor level and a further study room window. The Department considers that this provision will not unduly effect the privacy of the adjacent properties and it is noted that the rear of the proposed building would be beyond the 18 metres minimum distance from the nearest dwelling No 5 to the north west.

The size of the dwelling and overall footprint at approximately 40% of the overall plot is considered to be quite an intensive use of the site however it is contended that proposed design would enable the site to be successfully developed without appearing overdeveloped, albeit with less garden ground than many of its existing neighbours. To assess the impact of the development, the Department has received a plan from the applicants showing the respective ridge heights on the adjoining properties to the west. The proposed ridge height would at approximately 8.2 metres be approximately 2 metres higher than the existing bungalow to the west at No 14 and 0.3 metres lower than the 1.75 storey semi-detached property No 12 beyond.

The finished ridge height would appear to be within reasonable levels and it is noted that the applicant has kept the finished floor level and hence ridge height down by using a concrete floor as opposed to the standard basecourse. Due to the difference in ground levels between the site and the adjoining properties, the perceived difference in levels between the properties on Craig Brown Avenue is further reduced. There is a mix of house styles in the street, with varying ridge heights, and it is considered that the height of the house and its appearance with a hipped slated roof would be in keeping with the character. The orientation of the building aligns with others in the street, and thus, in terms of street scene, is considered appropriate.

It is contended by the objector at No 5 that the type of dwelling proposed would have a significant impact in terms of overshadowing and loss of sunlight on the adjacent garden ground and would compromise the outlook from this property. The objector from No 5 feels that the original proposals for a bungalow should be implemented. The impacts in terms of loss of view are not a material consideration for planning and it is not accepted that the proposed dwelling would dominate surrounding properties. Whilst it is accepted that there will inevitably be some impacts in terms of loss of sun and daylight to certain parts of the adjoining garden area it is felt that this would principally affect the rear end of the garden to the north, which would be away from the house and its principal private area, and thus the impact is not of a significant nature to warrant refusal of the current plans.

In terms of impacts on road safety which have been raised by the objectors, this was looked at during the outline application and the Director of Technical Services (Roads) has reaffirmed in this application that there are no difficulties with the current proposal subject to achieving the required 2 No parking spaces excluding the proposed garage. It would appear from the plans that this can be achieved and this would be a condition of the consent. In terms of concerns regarding the rerouting of the existing sewer, this is considered to be a matter for the Building Warrant stage however the Department understands that applicant has discussed this with Scottish Water and it would appear that moving the existing sewer is acceptable in principle.

In conclusion, the application is seen to achieve acceptable design which would allow a family type property to be created in an area in close proximity to local amenities. An agreement regarding developer contributions relating to the Waverley line was covered at the outline stage and no further contributions are outstanding for this application.

RECOMMENDATION BY HEAD OF PLANNING AND BUILDING STANDARDS:

Recommendation

It is recommended that this application is approved subject to the following conditions:

1. Prior to the commencement of development the finished colour of the external render to be submitted for the prior approval of the Planning Authority
Reason: To safeguard the visual amenity of the area.
2. The roofing material to be natural slate.
Reason: To safeguard the visual amenity of the area.
3. Prior to the occupation of the dwellinghouse two car parking spaces to be provided within the site and maintained thereafter all to the satisfaction of the Planning Authority.
Reason: In the interests of road safety.

Approved by
Name Designation Signature
Brian Frater
Head of Planning and Building Standards

REASON FOR DECISION :

Recommendation: Approved subject to conditions

1. Prior to the commencement of development the finished colour of the external render to be submitted for the prior approval of the Planning Authority
Reason: To safeguard the visual amenity of the area.
2. The roofing material to be natural slate.
Reason: To safeguard the visual amenity of the area.
3. Prior to the occupation of the dwellinghouse two car parking spaces to be provided within the site and maintained thereafter all to the satisfaction of the Planning Authority.
Reason: In the interests of road safety.

“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 (General Development Procedure) (Scotland) Order 1992

Application for Approval of Reserved Matters

Reference: 07/00387/REM

To : Mr Harry Thomson 7A Market Place Selkirk Scottish Borders TD7 4BT

With reference to your application received on **1st March 2007** for approval under the Town and Country Planning (Scotland) Act 1997 for reserved matters relating to outline planning permission for the following development:-

Proposal : Erection of dwellinghouse with integral garage

at : Land North East Of 14 Craig Brown Avenue Selkirk Scottish Borders

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

**Dated 21st May 2007
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



Head of Planning & Building Standards

Application reference : 07/00387/REM

REASON FOR REFUSAL

- 1 Contrary to Policies 2 and 18 of the Ettrick and Lauderdale Local Plan 1995 and Policies G7 and H2 of the Finalised Local Plan in that the proposed dwellinghouse would constitute an overdevelopment of the site and would adversely affect the amenity of the neighbouring properties.

FOR THE INFORMATION OF THE APPLICANT

C If the applicant is aggrieved by the decision of the Planning Authority, an appeal may be made to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997, within six months from the date of this notice. The appeal should be addressed to the Chief Reporter, Scottish Executive Inquiry Reporter's Unit, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR.

C 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 V of the Town and Country Planning (Scotland) Act, 1997.



SCOTTISH EXECUTIVE

Directorate for Planning and Environmental Appeals Appeal Decision Notice

Decision by Scott M Ferrie, a Reporter appointed by the Scottish Ministers

- Planning Appeal reference: P/PPA/140/329
- Site Address: land north east of 14 Craig Brown Avenue, Selkirk
- Appeal by Harry Thomson against the decision by Scottish Borders Council
- Application for approval of reserved matters 07/00387/REM dated 23 February 2007, refused by notice dated 21 May 2007
- The development proposed: erection of dwellinghouse with integral garage
- Date of site visit by Reporter: 30 August 2007

Date of appeal decision: 12 September 2007

Decision

I dismiss the appeal and refuse to approve the reserved matters.

Reasoning

1. The determining issues in this appeal are (a) whether the proposal conforms with the terms of the outline planning permission, (b) whether the proposed dwelling would constitute overdevelopment and would adversely affect the amenity of neighbouring properties, contrary to policies 2 and 18 of the adopted Ettrick and Lauderdale Local Plan; and (c) whether there are any other considerations that lead me to determine the appeal not in accordance with those policies.

2. The appeal site benefits from outline planning permission for the erection of a dwelling. The outline permission requires the subsequent approval of means of access; layout, siting and design; landscape treatment; means of water supply and surface water and foul drainage; and that a vehicle turning area and two parking spaces be provided within the site. I find nothing in those reserved matters before me which conflicts with the terms of the outline permission.

3. Policy 2 of the adopted local plan allows for appropriate infill development within settlements, provided that specified criteria are satisfied. These criteria relate to intrusion into the countryside and landscape impact; settlement character and form; the amenity of adjoining property; means of access and servicing; and require that other policies of the plan are not prejudiced.

4. The proposal entails the erection of a two storey detached dwelling with integral garage on a vacant plot of land within a residential area. The site is located within the settlement of Selkirk and does not extend into the countryside. The built form of the surrounding area consists of a mix of detached and semi-detached dwellings ranging from single to two storeys in height. The appeal site is bounded by one and a half storey dwellings to the north west and south west and a detached traditional two storey dwelling to the south east on the opposite side of the proposed access into the plot. I find therefore, that there is a context in principle for the development of a two storey dwelling on the appeal site. I noted a definite front building line on Craig Brown Avenue; the block plan shows the proposed dwelling being positioned approximately 3 metres forward of that line. The appeal site is, however, located at the end of the cul de sac and I do not consider that such a siting would disturb the harmony of the street scene.



INVESTOR IN PEOPLE



POSITIVE ABOUT
PEOPLE

5. I note however, that the length of the proposed rear garden would be significantly shorter than average garden lengths prevailing in the vicinity of the site. This would not respect the form of surrounding development and would result in a rear garden of limited size and amenity. Turning to the impact of the proposed development on adjoining property, the proposed dwelling is to be positioned between 4.4 and 4.8 metres off the rear boundary of the plot. I consider that such a siting is likely to have an overbearing impact on the property to the north west. This situation would be worsened by the presence of a habitable room window at first floor level on the rear elevation of the proposed dwelling. This would have a significant adverse effect on the privacy of the neighbouring property, and I do not consider that this impact could be satisfactorily addressed by means of condition. I find therefore, that the proposed dwelling would adversely affect the amenity of adjoining property, contrary to local plan policy. These findings together lead me to conclude that the proposal represents overdevelopment of the plot.

6. Policy 18 of the adopted plan seeks to protect the amenity and character of established residential areas. Development should be of an appropriate form and scale and should not be visually intrusive. I have concluded above that the proposed development is not of an appropriate form, fails to respect the character of the area and represents overdevelopment of the site. I must conclude therefore, that the proposal is not consistent with policy 18.

7. Turning to other material considerations, I require to consider the terms of the Scottish Borders Local Plan which is at finalised draft stage. The council has drawn my attention to policies G7 and H2 of that plan. These policies, in summary, seek to ensure that new development is designed to respect the form of surrounding development and protect the residential amenity of the area. Based on my conclusions above, I do not consider that the proposed development complies with these requirements.

8. I note the respective positions of the appellant and objectors in relation to the boundaries of the site but am required to consider the proposal on the basis of the application plans before me. I also note the appellant's concerns in relation to the way in which the application was determined by the council. This is a matter for others.

9. I have taken into account all other matters raised but find none to outweigh the considerations set out above. I have dealt with the appellant's claim for award of expenses in a separate letter also issued today.

SCOTT M FERRIE
Reporter

SCOTTISH BORDERS COUNCIL

EILDON AREA COMMITTEE

21 January 2008

APPLICATION FOR PLANNING PERMISSION

ITEM: REFERENCE NUMBER: 07/02030/REM

OFFICER: Hamish Bell
WARD NAME: Selkirkshire
PROPOSAL: Erection of dwellinghouse
SITE: Land North East of 14 Craig Brown Avenue, Selkirk
APPLICANT: Harry Thomson

SITE DESCRIPTION

This is an area of flat ground at the end of a residential cul de sac which until recently has been used as garden ground associated with an existing residential property to the west of the site. The site measures approximately 12x 20 metres. The site has existing outline consent for a single dwelling within the site, granted in 2006.

PROPOSED DEVELOPMENT

The reserved matters application is for a one-and-a-half storey dwelling measuring approximately 10.5 x 7.1 and 7 metres in height with a 45 degree pitched slated roof. Accommodation is proposed at ground and attic levels with 4 No roof light windows proposed to light bathrooms, storage areas and stairwells to the rear. A raised wall head finished with a pitched roof and a single pitched dormer window are proposed on the main south east facing elevation to provide necessary headroom for 2 No bedrooms and a study.

Proposed external materials would include rendered blockwork walls, upvc windows and a natural slate roof.

PLANNING HISTORY

The site gained outline planning consent for a single dwelling in September 2006 (reference 06/01038/OUT) thereby renewing a historic lapsed consent which expired in 1993. An application for reserved matters consent was refused by Eildon Area Committee in May 2007 (07/00387/REM). The reason given for refusal was that the proposals were 'contrary to Policies 2 and 18 of the Ettrick and Lauderdale Local Plan 1995 and Policies G7 and H2 of the Finalised Local Plan in that the proposed dwellinghouse would constitute an overdevelopment of the site and would adversely affect the amenity of the neighbouring properties'. This decision to refuse was later upheld at appeal to the Scottish Government.

REPRESENTATION SUMMARY

Two objections have been received from properties to the north and north west of the site. The following is a summary of concerns raised:

- The proposed dwelling is still two storey in nature and no smaller in footprint terms than previously applied and would be an over development of the site.
- The proposed house would protrude beyond the established building line thereby having a detrimental impact on the area.
- The proposed two storey house would be significantly higher and out of character with other properties in the vicinity.
- The height of the house and proposed velux windows will still induce problems of overlooking for properties to the rear.
- The bathroom shown to the rear could easily become a further bedroom and the proposed velux windows may set a precedent for replacement in future by dormer windows. Both these scenarios would result in further loss of privacy.

- Previously stated road safety concerns regarding increased traffic through the cul de sac still remain.
- Drainage capacity for the development must be established either at the planning or building warrant stage.
- The applicant has made no amendments to his plans to reflect the altered boundary between the two properties. Following alteration to the boundary the proposed route of the sewer would be within the garden ground of No 5 Tait's Hill.

A letter from solicitors acting on behalf of the objector to the rear of the site has also been received enclosing a title sheet for the land in question. The following is a summary of points raised:

- The applicant has not been granted indemnity from the Keeper for a strip of land along the rear boundary of the site.
- Having examined the titles it is the opinion of the objector's solicitors that the land in question in fact belongs to their client and not the applicant.
- The applicant has applied on the basis of the land being in his possession and the letter states that 'our purpose in writing to you is to make clear that this is not the case'.

APPLICANT'S SUPPORTING INFORMATION

The applicant has submitted a supporting letter in response to the objector's submissions and the ongoing land ownership debate. The following is a summary of points raised:

- The proposed house is a 1.5 storey design with a smaller footprint than in the previous application.
- All the rooms to the rear are non-habitable (i.e. bathrooms/ storage areas/ stairwell). The velux may possibly be frosted glass.
- The boundary in question in the land ownership dispute was in place in 1965 and the Mr and Mrs Stott have never occupied the area of land they claim to be theirs.
- The Keepers of Scotland have granted me title over the whole of the occupied area of the plot of land as described in the ordinance survey.
- The adjoining objector has dismantled the mutual dividing fence without giving prior notice or receiving my consent to do so. This has resulted in the involvement of the police. Court proceedings may soon follow regarding the objector's recent actions.

DEVELOPMENT PLAN POLICIES

Approved Structure Plan 2001-2011

Policy N20 applies.

Scottish Borders Local Plan: Finalised December 2005

Policies G1, G7, H2 and Inf. 4 apply.

Ettrick and Lauderdale Local Plan 1995

Policies 2, 4, 18 and 94 apply.

OTHER PLANNING CONSIDERATIONS:

Guidance Note, Privacy and Overlooking, Scottish Borders Council 2006 (Approved July 2006)

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Technical Services Roads: No objections.

Statutory Consultees

Selkirk and District Community Council: No objections, however a feature window is suggested to add detail to the elevation facing west along the public road.

KEY PLANNING ISSUES:

It must be considered whether this revised application has resolved the issues raised by the Reporter in the previous appeal decision. Particular concerns raised regarded overdevelopment in terms of the relationship between building footprint and garden ground and the overlooking of neighbouring properties. It must also be considered whether overall height and detailing of the revised house proposal is in keeping with surrounding residential properties.

ASSESSMENT OF APPLICATION:

The proposals are for infill development within an established residential area. Policies 2 and 4 in the Ettrick and Lauderdale Local Plan and Policy G7 in the Finalised Local Plan allow appropriate infill development provided a variety of criteria including amenity and design considerations are met. Policy G1 also requires amongst other criteria that new development can be satisfactorily accommodated within the site. Policies 18 in the Ettrick and Lauderdale Local Plan and H2 in the Finalised Local Plan relate to the protection of existing residential amenity. Policy H2 states that 'development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted'.

The principle for development is established by the existing outline approval and similarly by the comments from the Reporter who accepted the principle of a similar type of development at the site, provided that amendments were made, including increasing the small size of garden ground and removing any significant overlooking issues from neighbouring properties to the rear. The revised scheme has brought about various external and internal changes including a reduction in the overall building footprint from the previous application.

The one-and-a-half storey design now proposed has reduced the overall ridge height by approximately 1.2 metres from the previous application. The submitted plans demonstrate that the proposed height would mean that the ridge on the new dwelling would be about half a metre above that of the adjoining bungalow No 14 and two metres below nos. 10 and 12 further to the west. This is considered to be an acceptable relationship and not significant in terms of the streetscape.

The ownership dispute which relates to a small strip of garden ground on the northern boundary with No 5 Taits Hill. Whilst there is clearly some remaining uncertainty regarding this issue it is not a material concern in the determination this application which must be decided on its planning merits. The ownership issue will be decided separately as a private legal matter between the parties involved.

The proposed house depth has been reduced by approximately one metre from the previously refused design with the proposed width remaining the same. This reduction in depth has allowed for slightly more garden ground to be made available at the rear of the property and also brought the proposed dwelling further away from the common boundary. To compensate for the reduction in floor space the integral garage has been removed from the proposals to allow for additional accommodation to be created at ground floor level. Two parking spaces would remain at the front of the site. Overall, the amendments to house depth are considered to be the maximum the Department could reasonably insist upon in light of the Reporter's decision and the proposals are not considered to be an overdevelopment when considered against relevant policy including Policy G1.

To address the privacy issue raised by the Reporter and by the Committee, the attic space to the rear has been designed to feature bathrooms, storage or stairwells to be lit by roof lights rather than facing windows. In terms of the concerns raised by the objector regarding the potential for habitable accommodation in the future relating the room now shown for a bathroom this room appears to be too small to be acceptable as a bedroom in terms of modern building standards. Similarly the Community Council's concern regarding the west facing elevation is also not accepted as acceptable character is already provided by the slated pitched dormer features. The formation of a window on this boundary may also not be practical in terms of building warrant requirements.

These combinations of design changes are considered to have suitably resolved the privacy and amenity concerns raised by the Reporter and are suitable in terms of Policies 18 and H2 in the Ettrick and Lauderdale and Finalised Local Plans. The further issues raised by the objectors regarding remaining overlooking and precedent for future habitable accommodation are not considered to be overriding concerns in light of the revisions made.

By removing permitted development rights, the Council has control over any future extension or alteration to the building that might increase the potential for overlooking, loss of privacy or overdevelopment of the site. This is proposed as a condition.

Separate issues regarding drainage are considered to be suitably covered under the separate Building Warrant process. The principle of an additional house in this location in road safety terms has already been accepted at the outline stage and it is noted that no objections have been received regarding the current proposals from Technical Services. No amendments are proposed regarding these issues.

Overall the proposed dwelling now appears to fit more comfortably onto the site and would not appear to give rise to any unacceptable amenity or privacy issues. I would recommend approval subject to various conditions including removing permitted development rights. The removal of permitted development rights is seen to be necessary in this instance due to the limited size of available garden ground. An applicant informative is also proposed clarifying that the granting of the permission does in no way confer the automatic right to develop on the contested strip of ground on the rear boundary.

RECOMMENDATION BY HEAD OF PLANNING AND BUILDING STANDARDS:

It is recommended that the application be approved subject to the following condition(s):-

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or amendments or re-enactment or re-enactment thereof) no extension, enlargement; or other alteration of the dwelling shall be carried out without the prior written consent of the Council, to whom a planning application must be made.

Reason: The Local Planning Authority considers that the development hereby permitted is the maximum that can be reasonably allowed without potentially causing detriment to the amenities of adjoining properties, and for this reason would wish to control any future proposals or alterations or extensions.

2. Prior to the commencement of development the finished colour of the external render to be submitted for the prior written approval of the Planning Authority

Reason: To safeguard the visual amenity of the area.

3. The roofing material to be natural slate.

Reason: To safeguard the visual amenity of the area.

4. The area allocated for parking on the submitted plan shall be properly consolidated, surfaced and drained before the use of the site commences/the buildings are occupied, and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure there is adequate space within the site for the parking of vehicles clear of the highway.

5. Details of all proposed means of enclosure shall be submitted to and approved in writing by the Local Planning Authority before work on the site is commenced.

Reason: To enable the proper effective assimilation of the development into its wider surroundings.

Applicant Informative:

It is noted that in granting this permission the Planning Authority has neither made nor offered any conclusions regarding the ultimate right to title over the disputed ownership of the strip of ground to the rear of the site which is subject to the outcome of a separate legal process. The rights or otherwise of the applicant to develop the full extent of the land in question would be subject to the outcome of the separate legal process.

Approved by
Name Designation Signature

Brian Frater

Head of Planning and Building Standards

The original version of this report has been signed by the Head of Planning and Building Standards and the signed copy has been retained by the Council.

Author(s)

Name Designation

Hamish Bell Development Control Officer

CHAIRMAN DELEGATE REPORT

This is a reserved matters application for a single dwelling on an infill plot at the end of a residential cul de sac. The application is amended following the refusal of a previous reserved matters application which was the subject of an unsuccessful appeal to the Scottish Ministers.

The land to which the application relates is currently garden ground belonging to an existing bungalow type property to the west of the plot. This application is for a 1.5 storey dwelling measuring approximately 10.5x7.1 and 7 metres in height with a 45 degree pitched slated roof. To achieve accommodation at both ground floor and attic level 4 No roof light windows are proposed to light bathrooms, storage areas and stairwells to the rear and a raised wall head finished with a pitched roof and a single pitched dormer window are proposed to provide necessary headroom for 2 No bedrooms and a study to the front.

Proposed materials would include rendered blockwork walls and a natural slate roof.

No objections have been raised by Technical Services Roads. The Selkirk Community Council has raised no objections however a feature window is suggested to add detail to elevation facing west along the public road.

2 No objections have been received from properties to the north and north west of the site. The following is a summary of concerns raised:

- The proposed dwelling is still two storey in nature and no smaller in footprint terms than previously applied and would be an over development of the site.
- The proposed house would protrude beyond the established building line thereby having a detrimental impact on the area.
- The proposed two house would be significantly higher and out of character with other properties in the vicinity.
- The height of the house and proposed velux windows will still induce problems of overlooking for properties to the rear.
- The bathroom shown to the rear could easily become a further bedroom and the proposed velux windows may set a precedent for replacement in future by dormer windows. Both these scenarios would result in further loss of privacy.
- Previously stated road safety concerns regarding increased traffic through the cul de sac still remain.
- Drainage capacity for the development must be established either at the planning or building warrant stage.
- The applicant has made no amendments to his plans to reflect the altered boundary between the two properties. Following alteration to the boundary the proposed route of the sewer would be within the garden ground of No 5 Tait's Hill.

The principal for development is set by the outline approval and similarly by the comments from the Reporter who accepted the principal of a similar type of development at the site subject to various amendments including increasing the small size of garden ground and removing any significant overlooking issues from neighbouring properties to the rear. This has resulted in various external and internal changes.

The 1.5 storey design now proposed has reduced the overall height by approximately 1.2 metres from the previous application. The proposed house depth has been reduced by approximately 1 metre with the width

staying the same. The proposed height would mean that the ridge on the new dwelling would be about 0.5 metres above that on the adjoining bungalow No 14 and 2 metres below No's 10 and 12 further to the west. This is seen to be an acceptable relationship and not significant in terms of the streetscape. The reduction in depth has allowed for additional garden ground to be made available at the rear of the property and brought the proposed dwelling further away from the mutual boundary.

To address the privacy issue the habitable room with window to the rear of property at upper floor level has been removed and changed to bathroom. Other windows to the rear at attic level are all bathrooms or stairwells to be lit by roof lights. To compensate for the reduction in floor space the integral garage has been removed from the proposals to allow for additional accommodation to be created at ground floor level.

The combination of design changes are seen to resolve the privacy and amenity concerns raised by the Reporter and the further issues raised by the objectors regarding remaining overlooking and precedent for future habitable accommodation are not accepted as significant concerns. However to clarify a point raised by the objector the room now shown for a bathroom appears to be too small to be acceptable as a bedroom in terms of modern building standards. Similarly the Community Council's concern regarding the west facing elevation is also not accepted as acceptable detailing is provided by the slated pitched dormer features. The formation of a window on this boundary may also not be practical in terms of building warrant requirements.

The ownership dispute which relates to a small strip of garden ground on the boundary with No 5 to the north is seen in this instance to be beyond the scope of this application. Issues regarding drainage are seen to be acceptably covered under the separate Building Warrant process. The principal of an additional house in this location in road safety terms has already been accepted at the outline stage and it is noted that no objections have been received regarding the current proposals from Technical Services.

The proposed dwelling appears to fit comfortably onto the site and would not appear to give rise to any unacceptable amenity or privacy issues. I would recommend approval subject to various conditions including removing permitted development rights, requiring further details on the finished render, requiring a natural slate roof finish, regarding retention of parking areas and requiring further details to be submitted regarding boundary walls or fences to be submitted for prior approval. The removal of permitted development rights is seen to be necessary in this instance due to the limited size of available garden ground. An applicant informative is also proposed clarifying that the granting of the permission does in no way confer the automatic right to develop on the contested strip of ground on the rear boundary.

REASON FOR DECISION :

Recommendation: Approved - conditions & informatives

- 1 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or amendments or re-enactment or re-enactment thereof) no extension, enlargement; or other alteration of the dwelling shall be carried out without the prior written consent of the Council, to whom a planning application must be made.
Reason: The Local Planning Authority considers that the development hereby permitted is the maximum that can be reasonably allowed without potentially causing detriment to the amenities of adjoining properties, and for this reason would wish to control any future proposals or alterations or extensions.
- 2 Prior to the commencement of development the finished colour of the external render to be submitted for the prior written approval of the Planning Authority
Reason: To safeguard the visual amenity of the area.
- 3 The roofing material to be natural slate.
Reason: To safeguard the visual amenity of the area.

- 4 The area allocated for parking on the submitted plan shall be properly consolidated, surfaced and drained before the use of the site commences/the buildings are occupied, and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
Reason: To ensure there is adequate space within the site for the parking of vehicles clear of the highway.
- 5 Details of all proposed means of enclosure shall be submitted to and approved in writing by the Local Planning Authority before work on the site is commenced.
Reason: To enable the proper effective assimilation of the development into its wider surroundings.

Informatives

It should be noted that:

1

“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 (General Development Procedure) (Scotland) Order 1992

Application for Approval of Reserved Matters

Reference: 07/02030/REM

To : Harry Thomson 7A Market Place Selkirk Scottish Borders TD7 4BT

With reference to your application received on **17th October 2007** for approval under the Town and Country Planning (Scotland) Act 1997 for reserved matters relating to outline planning permission for the following development:-

Proposal : Erection of dwellinghouse

at : Land North East Of 14 Craig Brown Avenue Selkirk Scottish Borders

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

**Dated 28th January 2008
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed

.....
Head of Planning & Building Standards

Application reference : 07/02030/REM

REASON FOR REFUSAL

- 1 The development would be contrary to Policies 2 and 15 of the Ettrick and Lauderdale Local Plan 1995 and Policies G1 and G7 of the Finalised Local Plan, in that the scale of the dwellinghouse would constitute overdevelopment of the site in a manner unsympathetic to the character of the surrounding area.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority, an appeal may be made to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997, within six months from the date of this notice. The appeal should be addressed to the Chief Reporter, Scottish Executive Inquiry Reporter's Unit, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR.

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 V of the Town and Country Planning (Scotland) Act, 1997.

Directorate for Planning and Environmental Appeals

Appeal Decision Notice

T: 01324 696 400
F: 01324 696 444
E: dpea@scotland.gsi.gov.uk



Decision by W. Ian Hastie, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA/140/361
- Site address: land north east of 14 Craig Brown Avenue, Selkirk TD7 4NB
- Appeal by Harry Thomson against the decision by Scottish Borders Council
- Application for approval of reserved matters No. 07/02030/REM dated 17 October 2007, refused by notice dated 28 January 2008
- The development proposed: erection of dwelling
- Date of site visit by Reporter: 23 June 2008

Date of appeal decision: 23 July 2008

Decision

I dismiss the appeal and refuse planning permission.

Reasoning

1. The determining issues in this appeal are: whether the proposal accords with the relevant provisions of the development plan, in particular Policy N20 of the Scottish Borders Structure Plan 2001-2011 and Policies 2, 15 and 18 of the adopted Ettrick and Lauderdale Local Plan 1995; and whether there are any other material considerations which would still justify granting, or refusing to grant, planning permission. The structure plan Policy N20, which relates to design, advises that the council will encourage a high quality of layout, design and materials in all new development, which would be considered more favourably where it accords with 7 identified criteria.

2. Policy 2 of the Ettrick and Lauderdale Local Plan allows for appropriate infill development within settlements, provided 6 specified criteria are satisfied, including not having an adverse effect on the amenity of adjoining property. The local plan Policy 15 seeks to resist overdevelopment of housing sites where it would adversely affect the amenity of the development and adjoining properties. Policy 18 of the local plan seeks to protect residential amenity and requires 4 specified criteria to be met, including that development be of an appropriate scale for a residential area. The Finalised Scottish Borders Local Plan 2005 has also been drawn to my attention as a material consideration, in particular its Policies G1, G7 and H2. Policy G1 defines the council's quality standards for new development and lists 15 standards which will apply to all development, including a requirement for it to be satisfactorily accommodated within the site. The finalised local plan



Policy G7 relates to infill development and identifies 7 criteria to be met, including a requirement to respect the scale, form, design, material and density of its surroundings. Policy H2 seeks to protect residential amenity and will not permit development judged to have an adverse impact on amenity, in particular the scale, form, and type of development in terms of its fit within the area.

3. The appeal site is located in a more established residential area on the elevated, southern side of Selkirk, just to the west of the A7 which runs through the town. It comprises an overgrown, vacant site of some 0.025ha, located at the end of a narrow cul-de-sac. The surrounding area displays a built form of a mix of detached and semi-detached dwellings of single, 1½ and 2 storey in height. The appeal site is bounded to its south east, on the other side of its proposed access from the cul-de-sac, by a large 2 storey property which sits behind a high hedge and a mature tree. One and a half storey detached dwellinghouses bound the site on its south west and north west boundaries, which comprise a combination of a low wall and timber overlap fencing. The proposal is for the erection of a detached 1½ storey dwellinghouse which would be accessed from a driveway on its south east side, off the end Craig Brown Avenue and which would also provide its off-street car parking accommodation. Traditional style dormers provide the windows for the upper floor on its front elevation (south east), while roof-lights serve the upper floor bathroom, stair, box room and en-suite on its rear elevation (north west).

4. The appeal site already benefits from outline planning permission for the erection of a dwellinghouse, therefore, I am satisfied that the principle of a dwellinghouse on the site is established. At my site inspection, I noted that the properties in Craig Brown Avenue form an established front building line. Although the submitted block plan shows the proposed dwellinghouse positioned some 3m forward of that established line, as the appeal site is situated at the end of the cul-de-sac, I am satisfied that the proposed siting would not adversely affect the appearance of that established building line. Also, I am satisfied that the opportunity for overlooking and resultant loss of privacy of adjoining properties from the proposed roof-lights to the accommodation on the upper rear elevation of the proposed dwellinghouse could be controlled by the application of appropriate conditions on any planning permission granted.

5. However, while I am aware that the current proposal has been reduced in scale in an attempt to overcome the grounds of refusal of the previous planning application, which were also upheld on appeal, I am not convinced that the proposal has succeeded in overcoming all the concerns which caused that previous application to be refused. From the submitted drawings, I calculate that the depth of the rear garden would be between 5m and 5.4m from the rear wall of the proposed dwellinghouse to its rear boundary with No. 5 Taits Hill. While the overall distance between the rear of the proposed dwellinghouse and the rear of No. 5 would be some 20m, the depth of its rear garden would still be significantly less than that prevailing in the vicinity of the site. This would also result in a rear garden area of some 64 to 69sqm which I consider to be significantly deficient to serve the needs of the scale of dwellinghouse proposed, a 3 bedroom dwellinghouse which has the potential to accommodate a family with children, which the appellant confirms is the intention. I consider that the proposed dwellinghouse would result in a particularly cramped development, the appearance of which would be aggravated by its proximity to the side

boundaries of the plot which is shown on the submitted block plan to be only between 0.6m and 1m. I consider that the overall effect would be a cramped and over-intensive development of the plot which would still not respect the density of the surrounding development. Consequently, for these reasons, I consider the proposal would be contrary to the relevant policies of the development plan referred to above.

6. Turning to other material considerations, the Finalised Scottish Borders Local Plan is at an advanced stage of adoption and I consider that its policies warrant being given particular weight, especially given the vintage of the extant local plan. Based on my conclusions above, I do not consider that the proposed development complies with the requirements of the policies referred to above, in particular with regard to the requirement for it to: be satisfactorily accommodated within the site; respect the density of its surroundings; and fit within the area. Irrespective of the outstanding dispute between the appellant and the objector at No. 5 Taits Hill regarding the ownership of the strip of ground to the rear of the appeal site, I have determined the appeal on the basis of the planning application plans before me. Notwithstanding, I consider that my conclusions above regarding the over-intensive nature of the proposed development would be exacerbated if the dispute were resolved in the objector's favour.

7. I have taken account of all other matters raised, including the council's Guidance on Householder Developments, the Head of Planning and Building Standards report to the council and the third party objections, but none of these alter my conclusions in this case. I therefore find the proposal unacceptable.

W. Ian Hastie
Reporter

SCOTTISH BORDERS COUNCIL

EILDON AREA COMMITTEE

4th FEBRUARY 2009

APPLICATION FOR PLANNING PERMISSION

ITEM: REFERENCE NUMBER: 08/01874/REM

OFFICER: Mr Scott Shearer
WARD: Selkirkshire
PROPOSAL: Erection of dwellinghouse
SITE: 14 Craig Brown Avenue
APPLICANT: Mr Harry Thompson
AGENT:

SITE DESCRIPTION

This site is located at the end of a residential cul de sac upon flat ground. The site measures approximately 12 x 20 metres and benefits from having existing outline consent for the erection of a dwellinghouse which was granted in 2006.

PROPOSED DEVELOPMENT

This proposal is for a modest single storey dwelling, measuring 10 x 8.5m and 5.5m in height with a 55 degree pitched roof clad in natural slate and wall finishing of rendered blockwork. Internally the house will contain to a lounge and bedroom to the front and located to the rear a bedroom, bathroom and a kitchen. Parking for two vehicles is to be provided on the land directly in front of the dwellinghouse.

PLANNING HISTORY

This site gained outline consent for a single dwelling in September of 2006 (ref: 06/01038/OUT), renewing a previous lapsed consent. Reserved matters application was refused by Eildon Area Committee, this decision was upheld by the Scottish Ministers on grounds that the proposal constituted overdevelopment and would affect the amenity of neighbouring properties. A further reserved matters application was submitted (ref: 07/02030/REM) proposing a 1.5 storey dwellinghouse, measuring 10.5 x 7.1m and 7m in height. However, this was also refused by the Eildon Committee and this decision was upheld on appeal with the Reporter concluding the proposal could not be satisfactorily accommodated within the site, without compromising the density or character of the surrounding area.

REPRESENTATION SUMMARY

There have been two letters of objection and one general comment received. The principal grounds for objection are as follows:

- New development 'out of character' with older houses in area.
- Roof height susceptible to future dormer extensions.
- Development too large for site.
- Increased volume of traffic within restricted road system.
- Drainage capacity insufficient to serve extra dwelling and are contrary to Building Warrant requirements.
- Applicant has applied on the basis of a strip of land to the rear being of their possession and this is disputed.
- Rear garden curtilage insufficient to serve a family.

The general comment considered that the plan did not illustrate if the land to the front of the house was intended to be used for parking, that there is limited on street parking available with little room for turning also that the access to the driveway of no14 is very close to the shared boundary of this proposal.

APPLICANTS' SUPPORTING INFORMATION

The following is a summary of a letter submitted in response to points raised within this case from the applicant:

- Boundary dispute has not yet been resolved.
- Proposed property size is for a single child family or retired couple.
- Greater area of amenity space has been provided.
- No intention to develop the property further.
- Insufficient evidence to verify problem with drainage system.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Director of Technical Services (Roads): No observations

Statutory Consultees

Selkirk Community Council: Recommend refusal, scale of proposal at odds with site producing cramped appearance and not in keeping with character of surroundings.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Structure Plan 2001-2011

Policy N20 - Design

Scottish Borders Local Plan 2008

Policy G1 – Quality Standards for New Development

Policy G7 – Infill Development

Policy H2 – Protection of Residential Amenity

Policy Inf4 – Parking Standards

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance: Guidance on Householder Developments 3 July 2006.

KEY PLANNING ISSUES:

The key planning issue in the determination of this revised application is whether this proposal has resolved the issues raised by the Reporter in the decision on the recent appeal. Concerns were raised regarding the over intensive nature of the previous proposal, in particular its inability to be satisfactorily accommodated within its site, respect the density of its surroundings and fit within the area.

ASSESSMENT OF APPLICATION:

Policy G7 of the Local Plan supports infill development where a proposal demonstrates that it "respects the scale, form, design, materials and density of its surroundings". Policy G1 states the Council's quality standards for new development, including the requirement for a proposal to be "satisfactorily accommodated within the site."

The principle of erecting a dwellinghouse on this site has already been established by the granting of outline planning consent, and this has been accepted by the Reporter considering the earlier appeal.

It is now considered that this proposal has taken into account the reasoning for the previous refusal, and as result, a smaller scale dwellinghouse is now proposed; indeed, due to the modest design of this proposal, it is considered that there is limited scope for further reduction.

This single storey structure will complement the mixed character of this residential area where there is the already the provision of single, 1½ and 2 storey dwellings with varying roof designs.

The properties upon Craig Brown Avenue form an established building line. This proposal is positioned 4.5m forward from the conformed line, however as this site is at the end of the cul de sac, this positioning would act as a termination to the building line. The previous proposal was positioned 3 metres forward and this was accepted by the Reporter. This forward positioning is not seen to result in any adverse loss of light or sunlight to neighbouring properties and there are no issues with regards to overlooking.

The positioning of the property further forward within its plot has successfully increased the size of the curtilage area. The distance from the rear elevation to the rear boundary wall now varies between 6.4 to 6.8m in comparison to the previous proposal that only allowed for a distance of 5 to 5.4m. Therefore size of the garden has increased from some 64 to 69sqm to some 81 to 87sqm. Within SBC Guidance on Householder Developments this is sufficient space to private amenity for a modest 3 bedroom dwelling, given this proposal is a two bedroom dwelling, this space is more than sufficient.

To allow the dwelling to be satisfactorily accommodated within its site the width of the property has been reduced by 0.5 from the previously refused design. There is now a 1.4m gap to the south west boundary and a gap ranging from 0.8 to 1.4m to the north east boundary. This has created clear space from both side elevations to their respective boundaries allowing the proposal to adequately fit within its plot. Generally the properties upon the north western side of Craig Brown Terrace fill the majority of the width of their plots, therefore this width reduction allows for this proposal to respect the density of its surroundings.

The ongoing ownership dispute involving a small strip of garden ground upon the shared boundary with No5 to the north is considered to be beyond the scope of this application, and would remain a matter between the parties concerned. The Building Warrant process will verify any drainage issues. The approval of outline consent for a dwellinghouse at this site has established the principle for a dwelling at this location in road safety terms and no objections were received from Technical Services.

CONCLUSION

This proposal is for a very modest dwellinghouse. The reduction to the width of the proposal has created clear space from the side elevations to the boundary walls this combined with the reduction in height and increased rear curtilage area ensure that this dwellinghouse will not be an over intensive development that is cramped within its site. This proposal has responded to the Policy issues that justified its previous refusal in that the proposal is satisfactorily accommodated within its site, respects the density of its surroundings and appropriately fits within the area. Set against the background that an outline permission exists on this site, it is difficult to see how the proposal could be reduced further and still provide a satisfactory level of accommodation.

I therefore recommend approval for this proposal subject to various conditions including removing permitted development rights, requiring further details on the finished render, regarding retention of parking areas and requiring further details to be submitted regarding boundary walls or fences to be submitted for prior approval.

RECOMMENDATION BY HEAD OF PLANNING AND BUILDING STANDARDS:

I recommend the application is approved subject to the following conditions:

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or amendments or re enactment thereof) no extension, enlargement; or other alteration of the dwelling shall be carried out without the prior written consent of the Council, to whom a planning application must be made.

Reason: The Planning Authority considers that the development hereby permitted is the maximum that can be reasonably allowed without potentially causing detriment to the amenities of adjoining properties, and for this reason would wish to control any future proposals or alterations or extensions.

2. Prior to commencement of the development the finished colour of the external render shall be submitted for the written approval of the Planning Authority.

Reason: The render to be used requires further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

3. The area allocated for parking on the submitted plan shall be properly consolidated, surfaced and drained before the use of the site commences/ the buildings are occupied, and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure there is adequate space within the site for the parking of vehicles clear of the highway.

4. Details of all proposed means of enclosure shall be submitted to and approved in writing by the Planning Authority before work on the site is commenced.

Reason: To enable the proper effective assimilation of the development into its wider surroundings.

Applicant Informative:

It is noted that in granting this permission the Planning Authority has neither made nor offered any conclusions regarding the ultimate right to title over the disputed ownership of the strip of ground of the rear of the site which is subject to the outcome of a separate legal process. The rights or otherwise of the applicant to develop the full extent of the land in question would be subject to the outcome of the separate legal process.

Approved by
Name Designation
Brian Frater

Head of Planning and Building Standards

The original version of this report has been signed by the Head of Planning and Building Standards and the signed copy has been retained by the Council.

Author(s)

Name Designation
Scott Shearer Planning Assistant / Officer

REASON FOR DECISION :

Recommendation: Approved - conditions & informatives

- 1 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or amendments or re enactment thereof) no extension, enlargement; or other alteration of the dwelling shall be carried out without the prior written consent of the Council, to whom a planning application must be made.
Reason: The Planning Authority considers that the development hereby permitted is the maximum that can be reasonably allowed without potentially causing detriment to the amenities of adjoining properties, and for this reason would wish to control any future proposals or alterations or extensions.
- 2 Prior to commencement of the development the finished colour of the external render shall be submitted for the written approval of the Planning Authority.
Reason: The render to be used requires further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

- 3 The area allocated for parking on the submitted plan shall be properly consolidated, surfaced and drained before the use of the site commences/ the buildings are occupied, and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
Reason: To ensure there is adequate space within the site for the parking of vehicles clear of the highway.
- 4 Details of all proposed means of enclosure shall be submitted to and approved in writing by the Planning Authority before work on the site is commenced.
Reason: To enable the proper effective assimilation of the development into its wider surroundings.

Informatives

It should be noted that:

- 1 It is noted that in granting this permission the Planning Authority has neither made nor offered any conclusions regarding the ultimate right to title over the disputed ownership of the strip of ground of the rear of the site which is subject to the outcome of a separate legal process. The rights or otherwise of the applicant to develop the full extent of the land in question would be subject to the outcome of the separate legal process.

“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 (General Development Procedure) (Scotland) Order 1992

Application for Approval of Reserved Matters

Reference: 08/01874/REM

To : Harry Thomson 7A Market Place Selkirk Scottish Borders TD7 4BT

With reference to your application validated on **27th November 2008** for approval under the Town and Country Planning (Scotland) Act 1997 for reserved matters relating to outline planning permission for the following development:-

Proposal : Erection of dwellinghouse

at : Land North East Of 14 Craig Brown Avenue Selkirk Scottish Borders

The Scottish Borders Council hereby **approve** the application in accordance with the approved plan(s) and the particulars given in the application, and in accordance with Section 59 of the Town and Country Planning (Scotland Act 1997 **subject to the following standard condition:-**

that the development to which this approval relates must be begun not later than whichever is the later of the following dates:-

- (i) the expiration of five years from the date of the original outline planning permission
- (ii) the expiration of two years from the date of this approval

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

Dated 16th February 2009
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 OSA

Sign

Head of Planning & Building Standards

Application reference : 08/01874/REM

SCHEDULE OF CONDITIONS

- 1 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or amendments or re enactment thereof) no extension, enlargement; or other alteration of the dwelling shall be carried out without the prior written consent of the Council, to whom a planning application must be made.
Reason: The Planning Authority considers that the development hereby permitted is the maximum that can be reasonably allowed without potentially causing detriment to the amenities of adjoining properties, and for this reason would wish to control any future proposals or alterations or extensions.
- 2 Prior to commencement of the development the finished colour of the external render shall be submitted for the written approval of the Planning Authority.
Reason: The render to be used requires further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
- 3 The area allocated for parking on the submitted plan shall be properly consolidated, surfaced and drained before the use of the site commences/ the buildings are occupied, and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
Reason: To ensure there is adequate space within the site for the parking of vehicles clear of the highway.
- 4 Details of all proposed means of enclosure shall be submitted to and approved in writing by the Planning Authority before work on the site is commenced.
Reason: To enable the proper effective assimilation of the development into its wider surroundings.
- 5 Alternative proposals for the treatment of all eaves and verges shall be submitted to and approved by the Planning Authority before the development commences and, once approved, the development shall proceed in accordance with the approved details.
Reason: In order to enhance the visual appearance of the proposed development and therefore facilitate its integration with the surrounding area.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

It is noted that in granting this permission the Planning Authority has neither made nor offered any conclusions regarding the ultimate right to title over the disputed ownership of the strip of ground of the rear of the site which is subject to the outcome of a separate legal process. The rights or otherwise of the applicant to develop the full extent of the land in question would be subject to the outcome of the separate legal process.

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.