SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

28 APRIL 2014

APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE

ITEM: REFERENCE NUMBER: 13/00427/PPP

OFFICER: Barry Fotheringham
WARD: Kelso and District
PROPOSAL: Mixed Use Development including Housing, Site for School, Community Facilities and associated Landscaping, Roads and Footpaths
SITE: Land North of Queens House, Angraflat Road, Kelso
APPLICANT: Lord Ralph Kerr, The Ferniehurst Trust and Roxburghe Estates
AGENT: Clarendon Planning and Development Limited

SITE DESCRIPTION

The application site is an area of agricultural land located to the north west of the town of Kelso, immediately north of the A6089 Angraflat Road/Golf Course Road. It is located to the south west of Kelso Racecourse immediately adjacent to the racecourse parking area.

The application site extends to approximately 18 hectares (45 acres) and comprises of 4 linear fields defined by mature hedgerow. The boundaries of the site are also defined by mature hedgerow. To the south west of the site is Queens House nursing home and a small residential development (currently under construction) comprising of 25 dwellings.

Beyond the mature hedgerow boundary to the north is a minor public road linking the A6089 Kelso to Gordon Road and the B6461 Kelso to Ednam Road. The application site has a southerly aspect with land falling slightly from the north towards Angraflat Road. A landscape ridge runs east to west beyond the north boundary of the site.

PROPOSED DEVELOPMENT

This application seeks planning permission in principle for a mixed use development comprising of housing, high school, community facilities, roads, landscaping and footpaths.

PLANNING HISTORY

12/01199/PAN - Proposed mixed use development comprising housing, residential care facilities, site for school, reconfiguration of racecourse car park, general community facilities and associated footpaths, roads and landscaping. Received 24 September 2012
13/00753/PAN - Erection of high school and associated facilities. Received 20 June 2013

13/01080/PAN - Residential development with associated roads, footpaths and landscaping. Received 19 September 2013.

REPRESENTATION SUMMARY

One letter of objection has been received in connection with this application. Whilst the objector agrees with the principle of erecting a new high school on the land adjoining the racecourse, serious concerns are expressed regarding the impact the proposed development will have on the town’s sewage services. It is suggested that the existing Kelso treatment plant is well beyond its original intended capacity and cannot cope with current demands. If further housing is proposed, this problem needs to be addressed.

APPLICANTS’ SUPPORTING INFORMATION

Whilst the application has been submitted on the basis of planning permission in principle, it was supported by an indicative layout and accompanying indicative elevations and street scenes. The application was also supported by following documents:

- Design and Access Statement, including addendum
- Transport Appraisal
- Access Appraisal
- Archaeology Assessment
- Ecology Assessment
- Housing Land Supply Assessment
- Landscape and Visual Assessment
- Indicative Layout and Street Scenes

As the proposed development is defined as a ‘Major Development’ under the provisions of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 the application is also supported by a Pre-Application Consultation (PAC) Report.

DEVELOPMENT PLAN POLICIES:

SESplan Strategic Development Plan 2013

Policy 5 – Housing Land
Policy 6 – Housing Land Flexibility
Policy 7 – Maintaining a Five Year Housing Land Supply

Consolidated Scottish Borders Local Plan 2011

Policy G1 – Quality Standards for New Development
Policy G5 – Developer Contributions
Policy G8 – Development Outwith Development Boundaries
Policy BE2 – Archaeological Sites and Ancient Monuments
Policy BE3 – Gardens and Designed Landscapes
Policy BE12 – Further Housing Land Safeguarding
Policy NE3 – Local Biodiversity
Proposed Local Development Plan 2013

Roads Planning Service: This proposal forms part of a larger site which is identified as an area for potential longer term development for the period beyond 2018 within the Consolidated Local Plan. However, the allocation of this site for development is currently under review within the Local Development Plan process, subject to finalisation of the LDP which is itself subject to the finalisation of the SDP (Strategic Development Plan). On this basis the principle of housing development on this site is not yet established.
In relation to the roads aspect of the proposal, I would comment as follows:

During the local plan process and subsequent discussions, it has been accepted that a number of access options are available to serve this development site. The option shown here is for a four leg roundabout serving the proposed housing element, along with potential new high school site. Whilst this is acceptable, I would not rule out other options, such as T junctions to serve the proposed housing and upgrading the existing minor road to the north to serve the potential new high school and the racecourse. An element of direct access for housing onto Angraflat Road should also be considered. Which ever option is chosen, the main aim is to change the character of Angraflat Road, which at present acts as a relief road for Kelso town centre. By creating more of a ‘street’ feel along this road, it will help influence driver behaviour in this area.

This application is for outline consent; therefore I will not focus on the internal layout of either the housing element or the school site, which at this stage is indicative only. Should a detailed planning submission ever materialise for the proposed housing, I would expect to see a layout which embraces the principles of current policy ‘Designing Streets’, by providing a well connected layout which is designed to provide natural traffic calming. The street layout will have to be future proofed in terms of road hierarchy. Road and footpath connections to the neighbouring development site to the west, and the adjacent residential street network, need to be explored in order to achieve full integration, allow dispersion of traffic and to afford the opportunity of a range of vehicular/pedestrian accesses into the development. The layout must not prejudice links into the remainder of the longer term development site to the north-west.

The Transport Appraisal that has been submitted to accompany this application has not highlighted any significant issues. However, a full Transport Assessment (TA) will be required as part of a detailed planning application for the housing and also for the school site. Any issues identified through the TA including off-site works required, will need to be satisfactorily addressed. Pedestrian crossing provision for Angraflat Road will form an important part of the TA in order to integrate developments on each side of the road as best as possible.

In summary, I have no objections in principle to this proposal. More specific comments on the detailed design of the access and the internal layout will be provided should a detailed planning application ever be lodged, individually or as a whole for the various elements of the proposal. Discussions are welcomed at an early stage of the detailed design in order to achieve a satisfactory access arrangement and internal layout.

**Education and Lifelong Learning:** No response

**Development Negotiator:** No response

**Housing:** As a matter of principle, Eildon Housing Association (EHA) is interested in on-site delivery of affordable housing at this location. However EHA may not be able to deliver AH on this site due to concerns and unknowns regarding programming and grant availability.

This site is not identified or prioritised for inclusion in the current Strategic Housing Investment Plan (SHIP) 2012/15. However I would anticipate that it will be brought forward in due course by EHA for potential consideration for inclusion in the next SHIP 2013/18. Whilst RSL on-site delivery is the preferred AH option, other on-site
delivery options should also be considered, e.g. shared equity, discounted sales, thereby potentially avoiding reliance on one delivery option.

**Urban Design:** No response

**Landscape:** The application site is allocated for longer terms housing in the Local Plan and is suitable for development. I am broadly in agreement with statements indicating its suitability in the applicant’s design statement. There is no reason to oppose the principal of development and I am happy to support the application.

However, it is important that the overall masterplan works at all stages in the development process. It is recommended that an overall design vision for the full land allocation (SKELS001) should be produced to show how subsequent phases can progress. In addition, the relationship between the proposal and the existing housing on the south side of Angraflat Road does not appear to have been thought through correctly. At page 23 (Design Analysis) of the design statement, it is stated that new built form should ‘face the street’. Although this may be desirable in some respects, it misses opportunities to create visual connections with the south side. It is also slightly false in the sense that direct access will not be taken from Angraflat Road but from the rear (i.e. north) side. The indicative site layout suggests avenue tree planting on both sides of Angraflat Road but without giving any detail. These aspects and the overall design treatment of both sides of Angraflat Road need further consideration.

On the basis that this is an application in principal and the submitted design layout is only indicative, I am happy to support the application.

**Forward Planning:** In relation to the applicant’s supporting documentation regarding the assessment of Housing Land Supply, the Council undertake an annual Housing Land Audit and the approach used by the Council to undertake the audit is in accordance with PAN 2/2010. The audit identifies effective sites in two categories – effective and potentially effective sites, both of which meet the criteria set out in PAN 2/2010. PAN 2/2010 states under the marketability criteria that the test to identify if a site is effective is whether ‘the site, or a relevant part of it, can be developed in the period under consideration’. The Council therefore considers a site to be effective if there is a reasonable prospect that it could be developed within the 5 year period. Where possible developer input has been incorporated into the programming of sites within the audit to ensure accuracy. The audit has then been consulted with key stakeholders. In accord with Scottish Planning Policy (SPP), the finalised Housing Land Audit 2012, states there is a five year effective supply maintained in all housing market areas in the Borders when actual demand is used as the key measure. In the Central Housing Market Area, which Kelso falls within, there is 6.9 years of effective land supply, exceeding the 5 years required by SPP. Therefore there is no identified housing land shortfall and no need to bring forward additional land for development in the immediate short term.

Within the Consolidated Local Plan a larger part of this site than covered by this application is identified as an area for potential longer term development for the period beyond 2018. These longer term sites were indicative only and subject to further detailed assessment and review. Following further assessment as part of the Local Development Plan process, a smaller area of the site was identified as an alternative housing site (AKELS021) within the Main Issues Report (MIR). The site area is 4.1ha with an indicative site capacity of 100 units; this application covers this site and also land to the north-east. The site has been identified as one that could contribute to the housing land requirement identified in the Strategic Development
Plan (SDP) for the Central Borders Strategic Development Area (SDA) for the period 2019-2024. If development of a new school had been submitted as a separate individual application the principle could have supported by policy G8 - development outwith development boundaries. However as this has been submitted as a single mixed use application incorporating both a new school and residential development it cannot be supported. We are currently in the process of finalising the Proposed Local Development Plan. There is a statutory procedure to be followed and the option of including this site in the LDP must be weighed up against other sites that have been promoted within this particular area. It is not considered that this submission gives sufficient reason or justification to allow approval of this application in advance of the completion of the LDP process and consequently it is considered this application is premature and cannot be supported.

**Rights of Way:** According to records held in the Regulatory Services there is a Core Path, also the Borders Abbeys Way, immediately adjacent to this application site. The route forms part of the Core Path network adopted in December 2009 and also forms part of the "Borders Abbey's Way" network.

This Core Path should not be obstructed during the course of development and should be brought up to standard to be an adoptable walkway post development. The following planning condition should be attached to any planning consent that may be granted:

*The path Core Path 1 must be maintained open and free from obstruction in the course of development and in perpetuity and shall not form part of the curtilage of the property. No additional stiles, gates steps or barriers to access may be erected that would deter or hinder future pedestrian use.*

*Reason:* To protect general rights of responsible access.

**Environmental Health:** The applicants should be required to submit an assessment of the impact of the development on local air quality. The assessment should quantify the levels of pollutants likely to arise from the development, with reference to the National Air Quality Objectives. The issues addressed should include pollution arising from the presence of additional road traffic and human occupancy, and the use of any proposed zero carbon/renewable technologies.

Prior to any Approval being granted for this development, the Applicants should be required to submit a Construction Method Statement. This should detail controls for mitigating noise and dust impacts arising from construction and other activities that are undertaken on site.

**Statutory Consultees**

**Kelso Community Council:** The Community Council is of the opinion that until details of the proposed new high school development and its interaction with the proposed housing development, community facilities and racecourse are known then it must decline support for this application. The CC has concerns about the proposed layout and dangers which may arise on race days and the need for the retention of land adjacent to the high school for its potential to expand.

**Floors, Makerstoun, Nenthorn and Smailholm Community Council:** No response.

**Ednam, Stichill and Berrymoss Community Council:** No response.
Scottish Water: No response.

SEPA: SEPA ask that the following condition is added to any grant of planning permission. If this condition is not added then the representation should be considered an objection.

Prior to the commencement of any works, a scheme for sustainable drainage (SUDS) surface water treatment shall be submitted for the written approval of the planning authority, in consultation with SEPA, and all work shall be carried out in accordance with the approved scheme. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C697) and should incorporate source control.
Reason: to ensure adequate protection of the water environment from surface water runoff.

SEPA has not considered the water quantity aspect of this scheme. Comments from Scottish Water, where appropriate, the Local Authority Roads Department and the Local Authority Flood Prevention Unit should be sought on the SUDS strategy in terms of water quantity/flooding and adoption issues.

The applicant should consult with Scottish Water to ensure a connection to the public sewer is available and whether restrictions at the local sewage treatment works will constrain the development.

Other Consultees

Kelso Amenity Society: Kelso AS was pleased to see a variety of housing styles as well as the proposed landscaping. There are concerns that some of the terraced housing within the development may be plain in appearance and the choice of colours and textures will be crucial.

One member is concerned that there are no plans to upgrade the minor access road to the north.

The AS also wonders what opinions the applicants have of the new Forbes Plastics building on the southern horizon of Kelso.

Fields in Trust Scotland: No response.

KEY PLANNING ISSUES:

The key planning issues with this application are whether the proposed mixed use development can be supported under adopted local plan policy or whether they can be supported under emerging proposed local development plan policy.

ASSESSMENT OF APPLICATION:

Housing Land Supply

The applicants Housing Land Audit Supply Assessment aims to assess and investigate the deliverability and effectiveness of the existing housing land supply for the Central Borders Housing Market Area (HMA). The applicant aims to identify if a minimum 5 year effective land supply is being met. According to the report, there is an effective land supply shortfall within the Central Borders HMA. The applicants argue that this shortfall should be addressed with new sites being brought forward.
from that identified for longer term future development within the Local Plan and in advance of the Proposed LDP.

However, the Council's Housing Land Audit, which has been carried out in accordance with Planning Advice Note (PAN) 2/2010 and Scottish Planning Policy (SPP), identifies 6.9 years of effective housing land supply within the Central Housing Market Area, exceeding the 5 years required by Scottish Planning Policy. There is no identified housing land shortfall within the Central HMA and therefore no need to bring forward additional land for development in the immediate short term. The applicant’s supporting information fails to identify a shortfall in effective land supply and is therefore premature in terms of bringing this site forward in advance of the Proposed LDP.

During the application process, it is worth noting that the South East Scotland Strategic Development Plan 2013 (SESplan) was approved. Policy 7 of SESplan aims to maintain an effective housing land supply across the SESplan-wide Housing Market Area by allocating additional sites in the Local Development Plan or granting planning permission on unallocated sites. Supplementary Guidance is required to provide housing land allocations for each local authority but this could take up to 12 months to complete. In support of the application, the agent submitted an addendum to the Planning Statement following the approval of SESplan. This concludes that there continues to be a shortfall in housing land supply in the Central Borders HMA and that the proposed development meets the terms of Policy 7.

However, it is maintained that Scottish Borders Council has a five year effective supply when compared with completions and that there is no identified shortfall. The Proposed LDP will augment this supply into the future.

Planning Policy

Policy H3 – Land Use Allocations of the Consolidated Local Plan 2011 is particularly relevant in this case as it applies to all the allocated land use proposals identified within each settlement profile and illustrated on proposals maps. The aim of this policy is to ensure that sites allocated in the local plan are developed for their intended use and that justification is provided for an alternative use. This is important because the housing sites are needed to meet the Strategic Development Plan Housing Land Requirements identified above.

Within the Consolidated Local Plan, the settlement profile and settlement map for Kelso identifies a larger area of land than is covered by the application site as an area for potential longer term development of housing for the period beyond 2018. This longer term site was indicative only and subject to further detailed assessment and review as part of the Proposed LDP process.

Members will be aware that there are existing housing land allocations within Kelso (Wallacenick, Broomlands East, North and West, Queens House, Rosebank) some of which have been developed or are currently under construction. It is imperative that these sites are developed in advance of non-allocated sites unless there is an identified housing land shortage.

Whilst identified for longer term housing in the Local Plan, the application site is not identified as a short or medium term housing allocation and a housing land shortage has not been identified in this housing market area. The proposed development would therefore be contrary to Policy H3 of the Local Plan. At the time the application was submitted it was felt that the proposals did not give sufficient reason
or justification to allow approval in advance of the completion of the Proposed LDP process and consequently it was considered that this application was premature and could not be supported.

However, the Proposed LDP has made significant progress since the application was received and now identifies land for a new high school as well as housing within a revised settlement boundary. Land Use Allocations AKELSO21 (Nethershot) and DKELSO01 (New High School Site) have been agreed by Council and have been through the public consultation process. Whilst these allocations have not yet been formally adopted by the Council, they have not attracted objections or representations through the public consultation process. This is now the settled position of the Council and Members should be aware that Proposed LDP Policy PMD3 – Land Use Allocations is now a material consideration in their determination of this application.

The proposed new high school site and residential development shown on the site plan accompanying this application are now consistent with the Proposed LDP settlement profile map and land use allocations and the current submission would be consistent with Policy PND3.

Members should be aware that whilst these allocations have not been challenged, approval of this application does come with a small element of risk in that the proposed LDP has been agreed but the land use allocations have not been formally adopted by the Council.

**Development Boundary**

Policy G8 of the Consolidated Local Plan aims to ensure that most development is located within defined development boundaries as shown on settlement profile maps. Any development outwith this boundary would have to comply with rigorous exceptions criteria. It is considered that development outwith the Development Boundary should not be seen as an alternative to allocated sites where these are available and therefore, should only be an 'exceptional' occurrence. Development should be contained within the Development Boundary and proposals for new development outwith this boundary and not on allocated sites identified on the local plan proposals maps will normally be refused.

The proposed development seeks consent for a mixed use development including residential, school and community facilities. The proposed new high school and community facilities may be justified as an exception as it would offer significant community benefits that would outweigh the need to protect the development boundary. It is considered that the site would represent a logical extension of the built up area – this is confirmed by the allocation of this land in the local plan as longer term housing expansion – and would be of a scale appropriate to the size of the settlement.

As the proposed school is likely to meet the other exceptions tests including the cumulative effects of other developments outwith the settlement boundary and the infrastructure and service capacity of the settlement, the proposed erection of a school with community facilities, could be supported in principle. However, as the application was been submitted on the basis of a single mixed use development incorporating residential development, it could not have been supported within the terms of Policy G8.
However, circumstances have changed and Members will be aware that the development boundary has been amended through the Proposed LDP process and has been extended to accommodate the majority of the application site. Whilst this change in development boundary has not been formally adopted, it has not attracted objections or representations through the public consultation process. This is the settled position of the Council.

Members will note that the original application site boundary extends beyond the settlement boundary as identified on the Proposed LDP settlement profile for Kelso. Following discussions with the applicant’s agent, an amended site plan, in line with the revised settlement boundary was submitted on 18 March 2014. The application site is therefore contained wholly within the amended settlement boundary and would not be contrary to Proposed LDP Policy PMD4 – Development outwith Development Boundaries.

It is considered that the proposed mixed use development would be acceptable in principle and would be in accordance with Policy PND4 of the Proposed LDP 2013.

**Landscape**

The proposed development of this site will clearly have an impact on the landscape setting of this part of Kelso. The site is currently greenfield land defined by mature hedgerow field boundaries and the erection of a high school and residential development will have an effect on the character and appearance of this edge of the settlement. However, the allocation of this site for housing and a school within an amended settlement boundary has been tested through the Proposed LDP process and the principle of development has been accepted by the Council.

It is important however to ensure that the proposed development integrates well into the landscape and relates to existing features and existing development, particularly the housing on the south side of Angraflat Road. To make efficient use of the allocated land, to ensure future development of the site and neighbouring longer term allocations are not compromised and to ensure visual connections with the settlement, it is essential that the masterplan and design approach works at all levels. Further consideration of these matters can be handled during the detailed application stage.

**Layout**

As this application seeks planning permission in principle only at this stage, detailed proposals for the layout of the site, including proposed dwellings etc have not been submitted. Members will be aware however that indicative layouts and street elevations have been submitted in support of this application. The concept design framework for this site is based on best practice outlined in Government policy Designing Streets as well as SBC supplementary planning guidance on Placemaking and Design. Indicative options and layouts based on best practice were also considered during the pre-application discussions and the PAC.

The Council’s Roads Planning Service confirms that a number of access options are available to serve this development site. The option shown on the supporting indicative layouts for a four leg roundabout serving the proposed housing element, along with potential new high school site, is acceptable. However, alternative options, such as T-junctions should not be discounted at this stage.
Any forthcoming detailed application should incorporate a layout which embraces the principles of Designing Streets and SPG Placemaking and Design by providing a well connected layout which is designed to provide natural traffic calming. The layout should also be future proofed in terms of roads hierarchy and connectivity to adjacent residential developments needs to be explored. The layout must not prejudice links into the remainder of the longer term development site to the north-west.

The Transport Appraisal that has been submitted to accompany this application has not highlighted any significant issues. However, a full Transport Assessment will be required as part of a detailed planning application for the housing and also for the school site. This can be covered by condition.

**Access**

According to the records held by Regulatory Services, there is a right of way and core path which passes the south east corner of the application site. This Core Path should not be obstructed during the course of development and should be brought up to standard to be an adoptable walkway post development.

Policy Inf2 of the Local Plan and IS5 of the Proposed LDP encourage walking and cycling as modes of transport and aim to protect all existing access routes. Development that would have an adverse impact upon access route available to the public will not be permitted. The proposed development of this site is unlikely to have a long term impact on the right of way/core path, particularly after construction but it is essential that the path is maintained and kept free from obstruction. It is suggested that a planning condition is added to any grant of consent to ensure that the path is not obstructed during the course of development and brought up to an adoptable standard development.

**Cultural Heritage and Archaeology**

Policy BE2 of the Consolidated Local Plan and Policy EP8 of the Proposed LDP aim to give scheduled ancient monuments and any other archaeological or historic asset, strong protection from potentially damaging development. Although the Council’s Archaeologist was not consulted on this application, the applicant’s supporting desk based study (carried out by Headland Archaeology Ltd) identifies low potential for prehistoric remains and low to moderate potential for part of the site to contain remains of medieval date. The site is characterised as arable land with no recorded settlement but it is recommended that a phase of trial trenching is carried out on the south west corner of the surveyed site close to the burgh and cultivation terraces. It should be noted that the area of land surveyed by Headland Archaeology was significantly larger than the planning application site and included land to the north and west of Queen’s House Nursing Home. The recommendation within the accompanying report to trial trench the land adjacent to the cultivation terraces is outwith the planning application site boundary and it would not be appropriate to add a condition in this respect.

**Natural Heritage**

The development of this site for mixed use including a new high school and housing will result in the loss of arable farmland as well some mature hedgerows which in turn will affect existing habitats.
The ecological assessment prepared by Nigel Rudd Ecology concludes that the development site is of limited nature conservation value given its current status as an agricultural field. The findings are generally acceptable although measures should be implemented to ensure that there are no impacts on breeding birds within the fields or in areas proposed for removing hedges. There are further opportunities to maintain and enhance the local habitat network through protection and enhancement of boundary and wetland features, including creation of a SUDS pond.

The site requirements detailed in the settlement profile for Kelso in the Proposed LDP advise that red-listed bird species are present on the site and further assessment of nature conservation is required. The Ecology report acknowledges that red list birds are present on the site, four of which are common farmland species, and four of which are common in urban habitats.

There are unlikely to be significant ecological impacts, but precautionary measures are required to mitigate impacts on breeding birds which may use grassland and scrub habitats, and impacts on badger which may occur within the general area of the site and may forage or commute across the site.

There are opportunities to enhance the site by creating habitats that contribute to the local habitat network including the Forest Habitat Network (species complimentary to the existing policy woodland), creation of native-thorn hedgerows, grassland margins and wildflower areas. A SUDS pond can enhance the site for bats and breeding birds.

It would therefore be appropriate to ensure that ecological impacts are mitigated and protected species offered appropriate levels of protection and habitat enhancement. These matters can be controlled by condition.

**Prime Quality Agricultural Land**

Policy R1 of the Local Plan and Policy ED10 of the Proposed LDP aim to protect prime quality agricultural land for productive farming use. It is clear that the development of this site will result in the permanent loss of this valuable resource but the allocation of this site for housing and for a new high school serving the town has been rigorously tested through the LDP process. It is the settled position of the Council that the application site is allocated for development in the Proposed LDP and the loss of this land to housing is accepted.

Members should be aware that the purpose of Policy R1 and proposed Policy ED10 is to prevent the loss of prime quality agricultural land which is not covered by land allocations in the development plan. The loss of this land, now that it is allocated for development, will allow for the implementation of the development strategy and to maintain an effective housing land supply in the central borders housing market area. It has therefore been identified that there is a strategic and overriding need to unitise this land to assist in delivering the Council’s development strategy.

**Infrastructure**

Members will be aware that serious concerns are expressed by the sole Objector to this application on the grounds that the proposed development will have an adverse impact on the town’s sewage services. It is suggested that the existing Kelso treatment plant is well beyond its original intended capacity and cannot cope with current demands. If further housing is proposed, this problem needs to be addressed.
Unfortunately, Scottish Water did not respond to the consultation request but it should be noted that they did not object to the current planning application for residential development on land at Hendersyde North Lodge (13/00259/PPP) which is also currently under consideration.

The Roberton Water Treatment Works and Kelso Waste Water Treatment Works may have capacity to serve this development but if the existing network needs upgrading to enable connection, the developer will need to meet this demand in advance. A separate drainage system will be required for surface water discharging to a suitable outlet. This should be a SUDS system in accordance with current guidelines if it is to be considered for adoption.

It is noted that SEPA has no objections to this development provided a condition requiring a scheme for sustainable drainage (SUDS) surface water treatment to be submitted as part of any detailed application.

As the application seeks permission in principle only at this stage, precise details of water supply and of surface and foul water drainage can be controlled by suitably worded planning condition.

**Developer Contributions**

Members will be aware that development contributions towards addressing deficiencies in service provision are required in accordance with Policy G5 of the Local Plan and Policy IS2 of the Proposed LDP. In this particular case, the single largest factor will be development contributions towards Education & Lifelong Learning. This will be calculated using current indexed figures and will be secured through an appropriate legal agreement in accordance with development plan policy.

**Affordable Housing**

Members will be aware that there is a requirement for 25% affordable housing on all housing development sites of 2 or more dwellings in the Central Housing Market Area. Consultation with the Council’s Housing Strategy Team confirms that Eildon Housing Association would be interested in on-site delivery of affordable housing on this site. However due to concerns and unknowns regarding programming and grant availability, EHA might not be resourced to deliver all the affordable housing emerging from this proposal.

On-site RSL delivery is the Council's preferred AH option, however other on-site delivery options would be acceptable and should also be considered. The delivery options of AH for this site will be secured through an appropriately worded legal agreement.

**Air Quality**

The Council’s Environmental Health Section has indicated the need for an assessment of the impact of the development on local air quality. The assessment should quantify the levels of pollutants likely to arise from the development, with reference to the National Air Quality Objectives. The issues addressed should include pollution arising from the presence of additional road traffic and human occupancy, and the use of any proposed zero carbon technologies.
The purpose of Policy EP5 – Air Quality of the Local Plan is to protect air quality and in doing so complement other policies to protect land and water. This in turn will help to fulfil the Council’s environmental commitments and its contribution to addressing climate change. A suitably worded planning condition could be added to any grant of consent requiring an assessment to be carried out and a report to be submitted to and approved by the planning authority prior to the commencement of development.

The Council’s EH Team also request that an assessment of the noise on local receptors is submitted along with a construction Method Statement. These matters can be controlled by condition.

CONCLUSIONS

At the time the application was submitted it was clear that the proposed development would be contrary to prevailing development plan policies within the Consolidated Local Plan. The application site was located outwith the development boundary of the settlement on land which was not allocated for development in the short or medium term and could not be supported as an exception to established policy. Furthermore, a housing land shortfall has not been identified that would allow this land to be brought forward in advance of the Proposed LDP.

However, during the processing of the application the Proposed LDP process has taken significant steps towards adoption. The application site has been through the public consultation process and has not attracted objections or representations. The allocation of this land for mixed use development including a new high school and housing is accepted by Members and this is now the settled position of the Council.

Members should be aware that determining this application in advance of Examination and Adoption does come with an element of risk but it is considered that this risk is minimal. It would be appropriate to determine this application now.

The proposed development, following submission of an amended site plan, is consistent with Proposed LDP policy. The application seeks planning permission in principle for mixed use development including high school and residential on land that has been allocated for these particular uses. It is contended that, subject to planning conditions and legal agreement, the application can be supported in advance of the LDP adoption.

RECOMMENDATION BY DIRECTOR OF REGULATORY SERVICES:

I recommend the application is approved subject to a legal agreement addressing contribution towards deficiencies in Education infrastructure as well as the provision of affordable housing, and the following conditions and informatives:

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority.
   Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
(a) the expiration of three years from the date of this permission, or
(b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.
Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

5. The subsequent application for the approval of reserved matters shall be accompanied by:
   i. a site layout plan at a scale of 1:500 showing the position of all buildings, roads, footpaths, parking areas (distinguishing, where appropriate, between private and public spaces), walls and fences and landscaping;
   ii. plans and elevations of each house and garage type showing their dimensions and type and colour of external materials;
   iii. plans and elevations of the school showing the dimensions and type and colour of external materials;
   iv. a landscaping plan at a scale of 1:200 showing the location, species and ground spread of existing and proposed trees, shrubs and hedges;
   v. details of the phasing of development;
   vi. details of existing and finished ground levels, and finished floor levels, in relation to a fixed datum, preferably ordnance datum.
   vii. a transport statement
   viii. a water impact assessment
Reason: To ensure a satisfactory form of development.

6. No development shall commence until a scheme for sustainable drainage (SUDS) surface water treatment has been submitted to and approved in writing by the planning authority, in consultation with SEPA. Thereafter no development shall take place except in strict accordance with the approved scheme. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C697) and should incorporate source control.
Reason: to ensure adequate protection of the water environment from surface water runoff.

7. No development shall be commenced until such a time as it has been demonstrated that all matters relating to foul and surface water drainage have
been addressed via a drainage management plan, which shall first be submitted to and approved in writing by the Planning Authority as part of any detailed submission, pursuant to this planning permission in principle.

Reason: The Planning Authority is aware that there may be drainage capacity issues within the settlement that have not been fully addressed in the planning permission in principle application, which establishes only the land-use principle of the area of land identified in the submitted drawing(s).

8. No development shall be commenced until precise details of water supply have been submitted to and approved in writing, in consultation with Scottish Water, by the planning authority. Thereafter no development shall take place except in strict accordance with those details.

Reason: To ensure an adequate supply of water is available to serve the site and to ensure that existing users are not compromised.

9. No development shall commence until a Badger Protection Plan is submitted to and approved in writing by the planning authority thereafter no development shall take place except in strict accordance with the approved scheme. The Plan shall protect badger foraging and commuting across the site (covering trenches and open pipes overnight/ providing a means of escape, safe storage of chemicals and oils).

Reason: In order to protect badgers and the natural heritage interests of the site.

10. Site clearance shall be carried out outside of the breeding season. No vegetation or scrub clearance shall be carried out during the breeding bird season (March-August) without the express written permission of the Planning Authority. Checking surveys and appropriate mitigation for breeding birds will be required if works are proposed during the breeding bird season.

Reason: In order to protect breeding birds and the natural heritage interests of the site.

11. No development shall commence until a Landscape and Habitat Enhancement Plan including measures for native woodland and scrub, hedgerows and grassland enhancement has been submitted to and approved in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved scheme.

Reason: In order to protect the natural heritage interests of the site and to improve the landscape and habitats.

12. No development shall take place until an assessment of the impact of the development on local air quality has been submitted to and approved in writing by the local planning authority. The assessment should quantify the levels of pollutants likely to arise from the development, with reference to the National Air Quality Objectives. The issues addressed should include pollution arising from the presence of additional road traffic and human occupancy, and the use of any proposed zero carbon technologies.

Reason: In order to protect air quality, the effects this will have on land and water and commit to addressing climate change.

13. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the planning authority and thereafter no development shall take place except in strict accordance with the approved statement. The Construction Method Statement shall detail controls for mitigating noise and dust impacts arising from construction and other activities that are undertaken on site.
Reason: To ensure that the development of the site proceeds in an effective and orderly manner and to ensure the residential amenity of nearby dwellings is not compromised.

14. The path Core Path 1 (shown on the plan accompanying this decision) must be maintained open and free from obstruction in the course of development and in perpetuity and shall not form part of the curtilage of the property. No additional stiles, gates steps or barriers to access may be erected that would deter or hinder future pedestrian use.
Reason: To protect general rights of responsible access.

Informatives

1. In relation to Condition No 6 above, further guidance on the design of SUDS systems and appropriate levels of treatment can be found in CIRIA’s C697 manual entitled *The SUDS Manual*. Advice can also be found in the SEPA Guidance Note Planning advice on sustainable drainage systems (SUDS). Regulatory requirements for surface water and SUDS can be found within the SUDS section of SEPA’s website.

2. In relation to Condition No 8 above, the applicant should consult with Scottish Water to ensure a connection to the public sewer is available and whether restrictions at the local sewage treatment works will constrain the development.

**DRAWING NUMBERS**

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<thead>
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<th>Plan Reference No</th>
<th>Plan Type</th>
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<td>Site location Plan Rev A</td>
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**Approved by**

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<tr>
<th>Name</th>
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<tr>
<td>Brian Frater</td>
<td>Service Director</td>
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<td>Regulatory Services</td>
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The original version of this report has been signed by the Head of Planning and Regulatory Services and the signed copy has been retained by the Council.

**Author(s)**

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<tr>
<td>Barry Fotheringham</td>
<td>Principal Planning Officer</td>
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