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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 2 NOVEMBER, 2015

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the SCOTTISH BORDERS COUNCIL, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS TD6 0SA on MONDAY, 2 NOVEMBER, 2015 at 10.00 AM

J. J. WILKINSON,
Clerk to the Council,

26 October 2015

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 1 - 14) Minute of Meeting of 5 October 2015 to be approved and signed by the Chairman. (Copy attached.)
5.	Applications. Consider the following application for planning permission:-
	(a) 15/00774/PPP - Land East of Castle Heights, Hume (Pages 15 - 32) Erection of dwellinghouse on Land East of Castle Heights, Hume.
	(b) 15/01071/FUL - Garden Ground of Viewbank, Douglas Road, Melrose (Pages 33 - 42) Erection of dwellinghouse without compliance with condition No 4 of planning permission in principle reference 14/00984/PPP on Garden Ground of Viewbank, Douglas Road, Melrose. (Copies attached.)
6.	Appeals and Reviews. (Pages 43 - 48) Consider report by Service Director Regulatory Services. (Copy attached.)
7.	Safeguarding Our Built Heritage Presentation on Safeguarding Our Built Heritage by Principal Officer – Enforcement and Principal Officer – Built Heritage, Bio, Environment Infrastructure

8.	Planning Performance Framework Presentation on Planning Performance Framework by Chief Planning Officer.
9.	Any Other Items Previously Circulated.
10.	Any Other Items which the Chairman Decides are Urgent.
11.	Items Likely To Be Taken in Private Before proceeding with the private business, the following motion should be approved:- “That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 7A to the aforementioned Act.”
12.	Minute (Pages 49 - 50) Private Minute of 5 October 2015 to be approved and signed by the Chairman. (Copy attached.)

NOTE

Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.

Members are reminded that any decisions taken by the Planning and Building Standards Committee are quasi judicial in nature. Legislation , case law and the Councillors Code of Conduct require that Members :

- **Need to ensure a fair proper hearing**
- **Must avoid any impression of bias in relation to the statutory decision making process**
- **Must take no account of irrelevant matters**
- **Must not prejudge an application,**
- **Must not formulate a final view on an application until all available information is to hand and has been duly considered at the relevant meeting**
- **Must avoid any occasion for suspicion and any appearance of improper conduct**
- **Must not come with a pre prepared statement which already has a conclusion**

Membership of Committee:- Councillors R. Smith (Chairman), J. Brown (Vice-Chairman), M. Ballantyne, D. Moffat, I. Gillespie, J. Campbell, J. A. Fullarton, S. Mountford and B White

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SCOTTISH BORDERS COUNCIL
PLANNING AND BUILDING STANDARDS COMMITTEE

MINUTES of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Scottish Borders Council, Council Headquarters, Newtown St Boswells TD6 0SA on Monday, 5th October, 2015 at 10.00 am

Present: - Councillors R. Smith (Chairman), M. Ballantyne (from para 2), J. Brown, J. Campbell, J. Fullarton, D. Moffat, B. White.
Apologies:- Councillor I. Gillespie, S. Mountford.
Also Present:- Councillors W. Archibald, S Bell, G. Logan, D. Parker, F. Renton.
In Attendance:- Development Standards Manager, Principal Roads Planning Officer, Chief Legal Officer, Forward Planning Manager, Democratic Services Team Leader, Democratic Services Officer (F Henderson).

MINUTE

1. There had been circulated copies of the Minute of the Meeting held on 7 September 2015.

DECISION

APPROVED for signature by the Chairman.

SUPPLEMENTARY PLANNING GUIDANCE: REPLACEMENT WINDOWS AND DOORS

2. With reference to paragraph 3 of the Minute of 27 April 2015, there had been circulated copies of a report by the Service Director Regulatory Services which sought approval of the Supplementary Planning Guidance on Replacement Windows and Doors, which was contained in Appendix A to the report, as a material consideration in the determination of applications. The report explained that following the public consultation period, a total of seven consultation responses were received and the main elements of each of the consultation responses were detailed in Appendix B to the report along with responses, and officer recommendation. The report went on to advise that a number of minor changes to the SPG had come about as a result of the public consultation and these were detailed in the report. Members thanked officers for their work on this guidance and hoped that the degree of flexibility within the guidance would assist officers in the determination of future applications.

DECISION

AGREED to approve the use of the document as Supplementary Planning Guidance in the determination of planning and listed building applications.

DECLARATION OF INTEREST

Councillors Ballantyne, Fullarton and White declared an interest in application **15/00806/FUL** in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

APPLICATIONS

3. There had been circulated copies of reports by the Service Director Regulatory Services on applications for planning permission requiring consideration by the Committee.

DECISION

DEALT with the applications as detailed in Appendix I to this Minute.

The meeting adjourned at 1.25 p.m. and reconvened at 2 p.m.

APPEALS AND REVIEWS

4. There had been circulated copies of a report by the Service Director Regulatory Services on Appeals to the Scottish Ministers and Local Reviews.

DECISION

NOTED that:-

- (a) there remained two appeals outstanding in respect of:
- Land South East of Halmyre Mains Farmhouse (Hag Law), Romanno Bridge
 - Land West of Muircleugh Farmhouse, Lauder
- (b) Appeal requests had been received in respect of the following:-
- (i) Construction of wind farm consisting of 8 No turbines up to 100m high to tip with associated external transformers, tracking, new site entrance off A701, borrow pit, underground cabling, substation and compound and temporary construction compound on Land South East of Halmyre Mains Farmhouse (Hag Law), Romanno Bridge – 14/00738/FUL.
- (ii) Wind farm development comprising 7 No wind turbines 110m high to tip with ancillary equipment, access track and associated works on Land West of Muircleugh Farmhouse, Lauder – 14/01081/FUL
- (c) Review requests had been received in respect of the following:-
- (i) External alterations and erection of 4 No flagpoles at Office West Grove, Waverely Road, Melrose - 15/00504/FUL
- (ii) Erection of dwellinghouse on Plot A, Chirnside Station, Chirnside
- (d) Reviews outstanding were as follows:-
- Raebank, Chapel Street, Selkirk
 - Land South West of Pyatshaw Schoolhouse, Lauder
 - 12 Todburn Way, Clovenfords, Galashiels
 - Land South West of Clackmae Farmhouse, Earlston
 - Land South of Riding Centre, Newlands, Sunnyside, Reston

PRIVATE BUSINESS

5. DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 6 of Part 1 of Schedule 7A to the aforementioned Act.

SUMMARY OF PRIVATE BUSINESS

Development Contributions in respect of Planning Application 14/01153/FUL – Erection of 40 dwellinghouses and Associated Works

1. The Committee considered a report by the Service Directory Regulatory Services on Developer contributions.

The meeting concluded at 2.50 p.m.

APPENDIX

APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
15/00806/FUL	Erection of gallery building to house The Great Tapestry of Scotland and Associated works including landscaping, access and parking	Land West of Unit B, Tweedbank Industrial Estate, Tweedbank

Decision: APPROVED subject to the submission of revised plans covering outstanding issues relating to car and coach parking, and the following conditions and informative notes:

1. No development shall commence until a revised soft landscaping scheme (detailing the location and schedule of all proposed planting, implementation timetable and after care arrangements) has been submitted to and approved by the Planning Authority, and which includes a management scheme for the long-term management of the trees and woodland within the application site. The landscaping and long term management of new planting/woodland shall be implemented in accordance with the approved scheme

Reason: The current landscaping proposals require further revisions to ensure the most appropriate landscape setting for the development; and to offset loss of trees required to be removed to allow for the development; and a longer term management scheme is required to maintain the integrity of new and existing planting and woodland

2. No development shall commence until a revised scheme for Phase 2 which identifies the demolition of the two industrial buildings to the west and north of the car park; incorporates a revised arrangement of hard and soft landscaping, car and coach parking; and specifies a timescale for its implementation, has been submitted to and approved by the Planning Authority. The development shall be carried out in accordance with the scheme so approved

Reason: To achieve an appropriate longer term setting for the tapestry building and to achieve a cohesive long term arrangement of parking and pedestrian access which complements both the building and regeneration proposals for the wider estate

3. No development shall commence until the following details are submitted to and approved by the Planning Authority:

- a) Further information on external works including benches, retaining walls, statues, gas meter box and cycle stands, sufficient to fully establish their visual appearance;
- b) Further information on all external lighting (notwithstanding the number, specification and locations identified on the approved plans), including a lighting mitigation plan for both the construction lighting and permanent lighting;
- c) Construction details and dimensioned plans for all parking, road and access arrangements;
- d) A scheme for delineating the road frontage (i.e. shared surface area) as a no parking area, permitting service deliveries and coach drop-offs/pick-ups only;
- e) A detailed scheme of surface water drainage based on the final approved surfacing and parking arrangements
- f) A scheme of finished floor and ground levels to a fixed off-site datum, and illustrating existing levels (notwithstanding level details identified on the approved plans)
- g) A scheme of bat and bird boxes within the building or trees within the application site

Thereafter no development shall take place except in strict accordance with the details so approved.

Reason: Further information is required to more fully establish the visual impact of external works including street furniture and lighting; to minimise light spillage, including on light sensitive biodiversity (particularly bats); to ensure the final scheme incorporates a sustainable urban drainage scheme; to ensure that detailed levels, construction and parking arrangements are appropriate in terms of road and pedestrian safety; and to compensate for potential loss of bat and bird habitat.

4. No development shall commence until evidence is provided to the Planning Authority on behalf of Scottish Water that mains water, foul and surface water drainage connections have been approved. The development shall operate only with the approved servicing arrangements in place

Reason: To ensure the development can be adequately serviced

5. No development shall commence until a management scheme for coach/bus parking/drop-offs/pick-ups has been submitted to and approved by the Planning Authority. The development shall operate only in accordance with the approved management scheme

Reason: To minimise the potential impact of coach manoeuvres on road and pedestrian safety as far as is reasonably practicable

6. No development shall commence until the following have been submitted to and approved by the Planning Authority:

a) Samples of all external building and hard surfacing materials

b) A final detailed scheme for the design of the concrete panelling on the first floor of the building

The development shall be carried out using the approved samples and in accordance with the approved design for the concrete panelling

Reason: Further information is required on the external materials and design treatment of the building to fully establish their visual appearance

7. No development shall commence until a Badger Protection Plan has been submitted to and approved by the Planning Authority. The development shall be implemented in accordance with the approved plan

Reason: To minimise potential risk to badger habitat and foraging/commuting badgers

8. No development shall commence until a revised site plan has been submitted to and approved by the Planning Authority which specifies 1) a footway between the road frontage (i.e. shared surface area) and first bus lay-by; and 2) an additional section of footway at the entrance to the car park. The development shall not become operational until all parking, access and servicing arrangements, and all cycle stands/storage have been implemented in accordance with the approved plans and drawings (including the revised plan approved under this condition), and in accordance with details approved under other relevant conditions in this schedule.

Reason: To ensure the development is adequately serviced in the interests of road and pedestrian safety.

9. Only those trees identified for removal on the approved Tree Felling plan shall be so removed. Remaining trees shall not be lopped, felled or otherwise disturbed without approval in writing by the Planning Authority (which shall include submission of a rechecking survey for bats

should these include trees identified within the ecology walkover survey as having roost potential). The development shall be carried out only in accordance with the protection measures specified on the approved Tree Constraints plan

Reason: To ensure only trees identified for removal are so removed and ensure protection of trees that are to remain, in addition to potential bat habitat

10. No tree felling or habitat clearance works shall commence during the breeding bird season (March-August) without the written approval of the Planning Authority. A supplementary breeding bird survey and subsequent mitigation may be required if works are to commence during the breeding season.

Reason: To minimise risk of impacts on breeding birds.

11. Any noise from plant/machinery on or within the building shall not exceed Noise Rating Curve NR20 between the hours of 2300-0700 and NR30 at all other times when measured within any noise sensitive dwelling (windows can be open for ventilation). The noise shall not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2. All external plant and machinery on the exterior of the building shall be located behind the parapet and no higher than the parapet unless otherwise agreed in writing with the Planning Authority

Reason: To minimise potential noise disturbance and visual impacts associated with plant and machinery within/on the building.

Informatives

1. With respect to the Badger Protection Plan, the unused sett should be subject to further monitoring to establish use, licencing requirements and subsequent exclusion of sett as appropriate. It would be preferable to remove this sett to avoid potential delays in development. It is recommended that there is further dialogue with SNH to agree an approach to sett exclusion and removal. If the sett or other setts are found to be in use, a badger development licence will be required from SNH. Measures should also be included to protect badgers foraging and commuting across the site (including covering trenches and open pipes overnight/ providing a means of escape, safe storage of chemicals and oils, sensitive security lighting and timing of works). Supplementary survey for badger should be included prior to commencement of works.

2. The Council's Environmental Health Service should be contacted with respect to food registration requirements for the café and to ensure ventilation/extraction complies with guidance with respect to odour control

3. Demolition of the buildings within Phase 2 should be subject to a checking survey for bats. Best practice for this, and checking surveys for trees, should be applied - Bat Survey Good Practice Guidelines. 2nd Ed (Hundt, L 2012). Bat Conservation Trust

4. External signage is outwith the scope of this application. External signage may be require Advertisement Consent depending on the location, size and specification of the signage

5. The Council's Archaeology Officer would welcome discussions on how to maximise local heritage interpretation within the building.

NOTE

Mr Brian McCrow and Mr John B Tait spoke against the application.

Mrs Carolyn Riddell-Carre, Mr David Garrioch and Mr Alistair Moffat spoke in support of the application.

15/00792/FUL

Installation of 125 KW anaerobic digester plant and associated work

**Land North
East of Ravelaw
Farmhouse
Whitsome**

Decision: APPROVED subject to the following conditions and an informatives:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Local Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
3. The details and samples of all external finishing materials of the gas holder and CHP building shall be submitted to and approved in writing by the Planning Authority. The development shall be carried out in the materials so approved.
Reason: To ensure the high quality design of the development in the interests of visual amenity.
4. Only waste/feedstock produced on Ravelaw Farm shall be used to feed the anaerobic digester plant.
Reason: To reduce the potential for further intensification of development at the site in the interests of the local residential amenities and to minimise vehicle movements on the surrounding road network.
5. Any noise emitted by plant and machinery associated with the anaerobic digester shall not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within any noise sensitive dwellings (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2
Reason: To protect the residential amenity of nearby properties.
6. The anaerobic digestion plant shall be constructed and operated in accordance with the Ravelaw Farm Environmental Statement (08 July 2015) and Odour/Risk Management Plan (05 August 2015) unless otherwise agreed in writing with the Planning Authority.
Reason: To safeguard residential amenities
7. All plant must be strictly maintained in accordance with manufacturer's instructions and timescales, as submitted as part of this planning application.
Reason: To safeguard residential amenities
8. Any works to be undertaken during the bird breeding season shall require to be carried out in accordance with details that have first been submitted to, and agreed in writing by the Planning Authority.
Reason: To ensure that impacts on breeding birds are minimised.
9. The facility structure containing the effluent shall be sited at a minimum distance of 10m away from the Leet Water.
Reason: A minimum 10 metre buffer is required to protect the water environment.
10. Prior to the commencement of works a Construction Environmental Management Plan, adopting SEPA Pollution Prevention Guidelines PPG1, PPG5 (general guidance and works affecting watercourses), and PPG 6 (construction and demolition) as appropriate, is to be submitted to for the approval in writing by the Planning Authority. Any works shall thereafter be carried out in accordance with the approved scheme.

In particular the CMS should include details of; i) how run off and pollution from oils will be controlled, and ii) the measures that will be employed to prevent discharge of concrete to the Leet Water.

Reason: To protect the watercourse and ecological interest

11. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall include

- i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
- ii. location of new trees, shrubs, extended hedges grassed areas and ponds
- iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
- iv. programme for completion and subsequent maintenance.

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

12. Prior to the commencement of works, a Landscape and Habitat Management Plan, including measures for small woodland and hedgerow creation to benefit biodiversity and provide additional screening shall be submitted to and agreed in writing by the Planning Authority. Thereafter the works shall be carried out in accordance with the approved scheme.

Reason: To provide screening function to site and enhance ecological interest

13. Prior to commencement of works details of measures to be undertaken in order to ensure construction traffic avoids the post-medieval farmstead 'Ravelaw', as depicted on the Archaeology Map 1 (16 Aug 2015 attached)(approximately 20 metres north of the proposal) shall be submitted to and agreed in writing by the Planning Authority. Thereafter the development will be carried out in accordance with the approved plans.

Reason: To protect the archaeological feature.

14. All potentially contaminated surface water and effluent shall be contained within the AD plant compound and shall be discharged to the AD plant for treatment.

Reason: To protect the water course and ground water.

15. No development shall commence until a clearly identifiable datum point, or clearly identifiable datum points, located outwith the site and sufficient for the purpose of establishing the heights specified on drawing number 300B has been agreed on site with the Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory form of development.

16. No development shall take place until a traffic management plan, to address likely vehicle movements, during the construction phase has been submitted to and approved in writing by the Planning Authority. Thereafter, construction shall only take place in strict accordance with the management plan so agreed.

Reason: To safely manage vehicle movements on the public road network associated with construction of the development hereby approved.

Informatives

The Indicative River, Surface Water & Coastal Hazard Map (Scotland) known as the "third generation flood mapping" prepared by SEPA indicates that the site may be at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in

any one year. For further information please visit <http://www.sepa.org.uk/environment/water/flooding/flood-maps/>

The applicant is advised to adopt water resilient materials and construction methods as appropriate in the development as advised in PAN 69 and raise above ground equipment that may be sensitive to flooding above ground level or protected against flooding to avoid any residual impact and damages.

The plant will be regulated by SEPA under a Waste Management Licensing Regulation exemption – specifically under the terms of a Paragraph 51 exemption (the anaerobic digestion of agricultural or distillery waste). Although the proposed activity may be exempt from Waste Management Licensing it is still subject to statutory controls to prevent environmental pollution (including odour and noise) and harm to human health.

SEPA advise that the applicant contacts the Borders Operations team if any further guidance is required with respect to the waste management exemption. Contact SEPA on 01896 754797.

Any water abstraction will require authorisation from SEPA under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR).

The silage clamp will be regulated by way of the Silage, Slurry and Agricultural Fuel Oils Regulations.

The abstraction of water from the borehole will be regulated under the terms of General Binding Rules of the Water Environment (Controlled Activities) (Scotland) Regulations (CAR).

Details of regulatory requirements and good practice advice for the applicant can be found on the website at www.sepa.org.uk/planning.aspx

Supplementary checking surveys and appropriate mitigation for breeding birds will be required if habitat clearance is to commence during the breeding bird season.

NOTE 1

Mr Chris Litherland spoke against the application.

Mr Robert Gaston, applicant spoke in support of the application.

NOTE 2

The Planning and Building Standards Committee delegated to Officers from Development Standards and Environmental Health, and in consultation with the Chairman, the decision to determine the appropriateness of attaching a condition relating to the hours of use of the proposed development and to add such a condition if necessary.

15/00681/FUL

**Erection of 18 dwelling flats
and Associated parking**

**Land West of 24
Bowmont Street and Car
Park, Roxburgh Street,
Kelso**

Decision: APPROVED subject to a legal agreement addressing contribution towards play space provision and the following conditions:

1. The development hereby approved shall be carried out wholly in accordance with the amended plans received by the Council on 18 September 2015 and listed in the schedule of drawing numbers on this decision notice.

Reason: To ensure that the development is carried out as approved by the Local Planning Authority.

2. The development hereby approved shall only be carried out in strict accordance with a programme of phasing which has first been submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure that the development proceeds in an orderly manner.
3. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the buildings have been submitted to and approved in writing by the Local Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
4. Sample panels of the external wall finish to be prepared on site for prior approval by the Planning Authority.
Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
5. The roofing shall be natural slate.
Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.
6. No development shall commence until precise details of all windows have been submitted to and approved in writing by the local planning authority and thereafter no development shall take place except in strict accordance with the approved scheme. The details shall include material, colour, glazing, glazing pattern opening method and frame thickness.
Reason: For the avoidance of doubt and to ensure a satisfactory form of development, which contributes appropriately to its setting.
7. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
 - i. existing and finished ground levels in relation to a fixed datum preferably ordnance
 - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
 - iii. location and design, including materials, of walls, fences and gates
 - iv. soft and hard landscaping works
 - v. existing and proposed services such as cables, pipelines, sub-stations
 - vi. other artefacts and structures such as street furniture, play equipment
 - vii. A programme for completion and subsequent maintenance.
 Reason: To ensure the satisfactory form, layout and assimilation of the development.
8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.
Reason: To ensure that the proposed landscaping is carried out as approved.
9. 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.
10. The area allocated for parking on the amended plan numbered 2260 L(21)01 Rev D07 shall be properly consolidated, surfaced and drained before the buildings are occupied, and

thereafter shall be retained in perpetuity 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 public road network.

11. No development shall commence until detailed engineering drawings for the proposed footway crossing on Roxburgh Street have been submitted to and approved in writing by the local planning authority and thereafter no development shall take place except in strict accordance with the approved scheme.
Reason: In the interests of road safety.
12. The residential units hereby approved shall meet the definition of 'affordable housing' as set out in the adopted Scottish Borders Local Plan 2011 and accompanying supplementary planning guidance on affordable housing (January 2015) and shall only be occupied in accordance with arrangements (to include details of terms of occupation and period of availability) which shall first be submitted to and approved in writing by the local planning authority.
Reason: To ensure the properties hereby approved are retained for affordable housing.
13. No development shall take place pending the approval of an archaeology evaluation Data Structure Report, with the understanding that the evaluation of the development site commenced per an approved Written Scheme of Investigation prior to consent. The results and conclusions of the Data Structure Report will be assessed by the Council's Archaeology Officer. If archaeologically sensitive areas are identified no development shall not take place until the developer has secured the further implementation of a programme of archaeological work in accordance with an Addendum to the existing Written Scheme of Investigation which has been submitted by the developer, agreed by the Archaeology Officer and approved by the Planning Authority.
Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.
14. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. **No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.** The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-
 - a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council **prior to** addressing parts b, c, d, and, e of this condition. and thereafter;
 - b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
 - c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
 - d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
 - e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, **shall be required by the Developer before any development hereby approved commences**. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

15. No development shall commence 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 and thereafter no development shall take place except in strict accordance with the recommendations/findings of the report. The assessment should quantify the levels of pollutants likely to arise from the development, with reference to the Scottish Air Quality Objectives. The applicants should demonstrate that the proposed flue height is adequate to allow proper dispersal of the products of combustion.

Reason: In the interests of the amenity of the neighbouring properties, to protect the quality of air in the locality and to protect human health and wellbeing.

16. No development shall commence until a detailed Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority and thereafter no development shall take place except in strict accordance with those details.

Reason: To ensure that the development of the site proceeds in an effective and orderly manner.

17. No development shall commence 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.

18. No development shall commence until a scheme for sustainable urban drainage (SUDS) for 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.

Reason: To ensure adequate protection of the water environment from surface water runoff.

19. No development shall commence until precise details of both surface water and foul water drainage have been submitted to and approved in writing by the local planning authority, in consultation with Scottish Water. Thereafter, no development shall take place except in strict accordance with the approved scheme.

Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.

Informatives

1. The Control of Pollution Act 1974 allows the Council to set times during which work may be carried out and the methods used. The following are the recommended hours for noisy work:

Monday – Friday 0700 – 1900

Saturday 0700 – 1300

Sunday (Public Holidays) – no permitted work (except by prior notification to Scottish Borders Council).

2. Contractors will be expected to adhere to the noise control measures contained in British Standard 5228:2009 Code of practice for noise and vibration control on construction and open sites. For more information or to make a request to carry out works outside the above hours please contact an Environmental Health Officer.
3. A stopping up order through the Roads Planning Service of the Council is required for the two existing public car parks. All costs incurred in this process will be borne by the developer. The stopping up order must be confirmed prior to development commencing on site.
4. The developer will be responsible for removing all existing signage associated with the public car parks. These must be removed when use of the car parks cease.

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 NOVEMBER 2015

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 15/00774/PPP
OFFICER:	Stuart Herkes
WARD:	Mid Berwickshire
PROPOSAL:	Erection of dwellinghouse
SITE:	Land East Of Castle Heights, Hume
APPLICANT:	Mr Simon Bennett
AGENT:	Ferguson Planning

SITE DESCRIPTION AND PROPOSED DEVELOPMENT

This application seeks Planning Permission in Principle for one new dwellinghouse on agricultural land, immediately adjacent to the building group at Hume.

The site lies to the east of the residential property at 'Castle Heights'; to the northwest of the junction with the B6364; and to the west of the War Memorial.

PLANNING HISTORY

The site has no planning history.

'Castle Heights' to the west, was consented by a planning permission comprised of an outline 01/01452/OUT and reserved matters 02/01047/REM.

REPRESENTATION SUMMARY

Eighteen representations in objection (including one general comment in critical terms), have been received from fourteen separate households.

Eight representations of support have been received from five households.

The **eighteen representations in objection** cite the following concerns:

- **contrary to statutory development plan and emerging local development plan** in that the site is not, and is not proposed to be, an allocated housing site; it lies outwith the Development Boundary at Hume; and there is no overriding benefit to the community to be derived, to justify support under Policy G8;
- **out-of-keeping with the character and form of the building group;** development of the site would have an adverse impact upon the setting and sense of place at Hume;

- **over-dominance in views from the surrounding landscape**, including in views from the B6364 and Hume Castle; it would exaggerate existing adverse landscape and visual impacts relating to: (a) the wind turbines at Easter Howlaws, and (b) the existing two adjacent houses to the west of the site, which are already out-of-character with the remainder of the building group; inadequate screening;
- **road safety and public safety concerns**, particularly with respect to (a) impacts upon the bus stop used by local school children, (b) proximity to the junction with the B6364 road and (c) a dangerous S-bend in the same road; concerns are expressed that the bus stop and shelter would not be appropriately re-accommodated in any of the indicated alternative sitings; increased traffic;
- **negative impact upon setting of, and views from, Hume Castle**, a Scheduled Ancient Monument, which is classified by the Council as an iconic viewpoint; this would be diminished as a tourist and visitor attraction, with implications for the local economy, undermining current and on-going efforts to improve the overall visitor experience at Hume as a flagship tourist attraction in the area;
- **detrimental to residential amenity of ‘Castle Heights’;**
- **detrimental to the environment;**
- **loss of prime quality agricultural land;**
- **limited or no contribution to Hume as a place or community**, since there are no shops and few businesses and local amenities, that would be liable to benefit directly from the economic and/or social contributions of an additional household in the area; any such benefit would not outweigh the negative impacts;
- **adverse impact upon the setting of the War Memorial**, which should be retained as clearly separate from the Building Group, as originally intended at the time of the Memorial’s dedication; insensitive to setting and ambience of the memorial garden, and disrespectful to village’s war dead;
- **adverse impact upon views from the road junction**, where tourists and visitors take photographs of the ‘Hume’ sign and Castle in superimposition;
- **the scale and design of the building described by the indicative drawings, would be out-of-keeping with the building group**; and would contribute to adverse cumulative visual impacts with the two existing large houses;
- **difficulties in servicing** the new plot because access to existing services would require approval of neighbouring land owners;
- **not sustainable in terms of transport** (bus stop only serves local school service and not a public transport service); and
- **trees affected.**

The **eight representations in support**, where these identify specific reasons, cite the following reasons as the basis for their support:

- **development is in-keeping with the character and form of the building group;**
- **site is an appropriate opportunity to accommodate a new house at Hume;** and
- **a one-and-a-half storey home would help balance the appearance of the two existing larger dwellings to the west**, which are considered to be unsympathetic in their scale to the remainder of the building group.

Representations in both objection and support, observe that there would be a need to relocate the 30mph zone and bus stop and shelter.

APPLICANTS' SUPPORTING INFORMATION

In addition to indicative drawings describing a site layout and dwellinghouse, the Applicant also provided a Planning Statement at the time of the original submission.

Further supporting information has been submitted during the course of normal negotiation. This includes a revised site plan which, in response to advice from the planning officer, features provision for a landscaped area to the immediate east of the site.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Section: no objections in principle, however the proposed access as detailed on the site plan is unacceptable. It is overly-engineered, and needs to be significantly reduced in scale to a simple footway crossing, as detailed in the standard DC-10 drawing. The 30mph speed limit sign could then remain in its existing position. The position of the relocated bus shelter needs to be carefully considered in the interests of road safety. The Applicant has intimated three possible locations on the site plan. Option 1 is not suitable; somewhere between Option 2 and Option 3 would be much more acceptable. However, there has been an issue with the location of this bus shelter in the past, and it may be prudent to await the comments of the Community Council with regards to its preferred location.

Environmental Health Section: has been consulted, but has not responded to the public consultation.

Landscape Section: No objection

Outdoor Access Section: no objections. There are no known Core Paths/Promoted Paths/Rights of Way, directly affected by this proposal. However, Right of Way BB 137 utilises the pavement/road to the south of the site. A planning condition is sought to require that the aforementioned Right of Way be maintained open and free from obstruction in the course of development, to protect general rights of responsible access.

Education and Lifelong Learning: advises that a development contribution would be required towards local education provision.

Statutory Consultees

Greenlaw and Hume Community Council: is unanimously of the opinion that the application should be refused, for the following reasons:

- (1) the proposed location is outside the village boundaries as defined by the 30mph limit;
- (2) the design is significantly out of character with the rest of the village, including the two nearest houses (to which the Community Council is understood to have objected at the planning application stage);
- (3) if successful, the construction would increase the already significant risk of road traffic ingress and egress onto the main road;
- (4) the building would inappropriately encroach upon the War Memorial; and
- (5) the scenic impacts especially on the approach from Greenlaw are unacceptable.

Other Consultees

None

DEVELOPMENT PLAN POLICIES:

Consolidated Scottish Borders Local Plan 2011

D2: Housing in the Countryside
G1: Quality Standards for New Development
G5: Developer Contributions
G7: Infill Development
G8: Development Outwith Development Boundaries
H2: Protection of Residential Amenity
Inf4: Parking Provisions and Standards
Inf5: Waste Water Treatment Standards
Inf6: Sustainable Urban Drainage
NE3: Local Biodiversity
NE4: Trees, Woodlands and Hedgerows
NE5: Development Affecting the Water Environment
R1: Protection of Prime Quality Agricultural Land

OTHER PLANNING CONSIDERATIONS:

Scottish Borders Council Proposed Local Development Plan 2013

HD2: Housing in the Countryside
PMD4: Development Outwith Development Boundaries
PMD5: Infill Development

SPG: New Housing in the Borders Countryside, December 2008

SPG: Place-Making and Design, January 2010

SESPlan Strategic Development Plan 2013

NPPG 3

PAN 44: Fitting New Housing into the Landscape

PAN 72: Housing in the Countryside

KEY PLANNING ISSUES:

- Whether or not the proposal is consistent to the Council's adopted Housing in the Countryside Policy;
- Whether or not there are any material planning considerations - including any impacts upon the building group, Hume Castle, the War Memorial, and/or local landscape character – which make the development of this site unacceptable;
- How an appropriately sympathetic development might be achieved at this site – such as the provision of an appropriate landscaped boundary for the eastern edge of the site and building group; and
- Whether or not the appropriate resolution of any outstanding matters is reasonably capable of being appropriately secured by planning condition(s).

ASSESSMENT OF APPLICATION:

Although the application is supported by indicative site plans and elevation drawings, these details are not the subject of the application, which only seeks approval of the principle of a new dwellinghouse being accommodated at this site.

If approved, the specific and detailed design and siting of the dwellinghouse; and the specific and detailed access arrangements and landscaping of the site, would all require to be proposed within a subsequent application, or applications, for Approval of Matters specified in Conditions (the "AMC stage").

Planning Policy

Hume does not have a Development Boundary; nor are there any proposals for a Development Boundary to be established when the Proposed Local Development Plan is adopted. In planning policy terms, therefore, it is not a defined settlement, but a rural building group. No direct account can be taken of any boundary defined in relation to the 30mph limit. The latter has been defined in response to traffic management issues, and is not informed by, and does not inform, planning policy.

The proposed development is accordingly only appropriately assessed in relation to the Council's Housing in the Countryside Policy; specifically the policy and guidance relevant to proposals promoting the expansion of an existing rural building group.

Housing in the Countryside Policy permits appropriate expansion of building groups by no more than 30% or two new houses within any Local Plan period. The building group at Hume is capable in principle, of being augmented by one new dwellinghouse during the current Development Plan Period. (Only one new dwelling has received planning permission at Hume, in the period since February 2011).

The site itself is well-related to the existing building group. It would extend an existing row of houses towards the War Memorial and junction with the B6364, and is of an equivalent size to the two adjacent plots. It would thus be in keeping with the linear built form at Hume. Given the presence of an existing woodland area only a short distance to the east, it would not reasonably promote any wider development of adjacent land. The junction with the B class road at the eastern end of the building group would represent an appropriate natural end-point of the group.

It would involve the development of land within a field that has recently been used to accommodate new dwellings. The current eastern edge of the building group is defined only by a post-and-wire fence. The development of the site would not involve the removal of any existing strong or established boundary feature.

As objectors note, the site is prime quality agricultural land and the site is not allocated for development within the statutory development plan. Consolidated Local Plan Policy R1 requires that prime quality agricultural land should be conserved, unless development is essential to the implementation of the Development Strategy. The general requirement for the maintenance of an adequate supply of new housing land is enshrined within strategic level planning (now the SESPlan, and not the Scottish Borders Structure Plan it has superseded). The proposal therefore does not comply with Policy R1. However, it is material, firstly, that this is a small site, the loss of which would have no discernible impact upon the operation or viability of the farm; and secondly, that it would not set a precedent for any further development of the same field, subject to an appropriate landscaping treatment being achieved. Refusal of permission would be inconsistent with wider national and local planning policy, which seeks to encourage appropriate rural housing. A balance therefore needs to be struck between the two conflicting policy requirements. Although strictly contrary, the proposal is sufficiently small-scale that it would not result in the types of impacts Policy R1 has specifically been imposed to prevent. (The Applicant has advised in the agent's letter of 24 July that the specific area of land concerned is not considered to be of the best quality due to the thinness of the top soil and inclusion of stones).

Excepting only the potential loss of a relatively small area of prime quality agricultural land, the proposal otherwise complies in principle with Planning Policy, and in particular, with the Housing in the Countryside Policy and with the advice of the Housing in the Borders Countryside Supplementary Planning Guidance note. Taking account of this, and the above noted reasons with respect to scale and containment, it is considered that there are material considerations which justify the proposal being supported contrary to Policy R1.

Besides the principle, planning policy also requires that consideration be given to the impacts of the development upon the site or surrounding area. Policies D2 and G1 require that there should also be no unacceptable impacts as a consequence of any other aspects of the proposal.

Given that this application seeks Planning Permission in Principle only, most site-specific and detailed matters are capable of being addressed appropriately at the detailed application stage in accordance with standard planning conditions. However, some of the more significant aspects of the proposal – including many raised in representations – are considered in more detail below.

Design and Layout

Objectors have raised concerns with respect to the design, scale and siting of the dwelling shown in the indicative details submitted with the application. However, the purpose of the application is to establish the principle of a house at the site. It would not permit the design and layout of residential property shown to be implemented. There is therefore no direct requirement to consider this specific design and layout in any detail. It would be appropriate however, to provide guidance over a suitable form of development by means of informative, if Members consider this necessary.

Some objectors have suggested that the landscape setting of the site is sufficiently sensitive that the detailed design should be considered at this stage. Given that the site is neither within a Conservation Area nor within any other designated area of landscape, historical and/or ecological significance, there is no reasonable requirement for the Applicant to have made a detailed application at this stage. Accordingly, not having the details at this stage is not in itself reasonable grounds to refuse the current application.

Given that what is shown is comparable in its footprint and height to the two nearest existing properties, the indicated dwelling would not be out of scale with its surroundings. A traditional design approach, as is largely indicated, would also be in keeping with the character of surrounding properties and would be the appropriate form, given the relative prominence of the site. Some aspects of the detailed design would require revision or clarification, but it is not anticipated that what has been indicated would be liable to be considered unacceptable, in light of the more modern two-storey houses that already adjoin the site.

With respect to the siting of the dwellinghouse within the plot, this should occupy a building line equivalent to the adjacent property at 'Castle Heights' and should not be set any further back into the site than its neighbour.

Objectors, and even some supporters, consider the two existing dwellings adjacent to the site, to be out of scale with Hume. These dwellings are however now part of the existing built environment at Hume. As such, they provide the immediate context for the proposed house. A smaller dwelling might result in a discordant appearance within views from the wider landscape, and therefore something of similar scale to the existing neighbouring houses, may be preferable. It is however considered that landscaping also has a role to play in appropriately uniting such a property into the sense of place of the building group, and also in defining its edge.

Road Safety, Access and Parking

The Roads Planning Section has set out concerns with respect to the over-engineered design of the site access described on the Proposals Drawings. In addition to a reduction in scale, Roads Planning seeks the access's reconfiguration as a simple footway crossing. Given that this is a PPP application, the matter can be addressed by condition.

Roads Planning Officers are content that there would be no direct requirement to relocate the 30 mph sign were the site access to be redesigned as required. The introduction of a new dwelling may mean that there are other reasons to consider

whether or not the existing 30 mph restriction requires to be extended. However, in that event, this matter would be more appropriately addressed directly to the Council as Roads Authority for its consideration. It is not a matter that requires any further regulation within the determination of this application.

There are implications for the incorporation of a new site access into the existing road network, with respect to the operation of the nearby bus stop, which would require to be relocated, along with the existing shelter. However, Roads Planning is content that this can be achieved satisfactorily.

It would therefore be a reasonable requirement, secured by suspensive planning condition, that the Roads Authority should be given appropriate written notification ahead of time, with respect to the Applicant's intention to commence any on-site works. This would also ensure that there would be no requirement to relocate the bus shelter unless the requirement for such works were known to be absolutely necessary. The situation is likely to become clearer at the detailed stage.

Landscape and Visual Impacts

Planning Policy (specifically Policies D2 and G1) require that proposed residential development should not impact negatively upon the landscape, and should be compatible with, and respect the character of the surrounding area, neighbouring uses and neighbouring built form. Policy G1 further, seeks provision for appropriate boundary treatments to ensure attractive edges to new development, to help integrate it with its surroundings.

There is at present, no substantial landscaped edge, or other boundary feature, to the east of the building group at Hume. (According to the approved Proposals Drawings for 02/01047/REM, there were to have been areas of new tree-planting within the grounds of 'Castle Heights', along its eastern boundary. This was either not implemented, or not maintained. However, even if such planting had been realised as proposed, it would not have been a continuous belt of trees, as would have been expected and required of a robust boundary for the building group).

The eastern and northern boundaries of the site would lie adjacent to what is currently open field, and therefore in similar circumstances to 'Castle Heights' at present. Only a short distance to the east however, is the War Memorial. This is sheltered and defined by its own cincture of trees, which includes both newly planted and immature trees, and further to the east, a couple of notably much larger ones.

There is a need to consider how the development would be most sympathetically accommodated within this landscape setting and within the sense of place of the building group; as well as how it might be appropriately accommodated relative to the War Memorial, although this will remain separated from the site.

It is considered that this would be most effectively achieved, were the existing tree belt around the War Memorial to be extended westwards onto the Applicant's land. This would provide a logical, appropriately defined and robust sense of containment for the eastern edge of the building group. At present, this is not achieved by the post-and-wire fence boundary at 'Castle Heights'.

Accordingly, the Applicant has agreed to revise the site boundary to include the land immediately adjacent to the War Memorial for the purpose of accommodating an appropriate landscaped boundary treatment. This additional area of land is shown shaded in green on the Location Plan. The Applicant has agreed that this area will be reserved for the accommodation of boundary screening.

Conditions will require the planting and maintenance of new tree-planting on this land for the purpose of securing the extension and reinforcement of the existing tree belt. In this way, the landscaping of the site would adjoin and strengthen an existing landscape feature, rather than result in any disjointed or isolated areas of new planting at only a short distance from the existing shelter belt. As such, the landscaping associated with the proposal is an opportunity to ensure an appropriately robust finished edge to the site and eastern edge of the building group. It is also, simultaneously, an opportunity to reinforce the setting of the war memorial.

The detail of the landscaping at the site would be appropriately required and reviewed at the detailed stage. A tree survey would helpfully advise with respect to the state of the existing tree-planting within the memorial garden at the War Memorial. This would allow for an informed assessment to be made of how new tree-planting to the east might most effectively be configured to achieve a robust, sustainable and continuous area of tree-planting between the areas of existing and new planting. Secondly, some consideration also needs to be given to the treatment of the northern boundary, particularly the management of the transition from formal garden ground to the area of new tree-planting. The matter is reasonably deferred until the detailed stage, but a hedge of mixed species would be an ideal treatment in this context.

With respect to the southern (roadside) boundary, the Applicant has advised that the existing stone wall would be retained. This raises no concerns, and would be the preferred resolution of this boundary treatment.

Residential Amenity

Concerns with respect to the amenity of neighbouring properties are noted. There is currently no detailed proposal, and accordingly the impacts associated with any particular design cannot reasonably be assessed, let alone prejudged, at this stage.

The size of the plot is sufficiently large to allow for the accommodation of a dwellinghouse, in a relationship to the neighbouring property that would not in principle be liable to have any unacceptable impacts upon the existing property's amenity. It would however be reasonable to impose a condition to ensure that full details of the finished floor and ground levels should be supplied in support of the AMC application describing the siting and appearance of the dwellinghouse, and the layout and landscaping of the residential property.

Although it is given as a reason for objection, no account can reasonably be taken of the potential for disturbance to neighbours as a consequence of development works.

Cultural Heritage

Objectors have raised concerns with respect to the impact of the proposals upon the setting of the Scheduled Ancient Monument at Hume Castle. Notwithstanding the need

for the specific design to be reviewed at the detailed application stage, there are no concerns in principle that a dwelling on this land would at this distance be liable to have any unacceptable impacts upon the setting of the Castle, either in general or in the context of the existing buildings that lie between the castle and the site. There is, as noted above, a more general concern to ensure that the specific development would be sympathetic to the established sense of place at Hume, but this is appropriately addressed at the detailed design stage.

Concerns have also been raised with respect to the impacts of development upon the setting and interpretation of the War Memorial, which it is understood, was intended at the time of the Memorial's dedication, to be kept discrete from the buildings at Hume. However, the establishment of a more robust woodland area around the monument, and in between it and the proposed residential property, would appropriately conserve, and even reinforce, the discrete character of the Memorial and its setting. Whilst sympathetic to the justification for the historic justification for the position of the war memorial, it is unlikely that this would, in isolation, be a reason to refuse planning permission.

On balance, and subject to an appropriate landscaping treatment to the eastern edge of the building group being secured as part of the proposed development, it is considered that there are no strong landscape grounds for seeking to resist the infilling of the remainder of the southern section of the field that has not already been developed. The proposed development moreover, has some potential to improve upon the prevailing situation, even to benefit the setting and interpretation of the monument, by resolving its relationship to the building group into a landscape setting that appears robust, considered and intentional.

Natural Heritage

Although overgrown, the site is open agricultural land. It is not an environment considered to have any high ecological significance. The extension of tree planting westwards however, would have potential to contribute positively to local biodiversity through the conservation and extension of woodland habitat.

Servicing

Notwithstanding the concerns of neighbouring residential land owners, it is not anticipated that the servicing of the plot would be liable to present any insurmountable difficulties. These matters can therefore be regulated by standard planning conditions.

Developer Contributions

The Applicant is agreeable to the conclusion of a Section 69 Agreement to secure the development contribution towards local education provision.

Other Concerns

The Outdoor Access Section seeks a requirement by planning condition, that access along an existing Right of Way to the immediate south of the site, be maintained. However, it would be sufficient only to advise the Applicant by informative, of the presence of the Right of Way and its protection in law. As described, the Right of Way is

in any case, the wider public road and not the pavement. Therefore while works to the footway to create a new vehicular access, would clearly impact the most appropriate route for pedestrians along the Right of Way, such works would be of short duration and would not be liable at any point, to result in the complete obstruction of the public road, and therefore of the Right of Way. Accordingly, it is concluded that there is no unacceptable risk of the Right of Way being liable to be obstructed by development works; and therefore the matter would be appropriately and proportionately addressed by informative, rather than by planning condition.

Some objectors consider that the proposal would be insensitive or disrespectful to the War Memorial. This is ultimately a subjectively-held view, and not a planning concern. Given that there is no direct impact upon the Memorial, and given the potential for landscaping to ensure an appropriate 'buffer' between the proposed dwelling and the monument, it is not considered that there would be any unacceptable impacts upon the setting of the War Memorial in planning terms.

One of the objecting households, the owners of the neighbouring property at 'Castle Heights', advises that it was their understanding based on the advice of their previous neighbours to the west, that an assurance had been given by the Planning Department that 'Castle Heights' would be the last development in the village. The context of this advice is unknown and unverifiable. Furthermore, such an assurance could never be categorically guaranteed, given the potential for changes in policy and site circumstances. Accordingly, no weight can reasonably be given to this matter.

CONCLUSION

Subject to the imposition of planning conditions and informatives to address the above highlighted concerns, and to the conclusion of a legal agreement to secure the requisite development contributions towards local education provision, it is considered that the principle of this development is permissible.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to a legal agreement addressing contribution towards local education provision, 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 all first been submitted to, and approved in writing by, the Planning Authority. These details shall include provision for new tree planting within the area shaded green on the Approved Location Plan and shall also take full account of the requirements and considerations of **Informative Note 2**. Additionally, a written statement shall also be submitted in association with the first application for Approval of Matters specified in Conditions (AMC), which shall explain how the proposal has been informed by the requirements and considerations of **Informative Note 2**.

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. 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.
3. The finished floor level(s) of the dwellinghouse hereby approved and any associated outbuilding(s), and the finished ground level(s) within the curtilage of the residential property hereby consented, shall all be consistent with levels indicated on a scheme of details that shall first have been approved by the Planning Authority which describe the proposed siting, layout and appearance of the dwellinghouse and landscaping of the site. These details shall include:
 - (i) the proposed finished floor level(s) of the consented dwellinghouse and any associated outbuilding(s);
 - (ii) the existing and proposed ground levels within the curtilage of the consented residential property; and
 - (iii) a clearly identifiable datum point, or clearly identifiable datum points, located outwith the site and sufficient for the purpose of establishing the heights of the existing and proposed levels detailed in (i) and (ii) above, relative to the level(s) of the existing road surface.Reason: To ensure that the consented development does not have any detrimental impact upon the appearance, environment and amenity of the site and surrounding area, or upon the amenity of neighbouring properties, as a consequence of the levels within the site being raised to an inappropriate height.
4. Notwithstanding the detail submitted in support of the planning application, the site shall only be accessible to vehicles in accordance with arrangements that meet in full the requirements of **Planning Condition No 1** with respect to the design of the site access. The dwellinghouse hereby consented, shall not be occupied until:
 - (a) the site access from the public road, and
 - (b) on-site parking and turning provision suitable for at least two vehicles,have all first been completed in accordance with details that shall have been approved at the time of the determination of the first application for Approval of Matters specified in Conditions submitted to address the relevant information requirements of **Planning Condition No 1** attached to this planning permission.
Reason: In the interests of road safety to ensure that safe vehicular access to, and parking at, the site is available for use prior to the occupation of the development.
5. Unless otherwise agreed in writing and in advance by the Planning Authority, no development shall be commenced until the existing bus shelter (or a suitable replacement for this same structure), has first been relocated in accordance with a scheme of details that has first been agreed by the planning authority and made available for use by members of the public. Please see **Informative Note 3** with respect to what specifically is required and expected of the Developer for the purposes of ensuring that the above noted requirements are met.

Reason: To ensure that appropriate provision is made within the timetable of the development, to allow for the appropriate safeguarding, re-accommodation and maintenance by the Local Authority of essential public facilities.

6. Unless otherwise agreed in writing and in advance by the Planning Authority, all planting, seeding and turfing comprised in the approved details of landscaping shall be completed in the first planting and seeding seasons following either the occupation of the dwellinghouse or the completion of the development, whichever occurs soonest, and the tree belt required by **Planning Condition No 1**, shall thereafter be maintained in perpetuity, and in accordance with the approved details. Any tree within the approved landscaping scheme that fails, shall be replaced by one new tree of the same species as the failure, so that the tree belt is fully established and fully maintained in accordance with the approved details.

Reason: To ensure that the landscaping is carried out as approved, and to ensure that the tree belt becomes established, and is thereafter maintained in perpetuity, as a boundary feature appropriate to the definition of the edge of the building group.

7. Notwithstanding the details submitted in support of the planning application, the development shall not be commenced until precise details of:
 - (a) the arrangements for surface water drainage treatment;
 - (b) the arrangements for foul drainage treatment; and
 - (c) the arrangements for water supply,have all first been submitted to, and approved in writing by, the Planning Authority. Thereafter, the surface water drainage treatment, foul drainage treatment, and water supply shall all be implemented in accordance with the approved details and shall all be functional prior to the occupation of the dwellinghouse hereby approved.

Reason: To ensure that the site is adequately serviced and fit for habitation prior to its occupation.

8. Unless otherwise approved by the Planning Authority at the time of its determination of the details required by condition 1 of this permission, and notwithstanding either (a) the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 (or any subsequent provisions amending or re-enacting that Order), or (b) the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), no development shall thereafter take place within the area of the site that is described by the area shaded in green on the Approved Location Plan, unless an application for planning permission in that behalf, has first been submitted to and approved in writing by the Planning Authority.

Reason: To ensure that the tree belt required by **Planning Condition No 1** both becomes established and is thereafter maintained in perpetuity as a boundary feature appropriate to the definition of the edge of the building group.

Informatives

INFORMATIVE NOTE 1:

It should be noted that ALL information requirements identified in the planning conditions attached to this planning permission require to be made the subject of a subsequent application, or subsequent applications, for Approval of Matters specified in Conditions (AMC).

When making an AMC application to address the information requirements of the planning conditions attached to this planning consent, the Applicant should explicitly state the reference numbers of the relevant planning conditions being addressed.

In the event that the Applicant would seek to address the information requirements of ALL planning conditions attached to this planning permission within one AMC application, they must ensure that they supply information that fully and properly addresses ALL information requirements identified within ALL planning conditions.

INFORMATIVE NOTE 2:

With respect to the **design of the dwellinghouse**, and subject to an appropriate landscaping treatment, it is anticipated that the scale and traditional design approach described by the indicative drawings would raise no concerns in principle were these to be maintained at the detailed (AMC) application stage. However, it is considered that there would be a need to reduce the horizontal emphasis of the principal elevation, and to establish a clearer sense of a front entrance to the same. It is considered that the former point would be appropriately addressed, by lowering the roof height of one section, to introduce some notable differentiation between the height of the main dwellinghouse and that of a subordinate section. A front door should be included in a central position to ensure the inclusion of a clearly legible entrance to the property.

With respect to the **siting of the dwellinghouse**, this should occupy a building line equivalent to the adjacent property at 'Castle Heights'.

With respect to the design of the **site access**, the Roads Planning Section requires that this be reduced to a simple footway crossing, in accordance with its DC-10 specification. The site access arrangements should also be configured around the retention of the majority of the existing stone boundary wall along the southern boundary of the site. Where the vehicular access is inserted, the aforementioned wall would be appropriately returned into the site in alignment with the radii of the new site access, allowing that appropriate visibility splays are created and are thereafter capable of being maintained.

With respect to **the required tree belt to be established within the area shaded green on the Approved Location Plan**, this: (i) should be composed of a mix of native tree species; (ii) should be the full width and full length of the area shaded green on the Approved Location Plan, in order to constitute a sufficiently dense and robust area of planting. (This is particularly important if the density is equivalent to that of the existing planting around the War Memorial); and (iii) should not feature any buildings or other structures.

With respect to this and all other **landscaping details** at the site, full details of the proposed landscaping treatment for the site, including species, planting requirements (including density, minimum height of new trees and site appropriate protective measures) and maintenance requirements, require to be provided in support of the AMC application which describes the landscaping proposals for the site.

There is no formal requirement for a professionally prepared tree survey to be presented in support of landscape proposals at the AMC stage. However, in the event of the required tree-belt proposal being met in a proposal to extend the existing area of planting around the War Memorial further west onto the Applicant's land (as is the Planning Authority's preferred approach), it would be helpful to all parties if the condition of the existing planting at the War Memorial could be established. This would then allow for full consideration to be given to what would be required in order to establish effectively, an appropriately robust and sustainable area of tree-planting.

Consideration needs to be given within the landscaping proposals to the management of the transition along the northern (field) boundary, from the area of formal garden ground to the area of new tree-planting. It is considered that a hedge of native species would appropriately achieve this, and unite the residential property to its agricultural setting.

With respect to the southern (roadside) boundary, the indicated retention of the existing stone wall is supported.

INFORMATIVE NOTE 3:

With respect to **Planning Condition No 5**, and in the interests of road and public safety, appropriate arrangements for the relocation of the bus stop and bus shelter, require to have been implemented prior to the commencement of development on site.

Planning Condition No 5 has been imposed to ensure that the Developer works within a programme and timetable that reasonably allows for the Council to complete the works needed to maintain appropriate public facilities within the vicinity of the site, ahead of the commencement of a development that would otherwise be liable to impact the structures and/or operation of the public facilities concerned.

It is the Developer's responsibility to liaise with the Council within a reasonable period of time in advance of the intended start-date for the development, so that there is sufficient time to make all the necessary arrangements for the bus stop and shelter to be repositioned ahead of that start date, as required.

It is anticipated that a month's notice (4 weeks) would be required for this.

INFORMATIVE NOTE 4:

Right of Way BB 137 utilises the pavement/road to the south of the site. It is a legal requirement that this Right of Way is maintained open and free from obstruction during and after development. This is to protect general rights of responsible access.

DRAWING NUMBERS

Plan Ref	Plan Type
	Location Plan

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

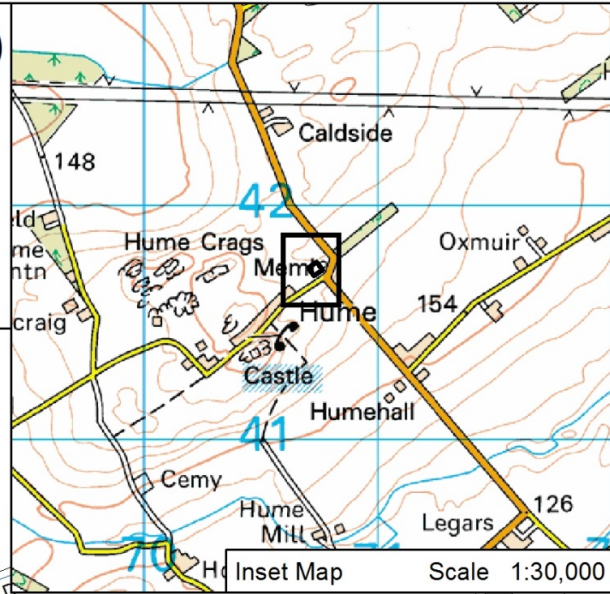
The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

Author(s)

Name	Designation
Stuart Herkes	Planning Officer



15/00774/PPP
Land East Of Castle Heights
Hume



Scale 1:1,500

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SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

2 NOVEMBER 2015

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 15/01071/FUL
OFFICER: Carlos Clarke
WARD: Lauderdale and Melrose
PROPOSAL: Erection of dwellinghouse without compliance with condition No 4 of planning permission in principle reference 14/00984/PPP
SITE: Garden Ground Of Viewbank Douglas Road Melrose
APPLICANT: Mr David Parkinson
AGENT: MH Planning Associates

SITE DESCRIPTION

The site comprises raised garden ground associated with the applicant's property (Viewbank) which fronts Douglas Road (to the south) in a position elevated above the application site's frontage onto Dundas Terrace (to the north). Dundas Terrace serves a total of 12 new and modern properties. The modern section of the road (i.e. the single lane section and turning head) was constructed in the late 1980s to serve seven new houses).

PROPOSED DEVELOPMENT

In April this year, Planning Permission in Principle was granted for the erection of one house on the site (14/00984/PPP). The consent was a renewal of a consent originally granted in 2008 (see history below) and renewed previously in 2011. The consent was subject to several conditions, one of which (Condition 4) requires two public parking (i.e. visitor parking) spaces and widening of Dundas Terrace (by 40cm over a 28 metre section of road verge). The full condition reads as follows:

No development shall commence until detailed proposals for the provision of two public parking spaces, including signage identifying them as 'public visitor parking', and the widening of Dundas Terrace (as identified on the indicative plan submitted in support of the application) and including details of any retaining walls required to support the same, have been submitted to and approved by the Planning Authority and the works have been carried out in accordance with the approved details. The public parking spaces shall at all times be signposted as 'public visitor parking' in accordance with the approved details

Reason: To ensure the road is capable of accommodating the additional traffic associated with the development and the site is adequately served by visitor parking spaces in the interests of road safety and neighbouring amenity

This application seeks consent for a house on this site without imposition of the condition.

PLANNING HISTORY

In 2008, application 06/02392/OUT was granted permission subject to a condition requiring two public parking spaces and the widening of Dundas Terrace. This same requirement for public parking spaces and widening of the road was also imposed on renewals of the consent granted in 2011 and 2015.

Permission was also granted for a house on the adjacent garden (of Blythe) in 2011 (08/00514/OUT) subject also to a requirement that the road be widened and an additional two public parking spaces be formed. That permission lapsed in January 2014. A previous application to develop the plot was refused by the Council in 1990 because of its visual impact. An appeal was submitted but was dismissed on grounds the proposal would be served by an unsatisfactory access road (i.e. Dundas Terrace).

REPRESENTATION SUMMARY

In response to this application, six letters of support (from five households) and five objections have been received. Of those in support, the key issues raised are, in summary:

- It would remove the need to intrude on the neighbouring property to widen Dundas Terrace and reduce the works required and so minimise disruption
- The condition does not comply with Circular 4/1998 and is, therefore, *ultra vires* because it is not reasonably and fairly related to the development. It requires off-site works that are not required or related to the development. The condition conflicts with Government advice. It does not meet the six tests.
- It is unreasonable to ask for public parking to be provided. Existing parking will not be compromised, and the existing turning head is unaffected. The development is not a commercial development or tourist attraction so there is no need for public parking. On-site parking would be provided in accordance with the Council's adopted policies and Dundas Terrace is satisfactory in terms of gradient, alignment and width to be able to serve a single additional dwelling without road and parking improvements
- To suggest it should be accessed from Douglas Road would be poor planning as it would represent back land development. Douglas Road is also of similar width, has a greater number of properties, is of steep gradient and poor visibility
- Objections to the development are based on planning issues already addressed as the principle of development has been accepted in the outline approval

Of those against, the key issues are, in summary:

- Previous objections to outline approval 14/00984/PPP (including land ownership information) should be referred to
- Dundas Terrace is already inadequate for the amount of traffic and is too narrow to support additional housing traffic. It is a very narrow road with no room for roadside parking or passing. A lack of space and traffic congestion will provide a safety risk to residents. This would increase traffic in an already congested street, where parking is already an issue.
- The 60 metre section of Dundas Terrace leading to the turning area is exactly 3m wide, and the turning area has enough space for one car. The rest of the road verge there is required for turning vehicles or adjacent a fire hydrant.

There is no room to pass at the cul-de-sac end and pavements are privately owned from The Croft to Dingleton Road which would not leave enough room to park on the street and still pass. There is no extra space for additional vehicles and, therefore, rules or guidelines applicable to average sized roads cannot be applied in this case.

- Lack of space and congestion is not just an inconvenience but there are safety considerations for service and emergency vehicles. Failure to provide extra parking will compromise existing residents' safety. Any increased building would need to provide parking for its own and any provision for guest vehicles.
- Construction traffic would need to be able to park on site to avoid total gridlock. The road would be totally unmanageable during construction with heavy vehicles and machinery and would severely jeopardise a Copper Beech tree subject to preservation order. Construction traffic would cause congestion and damage further the entrance to the road which is in bad repair at present.
- The drainage and water supply would require the road to be dug up stopping all residents reaching their homes as it is a single track road
- All previous conditions should apply and no building work start until the access road and parking bays are constructed as standard
- It would be perfectly reasonable to make the public parking plan (06/02392/OUT) a condition of development

APPLICANT'S SUPPORTING INFORMATION

A supporting letter submitted on behalf of the applicant outlines the principal objections to the imposition of Condition 4. A full copy can be viewed on *Public Access*. The applicant's principal reasoning is that the requirement is unrelated to the development, unnecessary and unreasonable and, therefore, it is beyond the lawful right of the Planning Authority to impose the condition. Local Plan Policy Inf4 requires only 2.25 spaces and, therefore, the spaces would meet a perceived need for general public parking which is unrelated to the development. Conditions must meet the six 'tests' of Circular 4/1998. This condition fails three of the tests i.e. of necessity; of relevance to the development being permitted; and of reasonableness in all other respects. An unreasonable condition does not become reasonable because an applicant suggests it or consents to its terms.

DEVELOPMENT PLAN POLICIES:

Consolidated Scottish Borders Local Plan 2011

G7 Infill Development
Inf4 Parking Provisions and Standards

OTHER PLANNING CONSIDERATIONS:

Circular 4/1998 The Use of Conditions in Planning Permissions
Circular 3/2013 (revised September 2015) Development Management Procedures

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: Note they have been consistently concerned with the parking and turning issues that would arise if a new house was built at this location. Since the initial application (Ref 06/02392/OUT) and subsequent renewal applications (11/00024/PPP and 14/00984/PPP) these concerns have been well documented. In all previously approved applications, the roads concerns have been suitably addressed by justifiably requiring the applicant to provide two public car parking spaces in the road verge immediately adjacent to the site. It is their view that Condition 4 which was included in 14/00984/PPP is necessary, and will be effective in reducing the parking and turning issues that will arise at this location. The RPS recommends this application be refused in the interests of road safety.

Statutory Consultees

Melrose Community Council: No comments

KEY PLANNING ISSUES:

The key issue is whether planning permission for one house on the site of consent 14/00984/PPP should be granted without Condition 4 which requires the widening of Dundas Terrace and provision of two dedicated public parking spaces.

ASSESSMENT OF APPLICATION:

Principle

This application is not an opportunity to revisit the principle of development. Outline permission has previously been granted, and renewed twice, and the latest permission remains extant. While concerns regarding construction traffic associated with the development and services are understandable, the principle of development has been accepted previously with the granting and renewal of the original consent. There is no new risk to the Copper Beech tree to consider here either. The access into the plot and arrangement of public parking spaces shown indicatively on the approved plan is not ideal, but it is necessary for this elevated site, and endorsed by the Roads Planning Service (RPS). A detailed application for the layout (which would be a reserved requirement of the PPP) would provide some opportunity for refinements.

The matter to be considered here is whether permission should be granted for a house on this site without the need to widen Dundas Terrace and provide two public visitor parking spaces, in addition to the private access and two parking spaces needed within the curtilage to serve the house itself. Determining this matter is guided by the six "tests" governing the competency of planning conditions (explained in Circular 4/1998 and outlined below). Compliance with the development plan is the principal consideration, with other material considerations to be accounted for where these justify a departure from the plan.

Enforceable, precise and relevant to planning

The condition is suspensive, requiring approval and provision of the parking before commencement of the approved development of the house. Whether all the land alongside the public road is owned by the applicant or not, the Roads Planning Service consider the affected roadside strip to be within adopted road verge and, therefore, capable of being improved to provide the parking without barrier by ownership. The condition is, therefore, enforceable. The condition is also considered to be precise in its requirements. It is relevant to planning since its purpose is to maintain road and pedestrian safety and these are material planning considerations.

Necessary, relevant to the development and reasonable in all other respects

These three tests effectively amount to the same issue i.e. whether it is reasonable and necessary for the applicant to be required to provide road widening and two public spaces to mitigate the impact of this development on road and pedestrian safety.

Policy Inf4 of the Consolidated Local Plan 2011 requires parking to serve the development and Appendix D applies parking standards that would require 2.25 spaces per house. Here, this would justify two parking spaces within the plot, and no requirement for public visitor parking. The condition is not necessary to secure compliance with Policy Inf4 when applying the Council's parking standards to a single house. It would, therefore, appear logical to argue that two public parking spaces would not be related to the development of a single house and, therefore, would not be a necessary or reasonable requirement.

However, Consolidated Local Plan Policy G7 that governs infill housing developments also requires that developments be served by adequate access. Thus, the access serving the site should be acceptable in terms of road and pedestrian safety.

In this case, the Appeal Reporter for development of the adjacent plot considered as long ago as 1991 that *"I find the objections relating to access to be on much stronger ground. For a recent development, I noted that some of the new houses on Dundas Terrace have remarkably awkward access arrangements, with no turning areas within sites, sharply angled driveways, and very limited parking within plots. It is evident that overspill parking at times restricts the width of the roadway or occupies the turning head of the cul-de-sac, and that vehicles have to reverse from driveways to the turning head or vice versa, because of the lack of turning space within the plots and the narrowness of the roadway which forbids three-point turns. In the light of the later comments from the Director of Roads, and on the necessary assumption that the indicative layout is the best that it has been possible to devise because of the constraints of the slope, I consider that the further complication of an already unsatisfactory access road by addition of a sub-standard access at the appeal site is a compelling objection to the project."*

It is not possible to speculate whether the current indicative access proposal (submitted under 14/00984/PPP) would have been more acceptable to the reporter. However, it is clear that the road itself appears to remain of low standard (even allowing for current relaxed approaches to street design). It is narrow for much of its length, with no scope for on-street parking on that section and a relatively informal arrangement of parking at the turning head (with potential obstruction to turning vehicles). The RPS, therefore, maintains their view that improvements to its width and parking provision are necessary to enable them to endorse a further house here.

Of note too, of course, is that another plot may also be developed given the principle of development on similar terms was also accepted on the adjacent garden of Blythe (though the permission requires to be renewed).

The road currently serves the existing houses adequately and no more. It would, ideally, be wider with more scope for clearly accessible on-street parking but it serves its purpose adequately at present. However, the RPS considers that, if more houses are to be built off it, the road must be brought up to a better standard in order to do that. The erection of an additional house (and quite possibly a second in due course) should not be endorsed off an access road that is not designed for additional traffic, particularly at the turning head end. Thus, widening of the road will ease vehicular and pedestrian movement a little, and additional visitor parking provision at this end of the road will bring the road up to a better standard in this regard. Only then would it be sensible (in the interests of road and pedestrian safety) to allow an additional dwellinghouse to be served off it.

In order, therefore, to comply with the Consolidated Local Plan Policy G7, the development requires adequate access and, in order to achieve that, it is necessary to improve this particularly constrained road in the manner required. This requirement is only necessary because of the additional house, as the road serves current housing adequately now. The condition is not, therefore, designed to remedy an existing problem but is designed to ensure the road is capable of safely accommodating any further traffic. It is therefore directly related to the consequences of the proposed development in this particular case.

However, in terms of the number of spaces required, there appears to be some scope for variation from the terms of the condition. If the first group of houses alongside the initial, wider section of the road (starting from the junction with Dingleton Road) avail of street parking there, this leaves seven houses reliant on the turning head for visitor parking, and this additional house would become the eighth. Applying the Local Plan's policy standard (0.25 spaces per house), this would firmly justify 2 spaces for the eight houses. Only one unmarked space currently exists, and this is not ideally located. This additional house would, therefore, justify a second space.

Even if the first one or two houses alongside the narrow section use the wider section of road for visitor parking, this would still leave the remaining 5 or 6 relying on the existing space at the turning head. Any overspill will impact on the turning head itself. This proposal would then increase that to 7 houses, and a house in the adjacent (currently lapsed plot) would bring the total to 8. This additional house would, by interpretation, still justify a further space in these circumstances, though it would not reasonably justify two additional spaces.

Any further house (in addition to the current application proposal) may justify the second additional space, however, to achieve a spread of parking better able to accommodate the cumulative number of houses in the street. A decision on that will, however, be for any prospective application for renewal of the consent on the adjacent plot.

Accounting for these considerations, it is considered that there is robust justification for improving the road under Condition 4 to serve an additional house, but that it would also be reasonable to lower the visitor parking requirement to one space. Also, depending on the final layout, there may not be a need to signpost the parking space, but rather identify it as publicly available by means of its surfacing finish and/or lining.

The wording of the condition can be adjusted to allow for this. The road widening should, however, remain a requirement.

Conclusion

Ultimately, it is considered that the condition meets the six tests of Circular 4/1998, but also that it is reasonable to reduce the required parking from two spaces to one. To grant consent without the imposition of the condition completely, however, would fail Consolidated Local Plan Policy G7. Without improvements, it would be unwise to endorse any further housing off this particular road. Any additional housing would be detrimental to road and pedestrian safety if the road is not improved to cater for it. There are no other material considerations that would justify a departure from this policy.

In granting this permission, all other conditions imposed on the planning consent need to be reimposed. This would also extend the time limit from the original permission but, as the extension would amount to only a matter of months, there is no significant planning implication from allowing a new three year period. This permission, if granted, would also need to be bound by a current Section 75 legal agreement covering developer contributions.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application be approved subject to Section 75 legal agreement (i.e. binding this consent to the current agreement) and the following conditions:

1. Approval of the details of the layout, siting, design and external appearance of the building(s), the means of access thereto, parking provision for two vehicles within the site and the landscaping of the site shall be obtained from 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. 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.

4. No development shall commence until detailed proposals for the provision of one public parking space, including measures identifying it as public visitor parking, and the widening of Dundas Terrace (as identified on the indicative plan submitted in support of the application 14/00984/PPP) and including details of any retaining walls required to support the same, have been submitted to and approved by the Planning Authority and until the works have been carried out in accordance with the approved details. The public parking space shall at all times be available as public visitor parking in accordance with the approved details

Reason: To ensure the road is capable of accommodating the additional traffic associated with the development and the site is adequately served by visitor parking provision in the interests of road and pedestrian safety and in a manner which safeguards neighbouring amenity

5. The vehicular access to the dwellinghouse and two parking spaces within the site shall be provided in accordance with the details approved under Condition 1 before any development commences on the erection of the dwellinghouse and retained free from obstruction thereafter

Reason: To ensure the site is adequately served by private parking spaces in the interests of road and pedestrian safety and neighbouring amenity during and after construction of the dwellinghouse

6. 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.

DRAWING NUMBERS

Location Plan

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

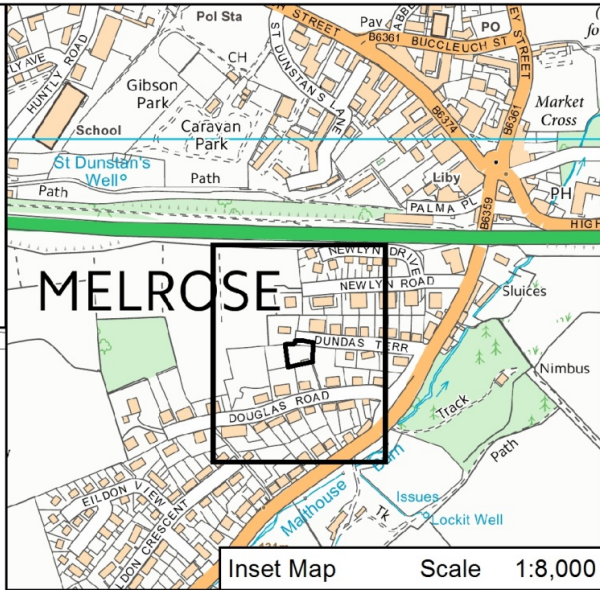
The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

Author(s)

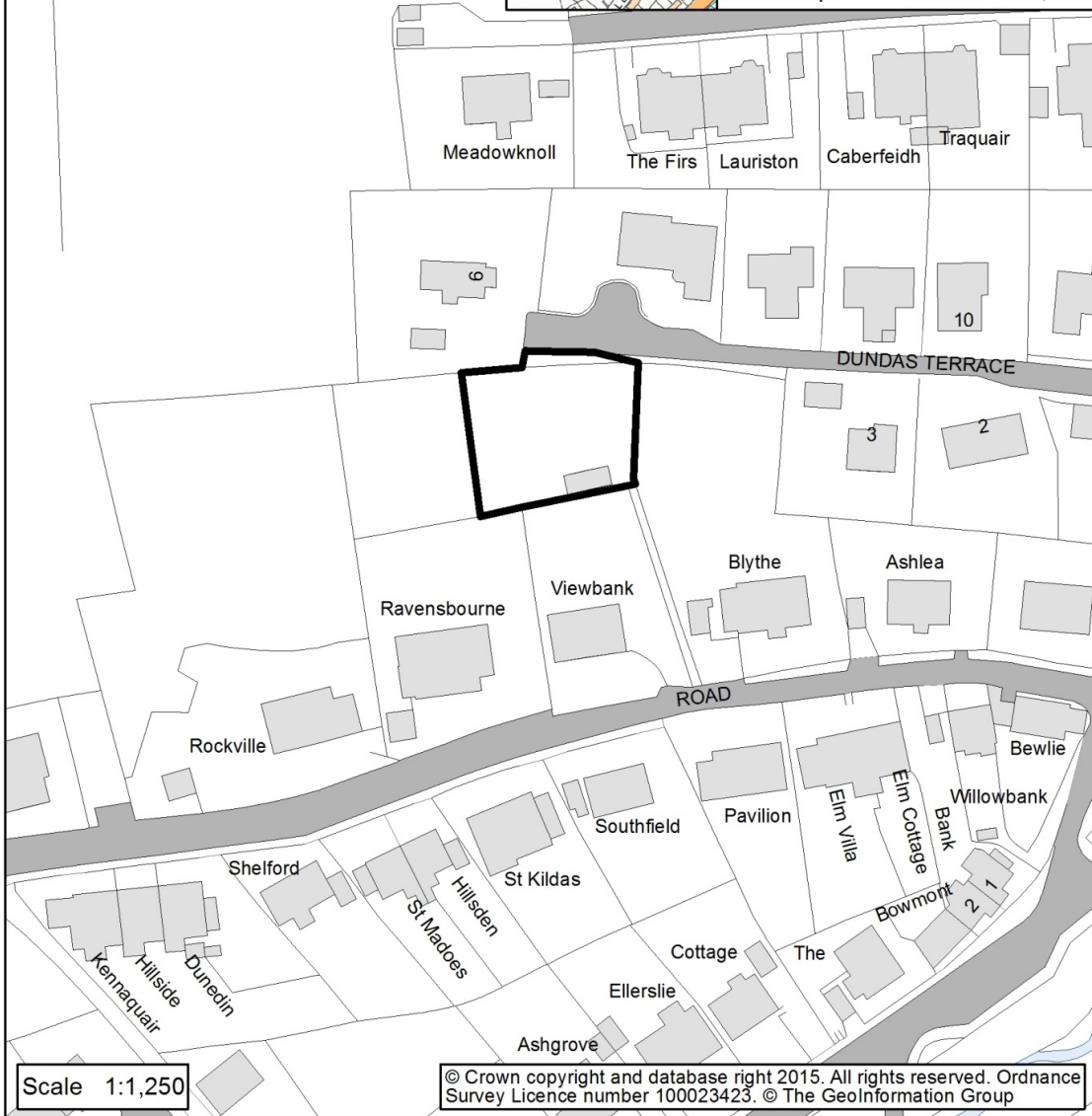
Name	Designation
Carlos Clarke	Lead Planning Officer



15/01071/FUL
Garden Ground Of Viewbank -
Douglas Road
Douglas Road
Melrose
Scottish Borders



Inset Map Scale 1:8,000



Scale 1:1,250

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PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

2nd November 2015

1 PURPOSE

- 1.1 The purpose of this briefing note is to give details of **Appeals** and **Local Reviews** which have been received and determined during the last month.

2 APPEALS RECEIVED

2.1 Planning Applications

- 2.1.1 Reference: 13/00789/FUL
Proposal: Wind farm development comprising of 9 No wind turbines and associated infrastructure/buildings/access (further revised scheme - tip heights of Turbines 1, 2 and 4 reduced to 110m - all others to remain at 125m)
Site: Land North East and North West of Farmhouse Braidlie (Windy Edge), Hawick
Appellant: Windy Edge Wind Farm Ltd

Reasons for Refusal: 1. The proposed development would be contrary to Policies G1 and D4 of the Scottish Borders 2011 Local Plan, in that the development would unacceptably harm the Borders landscape due to: (i) overwhelmingly adverse impacts on landscape character arising from placement of turbines and infrastructure on a sensitive and distinct landscape with grandeur, historical, remoteness and wilderness qualities, which can be observed and experienced from a range of public paths and recreational access areas; (ii) the introduction of an array of large commercial turbines into a locality which is significantly remote from main settlements and road networks and where no logical reference can be made to any other similar man-made interventions (including noticeable electrical infrastructure) or settlement, which is characterised by simplistic landforms with which the development does not harmonise; thereby the development would appear as an incongruous and anachronistic new item; and (iii) the introduction of a medium-sized commercial wind farm in an area which is presently free from wind farm development and which provides a spatial separation between areas occupied by wind farms in Borders. 2. The development conflicts with Policy D4 of the Consolidated Scottish Borders 2011 Local Plan, in that by virtue of its adverse impact on: (i) the ability of National Air Traffic Services to safely manage en route non-military air traffic due to impacts on the Great Dun Fell radar serving

Prestwick Airport; it would be incompatible with national objectives relating to protection of public safety at a UK level and the obligations set out in international treaties.

Grounds of Appeal: The proposed development accords with the Development Plan and can also draw support from other material considerations. The Appellant has two main Grounds of Appeal that relate directly to the issues set out within the Reasons for Refusal, which relate to Landscape impact of the proposed development on the Borders landscape and Aviation: impact on the ability of NATS to manage effects of the proposed development on Great Dun Fell radar. The Appellant states that the Appeal and the evidence submitted in support of it demonstrates that the landscape impacts of the proposed development will be acceptable and the Aviation impacts are capable of being mitigated and a solution is currently available. The Appellant and NATS are in the course of concluding a contract which will enable an agreed technical solution to be implemented.

Method of Appeal: Written Representations

2.2 Enforcements

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

Nil

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 21st October 2015. This relates to sites at:

<ul style="list-style-type: none">Land South East of Halmyre Mains Farmhouse (Hag Law), Romanno Bridge	<ul style="list-style-type: none">Land West of Muircleugh Farmhouse, Lauder
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5 REVIEW REQUESTS RECEIVED

5.1 Reference: 14/01282/FUL
Proposal: Change of use of land to form extension to existing holiday park
Site: Land South West of Northburn Caravan Park, Pocklaw Slap, Eyemouth
Appellant: Park Resorts Ltd

Reasons for Refusal: 1. The proposals would be contrary to policy H3 of the Consolidated Local Plan in that the proposed change of use of land would result in the loss of allocated housing land which is required to meet the housing land requirement for the Berwickshire Housing Market Area. 2. The proposal would be contrary Policy Inf3 of the Consolidated Local Plan in that the proposed development would give raise to road safety concerns with additional traffic to the park requiring to access residential streets rather than utilising the existing park entrance and access route.

5.2 Reference: 15/00601/FUL
Proposal: Replacement windows (retrospective)
Site: Tushielaw Inn, Ettrick Valley, Selkirk
Appellant: Donna Cornish

Reasons for Refusal: 1. The replacement windows do not comply with Local Plan Policy G1in that they are not of an appropriate design or style and do not complement the quality of the architecture of the historically important building. 2. The proposals do not comply with the Supplementary Planning Guidance on Replacement windows as they have not been replaced on a 'like for like' basis and the essential features which formed part of the historical character of the building have not been retained.

5.3 Reference: 15/00682/FUL
Proposal: Siting of portacabin for use as flour mill
Site: Land North West of Spruce House, Romano Bridge, West Linton
Appellant: Romanno Mains Renewables Ltd

Reason for Refusal: The proposal does not comply in principle with Adopted Local Plan Policy D1 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.

5.4 Reference: 15/00745/PPP
Proposal: Erection of dwellinghouse
Site: Land East of Park Lane, Croft Park, Croft Road, Kelso
Appellant: Mr James Hewit

Reason for Refusal: The proposal is contrary to Policies G1 and G7 of the Consolidated Scottish Borders Local Plan 2011in that the proposed dwellinghouse would result in an inappropriate form of infill development that is out of keeping with the character and amenity of the surrounding area to the detriment of the established residential character of the area. In addition, it has not been adequately demonstrated that a dwellinghouse can be accommodated on site without resulting in over development. The erection of a dwelling on this site would set an undesirable precedent which would not be compatible with, or respect, the neighbouring built form

6 REVIEWS DETERMINED

6.1 Reference: 15/00179/FUL

Proposal: Erection of wind turbine 34.4m high to tip and associated infrastructure
Site: Land South West of Clackmae Farmhouse, Earlston
Appellant: Mr Alex Wilson

Reason for Refusal: The development would fail to comply with Policies G1 and D4 of the Consolidated Local Plan 2011 as a result of its adverse landscape and visual effects, most specifically on the setting of Earlston and receptors within the village, due to its prominent positioning above the skyline when viewed from the east of the application site.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions)

6.2 Reference: 15/00403/FUL
Proposal: Erection of dwellinghouse
Site: Land South West Pyatshaw Schoolhouse, Lauder
Appellant: Mrs Paula Milanese

Reasons for Refusal: 1. The proposed development is contrary to Adopted Local Plan Policies D2, G1 and NE4, and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Place-Making and Design (January 2010), in that the proposal would in the short-term cause serious damage to, and promote the long-term loss of, the existing woodland resource at the site, which it is considered should be substantially retained due to its high landscape value and significant contribution to the character, sense of place and setting of the building group at Pyatshaw. 2. The proposed development is contrary to Adopted Local Plan Policies D2 and G1, and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Place-Making and Design (January 2010), in that the proposed design and layout of the residential property are not sympathetic to the woodland character of the site or to the sense of place and setting of the building group at Pyatshaw, in that (i) the site's existing woodland character would be overwhelmed by a prominently located and highly visible dwellinghouse, which as a consequence of its siting would be overly-dominant within views from the public road, and (ii) the front-and-centre positioning of the associated car parking area would be liable to project a particularly unsympathetic urban or suburban character in views from the public road.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions and a Section 75 Legal Agreement)

6.3 Reference: 15/00424/FUL
Proposal: Erection of dwellinghouse
Site: Land South of Riding Centre, Newlands, Sunnyside, Reston
Appellant: Messrs Morgan Partnership

Reason for Refusal: The proposal is contrary to policies G1 and D2 of the Consolidated Local Plan 2011, in that the proposed dwellinghouse would break into a previously undeveloped field outwith the natural

boundaries of the building group giving rise to an adverse visual impact on the setting, appearance and character of the building group.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions and a Section 75 Legal Agreement)

- 6.4 Reference: 15/00504/FUL
Proposal: External alterations and erection of 4 No flagpoles
Site: Office West Grove, Waverley Road, Melrose
Appellant: Rural Renaissance Ltd

Reasons for Refusal: 1. The proposed development is contrary to Adopted Local Plan Policy G1, in that the erection of the four no flagpoles, would not be compatible with, or respectful of, the character of the surrounding area and neighbouring built form. 2. The proposed development is contrary to Adopted Local Plan Policy BE4 in that the erection of the four no flagpoles would have an unacceptable adverse impact upon the character and appearance of the Conservation Area as a consequence of the unusual character of this aspect of the development; its siting immediately adjacent to the Conservation Area; and the high visibility of the site, which would mean that the aforementioned impacts would go unmitigated.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.5 Reference: 15/00511/FUL
Proposal: Erection of decking and balustrade
Site: 12 Todburn Way, Clovenfords, Galashiels
Appellant: Peter Smillie Esq

Reason for Refusal: The decking as constructed is contrary to Policies G1 and H2 of the Consolidated Scottish Borders Local Plan (2011) in that the decking leads to an unacceptable loss of privacy to habitable rooms and gardens of neighbouring dwellings on Lairburn Drive. Furthermore, the decking has an overbearing impact upon neighbouring dwellings and their garden ground, leading to significant loss of residential amenity

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions)

- 6.6 Reference: 15/00616/FUL
Proposal: Installation of 16 No solar photovoltaic (PV) panels to roof
Site: Raebank, Chapel Street, Selkirk
Appellant: Mr Gethin Chamberlain

Reason for Refusal: The proposed panels would have an unacceptable impact upon the character and appearance of the Selkirk Conservation Area as a result of their prominent siting and the scale of development. As such, the proposed development is considered to be contrary to policies G1, BE4, and D4 of the Consolidated Scottish Borders Local Plan 2011.

The benefits of the development do not outweigh these conflicts with the development plan

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

7 REVIEWS OUTSTANDING

7.1 There remained 1 review previously reported on which a decision was still awaited when this report was prepared on 21st October 2015. This relates to a site at:

- | | |
|---------------------------------------|---|
| • Plot A Chirnside Station, Chirnside | • |
|---------------------------------------|---|

Approved by

Ian Aikman
Chief Planning Officer

Signature

Author(s)

Name	Designation and Contact Number
Laura Wemyss	Administrative Assistant 01835 824000 Ext 5409

Background Papers: None.

Previous Minute Reference: None.

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

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