

SCOTTISH BORDERS COUNCIL PLANNING AND BUILDING STANDARDS

MINUTES of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held in Scottish Borders Council, Council Headquarters, Newtown St Boswells TD6 0SA on Monday, 7th December, 2015 at 10.00 am

Present: - Councillors R. Smith (Chairman), M. Ballantyne, J. Brown, J. Campbell, I. Gillespie, D. Moffat, S. Mountford, B. White.
Apologies:- Councillor J. Fullarton.
In Attendance:- Chief Planning Officer, Development Standards Manager, Principal Roads Planning Officer, Solicitor (G Nelson), Democratic Services Team Leader, Democratic Services Officer (F Henderson).

MINUTE

1. There had been circulated copies of the Minute of the Meeting held on 2 November 2015.

DECISION

APPROVED for signature by the Chairman.

APPLICATIONS

2. 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.

APPEALS AND REVIEWS

3. 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 three appeals outstanding in respect of:**
 - **Land South East of Halmyre Mains Farmhouse (Hag Law), Romanno Bridge**
 - **Land West of Muircleugh Farmhouse, Lauder**
 - **Land North East and North West of Farmhouse Braidlie (Windy Edge), Hawick;**
- (b) **a review request had been received in respect of the Installation of 2 No rooflights at Caroline Villa, Main Street, West Linton – 15/00662/FUL;**
- (c) **there were five Reviews outstanding in respect of the following:-**
 - **Plot A, Chirnside Station, Chirnside**
 - **Tushielaw Inn, Etrick Valley, Selkirk**
 - **Land East of Park Lane, Croft Park, Croft Road, Kelso**
 - **Land South West of Northburn Caravan Park, Pocklaw Slap, Eyemouth**
 - **Land North of Spruce House, Romano Bridge, West Linton.**

INDEPENDENT REVIEW OF PLANNING

4. There had been circulated copies of an information note by the Chief Planning Officers, which referred to the Scottish Governments' review of the planning system which was in the Governments programme for 2015/16. The report explained that the review was being undertaken by an independent panel, chaired by Crawford Beveridge (Chair of Council of Economic Advisors), and also including Petra Biberach (Planning Aid Scotland) and John Hamilton (Scottish Property Federation). The Panel's Brief was to take a strategic perspective of planning and to be open to 'game changing' views and ideas. The review focused on 6 keys issues – Development planning; Housing delivery; Planning for infrastructure; further improvements to development management; Leadership, resourcing an skills and Community engagement. A series of questions had been set by the Review Panel to stimulate discussion and these were contained in the information note at Paper 1. All written submissions were required by 1 December and in order to meet the tight deadline officers had prepared and submitted the response which was also contained in the note at Paper 2. It was noted that the Panel would be inviting oral evidence from certain stakeholders, however this would be invitation only and there was no guarantee that SBC would be able to make further representations. The Review aimed to conclude taking evidence by the end of January 2016 with the final report published by the end of March 2016. Following a full and thorough debate of each of the questions, Members endorsed the Chief Planning Officer's responses contained in the information note and made further supplementary observations for submission together with additional comments submitted by Councillor S Bell, which had been tabled at the meeting.

DECISION

AGREED to endorse the responses submitted by the Chief Planning Officer and to submit the supplementary observations which are contained in Appendix II to the Minute together with additional comments submitted by Councillor S Bell, contained in Appendix III.

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 Appendix IV 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

MINUTE

1. The Committee considered the private section of the Minute of 2 November 2015.

The meeting concluded at 1 p.m.

APPENDIX I

APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
15/00711/FUL and 15/00712/PPP	Residential Developments comprising a total of 16 dwellings (10 dwellings in full, 6 Dwellings in principle)	Land to East of Muselie Drive Lilliesleaf

PHASE 1 - 15/00711/FUL

Decision: APPROVED subject to a legal agreement addressing the identified development contributions and the following conditions and informatives

1. Except where varied by subsequent conditions, or subsequent confirmation in writing from the planning authority, the development hereby approved shall be carried out wholly in accordance with the amended plans references, 7249/2-0 ht-D5 revB; 7249/2-0 ht-A5 revA; 7249/2-0 ht-A4 revB; 7249/2-0 ht-A3 revB; 7249/2-03 J-OPT1-PH1SITE, and 7249/2-05 E.
Reason: To ensure that the development is carried out as approved by the Planning Authority.
2. A minimum of 4 of the dwellings 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 Planning Authority.
Reason: To ensure the properties hereby approved are retained for affordable housing, and that the requirements of adopted policy on Affordable Housing are met.
3. The existing mature lime tree central within the site is to be protected in accordance with a scheme of details first submitted to and approve in writing by the Planning Authority. This is to include provision for protective fencing, and to include arrangements to ensure construction plant, equipment, and materials are kept clear of the identified Root Protection Area.
Reason: To ensure suitable arrangements are made for the protection of the lime tree.
4. Further details of the means of construction, surfacing and material finish of all footway within the root protection area (RPA) of the mature lime tree are to be submitted to and approved in writing by the planning authority. Any excavations within the RPA are to be carried out by hand.
Reason: To ensure suitable arrangements are made for the protection of the lime tree.
5. 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.
6. 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.

7. The roofing shall be slate or artificial slate of a type first submitted to and approved in writing by the Planning Authority.

Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.

8. 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.

9. 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:

1. existing and finished ground levels in relation to a fixed datum preferably ordnance
2. existing landscaping features and vegetation to be retained and, in the case of damage, restored
3. location and design, including materials, of walls, fences and gates and other means of enclosure
4. soft and hard landscaping works, including details of planting, seeding and turfing, revised hedging along the eastern boundary where the site adjoins the Wellfield Driveway, and along the western boundary with 20 Muselie Drive.
5. existing and proposed services such as cables, pipelines, sub-stations
6. other artefacts and structures such as street furniture
7. A programme for completion and full details of the arrangements for Subsequent maintenance.
8. A scheme of details providing confirmation on existing and proposed site levels, relative to a known, fixed off site point. Thereafter the development is to be completed in accordance with the agreed details.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

10. 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.

11. No development shall commence until detailed engineering drawings and a further scheme of details for the proposed road, turning area, footway, shared surfaces, and drainage arrangements therein have been submitted to and approved in writing by the planning authority and thereafter no development shall take place except in strict accordance with the approved scheme. The scheme of details is to include:

1. Design to be altered to provide a shared surface layout beyond the narrowing of the carriageway opposite Unit 7.
2. Turning head to be amended to incorporate adequate radii or splays.
3. Amended drainage layout to be submitted which incorporates the revised road layout and removes the porous paving and cellular storage system from within the main carriageway.
4. Drainage calculations to be submitted for the surface water system.
5. Confirmation required that Scottish Water is content with the proposed drainage measures, including the diversion of the existing sewer.
6. Longitudinal profile for the centreline of the proposed road to be submitted for consideration.
7. Proposed road to be extended to the boundary of the site to allow potential future connection to Muselie Drive.
8. A phasing agreement for the road infrastructure is required to ensure adequate servicing of the site as houses become occupied. This relates in particular to ensuring appropriate turning provision is available for service vehicles.

Thereafter, the development is to be completed in accordance with the approved scheme of details, and the areas allocated for parking on the approved drawings shall be properly consolidated, surfaced and drained before the buildings are occupied, and shall not be used other than for the parking of vehicles in connection with the development hereby permitted. Reason: In the interests of road and pedestrian safety, both with the development, and on adjoining roads and footways.

12. Prior to the occupation of any dwelling hereby approved, the road link shown highlighted in blue on approved drawing 7249/2-03 N (and in any subsequent drawing approved by the planning authority superseding that plan) is to be made up to the site boundary with Muselie drive.
Reason: To ensure an adoptable road link to Muselie Drive remains achievable, in the interests of the proper planning of the development.
13. 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.
14. No development shall commence until a scheme for sustainable urban drainage (SUDS) for surface water treatment and foul water drainage 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 that satisfactory arrangements are made for the disposal of surface and foul water.
15. Prior to commencement of development the applicant must prepare and submit a report for approval by the Planning Authority that demonstrates the final development will comply with this condition. Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernable tonal component. Tonality shall be determined with reference to BS 7445-2. Any heat pump equipment shall thereafter be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the noise limits
Reason To protect the residential amenity of nearby properties.

16. 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 well-being.

17. Within twelve months of the end of the useful life of the solar panels hereby approved, all solar panels and ancillary equipment shall be dismantled and removed from the buildings and the roof of each building made good with matching roofing material to the remainder of the roof, or to other such condition as may be agreed in advance and in writing by the Planning Authority.
Reason: The anticipated design life of the solar panels is such that they are expected to have a limited life expectancy.

Informatives

1. Lighting - The installation should be designed in accordance with the guidance produced by The Institution of Lighting Engineers. If necessary, suitable shuttering should be provided for each lamp to prevent unwanted light affecting the occupiers of properties off site.

2. Construction Noise - 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

<i>Monday – Friday</i>	<i>0700 – 1900</i>
<i>Saturday</i>	<i>0700 – 1300</i>
<i>Sunday (Public Holidays) – no permitted work (except by prior notification to Scottish Borders Council.</i>	

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.

PHASE 2 - 15/00712/PPP

Decision: APPROVED subject to a legal agreement addressing the identified development contributions and the following conditions and informative:

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority. The submitted access details shall make provision for the minimum necessary size of opening in the wall with provision of a lintol above the opening, and include full details of how this shall be achieved, and how the remaining wall will be retained.
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. Parking and turning for two vehicles, excluding garages, must be provided within each plot before the dwellinghouse is occupied and retained in perpetuity.
Reason: In the interests of road safety.
4. Prior to the commencement of development, full details of the means of foul and surface water drainage, and of the means of water supply are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the agreed details, unless otherwise agreed in writing by the Planning Authority.
Reason: To maintain effective control over the development, and to ensure that the dwelling is suitably serviced.
5. No development shall take place until a road and footway has been completed to an adoptable standard, in accordance with a scheme of details that has first been submitted to and approved in writing by the planning authority, which shall form a vehicular and pedestrian link between the end of the adopted road in Muselie Drive and the application site.
Reason: To ensure a vehicular and pedestrian link to Muselie Drive is achieved, in the interests of community connectivity and the proper planning of the development

Informatives

1. Lighting - The installation should be designed in accordance with the guidance produced by The Institution of Lighting Engineers. If necessary, suitable shuttering should be provided for each lamp to prevent unwanted light affecting the occupiers of properties off site.
2. Construction Noise - 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).

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. Access link with Muselie Drive - With regards condition 5 on access to Muselie Drive, if the link to the adopted road cannot be provided beyond that to satisfy Phase 2, then the applicants would be free to apply to remove the condition on Phase 2. The Planning Authority would be able to conclude then whether the supporting case demonstrates the potential for the link has been investigated to its full extent.

Decision: APPROVED subject to the following conditions and informatives:

1. The occupation of all chalets shall be restricted to genuine holidaymakers for individual periods not exceeding 4 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.
Reason: A permanent residential site in this location would conflict with the established planning policy for this rural area.
2. No development to be commenced until further details of the chalet construction, connection into services, linking shelter roofs and retained mobility are submitted to, and approved by, the Planning Authority.
Reason: To ensure that the development complies with the legislation and regulations governing definition as “caravans”.
3. This development is approved only for the chalets as shown on the approved plans and not for any alternative style or design of units which, if proposed, should be submitted for the prior approval of the Planning Authority.
Reason: To safeguard the landscape and visual amenity of the area.
4. No development to be commenced until further details of the external materials of the walls, roofs, windows, decks and shelter roofs of the chalets are submitted to, and approved by, the Planning Authority.
Reason: To safeguard the landscape and visual amenity of the area.
5. The finished floor levels of the chalets should be as shown on the approved site plan 13029-001-C and there should be no development or alteration of ground levels below 139.55m AOD.
Reason: To safeguard the development from flood risk and maintain the functional flood plain.
6. All access and parking as shown on the approved site plan 13029-001-C to be completed in accordance with the plan before occupation of the first chalet, the visibility splays then to be maintained in perpetuity. However, before the works commence, further details of the parking surface material to be submitted for the approval of the Planning Authority, the space between the northern elevations of the chalets and the parking spaces to be increased to 6m.
Reason: In the interests of road safety.
7. No development to commence until further details are submitted of a foot/cycle path link between the development and the multi-use path running along the north-western side of the site. No chalet to be occupied until the approved path link has been completed. It should then be retained in perpetuity.
Reason: To provide connection between the development and the public path network.
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 chalets or the completion of the development, whichever is the sooner, and shall be maintained thereafter in perpetuity (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. Should a public water supply not be used, then no development is to commence until a report, by a suitably qualified person, has been submitted to and approved in writing by the Planning Authority, demonstrating the provision of an adequate water supply to the development in terms of quality, quantity and the impacts of this proposed supply on surrounding supplies or properties. The provisions of the approved report shall be implemented prior to the occupation of the chalets hereby approved.

Reason: To ensure that the development is adequately serviced with water without a detrimental effect on the water supplies of surrounding properties.

10. None of the chalets shall be occupied until works for the disposal of surface water and sewage have been provided on the site to serve the development hereby permitted in accordance with details to be submitted to and approved in writing by the Planning Authority, including the maintenance arrangements for the system.

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

Informatives

1. You are advised by the Fire Safety Enforcement Officer of the Scottish Fire and Rescue Service of the following:

The spacing between the cabins can be reduced to a distance of 3.5 metres if the following conditions are met:

1. As detailed on the drawing the adjacent cabin should have a solid wall with no openings and which will provide a minimum of 60 minute fire resistance,
2. Adequate automatic fire detection should be installed & maintained within each cabin (conforming with BS 5839 Part 6 LD2 i.e. bedrooms and open plan living area),
3. A fire blanket and 2kg dry powder extinguisher to be provided within each cabin (conforming with current British Standard)
4. An adequate means of raising the alarm of fire on the site.
5. Evacuation plan available and which is displayed at a prominent location within each cabin.

2. The Council Environmental Health Officer advises:

The applicant should confirm the means of heating of the cabins. If biomass is to be used the Applicants should provide evidence that this will not adversely impact on local air quality.

APPENDIX II

Ron Smith
*Executive Member for Planning & Environment
Chair of Planning Committee
Councillor for Hawick & Hermitage
Ellistrin, 6 Fenwick Park, Hawick TD9 9PA
Tel.: 0300 100 0220
E-mail: RSmith@scotborders.gov.uk*

Date: 9th December 2015

Dear Sirs

Independent Review of the Planning System

The Planning & Building Standards Committee considered the report by the Council's Chief Planning Officer on the Planning Review at its meeting on 7th December 2015. Following a full and thorough debate, Members endorsed the recommendations in the report and wished to make the following supplementary observations:

1. Development Planning

- The system needs to be simplified and to be responsive to local circumstances.
- There is a requirement for greater openness and transparency in Reporters' handling of Development Plan Examinations and for the ability for their findings to be responded to and challenged.
- Decisions on LDPs should be made at local level. There should be local responsibility and accountability.
- The proposal for automatic planning permission in final paragraph of response is endorsed.
- The Committee strongly agree with the proposal to allow Development Plans to be modified without fundamental review of the whole plan.

2. Housing Delivery

- This is a complex supply and demand issue, linked to market conditions.
- Greater focus should be placed on the re-use of empty flats above shops and developing brown field sites to revitalise town centres.
- The market price of housing is an important factor in delivery.
- People will only live somewhere if there are jobs – housing supply must be linked to economic development and infrastructure investment.
- Homes for older population needs to be provided and to be in proximity to services
- Housing delivery can only be achieved by ensuring costs to developers are proportionate.
- Affordable Housing – needs to be affordable to rent not just to buy because of low wages in the Scottish Borders.

3. Planning for Infrastructure

- There is a growing problem of development contributions being challenged with greater risk to authorities' advance funding of infrastructure.

- There is a need to look at local taxation, as currently we are seeking developer contributions for new development, but no contribution from older properties. For example, railway contributions are sought on individual new houses but not from the wider community which benefits.
- Government definitely has a role to play in directing and funding infrastructure investment
- There is concern that central belt would dominate a central Infrastructure Fund and that rural authorities would lose out.
- We need to look at local taxation and apply a degree of common sense and flexibility on what we require.
- We need local taxation to funds roads and bridges - at present only 10% of road tax is spent on roads.

4. Development Management

- Cost of Wind-farm applications and appeals are in excess of the planning fees received. This places a significant financial and administrative burden on Councils.
- Planning fees should be paid upfront as a staged fee system was considered overly complex
- Permitted development rights should be extended for a range of development types, not just for householder developments.
- Planning fees (paid in advance) should relate to amount of work likely to be done with a subsequent rebate or request for an additional fee being made at a later stage if appropriate.
- Charges for pre-application discussion, which is common place in England, could be considered although it could deter applications.
- Endorsed the need to review 'meaningful start' provisions.

5. Leadership, Resourcing and Skills

- Secondment opportunities with private businesses should be investigated for planners.

6. Community Engagement

- Reiterate concerns that changes to LDP made by Reporters, where there is no power for Local Authority to challenge, can undermine community aspirations and the public engagement achieved in developing the Plan.
- Acknowledge that there are problems with Community Engagement in the Borders, although many rural Community Councils are good at fostering Community Engagement.
- There is frequently conflict between local, democratic, views and policy or legal issues.
- Not enough attention is paid by Community Councils to LDP.

Yours faithfully

Councillor Ron Smith
 Executive Member for Planning & Environment
 Chair of Planning Committee
 Councillor for Hawick & Hermitage

APPENDIX III

Response from Cllr Stuart Bell Executive Member for Economic Development, Scottish Borders Council

**Email presented to the Planning & Building Standards Committee 7th December
2015**

Your Committee might, in light of the discussions at Friday's meeting, be minded to elaborate on the submission in its first section (pages 6 & 7) on Development Planning by including a more general commentary on the way in which the burgeoning use of Reporters to examine not only Development Plans but also many 'called-in' Planning Application contributes to an undermining of the trust of the General Public in the whole planning process. Reporters are at times not seen to be consistent in their consideration of and conclusions on issues; nor trusted to understand the detail of the local flavour and local issues which are as much a part of planning as National Policies. Moreover there is a potential further undermining of public trust in that in an effort to save time and expenditure in such examinations there is a decreasing use of the available forms of public enquiry as a result there is less engagement by Reporters with the public with the result that their decisions are seen to be even more arbitrary. It is an essential precept of Justice that it must not only be done it must be seen to be done; the same precept should apply to Reporter's examinations of Development Plans and Planning Applications.

I hope this helps....

I have not the time this evening/morning to rummage through my papers to find the exact reference to those 2 paragraphs in the relevant Act which almost directly contradict each other in defining the admissibility and inadmissibility of new evidence at Planning Appeals... time and again we struggled with the interpretation of these at Local Review Body. Nuala will know the reference straight off. I understand from conversations with MSPs that this nonsense was a result of changes which came to find their way into law during the amendment stages of Holyrood's consideration of the Act. It would be silly to miss the opportunity of highlighting the contradiction and asking for this to be tidied up