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## PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 6TH FEBRUARY, 2017

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, 6TH FEBRUARY, 2017 at 10.00 AM

J. J. WILKINSON,  
Clerk to the Council,

30 January 2017

<b>BUSINESS</b>	
1.	<b>Apologies for Absence.</b>
2.	<b>Order of Business.</b>
3.	<b>Declarations of Interest.</b>
4.	<b>Minute.</b> (Pages 1 - 8)  Minute of Meeting of 9 January 2017 to be approved and signed by the Chairman. (Copy attached.)
5.	<b>Applications.</b>  Consider the following application for planning permission:-
	(a) <b>Land South and West of Wellnage House, Duns - 16/01061/FUL</b> (Pages 9 - 24) Erection of four dwellinghouses, access, landscaping and associated infrastructure works. (Copy attached.)
	(b) <b>Garden ground of the Stables, Bonnington Road, Peebles - 16/01239/FUL</b> (Pages 25 - 40) Erection of dwellinghouse on garden ground of the Stables, Bonnington Road, Peebles. (Copy attached.)
	(c) <b>Glentress Lodge, Eshiels, Peebles - 16/01442/MOD75</b> (Pages 41 - 44) Modification of planning obligation pursuant to planning permission 06/00769/FUL. (Copy attached.)
6.	<b>Appeals and Reviews.</b> (Pages 45 - 48)  Consider report by Service Director Regulatory Services. (Copy attached.)
7.	<b>Any Other Items Previously Circulated.</b>

8.	<b>Any Other Items which the Chairman Decides are Urgent.</b>
9.	<p><b>Items Likely to be Taken in Private</b></p> <p>Before proceeding with the private business, the following motion should be approved:-</p> <p>“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.”</p>
10.	<p><b>Defective Roof Covering, Rainwater Goods and Dry Rot at 2 High Street and 12 Market Place, Jedburgh (Pages 49 - 62)</b></p> <p>Report by Chief Planning Officer. (Copy attached.)</p>

**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

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**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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Please direct any enquiries to Fiona Henderson 01835 826502  
fhenderson@scotborders.gov.uk

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**SCOTTISH BORDERS COUNCIL**  
**PLANNING AND BUILDING STANDARDS COMMITTEE**

MINUTE of MEETING of the PLANNING AND  
BUILDING STANDARDS COMMITTEE held  
in the Council Headquarters, Newtown St.  
Boswells on 9 January 2017 at 10.00 a.m.  
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Present: - Councillors R. Smith (Chairman), M. Ballantyne, J. Brown, J. Campbell, I. Gillespie, D. Moffat, S. Mountford, B. White.  
Absent:- Councillor J. Fullarton.  
In Attendance:- Chief Planning Officer, Principal Roads Planning Officer, Solicitor (Ron Kirk), Democratic Services Team Leader, Democratic Services Officer (F Henderson).

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 5 December 2016.

**DECISION**

**APPROVED for signature by the Chairman.**

2. **APPLICATIONS**

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 application as detailed in the Appendix to this Minute.**

3. **APPEALS AND REVIEWS**

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 one appeal outstanding in respect of Land North West of Whitmuir Hall, Selkirk.**
- (b) **a review request had been received in respect of the Erection of poultry cold store/hay store at Field No 0328 Kirkburn, Cardrona - 16/01114/FUL.**
- (c) **the Local Review Body had upheld the Appointed Officers decision to refuse the erection of poultry cold store/hay store at Field No 0328 Kirkburn, Cardrona - 16/01114/FUL.**
- (d) **there remained one review outstanding in respect of North West of 4 Rink Farm Cottages, Galashiels**
- (e) **there remained one Section 36 PLI outstanding in respect of Whitebrae Wind Farm), land South East of Glenbreck House, Tweedsmuir.**

*The meeting concluded at 12.50 p.m.*

## APPENDIX I

### APPLICATIONS FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
16/01061/FUL	Erection of four dwellinghouses, access landscaping and associated infrastructure works	Land South and West of Wellnage House, Duns

Decision: Continued to the next available meeting of the Planning and Building Standards Committee to enable a site visit to be held.

#### VOTE

*Councillor Moffat, seconded by Councillor Campbell moved that a site visit be arranged prior to a decision being taken on the application.*

*On a show of hands Members voted as follows:-*

*For - 4 votes*

*Against - 4 votes*

*There being an equality of votes, the Chairman exercised his casting vote in favour of holding a site visit. It was accordingly decided that a site visit be held.*

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
16/00243/PPP	Erection of two Dwellinghouses	Land East of Langbank Cottage, Swinton

Decision: APPROVED subject to the following conditions, legal agreement for developer contributions and informatives:

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:

(a) the expiration of three years from the date of this permission, or

(b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

5. The first application for the approval of matters specified in conditions pursuant to this decision shall be accompanied by a detailed design statement for the dwellings hereby approved.  
Reason: To ensure a satisfactory form of development appropriate to its setting.
6. The finished floor levels of the building(s) hereby permitted shall be consistent with those indicated on a scheme of details which shall first have been submitted to and approved in writing by the Local Planning Authority. Such details shall indicate the existing and proposed levels throughout the application site.  
Reason: To ensure that the proposed dwellings are not at risk from surface water flooding issues and to avoid ponding against the proposed buildings.
7. No development shall commence until detailed proposals for flooding mitigation measures from the nearby water course, including SUDS, are 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 order to prevent any increase in surface water flood risk to North Lodge.
8. The development hereby approved shall be constructed of natural slate on the roof only. Any alternative roofing materials shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site.  
Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.
9. No development shall commence until precise details of both surface water and foul water drainage, as well as details of the water supply, have been submitted to and approved by the local planning authority.  
Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water and to ensure the site is adequately serviced with water without a detrimental effect on the water supplies of existing properties.
10. No development shall commence until details of all proposed means of enclosure shall be submitted to and approved in writing by the Local Planning.  
Reason: To enable the proper effective assimilation of the development into its wider surroundings.
11. The vehicular access to the site to be formed to approved specification DC-6 (copy attached to this decision) or alternatively DC-2 (a copy of which is attached to this decision). The access shall incorporate a service lay-by.  
Reason: In the interests of road safety and to ensure a satisfactory form of development.
12. No development shall commence on the dwellings hereby approved until one passing place per unit is formed on the minor public road leading to the site. The passing places shall be formed to approved specification DC-1 (attached), at locations which shall first be agreed on site with the local planning authority.  
Reason: In the interests of road safety.
13. No development shall commence until a pre-construction condition survey of the minor public road leading to the site has been carried out and the results lodged with the local planning authority. A post-construction condition survey shall also be carried out within 3 calendar months of the occupation of the dwellings hereby approved, the results of which shall be lodged with the local planning authority.  
Reason: To ensure the condition of the road is monitored before and after construction.

14. Two parking spaces shall be provided within the boundary of each plot before the dwellings hereby approved are occupied. The parking shall be properly consolidated and maintained in perpetuity thereafter.

Reason: To ensure that parking is provided clear of the public road.

### **Informatives**

1. The SEPA Flood Maps have been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km<sup>2</sup> using a Digital Terrain Model (DTM) to define river corridors and low-lying coastal land. The maps are indicative and designed to be used as a strategic tool to assess, flood risk at the community level and to support planning policy and flood risk management in Scotland. For further information please visit <http://www.sepa.org.uk/environment/water/flooding/flood-maps/>. Please note that SEPA are reliant on the accuracy and completeness of any information supplied by the applicant in undertaking our review, and can take no responsibility for incorrect data or interpretation made by the authors.
2. The advice contained in this letter is supplied to you by SEPA in terms of Section 72 (1) of the Flood Risk Management (Scotland) Act 2009 on the basis of information held by SEPA as at the date hereof. It is intended as advice solely to Scottish Borders Council as Planning Authority in terms of the said Section 72 (1). Our briefing note entitled: "Flood Risk Management (Scotland) Act 2009: Flood risk advice to planning authorities" outlines the transitional changes to the basis of our advice in line with the phases of this legislation and can be downloaded from <http://www.sepa.org.uk/environment/land/planning/guidance-and-advice-notes/>.
3. Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office at:  
SEPA Galashiels, Burnbrae, Mossilee Road, Galashiels, Borders, TD1 1NF, Tel – 01896 754797.

### VOTE

*Councillor Gillespie, seconded by Councillor Campbell moved that a site visit be arranged prior to a decision being taken on the application.*

*On a show of hands Members voted as follows:-*

*For - 2 votes*

*Against - 6 votes*

*It was accordingly decided that no site visit be held.*

### NOTE

Mr Hugh Garrett, applicant spoke in support of the application.

### Reference

16/01223/FUL

### Nature of Development

Erection of dwellinghouse and double garage

### Location

Land North West of The Sidings, Lye Road, Darnick

Decision: APPROVED subject to the following conditions, legal agreement for developer contributions and informatives:

1. Notwithstanding the references on plan AL\_0\_101G no development shall commence until a detailed plan and specifications for improvement works to Lye Road, incorporating resurfacing and new lighting along its length between the site entrance and junction of the road to the east (adjacent Fullarton), have been

submitted to and approved by the Planning Authority. The works shall be carried out in accordance with the approved plan and specifications and shall be implemented prior to occupancy of the dwellinghouse

Reason: A detailed scheme of improvements to Lye Road is required in order to ensure the road is capable of serving additional traffic generated by the construction and use of the dwellinghouse, and in a manner which minimises impacts on existing users of the road during the works, maintains residential amenity and minimises visual impacts, including potential effects on existing trees

2. No development shall commence until written evidence is provided on behalf of Scottish Water to confirm that mains water and foul drainage connections shall be made available to serve the development, and until a surface water drainage scheme has been submitted to and approved by the Planning Authority. Mains services and approved surface water drainage measures shall be operational prior to occupancy of the dwellinghouse

Reason: To ensure the development can be adequately serviced

3. No development shall commence until a scheme to identify and assess potential contamination on site, in addition to measures for its treatment/removal, validation and monitoring, and a timescale for implementation of the same, has been submitted to and approved by the Planning Authority. Once approved, the development shall only proceed in accordance with the approved scheme

Reason: To ensure that potential contamination within the site has been assessed and treated and that the treatment has been validated and monitored in a manner which ensures the site is appropriate for the approved development.

4. No development shall commence until a schedule (including samples where required by the Planning Authority) of the external materials, finishes and colours of the house, garage and hard surfacing has been submitted to and approved by the Planning Authority. The development shall be completed using the approved schedule of materials, finishes and colours

Reason: The materials and colours specified in the application plans and drawings require further consideration to ensure they are visually sympathetic to the context

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

- i. location and detailed schedule of new trees, shrubs, hedges and grassed areas, incorporating those proposals identified on the approved site plan, and additional planting and landscaping,
- ii. design details of boundary fencing specified on the site plan
- iii. a 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

6. The area allocated for parking and turning on the approved site plan shall be properly consolidated, surfaced and drained before the dwellinghouse is occupied, and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: To ensure there is adequate space within the site for the parking and turning of vehicles

7. Before development commences, protective fencing (of a specification compliant with BS5837:12) shall be erected along the route identified on the approved site plan AL\_0\_101G and shall not be removed until all construction works are complete. There shall be no works (including utilities) or storage undertaken within the protected area unless agreed in writing with the Planning Authority. Following

completion of the development, trees and hedges within the site shall be retained and shall not be removed, lopped or otherwise disturbed without the prior approval of the Planning Authority

Reason: To protect and retain trees and hedges that will assist with the visual integration of the development with its surroundings

#### Information for the applicant

Solid fuel heating installations can cause smoke and odour complaints and Planning Permission for this development does not indemnify the applicant in respect of nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted Planning Permission. It is recommended, therefore, that:

- the flue should be terminated with a cap that encourages a high gas efflux velocity.
- the flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.
- the appliance should only burn fuel of a type and grade that is recommended by the manufacturer.
- if you live in a Smoke Control Area you must only use an Exempt Appliance. <http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is approved for use in it <http://smokecontrol.defra.gov.uk/fuels.php?country=s> .
- in wood burning stoves you should only burn dry, seasoned timber. Guidance is available on [http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuel-woodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuel-woodasfuelguide.pdf)
- treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel. Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
16/00865/FUL	Part change of use of dwellinghouse And garden ground to wedding venue and erection of Tee-pees	Hartree House Scottish Borders

Decision: APPROVED with delegated powers granted to the Chief Planning Officer in conjunction with the chairman to revise suggested conditions to address requirements of the P&BS Committee and subject to the following conditions:

1. The part change of use to a wedding venue hereby approved shall be for a limited period of two years from the date on the consent  
Reason: To enable the Local Planning Authority to review the matter at the end of a limited period
2. No development shall take place until a scheme of mitigation for noise, arising from wedding events, has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - How background noise levels shall be assessed in accordance with the recommendations contained within the Noise Council Code of Practice on Environmental Noise Control at Concerts (the Code of Practice).
  - Details of how noise levels arising from weddings shall be assessed in accordance with the recommendations contained in the Noise Council Code of Practice on Environmental Noise Control at Concerts (the Code of Practice).
  - Noise levels arising from weddings shall not exceed the limits set out in Section 3 of the Code of Practice.



- Details of how the sound system shall be operated and monitored  
Reason: to ensure that the residential amenity of the nearby residential properties is maintained.
3. No development shall take place until the background noise assessment as set out in the noise mitigation scheme has been submitted to and approved in writing by the planning authority.  
Reason: to ensure that the residential amenity of the nearby residential properties is maintained.
  4. No music either amplified or otherwise and no amplified speeches shall be played after midnight on the day of each wedding event.  
Reason: To protect the residential amenity of local residents.
  5. No other sound system shall be used for music or speeches other than the system approved under condition 2 above.  
Reason: To protect the residential amenity of local residents.
  6. Maximum of 15 wedding events per calendar year.  
Reason: To protect the residential amenity of local residents.
  7. No more than two wedding events within one calendar month without the prior approval of the planning authority  
Reason: To protect the residential amenity of local residents
  8. No development shall take place until a traffic management plan has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
    - Details of traffic agreements to be adopted during the set up phase, the wedding event and the clearance of the site.
    - Confirmation that all vehicular traffic associated with the wedding event shall use the main entrance only.
 Reason: to ensure that additional traffic does not go through a small residential area in the interests of road safety and that emergency vehicles have access to the site at all times.
  9. The part change of use to a wedding venue hereby approved shall be operated in strict accordance with the scheme of mitigation for noise as approved under condition 2 above and the traffic management place approved under condition 8 above for each wedding event.  
Reason: to ensure that the residential amenity of the nearby residential properties is maintained.
  10. No fireworks or other pyrotechnics shall be discharged, or fireworks displays held, and no Chinese lanterns shall be released into the atmosphere at any wedding event.  
Reason: To protect the residential amenity of local residents and avoid disturbance to farm stock in the vicinity of the site.

NOTE

Mr Alan France, Mrs Martine Purves and Dr Graham Dobbie, local residents spoke against the application.

Mr Michael Goddard, applicant spoke in support of the application.

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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**6 FEBRUARY 2017**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 16/01061/FUL
<b>OFFICER:</b>	Mr Scott Shearer
<b>WARD:</b>	Mid Berwickshire
<b>PROPOSAL:</b>	Erection of four dwellinghouses, access, landscaping and associated infrastructure works
<b>SITE:</b>	Land South And West Of Wellnage House Duns
<b>APPLICANT:</b>	C & V Developments
<b>AGENT:</b>	Ferguson Planning

**INTRODUCTION**

This application was continued from the January meeting of the Planning and Building Standards to Committee to enable a Member Site Visit to take place. That visit was due to take place on 1 February, following the publication of this report, and will be discussed at the meeting.

**SITE DESCRIPTION**

The application site occupies curtilage ground to the west and south of The Wellnage which is a Category B listed two storey villa. The building dates from the early 19<sup>th</sup> century and is one of a series of villas built on Station Road in Duns within spacious grounds. The site generally slopes to the west/southwest with a steeper gradient running through its centre before flattening to occupy a bowl at its western side which sits below the road level. A walled garden is located within the eastern corner of the site. Several of the existing trees throughout the application site are covered by the Station Road Tree preservation Order (ref; BCC No 6). A whinstone wall separates the site from Station Road, this wall and the gatepiers immediately to the north of the application site are also listed.

The site is not located within the Conservation Area, however a number of the large villas to the north and south on Station Road are listed. Additionally, Wellnage Cottage and its former Stables directly to the north of The Wellnage is listed Category C. The Public Park is located on the opposite side of the road. A Scottish Water drain is understood to run through the site.

**PROPOSED DEVELOPMENT**

This application originally sought permission for the erection of six houses over a larger developable site, but has been revised to reduce the number to four, with the two northern plots having been removed from the proposal. A revised application which seeks permission for four detached dwellings, referred to as Plot 3, Plot 4, Plot 5 and Plot 6 along the southern section of the site is now under consideration.

A mixture of house types are proposed, ranging from a bungalow in Plot 5, one and a half storey dwellings in Plots 3 and 4 and a two storey building in Plot 6 which occupies the walled garden. Each building is to be set under a pitched slated roof with a mixture of stone, render and larch cladding used on the external surfaces of the walls. The dwellings are to be accessed via a new private access from Station Road. The opening for this access has already been formed. Three trees are identified for removal and details of landscape works are included within an updated Landscape Schedule.

## **PLANNING HISTORY**

A list of relevant planning histories are noted below.

- 92/00305/OUT & 93/00333/REM – Approved. Erection of dwellinghouse known as The Lhen
- 99/01544/FUL – Approved. Erection of a dwellinghouse known as The Dub.
- 15/00535/FUL - Approved. Subdivision of The Wellnage to form two dwellinghouses.
- 15/00537/LBCNN – Approved. Alterations to stables to form additional accommodation at The Wellnage Cottage.
- 15/00932/LBCNN – Approved. Alterations to gate pillars to accommodate junction improvement works related to consent 15/00535/FUL.

Although not a planning application it is relevant to note that approval, subject to conditions was granted for works to trees protected by Tree Preservation Order which covers The Wellnage, under application 16/00393/TPO.

## **REPRESENTATION SUMMARY**

A re-neighbour notification and advertisement process was undertaken when revised proposals were received on the 2<sup>nd</sup> of November 2016. None of the original objection comments have been removed. Objection comments from 5 different residencies (including one letter from signed by additional residents at Boston Court) remain attached to this application. Grounds for objection are summarised as follows;

- Detrimental to the setting of The Wellnage
- Inappropriate infill development
- Lack of demand and development should be directed to other sites allocated within the Local Plan
- Plot 5 and 6 will be visually prominent
- Plot 5 & 6 are should be bungalows
- Road Safety
- Inappropriate vehicle access
- Detrimental to residential amenity, in particular the development of Plot 6 would detract from the amenity of The Lhen by blocking access to light and causing visual intrusion
- If approved the house in Plot 6 should be re-sited towards the west
- Detrimental to the environment
- Development of lower lying ground will exacerbate drainage problems
- Land affected
- Poor design and inappropriate material finishes
- Trees/landscape affected
- Impinge on nature conservation

- Detract from views from Station Road and the park
- Proposals fail to comply with the Local Development Plan
- Impinge on foul drainage infrastructure of neighbouring properties

## **APPLICANTS' SUPPORTING INFORMATION**

A Planning Statement and two additional written representations have been received from the agent along with a revised Landscape Schedule. Each of these are available on *Public Access*.

### **CONSULTATION RESPONSES:**

Consultation responses were first received in response to the original proposals. A re-consultation exercise was carried out for the revised proposals. Comments pertinent to the revised proposals are summarised below with all responses available in full on *Public Access*.

#### **Scottish Borders Council Consultees**

**Access Ranger:** No objection. A Core Path utilises the pavement opposite the site on Station Road. The development does not affect this route or any other Core or Promoted Paths or Rights of Way.

**Archaeology Officer:** No archaeological implications.

**Education and Lifelong Learning:** The development is located within the catchment area for Duns Primary School and Berwickshire High School. Contributions are sought towards both schools at £4639 per unit for the Primary School and £3428 per unit for the High School.

**Environmental Health Officer:** The proposals have been assessed by both the Amenity and Pollution Officer and the Contaminated Land Officer. Planning conditions are recommended to agree details of water supply and confirm connection to the network prior to consumption. Informative Notes providing best practice guidance relating to Construction Noise and Wood Burning Stoves are recommendation to mitigate potential nuisances arising from these practices for neighbouring properties.

**Flood Protection Officer:** Only a very small portion of the site lies within an area with a 0.5% annual risk of flooding. No objection on grounds of flood risk is raised but the design should incorporate measures to route surface water run off away from the dwellings.

**Landscape Architect:** The site is very visible from Station Road. Ground clearance works which have been carried out are not given support but equally the site is an urban location where infill development is widely accepted so in principle no objection is raised assuming the development is in keeping with the surrounding area and site drainage issues are overcome. The removal of Plot 1 and 2 is welcomed and the development does benefit from the retention of TPO trees which mitigates adverse effects and provides a setting for the new houses. No objection is raised to the findings of the tree survey. The first response recommended that;

1. The removal of two trees from Plot 4 enables the site layout to be adjusted so plot 4 moves toward the gap left by the removals and allows Plot 3 to move further from the Wellingtonia which is an important feature from the road.
2. Concerns are raised that the access to Plot 6 requires an access track to be created through root protection areas (RPA). Construction traffic may damage the trees and could be taken from the lane to the north. A method statement is required to confirm that the access can be built over the retained trees.

Following the revised proposals an updated response has been provided which confirm that Plot 3 is now located outside the TPO of the Wellingtonia. A method statement to agree mitigation measures of the development upon the TPO'd trees is required and should include details of protective fencing during construction as per BS5837:2012. Some limited access will be required within the root protection areas (RPA's) including to lay access to Plot 6. The applicant is aware of this and this must be controlled. These details can be agreed via condition.

**Heritage and Design Officer (H&DO):** In response to the original 6 house proposal, concerns were raised that the development would have an adverse impact on the setting of The Wellnage. Historic OS mapping shows the house was designed as the principal house within policy grounds and intended to sit facing an open vista to the west with an ancillary stable block and walled garden tucked behind the house. In recent years the policy grounds around the listed building have changed though the overgrowth of a conifer hedge which screens the house from Station Road. The original visual relationship between the house and the road are important. The development of Plots 1 and 2 with a separate new entrance was judged to have a significant enough adverse impact on the setting of the listed building to warrant objection. In principle there is scope for development on Plots 3 – 6, any proposals must retain The Wellnage as the principal house and Plot 5 needs to be subservient and further away from the listed building.

An updated response to a revised 4 house proposal advises that; the removal of houses to the west of The Wellnage addresses the principle concern and reduces the impact of the development on its setting. The layout of the remaining housing proposals have been altered and while there is an impact on the setting of The Wellnage from their development the proposals take account for site levels and proposed screen planting. Plot 5 is now subservient to The Wellnage and the height of Plot 6 has been reduced. The proposals will be visible from the road, especially Plots 5 & 6 owing to their siting on higher ground levels. The contemporary design approach is not opposed. No issue is raised with the general palate of materials however a key issue will be the colour / hue of these finishes to help the buildings recede. It is recommended that the render should be darker than off white and rather than leaving the timber to weather it should be stained a colour, possibly grey.

On balance, the revised proposals represent a significant improvement from the original 6 house scheme and no objection is raised provided that the colour of the external wall finishes are agreed via condition.

**Roads Planning Officer (RPO):** No objection provided the following points are included in any consent issued:

- Engineering drawings of the new footway between new junctions incorporating pedestrian crossing points to the footway opposite are required
- The first 6m of the new access is finished to the surface and gradient specification of the RPO.

- Visibility splays on the new junction shown on the submitted plan must be implemented prior to occupation of the first house and retained in perpetuity
- No part of the access road should have a gradient in excess of 1 in 8.
- All work within the public road boundary must be carried out by an approved contractor.

### **Statutory Consultees**

**Duns Community Council:** Object, on the following grounds;

- Lack of demand
- Lower area of the site is a bog and unsuitable for development
- A large drain is located within the site and there is no information of the development avoid impacting on this infrastructure
- Insufficient information about treatment of surface water drainage
- The houses are not in keeping with surrounding development and are too tall for a sloping site
- Number of accesses on to Station Road
- The exact height of the development from the Station Road is unclear
- Pre-development works are concerning and during construction the development may be an eyesore

**Scottish Environmental Protection Agency (SEPA):** No objection. The following points are noted;

- Further investigation of surface water flooding is recommended to ensure surface water is handled appropriately and does not increase the risk of flooding at neighbouring properties or infrastructure.
- Scottish Water assets run through the site at Plot 3 and 4 and the development should avoid this infrastructure.
- Means of drainage via the public sewer is supported and should be compliant with SUDS in line with Scottish Planning Policy (SPP).

### **Other Consultees**

**Architectural Heritage Society of Scotland (AHSS):** Object. The scale, use and materials of the proposals will have a detrimental impact on the setting of the Wellnage. Additionally Plot 6 is insensitive amid the designed landscape and is not appropriate for development.

**Berwickshire Civic Society (BCS):** Object. The proposal is detrimental to the setting of the listed building, views from Station Road and the Park, reducing the amenity of the settlement. The modernist design of the dwellings is out of keeping with the character of the surrounding area. Proposals should restore the landscape framework which has been removed from the site.

### **DEVELOPMENT PLAN POLICIES:**

**Scottish Planning Policy (SPP) 2014**

**SES Plan Strategic Development Plan 2013**

Policy 5 Housing Land

**Scottish Borders Council Local Development Plan 2016**

PMD2 Quality Standards  
PMD5 Infill Development  
HD1 Affordable Housing  
HD3 Protection of Residential Amenity  
EP7 Listed Buildings  
EP13 Trees, Woodlands and Hedgerows  
IS1 Public Infrastructure and Local Service Provision  
IS2 Developer Contributions  
IS7 Parking provision and Standards  
IS8 Flooding  
IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

### **OTHER PLANNING CONSIDERATIONS:**

Supplementary Planning Guidance on;

Affordable Housing (2015)  
Development Contributions (updated 2016)  
Landscape and Development (2008)  
Placemaking and Design (2010)  
Privacy and Sunlight (2006)  
Trees and Development (2008)

Managing Change in the Historic Environment on Setting (2010)

### **KEY PLANNING ISSUES:**

The main determining issues with this application are whether the revised application complies with Development Plan Policies and Supplementary Planning Guidance on infill development within the residential area and within the setting of statutorily listed buildings.

### **ASSESSMENT OF APPLICATION:**

#### **Planning Policy**

This proposed residential development is located within the settlement boundary for Duns. SPP which is the national planning policy set by the Scottish Government acknowledges that windfall or infill types of development within settlements can positively contribute to housing land supply. While SPP supports the principle that settlements should be able to absorb the effects of infill development it recommends that development must be carefully controlled, especially to ensure that no over development takes place.

Similar to SPP, the primary LDP policy consideration for this application which is Policy PMD5 is also generally supportive of the location of residential development within settlement boundaries. To establish if an infill development is supportable, the proposal must demonstrate that it complies with a range of land use planning criteria set by Policy PMD5. These criteria will be assessed within this report.

The proposed development of four residential properties within an existing settlement is viewed to comply with the broad national and local planning policy principles for infill development. However it is the specific consideration of the proposals against



the criteria listed by Policy PMD5 which will determine if the development is supportable.

### **Land Use**

Criterion a) of Policy PMD5 requires that the proposal does not conflict with the established land use of the area. In this case, the predominant land use of the surrounding area is residential and the area is also residential in character. The proposed development of the site for residential purposes would be in keeping with this part of Duns. This proposal is judged to comply with the criteria a) of Policy PMD5.

### **Placemaking, Design and Impact on Setting of The Wellnage**

In the case of this application the points raised by criteria b), c) and d) of Policy PMD5 are linked. These points require that the development does not detract from the character of the surrounding area; respects the scale, form, design, materials and density of its surroundings; the individual and cumulative effects of the development should not lead to over-development or town cramming. Directly related to the consideration of these three criteria is the assessment of whether the proposal respects the setting of the Category B listed building under the terms prescribed by Policy EP7. For the purpose of the determination of this application these considerations are interrelated and are discussed below.

Station Road has a mixed architectural context where its northern area is defined by the location of large villas set within spacious grounds before the density of development increases travelling south where modern residential development has taken place. The character of the site itself is heavily influenced by the presence of the listed Wellnage and its setting. Even though The Wellnage is now partly screened by a hedge, its positioning on a raised site within very spacious policy grounds means that it is prominent from Station Road. The H&DO has advised that historic maps reveal that The Wellnage was intended to sit with an open vista to the west.

Towards the south of the Wellnage the context of Station Road begins to change. Here, the density of development becomes higher. This built context is also influenced by the modern developments along Trinity Lane which include the development of The Dub and The Lhen within grounds which once formed part of The Wellnage. As a result of these two developments on Trinity Lane, it is important to note that these latest proposals will not be the first development of policy grounds associated with The Wellnage. The focus of the development along the southern boundary of the site helps the proposals to tie in with the transition of development along Station Road which occurs to the south and north east of the Wellnage. The removal of Plots 1 & 2 from the proposals avoids introducing buildings in front of The Wellnage so that the listed building can retain its uninterrupted westerly vista which was the principal heritage concern of the original proposals.

The reduced volume and the location of the revised development ties in more sensitively with the planned layout of the area. The plot ratios are reasonably spacious and are not inconsistent with the ratios of plots immediately to the north east and south. Aided by the removal of Plots 1 & 2 the revised development retains The Wellnage as the largest site within the immediate surroundings and the reduced number of houses is not considered to represent over development of the area.

The design of the proposed dwellings is unashamedly contemporary. Other modern developments have been previously added around The Wellnage most notably

along Trinity Lane. It is conceded that these existing contemporary buildings are not as publicly visible or directly related to The Wellnage as these proposals. A Landscape Schedule has been submitted which details planting which is primarily proposed around the new entrance and access. This planting will provide some screening in time, however there will be visibility of the development, especially Plots 5 and 6 which occupy higher ground. The contemporary designs include subservient flat roofed elements and areas of glazing are otherwise set within pitched roofed buildings of traditional proportions.

The development in Plot 5 has been reduced so that a bungalow is now proposed which achieves clear subordination to The Wellnage and its positioning to the east of the site means it does not encroach on its principal elevation. Plot 5 does include an odd canopy linking the garage and dwelling but because the building is set back from Station Road the public impact of this feature is low. The building proposed within Plot 6 will be visible above the walls which enclose the walled garden. The height of the building has been reduced and the house will be set lower in the site. While the design of Plot 6 is arguably the least successful, it does not result in the removal of the original features of the walled garden and the reduction of the scale of the building proposed in this site reduces the impact of the development on its setting.

The Section Drawing which has been submitted is helpful. This plan illustrates that when viewing from Station Road the revised proposal ties in more sensitively with the designed landscape at The Wellnage because the height of the buildings follow the landform by stepping down in height from The Lhen to the rear of The Wellnage. In particular the development of Plot 5 & 6 which occupy similar ground levels to The Wellnage will be subservient in height alongside the listed building when seen from Station Road. This plan also illustrates that Plot 3 & 4 sit below the road level.

The Community Council, AHSS, BCS and third parties have raised concerns about the design approach and visual impact of the development. However, the Heritage and Design Officer has considered the proposal and does not raise issue with the contemporary design. The design approach will add to the variety of architectural forms which are visible within this wider urban location which is outside of the Conservation Area. The scale and siting of the revised proposals are judged to remain subservient to The Wellnage and not compromise its setting as the dominant building within its grounds which enjoys views to the west. Owing to visibility of the development, the finished appearance of the development will be important to reduce the impact of the buildings. The proposed palette of materials which consists of slate roofs with render and larch walls is not opposed in principle. Nevertheless darker wall material colours than the proposed off-white render and untreated timber will be required to enable the new buildings to recede into their landscape setting and alongside the darker whinstone hues of The Wellnage and the roadside boundary wall. Agreement of darker wall material finishes can be agreed by condition.

Overall, the revised scheme represents an improvement from the original submission. Due to the visibility of the site and its relationship with the Category B Listed house known as The Wellnage, this is a sensitive location for development. Nevertheless, the reduction in the volume of houses, the removal of development in between The Wellnage and Station Road and the revisions to the siting, scale and design of the proposed development enables the proposals to not represent overdevelopment of the site. On balance, the proposals do not detract from the character and visual amenities of the surrounding area without adversely affecting the setting of The Wellnage. Concerns about the material finishes can be addressed by planning condition. The proposed development is not viewed to adversely affect the setting of any other neighbouring listed buildings.

In light of this assessment, it is judged that the proposals satisfy criteria b), c) and d) of Policy PMD5 and the requirements for developments which affected the setting of listed buildings within policy EP7.

### **Trees and Landscaping**

Policy EP13 seeks to protect woodland resources from development especially where the development involves a site which is protected by a Tree Preservation Order. Additionally, the landscape proposals should respect the amenity of the area.

As noted previously, the site forms part of the Station Road Tree Preservation Order. Apart from the removal of the cherry tree which is located at the access to Plot 5, consent was obtained to remove the other trees and reduce the crown of the sycamore which is shown on the submitted plan under consent 16/00393/TPO. It is noted that other works to clear vegetation has been carried out which has exposed the site from Station Road.

The revised proposals have moved the dwelling in Plot 3 further away from the Wellingtonia which is a distinctive feature from Station Road. Following the removal of two trees from Plot 4, it would have been beneficial if Plot 3 could have moved further east but owing to the location of Scottish Water's drain this was not possible. For landscape purposes the location of the drain is unfortunate, nevertheless the revised position of Plot 3 is outwith the Root Protection Area (RPA) of the Wellingtonia and it is an improvement from the original submission.

No houses are positioned within locations which should have a harmful effect upon any of the TPO'd trees which are to be retained. The retention of the mature trees provided an established landscape setting for this development. The retained trees will require to be adequately protected during construction works and this can be achieved by planning condition. Some of the accesses, particularly the access to Plot 6 are located within RPAs. Despite this it is possible to mitigate impacts on roots through careful road construction measures. These measures can be agreed through a Construction Method Statement via a planning condition.

A Landscape Schedule has been submitted which details planting along the bottom of the site which in time will provide some screening and in places backdrops to Plots 3 and 4. The proposals will reinstate some of the road side planting which has been lost. The principles of these proposals appear acceptable in principle and the precise details can be agreed by condition.

It is considered that the development does not adversely affect the Station Road TPO and mitigation to protected existing trees can be achieved through planning conditions along with the agreement of the planting schedule.

### **Impact on Local Infrastructure**

Criterion e) of Policy PMD5 requires adequate access and servicing to be achieved, particularly accounting for water supply, drainage and school capacity.

#### *Access and parking*

The development is to be served by a single access onto Station Road. Historically there has been an access onto Station Road at this location, albeit in the form of a smaller gated opening which has been recently enlarged. Since the submission of the original proposals, local concern has been expressed that the development will have an adverse effect on road safety. This concern was not shared by the Roads Planning Officer but despite this, the revised proposals which reduce the number of dwellinghouses and accesses on to Station Road result in reducing the impact of this development upon the local road network. Roads Planning have provided an updated consultation response where further details regarding the precise design of the access and a pedestrian crossing point are required. These matters can however be handled via appropriately worded planning conditions.

Each house includes provision for parking and the updated plan has included provision for turning at Plot 5. The parking area at Plot 6 seems slightly tight and may require to be increased in size to aid vehicle movements. Consequently, the visual impact of this change would be of a minor nature therefore it does not raise concern. Ultimately, the delivery of the parking areas can be secured through a planning condition which ensures compliance with Policy IS7.

#### *Water and Drainage*

Objections have been raised that developing the site could cause disruption to properties water supply within this part of Duns which is served by Scottish Water assets which runs through the application site. During the case officer's site visit, this infrastructure did appear visible from the trenches which had been dug in areas between Plot 3 and 4, as SEPA have suggested. The presence of this pipework has had a bearing on the siting of the development. It is understood that part of the access road and driveway of Plot 3 are located over the pipe, however dwellings are not. Fundamentally, it is a matter for the developer to ensure that their development not adversely affect assets belonging to Scottish Water. Given that this infrastructure is believed to serve a significant part of the local population, it is recommended that the developer should provide confirmation from Scottish Water that the development will not adversely affect their infrastructure.

Water supply is to be provided by the mains. There are no known local deficiencies with water supply. Environmental Health Officer's recommend a condition can ensure that the supply can adequately serve four additional properties without impinging on the supply of other within the area.

The low lying western end of the site, adjacent to Station Road has been suggested within objection comments to become waterlogged and that the development of this ground will exacerbate drainage problems. Two houses have been removed from this part of the site, with the house located within Plot 4 revised so that it occupies higher ground. The Infrastructure Considerations listed within the LDP Duns Settlement Profile does not identify that there are any wider drainage infrastructure issues. The aforementioned revisions which have been made to the proposal should provide some mitigation to this localised drainage problem in comparison to the impact of the original scheme. Any outstanding drainage issues should be able to be addressed through appropriately worded planning conditions which can agree suitable surface water treatment methods including provisions to avoid water flowing onto the road. With these safeguards, it is possible that the situation will be improved rather than worsened.

#### *Developer Contributions*

In line with Policy IS2 and HD1, all development that is otherwise acceptable but cannot proceed due to deficiencies in infrastructure and services will be required to make contribution through a legal agreement towards such deficiencies. This application triggers a requirement to make financial contributions towards both the local Primary and High School and affordable housing through our established commuted sum model for a development of this scale. The developer has agreed to comply with these policy requirements and settle the contributions through a Section 75 Legal Agreement.

Following the above consideration, it is concluded that the development satisfies the requirements of criterion e) of Policy PMD5 and other related LDP policy provisions for these matters.

### **Residential Amenity**

Criteria f) of Policy PMD5 states that the development should not result in any significant loss of daylight, sunshine or privacy to adjoining properties as a result of overshadowing or overlooking. Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The existing mature planting which runs along the southern boundary of the site means that neither of the dwellings will affect the amenity of neighbours to the south. There were concerns that the height of the original dwelling proposed at Plot 6 would have an undesirable impact on the outlook of The Lhen to its rear, whereby neighbours would be faced with a view of the whole of the roof which would have an overbearing impact, especially from upper floor rooms in their property. The design of Plot 6 has been amended so that its roof height has been reduced with the building positioned at a lower ground level.

The revisions to Plot 6 reduce the impact of this development for the neighbours within the Lhen. The amendments allow the tall hedge which presently separates the plots to act as a greater screen between the two houses, include from the upper rear windows of the development. The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light. Applying the principles of this guidance against the proposed development at Plot 6, this proposed dwelling does not contravene the recommended standards and therefore does not detract from the amenity of The Lhen. The proposals raise no adverse amenity issues between each other or detract from the residential amenity of The Wellnage.

The site is located within an established residential area. To limit the disruption caused by construction works, an informative recommended by Environmental Health provides the developer with advice of construction hours and noise standards which are set by Environmental Health legislation. This advice can be attached as an informative to any consent.

### **Other Matters**

#### *Flooding*

There has been local concern that the site will exacerbate flood risk. During the case officer's site inspection, it was apparent that the grounds nearest Station Road did appear damp. SEPA have not objected and the Flood Risk Officer has advised that only a very small area of the site is at risk from flooding but no objection on flood

grounds is raised. Two houses have been removed from the development so this should alleviate flood risk concerns and the recommendations to agree surface water run off measures, particularly to direct water away from dwellings can be agreed via an appropriately worded planning condition.

### *Ecology*

Concerns have been raised the development will affect nature habitats. The site is not protected by any nature conservation planning policies. Protected species are safeguarded by other legislation and it will be the responsibility of the developer to ensure that they do not harm any protected species or habitats when they are developing the site.

## **CONCLUSION**

The proposed development occupies a location within the Duns settlement boundary, where national and local planning policies are generally supportive towards infill development. Due to the visibility of the site and its relationship to the category B Listed Wellnage this is a sensitive development site. The revised scheme which has reduced the volume and scale of the proposals represents an improvement against the original submission. It is considered that, on balance, the reduced scheme does not have an a harmful impact upon the character of the surrounding area, the setting of the Listed Building, the amenity of neighbouring residential properties or the Tree Preservation Order which covers the development site. Subject to the strict compliance with the schedule of conditions, the proposals are judged to compliments determining policies of the Local Development Plan, principally Policies PMD5, EP7, EP13, HD3 and IS9.

## **RECOMMENDATION BY THE CHIEF PLANNING OFFICER:**

I recommend the application is approved subject to a legal agreement addressing contribution towards Education and Affordable Housing and the following conditions:

1. 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 as specified in the drawing list on this consent notice.  
Reason: To ensure that the development is carried out in accordance with the approved details.
2. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials, including colour finish to be used in the construction of the external walls of the buildings have been submitted to and approved in writing by the 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.
3. No development shall commence until a Construction Method Statement (CMS) has been submitted to and agreed in writing with the Planning Authority to outline specific details of all on site tree protection measures. The CMS shall include but not be limited to the following points;  
(a) The location of protective fencing which shall be erected around the Root Protection Areas (RPAs) of all trees which are identified for retention on

Drawing No; P348-SR-001 in accordance with BS5837:2012 and remain erected for the duration of the development.

(b) Details to agree how access roads will be constructed which fall within RPAs.

(c) Details to minimise the impact of construction works and practices upon the RPAs of all retained trees.

Reason: To ensure adequate precaution are taken to protect the retained trees during building operations as their loss would have an adverse effect on the visual amenity of the area.

4. No trees within the application site shall be felled, lopped, lifted or disturbed in any way without the prior consent of the Planning Authority.

Reason: The existing trees represent an important visual feature which the Planning Authority considered should be substantially maintained.

5. 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:

- 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.

6. No development shall commence until Engineering Drawings of the new road junction incorporating pedestrian crossing points on both the new footway and the existing footway opposite have been submitted to and agreed in writing with the Planning Authority and thereafter the completed before occupation of the first dwellinghouse. The submitted drawings shall comply with the access specifications required by the Roads Planning Officer within their consultation response of the 15<sup>th</sup> Dec 2016 and listed within Informative Note 2. All work carried out within the public road boundary must be completed by an approved Council Contractor.

Reason: To achieve safe vehicular and pedestrian access to the site.

7. A vehicle turning area and two parking spaces, not including any garage space shall be provided within the site prior to the occupation of each dwellinghouse hereby approved and shall be retained in perpetuity.

Reason: To provide and maintain adequate off road parking.

8. No development shall commence until the applicant has provided the Planning Authority with written confirmation from Scottish Water that Scottish Water do not have any objection to the location and siting of the development illustrated on Drawing No; P348-SR-001.

Reason: To avoid the development causing any adverse impacts upon local infrastructure.

9. No development shall commence until the means of surface water drainage which should make provision to route water away from dwellinghouses and avoid water flowing on to the public road has been submitted to and approved in writing by the Planning Authority and thereafter the development shall be completed in accordance with the approved details.

Reason: To ensure that the site is adequately serviced and avoid causing surface water problems at any neighbouring properties.

10. No development should commence until the applicant has provided evidence that the site will be serviced by a wholesome supply of drinking water of adequate volume. The supply should not have a detrimental effect on other private water supplies in the area.

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

### Informatives

1. With reference to Condition 2, the render colour should be darker than off white which is indicated on the drawings and staining the timber a colour possibly grey will assist with integrating the development into its surroundings.
2. With reference to Condition 6, the following requirements of the RPO should be incorporated within the detailed access design and illustrated on the submitted drawing;
  - The first 6m of the proposed access onto Station Road to be surfaced to my specification i.e. 40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.
  - The first 6m of the proposed access onto Station Road to have a gradient no steeper than 1 in 15.
  - The visibility splays on the submitted plan to be provided prior to occupation of the first dwelling and retained thereafter in perpetuity.
  - No part of the proposed private access to exceed 1 in 8 in gradient (1 in 15 for parking and turning areas).
3. The Control of Pollution Act 1974 allows the Council to set times during which work may be carried out and the methods used. To limit the impact of the development upon the amenity of neighbouring residential properties it is recommended that any works which generate above average noise are carried out during the following hours;

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.



## DRAWING NUMBERS

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Date Received</b>
P345-SR-LOCB	Location Plan	26.08.2016
P348-SR-001	Site Plan	01.12.2016
003/16/SP01	Section	01.12.2016
P348-SR-007	Plot 3 Elevations	26.08.2016
P348-SR-006	Plot 3 Floor Plan	26.08.2016
P348-SR-009	Plot 4 Elevations	26.08.2016
P348-SR-008	Plot 4 Floor Plans	26.08.2016
005/16/SK01	Plot 5	02.11.2016
001/16/PA01	Plot 6	01.12.2016
001/16/PA02	Plot 6	01.12.2016

### **Approved by**

<b>Name</b>	<b>Designation</b>	<b>Signature</b>
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.

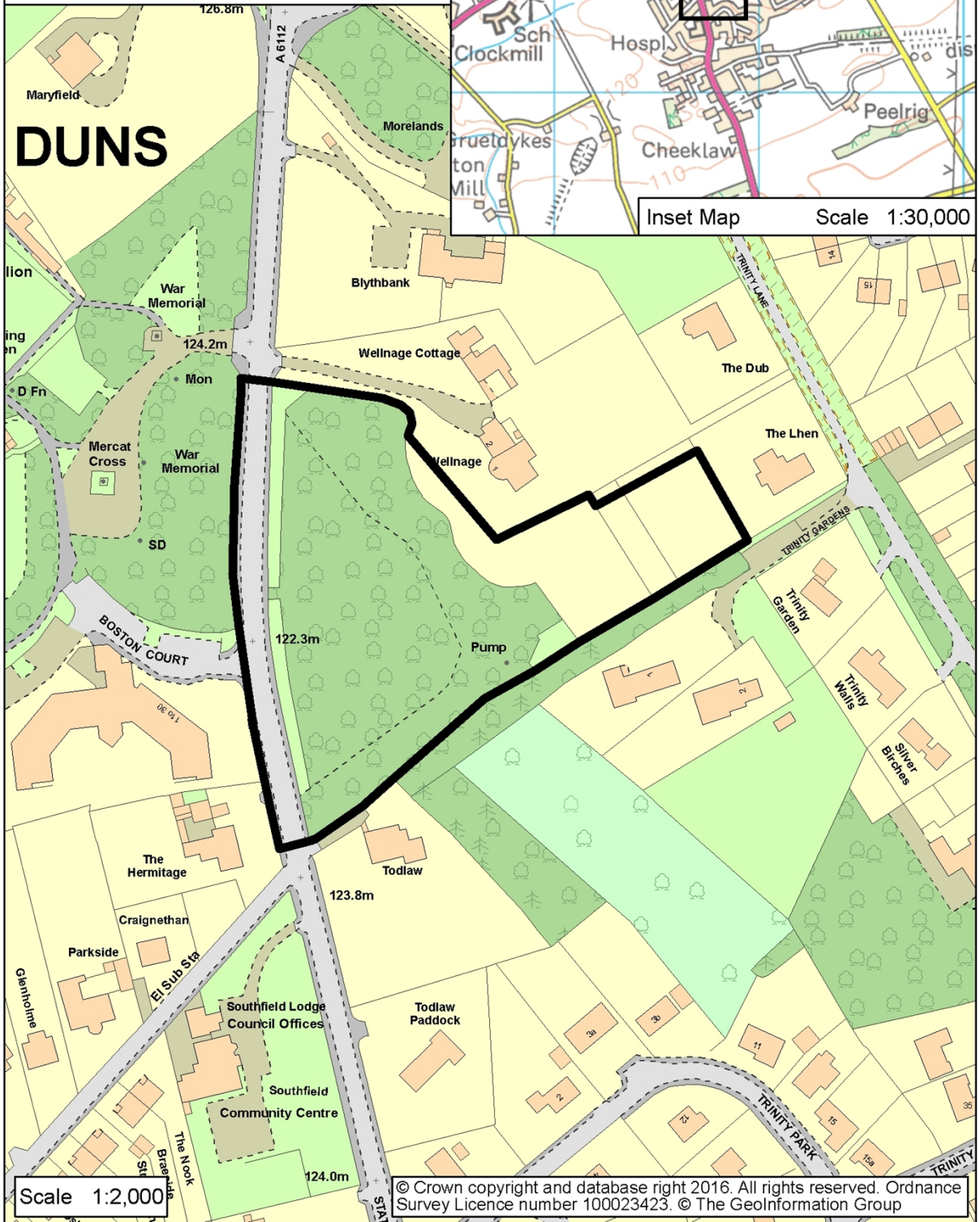
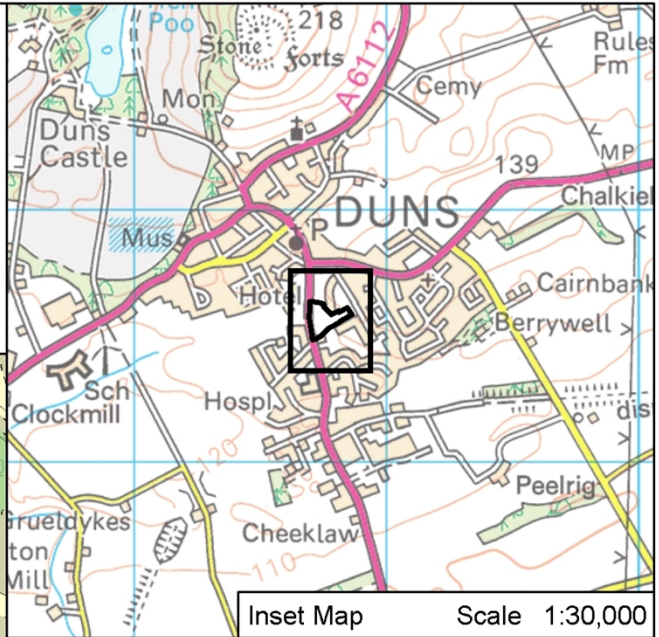
### **Author(s)**

<b>Name</b>	<b>Designation</b>
Scott Shearer	Planning Officer



16/01061/FUL

Land South And West Of Wellnage  
 House  
 Duns  
 Scottish Borders



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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**6 FEBRUARY 2017**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 16/01239/FUL
<b>OFFICER:</b>	Mr C Miller
<b>WARD:</b>	Tweeddale East
<b>PROPOSAL:</b>	Erection of dwellinghouse
<b>SITE:</b>	Garden ground of The Stables, Bonnington Road, Peebles
<b>APPLICANT:</b>	Mr Russell Brock
<b>AGENT:</b>	Whitelaw Associates

**SITE DESCRIPTION**

The site is located within Peebles, to the south-west of the town off Bonnington Road. It consists of garden ground belonging to a dwellinghouse known as "The Stables", comprising of 0.145 hectares and lying to the south of the house. The site also lies to the west of the Category B Listed Building "Reiverslaw", immediately bordering on its western boundary wall and adjoining the glasshouse at the site's north-eastern corner. The site also lies to the west of a modern dwellinghouse within woodland known as "Witch Wood". An open field and stables adjoin the site to the west. The site is within the Peebles settlement boundary as defined in the Local Development Plan but not within the Conservation Area.

The site contained a line of trees on a north-south alignment through the site but these have now been removed, leaving just the northernmost tree. There was also a tree screen along the western boundary of the site with the adjoining field but this has also been cleared to the boundary fence, leaving only a couple of trees in the north-western corner of the site, the remainder of the trees then continuing along the field boundary to the north of the site. A few other trees have been retained adjoining the curtilage wall to "Reiverslaw".

The site has a slight slope from west to east and is currently has an open boundary to the north consisting of further garden ground belonging to the site owners who reside in "The Stables".

**PROPOSED DEVELOPMENT**

The application has been submitted in full for the erection of a dwellinghouse and double garage. The house will be sited relatively centrally within the site and of general T-shaped form, the main axis of the house running north-south and being two storey in design. An eastern wing will project towards the "Reiverslaw" boundary of slightly lower height and 1¾ storey design. The pitched roof double garage will be attached to this wing via a garden wall and will face into an entrance courtyard which allows access to the house. Due to the slope of the site, the ground will be excavated and the house cut in towards the western boundary.

In terms of design, the house will have a 35° dual pitched roof clad in natural slate and walls will be a combination of wet dash render and natural stone. The stone will be used on the main house gables and the bay projection to the eastern wing. Windows within the house will be timber and generally of vertical emphasis with mullions and upper astragals. Three velux windows light bathrooms. The west facing elevation will have patio feature doors at ground floor level and a pitched roof glazed projection with first floor balcony. An angled glazed entrance porch will occupy the junction between the main house and eastern wing. The garage will be clad in matching slate and render to the main house with timber doors and upper astragalled windows.

Access to the site will be gained via an existing access from Bonnington Road which currently serves the recent dwellinghouse “Witch Wood” as well as stables and the application site used by the land owners and “Reiverslaw”.

The applicant has submitted a Supporting Statement which is available to view in full on the Council’s Planning Portal website. This refers to drainage, design, siting, legal issues, road capacity and impacts on trees. In particular, it states the following:

- Mains drainage can be connected to south of woodland at the site entrance and with ownership agreement.
- The scale of the house has been reduced with ridge height reductions of 1.2 – 2m, the siting realigned and design improvements added such as natural stone and projecting eaves.
- The junction sightlines comply with all relevant safety standards and the access track will only be used by the site landowners to access their stables rather than the rear of their property, controlled by Legal Agreement. Thus, the additional vehicular usage of the track will not be significant. The track has also not been straightened as shown in previous drawings relating to “Witch Wood”.
- Agree new planting and stone walling as part of any condition, including planting at the south-western corner of the site, to the rear of the plot and to the south. Applicant states his experience in tree and shrub production.

In response to objections from neighbours, the applicant has sent in further emails which are available to view in full on the Council’s Planning Portal, dated 13 November. These make a number of points in relation to right of access usage, the safety of the access, the lack of previously requested road improvement, the benefits of new-build to the local economy, precedent set by “Witch Wood” and a drainage solution being available for current problems.

## **PLANNING HISTORY**

Outline planning permission was applied for on the site in 2002 (02/00687/OUT) for two dwellinghouses, including additional land to the north of the current application site. Although the Case Officer sought an amendment to only one house which it was considered could have been supported, the application was not amended and was refused for two houses, for the following reason:

*“The proposal would be contrary to Policy N17 of the Finalised Structure Plan 2001 - 2011 and policies 2, 18 and 47 of the Tweeddale Local Plan in that it would result in the over-development of the site to the detriment of the setting of the Listed Buildings and amenity of the surrounding area. In addition, in the interests of road safety in*

*that the existing vehicular access to the site is inadequate and is not capable of being improved to the appropriate standard.”*

The current application represents revision to a similar application which was submitted in June last year (16/00771/FUL). This application was withdrawn in October and replaced with the current application. The revision represents a number of changes to the proposal which are outlined below in the relevant sections.

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Roads Planning:** Raises no objections subject to improvement of the junction of the private access drive and Bonnington Road within public road verge, seeking replacement of the existing concrete surface with tarmac and a widening of the entrance splays within a scheme to be agreed and constructed before any occupation. States the reasoning behind the previously expressed concerns, acknowledging additional information regarding the land owner usage rights of the track being severed by the new development and the new house representing a negligible increase in vehicular movements. Re-appraised the junction issues in the knowledge of land ownership potential restrictions to track widening and provides comments on the good visibility available along the private track and on Bonnington Road itself. Seeks £1000 development contribution towards traffic management and the bridge study in the town,

**Education Officer:** The development is within the catchment areas of Peebles High School and Priorsford Primary School, requiring contributions of £1051 and £4170 respectively, based upon management of capacity issues. Would allow the phasing of contributions but also states that contributions can change per year based upon the BCIS index.

**Heritage and Design:** Requested further information in relation to HES assessment of setting of listed buildings, namely a plan showing the clear arrangement of the house with adjoining houses and a plan showing heights in relation to adjoining houses and buildings.

**Landscape Architect:** Supports the application subject to the provision of a revised drawing moving the house and garage two metres west, accurately plotting the southern boundary and track, providing full tree survey details and a detailed new planting plan. Recognises the site is within the Haystoun Designed Landscape and on the edge of the Tweed Valley Special Landscape Area. Previous tree felling has removed part of the backdrop to a listed building and increased visibility of the house. Therefore imperative remaining trees are kept and the development should be moved westwards to achieve this. Also recommends reinstatement of sections of the tree belt to the north and south of the site, keeping the central western section open. Further survey information required.

Raises no objection to revised plan subject to additional tree species and a plan showing full protection of the retained trees during construction works.

### **Statutory Consultees**

**Peebles and District Community Council:** Response awaited.

## REPRESENTATION SUMMARY

Letters of objection have been received to the application from the occupants of six properties in the vicinity of the site. These can be viewed in full on the Public Access website and the main grounds of objection can be summarised as follows:

- The site access is inadequate as it is narrow with limited visibility on a bend and no passing place, resulting in reversing manoeuvres onto Bonnington Road which is a busy road with cumulative development increasing traffic levels generally. Lack of pavements also add to pedestrian risks of increased traffic. The proposal does not resolve SBC Roads Planning objections. Track is long and reversing will still occur, similar to experiences at the Reiverslaw access.
- The claim that the site owners use the access and that the new house would merely replace such usage and not add to traffic numbers is not correct and is an attempt to replace theoretical use with actual use. Photographic evidence is provided of apparent use only since August. In any case, usage would be far less than that represented by the proposal. The access will still be used for access to stables and this negates any replacement traffic argument. There is no traffic information submitted nor is the Police Scotland report substantiated. Two parking spaces are now claimed to exist on site but were not mentioned in the withdrawn application.
- The suggested junction improvements by SBC Roads Planning do not comply with current practice for separate houses, has limited visibility, restricted entrance width, unexpected and unsigned arrangements, radii issues and pedestrian conflict. The verges are owned privately by objectors, title deeds submitted. Query ability for SBC to sanction such work and who maintains the enhanced junction. Not in the wider public good.
- There is no legal entitlement to use the access to serve the application site for a new house, nor any ability to achieve any widening or passing places. The new application does not resolve the issues previously identified by SBC Roads Planning. "Witch Wood" has not contravened any access track alignment proposals.
- Long standing surface water drainage problems to properties on Bonnington Road which the proposal will worsen. No legal entitlement to reach the public drains within the Jubilee Park development via the land that now accommodates 23-27 Bonnington Road nor down the access track to Bonnington Road. No details supplied in this regard.
- The development of "Witch Wood" was subject to restriction of no more houses within that plot of land resulting in appropriate development with space around it, unlike the current proposal which is overdevelopment to the detriment of the houses and listed property adjoining.
- The site owners and adjoining neighbours are in disagreement over a clause which, in the title deeds, alleges that no development of the land should take place and no buildings erected.
- The dwellinghouse is too large in size, too dominant and would have an overbearing impact on amenity and privacy of neighbouring properties. It

could be moved further away. There are no 3D images but there will be unacceptable sunlight, noise and privacy impacts

- The dwellinghouse, by virtue of scale and siting, will have a detrimental impact on the character and setting of the listed building “Reiverslaw”, walls and glasshouse. The footprint will be the same as “Reiverslaw” and a ridge height of over 10m when viewed from “Reiverslaw”. The listing would become compromised. There is no information to allow proper assessment.
- The dwellinghouse design and finish will be out of context with others in the area.
- The proximity to adjoining walls could cause structural issues.
- Drawing 02 appears to show no allowance for the access track to the stables and suggests a movement south of the development by 3.6m making it more dominant.
- The clearance of trees from the site was premature and whilst not illegal, shows disregard for the planning process, the site setting and the local community. There are no precise details of any replacement planting.
- There has been no direct approach from applicant to discuss proposals.

## **DEVELOPMENT PLAN POLICIES:**

### **Scottish Borders Local Development Plan 2016**

Policy PMD1 Sustainability  
Policy PMD2 Quality Standards  
Policy PMD5 Infill Development  
Policy HD3 Protection of Residential Amenity  
Policy EP5 Special Landscape Areas  
Policy EP7 Listed Buildings  
Policy EP10 Gardens and Designed Landscapes  
Policy EP13 Trees, Woodlands and Hedgerows  
Policy IS2 Developer Contributions  
Policy IS7 Parking Provisions and Standards

## **OTHER PLANNING CONSIDERATIONS**

“Trees and Development” SPG  
“Privacy and Sunlight” SPG  
“Placemaking and Design” SPG

## **KEY PLANNING ISSUES**

The main determining issues with this application are compliance with Development Plan Policies and Supplementary Planning Guidance on infill development within residential areas and within the setting of listed buildings. In particular, siting, scale, design, impacts on road access, residential amenity, trees and landscape.

## ASSESSMENT OF APPLICATION

### Planning Policy

The site is within the settlement boundary of Peebles and is not allocated for any specific purpose, nor is it within the Conservation Area. The main Local Development Plan Policy to be applied is that governing infill development, PMD5 in the Local Development Plan. This Policy encourages development where a series of criteria are satisfied, including conforming with the area character, not leading to over-development, respecting scale and design, adequacy of access/services and no significant impacts on residential amenity.

Assessing the application against these criteria:

- *The site must conform with the established land use of the area* - as the surrounding area is predominantly housing, this criterion is met. Other infill houses have been developed in this part of Peebles in recent years including development behind main frontage houses.
- *The site must not detract from the character or amenity of the area* – the house is of appropriate form, design, height and finishes and will comply with this criterion.
- *The site must not lead to overdevelopment* – the site is adequate to accommodate the house and garage proposed without the density of the area being contravened. The proportions of house and garden to overall plot are not excessive and do not appear out of context with the development pattern and spacings in this part of Bonnington Road.
- *Respects scale, form, design and materials* – the proposals are sympathetic to the site and surroundings as explained below.
- *Adequate access and servicing* – this can be met as explained below.
- *No significant loss of daylight or privacy* – the proposals are acceptable as explained below.

Officers were clearly in a position of being able to accept infill development on this land when considering the earlier application in 2002, albeit that application was for a larger area of garden ground. This application is for one house on the southern part of the site which is nearer “Witch Wood” but with greater spacing and separation from other houses to the north and east. It is therefore considered that the development, with appropriate conditions, will meet the various criteria listed in the appropriate infill development Local Development Plan Policy PMD5. The site is a suitable infill opportunity and the proposed development complies with the Policy.

### Listed Buildings

The site lies to the rear of Reiverslaw, a Category B Statutorily Listed Building, complete with lodge house, walls, garage and glasshouse. Their protection and setting are governed by LDP Policy EP7. The Heritage and Design Officer had initially sought additional information regarding the development in order to fully understand the relationship of the proposed house with Reiverslaw to the north-east. A submission was then received showing this relationship indicating a 25m gap at the closest point from house to house. The glasshouse is closer at 11m. The site itself does lie on higher ground than Reiverslaw which is estimated to be in the order of 3m difference in floor levels, the proposed house being excavated into the site and the rising ground to the west being retained.



The proposal suggests that the ridge height of the proposed house will be 8.2m above the finished floor level, this ridge height being shown to be just below the ridge height of Reiverslaw. The owners of Reiverslaw dispute the ridge level relationship, highlight errors on the revised drawing and believe this impact will be dominant and affect the setting and thus, conflict with Council and National Policy on setting of listed buildings. They also believe the footprint will be excessive and be the same as Reiverslaw, all contributing to a scale of house which would not be “subservient” to Reiverslaw and that would impact detrimentally on its setting. The quote is lifted from the Heritage Officer’s comments on the earlier withdrawn application submission where he felt the submitted design was too dominant.

The Heritage Officer was then responding to a design with almost 12m gable width and 25 degree roof pitch, being wholly two storey with asymmetrical pitches, cantilevered balconies and largely rendered walls. Whilst slate and other traditional materials and features were proposed, they did not produce an overall sympathetic and coherent design which integrated with, rather than competed against, Reiverslaw. The house was also not set into the slope of the site, leading to increased dominance from Reiverslaw.

The current application made various revisions to attempt to improve subservience with Reiverslaw and reduce impacts on the setting. These included the following:

- A reduction in overall footprint by approximately 30 square metres.
- A realignment of the house to straighten the skewed alignment
- A further movement of the house and garage two metres west.
- A restriction of the main two storey axis to a North/South alignment with a reduced height 1.75 storey wing to the east.
- An excavation of ground resulting in a reduction in height AOD of between 1.2 and 1.9m to ridge
- Various design and material improvements including gable width reduction, more sympathetic roof pitch and wider use of natural stone – see Design Section below.

Whilst a decision should be made on the acceptability of what the current submission is, rather than what was unacceptable about the withdrawn application, it is still important to note the progression and improvements in the design, in relation to how it impacts on the setting of the listed buildings.

The Heritage Officer now considers that the scale and design of the building have been reduced and improved to the extent that the impact on the setting of Reiverslaw is acceptable. He calculates that, in terms of footprint, Reiverslaw remains the dominant building. The exact ridge height relationship is still being explored at the time of writing this report and will be reported to Members at the Committee – but it is not anticipated that there will be such a marked difference that the proposed house would then be considered to be dominant and detrimentally affect setting. The reductions, realignment, design and material changes, when combined with the distance and oblique view, determine that the impacts on setting do not substantiate a refusal of the application for these reasons. The principal elevation of Reiverslaw remains eastwards facing towards Bonnington Road and the impacts of the house on the rear setting towards the south-west do not justify refusal of the application. Subject to conditions securing a suitable natural stone sample and appropriate colours of external materials, I am content that the impacts on the listed buildings are acceptable and in compliance with Local Development Plan and National Policy.

## Design and Residential Impact

Policies PMD2, PMD5 and HD3 of the Local Development Plan require appropriate design and quality standards to be applied to all new development and there to be no significant adverse effects on residential amenity.

In terms of design and materials, Policy PMD5 seeks respecting of the surroundings and PMD2 seeks scale, massing, design and materials to complement the highest quality architecture in the area. The surroundings to the site are influenced by traditional buildings such as Reiverslaw and The Stables to modern houses such as Witch Wood and the new houses along the eastern side of Bonnington Road. Whilst the Heritage Officer suggested he did not wish to see a design which competed with the listed building at Reiverslaw, it is understandable that the design would pick up on the surrounding influences whilst not directly copying them. Thus, whilst Witch Wood is a highly successful timber clad contemporary design within the context of its wooded site, there is no reason to seek a similar timber clad design on a linear garden site between a walled garden and an open paddock. If elements of traditional materials such as slate, natural stone, wet render and timber detailing could be combined with an appropriate design, then there would be no reason to consider such a design inappropriate in the mixed age development context, complying with the relevant criterion in Policy PMD2.

The issue previously with the withdrawn application was that, whilst some of these materials were present, the wide plan depth, shallow roof pitch, skewed alignment, excessive floor level height and confused arrangement of windows, doors and elevations led to a design which was not integrated with, or complemented, its surroundings. However, the withdrawal of that application and resubmission of the current proposals has led to a design which responds better to its surroundings and, subject to appropriate external materials controlled by condition, can be considered acceptable and in compliance with Policies PMD 2 and PMD5.

The slate roofs of differing heights with integral gable end chimneys, projecting eaves and pitched dormer projections present a much more sympathetic roofscape than the previous design. The use of natural stone on the gable ends of the main house axis combined with feature panels on the 1¼ storey wing improve the design as do the banded and astragalled timber windows. These retain a strong vertical emphasis due to the use of mullions where necessary. The glazed porch and improved matching treatment of the garage improve the main front elevation and entrance. The elevation facing west is concealed to the public and contains more contemporary elements where their inclusion has less impact or comparison with surrounding architecture.

Overall, the relevant Local Development Plan Policies on design can be complied with at the next planning stage and subject to the aforementioned conditions

Residential amenity is covered by Local Development Plan Policy HD3 and the Supplementary Planning Guidance Note on Privacy and Sunlight. Amenity, privacy and sunlight concerns have been raised by residents of the neighbouring properties at Reiverslaw and Witch Wood, compounded by the perceived height of the dwelling and the elevated land on which it will be situated. However, the distance and alignment relationship of the proposed house with both affected houses and gardens is well within the guidelines and tolerances expected and advised in the relevant SPG.

The generous garden grounds around Reiverslaw result in more than 25m between houses corner to corner, separated by screening within the current grounds. The

proposed gable nearest the grounds, in any case, only proposes two small bathroom windows to first floor with ground floor patio door overlooking screened by the wall. Whilst window to window overlooking is well within the guidelines, the potential overlooking of the outer garden ground of Reiverslaw justifies a condition to ensure no further windows are proposed on the eastern gable of the proposed house wing. All other windows proposed are distant and/or obliquely angled.

Although distances are less to Witch Wood, the same applies in relation to privacy impacts. There is an approximate distance of 17m house corner to corner but the houses are obliquely aligned to each other. Any line of sight from the habitable room windows at Witch Wood is at such an angle from the windows of the proposed house that, when combined with the distances, the impacts are not significant and well within the guidelines in the relevant SPG. This is also allowing for the increased height of the windows due to the rising ground. The immediately adjoining garden ground to Witch Wood is not as potentially overlooked as that of Reiverslaw, albeit the eastern gable window restrictions and intervening proposed garage will protect privacy to an improved degree. Proposed new planting around the proposed house will also help diffuse impacts, to be controlled by condition.

There is also no significant impact on daylight or sunlight to the aforementioned houses, albeit there are concerns raised. The distances and oblique angles mean that whether the 25 or 45 degree angles are assessed, there is no obstruction to daylight that would have any material impact on the properties. In terms of sunlight, the affected houses are again sufficiently distant not to experience such an impact that refusal would be substantiated. As the SPG and relevant Building Research Establishment advise, there are no obstructions above a 25 degree subtended line from potentially affected windows and, therefore, no further sun path analyses are required. Whilst some trees have been felled, there is also impact from the trees that remain both around the site and to the south and surrounding the potentially affected houses.

For the aforementioned reasons and subject to conditions, it is considered that Policies PMD2, PMD5 and HD3 of the Local Development Plan are met in relation to design and residential amenity.

#### Access and parking

Policy PMD5 of the Local Development Plan requires developments that generate traffic to be capable of being accessed safely and Policy IS7 seeks adequate parking provision. This development will be accessed from the private track that is shared between the owners of Witch Wood, Reiverslaw and The Stables, the latter accessing stables and a paddock to the south-west of the site. There is much information and comment in the objection letters regarding the legal rights to use this access for the development of a new house, the objectors believing there is no legal entitlement to use or widen this access. There is also much concern over the narrow and perceived unsafe nature of the access, leading onto an increasingly busy Bonnington Road. To clarify matters for Members of the Committee, all references to The Stables below refer to the plot owners' current dwellinghouse, the site being part of the garden ground. References to stables are actual stables within the paddock to the west of the site, also owned by the same owners.

These issues were made known during processing of the previous withdrawn application when Roads Planning were of the opinion that the access needed to accommodate two traffic flows at the junction either by junction widening or by a passing place within the site. The concern was that without such a provision, there

would be too far to reverse for a car up the track leading to the unsafe possibility of cars reversing out onto the public road at the junction. Objectors and the applicant have differing opinions about their legal abilities to secure such improvements.

With the current application, the applicant has advanced an argument based upon replacement of traffic flows, claiming that the access is 50% owned by the plot owners who reside at The Stables and who, once the new plot is developed, will be giving up their rear access usage to The Stables, only retaining their access to the stables and paddock to the south-west of the plot. The argument is that the new development will simply replace such traffic and that the junction is currently safe to accommodate the traffic flows. Counter arguments have been lodged to state that the access has only recently been used as a rear access to The Stables and that it has been introduced to suit the argument being advanced over replacement traffic flow. The objectors also argue that the traffic flows from the size of house proposed would far outweigh any occasional rear usage to serve The Stables and that the junction and track are incapable of safely accommodating the additional traffic.

Roads Planning have taken all the factors into account and have raised no objections, following re-appraisal of the access point and taking into account the replacement traffic claim. They accept there is little evidence to demonstrate current and proposed vehicle movements but accept the principle of replacement traffic could be partly comparable. In accepting that there would appear legal difficulties in improving the access, they have reassessed the junction. They have identified good forward visibility approaching the junction and adequate visibility when leaving the junction. They feel that drivers waiting to turn in can see along the track into the site to see if the track is clear. If it isn't, the waiting vehicle can clearly be seen from both approaching directions. Roads Planning are now accepting the proposal following the additional information on traffic usage replacement and the reappraisal of the junction. This is a position not accepted by the objectors who have lodged further concerns on the stance of Roads Planning, viewable on Public Access.

Roads Planning have some concern over the junction surface and potential for verge overrun if a vehicle is exiting and one is waiting to turn in. They identify that the verge crossing within public road boundary could be replaced with tarmac and that a scheme should be submitted, as a condition of planning permission, to secure the new surface with entrance splay enlargement to cope with verge overrun. As the works are within the public road boundary, Roads Planning identify that the works are achievable. Objectors have submitted title deeds claiming the verges are within their ownership and that there is no public good being served by the amendments within public verge, simply acceding to the wishes of one house developer.

Whatever the position on previous access usage to the rear of The Stables, the fact is that there are access rights, given also that the garden runs to the edge of the track. The rights do not appear to be disputed, just the pattern and frequency of usage. Given that there are rights, it is understandable why Roads Planning have reassessed the junction on the basis of net replacement traffic flows. However, as this was an important reason for the reassessment and ultimate acceptance of the proposal, it is essential that the access right to the rear of The Stables is extinguished as part of this application. Although the applicant makes this assertion in his supporting statement, there would still be the ability for the owner of The Stables to reach his garden ground via the track and paddock to which he would still retain access.

It is understood that the owners of The Stables would be willing to enter into a Legal Agreement to ensure that the only access they would take along the track in question

would be to the stables and paddock and not to their actual house or garden. This could be included as an additional clause in the Legal Agreement required for development contributions.

In terms of all other access matters, it is clear that Roads Planning are not objecting to the junction and access, subject to the improvements identified being carried out within public road verge. This would be attached by planning condition to be carried out to an agreed scheme before house occupation, by a contractor entitled to work within public road. Although objectors dispute how such work can be sanctioned within their ownership without their approval, the Council has previously successfully required and defended such works within public road under the Roads Scotland Act 1984. Although objectors claim it is facilitating and assisting one developer rather than it being in the wider public good, it will introduce a better junction for the current users which benefits road safety in the area. Any perceived increased usage of the access is accepted by Roads Planning on the basis of the improved junction and the current visibility available at the access. Any arguments over legal rights of usage remain private civil matters for discussion amongst the relevant landowners.

Subject to the aforementioned Legal Agreement and condition, it is considered that the development can be accessed safely and, thus, in compliance with the relevant Local Development Plan Policies.

#### Trees and Landscape

Policies EP10 and EP13 apply to this site, relating to trees and landscape within development sites and the Haystoun Designed Landscape. The site also borders the Tweed Valley Special Landscape Area protected by Policy EP5. The site previously had a row of beech trees within it and further woodland on the western boundary which have now been removed. This removal and site clearance was not encouraged by the Department but, nevertheless, does not constitute any breach of planning control or legislation. The trees were not protected.

When Witch Wood was developed, the retention of trees within and around that site was considered an important part of that development, the house being fitted into its wooded setting and taking part of its influence from that setting. Those trees within that site are now protected by planning condition and it would be the intention to retain the remaining trees within the current application site, in order to maintain the backdrop to Reiverslaw, the integrity of the Haystoun Designed Landscape and the boundary of the Tweed Valley Special Landscape Area as identified by the Landscape Architect.

Whilst the tree removal that has taken place is regrettable, the Landscape Architect does believe that the development can be supported subject to adequate protection of the remaining trees and suitable replacement planting, including trees outwith the site to the south. Further revised plans were submitted moving the house over two metres westwards to reduce potential impacts on trees within and outwith the site and clearer notes were included on what trees were being retained, including trees to the north and south of the site. New planting proposals have also been submitted including replacement trees to all sides of the house, the western side being kept open in the vicinity of the main west-facing elevation.

The Landscape Architect is content that the revised drawing indicates acceptable proposals, repositioning the house and allowing for better retention of existing trees as well as acceptable new planting. However, further information would still be required before the development commences relating to definition of existing tree

Root Protection Areas, additional new planting proposals, walling details and any further boundary enclosure details. Conditions can cover these requirements as well as the need for protective fencing around retained trees during construction works. Subject to these, the development can be considered in compliance with Policies EP5, 10 and 13 of the Local Development Plan.

### Drainage

Policy PMD5 of the Local Development Plan requires development to be capable of adequate services, including drainage. Policy IS9 seeks waste water drainage to the public sewer within settlements and surface water to a suitable SUDs system. There is much comment in the objections on drainage and surface water flooding problems, including comment on the legal abilities of the applicant to achieve an access route to the public sewer connection within or near to the Jubilee Park development. It is noted by objectors that the applicant states that relevant drawings will be made available to view and that these had not been submitted. The applicant does claim he has the ability to connect to the public sewer.

The applicant has been asked to provide further details on how the site will be provided with satisfactory drainage and these are now shown schematically on a revised plan. This indicates a route eastwards down the access track, under Bonnington Road then travelling south and east along the edge of woodland bordering the former Cala Homes development before connecting to the sewer. The drawing lacks any further detail. However, the plot is within the town settlement boundary and it would be highly unlikely that adequate infrastructure and a drainage system could not be provided for the development. The issue, in any case, is a matter for Building Regulations and agreement at Building Warrant stage. Any legal restrictions and entitlement are not a matter for debate in assessment of the planning application and should not influence the decision on the application.

Nevertheless, given the presence of constraints such as listed walls, retained trees, excavation of ground and ground levels towards Bonnington Road, it would be justified to seek proposals by condition to enable the constraints and impacts to be considered, in liaison with Building Standards. Subject to the condition, there would be no justifiable planning reason to oppose the application on the grounds of a claimed legal inability to achieve drainage.

### Other issues

Although all other issues have been considered, none are raised that would outweigh the consideration of the application as set out above. Any legal arguments over rights of access, land ownership and previous clauses on the land remain private legal matters to be discussed between the affected parties and should not affect the outcome of the application. Planning permission does not override the need for all necessary legal permissions to be met.

### Developer Contributions

Local Development Plan Policy IS2 requires new residential developments to contribute towards certain infrastructure and affordable housing stock, as currently identified. This development will require contributions towards Peebles High School, Priorsford Primary School and Peebles Bridge/Traffic Management in the town. The contributions have been discussed with the applicant and it has been confirmed that they will be met via Section 69 Agreement. Thus, if Members are minded to accept

approval of the planning application, consent can only be issued upon conclusion and registration of the Agreement.

## **CONCLUSION**

Subject to the conditions listed below and the conclusion of a Legal Agreement covering development contributions and access restriction to “The Stables”, the development is considered to comply with the Local Development Plan Policies and Supplementary Planning Guidance on infill development within residential areas and within the setting of listed buildings.

## **RECOMMENDATION BY CHIEF PLANNING OFFICER:**

I recommend the application is approved subject to the following conditions and to a Legal Agreement, relating to development contributions and access issues:

1. 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 – including trees within and immediately adjoining the site boundary, to be identified by tree survey
  - iii. location and design, including materials, of walls, fences and gates
  - iv. soft and hard landscaping works including replacement planting
  - 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.
2. The trees on and adjoining this site, which are identified as per Condition 1 to be protected, shall be protected at all times during construction and building operations, by the erection of substantial timber fences around the trees, together with such other measures as are necessary to protect them from damage. Details of the methods it is proposed to use shall be submitted by the applicant to the Planning Authority and be approved by them in writing. The approved protective measures shall be undertaken before any works commence on the site and must, thereafter be observed at all times until the development is completed. Once completed, the trees to be retained thereafter in perpetuity.

Reason: To ensure that adequate precautions are taken to protect trees during building operations.
3. A scheme of junction improvement of the access track with Bonnington Road shall be submitted for the approval of the Planning Authority, detailing a resurfacing of the concrete surface within public road verge with 75mm of 40mm size single course bituminous layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming blinded with sub-base, type 1. The scheme also to include enlargement of the access splays.

Once approved, the scheme to be completed before occupation of the dwellinghouse.

Reason: In the interests of road safety.

4. 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, roofs, windows and doors 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.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), no additional window or other opening shall be made in the eastern elevation of the eastern section of the dwellinghouse unless an application for planning permission in that behalf is first submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the privacy and amenity of the occupiers of adjacent property.

6. The development hereby permitted shall not be commenced before fully detailed design proposals for foul and surface water drainage have been submitted to and approved by the Planning Authority.

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

#### DRAWING NUMBERS

L1 Location Plan Rev A  
01 Existing Site Plan  
02 Proposed Site Plan Rev B  
04 First Floor and Roof Plans  
05 South and West Elevations  
06 North and East Elevations  
Revised Application – Applicant’s Statement

#### **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)**

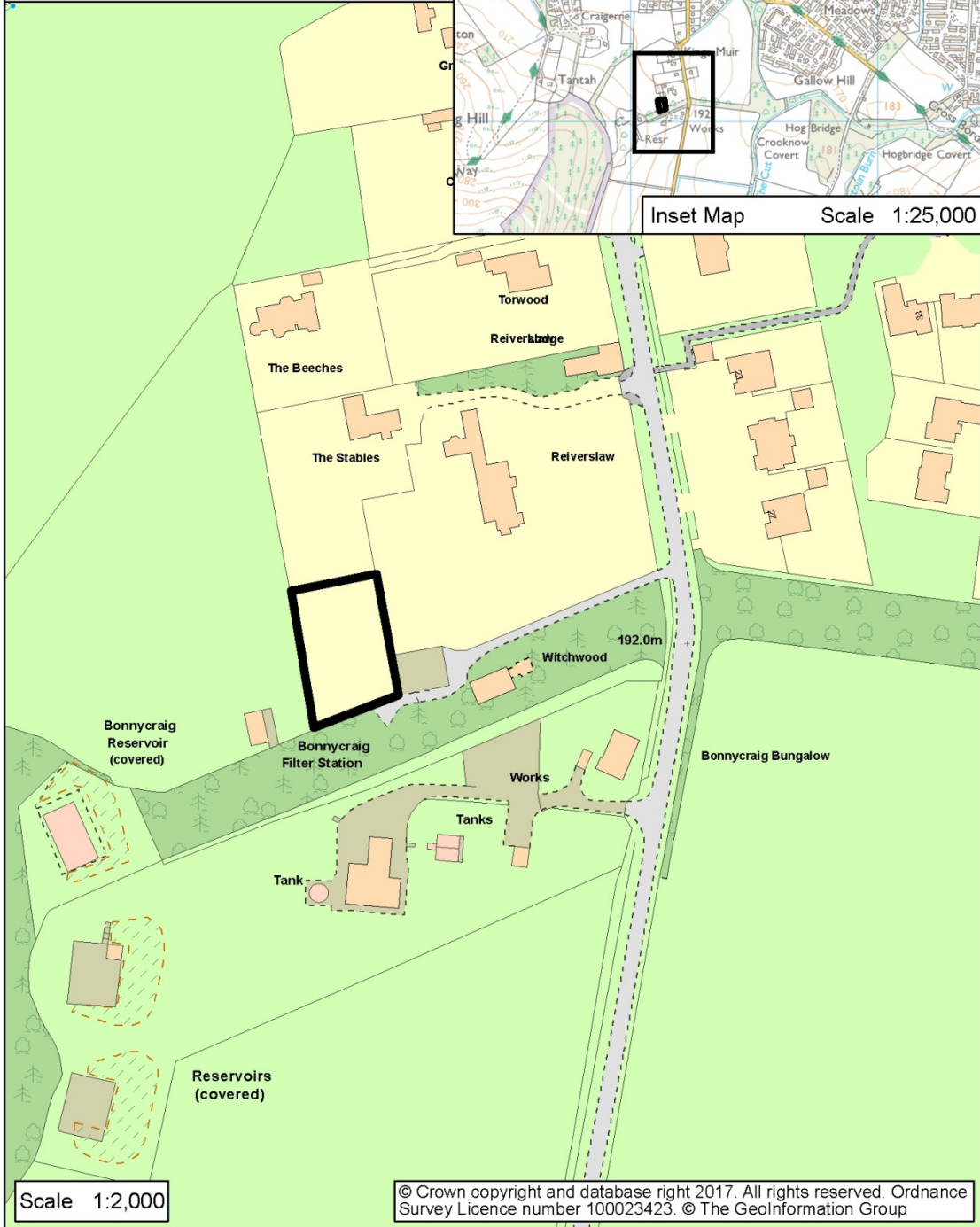
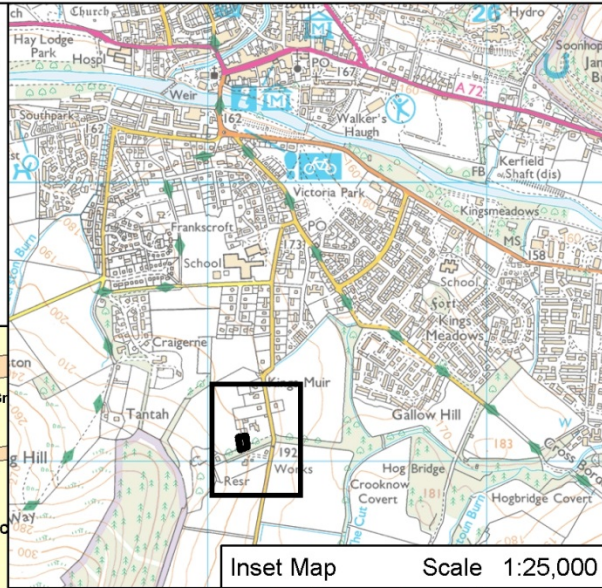
Name	Designation
Craig Miller	Lead Planning Officer





16/01239/FUL

Garden Ground Of The Stables  
Bonnington Road  
Peebles



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**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**6 FEBRUARY 2017**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** REFERENCE NUMBER: 16/01442/MOD75  
**OFFICER:** Mr C Miller  
**WARD:** Tweeddale West  
**PROPOSAL:** Modification of planning obligation pursuant to planning permission 06/00769/FUL  
**SITE:** Glentress Lodge, Eshiels, Peebles  
**APPLICANT:** Claire Bony  
**AGENT:** None

**SITE DESCRIPTION:**

The site relates to the dwellinghouse erected to the rear of the Glentress Hotel, Eshiels, known as Glentress Lodge. This property was approved by Area Committee in 2006 as a dwellinghouse but with a planning condition and Section 75 Agreement. Following conclusion of the latter, the permission was issued in 2009 with the following condition:

*“The dwellinghouse hereby approved to be used as a manager’s house only and not to be used as ancillary accommodation associated with the Glentress Hotel.”*

That was subsequently changed in 2009 by the Local Review Body to also allow for self-catering use in connection with the hotel together with a manager's house.

The Section 75 Agreement included a Clause stating as follows:

*“The Glentress Hotel and its associated buildings along with the Development shall always be held as a single property and no individual part of it shall ever be sold separately or otherwise disposed of, except to Statutory Undertakers for the purposes of public works or of adjustments to boundaries”.*

The property was erected following the original consent.

**PROPOSED DEVELOPMENT:**

This is an application to modify the Section 75 Agreement by removing the aforementioned clause which would then allow the property to be free of the legal linkage with the hotel and resided in as a dwellinghouse or still used as self-catering accommodation independent of the hotel. There are personal reasons explained by the applicant for the request and it is also stated that the legal restriction has impacted on finance in connection with plans for hotel improvement. The application is brought to Committee as the modification seeks to remove a primary part of the Section 75 Agreement, which is beyond the remit of delegated authority.

## **PLANNING HISTORY:**

**06/00769/FUL** – Original consent for “Erection of Dwellinghouse” subject to the condition and Section 75 Agreement Clause mentioned above. The latter also sought schools contributions.

**09/01534/FUL** – Change of use of house to also allow for ancillary self-catering accommodation as well as Manager’s accommodation, in connection with the hotel.

**13/01043/PPP** – Erection of dwellinghouse immediately to the south-east of the hotel. This consent remains valid until April 2018.

## **CONSULTATION RESPONSES:**

**Legal Services:** Response awaited.

## **REPRESENTATION SUMMARY**

None.

## **DEVELOPMENT PLAN POLICIES:**

### **Local Development Plan 2016:**

Policy PMD2 Quality Standards

Policy ED7 Business, Tourism and Leisure Development in the Countryside

Policy HD2 Housing in the Countryside

Policy HD3 Protection of Residential Amenity

## **OTHER PLANNING CONSIDERATIONS**

"New Housing in the Borders Countryside" SPG

## **KEY PLANNING ISSUES:**

The key planning issues with this application are whether the legal severance of Glentress Lodge from the hotel would still allow for compliance with Council Policies and Guidance on residential amenity.

## **ASSESSMENT OF APPLICATION**

The removal of the clause linking all buildings associated with the Glentress Hotel to a single ownership would have the effect of allowing the property subject to this application to then be lived in as per the 2009 consent, i.e. as stand-alone self-catering accommodation or as a dwellinghouse. In 2014, a new dwellinghouse was allowed immediately east of the hotel and the whole history and issue of potential conflict between the hotel and residential amenity was re-assessed at that time. The justification for approval of the application was set out in the Handling Report as follows:

*"There had been a previous unsuccessful application for holiday accommodation to the north-west of the hotel and much discussion about the relationship of the hotel and residential amenity when the application to change the use of "Glentress Lodge" was considered.*

*The latter decision was finally taken by the Local Review Body which overturned the Officers' previous views on the basis that the hotel's relationship with surrounding houses was a matter of fact and that potential use conflict was not a driving factor in the determination of an application. They did, however, seek some acoustic screening to reduce noise impact from open decking areas belonging to the property which was the subject of the change of use to hotel accommodation. For this reason, I cannot oppose the locating of an unconnected dwellinghouse in similar proximity to the hotel, provided some attention is paid to screening and acoustic shielding."*

This permission is still valid and, given how it reflects the 2009 LRB decision, there is no justification to oppose the intention to allow Glentress Lodge to be used independently from the hotel, as a dwellinghouse or, indeed, as self-catering accommodation. The potential impacts on Glentress Lodge could conceivably be slightly greater than the impacts on the surrounding houses through a detachment of the ownership connection but, as Members felt at LRB, the conflicts are present already as matters of fact. Anyone taking on Glentress Lodge will see the situation quite clearly and, for adjoining neighbours, the situation will be no worse and, potentially, better if the connection with the hotel is severed and the property then lived in as a private house.

The removal of the S75 Clause will, therefore, still allow compliance with Policy HD3 of the Local Development Plan on protection of residential amenity.

**CONCLUSION**

The proposal will reflect the planning situation accepted at Glentress Hotel and surroundings, following the 2009 LRB decision, that the issues of use conflict are present and that a disconnection of the ownership of the hotel with Glentress Lodge will not create any undue use conflicts not already accepted as existing.

**RECOMMENDATION BY CHIEF PLANNING OFFICER:**

I recommend the modification to the Section 75 Agreement is approved and that the relevant Clause be removed from the Agreement.

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.

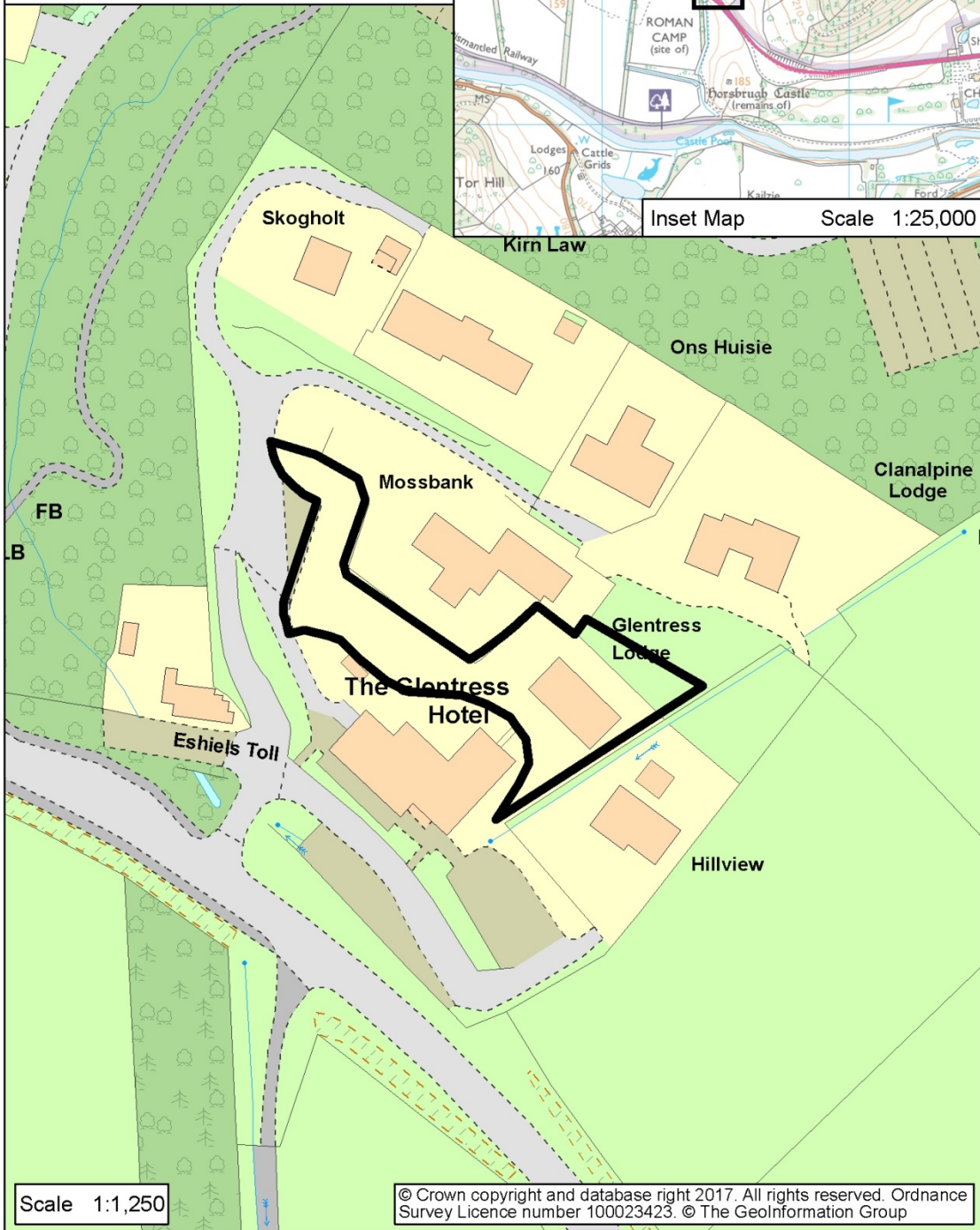
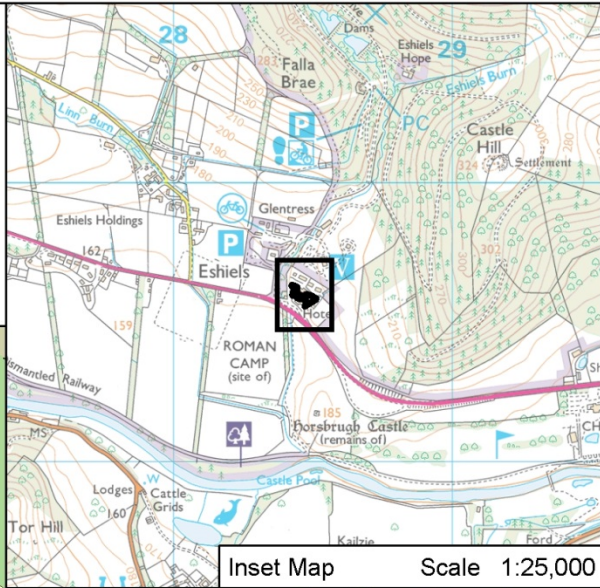
**Author(s)**

Name	Designation
Craig Miller	Planning Officer



16/01442/MOD75

Glentress Lodge Eshiels  
Peebles  
Scottish Borders





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## **PLANNING APPEALS & REVIEWS**

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### **Briefing Note by Chief Planning Officer**

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## **PLANNING AND BUILDING STANDARDS COMMITTEE**

**6<sup>th</sup> February 2017**

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### **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

Nil

- 2.2 Enforcements

Nil

### **3 APPEAL DECISIONS RECEIVED**

- 3.1 Planning Applications

Nil

- 3.2 Enforcements

Nil

### **4 APPEALS OUTSTANDING**

- 4.1 There remained one appeal previously reported on which a decision was still awaited when this report was prepared on 27<sup>th</sup> January 2017. This relates to a site at:

- |   |   |
|---|---|
| <ul style="list-style-type: none"><li>• Land North West of Whitmuir Hall, Selkirk</li></ul> | <ul style="list-style-type: none"><li>•</li></ul> |
|---|---|

## 5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 16/01425/PPP  
Proposal: Erection of dwellinghouse  
Site: Land East of Keleden, Ednam  
Appellant: Mr & Mrs Brian Soar

Reason for Refusal: The proposals would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the erection of a dwellinghouse on this site would result in development outwith the development boundary of the village as defined on the settlement profile map for Ednam, leading to unjustified encroachment into the open countryside and coalescence with the Cliftonhill building group. The proposed dwelling is not a job generating development in the countryside that has economic justification under Policy ED7 or HD2; it is not an affordable housing development that can be justified in terms of Policy HD1; a shortfall in the provision of an effective 5 year land supply has not been identified and it is not a development that would offer significant community benefits that would outweigh the need to protect the development boundary.

## 6 REVIEWS DETERMINED

- 6.1 Reference: 16/00844/FUL  
Proposal: Erection of 2 No dwellings for holiday let, and associated infrastructure works  
Site: Land North West of 4 Rink Farm Cottages, Galashiels  
Appellant: Mr J M & R Bayne

Reason for Refusal: By virtue of the elevated, isolated and visible location of the proposed holiday lets and associated works, the proposed development will result in unacceptable landscape and visual impacts and will adversely affect the landscape quality of the Tweed, Ettrick and Yarrow Confluences Special Landscape Area within which the site is located. This is contrary to Policies PMD2, ED7 and EP5 of the Scottish Borders Local Development Plan 2016. The potential economic benefits of the development are not considered to outweigh the adverse landscape and visual impacts.

Method of Review: Review of Papers & Site Visit

Review Decision: Decision of Appointed Officer Overturned

- 6.2 Reference: 16/00866/FUL  
Proposal: Variation of Condition 3 of planning permission 06/00243/OUT and Condition 5 of planning permission 13/00897/PPP pertaining to access road  
Site: Plots 1 & 2, Site At The Putting Green, Auchencrow, Eyemouth  
Appellant: Mr & Mrs P Costello

Reason for Refusal: The proposal to vary the condition to allow retention of the gravel surface would be contrary to policies HD2, PMD2 and HD3 of the Local Plan 2016 in that the use of this material would result in a substandard access to property to the detriment of road safety and neighbouring amenity.



Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

## 7 REVIEWS OUTSTANDING

7.1 There remained no reviews previously reported on which decisions were still awaited when this report was prepared on 27<sup>th</sup> January 2017.

## 8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

## 9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

## 10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained one S36 PLI previously reported on which a decision was still awaited when this report was prepared on 27<sup>th</sup> January 2017. This relates to a site at:

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>(Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir</li></ul> | <ul style="list-style-type: none"><li></li></ul> |
|---|--|

### Approved by

**Ian Aikman**  
Chief Planning Officer

Signature .....

### Author(s)

Name	Designation and Contact Number
Laura Wemyss	Administrative Assistant (Regulatory) 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.

Contact us at Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel. No. 01835 825431 Fax No. 01835 825071  
Email: PLACetransrequest@scotborders.gov.uk

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