

Public Document Pack



LOCAL REVIEW BODY MONDAY, 12 MARCH 2018

A MEETING of the LOCAL REVIEW BODY will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS, TD6 0SA on MONDAY, 12 MARCH 2018 at 10.00 am

J. J. WILKINSON,
Clerk to the Council,

5 March 2018

BUSINESS		
1.	Apologies for Absence.	
2.	Order of Business.	
3.	Declarations of Interest.	
4.	Continuation of review of application to erect dwellinghouse on land NE of and incorporating J. Rutherford Workshop, Rhymers Mill, Mill Road, Earlston. 17/00479/FUL. 17/00037/RREF. Copies of the following papers attached:-	
	(a) Written submission from applicant (Pages 3 - 12)	
	(b) Response from Council's Flood Risk Officer (Pages 13 - 14)	
	(c) Response from Planning Officer (Pages 15 - 22)	
	(d) Review Papers (Pages 23 - 80) Copies of papers re-circulated as follows:- Notice of Review – page 23 Decision Notice – page 37 Officer's Report – page 51 Consultations – page 59 List of Policies – page 75	
5.	Consider request for review of refusal of planning application to erect a boundary fence and formation of parking area (retrospective) at 1 Eildon Terrace, Newtown St Boswells. 17/01230/FUL. 18/00003/RREF. Copies of the following papers attached:-	

	(a) Notice of Review	(Pages 81 - 86)	
	(b) Decision Notice	(Pages 87 - 88)	
	(c) Officer's Report	(Pages 89 - 92)	
	(d) Papers referred to in officer's report	(Pages 93 - 104)	
	(e) Consultation	(Pages 105 - 106)	
	(f) List of Policies	(Pages 107 - 110)	
6.	Any Other Items Previously Circulated		
7.	Any Other Items which the Chairman Decides are Urgent		

NOTES

1. **Timings given above are only indicative and not intended to inhibit Members' discussions.**
2. **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.**

Membership of Committee:- Councillors T. Miers (Chairman), S. Aitchison, A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage and E. Small

Please direct any enquiries to Fiona Walling 01835 826504
email fwalling@scotborders.gov.uk



International House,
Hamilton International Park,
Stanley Boulevard,
Hamilton,
G72 0BN

www.terrenus.co.uk

Resources,
Council Headquarters,
Newtown St Boswells,
Melrose,
TD6 0SA

By e-mail only

Date: 6th February 2018

Dear Sir / Madam,

PLANNING APPLICATION APPEAL

PLANNING REF: 17/00479/FUL

APPEAL REF: 17/00037/RREF

ERECTION OF DWELLINGHOUSE FOR AUSTON TRAVEL

**J RUTHERFORD WORKSHOP AND LAND NORTH EAST OF J RUTHERFORD
WORKSHOP, RHYMERS MILL, EARLSTON, SCOTTISH BORDERS**

Introduction

Following on from the Planning Appeal held on 22nd January 2017 and a subsequent letter dated 23rd January from the Clerk to the Local Review Body we are pleased to provide the additional information relating to the above proposal as requested.

We have received elements of the Earlston Flood Study (EFS) Report from the Scottish Borders Council. This report has been prepared by Messrs JBA Group for the Council (Ref: S4-P01) and is dated October 2017. It is understood that the report is currently being reviewed by SEPA.

The EFS assessment covers the Leader Water and the Turfford Burn using a 1D/2D computer software methodology. The report is based on a suitable assessment of peak flow during the design storm event and robust topographic cross sections and LiDAR data of the general area. The report provides peak water levels for the design 1 in 200-year storm event.

We have reviewed the above report and conclude that it generally agrees with our earlier flood risk assessment for the Leader Water. By the use of robust topographic data, we agree that the Earlston Flood Study provides the best available estimate of fluvial flood risk.

Proposed Final Floor Level

As agreed with Ms Lauren Addis of the Council Flood and Coastal Management the EFS section LEAD_1354, placed just upstream of the Clatteringford Bridge provides a suitable reference point with respect to the proposed development site. The 1 in 200-year peak water level at this section is reported in the EFS to be 102.04m above Ordnance Datum (AOD).

In agreement with the Council the Final Floor Level (FFL) for the development should provide at least 600mm as a suitable 'freeboard' above this peak water level. The proposed FFL is therefore 102.64m AOD.

From the available LiDAR data, the existing ground level at the proposed plot is 101.4m AOD. The proposed FFL will therefore be approximately 1.24m above the existing ground level.

Flood Plain Storage

The EFS reports that the site is not inundated directly from the Leader Water during the design 1 in 200-year storm event but is affected by overland flow from the land to the north of the site. A review of the LiDAR data indicates that any overland flow along Mill Road will tend to be constrained by the road and provide a principle flow path along the front of the former mill to re-enter the Leader Water immediately downstream of the Clatteringford Bridge (see Drawing 1601-205-005 provided in the Appendix to this letter).

It is concluded that the principle risk to the site is from surface water / overland flow and that the proposed development will have an insignificant impact on the flood plain storage. The principle mitigation measure with respect to the risk of flooding as a result of the proposed development is one of flood routing.

Flood Routing

The existing flood route paths in the vicinity of the site are provided in Drawing 1601-205-005 in the Appendix to this letter. As noted above, the available LiDAR topographic data indicates that existing overland flow during the design 1 in 200-year storm event will pass along Mill Road to re-enter the Leader Water immediately downstream of the Clatteringford Bridge.

Should, as is proposed, an element of the former mill be demolished, this will provide an improved flow path along Mill Road to the Leader Water. Such work will therefore reduce the risk of flooding in the general vicinity (see Drawing 1601-202-006 in the Appendix).

The impact of the proposed development on the overland flow routes is shown on Drawing 1601-205-007 in the Appendix. In order to improve the movement of water the garden area of the proposed development will be profiled in order to facilitate the movement of water from Rhymers Ave to the south. Such land profiling will be modest and involve a soil scrape of less than 400mm and will result in an improved movement of water when compared with the existing land profile.

Safe access and egress is provided from the proposed development to the east and the existing car park and petrol station.

-oo000oo-

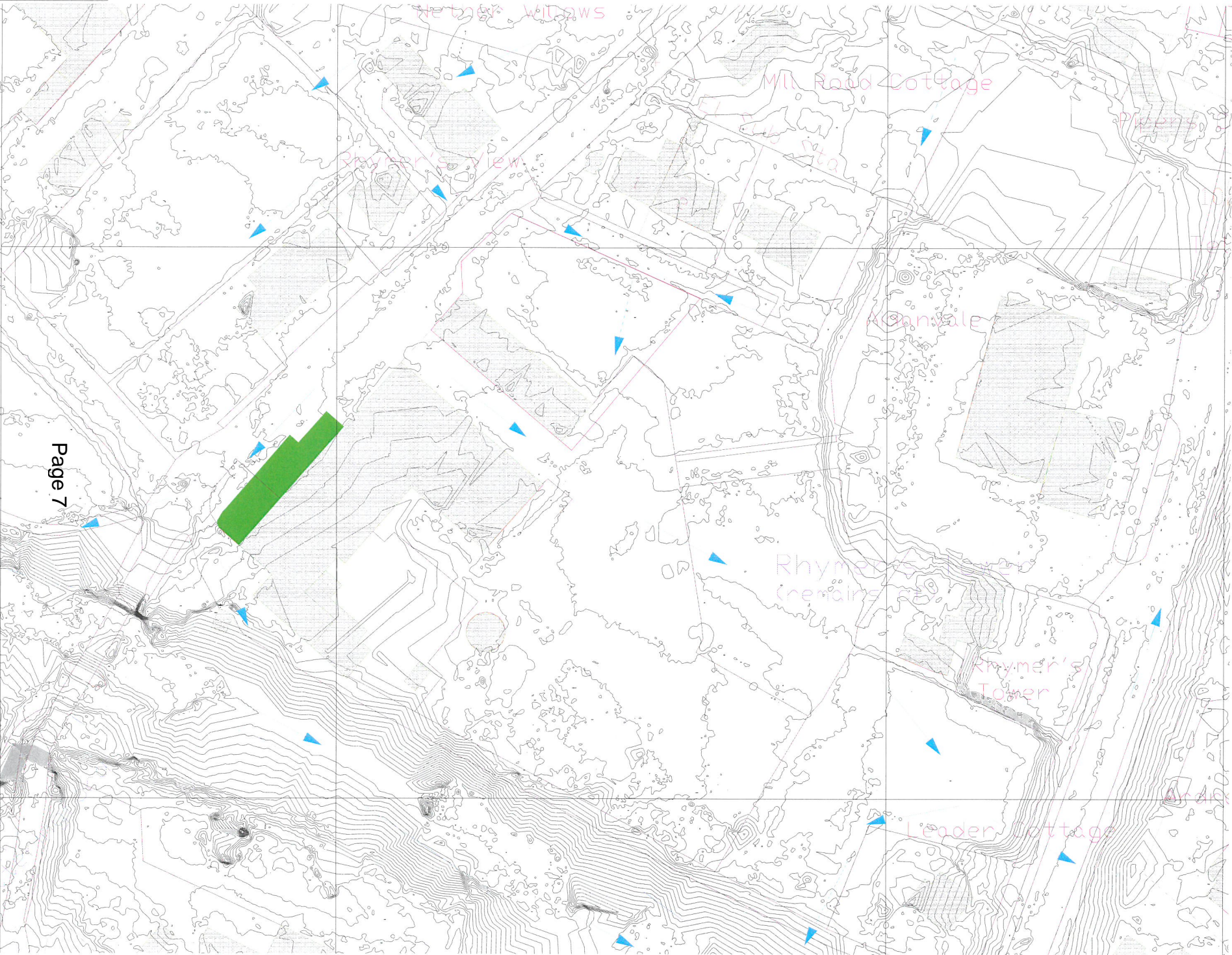
It is concluded that the proposed development will entail improved flood routing in the local area and will thus reduce the risk of local flooding. The loss of flood plain storage is insignificant with the proposed Final Floor Level providing a suitable freeboard above the design storm event.

Yours Sincerely,

William Hume
Director
Terrenus Land & Water Ltd




Appendix

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Page 7

LEGEND

-  SITE BOUNDARY
-  FLOW PATHS
-  EXTENSION CITED FOR DEMOLITION

NOTE:
200mm contours
shown, based on
LiDAR information
provided by
Scottish Borders
Council

Rev	Description	By	App	Date



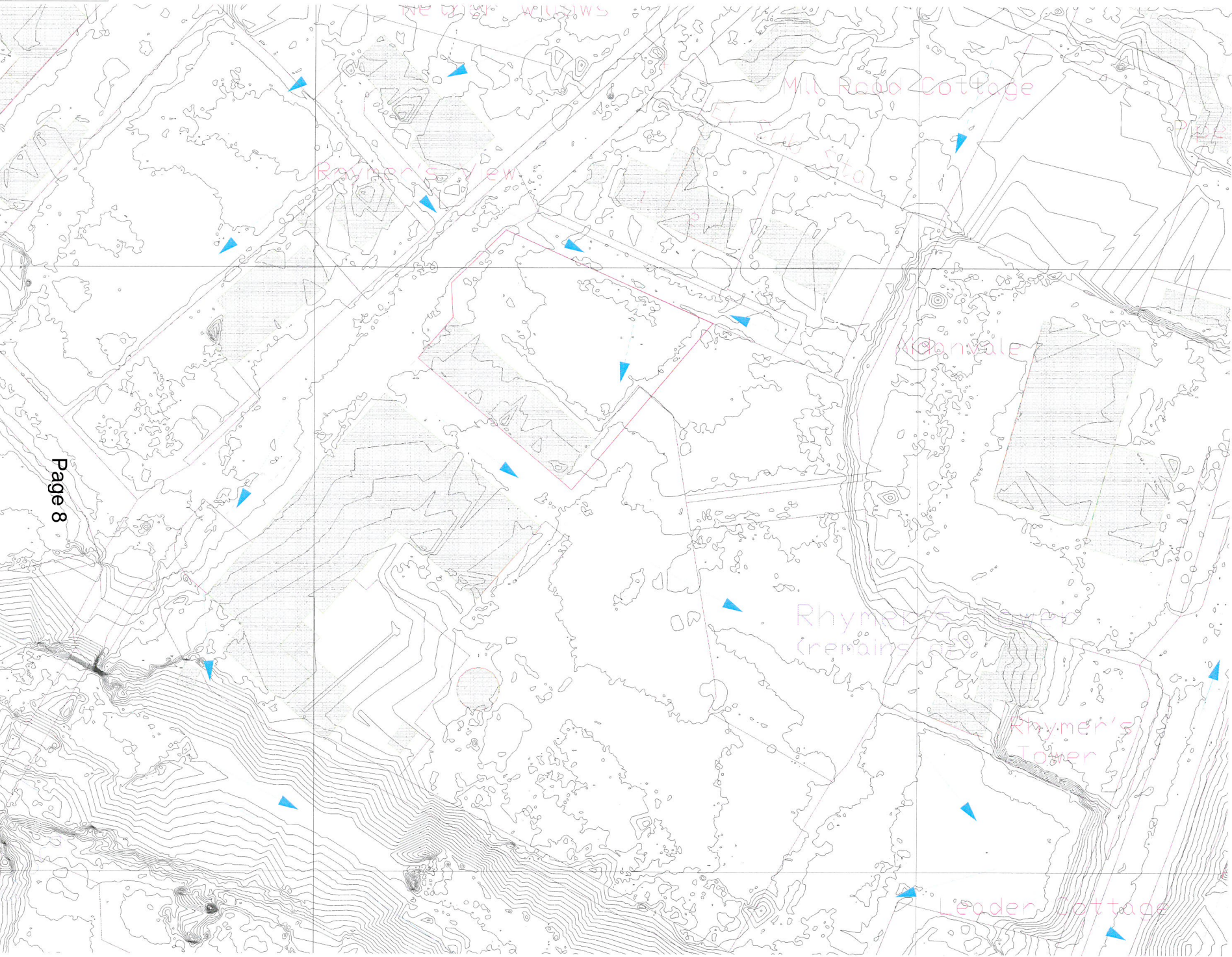
Terrenus Land & Water Ltd
Prospect Business Centre,
Hamilton International Park,
G72 0BN
www.terrenus.co.uk

Client
AUSTIN TRAVEL

Project
RHYMERS MILL,
EARLSTON

Drawing Title
EXISTING FLOW PATHS


Drawn DA	Checked WH	Approved WH
Date 31-01-18	Scale NTS	1601-205-005



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LEGEND

 SITE BOUNDARY

 FLOW PATHS

NOTE:
200mm contours
shown, based on
LIDAR information
provided by
Scottish Borders
Council



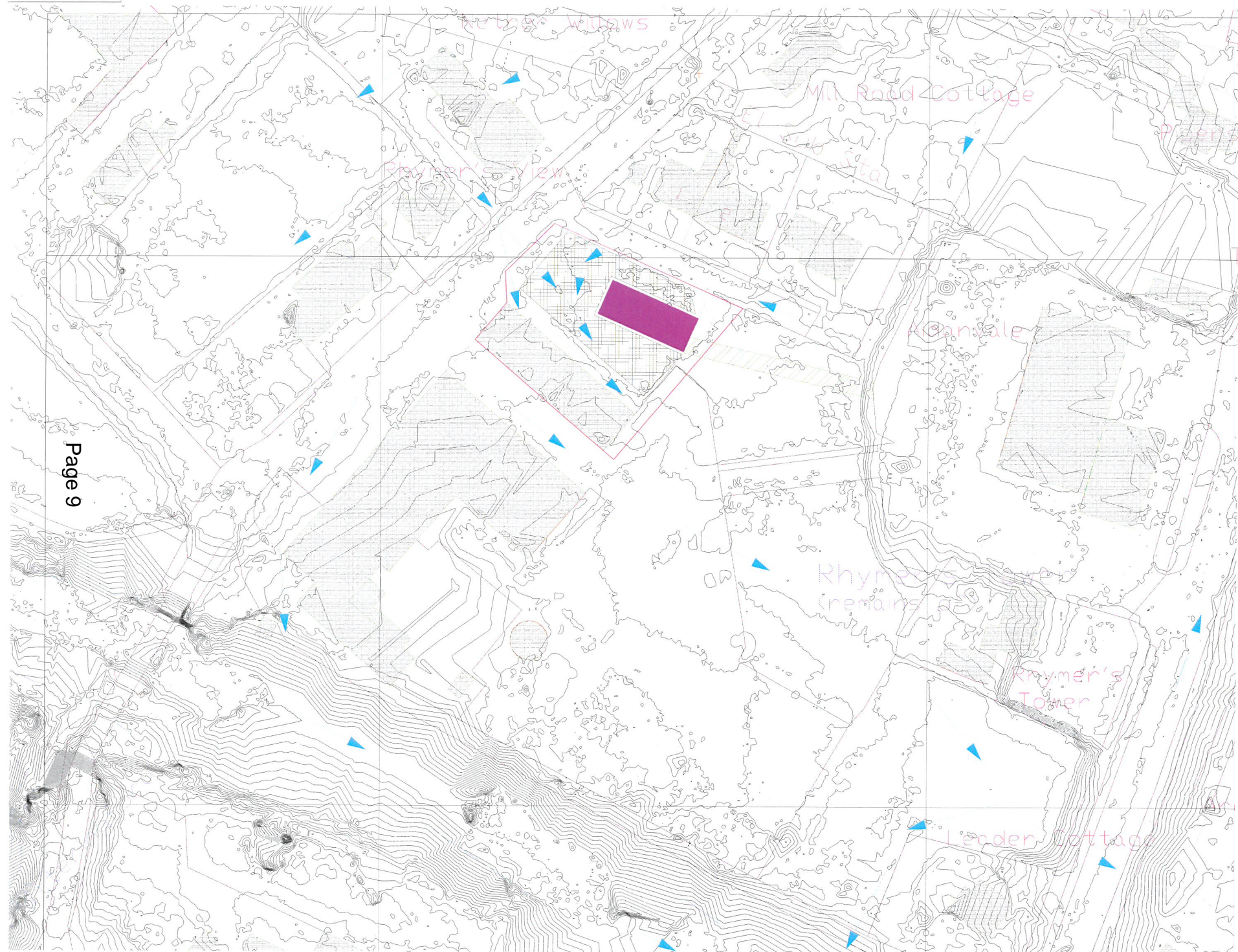
Terrenus Land & Water Ltd
Prospect Business Centre,
Hamilton International Park,
G72 0BN
www.terrenus.co.uk

Client:
AUSTIN TRAVEL

Project:
RHYMERS MILL,
EARLSTON

Drawing title:
PREDICTED FLOW PATHS
AFTER DEMOLITION OF
EXTENSION

Drawn DA	Checked WH	Approved WH
Date 31-01-18	1601-205-006	
Scale NTS		

 SITE BOUNDARY

▶ FLOW PATHS

 PROPOSED BUILDING

 PROPOSED GARDEN
- profiled to allow freeflow of surface water to the south.



SAFE ACCESS /
EGRESS ROUTE

NOTE:

200mm contours
shown, based on
LiDAR information
provided by Scottish
Borders Council

Rev	Description	By	App	Date



Terrenus Land & Water Ltd
Prospect Business Centre,
Hamilton International Park,
G72 0BN
www.terrenus.co.uk

Client
AUSTIN TRAVEL

Project
RHYMERS MILL,
EARLSTON

Drawing Title
PREDICTED FLOW PATHS
AFTER DEVELOPMENT
COMPLETION

Drawn DA	Checked WH	Approved WH
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Date 31-01-18

1601-205-007

ORIGINAL A3

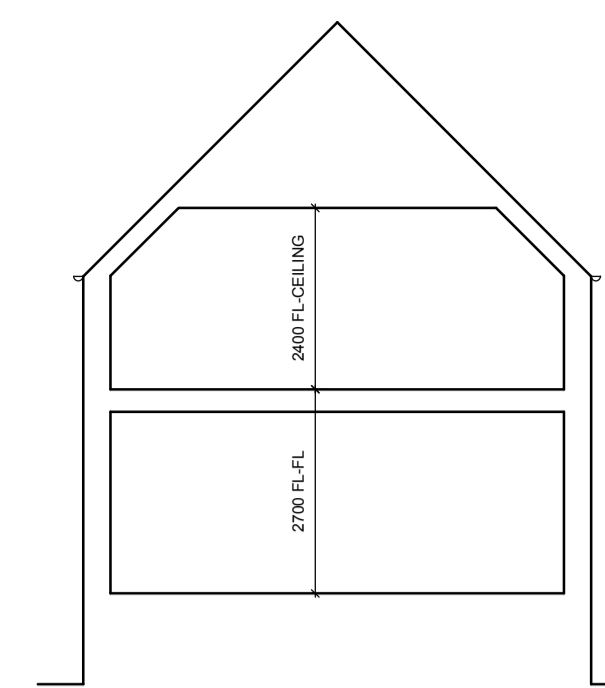
Scale NTS

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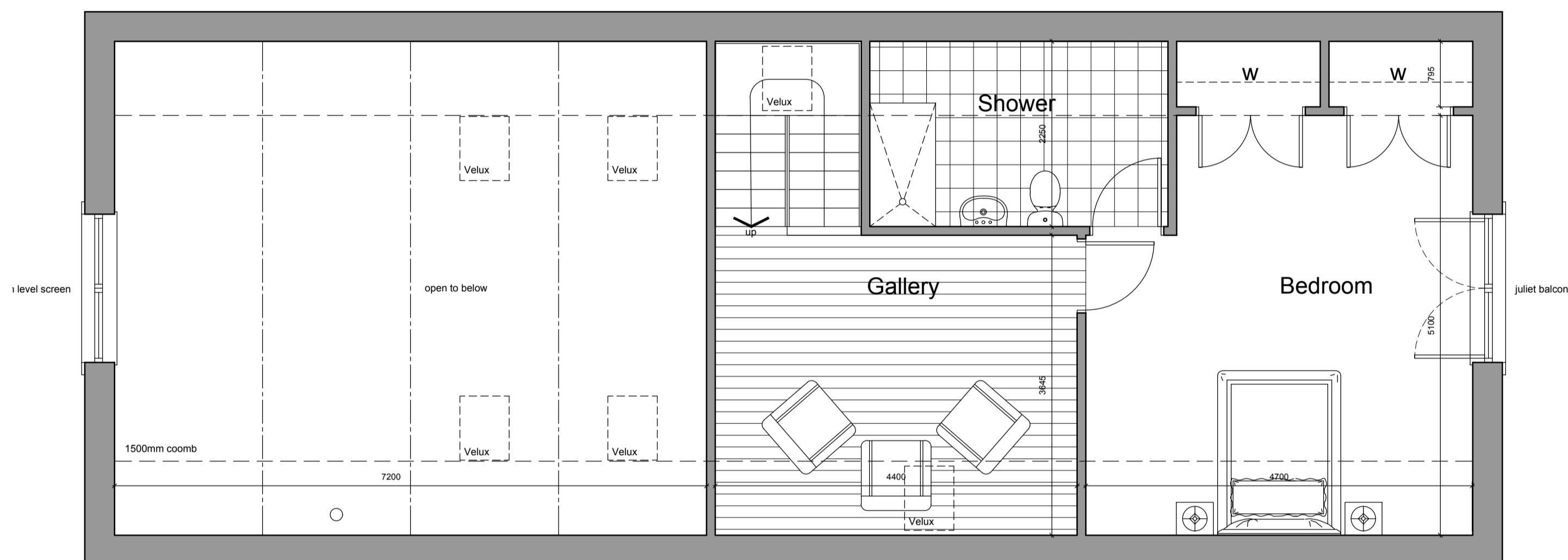


North East Elevation as Proposed

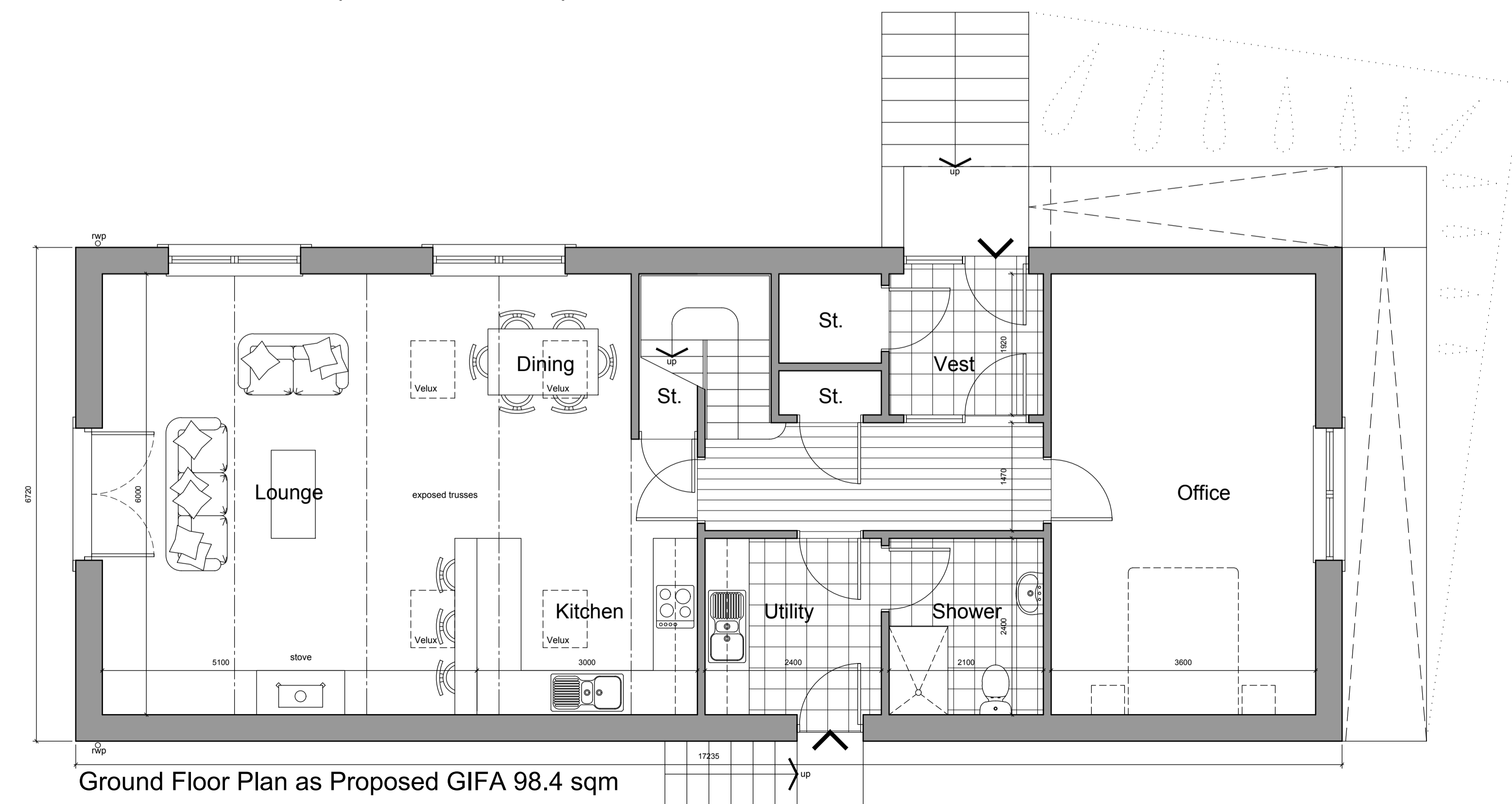
South West Elevation as Proposed



General Section as Proposed



First Floor Plan as Proposed GIFA 55.6 sqm



Ground Floor Plan as Proposed GIFA 98.4 sqm



North West Elevation
as Proposed



South East Elevation
as Proposed



FINISHES SCHEDULE

- ROOF FINISH:**
- Natural slate.

- RAINWATER GOODS:**
- Aluminium half round gutters and down pipes.

- WALLS:**
- Architectural masonry basecourse.
 - Wet dash render main walls.

- DOORS & WINDOW :**
- Velux Rooflights
 - New Glazed Screens & Fench Doorsets to be UPVC with double glazed units.
 - New external grade 'oak style' doors.

Site Boundary

Development Boundary

North

Revision	Description	By	Chk
project			

Austin Travel
Proposed Dwellinghouse
Rhymers Mill
Earlston

Plans, Elevations, Section
& Site Plan
as Proposed

scale	size	date	drawn	checked	
1:50	1:100	1:500	A1	March 2016	dcpb

AITKEN TURNBULL ARCHITECTS
9 Bridge Place
Galashiels
TD1 1SN
01896 752760
enquiries@aitken-turnbull.co.uk
www.aitken-turnbull.co.uk
Also at Dumfries & Edinburgh

project no. **AT2669** drawing no. **PP-01C**

Consultation Reply



ENVIRONMENT AND INFRASTRUCTURE

To: HEAD OF PLANNING AND REGULATORY SERVICE

FAO: Stuart Herkes

Your Ref: 17/00479/FUL

From: HEAD OF ENGINEERING & INFRASTRUCTURE

Date: 19th February 2018

Contact: Lauren Addis

Ext: 6517

Our Ref: B48/2313

Nature of Proposal: Erection of dwellinghouse

Site: J Rutherford Workshop and land north east of J Rutherford Workshop
Rhymers Mill, Earlston, Scottish Borders

Further to the Local Review Hearing for application 17/00479/FUL further flood risk information for the Leader Water from Earlston Flood Study has been provided to the applicant.

As required by actions identified in the Tweed Local Flood Risk Management Plan Scottish Borders Council commissioned Earlston Flood Study in December 2016. The study has been undertaken by JBA Consulting to consider the risk of flooding to Earlston from the Leader Water and the Turfford Burn and to recommend options to manage and reduce flood risk in the village. SEPA have reviewed and agreed the hydrology used within the study. 1D/2D modelling of the Leader Water and Turfford Burn has been undertaken using best available data including the use of LiDAR and a full topographic survey. The study outputs were received by SBC in December 2017 and not previously available to share with respect to this application. Please also note that the study remains ongoing with the options appraisal stage regarding the identification of flood risk measures for Earlston yet to be delivered.

The following data from the Earlston Flood Study was provided to the applicant on 23rd January 2018 following a Local Review Hearing.

- Hydrology Report (extract)
- Flood Modelling Report
- Survey Data
 - Leader Water- AutoCAD drawings
 - PDF drawings – Cross section locations and PDF cross section drawings
 - Property Threshold Survey
- Model Data
 - Flood Modeller Data
 - Hec-RAS Data
 - Mike 11 Data
- LiDAR (flown June 2017 for SBC)

Following receipt of the above datasets a further Flood Risk Assessment Update has been provided by Terrenus Land and Water in the form of a letter, dated 6th February 2018.

The letter states that the findings of Earlston Flood Study are generally in agreement with the findings of the earlier FRA submissions for this application by Terrenus Land and Water. I would strongly disagree with this statement. Earlston Flood Study shows that at the 1:200 year flood (0.5% annual probability event) the proposed site to be inundated from the Leader Water up to a depth of 0.743m. As noted in my previous responses to this application, previous versions of the Terrenus FRA concluded that 'Leader Water remains within its banks during the 1 in 200 year storm event' and at 'the 1 in 200 year event.....does not pose a flood risk to the site'.

Notwithstanding, application of the data from the Earlston Flood Study has enabled revised assessment of this site to be undertaken. The flood maps from the study and flooding animation do show that the site is at direct risk of flooding from the Leader Water as well from overland flow route described in the FRA update letter. Outputs from the Earlston Flood Study show that at the 1:200 year flood the maximum water level from the Leader Water at cross section LEAD_1354 to be 102.043mAOD. The ground level at the proposed site is 101.3mAOD resulting in a flood depth of 0.743m at the proposed site. The FRA update letter acknowledges the level at which the site is anticipated to be inundated at the 1:200 year flood and with the inclusion of freeboard, recommends a finished floor level for this site of 102.64m. I agree with this and recommend that a finished floor level of 102.64mAOD, or above, is taken forward.

I would recommend that ground levels surrounding the dwelling should be designed to convey overland flow away from the development and drainage measures are considered to intercept overland flow.

I would also recommend that the applicant adopts water resilient materials and construction methods as appropriate in the development and that the applicant review the Online Planning Advice on Flood Risk. The applicant may also wish to consider Property Level Protection measures, details of which can be provided by SBC Emergency Planning Department.

To receive flood warnings from SEPA for Earlston the applicant should sign up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188. It would also be advisable for the applicant to develop an evacuation plan for the building during times of flood warning.

Please note that this information must be taken in the context of material that this Council holds in fulfilling its duties under the Flood Risk Management (Scotland) Act 2009.

Lauren Addis
Technician
Flood Risk & Coastal Management

LOCAL REVIEW BODY
WRITTEN STATEMENT OF APPOINTED OFFICER
17/00479/FUL
Erection of dwellinghouse

ISSUES TO BE CONSIDERED:

For further consideration to be given to:

- 1) an updated finished floor level to preserve the necessary freeboard to mitigate against a 1 in 200 flood risk and the impact on ridge height as a result of the updated floor level; and
- 2) safe access and methods of mitigating potential impact on surrounding properties.

RESPONSE:

At the Hearing on 22 January it became apparent that there were significant discrepancies within the Appellant's description of the existing and proposed site levels; specifically between the description of these levels on the Proposal Drawings and the description of the same levels within the flood risk assessment reports which sought to identify flood risk mitigation. Additionally, it was unclear whether the proposal would be able to be accommodated in terms that would otherwise address the wider concerns of the Local Flood Prevention Authority with respect to the management of surface water at the site during a flood event. Beyond this, it was unclear whether or not all of the flood risk mitigation required, could be incorporated into the detailed design of the proposal without this being liable to have any unacceptable impacts upon the amenity and environment of the site and surrounding area, including upon the amenity of neighbouring residential properties.

Unfortunately, and for the reasons set out below, the revised and updated information provided by the Appellant further to the Local Review Body's request, does not in fact address these deficiencies.

It is still not apparent whether or not measures sufficient to address in full the concerns of the Local Flood Prevention Authority could be accommodated on site; and, if so, whether or not this accommodation would be liable to have, or contribute towards, unacceptable impacts upon surrounding properties.

Beyond these ambiguities however, there are new and additional considerations:

First of all, the proposed revised design in so far as it is described, is considered liable to have unacceptable impacts upon the visual amenities of the surrounding area, both in itself, and in culmination with other aspects of the proposal that were found to be objectionable at the time of the determination of Planning Application 17/00479/FUL.

Secondly, there would also be potential for new, and potentially significant, impacts upon the residential amenity of surrounding properties, which would be more appropriately made the subject of a new public consultation, to allow the owners and

occupiers of affected properties sufficient opportunity to consider these impacts. This is due to the potential for the revised proposal to impact more significantly upon neighbouring properties than the proposal that was the subject of Planning Application 17/00479/FUL.

For these reasons, it is considered that the appeal should be dismissed. The Appellant retains the option of making a new planning application. Any new proposal would require to be determined on its own planning merits at that time, but a new application would be the appropriate context for the Appellant to seek to address the deficiencies of the current proposal; would further, allow appropriate public consultation to be carried out; would afford a new opportunity for consultees, including SEPA, to be advised with respect to the new information that has been presented with respect to flood risk in the period since Planning Application 17/00479/FUL was determined; and would also allow an opportunity for the Appellant to address fully, the reasons for refusal of Planning Application 17/00479/FUL.

Finished Floor Level Height and Achievement of Freeboard

In requesting new and updated information from the Appellant, the Local Review Body is understood to have been particularly concerned:

- (1) firstly, to see the demonstration of a Finished Floor Level (FFL) height consistent with the preservation of the freeboard necessary to mitigate against a 1 in 200 flood risk; and
- (2) secondly, to review an accurate description of the proposal updated to accommodate the achievement of this same FFL height for the purpose of establishing whether or not this accommodation would be liable to have any unacceptable impacts upon the amenity of surrounding residential properties, primarily as a consequence of any requirement to increase the height of the proposal beyond that described on the original Proposal Drawings.

The Council's Flood Prevention Section has now reviewed Terrenus' report of 6 February. Based on that report's advice, the Local Flood Prevention Section concurs that the achievement of a FFL of "102.64mAOD" or above, would need to be taken forward in order to ensure the achievement of the necessary freeboard. This is in addition to the Flood Prevention Section's further concern that: *"ground levels surrounding the dwelling should be designed to convey overland flow away from the development and drainage measures are considered to intercept overland flow"*. The implications of the latter requirement, is considered below, within the section of this statement entitled, 'Safe Access and Treatment of Curtilage'.

Apparently in response to the conclusions of Terrenus' report, the Appellant's revised Proposal Drawing, now describes a Finished Floor Level of "102.64" (specifically: "Proposed GFL 102.64"), and further notes a second level within the curtilage of the property, which is given simply as: "101.40". However, neither of these levels is either directly or indirectly related within the description of the revised Proposals Drawing to any absolute levels (Ordnance Datum). As such, this description would not appropriately serve to regulate the finished levels within any development that were approved on the basis of this information. In reality "102.64" and "101.40" are unqualified and therefore arbitrary levels. They do not, and would not, commit the Appellant to the achievement of a FFL height of 102.64mAOD. On the contrary, the annotation "Proposed GFL 102.64" includes no information that is practically capable of enforcement in planning terms. The actual finished floor level could therefore be set

entirely at the Appellant's discretion were the revised Proposal Drawing approved.

Given that the Proposal Drawing's description does not in fact demonstrate the achievement of a FFL height of 102.64mAOD, it follows that it is also unclear whether or not the revised elevation drawings themselves do actually describe an appearance for the dwellinghouse that would be consistent with the achievement of a FFL height of 102.64mAOD. At least, any unqualified approval of the scheme as it is now proposed, would run the risk that the FFL might have to be established at a lower level below 102.64mAOD in order to achieve the appearance of the dwellinghouse that is described on the revised elevation drawings. This would therefore be directly contrary to the recommendation of the Local Flood Prevention Authority that the FFL height should be above 102.64mAOD.

Conversely, the imposition by planning condition of any direct and explicit requirement that the development should have a FFL height of 102.64mAOD would in turn, run the risk of directly requiring the addition of an even greater height of under-build to the proposed dwellinghouse than that which is described by the revised Proposal Drawing. For clarity, this would be height in addition to the one metre that it is now explicitly described by the revised Proposal Drawings (please see below). This would have potential then to raise the overall height of the dwellinghouse, perhaps quite notably, above the height of 8.74m which is now being explicitly described by the revised Proposals Drawing. (This is dependent upon the extent of any discrepancy between what is described by the drawings and what is required on site, to actually achieve a FFL height of 102.64mAOD). The point is considered in more detail below in the next section, but there is potential for this to result in, or at least exaggerate, unacceptable impacts upon the amenity (both visual and residential) of the site and surrounding area, including upon the amenity of surrounding dwellings, whose daylight, sunlight, privacy and outlook might be adversely impacted by a significant increase in the height of both, or either, of the FFL itself, or of the overall height of the dwelling (lifted to achieve the required FFL height).

It may be that there is in fact no inconsistency here between the description of the revised Proposal Drawings and the achievement of a FFL height of 102.64mAOD, but this is not reasonably discernible from the information that the Appellant has actually provided. (If there is in fact no inconsistency, it might be said that much of the above noted ambiguity and confusion could have been avoided, had the Appellant otherwise been concerned to confirm in writing on the Proposal Drawing that the levels shown there are in fact to be levels in "mAOD"). In the current circumstances, it is unfortunately not reasonably understood from the Appellant's latest submission that the development could be realised in accordance with both the description of the Proposal Drawings and with an FFL height of 102.64mAOD. This then unfortunately introduces an unacceptable level of uncertainty with respect to the form in which the development would actually be delivered, were it now approved on the basis of the revised Proposal Drawing, while as noted above, the imposition of planning conditions might be liable to exacerbate this concern, even exaggerating adverse impacts that have not been adequately identified and accounted for, within the revised proposals.

Taking account of all of the above, there is in any event, a risk inherent within issuing an approval for the scheme as it is currently described. There is potential for it to result in a form of development, which either does not address the flood risk concerns fully to the Flood Prevention Authority's satisfaction; or in so doing, has impacts upon the amenity and environment of the site, including upon neighbouring properties;

impacts that were simply not discernible from the proposal description (and which were therefore not capable of being adequately assessed at the time of the application's determination). It is the Appellant's responsibility to provide appropriate clarification with respect to these matters, and without sufficient reassurance as to what would in fact be built out on the site were the proposal to be progressed in accordance with the revised scheme, the appeal would be more safely and reasonably dismissed, than progressed to an approval.

Design, Overall Height (Ridge Height) and Residential and Visual Amenity

Even if it has been established to Members' satisfaction that the Appellant is describing the development as it would be accommodated on the site relative to the achievement of a Finished Floor Level height of 102.64mAOD, it should still be noted that the revised version of the proposal does in any case, describe an actual increase in the overall height of the proposed dwellinghouse, by one metre; namely through the addition of an under-build to the design. For clarity, this is a proposed increase in the overall height of the proposed dwellinghouse relative to the description of the proposal that was before the Planning Department at the time of its determination of Planning Application 17/00479/FUL; specifically, it is an increase in height from 7.7m (original proposal) to 8.74m (revised proposal) above ground level.

As noted in the previous section, an even greater increase in overall height could still result, were a greater depth of under-build now needed to achieve a FFL height of 102.64mAOD (the Appellant's ability to achieve the latter in accordance with the revised proposal, not having been demonstrated to this point). However, even the addition of the under-build described to the advised depth of 1m, would still materially change the appearance of the proposed dwellinghouse, and has the potential to impact more significantly upon the visual amenities of the surrounding area, and upon the residential amenity of neighbouring properties, principally by increasing the overall height of the proposal.

With respect to visual impacts, the simple addition of 1m of under-build to the dwellinghouse, has the effect that all of the doors and windows, eaves and roof ridge would all be raised up above the positions in which they were originally proposed. This then would have the effect of making the house appear notably out-of-alignment with surrounding properties; its windows and doors, eaves and roof ridge all being raised obviously higher than those of surrounding buildings. This would give the building an unsympathetic and incongruous appearance relative to the surrounding streetscape, which would be detrimental to the visual amenities of the area. Given the concern that there should be no land raising within the site and appropriate measures incorporated to ensure the appropriate management of surface water within the site, there is also no significant opportunity existing to screen out, or otherwise mitigate visually, the appearance of such an obviously misaligned building on so open a site.

The misalignment of windows, doors, eaves and roof ridges relative to surrounding properties, would also exaggerate further the adverse visual impacts associated with the poor siting and orientation of the dwellinghouse on the site (the second identified reason for refusal of Planning Application 17/00479/FUL). As such, the proposed change to the design of the dwellinghouse would certainly exacerbate the unacceptable visual impacts of the original proposal already identified within the Report of Handling; making the visual disconnection of the house from its site and surroundings, all the more entrenched. The overall effect would certainly be extremely

unsympathetic to the visual amenities of the site and surrounding area; being visually incongruous and not in keeping with surrounding properties.

Beyond visual impacts, consideration also has to be given to impacts upon the residential amenity of surrounding properties. Given that 1m is a notable increase in overall height, the proposed revised scheme would also be liable to have more significant impacts upon the residential amenity of surrounding properties than the original proposal; particularly upon those properties on the opposite side of Rhymers Avenue, which would face directly towards the site. An increase in overall height has potential to have adverse effects on the outlook, daylighting and sunlighting of these neighbouring properties. Further, the proposed increase in the height of the ground floor level relative to the ground floor levels of these other properties, has the potential to increase overlooking of windows on the fronts of these neighbouring dwellings, and therefore to have adverse impacts upon these neighbours' privacy as well.

While the Planning Authority would ultimately have to come to a view as to whether or not these residential amenity impacts were in any respects considered to be unacceptable, it is not reasonably assumed that neighbouring households might not be concerned by the proposal that the dwellinghouse should now be raised by 1m. They might reasonably expect to have their views on this matter taken into account at the time of the determination of this version of the proposal. Notifiable neighbours were consulted at the time of the planning application on a version of the proposal which they could only reasonably have understood to be 7.7m in height, based on the drawings that were then before the Planning Authority. In the event that the current proposal at a height of 8.74m were now approved by the Local Review Body and then the scheme were built out on the site at this height (or higher), those neighbours would not have had any opportunity at all, to comment upon whether or not this increase in height was in itself a source of concern to them, or even objectionable to them in terms of its impacts upon their properties or the surrounding area.

There is then a risk ultimately to the Planning Authority that any approval of this revised proposal by the Local Review Body without this revised design first having been made the subject of a new public consultation, might be liable to legal challenge by, or on behalf of, any impacted neighbours; that is, if the latter consider that they were not, but should have been, afforded the opportunity to comment upon a version of the proposal that was – due to its greater height – liable to have potentially more adverse impacts upon the amenity of their properties (compared to the version of the proposal that was previously before them at the time of the public consultation on the planning application). Moreover, these concerns would become even greater, were it ultimately to transpire that the actual increase in height required to achieve a FFL height of 102.64mAOD was in fact, much greater than the one metre increase that is explicitly acknowledged by the revised Proposal Drawing (please see previous section). Accordingly, it is considered that if the Appellant is now concerned to progress this design for the dwellinghouse, this would be more appropriately progressed as the subject of a new planning application, to allow sufficient opportunity for appropriate public consultation to be carried out.

Safe Access and Treatment of Land within the Site's Curtilage

Notwithstanding the conditional support of the Local Flood Prevention Section, it is not clear whether or not; or precisely how; the proposal, even in its revised form, would incorporate appropriate provision for the achievement of safe access. This is because

besides the above noted confusion over the achievement and delivery of an FFL height that would preserve the freeboard to mitigate against a 1 in 200 flood risk, there are still concerns with respect to the treatment of land within the curtilage of the site.

The Local Flood Prevention Section has advised of its concern that ground levels surrounding the dwelling should be designed to convey overland flow away from the development, and that drainage measures should be considered to intercept overland flow. However, it is unclear what specifically is actually required to address this matter to the Flood Prevention Section's satisfaction. Moreover - and for the same reasons that were noted above with respect to the advice about the FFL - it is not actually apparent to begin with what the Appellant is in fact proposing with respect to the finished site levels within the curtilage of the property. The only level given out with the footprint of the proposed dwellinghouse, is unqualified by any unit of measurement. It is simply given as, "101.40". It is not clear whether or not this is, or can be, related to Ordnance Datum; and it is not clear whether or not the level represented by "101.40" is in fact intended to denote an existing surface level, and/or whether it is a proposed finished ground level. Further, the revised Proposal Drawing also appears to indicate (albeit described very lightly on the Site Plan drawing) the formation of a banking between the new proposed ramp and steps to the north of the property, which would be land raising within the site, and therefore potentially contrary in principle to the concerns and recommendations of both SEPA and the Local Flood Prevention Authority.

The Appellant has therefore not adequately established within the revised drawings whether or not, and to what extent, it is proposed that any land raising would actually take place within the site. It is also not apparent whether or not ground levels surrounding the dwelling would, or could, be designed to convey overland flow away from the development, and whether or not drainage measures would be, or would need to be, incorporated to intercept overland flow; and ultimately, if these matters could be addressed, and all in terms that would be supported by the Local Flood Prevention Authority. Again, the concern is as much what is not shown and established within the proposal drawings, as what is actually described.

Given a fundamental lack of uncertainty about what is being proposed with respect to the treatment of finished levels, as well as whether or not Flood Prevention Authority's concerns could be addressed satisfactorily, it is not appropriate to seek to regulate these matters under planning conditions attached to any consent issued. It is simply unclear what is being proposed, and therefore what would be progressed, were the scheme approved on this basis. These matters would be more appropriately referred back to the Appellant and to the Flood Prevention Authority for their respective consideration and clarification as to what is being proposed and what is being required, respectively. Finished levels and surface water management measures consistent with the appropriate and effective management of the disposal of surface water on, and from, the site, have simply not been demonstrated.

Conclusion

Notwithstanding the Flood Prevention Section's conditional support for the proposed revised scheme, it is considered for the reasons noted above, that the description of the proposal remains too ambivalent, as to be acceptably progressed as the subject of an approval, at least not without risk to the Planning Authority as to what might ultimately be built out on site. It has not been established how precisely the

development would in fact be accommodated on site, and ultimately whether or not it would in fact be capable of being accommodated in such a way that would address the flood risk concerns to the Local Flood Prevention Authority's satisfaction, and without exaggerating adverse impacts upon the amenity and environment of the site and surrounding area.

While it might technically be possible to impose planning conditions to require the Appellant to address particular concerns or adhere to particular requirements, it is considered that the development has been too inadequately described to this point, that there is insufficient reassurance that such matters could be regulated effectively by conditions, at least without such regulation itself not being liable to have unintended and unacceptably detrimental impacts upon the amenity and environment of the site and surrounding area. This is because measures that would be required to reconcile the description of the development on the revised Proposal Drawings with the actual achievement of a FFL height of 102.64mAOD are not discernible, and this has potential to exaggerate the impacts of the proposal upon the visual amenities of the site and surrounding area, and upon the residential amenity of surrounding properties, while it is not even certain that the flood risk concerns would be met to the satisfaction of the Flood Prevention Authority given further ambiguity about precisely what would require to be incorporated to address concerns with respect to the conveyance of overland flow within the site.

However, in the event that the Local Review Body is ultimately content that the development would be capable of being realised:

- (a) as it is described on the revised Proposal Drawings;
- (b) with a Finished Floor Level height of 102.64mAOD;
- (c) with no unacceptable land raising within its curtilage; and
- (d) with appropriate arrangements in place on site for the management of surface water drainage,

and that the resulting appearance is acceptable in residential and visual amenity terms, there remains the concern that an approval of the development raised by at least an additional metre in its overall height, might still be liable to, and capable of, legal challenge by any neighbours. The latter require to be statutorily neighbour notified about any proposal that would be materially different to the scheme they previously had the opportunity to review. Given the change in appearance; the potential for the FFL height to be raised by at least a metre; and the increase in overall height of the building, it is considered that the new proposal is materially different from the previous scheme, and moreover, does have potential to have more significant impacts upon neighbouring properties than the version of the proposal that neighbours previously reviewed at the time of the public consultation on Planning Application 17/00479/FUL. In the event of approval of the appeal, Members would therefore need to be satisfied that there would be no statutory requirement to re-consult neighbours with respect to the new proposal, and that the decision would be defensible in the event of any legal challenge.

Finally, and besides the concerns with respect to flood risk that were the central concern of the hearing, Planning Application 17/00479/FUL was also refused on the basis of the potential for other unacceptable impacts upon the amenity and environment of the site and surrounding area: principally as a consequence of the siting and orientation of the dwellinghouse on the site (the second reason for refusal); the lack of adequate provision for parking (the third reason for refusal); and the potential for there to be unacceptable impacts upon the residential amenity of the

proposed house as a consequence of its proximity to an existing workshop building (the fourth reason for refusal). These reasons for refusal have not been addressed within the description of the revised Proposal Drawing and accordingly, are maintained. Moreover, the addition of an extra metre in overall height to the building; the changes to the building's design; and the description of some land raising in the north of the site, would only contribute negatively to the overall impacts in all cases, as well as raising new concerns in themselves .

With respect to the flood risk objection (the first reason for refusal), it is also reiterated that SEPA's objection in principle to this proposal, remains outstanding, regardless of the modified position of the Local Flood Prevention Section.

Taking account of all of the above, it is considered that the new and revised information provided by the Appellant further to the hearing, would more reasonably be taken as a new planning proposal, and is not considered appropriately progressed as a continuation of the appeal. The appeal should therefore be dismissed.

Any new planning application would need to be determined on its own planning merits, but the Appellant retains the option of making a new planning application in which he would have an opportunity to address the deficiencies of the current proposal. A new planning application would also allow for the full and appropriate consultation of the public and statutory consultees. Neighbours would have the opportunity therein, to review and comment upon any proposal that was liable to have potentially greater impacts upon the amenity and environment of the site and surrounding area. Consultees, including SEPA, would be able to take account of the new and updated flood risk advice that has come to light in the period since the determination of the planning application. The Appellant might also address in full, the identified reasons for refusal of Planning Application 17/00479/FUL within a revised scheme.

SUPPORTING DOCUMENTS:

- 1) Adopted Scottish Borders Council Local Development Plan:

https://www.scotborders.gov.uk/info/20051/plans_and_guidance/121/local_development_plan

- 2) Planning Officer's Delegated Report of Handling:

<https://eplanning.scotborders.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=ONJ5MLNLT LXQ00>



Notice of Review

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)Name Address Postcode Contact Telephone 1 Contact Telephone 2 Fax No E-mail* **Agent (if any)**Name Address Postcode Contact Telephone 1 Contact Telephone 2 Fax No E-mail*

Mark this box to confirm all contact should be through
this representative:

* Do you agree to correspondence regarding your review being sent by e-mail? Yes ☒ No ☐

Planning authority Planning authority's application reference number Site address Description of proposed development Date of application Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

1. Further written submissions ☒
2. One or more hearing sessions ☒
3. Site inspection ☒
4. Assessment of review documents only, with no further procedure ☐

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

N/A

Statement

Notice of Review

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Please see attached

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☒ No ☐

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

The site was previously allocated for residential use, although the previous owners failed to make representations to have the zoning continued due to the business demise.

An immediate adjacent development was granted (15/00729/FUL) for the substantial rebuilding of a dwelling with a similar floor level.

There are many other dwellings within the immediate vicinity with lower floor levels which have no history of flooding.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

Site plan, floor plans, elevations
Flood risk assessment
Appeal statement

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:


- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

08/09/2017

The Completed form should be returned to the Head of Corporate Administration, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA.



Erection of Dwellinghouse Rhymers Mill, Earlston Scottish Borders, TD4 6DG

Statement of Appeal – September 2017
For Austin Travel
Aitken Turnbull Architects



Contents

- 1.Introduction**
- 2.Reasons for Refusal**
- 3.Grounds of Appeal**
- 4.Conclusion**

Appendices

- 1.Decision Notice**
- 2.Drawings**
- 3.Flood Risk Assessment**



1.0 Introduction

- 1.1 This statement of appeal has been prepared by Aitken Turnbull Architects on behalf of the applicant and owner of the site Austin Travel, who wish to encourage new business and an associated dwelling.
- 1.2 The proposal (17/00479/FUL) for the new dwelling was lodged on 29th March 2017 with a decision, via delegated powers to refuse the application received on 8th June 2017. As such, we now seek to appeal the decision via the Council's Local Review Body.
- 1.3 This statement now responds to the reasons for refusal and, where appropriate, cross referring to the delegated officers report, Development Plan and material considerations. The supporting documentation to this appeal are listed.



2.0 Reasons for Refusal

2.1 Within the 'Decision Notice' the main reason for refusal was:

- 2.1.1 *The proposal does not comply with Adopted Local Development Plan Policy IS8 and Scottish Planning Policy in that the site is subject to a significant flood risk and the development would be both at significant risk of flooding and would materially increase the probability of flooding elsewhere.*
- 2.1.2 *The proposal in the positioning of the dwellinghouse and the overall site layout, does not comply with Adopted Local Development Plan Policies PMD2 and PMD5 in that it would not respect the character of the surrounding area and neighbouring built form.*
- 2.1.3 *The proposal does not comply with Adopted Local Development Plan Policies PMD2 and IS7 in that the access arrangements are unsuitable to serve the development and inadequate provision has been made for the accommodation of the parking of two vehicles within the curtilage of the site, such that there would be adverse impacts upon road safety.*
- 2.1.4 *The proposal does not comply with Adopted Local Development Plan Policies PMD5 and HD3 in that the operation of the workshop building in such close proximity to the proposed dwellinghouse has potential to have unacceptable impacts upon the residential amenity of the occupants of the proposed dwellinghouse.*

3.0 Grounds of Appeal

The principle reason for refusal was on grounds of flood risk (refer to 2.1.1) and matters concerning site layout (2.1.2) and access (2.1.3) were discussed with the Planning Officer and were considered secondary and resolvable. Indeed this was referred to in the email exchange with Stuart Herkes dated 26th May 2017. Attempts were also made to realign the house to relate to the houses on Rhymers Avenue although determination was made prior to discussions being finalised.

A Processing Agreement was put in place to allow for additional flood risk information to be submitted in response to the statutory requests. The site was previously allocated for residential use, although the previous owners failed to make representations to have the zoning continued due to the business demise.



There are many other dwellings within the immediate vicinity with lower floor levels which have no history of flooding, and the development does not conflict with the overall site use (2.1.4).

Terrenus Land & Water Ltd have undertaken a detailed Quantitative Level 3 Flood Risk Assessment for the site and have also issued two subsequent follow up addendum letter reports to revise and update the findings of our original report. The addendum letters address comments raised by SEPA and Scottish Borders Council. The latest

addendum letter report was issued to give confidence to Scottish Borders Council that the hydraulic modelling undertaken for the site robust and that the best available information has been used to determine the flood risk to the site.

The latest hydraulic modelling was calibrated to the most recent known flood event (November 2016), an event which was recorded by Scottish Borders Council personnel. The addendum letter and re-modelling also took cognisance of the comments made previously by SEPA with respect to peak flow estimation and quality, reliability and accuracy of height data used within the model. The findings of the calibrated hydraulic modelling has shown that the approach used by Terrenus Land & Water Ltd is robust and that the peak flood water level for the 1 in 200 year event is not sufficient to over top Clatteringford Bridge under normal hydraulic conditions within the Leader Water. Therefore, the site is out-with the functional flood plain of the Leader Water.

For events greater than the design storm event, or for circumstances where there is a significant blockage of Clatteringford Bridge there is the possibility of overland flow from overtopping upstream of the site. In these instances, the issues with respect to flood risk comprise flood routing and conveyance not of functional flood plain or storage. The November 2016 flood event recorded exceptional blockage at the Clatteringford Bridge with resultant higher than normal peak flood water levels upstream of the site. It is recommended that the local authority consider the clearance or management of the upstream shoaling and vegetation at Clatteringford Bridge to ensure optimum performance of the bridge structure and to minimise any increased risk of flooding in and around the village of Earlston. A benefit to the wider community and the hydraulic conveyance performance of the Leader Water at the structure.

For the proposed development the improved hydraulic modelling confirms the following:

- There is no infringement by the proposed development on the functional flood plain of the Leader Water for the 1 in 200 year design storm event;



- There is dry emergency pedestrian access and egress available to the site for the design storm event and during the 1 in 200 year plus 20% uplift for Global Climatic Change events via the higher ground to the east of the site;

- Development profiling of any gardens and soft landscaping areas will be carried out to encourage overland flow pathways away from the proposed development and emergency access and egress routes;

- A flood routing pathway will be established from the road to the southeast in line with the local topography, as this will encourage flood routing back towards the Leader Water.

- Proposed Final Floor Levels are set sufficiently high (102.1m O.D.) providing a freeboard of at least 600mm at the site.

It is concluded that the proposed development is in accordance with current Scottish Planning Policy.

It is noted roads planning have no objections in principal however they raised concerns over the vehicular access being taken off Rhymers Avenue as this is a private road. Having had further discussions with the applicant they have indicated a new access can be formed off Mill Road and a minimum of two private parking spaces can be provided within the curtilage of the property.

Road planning have indicated in their consultation response an access taken from Mill Road will be acceptable.

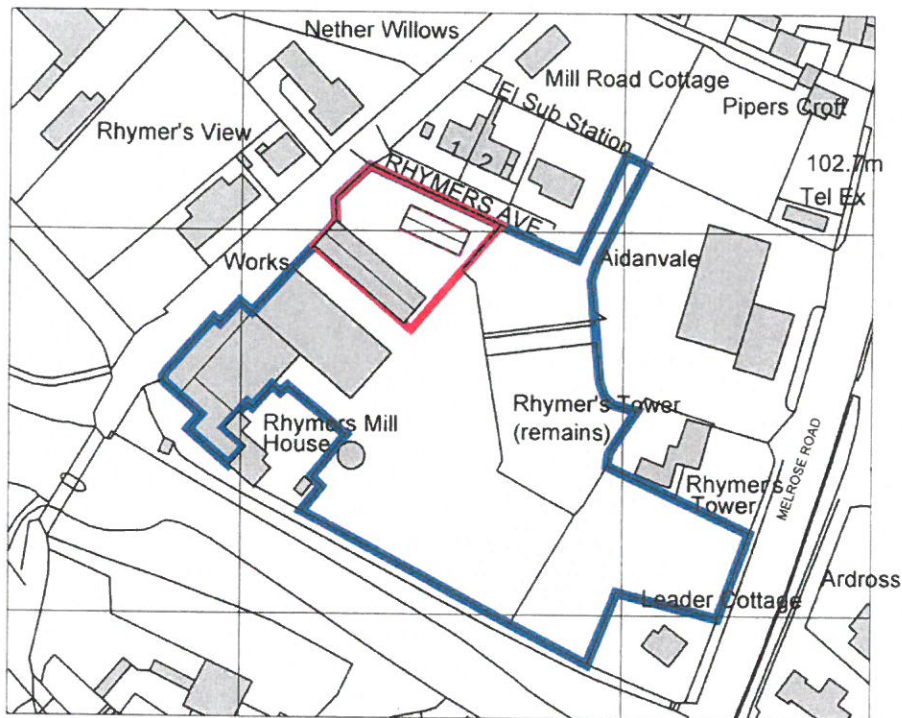


4.0 Conclusion

We believe that the subject site represents a sound location for a new dwelling. It relates well to its immediate surroundings and will avail of existing infrastructure provision and public transport services nearby.

We should add that our client is content to meet all the required Developer Contributions.

Taking the 'Grounds of Appeal' note within chapter 3 we therefore respectfully request that the appeal be allowed.



0 50 100 150 200 250 Metres
Scale 1:1250



Reproduced from the Ordnance Survey
1:1250 scale map with the permission of
the controller of Her Majesty's Stationery
Office
CROWN COPYRIGHT RESERVED
Licence No. ES 751987

LOCATION PLAN @ 1:1250

Site Boundary ————
Development
Boundary ————

A - MARCH 2017 - PLANNING RE-SUBMITTED

Revision	Description	By	Chk
project			

Austin Travel
Proposed Dwellinghouse
Rhymer's Mill
Earlston

Location Plan

scale	size	date	drawn	checked
1:1250	A3	March 2016	A.W.	

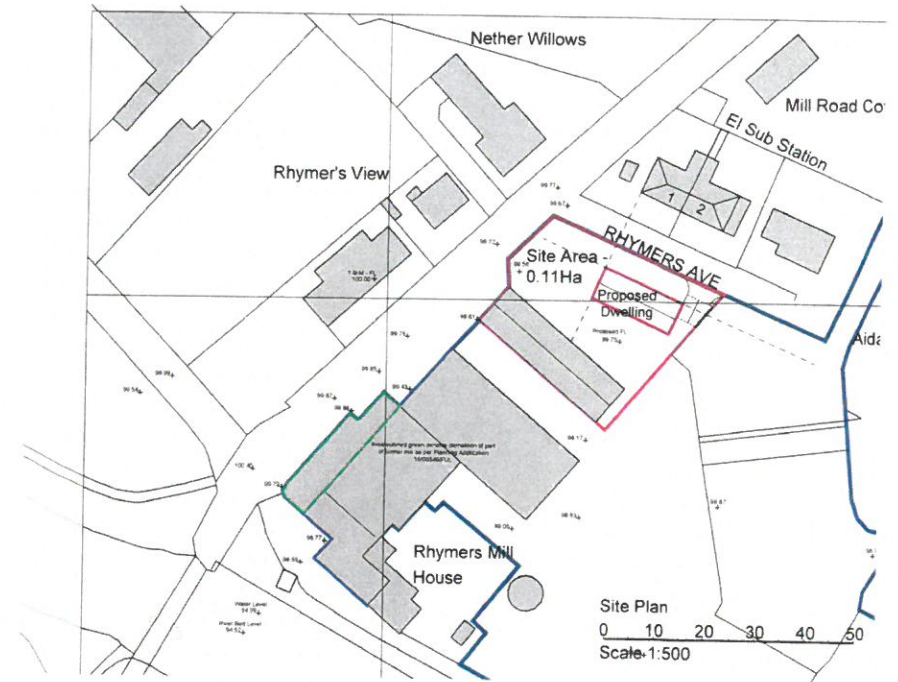
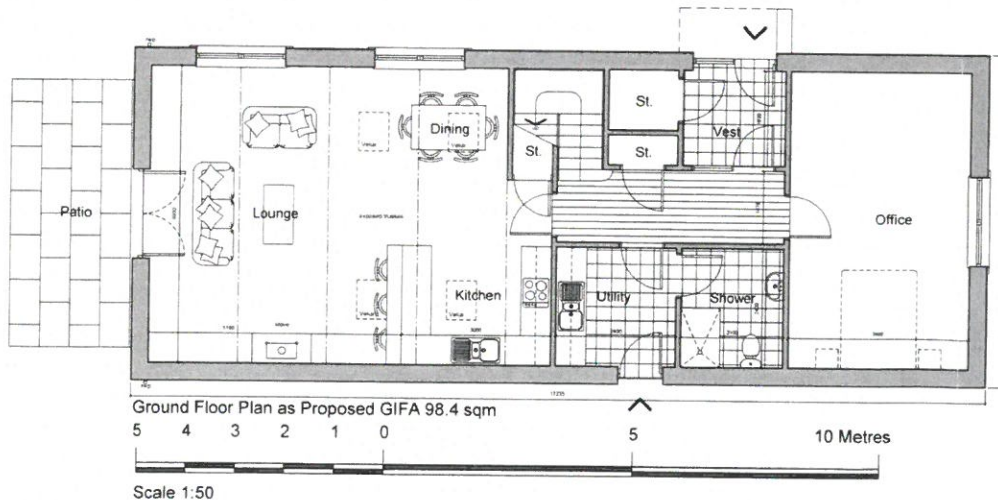
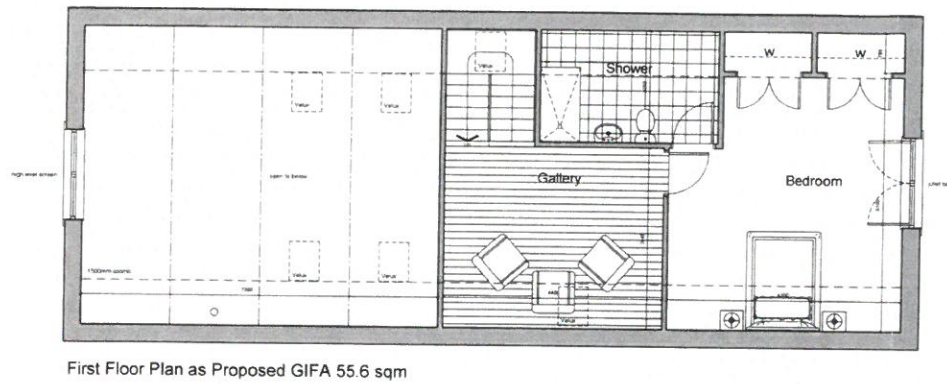
AITKEN TURNBULL ARCHITECTS
9 Bridge Place
Glasgow
TD1 1SN

01896 752700
enquiries@aitken-turnbull.co.uk
www.aitken-turnbull.co.uk

Also at Dumfries & Edinburgh



project no. AT2669 drawing no. LOC-01A



FINISHES SCHEDULE

ROOF FINISH

- Natural slate.

RAINWATER GOODS

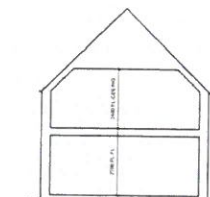
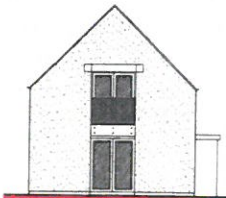
Aluminium half round gutters and down pipes.

WALLS

- Smooth cement basecourse.
- Wet dash render main walls.

DOORS & WINDOW

- Velux Rooflights
- New Glazed Screens & French Doors to be UPVC with double glazed units.
- New external grade 'oak style' doors.



Site Boundary

Development Boundary



8 - MARCH 2017 - SITE LAYOUT AMENDED - APPLICATION RE-SUBMITTED
 9 - MAY 2018 - SITE LEVELS ADDED TO SITE PLAN

Austin Travel
 Proposed Dwellinghouse
 Rhymers Mill
 Earliston

Plans, Elevations, Section
 & Site Plan
 as Proposed

Scale: 1:50 1:100 1:500 A1 March 2016 dapo

Scottish Borders Council
 Town And Country
 Planning (Scotland) Act 1997

REFUSED
 subject to the
 requirements of the
 associated Decision
 Notice

17/00479/FUL

ATKIN TURNBULL ARCHITECTS
 3 Bridge Place
 Glasgow
 G1 1JH



Project No: AT2669 Drawing No: PP-01B

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013****Application for Planning Permission****Reference : 17/00479/FUL****To : Austin Travel per Aitken Turnbull Architects Ltd 9 Bridge Place Galashiels Scottish Borders
TD1 1SN**

With reference to your application validated on **29th March 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse**At : Land North East Of And Incorporating J Rutherford Workshop Rhymers Mill Mill Road Earliston
Scottish Borders**

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

**Dated 8th June 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed.....
Chief Planning Officer

APPLICATION REFERENCE : 17/00479/FUL

Schedule of Plans and Drawings Refused:

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused
	Elevations	Refused

REASON FOR REFUSAL

- 1 The proposal does not comply with Adopted Local Development Plan Policy IS8 and Scottish Planning Policy in that the site is subject to a significant flood risk and the development would be both at significant risk of flooding and would materially increase the probability of flooding elsewhere.
- 2 The proposal in the positioning of the dwellinghouse and the overall site layout, does not comply with Adopted Local Development Plan Policies PMD2 and PMD5 in that it would not respect the character of the surrounding area and neighbouring built form.
- 3 The proposal does not comply with Adopted Local Development Plan Policies PMD2 and IS7 in that the access arrangements are unsuitable to serve the development and inadequate provision has been made for the accommodation of the parking of two vehicles within the curtilage of the site, such that there would be adverse impacts upon road safety.
- 4 The proposal does not comply with Adopted Local Development Plan Policies PMD5 and HD3 in that the operation of the workshop building in such close proximity to the proposed dwellinghouse has potential to have unacceptable impacts upon the residential amenity of the occupants of the proposed dwellinghouse.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

Visit <http://eplanning.scotborders.gov.uk/online-applications/>

Aitken Turnbull Architects
9 Bridge Place,
Galashiels,
TD1 1SN

For the attention of Alistair Weir

By e-mail only

Date: 2nd May 2017

Dear Mr Weir,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
PLANNING APPLICATION: 16/00385/FUL -
ERECTION OF DWELLINGHOUSE
J RUTHERFORD WORKSHOP AND LAND NORTH EAST OF J RUTHERFORD
WORKSHOP, RHYMERS MILL, EARLSTON, SCOTTISH BORDERS**

Introduction

Following on from the Terrenus Land & Water Ltd Flood Risk Assessment report, issued for discussion dated 2nd December 2016, discussions were held with SEPA and Scottish Borders Council with respect to the peak flow for the design storm event and in relation to the November 2016 flood event on the Leader Water.

In order to revise the model and eliminate some of the uncertainties associated with modelling process, Terrenus Land & Water Ltd (Terrenus) updated the hydraulic model with additional survey information and calibrated it to the November 2016 event.

This addendum letter report is provided to give confidence to Scottish Borders Council Planning and Roads, Flooding departments that the model is robust and that the best available information has been used to determine the flood risk to the site.

Site Survey Data

To eliminate uncertainties in the available data for the hydraulic model, additional survey work was requested by Terrenus and undertaken by Messrs Aitken Turnbull Architects. The additional survey work was carried out to an existing local datum and then converted to Ordnance Survey datum. An updated AutoCAD drawing showing the spot height elevation and location to local grid was supplied to Terrenus on the 27th March 2017.

A conversion factor of 1.93m was applied to all local datum spot heights to correct them to Ordnance Datum. The revised location and amended OD height data is shown on Drawing 1601-205-003, which has been enclosed in the appendix of this letter.

November 2016 Flood Event

Discussions with SEPA and Scottish Borders Council highlighted that there have been several large scale flow events recorded on the Leader Water since the original flow estimations were undertaken. The original flow estimations were based primarily on the historic flow data available on-line from the National River Flow Archive (NRFA). Up-to-date data for the Earlston gauging station (Stn. No. 14997) was requested from SEPA, who took over the NRFA gauging stations in 2006. A review of the data provided from SEPA for the gauging station between 2006 and 2016 revealed 11 additional peak flow occurrences. The 2015-2016 water year maximum was recorded on the 22nd November 2016 at 95.12m³/s.

Personnel from Scottish Borders Council attended the area around Rhymers Mill on the 22nd November 2016, immediately following the peak flow event and provided a photographic record of their findings. The photograph included debris build up on the upstream face of Clatteringford Bridge and a trash line on the northern bank of the parkland upstream of the bridge. This photographic evidence was used in conjunction with the additional survey work to determine the peak water level on the ground for the 22nd November event.

2016 Model Calibration

Where additional more up-to-date topographic survey information was available, the relevant cross sections were updated. This amended cross sections from Chainage 552 to Chainage 982, including those immediately upstream and downstream of the Clatteringford Bridge and the A68 Road Bridge.

The peak flow data from the SEPA gauging station for the 22nd November 2016 event was applied to the Leader Water as an inflow hydrograph and the model re-run. The results were then compared to the known extent and height of the trash line generated during the November 2016 event.

Spot heights at two key upstream locations were used to calibrate the model. Spot height determination of the points was undertaken using the photographic evidence, as supplied by Scottish Borders Council, and the updated survey information. The first point taken adjacent to the park bench at the intersection between the trash line and the cross section at Chainage 552. The spot height at this location was determined to be at 102m O.D. The second was taken at the intersection between the trash line and the cross section at Chainage 742. The spot height at this location was determined to be at 100.8m O.D.

Initial model results indicated that the peak water levels at the cross sections upstream of Clatteringford Bridge were too low for the known event, therefore blockage scenarios for the bridge were considered and undertaken to constrain the flow through the Clatteringford Bridge. Constraining the flow through a structure by decreasing the available flow width results in increasing upstream water levels. An iterative process was followed until the known trash line generated during the November 2016 event was replicated.

The final iteration of the model required significant blockage of both the left-hand and right-hand arch ways. The cross sectional area of the left-hand archway was reduced from 61.48m² to 49.83m², a reduction of around 19%, whilst the cross sectional area of the right-hand archway was reduced from 46.97m² to 17.08m², a reduction of around 64%.

Table A, enclosed in the addendum to this letter records the updated model results.

Conclusions and Recommendations

The model results for the calibrated event show that the peak water levels at the bridge do not over top the bridge structure and that the backwater effect is limited to within 125m of the bridge itself.

Whilst the pictures provided by Scottish Borders Council, for the 22nd November 2016 event do record debris and blockage of the Clatteringford Bridge the model indicates that significant blockage of both archways occurred, resulting in the observed trash line upstream of the bridge. It is our opinion that the blockage at the Clatteringford Bridge during the 2016 event was exceptional and is not reflective of the normal flow regime of the Leader Water. The severity of the blockage was likely caused by the significant upstream shoaling and vegetation cover around the right hand bridge archway (looking downstream). Scaring within the upstream shoal shows the uprooting of a mature tree, which would have increased blockage at the right hand archway. These factors are the likely cause of the higher than expected upstream water levels for the 2016 peak storm event.

It is recommended that the local authority consider the clearance or management of the upstream shoaling and vegetation at Clatteringford Bridge to ensure optimum performance of the structure and to minimise any increased risk of flooding in and around the village of Earlston.

Under normal condition, without constriction of the Clatteringford Bridge, the 1 in 200 year peak flood water level at Chainage 742 is noted to be at 101.76m O.D., this is not sufficiently high to overtop the Clatteringford Bridge or the access road to Rhymers Cottage on the upstream northern bank. Consequently, there is no risk of fluvial overtopping from the Clatteringford Bridge for the 1 in 200 year design storm event under normal conditions and the site is therefore not within the functional flood plain of the Leader Water.

The inclusions of the additional updated survey information by Messrs Aitken Turnbull has increased the downstream peak flood water levels at Rhymers Mill, immediately downstream of Clatteringford Bridge. The revised peak water level at Chainage 807 is modelled at 101.25m O.D., which would inundate the ground to the south of the mill building on the northern bank by 0.55m. This would be sufficient to cause inundation of the existing floor level at the mill, which is at 100.70m O.D. and presents a risk of flooding to the adjacent Rhymers Mill House. The additional survey information and re-modelling has increased confidence in the performance of the model at this downstream location.

Whilst the 1 in 200 year event, under normal conditions, does not pose a flood risk to the site, it is prudent to consider blockage of the Clatteringford Bridge as it has occurred in the past. It is in our opinion that the 2016 blockage event was exceptional and does not reflect the typical flow regime of the Leader Water at Clatteringford Bridge. Blockage scenarios for a 20% reduction in the right hand bridge arch, a 10% reduction in both arches and a 20% blockage of both arches were considered. The results of these scenarios are shown on Table A in the Appendix and show that a significant but modest blockage of the Clatteringford Bridge may result in the activation of an overland flood routing pathway from the Rhymer's Cottage access road. The flow pathway would likely convey flood waters east across the road and directly return the flood waters to the Leader Water downstream of the bridge or to flow along the confines of the bridge roadway to the north until the access road into the Austin Travel yard. At this point it would flow generally as sheet flow to the southeast and south back to the Leader Water.

It is known that the historic event, which flooded the site in 1948, was of a magnitude agreed with SEPA to be greater than the 1 in 200 year storm event. It is suspected that historic flooding of the area was most likely due to overland flood routing from a breach of the river bank around, Chainage 552. In order to assess the potential flood risk from this source the best available height data for the agricultural land to the north and west of the site was obtained and reviewed.

Aerial Photography Derived 5m Digital Terrain Model (DTM) data was interrogated and spot heights extracted for the area of agricultural land to the north and west of the site, as shown on Figure A. Ground levels at the corner of the field near Chainage 552 are noted to be at 103.13m O.D. The possible activation of an overland flood route pathway from this source does not occur but is albeit marginal for the 1 in 200 year storm event, under normal conditions. The 20% right hand archway blockage and the 10% both archway blockage scenarios increase the peak water level to 103.14m O.D. for. Given the nature of the soils and likely vegetation cover within the agricultural land a 0.01m depth of water is not likely to be sufficient to generate overland flow, therefore, the risk to the site from overland flood routing from this source is considered to be Low.

In conclusion, as the peak flood water levels in and around the site are marginal with respect to the potential for the generation of overland flood routing pathways, any increase in flow or blockage is likely to generate overland flow. The inclusion of a Global Climatic Change (GCC) allowance of 20% to the inflow hydrograph, under normal conditions, increases the peak flood water levels to a point that would activate both the overtopping flood routing pathways noted previously. The results of the 1 in 200year plus 20% event are shown on Table A in the appendix.

In order to successfully develop the site it is recommended that the following requirements are met:

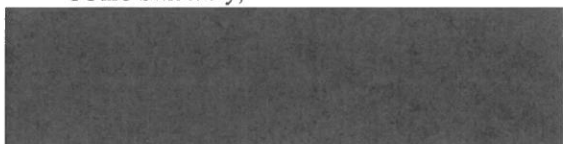
- Dry emergency pedestrian access and egress to the site is established with the higher ground to the east.
- Development profiling of any gardens and soft landscaping areas should be carried out to encourage overland flow pathways away from the proposed development and emergency access and egress routes.
- A flood routing pathway should be established from the road to the south east in line with the local topography, as this will encourage flood routing back towards the Leader Water.
- The proposed final floor level be increased to be at or above 102.1m O.D. thus preserving a freeboard of at least 600mm.



-oo000oo-

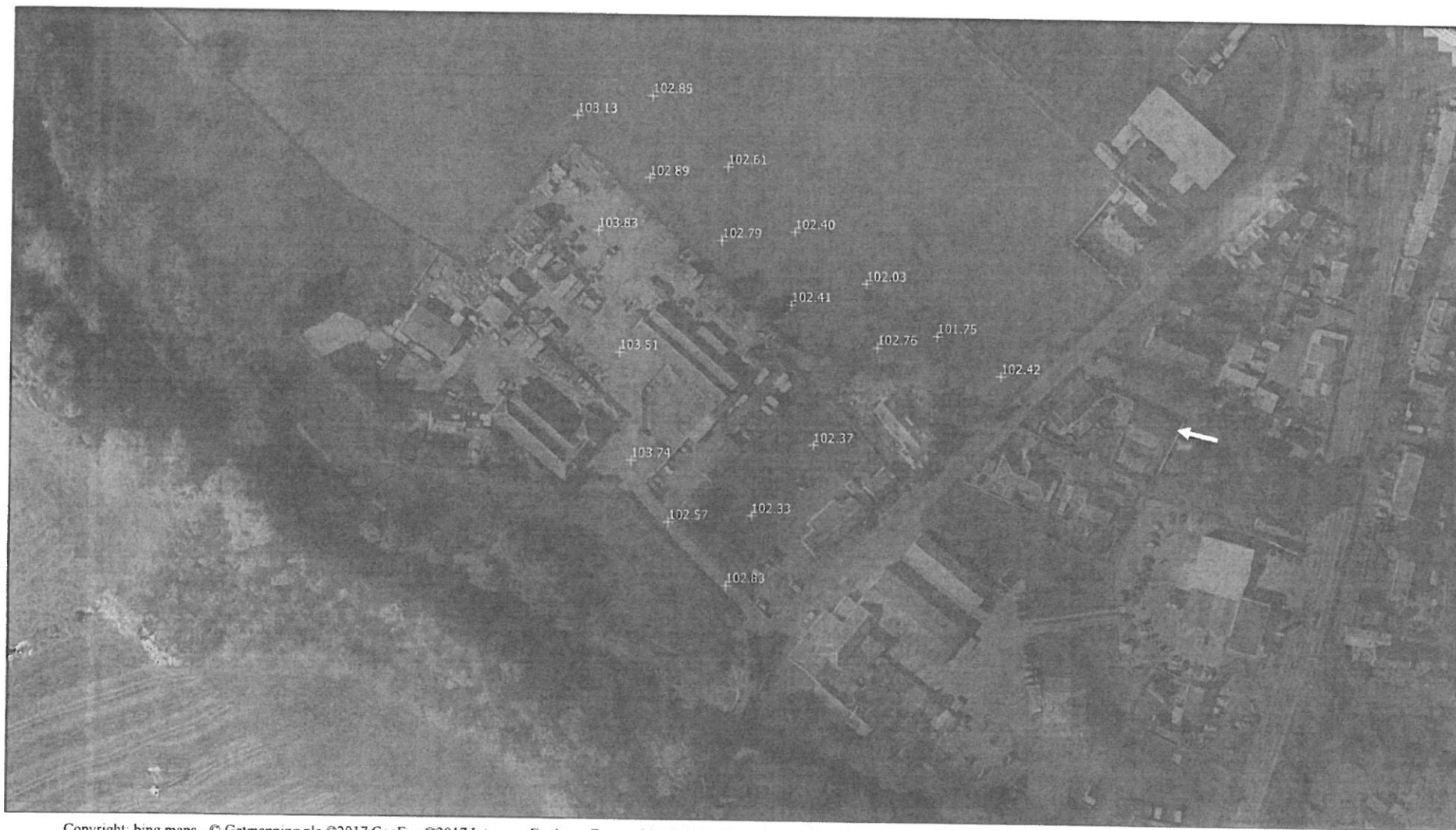
If you should wish to discuss any of the above, or have any queries, then please do not hesitate to contact me.

Yours Sincerely,




Douglas Aitken
Associate Director
Terrenus Land & Water Ltd

APPENDIX



Copyright: bing maps - © Getmapping plc ©2017 GeoEye ©2017 Intermap Earthstar Geographics SIO Earthstar Geographics SIO ©2017 Microsoft Corporation

Client: Austin Travel	Figure Title: Aerial Photography Derived 5m DTM Spot Height Plan	Prospect Business Centre, Hamilton International Park, Stanley Boulevard, Hamilton, G72 0BN Tel: 01698 822 533	 terrenus land&water		
Project: Rhymers Mill, Earlstoun – Flood Risk Assessment					
Date: 7 th April 2017	Figure A				
Grid Ref: NT 57114 38223					
SCALE: N.T.S.		DO NOT SCALE			



SITE BOUNDARY

Ch 285
MODEL CROSS
SECTION

+ SPOT HEIGHT TO
ORDNANCE DATUM
(ADJUSTED FROM
TBM BY AITKEN
TURNBULL)

Rev	Description	By	App	Re



Terrenus Land & Water Ltd
Prospect Business Centre,
Hamilton International Park,
G72 0BN
www.terrenus.co.uk

Client
AUSTIN TRAVEL

Project
RHYMERS MILL,
EARLSTON

Drilling Title

Drawn DA	Checked WH	Approved WH
Date 07-04-17	1601-205-003	
Scale NTS		

Job No: 1601-205
Table A - FRA Model Outputs

			Peak Water Level (mOD) for Existing Ground Levels						Overland flood routing activation level	Comments
			Calibrated Nov'16 (Leader - 95.12m ³ /s)	1 in 200 year under normal conditions	1 in 200 year plus 20% under normal conditions	1 in 200 year with 20% blockage of right hand archway	1 in 200 year with 10% blockage of both archways	1 in 200 year with 20% blockage of both archways		
Leader Water	1	0	105.29		106.68	106.49	106.49	106.49		
		165	104.92	105.85	106.00	105.85	105.85	105.85		
	2	330	104.25	105.02	105.15	105.02	105.02	105.02		
		441	103.13	104.01	104.15	104.01	104.01	104.01		
	3	552	102.02	103.11	103.30	103.14	103.14	103.19	103.13	
	4*	742	100.77	101.76	102.11	102.16	102.17	102.57	102	Mill Road
	4a	760	100.84	101.91	102.46	102.23	102.23	102.58	102	
	5a	790	99.60	101.40	101.65	101.40	101.40	101.40		Clatteringford Bridge (Rhymers Mill)
	5*	807	99.49	101.25	101.49	101.25	101.25	101.25	100.7	Rhymers Mill Warehouse Door
	6	932	99.24	100.76	100.85	100.76	100.76	100.76		
	6a	945	99.00	100.62	100.89	100.62	100.62	100.62		
	7a	965	98.95	100.41	100.67	100.40	100.40	100.41		A68 Roadbridge
	7	982	98.88	100.34	100.60	100.34	100.33	100.34		
	8	1062	97.21	99.15	99.43	99.15	99.15	99.15		
	9	1222	97.00	98.97	99.24	98.97	98.97	98.97		Confluence with Turfford Burn
		1252	96.96	98.94	99.21	98.94	98.94	98.94		
		1252	96.96	98.94	99.21	98.94	98.94	98.94		
		1382	96.79	98.77	99.04	98.77	98.76	98.76		
	10	1512	96.61	98.55	98.84	98.55	98.55	98.55		
		1684	96.29	98.11	98.43	98.11	98.11	98.11		
	11	1857	95.77	97.34	97.65	97.34	97.34	97.34		
Turfford Burn	A	0	100.55	100.55	100.61	100.55	100.55	100.55		
	B	200	98.05	98.94	99.21	98.94	98.94	98.94		
	C	320	96.96	98.94	99.21	98.94	98.94	98.94		Confluence with Leader Water

Key:

	No activation of possible overland flood routing pathways
	0.01m - 0.3m or greater water depth possible for activation of overland flood routing
	0.3m or greater water depth possible for activation of overland flood routing

From: SHerkes@scotborders.gov.uk
Sent: 26/05/2017 11:12:54
To: dburgher@aitken-turnbull.co.uk
Cc: barry@austin-travel.co.uk; aweir@aitken-turnbull.co.uk
Subject: RE: 17/00479/FUL - Contribution Letter
Email Ref: EML-INC/AT2669/20170526-113133-255
Project: AT2669
Description: Proposed New Dwelling
Location: Earlston
Client: Mr Barry Austin

David

Noted with thanks

Regards

Stuart

Stuart Herkes MRTPI
 Planning Officer (Development Management)
 Regulatory Services
 Scottish Borders Council
 Council Headquarters
 Newtown St Boswells
 Melrose
 Scottish Borders
 TD6 0SA
 Tel: 01835 825039
 Fax: 01835 825158
 Email: sherkes@scotborders.gov.uk

To assist us with your enquiry, please quote the relevant Planning Reference Number in your correspondence.



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Make your Building Warrant applications online from August 2016 using the Scottish Government's portal

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From: David Burgher [mailto:dburgher@aitken-turnbull.co.uk]
Sent: 26 May 2017 10:11
To: Herkes, Stuart
Cc: Barry Austin; Alistair Weir
Subject: RE: 17/00479/FUL - Contribution Letter

REFERENCE EML-OUT/AT2669/20170526-101033-010

Stuart

As discussed we can debate the orientation of the house and any other detail post FRA response.

I am content with the processing agreement.

David

From: Herkes, Stuart [mailto:SHerkes@scotborders.gov.uk]
Sent: 24 May 2017 14:55
To: David Burgher <dburgher@aitken-turnbull.co.uk>
Cc: Barry Austin <barry@austin-travel.co.uk>; Alistair Weir <aweir@aitken-turnbull.co.uk>
Subject: RE: 17/00479/FUL - Contribution Letter

David

Please find attached a draft PPA agreement. I am yet to receive advice from our Flood Prevention and SEPA but the consultation runs to 30 May, and I would thereafter need to allow a little time for me to present the application for determination. To some extent this agreement is a place-holder in that I need to allow that SEPA or Flood Prevention may seek clarification, while – as previously discussed and confirmed – I do maintain concerns with respect to the orientation of the proposed dwellinghouse, and would allow at this stage (even allowing for satisfactory resolution of the flood risk issues) that the proposal may not be supported on design grounds. However, and since I cannot pre-judge any decision-maker's views on these matters, I have also allowed within the PPA for the application to be supported, which would then require agreement thereafter, as to the type of legal agreement your client would be prepared to enter into.

I can keep the application live (undetermined) for now under this agreement (that is, beyond its target date of the end of the week), until we have the various Flood Risk Authorities responses, which hopefully should be by or before 30 May. Depending on what those responses are, I will need to review, and see whether or not any further information/clarification would be required from you.

I trust that this is in order, but please do not hesitate to contact me if you require further advice/clarification.

Regards

Stuart

Stuart Herkes MRTPI
 Planning Officer (Development Management)
 Regulatory Services
 Scottish Borders Council



PLANNING PROCESSING AGREEMENT

This processing agreement between *Scottish Borders Council* and *Austin Travel* aims to identify the key milestones in the planning application process and sets out the information required to process the application. This processing agreement is not legally binding.

Site Address: *Land North East Of And Incorporating J Rutherford Workshop Rhymers Mill Mill Road Earlston
Scottish Borders*

Brief description of proposal: *Erection of dwellinghouse*

Decision: Subject to the achievement of the timetable set out in this document, including provision of all necessary information by the applicant and consultees, the application will be referred to the appropriate committee of the Council no later than

APPLICATION DETAILS

Reference number	17/00479/FUL
Site Address	Land North East Of And Incorporating J Rutherford Workshop Rhymers Mill Mill Road Earlston Scottish Borders
Description of development	Erection of dwellinghouse
Application Type	Full Application
Other consents required	Building Warrant, SEPA license
Likely delegate application	No

KEY CONTACTS

The persons identified below are the key contacts between the Council and the Applicant. The key contacts will liaise regularly on the progress of the application and will contact each other as soon as possible should any matter arise which is considered likely to delay progress with processing the application. (Include names, phone numbers and email addresses)

Applicant	Austin Travel Coach & Minibus Hire 1 Station Road Earlston Scotland TD4 6BZ
Agent	Aitken Turnbull Architects Ltd 9 Bridge Place Galashiels Scottish Borders TD1 1SN admin@aitken-turnbull.co.uk
Officer	Stuart Herkes

	<i>Planning Officer</i>
Alternative Local Authority Contact	<i>Ian Aikman (Development Manager, Major Applications)</i>

AGREED ACTIONS

Action		Who/when
1	Re-consultation and Responses back from SEPA and others	Consultees by no later than 30 May 2017
2	Assuming that there is no requirement for further details to be supplied and reviewed, Planning Officer to present application for determination	Planning Officer by no later than 06 June 2017
3	In the event of refusal, Decision Notice to be issued by SBC (no legal agreement)	SBC by no later than 09 June 2017
4	In the event of approval, PPA to be revisited and extended to include appropriate provisions for the conclusion of a legal agreement (s69 or s75). If the latter, this is liable to take the date of issue of any Decision Notice beyond determination, by around 3 months (and therefore into mid September 2017). However, it would be appropriate to revisit the PPA informed by the actual circumstances, which may allow a Decision Notice to be issued more quickly. An S69 could be issued within 10 days to 2 weeks normally.	At the time of writing, it is not anticipated that the current design (principally layout) can be supported, but in the event of approval (the decision-makers' assessment is not pre-judged), there would be ulterior requirements to ensure that an appropriate legal agreement were in place to secure development contributions, which would require arrangements to be put in place for the period from determination to release of consent, which would lie beyond the end of June 2017; this requirement could be updated further to determination and consultation with Legal, and would depend upon whether or not a S69 or S75 legal agreement were ultimately to be concluded.

Signed..... On behalf of
Scottish Borders Council

Signed on behalf of

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/00479/FUL

APPLICANT : Austin Travel

AGENT : Aitken Turnbull Architects Ltd

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Land North East Of And Incorporating J Rutherford Workshop
Rhymers Mill
Mill Road
Earlston
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused
	Elevations	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations.

Earlston Community Council: wishes to express and have its concerns noted over the possible impact on both Rhymers Avenue and houses nearby - both for residents and for access. It has also noted the comments made by SEPA and wishes to highlight the content of that response. (Earlier advice from the Community Council was withdrawn, and substituted by its advice above).

Roads Planning Section: no objections in principle but there are some issues of concern. The proposed access appears to be along Rhymers Avenue, which is a private road and is not included within the Applicant's ownership boundary. It is also narrow with no passing provision or turning area. Furthermore, the junction onto Mill Road suffers from poor visibility due to the roadside wall when looking northwards, has no radii, and does not have sufficient width for two vehicles to pass. The submitted site plan is also unsatisfactory as a minimum of two parking spaces would require to be provided within the curtilage of the plot. The site plan currently shows one full space and the second space being impinged upon by the site boundary. Until the Applicants' demonstrate an ability to upgrade the existing Rhymers Avenue to a satisfactory standard and include two parking spaces within the curtilage of the site, Roads is unable to support this proposal. It should be noted that a new access from Mill Road to serve this property is an option that is also likely to be acceptable and easier achieved.

Environmental Health Section: seeks an informative to advise with respect to the installation and operation of the proposed wood burning stove, and seeks the imposition of a suspensively-worded

planning condition to require that the potential for historic land contamination should be appropriately investigated.

Education and Lifelong Learning: seeks development contributions towards the new Earlston High School and extension of Earlston Primary School.

Flood Prevention Section: initially advised that the site is at risk from a flood event with a return period of 1 in 200 years (that is, the 0.5% annual risk of a flood occurring in any one year) and lies within the 1 in 10 year flood extent of the Leader Water, and is therefore at high risk of flooding. Given a location within the functional floodplain of the Leader Water and given compelling historical evidence of flooding, Flood Prevention objected to the proposed development on the basis that the proposal would be contrary to SPP which promotes flood avoidance (Paragraph 255) and states 'piecemeal reduction of the functional floodplain should be avoided given the cumulative effects of reducing storage capacity' (Paragraph 256). It was advised that if the Applicant could show through a Flood Risk Assessment (FRA) that the site is out with the functional floodplain and not at risk of flooding during the 1 in 200 year flood event then Flood Prevention. Further to the submission of a FRA (in reality the FRA submitted at the time of a previous planning application, 16/00385/FUL, updated with an addendum letter), and its review of the latter, Flood Prevention has responded more recently to advise that although it has spoken with the Applicant's agent (Terrenus Land and Water) on 16th May 2017, clarification of a number of points within the FRA and addendum letter, has not been forthcoming. Given the concerns with this site which have previously been detailed (within Flood Prevention's previous response on this and on the previous Planning Application, 16/00385/FUL), Flood Prevention cannot support the proposed development. This is due to the uncertainties regarding the flood risk to the site which the FRA has not adequately explained. Flood Prevention considers that the proposed site is within the functional floodplain of the Leader Water and that approval of the application would be contrary to the SPP.

SEPA: initially responded to object in principle to the application on the grounds of flood risk, maintaining the same grounds as its consultation response of 20 December 2016, which was submitted in response to the public consultation on Planning Application 16/00385/FUL. However, it is specifically advised that the limited information submitted as part of the current application does not allow SEPA to alter its advice that a dwellinghouse on this site would increase the number of people and properties at flood risk. Further to the Applicant's provision of an updated version of the FRA submitted at the time of Planning Application 16/00385/FUL, SEPA has responded more recently to advise that further to its review of the latter, it maintains its object(ion) in principle to the proposed development on the grounds that the proposal would place buildings and persons at flood risk contrary to Scottish Planning Policy. Given the location of the proposed development within the undeveloped/sparsely developed functional floodplain, SEPA does not consider that it meets with the requirements of Scottish Planning Policy and its position will not change. SEPA has a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and promote sustainable flood risk management. The cornerstone of sustainable flood risk management is the avoidance of flood risk in the first instance. SEPA's assessment and conclusions are set out within a Technical Review included within its second consultation response.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Council Local Development Plan 2016

Policy PMD1: Sustainability

Policy PMD2: Quality Standards

Policy PMD5: Infill Development

Policy HD3: Residential Amenity

Policy EP16: Air Quality

Policy IS2: Developer Contributions

Policy IS7: Parking Provision and Standards

Policy IS8: Flooding

Policy IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

SBC Supplementary Planning Guidance: Development Contributions (approved April 2015)

Recommendation by - Stuart Herkes (Planning Officer) on 7th June 2017

SITE DESCRIPTION AND PROPOSED DEVELOPMENT

This application proposes a new dwellinghouse within the northwestern section of the curtilage of the former premises of J Rutherford's vehicular sales and repair business within the Development Boundary at Earlston. Although an established mixed use business premises, the site is not allocated or safeguarded for business and industrial use within the Adopted Local Development Plan. An earlier version of this application was withdrawn last year following SEPA's maintenance of its objection in principle on the grounds of unacceptable flood risk impacts.

The particular site in question occupies something of a transitional area between residential properties to the north and west, and the remainder of the Rutherfords business premises to the east and south. The site includes an existing former Rutherfords workshop building which is specifically included within the site boundary of the proposed residential property. The latter is not itself proposed for conversion to a dwellinghouse, and would be fundamentally unsuitable for such a proposal. Instead, the application proposes a new-build dwellinghouse, which would be sited in the northeastern section of the site, aligned to the residential street to the north, Rhymers Avenue. Accordingly it is understood that the proposed residential property would be constituted by the proposed new dwellinghouse and the existing workshop building. No details are given with respect to the proposed landscaping. Access is shown to be from the northeast corner of the site, directly from Rhymers Avenue, where one full and one truncated parking space are indicated.

PLANNING PRINCIPLE

In as much as (i) the site lies within the Development Boundary, (ii) is not allocated for any specific use within the statutory development plan, (iii) is capable of being accessed directly and separately from the public road and (iv) prevails within an area that includes residential development, I would not consider that the proposal raises any concerns in principle. However, there are nonetheless specific aspects of the development that are objectionable.

FLOOD RISK

A previous planning application (16/00385/FUL) for a different version of the proposal was withdrawn because SEPA objected in principle to the development on the grounds that development would have unacceptable flood risk impacts. The Applicant has provided an updated version of the Flood Risk Assessment (FRA) previously submitted at the time of Planning Application 16/00385/FUL. This includes an addendum letter which sets out details of steps taken to revise the hydraulic model developed for the FRA and is intended to address concerns raised by the flood prevention authorities within their consultation responses which were provided at the time of their review of the FRA provided in support of Planning Application 16/00385/FUL. Additionally, topographic survey has been undertaken and additional hydrometric data obtained from SEPA. However, further to its review of these updated details, SEPA maintains its objection in principle to the development of the site on the grounds that any dwellinghouse so sited, would be liable to unacceptable flood risk. These concerns are shared by the Council's own Flood Prevention Section. In light of these statutory consultees' advice that the site cannot be developed acceptably in flood risk terms, the proposal cannot be supported, and the planning application should be refused.

INDUSTRIAL BUILDING

It is unclear how the existing workshop building would be incorporated into the proposed residential property and it could continue in use as a business premises. Depending upon how it is operated, this has potential to impact unacceptably upon the amenity of the proposed dwellinghouse.

In the event of the proposal otherwise having been capable of support, it would have been appropriate to have established with the Applicant what the proposed use of this building would have been. There may also have been some potential to require by planning condition that the two buildings be retained within the same planning unit.

However, in the absence of any information from the Applicant about the proposed workshop use and operation within the proposed residential property, it remains possible that the operation of the workshop would be liable to have unacceptable impacts upon the residential amenity of the proposed dwellinghouse. This would therefore need to be included among the reasons for the application's refusal.

COMPOSITION, LAYOUT AND ORIENTATION

The siting and orientation of the proposed dwellinghouse on the site also raises concerns. The proposed dwellinghouse would have been more satisfactorily accommodated within an L-shaped footprint, predominantly fronting onto Mill Road, while adhering to the same building line as the existing buildings to the southwest, which also front the public road. This would have reconciled its orientation with both the aforementioned existing workshop building and the majority of the surrounding streetscape which fronts one or other side of Mill Road. Instead, the proposed alignment of the house with Rhymers Avenue would establish a new building line, and would in its relationship to the existing workshop building, give the site a notably splayed layout. Within this awkward relationship between the site's two buildings, there would be no internal coherence. The site would in fact be centred on an open central area between the two buildings which has to this point, no description or explanation as to how or why such an area would be necessary or how it would be configured to 'tie' the site together. In short, the site would be liable to appear to be something of an 'awkward corner' left over between two buildings whose coexistence within the same site would be liable to appear fundamentally contrived and awkward. Given that this could have been addressed directly within the proposed design, it is an unsympathetic and, I consider, unacceptable feature of the current version of the proposal.

Alignment of the majority of the house with Mill Road would also see the proposed dwellinghouse more satisfactorily accommodated relative to the properties in Rhymers Avenue which, if the development were realised as proposed, would be confronted with the entire building's lengthwise elevation in front of their principal views. While I would not consider the relationship between the proposed dwellinghouse and its neighbours liable to be unacceptable in terms of its impacts upon the amenity of any surrounding properties, I would nonetheless note that the residential amenity of these neighbouring properties would still be more appropriately conserved if the proposed building were moved to the northwest, and realigned southwest to northeast so as to front Mill Road. This would reduce the extent of building that would face directly towards Rhymers Avenue, to a more ancillary elevation. Such an arrangement would also be liable to help screen views from the public road (Mill Road) of any parking or turning areas, to the rear of the property, particularly if an L-shaped footprint were used.

Taking account of all of these factors, I consider that the site could have been laid out more sympathetically to the character of the site and surrounding area, and that the proposed siting and layout of the property lacks coherence in itself and would appear discordant and incongruous relative to the surrounding streetscape. The proposal would have the appearance of two buildings of notably different character, misaligned to one another around an inexplicable central open space. The cumulative effect would be, I consider, objectionable in its lack of coherence internally and in its unsympathetic relationship to its surroundings (as manifest within the proposed composition, layout, and orientation of the site). All in all, this would be a decidedly incongruous form of development in its character and in its relationship to the surrounding streetscape, and I consider, should be refused on this basis.

ACCESS AND PARKING

The Roads Planning Section has expressed its concern - and on the basis of a lack of information, also its objection - that the site might be accessed directly from Rhymers Avenue, which is a private road. Roads considers that it should instead be accessed from Mill Road, the public road. Roads allows that it might be persuaded by new or additional information from the Applicant, specifically any reassurance that the Applicant can provide to demonstrate that it could use and upgrade the existing access from Rhymers Avenue to Roads' specification. However, the Applicant has not to this point, provided any advice to this effect. Nor has it revised its parking provision layout to address Roads' concern that sufficient provision for two parking spaces be accommodated (as opposed to one of the identified spaces being truncated by the

site boundary). Given that none of these issues has been addressed to Roads' satisfaction, it is therefore reasonable to understand that Roads' objection on these points still stands, and is reasonably included amongst the reasons for refusal.

Theoretically the Applicant's existing layout would still allow access to be taken from Mill Road and space could be found for two parking spaces, all of which could be made a requirement of condition, in the event of approval. It is also possible that any parking provision accessible from Mill Road, could still be accommodated to the rear of any building fronting Mill Road (through the use of a path or driveway leading to rear, for example); albeit that this would only be possible within a revised design proposal. However, unless these matters were resolved within a considered revised layout, it is not apparent that the Applicant could address all matters to both the satisfaction of both Roads and the Planning Authority. It is also material that the Applicant has not to this point, provided any revised or alternative details to address these concerns. Further, and notwithstanding the above, it is also not clear even if the Applicant could carry out improvements to the private access to address Roads' concerns, whether these improvements could then be maintained in future. (Maintenance is liable to be entirely at the discretion of the owner(s) of the private access, and therefore beyond the direct control of the Applicant). All in all, it is unclear whether or not the access and parking concerns identified by Roads, could be addressed to the satisfaction of Roads, and therefore to the satisfaction of the Planning Service. Accordingly, I would consider that the application should also be refused on the basis of the access and parking concerns identified by Roads.

DESIGN OF DWELLINGHOUSE

Although I consider that the layout of the site and orientation of the dwellinghouse are objectionable per se, I would advise that the proposed design approach for the dwellinghouse itself does not raise any particular concerns, notwithstanding a need to consider its adaptation to address some of the concerns noted above - had it indeed been appropriate to seek its re-siting and re-orientation. However, as a building which would only have an immediate relationship with workshops on adjacent land, the proposal that it should have the form of a converted traditional outbuilding works sufficiently well as a design concept, and its adaption might have been usefully sought had there not been objections in principle to the site's development on flood risk grounds. I would however express reservations with respect to certain aspects: specifically the over-use of patio-type doors and the lack of any porch or other obvious entrance feature. However, these are relatively minor points that might otherwise have been appropriately resolved in discussion with the Applicant, had the proposal otherwise been capable of being supported.

Due to the distance of set back and its confrontation of the public elevations of the properties on Rhymers Avenue and Mill Road, I would not consider that the relationship between the proposed dwellinghouse and its neighbours, would be liable to be unacceptable with respect to impacts upon residential amenity. However, there are some unknown aspects in this respect. There are proposals within the FRA that the finished floor level should be above a particular height but the implications of this relative to the existing levels on the site and the levels within the surrounding streetscape are not addressed. In other circumstances, it would have been appropriate to have clarified the implications of this for the development given the potential for the new house to be raised to a more significant height than the description of the Proposal Drawings indicate, with potential consequences with respect to the appearance of the site, the residential amenity of surrounding properties, and the potential for the building to be out of alignment vertically with surrounding buildings, adding to the discordant character of the development already noted above with respect to the site's layout and the proposed dwellinghouse's orientation. However, this is not a matter that the Applicant has sought to provide full details on, and it is unclear whether or not there would be any unacceptable impacts upon the residential amenity of any surrounding properties, or upon the general visual amenities of the area, as a consequence of the house being raised to any significant height above the existing and surrounding ground levels. Again, had this been the only concern, it would have been appropriate to have referred this matter back to the Applicant for clarification.

OTHER CONCERNS

While some matters may have been addressed by condition in the event of approval (such as boundary features, landscaping, as well as provision of parking spaces), there is a general lack of details with respect to the proposal, which is at best, unhelpful in communicating how the site might have been laid out. However, the concerns noted with respect to the siting of the house and layout of the property, are so significant that these would not have been appropriately mitigated through any matters that might otherwise have been regulated under the requirements of any conditions.

In the event of approval, Environmental Health's concerns would be capable of being addressed by conditions and informatives along the lines it recommends. Other concerns such as drainage and water supply could be appropriately regulated under standard planning conditions.

CONCLUSION

In summary, I am not supportive of this proposal on the basis of the flood risk impacts; the inclusion of a workshop building that would be liable to dominate the site (and which would challenge even the proposed dwellinghouse); the unsympathetic siting of the house and layout of the proposed residential property, which would conflict with the character of the site and surrounding streetscape; and the lack of appropriate provision for the accommodation of parking and access at the site. As noted above, there are other areas of concern, such as finished levels, but the lack of information provided in support of the application does not allow any view to be taken as to whether or not these would or would not have been acceptable in terms of their impacts.

REASON FOR DECISION :

It is considered that the proposal should be refused for the following reasons:

- (1) The proposal does not comply with Adopted Local Development Plan Policy IS8 and Scottish Planning Policy in that the site is subject to a significant flood risk and the development would be both at significant risk of flooding and would materially increase the probability of flooding elsewhere;
- (2) The proposal in the positioning of the dwellinghouse and the overall site layout, does not comply with Adopted Local Development Plan Policies PMD2 and PMD5 in that it would not respect the character of the surrounding area and neighbouring built form;
- (3) The proposal does not comply with Adopted Local Development Plan Policies PMD2 and IS7 in that the access arrangements are unsuitable to serve the development and inadequate provision has been made for the accommodation of the parking of two vehicles within the curtilage of the site, such that there would be adverse impacts upon road safety; and
- (4) The proposal does not comply with Adopted Local Development Plan Policies PMD5 and HD3 in that the operation of the workshop building in such close proximity to the proposed dwellinghouse has potential to have unacceptable impacts upon the residential amenity of the occupants of the proposed dwellinghouse.

Recommendation: Refused

- 1 The proposal does not comply with Adopted Local Development Plan Policy IS8 and Scottish Planning Policy in that the site is subject to a significant flood risk and the development would be both at significant risk of flooding and would materially increase the probability of flooding elsewhere.
- 2 The proposal in the positioning of the dwellinghouse and the overall site layout, does not comply with Adopted Local Development Plan Policies PMD2 and PMD5 in that it would not respect the character of the surrounding area and neighbouring built form.
- 3 The proposal does not comply with Adopted Local Development Plan Policies PMD2 and IS7 in that the access arrangements are unsuitable to serve the development and inadequate provision has been made for the accommodation of the parking of two vehicles within the curtilage of the site, such that there would be adverse impacts upon road safety.
- 4 The proposal does not comply with Adopted Local Development Plan Policies PMD5 and HD3 in that the operation of the workshop building in such close proximity to the proposed dwellinghouse has potential to have unacceptable impacts upon the residential amenity of the occupants of the proposed dwellinghouse.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.

Our ref: PCS/152396
Your ref: 17/00479/FUL

If telephoning ask for:
Paul Lewis

19 April 2017

Stuart Herkes
Scottish Borders Council
Planning & Economic Development
Council Headquarters
Newtown St Boswells
Melrose
TD6 0SA

By email only to: dcconsultees@scotborders.gov.uk

Dear Mr Herkes

Town and Country Planning (Scotland) Acts
Planning application: 17/00479/FUL
Erection of dwellinghouse.
Land North East of and Incorporating J Rutherford Workshop Rhymers Mill, Mill Road, Earlstoun, Scottish Borders.

Thank you for your consultation which SEPA received on 03 April 2017.

Advice for the planning authority

We **object** to this planning application in principle on the grounds of flood risk.

We objected in principle to a previous application for a dwelling house on this site. Please see our response of 20 December 2016 (our reference PCS/150362) to planning application 16/00385/FUL.

The limited information submitted as part of the current application does not allow us to alter our advice that a dwelling house on this site would increase the number of people and properties at flood risk.

If you have any queries relating to this letter, please contact me by telephone on 0131 273 7334 or e-mail at planning.se@sepa.org.uk.

Yours sincerely

Paul Lewis
Senior Planning Officer
Planning Service

Continued....



Chairman
Bob Downes
Page 59
Chief Executive
Terry A'Hearn

SEPA Edinburgh Office
Silvan House, 3rd Floor, 231 Corstorphine Road,
Edinburgh EH12 7AT.
www.sepa.org.uk • customer enquiries 03000 99 66 99

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).

Our ref: PCS/152943
Your ref: 17/00479/FUL

If telephoning ask for:
Paul Lewis

5 June 2017

Stuart Herkes
Scottish Borders Council
Planning & Economic Development
Council Headquarters
Newtown St Boswells
Melrose
TD6 0SA

By email only to: dcconsultees@scotborders.gov.uk

Dear Mr Herkes

Town and Country Planning (Scotland) Acts
Planning application: 17/00479/FUL
Erection of dwellinghouse
Land North East of and Incorporating J Rutherford Workshop, Rhymers Mill, Mill Road, Earliston, Scottish Borders.

Thank you for your consultation which SEPA received on 09 May 2017.

Advice for the planning authority

We maintain our object in principle to the proposed development on the grounds that it will place buildings and persons at flood risk contrary to Scottish Planning Policy.

Given the location of the proposed development within the undeveloped/sparsely developed functional floodplain, we do not consider that it meets with the requirements of Scottish Planning Policy and our position will not change. We have a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and promote sustainable flood risk management. The cornerstone of sustainable flood risk management is the avoidance of flood risk in the first instance.

In the event that the planning authority proposes to grant planning permission contrary to this advice on flood risk, the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 provides criteria for the referral to the Scottish Ministers of such cases. You may wish to consider if this proposal falls within the scope of this Direction.

Notwithstanding this position we have included our review of the information supplied. Provision of this review does not imply that we consider there to be a technical solution to managing flood risk at this site which meets with Scottish Planning Policy.

1. Flood Risk

Summary

- 1.1 We have received a revised flood risk assessment (FRA) in support of the erection of a single dwelling at Rhymers Mill in Earlston. The initial FRA entitled "Rhymers Mill, Earlston" dated 2nd December 2016, report number 1604-205, was submitted in support of the withdrawn application, 16/00385/FUL. For completeness we refer you to the original FRA.
- 1.2 We maintain our objection in principle to this application for a dwelling on this site. The site was subjected to flooding during the August 1948 event which we believe is a 0.5% annual probability (AP) event and, therefore, the site falls within the functional floodplain. Further details regarding the estimated return period of the August 1948 event can be found in our response of 20 December 2016 (our reference PCS/150362), particularly section 3. Scottish Planning Policy (SPP) clearly states that the planning system should promote flood avoidance by locating development away from the functional floodplain and medium to high risk areas (paragraph 255 of SPP). We have a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and promote sustainable flood risk management. The cornerstone of sustainable flood risk management is the avoidance of flood risk in the first instance. Enabling this development will increase the number of properties and people at risk of flooding, contrary to SPP and our shared duties under the Flood Risk Management (Scotland) Act 2009.
- 1.3 Furthermore we believe that the FRA shows that the site lies within the functional floodplain. Ignoring all the uncertainties regarding the hydrology, topographic information and roughness values used within the FRA, it is best practice to include a degree of blockage in any structure when determining the functional floodplain; as outlined within our "Technical Guidance for Stakeholders". We would have expected Terrenus to use the predicted flood level of 102.57mAOD as the 200 year event which includes 20% blockage of the bridge. Using a flood level of 102.57mAOD (0.5% AP event with 20% bridge blockage) would result flood water overtopping Mill Road and onto the development site. Therefore, even with significant issues with the hydraulic model the site falls within the functional floodplain hence another reason for our continued objection in principle. Notwithstanding this position we have included our review of the information supplied and the reasoning's why the FRA under predicts the risk of flooding at the site.

Technical Review

- 1.4 Firstly, we would highlight a significant inaccuracy within the revised flood risk assessment. Terrenus state that SEPA agrees that the August 1948 flood event was of a magnitude greater than 1 in 200 years. This is erroneous and we have consistently stated that the August 1948 event was a 0.5% AP (1 in 200 year) flood event within all our previous responses. The site flooded during this event to a depth of around 0.55m and therefore the site falls within the functional floodplain hence our continued objection in principle.
- 1.5 One of the largest uncertainties for assessing the risk of flooding to this site is the hydrology. We previously highlighted that our gauging station on the Leader Water in Earlston is bypassed by flows just above Qmed and therefore there is significant uncertainty attached to the high flow rating. As explained within our response of 20 December 2016, we would have expected the consultant to extend the high flow rating using the hydraulic

model. This has not been undertaken and there remains significant uncertainty over the hydrology used within the hydraulic model.

- 1.6 As outlined in our response of December 2016 (our reference PCS/150362), we had serious concerns regarding the accuracy of the cross sectional information. As a result, additional topographic information has been obtained by Terrenus on 27 March 2017 and this has found that the topographic information contained within the original FRA by Terrenus (dated December 2016) was inaccurate. For example the bed level at cross section 742 (adjacent to the site) was originally modelled as 97.5mAOD, but using the updated survey information the bed is now 98.5mAOD; or, 1m higher. At section 982, the new survey information has the bed level of the Leader Water 2m higher than used within the original FRA. Interestingly, the bank and floodplain spot levels remain unchanged. The impact of having a higher bed level will mean a decrease in the channel size and in turn conveyance capacity resulting in higher flood levels and more frequent and extensive flooding
- 1.7 We would highlight that only a small area has been resurveyed as shown on drawing number 1601-205-003 entitled "Site Detail". Cross sectional details outwith the recently surveyed reach (both upstream and downstream of the site) are derived from Aerial photography DTM and will be inaccurate. As well as the examples described in section 3 above, floodplain topographic information will be incorrect. For example, a spot level taken to the south west of Rhymers View via a topographic survey is shown to be 101.9mAOD and the same spot is 102.83mAOD on the aerial photography DTM. This will ultimately affect the accuracy of the results in the hydraulic model and predicted flood extent. Photogrammetry has a use in undertaking indicative flood mapping but should not be used for site specific flood risk assessments where accurate flood levels and safe finished floor levels are required.
- 1.8 No revised cross sectional information has been provided and therefore we are unsure whether the cross sectional information has been altered within the hydraulic model. Review of the revised predicted 0.5% AP flood levels, generally flood levels have increased slightly compared to the December 2016 flood levels apart from cross section 552 where there has been a 100mm decrease which is unexpected.
- 1.9 The consultants have tried to increase the confidence in the hydraulic model by calibrating the model to the November 2016 flood event. It is best practice to calibrate hydraulic model, but it is more important to have accurate topographic information used within the model which does not appear to be the case in this hydraulic model.
- 1.10 No photographs have been provided of the November 2016 event within the report. Two flood levels have been established: one at section 552; and another at 742. The November 2016 flood level at section 552 was 102mAOD and at 742 the flood level was 100.8mAOD. Extremely limited out of bank topographic spot levels have been taken as shown on drawing 1601-205-003 and therefore it is likely the consultant has interpolated levels between two surveyed points to estimate the flood level which is not best practice. We would have expected the surveyors to take a specific level at the trash line as this is far more accurate than interpolating levels.
- 1.11 Initial calibration results showed that the hydraulic model was under predicting flood levels. To increase flood levels, blockage of the bridge was then included with the right archway blocked by 64% and the left archway blocked by 19%. Blockage to this degree is significant, however due to the nature of the catchment with tree lined banks, it is possible. We acknowledge that calibrating the hydraulic model in this area will be difficult as establishing

the degree of blockage on the bridge during the November 2016 event is near impossible. One modelling parameter which should be adjusted when calibrating the hydraulic model is roughness and we previously stated that the roughness values used within the hydraulic model were too low (section 11 of our response dated 20 December 2016, reference PCS/150362). By having more realistic roughness values, i.e. increasing the roughness, the flood levels would in turn increase.

- 1.12 In the conclusion of the revised FRA, it is stated that without constriction of Clatteringsford Bridge, the flood level at 742 is 101.76mAOD. This statement could be misleading as it could imply that the bridge has not been included within the hydraulic model as the bridge naturally acts as a constriction on flows. We presume that the consultant means that the 0.5% AP flood level with no blockage on Clatteringsford Bridge is 101.76mAOD. Ignoring all the uncertainties regarding the hydrology, topographic information and roughness values, we would have expected Terrenus to use the predicted flood level of 102.57mAOD as the 0.5% AP event. This 200 year flood level is derived when both archways are blocked by 20%. As outlined within section 4.9 of our "Technical Flood Risk Guidance for Stakeholders", *'it is the view of SEPA that all land liable to flooding during a flood event up to and including the 200 year flood, even if caused by the blockage of a structure should be considered functional floodplain.'* There is clearly a history of blockage on this bridge and therefore a degree of blockage should be included within the bridge when determining the functional floodplain. Using a flood level of 102.57mAOD (0.5% AP event with 20% bridge blockage) would result flood water overtopping Mill Road and onto the development site. Therefore, even with significant issues with the hydraulic model (topographic information, roughness and hydrology), the site falls within the functional floodplain hence another reason for our continued objection in principle.
- 1.13 As well as direct flooding from the Leader Water at Clatteringsford Bridge, another flow path could exist which has not accurately been assessed. Between sections 0 to 552, the left bank is significantly lower and there is significant out of bank flow. For example at section 330 there will be 1m depth out of bank flow on the left bank (flood level of 105.02mAOD and bank level of 104.1mAOD). There is a risk of this flood water reaching the site via overland flow. Although the consultants have looked into this risk for section 552 (see comments below), this source of flooding has not been assessed for out of bank flow at the upstream sections. Based upon the review of figure A, spot levels at the 'works' are higher than surrounding ground levels and therefore a flow path could exist to the north of this area and enter the site via Mill Road at Nether Willows.
- 1.14 To assess the likely flow path at section 552, Terrenus have again used aerial photography DTM. As highlighted above in this response, it is clear that spot levels derived from the aerial photography DTM are overestimated and a topographic survey is required to accurately measure the topography in this area. Furthermore, we have serious concerns with regards to the accuracy of the 0.5% AP flood level at section 552. Although the bed levels of the cross sections within the model have increased by between 1 to 2m, the flood level at section 552 has reduced by 100mm compared to the December 2016 FRA flood levels. This is inconstant with every other cross section flood level which have all increased in light of the higher bed levels of the Leader Water.
- 1.15 The consultant proposed a finished floor level for the property of 102.1mAOD. This is lower than the August 1948 flood level and we cannot support it. We therefore continue to object in principle to this planning application.

Caveats & Additional Information for Applicant

- 1.16 Please note that we 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.
- 1.17 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 inline with the phases of this legislation and can be downloaded from www.sepa.org.uk/planning/flood_risk.aspx

If you have any queries relating to this letter, please contact me by telephone on 0131 273 7334 or e-mail at planning.se@sepa.org.uk.

Yours sincerely

Paul Lewis
Senior Planning Officer
Planning Service

ECopy to:

Stuart Herkes, Scottish Borders Council – SHerkes@scotborders.gov.uk

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).

EARLSTON COMMUNITY COUNCIL



Stuart Herkes
Scottish Borders Council
Planning & Economic Development
Council Headquarters
Newtown St Boswells
Melrose
TD6 0SA

01 May 2017

Dear Mr Herkes

Re: Planning application: 17/00479/FUL

Erection of dwelling house J Rutherford Workshop and Land North East of J Rutherford Workshop, Rhymers Mill, Earlston, Scottish Borders

The above planning application was discussed at the Earlston Community Council meeting on Thursday 20th April 2017.

Scottish Borders Council requested our observations on the application and they are as follows:

The Community Council wishes to express and have our concerns noted over the possible impact on both Rhymers Avenue and houses nearby - both for residents and for access.

The Community Council have also noted the comments made to Scottish Borders Council by SEPA and wish to highlight the content of that response.

Yours sincerely

Mrs S M Gibb
Secretary
Earlston Community Council

ENVIRONMENT AND INFRASTRUCTURE**To:** HEAD OF PLANNING AND REGULATORY SERVICE**FAO:** Stuart Herkes**Your Ref:** 17/00479/FUL**From:** HEAD OF ENGINEERING & INFRASTRUCTURE**Date:** 5th April 2017**Contact:** Lauren Addis**Ext:** 6517**Our Ref:** B48/2313

Nature of Proposal: Erection of dwellinghouse**Site:** Land north east of and incorporating J Rutherford Workshop, Rhymers Mill,
Mill Road, Earlston, Scottish Borders

In terms of information that this Council has concerning flood risk to this site, I would state that The Indicative River, Surface Water & Coastal Hazard Map (Scotland) known as the "third generation flood mapping" prepared by SEPA indicates that the site is at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year.

The Indicative River & Coastal Flood Map (Scotland) has primarily been developed to provide a strategic national overview of flood risk in Scotland. Whilst all reasonable effort has been made to ensure that the flood map is accurate for its intended purpose, no warranty is given.

Due to copyright restrictions I cannot copy the map to you however, if the applicant wishes to inspect the maps they can contact me to arrange a suitable time to come in and view them.

Review of the application shows that the proposed site lies within the 1 in 10 year flood extent of the Leader Water and therefore at high risk of flooding. Earlston has a long history of flooding from the Leader Water and Trufford Burn, with the flood event of 2002 inundating the garden ground of Rhymers Mill Cottage. This area was also affected by flooding in 1948, 1984 and 2012. Given the location of the proposed development within the functional floodplain and compelling historical evidence of flooding I object to the proposed development on the basis that the proposal is contrary to SPP which promotes flood avoidance (Paragraph 255) and states 'piecemeal reduction of the functional floodplain should be avoided given the cumulative effects of reducing storage capacity' (Paragraph 256).

If the applicant can show through a Flood Risk Assessment that the site is out with the functional floodplain and not at risk of flooding during the 1 in 200 year flood event then I would be in a position to remove my objection. However I would note that undertaking an FRA may only further support the evidence indicating the site is at risk of flooding. It should also be noted that an FRA for a new dwellinghouse on this site was recently submitted in December 2016.

Please note that this information must be taken in the context of material that this Council holds in fulfilling its duties under the Flood Risk Management (Scotland) Act 2009.

Lauren Addis
Technician
Flood Risk and Coastal Management

Consultation Reply



ENVIRONMENT AND INFRASTRUCTURE

To: HEAD OF PLANNING AND REGULATORY SERVICE

FAO: Stuart Herkes

Your Ref: 17/00479/FUL

From: HEAD OF ENGINEERING & INFRASTRUCTURE

Date: 6th June 2017

Contact: Lauren Addis

Ext: 6517

Our Ref: B48/2313

Nature of Proposal: Erection of dwellinghouse

Site: J Rutherford Workshop and land north east of J Rutherford Workshop
Rhymers Mill, Earlston, Scottish Borders

Further to our previous response for this application an addendum letter has been provided in support of the Flood Risk Assessment, completed by Terrenus Land and Water, provided for a previous application at this site (16/00385/FUL).

The addendum letter provides details of steps taken to revise the hydraulic model developed for the FRA and address concerns raised in our previous consultation response. A topographic survey has been undertaken and additional hydrometric data obtained from SEPA.

Having spoken with Terrenus Land and Water on 16th May 2017, clarification of a number of points within the FRA and addendum letter has not been forthcoming. Given the concerns with this site which have been detailed my previous response to this application and application 16/00385/FUL, I find I cannot support the proposed development due to the uncertainties regarding the flood risk to the site which the FRA has not adequately explained. It is my opinion that the proposed site is within the functional floodplain of the Leader Water and that approval of the application would be contrary to SPP.

I also note that SEPA have maintained their objection to the proposal and highlight a number of issues with the content of the Flood Risk Assessment.

Please note that this information must be taken in the context of material that this Council holds in fulfilling its duties under the Flood Risk Management (Scotland) Act 2009.

Lauren Addis
Technician
Flood Risk & Coastal Management

**To: Development Management Service
FAO Stuart Herkes**

Date: 12 April 2017

**From: Roads Planning Service
Contact: Keith Patterson**

Ext: 6637

Ref: 17/00479/FUL

**Subject: Erection of Dwellinghouse, Land North East of And
Incorporating J Rutherford Workshop, Rhymers Mill, Mill
Road, Earlston.**

Whilst I have no objections in principle to this proposal, there are some issues that concern me. The proposed access appears to be along Rhymers Avenue, which is a private road and is not included within the applicant's ownership boundary. It is also narrow with no passing provision or turning area. Furthermore, the junction onto Mill Road suffers from poor visibility due to the road side wall when looking northwards, has no radii and does not have sufficient width for two vehicles to pass. The submitted site plan is also unsatisfactory as I require a minimum of two parking spaces to be provided within the curtilage of the plot, the site plan currently shows one full space and the second space being impinged upon by the site boundary.

Until the applicants demonstrate an ability to upgrade the existing Rhymers Avenue to a satisfactory standard and include two parking spaces within the curtilage of the site I am unable to support this proposal. It should be noted that a new access from Mill Road to serve this property is an option that is also likely to be acceptable and easier achieved.

AJS

PLANNING CONSULTATION

On behalf of: Director of Education & Lifelong Learning

From: Service Director Assets & Infrastructure

Contact: Neil Hastie, Estates Manager

To: Head of Planning & Building Standards

Date: 31st March 2017

Contact: Stuart Herkes ☎ 01835 825039

Ref: 17/00479/FUL

PLANNING CONSULTATION

Name of Applicant: Austin Travel

Agent: Aitken Turnbull Architects Ltd

Nature of Proposal: Erection of dwelling house

Site: Land North East of and Incorporating J Rutherford Workshop, Rhymers Mill, Mill Road
Earlston, Scottish Borders

OBSERVATIONS OF: Education & Lifelong Learning (Neil Hastie)

CONSULTATION REPLY

I refer to your request for Education's view on the impact of this proposed development, which is located within the catchment area for Earlston Primary School and Earlston High School.

A contribution of £2,438 is sought for the Primary School and £3,428 is sought for the High School, making a total contribution of £5,866.

Rolls over 90% place strain on the schools teaching provision, infrastructure and facilities and reduce flexibility in timetabling, potentially negatively affecting quality standards within the school environment. Contributions are sought to raise capital to extend or improve schools or where deemed necessary to provide new schools in order to ensure that over capacity issues are managed and no reduction in standards is attributed to this within the Borders Area.

This contribution should be paid upon receipt of detailed planning consent but may be phased subject to an agreed schedule.

Please note that the level of contributions for all developments will be reviewed at the end of each financial year and may be changed to reflect changes in the BCIS index – therefore, we reserve the right to vary the level of the contributions.

If you require any further information please do not hesitate to contact me by emailing estatesmanagement@scotborders.gov.uk

Scottish Borders Council

Regulatory Services – Consultation reply

Planning Ref	17/00479/FUL
Uniform Ref	17/00844/PLANCO
Proposal	Erection of dwellinghouse
Address	Land North East Of And Incorporating J Rutherford Workshop, Rhymers Mill, Mill Road, Earlstoun
Date	10th April 2017
Amenity and Pollution Officer	Forbes Shepherd
Contaminated Land Officer	Gareth Stewart

Amenity and Pollution

Assessment of Application

*Odour
Air Quality*

Wood Burning Stoves

It was noted from the plans that a stove was to be installed and so long as it is less than 45kW no further information needs to be provided. If it is greater than 45kW then the applicant needs to declare this and provide additional information so that a screening assessment can be carried out.

Informative

Stoves and Use of Solid Fuel

These installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do 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 building/planning permission.

Accordingly this advice can assist you to avoid future problems.

The location of the flue should take into account other properties that may be downwind.

The discharge point for the flue should be located as high as possible to allow for maximum dispersion of the flue gasses.

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.

Recommendation

Delete as appropriate – Agree with application in principle, subject to conditions /Further Information Required Before Application is Determined / Information to be Provided Before Work Commences (see conditions) / No Comment / Object / Informative Note

Contaminated land

Assessment of Application

The above application appears to be proposing the redevelopment of land which was previously a 'works' and which appears to have held a license for the storage of petroleum. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

It is recommended that planning permission should be granted on condition that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority.

Any requirement arising from this assessment for a remediation strategy and verification plan would become a condition of the planning consent, again to be submitted and agreed upon by the Planning Authority prior to development commencing.

The attached standard condition may be helpful in this respect

Recommendation

Delete as appropriate – Agree with application in principle, subject to conditions /Further Information Required Before Application is Determined / Information to be Provided Before Work Commences (see conditions) / No Comment / Object /Informative Note

Conditions

Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. **No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.**

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent

revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council **prior** to addressing parts b, c, d, and, e of this condition.

and thereafter

- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

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

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

LIST OF POLICIES

Local Review Reference: 17/00037/RREF

Planning Application Reference: 17/00479/FUL

Development Proposal: Erection of dwellinghouse

Location: Land North East of and incorporating J Rutherford Workshop, Rhymer's Mill, Mill Road, Earlston

Applicant: Austin Travel

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2016

POLICY PMD1: SUSTAINABILITY

In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plan's policies and which developers will be expected to incorporate into their developments:

- a) the long term sustainable use and management of land
- b) the preservation of air and water quality
- c) the protection of natural resources, landscapes, habitats, and species
- d) the protection of built and cultural resources
- e) the efficient use of energy and resources, particularly non-renewable resources
- f) the minimisation of waste, including waste water and encouragement to its sustainable management
- g) the encouragement of walking, cycling, and public transport in preference to the private car
- h) the minimisation of light pollution
- i) the protection of public health and safety
- j) the support to community services and facilities
- k) the provision of new jobs and support to the local economy
- l) the involvement of the local community in the design, management and improvement of their environment

POLICY PMD2: QUALITY STANDARDS

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

Sustainability

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,
- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,
- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,

LIST OF POLICIES

- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
- g) it considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking & Design

- h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
- i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
- j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
- k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
- l) it can be satisfactorily accommodated within the site,
- m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
- n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

Accessibility

- o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,
- p) it incorporates, where required, access for those with mobility difficulties,
- q) it ensures there is no adverse impact on road safety, including but not limited to the site access,
- r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,
- s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Greenspace, Open Space & Biodiversity

- t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
- u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

LIST OF POLICIES

POLICY PMD5: INFILL DEVELOPMENT

Development on non-allocated, infill or windfall, sites, including the re-use of buildings within Development Boundaries as shown on proposal maps will be approved where the following criteria are satisfied:

- a) where relevant, it does not conflict with the established land use of the area; and
- b) it does not detract from the character and amenity of the surrounding area; and
- c) the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over-development or 'town and village cramming'; and
- d) it respects the scale, form, design, materials and density in context of its surroundings; and
- e) adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity; and
- f) it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

All applications will be considered against the Council's Supplementary Planning Guidance on Placemaking and Design. Developers are required to provide design statements as appropriate.

POLICY EP16 AIR QUALITY

Development proposals that, individually or cumulatively, could adversely affect the quality of air in a locality to a level that could potentially harm human health and wellbeing or the integrity of the natural environment, must be accompanied by provisions that the Council is satisfied will minimise such impacts to an acceptable degree. Where it is considered appropriate the Council may request that an Air Quality Assessment is undertaken to assist determination of an application.

POLICY HD3 – PROTECTION OF RESIDENTIAL AMENITY

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

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,
 - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or 'backland' development,
 - (iii) the generation of traffic or noise,
 - (iv) the level of visual impact.

POLICY IS2: DEVELOPER CONTRIBUTIONS

Where a site is otherwise acceptable in terms of planning policy, but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or partial contribution towards the cost of addressing such deficiencies.

LIST OF POLICIES

Contributions may be required for one or more of the following:

- a) treatment of surface or foul waste water in accordance with the Plan's policies on preferred methods (including SUDS maintenance);
- b) provision of schools, school extensions or associated facilities, all in accordance with current educational capacity estimates and schedule of contributions;
- c) off-site transport infrastructure including new roads or road improvements, Safer Routes to School, road safety measures, public car parking, cycle-ways, bridges and associated studies and other access routes, subsidy to public transport operators; all in accordance with the relevant standards and the provisions of any Travel Plan;
- d) leisure, sport, recreation, play areas and community facilities, either on-site or off-site;
- e) landscape, open space, allotment provision, trees and woodlands, including costs of future management and maintenance;
- f) protection, enhancement and promotion of environmental assets either on-site or off-site, having regard to the Local Biodiversity Action Plan and the Council's Supplementary Planning Guidance on Biodiversity, including compensation for any losses and/or alternative provision;
- g) provision of other facilities and equipment for the satisfactory completion of the development that may include: measures to minimise the risk of crime; provision for the storage, collection and recycling of waste, including communal facilities; provision of street furniture and digital connectivity with associated infrastructure.

Wherever possible, any requirement to provide developer contributions will be secured by planning condition. Where a legal agreement is necessary, the preference for using an agreement under other legislation, for example the 1973 Local Government (Scotland) Act and the 1984 Roads (Scotland) Act will be considered. A planning obligation will only be necessary where successors in title need to be bound by its terms. Where appropriate, the council will consider the economic viability of a proposed development, including possible payment options, such as staged or phased payments.

POLICY IS7: PARKING PROVISION AND STANDARDS

Development proposals should provide for car and cycle parking in accordance with approved standards.

Relaxation of technical standards will be considered where appropriate due to the nature of the development and/or if positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of seeking additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

POLICY IS8: FLOODING

At all times, avoidance will be the first principle of managing flood risk. In general terms, new development should therefore be located in areas free from significant flood risk.

Development will not be permitted if it would be at significant risk of flooding from any source or would materially increase the probability of flooding elsewhere. The ability of functional flood plains to convey and store floodwater should be protected, and development should be located away from them.

LIST OF POLICIES

Within certain defined risk categories, particularly where the risk is greater than 0.5% annual flooding probability or 1 in 200 year flood risk, some forms of development will generally not be acceptable. These include:

- a) development comprising essential civil infrastructure such as hospitals, fire stations, emergency depots etc., schools, care homes, ground-based electrical and telecommunications equipment unless subject to an appropriate long term flood risk management strategy;
- b) additional built development in undeveloped and sparsely developed areas.

Other forms of development will be subject to an assessment of the risk and mitigation measures.

Developers will be required to provide, including if necessary at planning permission in principle stage:

- a) a competent flood risk assessment, including all sources of flooding, and taking account of climate change; and
- b) a report of the measures that are proposed to mitigate the flood risk.

The information used to assess the acceptability of development will include:

- a) information and advice from consultation with the council's flood team and the Scottish Environment Protection Agency;
- b) flood risk maps provided by the Scottish Environment Protection Agency which indicate the extent of the flood plain;
- c) historical records and flood studies held by the council and other agencies, including past flood risk assessment reports carried out by consultants and associated comments from the Scottish Environment Protection Agency, also held by the council;
- (d) the Scottish Environment Protection Agency's Land Use Vulnerability

POLICY IS9: WASTE WATER TREATMENT STANDARDS AND SUSTAINABLE URBAN DRAINAGE

WASTE WATER TREATMENT STANDARDS

The Council's preferred method of dealing with waste water associated with new development will be, in order of priority:

- a) direct connection to the public sewerage system, including pumping if necessary, or failing that:
- b) negotiating developer contributions with Scottish Water to upgrade the existing sewerage network and/or increasing capacity at the waste water treatment works, or failing that:
- c) agreement with Scottish Water and SEPA where required to provide permanent or temporary alternatives to sewer connection including the possibility of stand alone treatment plants until sewer capacity becomes available, or, failing that:
- d) for development in the countryside i.e. not within or immediately adjacent to publicly sewered areas, the use of private sewerage treatment may be acceptable, providing it can be demonstrated that this can be delivered without any negative impacts to public health, the environment or the quality of watercourses or groundwater.

In settlements served by the public foul sewer, permission for an individual private sewage treatment system will normally be refused unless exceptional circumstances prevail and the conditions in criteria (d) above can be satisfied.

LIST OF POLICIES

Development will be refused if:

- a) it will result in a proliferation of individual septic tanks or other private water treatment infrastructure within settlements,
- b) it will overload existing mains infrastructure or it is impractical for the developer to provide for new infrastructure.

SUSTAINABLE URBAN DRAINAGE

Surface water management for new development, for both greenfield and brownfield sites, must comply with current best practice on sustainable urban drainage systems to the satisfaction of the council, Scottish Environment Protection Agency (where required), Scottish Natural Heritage and other interested parties where required. Development will be refused unless surface water treatment is dealt with in a sustainable manner that avoids flooding, pollution, extensive canalisation and culverting of watercourses. A drainage strategy should be submitted with planning applications to include treatment and flood attenuation measures and details for the long term maintenance of any necessary features.

OTHER MATERIAL CONSIDERATIONS

- Scottish Planning Policy
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

22 JAN 2018



Democratic Scotland

Notice of Review

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name GREG BLACKLOCK

Address 1 EILDON TERRACE

Postcode TD6 0PY

Contact Telephone 1 [REDACTED]

Contact Telephone 2 [REDACTED]

Fax No [REDACTED]

E-mail* [REDACTED]

Agent (if any)

Name [REDACTED]

Address [REDACTED]

Postcode [REDACTED]

Contact Telephone 1 [REDACTED]

Contact Telephone 2 [REDACTED]

Fax No [REDACTED]

E-mail* [REDACTED]

Mark this box to confirm all contact should be through
this representative:

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

Planning authority SBC

Planning authority's application reference number 17/01230/FUL

Site address 1 EILDON TERRACE, TD6 0PY

Description of proposed development ERECTION OF BOUNDARY FENCE + DRIVEWAY

Date of application 13/09/17 Date of decision (if any) 7/11/17

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

1. Application for planning permission (including householder application) ☐
2. Application for planning permission in principle ☒
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

1. Further written submissions ☒
2. One or more hearing sessions ☒
3. Site inspection ☒
4. Assessment of review documents only, with no further procedure ☐

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Happy to meet face to face to discuss further

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE SEPERATE DOCUMENT

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☐ No ☐

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☐ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date

20/1/18

The Completed form should be returned to the Head of Corporate Administration, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA.

Thank you for taking the time to look over our appeal regarding the erection of the garden fence.

When looking over all the email correspondence we have received, it seems like everything we proposed could be supported but the only part that would cause issue would be the tall fence that runs along the pavement beside the Bowden Road.

When we moved into this house in August there was a fence along this area but it was rotten and was being held up by a 7-foot overgrown hedge so we wanted to remove the hedge and fence and put up a new one.

At the top of the Bowden road there is a house that has a 5/6-foot fence and from what we gather, planning permission was granted for this fence.

The reason we chose a fence of this height is because we have an almost 9-month old little girl who looks like she is going to be on the move pretty soon. The way the house is positioned the majority of the garden is to the front of the house. If she is going out, I would expect this to be the area she would play in. The fence is not for privacy, it is for the safety and security of her. The Bowden Road is a very busy road during the day and there are a lot of large lorries and farm vehicles that use this so we have to think about what is going to be the best in terms of safety for her if she is out playing.

As well as having our child, we have a very friendly dog that likes to say hello to people. I read on the Newtown Community Council Meeting notes that there was a vicious dog attack very close to our house in which the police were involved, I would be afraid that if we were to have a low fence, this could compromise the safety of the child and the dog.

Regarding the driveway that we proposed, we feel that this is something that would be extremely beneficial to have. My partner is currently on maternity leave but is due to go back to work at the end of January and at that time we will have grandparents looking after the child at our house some of the days of the week. During my partner's time off, she has found that parking is a big problem during the day. There have been times that she has gone away to appointments/shopping and by the time she has returned, there are no spaces near to the house as they have been taken up by council workers and visitors to the council. This is not only of the Bowden Road but we have now found that the cars are parking in Eildon Terrace. Not being able to park near the house is not ideal with having a little child on a busy street so we feel that the driveway we propose would be a lot safer for getting our child in and out of the car but it would also take our vehicles off the street allowing for more parking during the day for staff and visitors to the council buildings.

Upon speaking to neighbours and looking at the planning application on the council website, no objections or comments were made regarding the fence and driveway. The roads department had no objections and we are getting a lot of comments from passers-by to say that we have made such an improvement compared to what was there before we moved in.

We would love to be able to work with you on this to see if we came come up with a solution/compromise and would happily meet face to face to discuss this further.

Thank you for taking the time to read this and we look forward to hearing from you soon.



Greg Blacklock & Lucy Dods



Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Application for Planning Permission

Reference : 17/01230/FUL

To : Mr Greg Blacklock 1 Eildon Terrace Newtown St Boswells Scottish Borders TD6 0PY

With reference to your application validated on **13th September 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of boundary fence and formation of parking area (retrospective)

at: 1 Eildon Terrace Newtown St Boswells Scottish Borders TD6 0PY

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

**Dated 7th November 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



.....
Depute Chief Planning Officer

APPLICATION REFERENCE : 17/01230/FUL

Schedule of Plans and Drawings Refused:

Plan Ref	Plan Type	Plan Status
1	Location Plan	Refused
2	Site Plan	Refused
3 - 5	Photos	Refused

REASON FOR REFUSAL

- 1 The proposed fence along the boundary with Bowden Road is contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 in that it represents an overbearing structure in relation to the adjacent footpath and is a prominent and incongruous form of development in the wider streetscene that is harmful to the visual amenities of the area.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/01230/FUL

APPLICANT : Mr Greg Blacklock

AGENT :

DEVELOPMENT : Erection of boundary fence and formation of parking area (retrospective)

LOCATION: 1 Eildon Terrace
Newtown St Boswells
Scottish Borders
TD6 0PY

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
1	Location Plan	Refused
2	Site Plan	Refused
3 - 5	Photos	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

There are no representations.

CONSULTATIONS

Roads Planning Service: Whilst I have no objections to this proposal in principle, having seen the fence which has been erected on-site, the following matters shall have to be addressed to the Councils satisfaction:

1. The vehicular footway crossing must be constructed to the Council's satisfaction. This will require the existing dropped kerb being extended to allow for double vehicular access. I would recommend that the dropped kerbing be extended to a minimum of 5m.
2. The footway crossing must be carried out as per standard detail DC 10.
3. The section of fencing on the eastern boundary must be curtailed at the last straining post. This is approx. 2.2m from the edge of the carriageway. This is to ensure the fencing does not interfere with the visibility available to drivers when exiting the adjacent access.
4. All work within the existing footway must be carried out by a contractor first approved by the Council.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Council Local Development Plan 2016

PMD2: Quality Standards

HD3: Protection of Residential Amenity

Supplementary Planning Guidance:

Placemaking and Design January 2010
Guidance on Householder Development July 2006

Recommendation by - Julie Hayward (Lead Planning Officer) on 7th November 2017

Site and Proposal

The property is a semi-detached dwellinghouse situated on the corner of Eildon Terrace and Bowden Road in Newtown St Boswells. This is a retrospective application for fencing that has been erected around the property:

- o A 1.82m (6ft) high timber fence has been erected on the Bowden Road boundary;
- o A 1.52m (5ft) fence and gates has been erected along the Eildon Terrace boundary and around an off-street parking area that has been formed adjacent to Bowden Road;
- o A 1.52m fence has been erected along the boundary with the neighbouring property between the house and Eildon terrace;
- o A 1.82m high panel has been erected on the boundary with the access to the Council's car park, which then drops down in height towards Bowden Road.

Siting and Design and Impact on Visual Amenities

Policy PMD2 of the Local Development Plan requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development.

Normally high fences are discouraged on road frontages due to the impact such fences have on the visual amenities of the area. The preferred means of enclosure is normally a 1m fence and/or hedge, which are the types of enclosure seen on Bowden Road and was the previous boundary treatment for this property. The only exception is a similar fence at 29 Bowden Road granted planning permission in 2016 (16/01185/FUL). This does not appear as high as the fence on the Bowden Road boundary of 1 Eildon terrace and is slatted, allowing light through, which reduces the visual impact.

It is considered that the fencing that has been erected on the side boundary with no.3, along Eildon Terrace, to the rear of the on-site car parking area and along the boundary with the Council's car park access can be supported as these are shorter sections of a lower fence, with some sections set back from the adjacent road and footpath.

The main issue with this application is the 1.8m high fence along the Bowden Road boundary. This is a high, solid fence that abuts the pavement. It appears unnecessarily high adjacent to the pavement and has a significantly negative impact upon the visual amenities of the area. The fence is out of keeping with the character of this residential area. A fence of this height is more appropriate for rear gardens that are not prominent in the streetscene.

The applicant has been given the opportunity to submit a revised scheme with a lower fence on the Bowden Road boundary but wishes to have the application determined as submitted. It is considered that the application cannot be supported in its current form and the recommendation will be one of refusal, which includes the other sections of fencing and the access from the public road onto the on-site parking area.

Impact on Residential Amenities

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The property is situated on a corner plot. The only property that could be affected by the fence is the adjoining property, no.3. It is considered that the fence does not impact on the light or outlook of the occupants of no3.

Access and Road Safety Issues

The Roads Planning Service has no objections to the fence or parking area, provided that the footway crossing and dropped kerb is provided in accordance with the Council's specifications and that the section of fencing on the eastern boundary is curtailed at the last straining post. This is approx. 2.2m from the edge of the carriageway. This is to ensure the fencing does not interfere with the visibility available to drivers when exiting the adjacent access. These issues can be controlled by conditions.

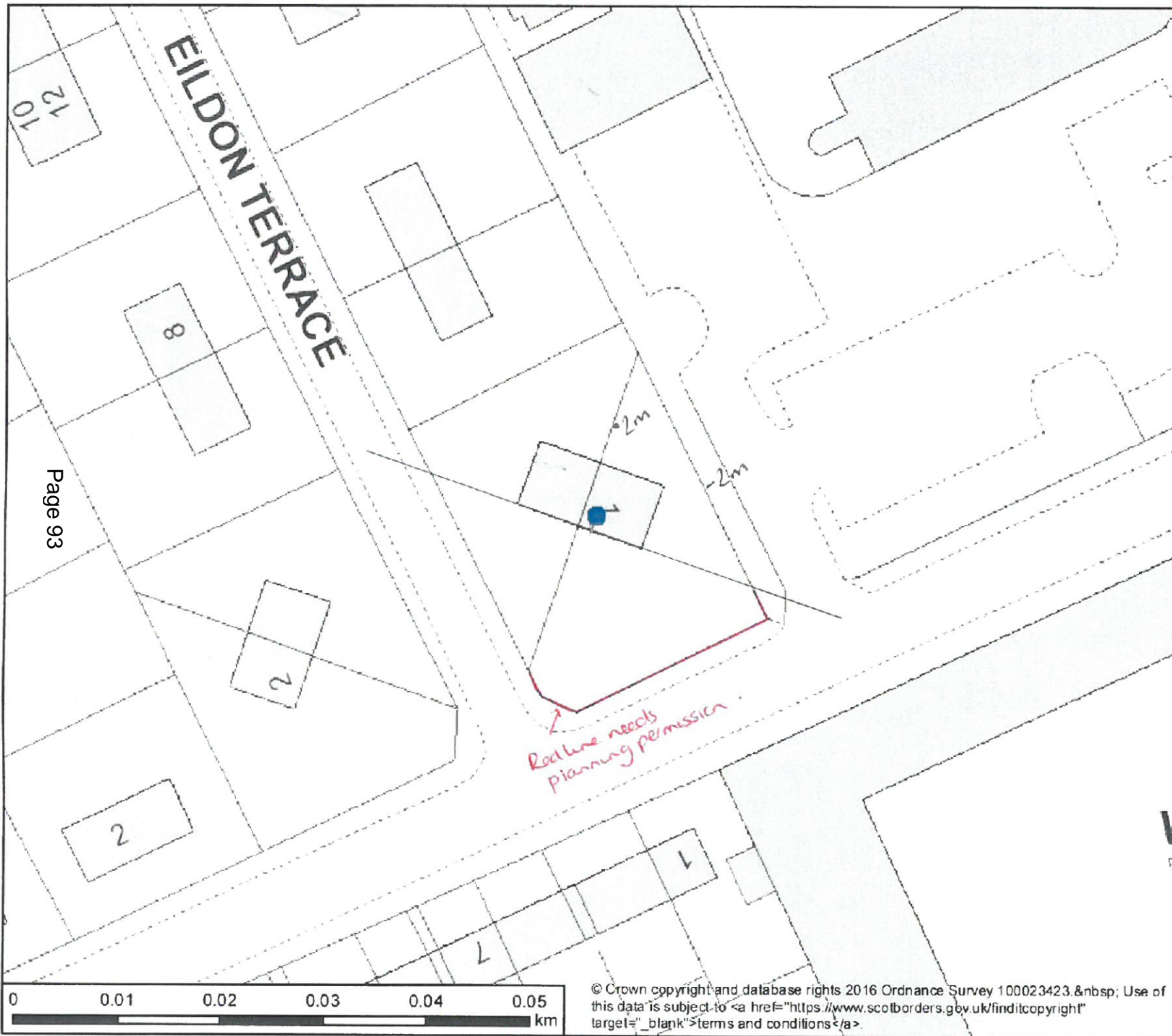
REASON FOR DECISION :

The proposed fence along the boundary with Bowden Road is contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 in that it represents an overbearing structure in relation to the adjacent footpath and is a prominent and incongruous form of development in the wider streetscene that is harmful to the visual amenities of the area.

Recommendation: Refused

- 1 The proposed fence along the boundary with Bowden Road is contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 in that it represents an overbearing structure in relation to the adjacent footpath and is a prominent and incongruous form of development in the wider streetscene that is harmful to the visual amenities of the area.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.



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17/01230/FUL
7/11/2017

Scottish Borders Council
Town And Country
Planning (Scotland) Act
1997

REFUSED

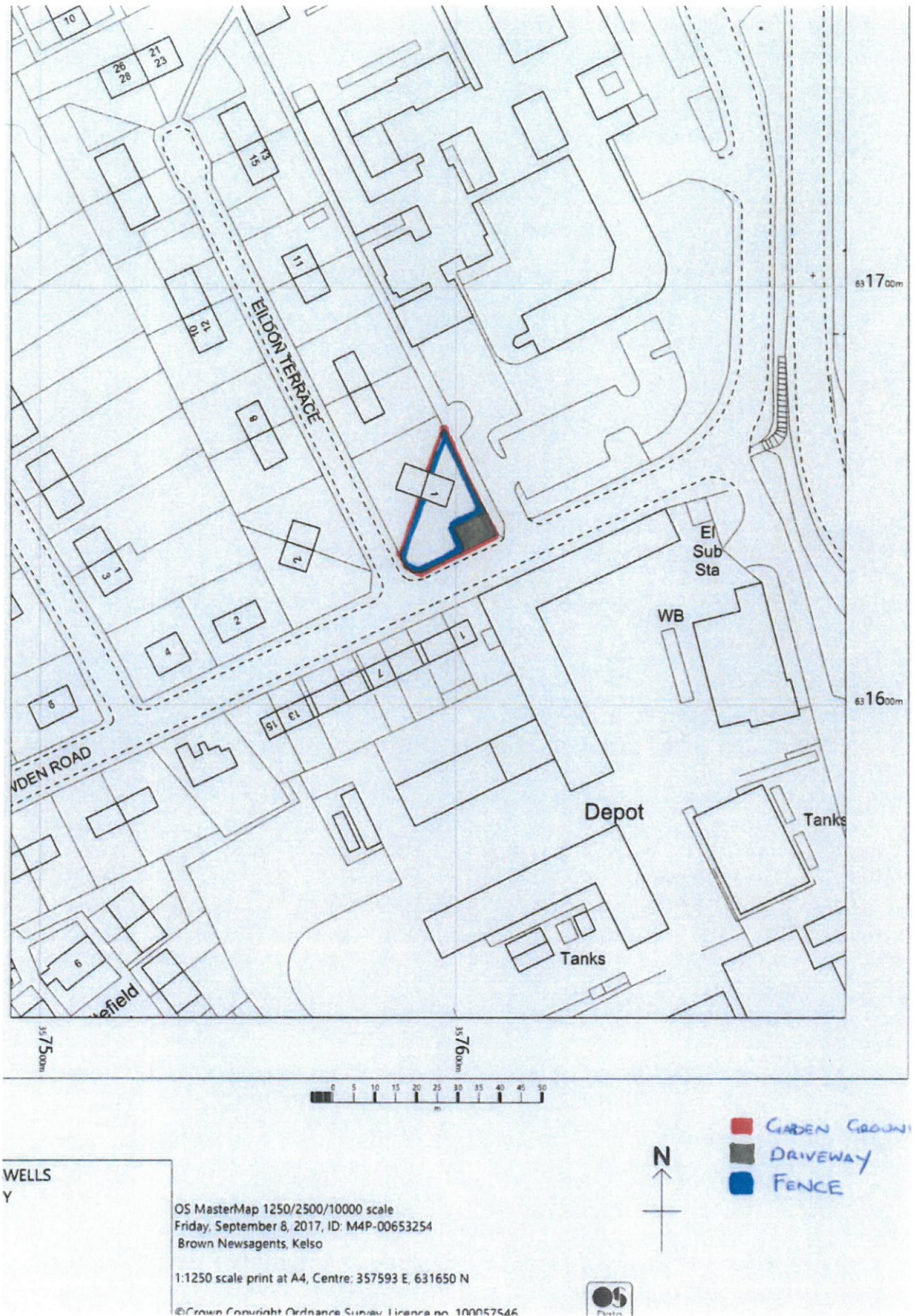
subject to the
requirements of the
associated Decision
Notice

Agenda Item 5d

This map was produced using
SBC's WebGIS system. For further
information or help please contact
FP_LVF@scotborders.gov.uk

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target="_blank">terms and conditions

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Scottish Borders Council
Town And Country
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1997

REFUSED

subject to the
requirements of the
associated Decision
Notice



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Planning (Scotland) Act
1997

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Scottish Borders Council
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Planning (Scotland) Act
1997

REFUSED

subject to the
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Notice

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**Town and Country Planning (Development Management Procedure) (Scotland) Regulations
2013****Application for Planning Permission****Reference : 16/01185/FUL****To : Miss G A Onyon 29 Bowden Road Newtown St Boswells Scottish Borders TD6 0PS**

With reference to your application validated on **22nd September 2016** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of boundary fence (retrospective)**At : 29 Bowden Road Newtown St Boswells Scottish Borders TD6 0PS**

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, subject to the following direction:

- That the development to which this permission relates must be commenced within three years of the date of this permission.

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

**Dated 2nd November 2016
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed
.....
Chief Planning Officer

APPLICATION REFERENCE : 16/01185/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
1	Location Plan	Approved
2	Elevations	Approved

REASON FOR DECISION

The fence complies with policies PMD2 and HD3 of the Scottish Borders Local Development Plan 2016 in that the development does not harm the visual amenities of the area or the residential amenities of occupants of neighbouring properties and does not interfere with the driver visibility or affect road safety.

FOR THE INFORMATION OF THE APPLICANT

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable. A form is enclosed with this decision notice for this purpose.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Suslephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
 Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
 Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
 British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
 Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
 Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 16/01185/FUL

APPLICANT : Miss G A Onyon

AGENT :

DEVELOPMENT : Erection of boundary fence (retrospective)

LOCATION: 29 Bowden Road
Newtown St Boswells
Scottish Borders
TD6 0PS

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
1	Location Plan	Approved
2	Elevations	Approved

NUMBER OF REPRESENTATIONS: 1
SUMMARY OF REPRESENTATIONS:

One representation of support has been received: the fence looks so much cleaner and nicer than the hedge that was full of rubbish and came halfway over the pavement impacting on visibility at the junction.

CONSULTATIONS:

Roads Planning Service: I have no objections to this proposal. Whilst the fence may seem intrusive when compared to other boundary treatments within the vicinity, it is outwith the visibility splay for the junction and does not interfere with the driver visibility.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Council Local Development Plan 2016

PMD2: Quality Standards

HD3: Protection of Residential Amenity

Supplementary Planning Guidance:

Placemaking and Design January 2010

Guidance on Householder Development July 2006

Recommendation by - Julie Hayward (Lead Planning Officer) on 1st November 2016

Site and Proposal

The property is a bungalow situated on the corner of Bowden Road and Whitefield Crescent in Newtown St Boswells. A 2m high timber fence has been erected on the Bowden Road and Whitefield Crescent boundaries, replacing a hedge. The fence that has been erected along the rear boundary with the car parking area does not require planning permission.

Siting and Design and Impact on Visual Amenities

Policy PMD2 of the Local Development Plan requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development.

Normally high fences are discouraged on road frontages due to the impact such fences have on the visual amenities of the area. However, the neighbouring property has a similar fence, though lower, and there are other examples of fences such as this in the local area. Although the hedge is the preferred method of enclosure, the fence that has been erected does not cause significant harm to the visual amenities of the area to warrant refusal of the application and enforcement action to secure the lowering or removal of the fence.

Impact on Residential Amenities

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The property is situated on a corner plot. There is a communal car parking area to the rear. The only property that could be affected by the fence is 27 Bowden Road to the north east. The fence stops at the driveway of no.29 and it is considered that the fence does not impact on the light of no.27.

Access and Road Safety Issues

The fence is located on the boundary of the property adjacent to the junction of Bowden Road and Whitefield Crescent.

The Roads Planning Service has no objections to this proposal. Whilst the fence may seem intrusive when compared to other boundary treatments within the vicinity, it is outwith the visibility splay for the junction and does not interfere with the driver visibility.

REASON FOR DECISION :

The fence complies with policies PMD2 and HD3 of the Scottish Borders Local Development Plan 2016 in that the development does not harm the visual amenities of the area or the residential amenities of occupants of neighbouring properties and does not interfere with the driver visibility or affect road safety.

Recommendation: Approved

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.



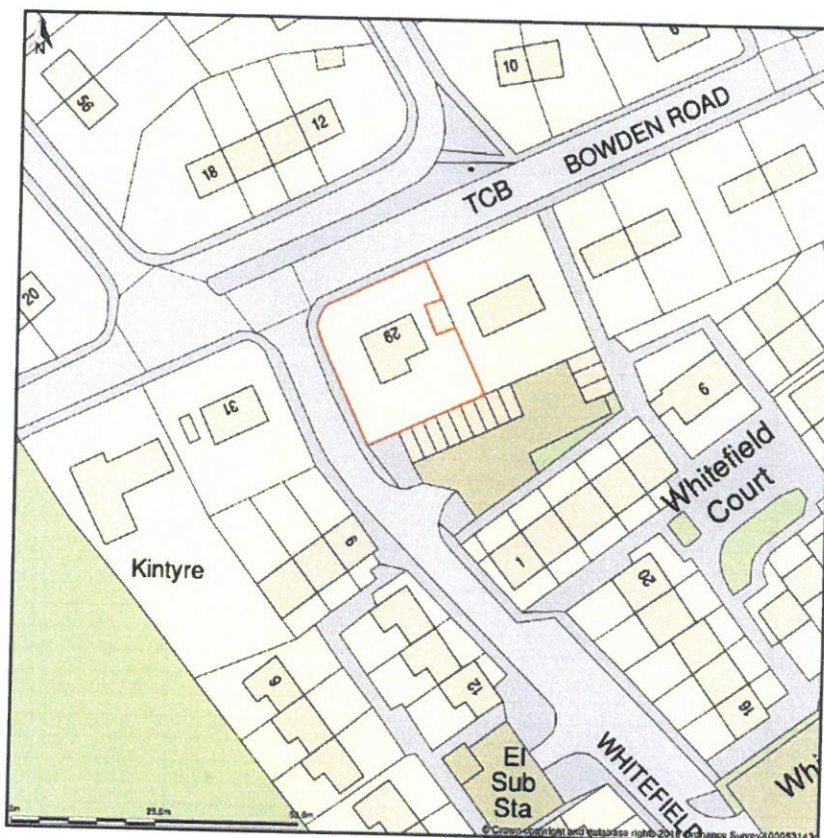
Buy A Plan

UK's Fastest and Easiest Planning Site

16/01185/FUL



29, Bowden Road, Newtown St Boswells, Scottish Borders, TD6 0PS



Site Plan shows area bounded by: 357389.99, 631458.9 357531.42, 631600.32 (at a scale of 1:1250) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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1997

APPROVED

subject to the
requirements of the
associated Decision
Notice

99, BOWDEN ROAD, NEWTOWN ST BOSWELLS
TID6 OPS.

16/01185/FUL

2.4968m
x
.8288

1FT
x
6FT

7.62m

15FT
x
6FT
.8288



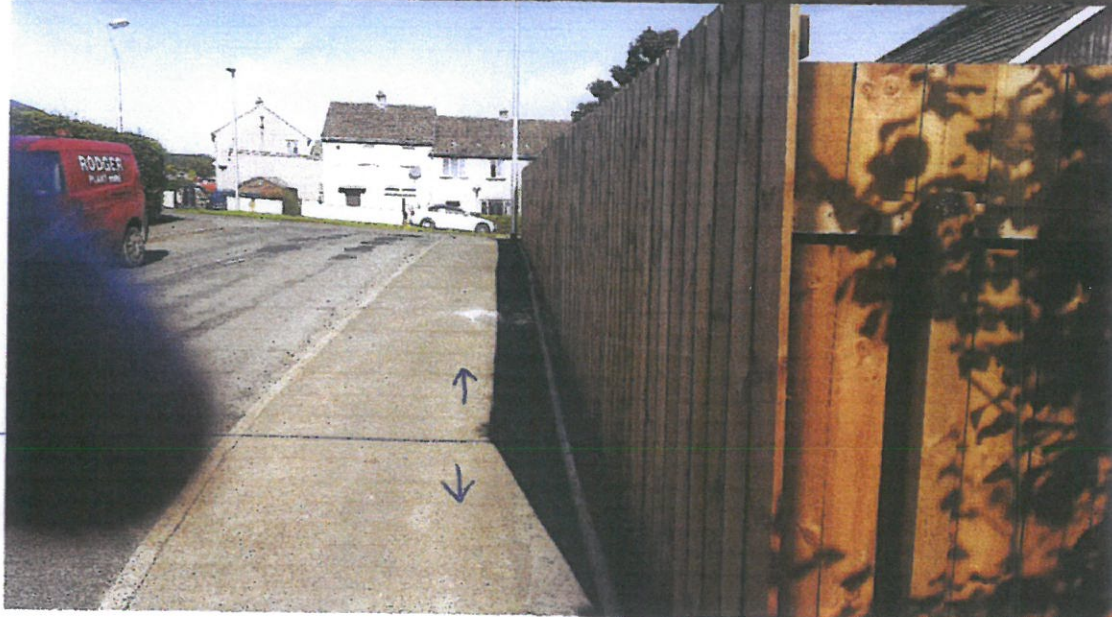
WHITEFIELD
CRESCENT

BOWDEN
ROAD

3.8976m
x
.8288

2FT
x
6FT

28FT
x
6FT



some comments from people in newtown st boswells.

(ON GARDENERS PAGE)

clean organised job, good work. much nicer to look at across the road.

tidy job

great job well done.

tidy job

nice job remember cutting that hedge.

much better coming out the junction

its really good

EVERYONE PASSING
COMMENTS ON THE
DIFFERENCE TO THE
PAVEMENT AND THE
JUNCTION.

Scottish Borders Council
Town And Country
Planning (Scotland) Act
1997

APPROVED

Page 104
Subject to the
requirements of the
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Notice

REGULATORY SERVICES



To: **Development Management Service**
FAO Mrs. J. Hayward, Council H. Q.

Date: **2nd Oct. 2017**

From: **Roads Planning Service**
Contact: **A. Scott**

Ext: **6640**

Ref: **17/01230/FUL**

Subject: Erection of boundary fence
1 Eildon Terrace, Newtown St. Boswells – 17/01230/FUL

Whilst I have no objections to this proposal in principle, having seen the fence which has been erected on-site, the following matters shall have to be addressed to the Councils satisfaction.

1. The vehicular footway crossing must be constructed to the Council's satisfaction. This will require the existing dropped kerb being extended to allow for double vehicular access. I would recommend that the dropped kerbing be extended to a minimum of 5m.
2. The footway crossing must be carried out as per standard detail DC 10.
3. The section of fencing on the eastern boundary must be curtailed at the last straining post. This is approx. 2.2m from the edge of the carriageway. This is to ensure the fencing does not interfere with the visibility available to drivers when exiting the adjacent access.
4. All work within the existing footway must be carried out by a contractor first approved by the Council.

DJI

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LIST OF POLICIES

Local Review Reference: 18/00003/RREF

Planning Application Reference: 17/01230/FUL

Development Proposal: Erection of boundary fence and formation of parking area (retrospective)

Location: 1 Eildon Terrace, Newtown St Boswells

Applicant: Mr Greg Blacklock

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2016

POLICY PMD1: SUSTAINABILITY

In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plan's policies and which developers will be expected to incorporate into their developments:

- a) the long term sustainable use and management of land
- b) the preservation of air and water quality
- c) the protection of natural resources, landscapes, habitats, and species
- d) the protection of built and cultural resources
- e) the efficient use of energy and resources, particularly non-renewable resources
- f) the minimisation of waste, including waste water and encouragement to its sustainable management
- g) the encouragement of walking, cycling, and public transport in preference to the private car
- h) the minimisation of light pollution
- i) the protection of public health and safety
- j) the support to community services and facilities
- k) the provision of new jobs and support to the local economy
- l) the involvement of the local community in the design, management and improvement of their environment

POLICY PMD2: QUALITY STANDARDS

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

Sustainability

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,
- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,
- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,

LIST OF POLICIES

- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
- g) it considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking & Design

- h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
- i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
- j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
- k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
- l) it can be satisfactorily accommodated within the site,
- m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
- n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

Accessibility

- o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,
- p) it incorporates, where required, access for those with mobility difficulties,
- q) it ensures there is no adverse impact on road safety, including but not limited to the site access,
- r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,
- s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Greenspace, Open Space & Biodiversity

- t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
- u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

LIST OF POLICIES

POLICY HD3 – PROTECTION OF RESIDENTIAL AMENITY

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

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,
 - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or 'backland' development,
 - (iii) the generation of traffic or noise,
 - (iv) the level of visual impact.

POLICY IS7: PARKING PROVISION AND STANDARDS

Development proposals should provide for car and cycle parking in accordance with approved standards.

Relaxation of technical standards will be considered where appropriate due to the nature of the development and/or if positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appears to be parking difficulties, the Council will consider the desirability of seeking additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

Placemaking and Design Supplementary Planning Guidance January 2010
Guidance on Householder Development Supplementary Planning Guidance July 2006

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