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PLANNING AND BUILDING STANDARDS COMMITTEE MONDAY, 3RD OCTOBER, 2022

A MEETING of the PLANNING AND BUILDING STANDARDS COMMITTEE will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS AND VIA MICROSOFT TEAMS on MONDAY, 3RD OCTOBER, 2022 at 10.00 AM. Members may attend either in person or online.

All attendees, including members of the public, should note that the public business in this meeting will be livestreamed and video recorded and that recording will be available thereafter for public view for 180 days.

J. J. WILKINSON,
Clerk to the Council,

26 September 2022

BUSINESS	
1.	Apologies for Absence.
2.	Order of Business.
3.	Declarations of Interest.
4.	Minute. (Pages 3 - 14) Consider Minute of Meeting held on 5 September 2022 for approval and signature by the Chairman. (Copy attached.)
5.	Applications. (Pages 15 - 28) Consider the following application for planning permission:- Land West and North of Village Hall, Smailholm – 22/00323/FUL Erection of two dwellinghouses with associated access. (Copy attached.)
6.	Appeals and Reviews. (Pages 29 - 34) Consider report by Chief Planning and Housing Officer. (Copy attached.)
7.	Any Other Items Previously Circulated.
8.	Any Other Items which the Chairman Decides are Urgent.

NOTE

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

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

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

Membership of Committee:- Councillors S. Mountford (Chair), J. Cox, M. Douglas, D. Moffat, A. Orr, N. Richards, S. Scott, E. Small and V. Thomson

Please direct any enquiries to William Mohieddeen, Democratic Services Officer
Tel: 01835 826504; Email: william.mohieddeen@scotborders.gov.uk

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

MINUTES of Blended Meeting of the
PLANNING AND BUILDING STANDARDS
COMMITTEE held in Council Chamber,
Council Headquarters, Newtown St. Boswells
and via Microsoft Teams on Monday 5
September, 2022 at 10.00 am

Present:- Councillors S. Mountford (Chair), J. Cox, M. Douglas, D. Moffat, A. Orr,
N. Richards, S. Scott, and E. Small.

Apologies:- Councillor V. Thomson

In Attendance:- Planning and Development Standards Manager, Lead Planning Officer (B.
Fotheringham), Lead Roads Planning Officer (D. Inglis), Solicitor (F.
Rankine), Democratic Services Team Leader, Democratic Services Officer
(W. Mohieddeen).

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 1 August 2022.

DECISION

AGREED to approve the Minute for signature by the Chairman.

2. **APPLICATIONS**

There had been circulated copies of a report by the Chief Planning and Housing Officer on applications for planning permission which required consideration by the Committee.

MEMBER

Councillor Moffat joined the meeting at 10.20 am during discussion of application 22/00518/FUL. The Chief Legal Officer advised Councillor Moffat that as he had not been present at the start of the discussion, he should leave the meeting until discussion of the application concluded. Councillor Moffat subsequently re-joined the meeting after the adjournment at 11.12 am.

ADJOURNMENT

The meeting was adjourned at 11.05 am and reconvened at 11.12 am.

DECISION

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

3. **APPEALS AND REVIEWS**

There had been circulated copies of a briefing note by the Chief Planning and Housing Officer on Appeal to the Scottish Ministers and Local Review.

DECISION

NOTED that:

- (a) Review requests had been received in respect of:
- (i) Erection of dwellinghouse, Garden Ground of Cheviot View, Eden Road, Gordon;
 - (ii) Erection of two dwellinghouses with access and associated works, Land West of 1 The Wellnage, Station Road, Duns;
 - (iii) Erection of dwellinghouse, Woodland Strip, North of Springhall Farm, Kelso; and,
 - (iv) Erection of dwellinghouse, Land South of Stable Cottage (Plot 4), Westcote, Hawick.
- (b) The following reviews had been determined as shown:
- (i) Erection of dwellinghouse, Land South of Stable Cottage (Plot 4), Westcote, Hawick – Decision of Appointed Officer Upheld;
 - (ii) Erection of 2no dwellinghouses, Land East of Delgany, Old Cambus, Cockburnspath – Decision of Appointed Officer Upheld;
 - (iii) Erection of dwellinghouse and formation of new access, Land East of The Garden Cottage, South Laws, Duns – Decision of Appointed Officer Upheld; and,
 - (iv) Erection of two dwellinghouses, Land North of Ivanhoe, Dingleton Road, Melrose – Refused.
- (c) There remained seven reviews previously reported on which decisions were still awaited when the report was prepared on 25 August 2022 which related to sites at:
- | | |
|--|--|
| • Land North East of Woodend Farmhouse, Duns | • Unit C, Whinstone Mill, Netherdale Industrial Estate, Galashiels |
| • Land East of 16 Hendersyde Avenue, Kelso | • Plot 1, Land North of Belses Cottage, Jedburgh |
| • Plot 2, Land North of Belses Cottage, Jedburgh | • Land West of Cavers, Hillhead, Cavers, Hawick |
| • Land North of Carterhouse, Jedburgh | |
- (d) There remained one Section 36 Public Local Inquiry previously reported on which a decision was still awaited when this report was prepared on 25 August 2022 which related to a site at: Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick.

The meeting concluded at 11.47 am.

APPENDIX I
APPLICATION FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
22/00518/FUL	Demolition of the existing school and swimming pool, erection of a community campus, external sports provision, including covered tennis facility, service access, car parking and landscaping.	Land North And East Of And Incorporating Galashiels Academy And Swimming Pool

DECISION: Approved as per officer recommendation, subject to minor amendment to include the Applicant Informative as a Condition of consent – (Informative to be deleted) and the following conditions:

1. No development shall commence until precise details of the external materials (including colour) finishes for all buildings which include; the new Community Campus, Tennis Court enclosure and ancillary structures have first been submitted to and agreed in writing with the Planning Authority. This should also include large scale detailing for key junctions/features around the new Community Campus building. The development shall thereafter be carried out in accordance with the agreed finishes and detailing.
Reason: To ensure external materials are visually appropriate to the development and sympathetic to the surrounding area.
2. No development commence until a scheme of phasing has been submitted to, and agreed in writing by, the Planning Authority. This shall include a programme for completion of the main elements within the development – the community campus, outdoor sports facilities, all access roads and paths and the demolition of the existing Galashiels Academy. Once approved, the development then to be carried out in accordance with the approved scheme.
Reason: To ensure the development is carried out in a structured and orderly manner which ensures minimum disruption to educational and sporting facilities on site.
3. The new Gen2 Multi Sport pitch and 3G synthetic pitch shall be floodlit and shall be designed and constructed by a recognised (e.g., SAPCA* registered) specialist pitch contractor(s). Details of the contractor(s) and pitch specification shall be submitted for the written approval of the planning authority prior to the commencement of development. *SAPCA is The Sports and Play Construction Association (www.sapca.org.uk)
Reason: To ensure appropriate replacement provision is provided.
4. The 3G synthetic pitch shall include an appropriate shock pad to ensure IRB (International Rugby Board) standards compliance.
Reason: To ensure the pitch can be used for rugby use.
5. At least 4 tennis courts shall be marked to the recognised tennis court dimensions in the Gen2 Multi Sport pitch.
Reason: To ensure replacement of tennis courts.
6. No development shall commence until an Arboricultural Impact Assessment has been submitted to and approved in writing by the Planning Authority and thereafter,

no development shall take place except in strict accordance with those details. The submitted details shall include:

- a) A plan identifying the location of protective fencing in accordance with BS5837:2012 which is to be erected around trees identified for retention on Drawing No GCC_RFL-00-ZZ-DR-L-0003 and thereafter the fencing shall only be removed when the development has been completed.
- b) A programme of works to detail the removal of trees identified within the Drawing No GCC_RFL-00-ZZ-DR-L-0003 for removal.

Reason: Further information is required regarding tree removal and protection to ensure impacts on trees are minimised, in the interests of maintaining the landscape setting of the site and amenity of neighbouring properties.

7. Other than those identified for removal within Drawing No GCC_RFL-00-ZZ-DR-L-0003, no trees within the application site shall be felled, lopped, lifted or disturbed in any way without the prior consent of the Planning Authority

Reason: The existing tree(s) represent an important visual feature which the Planning Authority considered should be substantially maintained.

8. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority and thereafter the development shall be completed in accordance with the agreed details. Details of the scheme shall include;

- i. Existing and finished ground levels in relation to a fixed datum preferably ordnance
- ii. Location and design, including materials, of walls, fences and gates
- iii. All surfacing materials for all roads, footpaths, steps and all other hard surfaces
- iv. Precise location of all new trees, shrubs, hedges and grassed areas
- v. Schedule of plants to comprise species, plant sizes and proposed numbers/density,
- vi. Comprehensive programme for completion, establishment and subsequent long term maintenance, completion being no later than the end of the concurrent or next available planting season to the new school building becoming operational.

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

9. The development shall be carried out in accordance with the archaeological evaluation and watching brief detailed within the approved Galashiels Community Campus Archaeological Desk-Based Assessment (Report No 4088) prepared by CFA Archaeology Limited. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to;

- Conduct a programme of evaluation prior to development. This will include the below ground excavation of evaluation trenches and the full recording of archaeological features and finds.
- Observe relevant below ground excavation during development, investigate and record features of interest and recover finds and samples if necessary

Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered the nominated archaeologist(s) will contact the Archaeology Officer for further consultation. The developer will ensure that any significant data and finds undergo post-excavation analysis, the results of which will be submitted to the Planning Authority.

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

10. No development shall commence until a scheme of details to improve the appearance of the existing entrance in to Scott Park has been submitted to and agreed in writing with the Planning Authority and thereafter the works shall be completed prior to the development becoming operational.
Reason: To improve the appearance of the entrance to Scott Park which also provides access to the development.
11. No development shall commence until a scheme of details for a signalised pedestrian crossing on Scott Street have been submitted to and agreed in writing with the Planning Authority. Thereafter the crossing shall be installed and operational before the development becomes operational.
Reason: To ensure the pedestrian crossing required to safely assist pedestrian flow is designed and installed to the satisfaction of the Council.
12. The four parking bays to the southern side of the Community Campus at the Enhanced Drop Off area shall be marked out as disabled person spaces.
Reason: To ensure there is appropriate parking provision and accessibility for all at this location and to prevent miss-use.
13. No development shall commence until engineering details for all new roads (including car parking areas) and footways/footpaths have been submitted to and agreed in writing with the Planning Authority. Thereafter all routes shall be constructed in accordance with the agreed details before the development becomes operational.
Reason: To ensure that all new roads and footways/footpaths are constructed to an appropriate fit for purpose standard.
14. No development shall commence until a scheme of details for the provision of electric charging points have been submitted to and agreed in writing with the Planning Authority. Details shall include number, location, layout and associated infrastructure. Provision shall also be included for increasing the number of charging points to meet future demand.
Reason: To ensure the development hereby permitted caters for sustainable travel modes of transport.
15. No development shall commence until details of proposed cycle stands have been submitted to and agreed in writing with the Planning Authority. Thereafter the approved details to be installed and operational prior to the development becoming operational.
Reason: To ensure there is adequate secure and covered provision for cyclists and the development caters for sustainable forms of transport.
16. No development shall commence until a Traffic Management Plan (TMP), relating to construction traffic, has been submitted to, and approved by, the Council. Thereafter the works are to proceed in accordance with the approved plan unless otherwise agreed in writing.
Reason: To ensure the safety of all road users during the construction phase of the development and to ensure that the construction traffic does not have a detrimental impact on the existing traffic movements.
17. No development shall commence until a Path Planning Study has been submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with those details. The submitted details shall include:

 - a) All existing core paths, rights of way, or other used paths/ tracks;

- b) Areas where statutory rights of access will apply and any areas proposed for exclusion from statutory access rights for reasons of privacy, disturbance or curtilage, in relation to proposed buildings, structures or fenced off areas;
- c) Any diversions of paths - temporary or permanent - proposed for the purposes of the development

Reason: To protect path access through the development site during development works.

18. The existing manhole access to the culverted Moss Burn shall be retained, unless an alternative access detailing to the burn are submitted to and agreed in writing with the Planning Authority and thereafter any new access shall be suitably retained.

Reason: In the interests of flood risk and to ensure access to the culverted burn is maintained.

19. No development shall commence on each phase of demolition of the existing school buildings (as agreed by Condition 2) or the felling of trees identified for removal under Condition 7, until the developer has provided the Planning Authority with either;

- a) a copy of the relevant European Protected Species licence,
- b) a copy of a statement in writing from Scottish Natural Heritage (NatureScot) (licensing authority) stating that such a licence is not necessary for the specified development

Reason: To protect the ecological interest in accordance with Local Development Plan policies.

20. No development shall commence until the following Ecological mitigation measures have been submitted to and approved in writing by the Planning Authority and thereafter, no development shall take place except in strict accordance with those details. The submitted details shall include:

- a) a Species Protection Plan (SPP) for bats
- b) a SPP for breeding birds which shall include a pre-development supplementary survey, in the event that development works are sought to be commenced during the breeding bird season (March to August)
- c) a SPP for red squirrel
- d) A sensitive lighting scheme to minimise impact of floodlights on bats and breeding birds

Reason: To ensure that species and habitats affected by the development are afforded suitable protection during the construction and operation of the development.

21. No works shall commence until a Biodiversity Enhancement Plan for the site has been submitted to, and approved in writing, by the Planning Authority. The scheme shall include the provision of compensatory bird nest boxes, bat boxes and details on the compensatory tree planting. The development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: To ensure the development accords with the requirements of policies within the Local Development Plan

22. No development shall take place until a construction environmental management plan, has been submitted to and approved in writing by the planning authority. The CEMP shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".

- c) Method Statements to avoid or reduce impacts during construction, the location and timing of sensitive works to avoid harm to biodiversity features and the use of protective fences, exclusion barriers and warning signs.
- d) The times during construction when specialist ecologist need to be present on site to oversee works.
- e) Responsible persons and lines of communication.
- f) The role and responsibilities on site of Ecological Clerk of Works (ECoW) or similar competent person.
- g) A Drainage Management Plan
- h) A Site Waste Management Plan

The approved CEMP shall be implemented throughout the construction period and operational phase, as appropriate, strictly in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure all construction operations are carried out in a manner that minimise their impact on the environment.

23. No development shall take place until precise details of the location and specification of screening to be erected to minimise noise during construction at noise sensitive receptors identified in the Noise Assessment. The screening shall be installed before the commencement of demolition works and shall remain in place until the works have been completed.

Reason: To safeguard surrounding residential amenity.

24. Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within all noise sensitive properties (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component.

Tonality shall be determined with reference to BS 7445-2

Reason: To safeguard on-site amenity and surrounding residential amenity.

25. No development shall commenced until a scheme of noise mitigation measures for the equipment to be installed and used at the Sports Pitches in accordance with paragraph 4.7.2 of the Noise Assessment (Report No 4633 prepared by ITP Energised – dated 24 March 2022), has been submitted to and agreed in writing with the Planning Authority and thereafter the mitigation shall be installed and suitably maintained before operation of the facilities.

Reason: To safeguard surrounding residential amenity.

26. Within 12 months of the school hereby approved becoming operational, a School Travel Plan shall be submitted to and approved in writing by the Planning Authority. The Plan shall be implemented in accordance with approved details unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the school operates in a sustainable manner with regard to travel and transport.

NOTE

Councillor David Parker spoke in support of the application. Mr. John Campbell QC, on behalf of Friends of Scott Park, spoke against the application, and Mr Steven Renwick, the applicant, and Mr Stewart Davie, on behalf of the applicant, spoke in support.

Reference
22/00019/AMC

Nature of Development
Erection of 6 no. dwellinghouses (approval of all matters specified in planning permission 19/01687/PPP)

Location
Land North East Of The Lodge Philiphaugh Mill, Ettrickhaugh Road, Selkirk

DECISION: Approved as per officer recommendation subject to the following conditions and informatives:

1. No development shall commence until evidence confirming that mains water and foul drainage connections have been approved by Scottish Water has been submitted for the written approval of the Planning Authority. The development shall be serviced only using the approved mains water and foul drainage connections, unless otherwise agreed in writing with the Planning Authority.
Reason: To ensure the development is adequately serviced
2. Prior to development commencing, further details of the landscaping specified on drawing number P063/001 rev B shall be submitted for the written approval of the Planning Authority. The details shall comprise:
 - a) staking and protection specifications for new tree planting;
 - b) density of hedging;
 - c) location of hedge species;
 - d) a revised hedge route for Plot 1 that safeguards 2.4 metres by 33 metres visibility plays for the plot entrance in both directions
 - e) hedging protection;
 - f) implementation timescale; and, maintenance scheme.All trees shall be rootballed; all hedging shall be cell grown; and at least 50% of the hedging shall be of native mix (not Beech). All failed planting within the first five years shall be replaced on a like-for-like basis. All planting shall be implemented and maintained in accordance with the approved details and plan, and none of the trees or hedging shall be subsequently felled, lopped or otherwise disturbed unless in accordance with the approved maintenance scheme or otherwise agreed in writing with the Planning Authority.
Reason: To ensure the development has a sympathetic landscape and visual impact, and compensates for biodiversity loss associated with removal of existing trees and hedging
3. Prior to development commencing, details of two swallow cups (location and specification) shall be submitted for the written approval of the Planning Authority. The swallow cups shall be implemented in accordance with the approved details prior to occupancy of any dwellinghouse, and shall be retained and maintained in the same manner as bird and bat boxes specified in the Biodiversity Enhancement Plan (BEP) approved under this consent. Notwithstanding the landscape scheme specified within the approved BEP, the landscaping shall accord with the details approved in pursuance of Condition 2.
Reason: To provide appropriate biodiversity enhancement within the development
4. Surface water drainage within each plot shall be provided in accordance with the measures (adjusted to suit the approved revised site layout shown on drawing number P063/001 rev C) specified in the Drainage Strategy & Surface Water Management Plan 2021-501-R001 Revision 0 Christie Gillespie, and parking areas/driveways shall be constructed with permeable paving in accordance with the landscape plan (P063/001

rev B) unless alternative means are otherwise agreed in writing with the Planning Authority.

Reason: To ensure sustainable management of surface water

5. Protective fencing, of a specification that accords with BS5837:12, shall be erected along the routes shown on the approved site plan (P063/001 rev C) prior to development commencing and shall be retained until development is complete. No works shall be carried out within the protected areas unless compliant with BS5837:12. Hedging to the south-west and the four trees being protected shall be subsequently retained and shall not be felled, lopped or otherwise disturbed without the prior written consent of the Planning Authority.

Reason: To minimise risk to trees and hedging with public amenity value

6. Bin storage shall be provided within each plot prior to each dwellinghouse being occupied sufficient for one general waste and one recycling wheelie bin, behind the principal elevation (i.e. to the side/rear of the house), in a location that does not affect the parking area, and shall be retained free from obstruction for the storage of bins associated with each approved dwellinghouse.

Reason: To ensure the visually sympathetic and accessible storage of bins

7. The widening of Ettrickhaugh Road and turning head into plot 6 shall be implemented in accordance with the Council's adoptable standards prior to development commencing on the erection of any dwellinghouse, with their final wearing course laid within a timescale first agreed with the Planning Authority prior to such works commencing and; the footway and visitor parking shall be implemented in accordance with the Council's adoptable standards prior to the occupation of the first dwellinghouse, all unless otherwise agreed in writing with the Planning Authority

Reason: To ensure the increased road width and formal turning head are in place to accommodate the increase in traffic during and after construction and ensure the dwellinghouses have the benefit of an appropriate pedestrian link and visitor parking

8. The accesses and parking spaces within each plot shall be implemented prior to the occupancy of each dwellinghouse in accordance with the approved site plan (P063 /001 rev C), ensuring that each dwellinghouse is served by at least two parking spaces and plot 6 served by a turning area. Plot 5 shall incorporate splays to match entrances to plots 2, 3 and 4. All accesses, parking spaces and turning area shall be retained free from obstruction for the movement and parking of vehicles

Reason: To ensure the development is adequately serviced with off-street parking and turning in a manner that safeguards road safety

9. The development shall be implemented in accordance with the external material specifications approved under this consent, subject to the following having been submitted to and approved in writing by the Planning Authority:
 - a) A specification, and sample where required by the Planning Authority, of the slate-effect tile
 - b) Colours of the external wall renders, which shall be smooth render finishes
 - c) An amended specification for the front projecting gable on the Yarrow house typeThe development shall be implemented only in accordance with the approved details. The detached garage on plot 6 shall be finished in roof and wall materials to match plot 6's dwellinghouse and shall have a finished floor level no higher than that of plot 6's dwellinghouse, unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure the development has a sympathetic visual impact

10. Plot 6 shall not be completed prior to the completion of all houses within plots 1-5

Reason: To ensure the development has a sympathetic visual impact

Informatives

- 1 Conditions 2, 11, 12 and 13 (19/01687/PPP) remain applicable in requiring that the development be implemented in accordance with all approved plans and drawings, including the approved CEMP, Biodiversity Enhancement Plan and Species Protection Plans
- 2 For native mix hedging (Condition 2) a mix of *Crataegus monogyna* and *Prunus spinosa* (45% of each) with 5% of each *Rosa canina* and *Ilex aquifolium* (rather than *Rosa rugosa*) is recommended
- 3 For Condition 2 (d), adjustment to the plot boundary to accord with the adjusted hedge route, is likely to be agreeable, rather than only relocating hedging.
- 4 Condition 6 (19/01687/PPP) requires that the path to the north-east be kept free during and after construction, and this remains applicable.
- 5 Condition 14 (19/01687/PPP) remains applicable as regards implementation and recording requirements which should be carried out in accordance with the approved WSI.
- 6 The new footway, turning head, road widening, drainage and any enhanced street lighting required will be subject to a Road Construction Consent as these features will potentially be adopted by the Council upon satisfactory completion. The carriageway widening will have to tie in with the existing carriageway in a manner acceptable to the Council as Roads Authority. All prospectively adoptable work must be undertaken by a contractor first approved by the Council.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
22/00372/FUL	Erection of ticket booth, access gates, and overflow carpark	Bowhill House Estate, Bowhill, Selkirk

DECISION: approved as per officer recommendation subject to the following conditions and applicant informative:

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Local Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
2. The external surfaces of the development hereby permitted shall be completed in the materials shown on the plan hereby approved, and no other materials shall be used without the prior written consent of the Local Planning Authority.
Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.
3. Further details of the automatic number plate recognition cameras and supporting structure as well as out of hours intercom units, shall be submitted to and approved in writing by the planning authority before they are installed. The development shall thereafter take place only in strict accordance with the details so approved.
Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.
4. The entrance and exit gates to the overflow car park, shown on drawing number PL002 Rev A, shall remain unlocked at all times, unless otherwise agreed in writing by the planning authority.
Reason: To ensure adequate access is maintained at all times to the overflow car park.
5. No development shall take place until the applicant has secured and implemented a programme of archaeological work and reporting in accordance with a **Written Scheme of Investigation (WSI)** outlining an **Archaeological Battlefield Survey**. The requirements of this are:
 - The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Institute for Archaeologists (IfA) approval of which shall be in writing by the Planning Authority.
 - The developer shall allow sufficient time in advance of development for all archaeological works to be conducted to the satisfaction and written approval of the Planning Authority.
 - The developer shall allow the archaeologist(s) access to all areas where development is to be undertaken.
 - Results will be submitted prior to development to the Planning Authority for review and agreement in writing in the form of a **Battlefield Survey Report**.
 - In the event that the report highlights areas of archaeological potential these will require further targeted evaluation prior to development.
 - If significant archaeology is identified by the contracted archaeologists and in agreement with the Planning Authority, a further scheme of mitigation subject to an amended WSI shall be implemented.

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, battlefield remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

Informatives

1. In relation to Condition 5 above the applicant/developer shall account for the guidance below when completing groundworks required to form the bell-mouth junctions:
 - if anything going below topsoil depths then a systematic metal-detector sweep over would be suitable together with watching for, recovery and reporting of any finds as per the usual law of the land for archaeological finds in Scotland (as per previous Philiphaugh recommendations – the standard wording of the battlefield metal-detecting survey condition below).
 - if purely within topsoil depth then an informative for the watching for, recovery and reporting of any finds as per the usual law of the land for archaeological finds in Scotland.

The site should be stripped and left to weather a few days in case any features and/or deposits reveal themselves as the likes of different coloured soils, and if so revealed then excavations/recording might be necessary.

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

03 OCTOBER 2022

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 22/00323/FUL

OFFICER: Euan Calvert
WARD: Kelso and District
PROPOSAL: Erection of two dwellinghouses with associated access
SITE: Land West And North Of Village Hall, Smailholm
APPLICANT: Lord Haddington's Testamentary Trust
AGENT: Galbraith

SITE DESCRIPTION

The site is at the north end of the village. Smailholm Knowe is a prominent site of the village owing to the elevated nature of the site. It is a triangular shaped area of ground fronting the roadside. This is an undeveloped and unenclosed site, which appears unused for agriculture and has been colonised by grass and trees. Anecdotally, the site has historically served as the local waste dump. There is a mown footpath through the site connecting the village hall with the B6397, Earlston - Kelso road. The drystone dyke of the Village Hall forms the west boundary of the site. There are remains of a small building adjacent to this boundary. Beyond the south east boundary are the rear gardens of Smailholm Cottages and Smailholm Farmhouse.

The site is within the village's Conservation Area and within the development boundary.

PROPOSED DEVELOPMENT

Full Planning Permission is sought for two detached houses, with a communal vehicular access from the public road.

The proposals build on discussions with the Planning Authority in 2021 whereby two similar (handed in design) dwellinghouses were proposed. The proposals are now for two different house types (Plot A, 1 3/ 4 storey and Plot B, 1 storey in height). The single storey (cottage styled) dwelling would occupy Plot B at the entrance/ extent of the village. The designs remain contemporary and simply detailed. Co-joined garages will be set back from the building line and under pitched roofs.

Throughout the course of this application there have been changes to elevations and gable widths. Roof pitches have been steepened and wall to window ratios adjusted. The roof would be naturally slated, with the walls finished in smooth silicone render. There have been changes to the site layout. A significant change to the proposed plan since 2021 has been the inclusion of a roadside pavement and formalising the footpath connection to the Village Hall. The layout of this site has very much been dictated by the demands of road safety and standards. One access at the brow of the hill is necessitated to serve both plots thereby avoiding road safety concerns with the adjacent blind corner. There have been adjustments to the dimensions of the shared

access in response to Roads Officer concerns. Parking and turning areas would be forward of the proposed garage building.

PLANNING HISTORY

Of relevance to this application and the matters raised in representations:

- 20/00021/PREAPP subject to an appropriate design and layout the general principle of developing two dwellinghouses could be supported on the site.
- 21/00316/FUL Erection of two dwellinghouses with associated access – Withdrawn December 2021

REPRESENTATION SUMMARY

There were twelve representations received, ten of which were objections to the application. All are available to view in full on *Public Access*. A summary of the key issues raised is:

- One neighbour observes that they should have been notified as part of the process.
- Not in-keeping or in harmony with the conservation village.
- Height and bulk of the proposals overly prominent.
- The address of the application site is wrong.
- Design Statement is insufficient in analysis of local architecture.
- Proposed building form is banal.
- Heights are inappropriate.
- Fake chimneys are a planning whimsy.
- Overtly square floorplates contrasts to vernacular.
- Supporting Planning statement is a vacuous generalisation.
- Designs do nothing to complement conservation area.
- No design rigour. No more respects the Smailhom conservation area, than a Disneyland fairy castle evidences respect to the rich tradition of Central European medieval fortification.
- Detrimental to this charming and historic settlement which will dilute the entrance to a fine borders village.
- Scale and height, design and a suburban character of development that would be inappropriate as a 'gateway' to the village and to the character and appearance of the Conservation Area, being architecturally incompatible and not following the building line.
- Makes a mockery of the accolade 'conservation village'
- Site will be highly visible, looming above the Hall on entrance to the village.
- Path through the site is a public right of way. The proposed road crossing to the core path on the opposite side of the road will be dangerous.
- Site has been a dump for domestic and farm waste.
- Potential conflict with uses at Hall – Noise late in the evening, such as weddings, ceilidhs, parties or performances/concerts.
- "Sustainable House" Is it Carbon neutral?
- Development will change the setting of the village.
- Development will appear in skyline when approach from Leaderfoot.
- Fenestration is weird and first floor rooflights will be above eyeline and redolent of prison cells.
- Bland, thoughtless and constitute the worst of contemporary architecture.
- The design is neither modern, nor respects the visual setting of the village.

- Proposals should be single storey to avoid being unduly prominent.
- Proposed route of footpath is unstable/ dangerous.
- Loss of mature trees.

APPLICANT'S SUPPORTING INFORMATION

The application has been supported by a Design Statement which was amended and resubmitted to include further 3D visuals. A Tree Survey, Ecological Appraisal and planning statement have also been submitted.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Council Local Development Plan 2016

Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

PMD5: Infill Development

HD3: Protection of Residential Amenity

EP1: International nature conservation sites and protected species

EP2: National nature conservation sites and protected species

EP3: Local biodiversity

EP9: Conservation Areas

EP13: Trees, Woodlands and Hedgerows

IS2: Developer Contributions

IS7: Parking Provision and Standards

IS9: Waste water Treatment Standards and Sustainable Urban Drainage

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance

Developer Contributions, updated 2022

Guidance on Householder Developments (2006)

Placemaking and Design (2010)

Landscape and Development, (2008)

Sustainable Urban Drainage Systems (2020)

Trees and Development (2020)

Waste Management (2015)

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: First response; No objections subject to condition. Further information required. Second response: Amended plans address concerns about parking/ turning. Bellmouth changes or swept path analysis to be submitted.

Final response: Widening of the access road to 4100mm does allow for two cars to pass. It would be useful however to have the roadside hedge set slightly back to allow for a small grinding margin on the access road.

Landscape Architect: No response.

Ecology Officer: No response.

Outdoor Access Officer: Comments arising from 21/00316/FUL: With consideration of the Roads Planning Officer's comments it is recommended that the route of the path should be re-plotted within the plan to facilitate a safer road crossing to meet core path 37.

Contaminated Land Officer: 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. Condition required.

Education and Lifelong Learning Service: No reply

Heritage and Design Officer: First response: No objection. Further information required. The design has been significantly simplified. Whilst a simple form and design is generally characteristic of the conservation area and an appropriate approach, the detail and materials used will be critical to the success of the proposal. On this basis:

- Plot A includes some contemporary interest through the inclusion of a recessed corner door. Plot B would benefit from some modest contemporary design relief, if possible.
- Rendered elements should be a traditional wet dash.
- Roof should be traditional Scottish style slate
- As per the design reference given, windows should be located immediately below eaves level, certainly to Plot B. Other ways to avoid the blank area at eaves level may be required for Plot A.
- Rooflights to Plot A should be located to the rear where possible, or incorporated as windows within the gables, to avoid rooflights to the front elevation, if possible.
- Window and door openings should be significantly recessed into the wall (deep reveals). The plans should be amended to indicate this.
- Large scale details should be provided of key junctions, including the doors (including reveals and threshold), windows (including reveals and cills), eaves, skews, ridge and chimneys.
- Landscape: Boundary treatments and landscaping will be a critical element of the proposal. Hedging and natural topography is appropriate.

Second response: The submitted amendments largely address the detailed design comments, subject to conditions.

The amendments have reduced the depth and height of the units slightly (and Plot A is set at a slightly lower ground level also) but still do not fully reflect the scale and form of traditional buildings in the village, which is particularly evident in the proposed flat-roofed section.

The position of the solar panels is likely to draw undue attention to the flat-roofed section, particularly as it is likely they would not be installed flat and will be more visible than the elevations suggest. A condition should be added for full details and location of solar panels to be agreed (notwithstanding location shown). The following conditions should also be applied:

- Material samples
- Solar Panels as above
- Large scale details of key junctions, including doors (including reveals and threshold), windows (including reveals and cills), eaves, skews, ridge and chimenys. (Reveals should be deep)
- Detailed landscape plan including boundary treatments and hard landscaping materials.

Statutory Consultees

Floors, Makerstoun, Nenthorn and Smailholm Community Council: Objection. Former dump is highly visible, exposed and designs do not meet the standards of the conservation village. Should be single storey in height. Other sites in Smailholm more suited to development than this one.

Scottish Water: No objection. There is sufficient capacity at Robertson Water Treatment Works. Smailholm SEP Waste Water Treatment Works - unable to confirm capacity.

Archaeology: No archaeological conditions.

KEY PLANNING ISSUES:

The key planning issues are whether the proposed development constitutes appropriate infill development in accordance with the Local Development Plan 2016, particularly as regards the siting, design, scale and character of the proposed development; potential impact on the village's Conservation Area; road safety; tree impacts; and whether it can be adequately serviced.

ASSESSMENT OF APPLICATION:

Principle

The application site is located within the settlement boundary as identified in the Local Development Plan 2016 (LDP). The principle of development on this site is supported by Policy PMD5 of the LDP and it is not considered that the site needs to be safeguarded in principle. The Conservation Area envelopes this triangular shaped area and includes the adjacent Hall and land. It is considered that this two house proposal is an acceptable small-scale infill development which can be accommodated without recourse to the special architectural or historic character and appearance of the Conservation Area.

The proposed residential development would not conflict with the established land use of the area and would not detract from the character or amenity of the surrounding area. The proposed houses can be accommodated on the site without resulting in over development or town or village cramming and the design (which will be discussed in more detail later in the report) of the houses is considered appropriate for this location. The principle of residential development on this site is therefore considered acceptable and in accordance with Policy PMD5.

Policy EP9 – Conservation Areas, requires development to accord with scale, proportions, alignment, density materials, boundary treatments, open spaces, vista gardens and landscapes. Many of the objections have highlighted concerns for prominence of any development of this Knowe. It is conceded that Plot A will be a

prominent addition to the skyline but that the architecture (and the roof scape in particular) are not incompatible with the site or local vernacular. It is acknowledged that the platformed roof pitches and mock chimney breasts are both deliberate attempts to hide the depth of plan proposed. The pitches have however been steepened to 42° throughout the course of this application and would be clad in slate. A variation in design between plots has been achieved throughout the course of the applications and now it is considered that the form of development will make an acceptable contribution to the entrance to the village when approached from the north. The finished floor level of the house proposed on Plot A has been reduced from 174.30m AOD and both floor levels are now proposed to be 173.85 m AOD.

Other matters relevant to PMD5, and other relevant policies of the LDP and advice within Supplementary Planning Guidance, are accounted for further in this assessment.

Services

Scottish Water has confirmed there is capacity for a mains water supply. A condition should require written confirmation from Scottish Water that a connection to the public mains has been approved.

The application indicates a connection to the existing public drainage network. This is the default position in sewered catchment areas, however, a matter for Building Standards as to the technical suitability of the proposal. A condition can secure further details before development commences, ensuring the proposed house can be adequately serviced.

Provided surface water is managed within the site and any run-off rates are maintained at pre-development levels, there are no concerns in this regard.

Ecology

There are no local or national designations at risk. The Ecological Appraisal submitted in support of the application does not identify issues in relation to protected species but there is a potential that common bird species may nest in the trees on the site. If felling is to take place in the breeding season, the trees should be checked by a suitably qualified person prior to works to ensure no birds have nested. Should birds be found, works cannot commence until the nest is no longer active. This can be covered by a suitably worded condition.

Trees, landscaping and boundaries

The Tree Survey confirms presence of 7no trees in the site. 5no trees are shown on the site plan to be removed to accommodate the access drive and the house on Plot A. Whilst the loss of trees is regrettable, the large specimen tree to the north west corner will be retained and the wider landscape setting in the village will not be affected. Additional trees are being proposed and the site layout will allow for a new roadside hedge to be planted along the north boundary of the site. This will help create an attractive entrance to the village on approach from the north.

It is appropriate to ensure protection of the trees identified for retention and this can be covered by an appropriately worded condition. A detailed landscape plan will be required to ensure additional tree and hedge planting and this will also be covered by condition. Compensation for tree loss will be sought at a ratio of 2:1 and the losses can be accepted in this instance.

As regards site boundaries, the site plan includes reference to proposed hedge lines both on the roadside (to delineate the private garden from pavement) and to enclose Plot A from the public path. A condition will be used to ensure details of any proposed fencing is given further consideration to avoid a suburban form of development and ensure the boundaries are treated as sympathetically as possible.

Placemaking and design, Materials.

The Conservation Area includes this Knowe therefore the contribution it makes to the character and appearance of the Conservation Area is, from the outset, acknowledged.

It is contested that this amended scheme will have a neutral impact to the conservation area as opposed to the adverse effects identified in the public consultation exercise. It is accepted that the development's scale, form and height could be reduced, specifically on Plot A, however it is concluded that the demand for such design changes should not be determinant in this application. The proposed buildings are not unduly large for the proposed plots and it is considered that the scale of development can be accommodated without harming the integrity of the conservation area.

On approaching the village from the north the proposed composition of rooflines and proposed variation in building designs (changes achieved throughout the determination of both planning applications) will be a defining feature of this site and it is now considered that this scheme will be an acceptable addition.

Developing on the edge of any village will almost inevitably change the sense of place of that part of the settlement, however, the issue is whether the resulting change will have adverse consequences. In this case, (accounting for the existing pattern of house plot sizes, house footprints, orientations and building lines within the village), it is not considered that this proposal would stray from the existing townscape or spatial pattern in such a manner that it would have adverse consequences for the character and sense of place of the village.

The proposal would be set behind new landscaping, back from the public road which is a layout repeated throughout the village.

The design approach is fundamentally contemporary. Several of the objectors appear to have a good understanding of architecture and have articulated their concerns over the proposals. However it is considered that, on balance, there has been significant improvements to this scheme and the proposals now achieve an acceptable balance between being sympathetic to, without being reflective of, the existing buildings. The platform roof is an innovative solution to concealing the mass of the wide plan and it should not appear an incongruous feature to the village. Platform roofs are not incompatible features of conservation areas. In this instance, it obviates an unduly tall roof height on this prominent site.

The Heritage and Design Officer is cautionary about the principles specifically regarding the scale, form and relationship to traditional buildings in surroundings but does not object to the revised designs. Conditions covering precise details such as the appearance of the solar panels, external materials, doors, windows and landscaping are however, recommended to ensure an appropriate contribution to the character and appearance of the Conservation Area.

Furthermore, and with time, and with complementary landscaping/boundary treatments will allow this development to settle into the village's established townscape without any unacceptable adverse consequences.

Neighbouring amenity

The proposed development will relate comfortably to the houses in the surroundings with regards privacy, daylight, sunlight and outlook. Also, it is not considered the proposal would have adverse effects in any of the above regards on any other neighbouring property, that would be in any way unreasonable for this context.

Residential development on this site is not considered to conflict with the adjacent Hall use. Potential residential amenity issues have been highlighted in objections to the application but it is not considered that these uses are incompatible in the layout and offsets proposed. The proposed development will comply with Policy HD3 covering the protection of residential amenity

Contaminated Land

The site proposes the redevelopment of land that may have been used as a 'midden'. Potential site contamination has been identified through the consultation process and the Council's Contaminated Land Officer has requested a condition be added to any consent that may be granted to ensure this is investigated and remediated if necessary. A condition is proposed to cover this matter and to ensure the site is safe for the intended residential use. This will ensure compliance with Policy IS13.

Road safety, parking and access

The proposed parking spaces, turning, and dimensions of the proposed bellmouth are all now accepted by the Roads Planning Officer. A condition will be applied to ensure the entrance bellmouth and parking is formed before occupation of either plot.

Several objections have highlighted the significance of the informal pedestrian link from the public road to the Village Hall. This is not a recognised path but does provide a very useful link to the Core Path (on the opposite side of the public road). The proposal will re-route this informal path round the south east boundary of Plot A from the village hall to the public road to the north. A new roadside footpath would be formed along the front of the site to provide a link to the Core Path. Both the Roads Planning Officer and the Outdoor Access Officer are satisfied that this is an acceptable, and more formal solution to the current situation, and offer no objections. A condition is required to ensure further design details are submitted of the proposed pavement and pedestrian link to the Hall. This condition will also ensure the implementation of works before the proposed houses are occupied, ensuring continued access.

Waste storage

There is adequate space within plots for dedicated bin storage at the proposed houses. The storage of bins is unlikely to affect the visual appearance of the street. Further details are however required and can be covered by condition.

Energy efficiency

The Design Statement places significant emphasis on low carbon and energy efficient design of these buildings but, energy efficiency credentials are regulated under the Building Standards at the Building Warrant stage. Any visually sympathetic proposal that allows those standards to be exceeded is welcome. This proposal raises no concerns in this regard, subject to the PV panels being dark framed and laid flat on the platformed roof. PV Panels are typically elevated to address the direction of the sun

therefore a condition is recommended to allow for an alternative arrangement on the south west facing roof slopes of the houses and/or garages be agreed, if necessary.

Development Contributions

A legal agreement will be necessary to secure a financial contribution towards Kelso High School and Affordable Housing in order to comply with Policy IS2.

The legal agreement will also secure servitude public access to, and along the proposed footpath, (between the Hall and the B6357 Public Road) shown on the approved site plan in perpetuity and ensure that the path and adjacent land does not become curtilage of either building plots shown on the approved drawings.

CONCLUSION

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved subject to a legal agreement and the following conditions and informatives:

1. The development shall be implemented in accordance with the plans and drawings approved under this consent, unless otherwise agreed in writing with the Planning Authority
Reason: To ensure that the development is carried out in accordance with the approved details.
2. A sample of all materials to be used on all exterior surfaces of the development hereby permitted shall be submitted to and approved in writing by the Planning Authority before development.
Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
3. No development shall commence until precise details of:
 1. the PV Solar panels and the fixing/ mounting details to the roofs (Panels to be mounted flat to the surface of the platform unless otherwise agreed.)
 - ii. Large scale details (drawings) of key junctions of the houses hereby approved, including doors (including reveals and threshold), windows (including reveals and cills), eaves, skews, ridge and chimneys. (Window and door reveals should be deep)have first been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to the conservation area.
4. No development shall commence until written confirmation from Scottish Water confirming that public mains water and public foul drainage connections are available to serve this site, has first been submitted to and approved in writing by the Planning Authority. The development shall be serviced only using the approved public mains water and foul drainage arrangements, unless otherwise

agreed in writing with the Planning Authority. All surface water drainage shall be managed in accordance with SUDS principles and in a manner that maintains surface water run-off from the site at pre-development levels.

Reason: To ensure the development is adequately serviced and manages surface water drainage

5. Parking and turning for four vehicles (two spaces per dwelling) shall be provided within the curtilage of the site prior to occupation of the first dwelling hereby approved and retained thereafter in perpetuity.

Reason: To ensure the dwelling is served by adequate parking provision and turning at all times.

6. No development shall commence until engineering details, including construction details and a long section drawing, for the roadside footway and the pedestrian link between the site and the village hall have first been submitted to and agreed in writing by the Council. Thereafter the roadside footway and the pedestrian link to be constructed in accordance with the approved details prior to occupation of the first dwelling.

Reason: To ensure safe pedestrian access.

7. The vehicular access to the site as shown on site plan L(-1) 101 C hereby approved to be formed to Council standard specification DC-6 prior to occupation of the first dwelling.

Reason: In the interests of road safety and to allow for safe servicing of the properties hereby approved.

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

- i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
- ii. location of new trees, shrubs, hedges and grassed areas (new trees to be planted at a ratio of 2:1 replacement.)
- iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
- iv. programme for completion and subsequent maintenance.

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

9. No development shall commence until precise details of all boundary treatments, which shall include a scheme of hedging forward of any privacy fencing as well as the height and design of fences, has first been submitted to and approved in writing by the Planning Authority. The boundary treatments shall be implemented only in accordance with the approved details, and planting shall be implemented during the first planting season following completion of the development.

Reason: To ensure the development has a sympathetic visual impact for the conservation area.

10. Before any part of the development hereby approved is commenced, the trees identified for retention on drawing number L(-1) 101 C shall be protected by a barrier in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction and the barriers shall be removed only when the development has been completed.

Reason: To enable the proper effective assimilation of the development into its wider surroundings, and to ensure that those existing tree(s) representing an important visual feature are protected and retained.

11. 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.

12. Prior to the felling of those trees identified for removal on approved drawing L(-1) 101 C a breeding bird checking survey shall be carried out by a suitably qualified person and the results of the survey submitted to the planning authority for written approval. Where nesting birds have been identified, no development shall take place during the breeding bird season (March – September) unless otherwise agreed in writing by the planning authority.

Reason: In the interests of biodiversity and in order to protect breeding birds

13. Prior to the occupation of the houses hereby approved, refuse and recycling bin stances for both plots shall be provided in accordance with details, which shall first be submitted to and approved in writing by the planning authority.

Reason: To ensure adequate provision is made for the storage of bins.

Informatives

1. The Roads Planning Service advises that the proposed roadside hedge is set back from the private drive to allow for a small grinding margin for vehicles. Only contractors first approved by the Council may work within the public road boundary.

DRAWING NUMBERS

L(-1)001	Location Plan
L(-1) 101 C	Site Plan
L(-1)102 REV A	Site Sections as Proposed
L(-2)101 REV A	Ground Floor Plan Plot A
L(-2)102 REV A	First Floor Plan Plot A
L(-2)103 REV A	Ground Floor Plan Plot B
L(-2)104	Roof Plan Plot B
L(-3)101 REV A	Sections Plot A
L(-3)102 REV A	Sections Plot B
L(-4)101 REV A	Elevations Plot A
L(-4)102 REV A	Elevations Plot A
L(-4)103 REV A	Elevations Plot B
L(-4)104 REV A	Elevations Plot B
Amended Design Statement	

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

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

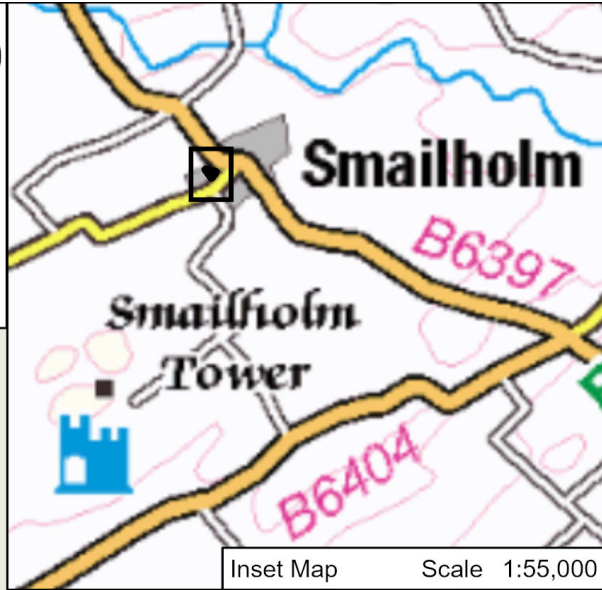
Author(s)

Name	Designation
Euan Calvert	Planning Officer



22/00323/FUL

Land West And
North Of Village Hall
Smailholm



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PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

3rd October 2022

1 PURPOSE

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

2 APPEALS RECEIVED

2.1 Planning Applications

- 2.1.1 Reference: 21/01302/FUL
Proposal: Erection of dwellinghouse
Site: Land South West of West Lodge, Minto
Appellant: David Anderson And Prof. Sally Haw

Reason for Refusal: The dwellinghouse would be contrary to Policy PMD5 of the Local Development Plan 2016 in that it would detract from the character and amenity of the surrounding area and would not respect the scale, form, design and density of the surrounding area. The erection of a house on this site would have an unacceptable adverse impact on the setting of the settlement on a prominent approach to the village.

Reasons for Appeal: The design principles are set out in the Design Statement. The appellant took on board the Planning Officers suggestions when producing the final design proposal. The case officer's report committee concludes that the application conforms with the Scottish Borders Local Plan. The new Committee did not seem to understand the criteria by which to judge the proposal and ignored the recommendation of the Head of Planning, the advice of the officers and over-arching national planning policies. The zero carbon home proposed will help fight climate change and contribute to the local economy.

[Please see the DPEA Website for the Appeal Documents](#)

Method of Appeal: Written Representations

2.2 Enforcements

- 2.2.1 Reference: 21/00005/UNDEV
Proposal: Siting of static caravan clad in timber and land engineering works undertaken

Site: Land South West of Yethouse Farmhouse,
Newcastleton
Appellant: A Hale

Reason for Notice: It appears to the Council that the above breach of planning control has occurred within the last 4 years. A static caravan which has been clad in timber has been sited on the land and remains so without the benefit of planning permission. An amount of land engineering works have also been undertaken within the land shown edge in red on the attached plan.

Grounds of Appeal: The static caravan is used as welfare facilities for The Holding, has no foundations, sewerage or other plumbing or grid electricity supply and the Appellant therefore believes it is permitted. The Appellant was not aware that cladding the caravan represented a contravention of any regulations. A static caravan has been on the land for at least ten years and therefore falls outside of any enforcement powers. In recent times the circular earthworks located centrally within The Holding were created by the previous owner. These were to provide a horse exercise facility. The Appellant is undertaking to reinstate the field and erect a livestock fence through that location, to restore the land to agricultural production. The polythene tunnel is small, being 3.6m long x 2.4m wide and 2.4m at the ridge. It is sited 2.4m from the boundary with a primary function to provide shelter for new-born lambs. The Appellant does not consider that this requires planning permission. Outside of lambing time the tunnel is used to produce vegetables for personal consumption.

[Please see the DPEA Website for the Appeal Documents](#)

Method of Appeal: Written Representations

2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

Nil

3.2 Enforcements

Nil

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained no appeal previously reported on which a decision was still awaited when this report was prepared on 23rd September 2022.

5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 22/00279/FUL
Proposal: Demolition of agricultural building, erection of dwellinghouses with ancillary accommodation
Site: Derelict Agricultural Building North of Ladyurd Farmhouse, West Linton
Appellant: Mrs Louisa Gardiner

Reasons for Refusal: 1. The development would be contrary to Policy HD2 of the Local Development Plan 2016 in that it would comprise residential development in the countryside that does not meet criteria within Policy HD2. The dwellinghouses would not be related to a building group; would not comprise the conversion of an existing building; would not replace or restore an existing or former house and; no business justification has been provided to support the requirement for dwellinghouses to replace the existing agricultural building. The development would, therefore, contribute to sporadic residential development in the countryside, to the detriment of the character of the site and surrounding area. Other material considerations have been accounted for but these do not outweigh the harm that would result from the development. 2. The development would be contrary to policies HD2 and PMD2 of the Local Development Plan 2016 in that the proposed development is unsympathetic to the surrounding context in terms of scale and form and has not been designed in sympathy with Scottish Borders architectural styles. No overriding case for the development as proposed has been substantiated. Other material considerations have been accounted for but these do not outweigh the harm that would result from the development. 3. The development would be contrary to policy EP1 of the Local Development Plan 2016 and Biodiversity guidance in that the applicant has failed to prove that the development will not have an adverse effect on European Protected Species which may be present on the site. Other material considerations have been accounted for but these do not outweigh the harm that would result from the development.

- 5.2 Reference: 22/00396/FUL
Proposal: Replacement windows and door (retrospective)
Site: Caddie Cottage, Teapot Street, Morebattle, Kelso
Appellant: Mr Robert Muir

Reason for Refusal: The development is contrary to policy EP9 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance: Replacement Windows and Doors 2015 in so much as the development does not preserve or enhance character or appearance of Morebattle Conservation Area.

- 5.3 Reference: 22/00496/FUL
Proposal: Alterations and extension to dwellinghouse
Site: Deanfoot Cottage, Deanfoot Road, West Linton
Appellant: Ms Norma Gordon

Reason for Refusal: The development would be contrary to policy PMD2 of the Local Development Plan 2016 in that the following criteria require that developments: h) create a sense of place based on a clear understanding of the context and are designed in sympathy with Scottish Borders architectural style; i) are of a scale, massing and height

appropriate to the existing building; j) are finished externally in materials which complement the existing building; k) respect the character of the surrounding area and neighbouring built form. The proposed development is unsympathetic to the building which it would extend in terms of form, scale, height, massing and materials and would not complement that building. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations.

6 REVIEWS DETERMINED

- 6.1 Reference: 21/01421/PPP
Proposal: Erection of dwellinghouse
Site: Land North East of Woodend Farmhouse, Duns
Appellant: Mr John and Mrs Louise Seed

Reasons for Refusal: 1. The development is contrary to Policy HD2 (A) of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside 2008 in that it would constitute piecemeal, sporadic new housing development in the countryside that would be poorly related to an established building group, outwith the sense of place within a previously undeveloped field and beyond the defined boundaries of the building group. The proposal would be out of keeping with the character of the building group, resulting in an unacceptable adverse impact on the landscape and visual amenities of the surrounding area. 2. The development is contrary to Policy HD2 (F) of the Local Development Plan 2016 in that the need for a house for a retiring farmer has not been adequately substantiated and it has not been adequately demonstrated that no other sites exist within the building group and that no suitable existing house or buildings capable of conversion are available for the intended use. This conflict with the development plan is not overridden by other material considerations. 3. The development is contrary to Policy ED10 of the Local Development Plan 2016 as the site is within a cultivated agricultural field and the development would result in the permanent loss of prime quality agricultural land, which is a valuable and finite resource.

Method of Review: Review of Papers & Further Written Submissions

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

- 6.2 Reference: 21/01639/FUL
Proposal: Erection of dwellinghouse
Site: Land West of Cavers, Hillhead, Cavers, Hawick
Appellant: Mr Mark McGlone

Reason for Refusal: The development is contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 because it would constitute housing in the countryside that would not relate well to the existing building group and would lead to an unjustified sporadic expansion of development into a previously undeveloped field. Furthermore, there is no overriding economic justification to support the development. Material considerations do not outweigh the resulting harm.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.3 Reference: 22/00207/FUL
 Proposal: Change of use of barn and alterations and extension to form dwellinghouse
 Site: Land North of Carterhouse, Jedburgh
 Appellant: Mr & Mrs C & J Stephens

Reason for Refusal: The development is contrary to criteria a) of Part C of Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that the existing building is not worthy of conversion in terms of its architectural or historic merit and nor does it appear physically suited for residential use. The site lies outwith any recognised settlement or building group and no overriding essential business need has been substantiated for a house in this isolated location. The proposal would lead to sporadic residential development in the countryside and other material considerations do not outweigh the conflict with the Local Development Plan and harm that would result.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

7 REVIEWS OUTSTANDING

7.1 There remained 8 reviews previously reported on which decisions were still awaited when this report was prepared on 23rd September 2022. This relates to sites at:

• Unit C, Whinstone Mill, Netherdale Industrial Estate, Galashiels	• Land East of 16 Hendersyde Avenue, Kelso
• Plot 1, Land North of Belses Cottage, Jedburgh	• Plot 2, Land North of Belses Cottage, Jedburgh
• Woodland Strip, North of Springhall Farm, Kelso	• Garden Ground of Cheviot View, Eden Road, Gordon
• Land West of 1 The Wellnage, Station Road, Duns	• Land North and East of Tweed Lodge, Hoebridge East Road, Gattonside

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained one S36 PLI previously reported on which a decision was still awaited when this report was prepared on 23rd September 2022. This relates to a site at:

- | | |
|--|--|
| <ul style="list-style-type: none"> Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick | <ul style="list-style-type: none"> |
|--|--|

Approved by

**Ian Aikman
Chief Planning & Housing Officer**

Signature

Author(s)

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

Background Papers: None.

Previous Minute Reference: None.

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

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