

Denholm Mill
Denholm
Hawick
Roxburghshire
TD9 8NX

Chief Executive

- 1 JUN 2016

Democratic Party

Louise McGeoch,
Clerk to Local Review Body,
Council Headquarters,
Newtown St. Boswells,
Melrose,
TD6 0SA.

31st May 2016.

Dear Ms. McGeoch,

Local Review Body
Appeal Reference 16/00012/RREF.

I refer to your letter dated 17th May 2016. Please find attached the representations that I wish to make in connection with this appeal.

I would be obliged if you would advise me of the decision of the Local Review Body in due course.

Yours sincerely,



Nicholas Cook.

Notice of Review
Appeal Reference: 16/00012/RREF.

I refer to the above appeal which is due to be considered on 18th July 2016.
I wish to make representations on four grounds:

1. Planning Policy

The Consolidated Scottish Borders Local Plan 2011 comprised the policy background at the time that application 15/01552/FUL was refused in February 2016. This plan was superseded by the Scottish Borders Local Development Plan in May 2016. The appellants' agent's "GROUND 2" argues that the appeal site does not comprise "open space" or "green space" in terms of Policy BE6, now superseded by Policy EP11. She would appear to be unaware of the findings of the Reporter's conclusions in relation to Local Plan Inquiry objection 199/1/3 (2007) regarding the inclusion of the Manse Field within the Development Boundary of Denholm. In considering this matter the Reporter stated:

"I conclude that the Council, by defining the development boundary as shown in the finalised plan, to include Denholm Mill and the Manse Field, has not relinquished the policy basis to safeguard the Manse Field from development that would detract from its role as an open space amenity area which also plays an important role in providing visual amenity which enhances the approach to Denholm along the A698 road". (My italics).

This clearly shows that Policy BE6/EP11, which seeks to protect a wide range of open space within settlements and to prevent their piecemeal loss to development, has already been tested in relation to the Manse Field and any development deemed to be unacceptable because the land has been found to comprise "open space amenity area" which performs "an important role in providing visual amenity which enhances the approach to Denholm"

As the appeal clearly fails this most important policy test, it is not necessary to challenge other policy issues raised by the appellants relating to the Conservation Area, design, density and massing.

2. Planning History.

The appellants' agent has not addressed this matter. Development on the Manse Field has been refused on five occasions:

- a) 1992. Erection of two semi-detached houses.
- b) 1992. (i) Erection of a single house.

- c) 1992. (ii) Erection of a single house.
- d) 2007. Erection of two affordable dwelling-houses.
- e) 2016. Erection of two dwellings.

The site has also been considered by two Reporters:

- a) 1993. Appeal to erect a single dwelling-house; dismissed.
- b) 2007. Local Plan Inquiry Report, (objection 1789/1/1) which states:

"I endorse the Council's concern that its development, in whole or in part, for housing would be detrimental to the amenity of Denholm, particularly as the site is highly visible when approaching from the west along the main A698 road. In my view, the offer of restricting the proposals to single or one and a half storey and avoiding the highest parts of the steeply sloping site would not be sufficient to ameliorate the impact of the development satisfactorily given its prominent setting".

3. Land Ownership.

The appellants' agent "indicates" that sufficient rights exist to gain access to the site. No evidence has been submitted to support this claim.

In contrast, I submit a copy of Land Register Title ROX 3805 which was registered in February 2000 and which shows that the area of ground between the highway (coloured brown) and the fence line of the Manse Field (coloured red) is in the ownership of the eleven Dwelling houses at Denholm Mill.

Notices were not served on the eleven land owners as required by the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, Part 3, Regulation 15(2)(b)(i).

No consent to construct an access across this land has been either sought or granted.

4. Planning Advice Note 68.

This note sets out the methodology for the preparation of a Design Statement for a site to be considered for development within a Conservation Area. No such Design Statement was submitted for consideration, and as such the application does not comply with the requirements of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, Part 3, Regulation 13 (2)(b).

For the above reasons, I wish to support the delegated decision of the Council, and request that this appeal be dismissed.



Nicholas Cook



Registers Direct - Land Register: View Title ROX3805

Search Summary

Date: 27/02/2016 **Time:** 08:36:50
Search No.: 2016-00695662 **User Reference:**
Sasine Search Sheet: 17750

A. PROPERTY SECTION

Title Number: ROX3805 **Date of First Registration:** 08/02/2000
Date Title Sheet updated to: 19/07/2004 **Date Land Certificate updated to:** 19/07/2004
Hectarage Code: 0 **Interest:** PROPRIETOR
Map Reference: NT5618

Description:

Subjects 1 DENHOLM MILL, DENHOLM, HAWICK TD9 8NX edged red on the Title Plan. Together with the rights specified in the Deed of Conditions in Entry 1 of the Burdens Section.

Notes:

1. The right to that part of the solum tinted blue on the Title Plan is not included in this Title.

This is a Plain Copy which reflects the position at the date the Title Sheet was last updated.

B. PROPRIETORSHIP SECTION

Entry Number	Date of Registration	Proprietor	Consideration	Date of Entry
1	19/07/2004	NICHOLAS JOHN COOK 85 Lonsdale Court, Jesmond, Newcastle-upon-Tyne.	£156500	01/07/2004

Notes:

1. There are in respect of the subjects in this Title no subsisting occupancy rights, in terms of the Matrimonial Homes (Family Protection) (Scotland) Act 1981, of spouses of persons who were formerly entitled to the said subjects.

This is a Plain Copy which reflects the position at the date the Title Sheet was last

*updated.***C. SECURITIES SECTION****Title Number:** ROX3805

There are no entries.

*This is a Plain Copy which reflects the position at the date the Title Sheet was last updated.***D. BURDENS SECTION****Title Number:** ROX3805 **Number of Burdens:** 1**Entry Number Burden Preamble**

1 Deed of Conditions recorded GRS (Roxburgh) 29 Feb. 2000 by T Graham & Son (Builders) Limited (who and whose successors are hereinafter referred to as "the Developers") proprietors of Denholm Mill, Denholm, being the Land edged red on the Supplementary Plan to the Title Plan, which Supplementary Plan to the Title Plan is a copy of the plan annexed to the said Deed of Conditions (hereinafter referred to as "the Development"), of which the subjects in this Title form part, contains burdens &c in the following terms, viz.

Entry Number Burden Detail

1 Deed of Conditions recorded GRS (Roxburgh) 29 Feb. 2000 by T Graham & Son (Builders) Limited (who and whose successors are hereinafter referred to as "the Developers") proprietors of Denholm Mill, Denholm, being the Land edged red on the Supplementary Plan to the Title Plan, which Supplementary Plan to the Title Plan is a copy of the plan annexed to the said Deed of Conditions (hereinafter referred to as "the Development"), of which the subjects in this Title form part, contains burdens &c in the following terms, viz.: WHEREAS The Developers are about to sell or deal separately with the eleven Dwellinghouses which are being or have been created on the Development and it is desirable to set forth in writing the rights attached to each of the Dwellinghouses and the reservations, real burdens, conditions and provisions under which the same shall be held by the respective Proprietors thereof; NOW THEREFORE the Developers provide and do declare as follows:- DEFINITIONS "the Common Parts" means (a) footpaths and pavements within the Development, (b) the access road serving the Development and others leading from the main road at Denholm Bridge on the A698 Hawick Road to the Development as the said access road is shown coloured brown on the Supplementary Plan to the Title Plan ("the access road"), (c) any parking areas (excluding any parking space sold with any of the Dwellinghouses), (d) the amenity ground (except where sold with any of the Dwellinghouses), (e) the boundary walls and fences of the Development so far as not forming the boundary walls and fences of individual Dwellinghouses; (f) the common drains, soil and rainwater pipes, tanks, cisterns, gutters, rhones, conductors, street lighting, electric mains and cables, pipe and wires, serving all of the Dwellinghouses and (g) any other fittings or fixtures or parts in or upon the Development which are capable of use in common and do not form part of an individual Dwellinghouse except in so far as specified in the individual Dispositions of the Dwellinghouses, all as the Common Parts are, unless otherwise stated, shown coloured green on the said Supplementary Plan to the Title Plan. "the Development" means the subjects at Denholm Mill, Denholm being the subjects edged red on the Supplementary Plan to the Title Plan. "Dwellinghouse(s)" means any one of the eleven Dwellinghouses in the Development which Dwellinghouses are to be known as Numbers 1, 2, 4, 5,

LAND REGISTER OF SCOTLAND	Officer's ID/Date	Title Number
	9995 6/3/2011	ROX3805

SUPPLEMENTARY PLAN 0
TO THE TITLE PLAN



6th June, 2016

Fiona Walling
Democratic Services Officer
Scottish Borders Council
Newtown St Boswells
MELROSE
TD6 0SA

Dear Ms Walling

16/00012/RREF ERECTION OF TWO DWELLINGHOUSES, LAND SOUTH OF PRIMARY SCHOOL, WEST END DENHOLM, SCOTTISH BORDERS

Thank you for providing a copy of the representation issued by Mr Cook.

It is confirmed that my Clients and I are aware of the Reporter's findings in 2007, (almost 10 years ago) since which time there has been a Local Plan Amendment, a Consolidated Local Plan and the now adopted Local Development Plan. Both Local Plan and LDP policy is referred to in the statement and my Clients' views have been expressed in term of that policy as well as PAN 65.

In terms of the servitude right of access (or ownership) which serves my Clients' land, this is a civil legal matter outwith the remit of the planning system. Access has not been given to my Clients' title deeds. Early on in the instruction my Clients were advised to be certain that the site benefited from the necessary rights of access for development and not simply existing use. My Clients took this matter up with their solicitors and confirmed to me that they were satisfied as to the outcome.

Yours sincerely

Kate Jenkins

Kate Jenkins MRTPI MRICS
Director

