

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 SEPTEMBER 2016

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 16/00317/FUL
OFFICER:	Mr C Miller
WARD:	Tweeddale West
PROPOSAL:	Erection of boundary wall with timber fence over and gates.
SITE:	Hawthorn Bower, Tweed Avenue, Peebles
APPLICANT:	Mr & Mrs Fleming
AGENT:	D & H Farmer Architects

SITE DESCRIPTION:

Hawthorn Bower is a large single storey dwelling on Tweed Avenue, in the Conservation Area near the River Tweed. It is situated centrally to its plot and has substantial perimeter boundaries on all sides. Its western boundary is defined by a brick wall approximately 1.6m in height and its southern boundary a brick wall of around 3m in height. The north boundary wall is the entrance side and includes a pedestrian access. This is a whinstone wall of changing heights, but with the main section being approximately 1m high over a length of around 35m. The remaining eastern boundary comprises a mature (mainly evergreen) hedgerow; the vehicular access to the curtilage is located at the southern end of this eastern boundary.

The property adjoins the public road on the northern and eastern boundaries, and private gardens on the western and southern boundaries.

PROPOSED DEVELOPMENT:

The development comprises the following elements:

- erection of a brick wall (1.093m) with a vertically slatted timber fence on top (0.727m) along the length of the east boundary, following removal of existing hedgerow
- erection of 2 no. 1.2m height gate posts

It should be noted that the proposals were revised on 20 April 2016, in that the height of the fence proposed on top of the new wall has been reduced so that the overall height of this new boundary would be 1.8m instead of 2m as originally proposed. The timber fence has been revised so that the timbers would run horizontally instead of vertically.

The development are the applicant's proposals for mitigation against flooding of the property, following the floods in December 2015/Jan 2016. The dwelling and curtilage of Hawthorn Bower were heavily flooded at the end of 2015. A number of properties suffered the same fate in the Tweed Green locality and, like those other properties, Hawthorn Bower has had to undergo extensive repairs in the first half of 2016.

Erection of brick wall/fence wall on northern boundary

The applicants wish to provide an impermeable perimeter structure to prevent further flood water from entering the curtilage. The existing hedgerow does not provide a barrier to flooding, whereas the other boundaries do perform this function to greater and lesser extents.

Erection of gate posts in south-east corner of perimeter:

These are proposed to provide attachments for a demountable flood barrier, which would be installed in front of the existing large vehicular access gate.

PLANNING HISTORY:

There is no planning history relevant to consideration of this application.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Flood Protection Officer:

The consultee raises an **objection** to the proposals. A summary of the consultation response is as follows:

- SEPA material indicates that the site is at risk from a flood event with a return period of 1 in 200 years (0.5% annual risk of a flood occurring in any year).
- current and previous flood risk issues are acknowledged and understood
- as discussed during public consultation with residents of Tweed Green and Tweed Avenue, the Council is working towards a holistic way of providing increased protection to the at risk homes in Peebles (to be discussed at further public meeting)
- SBC does not presently have enough information to show that building walls or creating an opening within a wall that holds back flood waters would not impact detrimentally on residents elsewhere within Peebles (in this instance there is the potential for detrimental effects for other residents)
- duties of SBC require that any development that would potentially increase the flood risk at another property is not permitted
- (as an example) a recent Flood Risk Assessment showed that increasing the ground level at the Gytes would increase the flood risk at Tweed Green
- without a Flood Risk Assessment (FRA) being undertaken to show that this work would not increase the risk to other Tweed Avenue residents, an objection is raised on the grounds of flood risk
- applicant encouraged to wait until next public discussion and the suggestions that the Council make within this before employing a consultant to undertake a Flood Risk Assessment, if they choose to do so.

Roads Planning Service: No objection on road safety grounds, although provides commentary on existing/proposed visibility concerns.

Archaeology Officer: No known archaeological implications.

Statutory Consultees:

Royal Burgh of Peebles Community Council: No response.

Non Statutory Consultees:

Peebles Civic Society: No objection.

REPRESENTATION SUMMARY

There has been one letter of support submitted by a Peebles Community Resilience group, and no letters of objection.

A summary of the matters covered in the letter of support would be:

- urgent repairs and improvements to flood defences in area badly flooded in December 2015.

DEVELOPMENT PLAN POLICIES:

Proposed Local Development Plan 2016:

PMD1 - Sustainability
PMD2 - Quality Standards
HD3 – Protection of Residential Amenity
EP9 – Conservation Areas
IS8 - Flooding

OTHER PLANNING CONSIDERATIONS

National Policy and Advice:

- Scottish Planning Policy (2014)
- Online planning advice on flood risk (June 2015) – NB this publication supersedes Planning advice Note (PAN) 69
- The Flood Risk Management (Scotland) Act 2009

KEY PLANNING ISSUES:

The key planning issues with this application are whether the proposed development would be compatible with the Conservation Area setting and whether the proposed development would materially increase the flood risk to other properties

ASSESSMENT OF APPLICATION

This application, together with the other applications presented to the Committee in the Tweed Avenue/Green area, would normally have been determined through delegated powers in that the recommendation is one of refusal for a “Local” category

of application. However, given the overall flood risk issues in the area and the need to determine the applications on a coherent and consistent basis taking into account cumulative impacts as well as those of potential precedent, it was considered appropriate to present the applications to Committee for determination, enabling full discussion on the matters and allowing applicants the opportunity to state their cases.

Policy and Flood Risk

Scottish Planning Policy (SPP) promotes a precautionary approach to flood risk. The planning system should prevent development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere. The Local Development Plan expands further within Policy IS8 by stating that new development should not be in areas where there is a significant risk of flooding and should not result in reduction or interference with functional flood plain operation.

These aims principally apply to new development. In the case of existing development and properties that already lie within such flood areas, there is, of course, sympathy with property owners who wish to secure their properties against further flooding and damage. This proposal seeks to mitigate against flooding of the property, following the floods in December 2015/Jan 2016. The dwelling and curtilage of Hawthorn Bower were heavily flooded at the end of 2015. A number of properties suffered the same fate in the Tweed Green locality and, like those other properties, Hawthorn Bower has had to undergo extensive repairs in the first half of 2016.

As Members will note, the Council has discussed the flooding with residents of Tweed Green and Tweed Avenue and is working towards a way of providing increased protection to the “at risk” homes in Peebles. This would be designed on the basis of a Property Level Protection Scheme where the aim has to be to stop or reduce the ingress of water into the actual properties themselves – rather than their curtilages. Government money is being made available through this scheme and meetings continue with residents about the solutions available under this scheme.

In terms of this application, and the other two presented to the same Committee meeting, the issue is not whether the Council can support the protection of properties on a case-by case basis, but whether the protection they now seek to their curtilage boundaries (including cumulatively) will materially increase the probability of flooding to other properties, contrary to SPP and LDP Policy IS8. The Council has a duty to ensure that this would not be the case, especially when faced with accumulation of such curtilage protection schemes at Tweed Green.

The Council’s Flood Protection Officer advises that a recent Flood Risk Assessment showed that increasing the ground level at the Gytes would increase the flood risk at Tweed Green. The advice is that, without a Flood Risk Assessment (FRA) being undertaken to show that this work would not increase the risk to other Tweed Avenue residents, the Council should not be approving such applications. The applicant, himself, has objected to part of the Priorsford application for the same reasons of heightened flood risk.

Although it is appreciated that, for one domestic property carrying out some boundary walling work, the requirement for a Flood Risk Assessment may seem onerous, no technical information has been submitted to enable the Flood Protection Officer to lift his objections. In his opinion, securing such a large curtilage from flood risk (as opposed to just the house itself) would be likely to have material consequences on

other properties in the Tweed Green area. This may not only lead to flooding of properties not previously flooded but also raise flood water levels in properties previously flooded.

Unless this can be demonstrated not to be the case through the submission of a Flood Risk Assessment, then the application must be considered to be against LDP Policy IS8 and cannot be supported. The Council will continue to work with the residents of the affected area in order to encourage the protection of the buildings themselves from flood risk.

Conservation Area

The property is located within the Peebles Conservation Area and the proposed wall and fencing will certainly provide a harsher visual boundary to the small cul-de-sac it borders onto compared to the current hedging. Nevertheless, there are high brick walls already along the southern rear of the property and this proposal; is not for a 1.8m high wall but a combination of brick walling and fence topping. Provided the brick is selected carefully and there is an appropriate timber stain on the fencing, there do not appear to be any amenity or aesthetic reasons why the proposals would not be considered acceptable. It is being carried out at the side of the dwellinghouse and not along the main elevation onto Tweed Avenue where such boundary treatment and height would be less acceptable. Subject to conditions, there is no reason to consider the proposals inconsistent with LDP Policy EP9.

CONCLUSION

Subject to conditions, the proposals would comply with Policy EP9 on works within a Conservation Area. However, in the absence of any Flood Risk Assessment, the application must be considered to be against LDP Policy IS8 and cannot be supported. The appropriate approach to flood protection should be a holistic and consistent one which does not raise the possibility of increased flood risk to other properties in the vicinity.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is refused for the following reasons:

The application is contrary to Policy IS8 of the Scottish Borders Local Development Plan in that the proposal is likely to materially increase the incidences and levels of flooding to other properties within the Tweed Avenue/Green area of Peebles.

DRAWING NUMBERS

Boundary Wall Elevation D002 Rev A
Site Plan D003
Location Plan D004
Photographs

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

Author(s)

Name	Designation
Craig Miller	Lead Planning Officer

