

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 SEPTEMBER 2016

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 16/00343/FUL
OFFICER:	Mr C Miller
WARD:	Tweeddale West
PROPOSAL:	Increase in height of front (west) boundary wall, formation of opening in north boundary wall and installation of gates
SITE:	Priorsford, Tweed Green, Peebles
APPLICANT:	Mr Alan Packer
AGENT:	n/a

SITE DESCRIPTION:

Priorsford is a substantial two-storey dwelling facing onto Tweed Green in Peebles Conservation Area. The River Tweed is situated close to the property's southern boundary. To the east are situated the curtilages to Riverside and Priorsford Villa, two substantial detached dwellings. To the north, beyond a pedestrian lane, is the Peebles Nursing Home (currently in a state of disrepair and unoccupied following December/January floods). Tweed Green is to the west, a formal area of public space with paths and trees.

Priorsford is situated fairly centrally to its own curtilage. The southern boundary is a substantial whinstone wall, approximately 1.7-1.8m in height. The eastern boundary comprises a block wall with fence panelling above, giving an overall height of approximately 2m. The north wall is a substantial whinstone wall approximately 1.8m in height. The front boundary is formed by a low section of stone wall with a pedestrian gate to the centre and vehicular access towards the southern corner of the plot. The dwelling has been modernised and extended recently.

PROPOSED DEVELOPMENT:

The development comprises the following elements:

- increase in height of stone wall on western boundary from 850mm to 1250mm – a 400mm increase;
- installation of gates in the pedestrian and vehicular accesses
- retention of a new pedestrian opening in the north curtilage wall

The development all relates to proposed mitigation against flooding of the property, following the floods in December 2015/Jan 2016. The dwelling and curtilage of Priorsford were heavily flooded when existing flood defences provided by gates and walls were overwhelmed. A number of properties suffered the same fate in the Tweed Green locality and, like those other properties, Priorsford has had to be undergo extensive repairs in the first half of 2016.

Increase to height of boundary wall on west elevation

The applicants wish to increase the likelihood of the western boundary wall keeping floodwater out of the curtilage of the property. The existing 850mm wall did not deflect the floodwater in December and it is therefore hoped that adding 400mm to the height, bringing the overall height to 1250mm, would be sufficient to keep floodwater out in future flooding events.

Installation of gates in the west elevation

New gates to match existing wall heights would be installed in the 3 openings. These would all be specialised flood-resistant gates intended to supplement the boundary walls in keeping water out of the curtilage. To date, drawn details of the gates have not been provided. However, if the principle of installation of gates in all 3 openings is accepted, it would be appropriate to require details to be submitted and approved through a planning condition.

Retention of new pedestrian opening in the north wall:

The intention of this new opening is to permit escape from the curtilage for pedestrians if the property becomes inundated with flood water in the future. The intention is to enable a temporary flood gate to be installed if flooding appears likely; it is also intended that the gate would be removed to enable pedestrian escape (the flood gate would have to be removed if swift evacuation became necessary).

Members may note that this element of the development has already been undertaken and is applied for in retrospect. All other elements have not yet been carried out.

PLANNING HISTORY:

12/00103/FUL – Change of use from day care centre to dwellinghouse – APPROVED and implemented. An Informative Note in the Decision Notice advises the applicants to implement flood risk strategies due to the situation of the building in the flood plain.

12/01138/FUL – Alterations and extension to dwellinghouse – APPROVED and implemented as part of the change of use/conversion consented under 12/00103/FUL. An Informative Note again referred to management of flood risk in undertaking the development.

93/01473/FUL – Alterations to building and removal of garage - APPROVED

92/01413/FUL - Alterations to existing building to form 4, 2 bedroom flats & extension to form 8, 2 bedroom flats - REFUSED

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.

Statutory Consultees:

Royal Burgh of Peebles Community Council: No response.

Non Statutory Consultees:

Peebles Civic Society: No objection.

REPRESENTATION SUMMARY

There has been one detailed letter of objection to the application submitted by a nearby resident, and one letter of support submitted by a Peebles Community Resilience group. It should be noted that the letter of objection also includes an indication of support for part of the scheme and objection to another.

A summary of the issues raised in the letter of objection would be as follows:

- application seeks planning permission for both (i) raising the existing boundary wall separating the property from Tweed Green and (ii) creating a new opening in the existing northern boundary wall; support is offered for part (i) of the application and to objection is raised to part (ii)

- understand and support increase of flood defences by raising height of the west boundary wall and installing higher and stronger flood barriers in that wall
- object to part (ii) due to serious concerns about the creation of the opening in the northern boundary wall because of its siting and the potential increased flood risk to the houses in Tweed Avenue
- northern boundary wall of Priorsford, which separates the property from the public pend, is an integral part of the flood defence for the Tweed Avenue properties.
- new pedestrian opening is east of the location of the public flood gate.
- to protect Tweed Avenue and ensure the public flood gate in the pend is as effective as originally envisaged the opening should either (i) not be allowed and the wall reinstated to its original configuration or (ii) if it is to be permitted, should be moved to the western (i.e. upstream) side of the public flood gate and the present opening built up.
- in December 2015 floods, floodwater was held back from entering Tweed Avenue by Priorsford's northern boundary wall.
- if the opening is given permission and is allowed to remain, the same level of flood protection for Tweed Avenue will only be achievable if the Priorsford demountable barriers on Tweed Green are in place. The protection of the houses in Tweed Avenue should not depend on the action or inaction of the owners of one property
- to mitigate flooding into Tweed Avenue from the new opening the applicants have said they would install a flood gate across this opening. This however would be another privately owned and operated flood gate which will be outwith the control of those most affected by any failure to erect it.
- if the opening is to be permitted any demountable flood barriers need to be erected on the pend side of the opening and be controlled by the local residents or the local flood resilience group (i.e. in the same manner as the existing public flood gate in the pend)

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 relates to proposed mitigation against flooding of the property, following the floods in December 2015/Jan 2016. The dwelling and curtilage of Priorsford were heavily flooded at the end of 2015. A number of properties suffered the same fate in the Tweed Avenue/Green locality and, like those other properties, Priorsford 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.

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 to flood risk (as opposed to just the house itself) would be likely to have material consequences on other properties in the Tweed Green area as well as the creation of an opening in the north wall. This may not only lead to flooding of properties not previously flooded but also raise flood water levels in properties previously flooded.

The applicant has been in dialogue with the Department and the Flood Protection Team on the issues and his written supporting statements are listed above in this report and available to view online. The most recent and detailed response from the applicant is dated 12 July and lists the reasons why he considers the application should be approved. Members should be aware of his comments which explain two main reasons for protecting the property at the curtilage boundary, not at the house itself.

Of these reasons, it is not accepted that the original planning permission contained any conditions or Informatives explicitly stating that flood protection had to be at the property boundary. Indeed, the Informative stated that water resilient materials had to be used on the ground floor of the property, indicating an acknowledgement on the part of the Council that flood waters may reach the building itself. In terms of the other reason in relation to the benefits of Property Level Protection, the applicant argues that whilst important, the defence of the property as substantial as Priorsford would be extremely difficult at the face of the building itself.

The Flood Protection Officer has seen the applicant's reasons but maintains a position of objection for the reasons previously mentioned. Unless it 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 increase in wall height from 850mm to 1250mm will cause no aesthetic issues provided it is carried out with matching stone and coping. The wall height has context along the southern boundary and elsewhere in Tweed Green, steppings in height being a local feature. Although there are no details of the enhanced flood barriers intended to the current openings, these can be controlled by planning condition. The opening to the northern wall has already been carried out, the applicant explaining that the works were necessary due to the wall becoming unstable after the last flood. It would be the intention to install a temporary flood gate in this wall.

There are no amenity or aesthetic reasons why the proposals would not be considered acceptable in the Conservation Area. Subject to conditions on matching

materials and details of the flood gates, there is no reason to consider the proposals to be 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

Supporting Statement
Elevations
Location Plan

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.

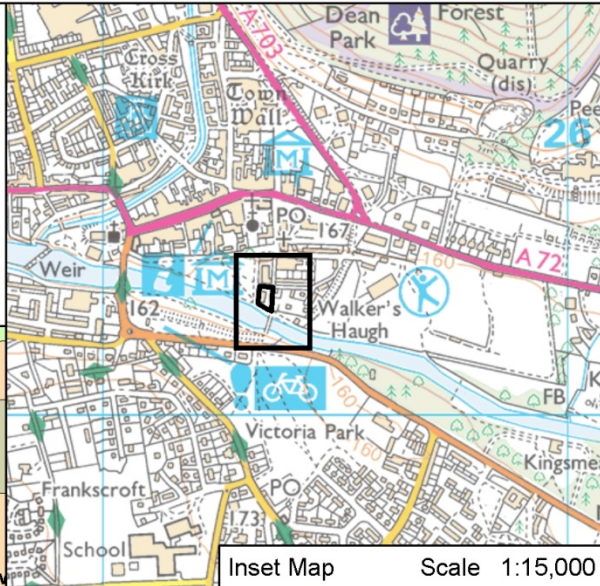
Author(s)

Name	Designation
Craig Miller	Lead Planning Officer

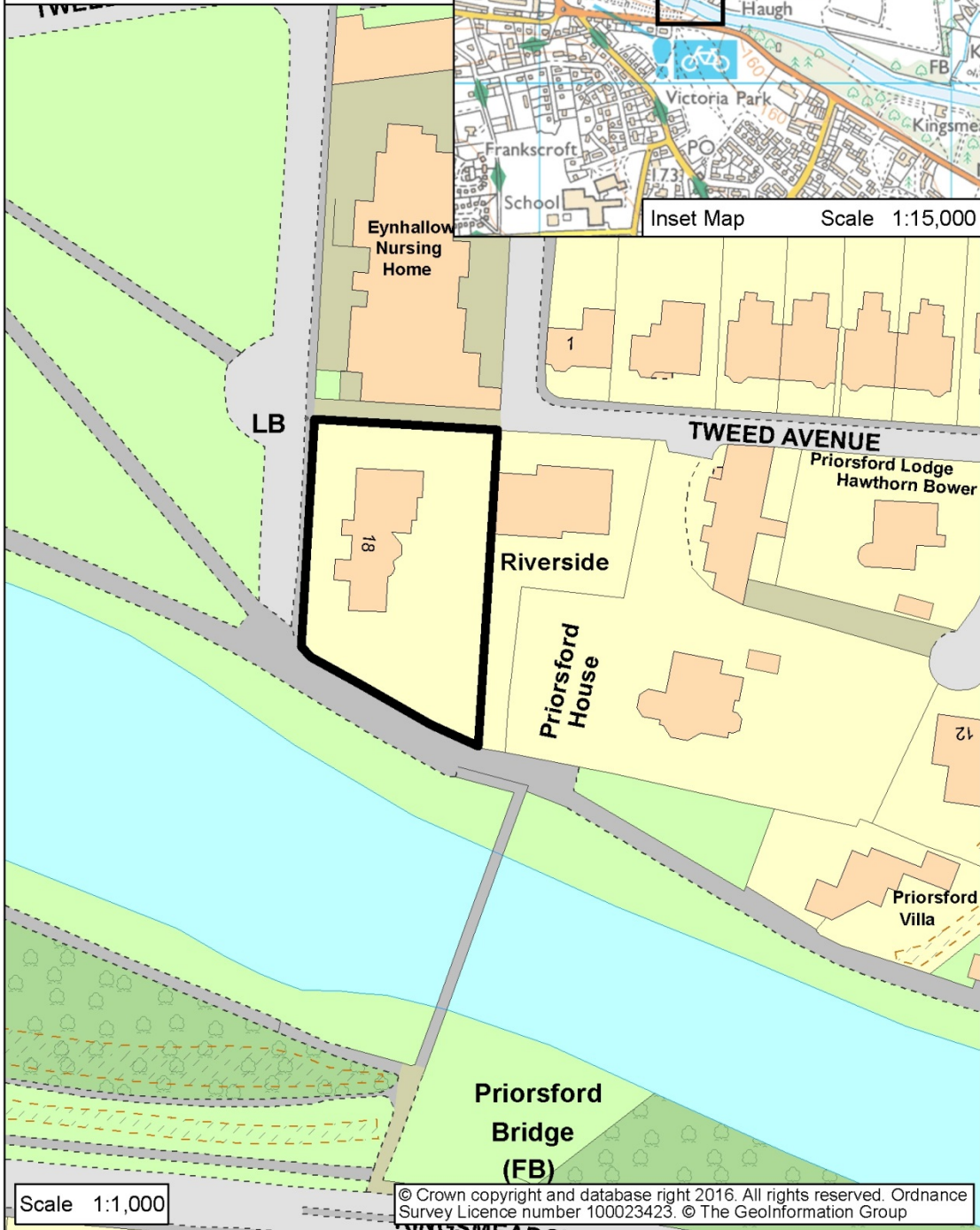


16/00343/FUL

Priorsford
18 Tweed Green
Peebles



Inset Map Scale 1:15,000



Scale 1:1,000

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