

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**9 JANUARY 2017**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 16/01223/FUL
<b>OFFICER:</b>	Carlos Clarke
<b>WARD:</b>	Leaderdale and Melrose
<b>PROPOSAL:</b>	Erection of dwellinghouse and detached double garage
<b>SITE:</b>	Land North West of The Sidings, Lye Road, Darnick
<b>APPLICANT:</b>	Rural Renaissance Ltd
<b>AGENT:</b>	Hypostyle Architects

**SITE DESCRIPTION**

The site is a triangular area of undeveloped ground located within the village of Darnick, and currently used as part of the construction area for a residential development of eight houses being implemented by the same applicant to the north. It is located north of Lye Road, a minor, narrow private track serving a number of other properties further south-east. To the east of the site is a housing plot currently being developed for a single house under a con permission granted to a different applicant. To its south-west is a lane leading to the housing site, beyond which is woodland. The site is bound by hedging and trees to east and south-west. The site is not within the village's Conservation Area, which is located further north. It is located within the Darnick Battlefield Inventory site.

**PROPOSED DEVELOPMENT**

The application seeks consent for a detached, 1¾ storey house, and a detached garage. Access would be from Lye Road, via the lane that currently leads to the housing development to the north. The house would have slate effect concrete tiles and rendered walls, with precast stone details.

During the processing of the application, the site layout was amended to alter the orientation of the house, and relocate its access point further to the south-east. The revised proposals include reference to a scheme to upgrade Lye Road to the Council's adoptable standards.

**PLANNING HISTORY**

Planning permission was granted for eight houses on adjacent land to the north under 15/01016/FUL. The original application at that time proposed a house on this plot, but the proposal was deleted. Access for that site is from Broomilees Road, with traffic management in place during construction to limit use of Lye Road to smaller vehicles. Access to the completed houses from Lye Road would then be by pedestrian pathway only.

Planning permission was granted by the Local Review Body for a house on land to the east under 15/01491/FUL.

Both developments are currently being constructed.

## **REPRESENTATION SUMMARY**

The application has been subject to two rounds of neighbour notifications, the first in response to the initial planning application, and the second in response to revised proposals. Full representations are available to view on *Public Access*.

In response to the initial application, representations on behalf of nine households were submitted. These raise, in summary, the following key issues:

- Lye Road is a private road that is too narrow, uneven, single track, on a hill (treacherous in winter) not street lit, with no passing places, used by walkers, cyclists, horse riders and children from the nearby nursery. It has blind bends and is not suitable for additional traffic. It is badly maintained, and deteriorated recently due to construction work on the existing developments. It is inadequate for the six existing houses that use it. Only two houses were approved in the past here without the road being improved and lighting provided. It is time the road was adopted, with proper surfacing. The legal right of access for the developers is questioned. Ultimately, there are serious concerns over the suitability of the road to cater for extra traffic and the potential safety implications.
- The site was annexed from the previous application, for which only pedestrian access from Lye Road was approved. Access should not be from Lye Road.
- The site has not been used as a market garden in the last ten years.

In response to the revised application, two further representations have been received. The key points, in summary, are:

- Apart from turning the house around, and trying to tempt residents with lighting, upgrading and turning spaces, do not accept that any of the very real concerns have been addressed. The development will still result in four extra cars, the road will still have two blind corners, be well used by walkers, cyclists, horse riders and local nursery and remain a high risk for accidents. The road is too narrow and drivers can't physically see around a blind corner no matter how well prepared and how many lights. Their objections still stand

## **APPLICANT'S SUPPORTING INFORMATION**

In support of the application, a supporting statement was submitted which is available on *Public Access*.

During the processing of the application, a letter in support of the revised proposals notes that works to Lye Road would include two lighting columns and an overlay finish all to adoptable standard. The full letter is available on *Public Access*.

## **DEVELOPMENT PLAN POLICIES:**

### **Local Development Plan 2016**

PMD2 Quality Standards  
PMD5 Infill Development  
IS2 Developer Contributions  
IS3 Developer Contributions Related to the Borders Railway  
IS5 Protection of Access Routes  
IS6 Road Adoption Standards  
IS7 Parking Provision and Standards

IS9 Waste Water Treatment Standards and Sustainable Urban Drainage  
IS13 Contaminated Land  
EP13 Trees, Woodlands and Hedgerows  
EP16 Air Quality  
HD3 Protection of Residential Amenity  
EP8 Archaeology  
EP9 Conservation Areas

#### **OTHER PLANNING CONSIDERATIONS:**

SPG Developer Contributions 2016  
SPG Trees and Development 2008  
SPG Landscape and Development 2008  
SPG Placemaking and Design 2010  
SPG Guidance on Householder Development 2006

#### **CONSULTATION RESPONSES:**

NB. The Council's Roads Planning Service and Melrose and District Community Council were consulted on the original and revised proposals.

##### Scottish Borders Council Consultees

**Roads Planning Service:** A dwelling on this plot was considered as part of the larger development that was restricted to eight houses. The RPS did not feel strongly enough to object to the single-house application for the adjacent site to the east.

This plot is an obvious infill development site and will always be desirable for development from a developer's perspective. Whilst the limitations of Lye Road are still of some concern, the development will effectively be the last area of developable land served by this road. As such, they have no objections to this infill development provided its access is relocated to the southern end of the plot so minimising impact on the adoptable footpath and avoiding the tree root protection area.

The RPS sought a scheme of details for the access to the plot and the upgrading of Lye Road to the site access. This should include construction make-up details, including drainage and geometry, and show how the road will tie in with the adoptable footpath connection from the adjacent eight-plot development. A small turning area is required which can double up as site access and street lighting provision is preferable so as to contribute to the formation of a connected lit route for pedestrians.

They also note that the works and staff compound for the eight-house development currently occupies all the land of this proposed new dwelling, and is accessed via Lye Road. Because of this, a pre-survey condition of Lye Road was carried out prior to work commencing, with the intention of carrying out remedial works at the end of the contract, in the form of an overlay. Furthermore, the sewer connection from this site has to tie in to the existing public sewer which is located half way down Lye Road. This section of road will require a full road reconstruction.

In response to the revised proposals, they are generally content with the revised proposal. There are some minor concerns over the wording used in some of the notes used on the revised site plan, however these can be easily overcome by an appropriately worded planning condition. No lighting design has been undertaken, therefore they would be keen to be less prescriptive in terms of the number of lighting columns to be installed as this may be more or less than two columns. The note which refers to "Lye Road to have new overlay to

from small turning area" requires to be worded slightly different, as this may suggest that it is only the area at the turning area which is to be overlaid. If possible, a condition is sought which requires a scheme of details to be submitted for approval which includes an appropriate lighting design; extent and specification of upgrading works; all works to be to an adoptable standard, and implemented in full before occupation of the house.

**Environmental Health Service:** Condition recommended to obtain written confirmation from Scottish Water indicating that the dwelling will be accepted onto their public water supply. Also seek clarification on capacity of the solid fuel stove, and recommend an informative on design and operation. Note that the application appears to be proposing the redevelopment of land which previously operated as part of a wider commercial nursery which is known to have incorporated boiler heating, ash storage, and chemical storage. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose. A condition is recommended.

**Education and Lifelong Learning:** Contributions of £2438 and £3428 required towards Melrose Primary School and Earlston High School respectively.

**Archaeology Officer:** There are no known archaeological implications. There will be no impacts to the Inventory Battlefield following archaeological survey of this area earlier this year which failed to identify any buried evidence for the battle.

#### Statutory Consultees

**Melrose and District Community Council:** In response to the original application, stated they did not object in principle. They note that there appears to be some dispute as to who owns Lye Road but it appears to be private as opposed to Council-owned. The road is in a poor state especially as it has been used to access the Broomilees site by heavy machinery and it has been dug and filled to access services. The local residents are concerned that the road will only deteriorate further if some action is not taken to improve existing road surface to accommodate increased vehicle movements. For this reason ask if Lye Road can be constructed to an adoptable standard with street lighting and possibly some form of pavement to improve vehicle access and also to make safer for all users as it is popular route for walkers, with possible adoption then by the Council. Also concerns were raised regarding ingress and egress from Lye Road to Smith's Road and Smith's Road to Abbotsford Terrace especially when congested with parked vehicles up to junctions and corners. Suggest the roads service may want to look at these issues to see what measures could be taken to make access and exiting safer for all.

In response to the revised proposals, the CC supports the additions outlined

**Historic Environment Scotland:** No comments

#### **KEY PLANNING ISSUES:**

Whether the development would comply with planning policies with respect to infill housing development within a settlement, including as regards siting, design and layout, but also, in particular, with respect to whether Lye Road is suitable for additional traffic generated by the development

## **ASSESSMENT OF APPLICATION:**

### **Principle**

This site is within the village settlement boundary, as identified by the Local Development Plan 2016, and is not safeguarded for any purpose. The principle of development is acceptable, provided the proposals comply with Policy PMD5 and other relevant policies governing site constraints and development impacts. Relevant matters in these regards are considered below. The site is not valued open space in terms of recreational or townscape contribution, and development of the site for residential purposes would not conflict with surrounding land uses.

### **Access and parking**

Access to the site would be via Lye Road. A house on this site was previously proposed as part of the eight house development to the north, to be accessed from Broomilees Road. However, this application is for a different proposal, with access to be taken from Lye Road, and must be considered on its own merits. The previous proposal was not agreeable because of the additional impact on Broomilees Road of a ninth house. A footpath is to be provided to that development from Lye Road, and this remains the case here. The layout proposed for this single house development has been adjusted during the processing of the application to place the entrance to the plot further south-east, principally in order to limit encroachment onto the path which is to be adopted by the Council. The site layout then incorporates adequate parking and turning for two cars.

Concerns regarding the capacity of Lye Road to accommodate further traffic are acknowledged, particularly given the recent increase in traffic associated with the construction of the eight house development. That traffic has been limited to small vehicles (large vehicles access the site from Broomilees Road) and it is understood that Lye Road is to be repaired following the construction period as part of the Roads Construction Consent. However, this development will lead to further construction traffic and further traffic to serve the house in the future.

The principal concern of the Roads Planning Service (RPS) has been with the quality of the road itself. In response, the applicants have agreed to resurface the road, provide a turning area adjacent the site and provide street lighting, in order that Lye Road can be adopted. It is noted that the plan is a little ambiguous as to the extent of the surfacing works, but correspondence on behalf of the applicants is more specific, referring to the entire length of road. It is understood that there are no legal hindrances to the applicants being able to carry out this work. Also, though outwith the application site, the applicants could resurface the existing road without Planning Permission, and the Council would ordinarily be able to undertake further work, including the provision of lamp standards. The proposals should not, in any case, have significant visual impacts. The turning area may encroach into the wooded area to the south-west, though this will be minor and the trees are relatively slight, forming part of a larger wooded area and may not be affected depending on the final specification of the works. Care will be required over the positioning and specification of lighting columns, which may number more or less than two, and this will require liaison with the RPS on this matter particularly. The link between the road and path should be level to maintain universal access. Adoption by the Council can follow as a matter between the applicants and the RPS. There will be disruption during the works that will need managed, but the net result should be a better road for all users.

It is also to be noted that upgrading the road to adoptable standards is not a requirement of Policy IS6 which requires that roads be to adoptable standards only for developments of five or more houses. This would be the fourth new house built since 1984. However, it is

considered that these improvements are necessary in order to ensure this development has an acceptable impact on road and pedestrian safety in this particular case, to ensure it complies with Policies PMD2 and PMD5. .

Ultimately, upgrading the surfacing of the road, providing street lighting and its potential future adoption by the Council will account for a number of the concerns raised by the Council and local residents. That said, it clearly will not address any concerns regarding the layout of Lye Road, particularly the tight bends onto Smith's Road. As the RPS note, this site is an infill opportunity between housing developments that is always likely to be under pressure for development. It is noted that the RPS have not raised any concerns with the layout of Lye Road (aside from surfacing and street lighting), and its scope to safely accommodate traffic during or after construction of the development. Traffic here is naturally slow because of the constraints on the road, and one single additional house will make a limited additional contribution to the overall level of traffic on it.

### **Design and layout**

The scale of the house will be comfortable between the new houses to the north and larger house being built to the east. It will be of a design, form and materials reflective of the eight house development and will also be a reasonable addition to other modern houses onto Lye Road. A condition can secure details. Level information suggests no major level changes, aside from some upfill for the garage.

The original proposal placed the house facing north-west, effectively fronting the rear of a house within the development to the north, and backing onto Lye Road. The applicants were asked to consider placing the front elevation onto the south-west, so providing a frontage to the path and a flow between houses on Lye Road and the new development. They have, however, chosen to place the house facing south-east. This provides an end-stop to Lye Road which is arguably a reasonable approach since the development to the north is not directly off Lye Road so somewhat detached from it, and since not all houses on Lye Road actually face the road. It also maintains an open frontage to Lye Road in this arrangement. The applicants have also included windows on the south-west elevation to provide passive surveillance of the linking path between Lye Road and the new development behind. Tall fencing is largely behind the house and, where it flanks the path, will be behind hedging and planting. A condition can secure details of fencing and a planting scheme.

### **Ecology**

The site is not designated for ecological interest, and no buildings, trees or hedging will be removed from within the site. There is no likely risk to protected species habitat. As above, the turning area may encroach slightly into the woodland area beyond, though encroachment will be very minor.

### **Trees and hedges**

The layout incorporates a two metre buffer for boundary hedges (albeit, some trimming of the height of hedging along the south-western boundary could, in future, be accepted). The layout also maintains adequate separation to the tree to the north-west, which is protected under the consent for the eight houses. To the south-east, the site layout allows for protection of a tree though doesn't fully account for trees along this corner. There is, however, good separation between these and the house itself and protective fencing is proposed. The trees are of some value, albeit not overriding, and a condition can ensure adequate safeguarding as far as practicable.

As noted above, the turning area may encroach into the wooded area on the other side of the road, but this will be minor and trees may not be directly affected. Minimising impact on trees would factor into our consideration of its detailed specifications, which will be sought by condition.

### **Neighbouring amenity**

Owing to the distances involved and the orientation of buildings, the proposed design and layout should not lead to significantly adverse impacts on neighbouring amenity in terms of privacy, daylight, sunlight or outlook loss, including that of undeveloped houses to the north and east.

### **Archaeology**

The site is within the Darnick Battlefield Inventory designation, but Historic Environment Scotland has raised no issues. As the Council's archaeology officer advises, recent surveys in this area have revealed no findings of note and, therefore, no mitigation is required.

### **Services**

Mains water and drainage services are proposed. A condition can secure evidence of connections, and a sustainable surface water drainage scheme.

### **Contributions**

A legal agreement would be necessary, in the event that consent is to be granted, to provide for contributions towards the Borders Railway and local schools in accordance with policy and supplementary guidance.

### **Air quality**

The applicants have confirmed that the stove will not exceed the limitation of 45KW referred to by the Environmental Health Service. Advice regarding specifications and operation can be covered in an informative note as per the EHS's advice.

### **Contaminated Land**

The site requires investigation due to its historic use as a commercial nursery and resulting potential risk of contamination. This can be addressed by condition.

### **CONCLUSION**

Following submission of a revised layout plan, and subject to improvements being carried out to the surfacing of Lye Road and provision of street lighting, all to standards that would facilitate the Council's adoption of the road, the development will accord with the Local Development Plan 2016. A legal agreement shall be necessary to secure contributions towards the Waverley Line reinstatement and local schools, as shall compliance with the schedule of conditions.

### **RECOMMENDATION BY CHIEF PLANNING OFFICER:**

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

1. Notwithstanding the references on plan AL\_0\_101G no development shall commence until a detailed plan and specifications for improvement works to Lye Road, incorporating resurfacing and new lighting along its length between the site entrance and junction of the road to the east (adjacent Fullarton), have been submitted to and approved by the Planning Authority. The works shall be carried out in accordance with the approved plan and specifications and shall be implemented prior to occupancy of the dwellinghouse  
Reason: A detailed scheme of improvements to Lye Road is required in order to ensure the road is capable of serving additional traffic generated by the construction and use of the dwellinghouse, and in a manner which minimises impacts on existing users of the road during the works, maintains residential amenity and minimises visual impacts, including potential effects on existing trees
  
2. No development shall commence until written evidence is provided on behalf of Scottish Water to confirm that mains water and foul drainage connections shall be made available to serve the development, and until a surface water drainage scheme has been submitted to and approved by the Planning Authority. Mains services and approved surface water drainage measures shall be operational prior to occupancy of the dwellinghouse  
Reason: To ensure the development can be adequately serviced
  
3. No development shall commence until a scheme to identify and assess potential contamination on site, in addition to measures for its treatment/removal, validation and monitoring, and a timescale for implementation of the same, has been submitted to and approved by the Planning Authority. Once approved, the development shall only proceed in accordance with the approved scheme  
Reason: To ensure that potential contamination within the site has been assessed and treated and that the treatment has been validated and monitored in a manner which ensures the site is appropriate for the approved development.
  
4. No development shall commence until a schedule (including samples where required by the Planning Authority) of the external materials, finishes and colours of the house, garage and hard surfacing has been submitted to and approved by the Planning Authority. The development shall be completed using the approved schedule of materials, finishes and colours  
Reason: The materials and colours specified in the application plans and drawings require further consideration to ensure they are visually sympathetic to the context
  
5. No development shall take place except in strict accordance with a scheme of soft landscaping and boundary treatment works, which shall first have been submitted to and approved in writing by the Planning Authority, and shall include:
  - i. location and detailed schedule of new trees, shrubs, hedges and grassed areas, incorporating those proposals identified on the approved site plan, and additional planting and landscaping,
  - ii. design details of boundary fencing specified on the site plan
  - iii. a 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



6. The area allocated for parking and turning on the approved site plan shall be properly consolidated, surfaced and drained before the dwellinghouse is occupied, and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: To ensure there is adequate space within the site for the parking and turning of vehicles

7. Before development commences, protective fencing (of a specification compliant with BS5837:12) shall be erected along the route identified on the approved site plan AL\_0\_101G and shall not be removed until all construction works are complete. There shall be no works (including utilities) or storage undertaken within the protected area unless agreed in writing with the Planning Authority. Following completion of the development, trees and hedges within the site shall be retained and shall not be removed, lopped or otherwise disturbed without the prior approval of the Planning Authority

Reason: To protect and retain trees and hedges that will assist with the visual integration of the development with its surroundings

#### Information for the applicant

Solid fuel heating installations can cause smoke and odour complaints and Planning Permission for this development does not indemnify the applicant in respect of nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted Planning Permission. It is recommended, therefore, that:

- the flue should be terminated with a cap that encourages a high gas efflux velocity.
- the flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.
- the appliance should only burn fuel of a type and grade that is recommended by the manufacturer.
- if you live in a Smoke Control Area you must only use an Exempt Appliance. <http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is approved for use in it <http://smokecontrol.defra.gov.uk/fuels.php?country=s> .
- in wood burning stoves you should only burn dry, seasoned timber. Guidance is available on [http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuel-woodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuel-woodasfuelguide.pdf)
- treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel. Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

#### DRAWING NUMBERS

AL_0_001 A	Location plan
AL_0_002 A	Existing site survey
AL_0_101 G	Proposed site layout
AL_0_102 B	General

#### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

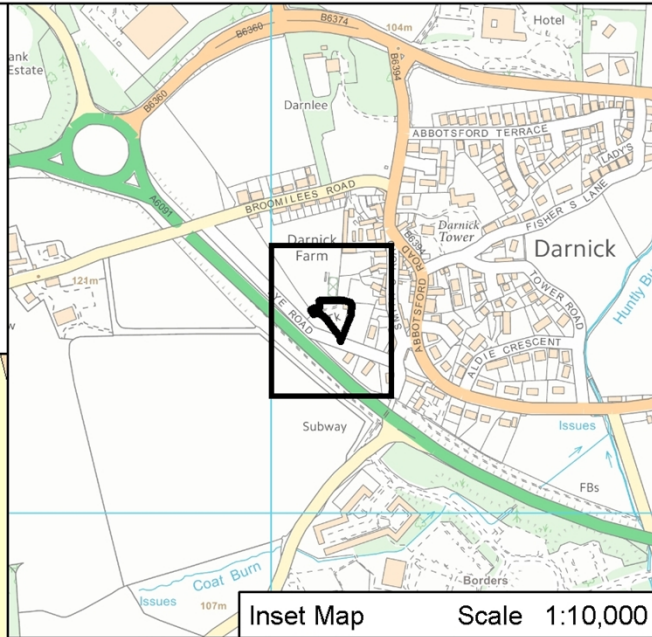
**Author(s)**

Name	Designation
Carlos Clarke	Lead Planning Officer



16/01223/FUL

Land North West Of The Sidings  
Lye Road  
Darnick



Inset Map Scale 1:10,000



Scale 1:1,000

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