

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

6 MARCH 2017

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 16/01239/FUL
OFFICER:	Mr C Miller
WARD:	Tweeddale East
PROPOSAL:	Erection of dwellinghouse
SITE:	Garden ground of The Stables, Bonnington Road, Peebles
APPLICANT:	Mr Russell Brock
AGENT:	Whitelaw Associates

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE

The application was continued from the February meeting of the Planning and Building Standards Committee to enable the Members to visit the site and allow further appreciation of the main factors in determining the application, including access and relationship with surrounding property, including listed buildings.

SITE DESCRIPTION

The site is located within Peebles, to the south-west of the town off Bonnington Road. It consists of garden ground belonging to a dwellinghouse known as "The Stables", comprising of 0.145 hectares and lying to the south of the house. The site also lies to the west of the Category B Listed Building "Reiverslaw", immediately bordering on its western boundary wall and adjoining the glasshouse at the site's north-eastern corner. The site also lies to the west of a modern dwellinghouse within woodland known as "Witch Wood". An open field and stables adjoin the site to the west. The site is within the Peebles settlement boundary as defined in the Local Development Plan but not within the Conservation Area.

The site contained a line of trees on a north-south alignment through the site but these have now been removed, leaving just the northernmost tree. There was also a tree screen along the western boundary of the site with the adjoining field but this has also been cleared to the boundary fence, leaving only a couple of trees in the north-western corner of the site, the remainder of the trees then continuing along the field boundary to the north of the site. A few other trees have been retained adjoining the curtilage wall to "Reiverslaw".

The site has a slight slope from west to east and is currently has an open boundary to the north consisting of further garden ground belonging to the site owners who reside in "The Stables".

PROPOSED DEVELOPMENT

The application has been submitted in full for the erection of a dwellinghouse and double garage. The house will be sited relatively centrally within the site and of general T-shaped form, the main axis of the house running north-south and being

two storey in design. An eastern wing will project towards the “Reiverslaw” boundary of slightly lower height and 1¾ storey design. The pitched roof double garage will be attached to this wing via a garden wall and will face into an entrance courtyard which allows access to the house. Due to the slope of the site, the ground will be excavated and the house cut in towards the western boundary.

In terms of design, the house will have a 35° dual pitched roof clad in natural slate and walls will be a combination of wet dash render and natural stone. The stone will be used on the main house gables and the bay projection to the eastern wing. Windows within the house will be timber and generally of vertical emphasis with mullions and upper astragals. Three velux windows light bathrooms. The west facing elevation will have patio feature doors at ground floor level and a pitched roof glazed projection with first floor balcony. An angled glazed entrance porch will occupy the junction between the main house and eastern wing. The garage will be clad in matching slate and render to the main house with timber doors and upper astragalled windows.

Access to the site will be gained via an existing access from Bonnington Road which currently serves the recent dwellinghouse “Witch Wood” as well as stables and the application site used by the land owners and “Reiverslaw”.

The applicant has submitted a Supporting Statement which is available to view in full on the Council’s Planning Portal website. This refers to drainage, design, siting, legal issues, road capacity and impacts on trees. In particular, it states the following:

- Mains drainage can be connected to south of woodland at the site entrance and with ownership agreement.
- The scale of the house has been reduced with ridge height reductions of 1.2 – 2m, the siting realigned and design improvements added such as natural stone and projecting eaves.
- The junction sightlines comply with all relevant safety standards and the access track will only be used by the site landowners to access their stables rather than the rear of their property, controlled by Legal Agreement. Thus, the additional vehicular usage of the track will not be significant. The track has also not been straightened as shown in previous drawings relating to “Witch Wood”.
- Agree new planting and stone walling as part of any condition, including planting at the south-western corner of the site, to the rear of the plot and to the south. Applicant states his experience in tree and shrub production.

In response to objections from neighbours, the applicant has sent in further emails which are available to view in full on the Council’s Planning Portal, dated 13 November and 27 January. There is also a letter from him dated 12 February. These make a number of points in relation to right of access usage, the safety of the access, the lack of previously requested road improvement, the benefits of new-build to the local economy, precedent set by “Witch Wood”, full site height/level survey, restriction of access rights to The Stables, lack of impacts on neighbouring property and drainage solution being available for current problems. A series of three drainage options have also been submitted.

PLANNING HISTORY

Outline planning permission was applied for on the site in 2002 (02/00687/OUT) for two dwellinghouses, including additional land to the north of the current application

site. Although the Case Officer sought an amendment to only one house which it was considered could have been supported, the application was not amended and was refused for two houses, for the following reason:

“The proposal would be contrary to Policy N17 of the Finalised Structure Plan 2001 - 2011 and policies 2, 18 and 47 of the Tweeddale Local Plan in that it would result in the over-development of the site to the detriment of the setting of the Listed Buildings and amenity of the surrounding area. In addition, in the interests of road safety in that the existing vehicular access to the site is inadequate and is not capable of being improved to the appropriate standard.”

The current application represents revision to a similar application which was submitted in June last year (16/00771/FUL). This application was withdrawn in October and replaced with the current application. The revision represents a number of changes to the proposal which are outlined below in the relevant sections.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning: Raises no objections subject to improvement of the junction of the private access drive and Bonnington Road within public road verge, seeking replacement of the existing concrete surface with tarmac and a widening of the entrance splays within a scheme to be agreed and constructed before any occupation. States the reasoning behind the previously expressed concerns, acknowledging additional information regarding the land owner usage rights of the track being severed by the new development and the new house representing a negligible increase in vehicular movements. Re-appraised the junction issues in the knowledge of land ownership potential restrictions to track widening and provides comments on the good visibility available along the private track and on Bonnington Road itself. Seeks £1000 development contribution towards traffic management and the bridge study in the town. Accepts the revised levels for parking and turning within the site.

Education Officer: The development is within the catchment areas of Peebles High School and Priorsford Primary School, requiring contributions of £1051 and £4170 respectively, based upon management of capacity issues. Would allow the phasing of contributions but also states that contributions can change per year based upon the BCIS index.

Heritage and Design: Requested further information in relation to HES assessment of setting of listed buildings, namely a plan showing the clear arrangement of the house with adjoining houses and a plan showing heights in relation to adjoining houses and buildings. Once corrected information was received, raised no objections to the proposals, citing separation from Reiverslaw, intervening screening, massing reduction, ridge height being slightly lower than Reiverslaw, footprint being smaller than Reiverslaw and materials allowing impact to recess.

Landscape Architect: Supports the application subject to the provision of a revised drawing moving the house and garage two metres west, accurately plotting the southern boundary and track, providing full tree survey details and a detailed new planting plan. Recognises the site is within the Haystoun Designed Landscape and on the edge of the Tweed Valley Special Landscape Area. Previous tree felling has removed part of the backdrop to a listed building and increased visibility of the house. Therefore imperative remaining trees are kept and the development should be

moved westwards to achieve this. Also recommends reinstatement of sections of the tree belt to the north and south of the site, keeping the central western section open. Further survey information required.

Raises no objection to revised plan subject to additional tree species and a plan showing full protection of the retained trees during construction works. Comments on the various drainage proposals, commenting that there may be impacts on root systems with soakaway proposals but that measures such as root protection barriers could be used as long as there is care to avoid Root Protection Areas and care is taken during construction of drainage tracks. At this stage, unable to verify there is sufficient space for a soakaway system but that drainage tracks could use root protection barriers.

Statutory Consultees

Peebles and District Community Council: Response awaited.

REPRESENTATION SUMMARY

Letters of objection have been received to the application from the occupants of six properties in the vicinity of the site. These can be viewed in full on the Public Access website and the main grounds of objection can be summarised as follows:

- The site access is inadequate as it is narrow with limited visibility on a bend and no passing place, resulting in reversing manoeuvres onto Bonnington Road which is a busy road with cumulative development increasing traffic levels generally. Lack of pavements also add to pedestrian risks of increased traffic. The proposal does not resolve SBC Roads Planning objections. Track is long and reversing will still occur, similar to experiences at the Reiverslaw access.
- The claim that the site owners use the access and that the new house would merely replace such usage and not add to traffic numbers is not correct and is an attempt to replace theoretical use with actual use. It should not be considered. Photographic evidence is provided of apparent use only since August. In any case, usage would be far less than that represented by the proposal. The access will still be used for access to stables and this negates any replacement traffic argument. There is no traffic information submitted nor is the Police Scotland report substantiated. Two parking spaces are now claimed to exist on site but were not mentioned in the withdrawn application.
- The suggested junction improvements by SBC Roads Planning do not comply with current practice for separate houses, has limited visibility, restricted entrance width, unexpected and unsigned arrangements, radii issues and pedestrian conflict. The verges are owned privately by objectors, title deeds submitted. Query ability for SBC to sanction such work and who maintains the enhanced junction. Not in the wider public good.
- There is no legal entitlement to use the access to serve the application site for a new house, nor any ability to achieve any widening or passing places. The new application does not resolve the issues previously identified by SBC Roads Planning. "Witch Wood" has not contravened any access track alignment proposals.

- Long standing surface water drainage problems to properties on Bonnington Road which the proposal will worsen. No legal entitlement to reach the public drains within the Jubilee Park development via the land that now accommodates 23-27 Bonnington Road nor down the access track to Bonnington Road. No details supplied in relation to surface water..
- The development of “Witch Wood” was subject to restriction of no more houses within that plot of land resulting in appropriate development with space around it, unlike the current proposal which is overdevelopment to the detriment of the houses and listed property adjoining.
- The site owners and adjoining neighbours are in disagreement over a clause which, in the title deeds, alleges that no development of the land should take place and no buildings erected.
- The dwellinghouse is too large in size, too dominant and would have an overbearing impact on amenity and privacy of neighbouring properties. It could be moved further away. There are no 3D images but there will be unacceptable sunlight, noise and privacy impacts
- The dwellinghouse, by virtue of scale and siting, will have a detrimental impact on the character and setting of the listed building “Reiverslaw”, walls and glasshouse. The footprint will be the same as “Reiverslaw” and a ridge height of over 10m when viewed from “Reiverslaw”. The listing would become compromised. There is no information to allow proper assessment. Views between Conservation Officers have changed since 2002. There is no submitted Design Statement.
- The dwellinghouse design and finish will be out of context with others in the area.
- The proximity to adjoining walls could cause structural issues.
- Drawing 02 appears to show no allowance for the access track to the stables and suggests a movement south of the development by 3.6m making it more dominant.
- The clearance of trees from the site was premature and whilst not illegal, shows disregard for the planning process, the site setting and the local community. There are no precise details of any replacement planting. Drainage routes could impact on tree roots.
- There has been no direct approach from applicant to discuss proposals.
- Inadequate level details have been submitted, resulting in steep inclines at the site entrance.
- There have been frequent changes and inaccuracies in the proposals.

An email from the plot owner supporting the application has also been received and can be viewed in full on Public Access. This responds to the objections, including the following:

- The current landscape is different from that in 2002 due to recent developments.
- There has been little regard to the listed buildings in planning applications previously made by the objectors.
- The Heritage Officer has addressed the issues of scale and dominance in relation to Reiverslaw, Witch Wood having impacts itself on the adjoining property at Bonnycraig.
- The plot owner has a 50% share of the access road, the objectors having no greater a share combined. The access is acceptable to Roads Planning and there are other access improvements possible by the objectors.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Local Development Plan 2016

Policy PMD1 Sustainability
 Policy PMD2 Quality Standards
 Policy PMD5 Infill Development
 Policy HD3 Protection of Residential Amenity
 Policy EP5 Special Landscape Areas
 Policy EP7 Listed Buildings
 Policy EP10 Gardens and Designed Landscapes
 Policy EP13 Trees, Woodlands and Hedgerows
 Policy IS2 Developer Contributions
 Policy IS7 Parking Provisions and Standards

OTHER PLANNING CONSIDERATIONS

“Trees and Development” SPG
 “Privacy and Sunlight” SPG
 “Placemaking and Design” SPG

Scottish Historic Environment Policy (SHEP)

KEY PLANNING ISSUES

The main determining issues with this application are compliance with Development Plan Policies and Supplementary Planning Guidance on infill development within residential areas and within the setting of listed buildings. In particular, siting, scale, design, impacts on road access, residential amenity, trees and landscape.

ASSESSMENT OF APPLICATION

Planning Policy

The site is within the settlement boundary of Peebles and is not allocated for any specific purpose, nor is it within the Conservation Area. The main Local Development Plan Policy to be applied is that governing infill development, PMD5 in the Local Development Plan. This Policy encourages development where a series of criteria are satisfied, including conforming with the area character, not leading to over-

development, respecting scale and design, adequacy of access/services and no significant impacts on residential amenity.

Assessing the application against these criteria:

- *The site must conform with the established land use of the area* - as the surrounding area is predominantly housing, this criterion is met. Other infill houses have been developed in this part of Peebles in recent years including development behind main frontage houses.
- *The site must not detract from the character or amenity of the area* – the house is of appropriate form, design, height and finishes and will comply with this criterion.
- *The site must not lead to overdevelopment* – the site is adequate to accommodate the house and garage proposed without the density of the area being contravened. The proportions of house and garden to overall plot are not excessive and do not appear out of context with the development pattern and spacings in this part of Bonnington Road.
- *Respects scale, form, design and materials* – the proposals are sympathetic to the site and surroundings as explained below.
- *Adequate access and servicing* – this can be met as explained below.
- *No significant loss of daylight or privacy* – the proposals are acceptable as explained below.

Officers were clearly in a position of being able to accept infill development on this land when considering the earlier application in 2002, albeit that application was for a larger area of garden ground. This application is for one house on the southern part of the site which is nearer “Witch Wood” but with greater spacing and separation from other houses to the north and east. It is therefore considered that the development, with appropriate conditions, will meet the various criteria listed in the appropriate infill development Local Development Plan Policy PMD5. The site is a suitable infill opportunity and the proposed development complies with the Policy.

Listed Buildings

The site lies to the rear of Reiverslaw, a Category B Statutorily Listed Building, complete with lodge house, walls, garage and glasshouse. Their protection and setting are governed by LDP Policy EP7. The Heritage and Design Officer had initially sought additional information regarding the development in order to fully understand the relationship of the proposed house with Reiverslaw to the north-east. A submission was then received showing this relationship indicating a 53m gap at the closest point from house to house. The glasshouse is closer at approximately 22m. The site itself does lie on higher ground than Reiverslaw which is estimated to be in the order of 3m difference in floor levels, the proposed house being excavated into the site and the rising ground to the west being retained.

The proposal suggests that the ridge height of the proposed house will be 8.2m above the finished floor level, this ridge height being shown to be just below the ridge height of Reiverslaw. The owners of Reiverslaw dispute the ridge level relationship, highlight errors on the revised drawing and believe this impact will be dominant and affect the setting and thus, conflict with Council and National Policy on setting of listed buildings. They also believe the footprint will be excessive and be the same as Reiverslaw, all contributing to a scale of house which would not be “subservient” to Reiverslaw and that would impact detrimentally on its setting. The quote is lifted from

the Heritage Officer's comments on the earlier withdrawn application submission where he felt the submitted design was too dominant.

The Heritage Officer was then responding to a design with almost 12m gable width and 25 degree roof pitch, being wholly two storey with asymmetrical pitches, cantilevered balconies and largely rendered walls. Whilst slate and other traditional materials and features were proposed, they did not produce an overall sympathetic and coherent design which integrated with, rather than competed against, Reiverslaw. The house was also not set into the slope of the site, leading to increased dominance from Reiverslaw.

The current application made various revisions to attempt to improve subservience with Reiverslaw and reduce impacts on the setting. These included the following:

- A reduction in overall footprint by approximately 30 square metres.
- A realignment of the house to straighten the skewed alignment
- A further movement of the house and garage two metres west.
- A restriction of the main two storey axis to a North/South alignment with a reduced height 1.75 storey wing to the east.
- An excavation of ground resulting in a reduction in height AOD of between 1.2 and 1.9m to ridge
- Various design and material improvements including gable width reduction, more sympathetic roof pitch and wider use of natural stone – see Design Section below.

Whilst a decision should be made on the acceptability of what the current submission is, rather than what was unacceptable about the withdrawn application, it is still important to note the progression and improvements in the design, in relation to how it impacts on the setting of the listed buildings.

The Heritage Officer now considers that the scale and design of the building have been reduced and improved to the extent that the impact on the setting of Reiverslaw is acceptable. He calculates that, in terms of footprint, Reiverslaw remains the dominant building and that, with ground level reduction, the new ridge will be just below that of Reiverslaw. The reductions, realignment, design and material changes, when combined with the distance and oblique view, determine that the impacts on setting do not substantiate a refusal of the application for these reasons. The principal elevation of Reiverslaw remains eastwards facing towards Bonnington Road and the impacts of the house on the rear setting towards the south-west do not justify refusal of the application. Subject to conditions securing a suitable natural stone sample and appropriate colours of external materials, the Heritage Officer is content that the impacts on the listed buildings are acceptable and in compliance with Local Development Plan and National Policy. I concur with these views. Although criticised by objectors, the quality and detail of the design statement wording in the applicant's submission have not led to any different conclusion.

Design and Residential Impact

Policies PMD2, PMD5 and HD3 of the Local Development Plan require appropriate design and quality standards to be applied to all new development and there to be no significant adverse effects on residential amenity.

In terms of design and materials, Policy PMD5 seeks respecting of the surroundings and PMD2 seeks scale, massing, design and materials to complement the highest

quality architecture in the area. The surroundings to the site are influenced by traditional buildings such as Reiverslaw and The Stables to modern houses such as Witch Wood and the new houses along the eastern side of Bonnington Road. Whilst the Heritage Officer suggested he did not wish to see a design which competed with the listed building at Reiverslaw, it is understandable that the design would pick up on the surrounding influences whilst not directly copying them. Thus, whilst Witch Wood is a highly successful timber clad contemporary design within the context of its wooded site, there is no reason to seek a similar timber clad design on a linear garden site between a walled garden and an open paddock. If elements of traditional materials such as slate, natural stone, wet render and timber detailing could be combined with an appropriate design, then there would be no reason to consider such a design inappropriate in the mixed age development context, complying with the relevant criterion in Policy PMD2.

The issue previously with the withdrawn application was that, whilst some of these materials were present, the wide plan depth, shallow roof pitch, skewed alignment, excessive floor level height and confused arrangement of windows, doors and elevations led to a design which was not integrated with, or complemented, its surroundings. However, the withdrawal of that application and resubmission of the current proposals has led to a design which responds better to its surroundings and, subject to appropriate external materials controlled by condition, can be considered acceptable and in compliance with Policies PMD 2 and PMD5.

The slate roofs of differing heights with integral gable end chimneys, projecting eaves and pitched dormer projections present a much more sympathetic roofscape than the previous design. The use of natural stone on the gable ends of the main house axis combined with feature panels on the 1¼ storey wing improve the design as do the banded and astragalled timber windows. These retain a strong vertical emphasis due to the use of mullions where necessary. The glazed porch and improved matching treatment of the garage improve the main front elevation and entrance. The elevation facing west is concealed to the public and contains more contemporary elements where their inclusion has less impact or comparison with surrounding architecture.

Overall, the relevant Local Development Plan Policies on design can be complied with at the next planning stage and subject to the aforementioned conditions

Residential amenity is covered by Local Development Plan Policy HD3 and the Supplementary Planning Guidance Note on Privacy and Sunlight. Amenity, privacy and sunlight concerns have been raised by residents of the neighbouring properties at Reiverslaw and Witch Wood, compounded by the perceived height of the dwelling and the elevated land on which it will be situated. However, the distance and alignment relationship of the proposed house with both affected houses and gardens is well within the guidelines and tolerances expected and advised in the relevant SPG.

The generous garden grounds around Reiverslaw result in 53m between houses corner to corner, separated by screening within the current grounds. The proposed gable nearest the grounds, in any case, only proposes two small bathroom windows to first floor with ground floor patio door overlooking screened by the wall. Whilst window to window overlooking is well within the guidelines, the potential overlooking of the outer garden ground of Reiverslaw justifies a condition to ensure no further windows are proposed on the eastern gable of the proposed house wing. All other windows proposed are distant and/or obliquely angled.

Although distances are less to Witch Wood, the same applies in relation to privacy impacts. There is an approximate distance of 34m house corner to corner but the houses are obliquely aligned to each other. Any line of sight from the habitable room windows at Witch Wood is at such an angle from the windows of the proposed house that, when combined with the distances, the impacts are not significant and well within the guidelines in the relevant SPG. This is also allowing for the increased height of the windows due to the rising ground. The immediately adjoining garden ground to Witch Wood is not as potentially overlooked as that of Reiverslaw, albeit the eastern gable window restrictions and intervening proposed garage will protect privacy to an improved degree. Proposed new planting around the proposed house will also help diffuse impacts, to be controlled by condition.

There is also no significant impact on daylight or sunlight to the aforementioned houses, albeit there are concerns raised. The distances and oblique angles mean that whether the 25 or 45 degree angles are assessed, there is no obstruction to daylight that would have any material impact on the properties. In terms of sunlight, the affected houses are again sufficiently distant not to experience such an impact that refusal would be substantiated. As the SPG and relevant Building Research Establishment advise, there are no obstructions above a 25 degree subtended line from potentially affected windows and, therefore, no further sun path analyses are required. Whilst some trees have been felled, there is also impact from the trees that remain both around the site and to the south and surrounding the potentially affected houses.

For the aforementioned reasons and subject to conditions, it is considered that Policies PMD2, PMD5 and HD3 of the Local Development Plan are met in relation to design and residential amenity.

Access and parking

Policy PMD5 of the Local Development Plan requires developments that generate traffic to be capable of being accessed safely and Policy IS7 seeks adequate parking provision. This development will be accessed from the private track that is shared between the owners of Witch Wood, Reiverslaw and The Stables, the latter accessing stables and a paddock to the south-west of the site. There is much information and comment in the objection letters regarding the legal rights to use this access for the development of a new house, the objectors believing there is no legal entitlement to use or widen this access. There is also much concern over the narrow and perceived unsafe nature of the access, leading onto an increasingly busy Bonnington Road. To clarify matters for Members of the Committee, all references to The Stables below refer to the plot owners' current dwellinghouse, the site being part of the garden ground. References to stables are actual stables within the paddock to the west of the site, also owned by the same owners.

These issues were made known during processing of the previous withdrawn application when Roads Planning were of the opinion that the access needed to accommodate two traffic flows at the junction either by junction widening or by a passing place within the site. The concern was that without such a provision, there would be too far to reverse for a car up the track leading to the unsafe possibility of cars reversing out onto the public road at the junction. Objectors and the applicant have differing opinions about their legal abilities to secure such improvements.

With the current application, the applicant has advanced an argument based upon replacement of traffic flows, claiming that the access is 50% owned by the plot owners who reside at The Stables and who, once the new plot is developed, will be

giving up their rear access usage to The Stables, only retaining their access to the stables and paddock to the south-west of the plot. The argument is that the new development will simply replace such traffic and that the junction is currently safe to accommodate the traffic flows. Counter arguments have been lodged to state that the access has only recently been used as a rear access to The Stables and that it has been introduced to suit the argument being advanced over replacement traffic flow. The objectors also argue that the traffic flows from the size of house proposed would far outweigh any occasional rear usage to serve The Stables and that the junction and track are incapable of safely accommodating the additional traffic.

Roads Planning have taken all the factors into account and have raised no objections, following re-appraisal of the access point and taking into account the replacement traffic claim. They accept there is little evidence to demonstrate current and proposed vehicle movements but accept the principle of replacement traffic could be partly comparable. In accepting that there would appear legal difficulties in improving the access, they have reassessed the junction. They have identified good forward visibility approaching the junction and adequate visibility when leaving the junction. They feel that drivers waiting to turn in can see along the track into the site to see if the track is clear. If it isn't, the waiting vehicle can clearly be seen from both approaching directions. Roads Planning are now accepting the proposal following the additional information on traffic usage replacement and the reappraisal of the junction. This is a position not accepted by the objectors who have lodged further concerns on the stance of Roads Planning, viewable on Public Access.

Roads Planning have some concern over the junction surface and potential for verge overrun if a vehicle is exiting and one is waiting to turn in. They identify that the verge crossing within public road boundary could be replaced with tarmac and that a scheme should be submitted, as a condition of planning permission, to secure the new surface with entrance splay enlargement to cope with verge overrun. As the works are within the public road boundary, Roads Planning identify that the works are achievable. Objectors have submitted title deeds claiming the verges are within their ownership and that there is no public good being served by the amendments within public verge, simply acceding to the wishes of one house developer.

Whatever the position on previous access usage to the rear of The Stables, the fact is that there are access rights, given also that the garden runs to the edge of the track. The rights do not appear to be disputed, just the pattern and frequency of usage. Given that there are rights, it is understandable why Roads Planning have reassessed the junction on the basis of net replacement traffic flows. However, as this was an important reason for the reassessment and ultimate acceptance of the proposal, it is essential that the access right to the rear of The Stables is extinguished as part of this application. Although the applicant makes this assertion in his supporting statement, there would still be the ability for the owner of The Stables to reach his garden ground via the track and paddock to which he would still retain access.

It is understood that the owners of The Stables would be willing to enter into a Legal Agreement to ensure that the only vehicular access they would take along the track in question would be to the stables and paddock and not to their actual house or garden. This could be included as an additional clause in the Legal Agreement required for development contributions.

In terms of all other access matters, it is clear that Roads Planning are not objecting to the junction and access, subject to the improvements identified being carried out within public road verge. This would be attached by planning condition to be carried

out to an agreed scheme before house occupation, by a contractor entitled to work within public road. Although objectors dispute how such work can be sanctioned within their ownership without their approval, the Council has previously successfully required and defended such works within public road under the Roads Scotland Act 1984. Although objectors claim it is facilitating and assisting one developer rather than it being in the wider public good, it will introduce a better junction for the current users which benefits road safety in the area. Any perceived increased usage of the access is accepted by Roads Planning on the basis of the improved junction and the current visibility available at the access. Any arguments over legal rights of usage remain private civil matters for discussion amongst the relevant landowners.

Subject to the aforementioned Legal Agreement and condition, it is considered that the development can be accessed safely and, thus, in compliance with the relevant Local Development Plan Policies.

Trees and Landscape

Policies EP10 and EP13 apply to this site, relating to trees and landscape within development sites and the Haystoun Designed Landscape. The site also borders the Tweed Valley Special Landscape Area protected by Policy EP5. The site previously had a row of beech trees within it and further woodland on the western boundary which have now been removed. This removal and site clearance was not encouraged by the Department but, nevertheless, does not constitute any breach of planning control or legislation. The trees were not protected.

When Witch Wood was developed, the retention of trees within and around that site was considered an important part of that development, the house being fitted into its wooded setting and taking part of its influence from that setting. Those trees within that site are now protected by planning condition and it would be the intention to retain the remaining trees within the current application site, in order to maintain the backdrop to Reiverslaw, the integrity of the Haystoun Designed Landscape and the boundary of the Tweed Valley Special Landscape Area as identified by the Landscape Architect.

Whilst the tree removal that has taken place is regrettable, the Landscape Architect does believe that the development can be supported subject to adequate protection of the remaining trees and suitable replacement planting, including trees outwith the site to the south. Further revised plans were submitted moving the house over two metres westwards to reduce potential impacts on trees within and outwith the site and clearer notes were included on what trees were being retained, including trees to the north and south of the site. New planting proposals have also been submitted including replacement trees to all sides of the house, the western side being kept open in the vicinity of the main west-facing elevation.

The Landscape Architect is content that the revised drawing indicates acceptable proposals, repositioning the house and allowing for better retention of existing trees as well as acceptable new planting. However, further information would still be required before the development commences relating to definition of existing tree Root Protection Areas, additional new planting proposals, walling details and any further boundary enclosure details. Conditions can cover these requirements as well as the need for protective fencing around retained trees during construction works. Subject to these, the development can be considered in compliance with Policies EP5, 10 and 13 of the Local Development Plan.

Drainage

Policy PMD5 of the Local Development Plan requires development to be capable of adequate services, including drainage. Policy IS9 seeks waste water drainage to the public sewer within settlements and surface water to a suitable SUDs system. There is much comment in the objections on drainage and surface water flooding problems, including comment on the legal abilities of the applicant to achieve an access route to the public sewer connection within or near to the Jubilee Park development. It is noted by objectors that the applicant states that relevant drawings will be made available to view and that these had not been submitted. The applicant does claim he has the ability to connect to the public sewer.

The applicant has been asked to provide further details on how the site will be provided with satisfactory drainage and these have been shown schematically on three alternative plans. These all indicate a route eastwards down the access track, under Bonnington Road then travelling south and east along the edge of woodland bordering the former Cala Homes development before connecting to the sewer for foul drainage. Surface water would either be dealt with by soakaway on site or routed east of Bonnington Road into either a soakaway or redundant existing drain.

The drawings lack any further detail at this stage. However, the plot is within the town settlement boundary and it would be highly unlikely that adequate infrastructure and a drainage system could not be provided for the development. The issue, in any case, is a matter for Building Regulations and agreement at Building Warrant stage. Any legal restrictions and entitlement are not a matter for debate in assessment of the planning application and should not influence the decision on the application.

Nevertheless, given the presence of constraints such as listed walls, retained trees, excavation of ground and ground levels towards Bonnington Road, it would be justified to seek proposals by condition to enable the constraints and impacts to be considered, in liaison with Building Standards and the Landscape Architect. Subject to the condition, there would be no justifiable planning reason to oppose the application on the grounds of a claimed legal inability to achieve drainage.

Other issues

Although all other issues have been considered, none are raised that would outweigh the consideration of the application as set out above. Any legal arguments over rights of access, land ownership and previous clauses on the land remain private legal matters to be discussed between the affected parties and should not affect the outcome of the application. Planning permission does not override the need for all necessary legal permissions to be met.

Developer Contributions

Local Development Plan Policy IS2 requires new residential developments to contribute towards certain infrastructure and affordable housing stock, as currently identified. This development will require contributions towards Peebles High School, Priorsford Primary School and Peebles Bridge/Traffic Management in the town. The contributions have been discussed with the applicant and it has been confirmed that they will be met via Section 69 Agreement. Thus, if Members are minded to accept approval of the planning application, consent can only be issued upon conclusion and registration of the Agreement.

CONCLUSION

Subject to the conditions listed below and the conclusion of a Legal Agreement covering development contributions and access restriction to “The Stables”, the development is considered to comply with the Local Development Plan Policies and Supplementary Planning Guidance on infill development within residential areas and within the setting of listed buildings.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to the following conditions and to a Legal Agreement, relating to development contributions and access issues:

1. 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. Details of the scheme shall include (as appropriate):
 - i. existing and finished ground levels in relation to a fixed datum preferably ordnance
 - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored – including trees within and immediately adjoining the site boundary, to be identified by tree survey and Root Protection Areas plotted.
 - iii. location and design, including materials, of walls, fences and gates
 - iv. soft and hard landscaping works including replacement planting
 - v. existing and proposed services such as cables, pipelines, sub-stations
 - vi. other artefacts and structures such as street furniture, play equipment
 - vii. A programme for completion and subsequent maintenance.

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

2. The trees on and adjoining this site, which are identified as per Condition 1 to be protected, shall be protected at all times during construction and building operations, by the erection of substantial timber fences around the trees, together with such other measures as are necessary to protect them from damage. Details of the methods it is proposed to use shall be submitted by the applicant to the Planning Authority and be approved by them in writing. The approved protective measures shall be undertaken before any works commence on the site and must, thereafter be observed at all times until the development is completed. Once completed, the trees to be retained thereafter in perpetuity.

Reason: To ensure that adequate precautions are taken to protect trees during building operations.

3. A scheme of junction improvement of the access track with Bonnington Road shall be submitted for the approval of the Planning Authority, detailing a resurfacing of the concrete surface within public road verge with 75mm of 40mm size single course bituminous layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming blinded with sub-base, type 1. The scheme also to include enlargement of the access splays. Once approved, the scheme to be completed before occupation of the dwellinghouse.

Reason: In the interests of road safety.

4. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls, roofs, windows and doors of the buildings have been submitted to and approved in writing by the Local 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 its setting.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent provisions amending or re-enacting that Order), no additional window or other opening shall be made in the eastern elevation of the eastern section of the dwellinghouse unless an application for planning permission in that behalf is first submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the privacy and amenity of the occupiers of adjacent property.

6. No development to be commenced until fully detailed design proposals for foul and surface water drainage have been submitted to and approved by the Planning Authority. Once approved, the development then to be carried out in accordance with the approved design proposals.

Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.

DRAWING NUMBERS

L1 Location Plan Rev A

01 Existing Site Plan

02 Proposed Site Plan Rev

02 Proposed Site Plan Rev D

04 First Floor and Roof Plans

05 South and West Elevations

06 North and East Elevations

Revised Application – Applicant’s Statement

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.

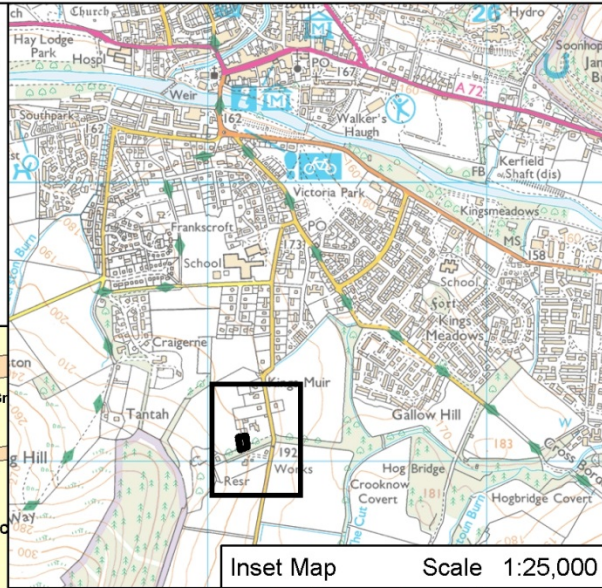
Author(s)

Name	Designation
Craig Miller	Lead Planning Officer

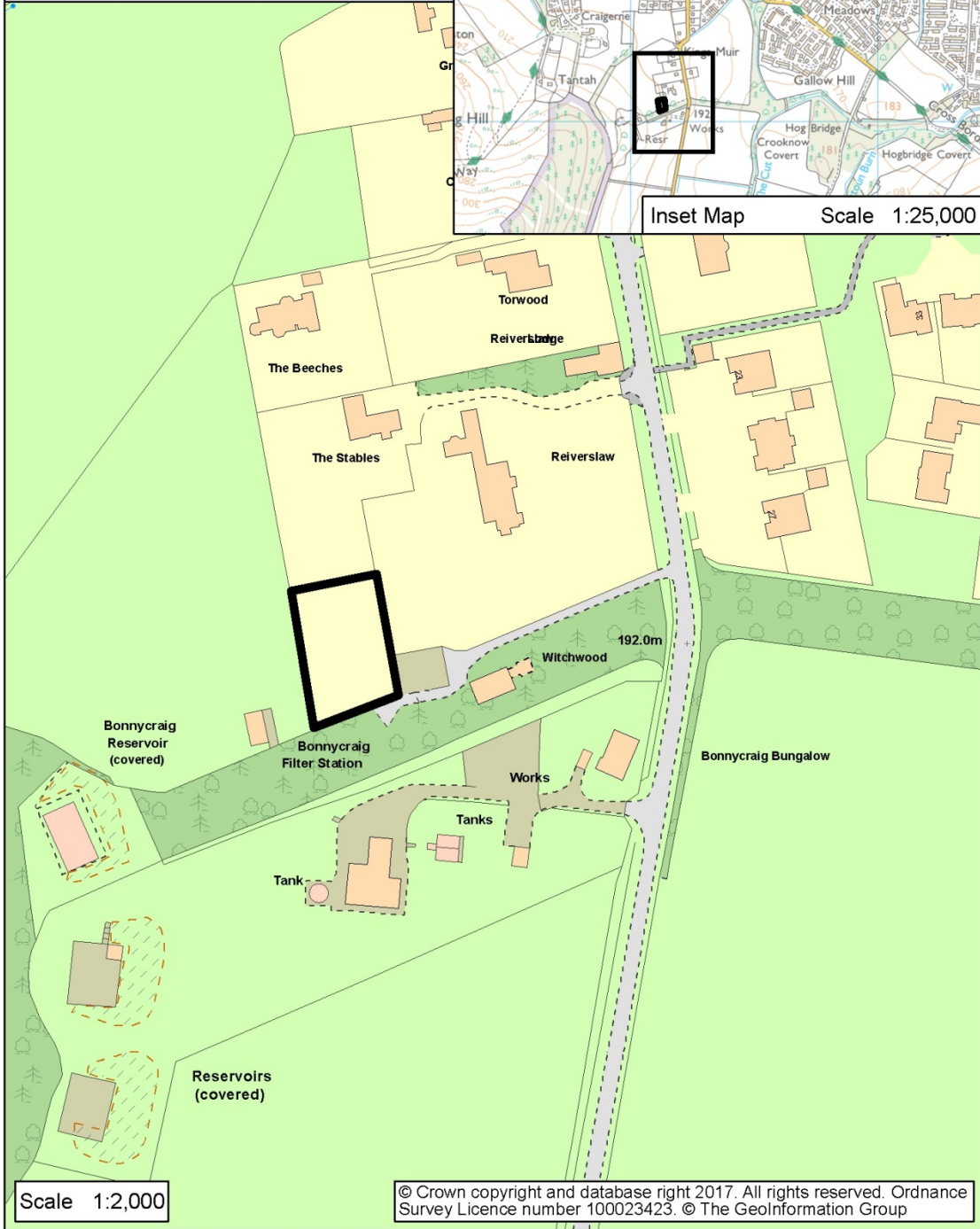


16/01239/FUL

Garden Ground Of The Stables
Bonnington Road
Peebles



Inset Map Scale 1:25,000



Scale 1:2,000

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