
**SUPPLEMENTARY PLANNING GUIDANCE:
LANGTON EDGE, DUNS - PLANNING BRIEF**

Report by Service Director Regulatory Services

PLANNING AND BUILDING STANDARDS COMMITTEE

27 March 2017

1 PURPOSE AND SUMMARY

- 1.1 This report seeks the approval of Supplementary Planning Guidance in the form of a planning brief for Langton Edge, Duns.**
- 1.2 The Langton Edge site at Hardens Road in Duns is allocated in the adopted Local Development Plan 2016 for housing (BD200). The site is allocated under policy PMD3 - Land Use Allocations. The Council has prepared this brief in order to lay down how the site could be developed, creating a development vision, identifying opportunities the site offers, addressing potential constraints, identifying required development contributions and encouraging good quality new development. The brief will provide guidance to any developer or any other interested party and will be a material consideration when determining planning applications. The planning brief is set out in **Appendix A**.
- 1.3 This report brings forward the revised planning brief following the public consultation. A summary of the consultation responses is set out in **Appendix B** along with the Council's responses and recommended amendments to the brief where considered appropriate. One key point to note is that a Section 50 Legal Agreement was put in place on the land as part of the granting of planning consent for housing associated with an extension to the Duns Golf Club in 1994. Part of the lengthy delay in referring this planning brief back to the Planning and Building Standards Committee was due to implications the Legal Agreement had on the implementation of this development. This is explained further in part 4 of this report, although fundamentally the Legal Agreement will require to be amended to allow development of this land. The amendment to the Legal Agreement will be subject to a separate formal application to the Council.

2 RECOMMENDATION

- 2.1 I recommend that the Planning and Building Standards Committee approves the planning brief as Supplementary Planning Guidance to be used as a material consideration to any proposal for the development of the site.**

3 BACKGROUND

3.1 In 1994 planning consent was granted for 15 no houses on land at Langton Edge, Duns. This consent was granted in tandem with a proposal to extend the Duns golf course on land to the south west of the site. As part of the approval a Section 50 Legal Agreement was entered into between the land owner and the Council. In essence the main component parts of the Legal Agreement were that :

- a) No further houses were built on the land immediately adjoining the 15 no houses (this relates to land subject to this SPG)
- b) Land on the northern part of the site, which adjoins the main Hardens Road, to be provided for car parking for 3 no users in the immediate vicinity: the Duns Rugby club, the Duns Golf Club and users of a possible new sports facility on land to the south which the Council had an interest in pursuing
- c) footpath provision from the aforesaid parking area to the golf course extension
- d) when the Duns Rugby Club vacate the land their pitch is on (located at the extreme eastern end of the SG site) it should revert back to agricultural use

The 15 no houses, known as Wellrig Park, and the golf course extension have long been completed.

3.2 The land owner then applied to have land on either side of the 15 no houses included within the Local Plan 2008 as a housing allocation. Although this was opposed by the Council, following the Examination of the Plan the Reporter recommended the land should be incorporated. Consequently the land was allocated for housing within into the adopted Local Plan 2008.

3.3 The land subject to this SPG is split into two parts. The Duns Rugby Club have now vacated the rugby pitch and have moved to land within the grounds of the former Duns High School.

3.4 Following the incorporation of the land into the Local Plan, a draft planning brief was prepared to indicate how the site could be developed. The draft brief was agreed by the Planning and Development Committee in January 2009 and was sent out for a 12 week public consultation.

4 OUTCOME FROM PUBLIC CONSULTATION

4.1 Following the public consultation of the planning brief responses were received from a total of 11 no parties. A summary of these submissions and the Council's response can be viewed in **Appendix B**.

4.2 Taking account of these submissions along with any other relevant update requirement the following amendments have been incorporated into the brief:

- It is accepted that there is likely to be an issue in respect of stray golf balls entering the development site from the second hole of the course located along the southern boundary. The brief takes cognisance of this and has extended the indicative buffer area in the vicinity of the mutual boundary with the second hole, stating that no houses should be built within this area. This would be fully addressed and the exact boundaries confirmed via the Development Management procedure when a formal application is submitted which will confirm where houses are proposed to be built. The extent of the buffer area and any boundary fencing, etc. can be considered at that stage.
 - Text to be added to re-affirm the need to address any surface water, sewerage and reed bed aromas on the site.
 - Where relevant, an update of the text, maps and policy references has been carried out to reflect and changes to relevant national and development plan policies since the draft brief was prepared.
 - An update of Council contacts has been made within Appendix A of the brief.
 - An update of any other material references or circumstances referred to within the brief, including for example, developer contributions and reference to the Council's Placemaking and Design Guidance 2010.
- 4.3 Since the public consultation on the draft planning brief the delay in the processing of this brief has largely been due to the requirements of the Section 50 Legal Agreement and any consequent perceived impacts it may have on the planning brief. The Council has had many meetings and exchanged correspondence with the land owner and other interested parties. Ideally it would have been desirable to have all parts of this brief confirmed and agreed prior to the referral back to the Planning and Development Committee. However, due to outstanding matters relating to the Legal Agreement, regrettably this has not been possible to resolve.
- 4.4 The main issue for the delay with regards to the Legal Agreement was in respect to trying to resolve the requirements of any required parking area on the northern part of the site. The land in question is elongated in shape, it runs alongside the public road and is located between the main access into Wellrig Park and the property known as Rathowen. Within the terms of the Legal Agreement the land was to be made available for the use of parking by the Duns Golf Club, Duns Rugby Club and for the purposes of a recreational facility the Council was considering providing on land to the south of the site. It is accepted by the Council that the Rugby Club have now vacated the area within the eastern part of the site (they have moved to land within the grounds of the former Duns High School) and therefore they no longer operate from Langton Edge, and that the Council no longer wish to pursue nor require the land to the south of the site for any recreational facility. Consequently there is no reason for part of this land to the north to be used for any parking provision for these users

- 4.5 However, the formation of a parking area identified in the Legal Agreement for use by the golf club remains unresolved. This matter has been subject to extensive debate and meetings but an agreement as to its formation or otherwise has not been met. The golf club state that they still have an interest in the land being developed for parking while the land owner feels any embargo on the land as part of the Legal Agreement should be lifted as the golf club have not utilised nor he claims have shown interest in forming the car park since the Agreement was put in place.
- 4.6 The Legal Agreement does specifically prevent the development on any part of this land for housing. It had therefore been suggested that if a parking area is not formed then some alternative agreement, between the golf club and the land owner could be reached. Despite both sides appearing to agree this would be possible, no such agreement has been reached. Consequently this part of the site remains blighted for residential development due to the Legal Agreement. Officers now consider that despite considerable efforts an agreement between the two parties will not be reached and there is no reason for delaying the brief being referred to the Planning and Building Standards Committee.
- 4.7 The Legal Agreement remains in place and in order to allow the development of the land subject to this brief to be implemented it will require to be amended. Although the planning brief takes cognisance of the requirements of the Legal Agreement, the brief does not replace it. Any consequent amendments to the Legal Agreement will require the submission of a separate application to the Council for consideration.
- 4.8 It is therefore concluded that the most appropriate means of resolving this outstanding issue is that, within the planning brief, it should be stated that the land identified for parking for the golf club may or may not be released for housing development and that this would be fully addressed when and if a separate application is submitted to amend the Section 50 Legal Agreement. Once this is confirmed via the application, the planning brief can be amended accordingly. It is considered that any other necessary amendments to the Legal Agreement to allow the development of this allocated site should be straightforward to resolve.

5 IMPLICATIONS

5.1 Financial

There are no substantive cost implications arising for the Council. There is budget to cover the necessary consultation elements.

5.2 Risk and Mitigations

Risk of not producing guidance

- a) The lack of guidance would cause uncertainty to developers and the public and be a barrier to effective decision making by the Council. This could result in ad hoc and inconsistent decision making with the policies in the Local Development Plan not being taken fully into account.
- b) Failure to produce the Supplementary Planning Guidance would reflect badly on the Council's commitment to improve the design of new developments.

- c) It is considered that the failure to approve the planning brief for Langton Edge, Duns would have resource impacts in the Development Management Section, potentially resulting in delays processing planning applications. In addition, it may ultimately impact on the quality of development and the thorough assessment of the environmental impact of development.

Risk of producing guidance

There are no perceived risks related to the adoption of the guidance by the Council.

5.3 Equalities

An Equalities Impact Assessment has been carried out on this proposal and it is anticipated that there are no adverse equality implications.

5.4 Acting Sustainably

(a) **Economic Growth**

The proposed development will assist in promoting building a strong, stable and sustainable economy which provides prosperity and opportunities for all.

(b) **Social Cohesion**

The proposed development will help to meet the diverse needs of people in the local communities.

(c) **Protection of the environment**

In accordance with the Environmental Assessment (Scotland) Act 2005 a screening assessment of the Supplementary Guidance has been undertaken in order to identify whether there will be potentially significant environmental effects. The screening exercise was undertaken using the criteria specified in Schedule 2 of the Act and no significant environmental issues were found.

5.5 Carbon Management

The brief promotes measures to maximise the efficient use of energy and resources, including the use of renewable energy and resources and the incorporation of sustainable construction techniques.

5.6 Rural Proofing

It is anticipated there will be a neutral impact on the rural environment from the Supplementary Guidance.

5.7 Changes to Scheme of Administration or Scheme of Delegation

There are no changes to be made.

6 CONSULTATION

- 6.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer Human Resources and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

Approved by

Brian Frater
Service Director, Regulatory Services

Signature

Author

Name	Designation and Contact Number
Charles Johnston	Lead Planning Officer (Planning Policy and Access)

Background Papers: Report to Planning and Building Standards Committee 12 January 2009

Previous Minute Reference: Meeting of P & BS Committee Jan 2009

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

Contact us at Jacqueline Whitelaw, Environment and Infrastructure, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email eitranslationrequest@scotborders.gov.uk