

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

27 MARCH 2017

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 17/00236/MOD75
OFFICER:	Mr E Calvert
WARD:	Tweeddale West
PROPOSAL:	Discharge of planning obligation pursuant to planning permission T199-88
SITE:	Land South West And South East Of Bowbank Cottages, Bellfield Road, Eddleston
APPLICANT:	
AGENT:	Savills Per Angus Dodds

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE

This application was considered by the Committee at its meeting on 27 March 2017, when it was resolved to continue the application to allow the legal aspects of the Section 50 Agreement to be fully investigated. An update will be provided verbally at the meeting.

SITE DESCRIPTION:

Eddleston is 5 miles north of Peebles. The village has developed along the Longcote Burn and Bellfield Wood on the eastern side of the A703. The village is some 330 in population and has a Conservation Area containing the historic village centre.

Bowbank Cottage is sited at the end of Calderbank Road. It is now a pair of semi-detached dwellinghouses sited in an elevated position on the fringe of the village. The Cottage occupies the north western corner of a rough grass field which is bounded to the south by woodland and, at the bottom of a slope, the primary school. An adopted footpath leads along the south western boundary of the field to access the school. Beyond the field, to the north east, is grazing and the boundary to the north is set by a farm track leading out to the farmland beyond.

The surrounding countryside is managed as agricultural grassland enclosures which are interspersed by woodland patches bounded predominantly by drystone dykes. The hills are predominantly white (improved) grass although open moorland (black hill) is also visible on the higher ground, being located on the edge of the Moorfoot Hills. The village is set on the side of these rolling hills and long views up the surrounding valleys are on offer from this site.

PROPOSED DEVELOPMENT:

Variation of a section 50 agreement is sought to remove the requirement that no further development takes place on the land owned by the applicant. The agent wishes to demonstrate that this undeveloped field may contribute to future housing land supply for the Local Development Plan.

PLANNING HISTORY:

Planning permission was granted in 1989, T199-88, (erection of a dwellinghouse and granny flat) and a Section 50 agreement (Town and Country Planning (Scotland) Act 1972) prohibited any further dwellinghouse being constructed on the entire 2 acres of land to which the plot related.

95/00396/FUL

Alterations to divide house into two semi-detached residences & erection of extension. Approved.

16/01557/MOD75

A discharge of Obligation was sought by the Agent however, throughout the course of application, it became apparent that two interested parties had been missed from statutory notification and furthermore, these interested parties are current owners of 1 and 2 Bowbank Cottages, to which the application relates. Council legal services informed that, provided Interested Parties were consulted for a statutory 21 day period, the application was competent. However, the Agent withdrew and reapplied with the current application.

Local Plans

Tweeddale (Part) Local Plan

The site was out with the Village Boundary.

Tweeddale Adopted Local Plan 1996

Bowbank Cottage and garden was included within the Settlement Boundary.

The whole field referred to in the S.50 agreement is shown to be within the settlement boundary in:

Local Plan Consultative Draft (Stage One) May 2004

Adopted Local Plan 2008

Consolidated Local Plan 2011 (included the Local Plan Amendment)

Adopted Local Development Plan 2016

CONSULTATION RESPONSES:

Legal Services: Response awaited.

REPRESENTATION SUMMARY

Three objections have been received;

Eddleston Community Council: Objection;

1. Inadequacy of the access track to this site for any additional traffic. Safety is already an issue here and any increase in traffic will make matters worse.
2. There is no current zoning for housing at this site and there are already 2 other areas in the village already zoned as part of the Councils Adopted Plan.
3. The path is a "safe route" to the Primary School which is well used and currently bisects the site.

Two Interested parties note objections citing;

1. Inadequate access.
2. Increased traffic.

3. Land affected.
4. Legal issues - the applicant cannot seek and obtain the discharge of a planning obligation which relates to a third parties land.
5. Road safety.
6. Inadequate existing infrastructure in village. Education, drainage and water capacity.
7. Pedestrian safety.
8. Privacy and daylight of existing properties.
9. Subdivision of previous house is no grounds for precedence.
10. Terms of agreement remain relevant.

DEVELOPMENT PLAN POLICIES:

Local Development Plan 2016:

PMD4 Development outwith development boundaries

PMD5 Infill Development

Circular 3/2012 Planning Obligations and Good Neighbour Agreements

OTHER PLANNING CONSIDERATIONS

"New Housing in the Borders Countryside" SPG

KEY PLANNING ISSUES:

Whether the s.50 agreement continues to be relevant, necessary and reasonable.

ASSESSMENT OF APPLICATION

The planning policy context of the site has clearly changed between 1989, when the original permission was granted, and 2004, so that the land has been included within the Eddleston Settlement Boundary for over 13 years. In 1989 the settlement boundary did not include land of Bowbank Cottages, Eddleston. Housing development was restricted to within settlement boundaries or on allocated sites.

The decision (at Planning Committee on 17 October 1988) to grant approval to development, T199-88, was based on exceptional circumstances on land beyond the development boundary. This agreement physically prevented further proliferation of housing on this land. The agreement did not bind the house and land to be held as one unit; it did not necessitate any employment occupancy restriction on the dwelling approved; and it did not prohibit disposal of whole or part of the land.

Policy PMD4 (Local Development Plan 2016) identifies the extent to which development would be permitted within a Plan period and, as noted, the whole site now falls within the settlement boundary.

Policy PMD5 (Local Development Plan 2016) identifies criteria which determine whether a non-allocated, infill or windfall site may be appropriate for development. This land is non-allocated and Policy PMD5 would consider protection of neighbouring residential amenity; servicing and access; scale, form, design, materials and density in respect of the surroundings; social and economic infrastructure, character and amenity on the area; and the established land use in the event of any future planning application.

There is no overriding reason for the section 50 agreement to remain with this land. Policy PMD4 and PMD5 can be relied upon to direct appropriate development within a Settlement Boundary. An agreement based on commercial need is no longer relevant as there is no evidence of the former horticultural business operating from Bellvue Holdings.

Such agreements would not be used today, as the correct mechanism for testing the justification for new development would be through a planning application, when it would be assessed against the terms of the prevailing local development plan.

The objections submitted in relation to this proposal are noted, but generally relate to matters of detail which would be unaltered by the removal of the terms of the agreement. None are considered so overriding as to alter the principle in this case.

CONCLUSION

The proposal to vary this Section 50 Legal Agreement complies with policy PMD4 and PMD5 of the Local Development Plan 2016 in that the development boundary has been positioned so as to include this site and any future infill development proposal would be subject to separate consideration. The correct mechanism for testing the justification for new development would be through a planning application, when it would be assessed against the terms of the prevailing local development plan. No deficiencies in infrastructure and services will be created or exacerbated as a result of this variation.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend variation to the Section 50 Agreement is approved.

DRAWING NUMBERS

Location Plan

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
Euan Calvert	Assistant Planning Officer

