

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**24 APRIL 2017**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 17/00299/FUL
<b>OFFICER:</b>	Carlos Clarke
<b>WARD:</b>	Galashiels and District
<b>PROPOSAL:</b>	Erection of dwellinghouse
<b>SITE:</b>	Land South of Sunnybank, Forebrae Park, Galashiels
<b>APPLICANT:</b>	Mark Entwistle
<b>AGENT:</b>	None

**SITE DESCRIPTION**

The site is located off Forebrae Park, a private road which, over its initial section from the High Road, is considerably steep. It serves a number of existing dwellinghouses and stops short of the end of Ellwyn Terrace to the south-east by a few metres. This section is included in the application site. The site itself is currently overgrown, roughly triangular in shape, with levels that vary but, overall, drop steeply down from Forebrae Park. Detached houses overlook the site to the north and north-east, and the site backs onto the large gardens of residential properties to the south and south-west (Upper and Lower Eastmount and West and East Lynnwood). To the south-east is Ellwyn Terrace, a relatively modern development of detached houses, including split-level houses on its southerly side.

**PROPOSED DEVELOPMENT**

The application principally seeks full planning permission for a detached house, on 2¾ storeys, split-levelled from front to back, with an access and pedestrian link from Forebrae Park. The application also seeks consent to form a link between Forebrae Park and Ellwyn terrace by means of regrading and retaining the ground and forming a 6m long section of 3.3m wide road.

**PLANNING HISTORY**

The site has been subject to several applications in recent years:

- 08/01555/FUL Erection of dwellinghouse - withdrawn
- 09/01206/FUL Erection of dwellinghouse - withdrawn
- 13/01010/FUL Erection of dwellinghouse – refused for the following reasons:
  1. The development would not comply with Policy G7 of the Consolidated Local Plan 2011 because it would be served by an access road which is incapable of accommodating further traffic in a manner which is appropriate to road and pedestrian safety. The application does not include an alternative means of road access that would reduce the need to use the existing sub-standard road.
  2. The development would not comply with Policies G7 or INF4 of the Consolidated Local Plan 2011 because the layout of the parking area within the site is not capable of accommodating parking and turning for two cars, leading to potential road and pedestrian safety risk
- 14/00987/FUL Erection of dwellinghouse - withdrawn

## **REPRESENTATION SUMMARY**

Representations on behalf of six households have been submitted which can be viewed in full on *Public Access*. A summary of the objections is as follows:

- Access would be via a single lane poorly constructed road. It is queried whether this will be made good after the works
- The construction period will result in unacceptable disruption, safety impacts (HGVs reversing along Forebrae Park), noise, dust and traffic affecting neighbouring amenity and health
- The Roads Planning Service have indicated concern regarding unacceptable impact on Torvannoch's driveway
- The road link to Ellwyn Terrace will lead to a significantly adverse impact on Ellwyn Terrace which is single track with no passing places and has a lack of parking. Joining the roads will affect existing parking at the turning area. Extra traffic movements will affect safety including children who use the link as a route to school and play in the street. It will lead to higher speeds. The need for the link is queried. It will increase traffic noise. Ellwyn Terrace will no longer be a quiet and beautiful cul-de-sac but a normal street subject to traffic of people and vehicles
- Disruption of view and effect on property value
- Overlooking and loss of privacy
- Loss of trees will permanently change the landscape
- Effect on the boundary wall on the south side (bounding Upper and Lower Eastmount and West and East Lynnwood) which is being used inappropriately as a retaining wall and showing signs of considerable stress. There are concerns regarding further earth pressure, water pressure and vehicle impacts. These will increase during the building works for the house and road link. It is queried whether reinforcement will be provided and contended that works close to it should be removed. Steps should be taken to deal with surface water drainage against it. The wall is not meant to be a retaining wall.
- Effects on stability of the soil – no geological report has been provided

## **APPLICANT'S SUPPORTING INFORMATION**

3d imagery has been included within the submitted plans and drawings

## **DEVELOPMENT PLAN POLICIES:**

### **Local Development Plan 2016**

PMD2 Quality Standards

PMD5 Infill Development

IS2 Developer Contributions

IS3 Developer Contributions Related to the Borders Railway

IS7 Parking Provision and Standards

IS9 Waste Water Treatment Standards and Sustainable Urban Drainage

EP 1 International Nature Conservation Sites and Protected Species

EP13 Trees, Woodlands and Hedgerows

EP16 Air Quality

HD3 Protection of Residential Amenity

## **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:**

### Scottish Borders Council Consultees

**Roads Planning Service:** The principle of a dwelling on this site has previously been accepted, most recently in applications 08/01555/FUL, 09/01206/FUL, 13/01010/FUL and 14/00987/FUL, however there have been requirements for a link road to be formed between Forebrae Park and Ellwyn Terrace. This current submission includes details relating to this link. It should be a condition of this application, if approved, that the link is provided prior to works commencing on the proposed dwelling. Given the complexity of the link in terms of geometry, staff from this section must be made aware when the link is being formed to enable them to be present on-site to ensure acceptable alterations are carried out.

The RPS has no objections provided the following conditions are adhered to.

1. The link between Forebrae Park and Ellwyn Terrace must be completed prior to works commencing on the dwelling unless otherwise agreed in writing with this department.
2. Notification of proposed start dates for the works associated with the formation of the link must be given to the Roads Planning Service in advance of any works commencing on-site.
3. All works in relation to the completion of the link must be carried out by a contractor first approved by the Council.
4. Parking and turning, excluding any garages, must be provided within the curtilage of the property prior to occupation and be retained in perpetuity thereafter.
5. The initial 6m of the private access must have a gradient not steeper than 1 in 12.
6. Thereafter the access between the initial 6m and the parking/turning area must have a gradient not greater than 1 in 8.
7. The parking turning area must have a gradient not greater than 1 in 12.
8. The initial 6m of the private access must be constructed to their specification.
9. Any gates approved at the access must be hung so as to open into the site.
10. Details of how the applicant proposes to manage the delivery of construction materials and staff to the site must be provided prior to commencement on-site.
11. Prior to commencement on site, the approval of the Council must be obtained in regards to the engineering details for the retaining features included within the proposal.

**Education and Lifelong Learning:** No reply

**Environmental Health Service:** Assessed the application for air quality, noise and nuisance. The plans indicate that solid fuel will be used for heating. The site is within a Smoke Control Area which prohibits the use of certain fuels. A condition is recommended to regulate the type of fuel used

## Statutory Consultees

**Galashiels Community Council:** No reply

### **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, and impacts on neighbouring amenity but also, in particular, whether the road access is suitable, including the visual, amenity and traffic impacts of the proposed road link

### **ASSESSMENT OF APPLICATION:**

#### *Principle*

The site is within the town's settlement boundary, has no allocations or designations and is not open space of either recreational or townscape value. It comprises an overgrown area that would be best put to a viable use. Policy PMD 5 of the Local Development Plan 2016 principally supports infill development subject to consideration of impacts (as below). The site is accessible from a private road leading from the public road network and is within reasonable distance of amenities. The erection of a dwellinghouse here would not lead to land use conflict.

#### *Access and parking*

The development is to be served by an access from Forebrae Park with parking and turning within the site. The road is private but it is understood the site owner has the right to take access from it. Potential damage to the road is a matter between owners. The Roads Planning Service has advised of specifications for the access and parking arrangement and has verbally confirmed that the proposals meet their gradient requirements. A condition can require compliance with the plan and with the junction construction specification required by the RPS. The house is accessible from the level parking area. Disabled access within the building is for the Building Standards

To support a house here, the RPS recommends that a link be formed between Forebrae Park and Ellwyn Terrace. This has consistently been their advice throughout all previous applications, all of which have stalled principally because of the lack of a suitable road link being proposed. Advice given by the RPS on previous applications (specifically 08/01555/FUL and restated in response to 13/01010/FUL) includes the following commentary:

- In 1987 an outline application was made for four dwellinghouses on land to the east of Forebrae House with the applicant's intention that the houses be served by the road known as Forebrae Park. This extensive site encompasses the smaller site associated with this current planning application. Borders Regional Council as Roads Authority (Roads & Transportation Department) advised against the proposal on the basis that the road was private, narrow in part (including at the junction with High Road), excessively steep in part, suffered from poor junction visibility (where it joined High Road) and was poorly constructed in part. The R & T Department recommended that the number of dwellinghouses be restricted to three (now built and known as Belvedere, Sunnybank and Torvannoch) and advised that it would not be appropriate in the longer term for the houses to be served solely by Forebrae Park. On this basis a legal agreement was entered into in 1991 between the Council and the owners of Forebrae House, Belvedere and Torvannoch which gave the

Council, as Roads Authority, a right in perpetuity to form a vehicular link between Forebrae Park and Ellwyn Terrace.

- Ellwyn Terrace was designed and has been built so as not to prejudice a vehicular link to Forebrae Park.
- The Roads Planning Service were then able to recommend in favour of a further house only on the basis that the developer be held responsible for forming the road link as was always envisaged. They advised that the benefit of having the link will outweigh the disbenefit of adding additional traffic to the road. It is in the best interests of road safety that the residents of the dwellinghouses at the top of Forebrae Park are given the opportunity of an alternative shorter route to the public road network via the link.
- Emergency services will benefit, in particular in winter conditions, from having an alternative means of access to the houses at Forebrae Park. It may be a concern among Forebrae Park residents that there could be an increase in traffic using Forebrae Park as a result of the link, but it would appear that the vast majority of traffic associated with Ellwyn Terrace will access the public road network via Melrose Road/Station Brae and will have no desire to use Forebrae Park. The link will certainly result in some traffic from Ellwyn Terrace using Forebrae Park but this will be minimal and will only involve traffic which will be travelling along High Road in a north westerly direction (south easterly for the return journey). This increase in traffic is likely to be compensated for by existing Forebrae Park traffic, associated with the houses towards the end of the road, which will access the road network via Ellwyn Terrace/Crescent thus avoiding the poorly constructed length of Forebrae Park as well as the steep part. Larger service vehicles which presently visit Forebrae Park will, in the event of the link, be likely to travel along Forebrae Park in one direction only. The RPS advised that they considered that none of the roads are suited to serving new development and that they were only able to recommend in favour of an application for a new dwellinghouse on the basis that a vehicular link will open up Ellwyn Crescent/Terrace to the residents of the houses in Forebrae Park and of the two access routes Ellwyn Crescent/Terrace is the better one.

Following on from this recommendation by the RPS, the current application now includes the road link proposal, which will link Forebrae Park and Ellwyn Terrace over a 6 metre section. The RPS supports the scheme, subject to conditions. Due to the particular circumstances of this site, a traffic management plan is recommended for the construction period to manage traffic, and specific notification to the RPS.

Ultimately, this proposal will link two streets that are currently dead-ends within metres of each other. To link them will reflect planning policy guidance which is designed to maximise connectivity between residential developments. Given the RPS's clear support, and their careful and long-held encouragement of the link, the narrow width of the link, and relatively low number of properties affected, it is not considered that traffic along Ellwyn Terrace will constitute a road safety risk or affect the character of the street such that the opportunity to provide this link should be lost. If the road link is not provided, then a house here would not be provided with a satisfactory access.

#### *Placemaking and design*

Trees will be lost to the development and affected by the road link. However, none are of public amenity value of note. The site is essentially overgrown. Trees beyond the site to the south are unlikely to be adversely affected.

The site is elevated and visible from across the town, but houses behind are on a higher level. The proposed house would also be below the level of the house to the east by 2.6m. The site's location relates it to the variety of houses in Forebrae Park, yet also the more regular arrangement of houses in Ellwyn Terrace. It needs to sympathetically relate to both in layout, scale, form and design, acting as a transition of sorts between them.

Accounting for its transitional position, the proposed building line responds sufficiently to Ellwyn Terrace. It will front the road as existing houses do, with parking set behind to the rear. Its layout means there will be some potential for its 'rear' garden to be exposed, but the existing streetscape in Ellwyn Terrace is already relatively busy with retaining walls and outbuildings, so this is not a concern. Level information demonstrates that the house will be set below the road and houses on Ellwyn Terrace, with retaining walls framing it, and the driveway and parking set above the southern boundary. Its level of cut-in is reduced by the split-level arrangement, so retaining walls are not excessive. Ellwyn Terrace already has retaining walls with frontages set below the road. The house's lower level than Ellwyn Terrace will jar a little with the regular roofscape, but it will also relate to the variation in Forebrae Park. It is noted that sectional drawings do not appear to be wholly reliable regarding the precise height of the house relative to the road. However, levels information does demonstrate that the house will be set well below it.

The house would be relatively large in scale but it is proportionate to the plot size and its scale is comparable to neighbouring houses, with its bulk broken by a recessed end. Its scale and split-level form would be comparable with neighbouring houses, including 2/3 storey split houses on Ellwyn Terrace and a 2 ½ storey building opposite.

The building's form will be gabled and heavier-set than Ellwyn Terrace, which has less top-heavy roofs. However, it will also relate to the greater variety of building forms in Forebrae Park. It has heavy details for the roof (eave and verges) but so do neighbouring houses. Materials are specified as tiles, render and brick basecourse to match adjacent properties. These require further consideration, to ensure the selection responds sympathetically to the context. Hard surfaces can also be covered by condition.

Post and rail fencing is proposed to the front, which is agreeable, though more detail is required of boundary treatments as part of a landscape scheme designed to integrate the development with the site.

The road link works would comprise levelling of a six metre section of ground, with a section of fence removed, ground levelled, gabion baskets placed on the south side, and retaining walls on the north side. The sections are very useful, albeit not entirely accurate, but there can be some degree of flexibility on the precise details in order to ensure a smooth link. Retaining wall heights are not provided. However, they are likely to be low, and Ellwyn Terrace already has a number of retaining walls. The height of walls can be sought by condition.

The house will be south-facing, though detailed energy efficiency requirements are for the Building Standards. There is also ample room for bin storage.

### *Neighbouring amenity*

This proposal is for a small scale development comprising one house and a short section of road. Construction impacts in terms of dust and noise are capable of being regulated outside the planning process.

Traffic generated by a single house or by additional traffic accessing Ellwyn Terrace via the road link will not have significant amenity consequences.

Effects on view and property values are not material considerations in this case. Impact on outlook from properties will not be particularly adverse, particularly as the house is set well below houses to the north, and offset from the house to the east. There would also be no serious effect on neighbouring amenity as regards daylight or sunlight loss.

As regards privacy, the impact of the development is acceptable. It is below houses to the north, with no windows to the east. Permitted Development rights can be removed to prevent windows being added on the eastern elevation. It will overlook garden ground to the south, however, the grounds of Upper and Lower Eastmount are heavily overlooked now and the net difference between the existing situation and that proposed is not significant, albeit the house will more directly overlook a corner of the garden. There would also be overlooking of the garden of East Lynnwood but there is existing tree coverage, and the overall effect is not likely to be significant.

The effect of the road link in terms of light or outlook impacts would not be adverse.

The Environmental Health Service recommends a condition regulating the type of heating fuel. This is controlled separately and a planning condition is not required. An informative note is recommended.

#### *Ecology*

There are no ecological designations and no mature trees or buildings will be removed. It is an overgrown site so has the potential to support nesting birds. This matter can be accounted for in an Informative, given the potential to remove the planting now as part of maintenance of the land.

#### *Services*

No details of surface water drainage have been provided aside from reference to proposed soakaways. A condition can secure a Sustainable Urban Drainage System scheme that maintains existing run-off, though its detailed specification is for the Building Standards. Maintenance of the structural stability of the southern boundary wall as a result of run-off is for the applicant/owner of the site and not for the planning approval, if granted. Mains water and foul drainage services will be required and a condition will require evidence of provision.

#### *Effects on wall and ground stability*

Structural implications on adjacent structures resulting from the location of the building or grading of the ground would be considered by Building Standards as part of the Building Warrant application and are not planning issues. They would need addressed by the applicant's structural engineer. How the contractors physically undertake the work is for them and their insurance. If the proposals need adjusted to suit any requirements imposed by Building Standards, it will be for the applicant to address these. Amendments which materially change the proposals will require a fresh planning application.

#### *Contributions*

A legal agreement will be necessary to secure developer contributions as required by Policies IS2 and IS3 and current supplementary guidance.

## CONCLUSION

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions

## RECOMMENDATION BY CHIEF PLANNING OFFICER:

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

1. No development shall commence on the erection of the dwellinghouse until the road link between Forebrae Park and Ellwyn Terrace has been formed in accordance with a surfacing, drainage and retaining wall specification first approved by the Planning Authority and in accordance with the detailed plans and sections approved under this consent. No works shall commence on the road link until notification has been provided in writing to the Planning Authority of the applicant's intention to commence work at least 14 days in advance of works commencing. All works on the road link must be carried out by a contractor approved by the Council before works commence  
Reason: In the interests of road and pedestrian safety and, with respect to retaining walls also in the interests of ensuring the works are visually appropriate
2. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved by the Planning Authority. The construction traffic within the control of the applicant shall be operated in accordance with the approved CTMP  
Reason: To maintain road and pedestrian safety
3. 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
4. No development shall commence 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
  - ii. design details of new boundary treatments and of the retaining walls specified on the approved plans (notwithstanding the General Permitted Development (Scotland) Order 1992 (as amended 2011) or any subsequent amendment or Order)
  - iii. a programme for completion and subsequent maintenance.Reason: To visually integrate the development as sympathetically as possible with its context
5. No development shall commence until a schedule and samples of all external materials, finishes and colours of the house and hard standings (notwithstanding references on the approved plans and drawings) have been submitted to and approved by the Planning Authority. The development shall be completed using the approved schedule of materials, finishes and colours.



Reason: To visually integrate the development as sympathetically as possible with its context

6. The house shall not be occupied until the access, parking/turning and footpath on the approved site plan have been provided in accordance with the approved plan, including specified gradients. The first six metres of the entrance shall comply with the Council's approved specification (see Informative Note). The access and parking/turning area shall be maintained free for the parking of at least two vehicles. Notwithstanding the right to erect gates within the scope of the General Permitted Development (Scotland) Order 1992 (as amended 2011), no gates shall be erected that open out over Forebrae Park.

Reason: To ensure the development is adequately serviced with off-street parking and pedestrian access

7. Notwithstanding the General Permitted Development (Scotland) Order 1992 (as amended 2011, or any subsequent amendment or Order) no window or door opening shall be formed within the elevation described as the east elevation on the approved drawings without a planning application having first been submitted to and approved by the Planning Authority

Reason: To minimise risk to neighbouring amenity

#### Information for the applicant

1. The site has the potential to be occupied by nesting birds. Clearance of vegetation should be carried out outside the breeding season (generally March to August) unless the site is first checked beforehand. Disturbance of nesting birds is an offence under habitat legislation.
2. The first 6 metres of the entrance to the site should be constructed to the following specification: 40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.
3. Potential effects of the development on the stability of the boundary wall to the southerly boundary should be established separately by the applicant's engineer, as well as potential effects on any other neighbouring structures. This consent does not account for physical risk of damage to the integrity of structures, as this is a matter regulated separately through the Building Warrant process. Any measures required to address this that would materially amend the development approved under this Planning Permission would require a fresh planning application.
4. Galashiels is within a Smoke Control Area. Any solid fuel heating appliance installed in the premises should only burn smokeless fuel. Alternatively, non-smokeless fuel may be used if the appliance is approved for use in a Smoke Control Area. The appliance should only burn fuel of a type and grade that is recommended by the manufacturer.

Within 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

Location plan

Site Plan FCE/FORBRAE/01/A

Ground, 1<sup>st</sup> and 2<sup>nd</sup> Floor plans FCE/FORBRAE/02/A

North/south/east/west elevations FCE/FORBRAE/03/A

Section AA/North and South Views FCE/FORBRAE/04/A

Section BB, CC & DD east and south FCE/FORBRAE/05/A

Plan of link section SK01

Long section SK/2 A

Road channel profiles longitudinal sections SK/3 A

Cross Sections A-E SK/4 C

Additional cross sections SK/5 C

Topographical survey

### **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



17/00299/FUL

Land South of Sunnybank  
Forebrae Park  
Galashiels

