

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/00479/FUL

APPLICANT : Austin Travel

AGENT : Aitken Turnbull Architects Ltd

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Land North East Of And Incorporating J Rutherford Workshop
Rhymers Mill
Mill Road
Earlston
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused
	Elevations	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations.

Earlston Community Council: wishes to express and have its concerns noted over the possible impact on both Rhymers Avenue and houses nearby - both for residents and for access. It has also noted the comments made by SEPA and wishes to highlight the content of that response. (Earlier advice from the Community Council was withdrawn, and substituted by its advice above).

Roads Planning Section: no objections in principle but there are some issues of concern. The proposed access appears to be along Rhymers Avenue, which is a private road and is not included within the Applicant's ownership boundary. It is also narrow with no passing provision or turning area. Furthermore, the junction onto Mill Road suffers from poor visibility due to the roadside wall when looking northwards, has no radii, and does not have sufficient width for two vehicles to pass. The submitted site plan is also unsatisfactory as a minimum of two parking spaces would require to be provided within the curtilage of the plot. The site plan currently shows one full space and the second space being impinged upon by the site boundary. Until the Applicants' demonstrate an ability to upgrade the existing Rhymers Avenue to a satisfactory standard and include two parking spaces within the curtilage of the site, Roads is unable to support this proposal. It should be noted that a new access from Mill Road to serve this property is an option that is also likely to be acceptable and easier achieved.

Environmental Health Section: seeks an informative to advise with respect to the installation and operation of the proposed wood burning stove, and seeks the imposition of a suspensively-worded

planning condition to require that the potential for historic land contamination should be appropriately investigated.

Education and Lifelong Learning: seeks development contributions towards the new Earlston High School and extension of Earlston Primary School.

Flood Prevention Section: initially advised that the site is at risk from a flood event with a return period of 1 in 200 years (that is, the 0.5% annual risk of a flood occurring in any one year) and lies within the 1 in 10 year flood extent of the Leader Water, and is therefore at high risk of flooding. Given a location within the functional floodplain of the Leader Water and given compelling historical evidence of flooding, Flood Prevention objected to the proposed development on the basis that the proposal would be contrary to SPP which promotes flood avoidance (Paragraph 255) and states 'piecemeal reduction of the functional floodplain should be avoided given the cumulative effects of reducing storage capacity' (Paragraph 256). It was advised that if the Applicant could show through a Flood Risk Assessment (FRA) that the site is out with the functional floodplain and not at risk of flooding during the 1 in 200 year flood event then Flood Prevention. Further to the submission of a FRA (in reality the FRA submitted at the time of a previous planning application, 16/00385/FUL, updated with an addendum letter), and its review of the latter, Flood Prevention has responded more recently to advise that although it has spoken with the Applicant's agent (Terrenus Land and Water) on 16th May 2017, clarification of a number of points within the FRA and addendum letter, has not been forthcoming. Given the concerns with this site which have previously been detailed (within Flood Prevention's previous response on this and on the previous Planning Application, 16/00385/FUL), Flood Prevention cannot support the proposed development. This is due to the uncertainties regarding the flood risk to the site which the FRA has not adequately explained. Flood Prevention considers that the proposed site is within the functional floodplain of the Leader Water and that approval of the application would be contrary to the SPP.

SEPA: initially responded to object in principle to the application on the grounds of flood risk, maintaining the same grounds as its consultation response of 20 December 2016, which was submitted in response to the public consultation on Planning Application 16/00385/FUL. However, it is specifically advised that the limited information submitted as part of the current application does not allow SEPA to alter its advice that a dwellinghouse on this site would increase the number of people and properties at flood risk. Further to the Applicant's provision of an updated version of the FRA submitted at the time of Planning Application 16/00385/FUL, SEPA has responded more recently to advise that further to its review of the latter, it maintains its object(ion) in principle to the proposed development on the grounds that the proposal would place buildings and persons at flood risk contrary to Scottish Planning Policy. Given the location of the proposed development within the undeveloped/sparsely developed functional floodplain, SEPA does not consider that it meets with the requirements of Scottish Planning Policy and its position will not change. SEPA has a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and promote sustainable flood risk management. The cornerstone of sustainable flood risk management is the avoidance of flood risk in the first instance. SEPA's assessment and conclusions are set out within a Technical Review included within its second consultation response.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Council Local Development Plan 2016

Policy PMD1: Sustainability

Policy PMD2: Quality Standards

Policy PMD5: Infill Development

Policy HD3: Residential Amenity

Policy EP16: Air Quality

Policy IS2: Developer Contributions

Policy IS7: Parking Provision and Standards

Policy IS8: Flooding

Policy IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

SBC Supplementary Planning Guidance: Development Contributions (approved April 2015)

Recommendation by - Stuart Herkes (Planning Officer) on 7th June 2017

SITE DESCRIPTION AND PROPOSED DEVELOPMENT

This application proposes a new dwellinghouse within the northwestern section of the curtilage of the former premises of J Rutherford's vehicular sales and repair business within the Development Boundary at Earlston. Although an established mixed use business premises, the site is not allocated or safeguarded for business and industrial use within the Adopted Local Development Plan. An earlier version of this application was withdrawn last year following SEPA's maintenance of its objection in principle on the grounds of unacceptable flood risk impacts.

The particular site in question occupies something of a transitional area between residential properties to the north and west, and the remainder of the Rutherfords business premises to the east and south. The site includes an existing former Rutherfords workshop building which is specifically included within the site boundary of the proposed residential property. The latter is not itself proposed for conversion to a dwellinghouse, and would be fundamentally unsuitable for such a proposal. Instead, the application proposes a new-build dwellinghouse, which would be sited in the northeastern section of the site, aligned to the residential street to the north, Rhymers Avenue. Accordingly it is understood that the proposed residential property would be constituted by the proposed new dwellinghouse and the existing workshop building. No details are given with respect to the proposed landscaping. Access is shown to be from the northeast corner of the site, directly from Rhymers Avenue, where one full and one truncated parking space are indicated.

PLANNING PRINCIPLE

In as much as (i) the site lies within the Development Boundary, (ii) is not allocated for any specific use within the statutory development plan, (iii) is capable of being accessed directly and separately from the public road and (iv) prevails within an area that includes residential development, I would not consider that the proposal raises any concerns in principle. However, there are nonetheless specific aspects of the development that are objectionable.

FLOOD RISK

A previous planning application (16/00385/FUL) for a different version of the proposal was withdrawn because SEPA objected in principle to the development on the grounds that development would have unacceptable flood risk impacts. The Applicant has provided an updated version of the Flood Risk Assessment (FRA) previously submitted at the time of Planning Application 16/00385/FUL. This includes an addendum letter which sets out details of steps taken to revise the hydraulic model developed for the FRA and is intended to address concerns raised by the flood prevention authorities within their consultation responses which were provided at the time of their review of the FRA provided in support of Planning Application 16/00385/FUL. Additionally, topographic survey has been undertaken and additional hydrometric data obtained from SEPA. However, further to its review of these updated details, SEPA maintains its objection in principle to the development of the site on the grounds that any dwellinghouse so sited, would be liable to unacceptable flood risk. These concerns are shared by the Council's own Flood Prevention Section. In light of these statutory consultees' advice that the site cannot be developed acceptably in flood risk terms, the proposal cannot be supported, and the planning application should be refused.

INDUSTRIAL BUILDING

It is unclear how the existing workshop building would be incorporated into the proposed residential property and it could continue in use as a business premises. Depending upon how it is operated, this has potential to impact unacceptably upon the amenity of the proposed dwellinghouse.

In the event of the proposal otherwise having been capable of support, it would have been appropriate to have established with the Applicant what the proposed use of this building would have been. There may also have been some potential to require by planning condition that the two buildings be retained within the same planning unit.

However, in the absence of any information from the Applicant about the proposed workshop use and operation within the proposed residential property, it remains possible that the operation of the workshop would be liable to have unacceptable impacts upon the residential amenity of the proposed dwellinghouse. This would therefore need to be included among the reasons for the application's refusal.

COMPOSITION, LAYOUT AND ORIENTATION

The siting and orientation of the proposed dwellinghouse on the site also raises concerns. The proposed dwellinghouse would have been more satisfactorily accommodated within an L-shaped footprint, predominantly fronting onto Mill Road, while adhering to the same building line as the existing buildings to the southwest, which also front the public road. This would have reconciled its orientation with both the aforementioned existing workshop building and the majority of the surrounding streetscape which fronts one or other side of Mill Road. Instead, the proposed alignment of the house with Rhymers Avenue would establish a new building line, and would in its relationship to the existing workshop building, give the site a notably splayed layout. Within this awkward relationship between the site's two buildings, there would be no internal coherence. The site would in fact be centred on an open central area between the two buildings which has to this point, no description or explanation as to how or why such an area would be necessary or how it would be configured to 'tie' the site together. In short, the site would be liable to appear to be something of an 'awkward corner' left over between two buildings whose coexistence within the same site would be liable to appear fundamentally contrived and awkward. Given that this could have been addressed directly within the proposed design, it is an unsympathetic and, I consider, unacceptable feature of the current version of the proposal.

Alignment of the majority of the house with Mill Road would also see the proposed dwellinghouse more satisfactorily accommodated relative to the properties in Rhymers Avenue which, if the development were realised as proposed, would be confronted with the entire building's lengthwise elevation in front of their principal views. While I would not consider the relationship between the proposed dwellinghouse and its neighbours liable to be unacceptable in terms of its impacts upon the amenity of any surrounding properties, I would nonetheless note that the residential amenity of these neighbouring properties would still be more appropriately conserved if the proposed building were moved to the northwest, and realigned southwest to northeast so as to front Mill Road. This would reduce the extent of building that would face directly towards Rhymers Avenue, to a more ancillary elevation. Such an arrangement would also be liable to help screen views from the public road (Mill Road) of any parking or turning areas, to the rear of the property, particularly if an L-shaped footprint were used.

Taking account of all of these factors, I consider that the site could have been laid out more sympathetically to the character of the site and surrounding area, and that the proposed siting and layout of the property lacks coherence in itself and would appear discordant and incongruous relative to the surrounding streetscape. The proposal would have the appearance of two buildings of notably different character, misaligned to one another around an inexplicable central open space. The cumulative effect would be, I consider, objectionable in its lack of coherence internally and in its unsympathetic relationship to its surroundings (as manifest within the proposed composition, layout, and orientation of the site). All in all, this would be a decidedly incongruous form of development in its character and in its relationship to the surrounding streetscape, and I consider, should be refused on this basis.

ACCESS AND PARKING

The Roads Planning Section has expressed its concern - and on the basis of a lack of information, also its objection - that the site might be accessed directly from Rhymers Avenue, which is a private road. Roads considers that it should instead be accessed from Mill Road, the public road. Roads allows that it might be persuaded by new or additional information from the Applicant, specifically any reassurance that the Applicant can provide to demonstrate that it could use and upgrade the existing access from Rhymers Avenue to Roads' specification. However, the Applicant has not to this point, provided any advice to this effect. Nor has it revised its parking provision layout to address Roads' concern that sufficient provision for two parking spaces be accommodated (as opposed to one of the identified spaces being truncated by the

site boundary). Given that none of these issues has been addressed to Roads' satisfaction, it is therefore reasonable to understand that Roads' objection on these points still stands, and is reasonably included amongst the reasons for refusal.

Theoretically the Applicant's existing layout would still allow access to be taken from Mill Road and space could be found for two parking spaces, all of which could be made a requirement of condition, in the event of approval. It is also possible that any parking provision accessible from Mill Road, could still be accommodated to the rear of any building fronting Mill Road (through the use of a path or driveway leading to rear, for example); albeit that this would only be possible within a revised design proposal. However, unless these matters were resolved within a considered revised layout, it is not apparent that the Applicant could address all matters to both the satisfaction of both Roads and the Planning Authority. It is also material that the Applicant has not to this point, provided any revised or alternative details to address these concerns. Further, and notwithstanding the above, it is also not clear even if the Applicant could carry out improvements to the private access to address Roads' concerns, whether these improvements could then be maintained in future. (Maintenance is liable to be entirely at the discretion of the owner(s) of the private access, and therefore beyond the direct control of the Applicant). All in all, it is unclear whether or not the access and parking concerns identified by Roads, could be addressed to the satisfaction of Roads, and therefore to the satisfaction of the Planning Service. Accordingly, I would consider that the application should also be refused on the basis of the access and parking concerns identified by Roads.

DESIGN OF DWELLINGHOUSE

Although I consider that the layout of the site and orientation of the dwellinghouse are objectionable per se, I would advise that the proposed design approach for the dwellinghouse itself does not raise any particular concerns, notwithstanding a need to consider its adaptation to address some of the concerns noted above - had it indeed been appropriate to seek its re-siting and re-orientation. However, as a building which would only have an immediate relationship with workshops on adjacent land, the proposal that it should have the form of a converted traditional outbuilding works sufficiently well as a design concept, and its adaptation might have been usefully sought had there not been objections in principle to the site's development on flood risk grounds. I would however express reservations with respect to certain aspects: specifically the over-use of patio-type doors and the lack of any porch or other obvious entrance feature. However, these are relatively minor points that might otherwise have been appropriately resolved in discussion with the Applicant, had the proposal otherwise been capable of being supported.

Due to the distance of set back and its confrontation of the public elevations of the properties on Rhymers Avenue and Mill Road, I would not consider that the relationship between the proposed dwellinghouse and its neighbours, would be liable to be unacceptable with respect to impacts upon residential amenity. However, there are some unknown aspects in this respect. There are proposals within the FRA that the finished floor level should be above a particular height but the implications of this relative to the existing levels on the site and the levels within the surrounding streetscape are not addressed. In other circumstances, it would have been appropriate to have clarified the implications of this for the development given the potential for the new house to be raised to a more significant height than the description of the Proposal Drawings indicate, with potential consequences with respect to the appearance of the site, the residential amenity of surrounding properties, and the potential for the building to be out of alignment vertically with surrounding buildings, adding to the discordant character of the development already noted above with respect to the site's layout and the proposed dwellinghouse's orientation. However, this is not a matter that the Applicant has sought to provide full details on, and it is unclear whether or not there would be any unacceptable impacts upon the residential amenity of any surrounding properties, or upon the general visual amenities of the area, as a consequence of the house being raised to any significant height above the existing and surrounding ground levels. Again, had this been the only concern, it would have been appropriate to have referred this matter back to the Applicant for clarification.

OTHER CONCERNS

While some matters may have been addressed by condition in the event of approval (such as boundary features, landscaping, as well as provision of parking spaces), there is a general lack of details with respect to the proposal, which is at best, unhelpful in communicating how the site might have been laid out. However, the concerns noted with respect to the siting of the house and layout of the property, are so significant that these would not have been appropriately mitigated through any matters that might otherwise have been regulated under the requirements of any conditions.

In the event of approval, Environmental Health's concerns would be capable of being addressed by conditions and informatives along the lines it recommends. Other concerns such as drainage and water supply could be appropriately regulated under standard planning conditions.

CONCLUSION

In summary, I am not supportive of this proposal on the basis of the flood risk impacts; the inclusion of a workshop building that would be liable to dominate the site (and which would challenge even the proposed dwellinghouse); the unsympathetic siting of the house and layout of the proposed residential property, which would conflict with the character of the site and surrounding streetscape; and the lack of appropriate provision for the accommodation of parking and access at the site. As noted above, there are other areas of concern, such as finished levels, but the lack of information provided in support of the application does not allow any view to be taken as to whether or not these would or would not have been acceptable in terms of their impacts.

REASON FOR DECISION :

It is considered that the proposal should be refused for the following reasons:

- (1) The proposal does not comply with Adopted Local Development Plan Policy IS8 and Scottish Planning Policy in that the site is subject to a significant flood risk and the development would be both at significant risk of flooding and would materially increase the probability of flooding elsewhere;
- (2) The proposal in the positioning of the dwellinghouse and the overall site layout, does not comply with Adopted Local Development Plan Policies PMD2 and PMD5 in that it would not respect the character of the surrounding area and neighbouring built form;
- (3) The proposal does not comply with Adopted Local Development Plan Policies PMD2 and IS7 in that the access arrangements are unsuitable to serve the development and inadequate provision has been made for the accommodation of the parking of two vehicles within the curtilage of the site, such that there would be adverse impacts upon road safety; and
- (4) The proposal does not comply with Adopted Local Development Plan Policies PMD5 and HD3 in that the operation of the workshop building in such close proximity to the proposed dwellinghouse has potential to have unacceptable impacts upon the residential amenity of the occupants of the proposed dwellinghouse.

Recommendation: Refused

- 1 The proposal does not comply with Adopted Local Development Plan Policy IS8 and Scottish Planning Policy in that the site is subject to a significant flood risk and the development would be both at significant risk of flooding and would materially increase the probability of flooding elsewhere.
- 2 The proposal in the positioning of the dwellinghouse and the overall site layout, does not comply with Adopted Local Development Plan Policies PMD2 and PMD5 in that it would not respect the character of the surrounding area and neighbouring built form.
- 3 The proposal does not comply with Adopted Local Development Plan Policies PMD2 and IS7 in that the access arrangements are unsuitable to serve the development and inadequate provision has been made for the accommodation of the parking of two vehicles within the curtilage of the site, such that there would be adverse impacts upon road safety.
- 4 The proposal does not comply with Adopted Local Development Plan Policies PMD5 and HD3 in that the operation of the workshop building in such close proximity to the proposed dwellinghouse has potential to have unacceptable impacts upon the residential amenity of the occupants of the proposed dwellinghouse.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.

