

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (General Development Procedure) (Scotland) Order 1992

Application for Planning Permission

Reference : 08/01490/FUL

To : Mr Nesbitt per GLM 58 Castle Street Edinburgh EH2 3LU

With reference to your application validated on **9th September 2008** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Replacement of derelict pavilion with holiday pavillon

at : Pavilion North East Of Dunlaverock House Coldingham Scottish Borders

the Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 **subject to the following condition:-**

that the development to which this permission relates must be begun within five years from the date of this consent.

and **subject to the conditions on the attached schedule** imposed by the Council for the reasons stated.

**Dated 24th February 2009
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



.....
Head of Planning & Building Standards

- 1** The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Local Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
- 2** 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, windows, doors and roofs of the buildings, including all finished paint or stain colours, have been submitted to and approved in writing by the 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 within an Area of Great Landscape Value.
- 3** No development shall be commenced until details have been submitted to, and approved in writing by the Planning Authority, relating to the proposed improvements to the right of way to be utilised as an access to the development. Said details will include proposals for lighting of the right of way, including lighting levels and structures proposed to house the lighting.
Reason: In the interests of amenity and safety of users.
- 4** The existing right of way shall not be blocked, obstructed or diverted prior to, during or after development unless specific legal entitlement to do so has been obtained from the Planning Authority.
Reason: In the interests of the amenity of users of said right of way, which is considered to be of significant public importance.
- 5** No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall include (as appropriate):

 - i.** indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
 - ii.** location of new trees, shrubs, hedges and grassed areas
 - iii.** schedule of plants to comprise species, plant sizes and proposed numbers/density
 - iv.** programme for completion and subsequent maintenance.

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.
- 6** The building shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

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

- 7 This purpose-built holiday unit shall not be occupied for the purposes of human habitation between the 9th January and 9th February, in each calendar year.
Reason: The establishment of a permanent residential unit on this site would conflict with the established policy for new dwellings in this location.
- 8 The occupation of the building shall be restricted to holiday purposes only for individual periods not exceeding 4 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.
Reason: A permanent residential site in this location would conflict with the established planning policy for this rural area.
- 9 Before any works commence a scheme shall be submitted to and approved in writing by the Local Planning Authority indicating proposals for the satisfactory storage of refuse in accordance with BS.5906. Such proposals as shall be agreed shall be implemented upon occupation of the development and thereafter retained.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse.
- 10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or amendments or re-enactment or re-enactment thereof) no extension, enlargement, or other alteration of the dwelling including the erection of detached outbuildings shall be carried out without the prior written consent of the Council, to whom a planning application must be made.
Reason: The development hereby permitted is the maximum that can be reasonably allowed without causing detriment to the local environment in this sensitive location, and for this reason would wish to control any future proposals, alterations or extensions.

It should be noted that:

The applicant is reminded that this permission does not convey approval for works affecting third party rights which may exist on the land or any adjoining. The applicant is therefore advised to seek the approval of any parties having an interest in any land affected by this permission.

The attention of the developer is drawn to the Section 75 Agreement relating to the permanent provision of 2 no. parking spaces as identified in the plans accompanying the agreement, which in turn form part of this planning permission.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:



*Planning and
Economic Development*

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – 0800 800 333

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address:
The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire. NG18 4RG

If the applicant is aggrieved by the decision of the Planning Authority, an appeal may be made to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997, within six months from the date of this notice. The appeal should be addressed to the Chief Reporter, Scottish Executive Inquiry Reporter's Unit, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part V of the Town and Country Planning (Scotland) Act

SCOTTISH BORDERS COUNCIL

BERWICKSHIRE AREA COMMITTEE

16th DECEMBER 2008

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 08/01490/FUL
OFFICER:	J Hiscox
WARD:	East Berwickshire
PROPOSAL:	Replacement of derelict pavilion with holiday pavilion
SITE:	Pavilion North East of Dunlaverock House, Coldingham
APPLICANT:	Mr Nesbitt
AGENT:	GLM

SITE DESCRIPTION:

The site is situated close to the building group known as Coldingham Bay, partway between the beach and the general area of dwellings, and presently contains the remains of a former pavilion, used historically in association with the former St Abbs Haven Hotel, which has now been converted into six dwellings (now simply The Haven).

It is accessed only by pedestrian pathways, from above near The Haven and from below from the foreshore. The paths are not suited to any users other than able-bodied pedestrians.

The site is within an Area of Great Landscape Value.

PROPOSED DEVELOPMENT:

The submitted drawings show a rectangular-plan, gable-ended, dual-pitched building which, it is proposed, would be utilised as a single unit of 'purpose-built' holiday accommodation. A permanent residence is not applied for.

Access would be available from both the shore and from above. Within the existing car park serving the Haven, two unallocated spaces would be set aside only for users of the new unit.

PLANNING HISTORY:

Although the site itself has not previously been the subject of any planning applications, a significant amount of pre-application dialogue took place during which the view was expressed, without prejudice, that the principle of one unit of purpose-built holiday accommodation may be acceptable here.

REPRESENTATION SUMMARY:

A total of four individual letters of representation have been submitted in relation to this planning application. Whilst 2 are clearly submitted as objections, 2 are precautionary on their nature and tend to make recommendations to ensure that the intentions of the application, and any resultant permission granted are fully understood. However, due to the detailed nature not only of the objections, but also of the precautionary submissions, it is considered to be prudent

to present this application to Members for determination. Furthermore, the uniqueness of the application is such that it demands very careful consideration.

A summary of the issues raised in objection would be as follows:

- proposed modern style is not empathetic with surrounding Edwardian housing and bathing units;
- general adverse impact on amenity;
- planning permission should restrict size of structure to same as present pavilion (footprint);
- development would lead to long-term increase in pedestrian and vehicular traffic within The Haven (grounds) and give rise to adverse impact on residential amenity;
- problems caused by construction traffic during development (also prejudicing residential amenity);
- changes necessary to provide services would cause disruption;
- proposed two parking spaces unlikely to be adequate to serve development of this size;
- lack of clarity relating to bin storage;
- site only suitable for day pavilion, not commercial development of this nature.

A summary of the issues raised as concerns rather than as objections would be:

- uncertain what form improvement to public path will occur, including lighting;
- any lighting proposed should be discrete, given the natural surroundings;
- not clear who will upkeep the footpath;
- lack of clarity relating to 'landscaping';
- lack of clarity relating to bin storage and meter boxes;
- congestion caused by workers could threaten safety of residents, including children;
- not convinced that design approach is appropriate as does not appear to reflect others in vicinity;
- lack of clarity relating to services;
- present access road might need to be upgraded to accommodate additional development;
- concern relating to safety of pedestrians using right of way during development;
- plans show no provision for disabled access – is this not necessary in holiday homes?

APPLICANTS' SUPPORTING INFORMATION:

Two letters have been submitted on the applicant's behalf, the first at the time of the application as a supporting statement, the second in the context of much of the objection received from the public and at least one consultee. The letters give the following information considered to be of significance/relevance:

- design responds to objectives to make use of seaward views and solar gain for energy efficiency;
- would bring development benefits in terms of restoration of the local landscape, upgrade/repair of path and steps and an overall contribution to the tourism facilities in the area;
- development would not set a precedent for similar development, as there are no other previously developed sites of this nature in the locale;
- responses to letters of representation, on various issues.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees:

Director of Technical Services (Road User Manager): Comments as follows:

- generally supportive of application, given its intended use and seasonal nature;
- would not be supportive of this proposal if it were for a private dwellinghouse;
- concerns relating to the access to the pavilion via the unlit, unmade and steep grass footpath;
- providing a legal agreement or conditions are attached to any consent preventing the house being converted to a private dwelling, no objection to the application as long as the following would be incorporated into the design:
 - o two parking spaces to be provided.
 - o existing footpath to be upgraded to provide suitably stepped access with handrail.

Director of Technical Services (Flood Risk Officer): No objection but advises in relation to potential sources of flooding not directly related to the sea.

Director of Education and Lifelong Learning: No observations.

Statutory Consultees

St Abbs Community Council: No objections or observations.

SEPA: No objection, but gives advice relating to:

- flood risk
- foul drainage
- surface water drainage
- landscaping
- waste management
- recycling
- pollution prevention

Other Consultees

None.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Structure Plan 2001-2011:

Policy N7 – Protection of Nature Conservation Interest

Policy N11 – Areas of Great Landscape Value

Policy N12 – Coastline

Policy N20 – Design

Policy E21 – Tourism Development

Policy C8 – Access Network

Policy I11 – Parking Provision in New Development

Policy I12 – Provision of Water and Sewerage Services

Scottish Borders Local Plan: September 2008:

Policy G1 – Quality Standards for New Development

Policy NE3 – Local Biodiversity

Policy EP2 – Areas of Great Landscape Value

Policy EP4 – Coastline

Policy H2 – Protection of Residential Amenity

Policy Inf2 – Protection of Access Routes
Policy Inf4 – Parking Provisions and Standards
Policy D1 – Business, Tourism and Leisure Development in the Countryside

OTHER PLANNING CONSIDERATIONS:

None to list.

KEY PLANNING ISSUES:

- whether the development proposal is compatible with development plan policies relating to land-use;
- if the development is considered to be compatible in terms of land-use, whether there are any other issues which would prevent the principle of the development from being supported;
- if there are no reasons why the principle may not be supported, whether the specific details of the development are considered to be acceptable;
- if any issues raised in representation would influence the planning recommendation.

ASSESSMENT OF APPLICATION:

Land-Use

There are no Policies within the development plans which would preclude the principle of this development being supported. The site is clearly previously developed, may be described as an eyesore in its present state, and the site would benefit from some method of positive restoration or development to improve the local environment.

Specifically, Policies E21 of the Structure Plan and D1 of the Local Plan would permit the principle of a tourism-related development to be considered.

Access to the Site:

It is unusual to be required to consider a site which will inevitably involve domestic vehicle use on a normal basis, but to have no parking area set aside within it. Ultimately, users will have no alternative but to use an existing right of way leading to and from two car parking spaces allocated within the car park serving The Haven. The developer's proposal is that two such spaces will be allocated on a permanent basis. In the event of planning permission being granted, because these are not within the site they would need to be secured via a legal agreement. It is understood that the developer is willing to enter into such an agreement.

This arrangement is considered to be acceptable from a planning point of view, in these specific circumstances.

It should be noted that the right of way is not managed or promoted by SBC, but that due to a long history of customary public use and no contest against public use it may be afforded similar protection to a public right of way.

Nature of Proposed Development:

The accommodation would be utilised for overnight accommodation, and as a result would adopt a different role to other local accommodation due to its unique position and to the presence of the beach huts below, which are all unsuitable for overnight accommodation due to their size and site.

The development may give rise to a low level of change to the lighting of the seaward slope, but in reality this would not generally be seen by the public, as the beach is not used readily in darkness. For this reason, the nature of the proposed development is considered to be acceptable.

Design:

The simple and understated modern design would give the development subtle and positive appearance. It would recede in the public view whilst not disappearing. This design approach is considered to reflect the dimensions and character of the pavilion it would replace. The slight increase in footprint is negligible – it would not in itself enable an objection to be sustained.

It is not necessary to mimic the characteristics of the previous pavilion, or to attempt to copy local Edwardian traits, which in themselves present a sometimes eclectic and confused view of the upper seaward slope.

Other Planning Issues:

It is considered that there are no overriding planning concerns arising from consultation responses.

Issues Raised in Representation:

If not specifically listed, issues raised in representation have been given coverage in earlier sections of this planning report. Other issues may not be specifically listed if they may be overcome straightforwardly by the use of appropriate planning conditions.

Design/Visual Impact:

This issue has been given specific coverage in earlier sections of the report.

Amenity of Existing Residents:

It is not considered that the re-development of this site would give rise to such a level of disturbance or intensification of usage in its vicinity, that refusal could be sustained on private or public amenity grounds. Development will normally attract a level of disturbance, but this in itself will not often give rise to grounds to resist.

Adequacy of Parking Spaces:

The Director of Technical Services has indicated that the level of parking should be two spaces for this development. As this is clearly achievable, albeit by legal agreement, this would not give rise to a sustainable objection.

Bin Storage:

Although it is not clear from the submitted application where bin storage is proposed, in the event of planning permission being granted, this information can be obtained by planning condition.

CONCLUSION:

The unique nature of this site, the desire to take advantage of an opportunity to obtain an appropriate replacement use for it, the suitable nature of the development proposed and the lack of other similar future precedent sites in the locale make this development supportable.

The impact of the development would be positive, and the level of development compatible with both the site and the locale.

The issues raised in representation are not considered to outweigh the general acceptability of this planning proposal, which is considered to accord with the objectives of the above-listed development plan policies.

On this basis, approval of the planning application is recommended.

RECOMMENDATION BY HEAD OF PLANNING AND BUILDING STANDARDS:

I recommend the application is approved subject to a legal agreement addressing required parking provisions, and the following conditions:

- 1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Local Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
- 2 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, windows, doors and roofs of the buildings, including all finished paint or stain colours, have been submitted to and approved in writing by the 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 within an Area of Great Landscape Value.
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Reason: In the interests of amenity and safety of users.
- 4 The existing right of way shall not be blocked, obstructed or diverted prior to, during or after development unless specific legal entitlement to do so has been obtained from the Planning Authority.
Reason: In the interests of the amenity of users of said right of way, which is considered to be of significant public importance.
- 5 No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall include (as appropriate):
 - i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
 - ii. location of new trees, shrubs, hedges and grassed areas
 - iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
 - iv. programme for completion and subsequent maintenance.Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

- 6 The building shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.
- 7 This purpose-built holiday unit shall not be occupied for the purposes of human habitation between the 9th January and 9th February, in each calendar year.
Reason: The establishment of a permanent residential unit on this site would conflict with the established policy for new dwellings in this location.
- 8 The occupation of the building shall be restricted to holiday purposes only for individual periods not exceeding 4 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.
Reason: A permanent residential site in this location would conflict with the established planning policy for this rural area.
- 9 Before any works commence a scheme shall be submitted to and approved in writing by the Local Planning Authority indicating proposals for the satisfactory storage of refuse in accordance with BS.5906. Such proposals as shall be agreed shall be implemented upon occupation of the development and thereafter retained.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse.
- 10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or amendments or re-enactment or re-enactment thereof) no extension, enlargement, or other alteration of the dwelling including the erection of detached outbuildings shall be carried out without the prior written consent of the Council, to whom a planning application must be made.
Reason: The development hereby permitted is the maximum that can be reasonably allowed without causing detriment to the local environment in this sensitive location, and for this reason would wish to control any future proposals, alterations or extensions.

Informatives:

1. The applicant is reminded that this permission does not convey approval for works affecting third party rights which may exist on the land or any adjoining. The applicant is therefore advised to seek the approval of any parties having an interest in any land affected by this permission.
2. The attention of the developer is drawn to the Section 75 Agreement relating to the permanent provision of 2 no. parking spaces as identified in the plans accompanying the agreement, which in turn form part of this planning permission.

Approved by
Name Designation Signature
Brian Frater

Head of Planning and Building Standards

Author(s)
Name Designation
Mr John Hiscox Planning Officer

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Application for Planning Permission

Reference : 09/00959/FUL

**To : Mr Nesbitt per Jennifer Lampert Associates Ltd Orchard House The Square Paxton
Berwick On Tweed TD15 1TE**

With reference to your application validated on **21st July 2009** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-



**Proposal : Removal of condition 7 which restricts the habitation of the holiday unit between 9
January and 9 February in each calendar year on planning consent 08/01490/FUL**

at : Pavillion North East Of Dunlaverock House Coldingham Scottish Borders

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

**Dated 1st September 2009
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



Head of Planning & Building Standards

APPLICATION REFERENCE : 09/00959/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
	Location Plan	Approved
	Other	Approved
E2346-300	Location Plan	Approved
E2346-303	Block Plans	Approved

REASON FOR DECISION

Condition 8 of the planning permission ref. 08/01490/FUL is adequate to enable the Planning Authority to retain effective control over the nature and duration of accommodation within this unit of holiday accommodation. The issues raised in representation do not outweigh the general acceptability of this development proposal.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

The attention of the developer is drawn to the extant permission ref. 08/01490/FUL and to the remaining conditions other than no. 7, which has been removed as a result of this planning permission. All other conditions remain valid and must be adhered to strictly.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD

Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA

Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU

British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND

Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA

Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL

BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH

THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD

Susiephone System – 0800 800 333

If you are in a Coal Authority Area (Carlisle or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire. NG18 4RG.

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION FOR PLANNING PERMISSION TO BE DETERMINED UNDER POWERS DELEGATED
TO THE HEAD OF PLANNING AND BUILDING STANDARDS**

PART III REPORT

REF : 09/00959/FUL

APPLICANT : Mr Nesbitt

AGENT : Jennifer Lampert Associates Ltd

DEVELOPMENT : Removal of condition 7 which restricts the habitation of the holiday unit between 9 January and 9 February in each calendar year on planning consent 08/01490/FUL

LOCATION: Pavilion North East Of Dunlaverock House
Coldingham
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

Recommendation by - John Hiscox (Planning Officer) on 31st August 2009

The following report relates to an application that seeks to remove condition 7 of planning permission ref. 08/01490/FUL. The existing full planning permission is for a holiday pavilion, on the site of an existing derelict structure on the outskirts of the building group at Coldingham Bay, in Berwickshire. Condition 7 reads:

" This purpose-built holiday unit shall not be occupied for the purposes of human habitation between the 9th January and 9th February, in each calendar year. Reason: The establishment of a permanent residential unit on this site would conflict with the established policy for new dwellings in this location."

The intention of this condition, which occurs within the list of standard conditions utilised by the Director of Planning, is to give additional security where planning permission is granted on sites which, for policy reasons, would be suitable for holiday accommodation but not for permanent residences. It is considered to be a reasonable condition, which is understood to be generally compatible with owners' maintenance aspirations in that the month can be used for repairs or refurbishment that might preclude use by holidaymakers. It is the norm to apply this condition in tandem with a second condition (as in this instance Condition 8) to give additional security:

" The occupation of the building shall be restricted to holiday purposes only for individual periods not exceeding 4 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times. Reason: A permanent residential site in this location would conflict with the established planning policy for this rural area."

However, the developer in this instance is keen to make the accommodation available for 52 weeks in every year, and has requested the removal of condition 7 but not the removal of condition 8 to allow this to occur.

The Council has consistently affirmed its position that planning permission for a permanent residence on this site would conflict with rural housing and other environmental policy. Principally, this is because purpose-built holiday accommodation has less of a demand on its locale in terms of space needed for amenity, and the inevitable alterations that are made to increase comfort and easy access to permanent dwellings, which have a visual impact of their own. For example, fencing, storage buildings, washing lines, play areas and equipment. Condition 10, removing permitted development rights on the development, is closely linked to

this concern. The site is unusual in that it is prominent from the beach and forms an integral part of the setting to Coldingham Bay in a location that would not normally be expected, although it must be acknowledged that the site is not within the building group. It is a developmental quirk that a building should be found on the site at all. The design of the development approved under the 2008 reference is considered to be positive and compatible with the setting but if translated into a permanent dwelling it would begin to conflict with its surroundings.

The intention of the developer, however, is not to undermine the Council's position by establishing a permanent dwelling; that is clear - the supporting statement submitted with the application confirms this.

In considering this application, it is essential to assess whether removal of the condition would leave the Council in a position where it could be disarmed and find that conditions enabling control over the terms of accommodation might no longer be enforceable. This issue is at the heart of the single letter of objection and is mentioned in the other two letters of representation/comment. But condition 8 is adequately worded and formulated to enable the Council to prevent long-term occupancies. It must be acknowledged that the British self-catering accommodation market is now a year-round operation and that it would be unreasonable to reject this proposal, in responding formally to the objectives of the application.

The issues raised in the single objection letter do not outweigh the compatibility of the proposal with local plan policy, in particular tourism policy objectives. It is therefore recommended that the application be approved.

Recommendation: Approved with informatives

Informatives

It should be noted that:

- 1 The attention of the developer is drawn to the extant permission ref. 08/01490/FUL and to the remaining conditions other than no. 7, which has been removed as a result of this planning permission. All other conditions remain valid and must be adhered to strictly.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Application for Planning Permission

Reference : 10/00172/FUL

**To : Mr Robert Cameron per Mr Stuart Palmer Surface Light & Space Ltd 6 Charlotte Square
Newcastle Upon Tyne NE1 4XF**

With reference to your application validated on **24th February 2010** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Replacement of derelict pavilion with holiday pavilion (change of pavilion type
previously approved on 08/01490/FUL)**

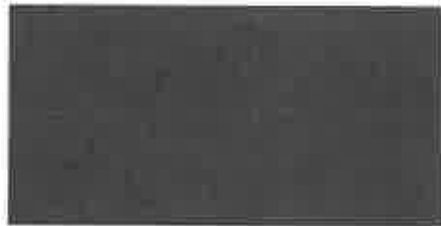
at : Pavilion North East Of Dunlaverock House Coldingham Scottish Borders

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

subject to the conditions on the attached schedule imposed by the Council for the reasons stated

**Dated 7th April 2010
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



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Head of Planning & Building Standards

APPLICATION REFERENCE: 10/00172/PUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
DESIGN STATEMENT	Report	Approved
	Location Plan	Approved
2021_SE_00_001	Sections	Approved
2021_ELE_02_101	Sections	Approved
2021_ELE_03_101	Elevations	Approved
2021_GA_00_101	Floor Plans	Approved
2021_GA_01_101	Floor Plans	Approved
2021_GA_02_101	Other	Approved
2021_ELE_00_101	Elevations	Approved
2021_ELE_01_101	Elevations	Approved

REASON FOR DECISION

Having regard to the proposed use, location, design, relationship with existing development and the setting of Coldingham Bay, the development accords with objectives of development plan policy relating to tourism, design, protection of residential amenity, landscape protection and others covering the physical impact of development on the environment.

SCHEDULE OF CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Local Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
- 3 Prior to the commencement of development, a construction method statement shall be submitted to and approved in writing by the planning authority. The development shall be undertaken in strict accordance with the details agreed in writing.
Reason: The site is in a sensitive location and is not reachable by construction traffic. It is essential that the methods of moving machinery, tools and materials onto the site and construction methods are known and approved, to ensure that minimal environmental impact occurs.
- 4 The two parking spaces identified within the location plan forming part of this planning permission (received 24.2.10) shall be kept permanently available for users of the development for the parking of roadworthy vehicles, and shall not be sold or let (i.e. legally subdivided) from the development.
Reason: The provision of permanent parking spaces to serve this development is essential, as in their absence/unavailability the environment in proximity to the development is likely to be compromised by users seeking an alternative location for the parking of vehicles.

- 5 No development shall be commenced until details have been submitted to, and approved in writing by the Planning Authority, relating to the proposed improvements to the right of way to be utilised as an access to the development. Said details will include proposals for lighting of the right of way, including lighting levels and structures proposed to house the lighting.
Reason: In the interests of amenity and safety of users.
- 6 The existing right of way shall not be blocked, obstructed or diverted prior to, during or after development unless specific legal entitlement to do so has been obtained from the Planning Authority.
Reason: In the interests of the amenity of users of said right of way, which is considered to be of significant public importance.
- 7 No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall include (as appropriate):
- i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
 - ii. location of new trees, shrubs, hedges and grassed areas
 - iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
 - iv. programme for completion and subsequent maintenance.
- Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.
- 8 The building shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted in accordance with details to be submitted to and approved in writing by the Planning Authority.
Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.
- 9 The occupation of the building shall be restricted to holiday purposes only for individual periods not exceeding 4 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.
Reason: A permanent residential site in this location would conflict with the established planning policy for this rural area.
- 10 Before any works commence a scheme shall be submitted to and approved in writing by the Planning Authority indicating proposals for the satisfactory storage of refuse in accordance with BS.5906. Such proposals as shall be agreed shall be implemented upon occupation of the development and thereafter retained.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse.
- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or amendments or re-enactment or re-enactment thereof) no extension, enlargement, or other alteration of the building/dwelling including the erection of detached outbuildings shall be carried out without the prior written consent of the Council, to whom a planning application must be made.
Reason: The development hereby permitted is the maximum that can be reasonably allowed without causing detriment to the local environment in this sensitive location, and for this reason would wish to control any future proposals, alterations or extensions.
- 12 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 and roofs 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.

FOR THE INFORMATION OF THE APPLICANT

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable. A form is enclosed with this decision notice for this purpose.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD

Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA

Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU

British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND

Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA

Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL

BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH

THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD

Susiephone System – 0800 800 333

If you are in a Coal Authority Area (Carlisle or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or



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approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO THE HEAD OF PLANNING
AND BUILDING STANDARDS**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 10/00172/FUL

APPLICANT : Mr Robert Cameron

AGENT : Mr Stuart Palmer

DEVELOPMENT : Replacement of derelict pavilion with holiday pavilion (change of pavilion type previously approved on 08/01490/FUL)

LOCATION: Pavilion North East Of Dunlaverock House
Coldingham
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
DESIGN STATEMENT	Report	Approved
	Location Plan	Approved
2021_SE_00_001	Sections	Approved
2021_ELE_02_101	Sections	Approved
2021_ELE_03_101	Elevations	Approved
2021_GA_00_101	Floor Plans	Approved
2021_GA_01_101	Floor Plans	Approved
2021_GA_02_101	Other	Approved
2021_ELE_00_101	Elevations	Approved
2021_ELE_01_101	Elevations	Approved

NUMBER OF REPRESENTATIONS: 1

SUMMARY OF REPRESENTATIONS:

1 letter of concern received during the consideration period (not stated as objection).

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Structure Plan 2001-2018:

Policies N7, N11, N12, N20, E21, C8, I11, I12, I14, I21.

Scottish Borders Local Plan 2008:

Policies G1, NE3, EP2, EP4, H2, Inf2, Inf4, Inf5, Inf6, D1, D4.

Adopted Supplementary Planning Guidance:

→ Placemaking and Design (2010).

Recommendation by - John Hiscox (Planning Officer) on 7th April 2010

This brief report relates to a full planning application for development at the settlement by Coldingham Bay, on the coast at Berwickshire. The submitted drawings and detailed design statement show the design and context for what may be described as a contemporary development which would provide a 'replacement pavilion', for use as a holiday unit.

The application was submitted following the granting of planning permission for a replacement building under earlier reference 08/01490/FUL, supplemented by 09/00959/FUL but in relation only to an occupancy condition. This scheme would be a substitute, or provide an alternative if approved.

The current scheme was considered in some detail at pre-application stage because it would change the design and resultant visual impact significantly, and because it would introduce a notable level of additional accommodation. This would be formed within a lower level, enabled by excavation of the ground underneath the building's footprint and providing an extra floor of accommodation. At pre-application stage, 'without prejudice' support for the principles of the scheme was offered by the SBC planning department, having been considered by senior planners during a group meeting with graphical material available.

Having established that the principle of re-development at this location as a holiday unit is acceptable under previous applications, it must now be decided whether the changes to the scheme would be acceptable in terms of the visual aspect of the development, and also in terms of the level of development and compatibility with the locale.

The scheme is generally considered to be of good quality and expressed well architecturally. Although non-traditional and a distinct move away from the safe and modest scheme approved under 08/01490/FUL, it is nonetheless considered to be harmonious with its unusual setting and to potentially add a very interesting development to the setting of the bay. Its ecological/energy efficiency approach appears to be genuine and well thought out. It would not set any sort of precedent within the settlement because no other opportunities to re-develop this kind of 'brownfield' site exist in the same manner.

The level of development is potentially of some concern because although the original approval was rather (self) restrictive in terms of accommodation to be provided, the replacement proposal potentially able to provide a greater level of occupancy at any given time within the development. This would not in itself promote a reason to resist the development and the increase in occupiable internal space is considered to be reasonable. However, it would necessitate the introduction of an additional planning condition in the event of permission being granted, to ensure that the physical impact of the development is adequately considered and controlled. To achieve this, a condition requiring a construction method statement would be imposed. This would be done having particular regard to the excavation works proposed, and to the potential for a larger building frame and foundation to be required.

There is a letter of concern submitted by a nearby property owner, identifying the non-traditional design as an undesirable approach in this instance, and also raising a concern that a footpath should remain open. The former is given coverage in earlier sections of this report; the latter was the subject of conditions of the previous permission and would be again if permission is granted on this occasion.

Responses from consultees remain relatively unchanged from the previous occasion when the re-development was considered. It must be noted that the requirement for a development contribution, identified within the consultation response of the Director of Education, makes an assumption that this would be a permanent residence. This would not be a requirement, as the application seeks permission for a restricted holiday unit, which would definitely control occupancy terms and lengths, if granted.

Overall, this application contains details of a good quality development in design/architectural terms with an added incentive of energy efficiency orientation and apparatus

REASON FOR DECISION :

Having regard to the proposed use, location, design, relationship with existing development and the setting of Coldingham Bay, the development accords with objectives of development plan policy relating to tourism,

design, protection of residential amenity, landscape protection and others covering the physical impact of development on the environment.

Recommendation: Approved subject to conditions

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Reason: To ensure that the development is carried out in accordance with the approved details.
- 3 Prior to the commencement of development, a construction method statement shall be submitted to and approved in writing by the planning authority. The development shall be undertaken in strict accordance with the details agreed in writing.
Reason: The site is in a sensitive location and is not reachable by construction traffic. It is essential that the methods of moving machinery, tools and materials onto the site and construction methods are known and approved, to ensure that minimal environmental impact occurs.
- 4 The two parking spaces identified within the location plan forming part of this planning permission (received 24.2.10) shall be kept permanently available for users of the development for the parking of roadworthy vehicles, and shall not be sold or let (i.e. legally subdivided) from the development.
Reason: The provision of permanent parking spaces to serve this development is essential, as in their absence/unavailability the environment in proximity to the development is likely to be compromised by users seeking an alternative location for the parking of vehicles.
- 5 No development shall be commenced until details have been submitted to, and approved in writing by the Planning Authority, relating to the proposed improvements to the right of way to be utilised as an access to the development. Said details will include proposals for lighting of the right of way, including lighting levels and structures proposed to house the lighting.
Reason: In the interests of amenity and safety of users.
- 6 The existing right of way shall not be blocked, obstructed or diverted prior to, during or after development unless specific legal entitlement to do so has been obtained from the Planning Authority.
Reason: In the interests of the amenity of users of said right of way, which is considered to be of significant public importance.
- 7 No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall include (as appropriate):
i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
ii. location of new trees, shrubs, hedges and grassed areas
iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
iv. programme for completion and subsequent maintenance.
Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.
- 8 The building shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted in accordance with details to be submitted to and approved in writing by the Planning Authority.
Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.
- 9 The occupation of the building shall be restricted to holiday purposes only for individual periods not exceeding 4 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers

shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.

Reason: A permanent residential site in this location would conflict with the established planning policy for this rural area.

- 10 Before any works commence a scheme shall be submitted to and approved in writing by the Planning Authority indicating proposals for the satisfactory storage of refuse in accordance with BS.5906. Such proposals as shall be agreed shall be implemented upon occupation of the development and thereafter retained.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse.
- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or amendments or re-enactment or re-enactment thereof) no extension, enlargement, or other alteration of the building/dwelling including the erection of detached outbuildings shall be carried out without the prior written consent of the Council, to whom a planning application must be made.
Reason: The development hereby permitted is the maximum that can be reasonably allowed without causing detriment to the local environment in this sensitive location, and for this reason would wish to control any future proposals, alterations or extensions.
- 12 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 and roofs 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.

Informatives

It should be noted that:

- 1 The applicant is reminded that this permission does not convey approval for works affecting third party rights which may exist on the land or any adjoining. The applicant is therefore advised to seek the approval of any parties having an interest in any land affected by this permission.

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