

**SUPPORTING STATEMENT TO NOTICE OF  
REVIEW**

**IN RELATION TO SCOTTISH BORDERS  
COUNCIL'S REFUSAL OF PLANNING  
PERMISSION FOR PART CHANGE OF USE OF  
PADDOCK TO FORM NEW ACCESS AND  
DRIVE TO DWELLINGHOUSE, ERECTION OF  
GATES AND SUMMERHOUSE AND  
FORMATION OF NEW PARKING AREA AND  
TENNIS COURT.**

**SOUTHBANK, BOWDEN TD6 0ST**

**APPLICATION REF: 17/01362/FUL**

**ON BEHALF OF**

**MRS SARAH WILKINSON**

**24 APRIL 2018**



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## EXECUTIVE SUMMARY

This Notice of Local Review is submitted on behalf of Mrs Sarah Wilkinson of Southbank, Bowden TD6 0ST against the decision of Scottish Borders Council to refuse planning permission on 21<sup>st</sup> February 2018, for the formation of a new access and driveway through paddock ground, the erection of gates and a summerhouse and the formation of a new parking area and tennis court. The application reference was 17/01362/FUL.

The application relates to land owned by the applicant adjacent and to the south of her home. The proposal comprised two key elements:

- 1) The formation of a new driveway (from the public road to the south of the dwelling) and formation of parking area near to the house; and
- 2) Erection of summerhouse and creation of tennis court.

In terms of the new driveway proposal, at present the only parking space for the family home is within a narrow area of land at the eastern gable of the dwelling, as shown below. Access can only be taken to one side of a car due to limited space.

**Fig 1:** Current parking arrangement at Southbank





The Applicant considers that the Officer's decision with regard to all aspects of the proposal should be overturned, on the Grounds asserted within this Statement, but would like to inform the LRB that the most important aspect, due to road safety grounds, is **the ability to form a new access with adequate parking arrangements.**

The Applicant is aware that the Local Review Body will review the application on a "*de novo*" basis and therefore requests that, should the LRB feel unable to support the tennis court and summerhouse proposals, **consideration be given to overturning the Officer's decision with regard to the access proposals only.** This part-approval would allow the Applicant to create the necessary safe access and parking arrangements to serve the family home.

Two layout drawings are provided. One shows the proposal for the new access only; the other shows both the proposed access and the landscaped tennis court proposal.

The key reasons for refusal include the Planning Officer's view that:

- The proposals would be an inappropriate encroachment into countryside;
- The proposals would be out of keeping with the rural character of the area and edge-of-village location;
- The proposals would be prominent in the landscape and adversely affect the setting of the village, the character and appearance of this part of the Conservation Area and the visual amenities of the area.

Under three Grounds for Local Review, this statement will assert that the proposals are not inappropriate development in a countryside location and that the creation of a new, safe access is genuinely required to serve the dwelling and will improve road safety and free flow of traffic on the public road.

The Local Review Body, having considered the detail contained within the refused Planning Application, together with the information set out herein, will be respectfully requested to allow the Review to enable planning permission to be granted for the proposals at Southbank.



**Note on Drawing Information Provided**

The appellant is obliged not to raise any new matters which were not before the Officer at the time when the decision on the application was made, unless such matter could not have been raised then, or if the new information is material to the determination of the case.

Layout drawings are provided with this Statement which are based upon the information submitted by the Applicant with the original application. The information is, however, illustrated in a clearer, coloured format to enable Members to better understand and assess the proposals. One new drawing is provided which is a “close-up” illustration of the junction detail of the new driveway with the existing passing place. It should, however, be noted that the Roads Officer was very clear that this information could be provided as part of fulfilling a planning condition should the original application have been approved.





## 1.0 DOCUMENTATION AND PLANNING CONTEXT

1.1 The Application for planning permission for the proposals at Southbank included the following drawings, which are also re-issued with this Local Review.

- Location Plan
- Sketch of Access and Gates
- Block Plan
- Edging detail
- Layout and sections
- Photographs
- Tennis court fence sketch
- Tennis court gate sketch

1.2 The Planning Officer's Report and Decision Notice relating to the refused application are also included.

1.3 This Supporting Statement contains additional plans and photographs illustrating the context and they are based on information submitted with the original application.

## 2.0 REFUSAL OF APPLICATION BY SCOTTISH BORDERS COUNCIL

- 3.1 The application was refused by Scottish Borders Council on 21<sup>st</sup> February 2018 on the basis set out below.

*[1] The proposal would be contrary to Policy PMD4 of the Local Development Plan 2016 in that the change of use of the paddock to domestic garden ground and the erection of the tennis court, fencing and summerhouse and the formation of the access and driveway would be outwith the village's development boundary, resulting in inappropriate encroachment into the open countryside.*

*There is no justification for this development in terms of the exceptions listed within policy PMD4 and approving the proposal would set an undesirable precedent for similar developments outwith the village that would further erode the development boundary.*

*[2] The proposal would be contrary to policies PMD2 and EP9 of the Local Development Plan 2016 as the development would be out of keeping with the rural character of the area and edge-of-village location. The proposal would be prominent in the landscape, with inappropriate boundary treatments that do not help to integrate the development into its wider surroundings and the wider environment, and would adversely affect the setting of the village, the character and appearance of this part of the Conservation Area and the visual amenities of the area.*



## 3.0 PLANNING POLICY CONTEXT

### SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN (2016)

- 3.1 The settlement boundary of Bowden and the boundary of the Conservation Area in relation to Southbank are shown below. The proposed driveway and the tennis court are located to the south of the settlement boundary, within an area of informal paddock ground owned by the Applicant.

**Fig 2:** Extract from LDP Settlement Profile map



- 3.1 The key policies relevant to the determination of this Local Review are Local Development Plan (LDP) Policies:

- **PMD2** – Quality Standards;
- **PMD4** – Development outwith Development Boundaries; and
- **EP9** – Conservation Areas.

- 3.2 Key provisions of policy **PMD2** which are directly relevant to the proposal include:

- Development should be designed to fit with Borders townscapes and integrate with its landscape surroundings;
- Proposals should include appropriate boundary treatments and landscaping works such as screen planting where necessary to help integration with





surroundings;

- Proposals should be compatible with, and respect, the character of the surrounding area, neighbouring uses and neighbouring built form;
- There must be no adverse impact on road safety, including in respect of the site access;
- Proposals must include adequate access and turning space for vehicles.

3.3 Policy **PMD4** notes that the development boundaries on LDP Proposals Maps indicate the extent to which towns and villages should be allowed to expand during the Local Plan period. The policy sets out where exceptions to the policy may be acceptable and the circumstances which have to be satisfied if an exception is to be made. The policy is framed around proposals for expanding settlements through, primarily, housing development (as opposed to proposals such as the one before Members). As with policy PMD2, the provisions seek to protect landscape setting and the character of the settlement.

3.4 Policy **EP9** provides for the preservation and enhancement of Conservation Areas, with reference being made to aspects including the scale of proposals, boundary treatment and materials use.

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#### 4.0 GROUNDS FOR LOCAL REVIEW AND CASE FOR THE APPELLANT

- 4.1 The Local Authority's decision to refuse the application is challenged on the basis of the three Grounds set out below.

**GROUND 1:** The development would not be contrary to policy PMD4 of the Local Development Plan 2016 in that the proposal would **not be an inappropriate encroachment into the countryside**. There would be no 'expansion of the settlement' as such.

**GROUND 2:** The development would not be contrary to policy PMD2 of the Local Development Plan 2016 in that:

- a) The proposal can be **adequately integrated with the landscape surroundings** and can include appropriate boundary treatments / screen planting to help such integration. The proposal will not be prominent in the landscape.
- b) The proposal is compatible with and respects the character of the surrounding area and **would not adversely affect the village setting;**
- c) There is a **positive impact on road safety** and on the provision of adequate access and turning space for vehicles. There is no more appropriate location to form a new access.

**GROUND 3:** The development would not be contrary to policy EP9 of the Local Development Plan 2016 in that there would be **no detrimental impact upon the character of the Bowden Conservation Area**.



## SUMMARY OF KEY ELEMENTS OF APPELLANT'S CASE

- 4.2 **Current parking arrangements:** The parking for Southbank is very limited and often encroaches onto the public road. There is consistent evidence of vehicle wheel marks in the verge opposite the parking area. The building adjacent to the road houses a renewables heating system – a biomass unit. Vehicles cannot be parked in this building or immediately against it. Access is needed from the roadside to stock the unit with woody biomass. A new, safe access solution is required to serve the dwelling.

**Fig 3:** Parking arrangements for Southbank causing partial road obstruction



- 4.3 **Roads Consultation:** There were no objections to the proposals for the new access from the Roads Offer as the minor road has low traffic flows and low speeds associated with road geometry. The Officer requested sight of a drawing to show how the access would tie in with the existing passing place. This additional information can be provided in discharging an appropriately worded planning condition, as agreed by the Planning Officer.



#### 4.4 Garden Wall:

A garden wall runs down the eastern boundary between the public road and the dwelling and its garden. This wall forms part of the Conservation Area and creating a new opening in this attractive structure is to be avoided.

Fig 4: Garden Wall



4.5 **Trees and Landscaping:** The requests (noted below) of the Landscape Officer could be met through the provision of the following detailed drawings as part of the discharging of appropriately worded pre-start conditions, as agreed by the Planning Officer:

- a) A drawing showing the relationship of trees and their root protection areas (RPA) to the proposed driveway and parking area;
- b) A drawing showing if, and where, any works may lie within the RPAs of trees
- c) Detail of any necessary 'no-dig' construction techniques for any works which may be in RPAs. (Please refer to Appendix 1 for an example 'no dig construction' product.
- d) A drawing showing hedge or tree planting proposals to screen the tennis court fencing, and generally to help integration of the proposal into the surroundings.

4.6 The Planning Officer's report notes that none the drawings listed above (within 4.3 and





4.5) were requested from the Applicant during the processing of the application only because the Planning Officer was not supportive of the principle of the proposal. The Officer acknowledged that all these items could reasonably be secured by way of planning condition, if required.

- 4.7 The Appellant has, however, outlined on the submitted drawing (1252 S02 A) that the graveled/ parking area will be constructed using a 'no-dig' Terram Geocell root protection system. (see Appendix 1). This will ensure protection of any existing tree roots to the south of the house. Detailed drawings, as noted above, would be provided in discharging suitably worded planning conditions.

## GROUNDS OF APPEAL

**GROUND 1:** The development would not be contrary to policy PMD4 of the Local Development Plan 2016 in that the proposal would not be an inappropriate encroachment into the countryside. There would be no 'expansion of the settlement' as such.

- 4.8 The proposal does not entail settlement expansion in terms of the development of any dwelling or extension of a dwelling outwith the settlement boundary. The key proposal is for a new, safe access to serve the house. Of secondary importance to the Appellant is the proposal for the tennis court.
- 4.9 The paddock through which the proposed new driveway will pass will be maintained as such. The land currently serves as informal paddock at present - it is not 'prime agricultural land'.
- 4.10 It is acknowledged that part of the proposal would lie outwith the settlement boundary. Taking access first, it is usual for a detached house to have a driveway to its front. This aspect, which would be tree-lined (through new planting, as shown) and would be contained within an existing paddock, would not be inappropriate development for a rural area which lies close to the settlement boundary. There is clear evidence (wheelmarks in the eastern verge) of a restriction caused by the existing parking arrangements to the east of Southbank. There is inadequate room at this location for parking associated with a family home. It is only possible to enter/ exit a car from one



side due to the lack of parking space; a situation which is problematic with a larger family.

- 4.11 Turning to the other aspects of the proposal, it has been made clear within the Officer's report that landscaping could readily be dealt with by way of condition. Any concern about the visibility from the public road of the proposed tennis court could be addressed through appropriate tree planting/ screening. Such could be secured to the satisfaction of the LRB through a planning condition. The fencing detail can, likewise, be conditioned.
- 4.12 The submitted layout drawing (1252 S02 B) clearly shows a tree-lined driveway, together with planting proposals around the tennis court between it and the public road. Layout drawing (1252 S01 B) shows the tree lined driveway only, without the tennis court proposal.

**GROUND 2: The development would not be contrary to policy PMD2 of the Local Development Plan 2016 in that:**

- a) **The proposal can be adequately integrated with the landscape surroundings and can include appropriate boundary treatments / screen planting to help such integration. The proposal will not be prominent in the landscape.**
  - b) **The proposal is compatible with and respects the character of the surrounding area and would not adversely affect the village setting;**
  - c) **There is a positive impact on road safety and on the provision of adequate access and turning space for vehicles. There is no more appropriate location to form a new access.**
- 4.13 In terms of (a) it is accepted by the Planning Authority, as noted above, that appropriate landscaping/ screening of the tennis court can be secured by way of an appropriately worded condition. By way of indication, this is also shown on the appropriate layout drawing. Of particular note is the proposed planting between the public road and the tennis court.
- 4.14 Turning to (b), the proposal for a driveway approach to the house is in keeping with edge of settlement properties, particularly a house such as Southbank. There is no



reason why this aspect should have a detrimental impact upon the Conservation Area or the setting of Bowden. With appropriate landscape treatment (as indicated on the drawings, the tennis court could be assimilated into the landscape setting in a sensitive manner.

- 4.15 The Roads Officer has provided no objection to the proposals, only requiring further drawing detail to show how the access would tie in with the existing passing place. He indicated that this could be secured by way of a planning condition if the application was to be consented.
- 4.16 The driveway will join the public road at a location which offers adequate east and west sightlines, given the low traffic volumes on the road. The junction is at a small passing place, which will remain available for use if required by passing traffic. Notwithstanding the Roads Officer's willingness to have the matter addressed by way of condition, drawing (ref 1252 S03 A) has been provided to show the junction detail. It is, however, noted that a substantial pull-in-area exists immediately to the east of the proposed junction.

**Fig 5:** Passing place to east of proposed new junction





**GROUND 3:** The development would not be contrary to policy EP9 of the Local Development Plan 2016 in that there would be no detrimental impact upon the character of the Bowden Conservation Area.

- 4.17 The Conservation Area includes most of the village, which is centred around the green. Notable buildings include the Church, the Schoolhouse, the Mill, the Village Hall, the Manse and the Smithy. New development should respect the layout of the village. The proposal will only be visible from the minor road to the south of the village, and visibility will be reduced with appropriate landscaping as indicated on the submitted drawings.



## 5.0 CONCLUSIONS

- 5.1 This Local Review requests that the Officer's decision to refuse planning permission for the key aspect of the proposal, the creation of a new fit-for-purpose access to Southbank, be overturned. It is robustly asserted that this proposal has no detrimental impact upon the setting or upon the Conservation Area.
- 5.2 If necessary, the Appellant would be willing to accept a part-overturning of the Officer's decision, given the ability to the LRB to consider the application on a 'de novo' basis. This would enable the key part of the proposal (the proposed new access driveway) to be implemented. The tennis court proposal is desired, but is not essential, and the Appellant is willing to sacrifice this part of the proposal.
- 5.3 Approval of this proposal will ensure the free flow of vehicular traffic on the public road to the east of Southbank, which can become constrained due to limited availability of parking within the surfaced area beside Southbank.
- 5.4 It is confirmed that the associated proposal for the creation of a tennis court can be adequately screened to the satisfaction of the LRB, with planting (as indicated on drawings) secured by way of a suitably worded planning condition. Indeed, all of the drawing information requested by the Landscape Officer can be secured by way of an appropriately worded planning condition, including the identification of trees' root protection areas and this approach is agreed by the Landscape Officer.
- 5.5 A 'no dig' construction technique would be utilised for the creation of the turning/parking area and any part of the driveway which falls within the root protection areas of any trees. An example of a system has been provided within Appendix 1.
- 5.6 The Roads Officer has expressed no objection to the proposal and his requirement for a drawing to show the access joining the passing place can be secured by way of a planning condition, although one has been provided to illustrate the detail of the proposal to Members herein and to demonstrate that it is readily achievable.
- 5.7 Given the clear need for a new access to Southbank and the lack of significant impact upon the village setting or the Conservation Area, the Local Review Body is respectfully

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requested to allow the appeal.

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