



Newtown St Boswells Melrose TD6 0SA Tel: 01835 825251 Fax: 01835 825071 Email: ITSystemAdmin@scotborders.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100028343-006

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Type of Application

What is this application for? Please select one of the following: \*

- ☒ Application for planning permission (including changes of use and surface mineral working).
- ☐ Application for planning permission in principle.
- ☐ Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions.

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

Erection of dwellinghouse

Is this a temporary permission? \*

☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \*

☐ Yes ☒ No

Has the work already been started and/or completed? \*

☒ No ☐ Yes - Started ☐ Yes - Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	RM architecture Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Ross	Building Name:	Bloomfield
Last Name: *	Martin	Building Number:	
Telephone Number: *	01750 21709	Address 1 (Street): *	Heatherlie Park
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Selkirk
Fax Number:		Country: *	United Kingdom
		Postcode: *	TD7 5AL
Email Address: *	rmarchitecture4@gmail.com		

Is the applicant an individual or an organisation/corporate entity? \*

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Osmond Cottage
First Name: *	I.	Building Number:	
Last Name: *	Maxwell	Address 1 (Street): *	Smiths Road
Company/Organisation:		Address 2:	
Telephone Number: *		Town/City: *	Darnick
Extension Number:		Country: *	United Kingdom
Mobile Number:		Postcode: *	TD6 9AL
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:

Scottish Borders Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

634264

Easting

353136

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☐ Yes ☒ No

## Site Area

Please state the site area:

136.13

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

Vacant site

## Access and Parking

Are you proposing a new altered vehicle access to or from a public road? \*

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? \* ☐ Yes ☒ No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? \*

0

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

## Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? \* ☒ Yes ☐ No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? \*

- ☒ Yes – connecting to public drainage network  
☐ No – proposing to make private drainage arrangements  
☐ Not Applicable – only arrangements for water supply required

Do your proposals make provision for sustainable drainage of surface water?? \*  
(e.g. SUDS arrangements) \*

☐ Yes ☒ No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? \*

- ☒ Yes  
☐ No, using a private water supply  
☐ No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

## Assessment of Flood Risk

Is the site within an area of known risk of flooding? \* ☐ Yes ☒ No ☐ Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \* ☐ Yes ☒ No ☐ Don't Know

## Trees

Are there any trees on or adjacent to the application site? \* ☐ Yes ☒ No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \* ☒ Yes ☐ No



If Yes or No, please provide further details: \* (Max 500 characters)

Bin storage facility achievable within site boundary.

## Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \*

☒ Yes ☐ No

How many units do you propose in total? \*

1

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

## All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

☐ Yes ☒ No

## Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013? \*

☐ Yes ☒ No ☐ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

☐ Yes ☒ No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

☒ Yes ☐ No

Is any of the land part of an agricultural holding? \*

☐ Yes ☒ No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

# Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Ross Martin

On behalf of: Mr I. Maxwell

Date: 09/03/2018

☒ Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

☐ Yes ☐ No ☒ Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

☐ Yes ☐ No ☒ Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

☐ Yes ☐ No ☒ Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- ☒ Site Layout Plan or Block plan.
- ☒ Elevations.
- ☒ Floor plans.
- ☒ Cross sections.
- ☐ Roof plan.
- ☐ Master Plan/Framework Plan.
- ☐ Landscape plan.
- ☒ Photographs and/or photomontages.
- ☐ Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. \*

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. \*

☒ Yes ☐ N/A

A Flood Risk Assessment. \*

☐ Yes ☒ N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). \*

☐ Yes ☒ N/A

Drainage/SUDS layout. \*

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan

☒ Yes ☐ N/A

Contaminated Land Assessment. \*

☐ Yes ☒ N/A

Habitat Survey. \*

☐ Yes ☒ N/A

A Processing Agreement. \*

☐ Yes ☒ N/A

Other Statements (please specify). (Max 500 characters)

## Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Ross Martin

Declaration Date: 24/04/2017



**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997****Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013****Application for Planning Permission****Reference : 16/01311/FUL****To : Mr I Maxwell per RM Architecture Ltd Bloomfield Heatherlie Park Selkirk TD7 5AL**

With reference to your application validated on **18th October 2016** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Erection of dwellinghouse****At : Land North West Of Doonbye Smith's Road Darnick Scottish Borders**

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s) stated on the attached schedule**.

**Dated 14th December 2016  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed**.....  
**Chief Planning Officer**

**APPLICATION REFERENCE : 16/01311/FUL****Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused
260916/PP/03	Site Plan	Refused
260916/PP/01	Floor Plans	Refused
260916/PP/02	Elevations	Refused

**REASON FOR REFUSAL**

- 1 The proposed development would not comply with Policies PMD2, PMD5 or IS7 of the Local Development Plan 2016 because no off-street parking would be provided and the resulting implications on Smith's Road would have potential adverse impacts on road and pedestrian safety. Other material considerations do not outweigh these conflicts with policy
- 2 The proposed development would not comply with Policies PMD2, PMD5, HD3 or EP9 because it would constitute overdevelopment of the site in a manner that would have adverse implications for the character and appearance of the Conservation Area and an intrusive and overbearing impact on neighbouring properties. Other material considerations do not outweigh these conflicts with policy

**FOR THE INFORMATION OF THE APPLICANT**

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

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 16/01311/FUL

**APPLICANT :** Mr I Maxwell

**AGENT :** RM Architecture Ltd

**DEVELOPMENT :** Erection of dwellinghouse

**LOCATION:** Land North West Of Doonbye  
Smith's Road  
Darnick  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused
260916/PP/03	Site Plan	Refused
260916/PP/01	Floor Plans	Refused
260916/PP/02	Elevations	Refused

**NUMBER OF REPRESENTATIONS: 5**

**SUMMARY OF REPRESENTATIONS:**

Five objections have been received and raise, in summary, the following key issues:

- o No parking is proposed. Parking is already a problem, at saturation point and 'fit to burst'. Another house with 1 or 2 more cars will join the daily fight for space to park and will exacerbate the problem, with a resulting increase in the risk of accidents
- o The site is accessed only by a single mutually owned path, unsuitable as the only access for a family home, and certainly not appropriate as a reasonable means of access during construction
- o The site is too small to accommodate a two storey family house, resulting in overdevelopment, with little or no amenity space. Its development would be out of character, dominating the western skyline impacting on the visual amenity of facing houses and others
- o The materials bear no resemblance to materials in the vicinity
- o The house would tower over others, with no thoughts for privacy or decent boundaries, impacting on the privacy of the adjacent garden, and block afternoon sun from a large area.
- o The site holds archaeological interest
- o The plans are hard to read and inconsistent

**Consultations**

Roads Planning Service: Are unable to recommend approval of this application on the grounds of insufficient parking and access. The plot has no vehicular access and there is no dedicated parking proposed. Furthermore, the pedestrian access to the site is not conducive to the transportation of

building materials. This is likely to lead to materials being stored on Smiths Road which is not appropriate for such storage/occupation.

They have read the applicants parking assessment and whilst they agree that the principles of Designing Streets allows for on-street parking rather than dedicated off-street parking, their opinion is that Smiths Road is not capable of taking any more parked vehicles without causing further problems for road users. During several visits to the site, the areas suitable for parking on Smiths Road were occupied and this was without the additional traffic associated with the proposed dwelling. Vehicles would have to seek parking further afield and this is not an acceptable solution to parking. There are already concerns with vehicles parked on Smiths Road causing obstructions and the approval of this dwelling would just exacerbate the problem.

The site is garden ground detached from the public road other than by way of a footpath connection. Otherwise they are sure that dedicated parking would have been offered as part of the proposal.

Community Council: This is a very tight almost land locked site with very poor access along a narrow path. There is limited access for construction traffic. The proposed property will most likely have one if not two cars and with parking in the village especially Smiths Road at a premium and no off street parking proposed, the CC could not support this application

Education and Lifelong Learning: Contributions of £2438 towards Melrose Primary School and £3428 towards Earlston High School are required

Archaeology Officer: There are potential archaeological implications. The development site formerly contained a building of unknown age or use. He does not object to this proposal, but there is a requirement for mitigation. The building appears clearly on maps from the OS 1st edition (1858) to the OS 3rd edition (1904) suggesting it was at least of early 19th century date. There is some potential that it was older. The layout of Darnick is first clearly depicted on General Roy's map of the 1750s consisting primarily of a main north to south road (now Smith's Road) leading to Darnick Tower in the north with road frontage crofts and enclosed backland 'rig' fields behind. This is a typically medieval village layout. The property and former building were within the area where we expect medieval and post-medieval backland activity to occur. The OS 1st edition suggests the former building was in fact tied to a property boundary for Bowmont Cottage to the north. This may have been a stable block or some other ancillary structure for Bowmont Cottage. This plot seems to have been sold off by the early 20th century and the building demolished. It is likely that the northern and eastern walls of the property are in fact two surviving walls of the former building. There is also some potential that below the levels of the former building there will be features associated with medieval and early post-medieval activity on the site.

The site is also within the Inventory Battlefield of Darnick. There are no implications relating to this designation.

He notes from the Planning Statement that the interior of the site has been cleared of vegetation and that some limited excavation has been undertaken. The photos confirm that buried rubble, likely from the former building, exists below the level of garden soils. Given the potential age of the former building (at least early 19th century) and the potential for medieval or post-medieval features or deposits, he recommends that further excavations of the site for foundations, services, access etc be undertaken under archaeological supervision during a watching brief. A condition requiring a watching brief is recommended

Environmental Health Service: The application appears to be proposing the erection of a dwelling on land which was previously operated as a commercial horticultural nursery. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose. A condition is recommended requiring site investigation and assessment

Historic Environment Scotland: No reply

## **PLANNING CONSIDERATIONS AND POLICIES:**

Local Development Plan 2016



PMD2, PMD5, EP4, EP8, EP9, EP11, EP13, IS2, IS3, IS7, IS9, IS13

SPG Guidance on Householder Development 2006; Placemaking and Design 2010; Development Contributions 2016; Trees and Development 2008

**Recommendation by** - Carlos Clarke (Lead Planning Officer) on 14th December 2016

#### Site and application description

This application seeks consent for a single house on a site west of Smith's Road in Darnick. The site is elevated above the road, detached from it but accessible by a narrow path. It is enclosed by timber fencing and hedging, and bounds other residential gardens, including a new house plot to the west. The site is within the village's Conservation Area.

The proposal is to erect a 1 ¾ storey house on the site. It would be roofed with natural slate, and finished in timber and render, with timber windows and doors. It would be accessed from Smith's Road by the existing path, and would have no vehicular access or parking.

#### Principle

The site is within the village settlement boundary as identified by the Local Development Plan 2016, and the general principle of potential infill development can be considered against Policy PMD5, subject to satisfying its criteria and other relevant LDP policies. The site is not open space of amenity or townscape value, and its use for residential purposes would not conflict with neighbouring uses.

#### Services

Contributions would be required towards the Waverley Line and local schools, as noted above. A legal agreement would be necessary if consent were to be granted.

No details of services for water and drainage have been provided. Mains water and drainage connections would be required, and there is no known reason at this stage while these would not be achievable. A condition could secure these before works commence.

#### Archaeological interest

The site is within Darnick's Battlefield designation, but our archaeologist identifies no mitigation required, and Historic Environment Scotland have not made any comment.

The site does, however, hold some archaeological interest, as identified by our archaeologist. A building previously stood in this area, which supports the case, albeit to a fairly limited extent, for a new building. A condition requiring a watching brief would address any direct archaeological implications.

#### Contaminated Land

As noted by the Environmental Health Service, previous use of the site requires investigation to ensure no potential contamination affecting the proposed residential use. A condition could be applied to reflect the EHS's advice.

#### Access and parking

Policy PMD2 requires that developments do not lead to adverse impacts on road safety, and that there is adequate access and turning space for vehicles. Policy PMD5 requires adequate access. Policy IS7 requires that developments provide parking in accordance with approved standards. This policy allows for a relaxation where appropriate depending on the nature of the development and/or positive amenity gains that may be achieved that don't compromise road safety. The LDP specifies a requirement of 2.25 spaces per house.

Here, no on-site parking exists and no on-site or off-street parking is proposed. The applicant's supporting information (submitted with the original application and during its processing) acknowledges this but points to the historic pattern of development, its establishment before the introduction of the motor car, and that only three properties off Smith's Road enjoy off-street parking, with a further three lock-up garages along the road. Though a number of properties don't front the road and are only accessible by foot, it is contended that the arrangements appear to work on a first-come-first-served basis. It is argued that dedicated parking would be out of character; that the policies on parking are too prescriptive; and that new parking would impact on the on-street parking that already exists. It is, therefore, contended that the requirement should be waived in this case, accounting for the flexibility offered by Policy IS7.

I would accept that parking is not possible within the site due to the location, and that off-street parking here would have physical implications for existing parking. It would also have visual implications that would not be acceptable because of their potential harm to the character and appearance of the Conservation Area. Such parking would, to some extent, be visually incidental to what would be a modern infill house, but would also then exacerbate its overall visual impact. I also acknowledge that the historic street layout was not designed for cars, but has adapted to them over time, absorbing a varied arrangement of parking. I agree that there can be justification in providing a novel approach to parking in appropriate circumstances. There would also be justification in reducing or removing standards if it could be shown that the implications of the extra traffic burden on existing on-street parking would not be detrimental.

However, that is not the case here, as is apparent from neighbours' comments, with the number of vehicles in the street described as overwhelming at times, and the street described as being fit to burst and at saturation point. This proposal would be for a family house adding one and possibly more vehicles to the street. The RPS's view aligns with those of neighbours, in that it is considered that Smith's Road is not capable of accommodating further parked vehicles without causing further problems. The road is already at capacity without this proposal adding extra cars to the street. There is also the associated need to physically build the house and, with no vehicular access to it achievable, there is likely to be serious disruption to Smith's Road during the construction phase. The applicants have not demonstrated that this development will not have adverse road and pedestrian safety implications. It is not considered that the development will satisfy Policies PMD2, PMD5 or IS7 and material considerations do not outweigh these policy conflicts.

#### Placemaking and design

There are no trees of note on site or nearby that would be at risk. Hedging may be at risk on the boundaries, but its loss would not have particular implications for the Conservation Area.

The site itself is elevated above the road and detached from it. The application is supported by a supporting statement which points to the existing varied street and townscape pattern here. I would suggest this site is not quite comparable, as it is more detached. It is noted that a building stood in this general area in the past, which is of some interest, if not a significant consideration given it is understood to have been an ancillary building and is long since demolished. In any case, a new house here would fill the gap in the townscape and would not, in principle, detract from what is a clearly varied, historic townscape pattern.

The plot is, however, partly enclosed by high timber fencing, and the house would be set one metre from three of the boundaries. I share neighbours' concerns that the house would appear as an overdevelopment. On the other hand, the house would be set back from the street, with intervening planting and fencing and other features obscuring its true relationship with its boundaries such that the size of the plot would not be readily apparent. Also, though elevated, the townscape here is varied and the house type itself relatively small. The design statement submitted with the application does not wholly address concerns regarding the elevated nature of the site but it is possible that further street sections and elevations would be able to better demonstrate the proposal's relationship to the existing townscape and appearance from the road. Had there been no other concerns, this information would have been sought at this stage. However, as noted below under 'neighbouring amenity', there are other concerns regarding the visual implications of the development.

In terms of form and design, the proposal is broadly traditional, though chimneys would have assisted in punctuating the roof. The elevational treatment is lightly contemporary, which is not objectionable in this varied townscape. The proportions of window openings are not sufficiently vertical, however, and though fencing and planting may obscure ground floor openings, adjustments to proportions would still be sought (excluding the westerly elevation given its clear lack of potential visibility). The dormer window would, in any case, require adjustment. A condition could address these matters.

A natural slate roof and rendered walls, along with timber windows and doors, are proposed, and these are all agreeable (subject to detailed specifications/colours). Timber cladding is also proposed. This departs somewhat from the prevailing materials in the area, and an alternative approach would be recommended, such as less cladding or natural stone instead. A condition could require this.

#### Neighbouring amenity

There would be no serious consequences for neighbours in terms of daylight, outlook or sunlight impacts. There would be some effect on the adjoining garden ground, but the impacts will not be significant given the positioning of the house.

In terms of privacy, for a village setting, impacts on neighbouring buildings would not be a concern. However, the building is very close to garden boundaries, so resulting in potentially direct views onto neighbouring garden ground. Fencing will screen ground floor openings to the south and east (if levels allow) and, if hedging to the north and west is capable of being kept/augmented, or replaced with fencing, then this would screen ground floor overlooking. However, the dormer window, roof lights and corner windows would lead to overlooking of neighbouring garden ground and it is noted that principal sitting accommodation is proposed on the upper floor. Louvres on corner windows won't be of serious benefit in screening overlooking. I note the floor plan is inconsistent as regards the position of a corner window but, wherever placed, it will overlook neighbouring gardens. Some adjustments could be made to the openings but it is unlikely that overlooking of neighbours could be completely avoided because of the size of the plot. I accept that neighbouring gardens are overlooked to varying degrees (except the new house plot to the west), but this proposal would be so close to boundaries as to be intrusive and overbearing. While the implications for neighbouring amenity will vary, and may not be significant in themselves, ultimately they do suggest the site is too small to accommodate a house in a manner that is sympathetic to the amenity of neighbouring properties. The resulting visual effect would be to harm the character and appearance of the Conservation Area

#### REASON FOR DECISION :

The proposed development would not comply with Policies PMD2, PMD5 or IS7 of the Local Development Plan 2016 because no off-street parking would be provided and the resulting implications on Smith's Road would have potential adverse impacts on road and pedestrian safety. Other material considerations do not outweigh these conflicts with policy

The proposed development would not comply with Policies PMD2, PMD5, HD3 or EP9 because it would constitute overdevelopment of the site in a manner that would have adverse implications for the character and appearance of the Conservation Area and an intrusive and overbearing impact on neighbouring properties. Other material considerations do not outweigh these conflicts with policy

#### **Recommendation:** Refused

- 1 The proposed development would not comply with Policies PMD2, PMD5 or IS7 of the Local Development Plan 2016 because no off-street parking would be provided and the resulting implications on Smith's Road would have potential adverse impacts on road and pedestrian safety. Other material considerations do not outweigh these conflicts with policy
- 2 The proposed development would not comply with Policies PMD2, PMD5, HD3 or EP9 because it would constitute overdevelopment of the site in a manner that would have adverse implications for the character and appearance of the Conservation Area and an intrusive and overbearing impact on neighbouring properties. Other material considerations do not outweigh these conflicts with policy

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

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997****Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013****Application for Planning Permission****Reference : 17/01346/FUL****To : Mr I Maxwell per RM Architecture Ltd Bloomfield Heatherlie Park Selkirk TD7 5AL**

With reference to your application validated on **29th September 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Erection of dwellinghouse****at: Land North West Of Doonbye Smith's Road Darnick Scottish Borders**

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s) stated on the attached schedule**.

**Dated 5th December 2017  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed****Depute Chief Planning Officer**

**APPLICATION REFERENCE : 17/01346/FUL****Schedule of Plans and Drawings Refused:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
170917/PP/01	Floor Plans	Refused
170917/PP/02	Elevations	Refused
170917/PP/03	Site Plan	Refused
170917/PP/04	Sections	Refused
170917/PP/05	Location Plan	Refused

**REASON FOR REFUSAL**

- 1 The proposed development would not comply with Policies PMD2, PMD5 or IS7 of the Local Development Plan 2016 as no off-street parking would be provided and the resulting implications on Smith's Road would have potential adverse impacts on road and pedestrian safety. Other material considerations do not outweigh these conflicts with policy.
- 2 The proposed development would not comply with Policies PMD2, PMD5, HD3 or EP9 as it would constitute overdevelopment of the site in a manner that would have adverse implications for the character and appearance of the Conservation Area and an intrusive and overbearing impact on neighbouring properties. Other material considerations do not outweigh these conflicts with policy.

**FOR THE INFORMATION OF THE APPLICANT**

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

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 17/01346/FUL

**APPLICANT :** Mr I Maxwell

**AGENT :** RM Architecture Ltd

**DEVELOPMENT :** Erection of dwellinghouse

**LOCATION:** Land North West Of Doonbye  
Smith's Road  
Darnick  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
170917/PP/01	Floor Plans	Refused
170917/PP/02	Elevations	Refused
170917/PP/03	Site Plan	Refused
170917/PP/04	Sections	Refused
170917/PP/05	Location Plan	Refused

**NUMBER OF REPRESENTATIONS: 3**

**SUMMARY OF REPRESENTATIONS:**

- o Nothing has changed since the last application; the height has been reduced but the footprint is the same.
- o The site is unsuitable for a dwellinghouse as the site is not large enough resulting in very little amenity space and overdevelopment/town cramming. There is no space within the site for scaffolding or construction/storage of materials.
- o The only access is a small path in shared ownership and no consent is given to hinder or affect this path or route services through it and this is not suitable for daily traffic. There is no access for construction traffic.
- o The plan is inaccurate and incorporates third party land.
- o There is no space for parking and no additional on-street parking is available in this narrow street, which would exacerbate current parking problems.
- o Increased traffic affecting road safety.
- o Archaeological remains within the site.
- o Detrimental impact on the Conservation Area and the scale, design and materials are out of keeping with the character of the area.



- o Density.
- o Detrimental to residential amenity.
- o Inadequate boundary/fencing and screening.
- o Noise nuisance.
- o Water supply and inadequate drainage.
- o Safety/fire risk due to the access along a shared path.
- o Contrary to the Local Development Plan 2016.

#### CONSULTATIONS:

Environmental Health: The development is to be serviced by a mains water supply. A condition is required that no development is to commence until a report has been submitted to and approved in writing by the Planning Authority that the public mains water supply is available and can be provided for the development.

The application is proposing the redevelopment of land which appears to formed part of a commercial nursery; parts of the wider nursery (outwith the application site) are known to have contained boilers, chemical storage and associated waste storage. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

It is recommended that planning permission should be granted on condition that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority. Any requirement arising from this assessment for a remediation strategy and verification plan would become a condition of the planning consent, again to be submitted and agreed upon by the Planning Authority prior to development commencing. A condition is required.

Roads Planning Service: It would appear that there has been no change from the previous application for this site with regards to roads issues and, as such, my comments to the previous application for this site are still applicable and I have copied them below:

I am unable to recommend approval of this application on the grounds of insufficient parking and access. The plot has no vehicular access and there is no dedicated parking proposed. Furthermore, the pedestrian access to the site is not conducive to the transportation of building materials in my opinion. This is likely to lead to materials being stored on Smith's Road which is not appropriate for such storage/occupation.

I have read the applicants parking assessment and whilst I agree that the principles of Designing Streets allows for on-street parking rather than dedicated off-street parking, it is my opinion that Smith's Road is not capable of taking any more parked vehicles without causing further problems for road users. During several visits to the site, the areas suitable for parking on Smith's Road were occupied and this was without the additional traffic associated with the proposed dwelling. Vehicles would have to seek parking further afield and this is not an acceptable solution to parking. There are already concerns with vehicles parked on Smith's Road causing obstructions and the approval of this dwelling would just exacerbate the problem.

The site is garden ground detached from the public road other than by way of a footpath connection. Otherwise I am sure that dedicated parking would have been offered as part of the proposal.

There is no doubt parking and access is very constrained in Smith's Road. There are other areas of garden ground in the vicinity which could be developed for housing and similar issues would apply in respect of inability to provide parking. Approval of this application could set a dangerous precedent.



Melrose Community Council: Cannot support the application for the following reasons:

- o Reducing the height of the dwellinghouse would not reduce the number of occupants;
- o No parking provision, which is at a premium in this area and another house without parking would exacerbate this problem;
- o The street is congested with cars, restricting access for emergency vehicles.

Director of Education and Lifelong Learning: The proposed development is within the catchment area for Melrose Primary School and Earlston High School. A contribution of £3,428 is sought for the Primary School and £2,438 is sought for the High School, making a total contribution of £5,866.

Archaeology Officer: I previously commented on applications 16/01311/FUL and 17/00591/FUL. I recommended an archaeological watching brief condition. The rationale behind this recommendation has not changed and the recommendation can be carried forward if consent is granted for this application.

Principal Officer (Heritage and Design): No response.

Historic Environment Scotland: Assessed the application in terms of the potential impacts on the Battle of Darnick Battlefield (BTL30). No comments to make.

#### APPLICANT'S SUPPORTING STATEMENT:

- o Planning and Design Statement
- o Supporting letter from Andrew Carrie Traffic and Transportation Ltd

#### PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

PMD2: Quality Standards

PMD5: Infill development

HD3: Protection of Residential Amenity

EP4: National Scenic Area

EP8: Archaeology

EP9: Conservation Areas

IS2: Developer Contributions

IS3: Developer Contributions Related to the Borders Railway

IS7: Parking provision and Standards

IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Supplementary Planning Guidance:

Placemaking and Design January 2010

Developer Contributions April 2015

Guidance on Householder Developments July 2006

**Recommendation by** - Julie Hayward (Lead Planning Officer) on 4th December 2017

#### Site and Proposal

The site is on the west of side Smith's Road in Darnick. The site is elevated above the road, detached from it but accessible by a narrow path. It is enclosed by timber fencing and hedging, and bounds other residential gardens, including a new house plot to the west. The site is within the Conservation Area.

The proposal is to erect a single storey dwellinghouse on the site. This would have rendered walls, timber windows and a slate roof. The existing boundary fencing and hedge would be retained. There would be a small area of garden ground and tree planting is proposed. Pedestrian access would be via an existing path from the public road. There would be no vehicular access or on-site parking.

## Planning History

16/01311/FUL: Erection of dwellinghouse. Refused 14th December 2016.

17/00591/FUL: Erection of dwellinghouse. Withdrawn 18th May 2017.

## Planning Policy

The site is within the development boundary for Darnick and so must be assessed against policy PMD5. Within development boundaries development on non-allocated, infill or windfall sites will be approved if certain criteria are met. These criteria will be assessed within this report.

One criterion is that the proposal should not conflict with the established land use of the area. In this case, the surrounding area is residential in character and so the proposed use of the site for residential would not conflict with neighbouring uses.

## Siting, Layout and Design

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development. Policy PMD5 requires that the development respects the scale, form, design, materials and density of its surroundings; the individual and cumulative effects of the development should not lead to over-development or town cramming; the proposal should not detract from the character and amenity of the surrounding area.

Planning permission (16/01311/FUL) was refused for the erection of a dwellinghouse on the site in December 2016 for the following reasons:

"The proposed development would not comply with Policies PMD2, PMD5 or IS7 of the Local Development Plan 2016 because no off-street parking would be provided and the resulting implications on Smith's Road would have potential adverse impacts on road and pedestrian safety. Other material considerations do not outweigh these conflicts with policy.

The proposed development would not comply with Policies PMD2, PMD5, HD3 or EP9 because it would constitute overdevelopment of the site in a manner that would have adverse implications for the character and appearance of the Conservation Area and an intrusive and overbearing impact on neighbouring properties. Other material considerations do not outweigh these conflicts with policy."

The proposal was for a one-and-a-half storey dwellinghouse with render and timber clad walls and a slate roof. The footprint matched that of the current application and the proposal was for three bedrooms. No on-site parking was proposed and access was for pedestrians only via the shared access path from the public road. No appeal was submitted.

A second application (17/00591/FUL) for the same proposal (with less timber cladding) was submitted in April this year and withdrawn in May.

This current application is a further revision to the original application. The size of the plot and the footprint of the dwellinghouse remain the same but the dwellinghouse would be single storey and the design has therefore changed.

This site is on elevated ground above the public road and detached from it by the garden ground of other properties and it appears that the site was once garden ground but is described as vacant ground in the supporting statement. It is accessed by a footpath from the public road and surrounded by 1.8m high fencing and hedging.

This part of Darnick is characterised by a historic townscape pattern, with a varied street pattern, high density and no defined building line, though the majority of houses do have a street elevation. The majority of houses in the surrounding area are traditional one-and-a-half and two storey, with stone or rendered walls and slate roofs. However, there are modern house to the south west on Lye Road, outwith the Conservation Area.

The application is supported by a Planning and Design Statement that states that the proposal is in keeping with the scale and theme of the built context of Smith's Road and the Conservation Area.

The site is elevated above the road and detached from it; it has no relationship with the road. The east side of Smith's Road is characterised by houses that abut the road whereas on the west side there are garden grounds belonging to these properties and the aspect is more open.

The size of the plot may not be significantly smaller than some traditional properties in this area and the plot is set back from the road and screened by planting and the timber fence and so it is not immediately apparent how small the plot is.

The site layout and footprint of the proposed dwellinghouse has not altered from the previous refusal. As with that proposal, the dwellinghouse would be sited 1m from the existing timber fencing and hedge. This relationship would result in a restricted outlook for future occupants and the fence, would have an overbearing impact and restrict light. Only a small area of garden ground is proposed and no on-site parking and it is considered that the proposal would constitute overdevelopment of the site.

The proposal is for a single storey dwellinghouse, compared to a one-and-a-half storey in the original application. This revision acknowledges design issues raised by the Principal Officer (Heritage and Design) in respect of the previous application. The result is a very plain design with little architectural character, though chimneys have been added, and the window openings lack the vertical emphasis seen in the traditional properties in the surrounding area. The existing fence and vegetation would screen these openings to a degree.

In terms of materials, the roof would be natural slate, the walls would have a rendered finish and timber windows and doors, are proposed. The materials would be acceptable and a condition would secure agreement of detailed specifications/colours.

#### Impact on the Conservation Area and Visual Amenities

Policy EP9 states that the Council will support development proposals within or adjacent to Conservation Areas which are located and designed to preserve and enhance the special architectural or historic character and appearance of the Conservation Area, respecting the scale, proportions, alignment, density, materials and boundary treatments of nearby buildings and open spaces.

The plot is set back from the road but is elevated above it. The existing planting and fencing would provide a degree of screening. The streetscene drawing submitted with the application indicates that the house would be prominent, though it is accepted that the house being built on the plot to the rear would also be a dominant element, though at a distance.

The agent advises that there was a building on this site and that this application reinstates the built form that previously existed. However, it is understood to have been an ancillary building associated with an existing property, rather than a separate dwellinghouse, and was demolished some time ago.

It is therefore considered that, given the house-to-plot ratio, the elevated position within a more open area in Smith's Road and the design, it is considered that the proposal would not preserve or enhance the character or appearance of the Conservation Area.

#### Impact on Residential Amenities

Policy PMD5 states that the development should not result in any significant loss of daylight, sunshine or privacy to adjoining properties as a result of overshadowing or overlooking. Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new developments to ensure that proposals do not adversely affect the residential amenities of occupants of neighbouring properties.

Whistlefield, to the south, is 13m from the site boundary and so 14m from the proposed house, with no windows in the rear gable. The house being erected to the rear (west) has no openings in the east elevation facing the site. The site is set back from the houses on the eastern side of Smith's Road and Bowmont Cottage to the north east, facing the site, is 10m from the plot boundary and 14m from the proposed house with no direct overlooking.

It is considered that the proposal would not affect the light or privacy to principle rooms of neighbouring houses. However, the proposed dwellinghouse would be sited so close to boundaries of the neighbouring properties as to be intrusive and overbearing. While the implications for neighbouring amenity will vary, and may not be significant in themselves, ultimately they do suggest the site is too small to accommodate a house in a manner that is sympathetic to the amenity of neighbouring properties.

#### Access and Parking

Policy PMD2 requires that developments do not lead to adverse impacts on road safety and that there is adequate access and turning space for vehicles. Policy PMD5 requires that adequate access and servicing can be achieved. Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards. This policy allows for a relaxation where appropriate depending on the nature of the development and/or positive amenity gains that may be achieved that do not compromise road safety. The LDP specifies a requirement of 2.25 spaces per house.

No vehicular access or on-site parking is proposed as the site is surrounded by other properties. Pedestrian access would be via a footpath in shared ownership from the public road. Concern has been expressed that Smith's Road is narrow, congested, with a high demand for on-street parking and that the cars from this proposal would exacerbate that problem, impacting on road safety.

The Design and Access Statement argues that car ownership is not afforded to all and that a more sustainable, low carbon approach to transport that provides householders with a choice, such as public transport and cycling, should be considered. Policy IS7 and Designing Streets provide flexibility to waive parking standards and parking is also available in the adjacent street. The historic pattern of development was established before the introduction of the motor car and that only three properties off Smith's Road enjoy off-street parking, with a further three lock-up garages along the road. Though a number of properties do not front the road and are only accessible by foot, it is contended that the arrangements appear to work on a first-come-first-served basis. It is argued that dedicated parking would be out of character. The applicant commissioned a parking survey that concludes that there is little off-street parking for existing properties due to the organic way the area has grown; there are a number of properties that do not front onto Smith's Road and are only accessible by foot and the current parking arrangements adequately serve all existing residents.

The Roads Planning Service objects to the application on the grounds of insufficient parking and access. The principles of Designing Streets allows for on-street parking rather than dedicated off-street parking, but Smith's Road is not capable of taking any more parked vehicles without causing further problems for road users. During several visits to the site, the areas suitable for parking on Smith's Road were occupied and this was without the additional traffic associated with the proposed dwelling. Vehicles would have to seek parking further afield and this is not an acceptable solution to parking. There are already concerns with vehicles parked on Smith's Road causing obstructions and the approval of this dwelling would just exacerbate the problem.

Parking and access is very constrained in Smith's Road. There are other areas of garden ground in the vicinity which could be developed for housing and similar issues would apply in respect of inability to provide parking. Approval of this application could set an undesirable precedent.

It is acknowledged that the historic street layout was not designed for cars, but has adapted to them over time, absorbing a varied arrangement of parking. There would also be justification in reducing or removing standards if it could be shown that the implications of the extra traffic burden on existing on-street parking would not be detrimental.

However, that is not the case here, as representations have been submitted indicating that there is no spare capacity for on-street car parking in Smith's Road and this is reinforced by the comments of the Roads



Planning Service. It is accepted that despite efforts to encourage and promote other forms of transport, the Borders region is reliant on the private car and most households have at least one car and this proposal would exacerbate parking problems in the area.

The Roads Planning Service has also highlighted the problem of building the house with no vehicular access to it as there is likely to be serious disruption to Smith's Road during the construction phase.

The Design and Access Statement argues that few properties in Smith's Road have on-site parking and that if it was available, it would have a detrimental effect on existing car parking by the loss of existing spaces and would be out of keeping with the character of the Conservation Area. Whilst this may be the case, this argument is irrelevant as the site is not large enough to accommodate car parking and no vehicle access can be provided from the public road over land within the applicant's ownership.

The circumstances have not altered since the previous application was considered. It has not been adequately demonstrated that this development would not have adverse road and pedestrian safety implications. This further supports the assertion that this is not an appropriate site for a new dwellinghouse. It is considered that the proposal does not comply with policy IS7. There is no justification for a relaxation in the parking standards as the development would not result in any positive amenity gains but would compromise road safety.

#### Water and Drainage

Policy IS9 states that the preferred method of dealing with waste water associated with new development would be a direct connection to the public sewerage system.

The application form states that the dwellinghouse would connect to the mains water supply and drainage network but no details of how this would be achieved have been provided or even if this is achievable. The agent has advised that there is evidence of servicing within the footpath though there is no information on whether this is adequate or would need upgrading/replacing.

#### Contaminated Land

Policy IS13 advises that where development is proposed on land that is contaminated or suspected of contamination, appropriate site investigation and mitigation will be required.

The Councils Contaminated Land Officer advises that the application appears to be proposing the redevelopment of land which appears to have formed part of a commercial nursery and parts of the wider nursery (outwith the application site) are known to have contained boilers, chemical storage and associated waste storage. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

A condition is required that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority together with a remediation strategy and verification plan.

#### Archaeology

Policy EP8 states that development proposals which will adversely affect local archaeological assets will only be permitted if it can be demonstrated that the benefits of the proposal outweigh the heritage value of the asset. All proposals that adversely affect such an asset must include an acceptable mitigation strategy.

The Councils' Archaeology Officer advises, in respect of the previous application, that there are potential archaeological implications. He does not object to this proposal, but there is a requirement for mitigation. There was a building on the site that appears on maps from the OS 1st edition (1858) to the OS 3rd edition (1904) suggesting it was at least of early 19th century date. There is some potential that it was older. The property and former building are within the area where medieval and post-medieval backland activity are likely to have occurred. Excavation of the site for foundations, services, access etc. should be undertaken under archaeological supervision during a watching brief. A condition requiring a watching brief is recommended

The site is also within the Inventory Battlefield of Darnick, though there are no implications relating to this designation and Historic Environment Scotland has no objections.

#### Developer Contributions

Financial contributions, in compliance with policies IS2 and IS3, are required in respect of education (Melrose Primary School and Earlston High School) and the Borders railway. These would be secured by a legal agreement.

#### **REASON FOR DECISION :**

It is noted that the only change to the proposal since the previous application is to change the height of the building. This is not sufficient to overcome the previous reasons for refusal or alter the view of this Department. It is considered that the proposed development would not comply with policies PMD2, PMD5 or IS7 of the Local Development Plan 2016 as no off-street parking would be provided and the resulting implications on Smith's Road would have potential adverse impacts on road and pedestrian safety. Other material considerations do not outweigh these conflicts with policy.

In addition, the proposed development would be contrary to policies PMD2, PMD5, HD3 and EP9 as it would constitute overdevelopment of the site in a manner that would have adverse implications for the character and appearance of the Conservation Area and an intrusive and overbearing impact on neighbouring properties. Other material considerations do not outweigh these conflicts with policy.

#### **Recommendation:** Refused

- 1 The proposed development would not comply with Policies PMD2, PMD5 or IS7 of the Local Development Plan 2016 as no off-street parking would be provided and the resulting implications on Smith's Road would have potential adverse impacts on road and pedestrian safety. Other material considerations do not outweigh these conflicts with policy.
- 2 The proposed development would not comply with Policies PMD2, PMD5, HD3 or EP9 as it would constitute overdevelopment of the site in a manner that would have adverse implications for the character and appearance of the Conservation Area and an intrusive and overbearing impact on neighbouring properties. Other material considerations do not outweigh these conflicts with policy.

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

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997****Town and Country Planning (Development Management Procedure) (Scotland) Regulations  
2013****Application for Planning Permission****Reference : 16/00917/FUL****To : Mr and Mrs Andrew Prentice per Camerons Ltd Per Gavin Yuill 1 Wilderhaugh Galashiels  
Scottish Borders TD1 1QJ**

With reference to your application validated on **28th July 2016** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Erection of dwellinghouse****At : Land North East Of Lindisfarne Orchard Park Darnick 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 direction:

- That the development to which this permission relates must be commenced within three years of the date of this permission.

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

**Dated 19th October 2016  
Planning and Regulatory Services  
Environment and Infrastructure  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed**  
.....  
**Chief Planning Officer**

**APPLICATION REFERENCE : 16/00917/FUL**

**Schedule of Plans and Drawings Approved:**

Plan Ref	Plan Type	Plan Status
9274.2.01	Location Plan	Approved
9274.2.02B	Existing Layout	Approved
9274.2.03C	Site Plan	Approved
9274.2.04A	Elevations	Approved
9274.2.05A	Elevations	Approved

**REASON FOR DECISION**

Subject to compliance with the schedule of conditions, and a legal agreement to cover developer contributions, the development will accord with the Local Development Plan 2016

**SCHEDULE OF CONDITIONS**

- 1 No development shall commence until written evidence is provided on behalf of Scottish Water to confirm that mains water and foul drainage connections shall be made available to serve the development, and until a surface water drainage scheme has been submitted to and agreed with the Planning Authority which specifies the sustainable treatment of surface water and future maintenance of the same  
Reason: To ensure the development can be adequately serviced
- 2 No development shall commence until further level details, illustrating proposed floor and site ground levels (including garden, access and parking area) relative to existing ground levels which are related to a fixed off-site datum, has been submitted to and approved by the Planning. The development shall be carried out in accordance with the approved levels  
Reason: Further information is required on the proposed finished levels within the site to ensure visual impacts are minimised
- 3 Hedging shall be retained as specified on the approved site plan, and shall be maintained at a height not less than two metres above the finished floor level of the approved dwellinghouse. Protective fencing to BS5837:12 shall be erected on the outside of the hedge prior to works commencing and shall not be removed until construction works are complete. No works shall be carried out beyond the protective fencing, and any works within one metre of the centre line of the hedging shall be hand dug and no roots of 25mm or greater shall be severed, unless with the prior approval of the Planning Authority.  
Reason: To retain existing hedging in the interests of minimising the potential impact of the development on neighbouring amenity
- 4 Additional and replacement hedging, as specified on the approved plan, shall be planted with a species and density to match the existing hedging during the first planting season following commencement of the development or removal of the agreed section of hedging, and shall be maintained to achieve a height of no less than two metres above the finished floor level of the approved dwellinghouse. Failed planting shall be replaced during the next available planting season  
Reason: To replace and augment existing hedging in the interests of minimising the potential impact of the development on neighbouring amenity



- 5 The lounge/dining room window facing north-east, and all bathroom, utility and en-suite openings, shall be fitted with obscure glazing, that to the lounge dining room being fixed, of a specification agreed with the Planning Authority prior to their installation. The dwellinghouse shall only be implemented and occupied with the approved window specifications  
Reason: To limit potential impacts on neighbouring privacy
- 6 The surfacing treatment of the access and parking area shall be submitted to and approved by the Planning Authority before this part of the development commenced. The approved access and parking area shall be implemented in full prior to occupancy of the dwellinghouse, and shall not be used other than for the access and parking of vehicles in connection with the development hereby permitted.  
Reason: To ensure there is adequate space within the site for the parking of vehicles and that the access construction is appropriate, all in a manner visually sympathetic to the context
- 7 External materials shall accord with the schedules on the approved drawings, subject to samples (specifying colours and finishes) of the external roof and wall materials being submitted to and approved by the Planning Authority before development commences. The development shall be implemented using the approved materials and finishes. Eave and verge treatments shall accord with the details on the approved drawings  
Reason: To ensure the development is visually sympathetic to its context
- 8 Notwithstanding the General Permitted Development (Scotland) Order 1992 (as amended 2011) or any subsequent amendment to the Order, revised Order or redesignation of the Conservation Area boundary, no alterations or extensions that would materially affect the external appearance of the dwellinghouse hereby approved, or works constituting development within the curtilage shall be carried out without a planning application for the same having been submitted to and approved by the Planning Authority  
Reason: The location of the site and its setting relative to adjoining neighbours requires that consideration be applied to the potential amenity consequences of any alterations or extensions to the approved dwellinghouse, or any additional development within the site

#### **FOR THE INFORMATION OF THE APPLICANT**

It should be noted that:

- 1 Approval of this application does not account for the existing telephone pole within the site. The applicants should contact the telephone operator should works to the pole or cables be required

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 8NU  
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, 4<sup>th</sup> 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 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 TO BE DETERMINED UNDER POWERS DELEGATED TO  
CHIEF PLANNING OFFICER**

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 16/00917/FUL

**APPLICANT :** Mr and Mrs Andrew Prentice

**AGENT :** Camerons Ltd

**DEVELOPMENT :** Erection of dwellinghouse

**LOCATION:** Land North East Of Lindisfarne  
Orchard Park  
Darnick  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
9274.2.01	Location Plan	Approved
9274.2.02B	Existing Layout	Approved
9274.2.03C	Site Plan	Approved
9274.2.04A	Elevations	Approved
9274.2.05A	Elevations	Approved

**NUMBER OF REPRESENTATIONS: 1**

**SUMMARY OF REPRESENTATIONS:**

One representation has been received in which it is noted that the site contains a telephone pole which may need relocated. The neighbour has registered their interest to ensure their line and services aren't disrupted during the works.

**Consultations**

Historic Environment Scotland: No objections and no comments

Heritage and Design Officer: No reply

Community Council: No comments

Roads Planning Service: The parking and garage layout (as originally submitted) was too constrained to work properly. Sliding the house 1.5m southwards would resolve this, as would making a small splay on the northern verge/hedge line.

Landscape Service: The site has predominantly a mature beech hedge along the east, a mixed hedge to the north with some holly and beech, and a well-trimmed beech to the west. A good metre of hedge could be cut back before reaching the trunks. Nevertheless, recommends taking hard surfacing a further 500mm away from the hedge and moving the house a metre away from the north. Later advised that a 0.5m movement southwards would be enough. A condition should be applied to retain hedges.

Education: Contributions are required towards Melrose Primary School and Earlston High School

Archaeology Officer: Recommended a watching brief initially. The applicant later submitted a report of an evaluation and metal detecting survey of the site and, in response, the archaeology officer notes that the assessment has effectively proven that there are no significant archaeological implications and he is satisfied that further mitigation measures are not required.

## **PLANNING CONSIDERATIONS AND POLICIES:**

Local Development Plan 2016

PMD2, PMD5, HD3, EP1, EP8, EP9, EP13, IS2, IS3, IS7, IS9

SPGs Placemaking and Design 2010, Guidance on Householder Developments 2006; Trees and Development 2008, Developer Contributions 2016

**Recommendation by** - Carlos Clarke (Lead Planning Officer) on 15th September 2016

This application seeks consent for a single storey house and integral garage on land to the rear of an established cul-de-sac of residential properties, sited within the Conservation Area.

The site comprises a generally level area of ground accessed from a narrow track from the cul-de-sac to the north-east. Its boundaries are marked by a mix of tall, thick hedging, fencing and walls and it is flanked on all sides by residential neighbours.

### **Principle**

The site is within the settlement boundary, as identified in the LDP 2016. It is not valued open space, indeed, it was subject to a previous application for development (09/01539/FUL) which was approved, but for which consent was not issued as a legal agreement was never concluded. The area had originally been identified as a play area associated with the cul-de-sac development, but was left undeveloped after a payment towards existing provision was, instead, agreed. It is, in effect, a left over area of ground which, unless neighbouring householders wished to extend their gardens into it (and I have heard of no proposals to that effect over the long period that this site has been on the market), it would be left with little future other than to be a maintenance burden and have resulting amenity consequences for neighbours. The visual implications of its development are considered further in this report.

### **Archaeology**

The site is within the Darnick Battlefield designation, but HES raise no issue and, following the submission of an evaluation report which identified no finds, our archaeology officer is content that the development will not have implications as regards archaeological interest

### **Ecology**

There are no designations, the site has no trees and is not particularly overgrown, there are no buildings to remove and only a short section of garden hedging proposed for removal. I foresee no ecological implications.

### **Services**

A condition will require evidence of mains foul drainage and water services. A surface water drainage scheme is required as no information has been submitted

I note the concern of the neighbour regarding the existing telephone pole. There are no proposals for it under this application and this is a matter for the applicants to address with BT directly. An informative is recommended to this effect

Contributions are required towards the Waverley Line and local schools. A legal agreement will be necessary for this purpose.

## Access and parking

Two parking spaces are proposed, and access would be via the existing opening and lane onto the cul-de-sac. The RPS has raised no concerns regarding the access proposal, and neither have neighbours. A condition is necessary to secure details of the works regarding surfacing and gradients. The RPS recommended movement of the house southwards to allow easier access into the garage. Technically, the garage is not required to accord with our policy requirements, and any awkwardness in accessing it will not have road safety implications. Moving the house by the distance proposed by the RPS was not possible. However, it has been moved 0.5m, which I consider to fall within 'non-material' tolerances, and this movement has eased the access to the garage a little. Also, the verge on the corner has been shaved a little as recommended by the RPS.

## Design and layout

The development would, in effect, be a 'backland' dwellinghouse, clearly not related in townscape terms to established housing, or with an active street frontage. However, as above, this area is left-over ground with no viable future. The erection of a house, in my view, is a sustainable means of developing it. The key is to achieve a development with minimal visual impact. The site is well contained, with high walling, hedging and fencing. The hedging is to be retained (see later). Visibility of note is really limited to Waverley Gardens. The proposal would be single-storey and should sit discretely behind existing houses which I consider is the best response to this site. At single-storey, it would not be at odds with its neighbours either, since there are single-storey modern neighbours (on similar backland sites) immediately to the north.

There is a relatively large area of parking to the front, and the development is a little bit tight. However, being on such a well contained site, I do not foresee any consequences for the public realm, nor the character or appearance of the Conservation Area, by the proposed layout. The parking is as small as it can really be and still allow parking and turning.

There are no trees on site, though there are two overhanging from the neighbouring property to the west. However, they are not significant trees and of little more than very local value. They may well not be at risk in any case.

As regards form and design, because of the positioning of the development, where it will not directly relate to other houses or the public realm, there are a range of design approaches that could work and, ultimately, what is proposed here seems as sympathetic to the context as it needs to be. Neighbouring houses are in a range of styles, are relatively modern, and this proposal's simple detailing should respond comfortably to the context. The resulting development will not detract from the character and appearance of the Conservation Area. There are Listed Buildings to north, north-west and south-east, but I do not foresee any negative implications for their setting.

No additional boundary treatments are required above the existing hedging, fencing and walls. Hedging exists to the north, east and west. It varies in height and depth, but it is several metres thick and high in places. This proposal seeks to retain it, but for a section to the south-east corner which is to be removed so new hedging can be reinstated along the correct garden boundary which is fenced further back (see later). It is important to retain the hedging to contain the site, but mainly to screen some potential overlooking, particularly to the north-east and east.

Following consultation with our landscape service, and the submission of further information, it would seem that the hedging can be substantially retained, with some reasonable level of trimming. A condition can require that it be retained and at a height which achieves reasonable screening from windows. This is particularly important to the north-east and east. The applicants have not suggested that existing fencing, or additional fencing, would achieve the same level of screening and, therefore, the condition is considered reasonable.

## Levels

There is a slight rise in the site, and the application contains some information on levels. The drawings suggest the house will sit neatly with existing levels, however, a detailed scheme of levels is required to be sure.



## Materials

Specifications are required for hard surfaces. Natural slate is proposed for the roof, and scraped render and artificial stone for walls. These would all tie in with Waverley Gardens, which at least provides a visual connection to those houses. A condition can require detailed specifications/samples. UPVc windows and doors, all in grey, are also proposed, though the site is not 'Prime Frontage' and is well tucked away. The garage door colour is not specified but it's well tucked away from view.

## Neighbouring amenity

In terms of daylight, outlook and sunlight loss, I do not foresee any significant implications for neighbours.

As regards privacy, I have applied our SPG as far as is reasonable and practical, while also having regard to the net benefit of developing this site and securing its long term future. To the south-east, walling will prevent outward views. To the west, only a bedroom window faces neighbours, the rest lead to non-habitable rooms. There is existing hedging and fencing here, and the neighbouring properties are higher. To the north, there are no directly facing windows close to the boundary.

To the north-east, the house is a reasonably comfortable distance from the boundary and existing neighbour. Retention of the hedging is a significant factor, however, in screening facing views from bedroom windows. A corner lounge window may, however, allow narrow, but fairly close views (from its facing pane) down the side boundary into the neighbouring garden.

To the east, again the relationship should be reasonably comfortable. Hedging is a significant mitigating factor, particularly as regards screening from the facing corner lounge window because of its proximity. To cover this, and potential risk to the northern neighbour noted above, fixed obscure glazing has been agreed with the applicants.

The removal of hedging along part of this same easterly boundary, towards the corner, will have no real implications for neighbouring privacy because of where it is being removed, and because a fence exists behind. Reinstating the hedging is important, but over the short term, the removal of the existing section will not allow overlooking of note.

Removal of PD rights for the house is not required as the property is currently within the Conservation Area, albeit if that changes in future, rights would be available. Small outbuildings could also be erected without PP. I would recommend restriction of PD rights given the tightness of the site relative to neighbours and potential risk to neighbouring amenity beyond that already accounted for here.

## REASON FOR DECISION :

Subject to compliance with the schedule of conditions, and a legal agreement to cover developer contributions, the development will accord with the Local Development Plan 2016

## **Recommendation:** Approved - conditions, inform & LA

- 1 No development shall commence until written evidence is provided on behalf of Scottish Water to confirm that mains water and foul drainage connections shall be made available to serve the development, and until a surface water drainage scheme has been submitted to and agreed with the Planning Authority which specifies the sustainable treatment of surface water and future maintenance of the same  
Reason: To ensure the development can be adequately serviced
- 2 No development shall commence until further level details, illustrating proposed floor and site ground levels (including garden, access and parking area) relative to existing ground levels which are related to a fixed off-site datum, has been submitted to and approved by the Planning. The development shall be carried out in accordance with the approved levels

Reason: Further information is required on the proposed finished levels within the site to ensure visual impacts are minimised

- 3 Hedging shall be retained as specified on the approved site plan, and shall be maintained at a height not less than two metres above the finished floor level of the approved dwellinghouse. Protective fencing to BS5837:12 shall be erected on the outside of the hedge prior to works commencing and shall not be removed until construction works are complete. No works shall be carried out beyond the protective fencing, and any works within one metre of the centre line of the hedging shall be hand dug and no roots of 25mm or greater shall be severed, unless with the prior approval of the Planning Authority.  
Reason: To retain existing hedging in the interests of minimising the potential impact of the development on neighbouring amenity
- 4 Additional and replacement hedging, as specified on the approved plan, shall be planted with a species and density to match the existing hedging during the first planting season following commencement of the development or removal of the agreed section of hedging, and shall be maintained to achieve a height of no less than two metres above the finished floor level of the approved dwellinghouse. Failed planting shall be replaced during the next available planting season  
Reason: To replace and augment existing hedging in the interests of minimising the potential impact of the development on neighbouring amenity
- 5 The lounge/dining room window facing north-east, and all bathroom, utility and en-suite openings, shall be fitted with obscure glazing, that to the lounge dining room being fixed, of a specification agreed with the Planning Authority prior to their installation. The dwellinghouse shall only be implemented and occupied with the approved window specifications  
Reason: To limit potential impacts on neighbouring privacy
- 6 The surfacing treatment of the access and parking area shall be submitted to and approved by the Planning Authority before this part of the development commenced. The approved access and parking area shall be implemented in full prior to occupancy of the dwellinghouse, and shall not be used other than for the access and parking of vehicles in connection with the development hereby permitted.  
Reason: To ensure there is adequate space within the site for the parking of vehicles and that the access construction is appropriate, all in a manner visually sympathetic to the context
- 7 External materials shall accord with the schedules on the approved drawings, subject to samples (specifying colours and finishes) of the external roof and wall materials being submitted to and approved by the Planning Authority before development commences. The development shall be implemented using the approved materials and finishes. Eave and verge treatments shall accord with the details on the approved drawings  
Reason: To ensure the development is visually sympathetic to its context
- 8 Notwithstanding the General Permitted Development (Scotland) Order 1992 (as amended 2011) or any subsequent amendment to the Order, revised Order or redesignation of the Conservation Area boundary, no alterations or extensions that would materially affect the external appearance of the dwellinghouse hereby approved, or works constituting development within the curtilage shall be carried out without a planning application for the same having been submitted to and approved by the Planning Authority  
Reason: The location of the site and its setting relative to adjoining neighbours requires that consideration be applied to the potential amenity consequences of any alterations or extensions to the approved dwellinghouse, or any additional development within the site

#### Informatives

It should be noted that:

- 1 Approval of this application does not account for the existing telephone pole within the site. The applicants should contact the telephone operator should works to the pole or cables be required

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