



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 100086714-001

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 DWELLING HOUSE WITH ASSOCIATED ACCESS ROAD, PARKING AREA, COMBINED ENTRANCE AND LAYBY

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: | R G LICENCE ARCHITECT |  |             |
| Ref. Number:          |                       | You must enter a Building Name or Number, or both: * |             |
| First Name: *         | RAY                   | Building Name:                                       | HILLEND     |
| Last Name: *          | LICENCE               | Building Number:                                     |             |
| Telephone Number: *   | 01573225070           | Address 1 (Street): *                                | CLIFTONHILL |
| Extension Number:     |                       | Address 2:   |             |
| Mobile Number:        |                       | Town/City: *   | KELSO       |
| Fax Number:           |                       | Country: *   | UK          |
|                       |                       | Postcode: *  | TD5 7QE     |
| Email Address: *      | raygarch@icloud.com   |  |             |

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

|                       |                     |  |                      |
|-----------------------|---------------------|--|----------------------|
| Title:                | Mrs                 | You must enter a Building Name or Number, or both: * |                      |
| Other Title:          |                     | Building Name:                                       | LAND WEST OF LANGTON |
| First Name: *         | CLARE               | Building Number:                                     |                      |
| Last Name: *          | FLEMING             | Address 1 (Street): *                                | CRIMSON HILL         |
| Company/Organisation: |                     | Address 2:   |                      |
| Telephone Number: *   |                     | Town/City: *   | DUNS                 |
| Extension Number:     |                     | Country: *   | UK                   |
| Mobile Number:        |                     | Postcode: *  | TD11 3HT             |
| Fax Number:           |                     |  |                      |
| Email Address: *      | raygarch@icloud.com |  |                      |

## Site Address Details

Planning Authority:

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

Easting

## Pre-Application Discussion

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

☐ Yes ☒ No

## Site Area

Please state the site area:

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)

## 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.

## 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

As you have indicated that you are proposing to make private drainage arrangements, please provide further details.

What private arrangements are you proposing? \*

- ☒ New/Altered septic tank.  
☐ Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).  
☐ Other private drainage arrangement (such as chemical toilets or composting toilets).

What private arrangements are you proposing for the New/Altered septic tank? \*

- ☒ Discharge to land via soakaway.  
☐ Discharge to watercourse(s) (including partial soakaway).  
☐ Discharge to coastal waters.

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: \*

DETAILS OF THE ENLARGEMENT OF THE EXISTING TREATMENT PLAN WILL BE SUPPLIED WHEN A FULL PLANNING APPLICATION IS MADE

Do your proposals make provision for sustainable drainage of surface water?? \* ☒ Yes ☐ No  
(e.g. SUDS arrangements) \*

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.

## 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: RAY LICENCE

On behalf of: Mrs CLARE FLEMING

Date: 07/03/2018

☒ 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. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. *                                   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. *   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

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

SUPPORTING STATEMENT

## 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 RAY LICENCE

Declaration Date: 07/03/2018







*Planning and  
Economic Development*

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

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

**Application for Planning Permission**

**Reference: 12/00343/FUL**

**To: Mrs Clare Fleming per R G Licence Architect Hillend Ednam Kelso Scottish Borders  
TD5 7QE**

With reference to your application validated on **14th March 2012** for planning permission under the  
Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal: Erection of dwellinghouse with integral garage**

**At: Garden Ground Of Langton Birches Duns Scottish Borders**

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

**Dated 11th May 2012  
Planning and Economic Development  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed**



.....  
**Head of Planning and Regulatory Services**

**APPLICATION REFERENCE: 12/00343/FUL**

**Schedule of Plans and Drawings Refused:**

| Plan Ref  | Plan Type     | Plan Status |
|-----------|---------------|-------------|
| FLE PL01  | Location Plan | Refused     |
| FLE PL02  | Site Plan     | Refused     |
| FLE PL03  | Site Plan     | Refused     |
| FLE PL04  | Floor Plans   | Refused     |
| FLE PL05  | Floor Plans   | Refused     |
| FLE PL06  | Sections      | Refused     |
| FLE PL07  | Elevations    | Refused     |
| FLE PL08  | Elevations    | Refused     |
| STATEMENT | Report        | Refused     |

**REASON FOR REFUSAL**

- 1 The proposal would be contrary to Policy D2 of the Consolidated Local Plan and Policy H7 of the Consolidated Structure Plan in that a dwellinghouse on this site would be located out with the identifiable limits of the established group, would not be well related to the group and would lead to ribbon development along a public road.
- 2 The proposed dwelling would be contrary to Policy D1 of the Consolidated Local Plan and Policy N20 of the Consolidated Structure Plan in that the development would not reflect or respect the character of the houses within the existing building group.

**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 OSA.

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

**SCOTTISH BORDERS COUNCIL**

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO THE HEAD OF PLANNING  
AND REGULATORY SERVICES**

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

**REF :** 12/00343/FUL

**APPLICANT :** Mrs Clare Fleming

**AGENT :** R G Licence Architect

**DEVELOPMENT :** Erection of dwellinghouse with integral garage

**LOCATION:** Garden Ground Of Langton Birches  
Duns  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

| Plan Ref  | Plan Type     | Plan Status |
|-----------|---------------|-------------|
| FLE PL01  | Location Plan | Refused     |
| FLE PL02  | Site Plan     | Refused     |
| FLE PL03  | Site Plan     | Refused     |
| FLE PL04  | Floor Plans   | Refused     |
| FLE PL05  | Floor Plans   | Refused     |
| FLE PL06  | Sections      | Refused     |
| FLE PL07  | Elevations    | Refused     |
| FLE PL08  | Elevations    | Refused     |
| STATEMENT | Report        | Refused     |

**NUMBER OF REPRESENTATIONS: 1**

**SUMMARY OF REPRESENTATIONS:**

Roads Planning Service: There are concerns that the proposed dwelling would stretch development away from the main group of buildings. Encouraging development in this fashion could lead to a proliferation of accesses along an unlit and restricted section of public road, without the appropriate infrastructure in place to serve these properties. The internal layout also causes concern, as it does not allow for parking and turning of two vehicles, not including garages, within the curtilage of the plot. Failure to provide this facility would result in vehicles reversing onto the public road, which is unacceptable at this location.

In this particular case the access is essentially a shared access with Langton Birches (shared by means of a service lay-by), therefore it can be considered that there is no "new" accesses onto this section of road as a result of this development. Therefore, on balance, the development is acceptable on the proviso that the applicant can demonstrate parking and turning, as detailed above, can be provided within the curtilage of the plot. In addition, the service lay-by must be constructed as per standard detail (DC-2). It should be noted that only contractors on the Council's approved list (DC-8) may work within the public road boundary.

CC: No objections.

There are no third party letters of representation.

#### **PLANNING CONSIDERATIONS AND POLICIES:**

Consolidated Scottish Borders Local Plan 2011

Policy G1  
Policy NE4  
Policy D2  
Policy D4  
Policy Inf4

Consolidated Scottish Borders Structure Plan 2001-2018

Policy N20  
Policy H7  
Policy I11  
Policy I19

**Recommendation by** - Barry Fotheringham (Principal Planning Officer) on 9th May 2012

Langton Birches is a detached dwellinghouse located within mature private gardens on the south side of the minor C class road between the A6112 south of Duns and the village of Gavinton. It is located opposite the property known as Oakridge and forms part of a wider building group consisting of 5 existing dwellings, 4 of which are located on the north side of the public road.

The application site is an area of well established garden ground to the west of the applicants current dwelling consisting of high density self seeded trees. It is defined by a mature beech hedge and semi mature avenue of trees on the north boundary, a post and wire fence and mature hedge on the south boundary beyond which are agricultural fields currently used for grazing. The application site is narrow and measures 0.0833ha.

It is proposed to erect a 2 bedroom, 2 storey dwellinghouse on the widest part of the site approximately 55m west of the applicants existing property. The design ethos is of a contemporary, low carbon dwelling arranged over 2 floors. It would incorporate an integral garage on the ground floor with open plan living space at first floor level. The dwelling would have a series of shallow roof pitches which would be finished with dark grey coloured zinc panels. The south elevation would be predominantly glazed with a covered decking area to the west end and would be finished with vertical timber lining. The north elevation would essentially be a blank elevation with limited window openings and air to air heat exchanger vents at first floor level. Access to the property would be via an extended private service lay-by incorporating the existing access serving Langton Birches.

It is accepted that a building group does exist at this location, consisting of 5 dwelling units contained within a distinct sense of place which is contributed to by mature trees and woodland to the east of the group and that the existing self seeded copse, hedgerow and avenue to the west. The principal policy constraint in determining this application is Policy D2 of the Consolidated Local Plan which promotes appropriate rural housing development in village locations, on sites associated with existing groups, and in dispersed communities in the Southern Borders Housing market area. Housing of up to 2 new dwellings or 30% increase of the building group may be approved provided that the planning authority is satisfied that the site is well related to an existing group of at least 3 dwellings. There clearly is the presence of a building group at this location but it is felt that the site is not well related to this established group of buildings.

In assessing the suitability of any particular group to accommodate new houses, a number of criteria must be taken into account. These would include but are not limited to the following:

- The scale and siting of new development should reflect and respect the character and amenity of the existing group, and the individual houses within the group;
- New development should be limited to the area contained by that sense of place;

- Any new build should be located within a reasonable distance of the existing properties within the building group, the distance between existing properties and proposed new build should be guided by the spacing between the existing properties within the group;
- Sites should not normally break into a previously undeveloped field or require the removal of mature trees in good condition;
- Existing groups may in themselves be complete, such as terraces of farm cottages and may not be suitable for further additions;
- Extensions of ribbon development along public roads will not normally be permitted.

It is considered that the scale of the proposed development is acceptable in that it would introduce one dwelling to the group where a maximum number of 2 new dwellings may be appropriate in general policy terms. The additions to building group threshold would not be exceeded. However, the proposed site of the new dwelling would not respect or reflect the character and amenity of the group as it would be located out with the area contained by the sense of place and would result in the loss of existing trees and shrubs which contribute to the identified sense of place. The existing dwellings form a relatively tight group, with the exception of Langton Birches, but the proposed dwelling would be located 55m west of this property and would not follow the general pattern of development or spacing between existing properties. This would lead to ribbon development along the public road to the detriment of the character and amenity of the existing group and a form of development not supported by the Roads Planning Service.

As mentioned earlier in this report, the proposed dwelling offers a modern or contemporary design approach which is aimed at reducing the development carbon footprint. A south facing aspect, large glazed openings and renewable energy technologies coupled with low carbon materials would in theory make the dwelling energy efficient and in accordance with renewable energy policies. However, the design of the proposed dwelling is not consistent with the character of the individual houses within the group which demonstrate traditional forms and materials. Whilst this is of lesser importance when compared to the principal of erecting a dwelling on this site the design of the proposed dwelling is not considered to be appropriate for this location.

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

The proposed erection of a dwellinghouse on this site would be contrary to development plan policies relating to new housing in the borders countryside in that the development would be located out with the identifiable limits of the established group, would not be well related to the group and would lead to ribbon development along a public road. In addition, the development would not comply with policies covering design and quality standards in that the dwelling would not be compatible with or respect the character of the dwellings in the building group.

#### **Recommendation: Refused**

- 1 The proposal would be contrary to Policy D2 of the Consolidated Local Plan and Policy H7 of the Consolidated Structure Plan in that a dwellinghouse on this site would be located out with the identifiable limits of the established group, would not be well related to the group and would lead to ribbon development along a public road.
- 2 The proposed dwelling would be contrary to Policy D1 of the Consolidated Local Plan and Policy N20 of the Consolidated Structure Plan in that the development would not reflect or respect the character of the houses within the existing building group.

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



**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING  
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND  
LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008**

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**LOCAL REVIEW REFERENCE:** 12/00035/RREF

**PLANNING APPLICATION REFERENCE:** 12/00343/FUL

**DEVELOPMENT PROPOSAL:** Erection of dwellinghouse with integral garage

**LOCATION:** Garden Ground of Langton Birches, Duns

**APPLICANT:** Mrs Clare Fleming

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**DECISION**

The Local Review Body varies the decision of the appointed officer and refuses planning permission for the following reason:

- 1 The proposal would be contrary to Policy D2 of the Consolidated Local Plan and Policy H7 of the Consolidated Structure Plan in that a dwellinghouse on this site would be located outwith the identifiable limits of the established group, would not be well related to the group and would lead to ribbon development along a public road.
- 2 The proposed dwelling would be contrary to Policy G1 of the Consolidated Local Plan and Policy N20 of the Consolidated Structure Plan in that the development would not reflect or respect the character of the houses within the existing building group.
3. The proposed development would be contrary to Policy G1 of the Consolidated Local Plan in that the proposal would constitute an unacceptable over-development of the plot and that the dwellinghouse could not be satisfactorily accommodated on the application site.

**DEVELOPMENT PROPOSAL**

The application is for the erection of dwellinghouse with integral garage on the garden ground of Langton Birches, Duns. The application drawings consisted of the following drawings:



| <b>Plan Type</b> | <b>Plan Reference No.</b> |
|------------------|---------------------------|
| Location Plan    | FLE PL01                  |
| Site Plan        | FLE PL02                  |
| Site Plan        | FLE PL03                  |
| Floor Plans      | FLE PL04                  |
| Floor Plans      | FLE PL05                  |
| Sections         | FLE PL06                  |
| Elevations       | FLE PL07                  |
| Elevations       | FLE PL08                  |
| Report           | STATEMENT                 |

## **PRELIMINARY MATTERS**

The application was presented to the Local Review Body at its meeting on 17<sup>th</sup> September 2012. After examining the review documentation, which included:

(a) Decision Notice; (b) Notice of Review and supporting papers; (c) Report of Handling; (d) papers referred to in Report of Handling; (e) Correspondence from Consultees; and (f)) List of Policies, Members concluded that they did not have sufficient information to conclude the review and that further procedure was required in the form of a site visit. The site visit, which was unaccompanied, was held immediately and following its conclusion the Review Body reconvened at the Duns Area Office, Newtown Street, Duns to consider the case.

The Local Review Body considered the Review competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

## **REASONING**

The determining issues in this review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: consolidated Scottish Borders Structure Plan 2001-2018 and consolidated Scottish Border's Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- Structure Plan Policies: N20, H7 and I11
- Local Plan Policies: G1, D2, H2, G5, INF4, and NE4

Other material key considerations the Local Review Body took into account related to:

- Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- Supplementary Planning Guidance on Placemaking and Design 2010
- Supplementary Planning Guidance on Development Contributions 2011

After considering the slides of the site and the submitted site and location plans, the Review Body accepted that there was a building group at Langton Birches, as defined in Structure Plan Policy H7, Policy D2 of the Local Plan and in the approved Supplementary Planning Guidance. In coming to this conclusion, Members agreed that the group consisted of 1 and 2 Duns Mill Cottages, The Bungalow, Oakridge and



Langton Birches itself and that the locus had a distinct sense of place. However, they were unclear as to the precise boundaries or extent of the group and the relationship of the proposed house to the existing properties. Members were also concerned about the capacity of the proposed site itself to accommodate the proposed development. In the circumstances, they felt that it was necessary to conduct a site visit.

Members confirmed that the site visit had been useful in clarifying these questions. Following debate it was determined that the proposed development would be outwith and not well related to the building group and that it would represent ribbon development along the public road. Members considered that the tree belt to the west of Langton Birches formed a defined and defensible edge to the group and the insertion of a house into the woodland would diminish its effectiveness and attractiveness.

The Review Body noted that there was a mix of building styles within the group and that the proposed dwelling was of a contemporary and innovative design. Members complimented the applicant in proposing a house which sought to maximise energy efficiency but felt that the proposal would not reflect the character of the existing group and would be harmful to its appearance. The Review Body highlighted that it was not opposed, as such, to contemporary house design in rural building groups but were clear that any house should pay regard to the context in which it is being built and be compatible with the character of the neighbouring built form. In this instance, the Review Body did not consider that this objective of Policy G1 had been met successfully.

Members also determined that the proposed development would be overdevelopment of the site. The combination of the small size and unusual shape of the plot limited the ability to successfully accommodate the house, whilst providing useful garden ground, parking for two cars and turning facilities. The development would therefore be contrary to Policy G1 (2) of the Local Plan.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

### **Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.**

1. If the applicant is aggrieved by the decision of the planning authority to refuse 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 question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions 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 of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of

the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

**Signed**.....  
Chairman of the Local Review Body

**Date:**...25 October 2012

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997****Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013****Application for Planning Permission****Reference : 17/01145/PPP****To : Mrs Clare Fleming per R G Licence Architect Hillend Ednam Kelso Scottish Borders TD5 7QE**

With reference to your application validated on **17th August 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Erection of dwellinghouse****At : Land West Of Langton Birches Duns Scottish Borders**

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

Dated 2nd October 2017  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA

Signed

.....  
**Depute Chief Planning Officer**

**APPLICATION REFERENCE : 17/01145/PPP****Schedule of Plans and Drawings Refused:**

| Plan Ref | Plan Type     | Plan Status |
|----------|---------------|-------------|
| CF OP02  | Site Plan     | Refused     |
| CF OP01  | Location Plan | Refused     |

**REASON FOR REFUSAL**

- 1 The proposed development of a single dwellinghouse at this site would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Guidance Note (2008), in that the proposed development would not form part of or be well related to an existing building group, would not reflect the character of the building group and would lead to ribbon development along a public road.
- 2 The proposed development of a single dwelling at this site would be contrary to the access requirements of policies HD2 (Housing in the Countryside) and PMD2 (Quality Standards) of the Local Development Plan 2016, in that the development would result in a proliferation of accesses, and represent a further access onto an unrestricted and unlit section of public road to the detriment of Road Safety.

**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 : 17/01145/PPP

APPLICANT : Mrs Clare Fleming

AGENT : R G Licence Architect

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Land West Of Langton Birches  
Duns  
Scottish Borders

TYPE : PPP Application

REASON FOR DELAY: No Reason

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**DRAWING NUMBERS:**

| Plan Ref | Plan Type     | Plan Status |
|----------|---------------|-------------|
| CF OP02  | Site Plan     | Refused     |
| CF OP01  | Location Plan | Refused     |

**NUMBER OF REPRESENTATIONS: 0**  
**SUMMARY OF REPRESENTATIONS:**

**CONSULTATIONS:**

**EDUCATION AND LIFELONG LEARNING:** I refer to your request for Education's view on the impact of this proposed development, which is within the catchment area for Duns Primary School and Eyemouth High School. A contribution of £4,639 is sought for the Primary School and £3,428 is sought for the High School, making a total contribution of £8,068.

**ROADS PLANNING SERVICE:** As nothing has changed since the last application on this site (13/01025/FUL), have no option but to repeat previous comments:

"The previous application (12/00343/FUL) for the same proposal raised some concerns given its location in relation to the rest of the building group. The main issue related to concerns over a proliferation of accesses and the lack of appropriate infrastructure. Nevertheless, with the previous application, it was accepted that a shared service lay-by with Langton Birches, could on balance be accepted, as this would not result in an additional new access onto an unrestricted and unlit section of public road. However, that argument is lost with the current submission due to a new access being proposed which is divorced from the existing access to Langton Birches. Given the above, I must withhold my support of this application; due to the inappropriate extension of this building group which would lead to a proliferation of accesses."

**COMMUNITY COUNCIL:** Although we have no objection to the proposed design of the dwelling house itself, we must table our objection as we consider the impact of the development on the road between Langton Birches and Middlewood Farm to be problematic. Specifically:

1. The road between Langton Birches and Middlewood Farm has been the subject of much discussion at the Community Council over the past few years with regard to both drainage and the condition of the carriageway. This is a narrow and very poorly drained section of road. As a consequence, traffic passing along this section is often forced off the tarmac onto muddy, boggy sections on either side of the carriageway. Vehicles have difficulty passing safely without wheels, tyres and suspension being damaged. The CC has requested work to be carried out to improve the situation but it is unlikely that a comprehensive project to resurface this section of road (complete with the necessary drainage) will be possible. We do however understand that some work can be done through the Neighbourhood Operations Small Scheme Fund.
2. Having looked carefully at the proposed access to the site we are concerned about the poor visibility because of the trees and hedges around the perimeter of the site. Clearly as this is a derestricted section of road, we consider the proposed entrance to be a potential safety hazard.
3. Construction traffic we believe could be a considerable hazard on this section of road. Parking of heavy vehicles on the existing substandard verge would result in even more damage to the fragile highway. We believe that hard standing will need to be provided for all construction traffic.
4. Service traffic in the future will also need to be catered for with some form of layby as the existing road width is insufficient for both parked service vehicles and the safe passage of other vehicles.

We would therefore ask that planning approval be subject to:

1. The provision of adequate drainage along the roadside perimeter of the development.
2. Adequate visibility for vehicles entering and leaving the property.
3. Appropriate hardstanding for both construction traffic and future service traffic.

Finally, could I suggest that in determining this application the Planning Officers take on the views of Mr Daren Silcock (Neighbourhood Area Manager Berwickshire), as I am aware that he has plans to provide upgraded facilities on this section of road.

**NEIGHBORHOOD SERVICES MANAGER:** Though not a consultee, the Neighbourhood Services Manager was copied into the consultation reply of Gavinton, Fogo, and Polwarth Community Council as Neighbourhood Operation have funding to create two new passing places on the C101 from Gavinton to Nisbet Rhodes. Neighbourhood Services advise they have no opinion on whether a house is suitable at this location from a planning perspective, but if permission was granted then they would be interested in where the service layby/ entrance would be located/ installed to ensure that it doesn't conflict with where SBC (NS) may decide to install either of the passing places along with any drainage works that may be necessary as part of these works.

## **PUBLICITY AND REPRESENTATIONS**

The application did not require any postal notification, there being no postal addresses (other than the applicants existing dwelling) within the statutory notification distance. The application was publicised by means of a press notice in the Berwickshire News, and a notice on the national public notice website "Tell Me Scotland". No objections or representations were received.

## **PLANNING CONSIDERATIONS AND POLICIES:**

**LOCAL DEVELOPMENT PLAN - Adopted Scottish Borders Local Development Plan (2016)**

PMD1: Sustainability  
 PMD2: Quality Standards  
 ED10: Protection of Agricultural Land and Carbon Rich Soils  
 HD2: Housing in the Countryside  
 HD3: Protection of Residential Amenity  
 EP3: Local Biodiversity  
 EP13: Trees, Woodlands and Hedgerows  
 IS2: Developer Contributions  
 IS7: Parking Provision and Standards  
 IS9: Waste Water Treatment and Sustainable Urban Drainage

## SUPPLEMENTARY PLANNING GUIDANCE

- Placemaking and Design (2010)
- Development Contributions (2016)
- New Housing in the Borders Countryside (2008)
- Trees and Development (2008)
- Householder Development (incorporating Privacy and Sunlight Guide) (2006)

**Recommendation by** - Andrew Evans (Planning Officer) on 29th September 2017

### SITE

The application site is an area of land in the garden ground of the existing dwelling at Langton Birches, Duns. The existing house is located to the east of the application site. The house has a mature garden ground. To the south of the site is located agricultural land. To the north is the minor road to Gavinton. The site is level.

### PROPOSED DEVELOPMENT

Planning permission in principle is sought for the erection of a single detached dwelling. Indicative drawings were submitted with the application. These show a dwelling positioned west of the existing house at Langton Birches, in garden ground.

### SITE HISTORY

Application 12/00343/FUL for the erection of a single dwelling on the same site was refused on appeal. The Local Review Body varied the decision of the appointed officer and refused planning permission for the following reason:

1. The proposal would be contrary to Policy D2 of the Consolidated Local Plan and Policy H7 of the Consolidated Structure Plan in that a dwellinghouse on this site would be located outwith the identifiable limits of the established group, would not be well related to the group and would lead to ribbon development along a public road.
2. The proposed dwelling would be contrary to Policy G1 of the Consolidated Local Plan and Policy N20 of the Consolidated Structure Plan in that the development would not reflect or respect the character of the houses within the existing building group.
3. The proposed development would be contrary to Policy G1 of the Consolidated Local Plan in that the proposal would constitute an unacceptable over-development of the plot and that the dwellinghouse could not be satisfactorily accommodated on the application site.

This third reason was added in by the LRB, and was not part of the original officer's delegated decision.

Application 13/01025/FUL for the erection of a single dwelling on the same site was withdrawn.

There has been no major change in the Housing in the Countryside policies and guidance of the Council since the determination of the previous application on the site.

### POLICY PRINCIPLE / BUILDING GROUP

An existing building group is located to the north east of the site. Numerically, the group has capacity to accommodate a dwelling within the current plan period. However, in terms of the position of the site relative to the group, there is a clear conflict with adopted policy; my view is that the group itself is on the other side of the minor road, and also offset from the application site. The application site is remote from the building group, and does not form part of it.



The Local Review Body in 2012 reached a similar view, that there was a building group at Langton Birches, Members agreed that the group consisted of 1 and 2 Duns Mill Cottages, The Bungalow, Oakridge and Langton Birches itself and that the locus had a distinct sense of place. However, they were unclear as to the precise boundaries or extent of the group and the relationship of the proposed house to the existing properties. Members were also concerned about the capacity of the proposed site itself to accommodate the proposed development. The Planning Authority has previously been of the view that the applicants existing dwelling, Langton Birches, forms part of a wider building group consisting of 5 existing dwellings, 4 of which are located on the north side of the public road.

Whilst there is a group present at Langton Birches, this current planning application site does not form part of it, and is not well related to it. The proposed site of the new dwelling would not respect or reflect the character and amenity of the group as it would be located out with the area contained by the sense of place and would result in the loss of existing trees and shrubs which contribute to the identified sense of place. The garden woodland within which the site is positioned serves a landscaping function to the edge of the building group. There is considered no justification for a dwelling under part A (Building Groups) of policy HD2 of the Local Development Plan. Concerns over ribbon development remain.

### PRIME QUALITY AGRICULTURAL LAND

Policy ED10: Protection of Agricultural Land and Carbon Rich Soils is notionally applicable to the site. This aims to protect prime quality agricultural land from development. Despite being identified as PQAL, it was apparent at the time of my site visit, that the application site is now completely positioned within the maturing garden ground and planting, and is not agricultural in nature. I have no concerns in terms of any conflict with policy EP10 of the LDP.

### PLACEMAKING AND DESIGN

The proposals require to be assessed in terms of the adopted Supplementary Planning Guidance and the adopted planning policies relating to Placemaking and Design. The Local Development Plan contains a group of policies on Placemaking and Design.

#### - House design

The submitted application was made in principle, and as such, detailed design considerations are not being decided with this application. A suitable house design could be brought forward.

#### - House position and orientation

The undulating nature of the southern edge of the application site means that there are concerns on the acceptability of the site for a house. The combination of the small size and unusual shape of the plot limits the ability to successfully accommodate the house, whilst providing useful garden ground, parking for two cars and turning facilities. This has not changed since the previous refusal of this site.

The existing dwellings form a relatively tight group, with the exception of Langton Birches, but the proposed dwelling would be located 55m west of this property and would not follow the general pattern of development or spacing between existing properties. This would lead to ribbon development along the public road to the detriment of the character and amenity of the existing group and a form of development not supported by the Roads Planning Service.

Policy PMD2 of the Local Development Plan sets out the Council position in terms of quality standards for all new development. Policy PMD2 (Quality Standards) of the LDP sets out (amongst other matters) criteria on Placemaking and Design. The most relevant here are as follows. Criteria (h) requires development are created with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; Criteria (k) requires that development is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form, Criteria (l) requires that development can be satisfactorily accommodated within the site, I do not consider development of a house on this plot would meet these placemaking criteria. The proposed development would conflict with the requirements of policy PMD2 (Quality Standards) of the Local Development Plan. Were the site acceptable in principle, the Planning Authority would have given consideration to limiting the form, scale and position on the plot to reflect that of the housing adjacent to the site.



## TREE, WOODLAND AND HEDGEROWS

Existing trees, woodland, and hedgerows are protected by policy EP13 of the LDP on Trees, Woodlands and Hedgerows. The Council has also adopted Supplementary Planning Guidance on Landscape and Development, and on Trees and Development, which are both relevant to these proposals. The SPG on Trees and Development requires application of the relevant British Standard for Tree Protection, British Standard 5837: Trees in Relation to Construction. Policy EP13 (Trees, Woodlands and Hedgerows) of the LDP sets out the Council position in detail. In the case of these proposals, the development set out in the submitted application it would have been possible for a house to be suitably positioned within the existing trees.

I am satisfied that the proposed development could comply with the requirements of policy EP13 (Trees, Woodlands and Hedgerows) of the Local Development Plan, and the adopted SPG on Trees and Development. However, had the application been acceptable in principle, I would have been minded to consider imposition of conditions to protect trees to be retained, and identify which trees can be removed.

## LANDSCAPING

Further conditions would have been appropriate in terms of hard surfaces, materials, surfacing and boundary treatments, had the principle of development been acceptable here.

## AMENITY AND PRIVACY

The impact of development on neighbouring amenity is a material planning consideration. Amenity and privacy are afforded protection via policy HD3 of the LDP, and via the adopted SPG on Householder Development. The SPG sets out privacy and amenity standards to ensure that any overshadowing or overlooking is to an acceptable level. Existing neighbours are entitled to a degree of protection of amenity and privacy. In the case of this application, I am content that a dwelling on the proposed site could comply with these standards. The nearest other dwellings are sufficiently distant from the site that I am satisfied the proposal to develop a house on this site would not affect the residential amenities of occupants of these properties.

## ROAD SAFETY

Road safety is a material planning consideration. Policy IS7 on Parking Provision and Standards sets out that development proposals should provide for car and cycle parking in accordance with approved standards. Policy PMD2 (Quality Standards) of the LDP sets out (amongst other matters) criteria on accessibility. Criteria (q) requires that development ensures there is no adverse impact on road safety, including but not limited to the site access. Criteria (s) requires that development incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

The Roads Planning Service was consulted on this application, and advises that their position is unchanged since the determination of the previous application. The proposals give rise to some road safety concerns given its location in relation to the rest of the building group. The main issue related to concerns over a proliferation of accesses and the lack of appropriate infrastructure. Nevertheless, with the previous application, it was accepted that a shared service lay-by with Langton Birches, could on balance be accepted, as this would not result in an additional new access onto an unrestricted and unlit section of public road. However, that argument is lost with the current submission due to a new access being proposed which is divorced from the existing access to Langton Birches. The RPS engineer has therefore withheld support of this application due to the inappropriate extension of this building group which would lead to a proliferation of accesses.

Following the comments of the Community Council, The Neighbourhood Services Manager provided commentary in regards to future proposals for provision of passing places on the minor road serving the site. The Roads Planning Service Engineer was aware of this when making his comments on the application.

I am satisfied that the proposed development would have unacceptable access arrangements. The application is considered to be contrary to the relevant access requirements of policies HD2 (Housing in the Countryside) and PMD2 (Quality Standards) of the Local Development Plan 2016.

Suitable parking is likely to be achievable in terms of IS7 (Parking Provision and Standards).

#### **WATER SUPPLY AND DRAINAGE**

Policy IS9 of the Local Development Plan on Waste Water Treatment Standards and Sustainable Urban Drainage is relevant to this application. This sets out that development proposals should make satisfactory arrangements for dealing with foul and surface water drainage. SUDS (Sustainable Urban Drainage Systems) principles should be incorporated in the development. The site is located in a rural area. The submitted supporting statement specifies that the proposed means of water supply is via public water supply. It further advises that surface water drainage will be installed on site to SUDS principles. Foul water drainage will be provided on site with a sewage treatment plant and soakaway. Were the application otherwise acceptable, water supply and drainage could be suitably controlled via imposition of planning conditions.

#### **DEVELOPMENT CONTRIBUTIONS**

The Council has adopted Supplementary Planning Guidance on Development Contributions which is relevant to this application. Policy IS2: Developer Contributions of the LDP seeks to ensure that development contributions are identified and collected in line with prevailing policy. The SPG on Development contributions sets out the prevailing contribution levels. In the case of this application, contributions were identified in terms of Education and Lifelong Learning. This requirement currently totals £8,067. Were the application otherwise acceptable, then a legal agreement to ensure collection of this contribution would have been necessary.

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

The proposed development of a single dwellinghouse at this site would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Guidance Note (2008), in that the proposed development would not relate sympathetically to an existing building group and would lead to ribbon development along a public road.

#### **Recommendation: Refused**

- 1 The proposed development of a single dwellinghouse at this site would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Guidance Note (2008), in that the proposed development would not form part of or be well related to an existing building group, would not reflect the character of the building group and would lead to ribbon development along a public road.
- 2 The proposed development of a single dwelling at this site would be contrary to the access requirements of policies HD2 (Housing in the Countryside) and PMD2 (Quality Standards) of the Local Development Plan 2016, in that the development would result in a proliferation of accesses, and represent a further access onto an unrestricted and unlit section of public road to the detriment of Road Safety.