



### NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013

**IMPORTANT:** Failure to supply all the relevant information could invalidate your notice of review.

Use BLOCK CAPITALS if completing in manuscript

#### Applicant(s)

Name Mr & Mrs Alexis and Rose Kennedy

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Contact Telephone 1

Contact Telephone 2

E-mail\*

#### Agent (if any)

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Contact Telephone 1 01369 701988

Contact Telephone 2

E-mail\* admin@architeco.co.uk

Mark this box to confirm all contact should be through this representative:



Yes No

\* Do you agree to correspondence regarding your review being sent by e-mail?



Planning authority Scottish Borders Council

Planning authority's application reference number 18/00956/FUL

Site address Land North West of Chapel Cottage, Melrose, Scottish Borders

Description of proposed Erection of dwellinghouse development

Date of application 19th July 2018

Date of decision (if any) 17th September 2018

**Note:** this notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

### Nature of application

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

### Reasons for seeking review (tick one box)

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

### Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions; and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

1. Further written submissions ☒
2. One or more hearing sessions ☐
3. Site inspection ☐
4. Assessment of review documents only, with no further procedure ☒

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary: We have included a Tree Report which demonstrates that there are no trees on the application site, and that the siting of the house is outwith the tree siting area. Also included is a sightline plan.

### Site Inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- |  | Yes                                 | No                       |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land?                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

**Statement**

You must state, in full, why you are seeking a review of your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Please see enclosed Statement

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.



**List of documents and evidence**

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. Note: there will be no opportunity to submit further documents to accompany this notice of review.

1. Tree Report
2. Statement
3. Design Statement
4. Supplementary Design Statement
5. Location Plan
6. Site Plan
7. Floor plans
8. Floor Plans
9. Roof Plan
10. Elevations
11. Sections
12. Briefing Document
13. Sight Lines Drawing

Note: the planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

**Checklist**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

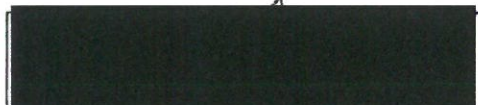
- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note: where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

**Declaration**

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

12-12-18

*The completed form should be returned to the Clerk of the Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA or sent by email to [localreview@scotborders.gov.uk](mailto:localreview@scotborders.gov.uk)*

## Statement – Notice of Review

### Application for Planning Permission

Ref: 18/00956/FUL

Applicant: Architeco on behalf of Mr & Mrs Alexis and Rose Kennedy

Site: Land North West of Chapel Cottage Melrose Scottish Borders

12/12/18

### Site History

1. The site had been granted Planning in Principle: Ref. No: 15/00036/PPP
2. We made an application based on this Planning in Principle being supported. Ref. No: 18/00956/FUL
3. The Planning Approval lapsed while our application was under consideration.
4. An application for renewal was renewed, and refused. Ref. No: 18/00644/PPP
5. Our application was refused on the basis of the above refusal: Ref. No: 18/00956/FUL
6. 15/00036/PPP (renewal 18/00644/PPP) was appealed, (18/00030/RREF) and won approval.

We now wish to appeal our applications' refusal, on the basis that the appeal for PPP (15/00036/PPP) was upheld and Planning Approval granted.

Largely, the refusal of our application referred to the now overturned refusal 18/00644/PPP. Thus, much of the refusal is no longer relevant. However, taking each of the Reasons for Refusal in turn:

1. This refers to the refusal noted above. Our Application 18/00956/FUL was refused on the basis that the Planning in Principle application 18/00644/PPP had been refused. As this decision has now been overturned, and PPP granted approval, it follows that our Application should also be granted approval, with the PPP 18/00030/ as a material consideration.
2. With reference to the design.  
The officer would have preferred a design reflective of a traditional gatehouse design. This is not a viable design option for this site, as the trees bordering the site need to be avoided and so the house needs to be sited – and thus designed - differently. We note that the PPP notes that 'high quality contemporary design features that are sympathetic to the context' will be considered.



We posit that the development is in accord with the adopted Local Plan, as it is a modern take on rural housing, with a design complementary to that of traditional rural housing. We note design details like the dormer windows, as well as the overall scale and proportions are well suited to this location and context.

All of our design details are carefully considered to balance aesthetic and practical considerations. For example, the overshadowing dormers are calculated to prevent overheating, and the gables are to protect the wallhead. (A key failure in traditional Scots design is damp to the gables resulting from lack of overhang). The large glazed openings provide solar gain, which assists in achieving PassivHaus low energy standard. Smaller windows, while perhaps more visually 'traditional', would be detrimental to the house's energy performance. Finally, the timber cladding, slate roof and white render are very much typical of Scottish traditional building and echo the architecture of nearby buildings.

We enclose our design statement, as recommended. (Please note that this was not listed in the schedule of plans and drawings, although it was submitted with our application.) We note that some of the objections made regarding the design (the amount of overhang on gables, for example, or the details of the bin store) are relatively small details that could be discussed and revised, as noted in the report of handling.

Also submitted with our application and not listed in schedule, was our supplementary information detailing our plans for a 'hobby farm' run on permaculture principles. As noted in the Local Plan, Hobby Farms are to be considered on an individual basis. This is related to the economic or business case for a farm business, as a Hobby Farm by definition is not attempting to be run on a business basis. It is indeed a 'lifestyle choice', and the fact of it not being presented as a business is surely not to be marked against it?

We note the careful considerations given to the site as a whole, including landscaping, sustainability, design and aesthetics.

3. With regards to impacts on local landscape – specifically Trees and Hedging. We enclose a professional tree report. This shows that there are no mature trees on the site, and none would be lost were the house to be built. The tree report shows that the house curtilage has been carefully positioned to avoid root spread of trees – it is critical to our clients that the trees are preserved. Preservation and care of the landscape are of utmost importance to our clients – hence their appointment of us as specialists in sustainable, ecologically aware architects.
4. We enclose a detail of the visibility splay, and note that proper access arrangements could be a condition on planning approval, and details about potential access would not in themselves normally be grounds for refusal.

# Tree Report & Recommendations

**Mr & Mrs Kennedy's Plot**

4 Caber House, Linthill, Melrose



View from near the top of proposed house plot towards Tree 1 and the driveway to Linthill



Trees 2 & 3 to North of proposed House plot

**Anna Craigen Environmental Services (ACES) – Nov/ Dec 2018**

**A Report produced by Anna Craigen – Landscape Architecture BA(ord)/ MA(Hons)**



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- 3. ACES Relevant Experience & Report Ethos Summary**
- 4. Site Appraisal**
- 5. Tree 1 Information**
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- 7. Summary & Conclusion**

**Appendix A – Basic Tree Survey Table**

**Appendix B – RPA Calculator – Tree 1**

**Appendix C – RPA Calculator – Tree 2**

**Appendix D – RPA Calculator – Tree 3**

**Appendix E – Plan prepared by ACES to give accurate location of trees and estimated extent of RPA**



### **Anna Craigen (ACES) - Relevant Experience:**

**1993 – 1998:** BA(ord)/ MA(Hons) Landscape Architecture at Edinburgh College of Art/ Heriot Watt University. With one year professional practice (Landscape Architect Assistant) at Portsmouth City Council (1996-97).

**2000 – 2002:** Complex Plans Examiner (RO2) at Registers of Scotland, Edinburgh. GIS Mapping; Property/ Planning Law; resolving boundary and land ownership conflicts.

**2002 – 2013/ 2015 - Present:** Community Liaison & Education Officer at Borders Forest Trust. A local woodland/ environmental charity that focusses on the conservation/ protection and creation of woodlands in the South of Scotland for the benefit of wildlife and people. Project work involvement included: management of selective tree thinning operations in sensitive sites in the Tweed Valley; recording, surveying and monitoring veteran trees; leading general woodland survey and monitoring activities – tree health and biodiversity, and liaising with the public over a wide array of tree related issues.

ACES (established in 2013): relevant project work has included:

- Leading public/ volunteer team tree health and biodiversity survey events (culminating in written reports to highlight ongoing site management recommendations) on behalf of the Haining Charitable Trust (Sept – Oct 2014).
- Providing advisory services in community woodland/ orchard establishment and ongoing woodland/ tree management to a variety of Borders based Community Groups, e.g. Cove, Craik.
- Leading weekly volunteer team sessions in carrying out a variety of woodland management tasks, e.g. selective thinning, pruning, tree planting etc.
- Woodland management advice/ site visits and recommendations to a variety of Private/ Commercial Sites and Estates in the Borders, e.g. Newhouses; Wilton Mills (Aldi) Hawick
- Risk assessment policy & procedure development, landscape/ woodland management advice and design of natural play areas at Born in the Borders visitor centre, Lanton, nr Denholm.

### Report Ethos:

Coming from a tree conservation, community liaison and landscape design background, this report will provide an honest appraisal and accurate representation of the current tree health and status of the trees closest to the proposed Kennedy family home development at Linthill, Nr Lilliesleaf, Melrose. The clients are keen to retain all current trees on site and aim to do all they can to fully avoid any damage to the trees during the development of their family house. The chief aim of this report is to: highlight and evidence the fact that the proposed position of the house development is out with the canopy and RPA of the existing trees on site; and to also ensure that recommendations for some small amendments to the current draft design plan are presented and noted. Following a visual tree inspection it is also purposeful at this point to recommend that some minor tree surgery work be undertaken by an appropriate qualified tree surgeon to ensure the long term stability and integrity of one of the trees, as noted in this report.

## **Site Appraisal & Tree Information**

### **Proposed Development in relation to Existing Trees and site:**

The site is currently used as grazing land, but formerly had a dwelling house/ building (now only evident on close inspection through differences in grass species and colouration). The site is bounded to the West by a mixed mature hedgerow (predominantly beech)/ B6359 road; an area of young mixed woodland to the North, and post and wire fences to the East and South (separating the site from further grazing and arable fields).

From the numerous plans that have been made available to me during this tree report process, it is evident that the design approach and proposal are all very much 'eco'-focussed, landscape sensitive and are true to the sites historical land use layout. It is evident that the overall plan gives consideration to the existing site features (trees and hedge); aspect (to and from the site) and topography.

The Kennedy plot has been sub-divided to create a compartment for their home and garden, with a further area to be retained as is for livestock grazing.

When looking at the entire plot being purchased by the Kennedy's, there are several trees forming an avenue along the hedgerow western edge of the site. The trees surveyed for this report lie out with the house plot boundaries, but are closest to the proposed site of the house development. The other (all) trees on site will remain as they are, with potentially further trees and shrub layer native species being planted near and around these at a later date.

NB: The Kennedy's are very keen to retain and do all that they can to protect all of the trees during the building development process.

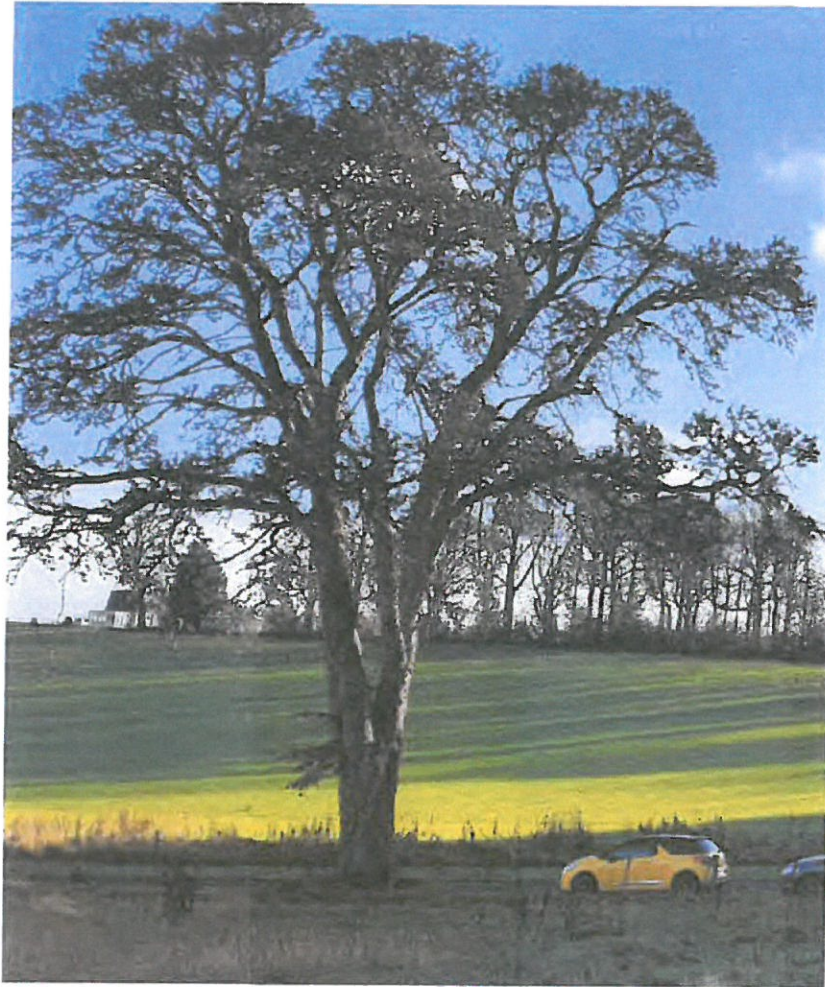
### **REPORT & SURVEY METHODOLOGY:**

A Root Protection Area (RPA) Calculator was used during the process of estimating the root area of each tree. This notes accordance to BS5837:2005 – now outdated by BS5837:2012. From further research and taking into account the Note (highlighted in yellow) on Appendices B – D, the RPAs have been plotted at the recommended 'capped' distance of 15m radius, which when looking at other references appears to be a generous provision.



## Trees – Closest to Proposed Development:

### Tree 1:



Description: Large mature sycamore (*Acer pseudoplatanus*). In apparent good health, with great shape and structure. Large amount of epiphytic growth. Please See Appendix A for more information about each of the trees.

TO BE RETAINED and any compaction of the area within the RPA is to be minimised during construction (see notes below and Appendix E – Sketch Plan produced by ACES).

Recommendation for site layout design amendment: Following discussion with Mr & Mrs Kennedy they are very keen to move the proposed site access point and driveway on Architect Plans – Drawing No: 1427-02-03 to a point closer to the main Linthill Estate entrance as per suggested/ annotated dotted line on ACES Appendix E. NB: This will enable clear safe sight lines in and out of the site, but is safely out of the extents of the RPA. Architect to amend design plan to show hard landscaping amendments.

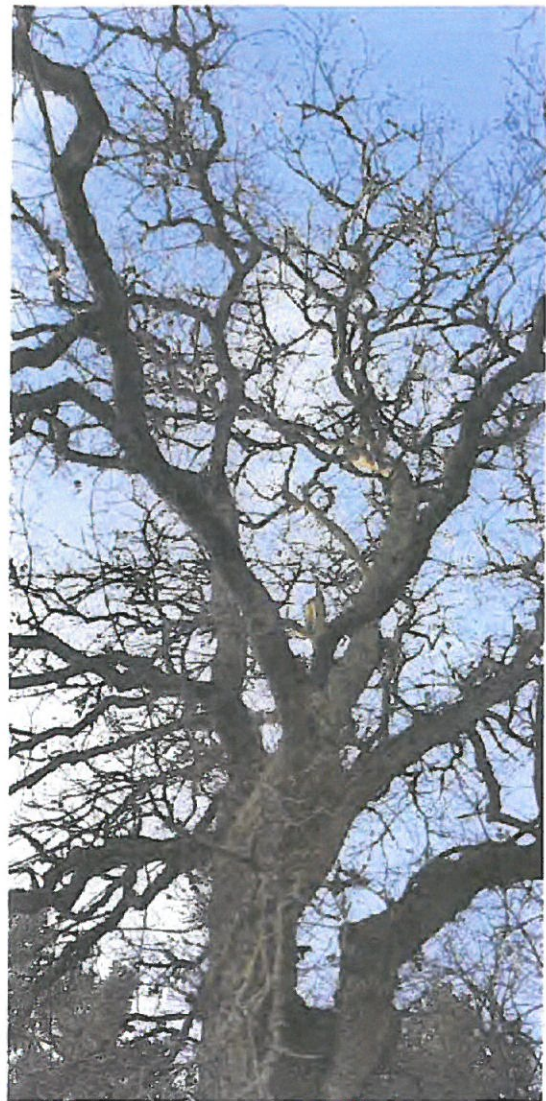
Recommendation for during construction process: Erect temporary fencing around trees to be retained at the outer limits of the crown-spread or at a distance of half the height of the tree (approx. 11 – 12m), whichever is greater. Fencing should be at least 1.2 metres high cleft chestnut pale and well braced to resist impacts. Ensure that the fencing is maintained during development and that all contractors know the ground within the fenced area is protected.



### Trees 2 & 3:



Trees 2 & 3



Tree 2

Both Trees 2 and 3 are mature Sessile oak (*Quercus petraea*). Both trees are still reasonably youthful and have a good life expectancy.

Tree 2 has a greater amount of standing deadwood within the canopy, but otherwise appears to be in good health. It does have some apparent weak areas in structure and form, i.e. low horizontal side branching with damp hollow at trunk. It is recommended that these trees are assessed by a qualified tree surgeon with an eye to some crown cleaning and reshaping work in the future.

Tree 3 is slightly smaller in stature than Tree 2, however it has less apparent deadwood within its canopy. This tree is completely out with any risk from the proposed development. It would also benefit from a crown clean to ensure longevity and ongoing site safety.

Recommendation for during construction process: As with Tree 1 - Erect temporary fencing around trees to be retained at the outer limits of the crown-spread or at a distance of half the height of the tree (approx. 10m), whichever is greater. Fencing should be at least 1.2 metres high cleft chestnut pale and well braced to resist impacts. Ensure that the fencing is maintained during development and that all contractors know the ground within the fenced area is protected.

Post Construction Recommendation: careful attention needs to be made to avoid any root damage within RPA when it comes to fencing the house plot garden area after the construction process.

## **Summary & Conclusion**

In conclusion, with some small amendments to the site access point/ positioning of the hard landscaping and mindful site management during construction - none of the trees within the vicinity of the proposed house development will suffer any ill affect during and after building work.

Careful planning and attention needs to be made to ensuring that the RPA areas are protected from compaction during the construction process by adherence to the recommendations set out in this document and as per comments, instructions and advice offered by SBC Planning Department staff.

It is recommended that a qualified tree surgeon is employed after the house is constructed, but prior to any garden development taking place - to advise on any beneficial tree crown cleaning/ stabilising structure work on Trees 2 and 3 to ensure their longevity and future safety.