

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**5 AUGUST 2019**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 18/01795/FUL  
**OFFICER:** Julie Hayward  
**WARD:** Leaderdale And Melrose  
**PROPOSAL:** Demolition of dwellinghouse and erection of seven dwellinghouses  
**SITE:** Orchard Park and Land North and East of 16 And 17 Brewster Place Gattonside  
**APPLICANT:** Rural Renaissance  
**AGENT:** Rapleys LLP

**PLANNING PROCESSING AGREEMENT:** 5<sup>th</sup> August 2019

**SITE DESCRIPTION**

The site is a paddock situated to the north of Main Street (B6360) within the Gattonside Conservation Area. The site slopes up to the north and is defined by post and wire fencing beyond which are semi-mature trees on the north boundary and mature trees on the east boundaries. There are two pairs of semi-detached houses fronting onto the main road to the south, Montgomerie Terrace and Brewster Place are to the west, with agricultural land to the north. To the east and beyond existing trees are several large, detached houses. The site is within the National Scenic Area.

**PROPOSED DEVELOPMENT**

There is a detached, single storey bungalow and a garage/workshop on the southern part of the site which front onto Main Street. These buildings would be demolished to facilitate the proposed development. A pair of detached single storey houses (plots 6 and 7, house type B) would be erected in their place fronting onto the road. These would have three bedrooms and an integral garage accessed from the main road.

A new access would be formed from Montgomerie Terrace and five detached dwellings are proposed along a central access road. Plots 2 and 3 to the north of the access road are detached two storey dwellings where they front the road, but single storey to the rear (north), taking into account the sloping nature of the site (house type C). These would have four bedrooms, an integral double garage and two external terraces over ground floor wings. Two plots (plots 1 and 4) are proposed to the south of the access road. These are single storey where they front the road and two storey to the rear with four bedrooms and an integral double garage (house type D). Plot 5 is accessed from the end of the internal road and is a larger, detached single storey dwellinghouse (house type A) with four bedrooms and an integral double garage.

The proposed houses would have rendered walls with stone detailing, grey timber doors and grey UPVC windows with fibre cement slate effect tiles to the roof (though plots 6 and 7 would be natural slate as they front onto the main road).

The dwellinghouses would have two in-curtilage parking spaces per plot and the layout includes two visitor parking spaces as well as provision to vehicle turning. A drainage plan and planting plan have also been submitted.

## **PLANNING HISTORY**

90/00693/FUL: Change of use from agricultural land to garden ground (no building permitted). Refused 12<sup>th</sup> March 1990.

## **REPRESENTATION SUMMARY**

Five representations were received objecting to the application as originally submitted. These can be viewed in full on Public Access and raise the following issues:

- The boundary is inaccurately shown on the site plan;
- Loss of residential amenity in terms of noise disturbance, privacy/overlooking, overshadowing/loss of light, loss of outlook, solar dazzling and glare and dominance due to the proximity to the boundary with Orchard House and difference in ground levels;
- The design and materials are not sympathetic to the character of the Conservation Area and National Scenic Area and out of keeping with surrounding properties and are not consistent with the Settlement Profile in the Local Development Plan, which requires new development to contribute to the retention of Gattonside's character;
- The proposed access is unsuitable, the main access being onto Montgomerie Terrace. Access is too close to the blind corner of the Terrace and very close to the junction of Brewster Place thus making the site access onto the Terrace inadequate and dangerous;
- Demolition of the existing house.

Neighbour re-notification took place following the receipt of revised drawings on 29<sup>th</sup> March 2019 and six representations were received objecting to the application and raising the following issues:

- Access to the site on the hill is already causing problems and existing on-street parking makes access difficult and dangerous, putting people at risk;
- The floor plan and elevations for house type A are incorrect and the site plan and section drawings are inaccurate;
- The position and size of windows, the proposed terracing, the proximity to the boundary and the difference in ground levels results in direct overlooking into the neighbouring properties and an overbearing dominance;
- The trees on the boundary only provide only partial screening, which is minimal in the winter;
- Loss of light and evening sunlight, overshadowing and dazzling glare from the windows;

- Lack of outlook and light from the proposed east facing terraces and potential noise nuisance;
- In respect of plot 5, there appears to be a surround of about 1m wide that the proposed doors can access and a 3m drop to the garden and so a balustrade would be required, also causing overlooking. The whole property appears unnecessarily elevated above the original ground line;
- Encroachment onto land owned by 25 Montgomerie Terrace;
- The designs, especially the large amounts of glazing and the terracing, are out of keeping with the Conservation Area and village and not in compliance with the Settlement Profile for Gattonside;
- The existing properties, 14-17 Brewster Place, will be overlooked by the large amount of glass and windows to the front of the design type A house proposed for plot 1.

Further Neighbour re-notification took place following the receipt of revised drawings on 17<sup>th</sup> June 2019 and four representations were received objecting to the application and raising the following issues:

- Impact on residential amenity in terms of loss of privacy, overlooking with no screening from existing trees or those proposed, loss of light, overbearing impact and noise nuisance;
- Inaccurate drawings and the proposed fencing is outwith the applicant's site;
- Alterations in the form of new windows or decking would increase the level of overlooking in the future;
- The proposed entrance to the site will affect the garden wall, railings and pathway of 25 Montgomerie Terrace;
- The design is out of character with the surrounding properties, Conservation Area and National Scenic Area.

#### **APPLICANTS' SUPPORTING INFORMATION**

- Arboricultural Impact Assessment and Tree Constraints Plan
- Arboricultural Method Statement and Tree Protection Plan
- Design Statement
- Ecological Baseline Report
- Bat Activity Survey Report
- Supporting Statement
- Transport Statement
- Historic Building Appraisal and Archaeological Evaluation Written Scheme of Investigation

#### **DEVELOPMENT PLAN POLICIES:**

##### **SES Plan 2013**

Policy 1B: The Spatial Strategy: Development Principles

## **Scottish Borders Council Local Development Plan 2016**

PMD1: Sustainability  
PMD2: Quality Standards  
PMD3: Land Use Allocations  
HD1: Affordable and Special Needs Housing  
HD3: Protection of Residential Amenity  
EP3: Local Biodiversity  
EP4: National Scenic Areas  
EP8: Archaeology  
EP9: Conservation Areas  
EP13: Trees, Woodland and Hedgerows  
IS2: Developer Contributions  
IS3: Developer Contributions Related to the Borders Railway  
IS7: Parking Provisions and Standards  
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

### **OTHER PLANNING CONSIDERATIONS:**

Supplementary Planning Guidance:

Placemaking and Design 2010  
Householder Development (Privacy and Sunlight) 2006  
Trees and Development 2008  
Landscape and Development 2008  
Biodiversity 2005  
Affordable Housing 2015  
Development Contributions updated January 2018

### **CONSULTATION RESPONSES:**

#### **Scottish Borders Council Consultees**

**Roads Planning Service:** The Roads Planning Service (RPS) has no objections to the proposed development of housing on this site. There are however several matters which will have to be addressed to the Council's satisfaction prior to support being offered.

RPS are pleased to see that the access to the site has been relocated from previous proposals. The revised location will assist with driver visibility and will prevent vehicles from having to sit on a hill waiting to enter the site. The access should have a 5.5m throat width with 8m radii.

The following matters will also have to be addressed and will require additional drawings to be submitted:

- The fence immediately behind kerb on left as entering site shall have to be relocated to be outwith the road verge.
- The fence around parking area shall have to be relocated.
- The parking area is in wrong place to allow vehicles to exit site. These should be relocated, or at least re-orientated, to allow drive-in and reverse out access.
- There do not appear to be any details on the levels for the road.
- There are no drainage details included.

- Lighting will be required as part of the development. Details of this should be submitted as part of the Road Construction Consent process.
- The existing footway on Montgomerie Terrace shall have to be extended into the site to a satisfactory location.
- A verge will be required adjacent to the carriageway on the left hand side on entry to the site, along the front of Plot 1.
- Details shall be required for the retaining wall at the end of the road outside Plot 5.

With regards the two dwellings accessed off the Main Street:

- The access to these should be in the form of a vehicular footway crossing.
- Each dwelling shall require a minimum of two parking spaces to be provided within the curtilage. Parking does not include any garages proposed.
- Any existing footway crossing associated with these properties, which is not incorporated into the new access, will have to be reinstated as footway with a full upstand kerb.
- The existing street light shall have to be relocated to the satisfaction of the Council's Street Lighting Manager.

**Re-consultation (9<sup>th</sup> May 2019):** No objections to the two dwellings served off Main Street. The revised access arrangements shall require the relocation of an existing street lighting column and relocation of vehicular access. A suitable worded condition will be required to cover this work. The length of parking indicated is such that it may encourage vehicles to park nose-to-tail and overhang the footway. This should either be reduced to 7m maximum or increased to 11m.

Whilst the access layout for the 5 dwelling element is not ideal in that it will result in opposite priority at the junction, other alternatives have been ruled out for various reasons. Based on WMA drawing number D3444-101, RPS made the following comments:

- The main junction into the site from Montgomerie Terrace should be straight through as previously discussed. The layout shown has a small kink which is not ideal. I believe the access has been moved southwards to avoid issues with the ownership of the existing retaining wall. However, the revised location still requires work to the retaining wall and the wall is outwith the site boundary. As such, the permission of the wall owner will still be required prior to any works being carried out on the wall.
- The applicant's submission indicates that they are the sole owner of the site and as this contradicts what information has been submitted by an adjoining resident, clarification on this should be sought.
- Road Construction Consent will be required for the new road and footways. This will cover issues such as construction details, lighting, drainage and geometry of road.
- The surface water drainage is shown to end at a soakaway within Plot 5. Confirmation should be provided as to why this cannot connect into the existing drainage for Montgomerie Terrace. If the proposed layout is approved, a legal right of access may be required should it be proposed that the Council are to be responsible for the maintenance of this element of the drainage system. We shall also require ground investigation details confirming the ground is capable of catering for the level of surface water the soakaway is proposed to deal with. The filter trenches for Plots 2 and 3 are shown within the prospective public road verge and will need to be relocated.

- Confirmation should be provided as to what elements of the drainage system, if any, Scottish Water propose to adopt upon completion.
- The footway on the southern side of the development should continue southwards adjacent to the existing public road to tie in with the existing footway.

A meeting to discuss RPS concerns was recommended.

**Re-consultation:** No response.

**Director of Education and Lifelong Learning:** The proposed development is within the catchment area for Melrose Grammar and Earlston High School. A contribution of £2,533 per dwelling is sought for the Primary School, making a total contribution for Primary Schools of £17,731. A contribution of £3,562 per dwelling is sought for the High School, making a total contribution for High Schools of £24,934. A total contribution of £42,665 is required by this development.

**Housing Section:** The proposed number of dwellings is such that this will not require on-site delivery of affordable housing in order to satisfy the Council's Affordable Housing Policy requirements, which can otherwise be met via developer contributions.

**Principal Officer (Heritage and Design):** No response.

**Landscape Architect:** The application site is zoned for housing in the Local Development Plan with an identified capacity for 5 houses. The proposal is in keeping with the identified capacity.

The development appears to be outwith the Root Protection Areas (RPAs) of the trees and hedges along the boundaries and as long as protective fencing is erected and no development encroaches on the identified RPAs, there should be no impact on the existing trees.

The site requirements identify the retention of hedgerows and trees and a design and layout sympathetic to the setting of National Scenic Area (NSA) and to integrate into the Conservation Area.

The Landscape Architect makes the following comments:

- The southern elevations of the new bungalows along the Gattonside road do not relate well to existing houses along the street, neither in fenestration nor in roof mass.
- The south elevation of the houses towards the back of the site are dominated by glazing, with no precedent in surrounding built form for such extensive glazed elevations, and with potential to result in overheating and glare.
- The proposed cut and fill to the site may have some advantage, in setting the houses to the rear of the site lower into the slope, but have resulted in some substantial retaining structures, for example, a 2.7m retaining wall to Plot 5, which have the potential to create an uncomfortable relationship with Plots 6 and 7. Existing and proposed levels across the site would better inform our assessment.
- The boundary treatments to site, both external and internal (between plots but not along road frontages) need further consideration, with a greater use of stone walls and/or hedges instead of timber fences. This will be more in keeping with the

timber fences to the rear gardens of plots may be considered to provide the required privacy if they can be shown not to dominate the slope when seen from the south.

- The streetscape should be punctuated with trees to help ameliorate the buildings into the immediate and wider area.

If the above concerns can be addressed and a planting scheme is developed that helps to protect the quality of the Conservation Area and the wider National Scenic Area, as discussed above, the landscape architect is willing to support this development.

**Re-consultation:** No response.

**Access Officer:** No response.

**Archaeology Officer:** There are no recorded heritage assets within the development boundary. However, the existing garage to the east of the dwellinghouse is of some interest. The building appears to be of early 20<sup>th</sup> century construction and follows principles of military design from the era. There is no indication or historic evidence that I could easily access to say this was originally a military building, but there were a large number of surplus buildings of this type being sold between the world wars and after the Second World War. The building appears on historic aerial photos and historic maps in the late 1940s and early 1950s, but not on maps prior to 1914. Additionally, aerial photos from the late 1940s show a building on the site of the house to be demolished. The OS 1:1250 map from 1964 suggests a rectilinear building platform at the rear of the current garden ground. There are no accessible maps that show buildings in this location. There is a moderate to high potential for encountering the remains of early 20<sup>th</sup> century buildings within the garden ground of the house and immediately to the north.

In addition there is a low archaeological potential within the remainder of the site. The site may have originally formed part of the orchards for Melrose Abbey, although the field has kept its current shape (with the exception of the 19<sup>th</sup> and 20<sup>th</sup> century in-fill development at the road side) since at least the early 19<sup>th</sup> century. It is possible that evidence of medieval cultivation or horticulture will be encountered during development.

There is an indication that the earlier 20<sup>th</sup> century garage on the site is linked to other buildings that formerly occupied the site of the house. I have been unable to determine the function of the earlier buildings and would be happy to have any information on these that might be available in the community. That said, earlier maps also suggest that there may be remnants of these in situ. The archaeological remains of these, as well as the garage which may have been a surplus military building, are of local historic interest and their loss should be mitigated. The standing building should undergo a Historic Building Appraisal.

There is a low archaeological potential within the remainder of the site and the loss of archaeological features that may exist will require mitigation. To evaluate the site's archaeological potential outside the footprint of the existing buildings and prior to ground disturbance, a trial trench evaluation covering 10% of the total development area is recommended.

**Re-consultation:** A Written Scheme of Investigation has been submitted and approved.

The applicants have subsequently implemented a programme of archaeological works in compliance with this recommendation and to the archaeologist's satisfaction. In April, 2019 AOC Archaeology conducted a trial trench evaluation of the green-field site and appraised the historic building. They recommended that as nothing of significance was identified no further work was required. This conclusion is accepted. As such the archaeological condition is no longer required and it is recommended the application is determined without further reference to mitigation of archaeology impacts.

**Environmental Health:** If a development is to be serviced by the public mains water supply, Scottish Water will provide written confirmation that there is mains water available and that it can be provided. However, the applicant does not provide an assurance that mains water will actually be used for the development. Therefore, a condition should require confirmation that connection has been made prior to occupation being permitted.

It is noted that stoves are to be installed as part of the development and so long as they are less than 45kW no further information needs to be provided. If it is greater than 45kW then the applicant needs to declare this and provide additional information so that a screening assessment can be carried out.

**Ecology Officer:** An Ecological Impact Assessment has been submitted in support of a proposed development for seven dwellinghouses. The proposal requires demolition of existing built structures including a bungalow and garage.

The Ecologist is satisfied with the submitted Ecological Baseline Report (ITP Energised, February 2019).

Habitats within the site include on the boundary mixed semi-natural woodland, continuous scrub and intact species-poor hedgerow. The site had contained semi-improved neutral grassland, however, much of this appears to have been cleared (soil-stripped).

### Protected Species

#### Bats

The existing bungalow and two other buildings proposed for demolition within the site (no further description given) are identified as having low suitability for bats and their roosts. Adjacent woodland and hedgerow provides suitable foraging and commuting habitat. Guidelines requires further surveys. Further survey may be required if bat roosts are found.

Two trees were identified as having moderate suitability for bat roosts. The Arboricultural Impact Assessment and Tree Constraints Plan suggests that these trees will be unaffected by the proposal, provided the necessary root protection areas are fenced off from works. Consideration should be given to a sensitive residential lighting scheme in accordance with recently updated guidance.

#### Badger

Evidence of badger foraging and commuting was found within the survey area. No setts were recorded. Mitigation measures are proposed to protect badger during construction, this should also include covering trenches and providing a mammal ramp for escape, covering open pipe systems overnight, safe storage of chemicals and sensitive location of lighting during construction.

## Breeding Birds

Habitats suitable for supporting nesting birds is found within and on the boundary of the site including woodland, hedgerow, scrub, grassland and buildings within the site. Mitigation is proposed including timing of works out with the breeding season and supplementary checks prior to works carried out within the breeding season.

## Red Squirrel

No evidence of red squirrel was recorded. Updated surveys are proposed if more than 18 months has elapsed from time of survey to commencement of works. Mitigation measures for badger, red squirrel and breeding birds can be included in a Species Protection Plan as a condition of any subsequent Planning consent.

Enhancement measures are proposed. Proportionate measures should be included, I would recommend that they focus on reinforcing the boundary trees, woodland and hedgerow with native species, providing a buffer from garden ground to existing habitats.

### Further information required:

In accordance with Scottish Government guidance, the Planning Authority is required to establish whether bats (European Protected Species) are present on site and to fully consider potential impacts on bats prior to determination. Further survey and assessment will be required prior to determination.

**Re-consultation:** Satisfied with the submitted Bat Activity Survey report. The survey was constrained as the dawn temperature was only 4°C. No evidence of bats emerging or returning to roosts in these buildings was recorded. Bat activity was recorded across and next to the site.

On a precautionary basis, an informative could be attached in the event that bats are discovered during development or demolition of dwellinghouse.

Conditions are required for:

- A Species Protection Plan for badger, red squirrel and breeding birds and including a sensitive lighting scheme to safeguard adjacent bat habitat.
- A proportionate Landscape Habitat Management Plan.

## **Statutory Consultees**

**Scottish Natural Heritage:** No concerns about the principle of development in this area. The proposed dwellings will form part of an existing settlement, with a building style that is in keeping with existing houses. The impact of this on the NSA is likely to be minimal.

There are potential protected species issues that the developer needs to address, concerning bats and badgers. Bats could use the existing dwelling as a roost site, and badgers could use the wider proposal site for foraging. Surveys for bat and badgers are required and a Species Protection Plan.

**Re-consultation (14<sup>th</sup> March 2019):** The survey identifies the potential for bats to roost in trees and buildings within the proposal site or nearby. The survey also

identified the presence of badgers on site. No setts were found on site. The report recommends follow up surveys, particularly for bats. On subsequent surveys, if bats or roosts are found in any building to be demolished, or any tree to be worked, a licence must be sought from SNH.

To protect badgers the following measures must be adopted:

- All chemical and fuel stores to be kept secure.
- Work on open trenches should be completed within one day with the hole filled in. This removes the risk of badgers or other animals becoming trapped in the trench.
- Excavations that need to be left open overnight must provide at least one ramp at 45 degrees or less to allow badgers and other wildlife to exit the trench.

If these measures are followed the proposed works should not affect protected species.

**Second Re-consultation (4<sup>th</sup> April 2019):** SNH does not consider that there will be any impacts on the landscape qualities of the site. The comments of the Ecology Officer and noted and his observations on protected species are supported.

**Community Council:** Support the application.

**Re-consultations:** Support the application.

**Scottish Water:** No response.

#### **Other Consultees**

None.

#### **KEY PLANNING ISSUES:**

- Compliance with housing land allocation policies
- Layout, design and materials;
- Impact on the character and appearance of the Conservation Area;
- Impact on residential amenities;
- Whether the access and parking arrangements are adequate;
- Impact on ecology, trees and archaeology.

#### **ASSESSMENT OF APPLICATION:**

##### **Planning Policy**

The site is allocated in the Local Development Plan 2016 for housing (EGT10B). The site has an indicative capacity of 5 and requires the perimeter hedgerows and trees to be retained, access to be taken from Montgomerie Terrace, the residential amenity of adjoining properties to be safeguarded and the layout and design to be sympathetic to the setting of the National Scenic Area and integrate well within the Conservation Area in terms of proportions and materials.

The proposal is for seven houses but this includes the area at the southern edge of the site where the existing buildings would be demolished. The principle of residential development on this site complies with policy PMD3: Land Use Allocations and the density is considered to be acceptable.

## **Layout, Design and Materials**

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.

Lengthy negotiations have taken place with the agent to secure an acceptable layout and design that could be supported by this Department.

The original proposal was for the five houses to be sited along an access road that ran north-south in the centre of the site. It was considered that this was a very uniform and regimented layout that required extensive retaining walls and long driveways. A large bungalow was proposed on the plot closest to the entrance with Montgomerie Terrace that was not in keeping with the proposed houses on the other plots within the site.

The revised drawing now has the internal road running east-west which has allowed houses to front onto the road and so provide a street. The large bungalow has been repositioned to the end of the street and so would be less prominent. This is now felt to be a more acceptable layout.

The design of the houses was also a major concern. House type B which would front the main road were bungalows that were lacking in architectural interest and did not respect the building line of the existing cottages to the west. The design has been significantly improved by repositioning the projecting element to the rear (allowing the building line to match those of the adjacent cottages), adding a front porch, giving the windows more of a vertical emphasis and by dropping the ridge of the garage roof to break up the mass of the building.

House types C and D were originally two storey with terraces over the single storey elements and a large expanse of glazing and materials that gave them a horizontal appearance. Extensive retaining walls were also required. The revised designs propose houses that take account of the sloping site by introducing split levels. House types C and D will be two storey to the south elevation and single storey to the north. A small porch has been added to the north elevations of both house types and the amount of glazing has been reduced and given a more vertical emphasis.

House type A was previously proposed as a large bungalow with extensive glazing on the front elevation and an unsatisfactory, plain elevation to the rear with a range of windows styles. The street elevation has been improved by removing the large areas of glazing and replacing them with a traditional porch and windows with a more vertical emphasis, which is now more in keeping with the other houses within the site.

The materials originally proposed included white render, vertical profile metal standing seam cladding, grey windows and doors and concrete roof tiles. The materials and glazing gave a horizontal emphasis to the houses. The revised materials include render, Forticrete Anstone walling stone and cement slate effect tiles. A condition would agree the exact colour of the render to ensure some variety through the site rather than all white. The two houses that front onto the main road are the most prominent and require natural slate roofs and this would be secured by condition but artificial slate or an appropriate tile would be acceptable for the other houses; a sample would be agreed before the development commences.

The proposals have been revised significantly and it is now considered that the layout, design and materials are acceptable and in accordance with determining LDP policies.

### **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 existing house and workshop at the front of the site are of no significant architectural merit and so there are no objections to their demolition. The site is situated within the Conservation Area and its sloping nature means that any development on this allocated site has the potential to be prominent.

The context of the site is important. The cottages to the west are traditional white rendered and slate, single storey cottages. Beyond these are former Council houses with no architectural merit. Montgomerie Terrace to the west is a modern housing development, outwith the Conservation Area, with rendered and brick walls and tiled roofs.

The revised section drawing indicates that from the main road the houses at the front of the site would be the most prominent and lengthy negotiations have taken place to ensure an acceptable, traditional design for these two houses. Modern housing designs have been approved elsewhere in the Gattonside Conservation Area and only the first floor levels of the houses to the rear of the site would be visible from the road, if at all. The revised layout has removed the need for large areas of retaining walls.

A planting scheme has been submitted showing hedge planting along the boundaries of the front two plots and along the side boundaries and trees are shown (Silver Birch and Rowan) within gardens to help ameliorate the buildings into the immediate and into the wider area.

A concern throughout the processing of this application is the amount of high timber fencing that is proposed along boundaries. This has been reduced somewhat by the introduction of native hedges and a condition will ensure that all boundary treatments are agreed before the development commences.

It is now felt that the impact on the character of the Conservation Area would not be significantly detrimental to require refusal of the application. The impact on the special qualities of the National Scenic Area would be minimal and Scottish Natural Heritage has no objections to the proposal.

### **Impact on Residential Amenities**

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.

The main issue with the development is the potential impact of the dwellinghouses proposed on plots 5 and 7 on the light, privacy and outlook of Orchard House to the east due to the position of the proposed houses and differing ground levels. The agent has submitted a drawing to show the relationship between the three houses and section drawings showing ground levels.

In terms of the impact of the proposed house on plot 7, the proposed house would have two bedroom windows in the east elevation at ground floor level and would be on slightly lower ground. Applying the guidelines in the approved Supplementary Planning Guidance, there would be no significant loss of light or privacy to Orchard House from this property.

In terms of the impact of the house on plot 5 on Orchard house, the garage would be positioned on the eastern side of the proposed house and the decking is shown on the western side beyond the rear wing. There would be a window and door to the garage and a window to a WC in the rear elevation, which are not considered to be habitable rooms. There would be a large glazed area in the rear wing serving the living room. The house is on significantly higher ground than Orchard House. Again, when applying the approved guidance there would be no direct overlooking and no loss of privacy to the habitable rooms of Orchard House. Taking into account the position and ground levels, there would also be no loss of light or significant overshadowing of habitable rooms in Orchard House. The effect on outlook would be minimal and it has to be remembered that this is an allocated housing site.

Any alterations to the proposed houses in the future in terms of new windows would require Planning Permission as the site is situated in the Conservation Area but a condition would control any new decking for plot 5.

There would be no detrimental impact in terms of light or privacy on the existing houses in Montgomerie Terrace or Brewster Place due to the distances involved. The houses proposed on plots 1 and 4 would be over 30m from the existing cottages to the south (Nos 14 -17) and so there would be no significant loss of privacy or light to the existing occupants, taking into account the change in ground levels.

## **Trees**

Policy EP13 seeks to protect trees and hedgerows from development. The site boundaries are defined by mature hedgerows and perimeter woodland. An Arboricultural Impact Assessment has been submitted showing the position and root protection areas (RPA) of the trees. An Arboricultural Method Statement has also been submitted, which shows the position of protective fencing and outlines the measures required to protect the trees during construction.

The revised site plan indicates that the houses would be outwith the root protection area of these trees and hedgerows. The Council's Landscape Architect advises that provided the protective fencing is erected and no development encroaches into the identified RPAs, there should be no harmful impact on the existing trees. Should Members agree to approve the application, tree protection measures and retention of the existing trees would be controlled by condition.

## **Ecology**

Policy EP3 states that development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused

unless it can be demonstrated that the public benefits of the development outweigh the value of the habitat for biodiversity conservation.

An Ecological Baseline Report was submitted and the Council's Ecology Officer requested that a further bat survey be carried out. This has now been submitted and the Ecological Officer has no objections subject to an informative in case bats are discovered during development or the demolition of dwellinghouse.

Mitigation measures for badger, red squirrel and breeding birds, included in a Species Protection Plan, and a proportionate Landscape Habitat Management Plan would be secured by conditions.

Scottish Natural Heritage has no objections to the proposal subject to mitigation measures for badgers during construction.

### **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 Council's Archaeology Officer has outlined the history of the site and the agent has submitted an Archaeological Evaluation and Historic Building Appraisal Report, which includes the implementation of a programme of archaeological works. The report concludes that nothing of significance was identified no further work was required.

The Archaeology Officer no longer requires an archaeological condition required and recommends that the application is determined without further reference to mitigation of archaeology impacts.

### **Access and Parking**

Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards.

The two houses at the front of the site would be accessed directly from the main road and a new access would be formed from Montgomerie Terrace to access plots 1 to 5. Each house would have two on-site parking spaces and two visitor parking spaces and a turning area are proposed.

Roads Planning Service has no objections to the two dwellings served off the Main Street. The revised access arrangement shall require the relocation of an existing street lighting column; this will be secured by condition. The length of parking spaces have been reduced to 7m.

The Roads Planning Service had concerns regarding the layout as previously proposed:

The revised access location appears to require work to the existing retaining wall, which is outwith the site boundary and owned by no.25 Montgomerie Terrace (the owner has also raised this issue). The levels plan shows that steps are required for the right of way that passes adjacent to no.25 (but outwith No.25's boundary) and the removal of a section of the retaining wall and the erection of a new retaining wall. A

condition would secure details of these works but the works would require the consent of the owner of no.25 before they could take place.

Road Construction Consent will be required for the new road and footways. This would cover issues such as construction details, lighting, drainage and geometry of the road.

The consultation response from the Roads Planning Service in respect of the most up-to-date drawings has not been received at the time of writing this report but will be reported verbally at the meeting.

### **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 development would connect to the public water supply and foul drainage system. Environmental Health has requested conditions that ensure that drainage is to the public network.

Surface water would be via SUDS draining to a filter trenches and soakaways within each curtilage at the end of the road. The exact details will be agreed by the Building Warrant.

### **Developer Contributions**

Development contributions, in accordance with policies IS2 and IS3 are required towards the Borders Railway, education and affordable housing. These would be secured through a legal agreement should Members be minded to approve this application

### **CONCLUSION**

Subject to a legal agreement and compliance with the schedule of conditions, the development is acceptable, having principally had regard to the relevant provisions of the Local Development Plan 2016 but also having had regard to overriding material considerations in this case which are as set out in this report.

### **RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:**

I recommend the application is approved subject to a legal agreement addressing contributions towards education, the Borders railway and affordable housing and the following conditions:

1. A sample of all materials to be used on all exterior surfaces of the development hereby approved shall be submitted to and approved in writing by the Planning Authority before the development commences. The roofs for plots 6 and 7 to be natural slate. The development then to be completed in accordance with the approved samples.  
Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting and safeguards the character of the Conservation Area.
2. All planting, seeding or turfing comprised in the approved details of landscaping (Drawing Number: 9344(L-2)007 G) shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the

development, whichever is the sooner, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.

Reason: To ensure that the proposed landscaping is carried out as approved.

3. No trees within or overhanging the application site shall be felled, lopped, lifted or disturbed in any way without the prior consent of the Planning Authority.

Reason: The existing trees represent an important visual feature which the Planning Authority considered should be substantially maintained.

4. The development shall take place in accordance with the Arboricultural Method Statement by Caledonian Tree Consultants Ltd dated May 2019. The tree protection measures to be erected before the development commences and to be retained in place until the development has been completed.

Reason: To protect trees within the site from damage.

5. Details of the position, height, appearance and colour finish of all fencing and gates shall be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved details.

Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

6. Prior to commencement of demolition and development, a Species Protection Plan for bats, badger, red squirrel and breeding birds shall be submitted to and approved in writing by the Planning Authority. The SPP shall incorporate provision for a pre-development supplementary survey, a mitigation plan and sensitive lighting scheme. No demolition or development shall be undertaken except in accordance with the approved SPP.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.

7. No development shall commence until a proportionate Landscape Habitat Management Plan, including boundary treatments for trees and hedgerows, has first been submitted to and approved in writing by the Planning Authority. No development shall take place except in accordance with the approved in writing LHMP.

Reason: To protect the ecological interest in accordance with Local Development Plan policy EP3.

8. No development shall 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. Prior to the occupation of the dwellinghouses, written confirmation shall be provided for the approval of the Planning Authority that the development has been connected to the public mains water supply.

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

9. No water supply other than the public mains water supply shall be used to supply the development without the prior written agreement of the Planning Authority.

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

10. No drainage system other than the public mains sewer shall be used to service the development without the prior written consent of the Planning Authority. Prior to occupation of the dwellinghouses written evidence shall be submitted to the Planning Authority that the dwellinghouses have been connected to the public water drainage network.  
Reason: To ensure that the development does not have a detrimental effect on public health.
11. No dwellinghouse forming part of the development hereby approved shall be occupied until the access road, parking spaces and footpaths have been completed in accordance with the approved Drawing Number 9344(L-2)002 P, unless otherwise agreed in writing by the Planning Authority.  
Reason: To ensure that adequate access for pedestrians and on-site parking is provided.
12. No development shall commence until a detailed drawing showing the steps required for the existing right of way, the removal of a section of the retaining wall adjacent to no.25 Montgomerie Terrace and the erection of a new retaining wall have first been submitted to and approved in writing by the Planning Authority. The development then to be completed in accordance with the approved drawing.  
Reason: To safeguard pedestrians and to protect the character of the Conservation Area.
13. No development shall commence until details of the relocation of the existing street lighting column to be submitted to and approved in writing by the Planning Authority. The details shall to include the new location of the street lighting column and timing of the works. The street lighting column then to be relocated in accordance with the approved details.  
Reason: To ensure that the repositioning of the street lighting column is completed in accordance with the Planning Authority' specifications.
14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent Order amending, revoking or re-enacting that Order), there shall be no further external decking placed anywhere on Plot 5 unless an application for planning permission in that behalf has first been submitted to and approved in writing by the Planning Authority.  
Reason: The Planning Authority considers that any further development would prejudice a satisfactory layout and would have a harmful effect upon the amenity of the area.

#### Informatives

##### 1. Protected Species

In respect of condition 6, if bats or roosts are found in any building to be demolished, or any tree to be worked, a licence must be sought from SNH. SNH has a dedicated licensing team, which can be contacted at [licensing@nature.scot](mailto:licensing@nature.scot).

The applicant is reminded that, under the Conservation Regulations (Natural Habitats & c.) 1994 (as amended) it is an offence to deliberately or recklessly damage or destroy a breeding site or resting place of bats (whether or not deliberately or recklessly), capture, injure or kill a bat, harass a bat or group of bats, disturb a bat in a roost (any structure or place it uses for shelter or protection),

disturb a bat while it is rearing or otherwise caring for its young, obstruct access to a bat roost or otherwise deny an animal use of a roost, disturb a bat in a manner or in circumstances likely to significantly affect the local distribution or abundance of the species, disturb a bat in a manner or in circumstances likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young.

In the event that bats are discovered following the commencement of works, works should stop immediately and the developer must contact SNH (tel: 01896-756652 or 01463 725 364) for further guidance. Works can only recommence by following any guidance given by SNH. The developer and all contractors to be made aware of accepted standard procedures of working with bats at [www.bats.org.uk](http://www.bats.org.uk). Further information and articles available at:

[http://www.bats.org.uk/pages/bats\\_and\\_buildings.html](http://www.bats.org.uk/pages/bats_and_buildings.html)

[http://www.bats.org.uk/pages/existing\\_buildings.html](http://www.bats.org.uk/pages/existing_buildings.html)

<https://cdn.bats.org.uk/pdf/Bats-Trees.pdf?mtime=20181101151317>

To protect badgers the following measures must be adopted:

- All chemical and fuel stores to be kept secure.
- Work on open trenches should be completed within one day with the hole filled in. This removes the risk of badgers or other animals becoming trapped in the trench.
- Excavations that need to be left open overnight must provide at least one ramp at 45 degrees or less to allow badgers and other wildlife to exit the trench.

These measures should be included in the Species Protection Plan for badgers.

## 2. Steps and Retaining Wall

In respect of condition 12, this approval does not grant consent for any works on land or to structures outwith the ownership of the applicant.

## 3. Surface Water Drainage

The RCC will include surface water drainage. The Roads Planning Service advises that, as surface water drainage is shown to end at a soakaway within Plot 5, confirmation should be provided as to why this cannot connect into the existing drainage for Montgomerie Terrace. If the proposed layout is approved, a legal right of access may be required should it be proposed that the Council are to be responsible for the maintenance of this element of the drainage system. The Roads Planning Service also require ground investigation details confirming the ground is capable of catering for the level of surface water the soakaway is proposed to deal with. Confirmation should be provided as to what elements of the drainage system, if any, Scottish Water propose to adopt upon completion.

## 4. Stoves

Environmental Health advises that provided that any stoves installed as part of the development are less than 45kW, no further information needs to be provided. If it is greater than 45kW then the applicant needs to declare this and provide additional information so that a screening assessment can be carried out.

These installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do not indemnify the applicant in respect of Nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted building/planning permission.

Accordingly this advice can assist you to avoid future problems.

The location of the flue should take into account other properties that may be downwind.

The discharge point for the flue should be located as high as possible to allow for maximum dispersion of the flue gasses.

The flue should be terminated with a cap that encourages a high gas efflux velocity.

The flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.

The appliance should only burn fuel of a type and grade that is recommended by the manufacturer.

If you live in a Smoke Control Area you must only use an Exempt Appliance <http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is Approved for use in it <http://smokecontrol.defra.gov.uk/fuels.php?country=s> .

In wood burning stoves you should only burn dry, seasoned timber. Guidance is available on - [http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuel-woodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuel-woodasfuelguide.pdf)

Treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel.

Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

#### Construction Noise

The Control of Pollution Act 1974 allows the Council to set times during which work may be carried out and the methods used. The following are the recommended hours for noisy work:

Monday – Friday 0700 – 1900

Saturday 0900 – 1300

Sunday (Public Holidays) – no permitted noisy work (except by prior notification to Scottish Borders Council).

Contractors will be expected to adhere to the noise control measures contained in British Standard 5228:2009 Code of practice for noise and vibration control on construction and open sites.

For more information or to make a request to carry out works outside the above hours please contact an Environmental Health Officer.

## DRAWING NUMBERS

9344 L(2-)001	Location Plan
9344 L(2-)003	Existing Sections A-A and B-B
9344 L(2-)004	Existing Sections C-C and D-D
9344 L(2-)002 P	Proposed Site Plan
9344 L(2-)005 F	Proposed Sections E-E, F-F, G-G and H-H
9344 L(2-)006 G	Proposed Sections J-J, K-K and L-L
9344 L(2-)007 G	Proposed Planting Plan
9344 L(2-)010 F	House Type A Floor and Roof Plans
9344 L(2-)011 H	House Type A Elevations
9344 L(2-)015 G	House Type B Floor and Roof Plans
9344 L(2-)016 G	House Type B Elevations
9344 L(2-)020 G	House Type C Floor and Roof Plans
9344 L(2-)021 F	House Type C Elevations
9344 L(2-)025 F	House Type D Floor and Roof Plans
9344 L(2-)026 F	House Type D Elevations
1 of 1	Topographical Survey
D3444-101 C	Site Levels and Drainage Layout

### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

### **Author(s)**

Name	Designation
Julie Hayward	Team Leader Development Management



18/01795/FUL

Orchard Park And Land North  
And East Of 16 And 17  
Brewster Place

Gattonside

