

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**5 AUGUST 2019**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBERS:</b> 19/00758/PPP & 19/00759/PPP
<b>OFFICER:</b>	Ranald Dods
<b>WARD:</b>	Tweeddale West
<b>PROPOSAL:</b>	Plot A – Erection of dwellinghouse Plot B – Erection of dwellinghouse
<b>SITE:</b>	Land south of The Granary, Blyth Bridge
<b>APPLICANT:</b>	Mrs Christina Jeffrey
<b>AGENT:</b>	Derek Scott Planning

**PLANNING PROCESSING AGREEMENT:** No processing agreement in place.

**BACKGROUND**

This report considers two applications on sites which are adjacent to each other. 19/00758/PPP is the northern of the two sites and is referred to as plot A. 19/00759/PPP, plot B, lies to the south west. The issues are common to both sites and it is appropriate, in this instance, to consider both applications in one report.

Both applications have been referred to the Planning and Building Standards Committee for determination under Section 43A (6) of the Town and Country Planning (Scotland) Act 1997. Its referral is supported by five Members on the grounds that: "...we do not accept that the erection of two dwellinghouses would be detrimental to the existing group..." and "We do not accept that the erection of these two houses would significantly increase the flow of traffic...".

**SITE DESCRIPTION**

The sites are located some 800m south west of Blyth Bridge and are within countryside designated as the Tweedsmuir Uplands special landscape area (SLA). Access is gained via the U31 public road and is approximately 200m from the A72. The site is undeveloped rough grazing enclosed by a post and wire fence. Mature trees within the sites line the public road. The ground slopes down from the road and the low point, approximately 5m below the north western boundary of the site, appears to run through the south eastern quarter of plot A and rises towards the proposed access track south of plot B. A line of semi-mature trees partially defines the north eastern boundary of plot A. There is no clearly defined boundary to the south east of the sites. A post and wire fence has been erected within the last few years to define the south western edge of the field. Previously there was no defined boundary between the rough grazing and the woodland to the south west. An informal path runs to the south western side of the field boundary.

To the south east of both sites, the land rises to an area of mature deciduous woodland, some 35m from the south eastern boundaries of the site. That woodland and both sites, are within the locally designated Castle Craig designed landscape.

An overhead power line runs across the site from west to east. The pole mounted transformer is located in the south of Plot B.

## **PROPOSED DEVELOPMENT**

The applications are made for planning permission in principle for the erection of a single dwellinghouse on each site. As the applications are made to establish the principle of development, no details have been provided of the house design. An indicative site plan was submitted for each plot, which demonstrates that a single house could be accommodated on each site. The indicative plans also show the ground to the south east divided into two areas roughly the same size as the application sites, with what would appear to be fencing and a gate giving access to each section. The plan has these areas marked as woodland planting. If permission is granted, the applicant has indicated that they would be willing to enter into a legal agreement to regulate the use of that land. Although there are four mature trees towards the southern field boundary, the suggested woodland planting does not appear to be significant and is not backed up by a suggested planting plan, as might be expected.

## **PLANNING HISTORY**

Planning history is a material consideration. There have been several applications for the development of these sites. Those are summarised below.

01/00732/OUT: erection of dwellinghouse, refused, 8 Oct 01. Subsequently dismissed on appeal, 15 May 02 [01/00014/REF, PPA-140-145]

01/00733/OUT: erection of dwellinghouse, refused, 24 Sep 01. Subsequently dismissed on appeal, 15 May 02 [01/00015/REF, PPA-140-146]

08/00040/OUT: erection of dwellinghouse, refused, 28 Apr 08

19/00023/PPP: erection of dwellinghouse, refused, 8 Mar 19

19/00025/PPP: erection of dwellinghouse, refused, 8 Mar 19

A further application was made (18/01806/PPP) which covered the entire field to the south eastern boundary. That application was, however, withdrawn before validation.

## **REPRESENTATION SUMMARY**

The applications were advertised and neighbours notified. In total, 30 material representations (19 support and 11 objecting) were received from 25 individual addresses in respect of plot A. For plot B, 28 representations (16 support and 12 objecting) were received from 23 individual addresses. It should be borne in mind that it is not the number of representations received which is important, rather it is the materiality of the grounds of representation. The material grounds contained in representations are summarised below. Copies of all representations can be viewed in full on *Public Access*.

### **Support comments**

- Houses would benefit the area by increasing population
- The field has already been developed

- No adverse impact on road safety
- Field is not suitable for agriculture
- The houses would complement the existing properties
- There is a demand for rural housing
- There could be an increase in school rolls
- The proposal is not sporadic development
- The scheme is farm diversification
- No impact on wildlife
- Increased employment
- Woodland planting would prevent further housing development

#### Objection comments

- Planning history is material and there has been no change in material circumstances since the previous applications
- Road safety
- Pedestrian safety
- Sites are outwith the building group
- Contrary to policies PMD2 and HD2
- Undesirable precedent
- Sites would break into an undeveloped field
- Development on agricultural land
- Surface water flooding
- Urbanisation of the countryside
- Ribbon development
- No sequential testing for site selection
- No socio-economic benefit to outweigh the LDP policies
- Impact on trees
- Increased traffic

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

- Planning supporting statement
- Access appraisal

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

##### **Local Development Plan 2016**

PMD1 - Sustainability

PMD2 - Quality standards

HD2 - Housing in the countryside

HD3 - Residential amenity

EP5 - Special landscape areas

EP8 – Archaeology

EP10 – Gardens and designed landscapes

EP13 - Trees, woodlands and hedgerows

IS2 - Developer contributions

IS7 - Parking provision and standards

IS8 - Flooding

IS9 - Waste water treatment standards and sustainable urban drainage

IS13 - Contaminated land

The site is not strategic, therefore the policies contained within SESplan are not considered.

#### **OTHER PLANNING CONSIDERATIONS:**

The following are material considerations:

- SPG – Development contributions 2015;
- SPG – Landscape and development 2008;
- SPG – Local landscape designations 2012;
- SPG – New housing in the Borders countryside 2008;
- SPG – Placemaking and design 2010;
- SPG – Trees and development 2008
- SPG – Waste management 2015.

#### **CONSULTATION RESPONSES:**

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

**Roads Planning Service:** The RPS objects to the application. The key issues are access and road safety. There has been no material change in circumstances relating to the site and the comments submitted in response to the previous applications are still applicable to the current applications. Namely, the public road that serves this site links the A72 with the A701 is discouraged as a through route due to visibility issues at the junctions at both ends of this road. Statutory road signage indicates to drivers that this route is for access only. As such, RPS would not be in favour of supporting any greenfield development which would generate additional daily traffic movements on this road. The proposal does not comply with policy PMD2 of the LDP in that it would be result in extra vehicular traffic on sub- standard accesses to the detriment of road safety.

**Archaeology Officer:** No objection, subject to conditions. The key issue is the sites are within an area of moderate to high archaeological potential. Despite that, there are no known assets in the site, although there is a scheduled monument 85m to the north east, a Roman road to the south east and a Roman temporary camp between 30 and 100m to the west. Given the proximity of the known resources, the possibility of unknown features cannot be ruled out. Archaeological mitigation is recommended if permission is to be granted.

**Flood Risk Officer:** Review of the application shows that the proposed development is located out with SEPA's 1 in 200 year flood hazard map, however the maps do indicate the risk of surface water flooding in proximity of the proposed site. Photos have been submitted to the online planning portal which show the proposed site and Kirkurd road subject to surface water flooding on 24<sup>th</sup> June 2019. Ordnance Survey mapping shows a small watercourse or burn flowing from Kirkurd towards the proposed site. The watercourse appears to be culverted approximately 140m upstream of the proposed site, emerging approximately 75m downstream of the site. The exact route of the culvert is unknown. Correspondence for the planning agent confirms that the flooding of 24<sup>th</sup> June has been investigated and confirms the presence of the culvert and also that the blockage of the culvert contributed to the surface water flooding of the road and the proposed development site. OS mapping indicates that the proposed plots may lie over the route of the culvert. The FRO recommends that this is investigated and the exact route of the culvert clarified (by CCTV survey or other means). The FRO does not recommend or support built development over an active culvert which goes through multiple plots and, hence, should there be any problems with the culvert (e.g. collapse) then responsibility would

lie with each individual owner to fix their section. Should the culvert be retained and developments positioned accordingly, the FRO advises that there should be a corridor maintained along the route of the culvert which would enable access and avoid land ownership issues arising. Regarding surface water runoff, the FRO recommends that boundary drainage is considered to intercept any overland flow. Ground levels surrounding the dwellings should also be designed to convey overland flow away from the development and any neighbouring properties.

**Outdoor Access Officer:** According to records there are no claimed rights of way on this area of land, although the council does not have a definitive record of every claimed right of way within its area. The Scottish Rights of Way and Access Society, the community council and local residents may have evidence of existence of claimed rights of way that have not yet been recorded by SBC. There are other tracks in the area that the public would have a 'right of responsible access' to under the Land Reform (Scotland) Act 2003. The path that runs south-east through a field and then east through a woodland to meet with a road up to Craigurd House falls within land that enjoys responsible access rights. At the current time a chain and padlock has been used to lock both the pedestrian and field gate by the road at the west end of this path. The path offers a good link to the countryside for people in the vicinity and would be considered an asset to occupants of any new dwelling houses affording connectivity to other existing tracks and paths. The path falls within land owned by the applicant. The locking of the pedestrian gate is in contravention of the LRSA 2003; the council as Access Authority has powers to serve notices to have obstructions removed. No objection to the applications, subject to a condition relating to access.

**Environmental Health:** No objection, subject to conditions and informatives on water supply and drainage.

**Contaminated Land Officer:** Both applications were considered previously through a review of historical map extracts, aerials images and relevant records. The sites appear from these records to have remained undeveloped / greenfield land, assumed to have been used as grazing or crop cultivation. Agricultural buildings are present to the north and west however these are within a distinctly different parcel of land and are separated by a roadway. As there is no information to suggest the application sites have at any point been developed for agricultural purposes, the CLO does not believe there is evidence to support the need for further assessment.

It should be noted that the CLO's reference to "*agricultural buildings*" relates to their former use.

**Landscape Architect:** Objection. The site is part of a field to the south of West Mains building group. The field slopes down to the east and along the west boundary with the minor road there are 8no mature lime trees which have a high amenity value in the immediate area. There are additional trees to the south east and east, at some distance from the site. The key issue is whether there is adequate space to build dwellinghouses on the sites without requiring any trees to be removed. Whilst no objection was made to the previous applications, they were subject to the production of a tree survey in accordance with BS5837:2012. The current applications are not supported by any tree survey and, therefore, the Landscape Architect cannot support the applications.

**Education and Lifelong Learning:** No objection. Contributions required.

## **Statutory Consultees**

**Community Council:** Supports the applications. It believes that a precedent has been set with the grant of 06/01244/FUL [a site some 800m to the west south west of the application sites]. They note that there are ten houses on the western side of Kirkurd Road and that the original farm cart shed for West Mains has now been converted to a dwelling called the Granary. The community council does not believe the vehicles associated with the application sites would have a negative impact on road safety. They also consider that the parcel of land is incapable of significant livestock numbers to provide the farm with a viable income and as the proposed houses are of a size which would make them affordable to families in the area, the community council believes this is important to the viability of the community.

### **KEY PLANNING ISSUES:**

Whether, in principle, a dwellinghouse could be accommodated on each of the proposed sites without conflicting unacceptably with planning policies relating to (a) new housing in the countryside; (b) placemaking; (c) residential amenity and; (d) road safety.

Whether there are material considerations that would justify a departure from the provisions of the development plan and other material considerations.

### **ASSESSMENT OF APPLICATION:**

#### **Principle**

The sites are located within the countryside. The nearest settlement envelope as defined by the Scottish Borders Local Development Plan 2016 (LDP) is Blyth Bridge, approximately 640m to the north east. They are located within a greenfield site in a rural location, on land which is not allocated for any use. The principle of the development proposal conflicts with the terms of the LDP.

#### **Planning policy – rural housing**

The council aims to encourage a sustainable pattern of development focused on defined settlements. That aim does not preclude the development of housing in the countryside. Where rural housing is permitted by policy HD2, the aim is to locate development in appropriate locations. There are three general principles which are the starting point for the consideration of new houses in the countryside. Those are:

- 1) Locations within villages are preferred to open countryside, where permission will be granted in only special circumstances on appropriate sites;
- 2) Sites associated with existing building groups and which will not be detrimental to the character of the group or surrounding area and;
- 3) Sites in dispersed communities in the southern Borders Housing Market Area (HMA).

In this case, the site is not within a defined settlement, the nearest one being Blyth Bridge. It is accepted that there is a building group at West Mains, although that building group is located on the north and west of the U31 whilst the application sites are located on the south east of the road. The sites are separated from the building group by a natural feature (a line of mature lime trees) and the U31 public road.

On the south eastern side of the road, there is no existing building group, rather there is only a single dwellinghouse, namely The Granary and that property does not form part of the West Mains grouping. Again, it is separated from the building group by the public road and a mature beech hedge on the road boundary. It has been accepted consistently that The Granary is considered anomalous to the West Mains grouping, a view which has been adopted by a Government Reporter in her determination of the appeal against the refusal of applications 01/00732/OUT and 01/00733/OUT when, at paragraph 21 of her decision, she stated it "...appears clearly detached from the group".

Finally, the site is within the northern and not the southern HMA. The application therefore fails to meet any of the general principles used when assessing whether or not an application for rural housing is appropriate.

The policy sets out 6 further main criteria against which applications are assessed. Those are:

- A) Building groups;
- B) Dispersed building groups;
- C) Conversions of buildings to a house;
- D) Restoration of houses;
- E) Replacement dwellings
- F) Economic requirement.

In terms of the above, the only possible criterion against which the proposals could be assessed is A), building group, to which there are three further tests. Those are:

- a) The application site must relate well to an existing group of three houses;
- b) The cumulative impact of new development on the character of the building group and on the landscape and amenity of the surrounding area will be taken into account and;
- c) Any consents should not exceed two dwellings or a 30% increase to the group during the Plan period.

The sites fail the first of these as they are not well related to the existing West Mains building group. The public road creates a clear and defensible boundary to the West Mains group, as does the natural boundary to the field formed by the mature lime trees. The plots are broadly similar to that which was the subject of 01/00733/OUT. The Reporter, at paragraph 22 of her decision on the appeal, stated that "...the plot is associated with the group to the extent that it is physically adjacent to it, albeit on the opposite side of the minor road". The applicant states that the erection of West Mains Lodge represents a "...very significant change to the physical characteristics of the area". It is true that the West Mains group has been extended but not to the eastern side of the road and the fundamental point that The Granary is separated from the building group by a road is not altered by the construction of West Mains Lodge. To that end, it is not a significant change to the character of the area as asserted by the applicant.

Even if a building group which went beyond two defensible boundaries did exist, the houses would break into an undeveloped field. This is a point recognised by the Reporter at paragraph 23 of her decision. She stated that the proposal "...would significantly extend development into an open field that is separated from a compact group...by a minor road". She also stated that the development of housing in the field would give a suburban character to the area and that the lime trees "...reinforce the degree of containment provided by the road" and that they "...seriously constrain the scope for locating [development] that would link well to the group". Since the decision

of the Reporter, excepting the adoption of the LDP, in which the general tenor of the policies relating to rural development remains the same, there has been no change in material circumstances which would lead to a different conclusion.

The development of housing in this field would fundamentally change the setting of the area and, even if the first test set out above were passed, the application could be called into question by the second test. With the applications not relating well to an existing building group (criterion a) and there being no building group (criterion b) on the same side of the road as the application sites, the third test is not relevant.

The New Housing in the Borders Countryside supplementary planning guidance (SPG) reinforces the terms of policy HD2. No support for the proposal can be found within the SPG nor has the applicant advanced a case setting out why there is an overwhelming need for the development of the site. No justification has been provided by the applicant which indicates that it may be possible to set aside the terms of either policy HD2 or the SPG.

There are no material changes in circumstances since the determination of the most recent applications nor has the applicant advanced a sound justification that would suggest that policy provisions should be set aside in favour of the development. The principle is, therefore, not accepted.

### **Layout and design**

The applications are made for planning permission in principle. All that can be considered here is the principle of development on the sites.

Although a layout plan which demonstrates that it may be possible to locate a house on each site has been submitted with the applications, those are marked clearly as "*indicative site plans*". The layouts are not, therefore, part of the suite of drawings which will accompany the decision notice and no weight should be attached to those layouts.

No indicative house design has been submitted.

### **Impact on residential amenity**

The applications are made for planning permission in principle. The impact on residential amenity cannot be assessed fully at this stage and would be a matter for consideration in further detailed applications.

### **Impact on Special Landscape Area**

The site lies within the Tweedsmuir Uplands SLA. The development, if granted, is unlikely to be detrimental to the integrity or overall objectives of the SLA.

### **Archaeology**

The Archaeology Officer has not objected. He does note, however, that the sites are within an area of moderate to high archaeological potential. A condition is suggested in the event that planning permission in principle is granted.



### **Impact on local landscape designation**

The sites are on the edge of the locally designated Castle Craig designed landscape. The proposals are unlikely to have a detrimental effect on the integrity of that local designation.

### **Impact on trees**

The north western boundary of both sites is defined by a row of 8 mature lime trees and there are also some mature trees to the south east. Those trees are of high amenity value. The applicant has not submitted a tree survey to demonstrate that those trees will not be affected negatively by the proposed development of housing on the sites. The Landscape Architect is unable to support the proposals as they stand.

### **Developer contributions**

The proposals, if granted, will require developer contributions towards education provision and affordable housing. Those would be secured by means of a legal agreement. The applicant has indicated a willingness to make those contributions.

### **Road safety, access and parking**

The Roads Planning Service (RPS) objects to the application. The key issues considered RPS were access and road safety. The report on access submitted by the applicant in support of their application, which included an indication that they would be willing to introduce passing places on the public road, has been assessed by RPS. Whilst they note the contents of the supporting information, they disagree with the findings and as there has been no material change in circumstances relating to the site, they are still of the opinion that the sites are not suitable for development.

In any event, their assessment is that the fundamental problem lies with the visibility at the junctions of the A701 and A72. The public road that serving the sites links those roads and its use as a through route is discouraged specifically because of the visibility issues at the junctions.

As such, RPS would not be in favour of supporting any greenfield development which would generate additional daily traffic movements on this road. The proposal does not comply with policy PMD2 of the LDP in that it would result in additional vehicular traffic on sub-standard accesses to the detriment of road safety.

Setting that aside, there appears to be sufficient space on each plot to accommodate the required parking provision and turning space.

### **Flooding**

The site has been subjected to episodes of surface water flooding which the Flood Risk Officer (FRO) considers likely to be associated with the culverted burn which runs through the field. OS mapping indicates that the proposed plots may lie over the route of the culvert. The FRO recommends that this is investigated and the exact route of the culvert clarified (by CCTV survey or other means). The FRO does not recommend or support built development over an active culvert which goes through multiple plots and should there be any problems with the culvert (e.g. collapse) then responsibility would lie with each individual owner to fix their section.

If permission is granted and the culvert is retained with developments positioned accordingly, the FRO advises that there should be a corridor maintained along the route of the culvert which would enable access and avoid land ownership issues arising. Regarding surface water runoff, the FRO recommends that boundary drainage is considered to intercept any overland flow. Ground levels surrounding the dwellings should also be designed to convey overland flow away from the development and any neighbouring properties.

### **Services**

The application form indicates that the sites will be connected to the public water mains. Foul drainage will be by means of a private system and surface water will be attenuated and then discharged into the existing field drainage system. There appears to be sufficient space on the sites to accommodate waste and recycling containers.

### **Contaminated land**

The Contaminated Land Officer (CLO) reviewed the applications. Despite the presence of former agricultural buildings in the area, the sites lie on undeveloped or greenfield land and is used currently for grazing. As such, the field has not been developed for agricultural purposes and the CLO does not believe there is evidence to support the need for further assessment.

### **Agricultural use**

The applicant states that the land is of limited agricultural use and “effectively surplus to requirements”. This statement is not backed up by any economic data or business case. The use of the land for agriculture was also tested previously through the appeal process. In her decision, the Reporter accepted at paragraph 28 that the field may not be ideally placed for continued agricultural use. She continued that, despite that, it is easily accessible by road and could continue as grazing land without significant conflict with the existing houses.

### **Socio-economic factors**

The applicant states that the proposals will have some socio-economic benefits. Those include a contribution to the local economy and support to the existing facilities and schools. No data has been supplied to back up that statement. In any event, it is unlikely that the socio-economic benefit arising from two house plots would outweigh the policy presumption against the proposed developments.

### **Precedent**

The applicant states that the grant of permission for 06/01244/FUL should be taken as a precedent for such developments as proposed in the applications. It is a matter of trite law that there is no precedent in planning and that each case is treated on its own merits. It is, however, a material consideration that granting permission for development might set an undesirable precedent, making it difficult to refuse similar applications in the future.

The proposals which are the subject of these applications do not comply with key policies within the LDP. Granting permission for these sites would set an undesirable precedent for other similar unjustified developments on parcels of rural land which landowners deem surplus to requirements.

## CONCLUSION

The proposed development of these greenfield sites for housing does not relate well to an existing building group. It does not comply in principle with LDP policies PMD2 or HD2 in that it would amount to sporadic residential development in a countryside location. No overriding case for a dwellinghouse has been substantiated and the applicant has not demonstrated that it is a development which would offer significant community benefits that would outweigh the need to protect the countryside.

The proposed dwellinghouses are contrary to policy PMD2 of the LDP in that they would raise issues of road safety at the U31's junctions with the A72 and A701.

There are no other material considerations that would justify a departure from the provisions of the LDP.

## RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the applications are refused for the following reasons:

- 1 The development is contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would not relate sympathetically to the character of the existing building group or surrounding landscape. The development lies outwith the identifiable limits of the building group on a previously undeveloped field and would lead to an unjustified and sporadic expansion of development into the open countryside.
- 2 The development is contrary to policy PMD2 of the Local Development Plan 2016 in that it would result in additional vehicular traffic on a minor public road with sub-standard access. The erection of a house on this site would be to the detriment of road safety at the junctions of the minor road with the A72 and A701.

## DRAWING NUMBERS

D006 Location Plan


### 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
Ranald Dods	Planning Officer

 Scottish Borders  
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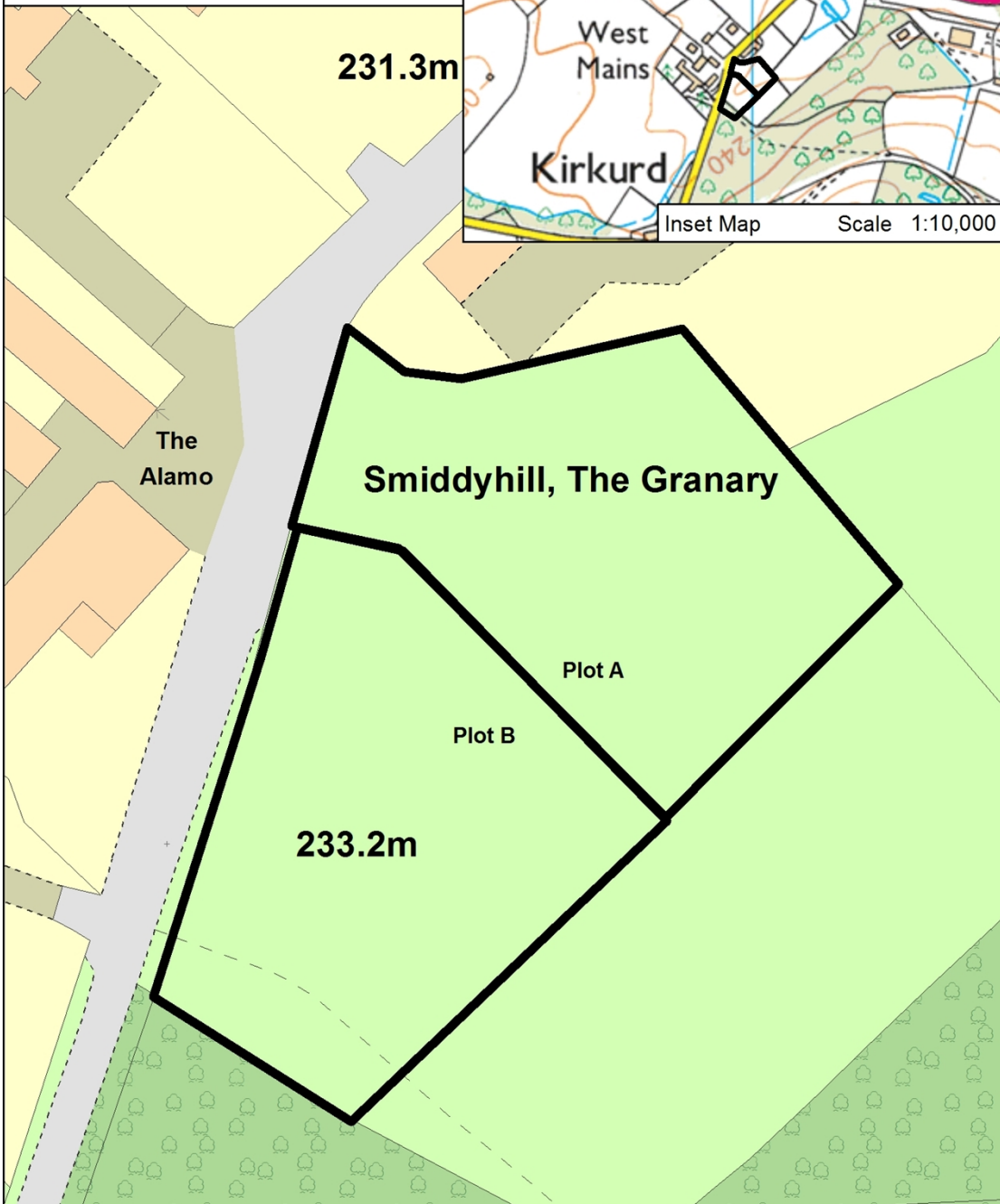
19/00758/PPP  
Plot A South Of The Granary

19/00759/PPP  
Plot B South Of The Granary

Blyth Bridge



Inset Map Scale 1:10,000



Scale 1:750

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