

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**Town and Country Planning (General Development Procedure) (Scotland) Order 1992****Application for Planning Permission****Reference : 07/00649/FUL****To : Richard And Grace Martin per Graham Martin 25 Market Street Mid Calder Livingston
EH53 0AL**

With reference to your application validated on **12th April 2007** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse (change of house type 03/01490/FUL)**at : Land West Of Applecross Pyatshaws Lauder Scottish Borders TD2 6SH**

the Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 **subject to the following condition:-**

that the development to which this permission relates must be begun within five years from the date of this consent.

and **subject to the conditions on the attached schedule** imposed by the Council for the reasons stated.

**Dated 11th June 2007
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed
Head of Planning & Building Standards

Application reference : 07/00649/FUL

SCHEDULE OF CONDITIONS

- 1 The colour of the wall render to be subject to the prior approval of the planning authority.
Reason: To safeguard the visual amenity of the area.
- 2 The service lay-by to be formed to the specification of the planning authority prior to the occupation of the house.
Reason: In the interests of road safety.
- 3 All trees on the site to be protected during the construction period. No trees to be felled without the prior written agreement of the Planning Authority.
Reason: To safeguard the visual amenity of the area.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

For the information of the applicant the service lay-by to be 2.5m x 9m with 6m tapers at each end. A minimum width of 1m is required around the perimeter of the lay-by. The lay-by, and access within the road verge, must be formed by a contractor on the Council's approved list and to their specification i.e. 40mm of Dense Bitumen Macadam wearing course to BS 4987: 1993 laid on 60mm of Dense Bitumen basecourse to BS 4987: 1993 laid on 350mm of broken stone bottoming blinded with sub-base. The work must take account of surface water drainage and road kerbing is optional.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – 0800 800 333

If the applicant is aggrieved by the decision of the Planning Authority, an appeal may be made to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997, within six months from the date of this notice. The appeal should be addressed to the Chief Reporter, Scottish Executive Inquiry Reporter's Unit, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
SERVICE DIRECTOR REGULATORY SERVICES**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 15/00403/FUL

APPLICANT : Mrs Paula Milanesi

AGENT : Taylor Architecture Practice

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Land South West Pyatshaw Schoolhouse
Lauder
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused
103	Roof Plan	Refused
110	Floor Plans	Refused
111	Floor Plans	Refused
200	Sections	Refused
101	Existing Layout	Refused
102	Site Plan	Refused
300	Sections	Refused
301	Elevations	Refused
302	Elevations	Refused

NUMBER OF REPRESENTATIONS: 2

SUMMARY OF REPRESENTATIONS:

REPRESENTATIONS:

Two representations have been received in support of the proposal. One considers the proposed design to be unobtrusive and welcomes its contribution to the building group at Pyatshaw. The other appears to advise with respect to the Applicant's personal circumstances, but does not see why the proposed dwelling would not fit in with its surroundings.

ROADS PLANNING SECTION:

No objections in principle. There is ample parking and turning provision within the site, and the visibility sightlines are good. The speed of traffic is relatively slow due to the general winding topography of the road. The only roads issue is the construction detail of the access from the public road, over the verge, and into the site. An appropriate specification is identified.

ENVIRONMENTAL HEALTH SECTION:

The papers lodged for this Application indicate the provision of solid fuel heating. These installations can cause smoke and odour problems if not properly installed and operated. To this end, an informative is proposed to advise the Applicant with respect to the potential for smoke and odour nuisance concerns and how these might be avoided or resolved.

FLOOD PREVENTION SECTION:

The site may be at risk from a flood event with a return period of 1 in 200 years. However, only the east side of the site is considered to be at risk of flooding. The proposed dwellinghouse is located in the southwest of the site and is out with the flood plain. The associated drawings show that the levels of the house are sufficiently higher than the burn (around three metres higher) and there are no objections to this proposal on the grounds of flood risk. However, it is advised that standard advice be relayed to the Applicant in the event of approval to help minimise susceptibility to a flood event.

EDUCATION AND LIFELONG LEARNING:

Has been consulted but has not responded to the public consultation. However, as a new dwellinghouse, it is known that contributions towards local education provision, would require to be collected; in this case towards Earlston High School and Lauder Primary School.

ECOLOGY OFFICER:

Has reviewed the submitted badger survey (Nocturne Environmental Surveyors December 2014) and bat survey (Nocturne Environmental Surveyors December 2014). No evidence of badger activity was recorded. The trees proposed for felling are identified as Category 3 (trees with no potential to support bats). The site is used by breeding birds including rook. Site clearance of trees and vegetation should be carried out outside of the bird breeding season. The Pyatshaw burn runs through the site and connects with the Brunta burn (part of the River Tweed SAC) just to the north-west of the development site. Precautionary measures are required to protect the waterbody from potential sediment run-off and pollutants. It is recommended that site clearance only occur outwith the breeding bird season with the express written permission of the Planning Authority and that a proportionate Construction Method Statement for Works be required and implemented to ensure that development would accord with SEPA's Pollution Prevention Guidelines.

LANDSCAPE SECTION:

The house has been sited perpendicular to the road to accord with other properties in this location, and is sufficiently distant from adjacent houses to contribute to a balanced development within the building group of Pyatshaw. The development allows for the retention of sufficient numbers of trees to retain a sense of enclosure and some continuity with tree belts and tree groups surrounding adjacent properties. The visual amenity of the beech hedge will be retained as part of the proposal. However, the roadside view will be considerably broken by the 'openness' of the proposed access and parking area where 2m of hedge will be removed in addition to the trees.

A tree survey carried out by Tree Consultancy Group is included in the application. Of the 29 trees surveyed the proposals allow for the removal of 7no. deciduous trees of which 2no are classed as Category B and the 5no. Category C as well as a group of 4no. Scots Pines Category C. A section of Beech hedging is to be removed for driveway access. It is proposed that 11no. trees are planted to replace those removed. The Root Protection Area of 2no. Category A listed trees fall within the building line of the house. A proposal for the foundation construction that appears to accommodate the RPA of these trees has been included.

It is considered that tree no 7, Silver Birch (multi stemmed) should be retained as it would have amenity value in the view from the west facing windows and will be of value in retaining the connection between the existing tree belt and the trees surrounding the house particularly when viewed from the road side. However it appears that changes in level may not allow for this.

It is recognised that account has been taken of the existing woodland, trees and hedgerows within this application however the Landscape Section is concerned that in constructing a house in such a

densely treed area, not only will more than 50% of the existing woodland trees be removed, but the low light levels for occupants of the proposed house will put pressure on the remaining trees for heavy pruning or removal particularly in the future.

The determination of this application is difficult to judge for although there is a precedent of similar development within the area, the site is shown in mapping records as woodland since 1843 and the Borders Council policy NE4 seeks to protect the woodland resource of the Scottish Borders, in turn protecting the character of settlements, the countryside and maintaining habitats.

COMMUNITY COUNCIL:

Has been consulted, but has not responded to the public consultation.

PLANNING CONSIDERATIONS AND POLICIES:

Adopted Scottish Borders Local Plan Policy D2 - Housing in the Countryside
Adopted Scottish Borders Local Plan Policy G1 - Quality Standards For New Development
Adopted Scottish Borders Local Plan Policy G4 - Flooding
Adopted Scottish Borders Local Plan Policy G5 - Developer Contributions
Adopted Scottish Borders Local Plan Policy H2 - Protection of Residential Amenity
Adopted Scottish Borders Local Plan Policy Inf4 - Parking Provisions and Standards
Adopted Scottish Borders Local Plan Policy Inf5 - Waste Water Treatment Standards
Adopted Scottish Borders Local Plan Policy Inf6 - Sustainable Urban Drainage
Adopted Scottish Borders Local Plan Policy NE3 - Local Biodiversity
Adopted Scottish Borders Local Plan Policy NE4 - Trees, Woodlands and Hedgerows
Adopted Scottish Borders Local Plan Policy NE5 - Development affecting the Water Environment

Supplementary Planning Guidance on New Housing in the Scottish Borders Countryside (December 2008)

Supplementary Planning Guidance on Placemaking and Design (January 2010)

Recommendation by - Stuart Herkes (Planning Officer) on 11th June 2015

SITE DESCRIPTION

The site is both part of an established woodland, and land within the curtilage of an established residential property, 'The Schoolhouse', within the building group at Pyatshaw, near Lauder. The land more specifically lies between the public road (which delimits the site to the south and east) and by the Pyatshaw Burn (to the north). The northern sections of the western edge of the site are delimited by agricultural land. The southwestern edge is largely undefined on the ground, being an adjacent area of the same woodland. The woodland extends to the north of the site, onto the opposite (northern) bank of the Burn, which is also the location of the dwellinghouse, and indeed all ancillary buildings relating to the residential property at 'The Schoolhouse'. Within the site, most mature trees occupy a pronounced banking that occupies the central and northern portions of the site, lying between the burn and the public road. Within the site, there is a thinning of the tree cover towards the east, although this is less obvious from the public road, due to a high beech hedge and traditional stone boundary wall, which delimit the edges of the site.

More generally, Pyatshaw as a building group, is perhaps somewhat unusual in there being a strong impression of it being articulated and interconnected by stands of mature trees and woodland areas, rather than - as more normally occurs - trees and woodland denoting the margins and boundaries of the group. Mature trees, sometimes within dense woodland and sometimes within grassed 'parkland' areas, occupy land both within and between the boundaries of established residential properties at the centre of the building group. Indeed, there is a pronounced sense of the building group actually being centred on an 'avenue' through a woodland (now the public road, though at one time a gateway to Spottiswoode House and a ford of the Pyatshaw Burn; which the Applicant identifies as 'Ravelston Dykes Lane' on the photomontage). Residential properties and other buildings radiate out from, and around this centre. The prevailing impression is less of buildings being accommodated within 'clearings' inside a woodland, and more of these being accommodated at, and around, the edges of a woodland; generally within marginal or transitional areas, which, with distance from the centre, recede (gradually or abruptly) into more open areas

of land, usually farmland, pasture or roads. The sense of place of the building group is therefore the converse of the normal relationship between building groups and woodlands, with the woodlands and trees in this case, being physically central, rather than peripheral, to the articulation of the building group's sense of place.

It is understood that the woodland on the site and in the surrounding area dates from at least the earlier part of the nineteenth century.

PROPOSED DEVELOPMENT

This application proposes a new dwellinghouse on land within the centre of an established building group. The supporting information describes a detailed proposal for the site, including a non-traditional and partially timber-clad dwellinghouse. It would have a pitched roof but otherwise be of non-traditional massing. Finished materials would include white-painted brick.

A split-level design is used to negotiate the pronounced banking in the area between the public road and the burn. Accommodation includes three bedrooms. A green car parking area, utilising porous paving, would be accommodated to the front of the property, adjacent to the public road.

The proposal requires to achieve appropriate finished floor levels, and makes use of this higher area of ground nearest the burn to achieve this.

The proposal has been informed by a tree survey, and it is clarified that the removal of 11 out of the 29 deciduous trees surveyed, would require to be removed, along with a 2m long section of beech hedging adjacent to the public road. There are however proposals that each of the trees removed should be replaced, such that there would be no net loss of trees from the site. However, the proposed new planting would accord with a proposed reconfiguration of the tree cover on the site. In particular, there are proposals that the southern side of the site should be opened up, such that the dwellinghouse would then have a southern aspect and be clearly visible in views from the public road, from the southwest. It is advised that the retained and reinforced woodland would be strongest to the north and west, with the existing strength being reinforced by new planting. It is considered that this would be sufficient to retain the sense of a continuous tree cover through the site to link to areas to the west and north, and it is advised that the Applicant, who is supportive of retaining this level of tree cover, would be content for planning conditions to be imposed to protect existing trees; even limitations on future felling or future developments, if these were to be considered necessary.

While the proposal would intersect the Root Protection Areas of two Category A trees, it is advised that a structural solution would be implemented, which would allow for the retention of both trees in situ.

PLANNING PRINCIPLE

Given what is essentially a central location within the building group at Pyatshaw, and given that the land occurs within the curtilage of a residential property, it is considered that the site is demonstrably well-related to the building group.

Further, there is currently provision for one new dwellinghouse within this particular building group during the current development plan period. The proposal is therefore capable of being well-related to a building group in which there is capacity for a new dwellinghouse.

However, beyond the above noted requirements, Adopted Local Plan Policy D2 also requires that the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area, should also be taken into account when determining new applications. Further, compliance with the requirements of the Council's Supplementary Planning Guidance notes is also explicitly required. In summary, and beyond the acceptability of the principle of a new dwellinghouse being accommodated on the site, it needs to be considered whether or not the specific proposal would otherwise have any unacceptable impacts upon the specific environment and/or amenity of the site and its surroundings, including whether or not it would contribute sympathetically to the established sense of place at Pyatshaw; that is, whether or not it would make an appropriate contribution to the prevailing character and setting of the building group.

In this respect, critical concerns are firstly, whether or not there would be any unacceptable impacts upon the site, and principally the established woodland; and whether or not the proposed design and layout of the proposed residential property, would have any other unacceptable impacts upon the environment and amenity of the surrounding area, including the sense of place of the building group at Pyatshaw.

CONSERVATION OF THE EXISTING WOODLAND

It is considered that the site, as an area of woodland constituting part of the avenue of woodlands either side of what was the Spottiswoode Estate access road, contributes strongly to the established sense of place of the building group at Pyatshaw. It is therefore appropriate that the site should retain its woodland character. However, the specific trees, including mature deciduous trees, are not protected by any designations. Subject only to ecological considerations being appropriately addressed, they might therefore at present, be removed or reduced as the land owner sees fit and without referral to the Planning Authority. The principle of the site being retained as a woodland cannot be directly required or enforced through the planning system. It is therefore not reasonable that the principle of the trees and woodland being impacted, should in itself be considered objectionable. However, conversely, the potential for the land to be cleared of trees without planning consent, is not in itself a reason to accept uncritically the principle of a new dwellinghouse being accommodated at the site and very directly at the expense of existing mature trees; not even as an 'enabling development' to secure and safeguard as much of the existing woodland as possible in return for planning consent being granted for a new dwellinghouse. (For clarity, the Applicant does not explicitly identify the development as a potential enabling development, but the view that a residential use might be neutral or beneficial in terms of its impacts upon the existing landscape character appears implicit).

With respect to the latter point, consideration needs to be given to what the long-term implications would be for any retained area of woodland, were a new dwellinghouse to be sited and operated there. The siting and operation of a residential property at the site is not reasonably characterised as having a neutral impact, since it would in fact be liable to promote a much greater recession of trees from the site (or at least from within the areas adjacent to the dwellinghouse) than would otherwise occur were the site simply retained as a naturally regenerating area of deciduous woodland. It is at least reasonable that as a direct consequence of the dwellinghouse being sited and operated at the site, the future removal and reduction of trees on surrounding areas in response to future occupiers' legitimate concerns to achieve or improve the safety and/or amenity of their dwelling, would be liable to result over time at least, in a much wider, if perhaps incrementally realised, reduction in any retained area of woodland. At least it needs to be considered with respect to the long-term management of trees in closer proximity to a dwellinghouse that might impact safety and/or amenity, that this is only reasonably a matter left to the discretion of the occupiers of the property. Accordingly, this potential for long-term change needs to be addressed within the determination of this application. Since the concerns and preferences of future occupiers cannot reasonably be predicted, it is only reasonable to assume that the siting of a dwellinghouse at the site, would be liable to promote a wider recession of the woodland over time within the areas closest to the dwellinghouse.

A central concern then, is whether or not there is any reasonable capacity at the site to accommodate the retention of a meaningful area of woodland at a sufficient distance from the dwellinghouse that would ensure that these trees would not inevitably be, or in time become, susceptible to removal at a later date as a consequence of future occupiers' legitimate amenity and/or safety concerns. In other words, support for the proposal would be reasonable where there is sufficient reassurance that the long-term conservation of a meaningful woodland resource at the site is both realistic and achievable, even when the potential for the long-term removal of trees in closer proximity to the dwellinghouse is factored in. However, in the case of a relatively small area of land such as the subject application site, it has to be considered whether or not there is in fact any reasonable capacity to retain an appropriately sized and stocked woodland area capable of conservation in the long-term. In spatial terms alone, it is questionable that such capacity even exists at the site. This is partly due to the relatively small size of the application site, and partly due to the relatively large footprint of the proposal. There would therefore be a concern that the siting and operation of this particular dwellinghouse on this particular site, would be liable to promote the long-term clearance of the woodland from the site, or at least the majority of the trees, even beyond the areas that would be directly impacted by the development works themselves. The Landscape Architect has explicitly drawn attention to the potential for the future loss of trees as a consequence of occupiers seeking to open up views, or admit greater daylight especially with respect to glazing facing westwards towards an open field. Even where trees might credibly be retained in the long-term, at the northern extremity of the site, these would be liable to be left as an isolated stand of several trees, incapable of sustaining any meaningful impression of the persistence of any continuous woodland cover on the site.

Given that the woodland on the site appears to have endured since the early nineteenth century, it is reasonable to consider the retention of the application site as a coherent area of deciduous woodland, capable of naturally regenerating itself, is much more likely to be in the best interests of the long-term conservation of the woodland character of the site, than permitting the occupation and operation of the proposed dwellinghouse. The latter would be liable to promote over time the severe erosion, if not complete destruction, of the woodland character of the site. Viewed in these terms, it is not considered that approval of the dwellinghouse is reasonably characterised as being tantamount to the long-term safeguarding of the woodland character of the site. The benefit of what might be 'enabled' by approval of the current application is highly questionable where it leaves the future of the woodland character of the site more precarious than it otherwise would have been, had the woodland simply been left undeveloped.

In the event of approval, planning conditions might reasonably be imposed to require the retention and protection of existing trees, and to require compensatory planting to replace any trees that would require to be removed to accommodate the dwellinghouse and its ancillary areas. However, beyond the short-term reconfiguration of the site, the extent to which it would be possible, or at least practical, to impose planning conditions to secure any long-term management of the woodland resource at the site, is highly questionable. It is not considered that the Planning Authority could reasonably require, let alone hope to enforce, a long-term woodland management scheme for the site, particularly where this would be so directly undermined by the presence and proximity of a dwellinghouse, particularly where the approval of the latter was able to take cognisance of the potential for the wider woodland character of the site to be directly impacted by the operation of that same residential property. Such a situation could not in any case, reasonably be regulated in the long-term, on a tree-by-tree basis. This means that it is only reasonable at this stage, to consider whether or not there would be any unacceptable long-term impacts upon the site as a consequence of this proposal. It is therefore legitimate to consider whether the proposal would compromise to any unacceptable degree the potential for a meaningful and sustainable woodland area to be retained on the site in the long-term. If the view, is that the prevalence of such a feature would become simply too precarious as a direct consequence of the siting and operation of the proposed development, then it is considered that the current application would be more reasonably refused, than supported subject to any planning conditions that seek to do anything other than manage the short-term reconfiguration of the woodland resource on the site.

Notwithstanding the potential for the Applicant to restock the site with an equivalent, or even greater number of trees than would be lost as a direct consequence of development works, it is considered that the site is simply too small and the proposed development is simply too large, as to indicate any reasonable potential for the retention of any meaningful woodland area at the site in the long-term. Approval of this proposal would effectively be sanctioning the gradual removal of the substantial part of the woodland resource from the site, which it is considered would have an unacceptable impact upon the character of the site and its setting, including the sense of place of the building group at Pyatshaw.

DESIGN AND SITE LAYOUT

Given that it is considered that the proposal would inevitably have an unacceptable impact upon the prevailing woodland character of the site, it follows that it is not considered that this impact is sufficiently mitigated by the proposed design and layout of the residential property. However, it is considered that some aspects of the proposed design and layout would be liable to exacerbate the landscape and visual impacts.

At the time of preapplication discussions, the Applicant was made aware of the concerns with respect to the retention of a woodland character at the site. It was advised at that time, that it was not anticipated that the Applicant would be able to overcome the identified concerns with respect to the existing trees, but that if any dwelling were capable of being supported, then this would most likely be one with the character of a 'house in the woods'; which is to say, a dwelling that was somehow able to inhabit, and be accommodated in a sustainable way within, the woodland character of the site. In practical terms it is anticipated that this would entail both the retention of a sufficient cincture of woodland, capable of long-term conservation, to screen or at least soften views of the property from the public road; and a 'low profile' dwelling, of modest size and appearance, most credibly of a contemporary rather than a traditional design, whose presence might be further de-emphasized through the use of dark and organic materials and finishes on its external surfaces. This however, is not what has been proposed.

With respect to the proposed layout, the Applicant was advised at the time of preapplication correspondence, that the suitability of the particular proposal would need to be demonstrated within a design

approach informed by a tree survey; the latter being required to show how the impacts of the specific development upon the existing woodland, and particularly mature trees, could be appropriately minimised and/or mitigated.

The Applicant has provided a tree survey, but the design approach adopted is less reflective of a direct concern to accommodate the dwelling as discreetly and sensitively as possible within a cincture of woodlands, and more about the potential to re-populate the site with new replacement trees, such that there would be no net loss in the numbers of trees from the site. However, what is proposed is essentially a reconfiguration of the area planted with trees, with the area nearest the public road being 'opened up' over a large section, not only to accommodate the proposed dwellinghouse and ancillary areas, but also to establish views into and out of the dwelling from the public road. It is not considered that the latter is reasonably characterised as a discreet and sensitive accommodation of a new-build property within a woodland setting. Rather, a large area of the woodland which currently defines the sense of place of the building group, and specifically the avenue of woodland on this side of the road, would be 'hollowed out' to make room for a house with a fairly substantial footprint. As a consequence of the proposed house's size, the woodland could simply not be reconstituted and recreated around this new-build element, even over time, with replanting. In effect, the sense of an avenue defined by dense woodland on either side of the road at the centre of the building group, would be immediately greatly diminished, if not in fact overwhelmed, by this proposal. It is considered that the damage to the existing trees and the permanent loss within views from the public road of the clear and strong sense of the site as part of an avenue of trees flanking the gateway to Spottiswoode House, is unacceptable, in that this impact would be unsympathetic to the established character of Pyatshaw as a building group around an area of established woodland, estate gateway and ford. The loss of a large area of that woodland would significantly undermine this established character, and should be resisted.

The Applicant's proposals may result in as many new trees being planted as would be lost on the site, but the proposed replanting is not tantamount to the recreation of the visual impression of the site substantially persisting as an area of woodland. Instead, the site would accommodate a substantial dwelling, both in height and footprint, which would be clearly visible within views from the public road. The house would become the dominant visual element at the site, occupying clear views from the public realm, while the trees, would at best, be relegated to a backdrop (which as noted above, may not itself, be sustainable in the long-term). The strong impression would be of the woodland having been displaced to allow for the accommodation of the dwelling.

In theory, the concern for trees to be retained along the boundary with the public road could be addressed by requiring more tree planting in this area, to provide greater screening of the house in views from the public realm. However, the layout of the specific proposal itself, is not sympathetic to this, partly as a consequence of the large footprint of the building proposed, but also as a consequence of the front-and-centre location of the car parking area, which would mean that there would simply be no appropriate opportunity to create any meaningful and coherent screen of trees along the roadside, and therefore the car parking area in particular, would be visually to the fore, and not accommodated as an ancillary area that might more appropriately have been accommodated more discreetly by being screened out in views from the public realm.

In terms of the proposed dwelling's design, what is proposed is a non-traditional building that would be constructed within full view of the public road, employing some light materials and finishes including white-painted brick. While it would have a pitched roof, it would not have a traditional massing, and would not otherwise have any traditional domestic architectural details. Rather than a domestic structure, its most visible section would if anything, have the profile of an agricultural building or shed, but with the addition of large windows and metallic cladding, would be liable to have an institutional or civic character. It would not be immediately obvious that this was a dwellinghouse. The impression would be further confused by the front-and-centre accommodation of the car parking area. The photoshopped image may not help matters, by suggesting a decidedly suburban, and incongruous image of the proposed building's setting: a foreground dominated by neat hedges and lawns behind dwarf-walls of neat rectangular blocks. In reality though, the foreground would if anything, be liable to be dominated by views of parked vehicles. All in all, the character of the building and hollowing out of the woods for its accommodation so prominently and in such a central location within the building group, would if anything be liable to suggest a new centrally and prominently-located village hall or community centre. In its character in other words, it is determinedly not a discreetly accommodated 'house-in-the-woods'.

There is a mixture of house designs at Pyatshaw, including some non-traditional approaches and elements. Accordingly, there are no concerns in principle that the proposed design would not be traditional. Attention to materials and finishes would potentially allow for the building to become more visually recessive against a backdrop of trees. However, even if it were to be clad in dark and organic materials and colours, it is still too substantially-sized and prominently-located a building, as to be capable of being discreetly accommodated within the established woodland character of the site. It is not a modest, low-profile, structure, and as noted above, there would be no prospect of it being contained within any meaningful screen of existing and/or new tree planting within views from the public road. Had there been some potential for it to have been set back from the public road and enclosed within a more robust woodland setting, then with attention to finished materials and landscaping, it might have been capable of being appropriately accommodated. However, this is simply not possible on this specific site with respect to this particular proposed design, where neither attention to landscaping nor finished materials would be sufficient to mitigate appropriately the accommodation of such a large dwelling on such a constrained site.

It is ultimately concluded that the proposed development is too large to allow for any meaningful and balanced coexistence between the proposed residential property and the prevalence of the existing woodland character at the site. Although its setting might reasonably be made less suburban and institutional than the photoshopped image describes, the Applicant is no doubt correct to represent the residential property as prominently replacing the woodland on this side of the avenue, and this appearance, and its impact upon the character and setting of the building group at Pyatshaw, is considered to be objectionable in itself. (It is an appearance that would only be exacerbated in the long-term, as a consequence of any future clearance of the trees that are shown to be retained to the north, east and west of the building).

LANDSCAPE AND VISUAL IMPACTS

Landscape and visual concerns with respect to impacts upon the existing woodland and what would be liable to result if the proposal went ahead, have already been covered above in the two previous sections. However, there is a need to address some additional concerns arising with respect to the assessment and conclusions of the Landscape Section.

Although the Landscape Section does not ultimately object to the proposals, it is considered that what is described in its consultation response does nevertheless, raise significant concerns in terms of the future management of the woodland on the site. In particular, the conclusion that the longer-term impacts of the proposal upon the woodland would be difficult to anticipate, in itself, raises significant concerns. If the proposal runs the serious risk of destroying the salient characteristics of the woodland character of the site, then it is considered this would be more reasonably refused than supported.

It is noted that the Landscape Section advises that there are precedents within the surrounding area for this type of development, which appears to be a justification for not recommending refusal. However, the current proposal should first and foremost be considered on its own planning merits. Having acknowledged this, it is not considered that what has occurred within the surrounding area is in any case reasonably compared to the current proposal; albeit that this is instructive.

'Brigadoon' lies to the southwest of the site, and south of the public road. On a positive note, the dwelling at this property is essentially accommodated in one corner of the site, and upslope of the public road, while the intervening space is dominated by mature trees. A less positive visual impact however, is that the residential use of the land, has meant that although mature trees have been retained, these now no longer occur within an unambiguous woodland context, but rather, prevail within a notably more 'domesticated' and managed, and principally lawned landscape setting. On the one hand, the persistence of as many mature trees continues to contribute positively to the overall woodland setting and character of the building group, but on the other, any substantial removal of the trees by the current or future occupants at 'Brigadoon', would be liable to transform this area (incrementally or immediately, depending on the speed of any action), into a large and expansive grassed slope. There is a sense that what currently persists of the woodland character on this land then, is, if not in recession, then certainly more fragile than it would otherwise would have been, had it not been absorbed into the curtilage of the residential property. Furthermore, it has also been reduced ecologically, compared to the significantly less managed environment, it once was. Given that there is some intervening distance on this site between the majority of the trees and the dwellinghouse to allow that the two might coexist in the long-term at least spatially, there is reasonably no obvious concern that 'Brigadoon' might be cleared off trees in the long-term, and to this end, it appears to be a more

sustainable relationship than that which would emerge if the current proposal were approved. However, the diminution in the woodland character of the land does underscore the inherent vulnerability in allowing woodlands to be absorbed into residential properties, even where a sustainable relationship appears readily achievable as it is in this case. Ultimately the persistence of a woodland area immediately adjacent to 'Brigadoon' means that the sense of an avenue of woodlands on either side of the road, is currently conserved, and would be substantially maintained regardless of the treatment of the trees at 'Brigadoon'; notwithstanding that the latter undoubtedly still makes a positive contribution to the sense of place of the building group.

The position with respect to 'Beechwood' to the immediate south of the site, is if anything even more salutary in that although the Report of Handling from the time of the determination of the application notes that this site was partially wooded, it no longer retains within its own boundaries any meaningful vestige of a pre-existing woodland character. The few isolated trees that have been retained do contribute positively to the impression of the public road being flanked by deciduous trees, although this is largely a consequence of this being a smaller site than both 'Brigadoon' and the application site, which by virtue of proximity alone, allows for some visual linkage to the woodland area to the immediate west. It would not however be reasonable to say that this development has conserved a woodland character on the site, even if it does contribute to a wider effect. In itself, it is currently a house with a garden containing a few retained trees. Given the relatively small size of the site, the potential to retain any significant contribution to the woodland character of the surrounding area, would have been understood to have been decidedly limited, but it is mitigated, currently at least, by the presence of two coherent areas of woodland to the west and north. However, this nonetheless underscores again, the almost inevitable dominance of the residential use of the site at the expense of the pre-existing woodland character.

Ultimately, the position with respect to the current proposal is not reasonably determined with respect to what has occurred on any nearby sites. If anything, what has occurred at 'Brigadoon' and 'Beechwood' makes it apparent how much of the prevailing woodland character of the site would likely be lost even within a relatively short period of time, since both are in fact approvals of the early twenty-first century. It is moreover, apparent that the strength of contribution of these properties to the woodland character of the setting at Pyatshaw remains subject to the whims of the current and future occupiers of these properties. Although the same might be argued of the adjacent areas of woodlands, including the application site, it is clear that in the cases of these two neighbouring properties, the accommodation of residential properties has significantly altered, and actually diminished, the woodland character of the sites concerned. While it is not considered that this has had any unacceptable impacts in any singular or cumulative sense upon the sites or surrounding area, an equivalent 'hollowing out' of the woodland on the application site would be liable to contribute to an undesirable cumulative landscape and visual impact. This would more strongly project a sense of a relatively coherent expanse of woodland being reduced to remnants around new residential properties, the maintenance of which would then be liable to see the further diminution of this woodland character even further in the long-term.

The Applicant advises that the new tree planting species would be decided in consultation with a local ecologist, but if the application were supported, the prior agreement of the Planning Authority would still reasonably be sought; along with appropriate conditions to require the planting and maintenance of the same, and the wider landscaping of the site.

OTHER CONCERNS

Due to the proximity of the proposed dwelling relative to other properties, there are no concerns with respect to the ability to maintain an appropriate level of residential amenity at neighbouring properties.

The roads concerns and the ecological concerns could be addressed in accordance with the recommendations of the relevant statutory consultees, and the advice of the Flood Prevention Section and Environmental Health Sections could be included as informatives.

As the Applicant notes, the potential for further ancillary developments in the long-term would also need to be considered. However, as the supporting statement acknowledges, this might be regulated through the removal of permitted development rights. While this would be perfectly viable and useful if the application were approved, it is, as noted above, not considered that control of any secondary developments would not in itself be enough to safeguard the future woodland character of the site.

If approved, a legal agreement would be required to secure development contributions towards the two new schools in the local catchment area.

CONCLUSION

It is not considered that what is specifically proposed by the Applicant is appropriate in terms of its impacts upon the woodland resource at the site, or upon the character and setting (and therefore sense of place) of the building group at Pyatshaw, either in the short-term or in the long-term. Notwithstanding the theoretical potential to impose planning conditions to regulate new planting and protect existing trees, it is considered that the size of building and specific layout proposed, would inevitably mean that approval of this proposal would result in too precarious a position going forward with respect to the retention and conservation of the woodland character of the site. With no realistic prospect of ensuring appropriate mitigation, or of monitoring the site in the long-term, it is considered that the proposal would be more reasonably refused.

What is proposed in any case, does not represent a particularly sympathetic attempt to safeguard the woodland character of the site, and the proposed dwellinghouse and associated ancillary areas, are altogether too substantial to be capable of characterisation as having a reasonable and minimal impact upon the established woodland. With no opportunity for the accommodation of a more considered landscaping treatment, to allow for the dwelling to be more sympathetically accommodated within the prevailing woodland character of the site, it is considered that the proposal should be refused.

For the above noted reasons, it is considered that the proposed development should be refused.

REASON FOR DECISION :

The proposed development is contrary to Adopted Local Plan Policies D2, G1 and NE4, and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Place-Making and Design (January 2010), in that the proposal would in the short-term cause serious damage to, and promote the long-term loss of, the existing woodland resource at the site, which it is considered should be substantially retained due to its high landscape value and significant contribution to the character, sense of place and setting of the building group at Pyatshaw.

The proposed development is contrary to Adopted Local Plan Policies D2 and G1, and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Place-Making and Design (January 2010), in that the proposed design and layout of the residential property are not sympathetic to the woodland character of the site or to the sense of place and setting of the building group at Pyatshaw, in that (i) the site's existing woodland character would be overwhelmed by a prominently located and highly visible dwellinghouse, which as a consequence of its siting would be overly-dominant within views from the public road, and (ii) the front-and-centre positioning of the associated car parking area would be liable to project a particularly unsympathetic urban or suburban character in views from the public road.

Recommendation: Refused with informatives

- 1 The proposed development is contrary to Adopted Local Plan Policies D2, G1 and NE4, and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Place-Making and Design (January 2010), in that the proposal would in the short-term cause serious damage to, and promote the long-term loss of, the existing woodland resource at the site, which it is considered should be substantially retained due to its high landscape value and significant contribution to the character, sense of place and setting of the building group at Pyatshaw.
- 2 The proposed development is contrary to Adopted Local Plan Policies D2 and G1, and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Place-Making and Design (January 2010), in that the proposed design and layout of the residential property are not sympathetic to the woodland character of the site or to the sense of place and setting of the building group at Pyatshaw, in that (i)

the site's existing woodland character would be overwhelmed by a prominently located and highly visible dwellinghouse, which as a consequence of its siting would be overly-dominant within views from the public road, and (ii) the front-and-centre positioning of the associated car parking area would be liable to project a particularly unsympathetic urban or suburban character in views from the public road.

Informatives

It should be noted that:

1 INFORMATIVE NOTE 1:

In the event of any subsequent proposal being made for the accommodation of a dwellinghouse on this site, please note that although the Roads Planning Section was otherwise supportive, it has advised that it would still have required the vehicular access to the site to be constructed with a bituminous surface (tar), preferably to the following standard (or similar):

One layer of 75mm thick (40mm size) bitumen blinded with grit to BS 4987 laid on 375mm of 75mm broken stone bottoming blinded with Type 1 sub-base.

Work carried out within the road and verge would have to be carried out by an SBC approved contractor.

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

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

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

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

Local Review Reference: 15/00019/RREF

Planning Application Reference: 15/00403/FUL

Development Proposal: Erection of dwellinghouse

Location: Land south west of Pyatshaw Schoolhouse, Lauder

Applicant: Ms P Milanesi

DECISION

The Local Review Body reverses the decision of the appointed officer and gives notice that it intends to grant planning permission subject to conditions and conclusion of a legal agreement as set out in this notice.

The necessary legal agreement has been concluded and the decision can now be issued.

DEVELOPMENT PROPOSAL

The application relates to the erection of a house on land south west of Pyatshaw Schoolhouse, Lauder. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Location Plan	
Roof Plan	103
Floor Plans	110
Floor Plans	111
Sections	200
Existing Layout	101
Site Plan	102
Sections	300
Elevations	301
Elevations	302

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 21st September 2015, that the review had been competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included: (a) Decision Notice; (b) Notice of Review and supporting papers; (c) Report of Handling; (d) Consultations; (e) Support comments and (f) List of Policies, the Review Body concluded that it had sufficient information to determine the review and proceeded to consider the case. In coming to this conclusion, the Review Body considered the request from the applicants for further procedure in the form of a site visit.

As a point of clarity raised by the appellants it was noted the 2^{no} comments had been received from the Council's landscape team. Although they were similar they had different conclusions. It was confirmed that the second response should take precedence. Although it identified some issues to be addressed, ultimately it did not formally object to the proposal.

REASONING

The determining issues in this review were:

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

The Development Plan comprises: SESplan 2013 and the consolidated Scottish Borders' Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- Local Plan Policies: D2, G1, G4, G5, Inf4, Inf5, Inf6, H2, NE3, NE4, NE5

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

Other Material Considerations

- Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- Supplementary Planning Guidance on Placemaking and Design 2010
- Supplementary Planning Guidance on Privacy and Sunlight Guide 2007
- Supplementary Planning Guidance on Landscape and Development 2008
- Supplementary Planning Guidance on Trees and Development 2007
- Supplementary Planning Guidance on Development Contributions 2011
- Supplementary Planning Guidance on Biodiversity 2005
- Scottish Borders Proposed Local Development Plan 2013
- Scottish Planning Policy 2014
- Planning Advice Note 72 – Housing in the Countryside 2005

Members viewed slides of the site, which showed its characteristics, the design of the proposed new house, the proposed building materials, the trees to be removed to accommodate the house and the replacement planting proposed. In the first instance members agreed that within the terms of the Housing in the Countryside policy there was a building group in the vicinity of the site and that the erection of a further house would not breach the 30% rule regarding the possible extension of that group. The Review Body's deliberations thereafter focussed primarily on whether the design of the house was appropriate in this rural location and whether the removal of trees and the proposed replacement planting was acceptable.

Noting the design was a modern one, members complemented its innovative appearance and supported the use of timber cladding, white painted facing brick and a pitched zinc roof. It was considered the design and materials were in accordance with the Council's Placemaking and Design Guidance.

Members did not consider that the proposed loss of the trees would be harmful to the amenity of the area, in the circumstances of this application. Indeed they noted that if the woodland was properly managed some trees would likely be removed in any event. Moreover, they considered that the proposed replacement planting would balance those lost as a result of the house and parking footprint and that this was an acceptable approach for the development to take.

The plans suggested the retention of a silver birch tree within the site although the proximity of the parking area may damage its root systems leading to its removal. Whilst that was considered regrettable members accepted this possibility but determined that an informative should seek to gain its retention if at all possible. A replacement tree should be planted in the vicinity of the silver birch to compensate if it does require to be removed.

CONCLUSION

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

DIRECTION

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006

CONDITIONS

1. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the building have been submitted to and approved in writing by the Local Planning Authority, and thereafter no development shall take place except in strict accordance with those details.

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

2. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
- i. existing and finished ground levels in relation to a fixed datum preferably ordnance
 - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
 - iii. location and design, including materials, of walls, fences and gates
 - iv. soft and hard landscaping works
 - v. existing and proposed services such as cables, pipelines, sub-stations
 - vi. other artefacts and structures such as street furniture, play equipment
 - vii. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

3. Before any part of the development hereby permitted is commenced detailed drawings showing which trees are to be retained on the site shall be submitted to, and be approved in writing by the Local Planning Authority, and none of the trees so shown shall be felled, thinned, lopped, topped, lifted or disturbed without the prior written consent of the Local Planning Authority.

Reason: To enable the proper effective assimilation of the development into its wider surroundings, and to ensure that those existing trees representing an important visual feature are retained and maintained.

4. Before any part of the permitted development is commenced, the trees to be retained on the site shall be protected by fencing to BS35837:2012 specification, placed at a minimum radius of one metre beyond the crown spread of each tree, and the fencing shall be removed only when the development has been completed. During the period of construction of the development:
- (a) No excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage or injury to the trees by interference with their root structure;
 - (b) No fires shall be lit within the spread of the branches of the trees;
 - (c) No materials or equipment shall be stored within the spread of the branches of the trees;
 - (d) Any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate;
 - (e) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated except in accordance with details shown on the approved plans.

Reason: In the interests of preserving the health and vitality of existing trees on the development site, the loss of which would have an adverse effect on the visual amenity of the area.

5. The construction detail of the access from the public road, over the verge, and into the site should be constructed with a bituminous surface(tar) preferably to the following standard (or similar) : 1no layer of 75mm thick (40mm size) bitumen blinded with grit to BS 4987 laid on 375mm of 75mm broken stone bottoming blinded with Type 1 sub-base. The work carried out within the road and verge to be carried out by an SBC approved contractor.

Reason : To ensure the access is satisfactorily constructed

6. Site clearance or disturbance of habitats which could be used by breeding birds, including hedgerows and trees, shall not be carried out during the breeding bird season (March-August) without the express written permission of the Planning Authority. Supplementary checking surveys and appropriate mitigation for breeding birds will be required if tree felling and habitat clearance are to commence during the breeding bird season.

Reason : To safeguard sites of breeding birds

7. To protect the water body SEPA Pollution Prevention Guidelines PPG1, PPG5 (general guidance and works affecting watercourses), and PPG 6 (construction and demolition) to be adopted as appropriate. Prior to commencement of works a proportionate Construction Method Statement for Works is required.

Reason : In the interests of pollution prevention

8. The means of water supply, surface water and foul drainage to be submitted to and approved in writing by the Planning Authority before the development is commenced. The development shall then be implemented in accordance with the approved details.

Reason: To ensure that the site is adequately serviced.

INFORMATIVE

The Local Review Body expressed a preference to retain the silver birch tree on the western side of the site. It is accepted in order to accommodate the house and its parking this may not be possible, and if not possible an alternative tree should be planted.

Environmental Health stated that in relation to the provision of solid fuel heating these installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do not indemnify you 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. 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. The appliance should only burn fuel of a type and grade that is recommended by the manufacturer.

The Council's Flood Risk and Coastal Management stated that as access and egress to the development may be affected by flood waters, it is recommended that, to receive flood warnings from SEPA, the applicant signs up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188.

Legal Agreement

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of a financial contribution towards educational facilities.

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed..Councillor J Brown
Chairman of the Local Review Body

Date...27 October 2016

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 15/01284/FUL

APPLICANT : Mr And Mrs A Webster

AGENT : MKT Design

DEVELOPMENT : Erection of two dwellinghouses with integral garages

LOCATION: Plots 1 And 2 Land North West Of Whittlesknowe
(Formerly Plots B And D)
Pyatshaw
Lauder
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Approved
	Elevations	Approved
	Site Plan	Approved

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations.

Roads Planning Section: no objections providing the service layby is constructed to the specification detailed in document DC-2. Within the site there is ample parking and turning provision.

Environmental Health: has not responded to the public consultation.

Education and Lifelong Learning: seeks development contributions towards the upgrade of local education provision.

Community Council: no objections.

PLANNING CONSIDERATIONS AND POLICIES:

Adopted Scottish Borders Local Plan Policy D2 - Housing in the Countryside
Adopted Scottish Borders Local Plan Policy G1 - Quality Standards For New Development
Adopted Scottish Borders Local Plan Policy H2 - Protection of Residential Amenity
Adopted Scottish Borders Local Plan Policy Inf4 - Parking Provisions and Standards
Adopted Scottish Borders Local Plan Policy Inf5 - Waste Water Treatment Standards
Adopted Scottish Borders Local Plan Policy Inf6 - Sustainable Urban Drainage

Recommendation by - Stuart Herkes (Planning Officer) on 22nd December 2015

SITE DESCRIPTION AND PLANNING HISTORY

This application proposes two new dwellinghouses ('Plot 1' and 'Plot 2') on a site at Pyatfield, within a wider area that has historically been subdivided into three housing plots known as 'Plot A', 'Plot B' and 'Plot C'. Each of these three plots (A, B and C) was originally given outline consent for a new dwellinghouse in 2003 as the subjects of Planning Consents 01/00431/OUT, 01/00432/OUT and 01/00433/OUT respectively. A later proposal to subdivide 'Plot A' into 'Plot A' and 'Plot D' (04/02330/OUT) was refused in 2005.

To date, only one house, now known as 'Whittlesknowe', has been erected. This stands on the most northerly of the plots, which is a reduced version of the original 'Plot C'. It was the subject of a planning permission composed of Planning Consents 05/02183/OUT and 06/01638/REM. There are however extant planning permissions for single dwellinghouses on both 'Plot B' and 'Plot A'. The former consists of Planning Consents 05/02182/OUT and 07/00972/REM; and the latter, Planning Consent 05/01684/FUL. In neither case have the actual dwellinghouses been commenced.

Land that was to have been included within 'Plot C' was ultimately excluded from the curtilage of 'Whittlesknowe'. This excluded land has been absorbed into later versions of the proposals for 'Plot B', with the boundaries of that plot being shifted south of their positions as these were within the original version of 'Plot B'. At present, there is a current planning consent for such a modified version of Plot B, which is Planning Consent 14/00553/FUL. The latter is subject to a condition that it should proceed instead of the development consented by Planning Consents 05/02182/OUT and 07/00972/REM.

PROPOSED DEVELOPMENT

The current application proposes two new dwellings on the site of 'Plot B' and the northern section of 'Plot A'. The site plan drawing indicates a longer-term intention to seek a third new dwellinghouse on the remainder of 'Plot A' (that is, on land to the immediate south of the current application site) thereby effectively reviving the proposal that there should be four dwellings on the larger, original "Plot C-Plot B-Plot A" site. However, no direct account can be taken of this ulterior proposal, which is not the subject of the current application, albeit that it helps explain the proposed layout.

The two proposed dwellings would be identical in their design to one another, excepting that Plot 2 would be a complete handed layout of Plot 1, which is the design described by the Proposal Drawings. This design is traditional in its massing, scale and materials. Garaging would be concealed to the rear.

A supporting statement advises that the roofs would be clad in natural slate, and the walls finished in render, with stone corner quoins. Bands would be either reconstituted stone or render. The windows would be timber.

The boundary would be fencing and hedging to match the existing.

PLANNING PRINCIPLE

Given that the site overlaps with two sites with extant planning permission for two dwellings, the principle of the proposal raises no concerns subject to two considerations.

Firstly, and for purposes of development control, it would be appropriate to require by condition that the implementation of this consent should mean that all extant and current planning consents relating to 'Plot B' and 'Plot A' - namely consents 05/02182/OUT, 05/01684/FUL, 07/00972/REM and 14/00553/FUL - would be deemed to have been superseded.

Secondly, it would be appropriate to require by condition that no dwellinghouse be located on the site described on the Site Plan as "future new house". Instead an informative would reasonable advise that acceptance of a third dwellinghouse would require to be the subject of a new planning application, and that

any approval of the two proposed dwellings should not be taken as any formal or informal acceptance of the principle of a third dwelling being sited as indicated.

LAYOUT AND DESIGN

The proposed design raises no concerns, subject to the use of appropriate materials and finished colours as befitting a rural dwellinghouse. This includes slate roofs, wet dash rendered walls and wooden windows and doors. It is noted that in its design, the Plot 2 dwelling would be a handed version of Plot 1.

Proposals to establish some minor variation in design detailing between the two dwellings were discussed with the Applicant, and ultimately a revised drawing was submitted (received 01 December). However, since this revised drawing only includes a minor variation to the porch detail, it is not considered that this represents any particularly significant difference, and even detracts somewhat from the otherwise strongly traditional character of the design. Upon reflection, it is considered that the need for differentiation to counteract any potential urban or suburban form of development - principally the repetition of two (potentially three) identical house designs - would be more appropriately addressed in this case, through the use of different coloured render finishes and also landscaping, where this might create a 'cottage garden' setting rather than any overly-suburban setting of lawns and driveways.

RESIDENTIAL AMENITY

Sited as proposed, the dwellings raise no concerns with respect to residential amenity. They are both, and relative to the road, in a forward position of 'Whittlesknowe'. Sufficient setback has also been established relative to the residential property at 'Thimbleha', although it would be reasonable to require the agreement of finished levels to ensure that these would not be raised any higher in the landscape than would be acceptable.

It is also material within the assessment of the impacts upon the residential amenity of surrounding properties that there are already two extant permissions for dwellings in broadly these positions.

It is anticipated that a dwelling located in closer proximity to 'Thimbleha' would be liable to have a more significant impact upon the amenity of that property, but given that this is not a proposal of the current application, there is no requirement to assess the particular impacts.

OTHER CONCERNS

Roads' concern with respect to the new service lay-by could be regulated as proposed by Roads. It would be appropriate to attach standard conditions with respect to parking and turning provision. All services should be functional prior to occupation.

Notwithstanding the details given in the supporting statement, landscaping - both hard and soft - requires further consideration. This includes attention to the finished boundaries.

There are existing trees along the roadside which the Proposal Drawings indicate would be retained. The set back of the dwellings themselves from these trees is sufficient to indicate that any concerns would be minimal. 'Plot 1' would be accessed off the existing lay-by and no mature trees would be impacted. There is the possibility of impacts occurring with respect to the new lay-by, which is liable to affect the Root Protection Areas of mature trees. Moreover, it appears inevitable that some tree works would be required, even if these were only lopping rather than any outright removals. Given that there are already extant consents for the site, and given Roads' concerns that the lay-by should be provided, the potential for impacts upon the trees in the vicinity of the new lay-by are not considered to be objectionable. However, it is reasonable to seek that these impacts should be minimised as far as reasonably possible. Accordingly a condition is required, to ensure that trees should not be removed unless otherwise agreed by the Planning Authority. It can be acknowledged that where tree works and removals are necessary, these are not opposed. However, the agreement of the scope of such works would be appropriately regulated to ensure that they are reasonably the minimum required to achieve the lay-by and site access. This is reasonably allowed for in direct relation to the new lay-by and site access by requiring that the treatment of the trees be established and agreed in advance of the commencement of these works.

Given that there are two extant consents, and subject to the matter being regulated by condition as noted above, there would be no requirement to collect development contributions relative to these properties.

CONCLUSION

Subject to the imposition of planning conditions and informatives to address the above highlighted concerns, the proposal is permissible.

REASON FOR DECISION :

Subject to compliance with the schedule of conditions, the proposed development will accord with Adopted Scottish Borders Local Plan Policies D2, G1, H2, Inf4, Inf5, Inf6 and NE4.

Recommendation: Approved - conditions & informatives

- 1 The development hereby consented shall not be implemented further to:
(a) the commencement of construction works on the dwellinghouse consented by Planning Consents 05/02182/OUT and 07/00972/REM;
(b) the commencement of construction works on the dwellinghouse consented by Planning Consent 05/01684/FUL; and/or
(c) the implementation of the development consented by Planning Consent 14/00553/FUL.
Further, and following the implementation of this planning consent (15/01284/FUL), the developments consented by Planning Consents 05/02182/OUT, 05/01684/FUL and 07/00972/REM shall both thereafter not be recommenced and shall both have been extinguished.
Reason: To retain effective control over the development since planning approval is subject to the understanding that the residential properties hereby approved, are to be provided as an alternative to, and not as any addition to, the extant planning permissions constituted by Planning Consents 05/02182/OUT and 07/00972/REM and Planning Consent 05/01684/FUL.
- 2 Notwithstanding the details supplied in support of the planning application, and unless otherwise agreed in writing and in advance by the Planning Authority:
(i) the roofs shall finished in natural slate;
(ii) the external walls shall be finished in wet dash render (and not dry dash render);
(iii) the quoins shall be natural stone (and not reconstituted stone); and
(iii) the doors, patio doors, windows and glazing panels shall all be timber (and not uPVC).
Further, no development shall commence on either of the dwellinghouses hereby consented until precise details of the following have first been submitted to, and approved in writing by, the Planning Authority:
(i) the precise details of the wet dash render (including colour);
(ii) the windows (including design, opening mechanism and finished colour);
(iii) the bands and sills (including materials and finished colours); and the
(iv) finished colour of the external joinery.
Thereafter, the development shall only be implemented in accordance with the approved details.
Please see Informative Note 1.
Reason: To retain effective control over the development in the interests of ensuring an appearance that is appropriate and sympathetic to the rural character of the site and its setting.
- 3 The water supply and surface water drainage and foul drainage shall all be functional prior to the occupation of each dwellinghouse hereby approved.
Reason: To ensure that the site is adequately serviced and fit for habitation prior to its occupation.
- 4 Each dwellinghouse hereby consented shall not be occupied until the parking and turning provision indicated on the approved drawings has first been completed and is free and available for use by the occupants. The dwellinghouse on 'Plot 2' shall not be occupied until a service lay-by has been constructed and completed to the specification detailed in document DC-2.
Reason: In the interests of road safety to ensure that provision for the parking and turning of occupants' vehicles is complete and available for use prior to the occupation of the property.

- 5 Notwithstanding the details submitted in support of the planning application, and unless otherwise agreed in writing by the Planning Authority and in advance of the commencement of development, (i) no trees (including canopies and Root Protection Areas) within, on, overhanging and/or rooting under, the site boundary, shall be felled, lopped, lifted or disturbed in any way; and in any case, (ii) no development shall commence until a scheme of details addressing in full the concerns of Informative Note 3, has first been submitted to, and approved in writing by, the Planning Authority. Thereafter, the development and all associated tree works shall only be implemented, and proceed, in full accordance with the details approved to address the requirements of item ii. of this same planning condition.
Reason: The existing trees represent an important visual feature which the Planning Authority considers should be substantially maintained due to their positive contribution to the amenity, character and appearance of the surrounding area, and their capacity to screen, or partially screen, views of the development from out with the site.
- 6 Notwithstanding the details supplied in support of the planning application, no dwellinghouse or building shall be erected on and/or within the site (station) described by the dashed line and annotated "future new house" on Approved Drawing 002, unless a planning application in that behalf has first been submitted to, and approved in writing by, the Planning Authority. Please see Informative Note 2.
Reason: To retain effective control of the development which only consents two dwellinghouses. Any proposal to site a third dwellinghouse within the vicinity of the site, would require to be the subject of a new planning application to enable the full and appropriate scrutiny of that proposal.
- 7 The development hereby consented shall not be commenced until a scheme of details has first been submitted to, and approved in writing by, the Planning Authority, which describes:
(i) the proposed finished floor levels and proposed finished roof ridge heights of the two consented dwellinghouses;
(ii) the existing and proposed finished ground levels throughout the application site;
(iii) a clearly identifiable datum point, or clearly identifiable datum points, located outwith the site and sufficient for the purpose of establishing the heights of the proposed finished floor levels, proposed roof ridges and proposed ground levels relative to the level of the existing streetscape; and
(iv) the proposed finished roof level heights of the two consented dwellings described in relation to the actual heights of the roof ridges of neighbouring buildings, including that of the dwellinghouse at 'Whittlesknowe' and the dwellinghouse at 'Tumbleha'.
Thereafter the development shall only be implemented in full accordance with the approved details.
Reason: To ensure that the consented development does not have any unacceptable impacts upon the amenity of neighbouring properties and/or any detrimental impacts upon the appearance of the surrounding landscape as a consequence of the ground levels within the site being raised or lowered to any inappropriate heights.
- 8 The development hereby approved shall not take place except in strict accordance with a scheme of hard and soft landscaping works. The details of this scheme shall first have been submitted to, and approved in writing by, the Planning Authority before the commencement of development. Details of the scheme shall take full account of the advice and guidance of Informative Note 4; shall be consistent with all information presented to address the information requirements of Planning Conditions Nos 5 and 7 of this same planning consent; and shall include:
(i) existing landscaping features and vegetation to be retained and, in the case of damage, restored;
(ii) location and design (including heights and materials) of any proposed walls, fences and gates;
(iii) soft and hard landscaping works, including all new trees, shrubs, hedges and grassed areas;
(iv) existing and proposed services such as cables, pipelines, sub-stations;
(v) a schedule of plants relating to point iii, above, including details of species, plant sizes and proposed numbers/density; and
(vi) a programme for completion and subsequent maintenance of the new planting.
Thereafter, the landscaping shall be implemented and thereafter maintained in accordance with the approved details.
Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

Informatives

It should be noted that:

1 **INFORMATIVE NOTE 2:**

In order to help counteract any overly suburban character of repeating designs and layouts, the walls of the dwellings should be finished in notably different colours of render from one another.

2 **INFORMATIVE NOTE 2:**

Please note that this planning consent does not include any approval, nor any acceptance (formal or otherwise), of the principle that a new dwellinghouse could or should be sited to the southwest of the site, let alone sited in the exact position indicated by the dashed line on Approved Drawing 002.

Any proposed third dwellinghouse would require to be made the subject of a new planning application, since this proposal is liable to have potential to raise significantly different planning issues to those that have been considered within the assessment of this planning application. Such a proposal will require to be assessed on its own merits at the time of any such planning application, should one be forthcoming, and the outcome of that planning application cannot be pre-judged ahead of the submission of such an application.

3 **INFORMATIVE NOTE 3:**

The Planning Authority is content in principle, that where strictly necessary, trees should be removed from the site to accommodate the new service lay-by and associated site access. However, the information supplied in support of the planning application is deficient in its explanation and description of all works that are required to the roadside trees to accommodate the new lay-by and access.

The information required to address point (ii) of Planning Condition No 5 is therefore full details of the tree works that are required to accommodate the new lay-by and access road to 'Plot 2' and a timetable of when these works would be carried out.

As per the requirement of Planning Condition No 4, the new service lay-by shall be constructed to the specification detailed in document DC-2. The details relating to the tree works should reflect this, and should clarify what the likely impacts would be of this construction upon all individual trees liable to be impacted by the works to accommodate the new lay-by. Where provision can realistically be incorporated to address, or at least mitigate, these impacts, measures to secure the retention, or facilitate the conservation, of these same trees should be incorporated.

The report and any proposed mitigation works should be carried out by an appropriately qualified arboriculturist in conformation with BS5387.

4 **INFORMATIVE NOTE 4:**

Planting plans must provide sufficient information to be enforceable by detailing the following:

- i.) Plan is to an identified true scale (e.g. 1:200).
- ii.) Boundary of the application site is clearly marked.
- iii.) Site orientation is indicated by a North point or OS grid lines.
- iv.) All existing trees, shrubs and hedges to be retained are clearly marked.
- v.) Take account of site factors such as slope, aspect, soil conditions, proximity of buildings and minimum distances from pipe and cable runs, when choosing planting positions. Where necessary, seek professional landscape advice.
- vi.) Planting positions are clearly marked showing individual trees and shrubs and / or planting area boundaries using dimensions as necessary.
- vii.) All species of plants identified using their full botanical name (e.g. oak - *Quercus robur*)

viii.) All plant numbers to be identified individually or by group or area as appropriate. Species mixes can be identified by percentages and an overall number or a specified area and a planting density (e.g. *Betula pendula* 30%, *Quercus robur* 70%, 120 square metres @ 1 plant per 4 square metres = 9 *B. pendula* & 21 *Q. robur*)

ix.) A planting schedule identifies all the proposed planting by species and specification indicating size and nature of plants to be used (e.g.: Extra heavy standard tree 14-16cms girth or shrub 60-75cms high in 2 litre pot.)

x.) Notes on the plan describe how the planting is to be carried out and maintained to ensure successful establishment.

xi.) The plan indicates when the work will be completed and ready for inspection taking account of planting seasons (e.g. November to end March each year for bare rooted plants.)

N.B. Planting conditions are only discharged following an inspection of the completed work

Please also note that the programme for completion and subsequent maintenance must include action points describing actions that will definitely be taken by the Applicant, and must also note precisely when these are to be carried out (i.e. definite actions to be carried out at clearly identifiable times). Use of ambiguous, vague or otherwise non-committal words or phrases (including "should", "could" or "may") must be avoided in favour of words and phrases that are clear and definite (such as "will" and "shall") when detailing these actions that the Applicant will carry out. A critical concern is that the detail and timing of the measures are capable of being checked if necessary by a third party, rather than left as discretionary or optional.

In the event that proposed actions are described in ambiguous or non-committal terms, the Planning Authority reserves the right to require that the details be amended to address the above noted concerns, and/or to impose its own regulation within any approval it issues of such details, for the purpose of ensuring that it is clear for record purposes what the actions to be taken are, and when these are to occur.

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

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**Town and Country Planning (Development Management Procedure) (Scotland) Regulations
2013****Application for Planning Permission****Reference : 15/01284/FUL****To: Mr And Mrs A Webster per MKT Design Beechwood Pyatshaw Lauder Scottish Borders TD2 6SH**

With reference to your application validated on **23rd October 2015** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of two dwellinghouses with integral garages**at : Plots 1 And 2 Land North West Of Whittlesknowe (Formerly Plots B And D) Pyatshaw
Lauder Scottish Borders**

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, subject to the following direction:

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

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

**Dated 23rd December 2015
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

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

APPLICATION REFERENCE : 15/01284/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
	Location Plan	Approved
	Elevations	Approved
	Site Plan	Approved

REASON FOR DECISION

Subject to compliance with the schedule of conditions, the proposed development will accord with Adopted Scottish Borders Local Plan Policies D2, G1, H2, Inf4, Inf5, Inf6 and NE4.

SCHEDULE OF CONDITIONS

- 1 The development hereby consented shall not be implemented further to:
 - (a) the commencement of construction works on the dwellinghouse consented by Planning Consents 05/02182/OUT and 07/00972/REM;
 - (b) the commencement of construction works on the dwellinghouse consented by Planning Consent 05/01684/FUL; and/or
 - (c) the implementation of the development consented by Planning Consent 14/00553/FUL.
 Further, and following the implementation of this planning consent (15/01284/FUL), the developments consented by Planning Consents 05/02182/OUT, 05/01684/FUL and 07/00972/REM shall both thereafter not be recommenced and shall both have been extinguished.
 Reason: To retain effective control over the development since planning approval is subject to the understanding that the residential properties hereby approved, are to be provided as an alternative to, and not as any addition to, the extant planning permissions constituted by Planning Consents 05/02182/OUT and 07/00972/REM and Planning Consent 05/01684/FUL.

- 2 Notwithstanding the details supplied in support of the planning application, and unless otherwise agreed in writing and in advance by the Planning Authority:
 - (i) the roofs shall finished in natural slate;
 - (ii) the external walls shall be finished in wet dash render (and not dry dash render);
 - (iii) the quoins shall be natural stone (and not reconstituted stone); and
 - (iii) the doors, patio doors, windows and glazing panels shall all be timber (and not uPVC).
 Further, no development shall commence on either of the dwellinghouses hereby consented until precise details of the following have first been submitted to, and approved in writing by, the Planning Authority:
 - (i) the precise details of the wet dash render (including colour);
 - (ii) the windows (including design, opening mechanism and finished colour);
 - (iii) the bands and sills (including materials and finished colours); and the
 - (iv) finished colour of the external joinery.
 Thereafter, the development shall only be implemented in accordance with the approved details. Please see Informative Note 1.
 Reason: To retain effective control over the development in the interests of ensuring an appearance that is appropriate and sympathetic to the rural character of the site and its setting.

- 3 The water supply and surface water drainage and foul drainage shall all be functional prior to the occupation of each dwellinghouse hereby approved.
Reason: To ensure that the site is adequately serviced and fit for habitation prior to its occupation.
- 4 Each dwellinghouse hereby consented shall not be occupied until the parking and turning provision indicated on the approved drawings has first been completed and is free and available for use by the occupants. The dwellinghouse on 'Plot 2' shall not be occupied until a service lay-by has been constructed and completed to the specification detailed in document DC-2.
Reason: In the interests of road safety to ensure that provision for the parking and turning of occupants' vehicles is complete and available for use prior to the occupation of the property.
- 5 Notwithstanding the details submitted in support of the planning application, and unless otherwise agreed in writing by the Planning Authority and in advance of the commencement of development,
(i) no trees (including canopies and Root Protection Areas) within, on, overhanging and/or rooting under, the site boundary, shall be felled, lopped, lifted or disturbed in any way; and in any case,
(ii) no development shall commence until a scheme of details addressing in full the concerns of Informative Note 3, has first been submitted to, and approved in writing by, the Planning Authority.
Thereafter, the development and all associated tree works shall only be implemented, and proceed, in full accordance with the details approved to address the requirements of item ii. of this same planning condition.
Reason: The existing trees represent an important visual feature which the Planning Authority considers should be substantially maintained due to their positive contribution to the amenity, character and appearance of the surrounding area, and their capacity to screen, or partially screen, views of the development from out with the site.
- 6 Notwithstanding the details supplied in support of the planning application, no dwellinghouse or building shall be erected on and/or within the site (station) described by the dashed line and annotated "future new house" on Approved Drawing 002, unless a planning application in that behalf has first been submitted to, and approved in writing by, the Planning Authority. Please see Informative Note 2.
Reason: To retain effective control of the development which only consents two dwellinghouses. Any proposal to site a third dwellinghouse within the vicinity of the site, would require to be the subject of a new planning application to enable the full and appropriate scrutiny of that proposal.
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(i) the proposed finished floor levels and proposed finished roof ridge heights of the two consented dwellinghouses;
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(iii) a clearly identifiable datum point, or clearly identifiable datum points, located outwith the site and sufficient for the purpose of establishing the heights of the proposed finished floor levels, proposed roof ridges and proposed ground levels relative to the level of the existing streetscape; and
(iv) the proposed finished roof level heights of the two consented dwellings described in relation to the actual heights of the roof ridges of neighbouring buildings, including that of the dwellinghouse at 'Whittlesknowe' and the dwellinghouse at 'Tumbleha'.

Thereafter the development shall only be implemented in full accordance with the approved details.

Reason: To ensure that the consented development does not have any unacceptable impacts upon the amenity of neighbouring properties and/or any detrimental impacts upon the appearance of the surrounding landscape as a consequence of the ground levels within the site being raised or lowered to any inappropriate heights.

- 8 The development hereby approved shall not take place except in strict accordance with a scheme of hard and soft landscaping works. The details of this scheme shall first have been submitted to, and approved in writing by, the Planning Authority before the commencement of development. Details of the scheme shall take full account of the advice and guidance of Informative Note 4; shall be consistent with all information presented to address the information requirements of Planning Conditions Nos 5 and 7 of this same planning consent; and shall include:
- (i) existing landscaping features and vegetation to be retained and, in the case of damage, restored;
 - (ii) location and design (including heights and materials) of any proposed walls, fences and gates;
 - (iii) soft and hard landscaping works, including all new trees, shrubs, hedges and grassed areas;
 - (iv) existing and proposed services such as cables, pipelines, sub-stations;
 - (v) a schedule of plants relating to point iii, above, including details of species, plant sizes and proposed numbers/density; and
 - (vi) a programme for completion and subsequent maintenance of the new planting.
- Thereafter, the landscaping shall be implemented and thereafter maintained in accordance with the approved details.
- Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

1 **INFORMATIVE NOTE 2:**

In order to help counteract any overly suburban character of repeating designs and layouts, the walls of the dwellings should be finished in notably different colours of render from one another.

2 **INFORMATIVE NOTE 2:**

Please note that this planning consent does not include any approval, nor any acceptance (formal or otherwise), of the principle that a new dwellinghouse could or should be sited to the southwest of the site, let alone sited in the exact position indicated by the dashed line on Approved Drawing 002.

Any proposed third dwellinghouse would require to be made the subject of a new planning application, since this proposal is liable to have potential to raise significantly different planning issues to those that have been considered within the assessment of this planning application. Such a proposal will require to be assessed on its own merits at the time of any such planning application, should one be forthcoming, and the outcome of that planning application cannot be pre-judged ahead of the submission of such an application.

3 INFORMATIVE NOTE 3:

The Planning Authority is content in principle, that where strictly necessary, trees should be removed from the site to accommodate the new service lay-by and associated site access. However, the information supplied in support of the planning application is deficient in its explanation and description of all works that are required to the roadside trees to accommodate the new lay-by and access.

The information required to address point (ii) of Planning Condition No 5 is therefore full details of the tree works that are required to accommodate the new lay-by and access road to 'Plot 2' and a timetable of when these works would be carried out.

As per the requirement of Planning Condition No 4, the new service lay-by shall be constructed to the specification detailed in document DC-2. The details relating to the tree works should reflect this, and should clarify what the likely impacts would be of this construction upon all individual trees liable to be impacted by the works to accommodate the new lay-by. Where provision can realistically be incorporated to address, or at least mitigate, these impacts, measures to secure the retention, or facilitate the conservation, of these same trees should be incorporated.

The report and any proposed mitigation works should be carried out by an appropriately qualified arboriculturist in conformation with BS5387.

4 INFORMATIVE NOTE 4:

Planting plans must provide sufficient information to be enforceable by detailing the following:

- i.) Plan is to an identified true scale (e.g. 1:200).
- ii.) Boundary of the application site is clearly marked.
- iii.) Site orientation is indicated by a North point or OS grid lines.
- iv.) All existing trees, shrubs and hedges to be retained are clearly marked.
- v.) Take account of site factors such as slope, aspect, soil conditions, proximity of buildings and minimum distances from pipe and cable runs, when choosing planting positions. Where necessary, seek professional landscape advice.
- vi.) Planting positions are clearly marked showing individual trees and shrubs and / or planting area boundaries using dimensions as necessary.
- vii.) All species of plants identified using their full botanical name (e.g. oak - *Quercus robur*)
- viii.) All plant numbers to be identified individually or by group or area as appropriate. Species mixes can be identified by percentages and an overall number or a specified area and a planting density (e.g. *Betula pendula* 30%, *Quercus robur* 70%, 120 square metres @ 1 plant per 4 square metres = 9 *B. pendula* & 21 *Q. robur*)
- ix.) A planting schedule identifies all the proposed planting by species and specification indicating size and nature of plants to be used (e.g.: Extra heavy standard tree 14-16cms girth or shrub 60-75cms high in 2 litre pot.)
- x.) Notes on the plan describe how the planting is to be carried out and maintained to ensure successful establishment.
- xi.) The plan indicates when the work will be completed and ready for inspection taking account of planting seasons (e.g. November to end March each year for bare rooted plants.)

N.B. Planting conditions are only discharged following an inspection of the completed work

Please also note that the programme for completion and subsequent maintenance must include action points describing actions that will definitely be taken by the Applicant, and must also note precisely when these are to be carried out (i.e. definite actions to be carried out at clearly identifiable times). Use of ambiguous, vague or otherwise non-committal words or phrases (including "should", "could" or "may") must be avoided in favour of words and phrases that are clear and definite (such as "will" and "shall") when detailing these actions that the Applicant will carry out. A critical concern is that the detail and timing of the measures are capable of being checked if necessary by a third party, rather than left as discretionary or optional.

In the event that proposed actions are described in ambiguous or non-committal terms, the Planning Authority reserves the right to require that the details be amended to address the above noted concerns, and/or to impose its own regulation within any approval it issues of such details, for the purpose of ensuring that it is clear for record purposes what the actions to be taken are, and when these are to occur.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable. A form is enclosed with this decision notice for this purpose.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD

Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA

Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU

British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND

Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA

Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL

BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH

THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD

Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 16/01180/FUL

APPLICANT : Mr And Mrs A Webster

AGENT : MKT Design

DEVELOPMENT : Erection of dwellinghouse with integral garage

LOCATION: Plot 3 Land North West Of Whittlesknowe
(Formerly Plot A)
Pyatshaw
Lauder

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
002	Location Plan	Approved
001	Site Plan	Approved
V001	Elevations	Approved
	Sections	Approved

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

No representations were received.

CONSULTATIONS:

Roads Planning Service: No objections, provided:

- (i) the site access be formed as a service layby sharing access with Plot 2, as per standard detail DC-2;
- (ii) parking and turning for two vehicles, excluding any garage, be provided within the plot prior to occupation and retained in perpetuity thereafter; (iii) as the plot is lower than the existing public road, the applicant should satisfy themselves that they have adequate proposals in place to deal with any surface water which may flow from the adjacent public road. It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

Environmental Health Section: No comments with respect to potential contaminated land. With respect to the water supply, Environment Health advises that if the dwelling is to be serviced by a public water supply, the applicant should provide written communication from Scottish Water indicating that the dwelling would be accepted onto their supply. It further proposes a condition to require that evidence be provided to demonstrate that suitable arrangements would be in place with respect to the maintenance of a private drainage system. Advice with respect to any wood burning stove that might be proposed is given, specifically seeking advice as to whether or not a 45kW stove is proposed to

establish if there is a screening assessment required in relation to it. Informatives relating to all of these matters are also recommended.

Education and Lifelong Learning: Identifies the need for contributions towards the new Earliston High School and Lauder Primary School.

Ecology Officer: Requires that prior to the commencement of development, a Species Protection Plan for breeding birds shall be submitted to, and approved by, the Planning Authority. The SPP shall include provision for a pre-development supplementary survey and a mitigation plan where any works are proposed within the bird breeding season (March-August). It further seeks that no development should commence during the bird breeding season, unless the development is implemented wholly in accordance with the approved SPP.

The Landscape Architect, Scottish Water and the Community Council have been consulted but have not responded to the public consultation.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Council Local Development Plan 2016:

Policy PMD1: Sustainability
Policy PMD2: Quality Standards
Policy HD2: Housing in the Countryside
Policy HD3: Residential Amenity
Policy EP1: International Nature Conservation Sites and Protected Species
Policy EP2: National Nature Conservation Sites and Protected Species
Policy EP3: Local Biodiversity
Policy EP13: Trees, Woodlands and Hedgerows
Policy IS2: Developer Contributions
Policy IS7: Parking Provision and Standards
Policy IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Recommendation by - Stuart Herkes (Planning Officer) on 24th October 2018

BACKGROUND

This application was originally made in 2016, but has been held in a planning processing agreement (PPA) in the interim period. This was initially to allow for the resolution of the position with respect to the development of two houses on the adjacent site (Planning Consent 15/01284/FUL). The Applicant had more recently been concerned to reconsider the proposed house-design for this specific proposal, and asked for the application to be maintained, until this matter had been resolved to his satisfaction. He has however now advised that he is content that the current application can be progressed on the basis of the design as it was originally submitted. The application is therefore now presented for determination on this basis.

SITE DESCRIPTION AND PROPOSED DEVELOPMENT

This application proposes a new residential property on land ('Plot 3') within the building group at Pyatshaw. More specifically, the identified site prevails within a space between an existing residential property ('Thimbleha') and one of two new-builds ('Plot 2'). The latter is itself one of two residential properties ('Plot 1' and 'Plot 2'), which were approved under Planning Consent 15/01284/FUL, and for which the Applicant is also the developer. These lie upslope, and to the northeast of the site.

In common with these consented properties, the proposed dwellinghouse would front the public road to the west. Moreover, it is proposed that the dwellinghouse on 'Plot 3' should resemble closely the design and layout of those recently approved for 'Plot 1' and 'Plot 2'. As such, it would, if approved, constitute a third house within a three-house-scheme, infilling the remainder of the land fronting the public road to the northeast of 'Thimbleha' (a converted youth centre) and southwest of 'Whittleknowe' (a modern detached property).

A supporting statement provides details with respect to materials and finishes, and the construction of the site access, but it does not address the policies of the statutory development plan.

PLANNING HISTORY - OVERVIEW

The planning history of the site and surrounding area, indeed wider building group at Pyatshaw, is complex but integral to the assessment of the current application:

The land that is now identified as 'Plot 3', was in combination with the land that is now 'Plot 2', 'Plot 1' and 'Whittleknowe', historically the site of three consented dwellinghouses, known as 'Plot A', 'Plot B' and 'Plot C'. These date in their original form, to consents issued in 2003, but consents for three dwellings on the same land have been renewed in the period since. Only one however, is actually both existing and occupied. This is 'Whittleknowe', which occupies a reduced version of the original 'Plot C'. Full planning consents for single dwellinghouses were issued for 'Plot A' (05/02182/OUT and 07/00972/REM) and for 'Plot B' (05/01684/FUL), and then subsequently implemented in both cases by the installation of services to both sites. In neither case however, was development progressed to the stage of actual house-building itself, even although these remained as extant planning permissions up to the implementation of Planning Consent 15/01284/FUL.

PLANNING HISTORY - 'PLOT 1' AND 'PLOT 2' AT PYATFIELD

In 2015 Planning Application 15/01284/FUL proposed new designs and layouts for two new dwellinghouses in place of those that could have been progressed under the then extant planning permissions for 'Plot A' and 'Plot B'. However, it also proposed that these might be progressed on a reduced site identified as 'Plot 1' and 'Plot 2'; omitting land formerly within 'Plot A' to the south and east, including, the current application site ('Plot 3'). Planning Consent 15/01284/FUL was approved on 23 December 2015 subject to planning conditions and informatives.

At the time that the current application was made in 2016, the developments consented by Planning Consent 15/01284/FUL had not progressed to any stage that would have then allowed these houses to have been identified as existing, while what development that had occurred on that site, had occurred without the requirements of certain planning conditions first having been addressed ahead of the commencement of development. As such, the houses on 'Plot 1' and 'Plot 2' were not reasonably removed from the potential number of houses that might have been brought forward in relation to the building group at Pyatshaw during the current Local Development Plan period which commenced in May 2016. However, since that time, as of later 2018, these houses have now substantially been completed and are certainly two new-build houses that have been developed during the current Local Development Plan Period. The potential for the building group at Pyatshaw to be expanded by an additional house during the current Local Development Plan period, is considered below; but the progress of the two new-builds on 'Plot 1' and 'Plot 2' are integral to that assessment.

The Applicant at the time of Planning Application 15/01284/FUL indicated an intention to build a third dwellinghouse along the lines now proposed (and had set aside part of the former 'Plot A' to do so). However, approval of Planning Application 15/01284/FUL did not pre-judge, and has not pre-judged, this matter (please see the Report of Handling, and Condition No 6 and Informative Note 2 attached to the Decision Notice itself issued in the case of Planning Consent 15/01284/FUL).

PLANNING HISTORY - PREVIOUS CONSIDERATION OF A 'FOURTH' HOUSE AT PYATFIELD

In proposing a fourth house on the wider area of land that was previously identified as 'Plot A', 'Plot B' and 'Plot C', the current planning application also tests anew the principle that this same area of land should accommodate a fourth house. This was essentially the proposal of Planning Application 04/02330/OUT, which proposed the subdivision of 'Plot A' into two smaller plots (then identified as 'Plot A' and 'Plot D'). That application was refused in 2005 on the grounds that: "the form and appearance of the existing building group at Pyatshaw would be adversely affected by additional development". This indicates a concern in principle at that time, with the addition of a fourth house on the wider Plot A/Plot B/Plot C site (if not with the addition of any new house at Pyatshaw itself).

The Report of Handling on Planning Application 04/02330/OUT clarifies that this decision was based, in part, upon an assessment that there was at the time, insufficient provision within the public road to accommodate appropriately an increase in the number of houses within the building group. Such concerns have however now been addressed to the Roads Authority's satisfaction in the interim period (principally through the provision of additional passing places in the near vicinity). However, the decision reached in the case of Planning Application 04/02330/OUT also took account in part of a concern that: "Housing in the Pyatshaw area follows a dispersed pattern with dwellings occupying substantial plots generally in established landscapes ... Albeit the plots are still sizeable in town or village terms after the introduction of the extra dwelling in the context of a dispersed rural community it is considered this would detract from the nature and character of the area to a level which the department cannot support".

Given that Planning Application 04/02330/OUT was for planning permission in principle, this was effectively an objection in principle to the accommodation of a fourth house on the wider 'Plot A'/'Plot B'/'Plot C' site - which is essentially the principle of the current application, albeit that the plots are divided up differently within the different proposals.

PLANNING POLICY CONTEXT

There is no business case for a new dwellinghouse to be sited as proposed, and therefore it falls to be assessed with respect to that area of policy that regulates new houses in rural building groups, specifically Section A of Adopted Local Development Plan Policy HD2.

The site is well-related physically to the rural building group at Pyatshaw; the proposal would impact a field that has already been used to accommodate new development ('Whittleknowe'; 'Plot 1'; and 'Plot 2'); and the site is also part of a plot ('Plot A') for which there was until recently, an extant planning approval for one new dwellinghouse (prior to its extinction by the implementation of Planning Consent 15/01284/FUL). All in all, the site's relationship to the building group at Pyatshaw raises no concerns in any physical or historical terms.

In addition to the site being well-related to an established building group, it is also an explicit requirement of Adopted Local Development Plan Policy HD2 that no building group should be expanded within the Local Development Plan period by more than two additional dwellings or by a 30% increase in the building group, whichever is the greater. With respect to this requirement, it is explicitly stated within Policy HD2 that: "The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point".

PLANNING PRINCIPLE - BUILDING GROUP CAPACITY

At the start of the Local Development Plan period on 12 May 2016, the building group at Pyatshaw consisted of ten existing houses ('Pyatfield'; 'Whittleknowe'; 'Thimbleha'; 'The Schoolhouse'; 'Applecross'; 'Beechwood'; 'Brigadoon'; 'Greenwood House'; 'Cambridge' and 'Cambridge Cottage').

Under Policy HD2, this size of building group has the potential to allow for the addition of up to three new houses during the current Local Development Plan period; that is, in the period from 12 May 2016. However, account is necessarily had to the fact that there was at 12 May 2016: firstly, extant consents for two new houses on 'Plot A' and 'Plot B'; and secondly, another (third) new house, which had been approved at appeal by the Local Review Body on 04 October 2015, albeit that no consent had in fact then been issued for this ahead of the commencement of the new Local Development Plan period on 12 May 2016. This was because the applicants in that other case had not then concluded any legal agreement to allow for the release of any permission to them.

The aforementioned extant permissions which related to the two new houses - one for 'Plot A' (05/02182/OUT & 07/00972/REM); and one for 'Plot B' (05/01684/FUL) - have in the interim period, now been directly superseded by the implementation of the development of the two new houses consented by Planning Consent 15/01284/FUL. However, notwithstanding this substitution, these reasonably relate to, and account for, two new-builds that were capable of, and are in fact now, being progressed to completion during the current Local Development Plan period.

The aforementioned house that was approved at appeal, was the subject of refused Planning Application 15/00403/FUL. It relates to land within the grounds of 'The Schoolhouse' to the southwest of, and on the opposite side of the public road from, the current application site. Following the conclusion of a legal agreement, a planning consent (15/00019/RREF) was eventually issued for this house, on 27 October 2016. In the interim, the development has been commenced, and works are currently being progressed on this site.

At May 2016 then, the above circumstances were such that there was clear potential for the building group at Pyatshaw to be expanded by up to three new-build houses during the new - and now current - Local Development Plan Period. Indeed, this has largely now happened, in that three new-build houses are now actively being constructed under Planning Consents 15/01284/FUL and 15/00019/RREF. These are substantially complete, or are liable to be completed within the next few months (if not weeks). In line with the position that prevailed at the time that the current application was received then, the current proposal is - still and now - only reasonably considered to be a potential fourth new-build house, which could be added to the building group at Pyatshaw, were it to be consented and then constructed during the current Local Development Plan period.

As such, approval of this current application would be liable to result in a situation where the total number of new dwellings added to the building group at Pyatshaw during the current Local Development Plan period, could be in excess of three. Were this to occur, then it would result in a situation that would be contrary in principle to Policy HD2 of the Local Development Plan, which requires that no additional housing development should be permitted above the capacity for the specific building group during the Local Development Plan period; which in the case of Pyatshaw, is as noted above, three new houses.

PLANNING PRINCIPLE - MATERIAL CONSIDERATIONS

The current proposal has the potential to result in the building group at Pyatshaw being expanded by a greater number of new-build houses during the current Local Development Plan Period than is allowed under Planning Policy HD2. This potential was considered at the time that the current planning application was received. However, having taken account of several material considerations (which are set out below), the Planning Department ultimately came to a view then, that on balance, there are sufficient grounds to support the current proposal as the subject of an exceptional approval (exceptional that is, to the strict requirement of Policy HD2 that any building group in the countryside should not be expanded during the current Local Development Plan period, by any number of new-build houses that is itself greater than 30% of the existing number of houses within that particular building group at the start of the Local Development Plan Period).

This view takes account of certain specific circumstances, which are considered to be sufficient, cumulatively, to justify an exceptional approval in this specific case, albeit contrary to the strict requirement of Planning Policy HD2. This view was originally taken at the time that the application was received in 2016, and is maintained here. For clarity, it is not taken on the basis of any one or all of these circumstances in isolation from each other; nor is it based on any view that any one circumstance is more significant than any other within the set of circumstances which have informed this view. Rather, this position has been reached as the culmination and combination of this particular group of circumstances as a whole. In short, it is the sum of these, which is considered to outweigh the need for this application to be determined in strict accordance with planning policy.

These material considerations are, and in no particular or significant order, as follows:

MATERIAL CONSIDERATION 1 - TIMING OF RELEASE OF APPEAL DECISION NOTICE

Firstly, on a technical point, the current application was registered on 21 September 2016, ahead of the Local Review Body's final approval and release of Planning Consent 15/00019/RREF on 27 October 2016. As such, there was an overlap during the current Local Development Plan period, when the current application had been made, and the Local Review Body decision had yet to be issued. Within this period, there was, theoretically at least, an opportunity for the planning application to have been determined ahead of the conclusion of the appeal. Further, this overlap was itself largely a consequence of the appellant's delay in concluding a legal agreement to allow for the release of consent, further to the Local Review Body's decision on 04 October 2015.

While there was some confidence latterly that a legal agreement would ultimately be concluded in that case to allow for the release of the appeal consent, there had initially been some concerns that the conclusion of a legal agreement was not forthcoming at all. The appellant ultimately benefited from the appeal case being kept 'live' for more than a year after the Local Review Body's decision had been made, including during an initial period when there was no particular concern on the appellant's part to conclude a legal agreement to allow for the release of the appeal consent. As such, in other circumstances, it might have been that the appeal case was withdrawn before the current application was made due to a lack of progress being made.

Further, even allowing that the appeal case was maintained without the consent being issued, the timescale within which the legal agreement was ultimately concluded was itself somewhat arbitrary. The appeal decision benefited from some considerable latitude with respect to its own progress through the appeal system, and it might be considered something of a technicality to hold the precise timescale and sequence of events against the current application, particularly when the latter would have benefited had the appeal case stalled or been withdrawn.

MATERIAL CONSIDERATION 2 - PART OF SITE WITH EXTANT CONSENT FOR HOUSING DEVELOPMENT

Secondly, the land within the site was at the start of the current Local Development Plan Period, within a larger site which was itself the subject of extant planning consents for housing development. While it is reasonably acknowledged that this was for two, rather than three houses; and the aforementioned extant consents have since been superseded by the implementation of Planning Consent 15/01284/FUL; it is material that there was a longer, long-standing history of approvals for housing development on this particular site, including two extant consents at the start of the Local Development Plan period for this site. In short, the current application has not proposed any new site(s) for housing development.

MATERIAL CONSIDERATION 3 - NO GREATER PROMOTION OF NEW HOUSING DEVELOPMENT

Thirdly, the current proposal would also essentially complete a group of houses, without reasonably promoting any further development within or in relation to the wider building group at Pyatshaw. This specific proposal is not in itself reasonably liable to promote any new or expanded definition of the building group at Pyatshaw beyond what would occur on the site itself. It would essentially complete the development of the original site between "Pyatfield" and "Thimble Ha" which in its extent, was originally defined at the time of the original 2005 outline approvals.

MATERIAL CONSIDERATION 4 - COMPLEMENTARY AND SYMPATHETIC DESIGN APPROACH

Fourthly, and notwithstanding particular concerns with respect to the specific proposal, which are addressed in this same report below, the design and layout of the development are generally satisfactory, and complement surrounding development, chiefly the builds on 'Plot 1' and 'Plot 2'. This would allow for the completion of what has been something of an on-going development of the wider 'Pyatfield' site noted above.

MATERIAL CONSIDERATION 5 - ACTIVE DEVELOPMENT INTEREST IN SHORT-TERM

Fifthly, the Applicant in his role as the developer of 'Plot 1' and 'Plot 2' has in fact been actively progressing these other developments, and therefore regard might reasonably be had to the Applicant's active interest in developing the site in the short-term. 'Plot 1' and 'Plot 2' are not - at least, not any more - long-term extant consents which are not being built out, but nonetheless taking up capacity within the building group.

It might be added that in 2016, the circumstances of the proposal that was approved at appeal, were such that it was not in fact clear then whether or not there was any active interest in progressing that particular development in the short-term. As such, it was a concern that this might inhibit what was understood to be - indeed, which has proven to be - an active development interest with respect to the Pyatfield sites.

MATERIAL CONSIDERATIONS - OVERVIEW

Taking account of all of the above material considerations, and following a review of the specific proposal itself, the Applicant was advised on 09 November 2016 that the Planning Department was supportive of the principle of the current application. However, this support, it was advised, was subject to certain matters

with respect to the development of 'Plot 1' and 'Plot 2' first being regularised; and sufficient regard being had to the avoidance within the wider development proposals for the three sites (including the current proposal) of any overly suburban appearance for the overall of group of three houses at Pyatfield. This was to be addressed principally through the avoidance of any obvious repetitive or standard design, layout and appearance of the properties. (While a basic, similar form for the proposals was considered to be acceptable - indeed preferable - there was a concern that three properties with exactly the same materials and finishes might appear to be a section of a suburban scheme, transposed onto a rural landscape).

POSITION AT, AND SINCE, 09 NOVEMBER 2016

Given certain ambiguities at the time with respect to the progress and course of the developments consented under Planning Consent 15/01284/FUL on 'Plot 1' and 'Plot 2', the Planning Department did not consider it possible in 2016, to progress the application to determination without certain reassurances and clarifications first having been sought from, and given by, the Applicant in advance of the application being presented for determination.

The intention was that the Applicant should address all matters that were raised in an email of 09 November 2016 in the way requested. While some details were indeed subsequently provided the following month, and some (specifically materials and finishes) have been supplied and approved since, certain details were not forthcoming, and the Applicant eventually advised that he was concerned that the application should be put on hold, while he considered alternative options with respect to a minor variation to the proposed design.

It is unfortunate that a number of the concerns raised, and points made in the email of 09 November 2016, were not in fact addressed as, and in the way, requested. Moreover, the development of 'Plot 1' and 'Plot 2' has been progressed in the period since, without certain of these requisite matters first having been attended in the way that was specifically requested within the aforementioned email. However, at this stage, it has to be acknowledged, firstly, that a critical concern in 2016 had been to establish that the programme of development over the two plots had forward momentum, and this has undeniably been addressed and demonstrated within the actual progress of the development on site itself. The Applicant is therefore not now necessarily or reasonably asked at this stage for any timetable or timescale for the development for prior agreement.

Secondly, and with respect to the concerns that were raised in later 2016 about the need to avoid any overly suburban character of development it is also now possible to consider what has in fact been progressed on site in relation to what was approved under Planning Consent 15/01284/FUL, and the use of notably different colours of render does acceptably allow for the appropriate accommodation of the two houses on site, without any sense of these being within, or liable to contribute to any overly suburban form of development.

Accordingly, most of the matters that required clarification in November 2016 are essentially now addressed or capable of being established. However, the critical point was, and remains, that both the consented and proposed developments constitute, and prevail within, a context that is acceptable in terms of its impacts upon the character of the site and surrounding area. I am content that this is now the case. (I would note also that while the roadside trees in fact appear perfectly healthy notwithstanding the progress of development on 'Plot 1' and 'Plot 2', the Applicant does still have certain requirements outstanding with respect to their protection, and I am following up on these matters under separate cover relative to the requirements of Planning Consent 15/01284/FUL. However, on balance, I am content that this does not need to impede the progress of this application to determination, given that all other matters have now been addressed).

ACCOMMODATION OF A FOURTH HOUSE AT PYATFIELD

In addition to the position noted with respect to the accommodation of a fourth new house within the wider building group at Pyatshaw, there is - as noted above - a more specific issue with regard to the Planning Authority's previous consideration of a 'fourth house' over the land that was originally allocated for three houses ('Plot A', 'Plot B' and 'Plot C') at Pyatfield in 2003. Were the current application now to be approved, it would see a fourth house accommodated on an area of land which the decision reached in the case of Planning Application 04/02330/OUT appears to identify as being only suitable for the accommodation of three houses.

As noted above, Planning Application 04/02330/OUT which would have increased the number of dwellings accommodated on the land at Pyatfield (former 'Plot A', 'Plot B' and 'Plot C') from three to four houses (principally through a subdivision of 'Plot A' into two smaller plots) has already been refused. This decision was based in part, on the grounds that the insertion of an additional house within the consented scheme of three new houses on this land was perceived to be liable in principle, to affect adversely the form and appearance of the existing building group at Pyatshaw; principally through the contradiction of the dispersed form of settlement.

The current proposal does not replicate exactly either the form or the context of this previous refused proposal. As already noted, the refusal of Planning Application 04/02330/OUT took account of road network considerations then prevalent, which have now been addressed, and which are now no longer sustained by Roads Planning. There was also a concern at that time, that sufficient space should be accommodated within the three plots at Pyatfield for a more robust landscaping treatment around the boundaries of the plots. Such landscaping proposals had been indicated in support of the original outline planning applications for the three Pyatfield sites (Plots A, B and C) made in 2001, but the Planning Authority has long since accepted within its consideration of subsequent planning applications for the plots that an attenuated landscaping treatment would suffice. I would point out that a new tree belt might adversely affect light reaching 'Thimble Ha' and would be introducing new trees within and between properties in the building group at Pyatshaw. However, notwithstanding, if the current application were now approved, it would still see a fourth house accommodated on an area of land which had previously only been identified as being suitable for three new houses.

The overarching concern at the time of the refusal of Planning Application 04/02330/OUT appears to have been to avoid a character of development that would otherwise be considered unsympathetic to the character of the wider building group at Pyatshaw. However, I am not inclined to consider that the plot sizes of 'Plot 1', 'Plot 2' or 'Plot 3' are unreasonable in themselves and are in line with other plot sizes within the building group. Moreover, the decision reached in the case of Planning Application 04/02330/OUT is itself somewhat ambivalent with respect to the size of the plots, and does not clarify specifically what in design terms, if anything, would be inherently unacceptable about the accommodation of a fourth dwellinghouse on the land. It is likely though that the specific concern to subdivide one plot into two obviously under-sized plots was the main consideration.

Development at Pyatshaw, although dispersed, tends to be encountered sequentially on slopes, and amid stands of trees. There are actually considerable differences in the sizes of plots within the group, but this does not tend to be readily appreciable as a consequence of the building group's form and setting. Density moreover, tends to vary from one area of the building group to the other.

Notwithstanding the implications of the decision reached in the case of Planning Application 04/02330/OUT then, I do not consider that an objection in principle to the accommodation of a fourth house on the wider Pyatfield ('Plot A-Plot B'-Plot C') site is in itself reasonably justified or sustained. It might reasonably be allowed that the specific design and landscaping treatment could deliver an appropriate and sympathetic addition to the building group at this point, and I am content that this is reasonably the case, within the consideration of the form and context of the current proposal.

It might be added to the current assessment, that the former 'Plot A' (the subject of a consent that was implemented) included a section of land that wrapped around the rear boundaries of 'Thimbleha'. This area of land has now been omitted from all of the new successor proposals on 'Plot 1', 'Plot 2' and 'Plot 3'. I consider that this omission is a highly positive development in itself. The current versions of 'Plot 1', 'Plot 2' and 'Plot 3' are, I consider, significantly more sympathetic to the character and amenity of the building group than any reinstatement of the exaggerated depth and wrap-around of 'Plot A'. As far as the form and character of the building group is concerned, the maintenance of the exclusion of that area of land from the identified extent of residential development at Pyatfield, would be more strongly in the interests of conserving the character and setting of the building group than maintaining an objection in principle to a fourth house in this location.

Taking account of all of the above, I am not ultimately inclined to any view that the addition of a fourth house at Pyatfield would be, or should be considered, unacceptable in its principle - at least not where it can be accommodated, fronting the public road, 'side-by-side' with existing properties, and without any significant exaggeration in its depth beyond, and/or behind, existing properties.

The concern I consider, is then more reasonably with whether or not the specific proposal could be accommodated acceptably in design terms, without this having any unacceptable impacts upon the character of the building group and surrounding area.

LAYOUT, DESIGN AND LANDSCAPING

In the case of the current proposal, it is proposed that the 'fourth house' would be accommodated on a plot of similar size to 'Plot 1' and 'Plot 2', with its siting and alignment informed by the siting of the dwellings on these neighbouring plots. As such, it would inhabit the same design approach employed within these neighbouring properties, and is capable of successfully forming a third dwelling within a group of three.

One downside to this approach however - and a point that the Applicant was originally asked to consider - is the potential for this to have an overly-suburban appearance through the creation of an obviously repeating design and layout over more than two properties.

While two houses of a similar design might in their scale, be accommodated within a building group without this being liable to appear too urban/suburban in character, the accommodation of a third similarly-sized, laid-out, and designed house, within any almost equi-distant spacing from its neighbours, does rather risk giving the visual impression of an urban or suburban scheme transplanted into the countryside, particularly where such a regimented appearance is visible from within the surrounding landscape.

These matters were, as noted, raised with the Applicant back in 2016 and have now been addressed to a good extent within the materials and finishes of the dwellings as these have been built on 'Plot 1' and 'Plot 2' such that it would appear to be readily possible for the proposed house to be given a notably different character to these other properties through similar differences in colours and materials. I am content that this has been achieved sufficiently well within the existing two houses on 'Plot 1' and 'Plot 2', and the same approach is possible within the agreement of the finishes and materials of a third house, which can be regulated under a similarly worded planning condition to that which was imposed upon Planning Consent 15/01284/FUL.

Furthermore, landscaping both on site and further afield, has potential to break up or screen out (at least delimit) more expansive views of the three properties 'side-by-side'; and might otherwise counteract any notably repetitive or homogeneous appearance. In this specific case, there is potentially also some mitigation, firstly, within changes in levels between the three plots, which would be liable to counteract any impression of an overly-regimented scheme of obviously similar houses. Secondly, there is potential to maintain the existing screen of roadside trees, which would interrupt, if not screen out, any more expansive views from the public road, and from the west. There is, and remains a concern under Planning Consent 15/01284/FUL that these trees should be appropriately surveyed and then protected so that they can continue in the long-term, as landscape features. This matter is addressed, and requires to be addressed, under Planning Consent 15/01284/FUL. As such, only an informative is reasonably imposed to remind the Applicant of this matter. However, it would be reasonable to impose a new condition to ensure that the trees are generally protected for the duration of development on Plot 3, given that the development of the house that is currently proposed is obviously not regulated under Planning Consent 15/01284/FUL.

Furthermore, given that there is now only space for three relatively equally-sized and equally-spaced properties on the land fronting the public road in between 'Whittleknowe' and 'Thimbleha', there is also reassurance that there would not be any further physical capacity on the land for the accommodation of any greater number of similarly-sized and designed houses than three - and no promotion of any wider, greater development as a direct consequence of any approval of the current application. Accordingly, approval of the current proposal would not in itself, reasonably promote the development of any greater or wider scheme of similarly-sized and designed houses.

Ultimately I am content that there are sufficient opportunities within the consideration of the details of the proposal to prevent a suburban character of development becoming dominant within the three houses, particularly now that the character of the other two dwellings on 'Plot 1' and 'Plot 2' has been established. As such, equivalent planning conditions with respect to the regulation of site levels, finished materials and colours, as well as landscaping, would all be appropriately applied to any planning consent issued to ensure a satisfactory form of development.

RESIDENTIAL AMENITY

The site lies adjacent to the boundary of an existing residential property, the former converted youth centre ('Thimbleha'). Although there would be an acceptable distance of set back of the proposed house from the existing converted building, the boundary is unscreened by any existing trees or high vegetation. Further, by being upslope of this neighbouring property, the proposed dwellinghouse would also be liable to be higher than land within the existing property, raising a concern that it might be liable to overlook an area of garden ground, principally that area which was previously the former schoolyard. However, it is material that this area is currently already open in views from the public road, and although it might otherwise have been appropriate to have sought the deletion or repositioning of a first floor dormer on the southwest elevation of the rear offshoot, it cannot be maintained that the impact would be unacceptable in the circumstances. Although it relates to a bedroom, the aforementioned dormer specifically lights an area of movement between the main bedroom area and an en suite and dressing room.

Of greater concern would be if any windows relating to principal rooms were to be installed on, or in a position in advance of, the main gable of the dwellinghouse which lies in much closer proximity to the boundary with 'Thimbleha'. No such windows are described within the proposed scheme, but Householder Permitted Development rights, if allowed, would enable new windows and potentially a new extension to be added to the aforesaid gable, which would then be liable to present such impacts. To this end, it would be appropriate to remove PD rights from this gable to ensure that appropriate scrutiny could be given to any proposals were the occupiers to seek to install any such windows in future.

With respect to overlooking from the garden area, a robust boundary treatment around the site, potentially even the hedge and fence proposed, would be liable to suffice, subject to the details being controlled. Such matters would be appropriately required and controlled by the standard landscaping planning condition, in any event.

I also note the Applicant's intention to retain a 4m wide strip of land to the southwest of the site, which would intervene between 'Plot 3' and 'Thimbleha'. This would be retained by the Applicant to accommodate a new access to the agricultural land that would remain within his ownership to the east of the site and Thimbleha. (In passing, I would note that it is a concern that this new access would be liable to impact roadside trees, potentially even requiring their removal, but a field access could be created here as proposed without requiring planning approval in itself. The public road at this point, is not a classified road). While this land might have been used for landscaping, the retention of this type of distance would in itself be conducive to the protection of the amenity of the garden ground at 'Thimbleha', in so far as it would not see the installation of any high boundary-feature or planting immediately adjacent to, and at a higher level than, the boundary of 'Thimbleha' while still allowing a robust landscaped boundary to be established to improve screening (and privacy) between the two properties (existing and proposed).

Given the existing open outlook of this boundary, and the lack of any high boundary at present between 'Thimbleha' and its surroundings, it is possible that the occupiers of the aforementioned property might themselves be concerned to retain a relatively open outlook to maximise daylight and therefore requiring a new tree belt or high shrub planting along this boundary, might be of greater concern. The point is not decisive in my consideration, but I would note that the owners and occupiers of 'Thimbleha' have not objected or expressed concerns with respect to the proposal, let alone the boundary treatment. I am content on balance that the agricultural access would be an appropriate use of this area of land between the two properties, while keeping the boundary fence and landscaping of the current proposal back a sufficient distance from the boundary with 'Thimble Ha' so as not to present any significant impacts upon the amenity of these neighbours.

The impacts between the proposed house and its other neighbours, including those on 'Plot 2' and 'Plot 1' raise no concerns. There is some potential for mutual overlooking between the garden ground areas of these contiguous properties but this is in line with expectations. Moreover, any future occupants of any of the properties would be well aware of the relationship between these properties. In short, I am content that the impacts are acceptable.

I am content that there would be no unacceptable impacts upon daylighting and sunlighting affecting any neighbouring properties. The property also lies to the north of 'Thimbleha' so loss of sunlight is minimal with respect to impacts upon this property, and its north-facing windows.

ACCESS AND PARKING

I note that the Roads Planning Section does not object subject to particular concerns being met. Since the access is shown to be off a lay-by already consented under Planning Consent 15/01284/FUL, this raises no concerns in principle, but conditions attached to any consent issued, would still reasonably require that the property should not be occupied until this same lay-by is first completed, since it is still possible for the proposal on 'Plot 3', if consented, to be occupied ahead of the house on 'Plot 2'.

Concerns identified at the time of Planning Consent 15/01284/FUL with respect to the treatment of roadside trees require to be addressed, but this position requires to be regularised relative to the approval issued under Planning Consent 15/01284/FUL.

OTHER CONCERNS

The issues noted by Environmental Health with respect to water supply and drainage are capable of being regulated by planning conditions and informatives. I do not anticipate any need for a planning condition being required to regulate the concern noted with respect to the biomass boiler. An informative would more reasonably address this requirement.

The Ecology Section seeks: (i) a Species Protection Plan for breeding birds (including provision for a pre-development supplementary survey and a mitigation plan where any works are proposed within the bird breeding season); and (ii) that no development should commence during the bird breeding season unless the development is implemented wholly in accordance with the approved SPP. Again, these measures are fully capable of being regulated by a suitably worded planning condition.

Development contributions would be capable of being secured by a legal agreement. The Applicant has indicated a preference for a S69 agreement in the event of the application being approved.

There is adequate provision for the management of bin storage at the site.

By way of a file-note, I would note that I have not been able to include one of the Applicant's drawings provided in December 2016, because it includes a 'ghost image' of a new house on other land within the near vicinity. This appears to be a genuine printing problem rather than any deliberate indication of a future house, but I consider that the drawing is reasonably omitted from anything that might be stamped approved under this consent since no such house is otherwise indicated or included within the supporting details.

CONCLUSION AND SUMMARY

Since it would result in a fourth dwellinghouse being accommodated within a building group that only has capacity to be expanded by up to three new-build dwellings within the current Local Development Plan Period, the proposal is contrary to planning policy. However, in this case, it is considered that the material considerations set out within this Report of Handling collectively and cumulatively, allow for an exceptional approval to be made in this specific case subject to appropriate planning conditions being applied to address the above highlighted.

REASON FOR DECISION :

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 the Report of Handling.

Recommendation: Approved - conditions, inform & LA

- 1 Notwithstanding the details supplied in support of the planning application, and unless otherwise agreed in writing by the Planning Authority in advance of the commencement of development:
(i) the roofing material shall be natural slate matching that of the dwellinghouses consented under Planning Consent 15/01284/FUL;

(ii) the external walls shall be finished in a wet dash render (and not dry dash render); and
(iii) the doors, patio doors, windows and glazing panels shall all be timber (and not uPVC).
Further, no development shall commence on either of the dwellinghouse hereby consented until precise details of the following have first been submitted to, and approved in writing by, the Planning Authority:

- (i) the precise details of the wet dash render (including colour);
- (ii) the windows (including design, opening mechanism and finished colour);
- (iii) the quoins, bands and sills (including materials and finished colours); and the
- (iv) finished colour of the external joinery.

Thereafter, the development shall only be implemented in accordance with the approved details.

Reason: To retain effective control over the development in the interests of ensuring an appearance that is appropriate and sympathetic to the rural character of the site and its setting.

- 2 The dwellinghouse hereby consented shall not be occupied for the first time until the water supply is fully functional. Unless otherwise agreed in writing by the Planning Authority in advance of the commencement of development, the water supply shall be from the public mains and not from any private water supply.
Reason: To ensure that the site is adequately serviced and fit for habitation prior to its occupation, and to retain appropriate control over aspects of the development that have not been detailed sufficiently well within the details provided in support of the planning application.
- 3 The dwellinghouse hereby consented shall not be occupied for the first time until:
(a) the parking and turning provision indicated on the approved drawings has first been completed, and is fully available for use by the occupants' vehicles; and
(b) the service lay-by consented under Planning Consent 15/01284/FUL, has first been completed in accordance with the details approved under that same aforementioned planning consent.
Reason: In the interests of road safety to ensure that provision for the parking and turning of occupants' vehicles is complete and available for use prior to the occupation of that property.
- 4 Notwithstanding the details submitted in support of the planning application, the development hereby consented shall not be commenced until a scheme of details has first been submitted to, and approved in writing by, the Planning Authority, which describes:
(i) the proposed finished floor level height of the dwellinghouse hereby consented;
(ii) the existing and proposed finished ground levels throughout the application site; and
(iii) a clearly identifiable datum point, or clearly identifiable datum points, located outwith the site and sufficient for the purpose of establishing the heights of the proposed finished floor level, existing ground levels and proposed finished ground levels relative to the level of the existing streetscape.
Thereafter the development shall only be implemented in full accordance with the approved details.
Reason: To ensure that the consented development does not have any unacceptable impacts upon the amenity of neighbouring properties and/or any detrimental impacts upon the appearance of the surrounding landscape as a consequence of the levels within the site being raised or lowered to any inappropriate heights.
- 5 Notwithstanding the details submitted in support of the planning application, and unless otherwise agreed in writing by the Planning Authority and in advance of the commencement of development, no trees (including canopies and Root Protection Areas) within, on, overhanging and/or rooting under, the site boundary, shall be felled, lopped, lifted or disturbed in any way during the development hereby approved. Further, all existing trees shall be fully protected in accordance with the requirements of BS 5837:2012 and all measures required on-site to protect these trees for the duration of construction works, shall be maintained in accordance with the requirements of BS 5837:2012. There shall be no storage of plant or machinery within the Root Protection Areas (RPAs) of these same trees, and there shall be no services installed within their RPAs unless such works are compliant with NJUG Guidelines. (Please see Informative Note 1 for additional and related information).
Reason: The existing trees represent an important visual feature which the Planning Authority considers should be substantially maintained due to their positive contribution to the amenity, character and appearance of the surrounding area, and their capacity to screen, or partially screen, views of the development from out with the site.

- 6 The development hereby approved shall not take place except in strict accordance with a scheme of hard and soft landscaping works. The details of this scheme shall first have been submitted to, and approved in writing by, the Planning Authority before the commencement of development. Details of the scheme shall take full account of the advice and guidance of Informative Note 2; shall be consistent with the information requirements of Planning Conditions Nos 4 and 5 of this same planning consent; and shall include:
- (i) existing landscaping features and vegetation to be retained and, in the case of damage, restored;
 - (ii) location and design (including heights and materials) of any proposed walls, fences and gates;
 - (iii) soft and hard landscaping works, including all new trees, shrubs, hedges and grassed areas;
 - (iv) existing and proposed services such as cables, pipelines, sub-stations;
 - (v) a schedule of plants relating to point iii, above, including details of species, plant sizes and proposed numbers/density; and
 - (vi) a programme for completion and subsequent maintenance of the new planting.
- Thereafter, the landscaping shall be implemented and thereafter maintained in accordance with the approved details.
- Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.
- 7 Surface water drainage shall be designed to comply with PAN 61 and CIRIA SUDs manual C697, and shall be designed and installed to maintain surface water run-off from the site (including from all areas of hard standing) at, or below, greenfield levels. Further, the dwellinghouse hereby approved shall not be occupied until the surface water drainage system has been completed and is fully functional.
- Reason: To ensure the sustainable disposal of surface water and avoid additional run-off from the site to neighbouring properties.
- 8 Notwithstanding the details submitted in support of the planning application, no development shall be commenced until details of the proposed foul drainage arrangements have first been submitted to, and approved in writing by, the Planning Authority. These shall include details of how it is proposed that these arrangements would be maintained in a serviceable condition in the long-term service of the dwellinghouse hereby consented. Following approval, the foul drainage arrangements shall be implemented, and thereafter maintained, in accordance with the approved details. Further, the dwellinghouse hereby approved shall not be occupied until the approved foul drainage system is complete and is fully functional. Please see Informative Note 4 for related advice and guidance.
- Reason: To ensure that the site is adequately serviced and fit for habitation prior to its occupation, and that the development does not have any detrimental effects on amenity and public health.
- 9 No development shall commence during the breeding bird season (that is, during the period from 01 March to 31 August, inclusive) unless the development is implemented and commenced wholly in accordance with a Species Protection Plan for breeding birds that itself has first been submitted to, and approved in writing by, the Planning Authority and before or during the breeding bird season in which the development is actually commenced. Following approval of the Species Protection Plan, both the development and the Species Protection Plan shall only be carried out in accordance with the same approved Species Protection Plan. All measures required by the approved Species Protection Plan shall all be implemented and operated in full, and in accordance with the approved details.
- Reason: To prevent unnecessary disturbance to birds during the breeding season.
- 10 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 (or any subsequent provisions amending or re-enacting that Order) there shall be no alterations, addition(s) or extension(s) to the South West Elevation of the main gable of the dwellinghouse hereby permitted (including the insertion of any new windows, doors or other openings or any glazed panels within that same gable elevation) unless an application for planning permission in that behalf has first been submitted to, and approved by, the Planning Authority.
- Reason: To safeguard the residential amenity of the residential property, including the garden ground, at 'Thimbleha'.

Informatives

It should be noted that:

1 INFORMATIVE NOTE 1:

Please note that the works to install the service lay-by shared between 'Plot 3' and 'Plot 2' are regulated under Planning Condition 5 attached to Planning Consent 15/01284/FUL, which includes the requirement that all impacts upon trees should be identified in advance of these works, and appropriate protection to conserve all trees to be retained, should be implemented ahead of these works taking place.

2 INFORMATIVE NOTE 2:

Planting plans must provide sufficient information to be enforceable, by detailing the following:

- i.) Plan is to an identified true scale (e.g. 1:200).
- ii.) Boundary of the application site is clearly marked.
- iii.) Site orientation is indicated by a North point or OS grid lines.
- iv.) All existing trees, shrubs and hedges to be retained are clearly marked.
- v.) Take account of site factors such as slope, aspect, soil conditions, proximity of buildings and minimum distances from pipe and cable runs, when choosing planting positions. Where necessary, seek professional landscape advice.
- vi.) Planting positions are clearly marked showing individual trees and shrubs and / or planting area boundaries using dimensions as necessary.
- vii.) All species of plants identified using their full botanical name (e.g. oak - *Quercus robur*)
- viii.) All plant numbers to be identified individually or by group or area as appropriate. Species mixes can be identified by percentages and an overall number or a specified area and a planting density (e.g. *Betula pendula* 30%, *Quercus robur* 70%, 120 square metres @ 1 plant per 4 square metres = 9 *B. pendula* & 21 *Q. robur*)
- ix.) A planting schedule identifies all the proposed planting by species and specification indicating size and nature of plants to be used (e.g.: Extra heavy standard tree 14-16cms girth or shrub 60-75cms high in 2 litre pot.)
- x.) Notes on the plan describe how the planting is to be carried out and maintained to ensure successful establishment.
- xi.) The plan indicates when the work will be completed and ready for inspection taking account of planting seasons (e.g. November to end March each year for bare rooted plants).

N.B. Planting conditions are only discharged following an inspection of the completed work.

Please also note that the programme for completion and subsequent maintenance must include action points describing actions that will definitely be taken by the Applicant, and must also note precisely when these are to be carried out (i.e. definite actions to be carried out at clearly identifiable times). Use of ambiguous, vague or otherwise non-committal words or phrases (including "should", "could" or "may") must be avoided in favour of words and phrases that are clear and definite (such as "will" and "shall") when detailing these actions that the Applicant will carry out. A critical concern is that the detail and timing of the measures are capable of being checked if necessary by a third party, rather than left as discretionary or optional. In the event that proposed actions are described in ambiguous or non-committal terms, the Planning Authority reserves the right to require that the details be amended to address the above noted concerns, and/or to impose its own regulation within any approval it issues of such details, for the purpose of ensuring that it is clear for record purposes what the actions to be taken are, and when these are to occur.

3 INFORMATIVE NOTE 3:

As the plot is lower than the existing public road, the Applicant should satisfy themselves that they have adequate proposals in place to deal with any surface water which may flow from the adjacent

public road. It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

4 **INFORMATIVE NOTE 4:**

Private drainage systems often cause public health problems when no clear responsibility or access rights exist for maintaining the system in a working condition. Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law. To discharge the Condition (No 8) relating to the private drainage arrangements, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified.

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

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**Town and Country Planning (Development Management Procedure) (Scotland) Regulations
2013****Application for Planning Permission****Reference : 16/01180/FUL****To : Mr And Mrs A Webster per MKT Design Beechwood Pyatshaw Lauder Scottish Borders TD2
6SH**

With reference to your application validated on **21st September 2016** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse with Integral garage**at : Plot 3 Land North West Of Whittlesknowe (Formerly Plot A) Pyatshaw Lauder**

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, subject to the following direction:

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

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

**Dated 7th November 2018
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed**Depute Chief Planning Officer**

APPLICATION REFERENCE : 16/01180/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
002	Location Plan	Approved
001	Site Plan	Approved
001	Elevations	Approved
V001	Sections	Approved

REASON FOR DECISION

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 the Report of Handling.

SCHEDULE OF CONDITIONS

- Notwithstanding the details supplied in support of the planning application, and unless otherwise agreed in writing by the Planning Authority in advance of the commencement of development:

 - (i) the roofing material shall be natural slate matching that of the dwellinghouses consented under Planning Consent 15/01284/FUL;
 - (ii) the external walls shall be finished in a wet dash render (and not dry dash render); and
 - (iii) the doors, patio doors, windows and glazing panels shall all be timber (and not uPVC).

Further, no development shall commence on either of the dwellinghouse hereby consented until precise details of the following have first been submitted to, and approved in writing by, the Planning Authority:

 - (i) the precise details of the wet dash render (including colour);
 - (ii) the windows (including design, opening mechanism and finished colour);
 - (iii) the quoins, bands and sills (including materials and finished colours); and the
 - (iv) finished colour of the external joinery.

Thereafter, the development shall only be implemented in accordance with the approved details.

Reason: To retain effective control over the development in the interests of ensuring an appearance that is appropriate and sympathetic to the rural character of the site and its setting.
- The dwellinghouse hereby consented shall not be occupied for the first time until the water supply is fully functional. Unless otherwise agreed in writing by the Planning Authority in advance of the commencement of development, the water supply shall be from the public mains and not from any private water supply.

Reason: To ensure that the site is adequately serviced and fit for habitation prior to its occupation, and to retain appropriate control over aspects of the development that have not been detailed sufficiently well within the details provided in support of the planning application.

- 3 The dwellinghouse hereby consented shall not be occupied for the first time until:
 - (a) the parking and turning provision indicated on the approved drawings has first been completed, and is fully available for use by the occupants' vehicles; and
 - (b) the service lay-by consented under Planning Consent 15/01284/FUL, has first been completed in accordance with the details approved under that same aforementioned planning consent.

Reason: In the interests of road safety to ensure that provision for the parking and turning of occupants' vehicles is complete and available for use prior to the occupation of that property.

- 4 Notwithstanding the details submitted in support of the planning application, the development hereby consented shall not be commenced until a scheme of details has first been submitted to, and approved in writing by, the Planning Authority, which describes:
 - (i) the proposed finished floor level height of the dwellinghouse hereby consented;
 - (ii) the existing and proposed finished ground levels throughout the application site; and
 - (iii) a clearly identifiable datum point, or clearly identifiable datum points, located outwith the site and sufficient for the purpose of establishing the heights of the proposed finished floor level, existing ground levels and proposed finished ground levels relative to the level of the existing streetscape.

Thereafter the development shall only be implemented in full accordance with the approved details.

Reason: To ensure that the consented development does not have any unacceptable impacts upon the amenity of neighbouring properties and/or any detrimental impacts upon the appearance of the surrounding landscape as a consequence of the levels within the site being raised or lowered to any inappropriate heights.

- 5 Notwithstanding the details submitted in support of the planning application, and unless otherwise agreed in writing by the Planning Authority and in advance of the commencement of development, no trees (including canopies and Root Protection Areas) within, on, overhanging and/or rooting under, the site boundary, shall be felled, lopped, lifted or disturbed in any way during the development hereby approved. Further, all existing trees shall be fully protected in accordance with the requirements of BS 5837:2012 and all measures required on-site to protect these trees for the duration of construction works, shall be maintained in accordance with the requirements of BS 5837:2012. There shall be no storage of plant or machinery within the Root Protection Areas (RPAs) of these same trees, and there shall be no services installed within their RPAs unless such works are compliant with NJUG Guidelines. (Please see Informative Note 1 for additional and related information).

- Reason: The existing trees represent an important visual feature which the Planning Authority considers should be substantially maintained due to their positive contribution to the amenity, character and appearance of the surrounding area, and their capacity to screen, or partially screen, views of the development from out with the site.

- 6 The development hereby approved shall not take place except in strict accordance with a scheme of hard and soft landscaping works. The details of this scheme shall first have been submitted to, and approved in writing by, the Planning Authority before the commencement of development. Details of the scheme shall take full account of the advice and guidance of Informative Note 2; shall be consistent with the information requirements of Planning Conditions Nos 4 and 5 of this same planning consent; and shall include:
 - (i) existing landscaping features and vegetation to be retained and, in the case of damage, restored;

(ii) location and design (including heights and materials) of any proposed walls, fences and gates;
 (iii) soft and hard landscaping works, including all new trees, shrubs, hedges and grassed areas;
 (iv) existing and proposed services such as cables, pipelines, sub-stations;
 (v) a schedule of plants relating to point iii, above, including details of species, plant sizes and proposed numbers/density; and
 (vi) a programme for completion and subsequent maintenance of the new planting.
 Thereafter, the landscaping shall be implemented and thereafter maintained in accordance with the approved details.

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

- 7 Surface water drainage shall be designed to comply with PAN 81 and CIRIA SUDs manual C697, and shall be designed and installed to maintain surface water run-off from the site (including from all areas of hard standing) at, or below, greenfield levels. Further, the dwellinghouse hereby approved shall not be occupied until the surface water drainage system has been completed and is fully functional.

Reason: To ensure the sustainable disposal of surface water and avoid additional run-off from the site to neighbouring properties.

- 8 Notwithstanding the details submitted in support of the planning application, no development shall be commenced until details of the proposed foul drainage arrangements have first been submitted to, and approved in writing by, the Planning Authority. These shall include details of how it is proposed that these arrangements would be maintained in a serviceable condition in the long-term service of the dwellinghouse hereby consented. Following approval, the foul drainage arrangements shall be implemented, and thereafter maintained, in accordance with the approved details. Further, the dwellinghouse hereby approved shall not be occupied until the approved foul drainage system is complete and is fully functional. Please see Informative Note 4 for related advice and guidance.

Reason: To ensure that the site is adequately serviced and fit for habitation prior to its occupation, and that the development does not have any detrimental effects on amenity and public health.

- 9 No development shall commence during the breeding bird season (that is, during the period from 01 March to 31 August, inclusive) unless the development is implemented and commenced wholly in accordance with a Species Protection Plan for breeding birds that itself has first been submitted to, and approved in writing by, the Planning Authority and before or during the breeding bird season in which the development is actually commenced. Following approval of the Species Protection Plan, both the development and the Species Protection Plan shall only be carried out in accordance with the same approved Species Protection Plan. All measures required by the approved Species Protection Plan shall all be implemented and operated in full, and in accordance with the approved details.

Reason: To prevent unnecessary disturbance to birds during the breeding season.

- 10 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 (or any subsequent provisions amending or re-enacting that Order) there shall be no alterations, addition(s) or extension(s) to the South West Elevation of the main gable of the dwellinghouse hereby permitted (including the insertion of any new windows, doors or other openings or any glazed panels within that same gable elevation) unless an application for planning permission in that behalf has first been submitted to, and approved by, the Planning Authority.

Reason: To safeguard the residential amenity of the residential property, including the garden ground, at 'Thimbleha'.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

1 INFORMATIVE NOTE 1:

Please note that the works to install the service lay-by shared between 'Plot 3' and 'Plot 2' are regulated under Planning Condition 5 attached to Planning Consent 15/01284/FUL, which includes the requirement that all impacts upon trees should be identified in advance of these works, and appropriate protection to conserve all trees to be retained, should be implemented ahead of these works taking place.

2 INFORMATIVE NOTE 2:

Planting plans must provide sufficient information to be enforceable, by detailing the following:

- i.) Plan is to an identified true scale (e.g. 1:200).**
- ii.) Boundary of the application site is clearly marked.**
- iii.) Site orientation is indicated by a North point or OS grid lines.**
- iv.) All existing trees, shrubs and hedges to be retained are clearly marked.**

v.) Take account of site factors such as slope, aspect, soil conditions, proximity of buildings and minimum distances from pipe and cable runs, when choosing planting positions. Where necessary, seek professional landscape advice.

vi.) Planting positions are clearly marked showing individual trees and shrubs and / or planting area boundaries using dimensions as necessary. vii.) All species of plants identified using their full botanical name (e.g. oak - Quercus robur)

viii.) All plant numbers to be identified individually or by group or area as appropriate. Species mixes can be identified by percentages and an overall number or a specified area and a planting density (e.g. Betula pendula 30%, Quercus robur 70%, 120 square metres @ 1 plant per 4 square metres = 9 B. pendula & 21 Q. robur)

ix.) A planting schedule identifies all the proposed planting by species and specification indicating size and nature of plants to be used (e.g.: Extra heavy standard tree 14-16cms girth or shrub 60-75cms high in 2 litre pot.)

x.) Notes on the plan describe how the planting is to be carried out and maintained to ensure successful establishment.

xi.) The plan indicates when the work will be completed and ready for inspection taking account of planting seasons (e.g. November to end March each year for bare rooted plants).

N.B. Planting conditions are only discharged following an inspection of the completed work.

Please also note that the programme for completion and subsequent maintenance must include action points describing actions that will definitely be taken by the Applicant, and must also note precisely when these are to be carried out (i.e. definite actions to be carried out at clearly identifiable times). Use of ambiguous, vague or otherwise non-committal words or phrases (including "should", "could" or "may") must be avoided in favour of words and phrases that are

clear and definite (such as "will" and "shall") when detailing these actions that the Applicant will carry out. A critical concern is that the detail and timing of the measures are capable of being checked if necessary by a third party, rather than left as discretionary or optional. In the event that proposed actions are described in ambiguous or non-committal terms, the Planning Authority reserves the right to require that the details be amended to address the above noted concerns, and/or to impose its own regulation within any approval it issues of such details, for the purpose of ensuring that it is clear for record purposes what the actions to be taken are, and when these are to occur.

3 INFORMATIVE NOTE 3:

As the plot is lower than the existing public road, the Applicant should satisfy themselves that they have adequate proposals in place to deal with any surface water which may flow from the adjacent public road. It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

4 INFORMATIVE NOTE 4:

Private drainage systems often cause public health problems when no clear responsibility or access rights exist for maintaining the system in a working condition. Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law. To discharge the Condition (No 8) relating to the private drainage arrangements, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 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 at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable. A form is enclosed with this decision notice for this purpose.

Notice of Completion of Development