APPLICATION FOR PLANNING PERMISSION

ITEM: REFERENCE NUMBER: 18/01635/FUL

OFFICER: Mr Scott Shearer
WARD: Mid Berwickshire
PROPOSAL: Erection of 57 No dwellinghouses and associated infrastructure
SITE: Land North East Of The Berwickshire High School
Langtongate
Duns
APPLICANT: Springfield Properties PLC
AGENT: N/A

PLANNING PROCESSING AGREEMENT: This application has a PPA which seeks determination at the P&BS Committee on the 2nd September 2019. Provision has been made within the PPA in the event the application is continued for it to be presented at the next available committee meeting on the 7th October 2019.

SITE DESCRIPTION

The application site is grass land measuring 1.8Ha in size and is broadly rectangular in shape. The site is located to the western end of Duns in between Berwickshire High School which lies to the west and Reiver Garage Ltd and paddock grounds to the east. Access is provided to the north from the A6105. A culverted section of the Bluidy Burn flows along the southern boundary of the site with a culverted connection to the burn also running along the eastern boundary of the site. The Category B Listed former Berwickshire High School (now Duns Primary School) is located across the road to the north. The Category B Listed Duns Castle South Lodge and the castle gateway are located to the north east. The initial northern part of the site slopes quite steeply from Langton Gate road before the site slopes more gently towards the south east.

PROPOSED DEVELOPMENT

The application seeks consent for a 57 unit affordable housing residential development. A range of semi-detached, terraced and cottage flat dwellings are proposed. The buildings are of a two storey scale. A new access is to be formed onto the A6105. A pumping station, storm cell and swale are located along the southern boundary of the site. Some areas of planting are located throughout the site.

PLANNING HISTORY

The site was included as part of the development site for the new Berwickshire High School under applications 05/00266/OUT and 06/00496/FUL. Subsequently this land was not required and no longer forms part of that development.

Application 14/01110/FUL sought consent for the development of a Class 1 food store, parking area and associated works. This application was refused under delegated

...
powers on grounds that the development would have a detrimental impact on Duns town centre and the development would pose road and pedestrian safety issues.

**REPRESENTATION SUMMARY**

No third party representations have been received.

**APPLICANTS’ SUPPORTING INFORMATION**

The applicants have submitted the following information in support of the application;

- Design and Access Statement
- Planning Statement
- Transport Assessment
- Drainage Assessment
- Flood Risk Assessment
- Ecology Report
- Ground Investigation Report
- PAC Report

**DEVELOPMENT PLAN POLICIES:**

**Scottish Borders Council Local Development Plan 2016**

PMD1: Sustainability
PMD2: Quality Standards
PMD3: Land Use Allocations
HD1: Affordable and Special Needs Housing
HD3: Protection of Residential Amenity
EP1: International Nature Conservation Sites and protected Species
EP2: National Nature Conservation and Protected Species
EP3: Local Biodiversity
EP7: Listed Buildings
EP9: Conservation Area
EP10: Gardens and Designed Landscapes
IS2: Developer Contributions
IS5: Protection of Access Routes
IS6: Road Adoption Standards
IS7: Parking Provision and Standards
IS8: Flooding
IS9: Waste Water Treatment and Sustainable Urban Drainage

**OTHER PLANNING CONSIDERATIONS:**

**Supplementary Guidance**

- Housing (2017)
- Affordable Housing (2015)
- Waste Management (2015)
- Development Contributions (2011) updated January 2019
- Placemaking and Design (2010)
- Landscape and Development (2008)
- Biodiversity (2005)
Strategic Housing Investment Plan (SHIP) 2018 - 2023
Scottish Planning Policy (SPP) 2014
Designing Streets - A Policy Statement for Scotland 2010
Planning Advice Note 69: Planning and Building Standards Advice on Flooding

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Access Officer: There are no rights of way or core paths within this site. Core paths and other routes which are located adjacent to the site including a promoted safe route to school which runs along the west of the site. These routes should remain open and unobstructed at all times. Informatives are recommended to seek that the development links to the school path to the west and a developer contribution of £400 per units is sought towards the continued maintenance and promotion of paths in central Berwickshire.

Ecology Officer: The submitted ecological walk over survey is satisfactory. There is some limited potential for connectivity from the site to the River Tweed SAC via the Bluidy Burn. Impacts from the development to the SAC are judged to be highly unlikely. No evidence of protected species have been recorded within the site. The site may support breeding birds, lizards, frogs, toads but is unlikely to support Great Crested Newt. Development of the site would result in habitat loss therefore mitigation in the form of ecological surveys, pollution prevention and habitat management plans are recommended.

Flood Risk and Coastal Management: Object. The FRA identifies that the culverted Bluidy Burn to the south of the site has a significantly insufficient capacity to accept the flow of a 1 in 200 year flood event. Figure 8 of the FRA shows that the culvert would over top and flood waters would inundate a large section of the site where development is proposed. The site is also at risk of surface water flooding from the north. The low lying and marsh vegetation of the site also make it susceptible to ground water flooding. To address flood risk concerns further consideration of flood mitigation is required which includes the need to raise the FLLs of the residential properties in the northern part of the site to a suitable level to ensure that they are free from flood risk.

The proposed drainage discharge of surface water to the Bluidy Burn is also not acceptable as the culvert has no additional capacity and this would present a significant flood risk to the site. An alternative option is required.

Forward Planning: The application relates to a parcel of land to the west of a larger site which is allocated for housing in the LDP. As part of the allocation process no formal objections were raised regarding potential flood risk within the overall allocation. A site requirement was attached to the allocation requiring flood risk to be assessed. This is a detailed investigation which cannot be fully assessed at LDP allocation stage. A flood risk assessment has accompanied this application and concludes that the southern part of the site is at risk of flooding. The FRA has not assessed the rest of the allocated site however it does indicate that the eastern part of the allocated site sits higher than the southern part of the application site. Therefore, there is scope for the northern part of this application site and the remainder of the allocated site to be
developed subject to more site specific assessment of the whole allocation to clarify which parts of the site are developable.

**Housing Strategy:** The site has not been brought forward in the SHIP and there are a number of other sites which are already prioritised in Duns. There is not understood to be any commitment made by any locally active RSL’s to deliver this development until it has been proven that there is sufficient local demand.

**Refuse Collection:** The layout of the development is not considered to raise refuse collection issues.

**Roads Planning Service (RPS):** Object. The principle of the development is supportable and the development links to other allocated and longer term potential development opportunities. The TA confirmed that the access on to the A6105 could serve up to 640 houses. If future development phases were to come forward traffic lights and a pedestrian crossing may be required.

The site provides good pedestrian/cycle connectivity which could be further improved by providing a link to the existing footpath to the west. Car parking numbers are appropriate.

Concerns have been raised that the internal street design is over engineered and should have more properties directly addressing the street instead of turning away from the spine road through the site leaving it with little street presence. It is recommended that this layout fails to create a sense of place or provide suitable pedestrian priority. This is contrary to policy PMD2 of the Local Development Plan 2016 in that it does not comply with the Scottish Government Policy Statement ‘Designing Streets’ and the Council’s ‘Placemaking & Design SPG.

**Statutory Consultees**

**Duns Community Council:** No objection. Suggest that traffic lights should be introduced to provide a controlled crossing point for school pupils.

**Scottish Environmental Protection Agency:** Object on grounds that the development may place buildings and people at flood risk. Recommend that;

- Part of the application site lies within an area which is at categorised of being at medium to high risk of flooding from a 1 in 200 year flood event from the Bluidy Burn. Figure 8 shows the functional floodplain of the burn. No build development or land rising should take place within the functional floodplain. Site photographs and descriptions describe the southern part of the site as being low lying and marshy which indicates that this ground may also be at risk of ground water flooding.
- A 375mm culvert runs along the eastern boundary of the site. Multiple plots are located along this part of the site and should there be any problems with the culvert (e.g. collapse) then the responsibility would lie with the individual owner to fix their section which is not sustainable. Recommend that no built development should take place over an active culvert.
- If development outwith the functional floodplain were to be approved then the FFL should be set a minimum of 600mm above the 1 in 200 year flood level e.g. 119.2mAOD.

If the planning authority were to grant planning permission contrary to this advice, the application would be required to be referred to the Scottish Ministers under the Town and Country Planning (notification of Applications) (Scotland) Direction 2009.
KEY PLANNING ISSUES:

Whether the proposals would represent a suitable development on an allocated housing site within the Duns settlement boundary and whether the proposed development would be acceptable in terms of design, road safety, flood risk, residential amenity, site services, ecology and impact on the setting of Listed Buildings, the conservation area and Duns Castle Garden and Designed Landscape.

ASSESSMENT OF APPLICATION:

Principle

The application site occupies the western third of a much larger site which extends to 4.4ha and which has been allocated for housing within the Local Development Plan (LDP) under Site reference ADUNS023. The site is allocated for residential development with an indicative capacity of 60 units.

This application is required to be assessed principally against Policy PMD3 of the LDP which seeks to ensure that allocated sites are developed in accordance with their land use allocations. A residential development on this site would, in principle, comply with the land use allocated in the LDP.

A range of Site Requirements are listed in the allocation which cover; vehicle access, integration with existing access routes, ground condition investigation, flood risk investigation and screen planting. The detailed consideration of the site requirements, which are discussed in more detail below, will determine whether or not the proposals represents an appropriate form development on an allocated site.

Flooding

In accordance with the Site Requirements, flood risk at this site has been investigated by a Flood Risk Assessment (FRA) which has been submitted as part of this application. Development plan policies on flooding which are covered by SPP and policy IS8 of the LDP both take a precautionary approach to prevent development in areas that would have a significant probability of flooding or increase probability elsewhere.

The culverted Bluidy Burn flows east to west directly to the south of the application site. A small culvert also runs through the eastern edge of the site which connects to this water course. The FRA identifies that the culverted Bluidy Burn has insufficient capacity to pass increased water levels predicted during a 1 in 200 year flood event which has a 0.5% annual probability of occurring. The culvert is expected to overtop with flood waters flowing through the low-lying part of the land. Land raising has taken place as part of the new Berwickshire High School development which would stop flood waters flowing further west. Figure 8 in the FRA illustrates that the southern half of the site falls within an area at risk of flooding. Because the site falls within the 1:200 year floor risk area, the flood risk framework contained within SPP classifies these areas to have a medium to high risk of being flooded.

A significant proportion of this development falls within the 1 in 200 year floodplain which confirms that all of the properties proposed within this part of the site would be at a significant risk of flooding. The siting of the development within this area has raised objections from both SEPA and the Council's Flood Risk Engineers. In addition, SEPA and the Council's FRO raise the following additional concerns:
All properties which are located out with the 1 in 200 area (i.e. the northern part of the site) are required to have finished floor levels which are raised a minimum 600mm above the flood level, e.g. 119.2mAOD. NB the FFLs for properties have been provided on the drainage layout (Drawing Nos DU10-ENG-005 AND DU-ENG-006) confirms that buildings are set at a suitable FFLs.

No built development should take place over an active culvert which runs along the eastern boundary of the site and goes through multiple plots. A corridor of no development should be maintained above the culvert to avoid ownership issues if problems arise (i.e. collapse).

The site is also at risk of surface water flooding from the north. The proposed access to the site from the A6105 is a low point where surface waters from the north will access the site.

The applicants have investigated the potential to provide off site works to mitigate the potential of the site being flooded by the Bluidy Burn during a 1 in 200 year flood event. Further mitigation to address the additional flood risk issues noted above were anticipated however correspondence from the agent has confirmed that the cost of these works has been found to be prohibitive and they have instructed the Planning Authority to determine the application as submitted. Consequently, the siting of this proposed development within the 1 in 200 year functional floodplain of the Bluidy Burn would place buildings and their occupiers at a significant risk of flooding which is contrary to policy IS8 and SPP and therefore cannot be supported. Additional flood risk concerns regarding siting dwellings over an active culvert and mitigation of surface water flooding from the A6105 have remained unresolved and would also pose a flood risk.

Members are reminded that an objection has been raised by SEPA and should the planning authority seek to grant planning permission contrary to their advice on flood risk, the application would be referred to the Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

Flood Risk Implications for allocation ADUNS023

When the wider site (ADUNS023) was allocated in the LDP, flooding was identified as a potential issue but the Council’s Forward Planning Team have confirmed that there were no formal objections raised regarding flood risk. It is not feasible to undertake detailed flood risk assessment at allocation stage. Instead it is normal practice to address potential flooding issues as part of a detailed planning application.

The FRA which has been carried out only extends to this application site and not the whole of allocation ADUNS023. Indeed it does confirm that the southern part of this site is at risk of flooding, however it also indicates that the northern part of the site which provides a key access point to the application site and wider allocation is out with the floodplain. Undoubtedly there is still likely to be some flooding issues within the remainder of allocation ADUNS023. Encouragingly, the FRA does acknowledge that the eastern part of the allocation occupies higher ground and that it has been possible to manage flood risk from the Bluidy Burn as part of the new Berwickshire High School development. The findings of the FRA may not have been positive for this development, nevertheless there are no suggestions that residential development cannot take place in the remainder of the allocated site and it may be possible that a co-ordinated development across the whole of the allocation can address the wider flood issue which has been identified.
Placemaking and Design

Policy PMD2 sets out the Council’s position in terms of quality standards for all new development and sets out specific criteria on Placemaking & Design. Concerns were raised by officers about the layout of the site and aspects of design of the dwellings. A productive meeting was held with the developers with solutions identified to improve the design response. It has since transpired that because the applicants were unable to resolve the flood risk issues that no amendments to the layout and building design were submitted. Therefore the application must be determined as it is presented.

Layout

The long, quite narrow shape of the site does direct the proposals to have a layout with a spine road running through the development. The layout provides good links to the adjoining land. The row of buildings which face towards Langtongate will create a strong street frontage on to Langtongate. Nevertheless the proposals have failed to provide any entrance feature to act as an arrival point. This may have been achieved by the inclusion of some stone walling at the entrance to reflect the setting of Duns Castle.

Within the layout, while there are changes in the geometry of the spine road, poor use has been made of the housing blocks to create delineation between public and private space. Buildings are often pushed back from the street to provide space for long rows of nose in parking bays or they are turned away from this main street which runs through the development. The siting of buildings fails to provide any termination and visual interest as the road changes direction. The layout has attempted to provide two squares at the northern and southern part of the site with some small open space next to these spaces. The failure to provide any active building frontages which face onto these spaces diminishes their role within the layout.

The proposed layout does not meet the standards set within Designing Streets or the Councils Placemaking and Design SPG. The layout is judged to lack any real street presence or focal points provided by any key buildings or public spaces and instead appears over-engineered and dominated by parked cars which would make pedestrian movements through the site challenging. Altogether the proposal would not provide a distinctive or attractive environment which results in the proposals lacking character and sense of place which conflicts with criteria h) of Policy PMD2.

House Design

The house designs are similar to those which were proposed by the applicants at their site currently under construction at Springfield Avenue in Duns (17/0993/FUL and 17/00994/FUL). The general form and proportions of the building types are broadly acceptable. However similar to the criticism of those earlier applications, some of the building designs lack features on principle elevations. These would be simple changes to include gable frontage details to break up roof expanses, alternative porch designs and elevation finishes which would improve the design response. The limitations of the building design means the proposals would not create an interesting sense of place or respect the character of the surrounding area and consequently conflicts with criteria h) of Policy PMD2.

The proposals seek to use a dark brick as one of the wall finishes. This is a secondary material finish but it is still important as it would add to the character of the development. Within this part of Duns, dark (grey coloured) facing brick is not a vernacular material and does not compliment the material finishes of the surrounding
area. Its use would fail to integrate the proposals with the character of the surrounding area where lighter coloured stone and are prevalent with some use of red brick on the Former Berwickshire High School. The remainder of the material finishes are suitable however a dark brick would not satisfy criteria j) of Policy PMD2.

**Landscaping**

The proposals provide some pockets of landscaping through the development. One of the requirements for the development of this allocated site is for the development to provide appropriate screen planting. The allocation identifies a planting strip to be provided down the south western boundary to protect the amenity of the school and at the north eastern corner where Plot 11 is proposed.

The development would utilise the mature planting on the adjacent boundary of the new High School and this would help screen the proposals on approach from the west. However the full extent of planting shown on the settlement profile within the LDP may not be necessary. A path does run through this adjacent planting area and along the boundary of this site and the current proposals would enclose this planting area with boundary fencing to the rear of properties. This would have an undesirable impact on this route and additional soft landscaping along this boundary of the site would be beneficial.

Failure to provide landscaping adjacent to Plot 11 would likely result in the amenity of the dwelling proposed in this location being adversely affected by the operations of the adjoining commercial garage and result in an undesirable relationship with this neighbouring use.

The primary purpose of the screen planting identified in the LDP was to protect the amenity of the residential properties to the north and school to the west. Given the context of this part of the allocation and its relationship with its neighbouring uses, it is considered that the lack of adequate levels of screen planting will be detrimental to the overall development and the amenity of proposed dwellings and would not assimilate the site into its surroundings. This would result in conflict with criteria m) of Policy PMD2.

**Access**

The proposals satisfy the vehicular requirements of this development by providing access directly from the A6105 to the north. The RPS is satisfied with the design of the proposed vehicular access.

The proposal does not impact on any rights of way although planning conditions could ensure that all surrounding pedestrian access routes adjacent to the development (including promoted safe access to school routes) remain open if Members are minded to approve the application.

**Residential Amenity**

No residential properties directly bound this site and the proposals are not found detract from the amenity of any neighbouring residential uses.

Within the site itself, the position and location of the proposed dwellings do not raise any residential amenity conflicts as set out in SBC approved guidance or required by Policy HD3 of the LDP.
Cultural Heritage

The site is located close to some important listed structures to the north, with the Conservation Area lying some 170m to the north east. Duns Castle Garden and Designed Landscape (GDL) also lies to the north of the site.

Poor design can impact on the setting of cultural heritage structures. Concerns have been raised about the design response of these proposals. These impacts do detract from the character and design of this scheme however they are not judged to adversely affect the setting of any neighbouring listed structures, the conservation area or the Duns Castle GDL. It is considered therefore that the development would not conflict with development plan policies covering these interests.

Ecology

The Councils ecologist has identified that the site may support habitats for some species. Development works would cause the loss of these habitats however it would be possible to mitigate these impacts through a combination of ecological surveys, pollution prevention and habitat management plans. Given that mitigation would be possible by planning condition if this development were recommended for approval, the proposals are not considered to conflict with biodiversity policies set out in the LDP.

Tenure

The proposed housing would comprise of 100% affordable housing development. Normally an affordable housing development of the scale proposed would be brought forward with a Registered Social Landlord (RSL) on board to establish that there is a demand for the housing numbers which are proposed. The Councils Housing Strategy team are not aware that any RSLs have committed to deliver this development. This site has not been included in the Strategic Housing Investment Plan 2018/23 as it does not form part of a RSLs current development programme. It is understood that RSLs are prioritising other development sites in Duns at this time.

The Councils SPG on Affordable Housing does promote the delivery of affordable housing using a variety of means such as shared equity, shared ownership, mid-market rent and subsidised low coast home ownership. Despite there not being any apparent RSL demand at this time for this development, if Members were minded to approve this application it would be possible to control the occupancy of the development for SBC compliant affordable housing tenures via planning condition.

Waste

Policy PMD2 requires that developments provide space for waste storage and that waste collection vehicles can adequate access the site.

The Councils Waste and Recycling advisor in Neighbourhood Services has confirmed that the site access and layout does not raise and refuse collection issues. Rear access for terraced properties has been provided so it will be possible for residents to take their waste bins to the street for collection. The proposals have provided space within their curtilage for bin storage.

Water Supply and Drainage

Policy IS9 of the LDP covers waste water treatment standards and sustainable urban drainage.
Foul drainage is to connect to the public sewer. There are no known foul drainage capacity issues which would prohibit this connection being made.

Water supply is to be provided from the public water supply. The application has been accompanied by a Flow and Pressure Test report which suggests that this development would not cause any adverse impacts on the local water supply.

Ultimately, water and drainage services would require confirmation in due course, and this could be ensured via standard planning condition and approval through the building warrant process.

Surface water from the development is proposed to be discharged to the Bluidy Burn culvert however due to the under capacity of the culvert and rising land to the west, the site is predicted to be at risk of flooding during a 1 in 200 year event. The proposed development and sustainable urban drainage system would conflict with policy IS10.

**CONCLUSION**

The application site forms part of a larger allocated housing site within the LDP, therefore this proposal is generally compliant with Policy PMD3. The detailed FRA, a requirement of the site requirements set out in the settlement profile, has revealed that the southern half of the site is located within the 1 in 200 year functional flood plain of the Bluidy Burn. Through the course of the application is has not been possible to mitigate flood risk from the burn or the other flood risk issues which would be encountered by this development. These proposals remain to locate a residential development in a location which is of medium to high risk of flooding which contravenes Policy IS8. Additionally, the proposed disposal of surface water from this development to the Bluidy Burn which has no additional capacity represents a further risk of flooding and is therefore not a suitable means of SUDS treatment which satisfies Policy IS10.

The proposed layout, building design and landscaping fail to create a high quality development with an attractive sense of place. The street design gives a greater priority to vehicles which would make pedestrian movements challenging. The use of dark brick material finishes does not compliment material finishes within the surrounding area. These impacts are contrary to placemaking and design criteria listed in Policy PMD2.

Despite the principle of residential development being established by the LDP allocation, the proposed development is not considered to be consistent with the relevant provisions of the development plan and there are no material considerations which would justify a departure from these provisions.

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

I recommend that the application is refused for the following reasons:

1. The proposed development is contrary to Policy IS8 of the Local Development Plan in that the southern half of the site is located within the 1 in 200 year functional floodplain of the Bluidy Burn and the proposed residential development would place buildings and persons at significant risk of flooding. Furthermore the proposed properties along the eastern boundary of the site are at risk of flooding from an existing culvert and surface water flooding from the A6105 has not been adequately addressed.
2. The proposed development is contrary to Policy PMD2 criteria h) of the Local Development Plan in that the proposed site layout has an over-engineered appearance which is gives greater priority to vehicle movements and parking. The design and siting of buildings fail to provide visual interest throughout the layout. The proposals therefore fail to create a development with a clear sense of place which has been designed in sympathy with Scottish Borders architectural styles.

3. The proposed external materials are contrary to Policy PMD2 criteria j) of the Local Development Plan in that the use of dark coloured facing brick on the external elevations of the proposed buildings would not complement existing material finishes used in the locality. This would represent an inappropriate form of development not consistent with the general pattern of development locally.

4. The proposed development is contrary to Policy PMD2 criteria m) of the Local Development Plan in that it fails to provide a suitable level of landscaping along the south western boundary and north eastern corner of the site. The lack of landscaping detracts from the overall character and appearance of the development and does not integrate the development with its surroundings.

5. The proposed means of surface water drainage is contrary to Policy IS10 of the Local Development Plan in that the Bluidy Burn has no spare capacity to accommodate additional surface water. The levels of surface water drainage from the site would result in a significant risk of flooding on the site.

**DRAWING NUMBERS**

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**Approved by**

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<td>Ian Aikman</td>
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The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

**Author(s)**

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