

**Local Review Reference: 15/00012/RREF**  
**Planning Application Reference: 14/00934/FUL**  
**Development Proposal: Erection of dwellinghouse and detached garage**  
**Location: Land West of 3 Nethermains Cottage, Duns**  
**Applicant: Mr Fred Millar**

**SESPLAN**

None applicable.

**CONSOLIDATED SCOTTISH BORDERS LOCAL PLAN 2011:**

POLICY INF4 – PARKING PROVISIONS AND STANDARDS

Development proposals should provide for car and cycle parking in accordance with the Council's published adopted standards, or any subsequent standards which may subsequently be adopted by the Council (see Appendix D).

Relaxation of standards will be considered where the Council determines that a relaxation is required owing to the nature of the development and/or positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

POLICY NE4 – TREES, WOODLANDS AND HEDGEROWS

The Council supports the maintenance and management of trees, woodlands, including ancient woodlands and ancient woodland pastures, and hedgerows, (hereafter referred to as the 'woodland resource') and requires developers to incorporate, wherever feasible, the existing woodland resource into their schemes.

1. Development that would cause the loss of, or serious damage to the woodland resource, will be refused unless the public benefits of the development at the local level clearly outweigh the loss of landscape, ecological, recreational, historical or shelter value. Decision making will be informed by the Scottish Borders Woodland Strategy, expert advice from external agencies, the existing condition of the woodland resource and BS5837: Trees in Relation to Construction;
2. The siting and design of the development should aim to minimise adverse impacts on the biodiversity value of the woodland resource, including its environmental quality, ecological status and viability;
3. Where there is an unavoidable loss of the woodland resource, appropriate replacement planting will normally be a condition of planning permission. In some locations planning agreements will be sought to enhance the woodland resource;
4. Development proposals should demonstrate how the protection of the woodland resource will be carried out during construction, adopting British Standard 5837.

POLICY NE3 - LOCAL BIODIVERSITY

1. The Council will seek to safeguard the integrity of habitats both within and outwith settlements which are of importance for the maintenance and enhancement of local biodiversity. The rationale and detail for this is set out in the Supplementary Planning Guidance for Biodiversity.

2. Where development is proposed on a site for which there is evidence to suggest that a habitat or species of importance exists, the developer may be required, at their own expense, to undertake a survey of the site's natural environment. Major developments, as defined by the categories of development identified in the Council's biannual Scottish Government Planning Application Returns, may require an Ecological Impact Assessment.
3. Development that could impact on local biodiversity through impacts on habitats and species should
  - i) Be sited and designed to minimise adverse impacts on the biodiversity of the site, including its environmental quality, ecological status and viability,
  - ii) Aim to avoid the fragmentation or isolation of habitats,
  - iii) Aim to enhance the biodiversity value of the site through the creation or restoration of habitats and wildlife corridors and provision for their long term management and maintenance.
4. Development that would have an unacceptable adverse effect on habitats or species of Conservation Concern as identified in the regional listings in the Local Biodiversity Action Plan (LBAP) will be refused unless it can be demonstrated that the public benefits of the development clearly outweigh the value of the habitat for biodiversity conservation.
5. Where the reasons in favour of development clearly outweigh the desirability of retaining particular habitat features, mitigation measures aimed at ensuring no net loss of LBAP habitats will be sought, including the creation of new habitats or the enhancement of existing habitats, in accordance with Policy G5 Developer Contributions and the associated Supplementary Planning Guidance.

#### POLICY H2 – PROTECTION OF RESIDENTIAL AMENITY

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

1. The principle of the development, including where relevant, any open space that would be lost; and
2. The details of the development itself particularly in terms of:
  - (i) the scale, form and type of development in terms of its fit within a residential area,
  - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking and loss of privacy. These considerations apply especially in relation to garden ground or 'backland' development,
  - (iii) the generation of traffic or noise,
  - (iv) the level of visual impact.

#### POLICY D2 – HOUSING IN THE COUNTRYSIDE

The Council wishes to promote appropriate rural housing development:

1. in village locations in preference to the open countryside,
2. associated with existing building groups where this does not adversely affect their character or that of the surrounding area, and
3. in dispersed communities in the Southern Borders housing market area.

These general principles will be the starting point for the consideration of applications for housing in the countryside which will be supplemented by Supplementary Planning Policy Guidance on siting, design and interpretation.

#### **POLICY D2 (A) BUILDING GROUPS**

Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:

1. The Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such conversion has been implemented,
2. Any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted,
3. The cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts.

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 Plan period. This will include those units under construction or nearing completion at that point.

#### **POLICY D2 (B) DISPERSED BUILDING GROUPS**

In the Southern Housing Market area there are few building groups comprising 3 houses or more, and a more dispersed pattern is the norm. In this area a lower threshold may be appropriate, particularly where this would result in tangible community, economic or environmental benefits. In these cases the existence of a sense of place will be the primary consideration.

Housing of up to 2 additional dwellings associated with dispersed building groups acting as anchor points may be approved provided that:

1. The Council is satisfied that the site lies within a recognised dispersed community that functions effectively as an anchor point in the Southern Borders housing market area,
2. Any consents for new build granted under this part of this policy should not exceed two housing dwellings in addition to the group during the Plan period. No further development above this threshold will be permitted,
3. The design of housing will be subject to the same considerations as other types of housing in the countryside proposals.

#### **POLICY D2 (C) CONVERSIONS**

Development that is a change of use of a building to a house may be acceptable provided that:

1. the Council is satisfied that the building has architectural or historic merit or is physically suited for residential use,
2. the building stands substantially intact (normally at least to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion, and
3. the conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.

#### **POLICY D2 (D) REBUILDING**

The proposed rebuilding or restoration of a house may be acceptable provided that either:

1. the existing building makes a positive contribution to the landscape,
2. the walls of the former residential property stand substantially intact (normally at least to wallhead height),
3. no significant demolition is required (a structural survey will be required where it is proposed to fully demolish the building, showing that it is incapable of being restored),
4. the restoration/rebuilding and any proposed extension or alteration is in keeping with the scale, form and architectural character of the existing or original building,
5. significant alterations to the original character will only be considered where it can be demonstrated that these provide environmental benefits such as a more sustainable and energy efficient design, or
6. there is evidence of the existence of the building in terms of criteria (a)-(c) immediately above, or, alternatively, sufficient documentary evidence exists relating to the siting and form of the previous house and this evidence is provided to the satisfaction of the Council, and
7. the siting and design of new buildings reflects and respects the historical building pattern and the character of the landscape setting, and
8. the extent of new building does not exceed what is to be replaced.

#### **POLICY D2 (E) ECONOMIC REQUIREMENT**

Housing with a location essential for business needs may be acceptable if the Council is satisfied that:

1. the housing development is a direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and it is for a worker predominantly employed in the enterprise and the presence of that worker on-site is essential to the efficient operation of the enterprise. Such development could include businesses that would cause disturbance or loss of amenity if located within an existing settlement, or

2. it is for use of a person last employed in an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and also employed on the unit that is the subject of the application, and the development will release another house for continued use by an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and
3. the housing development would help support a business that results in a clear social or environmental benefit to the area, including the retention or provision of employment or the provision of affordable or local needs housing, and
4. no appropriate site exists within a building group, and
5. there is no suitable existing house or other building capable of conversion for the required residential use.

The applicant and, where different, the landowner, may be required to enter into a Section 75 agreement with the planning authority to tie the proposed house or any existing house to the business for which it is justified and to restrict the occupancy of the house to a person solely or mainly employed, or last employed, in that specific business, and their dependants. A Business Plan, supported by referees or independent business adjudication, may be required in some cases.

In **ALL** instances in considering proposals relative to each of the policy sections above, there shall be compliance with the Council's Supplementary Planning Policy Guidance where it meets the terms of this policy and development must not negatively impact on landscape and existing communities. The cumulative effect of applications under this policy will be taken into account when determining impact.

#### POLICY G5 – DEVELOPER CONTRIBUTIONS

Where a site is otherwise acceptable but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or part contribution through S.75 or alternative Legal Agreements towards the cost of addressing such deficiencies.

Each application will be assessed to determine the appropriate level of contribution guided by: the requirements identified in the Council's Supplementary Planning Guidance on developer contributions; planning or development briefs; outputs from community or agency liaison; information in settlement profiles; other research and studies such as Transport Assessments; the cumulative impact of development in a locality; provisions of Circular 12/96 in respect of the relationship of the contribution in scale and kind to the development. Contributions will be required at the time that they become necessary to ensure timely provision of the improvement in question. The Council will pursue a pragmatic approach, taking account of the importance in securing necessary developments, and exceptional development costs that may arise. Contributions are intended to address matters resulting from new proposals, not existing deficiencies. In general, the Council does not intend to require contributions arising from the needs of affordable housing. Contributions towards maintenance will generally be commuted payments covering a 10 year period.

Contributions may be required for one or more of the following:

1. Treatment of surface or foul waste water in accordance with the Plan's policies on preferred methods (including SUDS maintenance);

2. Provision of schools, school extensions or associated facilities, all in accordance with current educational capacity estimates and schedule of contributions;
3. Off-site transport infrastructure including new roads or road improvements, Safer Routes to School, road safety measures, public car parking, cycle-ways and other access routes, subsidy to public transport operators; all in accordance with the Council's standards and the provisions of any Green Travel Plan;
4. Leisure, sport, recreation, play areas and community facilities, either on-site or off-site;
5. Landscape, open space, trees and woodlands, including costs of future management and maintenance;
6. Protection, enhancement and promotion of environmental assets either on-site or off-site, having regard to the Local Biodiversity Action Plan and the Council's Supplementary Planning Guidance on Biodiversity, including compensation for any losses and/or alternative provision;
7. Provision of other facilities and equipment for the satisfactory completion of the development that may include: measures to minimise the risk of crime; provision for the storage, collection and recycling of waste, including communal facilities; and provision of street furniture.

#### POLICY G1 - QUALITY STANDARDS FOR NEW DEVELOPMENT

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

1. It is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
2. it can be satisfactorily accommodated within the site,
3. it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements,
4. it creates developments with a sense of place, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
5. in terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance referred to in Appendix D,
6. it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
7. it provides open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
8. it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
9. it provides for linkages with adjoining built up areas including public transport connections and provision for bus laybys, and new paths and cycleways, linking where possible to the existing path network; Green Travel Plans will be encouraged to support more sustainable travel patterns,

10. it provides for Sustainable Urban Drainage Systems where appropriate and their after-care and maintenance,
11. it provides for recycling, re-using and composting waste where appropriate,
12. it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
13. it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
14. it incorporates, where required, access for those with mobility difficulties,
15. it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

Developers may be required to provide design statements, design briefs or landscape plans as appropriate.

**Other Material Considerations**

- Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- Supplementary Planning Guidance on Placemaking & Design 2010
- Supplementary Planning Guidance on Trees and Development 2008
- Supplementary Planning Guidance on Development Contributions 2011
- Supplementary Planning Guidance on Biodiversity 2005
- Scottish Borders Local Development Plan 2013

