

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 19/01645/FUL

APPLICANT : Mr & Mrs William Rose

AGENT : Kanak Bose Ltd.

DEVELOPMENT : Erection of dwellinghouse and detached garage

LOCATION: Land South West Of 3
Mill Lade
Blyth Bridge
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
OGS 298 01	Proposed Plans & Elevations	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations were received.

Consultation responses were received from:

Roads - no objection subject to conditions. Conditions suggested;

Flood Risk Officer - it is not clear how the maps have been derived and what supporting information has been used. A full FRA including details of the hydrology and modelling methods adopted to derive the flood maps are submitted for us to determine if the flood maps are an accurate representation of the flood risk at the application site will be required. The FRA should also address whether there is flood free access and egress to the proposed dwellinghouse and include any details of proposed mitigation or property resilience;

Ecology Officer - the application is not supported by any ecological information and the Ecology Officer undertook a desk-top assessment. The development has potential to have a direct and indirect impact on the Tarth water (River Tweed SAC) and protected species. Further information is required before permission can be granted. In accordance with Scottish Government guidance, identified in the council's survey guidance planning authorities must establish whether European Protected Species (EPS), such as otters, are present on or near development sites, whether they are likely to be affected by the development and to fully consider potential impacts on otters prior to the determination of a planning application. The site appears to contain habitats which have the potential to support badgers. The proposed development may affect ground-nesting breeding birds using grassland, river bank and river shingle habitats within. A proportionate Preliminary Ecological Appraisal should be carried out in conjunction with the otter survey to identify any ecological constraints, any mitigation measures likely to be required and any further surveys required to inform an Ecological Impact Assessment;

Scottish Natural Heritage - The proposal is close to the River Tarth which is part of the River Tweed Special Area of Conservation (SAC) designated for its habitat and species. The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") or, for reserved matters, The Conservation of Habitats and Species Regulations 2017 apply. Consequently, Scottish Borders Council is required to consider the effect of the proposal on the SAC before permission can be consented (commonly known as Habitats Regulations Appraisal). In SNH's view, it is unlikely that the proposal will have a significant effect on any qualifying interests either directly or indirectly. An appropriate assessment is therefore not required. SNH has a standard requirement for a 10m gap between the SAC and the start of the development footprint;

SEPA - objection on the grounds of lack of information and on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy. In the event that the planning authority proposes to grant planning permission contrary to this advice on flood risk, the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 provides criteria for the referral to the Scottish Ministers of such cases. SEPA stresses that based on the information submitted, an FRA will likely only confirm that the site is unsuitable for the proposed development and they would subsequently object in principle to any future consultations.

Transport Scotland - does not propose to advise against the granting of permission.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

PMD2 - Quality standards

PMD4 - Development outwith development boundaries

HD2 - Housing in the countryside

HD3 - Protection of residential amenity

EP1 - International nature conservation sites and protected species

EP2 - National nature conservation and protected species

EP3 - Local biodiversity

EP15 - Development affecting the water environment

EP16 - Air quality

IS2 - Developer contributions

IS7 - Parking provision and standards

IS8 - Flooding

IS9 - Waste water treatment and sustainable urban drainage

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

The following council guidance is material:

Biodiversity;

Development contributions;

Local Biodiversity Action Plan: Biodiversity in the Scottish Borders;

New housing in the Borders countryside;

Placemaking and design;

Privacy and sunlight guide;

Waste management.

Recommendation by - Randal Dods (Planning Officer) on 14th January 2020

Site and design

The site, which is approximately 6350m², is located to the south west of Blyth Bridge and, although adjacent to the boundary of the village, is within countryside. Access is gained via the Mill Lade, which is itself accessed from the A701 public road. The site is undeveloped rough grazing mostly enclosed by a post and wire fence although a close boarded fence defines the boundary of the settlement and the last two properties in Mill Lade. A bund, approximately 1.8m high is located towards the north western boundary. The Tarth Water runs along the south eastern extent of the boundary. The ground slopes slightly from Mill Lade to the south western extremity of the application site.

The application is made for planning permission for a one and three quarter storey house and detached double garage. The house would be 4.3m to eaves and 8.5m to ridge. The layout shows the house located centrally within the site and approximately 43.5m from the development boundary.

Site history

There is relevant planning history associated with this site. Application 19/00194/FUL was refused permission on 4 April 2019. The design and siting of that house was identical to the proposal contained in the current application. No pre-application discussion was entered into prior to the submission of either application.

Principle

The principle of the development was not previously accepted. The applicant has submitted a supporting statement with this application and I have had account of that in my consideration of the application.

The site is an undeveloped field which is adjacent to the development boundary of Blyth Bridge and the proposed house would be located well clear of that boundary. Policy PMD4 states that proposals for new development outwith identified boundaries and which are not on allocated sites will normally be refused. The policy does set out that exceptional approvals may be granted, provided strong reasons can be given. In this instance, the proposed development would not be: a) a job-generating development in the countryside that has an economic justification; b) justified affordable housing; c) required to meet an identified shortfall in the provision of an effective 5 year housing land supply or; d) one which is considered would offer significant community benefits that outweigh the need to protect the development boundary. Since the application fails to satisfy any of those criteria, the proposal cannot be seen as a candidate for an exceptional approval and does not represent a logical extension to Blyth Bridge. The fact is that, although the design of the house could be altered to make it more acceptable, the house would be remote from the settlement and would be an incongruous feature in the countryside which would not relate well to the existing pattern of development in the settlement nor would it be a logical extension to the settlement. The incongruous nature of the development would be most visible when approaching Blyth Bridge on the A72 from the south and when travelling along the A701.

The council aims to encourage a sustainable pattern of development focused on defined settlements, whilst not precluding development of housing in the countryside. In this case, the site is outwith the defined settlement of Blyth Bridge and is not well associated with a building group. The proposal would not comply with policy HD2 and the council's guidance on New Housing in the Borders Countryside.

The siting of the house is so remote from the boundary of Blyth Bridge that the proposal would remain an isolated house within the countryside, despite the tree planting proposed by the applicant. In terms of placemaking and design, the proposal fails to understand clearly the context of the site and surrounding area and would fail to make a positive contribution to the sense of place. Though it would have a similar character to existing nearby houses, the proposal would be distant from them and its suburban character, yet isolated position, would contradict one another. Even if it were firmly alongside existing houses, however, the design would benefit from improvements to elements of it. In its current siting, however, it would not read so directly with existing houses, so its design within this setting will render it a rather incongruous feature. It would not be an appropriate addition to the existing pattern of development. While proposed planting may enhance the site and reduce its exposure, relying on planting which will take years to establish is not an appropriate approach to achieving sympathetic development. The development would therefore be contrary to the terms of policy PMD2 and related guidance.

Amenity and privacy

Notwithstanding above fundamental matters regarding the principle of development, the site appears to be capable of accommodating a modest house. That would, however, need to be balanced by the impact on the visual amenity of the rural location resulting from eventual design of the development. The submitted design is of little architectural merit and would be an incongruous feature in the countryside. That having been said, the house is so remote from the properties with the settlement that amenity and privacy would not be adversely affected.

Roads issues

The sites would be accessed from the Mill Lade, which is access from the A701 public road. No objection has been made by Roads, subject to conditions. There is sufficient space within the sites to provide the required number of parking spaces as well as space for turning vehicles. Transport Scotland was consulted although their remit extends only to trunk roads.

Trees

There are no trees currently on the site. The site plan indicates that tree planting will be carried out on the western bank of the Tarth Water and on the north western boundary of the site. The plan is not sufficiently detailed and, if permission were to be granted, a fully detailed landscaping plan would be required by condition. Even though the applicant has proposed tree planting, that would inevitably take several years to become sufficiently established to provide an adequate degree of screening.

Ecology

SNH has not expressed a concern about the physical impact of the development on the SAC given the inclusion of a 10m buffer between the SAC and the start of the development. The Ecology Officer, with whom I have discussed the case, has noted that the proposal has potential to have a direct and indirect impact on protected species which may be present on the site or within the adjacent Tarth Water (River Tweed SAC). The application lacks even the most basic information required to make a full assessment of the likely impact on European Protected Species (EPS) and other protected species. The lack of ecological information was raised in the previous application. It is therefore disappointing that, being fully aware of the requirement, the applicant has chosen not to supply that information with this application. The council cannot be satisfied that the proposed development will not have a likely significant effect on EPS, nationally important species or Borders Notable Species. Absence of that information leads me to conclude that the application must be found contrary to policies EP1, EP2 and EP3.

Flooding

The site is in close proximity to the Tarth Water and may result in a material increase in the number of buildings at risk of being damaged by flooding. The council's the Flood Risk Officer has indicated that a flood risk assessment (FRA) would be required. In addition, SEPA has objected in principle to the application due to the lack of information. The lack of an FRA was raised in the previous application and, therefore, the applicant was fully aware when making this application, that such information was required although they have chosen not to supply that. As a result, the proposal is contrary to policy IS8 which requires developers to prove that the development will not be at risk of flooding or materially increase the probability of flooding elsewhere. If the council was minded to grant permission, given the objection from SEPA, the application would have to be referred to Scottish Ministers for their determination.

Services

The applicant states that the site will be served by a private water supply. Foul drainage would be by means of a private system. There is ample space on site for discrete storage of waste and recycling containers.

Air quality

The floor plans show what appears to be two solid fuel stoves, although no flues are shown on the elevations. Even if flues were proposed, given the remote siting of the building, the open nature of the surroundings and the prevailing wind, it is unlikely that those would raise issues of local air quality.

Developer contributions

A contribution would be required for education provision were the application to be granted. The applicant has stated their willingness to secure that by means of a section 69 agreement.

Conclusion

The proposed development would be outwith any settlement envelope defined in the LDP and is located on a greenfield site within the countryside. It would not relate well to an existing building group or to the surroundings. The siting and design would not be appropriate for the rural location because it does not relate well to the existing pattern of development in Mill Lade. There is insufficient justification within the application to allow development beyond the development boundary of Blyth Bridge. The proposed house cannot be justified as on exceptional circumstances. The proposal is therefore contrary to policies HD2, PMD2 and PMD4 and, because of its location and some elements of design, it would fail to comply with the council's guidance on Placemaking and Design and New Housing in the Borders Countryside.

The site is in close proximity to the Tarth Water and may result in a material increase in the number of buildings at risk of being damaged by flooding. The application is not supported by a flood risk assessment and the applicant has not proved that the development will not be at risk of flooding or materially increase the probability of flooding elsewhere. The proposal is therefore contrary to policy IS8.

The proposed development would be close to the Tarth Water, which is part of the River Tweed SAC and would have the potential to affect protected species which may be present. The lack of any ecological information means that the planning authority cannot be satisfied that the development will not: be detrimental to the maintenance of the population of an EPS at a favourable conservation status in its natural range; affect adversely the integrity of the site and; have an unacceptable adverse effect on Scottish Borders Notable Species and Habitats of Conservation Concern. The proposal is, therefore, contrary to policies EP1, EP2 and EP3.

REASON FOR DECISION :

The development would be contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would not relate sympathetically to the character of an existing building group or surrounding landscape.

The development would be contrary to policy PMD2 of the Local Development Plan 2016 and Placemaking and Design 2010 in that it would be unsympathetic to the character of the surrounding area and it would fail to make a positive contribution to the sense of place.

The development would be contrary to policy PMD4 of the Local Development Plan 2016 in that it would be development beyond the settlement boundary for which there is insufficient justification and it would lead to an isolated house in the countryside with a resulting adverse impact on the character of the surrounding area.

The development would be contrary to policy IS8 of the Local Development Plan 2016 in that the applicant has failed to prove that the proposed development will not be at risk of flooding or materially increase the probability of flooding elsewhere.

The development would be contrary to policies EP1, EP2 and EP3 of the Local Development Plan 2016 and Biodiversity guidance in that the applicant has failed to prove that the development will not have an adverse effect on European Protected Species or other protected species and habitats which may be present on or adjacent to the site.

Recommendation: Refused

- 1 The development would be contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would not relate sympathetically to the character of an existing building group or surrounding landscape.
- 2 The development would be contrary to policy PMD2 of the Local Development Plan 2016 and Placemaking and Design 2010 in that it would be unsympathetic to the character of the surrounding area and it would fail to make a positive contribution to the sense of place.
- 3 The development would be contrary to policy PMD4 of the Local Development Plan 2016 in that it would be development beyond the settlement boundary for which there is insufficient justification and it would lead to an isolated house in the countryside with a resulting adverse impact on the character of the surrounding area.
- 4 The development would be contrary to policy IS8 of the Local Development Plan 2016 in that the applicant has failed to prove that the proposed development will not be at risk of flooding or materially increase the probability of flooding elsewhere.
- 5 The development would be contrary to policies EP1, EP2 and EP3 of the Local Development Plan 2016 and Biodiversity guidance in that the applicant has failed to prove that the development will not have an adverse effect on European Protected Species or other protected species and habitats which may be present on or adjacent to the site.

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