

**SCOTTISH BORDERS COUNCIL**

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

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 19/00194/FUL

**APPLICANT :** Mr And Mrs Willam 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:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
OGS 298 01	General	Refused

**NUMBER OF REPRESENTATIONS: 0**  
**SUMMARY OF REPRESENTATIONS:**

No representations were received.

Consultation responses were received from:

Education and Lifelong Learning - no objection. Contributions required if granted;

Roads - no objection subject to conditions. Key issue, means of access. Conditions suggested;

Flood Risk Officer - Flood Risk Assessment (FRA) required to assess if the new development is at risk of flooding and, if appropriate, how much flood plain storage is lost;

Ecology Officer - a desk-top assessment has been made. The development has potential to have a direct and indirect impact on the Tarth water (River Tweed SAC/SSSI) 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;

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

Scottish Natural Heritage - The proposal area overlaps with the River Tweed Special Area of Conservation (SAC) designated for its fish species (brook, river and sea lamprey and salmon), otter and vegetation associated with water crowfoot. 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. However, SNH has a standard requirement for a 10m gap between the SAC and the start of the proposal footprint. A further 10m gap between this buffer and the footprint of the house and garage is also required. For this proposal, therefore, garden ground should begin 10m from the river edge but the house and garage should be a further 10m away. For this proposal the 10m gap does not relate to the tree planting. The gap provides a buffer between development and the SAC, ensuring that disturbance, siltation or pollution caused by construction is not immediately adjacent to the SAC; ensures that activities associated with the established development do not have a direct impact on the SAC and; it creates an ecological edge to the SAC that allows natural processes (including the migration of species such as otter along the length of the river and the meandering and change of course in the river naturally to take place). If the buffer is not included, the development could compromise the ecology of the SAC or, conversely, the natural meanders of the river could affect the development in future years. The tree planting proposal on the banks of the Tarth Water is for 'native Scottish hardwoods ... intermixed with conifers'. Since the Tarth forms part of the River Tweed SAC, only species native to Scotland (such as birch and rowan with some willow on the water edge) should be used. A more detailed plan showing the appropriate buffer and listing the tree species to be planted would be required.

### **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;

New housing in the Borders countryside;

Placemaking and design;

Privacy and sunlight guide.

**Recommendation by** - Ranald Dods (Planning Officer) on 4th April 2019

Site and proposal

The site, which is approximately 6350m<sup>2</sup>, 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 trunk 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 single house and detached double garage. The layout shows that house located centrally within the site and approximately 43.5m from the development boundary. The L shaped house would be one and a half stories high, being 4.3m to eaves and 8.1m to ridge.

#### Site history

There is no planning history associated with this site. No pre-application discussion was entered into.

#### Principle

The key policies against which this application is assessed are HD2, housing in the countryside and, due to the proximity of the site to the boundary of Blyth Bridge, policy PMD4, development outwith development boundaries. An assessment of both is set out below.

#### PMD2

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

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

In this case, the site is not within the defined settlement of Blyth Bridge. Being outwith the settlement, there is no rural building group with which the proposal could be associated. Finally, the site is within the northern and not the southern HMA. The application therefore fails to meet any of the general principles used when assessing whether or not an application for rural housing is appropriate.

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

- A) Building groups;
- B) dispersed building groups;
- C) conversions of buildings to a house;
- D) restoration of houses;
- E) replacement dwellings
- F) economic requirement.

In terms of the above, the proposal fails to comply with any of the stated criteria. The proposed development breaks into an undeveloped field. This would fundamentally change the setting of the area.

#### PMD4

The development boundaries defined in the LDP indicate the extent to which settlements should be allowed to expand during the local plan period. Proposals for new development outwith identified boundaries will normally be refused. The policy sets out that exceptional approvals may be granted, provided strong reasons can be given that:

- a) it is a job-generating development in the countryside that has an economic justification under Policy ED7 or HD2;
- b) it is an affordable housing development that can be justified under in terms of policy HD1;
- c) there is a shortfall identified by the council through the housing land audit with regard to the provision of an effective 5 year housing land supply;
- d) it is a development that it is considered would offer significant community benefits that outweigh the need to protect the development boundary.

Since the application fails to satisfy any of the above criteria, the proposal cannot be seen as a candidate for an exceptional approval and does not represent a logical extension to Blyth Bridge.

The New Housing in the Borders Countryside supplementary planning guidance (SPG) reinforces the terms of policies HD2 and PMD4. No support for the proposal can be found within the SPG nor has the applicant advanced a case setting out why there is an overwhelming need for the development of the site. No

justification has been provided by the applicant which indicates that it may be possible to set aside the terms of either policy HD2, PMD4 or the SPG.

Since no supporting case has been submitted in support of the application, this proposal remains wholly inconsistent with planning policy and guidance. There are no material considerations of which I am aware that would suggest that policy provisions should be set aside in favour of the development and granting permission in principle would set an undesirable precedent.

In addition to those two key policies, the proposal fails to understand clearly the context of the site and surrounding area. The quality of design proposed is not of the highest quality, the density which would result from the proposal does not respect its surroundings and would be out of character with the area. The proposal fails to make a positive contribution to the sense of place and is contrary to the terms of policy PMD2.

The principle of development on these site as proposed is, therefore, not accepted.

#### 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 trunk road. Neither Roads nor Transport Scotland objects but the former suggested conditions if permission were to be granted. There is sufficient space within the sites to provide the required number of parking spaces.

#### 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. The plan is not sufficiently detailed and, if permission were to be granted, a fully detailed landscaping plan would be required by condition.

#### Impact on River Tweed SAC

Both SNH and the Ecology Officer have noted that the proposal has the potential to affect the SAC. The application lacks the basic information required to make a full assessment of the likely impact on European Protected Species. Due to the principle of the proposal being unacceptable in terms of policies HD2 and PMD4, the applicant was not asked to submit that information. If the application were to be reviewed and found to be acceptable in terms of those policies, further submissions in relation to ecology would be required prior to a determination being reached.

#### Flooding

The site is in close proximity to the Tarth Water and the Flood Risk Officer has indicated that a flood risk assessment (FRA) would be required to make a proper assessment of the proposal. As the principle of development is not acceptable, the applicant was not asked to submit the information. If, however, the application were to be reviewed and found to be acceptable in terms of policies HD2 and PMD4, further submissions in the form of an FRA would be required prior to a determination being made.

#### 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. In order to comply with policy IS9, future applications will have to demonstrate that the site can be serviced adequately in terms of water and drainage.

#### Developer contributions

Contributions would be required for education provision and affordable housing, were the applications to be granted. Contributions would be secured by means of either a section 69 or section 75 agreement.

#### Conclusion

The proposed development is located on a greenfield site within the countryside and does not relate well to an existing building group. Furthermore the proposed development lies outwith any settlement envelope defined in the LDP. The proposal is therefore contrary to policies HD2 and PMD4 and published guidance on new housing in the countryside. The applicant has not advanced material considerations that would set aside the terms of the development plan and it is recommended that planning permission is refused.

**REASON FOR DECISION :**

The development is contrary to policies HD2, PMD2 and PMD4 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would amount to sporadic residential development in a countryside location and no overriding case for a dwellinghouse has been substantiated.

**Recommendation:** Refused

- 1 The development is contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it does not relate to an existing building group and this would set an undesirable precedent for an isolated house in the countryside.
- 2 The development is contrary to policy PMD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it fails to make a positive contribution to the sense of place. This would set an undesirable precedent for an isolated dwellinghouse in a rural setting.
- 3 The development is contrary to policy PMD4 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it fails to meet any of the tests set out in that policy which would enable it to be considered as a candidate for exceptional approval. This would set an undesirable precedent for development of an unallocated site outwith the development boundaries defined in the Local Development Plan 2016.

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