



**APPEAL STATEMENT**  
**REF: 20/00453/FUL**

**DEMOLITION OF GARAGE AND  
ERECTION OF DWELLINGHOUSE**

**GARDEN GROUND OF CLIFTON COTTAGE,  
HIGH STREET, KIRK YETHOLM, SCOTTISH  
BORDERS**

**ON BEHALF OF: MR & MRS D & C MORRISON**

**JULY 2020**

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## **EXECUTIVE SUMMARY**

This Statement is submitted on behalf of Mr & Mrs D & C Morrison “the Appellants” against the decision of Scottish Borders Council to refuse Planning Permission for the demolition of a garage and erection of a dwellinghouse within the garden ground of Clifton Cottage, High Street, Kirk Yetholm on 17th June 2020 (reference 20/00453/FUL). All Core Documents (CD) are referenced in Appendix 1.

The Appellants propose to build a new dwelling on land within their single, private ownership opposite their current home. It is agreed between the Planning Authority and the Appellant that the appeal site lies within the single Development Boundary defined for both Town Yetholm and Kirk Yetholm and does not conflict with surrounding land uses. The consultation response of the Forward Planning team has been instrumental in establishing this critical common ground. Disagreement centres upon the design of the proposed dwelling within the Conservation Area, potential impact upon an adjacent roadside verge, and archaeological impacts.

Five reasons for the refusal of the Application were included in the Decision Notice. These reasons centred around four key issues, which are taken in turn.

### **Impact upon roadside verge**

Disagreement between the Appellants and the Planning Authority relates to the possibility of physical works to the roadside verge; including greenspace, the Appellants’ existing drive, and cast iron water pump.

The Appellants position is that all proposed works are contained behind the established, mature boundary hedge on-site – as shown on AH073-P02(B) Site Layout Plan. The proposed development does not include removal of vegetation, laying of tarmac concrete, removal of the water pump, or any other physical alterations to the roadside verge. The existing drive would continue to operate as it does at present and the water pump would be retained in-situ.

### **Design of proposed dwelling**

The design of the proposed dwelling has been criticised by the Planning Officer as being “domineering” and “harmful”.

However, these criticisms fail to acknowledge that the proposed dwelling comprises white

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render elevations and slate roof, in a residential area dominated by existing dwellings of white render elevations and slate roofs. Furthermore in addition to sitting behind the established, mature hedge, the principal elevation onto the street is a broad reflection of the house on the opposite side of High Street, with only modest sympathetic progression on the design concept.

The Appellants do not accept the Planning Officer's criticisms of the proposed design as they do not substantiate any harm to the local character of the area, within the context described above. Rather, the design of the proposed dwelling is heavily influenced by the architecture of existing dwellings within this part of Kirk Yetholm and is considered to be acceptable in planning terms.

### **Impact upon Conservation Area**

The site sits within the Yetholm Conservation Area which covers both Town Yetholm and Kirk Yetholm. The Heritage and Design team has objected to the proposed development as they consider that scope does not exist for "development on this site on the scale of a dwellinghouse".

This stated opinion clearly contradicts the Government's authoritative Planning Advice Note 71: Conservation Area Management (PAN-71) which states that: "designating a Conservation Area does not mean a prohibition on development."

The application and relevance of the Planning Advice Notes has been re-affirmed by the Government's Reporters as recently as November 2019.

New development within Conservation Areas is about respecting existing surroundings and coming forward with high quality designed buildings and with an appropriate palate of materials. The design of the proposed development has been mindful of the context, layout, built form, density, and materials of both the appeal site and surrounding plots, dwellings, and other buildings.

The appeal site does not contain or adjoin any core heritage assets and considerable distance exists between it and those parts of the Conservation Area with strong heritage value. It is not set within the curtilage or setting of the Conservation Area's core assets (e.g. Listed Buildings) nor will it have any impact upon them. The proposed development would not create any obstruction impinging on core viewpoints.

As there is no basis for the Planning Authority to categorically resist development because it is located within a Conservation Area, the reason for refusal and the advice from which it derives

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are unfounded. The Planning Authority has offered no reason why a new dwelling which reflects the design of this part of the Conservation Area is unacceptable in planning terms.

**Archaeological impacts**

The Archaeology Officer has reviewed historic maps dating from the 19th century and identified the possibility that the site may contain historic remains.

The Appellants are prepared to accept a condition requiring archaeological investigation prior to the initiation of construction works. This is standard procedure and no justification for a deviation has been substantiated by the Planning Officer.

The Local Review Body, having considered the detail contained within the Planning Application package, together with the information set out herein, will be respectfully requested to allow the Appeal and grant Planning Permission.

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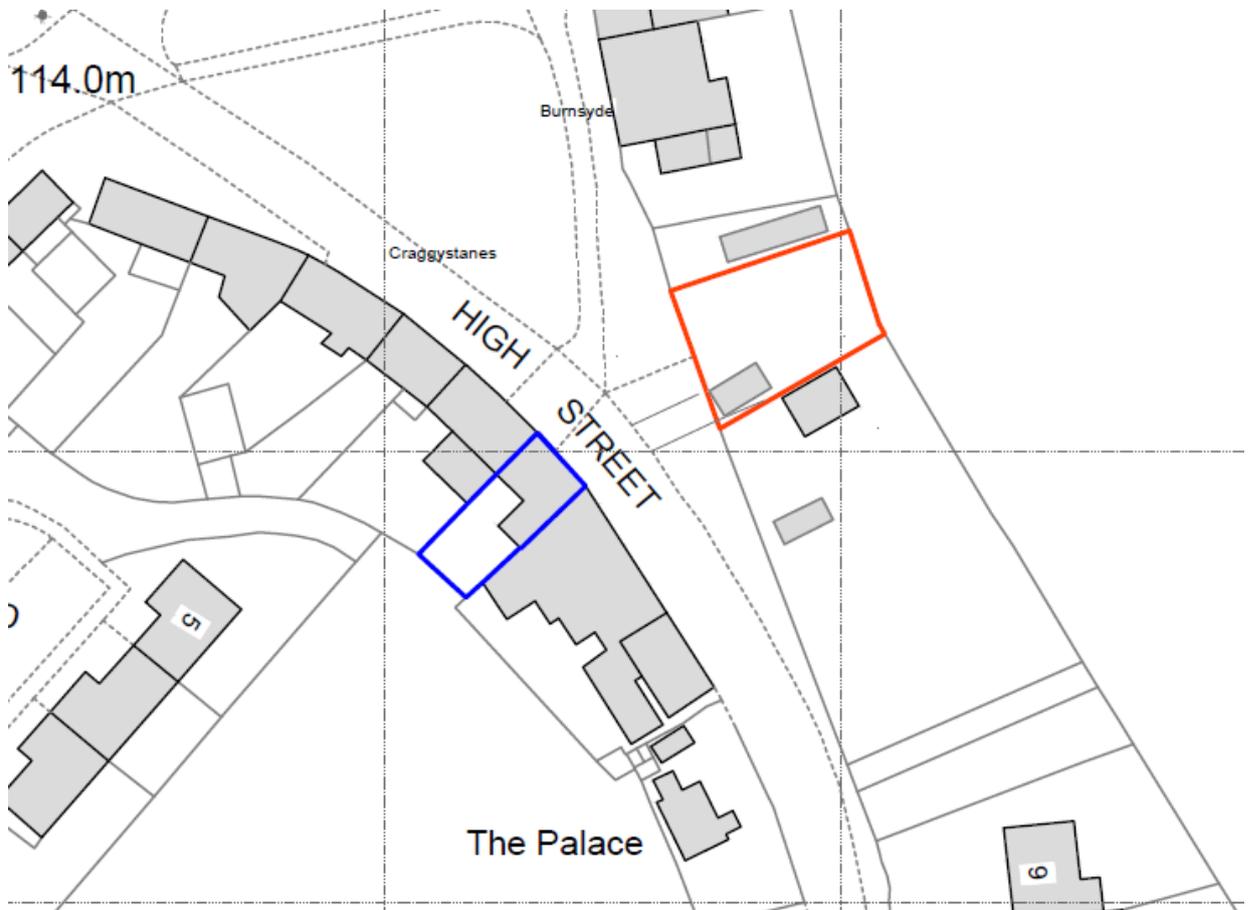
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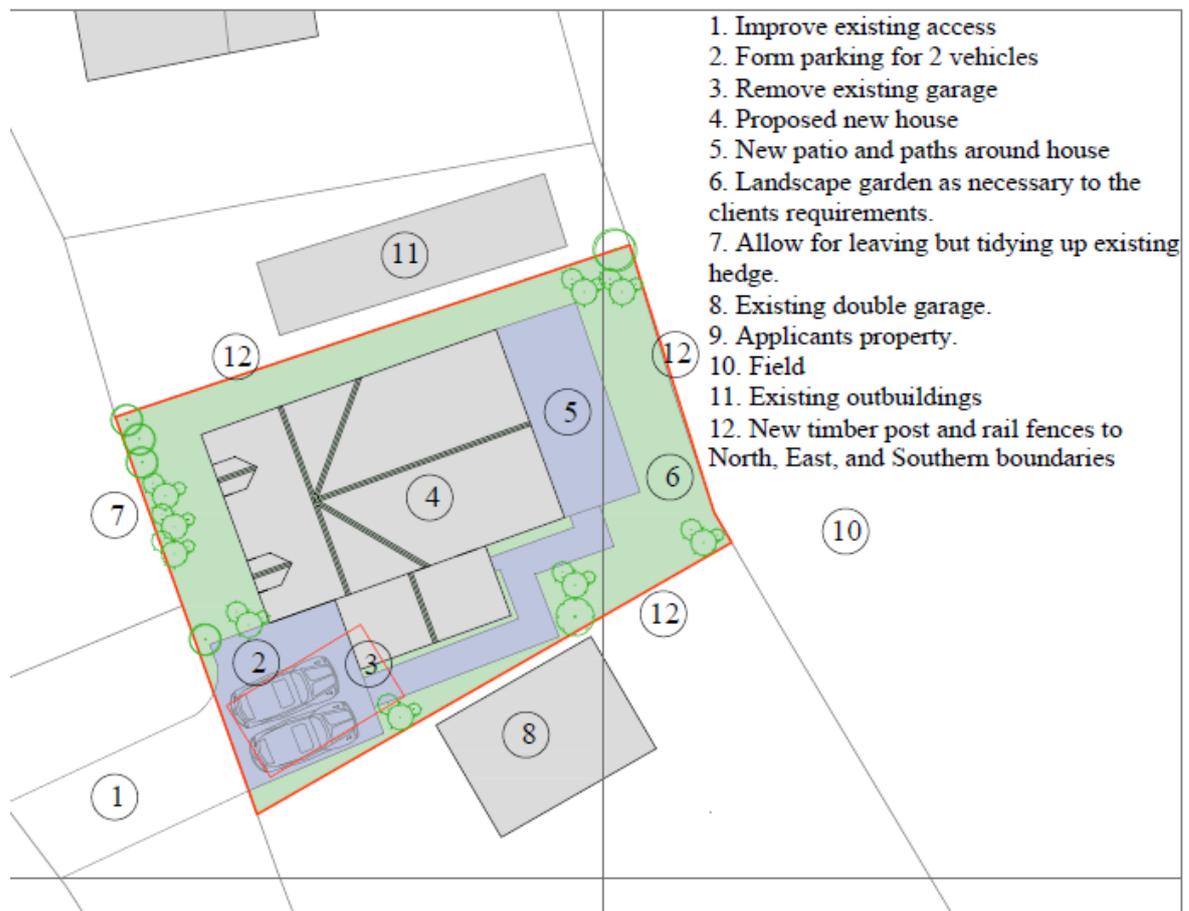
## 1.0 PROPOSAL SUMMARY

- 1.1 This Statement in support of Local Review is submitted to Scottish Borders Council on behalf of the Appellants, Mr & Mrs D & C Morrison, against the delegated decision to refuse to grant Planning Permission for the demolition of a garage and erection of a dwellinghouse within the garden ground of Clifton Cottage, High Street, Kirk Yetholm.
- 1.2 The appeal site lies to the east of High Street in Kirk Yetholm. The site sits opposite a terrace of existing dwellings to the west of the highway. Concise private garden plots adjacent to the north and south of the site while a rectangular parcel of allotment gardens lie beyond to the south.



**Fig.1.** Extract from AH073-P03(B) Location Plan, High Street and the Applicants' home are visible to the west of the site (Source: Aidan Hume Design)

- 1.3 The site comprises a private garden in a single ownership with Clifton Cottage, on the opposite side of the road. The site represents Clifton Cottage's secondary garden with the primary outdoor amenity space located to the rear of the property. A single garage of render-on-block elevations and profiled sheet roof stands upon the site close to the south boundary. A tall hedge runs across the site from north to south precluding views from the adopted highway into the private garden. An existing vehicle access which comprises compacted gravel runs from the highway to the garage.
- 1.4 The proposed dwelling comprises a two storey detached house, the design of which is heavily informed by existing dwellings in Kirk Yetholm and particularly on High Street. The new dwelling is proposed relatively centrally within the plot and set back from the boundary with the adopted highway to enable the retention of the mature established hedge.



**Fig.2.** Extract from AH073-P02(B) Site Layout Plan (Source: Aidan Hume Design)

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- 1.5 It is proposed to materially retain existing vehicle access arrangements to the adopted highway from the site. Sufficient space on the drive of the proposed dwelling is included to park two cars, as per the adopted parking standards included within the 2016 LDP.
- 1.6 It is proposed that the new house would be served by connection to both the mains water supply and the public foul drainage network which serves Kirk Yetholm. The Appellant is content to secure servicing details via condition.
- 1.7 The remainder of this Statement considers the site context and relevant planning policy, before evaluating the accordance of the appeal proposal with the Local Development Plan and other material considerations.

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## 2.0 REFUSAL OF APPLICATION BY SCOTTISH BORDERS COUNCIL AND PLANNING POLICY CONTEXT

2.1 Planning Application 20/00453/FUL was refused on 17th June 2020. The Decision Notice cited five reasons for refusal, set out below:

**“1. A dwellinghouse on this site would not comply with policy PMD5 of the Local Development Plan 2016 as it would detract from and harm the character and amenity of the surrounding area.**

**2. The proposals would not comply with Policy EP9 of the Local Development Plan 2016 in that there would be significantly harmful adverse impacts to Yetholm Conservation Area.**

**3. The proposals are contrary to Policy EP11 of the Local Development Plan 2016 in that there would be direct and indirect adverse impacts and harm caused to the public open space (the roadside verge and water pump) which front the site, to the detriment of the visual amenities of the area.**

**4. The proposals do not comply with Policy PMD2 and Policy PMD5 of the Local Development Plan 2016 and the Supplementary Planning Guidance on Placemaking and Design 2010 in that they do not respect the scale, form, and design of the surroundings, to the detriment of the visual amenities of the area.**

**5. Without further field evaluation, the development is contrary to Policy EP8 of the Local Development Plan 2016 in that there is a medium to high potential of the site yielding archaeology of local or regional importance which could be harmed or destroyed by the development.”**

2.2 Policy PMD5 permits *“development on non-allocated, infill, or windfall sites, including the re-use of buildings within Development Boundaries”*.

2.3 The Appellants submission is that the Application was made in accordance with Policy PMD5 in that the appeal proposal represents the erection of a single dwelling within the Development Boundary defined for Kirk Yetholm.

## POLICY PMD5: INFILL DEVELOPMENT

Development on non-allocated, infill or windfall, sites, including the re-use of buildings within Development Boundaries as shown on proposal maps will be approved where the following criteria are satisfied:

- a) where relevant, it does not conflict with the established land use of the area; and
- b) it does not detract from the character and amenity of the surrounding area; and
- c) the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over-development or 'town and village cramming'; and
- d) it respects the scale, form, design, materials and density in context of its surroundings; and
- e) adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity; and
- f) it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

All applications will be considered against the Council's Supplementary Planning Guidance on Placemaking and Design. Developers are required to provide design statements as appropriate.

**Fig 3:** Policy PMD5: Infill Development.

- 2.4 Policy EP11 identifies a distinction between two categories of greenspace – (A) Key Greenspaces (copied below) and (B) Other Greenspaces.

*“(A) Key Greenspaces*

*Key Greenspaces as identified on Proposal Maps will be protected from development that will result in their loss. Development that protects and enhances the quality of Key Greenspaces will be supported.”*

- 2.5 Paragraph 1.1 of the Policy's supporting text states that “the aim of the Policy is to give protection to a wide range of defined types of greenspace (also known as open space) within settlements and to prevent their piecemeal loss to development. The policy also aims to protect and safeguard the most important spaces within settlements.”
- 2.6 Paragraph 1.2 continues “the Local Development Plan identifies Key Greenspaces within Development Boundaries. The spaces identified within the Plan are those spaces which are considered to be of greatest value to the community and are therefore worthy of protection.”

- 2.7 Policy EP9 addresses the management of development within and nearby Conservation Areas in the Borders.

#### POLICY EP9: CONSERVATION AREAS

The Council will support development proposals within or adjacent to a Conservation Area which are located and designed to preserve or enhance the special architectural or historic character and appearance of the Conservation Area. This should accord with the scale, proportions, alignment, density, materials, and boundary treatment of nearby buildings, open spaces, vistas, gardens and landscapes.

The Council may require applications for full, as opposed to Planning Permission in Principle Consent.

Conservation Area Consent, which is required for the demolition of an unlisted building within a Conservation Area, will only be considered in the context of appropriate proposals for redevelopment and will only be permitted where:

- a) the building is incapable of reasonably beneficial use by virtue of its location, physical form or state of disrepair, and
- b) the structural condition of the building is such that it can not be adapted to accommodate alterations or extensions without material loss to its character, and
- c) the proposal will preserve or enhance the Conservation Area, either individually or as part of the townscape.

In cases a) to c) above, demolition will not be permitted to proceed until acceptable alternative treatment of the site has been approved and a contract for the replacement building or for an alternative means of treating the cleared site has been agreed.

Design Statements will be required for all applications for alterations, extensions, or for demolition and replacement which should explain and illustrate the design principles and design concepts of the proposals.

**Fig 4:** Policy EP9: Conservation Areas.

- 2.8 Policy PMD2 sets out a range of sustainability, placemaking and design, accessibility and open space/ biodiversity requirements, whereby the proposal must:
- Take appropriate measures to maximise the efficient use of energy and resources, in terms of layout, orientation, construction and energy supply;
  - Make provision for sustainable drainage;
  - Incorporate appropriate measures for separate storage of waste and recycling;
  - Incorporate appropriate landscaping to help integration with the surroundings;
  - Create a sense of place, based on a clear understanding of context;

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- Be of a scale, massing and height appropriate to the surroundings;
- Be finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality;
- Be compatible with, and respect, the character of the surrounding area, neighbouring uses and neighbouring built form;
- Be able to be satisfactorily accommodated within the site;
- Provide for appropriate boundary treatments to ensure attractive edges, and to help integration with the surroundings;
- Incorporate access for those with mobility difficulties;
- Not have an adverse impact on road safety in terms of the site access;
- Incorporate adequate access and turning space for vehicles including those used for waste collection purposes.
- Retain physical or natural features which are important to the amenity or biodiversity of the area.

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### 3.0 GROUNDS FOR APPEAL AND CASE FOR THE APPELLANT

3.1 The decision of the Planning Authority to refuse the Application is challenged on the basis of the Grounds of Appeal set out below. It is the submission of the Appellant that the proposed development accords with the relevant adopted policy of the Local Development Plan and Supplementary Guidance and that there are no material considerations which justify the refusal of the Application.

**GROUND 1:** The proposed development represents the erection of a dwelling on a site located within the single Development Boundary defined for both Town Yetholm and Kirk Yetholm. The proposed development is also sympathetic to local character and fully compliant with the existing good standard of residential amenity.

**GROUND 2:** The proposed development would preserve “*the special architectural and historic character*” of the Yetholm Conservation Area.

**GROUND 3:** The proposed development does not propose works to the greenspace of the existing roadside verge and water pump, both of which would be retained in-situ.

**GROUND 4:** The design of the proposed development heavily reflects the character of nearby existing dwellings within Kirk Yetholm and represents an appropriate addition to the local built environment.

**GROUND 5:** By the testimony of the SBC Archaeology Officer, there is no definitive or documented evidence that the site contains archaeological remains. In any case, the existence of any remains does not present a legitimate reason for refusal and the Appellants are prepared to accept a condition requiring archaeological investigation prior to the initiation of construction works.

3.2 During the course of the Application’s determination, the following consultee responses were received from Council Officers and partners:

- Roads Planning team – Objection, responding Technician acknowledged that he had not visited the site and had objected on the assumption that the increase in the number of required parking spaces would represent an unacceptable road safety impact which Scottish Planning Policy allows for the refusal of. No evidence to substantiate this assumption was provided.
- Education Service – No objection.



- Forward Planning team – No objection.
- Community Council – No objection.
- Neighbourhood Services – No comment.
- Heritage and Design Officer – Objection.
- Archaeology Officer – No objection, recommended conditions.

**GROUND 1: THE PROPOSED DEVELOPMENT REPRESENTS THE ERECTION OF A DWELLING ON A SITE LOCATED WITHIN THE SINGLE DEVELOPMENT BOUNDARY DEFINED FOR BOTH TOWN YETHOLM AND KIRK YETHOLM. THE PROPOSED DEVELOPMENT IS ALSO SYMPATHETIC TO LOCAL CHARACTER AND FULLY COMPLIANT WITH THE EXISTING GOOD STANDARD OF RESIDENTIAL AMENITY.**

3.3 It is agreed between the Planning Authority and the Appellants that the appeal site lies within the single Development Boundary defined for Yetholm and that the proposed development accords with criteria a) of Policy PMD5 in that there is no conflict “*with the established land use of the area*” – namely residential.

3.4 Further it is common ground between the Planning Authority and the Appellants that the proposed development is in accordance with both criteria e) and f) of Policy PMD5 and that neither represents a reason for refusal of the Application. However, the Planning Authority consider that the proposed development does not satisfy criteria b), c), and d). It is the Appellants’ position that the proposed development satisfies each criteria of Policy PMD5 – including criteria b), c), and d) – and faithfully accords with the Policy.

3.5 The paragraphs below demonstrate the accordance of the proposed development which each identified criteria in turn.

**Criteria b)**

3.6 Report of Handling 20/00453/FUL identifies contradiction with criteria b) on the basis that the use of the existing drive by a new dwelling would represent “harm in the form of damage” to the greenspace of the roadside verge, that the proposed development “would distort this interpretation and harm the Conservation Area”, and elements of the proposed external appearance which the Planning Officer considers to be poorly made.



- 3.7 Firstly, and in full embrace of the principle of charity, it is essential to note that each ‘contradiction’ identified by the Planning Officer represents a repetition of a separate but loosely related ‘contradiction with policy’. This repetition to construe a reason for refusal relating to the principle of development – apparently attempting to withstand the acknowledgment of the Planning Authority (made at the direction of the Forward Planning team) that the appeal proposal represents infill development and does not conflict with surrounding land uses – can be most generously understood as an inconsistency.
- 3.8 As a matter of fact, there are no physical works proposed to the roadside verge. The proposed dwelling and all building works are to be contained behind the established, mature boundary hedge (see Fig.2.). Report of Handling 20/00453/FUL contains no evidence to substantiate the assertion that use of the drive by the occupants of the proposed dwelling would represent “harm in the form of damage” in a way that use by the occupants of Clifton Cottage does not.
- 3.9 The “distortion” and “harm” to the Conservation Area identified by the Planning Officer is a further duplication of the “harm in the form of damage” assertion addressed above. Clearly, this would-be justification falls away upon obtaining a factually accurate understanding of the proposed development.
- 3.10 Matters of detailed design are not material to the assessment of whether the principal of development is acceptable. Notwithstanding that reality, it is demonstrably unreasonable to consider that a new dwelling of white render elevations and slate roof detracts from the character and/or amenity of the surrounding area – when it is proposed in a residential area dominated by existing dwellings of white render elevations and slate roofs.
- 3.11 Given the above, the proposed development is considered to satisfy criteria b) of Policy PMD5.

**Criteria c)**

- 3.12 Report of Handling 20/00453/FUL states:

“I have no concerns about social and infrastructure capacity of the village in respect of this village. (criteria c) of policy PMD5).”



- 3.13 For the sake of good order, criteria c) requires:

*“the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over-development or ‘town and village cramming’”*

- 3.14 Despite the above extracts from Report of Handling 20/00453/FUL and the Local Development Plan 2016, the Planning Officer proceeds to consider:

“My conclusion is that development fails criteria c) and d) of policy PMD5. Without adequate off-street parking provision proposals are by definition; “over-development”. My concern is that attempts to reconcile parking requirements would have consequential harm on open space and the Conservation Area.”

- 3.15 It is of primary importance to understand that the proposed development includes two parking spaces within the residential curtilage of the new dwelling. This provision satisfies the adopted parking standards laid out within the 2016 LDP.

- 3.16 Furthermore, it is considered that the replication of parking arrangements (for Clifton Cottage) which serve every other existing dwelling in High Street (with the notable exception of Valley Dene) cannot be understood to represent “over-development”. No definition of over-development is contained within Report of Handling 20/00453/FUL, the Local Development Plan 2016, the Placemaking and Design Supplementary Planning Guidance 2010, or Scottish Planning Policy 2014.

- 3.17 No justification to reconcile the two contradictory positions outlined in Report of Handling 20/00453/FUL has been provided. Therefore, it is agreed that the “social and infrastructure capacity of the village” are sufficiently large to accommodate the proposed development, in accordance with criteria c) of Policy PMD5.

**Criteria d)**

- 3.18 Report of Handling 20/00453/FUL states that the “Planning Statement attempts to reconcile design with the location but I find no working and little fact to the statement that the design heavily reflects the character of existing dwellings.”

- 3.19 The discourse proceeds to describe potential visual impacts on views obtainable from the village green. However, the discourse fails to recognise that those potential visual impacts would be created by a new dwelling of white render elevations and slate roof

– proposed in a residential area dominated by existing dwellings of white render elevations and slate roofs.



**Fig.5.** Extract from AH073-P01(A) Revised Plans (Source: Aidan Hume Design)

- 3.20 Despite repeated criticisms of the scale of the proposed development; the Planning Officer discloses that: “the scale is not significantly different to the detached dwelling to the north of the site”. The Appellants agree with this assessment and consider it represents further manifestation of the acceptability of the design in planning terms.
- 3.21 It is self-evident that erecting a new single dwelling which is alike in design to the majority of existing dwellings in a Conservation Area is a restrained and measured design solution. No evidence has been presented to substantiate the assertion of consequential “harm to the Conservation Area”. Furthermore on matters of detail the Planning Officer has conceded support for the inclusion of “dual pitched slate roofs, wallhead dormers and rendered bands” in the proposed dwelling.
- 3.22 Additionally the Planning Officer criticises the inclusion of integrated solar panels in the proposed development. It is unclear whether the existence of integrated solar panels in the roof of Maple Cottage, Town Yetholm, TD5 8RD – within the single Yetholm Conservation Area – has been considered.
- 3.23 However, given the May 2019 declarations of a climate emergency by the UK Government and Scottish Government, as well as Cllr Haslam’s statement to the press of November 2019 – the criticism of solar panels would appear to be rather poorly taken. Notwithstanding this, it is within the power of the Planning Authority to condition the exclusion of solar panels in the proposed dwelling. While this would not be ideal, the Applicant would be prepared to accept a condition to that effect.
- 3.24 It is considered that this Statement has demonstrated that the design of the proposed dwelling satisfies criteria d) of Policy PMD5. The design heavily reflects the character of existing dwellings and is sympathetic to the local built environment.

## Summary

- 3.25 It is common ground between the Appellants and the Planning Authority that the proposed development accords with criteria a), e), and f) of Policy PMD5. It is considered that accordance with criteria b), c), and d) has been demonstrated in this representation. Therefore the principle of development is considered to be acceptable in accordance with Policy PMD5.

**GROUND 2: THE PROPOSED DEVELOPMENT WOULD PRESERVE “THE SPECIAL ARCHITECTURAL AND HISTORIC CHARACTER” OF THE YETHOLM CONSERVATION AREA.**

- 3.26 It is noted that Report of Handling 20/00453/FUL identifies “significantly harmful adverse impacts to Yetholm Conservation Area”. The Report explains that:

“The Heritage and Design Officer objects to the proposal and states the principle of introducing a dwelling on the site is unacceptable.”

- 3.27 The following extract has been replicated from the consultation response of the Heritage and Design Officer:

“There may be scope for the introduction of a small, modest structure similar to a garage, shed or possibly small garden studio form as this would not disrupt this established positive contribution to the Conservation Area. However, development on this site on the scale of a dwellinghouse would disrupt these positive characteristics, and therefore constitute harm to the character and appearance of the Conservation Area.”<sup>1</sup>

- 3.28 However, the consultation response has clearly been made without due regard to Planning Advice Note 71: Conservation Area Management (PAN-71). PAN-71 is the government’s authoritative guidance on development planning and management within and around Scotland’s Conservation Areas and informs Scottish Planning Policy 2014.

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<sup>1</sup> Underline represents the emphasis of this author for members’ specific attention.



3.29 Fortunately, PAN-71 is unequivocal on the role of Conservation Areas. This is clearly outlined in the extract copied below:

“Conservation Areas are living environments that despite their history, will continue to adapt and develop. Designating a conservation area does not mean a prohibition on development. It does mean carefully managing change to ensure that the character and appearance of these areas are safeguarded”.<sup>2</sup>

3.30 Reporters of the Government’s Planning and Environmental Appeals Division have consistently upheld the status of the Planning Advice Notes as material considerations bearing considerable weight – PPA-110-2380 and PPA-130-2070 (both issued in 2019) – and the ‘in-principle’ acceptability of appropriate new dwellings within designated Conservation Areas – PPA-130-2070, PPA-110-2380, PPA-110-2363, PPA-200-2041, PPA-230-2288, PPA-290-2053; all issued between May 2017 and December 2019.

3.31 In light of the material considerations contained within paragraphs 3.27 & 3.29, it is established beyond doubt that the Heritage and Design Officer has erred in judgement. The opinion: that scope did not exist for “development on this site on the scale of a dwellinghouse” stated within the consultation response clearly demonstrates a misunderstanding of PAN-71 and specifically the fact that the Conservation Area designation “does not mean a prohibition on development”.

3.32 The design of the principal (west) elevation is also considered to be appropriate within the Conservation Area. The architecture of the proposed principal elevation broadly reflects that of Clifton Cottage – the existing dwelling on the opposite side of High Street. While the design largely represents a replication, including of the subservient element to the south complete with front door, a single door (as opposed to two) is included within the elevation for functional reasons. This is considered to represent a modest sympathetic progression on the design concept. Additionally, it should be noted that the established, mature hedge across the site’s frontage will largely screen views from the street.

3.33 It also noted that a Character Appraisal/Assessment has not been prepared for the Yetholm Conservation Area by the Heritage and Design team. The “Conservation Area Statement”<sup>3</sup> (a textual webpage hosted on the Council’s website) does not mention

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<sup>2</sup> Underline represents the emphasis of this author for members’ specific attention.

<sup>3</sup> Conservation areas - Yetholm.

Available: [https://www.scotborders.gov.uk/directory\\_record/26018/yetholm](https://www.scotborders.gov.uk/directory_record/26018/yetholm)

‘undeveloped land’ or ‘undeveloped spaces’ nor does it identify any contribution they might make towards local character.



**Fig.6.** Photograph taken by Appellant from village green looking towards appeal site.

- 3.34 The planning regime – and the legislation and policy which direct it – do not require the Heritage and Design team to serve as the administrator of an embargo on new development within and around the Borders’ Conservation Areas. It is this misunderstanding which has given rise to the unsafe advice provided to the Planning Officer in the consultation response of the Heritage and Design Officer and led to the incorrect application of the second reason for refusal.



- 3.35 The assertion that the proposed development is contrary to the text and aims of Policy EP9 is unjustified. It is considered that the proposed development would preserve “*the special architectural and historic character*” of Kirk Yetholm as required by Policy EP9 because the design of the proposed dwelling is heavily influenced by the architecture of existing dwellings within this part of the village. Neither Report of Handling 20/00453/FUL or the consultation response of the Heritage and Design Officer have provided any substantive justification to doubt this consideration, and less still to cast it aside. Therefore, the proposed development is considered to accord with Policy EP9.

**GROUND 3: THE PROPOSED DEVELOPMENT DOES NOT PROPOSE WORKS TO THE GREENSPACE OF THE EXISTING ROADSIDE VERGE AND WATER PUMP, BOTH OF WHICH WOULD BE RETAINED IN-SITU.**

- 3.36 Paragraph 3.8 has made clear that no physical works are proposed to the roadside verge, including its greenspace. There is no requirement to repeat these arguments.
- 3.37 For the sake of clarity, the Appellants do not propose works to the existing drive. The “improve existing access” label identified on AH073-P02(B) Site Layout (Fig.2.) refers to a possible replacement of existing gravel which may be completed as a final item on the schedule of construction works, subject to the Appellants discretion. This work does not require planning permission and could be conducted at any time but was included on AH073-P02(B) owing to the robust preparation of the Application. Works to the effect of re-laying the drive in tarmac concrete pavement or similar, would be likely to require planning permission and are not proposed herein. The Appellants are prepared to accept a condition to this effect.
- 3.38 For the avoidance of doubt – the proposed development does not include the removal of the cast iron water pump or any other works to it.
- 3.39 The assertion of “direct and indirect adverse impacts and harm caused to the public open space (the roadside verge and water pump)” is entirely without foundation. Report of Handling 20/00453/FUL – at the direction of the consultation response of the Forward Planning team – has established that the incorrect designation of the appeal site under Policy EP11 does not present a reason for the refusal of the proposed development. Given the absence of detrimental impact on designated greenspace, the proposed development is considered to accord with Policy EP11.



**GROUND 4: THE DESIGN OF THE PROPOSED DEVELOPMENT HEAVILY REFLECTS THE CHARACTER OF NEARBY EXISTING DWELLINGS WITHIN KIRK YETHOLM AND REPRESENTS AN APPROPRIATE ADDITION TO THE LOCAL BUILT ENVIRONMENT.**

- 3.40 The fourth reason for refusal represents the consistent repetition of content throughout Report of Handling 20/00453/FUL.
- 3.41 It primarily relates to the assertion that the “design [of the proposed dwelling] is not in keeping with [the local] vernacular”. However, as established in paragraphs 3.18-3.24, this assertion is unjustified as it fails to recognise that the proposed dwelling comprises white render elevations and slate roof, in a residential area dominated by existing dwellings of white render elevations and slate roofs. The design criticism also neglects to account for the modest and sympathetic architecture of the principal elevation. The supposed inappropriateness of the design has not been substantiated in this context.
- 3.42 The reason for refusal also draws on the objection of the Roads Planning team. However, Report of Handling 20/00453/FUL makes no attempt to establish how providing two on-site parking spaces and otherwise replicating the parking arrangements which serve every other existing dwelling in High Street (with the exception of Valley Dene) would represent an ‘unacceptable road safety impact’ – which Scottish Planning Policy allows for the refusal of. Therefore this strand of reasoning must be disregarded.
- 3.43 The design of the proposed dwelling is considered to be sympathetic to the local built environment as it comprises white render elevations and slate roof, in a residential area dominated by existing dwellings of white render elevations and slate roofs. Therefore the proposed development has been made in accordance with Policy PMD2.

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**GROUND 5: BY THE TESTIMONY OF THE SBC ARCHAEOLOGY OFFICER, THERE IS NO DEFINITIVE OR DOCUMENTED EVIDENCE THAT THE SITE CONTAINS ARCHAEOLOGICAL REMAINS. IN ANY CASE, THE EXISTENCE OF ANY REMAINS DOES NOT PRESENT A LEGITIMATE REASON FOR REFUSAL AND THE APPELLANTS ARE PREPARED TO ACCEPT A CONDITION REQUIRING ARCHAEOLOGICAL INVESTIGATION PRIOR TO THE INITIATION OF CONSTRUCTION WORKS.**

- 3.44 Report of Handling 20/00453/FUL identifies “a moderate or high potential” of the existence of “Medieval or early Post-Medieval buildings” archeological remains on-site. The Report explains that:

“The archaeologist requires archaeological evaluation of the site prior to any recommendation of approval. This is required to understand whether the site yields Medieval or early Post-Medieval buildings. There is a moderate or high potential in this location (so close to the heart of the settlement) and I am satisfied that archaeological remains, features or finds should be identified and recorded prior to any acceptance of the proposal.”

- 3.45 Unfortunately the Planning Officer is mistaken. The following extracts have been replicated from the consultation response of the Archaeology Officer:

“I have assessed the application against what is recorded in the Scottish Borders Council Historic Environment Record (HER). I have also consulted historic editions of the Ordnance Survey mapping of the area.

The site of this application can be identified in the various Ordnance Survey map editions since the first edition surveyed and published in the mid-19<sup>th</sup> century. Whilst the garden plots on the eastern side of the street – then called Tinker’s Row – are largely featureless apart from divisions into the plots and paths, their regular layout may suggest the former presence of buildings prior to the survey. The presence of a small stream or burn is also shown by the first edition. By the Ordnance Survey second edition mapping of later 19<sup>th</sup> century date the stream appears to have been culverted.”

“Given the location of the proposed property on one of the main roads into the village which is of some age it is suggested that an evaluation be carried out prior to the determination of this application. It is anticipated that there may have been some



Medieval or early Post-Medieval buildings present at this location and that any archaeological remains, features or finds should be identified and recorded.”<sup>4</sup>

- 3.46 It is impossible to review the consultation response and fail to notice the distinct caveats. The suggestion of both on-site building(s) prior to the mid-19th century and of development originating closer to the Middle Ages are heavily qualified and the Archaeologist – to his credit – never professes to ‘know’ or to attribute ostensible likelihoods.
- 3.47 In this context, the assertion of “moderate or high potential” of the existence of “Medieval or early Post-Medieval buildings” or other archeological remains on-site can be best understood as exaggerated and the address to possible “archaeological assets of regional or local significance” as pre-emptive.
- 3.48 The facts of the matter are twofold. First, there is no definitive or documented evidence that the site contains archaeological remains. And second, the Appellants are prepared to accept a condition requiring archaeological investigation prior to the initiation of construction works so the existence of any remains does not present a legitimate reason for refusal.

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<sup>4</sup> Underline represents the emphasis of this author for members’ specific attention.



## 4.0 CONCLUSIONS

- 4.1 The Appeal, supported by this Statement, requests that the Council overturns the decision to refuse Planning Permission for Application 20/00453/FUL and grant consent for the demolition of a garage and erection of a dwellinghouse within the garden ground of Clifton Cottage, High Street, Kirk Yetholm.
- 4.2 The proposed development is for the erection of a new dwelling on a site within the single Development Boundary defined for Town Yetholm and Kirk Yetholm. The proposed dwelling would sit in harmony with existing land uses nearby and in all other ways represent a sensitive, restrained, and measured addition to Kirk Yetholm. This reflects the position of the Forward Planning team laid out in their consultation response. Therefore, the proposed development is considered to accord with Policy PMD5.
- 4.3 The design of the proposed dwelling is heavily influenced by the architecture of existing dwellings within this part of Kirk Yetholm and so would preserve *“the special architectural and historic character”* of the village, which forms part of the designated Yetholm Conservation Area. Attempted criticisms of the design have failed to establish themselves in or reconcile to this reality. Therefore the proposed development is considered to represent good design and to be acceptable within the Conservation Area in accordance with both Policies EP9 and PMD2.
- 4.4 Report of Handling 20/00453/FUL and the consultation response of the Forward Planning team have established that the incorrect designation of the appeal site under Policy EP11 does not prevent erection of a new dwelling. No physical works are proposed to the roadside verge. The proposed dwelling and all building works are to be contained behind the established, mature boundary hedge. The existing drive on-site is used by the occupants of Clifton Cottage and no evidence to substantiate the assertion that use of the drive by the occupants of the proposed dwelling would represent *“harm in the form of damage”* has been presented. The proposed development would not have a detrimental impact on designated greenspace and is considered to accord with Policy EP11.
- 4.5 The Appellants are prepared to accept a condition requiring archaeological investigation prior to the initiation of construction works. This is standard procedure and no justification for a deviation has been substantiated.

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- 4.6 The Local Review Body is respectfully requested to allow the appeal for the demolition of a garage and erection of a dwellinghouse.

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## APPENDIX 1

### Core Documents

The following drawings, documents, and plans have been submitted to support the appeal:

- Appeal Form;
- CD1 Appeal Statement, prepared by Ferguson Planning;
- Application Form;
- CD2 (Application) Planning Statement, prepared by Ferguson Planning;
- CD3 AH073-P03(B) Location Plan, prepared by Aidan Hume Design;
- CD4 AH073-P02(B) Site Layout Plan, prepared by Aidan Hume Design;
- CD5 AH073-P01(A) Revised Plans, prepared by Aidan Hume Design;
- CD6 AH073-P04(B) Shadow Plan, prepared by Aidan Hume Design;
- CD7 Representation Letter dated 27th May, prepared by Ferguson Planning;
- CD8 Land Register Title Deed for Clifton Cottage, Kirk Yetholm (private cover);
- CD9 Yetholm Conservation Area Statement, prepared by SBC Heritage and Design team;
- CD10 Planning Advice Note 71: Conservation Area Management;
- CD11 Appeal Decision PPA-130-2070;
- CD12 Appeal Decision PPA-110-2380;
- CD13 Appeal Decision PPA-110-2363;
- CD14 Appeal Decision PPA-200-2041;
- CD15 Appeal Decision PPA-230-2288;
- CD16 Appeal Decision PPA-290-2053;
- CD17 Report of Handling 20/00453/FUL; and
- CD18 Decision Notice 20/00453/FUL.

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