

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**5 OCTOBER 2020**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 20/00331/FUL

**OFFICER:** Julie Hayward  
**WARD:** Leaderdale and Melrose  
**PROPOSAL:** Demolition of existing building and erection of 14 No residential apartments and associated parking  
**SITE:** Main Building West Grove Waverley Road Melrose  
**APPLICANT:** Rural Renaissance Ltd  
**AGENT:** Camerons Strachan Yuill Architects

**PLANNING PROCESSING AGREEMENT:**

A Planning Processing Agreement is in place until 23<sup>rd</sup> October 2020.

**CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE:**

The application was continued from the September meeting of the Planning and Building Standards Committee to seek revisions to the site layout to increase the amount of on-site parking provision.

**SITE DESCRIPTION**

The site is situated on the corner of Waverley Road and Tweedmount Road in Melrose. It is out with the Conservation Area, though the eastern boundary of the site forms the edge of the Conservation Area, and is within the National Scenic Area.

The single storey, flat roof rendered building to the rear (out with the application site boundaries) has Planning Permission to convert from offices to a gym and spa. There are residential properties to the east and south on High Cross Avenue and to the north west in Tweedmount Road. The Holy Trinity Church and rectory are to the south west on High Cross Avenue. The church, rectory and a number of residential properties in the surrounding area are Listed Buildings.

The site comprises of a former congregational church and manse and parking for the gym. The former church building has been altered and extended many times in the past and was last used for offices, but has been vacant for some time. The church has a high gable onto Waverley Road and the manse is two storey with bay windows, rendered with a slate roof.

There are vehicular accesses from Waverley Road and Tweedmount Road. Boundary treatments comprise of a stone wall and timber fence to Tweedmount Road, a timber fence to Waverley Road and a stone wall along the boundary with Nos. 14 – 16 High Cross Avenue to the east. There is an area of planting and a disabled parking space in front of the building and there are two semi-mature trees within the site, which are covered by a Tree Preservation Order.

## **PROPOSED DEVELOPMENT**

The proposal is to demolish the former church and manse and erect a building containing 14 apartments. Revised drawings have been submitted since the application was first registered; the building would be four storeys, including an undercroft and attic accommodation. The design features high gables and pitched roof dormers. It would have white rendered walls with coursed rubble for the undercroft and standing seam zinc cladding detailing. The walls would be broken up with natural stone buttresses and finials. The pitched roof would be slate and the flat roofs standing seam zinc. The windows would have grey alu-clad frames. There would be four, two bedroom apartments per floor and two in the roof space.

The site plan drawing considered at the September meeting showed an undercroft providing three parking spaces, one disabled space, cycle storage and service/plant/storage areas. Overall, fifteen residential car parking spaces were proposed, including one disabled space and one visitor space. The gym would be served by 20 parking spaces.

A revised site plan has now been submitted together with a Parking Statement. A total of 18 car parking spaces would serve the apartments, including one visitor space and one disabled space; six of these spaces would be accommodated in the undercroft and the remainder of the undercroft would now accommodate a biomass district heating system for the apartments and gym/spa. The gym/spa would be served by 20 parking spaces.

The site would be served by a widened vehicular access from Waverley Road and an exit onto Tweedmount Road via a one way system. A bin store would be located adjacent to the entrance onto Waverley Road screened by a 1.8m high coursed rubble wall.

The boundary to Tweedmount Road would be defined by a beech hedge and a 400mm high coursed rubble stonewall would be erected along the Waverley Road boundary and the access road. There would be areas of grassed amenity space around the front of the building, some tree planting and low level planting along the eastern elevation.

## **PLANNING HISTORY**

15/00504/FUL: External alterations and erection of 4 No flagpoles. Refused 14<sup>th</sup> July 2015.

15/00896/FUL: Installation of canopy walkway and alterations to form 2 no slappings. Approved 29<sup>th</sup> September 2015.

15/01203/FUL: Change of use from Class 4 Offices (Business) to Class 2 Offices (Financial, Professional and other Services) (retrospective). Approved 9<sup>th</sup> December 2015.

15/01354/FUL: External alterations and erection of 4 No flagpoles. Refused 18<sup>th</sup> January 2016.

16/01583/FUL: Change of use from offices and alterations and extension to form gym/spa. Approved 24<sup>th</sup> April 2017.

17/00768/FUL: Extension to form spa treatment rooms. Approved 6<sup>th</sup> September 2017.

17/01432/FUL: Extension to form new entrance and alterations to west elevation (amendments to previously approved application numbers 16/01583/FUL and 17/00768/FUL). Approved 14<sup>th</sup> December 2017.

## **REPRESENTATION SUMMARY**

Eleven individual representations (seven objections and four letters of support) have been received and these can be viewed in full on the Public Access website. The objections raise the following issues:

- Residential/retirement flats is a good use of the site but the building is too high, dwarfing the existing buildings;
- Nothing in this area is of this scale;
- The development should include eco designs to benefit owners of the properties;
- The design does not fit in with the architecture of the area;
- The gym should be demolished enabling a lower building with a larger footprint;
- It is unlikely that residents would use the adjacent gym, which has Planning Permission. The gym should be demolished and facilities that better suit elderly people provided on the site;
- The public space at the front is just a small area of grass;
- Insufficient parking for the apartments and gym is proposed resulting in additional parking and congestion in Tweedmount Road, impacting on safety;
- The access to the site is dangerous due to the poor visibility and steep slope;
- Noise from additional traffic;
- Overlooking and loss of privacy;
- The building has been moved closer to existing properties, impacting on outlook, light and privacy
- Light pollution from the flats at night;
- Increase in traffic;
- The apartment building and the gym within the site constitutes overdevelopment with no connection between the two uses;
- The development will detract from the character of the area, contrary to policy PMD5 (b);
- The development should be more in keeping with the surrounding architecture and more tree planting would help it blend in with its surroundings;
- The scale, form, design and density are at odds with the context of the immediate neighbourhood, in contravention of policy PMD5 (d);
- The street views are misleading and deceptive and the development will stand as a modern carbuncle siting on one of the main routes into Melrose. The development should be reduced by at least one storey and redesigned, with additional tree planting.

The four representations in support of the proposal can be summarised as follows:

- Retirement accommodation represents a good use of the site as there is a shortage of high quality accommodation for those in later life in Melrose and the surrounding area. Such accommodation frees up other properties for first time buyers;
- The building is lower in height than the existing building;
- The proposed building is more aesthetically pleasing than the existing building;
- The development would have easy access to the town centre;

- The development would encourage people to come to Melrose and support local infrastructure.

## **APPLICANTS' SUPPORTING INFORMATION**

- Design Statement
- Planning Statement
- Objection Rebuttal
- Parking Statement

## **DEVELOPMENT PLAN POLICIES:**

### **Scottish Borders Council Local Development Plan 2016**

PMD1: Sustainability

PMD2: Quality Standards

PMD5: Infill development

HD3: Protection of Residential Amenity

EP3: Local Biodiversity

EP4: National Scenic Areas

EP7: Listed Buildings

EP8: Archaeology

EP9: Conservation Areas

EP13: Trees, Woodland and Hedgerows

IS2: Developer Contributions

IS3: Developer Contributions Related to the Borders Railway

IS7: Parking Provisions and Standards

IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

## **OTHER PLANNING CONSIDERATIONS:**

Supplementary Planning Guidance

Placemaking and Design 2010

Householder Development (Privacy and Sunlight) 2006

Trees and Development 2008

Biodiversity 2005

Development Contributions updated January 2018

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Roads Planning Service:** Concerns with this proposal relate to the level of parking provision.

Through previous approvals, agreement has been met for 23 parking spaces associated with the gym/spa/offices. These have been shown on the plan although the amended layout causes some concern. The use of the three undercroft bays may not be clear to users of the gym/spa, although signage could be utilised to indicate this. The disabled bay for the gym is now shown under the new building as opposed to next to the access ramp. This now causes users of this bay to cross the car-park to access the gym/spa. Another issue regarding the parking for the gym/spa is that the submission indicates 24 spaces, although there are only 23 shown on the plan.

With regards the parking associated with the flats, it is noted that there is to be one space allocated per flat and 2 visitor spaces. This equates to 16 spaces as shown on the plan. However, one of these spaces is a disabled bay which cannot be allocated to a specific flat and does not accommodate all visitors. Whilst there may be some spillage of vehicles into the spaces proposed for the gym by residents and visitors to the flats, the parking overall is on the light side.

Given the site's proximity to the town centre and the services and public transport links this provides, the proximity of Tweedbank Terminus for the Border Railway, and taking into consideration the fact that the SEStrans parking guidance allows for between 0.5 and 1.5 spaces per unit for this zone of development (Zone D), RPS would be prepared to accept a parking level of 19 spaces for the flats and 23 for the gym/spa. The 19 spaces would be made up from 14 allocated for the flats, 4 visitor spaces and 1 disabled space. Confirmation as to how these spaces are to be provided is required.

The following matters should be addressed should approval be considered:

- Alterations to the wall at the exit on to Tweedmount Road, agreed via previous approvals, will also have to be carried out prior to occupation of the first unit.
- An allowance for cycle parking should be incorporated within the development – as per ‘Cycling by Design by Transport Scotland’ standards.
- The access into the site shall have to be in the form of a footway crossing. As the footway is slabbed, the access should be formed using block pavements. A detail for this will have to be provided for approval. This detail should include construction details, the relocated street lighting column and road gully.
- The paths associated with the entrance to the property should continue to the existing footway on Waverley Road.
- The boundary fence along Tweedmount Road should not be provided over the final 3m adjacent to the exit from the site.

**Re-consultation:** Confirm that the amended drawing is in line with discussions with the agent. Recommend conditions regarding the construction details of the parking area and boundary fencing should be attached to any approval.

**Re-consultation:** Having reviewed the amended drawing, Drawing No. 9375.3.04 Rev. F, I would make the following comments:

For clarification, the parking associated with the gym is as per the approval for that development which was 20 spaces. This was based on one space per two visitors at the maximum occupation of the development (including the add-on therapies) of 40.

The parking associated with this residential proposal (18 spaces) is still one space less than what was originally requested, but this does represent an increase of 3 spaces from the 15 spaces proposed in the previous submission considered at the Planning & Building Standards Committee meeting on 7<sup>th</sup> Sept 2020. I am satisfied that the developer has made all attempts to maximise parking provision and, on balance, I am able to accept the 18 spaces proposed. It is my opinion that the parking spaces should be distributed in the following way: 14 spaces dedicated to the residents of the proposed flats, 1 – 3 on the plan allocated for visitors and the final space being the disabled person space.

When considering this application, it has to be borne in mind that whilst it is being referred to as “retirement flats”, the only restriction I am able to find for the occupancy

is that residents have to be over 55. As such, I have had to assess the development as mainstream housing. I accept that the SEStrans Parking Guidelines for new flats in Zone D is between 0.5 and 1.5, which would be between 7 and 21 for this development, however, the Local Development Plan states that for general housing, the parking should be 2 spaces per dwelling plus 0.25 spaces per dwelling for visitors or alternatively 1.5 to 1.75 spaces for communal provision. Whilst the proposed level does not match this standard, I have taken into consideration the physical constraints on site, the location of the site in proximity to the town centre, the local bus routes and proximity of Tweedbank Railway Station, along with consideration of the likelihood of the occupants having more than one car, and accepted a reduction from these standards towards those accepted for town centre redevelopments (which are 1 to 1.5 spaces per dwelling or 14 to 21 for this development). Following guidance, I have also requested that disabled person parking be provided in the ratio of 1 space per 20, thus there is one space for the gym and one for the residential development.

Based on the above, I am now in a position to be able to offer support to the proposal.

**Director of Education and Lifelong Learning:** No response.

**Housing:** The proposal provides fewer units than would require provision of on-site affordable housing but developer contributions would be required to satisfy policy requirements.

**Archaeology Officer:** This application is for the demolition of the existing historic buildings of a former Congregational Chapel, which dates back to 1878.

As Planning Permission is not required to demolish the buildings, we cannot require that any historic building recording is carried out. An informative about recording of the building is requested, as this cannot be covered by a planning condition.

Whilst the site of this proposed application lies outside the core of the medieval town, and is shown as open fields in the 19<sup>th</sup> century mapping, it is located at a prominent location and routeway into the town. There would be, therefore, the potential for some below-ground, hitherto, unrecorded archaeological remains to be present.

The proposed building would extend beyond the extent of the existing buildings on the site. It is likely that foundation trenches will be substantial, and will also be at a greater depth to the previous foundations (if any) of church and manse buildings. Archaeological work is recommended to be carried out. However, little of the original natural topography of the area survives for the most part of the area proposed for development. It is probable that any earlier archaeological remains will have largely been destroyed already, but what may remain and might be exposed during foundation work may still be of significance. A modest archaeological condition is recommended.

**Landscape Architect:** No response.

**Heritage and Design Officer:** The site located in a prominent corner location immediately outside the boundary of the Melrose Conservation Area, and within close proximity to a number of Category B and C listed buildings of ecclesiastical and residential historic character. The former church in question was designed as a prominent, but not visually dominating, contribution to its streetscape.

The former church has been considerably altered to accommodate varied uses over time. The associated loss of authenticity lowers its heritage value. While elements of the historic fabric remain, the former church in question has low heritage value due to

its level of alteration and associated loss of integrity and aesthetic interest. There is therefore no objection from a heritage perspective to the demolition of this building provided subsequent development has a positive planning and public benefit impact.

The proposed replacement building is a substantial structure. The proposed residential use of the site is consistent with the general historic character of the area and the layout is also appropriate to the area.

However, while it is clear that effort has been made to reduce the visual dominance of this substantial development (e.g. by setting further back from the southern street edge), due to the scale of development the proposed intervention would be out of scale with its surrounding townscape, thus harming the setting of the Conservation Area and wider setting of surrounding Listed Buildings. This effect would be emphasised by the proposed boundary treatment of fences and a generally 'hard' appearance which is in contrast to the combination of stone boundary wall and mature trees which characterise the historic property/boundary treatment of the area.

The efforts made to reference the ecclesiastical history of the site and in this manner reinforce local character is positive in intention, though questionably effective at such a large scale.

**Neighbourhood Services:** No response.

**Refuse Collection:** As long as collection vehicles can drive in and out without the need for reversing or there is a dedicated turning area large enough for an RCV, there are no concerns. If this is not the case then a communal collection point would need to be put where a safe guaranteed turning area, kept clear could to be identified.

### **Statutory Consultees**

**Community Council:** Support this application as there is a need for these types of properties in Melrose whilst retaining some of the existing features in the new building supports the historic past use of this site. Our only concern would be that all parking needs to be within the development area as far as possible to minimise any disruption to surrounding existing residents parking.

**Scottish Water:** No response.

### **Other Consultees**

None.

### **KEY PLANNING ISSUES:**

- Siting, scale and design
- Impact on the Conservation Area
- Impact on residential amenities
- Access and parking
- Archaeology

## **ASSESSMENT OF APPLICATION:**

### **Planning Policy**

The site is within the development boundary for Melrose and so the proposal must be assessed principally against policy PMD5. Within Development Boundaries development on non-allocated, infill or windfall sites will be approved if certain criteria are met. These criteria will be assessed within this report. One criterion is that the proposal should not conflict with the established land use of the area. The surrounding area is predominantly residential in character and so the proposal to build residential apartments on the site would be in keeping with this part of Melrose.

The Planning Statement advises that the development would provide apartments for retired/older residents. The agent advises that people downsizing into a retirement flats frees up larger family houses, increasing the housing land supply and creating a chain of movements which ultimately means dwellings become available to a first time buyers, thereby slowing the rise of house prices.

This site would be an ideal location for apartments of this nature, being close to the town centre, health centre and public transport. The proposal would increase the variety of accommodation types available in Melrose and provide accommodation for those of, or close to, retirement age not readily available at the moment.

### **Layout and Design**

Policy PMD2 of the LDP requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development. Policy PMD5 requires that the development respects the scale, form, design, materials and density of its surroundings; the individual and cumulative effects of the development should not lead to over-development or town cramming; the proposal should not detract from the character and amenity of the surrounding area.

The proposal is to demolish the existing buildings on the site, which are out with the Conservation Area and are not listed, therefore consent is not required for their demolition. The photograph in the Design Statement shows a handsome church of historic merit but the church and manse have been significantly altered and extended over time, although elements of the historic fabric remain. They now have a low heritage value and so there are no objections to their demolition

The proposal is to erect a replacement building accommodating 14 apartments, four on each floor and two in the attic. An undercroft, taking into account the sloping nature of the site, would provide some parking, storage and services.

Whilst it is accepted that the site represents an opportunity to provide a modern landmark development within Melrose, this is a prominent, sensitive site on the edge of the Conservation Area and such a proposal is not without its challenges. The area is characterised by low density development, with predominantly large, older residential properties set within large plots with mature landscaping and stone boundary walls.

The apartment building would be sited towards the Waverley Road boundary, with the car parking area and gym/spa building to the rear. The relationship with the gym is uncomfortable, due to the potential conflict of uses between the gym/spa and

residential apartments, in terms of traffic and activity, and also the way the position of the gym/spa dictates the layout of the site. The retention of the gym/spa results in a large area of hard surfacing to the rear and side of the apartment building for parking and circulation space for both uses (residential and commercial). This results in small areas of open space/amenity space for future residents at the front of the site adjacent to Waverley Road, where there is little in the way of privacy, and also a lack of space for landscaping to soften the impact of the development and break up the large areas of hard surfacing.

Discussions have taken place with the agent and applicant to resolve these issues but the applicant wishes to retain the gym/spa, as they see this as a complementary facility for residents of the apartments. The footprint of the building has been reduced slightly to increase the area of amenity space and small areas for planting and three trees have been included in the layout.

In terms of scale and height, the site demands a building with presence, given its location and the scale of the existing building. Efforts have been made during the processing of the application to reduce the visual dominance of the proposed building by setting it further back from the road, reducing the footprint and lowering the ridge height.

The design principles are felt to be the right approach, as the elevations are well proportioned with attractive detailing, such as the natural stone buttresses and finials and zinc cladding. The two wings help reduce the bulk of the building and the windows in the gables and stone frontage add interest.

A sample of the external materials would be secured by condition should the application be approved. It is felt that white dry dash render for the walls is not appropriate; a buff wet dash render or similar is required, the precise colour of which can also be secured by condition.

In summary, it is accepted that the site demands a building of a scale to reflect that of the existing building on the site and the design approach acceptable, but concerns regarding the lack of private amenity space, the large area of hard surfacing for car parking and the proximity of the gym/spa remain.

### **Impact on Visual Amenities**

Policy EP4 states that development that may affect the National Scenic Area will only be permitted where the objectives of the designation and overall landscape value of the site and its surroundings will not be compromised and any significant adverse effects on the qualities for which the site or its surrounds have been designated are clearly outweighed by social or economic benefits of national importance.

Policy EP9 states that the Council will support development proposals within or adjacent to Conservation Areas which are located and designed to preserve and enhance the special architectural or historic character and appearance of the Conservation Area, respecting the scale, proportions, alignment, density, materials and boundary treatments of nearby buildings and open spaces.

The site is out with the Conservation Area but this is a prominent site and any development on it would impact on views into and out of the Conservation Area. Street View visuals have been provided showing how the building will appear from both directions when travelling on Waverley Road. The removal of the existing building will benefit visual amenities. Although the building would be highly prominent, as outlined

above, the scale and design, subject to agreed materials, are considered to be acceptable for this site.

The original proposal was for a high timber fence on part of the road boundary but this has been replaced by hedging. The planting will be secured by condition.

It is considered that the amended proposals would not have a significant detrimental impact on visual amenities or the Conservation Area.

### **Impact on Trees**

Policy EP13 seeks to protect trees and woodlands from development. There are two trees on the Waverley Road boundary within the site that are covered by the High Cross Avenue group Tree Preservation Order. These will need to be felled to facilitate the revised proposals. The site plan indicates that three replacement trees are proposed.

### **Impact on Residential Amenities**

Policy PMD5 states that the development should not result in any significant loss of daylight, sunshine or privacy to adjoining properties as a result of overshadowing or overlooking. Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new developments to ensure that proposals do not adversely affect the residential amenities of occupants of neighbouring properties.

The site is located within a predominantly residential area and is surrounded on all sides by residential properties. However, it is considered that properties on High Cross Avenue to the south and west and in Tweedmount Avenue to the north-west would not be impacted adversely by the development due to the distances between proposed and existing buildings. The distances involved would not result in a loss of residential amenity.

Nos 14 – 16 High Cross Avenue are positioned to the east, adjacent to the site on lower ground, separated by a high stone wall. However this property has a projecting bay window on west facing side elevation. The proposed building would be sited further north west in the site than the existing building and the height of the proposed building would be significantly lower than that of the existing church. It is considered that any loss of light would not be exacerbated to the detriment of residential amenity by the current proposals. Windows are proposed in the east elevation serving living rooms, dining rooms and kitchens, approximately 10m from the boundary. These would be relatively small and appear to be located at a high level. There would be no direct overlooking of habitable rooms as the building is set back in the site, but there would be a degree of overlooking of the neighbouring garden. It is worth noting that there a number of windows at first floor level on the existing former church building that currently overlook the neighbouring property. Whilst these serve former offices, it is conceivable that the existing building could be converted to flats under a separate planning consent. As the existing building is closer to the mutual boundary and set further forward in the site than the proposed development, it is felt that the proposed development would reduce the potential for overlooking and would therefore improve the residential amenity of the neighbouring dwelling.

The property known as Dryden to the north of the site would be over 25m from the proposed apartment building, beyond the gym/spa. This is a bungalow and has a garage on the side elevation with no windows in the gable elevation. It is considered that there would be no loss of light or privacy to this property.

A biomass district heating system has been included on the revised site plan, though no details have been submitted. These will be secured by a condition and a further condition will limit noise levels from plant and machinery to protect residential amenities.

### **Access and Parking**

Policy PMD5 requires that adequate access and servicing can be achieved. Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards.

The vehicular access would be from Waverley Road, which would be widened and the exit would be onto Tweedmount Road via a one way system. Cycle storage would be accommodated within the undercroft. The Planning Permission (16/01583/FUL) for the gym/spa included 20 parking spaces for the facility and these would be retained.

The Roads Planning Service (RPS) advised that parking for the apartments was below what would normally be required for a development of this nature (19 spaces for the flats and 23 for the gym/spa). They advised that one of the spaces is a disabled bay, which cannot be allocated to a specific flat and the layout did not accommodate parking for all visitors. This under-provision of parking suggests an over-development of the site.

The site plan presented to the September committee showed fifteen car parking spaces (including a disabled space and one visitor space) provided for the apartments and 20 for the gym/spa. The Roads Planning Service had, however, previously agreed with the agent that there would be 19 spaces for the apartments and 20 for the gym, as there may be some spillage of vehicles into the spaces proposed for the gym by residents and visitors to the flats and the site is close to the town centre services and public transport links. Roads Planning requested minor adjustments to the layout to ensure pedestrians leaving the development can see other road users and conditions to ensure construction details for the parking area are submitted and agreed, and restrictions placed on the height of proposed boundary treatments.

Following the continuation of the application at the September committee a revised site plan has been received. This shows 18 parking spaces for the apartments, including one visitor space and one disabled space, and 20 for the gym/spa.

The Roads Planning Service has been consulted on this revised layout and can now support the proposal. They advise that the parking associated with this residential development is still one space less than what was originally requested, but this does represent an increase of 3 spaces from the 15 spaces proposed in the previous submission. The Roads Planning Service advises that 14 parking spaces should be dedicated to the residents of the proposed flats, spaces 1 – 3 on the site plan allocated for visitors and the final space being the disabled person space. Conditions will ensure that the parking is marked as such on-site and that the parking and cycle storage areas are completed prior to occupation of the apartments.

## **Archaeology**

Policy EP8 states that development proposals which will adversely affect local archaeological assets will only be permitted if it can be demonstrated that the benefits of the proposal outweigh the heritage value of the asset. All proposals that adversely affect such an asset must include an acceptable mitigation strategy.

The Council's Archaeology Officer has outlined the history of the site. He advises that it is probable that any earlier archaeological remains will have largely been destroyed already, but what may remain and might be exposed during foundation work may still be of significance. An archaeological condition is recommended.

## **Water and Drainage**

Policy IS9 states that the preferred method of dealing with waste water associated with new development would be a direct connection to the public sewerage system.

The apartments would be connected to the public water supply and drainage network. The exact details would be secured as part of the Building Warrant application.

## **Development Contributions**

Financial contributions, in compliance with policies IS2 and IS3, are required in respect of affordable housing and the Borders railway. These would be secured by Section 75 legal agreement.

As this development is for the over 55s, contributions would not normally be required towards education or play areas, but the means of ensuring that the development is occupied by those over 55 upon first sale and in perpetuity thereafter is critical. It is felt that a planning condition would be unreasonable, difficult to enforce and a legal search by a prospective purchaser would be unlikely to highlight such a condition on a planning permission. The end result would be that the apartments could be occupied by those below 55 years of age, thereby placing a burden on the local schools provision.

It is the applicant's intention to secure occupation through title deeds but this would be out with the control of the Planning Authority. It appears that the only practical way to ensure that the exemption from education and play provision contributions is applied fairly is to place a burden on the property titles by means of a section 75 agreement. That would require contributions to be paid if an apartment was subsequently sold to purchasers that did not meet the age criterion. This approach was adopted for the Planning Permission (16/01217/FUL) for the erection of ten retirement homes at the West Linton Primary school site.

The applicant's solicitor has advised that this approach is unacceptable as such a provision would adversely impact on the marketability of the development to over 55s as the inference to be drawn from it is that if the commuted sum was paid at the relevant point in time to the Council, the unit could then be sold to anyone, thereby completely undermining the over 55s only occupancy restriction.

The applicant therefore is proposing that the Section 75 Agreement requires the landowner to insert an over 55s only occupancy and marketing provision into the title through a deed of conditions. This would then be policed and enforced by other residents and Council would only need to enforce against the landowner if they fail to insert the over 55s only occupancy restriction into the title through a deed of conditions.

No units could be occupied until the Deed of Conditions has been approved by the Council and registered against the title.

It is considered that the most appropriate way to proceed would be to include both the Council's preferred clause and the clause put forward by the applicant. This would ensure that a 55s only occupancy clause is written into the deeds and that contributions are paid to the Council if the age clause is breached. This would not affect the marketability of the flats as the clause would only come into effect should the occupancy condition in the deeds be breached.

## **CONCLUSION**

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

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

I recommend the application is approved subject to a legal agreement addressing contributions towards Borders railway and affordable housing and ensuring that an over 55s occupancy clause is written into the deeds and education and play contributions are only secured should the apartments be occupied by any persons under 55 years old, and the following conditions:

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.

Reason: To ensure that the development is carried out in accordance with the approved details.

2. No development shall take place until the applicant has secured a programme of archaeological work in accordance with a Written Scheme of Investigation outlining a Watching Brief. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to observe relevant below ground excavation during development, investigate and record features of interest and recover finds and samples if necessary. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered below ground excavation should cease pending further consultation with the Planning Authority. The developer will ensure that any significant data and finds undergo post-excavation analysis, the results of which will be submitted to the Planning Authority.

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

3. A sample of all materials/colour finishes to be used on all exterior surfaces of the development hereby approved (walls, roofs, windows, doors) shall be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved samples.

Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting and to the character of the Conservation Area.

4. A sample of the stone for the boundary walls to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved sample.

Reason: To safeguard visual amenities.

5. Detailed drawings showing the elevations of the coursed rubble boundary walls, bin store (including gates) and railings (including colour finish) be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved details and the bin store to be fully operational before the first apartment is occupied.

Reason: To safeguard visual amenities.

6. Details of the surfacing materials for the pedestrian access zones to be submitted to and approved in writing by the Planning Authority before the development commences. Thereafter, pedestrian access zones to be constructed as per the approved details before the first apartment is occupied.

Reason: To ensure safe access by pedestrians and to safeguard the visual amenities of the area.

7. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Planning Authority, and shall include (as appropriate):

- a) indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
- b) location of new trees, shrubs, hedges and grassed areas
- c) schedule of plants to comprise species, plant sizes and proposed numbers/density
- d) programme for completion and subsequent maintenance.

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

8. The finished floor levels of the building hereby approved shall be consistent with those indicated on a scheme of details which shall first have been submitted to and approved in writing by the Planning Authority before the development commences. Such details shall indicate the existing and proposed levels throughout the application site and shall be measurable from a fixed off-site datum point in a location clearly indicated in the scheme of details so approved.

Reason: To ensure that the proposed development does not have an adverse effect upon the amenity currently enjoyed by adjoining occupiers.

9. No drainage system other than the public mains sewer shall be used to service the development hereby approved without the written consent of the Planning Authority. Prior to occupation of the first apartment hereby approved, written evidence shall be submitted to and approved in writing by the Planning Authority that the apartments have been connected to the public water drainage network.

Reason: To ensure that the development does not have a detrimental effect on public health.

10. No development shall commence until a report has been submitted to and approved in writing by the Planning Authority that the public mains water supply is available and can be provided for the development. Prior to the occupation of the

first apartment, written confirmation shall be submitted to and approved in writing by the Planning Authority that the development has been connected to the public mains water supply. No water supply other than the public mains shall be used to supply the development without the written agreement of the Planning Authority.  
Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

11. The construction details (including surfacing material and drainage) for the parking area and details of how the parking spaces are to be demarcated on-site for residents and visitors shall be submitted to and approved in writing by the Planning Authority before the development commences. Thereafter the car parking area shall be constructed and the spaces demarcated as per the approved details before the first apartment is occupied and retained as such thereafter.  
Reason: To ensure the parking is fit for the purpose of the development hereby approved.
12. The cycle storage areas shown on the drawings hereby approved shall be installed and fully operational before the first apartment is occupied. The cycle storage areas shall be retained in perpetuity thereafter.  
Reason: To ensure cycle parking is incorporated within the development, as per "Cycling by Design by Transport Scotland" standards.
13. The 1800mm high beech hedge shown on the site plan (9357.3.04 Rev F) hereby approved shall be reduced in length by 3m from the vehicular exit of the site onto Tweedmount Road.  
Reason: To ensure the exit from the development hereby approved on to the existing public road is safe and fit for purpose.
14. Details of the biomass district heating system to be submitted to and approved in writing by the Planning Authority before the development commences. The heating system then to be installed in accordance with the approved details.  
Reason: As no information has been submitted and to safeguard residential amenities.
15. Any noise emitted by equipment, plant and machinery used within the building not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within all noise sensitive properties (windows can be open for ventilation). The noise emanating from any equipment, plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2.  
Reason: To protect the residential amenity of nearby properties.

#### Informatives

1. The Council's Archaeology Officer encourages a basic recording exercise of the existing buildings, with internal and external photos, to be carried out before demolition. Given the conversion to offices took place many years ago, it is unlikely that any original internal features remain but elements may be revealed during the demolition works. He would be pleased to add any records to our HER.

## DRAWING NUMBERS

Plan Ref	Plan Type
9357.03.01 A	Location Plan
9357.03.02	Existing Site Plan
9357.03.04 F	Proposed Site Plan
9357.03.04 B	Undercroft and Ground Floor Plan
9357.03.05 A	First and Second Floor Plan
9357.03.06 A	Third Floor and Roof Plan
9357.03.07 B	Elevations
9357.03.10 B	Street Views
9357.03.11 B	Courtyard Views
9357.03.12 B	Reduced Massing Drawing

### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

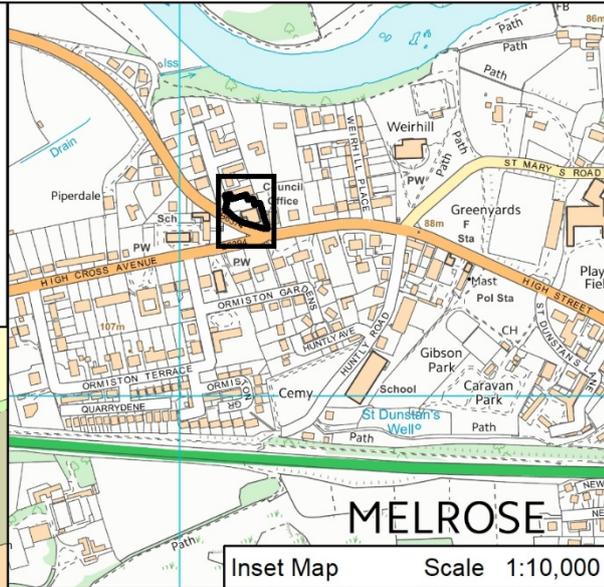
### **Author(s)**

Name	Designation
Julie Hayward	Team Leader Development Management

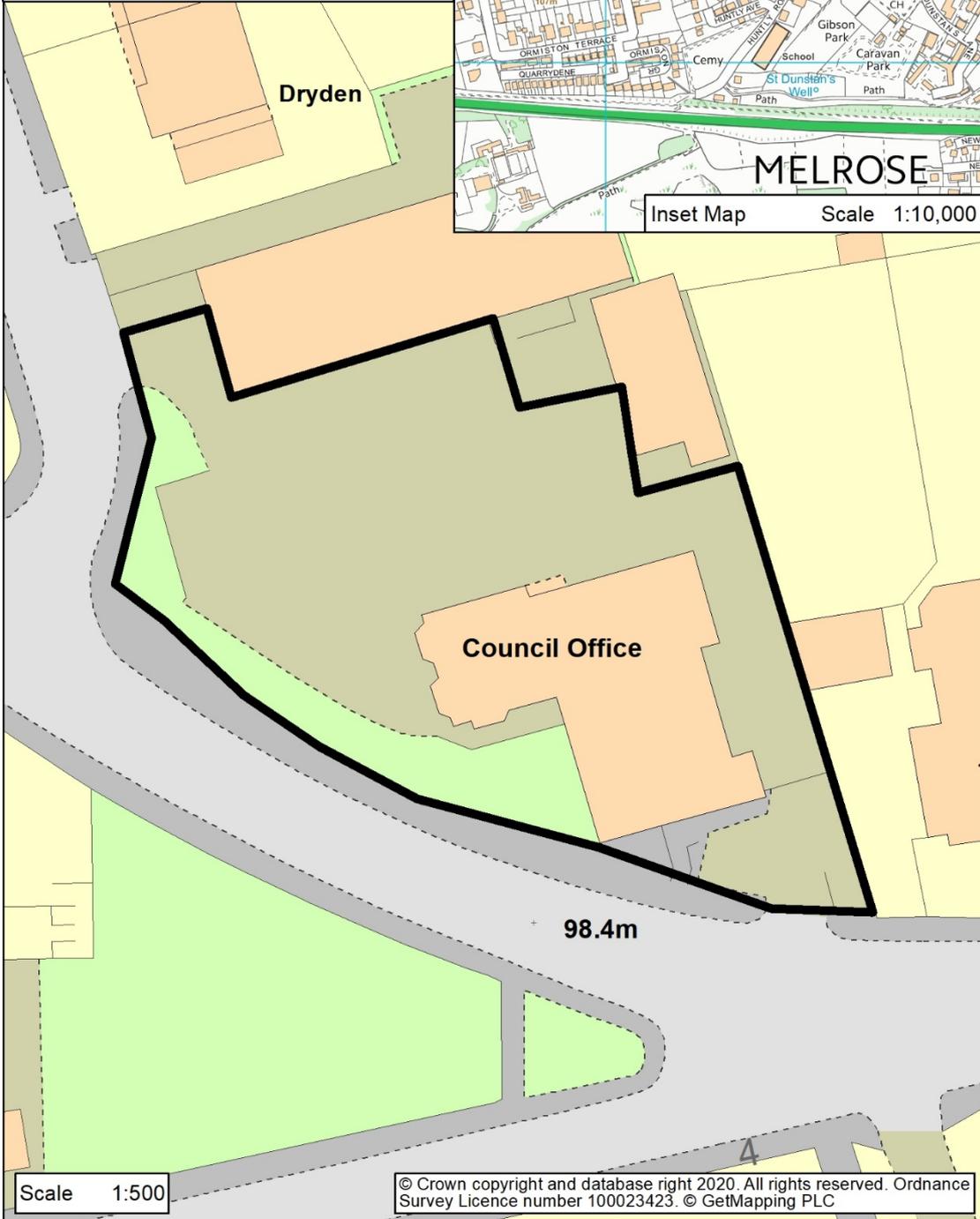


20/00331/FUL

Main Building  
West Grove  
Waverley Road  
Melrose



Inset Map Scale 1:10,000



Scale 1:500