

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**2 NOVEMBER 2020**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 20/00691/FUL

**OFFICER:** Ranald Dods  
**WARD:** Tweeddale West  
**PROPOSAL:** Erection of 2 dwellinghouse and removal of condition 4 of 02/01783/FUL  
**SITE:** Land west of 8 Ballantyne Place, Peebles  
**APPLICANT:** Mr Rob Begg  
**AGENT:** Brian Currie Chartered Architect

**PLANNING PROCESSING AGREEMENT:** 11 December 2020

**BACKGROUND**

This report considers the application for planning permission for the erection of two houses and the removal of a condition imposed on planning permission 02/01783/FUL on a site within Ballantyne Place, Peebles. The application has been referred to the Planning and Building Standards Committee for determination under Section 43A (6) of the Town and Country Planning (Scotland) Act 1997. Its referral is required since more than five material objections on material grounds were received from individual households.

**SITE DESCRIPTION**

The site is located within Ballantyne Place, which is within the conservation area of Peebles. The Ballantyne Place development was granted permission in 2002 and consists of 28 houses. The development is a mix of terraced properties and town houses arranged in three blocks. The properties are largely two and three quarter storey with traditional gable elevations and pitched roof dormer windows. The application site lies to the west of the southern most of the three blocks. It is currently an area of open ground, approximately 165m squared, with informal planting and is used informally as an area for the storage of waste and recycling containers. The area is one which could have seen the provision of a play area, in compliance with condition 4 of the 2002 permission. The play area has never been provided. The site sits at a slightly higher level than the houses to the east and very slightly lower than the level of the car parking area to the west.

**PROPOSED DEVELOPMENT**

This application is made for planning permission for 2 houses. Those will match the existing houses in terms of scale, mass, detailing and materials. The applicant has stated that the houses will be available for mid-market rent and not for sale on the open market. The proposal also includes additional parking spaces within the existing parking layout serving the Ballantyne Place development.

A key component of this proposal is the removal of condition 4 of the 2002 permission. That condition required the layout of the site to include adequate provision for children's play area(s) in order to ensure the satisfactory development of the site. The application site would be the

only area where a play area could be provided and without the removal of the condition it would not be possible to progress the current application. Although it could be argued that the previous developer has in fact complied with the terms of this condition by making land available (adequate provision) for a children's play area. The wording of the condition does not require a play area or play equipment to be provided.

## **PLANNING HISTORY**

There is some planning history associated with this site. Permission was given for the wider development in 2002, as noted above. Various applications have since been submitted, all of which have been withdrawn. Those were: 11/01272/FUL for 2 houses; 12/01357/FUL for 2 houses and variation of condition 4; 13/01348/FUL for 2 houses and variation of condition 4 to provide 2 additional parking places; 14/00635/FUL, for 2 houses, provision of 2 parking spaces and variation of condition 4 and; 19/01535/FUL for 2 houses.

## **REPRESENTATION SUMMARY**

The application was advertised in the local press and neighbours were notified. As a result of the notification processes, 9 representations in the form of objections were received. The material grounds contained in those representations are summarised below. Copies of all representations can be viewed in full on *Public Access*.

- Loss of light
- Loss of privacy
- Parking
- Road and pedestrian safety
- Increased traffic
- Loss of open / green / play space
- Over development / density
- Design not in keeping
- Surface water flooding
- Density
- Impact on ecology

## **DEVELOPMENT PLAN POLICIES:**

### **Local Development Plan 2016**

PMD2 – Quality standards  
PMD5 – Infill development  
HD1 – Affordable and special needs housing  
HD3 – Protection of residential amenity  
EP9 – Conservation areas  
EP11 – Protection of greenspace  
IS2 – Developer contributions  
IS6 – Road adoption standards  
IS7 – Parking provision and standards  
IS8 – Flooding  
IS9 – Waste water treatment standards and sustainable urban drainage  
IS13 – Contaminated land

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

## **OTHER PLANNING CONSIDERATIONS:**

The following supplementary planning guidance notes are material considerations:

SPG – Affordable housing 2015;  
SPG – Contaminated land inspection strategy;  
SPG – Development contributions 2015;  
SPG – Greenspace 2009;  
SPG – Placemaking and design 2010;  
SPG – Privacy and sunlight guide 2006;  
SPG – Waste management 2015.

## **CONSULTATION RESPONSES:**

The following were consulted on the application. Their comments are summarised below.

### Scottish Borders Council Consultees

**Roads Planning Service:** After the submission of further information, The Roads Planning Service (RPS) does not object to the application and suggests conditions. RPS note that there appears to be sufficient room to create the additional parking bays without reducing the width of the existing bays.

**Environmental Health:** No objection.

**Contaminated Land Officer:** No objection, subject to conditions relating to site investigations.

**Parks and Environment Manager:** The nearest play park is Halyrude Primary School which has been identified as a priority for investment. Development contributions required.

**Housing Strategy:** No objection. Subject to a legal agreement and conditions to ensure compliance with the Council's Affordable Housing Policy requirements. This potential 2 house development is not included in the council's current Strategic Housing Investment Plan 2020/25 but would be treated as a "windfall opportunity". It is understood that the developer's agent has recently made contact with Eildon Housing Association with a view towards it being the delivery agent, with the intention of these 2 houses will be used to provide affordable housing for social rent. The Right-to-Buy no longer exists in Scotland, so these 2 houses would be retained in the affordable rented sector in perpetuity. Housing Strategy has indicated to Eildon Housing Association support in principle for these 2 houses as being affordable housing and that organisation intends to request grant assistance from Scottish Government – More Homes Division in order to fund the project.

**Education and Lifelong Learning:** No objection was raised. Developer contributions will be required for Kingsland Primary School and Peebles High School.

### Statutory Consultees

**Peebles Community Council:** Objection – Proposal is over development, loss of limited open space, loss of play area, loss of parking spaces, loss of amenity, design issues.

### Other Consultees

**Peebles Civic Society:** Objection – loss of play area and amenity space, overdevelopment, increase in density, amenity, increased traffic and parking issues, scale of development and design issues.

## **KEY PLANNING ISSUES:**

Whether or not the development will comply with planning policies and guidance with respect to residential development within an existing settlement, particularly having had regard to residential amenity and whether or not the development will significantly adversely affect the amenity of neighbouring properties and road safety matters and whether or not it would be acceptable to remove the condition relating to the provision of a play area within the Ballantyne Place development. If not, whether there are material considerations that would justify a departure from the provisions of the development plan and material considerations.

## **ASSESSMENT OF APPLICATION:**

### *Principle*

The site is within the settlement envelope of Peebles as defined by the Scottish Borders Local Development Plan 2016 (LDP). The provisions of policies PMD2, PMD5 and HD3, principally, will guide the proposed development.

PMD5 is generally supportive of suitable infill development provided it meets certain criteria. The application site is located within the development boundary and is situated within an area of the town that is characterised principally by residential development, although there are employment and commercial uses nearby. The development proposals would not conflict with the established land use of the area and would not detract from the character or amenity of the area. The remaining criteria will be discussed in more detail later in the report but it is considered that the broad principle of residential development does not conflict with the terms of the LDP, particular Policy PMD5 – Infill Development.

### *Design and layout*

The southern block of the existing Ballantyne Place development has a central 2 and a half storey element and a single 2 storey element at each end. The ridge height is, therefore, already different across the length of the block. The proposed houses would be at the western end of the southern block and have been designed to match the existing 2 storey elements. The site slopes upwards from east to west, resulting in a difference in finished floor levels which is indicated on the drawings as 600mm. The ridge height of the proposed houses would also be higher than the property to which they would be attached. Had the block been in a more prominent location, the appearance may not have been appropriate but, given the circumstances and the overall lack of visibility from the wider public realm, the variation is acceptable. It is not considered that the proposal will be significantly different or detrimental to the appearance of the area to recommend refusal on design grounds.

The proposed houses will sit comfortably on the site and will not result in over development or town and village cramming. The houses would respect the scale, form, design and materials in the context of its surroundings and would be similar in appearance to existing houses in this residential development. The proposals are consistent with, and would respect the character of the area, neighbouring uses and neighbouring built form. The proposed external materials are considered acceptable but a planning condition would ensure that they match the existing dwellings unless otherwise agreed by the planning authority.

### *Access and Parking*

The application site would be accessed via the existing public road serving Ballantyne Place. The development proposes remodelling the existing parking layout at the east and west ends of the southern block in order to provide the additional parking bays required to serve the houses. RPS sought clarification that the bays could be provided within the confines of the

existing layout and this prompted the applicant to provide a drawing in support of their application. RPS has confirmed that, based on the revised submission, there appears to be sufficient space to provide the additional bays without reducing the width of the existing bays. Conditions are however recommended to ensure that the parking bays are provided prior to occupation of the houses and are formed to RPS specifications. The parking spaces shall be retained as such in perpetuity. The applicant has stated that they believe the space required for the additional bays is located within common land. However, ownership issues are out with the realms of planning and it would be for the developer to satisfy themselves that they have all necessary permissions in place to undertake the development without impinging on the property rights of others.

### *Play area*

Members will be aware from the planning history of the site that Condition 4 of the 2002 permission required the layout of the site to include adequate provision for a children's play area(s) in order to ensure the satisfactory development of the site. The only area of land within the development where that could have been sited is the current application site. A play area was never provided – although adequate land was made available – and the land remains vacant. There is some limited planting on site and the land is currently used informally as a bin store. It could not be reasonably described as a play area. The council's policy on provision of play areas within developments has however changed since the original permission was granted and there would appear to be no reason to continue to require the land be left as an area where a play area could be installed, given the shift in council policy which seeks to decommission play areas and consolidate play provision in larger more strategic locations rather than provide a larger number of smaller facilities. Having consulted the Parks and Environment Manager, the nearest play area to Ballantyne Place is within the grounds of Halyrude Primary School and is within a suitable walking distance. A developer contribution to upgrade the existing nearby play area would be required if Members were minded to grant consent. This would be secured through legal agreement.

In the event that Condition 4 of 02/01783/FUL is removed, it would be normal practice for the planning authority to issue a revised and updated decision notice under the 2002 reference number. This would effectively grant planning permission for the development of the houses already built and occupied in Ballantyne Place. However, all other conditions attached to the 2002 consent have been met, the only outstanding condition being the requirement to provide adequate space for play facilities. Should members agree to approve this application it would be necessary to add a condition confirming the requirements of Condition 4 have been removed.

### *Services*

The applicant states that the new houses would be connected to the public mains water and foul drainage systems. It would appear that adequate servicing can be achieved in line with the requirements of PMD5 but confirmation from Scottish Water that connections are available would be required. This matter can be controlled by pre-commencement condition.

### *Waste*

The submitted layout plan shows bin stances for both properties at the southern corner of the site and that is considered acceptable although further details of the proposed bin stances are required. The fact that the land is being used informally as a bin store for other properties is not a matter for consideration here and the owners of those houses will have to make alternative arrangements for storage of the waste and recycling containers off the road and footpath network.

### *Affordable housing*

The application was initially submitted on the basis of 2 mainstream houses, however during the processing of the application, it became clear that the applicant sought consent for the erection of two affordable housing units. The principle of mainstream housing on this site, as previously set out in this report, is acceptable however additional supporting information from the applicant was requested to demonstrate an identified need for affordable housing and confirm by what mechanism the proposed affordable housing would be delivered.

The Council's Housing Strategy team has indicated support for the principle of the development but recommends a condition and legal agreement to secure the houses as affordable units. Housing Strategy noted that the proposal was not included in the council's current Strategic Housing Investment Plan 2020/25 but that it would be treated as a "windfall opportunity". It is understood that the developer's agent has recently made contact with Eildon Housing Association as well as Scottish Borders Housing Association with a view to them acting as the delivery agent, providing both houses for social rent. Members will note from the papers that Eildon Housing Association has submitted a letter indicating support in principle for these 2 houses and notes that it intends to request grant assistance from Scottish Government – More Homes Division in order to fund the project. With the condition proposed and legal agreement relating to affordable housing being in place, the proposal would comply with the council's affordable housing policy HD1 and SPG on affordable housing. In the event that Eildon Housing Association or another housing association does not take up the proposed units, it would be for the developer to satisfy the council as to how the development would be delivered in order to comply with policy and the terms of the legal agreement. Members should be aware that if the houses are not delivered as affordable units then the developer would be liable for additional development contributions relating to education, off-site provision of affordable housing and the Peebles Bridge Study.

### *Development Contributions*

Development contributions would normally be required for education provision, off-site affordable housing, for the upgrading of local play facilities and also for the Peebles bridge study / traffic management in accordance with policy IS2. However, as the applicant intends to develop affordable housing for delivery by a Registered Social Landlord, it would be exempt from development contributions (with the exception of play facilities). A legal agreement would be required to secure the development as affordable units as well as the contributions in relation to off-site play area improvements. In the event that the houses were no longer available as affordable housing, a contribution towards off-site affordable housing, education and the Peebles Bridge Study would be required. This can be tied into the legal agreement.

### *Impact on conservation area*

Although forming small part of a modern development, the application site is located within the Peebles conservation area. As discussed earlier in this report the proposed design will match the existing houses in this residential development and would be compatible with the character of the area and neighbouring built form. The proposed houses will not be visible from more traditional parts of the designated area and as a result, the development would have a neutral effect on the character and appearance of the conservation area ensuring compliance with Policy EP9.

### *Neighbouring amenity*

Policy HD3 aims to protect the amenity of both existing established residential areas and proposed new housing developments. As discussed, the proposed houses would fit within the existing residential area, appropriate in terms of their scale, form, massing and design.

Policy HD3, as well as the Council's approved supplementary planning guidance on privacy and sunlight ensures that new developments do not have an unacceptable adverse impact on existing properties particularly in terms of overlooking, loss of privacy and access to light. As the properties would be built on the same building line as the existing block, they will not be any closer to the houses to the north side of the development and would not, consequently, result in a detriment to amenity, loss of light or overshadowing over and above existing levels, ensuring compliance with Policy HD3.

### *Contaminated Land*

Members will note from the consultation response from the Council's Contaminated Land Officer that the application site falls within an area of land that previously operated as a woollen mill and the land use was potentially contaminative. It is noted that a Phase 1 report was submitted in relation to this site but it is recommended that, should planning permission be granted, a site investigation and risk assessment is carried out, submitted to and agreed by the planning authority. Any requirement from this assessment for a remediation strategy should be controlled by condition. This will ensure compliance with Policy IS13 of the LDP.

### **CONCLUSION**

The proposal is acceptable and can be adequately accommodated on the site together with appropriate service provision. The design of the development is compatible with the character of the area and would have a neutral effect on the character and appearance of the conservation area. There would be no unacceptable adverse impacts on residential amenity. Subject to a legal agreement and compliance with the schedule of conditions, the development accords 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 OFFICER:**

I recommend the applications are approved subject to the following conditions and the completion of a legal agreement for development contributions and to ensure the houses are delivered as affordable units:

1. The proposed residential units hereby approved shall meet the definition of "affordable housing" as set out in the adopted Scottish Borders Consolidated Local Plan 2016 and accompanying supplementary planning guidance and shall only be occupied in accordance with arrangements (to include details of terms of occupation and period of availability) which shall first have been submitted to and approved in writing by the planning authority.  
Reason: The permission has been granted for affordable housing and development of the site for unrestricted market housing would attract contributions to infrastructure and services, including local schools.
2. 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.
3. The external materials to be used on the development hereby approved shall match in all respects those of the existing building and no other materials shall be used unless the prior written consent of the planning authority is given for any variation thereto.  
Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.

4. Unless otherwise agreed in writing and in advance by the planning authority, prior to any development commencing on site, a scheme will be submitted by the developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to and approved by the planning authority and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. That scheme should contain details of proposals to investigate and remediate potential contamination and must include:

a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the planning authority prior to addressing parts b, c, d and, e of this condition.

Thereafter -

b) where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents;

c) remedial strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works and proposed validation plan);

d) submission of a validation report (should remedial action be required) by the developer which will validate and verify the completion of works;

e) submission, if necessary, of monitoring statements at periods to be agreed with the planning authority for such time period as is considered appropriate by them.

Written confirmation from the planning authority that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the developer before the commencement of any development hereby approved. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the planning authority.

Reason: To ensure that the potential risks to human health, the water environment, property and, ecological systems arising from any identified land contamination have been adequately addressed.

5. The parking areas shown on the approved site plan 204 shall be implemented prior to occupation of the dwellinghouses hereby approved and retained free from obstruction for access and parking in perpetuity. The parking areas must be a minimum of 5m x 2.5m in size, from behind the footway.

Reason: To ensure the dwellinghouses are adequately serviced with off-street parking.

6. At least 6 weeks prior to the development commencing, the developer must prepare and submit a construction method statement for approval by the planning authority. Once approved this document will form the operational parameters under which the development will be operated and managed. The plan must address the following:

- Hours of operation;
- Vehicle movement;

- Methods to ensure there is no negative impact on existing public parking within the vicinity of the site;
- Noise mitigation/ equipment maintenance;
- Dust - mitigation and management;
- Lighting - prevention of nuisance;
- Complaints procedure/ communication of noisy works to receptors.

Reason: To protect the amenity of nearby residential properties from disturbance resulting from construction operations.

7. No development shall commence until details of the proposed bin storage enclosures have been submitted to and approved in writing by the planning authority. Once agreed, the enclosures shall be implemented in accordance with the approved details prior to the occupation of the dwellinghouses hereby approved and retained in perpetuity thereafter.

Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.

8. As a consequence of this permission, the terms of Condition 4 of planning consent 02/01783/FUL (to include adequate provision for children's play area(s)) are no longer required. Condition 4 of planning consent 02/01783/FUL has been removed.

Reason: To allow the development to proceed in accordance with the approved plans and in order to ensure a satisfactory form of development.

#### DRAWING NUMBERS

1 of 6	Location Plan
PAPP 200	Existing Plans & Elevations
PAPP 204	Proposed Site Plan
PAPP 201 a	Proposed Plans
PAPP 202 a	Proposed Elevations
PAPP 203 a	Proposed Elevations

#### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

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

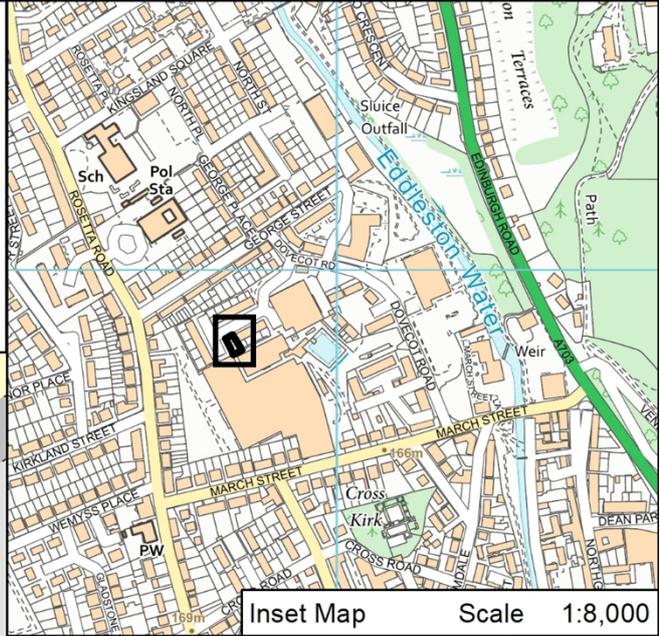
#### **Author(s)**

Name	Designation
Ranald Dods	Planning Officer

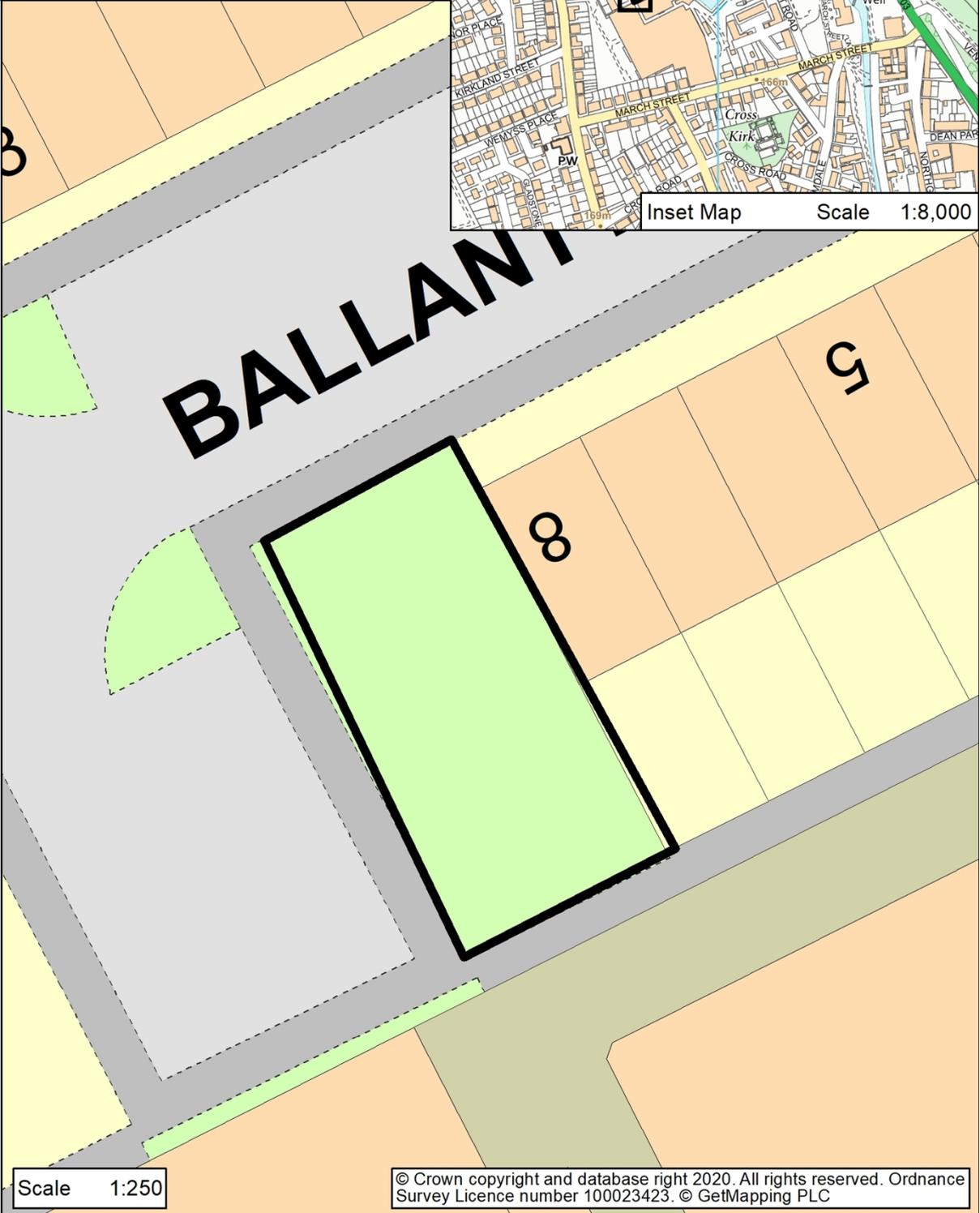


20/00691/FUL

Land West Of 8 Ballantyne Place  
Peebles



Inset Map Scale 1:8,000



Scale 1:250