

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**26 APRIL 2021**

**APPLICATION FOR PLANNING PERMISSION**

<b>ITEM:</b>	<b>REFERENCE NUMBER:</b> 19/00090/FUL
<b>OFFICER:</b>	Mr Scott Shearer
<b>WARD:</b>	Leaderdale And Melrose
<b>PROPOSAL:</b>	Erection of 64 dwellinghouses and associated infrastructure
<b>SITE:</b>	Former Earlston High School, High Street, Earlston
<b>APPLICANT:</b>	Hart Builders
<b>AGENT:</b>	Aitken Turnbull Architects Ltd

**PLANNING PROCESSING AGREEMENT:** There is a PPA for the application to be considered at the Planning and Building Standards Committee on the 26th April 2021.

**SITE DESCRIPTION**

The application site is located to the south of Earlston High Street on ground which previously accommodated Earlston High School and its playing fields. The site extends to 2.3Ha and is enclosed by mature trees around its eastern, southern and western boundaries. The site slopes modestly in a southern direction towards the Turfford Burn which runs along the south of the site. Earlston Primary School and associated MUGA pitch, the Leader Valley School and the town's tennis courts are located to the north of the site. The Station Road Industrial and Business site lies to the west with an access from the industrial estate into the site. Grazing ground lies to the east on ground that sits below the application site.

The Turfford Burn forms part of the River Tweed Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). The Eildon and Leaderfoot National Scenic Area (NSA) lies further south and is bound by White Hill.

**PROPOSED DEVELOPMENT**

The application seeks consent for a residential development of 64 affordable units. Primary vehicular access is provided from East Green with a secondary access through the industrial estate. A pedestrian route is provided to the north towards the tennis courts with a footpath provided along the bank of the Turfford Burn. The buildings are arranged in a series of semi-detached blocks and terraced rows. A combination of in-curtilage and communal parking areas are proposed. Seven different building types are proposed which include a combination of dwellinghouses, 'colony' apartments and cottage flats. Each dwelling type is set under a pitched roof. The external material finishes consist of dark concrete roofs tiles, rendered walls and areas of timber cladding and artificial stone base courses.

The roads, paths and parking areas would be delineated by different surface finishes.

Landscaping is to be provided around the periphery of the site with small areas of planting through the street network. A feature planter is also proposed close to both site entrances with a SUDS basin to the south west corner.

## **PLANNING HISTORY**

A new High School was constructed to the east of the Earlston as part of the 3 High Schools project. Part of the former high school was demolished with the retained building now occupied by the Primary School.

The following planning approvals at this site are relevant to this proposal:

- 05/01561/OUT - Demolition of High School and erection of sixty five dwellinghouses – Withdrawn prior to determination.
- 13/00348/DEN - Partial demolition of high school – Prior Approval granted to permit commencement of demolition works.

## **REPRESENTATION SUMMARY**

Twenty-three letters of objection have been received, 10 of which are from the same address. The grounds of objection can be summarised as follows:

- Density
- Health Issues
- Inadequate boundary fencing
- Inadequate drainage
- Inadequate screening
- Height
- Land affected
- Loss of light
- Detrimental impact on tennis courts via blocking (especially during winter) impacting on usability and maintenance of the courts with adjacent path causing surface water issues
- Privacy of neighbouring properties affected
- Poor design
- Location of secondary access closer to town centre and away from school congestion will mean it's used more frequently than primary access
- Design of secondary access route through industrial estate is unsuitable for residential traffic (including pedestrians)
- Lack of amenity space
- Trees/landscape affected
- Road safety
- Conflict with industrial site operations and traffic
- Insufficient parking provision
- Use of
- Increased traffic causing congestion specifically during 'school run' times
- Existing primary school does not have capacity to serve development
- Ground contamination
- Poor pedestrian access though the development and linking with surrounding network

Two general comments have been submitted which raise road safety and access concerns.

## **APPLICANTS' SUPPORTING INFORMATION**

- Design and Access Statement
- Drainage Strategy
- Flood Risk Assessment
- Tree Survey
- Land Contamination Assessment
- Feasibility and Energy Statement
- Noise Impact Assessment and Addendum
- Environmental Management Plan

## **DEVELOPMENT PLAN POLICIES:**

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

**Housing Allocation: AEARL002** Surplus land at Earliston High School

PMD1: Sustainability

PMD2: Quality Standards

PMD3: Land Use Allocations

HD1: Affordable and Special Needs Housing

HD3: Protection of Residential Amenity

EP1: International Nature Conservation Sites and Protected Species

EP2: National Nature Conservation Sites and Protected Species

EP3: Local Biodiversity

EP4: National Scenic Areas

EP8: Archaeology

EP13: Trees, Woodlands and Hedgerows

EP15: Development Affecting the Water Environment

IS1: Public Infrastructure and Local Service Provisions

IS2: Developer Contributions

IS3: Developer Contributions Related to the Borders Railway

IS5: Protection of Access Routes

IS6: Road Adoption Standards

IS7: Parking Provision and Standards

IS8: Flooding

IS9: Waste Water Treatment and Sustainable Urban Drainage

IS13: Contaminated Land

## **OTHER PLANNING CONSIDERATIONS:**

Supplementary Guidance

- Sustainable Urban Drainage Systems (2020)
- Waste Management (2015)
- Local Biodiversity Action Plan (2018)
- Housing (2017)
- Affordable Housing (2015)
- Development Contributions (2011) updated January 2018
- Placemaking and Design (2010)
- Green Space (2009)
- Landscape and Development (2008)
- Trees and Development (2008)
- Designing Out Crime in the Scottish Borders (2007)

- Privacy and Sunlight Guide (2006)
- Biodiversity (2005)
- Local Biodiversity Action Plan: Biodiversity in the Scottish Borders

#### **OTHER PLANNING CONSIDERATIONS:**

Strategic Housing Investment Plan (SHIP) 2021 – 2026

Scottish Government Policy Statements

- Designing Streets 2010
- Designing Places 2013

SBC Approved Planning Brief

- Earlston High School

#### **CONSULTATION RESPONSES:**

##### **Scottish Borders Council Consultees**

**Access Ranger:** No objection. There are no rights of way or core paths on this site, Core Path 21 runs along the public road to the north east of the site. Access should be afforded from the development to informal paths along the Turfford Burn and adjacent amenity spaces.

**Archaeology Officer:** The site has moderate archaeological potential. This is informed by discovery of prehistoric objects in the area in the past, the location of the site to the south of the historic medieval high street and location of the Victorian gasworks. Further archaeological assessment is recommended by either targeted trenching or a 10% evaluation of the entire site as part of a suspensive condition agreement a programme of archaeological works.

**Contaminated Land Officer:** No objection. The site was previously operated as railway land, a gas works and school which may have contaminated the land. Site investigations have been undertaken and remain on-going. Recommend that a condition to ensure full site investigation, risk assessment and remedial strategies where relevant is agreed prior to development works commencing.

**Ecology Officer:** No objection. Site is adjacent to the Turfford Burn which forms part of the River Tweed SAC and SSSI. The development has potential to cause disturbance to the SAC and cause sediment run off and pollution during the construction and operational phase, which could affect its qualifying interest. Under the Habitat Regulations an Appropriate Appraisal has been carried out following the submission of a Project Environmental Management Plan concluding that the development will not adversely affect the integrity of the SAC provided the following mitigation is provided;

- A Species Protection Plan for otter
- A Construction Environmental Management plan (CEMP)
- An operational SuDS
- A sensitive lighting plan (to avoid light affecting the corridor of the Turfford burn which offers high quality habitat for commuting and foraging bats and otter.)

No other protected species have been found within the site. There are opportunities for on the site habitat creation which can be secured via a landscape and habitat management plan which should seek to provide planting of birch, willow and aspen adjacent to Turfford burn corridor and retention of species rich hedgerow and broad-leaved plantation areas and enhancements through the SUDS scheme.

**Education and Lifelong Learning:** A residential development in this location would trigger development contributions towards Earliston Primary School and Earliston High School.

**Environmental Health:** Object. Submitted noise assessments identify noise break-out from operations from existing uses in the adjacent industrial estate would adversely impact on the amenity of the development. If consent is granted, a suspensive condition should seek to agree mitigation measures across the development which reflect those identified in the noise impact assessment to ensure that the neighbouring uses can co exist. All agreed mitigation must be implemented prior to occupation of the first dwellinghouse.

**Flood Officer:** No objection. The site is located within SEPA's 1:200 year (0.5% annual probability) flood extent of the Turfford Burn and may be at medium to high risk of flooding. The Turfford Burn has flooded on a number of occasions with the eastern section of the site at East Green known to be susceptible to flooding. The Turfford Burn Flood Protection Scheme offers no protection to the site. A Flood Risk Assessment (FRA) has modelled flood risk and shows that the area identified for housing is free from flood risk. The proposed finished floor levels are sufficiently above the levels recommended in the FRA. The primary access from route is shown to flood but the provision of a secondary access through Station Road Industrial Estate will provide flood free access and egress. Precise details of the design capacity of the SUDS system are required.

**Forwards Planning:** No objection. Confirm that the site is allocated within the LDP as a housing site (AEARL002). The site is allocated for housing in the LDP and complies with Policy PMD3. There are a number of site requirements for this allocated site within the LDP and these must be taken into consideration along with assessment against relevant policy provision which have been identified by Forward Planning.

**Housing Strategy:** No objection. The site has been sold to Eildon for redevelopment for affordable housing. The site has been identified in the Councils SHIP's as a priority project which the Scottish Government have indicated a willingness to provide grant assistance towards.

**Roads Planning Service:** No objection. Access arrangements do not fully accord with Planning Brief but provision of a secondary access via the High Street past the tennis courts is not possible due to third party ownership issues. The access via the industrial estate (identified in the brief as an emergency access) would be required to be permanent with pedestrian provision over the initial section of the industrial estate road on leaving the site.

No further traffic information has been submitted to respond to queries about the Traffic Assessment (TA) which omitted school bus travel times from peak times. Following their own assessment RPS are satisfied that the development won't cause congestion at school bus travel times.

Layout is well connected. Parking is well spread through the site with one extra parking space provided (82 instead of 81 required) but one extra disable space is needed probably towards the north western corner of the site at Plot 34.

Recommend a suite of conditions and informatives covering;

- Improvements to pedestrian route through industrial estate
- Construction details of the link path past the tennis courts
- Parking
- Traffic management plan in relation to construction traffic, including any temporary traffic measures and management of staff traffic
- Provision for connection to existing service infrastructure including gas and electricity to limit impact of these works on the road network
- Site levels
- Street lighting
- Need for Road Construction Consent (RCC)

**Waste and Recycling Services:** Proposed layout should avoid dead ends with no turning areas to limit demands for waste and recycling vehicles to reverse. Provision of collection points on the main route through the site are welcome.

### **Statutory Consultees**

**Community Council:** No objection but raise following comments/concerns:

- Secondary access will be popular with volume of traffic conflicting with Industrial Traffic and their business practices. No pedestrian access is provided at this route
- Development interferes with access and parking at primary school and nursery hub at peak times
- Lack of green space fails to integrate development with the character of the village
- Contributions towards play space welcomed, timing of contributions questioned
- Layout is too dense, removal of colony units would provide opportunity for amenity space
- No mitigation provided to limit conflict of residential use with industrial use is provided. The residential development should not affect the operation of established businesses.
- Overprovision of 6ft timber fences
- House designs are welcomed
- Traffic Survey does not record accurate data, particularly of peak periods and will add to existing congestion and traffic problems including increased pressure on the High Street.

**NatureScot:** Identified that SBC are required to carry out a Habitats Regulations Appraisal (HRA) as competent authority due to the location of the site next to the River Tweed SAC. Accept amended site layout which responded to original concerns to provide more distance from the development to the SAC and a suitable buffer area along the river bank. Endorse the recommendation of SBCs HRA. Willing to accept SUDS basin provided SEPA are satisfied within its design and function. Recommend that a construction environment management plan and protected species plan should be agreed by condition. Opportunities exist for landscape opportunities at the SUDS basin to enhance the ecological setting and function of the SAC.

**Scottish Environmental Protection Agency (SEPA):** No objection. Amendments made to the construction of the primary access road at existing ground levels

addresses previous grounds of objection due to land raising posed with the functional floodplain.

**Transport Scotland:** No objection.

### **KEY PLANNING ISSUES:**

The principal planning issues with this application can be summarised as follows:

- Whether the proposals would represent a suitable development on an allocated housing site within the Earlston settlement boundary
- Whether the residential development can co-exist next to neighbouring land use including the Station Road Business and Industrial site and other neighbouring land uses
- Whether the proposal would have an adverse impact or visual amenities of the surrounding area.
- Whether the proposals are acceptable in terms of parking, access and impacts on road safety.
- Whether adequate drainage and servicing can be achieved.
- Whether the proposals would adversely affect the qualifying interests of the River Tweed SAC and SSSI

### **ASSESSMENT OF APPLICATION:**

Planning Policy

The site is allocated in the Local Development Plan 2016 (LDP) for residential development, site reference AEARL002. This application requires to be principally assessed against Policy PMD3 Land Use Allocations of the LDP. This policy supports proposals which seek to develop allocated sites in accordance with their intended use. The principle of residential development on the site is therefore supported by Policy PMD3.

The eastern part of the allocation falls within the functional flood plain of the Turfford Burn and would not be suitable for development. The LDP identifies this land as open space and requires this area to be given over to amenity space as part of the site requirements. Apart from the location of the access, this development correctly avoids seeking to develop this part of the allocation. This area of land falls out with the control of the applicants however the proposals provide positive links into the open space to enable the land to be used for amenity purposes.

The allocation includes a series of other site requirements which range from access provisions, landscaping, avoidance of flood risk, land contamination, archaeological evaluation, ecological mitigation and enhancements. Broadly the proposed development is judged to satisfy these prerequisites of the allocation and these matters will be addressed in the relevant sections of this report.

The site has an allocation for 60 units. The proposal seeks consent for the development of 64 units within the site. Members will be aware that indicative site capacities are a guide, not a limit. The inclusion of an extra 4 units is only a marginal increase above the indicative capacity which does not result in the over development of the site or the failure to meet any of the identified site requirements. This volume of additional housing will not place any excessive strain on local service provisions or infrastructure.

In principle, the proposal is considered to represent the development of an allocated site in a manner which complies with its intended use and satisfies the requirements for the site noted within the LDP. The merits of the proposed design, access and other material planning matters will be considered below.

### Tenure

The proposed development would comprise 100% affordable housing. The inclusion of the development within the Councils Strategic Housing Investment Plan (SHIP) confirms that it is a priority affordable housing project. Once completed, the development will be managed by Eildon Housing Association (HA) who will ultimately own and operate the housing stock.

If Members are minded to agree the recommendation, it is advised that a planning condition to control the occupancy of the development for affordable housing tenures only (which comply with the Councils definition of affordable housing listed in the SPG) is required. This has been accepted by Eildon and will ensure that the development is delivered in accordance with its proposed tenure. As the site will be 100% affordable housing, the development will be exempt from developer contributions (with the exception of play space contributions).

### Placemaking and Design

Policy PMD2 of the LDP and the Councils SPG on Placemaking and Design strives to ensure that all new development is of a high quality and it respects the environment it is contained within. The site occupies a discrete location on the rural southern edge of the settlement and is viewed alongside functional school and industrial buildings.

### *Layout*

The proposed layout has been adjusted through the course of the application with the development squeezed to the east to provide more separation distance from the industrial estate. This allows additional planting to be provided along the western edge of the site as recommended within the Planning Brief. The adjusted layout continues to avoid the functional flood plain. Dwellings have also been removed from behind the tennis courts to respond to concerns from tennis club members.

The layout is well connected into the surrounding street network with vehicular connections provided from the east and west. Additional footpath connections are provided to the north past the tennis courts and to the east linking into the riverside walk along the bank of the Turfford Burn and into the adjacent amenity space. Space is afforded for a potential future access to the south across the Turfford Burn if required. The street design provides good circulation with changes in road geometry and surfaces helping to slow traffic as required by Designing Streets.

The proposal provides a slightly higher density of development towards the north of the site closer to the High Street with a lower density towards the south towards the rural edges of the site. This arrangement is suitable within the existing townscape. Throughout the development buildings are positioned so that they positively address the street with road fronting elevations containing openings and architectural features of interest. Buildings often terminate views with the revised layout improving arrival points from both the east and west. The colony units are pushed back further from the road but this is to allow the staircase access to the upper level of the properties which themselves become features of the streetscape.

Walling is used as a means of enclosure where boundaries are exposed to the street scene and to help link neighbouring plots. Lower walls are used around the colony units and where timber walls are more exposed to the public realm they have a lower 900mm height with 1.8m high timber fences only used to enclose private areas. These arrangements are laid out on Drawing No L(02)11 and are judged to be acceptable.

The proposal provides a good spread of parking with a mixture of in-curtilage, on street and off street parking. The layout generally avoids parked cars dominating the street scene. Reference is made to the provision of one electric vehicle charging point within the development. The agenda to promote the inclusion of vehicle charging points has advanced since the application was lodged but planning policy does not govern how many charging points a residential development should provide. An informative is recommended to be attached to seek that the developers consider the incorporation of vehicles charging points through the development.

There is some soft landscaping spread through the site which helps to soften the development. Additional areas of open space and landscaping would enhance the overall development of this site but it is felt that the proposals align with the principle objectives set out in the plan by avoiding the intrusion of development on the safeguarded open space to the east. Existing planting around the edges of the site will be supplemented by further structure planting. Unfortunately some existing trees will be lost to development, but these trees are not protected and their removal does not adversely affect the visual amenities of the immediate and surrounding environment. The proposals are not considered to undermine the setting of the Eildon and Leaderfoot NSA located to the south of the site. Care will be taken to ensure that the landscaping especially around the edge of the site help to visually contain the development while ensuring that the species along the western boundary offer some relief in amenity terms from the industrial estate. A detailed landscaping condition can agree the final landscape treatments throughout the development that includes the precise details of the feature planters proposed at the eastern and western arrival points and around the SUDS basin.

### *Building design*

The application site is surrounded by a variety of building types and styles. Immediately to the north are large school buildings (formerly Earlston High School). The Earlston Primary school consists of a mix of buildings with a slate pitched roofed building and large modern flat roofed additions which extend towards the application site. The adjacent Leader Valley School is a smaller structure with a more contemporary design approach, set under a steel profiled roof with render walls and timber sections. Various sized standard industrial buildings lie to the west of the site. Buildings which enclose the High Street generally follow a traditional form and are arranged in terraces. Suburban forms of architecture are introduced on streets extend away from the High Street.

The relatively discrete location of the site means that it does not have a strong relationship with any immediately residential buildings. The proposed development does provide a range of building designs which generally follow simple pitched roof forms. These are reflective of vernacular residential development in Earlston. There is possibly an overreliance on the use of two storey buildings but it is acknowledged that the use of single storey 'extensions' and the scale of the 2 ½ storey 'colony' house types will offer variety. Subtle changes in levels across the site will also provide some relief.

Front elevations of the proposed building types include features such as; single and double gable projections, Juliet balconies, external staircases, flat roofed dormers, lean-to porches, pitched roofed extensions with some of these features highlighted by cladding them in timber. These features provide visual interest and elements of variation to add to the richness of the scheme. The composition of the proposed 'colony' units (Type H-J) offer less in terms architectural features, possibly with an over reliance on render and some horizontally proportioned windows. The examples of other colony units shown in the photography's on page 25 of the Design Statement provide more visual interest through use of steel cladding to the stair cases and more successful designs in terms of fenestration. The elevation drawing of Type H-J also has two 'east' elevations. This minor point needs to be addressed however it is understood the elevation with the stair case is the east elevation. The principle of this type is acceptable in the context of this site and it is recommended that some simple improvements to the elevation treatment of the colony units - which reflect those of the imagery of the Design Statement and/or a secondary wall material - are agreed by planning condition to improve their appearance.

The house designs are considered to be acceptable in architectural terms. The scale, form and design of the proposed dwellings do not conflict with the character and appearance of the surrounding area.

### *Materials*

The drawings and Design and Access Statement for the application sets out the proposed external materials.

The pallet of materials is considered suitable for the proposed built forms and relates to materials used on other residential developments locally. Render is by far the most significantly used wall material finish. The addition of a second render colour or tone would provide some further visual variety across this 64-unit development. Subject to the precise agreement of the all external material finishes which should incorporate a second render colour by way of a planning condition and address over reliance of render on the colony units, the palette of materials is acceptable and appropriate for this location.

The road surfaces and parking areas are a combination of black top and block pavers. Visually, the use of this combination of materials is acceptable, provided the colours of the block pavers are suitable. The precise details of these material finishes can be agreed as a condition of consent.

In response to Policy PMD2, it is considered that the proposals represent an acceptable form and scale of development which respects local vernacular architecture. The design of this residential scheme does not conflict with the character and appearance of the surrounding townscape and is in keeping with adopted policy and guidance in relation to placemaking and design.

### *Access and Parking*

The Planning Brief indicated that primary access should be provided from the east end of the High Street with an emergency access provided through the industrial estate and a secondary emergency access provided to the north of the site past the tennis courts to connect to the High Street. Due to ownership issues it is not possible to provide the secondary emergency access to the north. The Councils Roads Planning Service (RPS) are satisfied however that the provision of two site accesses (one to the east and one to the west) can adequately serve this development. Importantly one of

these points of access will remain free from flood risk to provide a safe access and egress should the primary access (to the east) flood.

Third party comments have raised concerns that residential traffic will conflict with traffic and vehicle manoeuvres within the industrial site. Although it is the intention that the route through the industrial site is a secondary access this development would increase the level of traffic on this road. While concerns about traffic conflicts are understandable, this road is already a public road. There are currently no restrictions on the type of traffic which is permitted to use this road. Indeed there may be some larger vehicles which use this road for access to the industrial estate though these vehicles are no different to any other vehicles which road users may encounter on any other public roads.

From a planning perspective utilising the public road through the industrial estate as a site access enhances connectivity which is promoted by Designing Streets. The applicants have also agreed to provide a footway along southern edge of initial section of industrial estate road when leaving the development to improve pedestrian connectivity and supplement the public footpath on the northern side of the industrial estate road. Precise details of these works can be agreed by planning condition. This link should be provided prior to occupation of the first dwelling unit.

The amended proposals have altered the width of the primary access so that a consistent road width is provided along its entire length. Concerns have been raised from the public and Community Council that the development will cause congestion at the east end of the High Street particularly during 'school run' times. The Transport Statement (TS) submitted in support of the application did not provide traffic during periods when school traffic is required to use the road network. RPS carried out their own assessment pre-COVID19 when traffic numbers would have been higher and found that the traffic generated by this development should not pose significant traffic concerns which would conflict with school travel. It is understood that the access may remove some on street parking associated with the primary and nursery school. Neither the primary school nor nursery have objected to this development. However, should there be parking issues at either of these sites, this would be a matter for the Council's Traffic Management Team to resolve.

In terms of the impact of the development on the wider road network, clearly it will increase the volume of traffic on surrounding roads, particularly the High Street. This is an allocated site where the volume of development proposed is consistent with its allocation when the principle of the development was initially supported. RPS remain satisfied that the detailed development which includes the design of the accesses pose no road safety concerns and have acknowledged that offsite construction operations linked to providing electrical and gas connections to the site may cause disruption within the surrounding road network. Such construction operations can be carried out as permitted forms of development therefore it would not be appropriate to seek to control such works under planning approval. A traffic management plan can however be used to ensure that traffic associated with the construction of the development within the application site does not have a detrimental impact on the wider road network.

The inclusion of a pedestrian link to the north adjacent to the tennis courts is welcomed. There is a level change which may prohibit the provision of a level route for this new path. Additionally revised site level drawings are required to reflect the up to date masterplan and ensure road and floor levels marry. Precise details of the new path and site levels across the development can be agreed via planning condition.

In terms of parking provision, spaces are well spread through the site with the development providing one extra space (82 spaces instead of 81) than would normally be required for a residential development of this scale. RPS have advised that the inclusion of a further disabled space would be beneficial. Ideally this space should be provided towards the north western corner of the site adjacent to Plot 34. This matter can be agreed via planning condition.

The site access arrangements have not been found to raise any road safety objection from the Councils RPS and satisfactory parking provision is provided for a residential development of this size. The proposal is judged to comply with access criteria listed in Policy PMD2 and parking requirements provided under Policy IS7, provided a range of suspensive conditions are attached to address pedestrian access improvements, disabled parking and mitigation of construction vehicle movements.

#### Impact on neighbouring uses

The Station Road Industrial and Business site which lies to the west of the application site is categorised as a 'district' site within the LDP. Although district sites may not merit the same protection as 'strategic' sites, the LDP recognises the importance of business and industrial land and seeks to safeguard these sites to help facilitate the economic growth of the Scottish Borders. The LDP promotes the use of district business and employment land for Class 4 (offices, light industry and research and development), Class 5 (general industrial) and Class 6 (storage and distribution) uses. This range of uses can be found within the Station Road employment site. A key consideration for this proposal is to ensure that the siting and design of the houses does not conflict with the operations of the existing neighbouring employment uses.

Environmental Health identified that noise generated by existing businesses within the industrial site could adversely affect the amenity of those living in the proposed development. As these are extant uses and operations, it is the responsibility of the applicants to demonstrate that the residential amenity of the occupants of the proposed development will not be adversely affected by these noise generating activities. A Noise Impact Assessment was carried out which found that the amenity of residential properties located within 120m of the western boundary of the site may be impacted by activities carried out within the units directly to the west (to the south side of the access road) of the application site. The assessment also found that noise emitted from the car garage opposite may also pose some disruption but this could be mitigated through the inclusion of an acoustic barrier.

An Addendum to the noise assessment was provided which investigated a range of further mitigation measure to include;

- Move properties slightly further away from the industrial estate which provides more room for woodland planting to provide a clearer buffer to separate the industrial and residential use
- Provide acoustic fencing along the western boundary of the site
- Reorient the nearest dwellings so their openings face away from the industrial estate
- Use noise limiting building materials and glazing
- Incorporate whole house ventilation systems (i.e. closed window system)
- Consider noise limiting improvements at the source (i.e. Border Coatings premises)

The majority of these potential measures of mitigation are welcomed and in part have informed the amended site layout. Environmental Health have advised that a closed window system would be ineffective as occupiers would still be able to open windows, furthermore the ability to undertake noise limiting measures at source would fall out with the control of the applicants. Subsequently Eildon HA, the Council and the occupants of the adjoining unit (Border Coatings) have been working together to agree a suitable solution which has been informed by appropriate noise mitigation outlined in the addendum. It is anticipated that the facilitation of these measures would enable the proposed development to take place in a manner that would not conflict with noise emanating from the industrial estate. The precise package of noise mitigation measures is as yet not fully agreed, therefore it is recommended that powers are delegated to officers to agree a suite of noise mitigation measures which are acceptable to all parties, including Environmental Health. Thereafter the incorporation of the agreed mitigation measures can be controlled by planning condition.

The proposed development has not been found to cause any other conflicts with the adjacent industrial estate. Access and traffic conflicts have been considered in the relevant section of this report where residential traffic has not been found to detrimentally affect the effective operation of the industrial estate. The revised proposal do not conflict with any other surrounding non-residential uses including education facilities to the north.

#### Impacts on residential properties

The application site is located away from neighbouring residential properties. As a result of this, the development does not adversely affect the residential amenity of any neighbouring properties.

Within the site itself, the positioning of the dwellings have been well thought out to avoid causing residential amenity conflicts. The proposed layout is considered to comply with Policy HD3 and the guidance set out in our SG on Privacy and Sunlight.

#### Flooding

Policy IS8 of the LDP seeks to ensure that residential development avoids taking place on land which may be at risk to flooding. Where some level of risk may be acceptable, the development should be designed to minimise any risk.

A Flood Risk Assessment has accompanied this proposal. SEPA and the Councils Flood Risk engineers identified that the eastern part of the site is located within an area at risk of a 1 in 200 year flood event from the Turfford Burn. None of the proposed residential accommodation is located within this area. The FRA recommends that the accommodation is set 600mm above the flood risk level. The proposed FFLs are sufficiently above this however an updated site level plan is required to reflect the minor changes within the amended proposals. This detail can be sought by planning condition.

The primary access road falls within the functional flood plain. The principle of developing an access inside the flood plain is acceptable in this instance because the development benefits from a secondary access through the industrial site to provide safe access and egress during a flood event. Members will note that SEPA did object to the proposed land raising as part of the construction of the primary access road as this may harm the functionality of the flood plain and cause flooding at other locations. The construction details of this access have been amended so that this route will be constructed at existing ground levels which has addressed this matter to SEPAs

satisfaction. There are no outstanding flood risk issues posed by this development and the revised proposal ensures that the development complies with the requirements of Policy IS8 of the LDP.

## Ecology

Policies EP1 to EP3 seek to protect sites and species afforded national and international protection from adverse forms of development and also aim to safeguard and enhance local biodiversity.

The Turfford Burn to the south of the site forms part of the River Tweed SAC and SSSI. This water course is protected by Policy EP1 as a site of international ecological significance. NatureScot are satisfied that the revised proposals (which have increased the distance from Plot 47 to 50 to the SAC) provides a suitable buffer along the river bank with proposed fencing removed from this area.

A Habitats Regulations Appraisal (HRA) has been carried out by our Ecologist to assess the impacts of the development on the qualifying interests of the SAC. These are identified as the ecological interest of the river habitat which contain protected species such as otters. The development poses a risk of contamination to the SAC through sediment run-off during and pollution of the water course during construction phases. Once the development becomes operational, any inadequate surface water treatment and poorly designed lighting poses a risk to the River Tweed SAC. The HRA does recommend that a range of mitigation measures can avoid detrimental impacts to the Turfford Burn. These include; a Construction Environmental Management Plan, Species Protection Plan for all relevant protected species, ensuring the SUDS is operational prior to occupation of the development and sensitive lighting proposals. These measures of mitigation can be secured through appropriately worded planning conditions to ensure that the development will not adversely affect the integrity of the River Tweed SAC. This recommendation has been endorsed by NatureScot.

Elsewhere no protected species have been found to be affected by this development. There may however be opportunities for biodiversity enhancements by planting appropriate species adjacent to the Turfford Burn and around the SUDS basin to create additional habitats.

The impact of the development on the River Tweed SAC has been successfully mitigated by the provision of a suitable buffer between the development and the riverbank. Subject to the suggested conditions, the range of mitigation measures outlined above, the development will not adversely affect the ecological status of the site or its surrounding environment.

## Archaeology

The Councils Archaeologist has recommended that there is moderate potential for discovering buried archaeology during development works at this site. This assessment has been informed by the location of the site close to the medieval High Street and the previous archaeological discoveries within the vicinity of the site. In scenarios such as this, where there is reasonable evidence of the existence of archaeological remains but their nature and extent is unknown, Policy EP8 of the LDP supports the need for further archaeological investigations to be carried out. Mitigation can be achieved through a programme of archaeological works via a suitably worded planning condition to ensure that the development is carried out in a manner which does not adversely impact on the archaeological interests of the site.

## Land Contamination

The proposal is seeking to redevelop land which has previously been used as railway land, a gasworks and a school. Each of these uses may have resulted in land contamination at the site. Policy IS13 of the LDP allows development to take place on sites with known or suspected contamination where appropriate site investigations, risk assessment and where required relevant remediation strategies have been agreed with the Planning Authority.

The applicants have submitted ground investigation reports. A remedial strategy, which covers the main part of the site is being progressed with the Contaminated Land Officer. This strategy does not yet cover all of the site. Further assessments are required to ensure contamination mitigation addresses the updated site design. Agreement of final land contamination mitigation can however be secured through an appropriately worded suspensive planning condition ensuring sufficient mitigation is in place to allow the development to progress in accordance with Policy IS13.

## Site Services

Policy IS9 of the LDP covers waste water treatment standards and sustainable urban drainage.

Foul water is to be disposed via Scottish Waters existing public sewer network and upon completion, the proposed drainage system would be adopted by Scottish Water. Similarly, the water supply is to be provided from the public mains which is also operated by Scottish Water. Scottish Water have not responded to the consultation request for this application, however the allocation of the site in the LDP for residential development confirms that the principle of the development is acceptable and at the stage of allocation there were no insurmountable site service issues. Ultimately, the availability of both water supply and drainage connections would require confirmation from Scottish Water in due course, and this could be secured via standard planning condition.

There are two surface water drainage catchments proposed. The vast majority of the site (which contains all the residential accommodation) will discharge surface water to the Turfford Burn with a SUDS basin located in the south western corner of the site. This would provide attenuation before water is discharged to the water course. Due to topography, surface water drainage from the primary access road cannot reach this location. Water from the road is proposed to drain via a proposed surface water sewer which will provide filtration and discharge to the water course. In principle, these proposed means of surface water drainage are acceptable subject to precise surface water design details being submitted to and agreed with the Planning Authority. This matter can be handled via a suspensive planning condition.

## Waste

Policy PMD2 requires that developments provide space for waste storage and that waste collection vehicles can adequately access the site. The proposals provide suitable bin stances within the curtilage of each property and access to allow refuse bins to be taken to the kerb for collection.

The Council's Waste and Recycling service has not objected to the proposed layout. The swept path analysis confirms the refuse and recycling vehicles can successfully navigate around this layout. The access points from the garden of each plot enables occupiers of the development to take their bins to the access roads which lead around

this layout so that the collection vehicles do not need to travel across the dead ends which only provide access to parking areas.

### Development Contributions

Policy IS2 of the LDP is relevant and is supported by approved SPG on development contributions. A residential development in this location would normally trigger financial development contributions towards both the Earlston Primary School and Earlston High School. However, as the proposed dwellings represent an affordable housing scheme and it is the intention to control this occupation via a suitably worded planning condition, this development is exempt from developer contributions towards Education.

The number of dwelling units proposed does however require a contribution towards Play Space. A financial contribution towards off site place facilities is preferred at a rate of £500 per dwelling unit. The developer has agreed to meet this requirement which can be secured through a legal agreement should Members resolve to approve this application. Subject to the conclusion of a legal agreement for space contributions, the proposed development will comply with the requirements of Policy IS2.

### **CONCLUSION**

It is considered that the proposals represent a suitable form of development on an allocated housing site which addresses the site requirements set out in the LDP. The siting, scale and design of the proposed residential development integrates appropriately with the character of the surrounding area. The proposals are considered to be consistent with local development plan policies and supporting planning guidance covering, but not limited to, placemaking and design, accessibility, flooding, land contamination, ecology and affordable housing. A scheme of noise mitigation measures (to ensure that the proposed residential development does not restrict existing working practices within the industrial estate, and the existing industrial uses do not have an unacceptable adverse impact on the residential amenity of the proposed site) are still to be agreed. The Council, along with the applicant and other interested parties have been working proactively to address this matter.

Subject to a the final agreement of appropriate noise mitigation measures, 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 that the application be approved, with powers delegated to Officers to secure appropriate noise mitigation, subject to a legal agreement (covering development contributions towards play space) and the following conditions:

1. The residential units hereby approved shall meet the definition of "affordable housing" as set out in the adopted Scottish Borders Local Development 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. No development shall commence until precise details (including samples where requested by the Planning Authority) of all external wall and roof materials for the approved buildings (which shall include more than one wall render colour), and full details of the surfacing of all shared surfaces and footways have first been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing with the planning authority.

Reason: To ensure the material finishes respect the character and appearance of the surrounding area.

3. Notwithstanding the details illustrated on Drawing No L(02)H-01, no development shall commence until revised elevation drawings of House Type H-J have first been submitted to and agreed in writing with the Planning Authority. The amended elevations shall include additional architectural interest through the use of additional and complementary materials as well as adjustments to the fenestration. Thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing with the planning authority.

Reason: Further details are required to ensure the external appearance of the colony units respects the character of the surrounding area.

4. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority, thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing with the planning authority. Details of the scheme shall include:

- i. existing and finished ground levels in relation to a fixed datum preferably ordnance
- ii. soft and hard landscaping works
- iii. precise design of nodes/feature planters
- iv. a programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

5. No development shall commence until a revised masterplan has first been submitted to and agreed in writing by the Planning Authority which provides one additional disabled car parking space. Once agreed the development shall be completed in accordance with the approved details.

Reason: To ensure sufficient parking provision is provided.

6. No development shall commence until a scheme of details relating to the following pedestrian improvements has first been submitted to and agreed in writing with the Planning Authority. Thereafter, the development shall be completed in accordance with the agreed details. The details shall include;

- i. improvements to the pedestrian route to the west of the site via the industrial estate
- ii. improvements to the pedestrian link to the north of the site past the tennis courts.
- iii. a programme for completion.

Reason: To ensure that the development hereby approved is served by appropriate pedestrian facilities upon completion.

7. The development hereby approved shall only be carried out in strict accordance with a programme of phasing which has first been submitted to and approved in writing by the Planning Authority.  
Reason: To ensure that the development of the estate proceeds in an orderly manner.
8. No development shall commence until a Traffic Management Plan has first been submitted to and agreed in writing with the Planning Authority and thereafter the development shall be completed in accordance with the agreed details. The details shall include;
  - i. access arrangements for construction traffic
  - ii. temporary traffic measures required during the construction period
  - iii. access arrangements for staff traffic during the construction phaseReason: To ensure the traffic associated with the construction of the development does not have a detrimental impact on the existing road network within the vicinity of the site and its users, particularly with regards the adjacent school premises.
9. No development shall commence until a scheme of mitigation measures designed to reduce noise levels across the development site generated by operations carried out within the Station Road business and industrial site shall first be submitted to and agreed in writing with the Planning Authority. The scheme of measures shall reflect the recommendations of the submitted RMP Noise Impacts Assessment (Former Earlston High School, Earlston TD4 6HE - Technical Report R-8461-RRM-RGM, dated 8th May 2019, and Addendum (Ref:L-8461C-RRM-RGM) to Noise Impact Assessment Ref: R-8461-RRM-RGM, dated 11th September 2019) and any other additional measures which may be informed by subsequent Noise Impact Assessments. Once agreed, the scheme of mitigation measures shall be implemented prior to the occupation of the first dwellinghouse hereby approved.  
Reason: To ensure that the residential amenity of the development will not conflict with operations undertaken at the adjacent Station Road Industrial and Business site.
10. No development shall commence until a scheme submitted by the Developer to identify and assess potential contamination on site has first been submitted to and approved in writing by the planning authority. Thereafter no construction work shall commence unless in strict 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. This 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 Council prior to addressing parts b, c, d, and, e of this condition, and 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 to a satisfaction of the Council.

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

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

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.

11. No development shall commence until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.

Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

12. No development shall commence until written evidence is provided to the Planning Authority that mains water and foul drainage connections are available to serve the development. All public mains services shall be provided prior to occupancy of the dwellinghouses hereby approved and shall be maintained thereafter throughout occupancy of the dwellinghouses

Reason: To ensure the development is adequately serviced and to maintain existing surface water run-off levels from the site.

13. No development shall commence until precise details of the design of the SUDS scheme has first been submitted to and approved in writing with the Planning Authority. The sustainable urban drainage system shall comply with CIRA C753 SuDS Manual. Once approved the development shall be carried out in strict accordance with the agreed details. Prior to occupation of the first dwellinghouse hereby approved written evidence shall be supplied to the planning Authority that the development has been connected to the public water drainage network.

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

14. No development shall commence until a Construction Environmental Management Plan incorporating the good practice guidelines and statutory advice to protect the River Tweed SAC has first been submitted to and agreed in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved scheme.

Reason: To ensure that species and habitats affected by the development are afforded suitable protection during the construction and operation of the development.

14. No development shall commence until a Species Protection Plan (SPP) for bats, otter, badger and breeding birds has first been submitted to and approved in writing by the Planning Authority. The SPP shall incorporate provision for a pre-development supplementary survey and a mitigation plan. No development shall be undertaken except in accordance with the approved in writing SPP.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.
15. No development shall commence until a Landscape and Habitat Management Plan (LHMP) has first been submitted to and approved in writing by the Planning Authority. The LHMP shall incorporate provision for measures identified in the Ecological surveys including planting of native trees and shrubs and SuDS enhancements. No development shall be undertaken except in accordance with the approved in writing LHMP.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.
16. No development shall commence until a sensitive lighting scheme to safeguard protected species incorporating the latest good practice guidelines (as outlined: Guidance Note 8/18 (2018): Bats and artificial lighting in the UK) to protect bats has first been submitted to and approved in writing in writing by the Planning Authority. Any works shall thereafter be carried out strictly in accordance with the approved in writing scheme  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1, EP2 and EP3

#### Informatives

1. The applicant shall give consideration to the provision of electric vehicle charging points and associated infrastructure.

#### DRAWING NUMBERS

<b>Plan Type</b>	<b>Drawing No</b>	<b>Date Received</b>
Location Plan	L(0)01	22.01.2019
Plans and Elevations	L(02)A-01	22.01.2019
Plans and Elevations	L(02)B-01	22.01.2019
Plans and Elevations	L(02)C -01	22.01.2019
Plans and Elevations	L(02)D-01	22.01.2019
Plans and Elevations	L(02)G-02 Rev B	15.03.2021
Plans and Elevations	L(02)G-02 Rev B	15.03.2021
Plans and Elevations	L(02)H-01	22.01.2019
Boundary Finishes	L (02)11 Rev A	15.03.2021
Site Plan	L(02)01 Rev F	15.03.2021
Section	L(04)01 Rev A	15.03.2021
Section	L(04)02 Rev A	15.03.2021
Swept Path	120982/1010 Rev B	15.03.2021

**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.

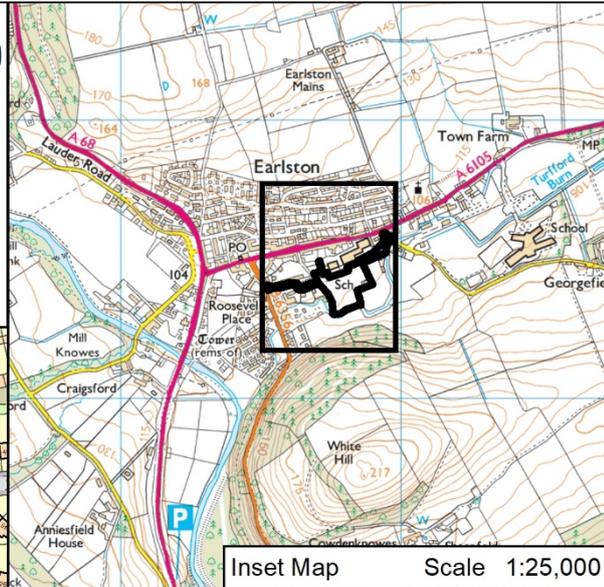
**Author(s)**

Name	Designation
Scott Shearer	Peripatetic Planning Officer



19/00090/FUL

Former Earlston High School  
High Street  
Earlston



Inset Map Scale 1:25,000



Scale 1:3,000