

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 20/01370/CLPU
APPLICANT : Mr Bradley Clarke
AGENT :
DEVELOPMENT : Erection of ancillary building within garden ground
LOCATION: Penvalla
Broughton
Scottish Borders
ML12 6HQ
TYPE : CLPU Application
REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
PL-001 rev P1	Proposed Plans & Elevations	Refused

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

There were no representations received. No consultations were required.

PLANNING CONSIDERATIONS AND POLICIES:

Town & Country Planning (General Permitted Development) (Scotland) Order 1992, as amended.

Circular 1/2012: Guidance on Householder Permitted Development Rights.

Recommendation by - Ranald Dods (Planning Officer) on 19th November 2020

Site

Penvalla is a detached villa located to the west of the A701 in Broughton. To the north of the garden associated with the house is a parcel of mature woodland, which is roughly 0.34 of a hectare in area. There is a small summerhouse in the south western corner of the woodland, some 75m from the house. Although there is some doubt about that being within the curtilage of the house, the application is stated as relating to ancillary accommodation within the woodland area. There are residential properties to the north and south, whilst agricultural land lies to the west.

Proposal

The proposed development would see the replacement of the existing summerhouse with an A frame building. Within the building would be a living space, a kitchen area, a WC and a shower. A flue for a solid fuel stove would project through the eastern roofplane.

Planning history

There is no planning history associated with this site.

Assessment

In determining whether the proposed development is permitted development it must be assessed against the appropriate class within the Town and Country (General Permitted Development) (Scotland) Order 1992 (as amended).

Class 3A(1) permits: The provision within the curtilage of a dwellinghouse of a building for any purpose incidental to the enjoyment of that dwellinghouse or the alteration, maintenance or improvement of such a building.

Although it is arguable whether the proposed development actually falls within the curtilage of the dwellinghouse (being sited within a woodland strip) the proposed development more categorically fails to meet the criteria outlined above for the following reason: An incidental use under Class 3A is one that has a supportive functional relationship with the primary use of the planning unit. However, habitable accommodation is not incidental but is primary accommodation. As the proposal is for a building which comprises wholly of habitable accommodation, it cannot be deemed to be incidental.

Taking all of the considerations and evidence submitted with the application into account, the proposed development is not permitted development under Class 3A of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. The proposed development therefore requires planning permission.

REASON FOR DECISION :

The application outlines proposed operational development that would not constitute permitted development under The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended.

Recommendation: Refused

- 1 The application outlines proposed operational development that would not constitute permitted development under The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended.

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