

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 16/01461/PPP

APPLICANT : Mr Hans Rieppel

AGENT : Ferguson Planning

DEVELOPMENT : Residential development comprising of 6 No dwellinghouses (renewal of previous application 09/01533/PPP)

LOCATION: Land North Of 28
Lauder Road
Stow
Scottish Borders

TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Site Plan	Approved

NUMBER OF REPRESENTATIONS: 1
SUMMARY OF REPRESENTATIONS:

One representation has been received from a neighbouring householder which largely raises concerns with respect to the state of the road in Lauder Road, principally relating to what are advised to be existing problems with respect to surface water drainage, the narrowness of the road, the lack of pavements, and speeding traffic, which individually and cumulatively raise road safety and street safety concerns. It is advised that the respondent would wish to see these matters addressed ahead of the construction of any new houses to be served by this same road. It is further anticipated that there might be potential for impacts upon daylight received at the householder's property were the new houses to be large buildings.

Roads Planning Section: No objections to the renewal of the previous application provided Conditions Nos. 1 and 4 and the informative attached to the previous consent, are retained.

Archaeology Section: No known archaeological implications for this proposal.

Housing Strategy Section: No comments but anticipated that contributions would be required towards affordable housing.

Education and Lifelong Learning: contributions would be required towards the new Galashiels Academy.

Scottish Water and the Community Council have not responded to the public consultation.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Council Local Development Plan 2016:

Policy PMD1: Sustainability
Policy PMD2: Quality Standards
Policy PMD5: Infill Development
Policy HD3: Residential Amenity
Policy EP13: Trees, Woodlands and Hedgerows
Policy IS2: Developer Contributions
Policy IS3: Developer Contributions Related to the Borders Railway
Policy IS6: Road Adoption Standards
Policy IS7: Parking Provision and Standards
Policy IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Recommendation by - Stuart Herkes (Planning Officer) on 23rd January 2017

BACKGROUND

This application seeks to renew a previous planning consent, 09/01533/PPP, which was approved in 2010 subject to seven planning conditions, an informative and a Section 75 legal agreement, ahead of the consent's issue in December 2013.

In addition to the site plan that was previously approved under Planning Consent 09/01533/PPP, the agent has supplied a supporting letter, advising that the proposal complies with planning policy, chiefly Policy PMD5 of the statutory development plan. Some indicative details and non-specific information previously submitted at the time of the previous planning application, have been omitted.

PLANNING POLICY CONTEXT

The proposal remains the same as before and circumstances on-site remain as they were at the time of the determination of Planning Application 09/01533/PPP. However, the current application requires to be assessed against the policies and proposals of the Scottish Borders Council Local Development Plan 2016, which has succeeded the Scottish Borders Local Plan as the statutory development plan in the interim period. Notwithstanding this, and given the close similarities between the current proposal and that approved under Planning Consent 09/01533/PPP, it is reasonable, as well as expedient, to confine this current assessment only to those aspects of the proposals that raise, or are liable to raise, new or different considerations from those matters that were considered at the time of the determination of Planning Application 09/01533/PPP.

PLANNING ASSESSMENT

Although it is not allocated housing land, the site remains entirely within the Development Boundary at Stow and the principle of the proposal remains capable of support on essentially the same basis and terms as before. This is to say, subject to conditions and a legal agreement to collect the requisite six education, six Waverley and five affordable housing contributions.

The essential requirements of the schedule of conditions that was applied to Planning Consent 09/01533/PPP, are, I consider, reasonably maintained. However, the actual planning conditions that were applied to Planning Consent 09/01533/PPP now require, and would benefit from, some revision.

This is, firstly, and necessarily, to take account of the advice of a neighbouring householder who has responded to the public consultation on the current application to raise concerns with respect to impacts upon the public road. These concerns, I consider, reasonably justify a greater level of control being exercised over the form and delivery of the development of the overall site than might otherwise have been possible within and through the schedule of conditions that was imposed upon Planning Consent 09/01533/PPP.

Secondly, there is a technical difficulty in terms of the need to take account of the omission of certain details that were provided in support of the previous planning application, but which have not now been maintained

in support of the current application. This has rather undermined the sense, or at least context, of at least one condition imposed upon the previous consent (namely, Condition No 4), which alludes to the prior agreement of "engineering details" which had been described by indicative drawings. In the context of the current application however, there are no "engineering details", indicative or otherwise, and the condition would not be reasonably re-imposed without some clarification, if not qualification, with respect to what works precisely, are required for prior approval.

Thirdly, certain standard conditions (specifically Conditions Nos. 2, 3 and 7) that were previously imposed on Planning Consent 09/01533/PPP are no longer required, and can now be omitted themselves. In one case, that relating to tree works (Condition No 6), the details are also now out-of-date, and thus the condition requires to be updated.

Fourthly, I consider that both the development and Applicant would in any case, benefit from a clearer separation being made within the conditions between matters pertaining to the development of the overall site and those pertaining to the development of individual housing plots. This would allow the Applicant some reasonable flexibility in terms of how the site might ultimately be developed out and the land disposed of. It would also allow much greater opportunities to incorporate features, such as footpaths and road improvements that might otherwise be omitted if the site is ultimately developed out on a plot-by-plot basis.

I have therefore amended the proposed conditions to take account of all of the above factors. However, I would draw attention to some specific points that I have sought to address within the proposed revised conditions:

Condition No 5 of Planning Consent 09/01533/PPP requires that details of the means of water supply, surface water and foul drainage be submitted for prior approval, but the current application is clear that the proposed properties would be served by the public mains, and Scottish Water has not advised of any technical concerns in this respect. Condition No 5 then is not in itself now necessarily re-imposed. However, I consider that it is reasonable that the provision of services to the site should nonetheless still be regulated. A standard requirement that water and drainage be fully functional prior to the dwellings' occupation would, I consider, be more satisfactory, and less onerous.

With respect to the matters previously regulated under Condition No 4 of Planning Consent 09/01533/PPP, it is important that a clear understanding is secured at the earliest opportunity as to how the overall site is to be laid out and operated, and ahead of the approval of any single dwellinghouse. This would reasonably be required at the occasion of the first AMC application, and would help ensure that all subsequent proposals for the development of individual residential properties would thereafter be informed by an agreed overall layout for the site, including the precise form and layout of the engineering works required to accommodate the parking and turning provision. This should help prevent any subsequent plot-specific proposals being liable to omit works that are required on-site to accommodate general access, parking and turning. It would also allow an appropriate opportunity for consideration to be given to impacts upon the local road network, including mitigation for those issues raised by the neighbouring householder with respect to drainage, road width and the lack of pavements. In practical terms, I consider that the conditions essentially updating Conditions Nos 1 and 4 of the previous consent, should therefore distinguish between those matters that relate to the development of the wider site which require to be addressed at the time of the first AMC application, and those matters that could still be appropriately considered on a plot-by-plot basis (i.e. the layout and design of individual dwellings). I consider that this offers clarity and structure which should benefit the Applicant as much as the development.

Taking account of the concerns of the neighbour with respect to the impacts upon the road in Lauder Road, I consider that rather than an informative encouraging the installation of a possible pedestrian link from the site to the village, the potential to accommodate pavements would more usefully and practically be considered within the assessment and agreement of the overall layout of the site at the time of the first AMC application, which would practically be the only opportunity to consider how pavements might be accommodated alongside the required access, parking and turning areas to serve the whole development. To this end, I would propose that the Applicant be required to consider these matters within a Design and Access Statement to be submitted upon the occasion of the first AMC application, along with an overall site layout plan.

Attention to site levels for the entire site at the time of the first AMC application, and including those relating to the construction of the communal and shared access, parking and turning areas, would help ensure that

appropriate measures would be in place for the management of surface water run-off from the site, to mitigate such impacts upon the public road.

I note the neighbour's concerns with respect to the potential for houses to impact her home's residential amenity. While such matters should ultimately be considered at the time of the consideration of the detailed design of any proposed dwellings, I would nonetheless be concerned with respect to such a steeply sloping site that there should be an explicit requirement at this stage, that the identification of the proposed finished site levels should be integral to the description of any proposal progressed at the AMC stage. Accordingly, I consider that the planning conditions should therefore require the provision of detailed information about the existing and proposed site levels on individual housing plots as well as with respect to those describing the prerequisite engineering works, noted above, with respect to communal and shared parking and turning provision.

Given the concerns expressed with respect to road safety by the member of the public who commented on the proposals, I would consider it reasonable to impose the standard requirement that parking and turning provision for two vehicles should be provided within each plot ahead of the dwelling being inhabited.

I am aware that Roads explicitly seeks the re-imposition of the requirement that the communal parking and turning areas should be completed ahead of the construction of the first house. However, without any detailed layout and description of the proposed works, and given Roads' ulterior concern that public footpaths be incorporated if at all possible, I consider that it would be more practical and reasonable not to require explicitly by condition at this PPP stage, that particular works should be completed prior to the start of house construction. It would be more reasonable and practical to require that the Applicant consider the delivery of the development within a proposed programme of phasing of construction works, having regard to the concern that appropriate parking and turning provision for vehicles should be in place during all phases of the development. This would allow account to be taken of the specific proposals for the site layout, and does also allow more flexibility to the Applicant, should it transpire that the site might be developed out safely and appropriately in phases before the final access, parking and turning arrangements are first completed or delivered in their final form ahead of any house building. (In point of fact, given the need for contractors to take access to the sites of individual houses over areas that are liable to be developed as communal and shared areas for parking and turning, as well as footpaths, it is questionable how practical it would actually be to require that all of the latter be completed in their final form before development starts on the first of the houses). Flexibility in this matter then, is both practical and reasonably allowed.

The previous conditions include the requirement that the existing trees should be protected. While this requirement is reasonably maintained, it would be reasonable to ensure that conservation is actually possible, by requiring that the layout of the development should be informed by a Tree Survey and Arboricultural Impact Assessment.

The neighbour's concerns expressed with respect to speeding traffic, while appreciable, are not planning concerns, and would only appropriately be considered directly by the police and/or Roads Authority.

CONCLUSION

Subject to the points noted above being addressed within a revised schedule of conditions, and subject to a legal agreement being concluded to collect all of the requisite contributions, I consider that the proposal is permissible.

REASON FOR DECISION :

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

Recommendation: Approved - conditions, inform & LA

- 1 No development shall commence on any residential property hereby approved until the following details about that same residential property have all first been submitted to, and approved in writing by, the Planning Authority:
- i) the proposed siting, layout, design and external appearance of its dwellinghouse;
 - ii) the proposed siting, layout, design and external appearance of any proposed ancillary building(s), structure(s) and/or surface(s) to be sited within its curtilage;
 - iii) the proposed landscaping and boundary treatment of its site;
 - iv) the existing and proposed finished ground and surface levels of its site, including the proposed Finished Floor Level(s) of the dwellinghouse and that/those of any proposed ancillary buildings, all shown in relation to a clearly identifiable datum point, or clearly identifiable datum points, located out with the site, and sufficient for the purpose of establishing the heights of the aforementioned existing and proposed levels;
 - v) the proposed means of access thereto; and
 - vi) the proposed accommodation of the parking and movement of at least two vehicles (excluding any garaging) for its occupants.
- Thereafter, the development of that same residential property shall be implemented in accordance with the details that are specifically approved to address all of the above matters (items i. to vi., inclusive) in relation to it by a consent (or consents) for Approval of Matters specified in Conditions (AMC) issued as ulterior to this planning permission.
- Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006; and including the need to ensure that appropriate provision is made within the detailed design and layout of the residential properties hereby approved for the accommodation of occupants' vehicles, in the interests of road safety.

- 2 No development shall commence on the site, or any part thereof, until all of the following have first been provided at the time of the first application for Approval of Matters specified in Conditions (AMC) that is submitted as ulterior to this planning permission:
- i) a proposed site layout plan describing the entire site and showing the proposed positions and boundaries of all individual residential plots; the proposed positions and layouts of all public footpaths, all shared and communal access(es), parking and turning areas; and any other proposed communal or shared surfaces;
 - ii) details of the existing and proposed finished ground and surface levels on the site, shown in relation to a clearly identifiable datum point, or clearly identifiable datum points, located out with the site and sufficient for the purpose of establishing the heights of the existing and proposed levels across the entire site. These details shall include drawings describing both in plan and in section, all proposed works required to construct all shared and communal vehicular accesses, parking and turning areas, public footpaths and any other proposed communal or shared surfaces (including in all cases, all works required to make up or reduce any existing ground levels to accommodate the siting of these same accesses and areas);
 - iii) details of the construction and surfacing of all shared and communal vehicular accesses, parking and turning areas, public footpaths and any other proposed communal or shared surfaces;
 - iv) details of the proposed programme for the delivery of all shared and communal vehicular accesses, parking and turning areas, public footpaths and any other proposed communal or shared surfaces. These details shall take full account of the advice of Informative Note 2;
 - v) a Design and Access Statement which addresses the requirements of Informative Note 3 attached to this same planning permission; and
 - vi) a Report of the results and conclusions of a Tree Survey and Arboricultural Impact Assessment of all trees (including Root Protection Areas and canopies) within the site or on its boundaries, that shall itself address in full the requirements set out in Informative Note 4 attached to this same planning permission.
- Thereafter the development of the site shall be implemented in accordance with the approved details including all matters regulated under any conditions attached to the AMC consent(s) which are ulterior to this planning permission.
- Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006; to ensure that appropriate arrangements are in place for the delivery and management of the development of the entire site, including for the provision of appropriate vehicular and pedestrian access to, from and within the site, both during and after the period of construction, which is in the interests of site safety, road safety and public safety; and to ensure that

there would be no unacceptable impacts upon the surface, structure or operation of the public road as a consequence of the development, including as a result of any changes to design, ground and surface levels or surface water drainage, again in the interests of road safety.

- 3 No dwellinghouse hereby approved shall be occupied until:
- i) the water supply, surface water drainage and foul drainage relating to that same dwellinghouse, are first all fully functional; and
 - ii) the site access and on-site provision for the accommodation of the parking and movement of at least two vehicles (excluding any garaging) within the curtilage of the residential property associated with that same dwellinghouse, have all first been completed and made available for use by occupants' vehicles.
- Reason: To ensure that each residential property hereby consented is adequately serviced and fit for habitation prior to its occupation, and to ensure that each property's site access and parking areas are complete and available for use by occupants in the interests of road and site safety.
- 4 Unless otherwise agreed in writing by the Planning Authority (including in accordance with any details approved under any AMC consent issued as ulterior to this Planning Permission in Principle consent) and in advance of such tree works taking place:
- i) no trees (including their roots and branches) within the application site (including on the site boundaries) shall be felled, lopped, lifted or disturbed in any way, and no works shall take place within their Root Protection Areas or canopy spreads; and
 - ii) all existing trees shall be fully protected in accordance with the requirements of BS 5837:2012 and all measures required on-site to protect these trees for the duration of construction works, shall be maintained in accordance with the requirements of BS 5837:2012. Further, there shall be no storage of plant or machinery within the Root Protection Areas (RPAs) of these same trees, and there shall be no services installed within their RPAs unless such works are compliant with NJUG Guidelines.
- Reason: In the interests of preserving the health and vitality of the existing trees, the loss of which would have an adverse effect on the visual amenity of the area. The existing trees represent an important visual feature which the Planning Authority considers should be substantially maintained in the interests of conserving the visual amenities of the site and surrounding area.

Informatives

It should be noted that:

1 **INFORMATIVE NOTE 1:**

It should be noted that ALL information requirements identified in the planning conditions attached to this planning consent require to be made the subject of a subsequent application, or subsequent applications, for Approval of Matters specified in Conditions (AMC).

When making an AMC application to address the information requirements of the planning conditions attached to this planning consent, the Applicant should explicitly state the reference numbers of the relevant planning conditions in the appropriate place (currently Section 5b) on the Planning Application Form.

In the event that the Applicant would seek to address the information requirements of ALL planning conditions attached to this planning consent within one AMC application, they must ensure that they supply information that fully and properly addresses ALL information requirements identified within ALL planning conditions.

2 **INFORMATIVE NOTE 2:**

The proposed phasing arrangements of the development required under item iv. of Planning Condition No 2, must consider how safe vehicular and pedestrian access to, from and within the site (including provision for footpaths, and areas for the parking and turning of all vehicles on the site, construction traffic as well as for normal traffic) would be established and maintained from the start

of development, and how this would then be maintained throughout the course of the development of the site up to completion. This phasing should address, and allow for, the possibility that the first house(s) constructed, may be occupied before the development of the last house(s) is completed, such that at every stage of the development, the access arrangements on the site are sufficient to accommodate both residential and construction traffic, as well as to allow for safe pedestrian access to, from and within the site.

In the interests of site safety, public safety and road safety, the Planning Authority reserves the right at the time(s) of the determination of the application(s) for the detailed proposals to impose planning condition(s) upon any AMC consent(s) that is/are ulterior to this Planning Permission in Principle, to require that particular works or operations should be completed by particular stages within the development.

3 INFORMATIVE NOTE 3:

The Design and Access Statement required under Planning Condition No 2, item v, attached to this planning permission, should address how the detailed site layout proposals would ensure road safety and public safety with respect to vehicular and pedestrian movements from, to, and within the site, and both during and after the period of construction of all six dwellinghouses.

4 INFORMATIVE NOTE 4:

The Tree Survey and Arboricultural Impact Assessment required under Planning Condition No 2, item vi, attached to this planning permission, must be carried out by an individual or organisation that is professionally competent to do so, and should be undertaken and reported in conformity with BS5837: 2012 (or any successor publication).

The survey should include assessment of those trees in the existing woodland along the northern boundary of the site and those trees on, or close to, the site's boundaries within adjacent residential gardens.

A critical concern is that the potential for the retention of all existing trees on and around the boundaries of the site, is appropriately investigated in advance, and any and all mitigation measures required to conserve these trees in the long-term (including through design, as well as through the adoption of any measures required to safeguard them throughout the course of the development) are identified at the pre-development stage to ensure that the mitigation is fit for purpose. The Tree Survey and Arboricultural Impact Assessment is required to inform this assessment.

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