

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**06 DECEMBER 2021**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** REFERENCE NUMBER: 21/01205/PPP

**OFFICER:** Cameron Kirk  
**WARD:** Mid Berwickshire  
**PROPOSAL:** Erection of dwellinghouse  
**SITE:** Land North of Lawn Park House, Spottiswoode, Gordon,  
TD3 6NQ  
**APPLICANT:** Mrs Claire Cooper  
**AGENT:** MKT Design

**PLANNING PROCESSING AGREEMENT:** Planning processing agreement in place until 06 December 2021.

**SITE DESCRIPTION**

The application site (Plot 2) relates to a section of an agricultural field, colloquially known as 'Cow Park', which is located within the Spottiswoode Estate, some 2 miles west of the settlement of Westruther. The application site is relatively flat and currently laid in grass. The application site is bounded by agricultural land to the north and west, a private road and residential properties to the south, further residential properties lie to the west, and an area of woodland lies to the east. There is a large common lime tree which is located fairly centrally within the application site. The application site lies within Spottiswoode Designed Landscape (Scottish Borders Council designation).

**PROPOSED DEVELOPMENT**

Planning permission in principle is sought for the erection of a dwellinghouse. Vehicular access to the application site would be taken from the private road the flanks the south east boundary of the application site. The proposed dwellinghouse would be connected to a private water supply. Foul water would be dealt with by a private septic tank and soakaway, while surface water would be dealt with by a soakaway pit.

Planning permission in principle is also sought for the erection of a dwellinghouse to Plot 1 which lies to the west of Plot 2. This is being considered under a separate planning application 21/01203/PPP.

**PLANNING HISTORY**

Application site (Plot 2)

03/00058/OUT Erection of dwellinghouse. Granted 25 March 2003.

07/00566/OUT Erection of dwellinghouse. Withdrawn 21 August 2015.

### Plot 1 (neighbouring plot to west)

03/00058/OUT Erection of dwellinghouse. Granted 25 March 2003.

06/00608/REM Erection of dwellinghouse and integral garage. Granted 23 October 2007.

09/01438/AMC Erection of dwellinghouse and integral garage (renewal of previous consent 06/00608/REM). Granted 08 December 2009.

21/01203/PPP Erection of dwellinghouse. Pending consideration.

## **REPRESENTATION SUMMARY**

A total of 14 letters of representation, 8 objections and 6 support comments, have been received by the Planning Authority. This does not include multiple representations from the same household which equates to 25 letters in total. All issues raised have been considered. The representations are available for Members to view in full on Public Access Portal but the key material planning considerations have been summarised below as follows:

### Objections

- The size of the application site;
- The location of the proposed dwellinghouse;
- Impact the proposed development would have on the visual amenities of the area;
- Impact on amenity and privacy of neighbouring residential properties;
- Impact on natural environment;
- Impact on listed buildings and Spottiswoode Designed Landscape;
- Water supply and drainage;
- Flooding;
- Road safety.

### Support comments

- Provide homes for local families;
- Improve biodiversity;
- Support the local and wider community, including schools, shops and businesses.

## **APPLICANTS' SUPPORTING INFORMATION**

- Preliminary Ecological Appraisal

## **DEVELOPMENT PLAN POLICIES:**

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

PMD1: Sustainability

PMD2: Quality Standards

HD2: Housing in the Countryside

HD3: Protection of Residential Amenity

EP1: International Nature Conservation Sites and Protected Species  
EP2: Nature Conservation Sites and Protected Species  
EP3: Biodiversity  
EP7: Listed buildings  
EP8: Archaeology  
EP10: Gardens and Designed Landscapes  
EP13: Trees, Woodland and Hedgerows  
IS2: Developer Contributions  
IS7: Parking Provision and Standards  
IS8: Flooding  
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

## **OTHER PLANNING CONSIDERATIONS:**

Supplementary Planning Guidance:

Biodiversity 2005  
Developer Contributions 2015 (updated 2021)  
Landscape and Development 2008  
New Housing in the Borders Countryside 2008  
Placemaking and Design 2010  
Trees and Development 2008  
Waste Management 2015

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Archaeology Officer:** No objection. They advise that this application has been assessed against the Scottish Borders Historic Environment Record (HER) as the on-going record of all known archaeological and historic findspots, sites and landscapes across the area that are known, recorded and mapped.

The Archaeologist confirms there is some potential for archaeological implications and an archaeological watching brief would be recommended should any further application be made. This would allow an opportunity for the recording of any archaeological remains present, as well as indicating what the potential is for the future in the immediate area, but any future application should also bear in mind the historic parkland character into which it would be situated to avoid causing any greater damage than necessary.

**Heritage and Design Officer:** No objection. They advise that the application site is located within Spottiswoode Designed Landscape which forms part of the setting of the listed buildings. There is no direct inter-visibility. The impact on setting is therefore reduced to that on the overall designed landscape. The site is located adjacent to some unlisted historic buildings, now dwellinghouses, and a modern dwellinghouse. The proposed development would alter the layout of the structural planting that these houses are set within, but could be considered a logical extension to this group of buildings, subject to design and ensuring that the proposed development does not dominate the existing buildings or historic landscape.

Should development come forward, the dwellinghouse should be carefully designed to sit discreetly in the landscape surroundings and should respond to the character of the site and surrounding historic buildings. Structural planting that seeks to integrate with

the established planting should be brought forward to integrate the site with its neighbours and screen views across the neighbouring open field and footpath from the lodge.

**Landscape Architect:** No objection. This proposal was originally for three dwellinghouses adjacent to Plot 1, now reduced to one dwellinghouse on the larger plot. Any development within this site will have to take full account of the significant mature lime tree that is an important existing feature in the estate landscape. Before a further application is submitted the Root Protection Area (RPA) of the tree should be established in accordance with BS 5837:2012 and marked accurately on a topographic survey which should include the house layout, driveway access, services routes (including septic tanks and soakaway systems) and associated works to establish if the site can accommodate the house without risk to this important tree.

They would prefer to see a gently curving northern boundary to the sites that reflects more closely the organic shape of the enclosed parkland space and so that boundaries don't appear arbitrary. It would also be preferable to incorporate the narrow strip between plot 2 and the woodland on the north eastern edge into the garden to improve the relationship of the site to its setting. Alternatively woodland planting could be extended to the plot boundary to be more harmonious with the designed landscape.

Boundary treatments should reflect the existing beech hedge and wall boundaries on the estate access road. For all other boundaries, beech hedges or field type post and wire fences and shrub planting should be used to relate to the rural character of the site.

Planting within the site should include trees of a stature that relate to the estate parkland planting particularly on the north west boundary of the plots but also within the property gardens to assimilate the properties into the wider setting of Spottiswoode. All trees along the access road including those out with the plot boundaries should be accurately marked on the landscape plan and retained unless otherwise agreed. A fully detailed planting plan will be required as part of any application in full.

Where passing places are required these should be carefully considered to limit impact on the visual amenity of the estate access road and should be shown on the landscape layout drawings in relation to existing and proposed boundary treatments and gateways.

**Roads Planning Service:** (1<sup>st</sup> response) No objection. The site takes direct access from a private road off the D51/5 minor public road which is single track in nature with few passing opportunities between the private junction and Pyatshaw. The private road serving the site has passing opportunities near the site and also near the junction with the public road. However, there is a stretch of road that has no passing opportunities and should therefore be upgraded to help mitigate the impact of the additional traffic generated through this development. Similarly, the public road has some passing opportunities but there are areas which appear to be overrun, suggesting that more passing places are required.

As the principle of development is well established at this location, they shall have no objections to this application provided their recommended conditions are attached to any permission granted.

(2<sup>nd</sup> response) Re-consulted after reducing the number of dwellinghouses proposed from three to one. Their initial consultation response still stands and they advise that

their recommended conditions and informatives should be attached to any grant of consent.

### **Statutory Consultees**

**Community Council:** They feel that the construction of a dwellinghouse on this parkland would deleteriously affect what is a very attractive and tranquil hamlet set in a mature and structured woodland setting.

The existing hamlet does not overly detract from the original layout of historic buildings in the area, but a further four modern houses would be a somewhat unsightly addition and negatively affect existing homeowners in the locale. Due consideration must be given to the design of these houses to ensure they complement the original architecture within the Spottiswoode Estate. House positions should not compromise or necessitate the removal of any existing trees. The current access road serving existing properties, and any future development must be upgraded and re-surfaced with tarmac; with provision of passing places, improved drainage etc.

The impact of these developments on existing wildlife must be surveyed and reported. SBC must consider also impact of traffic on the unclassified loop road between A6971 and Westruther with respect to safety. There is currently heavy agricultural, livestock, forestry and delivery traffic on this route with limited passing places which results in potholes and broken edges to the tarmac.

**Scottish Water:** No objection. They advise that there is currently no public water infrastructure or waste water infrastructure within the vicinity of the application site and alternative private arrangements would need to be investigated to the service the development.

### **KEY PLANNING ISSUES:**

- Principle of development;
- Layout, design and materials;
- Landscape and visual affects;
- Residential amenity and privacy;
- Impact on built heritage;
- Impact on natural heritage;
- Road safety;

### **ASSESSMENT OF APPLICATION:**

#### **Principle**

The site is not located within the defined development boundary of a settlement and as such would equate to development in the countryside. In order to establish the principle of development it must be assessed against Policy HD2: Housing in the Countryside. The site is not located in the Southern Housing Market Area. At present, the site is currently agricultural land and the proposal would not result in the conversion of the existing buildings to a house, the restoration of an existing house or result in the proposed replacement of an existing house. In addition, no justification has been provided to demonstrate that there is an economic requirement for a house to be built in this location. Therefore, sections (B) – (F) of Policy HD2 would not be applicable in establishing the principle of development in this particular location. It would only be appropriate to assess the proposal against section (A) Building Groups of Policy HD2.

Section (A) Building Groups of Policy HD2 advises that additional dwellings should only be permitted where the site relates well to an existing building group of at least three dwellings and will only result in the addition of two dwellings or a 30% increase to the group, whichever is greater, during the period of the Local Development Plan. The cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining applications.

Additionally, the Council's Supplementary Planning Guidance titled 'New Housing in the Borders Countryside 2008' states that the existence of a group will be identifiable by a sense of place which will be contributed to by natural and man-made boundaries. Any new development should be within a reasonable distance of the existing properties within the building group and this distance should be guided by the spacing between the existing properties in the building group. The scale and siting of new development should reflect and respect the character and amenity of the existing building group.

There have been no additions to the existing building group under section (A) of Policy HD2 during the Local Development Plan period and there is the numerical capacity to add a further two dwellings. Therefore, the main consideration is whether the proposed development would be an acceptable addition to an existing building group.

Planning permission in principle was initially sought for the erection of three dwellinghouses. The applicant and their agent were advised that three dwellinghouses could not be supported by the Planning Authority

Planning permission was granted in 2003 (03/00058/OUT) for the erection of a dwellinghouse in this location. The Planning Authority was also minded to grant permission for the erection of a dwellinghouse under application 07/00566/OUT, although this application was subsequently withdrawn in 2015.

The aforementioned applications are a material planning consideration in the assessment of the application as the Planning Authority has previously accepted the application site as a suitable site for the development of a dwellinghouse.

There are four dwellinghouses within the locality of the application site, Lawn Park House to the south, Paddock Hall to the south west and Laidlaws and Hollybeech to the west. The application site is well related to the existing building ground as it would connect the properties to the south, south east and west. Considering the sites position within the existing building group, the proposed development would positively contribute to the overall sense of place felt within it.

In consideration of the above, the proposed development at the location identified would, on balance, be an acceptable expansion of the existing building group, subject to further policy consideration below. It is accepted that the site does break into a previously undeveloped field beyond a strong landscaped boundary to the south west. The approved SPG guides development in the countryside to sites normally contained within an identifiable sense of place, contributed to by natural and man-made boundaries. Whilst this site (and 21/01203/PPP) would extend the group beyond this natural containment into the undeveloped paddock, the previously mentioned planning history is a significant material planning consideration in the determination of this (and 21/01203/PPP) application. If the previous consents did not exist, it could be argued that the proposed development would not represent an appropriate addition to the group, and would be contrary to prevailing Policy, being a site out with the identifiable limits of the group. However, and having said that, the policy constraints against which

the earlier decisions were made are largely the same as those in place today. The only significant change being a reduction in the size of the group from a 100% increase, to a maximum of two units or 30%, whichever is greater. There has not been a significant shift in policy since the earlier approvals.

### **Layout, design and materials**

Policy PMD2 aims to ensure that all new development is of a high quality and respects the environment in which it is contained. It is acknowledged that the application site is sizable. However, the application site would be commensurate in scale to the properties to the south. The curtilage of neighbouring properties are not uniform and they all vary in size and shape. The application site would not be out of character with the established pattern of development within the locality.

Concerns have been raised by objectors regarding the siting of the proposed dwellinghouse, as indicated on the submitting drawings. At this time the location of the proposed dwellinghouse is purely indicative. This application is for planning permission in principle, therefore aspects such as the layout, siting and design of the proposed dwellinghouse cannot be adequately assessed at this time. Further consideration would be given to layout, siting and design of the proposed development on the submission of a subsequent application. Nonetheless, it is expected that a dwellinghouse could be comfortably accommodated within the application site.

The neighbouring properties all vary in scale, design and form. The proposed dwellinghouse should be designed in such a way that it relates well with the neighbouring built form, respecting and responding to the local vernacular.

### **Landscape**

As the application site lies within Spottiswoode Designed Landscape the Council's Landscape Architect was consulted as part of the application process. They advise that any development within the application site would have to take full account of the significant mature lime tree that is an important existing feature in the estate landscape. Before a further application is submitted the Root Protection Area (RPA) of the tree should be established in accordance with BS 5837:2012 and marked accurately on a topographic survey which should include the house layout, driveway access, services routes (including septic tanks and soakaway systems) and associated works to establish if the site can accommodate the house without risk to this important tree. A condition will also be attached to ensure that no works are carried out to the tree without the prior written consent of the Planning Authority.

They would prefer to see a gently curving northern boundary to the application site that reflects more closely the organic shape of the enclosed parkland space and so that boundaries do not appear arbitrary. It would also be preferable to incorporate the narrow strip between Plot 2 and the woodland on the north eastern edge into the garden to improve the relationship of the site to its setting. The Landscape Architect is reminded that the red line boundary cannot be amended once a planning application has been validated.

They suggest that as an alternative woodland planting could be extended to the plot boundary to be more harmonious with the designed landscape. Their recommendation should be included in any subsequent planning application.

Boundary treatments should reflect the existing beech hedge and wall boundaries on the estate access road. For all other boundaries, beech hedges or field type post and wire fences and shrub planting should be used to relate to the rural character of the site.

Planting within the site should include trees of a stature that relate to the estate parkland planting particularly on the north west boundary of the plot but also within the property gardens to assimilate the properties into the wider setting of Spottiswoode. All trees along the access road including those out with the plot boundaries should be accurately marked on the landscape plan and retained unless otherwise agreed. A fully detailed planting plan will be required as part of any application subsequent application.

Where passing places are required these should be carefully considered to limit impact on the visual amenity of the estate access road and should be shown on the landscape layout drawings in relation to existing and proposed boundary treatments and gateways.

Considering the setting of the application site, the addition of ancillary buildings within the curtilage of the dwellinghouse or use of certain boundary treatments could potentially impact upon Spottiswoode Designed Landscape. Therefore, it would be prudent to attach conditions removing permitted development rights under Class 3A and 3E of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) to ensure that no building or means of enclosure are erected other than those agreed in any subsequent application.

It is not anticipated that the proposed development would unduly impact on the parkland setting of the Spottiswoode Estate.

### **Impact on residential amenity**

Policy HD3 aims to protect neighbouring residential properties against inappropriate development that would result in the loss of amenity or privacy. As the application is for planning permission in principle a full assessment of the impact the proposed development would have on the amenity or privacy of neighbouring properties cannot be undertaken.

Concerns have been raised in the letters of representation received by the Planning Authority that the proposed dwellinghouse would unduly impact on the amenity and privacy of neighbouring residential properties. Considering the size and location of the application site relative to neighbouring residential properties, it is expected that any dwellinghouse could be designed to ensure that it does not have a significant adverse impact on the amenity or privacy of neighbouring properties. A full assessment would be undertaken on the submission of a subsequent application to detail layout, siting and design for the proposed development.

### **Access and parking**

The application site is accessed from the A697 by the D51/5, a minor public road, and then by a private road. Vehicular and pedestrian access to the proposed dwellinghouse would be taken from the private road that flanks the south east boundary of the application site.

Concerns have been raised in the letters of representation received by the Planning Authority over the current condition of the roads between the A697 and the application site, as well as the additional traffic that the proposed development would generate.

Roads Planning Service was consulted as part of the application process. They do not object to the application. They acknowledge that the D51/5 is a minor public road which is single track in nature with few passing opportunities between Pyatshaw and the private junction for the private road which leads to the application site. The private road serving the application site has passing opportunities near to the application site and also near the junction with the public road. However, there is a stretch of road that has no passing opportunities and this should be upgraded to help mitigate the impact of the additional traffic generated by the proposed development. Similarly, the public road has some passing opportunities but there are areas which appear to be overrun, suggesting that more passing places are required.

They recommend conditions are attached to ensure that one passing place is provided along the minor public road (D51/5) between Pyatshaw and the private junction of the private road which lead to the application site and one passing place along the private road between the application site and junction with the public road. Roads Planning Service feel that the addition of two passing places between the application site and the A697 would help to provide suitable passing opportunities for existing traffic and any additional traffic generated by the proposed development.

They also consider it necessary to upgrade the junction between the private road and the public road. Upgrades to the junction will be sought by means of condition to ensure that it is implemented within a timely manner.

The proposed dwellinghouse must provide parking and turning for two vehicles within its curtilage. It is expected that the application site could accommodate this requirement considering its size. Further details for parking and turning will be required for any subsequent application. A condition will be attached to ensure that parking and turning for two vehicles is retained and maintained within the curtilage of the dwellinghouse in perpetuity.

Concerns also been raised that the conditions recommended by Roads Planning Service would not be adhered to by the applicant or developer. The conditions would form part of any consent granted and must be complied with. Failing to do so would result in non-compliance of conditions which may result in Enforcement action.

Any matters relating to the upkeep of the private road and the cost implications incurred as a result are a private civil matter between the applicant and the neighbouring properties. This is not something which would involve the Planning Authority.

The proposed development would provide two additional passing places and upgrades to the junction from the public road to the private road. This would benefit the occupants of the proposed dwellinghouse and the current residents that reside within the area.

### **Services**

The proposed dwellinghouse would be connected to a private water supply. Foul water from the proposal would be dealt with by a private septic tank and soakaway, while surface water would be dealt with by a soakaway pit.

Concerns have been raised in some of the letters of representations received by the Planning Authority regarding water supply and drainage for the proposed development. It is understood that some of the properties within the locality of the application site are served by a public water supply, and those that are, have low pressure. They express concerns that the proposal would further exacerbate existing issues.

Scottish Water was consulted on the application and they have confirmed that a public water supply would not be achievable for the proposed development and alternative private arrangements must be investigated. The proposed development would not affect the existing water supply of neighbouring properties who are served by a public water supply as a private water supply would be provided to serve the proposed dwellinghouse. A condition will be attached to ensure that a report, prepared by a suitably qualified person, is provided demonstrating the provision of an adequate water supply to the development in terms of quality, quantity and the impacts of this proposed supply on surrounding supplies or properties.

Scottish Water also confirm in their consultation response that there is no waste water infrastructure within the vicinity of the application site and alternative private arrangements would need to be investigated to the service the development. Foul water from the proposal would be dealt with by a private septic tank and soakaway. Concerns have been raised regarding foul drainage for the proposed dwellinghouse as objectors feel that the addition of a further septic tank to serve the proposed dwellinghouse would adversely impact on existing ground conditions. It is anticipated that a suitable drainage system could be designed for foul water taking into account the existing ground conditions. Further details will be required for any subsequent planning application. The appropriate consent would also have to be obtained from SEPA.

### **Impact on built heritage**

As previously mentioned, the application site lies within Spottiswoode Designed Landscape. There are also a number of ancillary structures that are category B listed around the site of the former Spottiswoode Hall, whilst the lodge and archway at the entrance are category C listed.

Concerns have been raised regarding the impact the proposed development would have on Spottiswoode Designed Landscape and the listed buildings. The Council's Heritage and Design Officer has been consulted on the application to address the concerns raised by objectors over the potential impact the proposed development would have on the aforementioned designations.

They advise that the application site is located within Spottiswoode Designed Landscape which forms part of the setting of the listed buildings. There is no direct inter-visibility between the listed buildings and the application site. The impact on setting is therefore reduced to that on the overall designed landscape. The site is located adjacent to some unlisted historic buildings, now dwellinghouses, and a modern dwellinghouse. The proposed development would alter the layout of the structural planting that these houses are set within, but could be considered a logical extension to this group of buildings, subject to design and ensuring that the proposed development does not dominate the existing buildings or historic landscape.

Should development come forward, the dwellinghouse should be carefully designed to sit discreetly in the landscape surroundings and should respond to the character of the

site and surrounding historic buildings. Structural planting that seeks to integrate with the established planting should be brought forward to integrate the site with its neighbours and screen views across the neighbouring open field and footpath from the lodge. Accordingly, they do not object to the application.

On the basis of the Heritage and Design Officer's response, it is not considered that the proposed development would adversely impact upon the setting of listed buildings. Subject to an appropriate design for the dwellinghouse and structure planting, it would not unduly impact upon Spottiswoode Designed Landscape.

### **Impact on natural heritage**

The application site does not lie within any ecological designations. Advice was sought from the Council's Ecology Officer regarding the concerns raised by objectors in relation to natural heritage. The Ecology Officer felt that the site would be of low suitability for most of the species alleged to be within or adjacent to the application site. However, they could not rule out the presence of any without further information. They advised that a Preliminary Ecological Appraisal should be undertaken in the first instance to establish if any species are present on site.

The applicant instructed a suitably qualified professional to undertake a Preliminary Ecological Appraisal and this was subsequently submitted to the Planning Authority for review. A site walkover was undertaken to establish habitats present. The application site is predominantly grassland which is species-poor. They note that a large mature common lime, reaching around 20 metres in height, is present towards the eastern end of Plot 2. Two large tree stumps remain lying on the ground nearby, one of which was a beech that was a casualty of a snowstorm a few years ago. Despite being in an advanced state of decay these stumps are likely to offer valuable invertebrate and fungal habitat.

Along the track forming the south boundary of Plot 2, a line of young trees has been planted with others established by self-seeding. These are largely western balsam poplar, with occasional rowan, wych elm and hawthorn.

To the north east of the site lies a block of mature broad-leaved plantation woodland. They also refer to some of the habitat features surrounding the application site. They advise that the application site is of local ecological importance.

They also assessed the site for species, in particular, bats, badger, otter, water vole, red squirrel, brown hare, hedgehog, amphibians, reptiles and birds. The mature lime tree in Plot 2 exhibits a large branch drop cavity at a height of approximately 3 metres on its eastern aspect. From the ground it appeared that this cavity would offer potential for roosting bats and breeding birds, but closer inspection from ladders showed it to be shallow and damp and as a result unsuitable. Several small drops were visible in the canopy of the tree, but these were assessed as being too small and exposed to offer significant bat roosting potential. No evidence of nests was visible in the tree canopy.

There was no evidence of badger setts or field signs of badger. No suitable habitat for otter or water vole is present within the application site. No recent records of red squirrel have been recorded since 2010 within 10 kilometres of Spottiswoode. A squirrel drey was recorded in the fork of a sycamore in woodland to the north east of the application site. Anecdotally brown hare are regularly seen in the area, although none were seen during the site survey. The improved grassland on the application site

is likely to be used by hedgehog for foraging, although no evidence of hedgehog activity was observed during the site survey. The lack of ponds or slow-flowing ditches means that optimal amphibian breeding habitat is absent from the site and wider survey area.

Anecdotally, barn owl nest in various locations at Spottiswoode and it is considered likely that they will hunt over the Cow Park, including the application site on occasion. Curlew have also been reported on the Cow Park, although breeding is considered highly unlikely due to the proximity of woodland with the potential to provide lookouts for avian and mammalian predators.

Bird species breeding on the site are likely to be typical species of farmland and mature plantation woodland. There are areas of broad-leaved plantation woodland around the application site which would be attractive to common bird species (corvids, finches, tits, warblers, great spotted woodpecker) with the potential for rarer, declining species such as spotted flycatcher also being present.

Providing site clearance and building works are undertaken outwith the bird breeding season (March to September inclusive) then adverse impact on birds are unlikely and no mitigation would be required. If works are scheduled during the breeding bird season, then bird surveys should be undertaken to visually inspect and search any area of trees, tall ruderal vegetation and long grass for nesting birds prior to vegetation clearance. A condition will be attached to ensure that a Species Protection Plan is undertaken for breeding birds should the construction of the development be undertaken during the breeding bird season.

The Preliminary Ecological Appraisal also recommends ecological enhancement within the area by way of planting hedgerows of native shrub species to the boundaries of the application.

Having considered the Preliminary Ecological Appraisal, it is not considered that the proposed development would have a significant adverse impact upon any species if they are present, subject to appropriate mitigation.

### **Flooding**

An objector alleges that the water table is particularly high in this area and part of Cow Park floods during periods of wet weather, although they do not specify whether this relates to the application site or the extent to which it floods. Review of SEPA flood maps indicates that the application site is not recorded as suffering from any sort of flooding. Agricultural land can often be susceptible to a degree of surface water flooding, although this can often be alleviated through appropriate drainage. Surface water should be dealt with in an appropriate manner to ensure that there are no issues arising from surface water flooding.

### **Archaeology**

The Council's Archaeology Officer was consulted as part of the application process. They advise that the application site lies within the Spottiswoode House estate parkland of the 19<sup>th</sup> century. This is recorded as a 19th century estate, based on the main house which was located to the north east, including the parkland.

Archaeologically, little is known of the immediate area, though many finds have been made in the surrounding area. There is some potential and an archaeological watching

brief would be recommended should any further application be made. This information will be sought by way of condition.

### **Waste**

There would be sufficient room for a dedicated bin storage area within the application site to serve the proposed dwellinghouse. The bin storage area should be located in a discreet position within application site. The precise details will be sought by way of condition.

### **Developer contributions**

Policy IS2 aims to ensure that the cost of new or additional infrastructure required for new development is met by the developer. Developer contributions are sought towards education and lifelong learning, specifically Lauder Primary School and Earlston High School, and affordable housing. This would be secured by way of a legal agreement.

### **CONCLUSION**

In consideration of the above, the proposed 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. It is recommended that the application be granted.

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

It is recommend that the application is granted, subject to a legal agreement and the following conditions and informatives:

1. Details of the specified matters listed below shall be submitted for consideration by the Planning Authority, in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No development shall begin on the site until all of the details listed in this condition have been submitted to and approved in writing by the Planning Authority. The development shall be carried out in complete accordance with the details approved in relation to this condition.

Specified matters:

- a) Full details of the layout and siting of the proposed development;
- b) Full details of the external appearance and finishing materials of the proposed development;
- c) A landscaping scheme (full details specified in condition 2);
- d) Full details of the proposed vehicular and pedestrian access to the development from the road;
- e) Full details of the proposed car parking/vehicle turning area(s) for the proposed development;
- f) Full details of the proposed means of disposal of foul and surface water from the development;
- g) Full details of a bin storage area(s).

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.

2. No works in connection with the development hereby approved shall commence unless a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority.

Details of the scheme shall include:

- a) Existing landscape features and vegetation to be retained;
- b) Protection measures for the landscape features to be retained as per BS 5837:2012 and marked accurately on a topographic survey;
- c) Existing and proposed finished levels;
- d) The location of new trees, shrubs, hedges and grassed areas;
- e) A schedule of planting to comprise species, plant sizes and proposed numbers and density;
- f) The location, design and materials of all hard landscaping works including walls, fences and gates etc.;
- g) An indication of existing trees, shrubs and hedges to be removed;
- h) A programme for the implementation, completion and subsequent management of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of a similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

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

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

4. No development shall commence until visibility splays of 2.4 metres by 43 metres in either direction at the junction with the private road have been provided. Thereafter, they must permanently retained and maintained as such, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the development is served by an acceptable form of access.

5. No works in connection with the development hereby approved shall commence until precise details for the provision of a passing place (at an agreed location)

along the minor public road between the site and Pyatshaw have first been submitted to and be approved in writing by the Planning Authority. The passing place shall be formed to an agreed standard prior to commencement of development.

Reason: To ensure the increased traffic associated with the development can be safely accommodated.

6. No works in connection with the development hereby approved shall commence until precise details for the provision of a passing place (at an agreed location) along the private road between the site and junction with the public road have first been submitted to and be approved in writing by the Planning Authority. The passing place shall be formed to an agreed standard prior to commencement of development.

Reason: To ensure the increased traffic associated with the development can be safely accommodated.

7. The dwellinghouse hereby approved shall not be occupied until the junction between the private road and public road (D51/5) has first been upgraded to the following specification for the first 6 metres from the carriageway edge:

- 40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.

Reason: To ensure the property is served by safe access from the public road and to protect the integrity of the public road.

8. The development hereby approved shall not be occupied until parking for two vehicles, excluding garages, has been provided within the curtilage of the dwellinghouse. Once provided, the car parking area shall thereafter be permanently retained and maintained as such.

Reason: To ensure the property is served by adequate parking at all times.

9. No development shall commence until a report, prepared by a suitably qualified person, has been submitted to and approved in writing by the Planning Authority, demonstrating the provision of an adequate water supply to the development in terms of quality, quantity and the impacts of this proposed supply on surrounding supplies or properties. The development shall not be brought into use until the private water treatment system has been installed in accordance with the approved details. Once provided, it shall be permanently retained and maintained as such.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

10. No works in connection with the development hereby approved shall be undertaken during the breeding bird season (March to August) unless in strict compliance with a Species Protection Plan for breeding birds, including provision for pre-development supplementary survey, that shall be submitted to and agreed in writing by the Planning Authority. Thereafter, the development shall be carried out in strict accordance with the approved Species Protection Plan.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.

11. The large common lime tree (*Tilia x europaea*) contained within the application site shall not be felled, lopped, lifted or disturbed in any way without the prior written consent of the Planning Authority.

Reason: The existing tree represents an important visual feature which the Planning Authority considered should be substantially maintained.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) or any order amending, revoking or re-enacting that Order no buildings, other than those approved under condition 1 shall be erected on the site under the terms of Class 3A of Schedule 1 to that Order without an express grant of planning permission from the Planning Authority.

Reason: In the interests of the character and appearance of the development and the visual amenities of the area.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) or any order amending, revoking or re-enacting that Order no means of enclosure, other than that approved under condition 2 shall be erected on the site under the terms of Class 3E of Schedule 1 to that Order without an express grant of planning permission from the Planning Authority.

Reason: In the interests of the character and appearance of the development and the visual amenities of the area.

### Informatives

1. In respect of conditions 5 and 7, all work within the public road boundary must be undertaken by a contractor first approved by the Council.
2. In respect of conditions 5 and 6, passing places to be constructed to standard specification DC-1.
3. In respect of condition 1, the access to the site from the private road should be constructed as a vehicular crossing to standard specification DC-2.
4. In respect of conditions 6 and 8, as the site is served via a private road, the applicant should satisfy themselves that there is a suitable legal agreement between themselves and other parties whose property take access from the private road. This agreement should cover the responsibility for maintaining and upgrading the private road if necessary.
5. In respect of condition 9, the following information should be provided:
  - (i) A description of the source(s) / type of the supply – i.e. whether the supply is taken from a watercourse, loch, spring, well or borehole, or any other source or combination of sources.
  - (ii) The location of the source(s) of the supply – i.e. the appropriate eight figure Ordnance Survey National Grid Reference(s).
  - (iii) The estimated maximum average volume of water provided by the supply in cubic metres per day (m<sup>3</sup>/day), including the details of any pump tests / flow rate tests undertaken to determine this estimate. For boreholes / wells, refer to BS ISO 14686:2003 “Hydrometric determinations - Pumping tests for water wells - Considerations and guidelines for design, performance and use”.
  - (iv) The intended use of the proposed building(s) – e.g. owner-occupied domestic dwelling(s), rented domestic dwelling(s), holiday accommodation, etc.

- (v) Where there are existing users of the supply:
  - (a) the addresses of all properties served;
  - (b) the existing occupancy levels of all such properties, as far as is reasonably practicable. As a minimum, the provision of the number of bedrooms per property will allow an estimate to be made of potential occupancy levels;
  - (c) the current use of all properties served – i.e. as above;
  - (d) information identifying if and how the development will impact on the existing users; and
  - (e) the details of any mitigating measures to be implemented to ensure the quality, quantity and continuity of the water supply to the existing users will be secured.
  
- (vi) Where there are other properties' private water supplies in the vicinity of the development that may be affected thereby (e.g. neighbouring boreholes, wells, springs, etc.):
  - (a) information identifying if and how the development will impact on these other supplies; and
  - (b) the details of any mitigating measures to be implemented to ensure the quality, quantity and continuity of the water supply to these other properties will be secured.
  
- (vii) Details of all laboratory analysis / tests carried out to demonstrate that the water supplied to the development will be wholesome. For clarification, the quality of the water throughout the building(s) must conform to the requirements of the legislative provisions appropriate to the use of the supply, as described below.
  
- (viii) Details of all water treatment systems to be installed to ensure that the water supplied to the development will be wholesome.

For information, the minimum daily volume of water that requires to be supplied by a private water supply must be equivalent to 200 litres of water per person per day who will be using the supply. It is the provision of this quantity that must be ensured and, as such, water storage facilities may be necessary for this purpose. When designing storage facilities, the minimum recommended capacity is three days' reserve, in order to allow for supply interruption / failure.

If the supply only serves owner-occupied domestic dwellings, it will be classed as an "Exempt" (formerly "Type B") private water supply and the quality of the water must comply with the requirements of The Private Water Supplies (Scotland) Regulations 2006 ("the 2006 Regulations"). If there is any commercial use of the supply, it will be classed as a "Regulated" supply and the water quality must comply with the requirements of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 ("the 2017 Regulations"). Additionally, the supply will require to be sampled (monitored) on at least an annual basis and Scottish Borders Council will be required to undertake a risk assessment of the supply and reviews of said risk assessment periodically.

Finally, if for any reason the supply to be used is or will be a Regulated supply, it is an offence for the development to use it unless a risk assessment (or a review of an existing risk assessment) has been carried out by Scottish Borders Council at least 8 weeks before said intended first use by the development. It is also an

offence for the development to use the supply prior to Scottish Borders Council confirming (by notice to the applicant) that it may be used by the development, on the basis that the intended use does not constitute a potential danger to human health. As such, the applicant must contact the Environmental Health Department of Scottish Borders Council sufficiently in advance of the intended occupation of the building(s) to ensure that compliance with these legislative provisions is able to be secured.

#### DRAWING NUMBERS

Drawing type  
Location Plan

Drawing no.  
MKY/CADS/001

#### **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
Cameron Kirk	Assistant Planning Officer



21/01205/PPP

Land North Of Lawn Park House  
Spottiswoode  
Gordon

