

**SCOTTISH BORDERS COUNCIL**

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO  
SERVICE DIRECTOR REGULATORY SERVICES**

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 15/00279/FUL

**APPLICANT :** Robin Thomson

**AGENT :**

**DEVELOPMENT :** Erection of dwellinghouse

**LOCATION:** Land West Of Cakemuir Cottage  
Nenthorn  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:** Negotiation

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>	
OS EXTRACT	Location Plan	Approved	
OS EXTRACT - AMENDED		Block Plans	Approved
AMENDED ELEVATION		Elevations	Approved
AMENDED FLOOR PLAN		Floor Plans	Approved
AMENDED SITE PLAN AND SECTION		Sections	Approved

**NUMBER OF REPRESENTATIONS: 2**

**SUMMARY OF REPRESENTATIONS:**

**ROADS PLANNING SERVICE:** No response received. Consultation expired 06.04.2015.

**COMMUNITY COUNCIL:** No objections in principle, but there are observations as to the compactness of the development.

**EDUCATION:** Education contributions identified. NB - The applicant subsequently clarified that only a single bedroom dwelling was sought.

**ARCHAEOLOGY OFFICER:** There are no known archaeological implications.

**PUBLICITY AND REPRESENTATIONS**

This application was publicised by means of an advert in the Southern Reporter, a notices on the National planning notice website; and by means of the direct postal notification of 3 neighbouring dwellings. Two objection letters were received.

**GRIEVE:**

Objects to the application on the grounds of overdevelopment, with particular reference to the following planning guidelines:

1. The Scottish Borders Structure Plan 2001-2018:

a) "It is important that overdevelopment of an existing building or building group is avoided."

(Section 4.26)

b) "Overdevelopment of a building group that could have an adverse effect on its character must be avoided." (Section 4.28)

2. The Scottish Borders Local Plan - Supplementary Planning Guidance on New Housing in the Borders Countryside (December 2008):

a) "...the distance between existing properties and proposed new build should be guided by the spacing between the existing properties within the group." (Section 2.b.1 Definition of a Building Group)

3. The Scottish Borders Consolidated Local Plan - Adopted 2011:

a) "In all cases, the following criteria will apply to proposed infill development: ...it does not lead to over-development or 'town and village' cramming." (Policy G7 Infill Development, section iii)

I believe that the proposed dwelling constitutes overdevelopment of an existing set of three approximately equidistant properties (Cakemuir House, Cakemuir Cottage and Orchard Cottage). The separations between the proposed dwelling and both Cakemuir Cottage and Orchard Cottage will be approximately 80% less than the existing separation between the latter dwellings. Moreover there is clearly no demand for such overdevelopment, given that there are three building plots with planning consent (08/00279/REM) lying within approximately 150m of the proposed dwelling, which are owned by the applicant and remain undeveloped, having been on the market since 2009 or earlier. Outline planning permission for these three plots was first granted in 1992 and renewed in 2003.

In the words of the applicant himself, in an objection letter he wrote about another nearby development (07/01848/OUT) which is only about 250m away, the proposal "would result in an inappropriate form of addition to Nenthorn to the detriment of the visual and rural amenities of the locality."

HOWELL:

The proposed development constitutes infill and significantly reduces the distances between the existing group (Cakemuir Cottage; Orchard Cottage). I believe that these plans run contrary to the Borders Local and Structure plans. There is no pressure in this location for additional building plots; within a few hundred meters there are three plots, available to the applicant, which are also suitable for affordable housing development.

The proposed screening of the back aspect of the new dwelling is not appropriate; as trees and shrubbery can be removed by the landowner; leading to inadequate privacy of the new dwelling due to overlooking from the first floor of Cakemuir House.

The third point of objection relates to traffic volume and road safety. In response to a planning enquiry I made to Mr Stuart Kinghorn, 20 Aug 2009, I was advised that any further dwelling or business development in Nenthorn would have to be accompanied by a proposed plan to redevelop the junction with the A6089 by the War Memorial, as this junction was considered unsafe and increased traffic volume was not desirable. Clearly a few years have passed since this advice and it would be appropriate for the Officer to advise in relation to this application, whether current and projected traffic volume have reversed this guidance.

#### **PLANNING CONSIDERATIONS AND POLICIES:**

Consolidated Scottish Borders Local Plan (2011)

G1, G5, BE2, H2, D2, NE4, Inf3, Inf4, Inf5, INF6

Other

SPGs

- Placemaking and Design

- Householder Development

- New Housing in the Borders Countryside

- Development Contributions
- Affordable Housing
- Landscape and Development
- Trees and Development

**Recommendation by** - Andrew Evans (Planning Officer) on 15th July 2015

This application seeks full planning permission for the erection of a single dwelling on this plot at Cakemuir Cottage, Nenthorn.

**SITE**

The site is an area of existing garden ground for the applicants dwelling, Nenthorn Cottage. The site is irregular in shape. It has a frontage with the minor road to Nenthorn House. It would share an access off of this road with Cakemuir Cottage. Cakemuir cottage is a traditional dwelling, with steep slate pitched roof. To the south is located the existing dwelling Orchard Cottage, a late 20th Century detached bungalow.

**PROPOSED DEVELOPMENT**

Consent is sought for the erection of a single dwelling. The house would be single storey. It would run parallel to the existing dwelling at Orchard Cottage. It would be generally comparable in scale and form to the neighbouring Orchard Cottage. It would however pick out some of its better detailing from Cakemuir Cottage, with a vertical emphasis to proposed windows.

**POLICY PRINCIPLE**

Nenthorn does not feature any development boundary in the adopted local plan. Housing proposals here have to be considered in light of adopted planning policy and guidance on Housing in the Countryside. The application required to be considered principally in terms of Policy D2 of the Consolidated Local Plan (2011), and also in terms of the relevant parts of the current SPG on New Housing in the Borders Countryside.

Policy D2 sets out the council position in relation to proposed additions to building groups. The group here has numerical capacity to accommodate the dwelling proposed in his application. A building group exists at this location. Cakemuir Cottage, Orchard Cottage, and Cakemuir House form a definite group of three houses between the main road to the north, and the minor road to the south. The adopted Supplementary Planning Guidance on new housing in the Borders Countryside advises that sites should not normally break into previously undeveloped fields, particularly where there exists a definable natural boundary between the existing group and the field. In this case, the site is within existing garden ground, and within the wider group contained by these roads. The site is located centrally within the group. The site is considered acceptable when considered against both the criteria of policy D2, and against the policy guidance set out in the adopted SPG on New Housing in the Borders Countryside.

**- Planning Policy Objections**

Several of the policies quoted in opposition to this application are not relevant, having been erroneously identified as relevant by an objector. In turn:

1. The Scottish Borders Structure Plan 2001-2018 is quoted. This is no longer relevant in the determination of planning applications, being superseded by SESplan as the strategic planning document for the area.
2. The Scottish Borders Local Plan - Supplementary Planning Guidance on New Housing in the Borders Countryside (December 2008) is quoted in objection, specifically: a) "...the distance between existing properties and proposed new build should be guided by the spacing between the existing properties within the group." (Section 2.b.1 Definition of a Building Group). This is indeed the case, However the SPG dates from 2008, and the current version of policy D2 in the 2011 CSBLP, and the 2013 LDP are the relevant, current planning policies here in the case of this current application. Extreme care has to be taken with using the 2008 SPG as it reflects the local plan policy in place in 2008, which is now superseded.

3. The Scottish Borders Consolidated Local Plan - Adopted 2011 is also quoted in objection. This plan is a current and relevant consideration. However, the objector quotes policy G7 Infill Development, section iii: a) "In all cases, the following criteria will apply to proposed infill development: ...it does not lead to over-development or 'town and village' cramming." Policy G7 is of no relevance at all to this current application. It applies to infill development within development boundaries. This site is not within a development boundary, being located within a rural building group.

- Objection to capacity of and size of Building Group, proposed density, and demand

An objector highlights the reduction in the distances between the existing group (Cakemuir Cottage; Orchard Cottage). I believe that these plans run contrary to the Borders Local and Structure plans. There is no pressure in this location for additional building plots; within a few hundred meters there are three plots, available to the applicant, which are also suitable for affordable housing development. Addressing these in turn

- I would note that the site is capable of accommodating the proposed development.

- I do not consider the development contrary to the policies of the Consolidated Scottish Borders Local Plan (2011).

- The former Scottish Borders Structure Plan is no longer a relevant consideration, having been replaced by SESplan in 2013.

- Pressure for further plots is not a material consideration in this case.

- The presence of alternate plots in the applicant's ownership is not a material consideration on this case.

The application requires being determined on its own merits, against current, relevant, planning policies, unless material considerations indicate otherwise.

## HEDGEROWS AND TREES

An existing mature beech and holly hedge abuts the application site along its boundary with the existing shared access. This hedge can provide significant screening of the application site, and retention of as much of the hedge as is possible is desirable. Adopted policy NE4 of the CSBLP, the SPGs on Trees and Development and Landscape and Development, and the provisions of the relevant British Standard (BS 5837 Trees in relation to design, demolition and construction) are of relevance to this application. Policy NE4 sets out that trees, woodlands and hedges are to be afforded protection from development.

The revised plans submitted for the house indicated a modest single dwelling, on a modest plot. The dwelling could be constructed without any adverse impact on neighbouring trees or hedgerows. No response was received from the RPS on the application. I am however satisfied that the existing access would be capable of serving an additional dwelling. This would be beneficial, as it would mean no additional visibility splays will be required - these could have impinged upon the existing hedging. I am satisfied the development can be undertaken without significant adverse impacts on neighbouring trees and hedging.

- Hedgerow / Screening Objection

An objector made the point that "the proposed screening of the back aspect of the new dwelling is not appropriate; as trees and shrubbery can be removed by the landowner; leading to inadequate privacy of the new dwelling due to overlooking from the first floor of Cakemuir House."

The nearest point of Cakemuir House is located in the region of 30m from the nearest point of the proposed dwelling. The two houses would not directly face each other, the proposed house being offset by approximately 50 degrees from Cakemuir House. I am satisfied that this relationship is acceptable, and is not in conflict with the standards set out in the SPG.

## PLACEMAKING AND DESIGN

Revised plans were requested and submitted during the processing of the application. These set out a series of design improvements to the proposed dwelling.

The Council has adopted Supplementary Planning Guidance on New Housing in the Borders Countryside (2008) and on Placemaking and Design (2010), which set out detailed guidance on dwellinghouse design. In this case, the dwelling proposed, whilst not completely reflective of this design guidance, will however sit quite comfortably with the surrounding late 20th century bungalows which form the surrounding built context

to the South West. The dwelling is now something of a merging of the 2 immediate dwellings on either side. Policy G1 of the CSBLP sets out "Quality Standards for New Development". In this case, a planning condition would be appropriate to ensure that the relevant criteria on materials are met, including a slate roof, rather than tiles.

#### AMENITY

Policy H2 of the CSBLP sets out that residential amenity will be protected. The Council has also adopted Supplementary Planning Guidance on Householder Development. This contains criteria on privacy and amenity, and sets out standards in terms of overshadowing and overlooking. Standards are also set in the SPG in terms of the minimum space for garden / amenity ground for new dwellings.

The proposals are acceptable in terms of the impacts on the amenity of the neighbouring Orchard Cottage. Of some possible concern was the impact upon the applicants existing dwelling, Cakemuir Cottage. The applicant lodged an additional site plan and section, demonstrating the angles from the windows of this dwelling. The proposal breaches the 45 degrees line in plan form from the relevant living room window of Cakemuir Cottage. However, the corresponding section through the affected window and the proposed building demonstrates that the ridge of the proposed house is 23 degrees above the lower point of the sill on Cakemuir Cottage, which is in compliance with the standards set out in the Householder Development SPG.

In terms of garden ground for both the remaining and proposed dwellings, the proposals would meet the minimum standards set out in the SPG.

I am satisfied that a dwelling could be erected on this site without an adverse impact on neighbouring amenity, privacy or outlook arising. The application is therefore considered to comply with the adopted SPG on householder development, and with policy H2 of the Consolidated Scottish Borders Local Plan.

#### DRAINAGE AND WATER SUPPLY

Water and drainage services will require confirmation in due course, and this will be ensured via standard planning condition. Full details of the proposed drainage and services arrangements are not required at this time. A mains water supply appears possible. A condition will require confirmation. A septic tank / soakaway arrangement is also indicated, which should be acceptable. Full technical consideration will be given through the Building Standards process. A suitable planning condition is proposed. Subject to the conditions proposed, the requirements of policy G1 and section 4.2 (Water and Drainage) of the SPG on New Housing in the Borders Countryside can be met.

#### ROAD SAFETY

The Roads Planning Service was consulted on the application. No consultation response was ever provided for this application. I have however given consideration to the suitability of the road to the site, and to the safety at the access, and at the junction with the A road. In conclusion, I consider that the development of a dwelling on the site would appear compatible with policies Inf3 and Inf4 of the CSBLP, and would not be to the detriment of road safety to any degree justifying the refusal of the application. A condition on parking and turning would be appropriate. This will ensure that parking and turning for two vehicles for the existing dwelling, and parking and turning for two vehicles for the proposed dwelling, excluding garages, is provided within the site before the new dwellinghouse is occupied and thereafter must be retained in perpetuity. This is in the interests of road safety at the junction of the site with the adjoining access road.

#### - Traffic Objection

A further point raised by objectors relates to traffic volume and road safety. The objector cites a response to a planning enquiry made to Mr Stuart Kinghorn, 20 Aug 2009, in which he was advised that any further dwelling or business development in Nenthorn would have to be accompanied by a proposed plan to redevelop the junction with the A6089 by the War Memorial, as this junction was considered unsafe and increased traffic volume was not desirable. I would note that Mr Kinghorn was an Environmental Health Officer. I suspect the name has been confused by the objector. In any event, I am satisfied that, irrespective of previous comment or not, the current application for a single dwelling is not at some form of notional tipping point. A single dwelling house on this site can be accommodated without need for alterations to this junction.

## ARCHAEOLOGY

The Council Archaeologist was consulted due to proximity to a heritage point in the Council GIS system. On considering the details of the application, and the specifics of the site, he advises that there are no known archaeological implications. As such, I am satisfied that the application does not conflict with policy BE2 of the CSBLP.

## DEVELOPMENT CONTRIBUTIONS

CSBLP policy G5, on development contributions applies to new housing proposals. Affordable Housing and Education contributions would notionally appear to apply in this case. Policy G6 on Waverley rail contributions would not apply. A Section 69 or 75 Agreement would ordinarily be necessary to secure these contributions before any consent could be issued. The applicant has however indicated that he would intend to occupy the dwelling as solely single bedroom accommodation. This is noted. I have discussed this issue with the Development Negotiator and Chief Planning Officer. The Council has previously required an applicant to enter into a s75 to the effect that, were the house to be modified to create a second or more bedrooms, then development contributions would be required. However, in this previous instance, the original plan submitted showed 2 bedrooms, subsequently amended in a deliberate attempt to circumvent the development contributions policy. The Development Negotiator advises that having seen these current Nenthorn plans, and in the context of the above, the Department should accept this comprises a one bedroom unit proposal and that no contributions should be sought in this instance. Further, the Development Negotiator confirms that a s.75 agreement is not considered necessary given SBC have no legitimate premise to consider the applicant proposing to develop as a 2 bedroom unit.

## REASON FOR DECISION :

The proposed dwelling is considered an acceptable form of development. Subject to the undernoted conditions, the proposed dwelling is considered to comply with policies G1, G5, H2, D2, NE4, Inf3, Inf4, Inf5 and Inf6 of the Consolidated Scottish Borders Local Plan (2011), and with adopted Supplementary Planning Guidance on Placemaking and Design, Householder Development, New Housing in the Borders Countryside, Development Contributions, Affordable Housing, Landscape and Development, and Trees and Development

### **Recommendation:** Approved subject to conditions

- 1 Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the buildings have been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.  
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
- 2 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. Details of the scheme shall include:
  - i. existing and finished ground levels in relation to a fixed datum preferably ordnance
  - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
  - iii. location and design, including materials, of walls, fences and gates
  - iv. soft and hard landscaping works
  - v. A programme for completion and subsequent maintenance.Reason: To ensure the satisfactory form, layout and assimilation of the development.
- 3 Parking and turning for two vehicles for the existing dwelling, and parking and turning for two vehicles for the proposed dwelling, excluding garages, must be provided within the site before the new dwellinghouse is occupied in accordance with a scheme of details which shall be submitted to

and approved by the Planning Authority before development commences. The parking and turning areas shall thereafter be retained and kept free from obstruction for the purposes of vehicular parking and turning

Reason: In the interests of safeguarding road safety.

- 4 Prior to the commencement of development, full details of the means of foul and surface water drainage, and of the means of water supply, are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the approved details.

Reason: To ensure the development has suitable services.

### Informatives

It should be noted that:

- 1 A slate, rather than tile, roofing finish is expected in order to satisfy Condition 1

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