

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 21/00502/FUL

APPLICANT : Mr Hugh and Violet Lovatt

AGENT : Suzanne McIntosh Planning Limited

DEVELOPMENT : Modification of Condition 2 of planning permission 12/01191/PPP in respect of extension to period of permission

LOCATION: Land North East Of Buxton House
Buxton Road
Selkirk
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations have been received.

Consultations

The Royal Burgh of Selkirk Community Council: Objects to the application.

Roads Planning Officer: No objections to the application.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan (2016)

PMD1: Sustainability

PMD2: Quality Standards

HD2 Housing in the Countryside

HD3: Protection of Residential Amenity

IS2: Development Contributions

IS3: Development Contributions Related to the Borders Railway

IS5: Special Landscape Areas

IS7: Parking Provision and Standards

IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Supplementary Planning Guidance

Local Landscape Designations 2012
Householder Development (incorporating Privacy and Sunlight Guide) (2006)
Waste Management 2015
New Housing in the Borders Countryside 2008
Sustainable Urban Drainage Systems 2020
Development Contributions 2011 (updated 2021)

Recommendation by - Brett Taylor (Planning Officer) on 11th August 2021

Site

The site is located North East of Buxton House, Selkirk, on land comprising of Eastfield Stables and riding arena.

Proposal

The application seeks the modification of Condition 2 of planning permission 12/01191/PPP in respect of the time period of permission. The Local Review Body approved the planning permission in September 2013 with the subsequent planning obligation being concluded and the decision noticed issued in September 2018.

Condition 2 states that:

'Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:

- (a) the expiration of three years from the date of this permission, or
- (b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition where such an application is made later than three years after the date of this consent.

Relevant Planning History

05 January 2021 - Planning application withdrawn for the erection of a dwellinghouse with detached double garage (20/01529/FUL).

29 April 2013 - Planning permission granted on appeal for the erection of a dwellinghouse (12/01191/PPP).

Principle

The principle of a house in this location was established with the granting by the Local Review Body for the erection of a dwellinghouse. At that time the LRB took the personal circumstances of the applicant into consideration in overturning the refusal of consent and granted what effectively amounted to a personal permission for the erection of a dwellinghouse to allow suitable levels of wheelchair access.

Assessment

The consent will expire in September 2021. Should this variation of Condition 2 be granted (by re-imposing it with a new date), then it will be necessary to re-attach all conditions as per the lapsed planning consent as granted by the LRB for a further three years from date of decision. A further legal agreement for development contributions would also be necessary in that event.

Supporting Statement

The Statement makes a case that under Section 42 of the Town and Country Planning Act 1997 (as amended) the applicant is permitted to apply for a condition to be modified.

Policy and other material considerations

The Planning Authority is entitled to consider the overall effect of granting a new planning permission. In this instance, I have considered the reasons for refusal for the original application and the subsequent decision by the LRB, and accounted for current policy and other considerations.

Policy HD2 of the Local Development Plan is largely consistent to the previous plan, and the same policy guidance applies. The LRB was satisfied at the time that there was a building group at Buxton. They also concluded that Buxton House formed an end stop to the built form of the group and that the application site and surrounding land were open areas that were in themselves part of the scenic qualities and character of the building group. Members determined that the proposed site was therefore contrary to the slated Development Plan policies and the guidance in New Housing in the Borders Countryside SPG. In determining the appeal, they also considered the terms and reasoning for the Section 75 Agreement entered into when Buxton House had been developed in that the group should not be added to further. This conflict with policy and policy guidance remains.

It has come to the attention of the Planning Authority that the site is currently on the open market for sale as a residential plot on at least one estate agent's website, and has been for some time. I consider this as a very significant consideration given the reasoning given by the LRB in which they considered that the applicant's particular circumstances justified the granting of consent despite the conflict with policy. Planning Permission in Principle was granted on the basis of the personal circumstances of the applicant and that a new dwellinghouse would have been designed for disabled access to meet the living needs of the applicant. The evidence suggests that this situation has now changed given the site is currently for sale to other parties on the open market. It would appear that the applicant has no intention of developing the site and following through with the development in a manner envisaged by the LRB. As such, I can see insufficient justification in extending the period of what effectively amounted to a personal permission by another three years.

Therefore, I consider the prevailing conflict with housing in the countryside policies overrides the previous material consideration brought about by the LRB's decision.

I would note that road safety, however, is no longer a determinative matter.

Community Council

I note the objections raised by third parties and would agree with their concerns that a dwellinghouse would be inappropriate in this location.

REASON FOR DECISION :

The proposed development is contrary to Policy HD2 of the Scottish Borders Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that the application site does not constitute an appropriate addition to the building group at Buxton. Furthermore, given the site is currently for sale, any other material considerations, including the applicant's personal circumstances, do not override this policy conflict.

Recommendation: Refused

- 1 The proposed development is contrary to Policy HD2 of the Scottish Borders Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that the application site does not constitute an appropriate addition to the building group at Buxton. Furthermore, given the site is currently for sale, any other material considerations, including the applicant's personal circumstances, do not override this policy conflict.

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