

**SCOTTISH BORDERS COUNCIL**

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

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

**REF :** 20/01334/PPP  
**APPLICANT :** Mr M Elliot  
**AGENT :** Stuart Aitchison  
**DEVELOPMENT :** Erection of dwellinghouse  
**LOCATION:** Garden Ground Of Kilknowe House  
East End  
Earlston  
Scottish Borders

**TYPE :** PPP Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
	Location Plan	Refused

**NUMBER OF REPRESENTATIONS: 1**  
**SUMMARY OF REPRESENTATIONS:**

One representation has been received from the owner of East End Earlston objecting to the proposal and raising the following planning issue:

- o The access to the proposed site is crossing over my private land.

**CONSULTATIONS:**

Roads Planning Service: I have no objections to this proposal. There is an existing vehicular access serving the site and there is ample ground within the site to accommodate the parking and turning required for a new dwelling,

Education and Lifelong Learning: No response.

Community Council: No response.

Scottish Water: No objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

There is currently sufficient capacity in the Howden Water Treatment Works to service the development.

There is currently sufficient capacity for a foul only connection in the Earlston Waste Water Treatment works to service the development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

SEPA: We object to this planning application, on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy, unless the modification(s) in Section 1 can be accommodated.

We have reviewed the information provided in this consultation and it is noted that, the application site (or part thereof) is within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Map, and may therefore be at medium to high risk of flooding.

The proposed site is located upstream of the Georgefield road and pedestrian bridges on the north bank of the Turfford Burn. There are records of flooding in the area from the Turfford Burn on several occasions including 2003, 2010, 2012 and 2015.

The application is for the erection of a single dwellinghouse which falls within the Highly Vulnerable Use category within SEPA's Land Use Vulnerability Guidance.

Flood mapping outputs from Earlston Flood Study Final Report (Mott MacDonald & JBA, December 2018) undertaken on behalf of Scottish Borders Council confirms that the proposed site is partially located within the 1: 200-year flood envelope of the Turfford Burn. We would advise that Earlston Flood Study and flood extent maps are much more detailed than the SEPA Flood Map.

It is noted that drawing 'Location of House on Site' indicates that the site of the proposed dwellinghouse is located out with the 1:200-year flood extent of the Turfford Burn. However, it is proposed to raise ground levels to the south of the site nearest the Turfford Burn, which we cannot support. Land raising within the site would result in the loss of functional floodplain in an area already vulnerable to flooding and may increase the risk of flooding to nearby properties. SPP paragraph 265 states 'land raising should only be considered in exceptional circumstances where it is shown to have a neutral or better impact on flood risk outside the raised area'. We do not deem there to be an overriding exceptional circumstance to require land-raising at this location to enable development. The site in question has a risk of flooding and it follows that to allow the development to proceed may place people or property at serious risk contrary to Scottish Planning Policy.

In summary we wish to receive clarification on the following points before we would consider removing our objection to the proposed development: revision of development proposal to exclude land raising within the functional floodplain of the Turfford Burn.

Flood Protection Officer: In terms of information that this Council has concerning flood risk to this site, I would state that The Indicative River, Surface Water & Coastal Hazard Map (Scotland) known as the "third generation flood mapping" prepared by SEPA indicates that the site is at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year.

The maps show the site is within the 1:200 year floodplain of the Turfford Burn. Additionally, it is also located immediately upstream of a road bridge and a foot bridge across the Turfford Burn.

The Earlston Flood Study produced for SBC in 2017, gives more accurate flood extents and flood depth than the SEPA maps. The flood maps produced as part of this study indicate that during a 1:100 year event the site would be flooded up to 0.25m and the adjacent road, which is the only access and egress route for the site, would be flooded 0.25m- 1m in depth.

For a 1:200 year +CC change event the application site would be flooded up 75cm. The road would be flooded up to 0.25-1m, including the junction with East Green.

The road flooding depths stated above encompass the site access road from East Green to the north of the application site to past the junction with Turfford Park to the south. Road flood depth of 0.25m or more are likely to greatly impede safe access and egress of a site.

Because of the site location upstream of two bridges and the indicated flood depth for the proposed dwellinghouse and the only access/egress road for the site during a 1:200 year +CC flood event, I would object to this development on flooding grounds.

Re-consultation: Since our last response from November 2020 the applicant has submitted further details in support of this application.

The applicant has provided details of their proposed access/egress route during flooding. This route is only for pedestrians. As mentioned in the last response, we consult the flood maps from the Earlston flood study for assessing applications in Earlston. We have two types of maps:

1. 'Do Minimum'- these assume some maintenance of watercourses.

For the proposed sites these maps show (as previously mentioned) that water would be encroaching the site (up to 1m) and the proposed pedestrian access/egress route (up to 0.25m). Further, the indicated flood depths for the only access/egress road are near or over 0.5m. This means emergency vehicles would likely be unable to reach the site during a 1:200 + climate change event.

2. 'Do Nothing'- these give an indication of the extent of flood waters caused by partial bridge blockages, as previously highlighted, the site is immediately upstream of two bridges.

These maps indicate that during a 1:200 year + climate change event, the proposed pedestrian access/egress route would be inundated by flood waters up to a depth of 0.25m. The only access/egress road would experience flood depths of 0.5m-1.5m and East Green (road) would be flooded up to 0.5m.

Therefore, the nearest point for emergency vehicles to meet occupants of the proposed house would be at Earlston Primary School.

Given the site location near the Turfford Burn and upstream of bridges, the indicated flood risk for the site (with and without assumed partial bridge blockage) as well as for access roads, the very limited ability for emergency vehicles to reach the site or occupants during a 1:200 year + climate change event, we would not support any development on this site.

Re-consultation: Since our last response from 22nd February 2021 the applicant has submitted further details in support of this application. The applicant proposes a vehicular access route from East Green.

The submitted plan shows a tarmacked vehicular access route west of Kilnknowe House and the corner shop on the ground floor below. The proposed access route would end south of Kilnknowe House at the access point to the car park for the shop.

The Earlston Flood Study maps show the car park for the shop is at risk of flooding up to 0.25m during a 1:200 year + climate change event. Also, since this is a shop car park there is no guarantee that the car park would be clear of obstructions to allow any emergency vehicles to get closer to the proposed dwellinghouse in the garden of Kilnknowe House, should it be required.

Therefore, there still would not be any direct vehicular access to the proposed dwellinghouse.

Additionally, there is still the risk of fluvial flooding up to 0.25m and, surface water flooding up to 0.5m immediately east of Earlston Primary School during a 1:200 + CC event.

The Flood Study maps also show that East Green would be even more flooded during a 1:200 year + CC event west of Georgefield Road, at Church Court (0.5-0.75m).

As mentioned in our response from November 2020, road flooding of approximately 0.25m or more is likely to greatly limit the ability of vehicles, including emergency vehicles, to safely access/egress a site.

Considering the above, I am still of the opinion that safe access and egress to the site is not possible and would still consider Earlston Primary School to be the nearest safe point for emergency vehicles to meet occupants of the proposed house.

I would therefore object to this proposal on the grounds of flooding.

#### APPLICANT'S SUPPORTING INFORMATION:

- o History of the Site
- o Supporting Information and photos

#### PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

PMD1: Sustainability  
PMD2: Quality Standards  
PMD5: Infill development  
HD3: Protection of Residential Amenity  
EP3: Biodiversity  
EP13: Trees, Woodland and Hedgerows  
IS2: Developer Contributions  
IS3: Developer Contributions Related to the Borders Railway  
IS7: Parking Provisions and Standards  
IS8: Flooding  
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Supplementary Planning Guidance:

Placemaking and Design 2010  
Householder Development (Privacy and Sunlight) 2006  
Trees and Development 2008  
Development Contributions updated April 2020

Scottish Planning Policy. Revised December 2020  
Flood Risk: Planning Advice

**Recommendation by** - Julie Hayward (Lead Planning Officer) on 23rd March 2021

#### Site and Proposal

The site is situated to the rear of a single storey workshop that fronts onto East End in Earlston. The site is garden ground with a gravel surface and lawn belonging to Kilnknowe House, a first floor flat above Elliot's electrical repair shop. There is a stone garage outwith the site abutting the north west boundary. Access is from the public road to the west via timber gates. There is a brick wall on the southern boundary and a timber fence on the eastern boundary. There are a number of trees within the site.

The shop with a flat above is to the north west, with a parking area and associated store/workshop on the north boundary. There are houses to the north east, with the garden of Brookfield running along the eastern boundary, and a play area to the south east. The Turford Burn is situated to the south of the site with the industrial estate beyond. The nursery and access to the school is to the west.

The proposal is to erect a dwellinghouse on the northern section of the site. The trees would be retained. Access would be via the existing access onto the public road.

## Planning History

91/00337/OUT: Site for dwellinghouse. Site Adjacent To A & J Elliot East End Earlston. Approved 27th August 1991.

93/00352/REM: Erection of dwellinghouse. Garden ground rear of Kilnknowe House Earlston. Approved 24th June 1993.

10/00644/PPP: Erection of dwellinghouse. Withdrawn 21st August 2015.

## Planning Policy

The site is within the development boundary for Earlston and so must be assessed against policy PMD5. Within development boundaries development on non-allocated, infill or windfall sites will be approved if certain criteria are met. These criteria will be assessed within this report.

One criterion is that the proposal should not conflict with the established land use of the area. This part of Earlston is characterised by a mix of uses including residential properties, commercial properties and education. The proposal would be in keeping with the character of the area.

Planning permission was granted to erect a house on the southern part of the garden ground in 1991 (outline) and 1993 (reserved matters) but this lapsed. An application for a house was submitted in 2010 but later withdrawn.

## Siting, Layout and Design

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development.

Policy PMD5 requires that the development respects the scale, form, design, materials and density of its surroundings; the individual and cumulative effects of the development should not lead to over-development or town cramming; the proposal should not detract from the character and amenity of the surrounding area.

The proposed dwellinghouse would be sited to the rear of properties on East Green, the main road through Earlston (A6105) and would not have a road frontage as the house would be built on the northern part of the site adjacent to the workshop. This would constitute backland development. However, there are other examples of backland plots within Earlston.

The site is large enough to accommodate a house, garden ground, parking and access and so the proposal does not constitute over-development, though there would be a loss of garden ground for the Kilnknowe House, the first floor flat.

Indicative floor plans have been submitted that shows a small, one-and-a-half storey house and demonstrates that adequate accommodation could be provided. Assuming the development is of a high quality in terms of the design and materials, the proposal would not harm the visual amenities of the area.

## Impact on Residential Amenities

Policy PMD5 states that the development should not result in any significant loss of daylight, sunshine or privacy to adjoining properties as a result of overshadowing or overlooking. Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new developments to ensure that proposals do not adversely affect the residential amenities of occupants of neighbouring properties.

There is a dwellinghouse to the east, Brookfield. This has a lean-to extension on the side elevation but no windows and there is a timber fence on boundary. The indicative site plan shows the proposed house would have the same rear building line as Brookfield and so there would appear to be no significant overlooking or loss of light but this would have to be demonstrated at the Approval of Matters Specified in Conditions application stage.

There would be no impact on the first floor flat.

The storage/workshop building to the north is used in connection with the electrical repairs shop to store and repair washing machines so should not result in unacceptable noise nuisance.

## Flooding

The Scottish Planning Policy (SPP) promotes a precautionary approach to flood risk. SPP states that the planning system should prevent development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere. The avoidance of flood risk, by not locating development in areas at risk of flooding, is recognised as a key part of delivering sustainable flood risk management.

The SPP sets out a flood risk framework to guide development. This establishes three categories of coastal and watercourse flood risk (little or no risk; low to medium risk; and medium to high risk) and the appropriate planning approach within each category. It sets out the types of development that may or may not be acceptable depending on the level of flood risk.

In areas where there is a Medium to High Risk where the annual probability of coastal or watercourse flooding is greater than 0.5% (1:200 years), residential development within built-up areas would only be acceptable where flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood risk management plan.

Policy IS8 of the Local Development Plan advises that as a general principle, new development should be located in areas free from significant flood risk and developments will not be permitted if it would be at significant risk of flooding or would materially increase the probability of flooding elsewhere. The ability of flood plains to convey and store flood water should be protected.

The site is at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year. The site is within the 1:200 year floodplain of the Turfford Burn.

The Flood Protection Officer advises that the flood maps produced as part of the Earlston Flood Study indicate that during a 1:100 year event the site would be flooded up to 0.25m and the adjacent road, which is the only access and egress route for the site, would be flooded 0.25m - 1m in depth. For a 1:200 year +CC change event the application site would be flooded up 75cm. The road would be flooded up to 0.25m-1m, including the junction with East Green. The road flooding depths stated above encompass the site access road from East Green to the north of the application site to past the junction with Turfford Park to the south. Road Flood depth of 0.25m or more are likely to greatly impede safe access and egress of a site.

Because of the site location upstream of two bridges and the indicated flood depth for the proposed dwellinghouse, and the only access/egress road for the site during a 1:200 year +CC flood event, the Flood Protection Officer objects to this development on flooding grounds.

The agent has submitted revised site plans showing a pedestrian access to the site through the parking area of the flat and shop accessed directly from the A6105. The Flood Protection Officer has been re-consulted on these proposals. They advise that the Earlston Flood Study maps show the car park for the shop is at risk of flooding up to 0.25m during a 1:200 year + climate change event. Also, since this is a shop car park there is no guarantee that the car park would be clear of obstructions to allow any emergency vehicles to get closer to the proposed dwellinghouse in the garden of Kilnknowe House, should it be required. Therefore, there still would not be any direct vehicular access to the proposed dwellinghouse.

Additionally, there is still the risk of fluvial flooding up to 0.25m and, surface water flooding up to 0.5m immediately east of Earlston Primary School during a 1:200 + CC event. The Flood Study maps also show

that East Green would be even more flooded during a 1:200 year + CC event west of Georgefield Road, at Church Court (0.5 - 0.75m).

Flooding of approximately 0.25m or more is likely to greatly limit the ability of vehicles, including emergency vehicles, to safely access/egress a site. Considering the above, safe access and egress to the site is not possible and Earlston Primary School would still be considered the nearest safe point for emergency vehicles to meet occupants of the proposed house. The Flood Protection Officer reiterates their objection.

The agent has been given the opportunity to investigate other ways to access the proposed dwellinghouse, including direct access from East Green, and the Flood Protection Officer still objects, given the level of flood waters possible during a flood event. Therefore, the application cannot be supported as approval would put persons and property at risk.

SEPA has also objected to the application on flood risk grounds, noting that the Earlston Flood Study and flood extent maps are much more detailed than the SEPA Flood Map. The original proposal included ground raising of the southern part of the site nearest the Turford Burn, which SEPA cannot support. They advise that land raising within the site would result in the loss of functional floodplain in an area already vulnerable to flooding and may increase the risk of flooding to nearby properties. They requested a revision to the proposals to exclude land raising within the functional floodplain of the Turford Burn. All references to land raising have been removed from the revised indicative site plan.

#### Trees and Hedges

Policy EP13 seeks to protect trees and woodlands from development.

There are trees within the site, though no specific details have been provided. These should be retained and protected during construction works by conditions, if the application is approved. The trees provide a degree of screening when viewed from the south.

#### Access and Parking

Policies PMD2 and PMD5 requires that adequate access and servicing can be achieved. Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards.

The site would utilise the existing access onto the public road and is large enough to accommodate parking and turning. The Roads Planning Service has no objections subject to conditions securing the parking and controlling any gates.

#### Water and Drainage

Policy IS9 states that the preferred method of dealing with waste water associated with new development would be a direct connection to the public sewerage system.

The dwellinghouse would connect to the public water supply and drainage network and the exact details would be secured as part of the Building Warrant. Scottish Water has no objections in principle to this but surface water drainage must be via a SUDS. This can be controlled by a condition.

#### Developer Contributions

Financial contributions, in compliance with policies IS2 and IS3, are required in respect of education (Earlston Primary School: £2,672) and Earlston High School: £3,757) and the Borders railway (£2,064). These would be secured by a legal agreement should the application be approved.

#### Other

The applicant is Mr M Elliot of Kilknowe House and the objection is from Mr James Elliot of East End Earlston, and it is understood that they are brothers. The agent has submitted a site plan indicating that the applicant owns the land to which the application relates and the access and parking area to the rear of the shop and flat.

**REASON FOR DECISION :**

The proposal is contrary to policy IS8 of the Local Development Plan 2016 in that the site is at significant risk of flooding and allowing a dwellinghouse to be erected on this site would put persons and property at risk of flooding. In addition, access and egress could not be safely achievable during a flood event.

**Recommendation:** Refused

- 1 The proposal is contrary to policy IS8 of the Scottish Borders Local Development Plan 2016 in that the site is at significant risk of flooding. The erection of a dwellinghouse on this site would place persons and property at significant risk of flooding, where access and egress could not be safely achievable during a flood event.

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