

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

13 JUNE 2022

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 22/00442/FUL
OFFICER:	Julie Hayward
WARD:	Leaderdale and Melrose
PROPOSAL:	Erection of dwellinghouse (change of house type previously approved planning permission 16/01403/FUL)
SITE:	Land South of Abbotsbank Gattonside
APPLICANT:	Rural Renaissance Ltd
AGENT:	Camerons Strachan Yuill Architects

PLANNING PROCESSING AGREEMENT:

A Planning Processing Agreement is in place until 13th June 2022.

SITE DESCRIPTION:

The application site has planning permission for the erection of a dwellinghouse under consent reference 16/01403/FUL. The house is under construction and almost complete. The overall site comprises a long, tapered area of rising ground located within the centre of the village adjacent to the Loan, a narrow, winding public road that serves a number of properties. There is an existing access onto the Loan at the southern end of the site via a tarred junction shared with the adjacent property, Abbotsknowe. The site is located within the Gattonside Conservation Area and National Scenic Area.

PROPOSED DEVELOPMENT:

Two windows have been inserted into the dwellinghouse that were not shown on the original approved drawings; one window to the master bedroom at first floor level in the west/side elevation and one to the bathroom at first floor level in the east/side elevation. As the property is under construction and the windows do not benefit from permitted development rights, these windows cannot be considered non-material variations to the original consent. This application seeks retrospective consent to regularise this breach of planning.

PLANNING HISTORY:

16/01403/FUL: Erection of dwellinghouse. Approved 2nd November 2018.

19/00898/FUL: Erection of detached garage. Approved 2nd September 2019.

REPRESENTATION SUMMARY:

Seven representations were received objecting to the application. These can be viewed in full on Public Access and raise the following issues:

- Overlooking/loss of privacy, detrimental to residential amenity.
- The window in the east elevation was originally to be in the north elevation, where no overlooking would have occurred.
- The window in the east elevation should be obscure glazed and fixed shut, though this could be changed in the future.
- The windows were not part of the approved plans and other breaches of planning rules have taken place on this site, showing a lack of competence from the developer and agent. Planning permission should have been granted before the windows were installed.
- The site is within the Conservation Area.

APPLICANTS' SUPPORTING INFORMATION:

None.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Council Local Development Plan 2016

PMD2: Quality Standards
 HD3: Protection of Residential Amenity
 EP4: National Scenic Areas
 EP9: Conservation Areas

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance:

Placemaking and Design 2010
 Householder Development (Privacy and Sunlight) 2006

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Contaminated Land Officer: There was a contaminated land condition on the original permission. The consultants made recommendations for follow-on works, review comments were provided and discussions took place. The report presenting the findings of these works has not been submitted, as should have happened prior to development commencing. The report should be submitted to comply with the condition.

Statutory Consultees

Community Council: There is a strong feeling among residents adjacent to the plot against this retrospective application. Not only does the application appear to be rather gratuitous as the room involved would have daylight anyway, but the repositioning involves detriment to neighbouring properties, which would be avoided by following the original design. Several of us feel that retrospective applications often are made to achieve an outcome for the developer, which would not have been allowed under the

original approval, and so should be refused in principle. However, if SBC do approve the new application, it is essential, out of fairness to those who will be affected detrimentally, that there is a requirement for the window to be non-opening, and the glass to be obscure. Privacy level 5 has been suggested by one council member.

Other Consultees

None.

KEY PLANNING ISSUES:

- Design and materials;
- Impact on the character and appearance of the Conservation Area;
- Impact on residential amenities.

ASSESSMENT OF APPLICATION:

Principle

The principle of a house on this site has previously been established by the earlier grant of planning permission. It is considered an appropriate infill development opportunity and appropriate in terms of scale, design and materials for the Conservation Area. This application seeks permission for a change of house type. However, the only change to that already approved under the 2016 consent is the formation of two additional windows at first floor level. One on the west elevation and one on the east elevation. These were not shown on the approved plans but have been installed without the benefit of planning consent. This application seeks to regularise this breach of planning control.

Design and Impact on the Conservation Area

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.

Policy EP9 states that the Council will support development proposals within or adjacent to Conservation Areas which are located and designed to preserve and enhance the special architectural or historic character and appearance of the Conservation Area, respecting the scale, proportions, alignment, density, materials and boundary treatments of nearby buildings and open spaces.

The window in the east elevation is to a bathroom. The drawings approved as part of planning permission 16/01403/FUL show the window serving this bathroom in the rear/north elevation. The applicant was advised in January 2021 that the development should be completed as approved, following concerns that the window was to be repositioned. However, the window on the east elevation was installed without consent being sought. The window to the west facing elevation is to a bedroom and was also installed without the benefit of consent. This room benefits from an existing dormer window to the south facing elevation.

The design, proportions and materials of the two windows match the existing openings in terms of size, proportion and material approved under the earlier consent and are in keeping with the overall development.

The windows are in the side elevations and are not prominent when viewing the property from the public domain. The installation of additional windows in this case has a neutral effect on the character and appearance of the Conservation Area.

Impact on Residential Amenities

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.

The window in the east elevation faces towards the rear garden ground of the neighbouring properties, Abbotsknowe and Cherrybank. There is a mature beech hedge on the side boundary that gives a significant degree of screening and the house under construction sits lower in the site than the garden level of the neighbouring property. The new window is to a bathroom and is not considered a habitable room, in terms of our approved Supplementary Planning Guidance. Given the location of window, the changes in ground levels and the intervening mature boundary hedge, there will be no direct overlooking of any habitable rooms of Abbotsknowe or Cherrybank from the bathroom window. Furthermore, whilst the east elevation of the new house faces towards the rear garden of neighbouring properties, the mitigating factors outlined above, will not affect the privacy of this area of private garden ground. A condition will however ensure that the window is finished in opaque glazing and fixed shut. This will prevent the potential for any overlooking or loss of privacy.

Concerning the window on the west facing elevation, there are no houses on the land immediately to the west of the site that would be affected by the additional bedroom window. The adjoining ground is currently over grown paddock and the nearest house is Chesterknowe, 25m from the site boundary. Given the distances involved, as well as intervening mature planting, there would be no significant adverse impacts on this property as a result of overlooking or loss of privacy.

The objections submitted by third parties are acknowledged and have been considered throughout the processing and assessment of this application. There will be no unacceptable adverse impacts on the residential amenity of neighbouring properties as a result of the development and the request for opaque glazing and a permanently fixed shut window have been accounted for in the schedule of conditions below.

It is noted that the objectors raise concerns regarding the installation of the windows without the necessary permissions being in place. However, current procedures set out in Regulation allow retrospective planning applications to be submitted in order to regularise minor breaches of planning control. These applications are then handled in the same way as any other application for planning permission and are assessed against the same prevailing development plan policies and supplementary planning guidance.

CONCLUSION:

Subject to compliance with the schedule of conditions, the development is acceptable, having principally had regard to the relevant provisions of the Local Development Plan

2016 but also having had regard to overriding material considerations in this case which are as set out in this report.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved subject to the following condition:

1. The bathroom window in the east elevation at first floor level of the dwellinghouse hereby approved, shall be finished using opaque glazing and shall be permanently fixed shut before the dwellinghouse is occupied, all in accordance with a scheme of details that have first been submitted to and approved in writing by the Planning Authority. The window shall remain fixed shut, with opaque glazing, in perpetuity thereafter unless otherwise agreed in writing by the Planning Authority.
Reason: To safeguard the residential amenity of neighbouring properties.
2. The development shall be completed in full accordance with the plans and drawings approved under planning consent 16/01403/FUL (with the exception of the house elevation drawings hereby approved under this consent – 22/00442/FUL). All relevant conditions attached to planning consent 16/01403/FUL shall apply to the development hereby approved, together with any drawings or additional information submitted to and approved in writing by the Planning Authority in response to those conditions.
Reason: To ensure the development proceeds in accordance with the approved plans and conditions attached to the original grant of consent.

Informative:

1. The Council's Contaminated Land Officer advises that, in respect of condition 2 of planning permission 16/01403/FUL, the report presenting the findings of the investigation works into the potential contamination of the site have not been submitted. This report should be submitted to the Contaminated Land Officer as soon as reasonably practicable, in order to comply with the condition.

DRAWING NUMBERS

Plan Ref	Plan Type
9275.1.01	Location Plan
9275.1.07 C	Proposed Elevations

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.

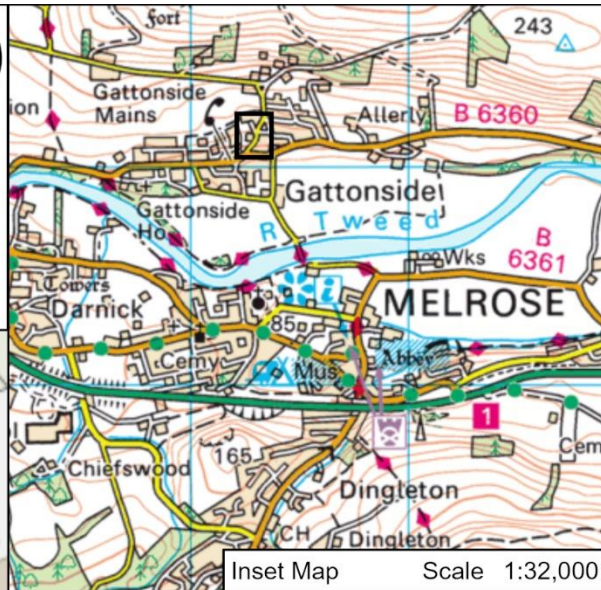
Author(s)

Name	Designation
Julie Hayward	Team Leader Development Management



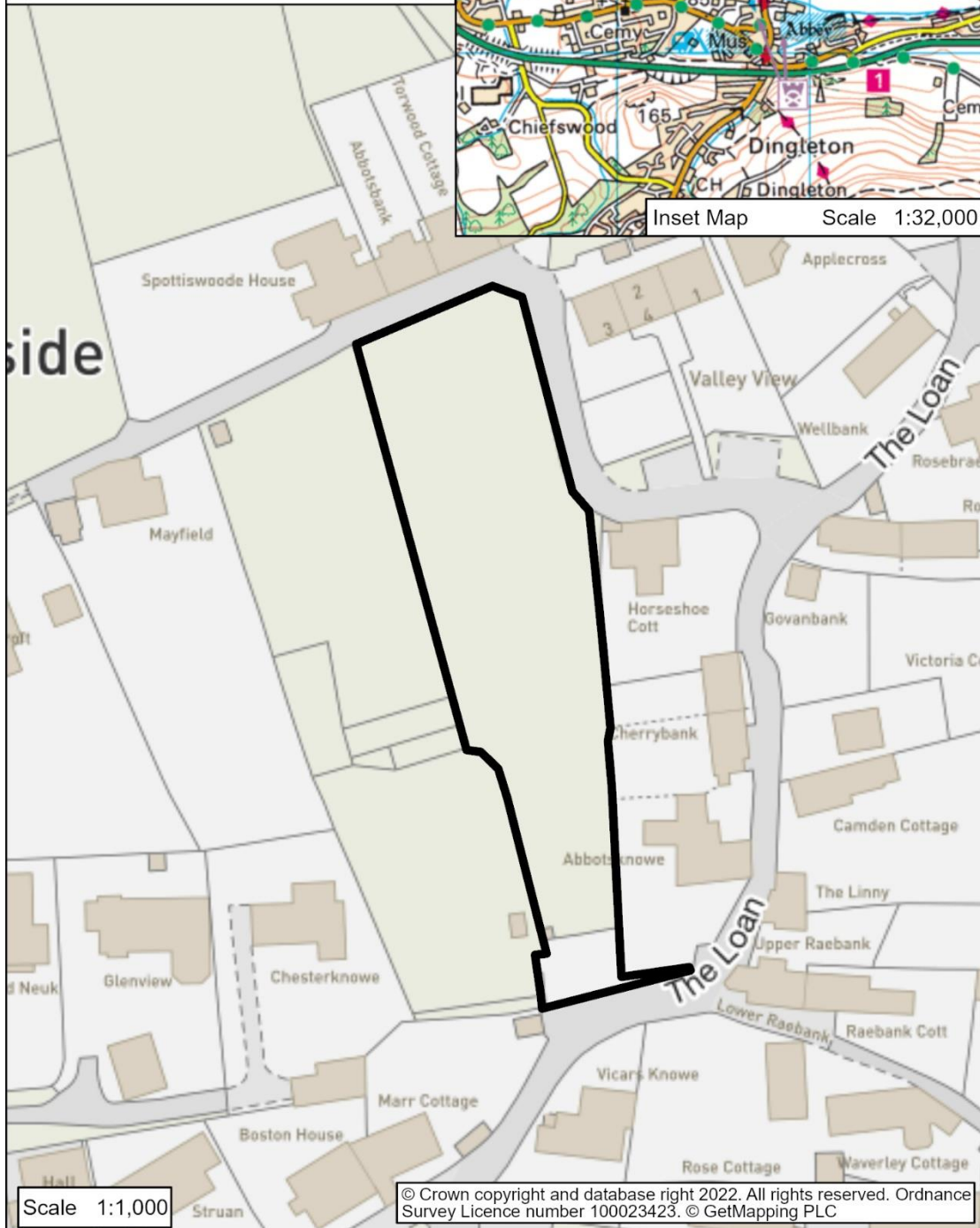
22/00442/FUL

Land South Of
Abbotsbank
Gattonside



Inset Map

Scale 1:32,000



Scale 1:1,000

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