

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

4 JULY 2022

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 21/01302/FUL
OFFICER:	Carlos Clarke
WARD:	Hawick and Denholm
PROPOSAL:	Erection of dwellinghouse
SITE:	Land South West Of West Lodge, Minto
APPLICANT:	David Anderson And Prof. Gary Haw
AGENT:	None

SITE DESCRIPTION

The site is at the south-easterly end of Minto, alongside two new-build houses recently constructed under 20/00893/FUL to its north-west. It fronts an open space area to the north-east, beyond which is the public road, which also runs adjacent its south-easterly boundary. The site is undeveloped, having formerly been agricultural land on which trees were subsequently becoming established. Beyond the road to the north-east is West Lodge, a residential property at the entrance to Minto Golf Club. The site is not within the village's Conservation Area, though it is within an SBC-designated designed landscape.

PROPOSED DEVELOPMENT

Full Planning Permission is sought for a single detached house, with access from the public road via that serving the two adjacent new-build houses. The proposal was initially for a two-storey dwellinghouse but, during the processing of the application, it was reduced in height and now incorporates dormers. The roof would be naturally slated, with the walls clad in timber, wet dash render and random coursed sandstone. A parking and turning area would be formed within the site.

PLANNING HISTORY

Of relevance to this application and the matters raised in representations:

- 19/00588/FUL Erection of three dwellinghouses – Withdrawn June 2019
- 19/00947/FUL Erection of two dwellinghouses – Approved January 2020
- 20/00893/FUL Erection of two dwellinghouses (change of house type previously approved under planning consent 19/00947/FUL) – Approved December 2020
- 20/00015/MOD75 Discharge of planning obligation pursuant to planning permission R188/92 – Approved February 2020

REPRESENTATION SUMMARY

Twenty objections have been received in response to the application. All are available to view in full on *Public Access*. A summary of the key issues raised is:

- An initial application for three houses was rejected. Previous objections/concerns are being ignored
- A Section 50 previously applied to avoid unsuitable overdevelopment
- The two approved houses have been subject to several changes
- A third house would compound the existing ribbon and overdevelopment of the two identical houses approved on disproportionately small plots; be of inappropriate density, diminishing the separation between existing houses (including gate lodge), and be inappropriate to the spatial pattern of the village
- Scale and height, design and a suburban character of development that would be inappropriate as a 'gateway' to the village and to the character and appearance of the Conservation Area, being architecturally incompatible and not following the building line.
- Contrary to the Local Development Plan (including Policies PMD2 and PMD5)
- Privacy loss/overlooking
- Parking and road safety impacts
- Tree impacts, including relocation of existing trees
- Surface water run-off
- Using an existing septic tank is inappropriate, contrary to EP15 and IS9
- Bin stance location not appropriate
- Damage, noise and disruption from construction works
- Health and safety concerns
- Insufficient information, including measurements; heritage statement, drainage impact assessment, tree survey, ecological appraisal, swept path analysis
- Zero carbon claims are challenged

APPLICANT'S SUPPORTING INFORMATION

The initial application was supported by a Design Statement. A Tree Survey and Arboricultural Impact Assessment and Tree Protection Scheme, were also subsequently submitted

During the processing of the application, the applicant submitted responses to the objections raised, and to heritage and landscape consultees. The full text of these can be reviewed on *Public Access*. Key points raised, amongst others, include:

- The Section 50 was not ignored - the 2019 applications were determined in accordance with the Local Development Plan
- This is the first planning application for this site – the 2019 planning consent was for the adjoining site. This site has never had an application withdrawn or refused
- The site is ample in size; there are only five larger plots in the village; and the site has the lowest elevation of any house in Minto.
- The site does not adjoin the Conservation Area; is within the village boundary; follows the original spatial pattern; the Local Development Plan does not stipulate the size of house or plot ratio, and the design reflects the context
- There would be no overlooking of the lodge's living/dining room, the lodge being over 45 metres distant
- There is sufficient parking and the driveway meets standards

- The proposed house has its own SEPA-registered septic tank.
- Roots and stumps were established to protect biodiversity; there has been no pre-emptive felling; trees have been successfully relocated; and all trees and necessary fencing are shown in the Tree Protection Plan
- Zero carbon credentials are independently tested

The original submission was also supported by 3D visuals, and the amended proposal now being considered is expected to be subject to the same. These are expected to be submitted by the applicant in time for the Committee's review.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Council Local Development Plan 2016

PMD1 – Sustainability
 PMD2 – Quality standards
 PMD5 – Infill Development
 HD3 – Protection of residential amenity
 EP1 – International nature conservation sites and protected species
 EP2 – National nature conservation sites and protected species
 EP3 – Local biodiversity
 EP5 – Special Landscape Areas
 EP9 - Conservation Areas
 EP10 – Gardens and Designed Landscapes
 EP13 – Trees, woodlands and hedgerows
 EP15 - Development Affecting the Water Environment
 EP16 – Air Quality
 IS2 – Developer Contributions
 IS5 – Protection of access routes
 IS7 – Parking provision and standards
 IS9 – Waste water treatment standards and SUDS

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance:

Development Contributions (2011) Updated 2022
 Landscape and Development (2008)
 Local Landscape Designations (2012)
 Sustainable Urban Drainage Systems (2020)
 Trees and Development (2020)
 Waste Management (2015)
 Placemaking and Design (2010)
 Guidance on Householder Development (2006)

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: No objections in principle. A private access can serve up to four houses. The main concern was lack of on-street parking, with no allowance for visitors. Parking on the public road would be undesirable. The RPS sought further information on how visitor parking and turning on the private track could be accommodated. Two spaces and turning were sought.

Following these initial comments, a scheme of visitor parking and turning has been submitted and the RPS confirms they are content with it.

Landscape Architect: The Tree Survey is satisfactory and as far as it goes, is accurate. Assume the removal of trees that is evident in piles of roots and stumps was carried out some time ago. The Arboricultural Impact Assessment is inadequate with regard the plan information supplied, especially Fig 3 - Tree Protection Plan (TPP) showing the trees and the proposed house footprint – but not access and patios etc. The base plan should be a topographical site survey or at the very least the Tree Survey Plan with all trees together with RPAs and should show the development footprint accurately, including access, patios, fencing etc in the context of the trees. It should include protective fencing to all the retained trees and tree group boundaries, and not just to the two places where the development is immediately adjacent. Any works in the RPA of retained trees should be clearly shown.

The Landscape Architect is not confident that the four existing trees can be successfully moved. The replacement of any relocated trees that do not survive should be a condition of consent. It remains her opinion that this proposal is located in what, in time, would have been an attractive woodland. However, due to tree clearance works to date, a dwelling might be accommodated on site – the TPP will confirm or refute this. Subject to no further tree removal (beyond those already proposed for relocation); remaining trees on site being properly protected as per BS5837:2012, retained and managed; and a landscaping scheme, including a hedge to the entire north east boundary, she has no objection.

Outdoor Access Officer: The site is in the same location as 19/00947/FUL. The boundary now additionally appears to include a section of the road verge up to the tarmac, not included previously. Has no objection subject to conditions requiring roads planning assessment and conditions to be followed in relation to both vehicular and non-vehicular use of the road and road verges in this area. Refers to promoted Minto Hills path in the Paths Around Hawick booklet. Path users on foot, cycle, or horse would be on the grass verges or on the road.

Education and Lifelong Learning Service: No reply

Heritage and Design Officer: There is no uniformity to the layout of buildings in the village, however it is generally of low density with predominantly 1 or 1 1/2 storey houses. The proposal is for two storeys, a larger footprint and longer elevation than the majority of the Conservation Area. It would be more appropriate for it to follow the character of the village and of the Conservation Area. The density does not increase to create a nucleus within the village per se, the scale and layout of the church and former school do provide this central focal point. The area beyond the church and to the southern extent is predominantly green and less dense than the remainder, signifying the outskirts. In contrast, the new development adjacent to the site provides a higher degree of density, compounded by its greater height and footprint. Remaining open, or being of a scale and design reflective of the Conservation Area would be most appropriate. However, given the separation between the site and Conservation Area including two existing dwellings, the impact on the character and appearance of the Conservation Area is minimal, and could be further mitigated by landscaping and use of high quality materials and detailing. Does not object

Statutory Consultees

Denholm and District Community Council: The original Section 50 was for only one house. The first application in 2019 for three identical houses was withdrawn at the

planning officers' recommendation, because it was considered unacceptable, and subsequently submitted for two. The developer built these in much closer proximity, clearly leaving space for another property. Garages were permitted retrospectively. The remaining area of the plot is now the site for the proposed larger house.

It would appear that it will totally upstage the two properties already built. Rather than be in keeping, it is intended to be a modern house. In the opinion of many residents, the style and size of this third property is not the 'gateway' to a traditional Conservation village, and is of a character that should never be considered and does nothing to maintain the character and appearance of the Conservation Area.

The second house affects the privacy of West Lodge. Distance from the new development from Fiaray and West Lodge should also be clarified.

The height (quoted as 10.8 metres) should be confirmed and considered for acceptability/restriction on maximum height not being vulnerable to retrospective approval.

A small access corridor appears to be planned for vehicles to the third house, which diminishes the turning/parking area for the original two houses. Access to the road for three properties on the site would make this problem even more difficult and the likelihood of cars having to reverse onto the Minto Road increased, adding to the potential road safety risks.

The history of this development is already well documented. Some residents are reluctant to believe that this third application will not simply be a "tick in the- box" exercise to be approved, or even that the developer will comply with approved plans. There is reluctance to be bothered to put pen to paper, when comments and objections appear to have been totally ignored. This is not a sign of progress.

Scottish Water: No objection. There is sufficient capacity at Robertson Water Treatment Works. Capacity at Minto Waste Water Treatment Works is unable to be confirmed. The nearest waste water infrastructure is approximately 280m from the site and across private land. Capacity at either works cannot be reserved.

KEY PLANNING ISSUES:

The key planning issues are whether the proposed development constitutes appropriate infill in accordance with the Local Development Plan 2016, particularly as regards the siting, scale and character of the proposed development; potential impact on the village's Conservation Area; road safety; tree impacts; and whether it can be adequately serviced.

ASSESSMENT OF APPLICATION:

Principle

The site is within the settlement boundary as identified in the Local Development Plan 2016 (LDP), excepting only the verge (which is not to be developed). The principle of development is supported by Policy PMD5, and it is not considered that the site needs to be safeguarded in principle. The LDP notes that developments should be limited to small-scale infill. This proposal is for one house, so falls within that parameter. Even accounting for the two houses recently built alongside it, this constitutes small-scale infill development.

The history of this site is a material consideration. Albeit the location plan boundary for previous applications (as noted above) incorporated this site, the proposals themselves (which eventually led to the two houses now recently built) did not. It is incorrect to assert that three houses were originally proposed on this site and then reduced to two. The withdrawn application for three houses was on the site of the two recently built houses only. This proposal is, in effect, a new development for an additional house within a part of the site not previously considered or proposed for development.

The fact also a legal agreement was previously concluded for the site in relation to an application for one house (R188/92) is, however, immaterial since a) the house was never built and b) the application to build on this site now must be treated on its own merits. The legal agreement was discharged and cannot be considered a relevant material consideration.

Matters relevant to PMD5, and other relevant policies of the LDP and advice within Supplementary Planning Guidance, are accounted for further in this assessment.

Services

There is capacity for a mains water supply. A condition should require confirmation that Scottish Water have approved a connection.

The two recently-built houses are served by a private drainage arrangement. This proposal for a private means of drainage to service the proposed house is, therefore, also acceptable in principle. It is, however, a matter for the Building Standards as to the technical suitability of the proposal (which is to use an existing septic tank). A condition can secure further details before development commences, which would effectively require that the applicant obtain a Building Warrant for the drainage, thus ensuring the proposed house can be adequately serviced.

Provided surface water is managed within the site, there are no concerns in this regard.

Ecology

There are no designations at risk. A Preliminary Ecological Appraisal for the two approved houses identified no badger or bats, though recommended a breeding bird check and hedge planting to compensate for tree loss. Here, the site is of no more ecological value than it was then, and no mature trees or substantial planting is being removed (see later). Given existing disturbance associated with recent construction, an informative rather than a planning condition should refer to breeding bird risks, as this is the responsibility of the applicant regardless.

Trees, landscaping and boundaries

A tree survey, arboricultural impact assessment and protection scheme have been submitted. These identify risk to the large Oak tree to the east; a requirement to relocate four trees (proposed on the north-eastern boundary) and a relatively small encroachment into the existing grouping to the south. Mitigation includes protective fencing and a specific foundation design for the end of the house encroaching into the root protection area of the Oak. Our Landscape Architect has queried aspects, and the applicant has responded in turn to question elements of her assessment. However, fundamentally, the proposal should (with further clarity on levels/groundworks, foundation design and more protective fencing) allow for existing trees of value to be retained. Albeit the applicant challenges the views of the landscape architect, it is

considered that further information on the above aspects are required to provide maximum protection to existing trees and planting of value. Relocated trees may well succeed but, if they do fail, their replacement can be regulated by condition.

As regards boundaries, the site plan includes reference to existing and proposed fencing and planting. More clarity is required on new fencing and more hedging required on the north-eastern boundary in addition to the four relocated trees, in order to ensure the boundaries are treated as sympathetically as possible. Regulation of the effects of the access link and visitor parking can also be applied to cover any impacts on existing/proposed planting there, should there be any.

Placemaking and design

The Conservation Area does not include this site, nor is the development adjacent it. The designation stops at the boundary of Fiaray. The potential for development on this site to undermine the character and appearance of the Conservation Area is, from the outset, very limited, and the proposal as now submitted will not lead to adverse effects in these regards. Concerns regarding the development's scale, form and design have been carefully considered. However, as noted above, this site was never previously considered as part of the three original houses that were withdrawn in favour of the approved two. Developing towards the edge of any village will almost inevitably change the sense of place of that part of the settlement, however, the issue is whether the resulting change will have adverse consequences. In this case, (accounting for the existing pattern of house plot sizes, house footprints, orientations and building lines within the village), it is not considered that this proposal would stray from the existing townscape or spatial pattern in such a manner that it would have adverse consequences for the character and sense of place of the village. The proposal would be set behind existing and new landscaping, back from the road and alongside two houses which it would be visually complementary with as regards general form and specifications, but which it is clearly not replicating. The design approach fundamentally achieves a balance between being sympathetic to, without being repetitive of, the existing buildings.

That said, the original proposal was for a two-storey house on a relatively long roofline, whereas two-storey houses are not a characteristic of the village. To address this concern, the applicant has responded positively, by reducing the height of the proposal and incorporating dormers. The proposal retains a horizontal emphasis generally, but the amendments are considered to tackle the fundamental concern regarding the height and form of the building. The dormers assist to break the roofline, and the house will also benefit from high quality materials (as noted below). The proposal will be no higher than the two existing houses, and it is expected it will be on a lower floor level (subject to confirmed levels). Further to this, the frontage has been adjusted to present a gable, rather than side elevation/roof slope, of the bedroom projection towards the road. It is considered this is more visually complementary to the frontage.

Fundamentally, therefore, while concerns regarding this proposal for a third house within a relatively short space of time are understandable, it is not considered that this proposal would have visually unsympathetic implications for the village as a whole. Within time, and with complementary landscaping/boundary treatments, it will settle into the village's established townscape without any adverse consequences, including on the SBC-designated designed landscape.

Materials

The proposals include a natural slate roof, natural stone, wet dash render and timber and, in those regards, it reflects the approach taken for the two new-build houses alongside it. Conditional approval can regulate details and ideally the colours of finishes would achieve some complementary variation from the two existing houses, thus reinforcing the individuality of the proposal.

Neighbouring amenity

Construction noise and disturbance are all understandable concerns, though for a development of this scale, they are sufficiently regulated under environmental protection powers available to the Environmental Health Service. Construction health and safety concerns are not planning matters.

The development will relate comfortably to the two recently-built houses alongside it as regards privacy, daylight, sunlight and outlook. Also, it is not considered the proposal would have adverse effects in any of the above regards on any other neighbouring property, including that of the West Lodge, that would be in any way unreasonable for this context.

Road safety and parking

The proposal will provide for two parking spaces within the site and, in response to the RPS's concern regarding visitor parking, will also provide two spaces for that purpose to the front of the two existing houses. The RPS raises no concerns with the capacity of the site to safely accommodate the development, which will use the access approved for the two existing houses. The verge that falls within the site boundary need not be undermined and a condition can regulate this.

Air quality

The proposal includes a chimney, potentially serving a stove. It is at high level so raises no concerns in principle regarding emissions. A standard informative note is recommended.

Waste storage

There is no dedicated storage within the site, though reference is made to bin storage to the front of the two approved houses, which was not consented under the application for those. The applicant was asked to clarify the visual appearance of the bin storage (since siting it within a frontage area is not recommended, albeit there will be roadside planting, so it may be acceptable). At the time of writing, no response has been received. Ultimately, this is a matter for the consent for the two existing houses, and dedicated bin storage should be provided within this plot, unless and until the bin storage referred to in front of the two approved houses is considered acceptable for all three.

Energy efficiency

The proposal is described in the Design Statement as carbon-neutral, in excess of Building Standards, and includes features such as PV panels to the rear. Ultimately, its energy efficiency credentials are regulated under the Building Standards at the Building Warrant stage, and any visually sympathetic proposal that allows those

standards to be exceeded is welcome. This proposal raises no concerns in this regard, subject to the panels being dark framed.

Contributions

A legal agreement will be necessary to secure a financial contribution to Denholm Primary School in order to comply with Policy IS2.

CONCLUSION

Subject to a legal agreement and compliance with the schedule of conditions, the 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.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved subject to a legal agreement and the following conditions and informatives:

1. The development shall be implemented in accordance with the plans and drawings approved under this consent, subject to the site plan scale being calibrated with the approved floor plans and elevations, unless otherwise agreed in writing with the Planning Authority
Reason: To ensure that the development is carried out in accordance with the approved details.
2. No development shall commence until evidence confirming that a mains water connection has been approved by Scottish Water and until further details of the foul drainage have been submitted for the written approval of the Planning Authority. The development shall be serviced only using the approved mains water and foul drainage arrangement, unless otherwise agreed in writing with the Planning Authority. All surface water shall be managed in a manner that maintains run-off from the site at pre-development levels
Reason: To ensure the development is adequately serviced and manages surface water drainage
3. No development shall commence until the dwellinghouse floor level, proposed ground levels and existing ground levels, related to an off-site datum, have been submitted for the written approval of the Planning Authority. The development shall be implemented only in accordance with the approved levels.
Reason: To ensure the development has a sympathetic visual and landscape impact and to inform tree protection requirements in Condition 4.
4. The development shall be implemented in accordance with the Tree Protection Plan specified in Figure 3 of "Arboricultural Impact Assessment and Tree Protection Scheme to BS 5837:2012" subject to the plan incorporating the following:
 - a) All hardstandings and underground services
 - b) Ground level changes
 - c) Additional protective fencing
 - d) Further information on the foundation designDetails of the above shall be submitted for the written approval of the Planning Authority prior to development commencing. Development shall only be

implemented in accordance with the Tree Protection Plan incorporating the above requirements that have been approved in writing by the Planning Authority. No trees or planting, including hedging, shall be felled, lopped or otherwise disturbed during or subsequent to the development, excepting only the permitted incursion into G03 to the south and the relocation of trees 14, 16-18 in accordance with Condition 5

Reason: To safeguard trees, hedging and planting of value to the landscape setting of the site

5. Trees 14, 16-18 shall be replanted in accordance with Figure 2 of "Arboricultural Impact Assessment and Tree Protection Scheme to BS 5837:2012" within the first planting season following completion of the development. If any of the relocated trees fail within five years of being planted, they shall be replaced with the same species during the first planting season following their failure. Replaced trees shall be subject to the same requirement to replace should they fail

Reason: To ensure the development has a sympathetic landscape and visual impact

6. Storage of bins associated with the dwellinghouse shall be provided within the site in a location agreed in writing with the Planning Authority prior to occupancy of the dwellinghouse, notwithstanding any references on the approved plans to off-site storage, unless further details of the off-site storage have been agreed in writing with the Planning Authority

Reason: To ensure the visually sympathetic and accessible storage of bins and because the specified off-site bin storage has not been demonstrated to be visually sympathetic

7. The access and parking area specified on the approved site plan and visitor parking area specified on "Minto – Oakwood Visitor Parking" shall be implemented prior to the occupancy of the dwellinghouse in accordance with construction details that match those for parking approved under 20/00893/FUL, and shall be retained free from obstruction for the movement and parking of vehicles. If the access and visitor parking area require adjustment to the landscaping scheme approved under 20/00893/FUL details of the adjustments shall be first agreed in writing with the Planning Authority and the adjusted landscaping implemented in accordance with the approved details during the first planting season following completion of the development

Reason: To ensure the development is adequately accessed and serviced in a manner that safeguards road safety and is visually sympathetic

8. The development shall be implemented in accordance with the external material specifications approved under this consent, subject to the slate, timber cladding, stonework and external dormer elevations, eave and verge materials matching those of the two existing houses (20/00893/FUL) unless otherwise agreed in writing with the Planning Authority and subject to the colour of wet dash render, timber cladding and external timber features, and window and door framing being agreed in writing with the Planning Authority prior to these parts of the development commencing. The PV panels and rooflights shall be black-framed, and the rooflights fitted flush to slates, unless otherwise agreed in writing with the Planning Authority. The development shall be implemented only in accordance with the approved details.

Reason: To ensure the development has a sympathetic visual impact

9. Further details of the boundary treatments specified on the approved site plan, including fence height and design, and planting, which shall include a scheme of hedging for the north-easterly boundary, shall be submitted for the written approval of the Planning Authority prior to development commencing. The boundary treatments shall be implemented only in accordance with the approved details, and planting shall be implemented during the first planting season following completion of the development. Notwithstanding the site boundary referenced on the approved plan, the existing verge shall be retained and shall not be altered, enclosed or incorporated into the dwellinghouse's garden curtilage

Reason: To ensure the development has a sympathetic visual impact and to safeguard the verge alongside the public road

Informatives

1. Removal of vegetation should be carried out outwith the breeding bird season unless the site has first been checked for breeding birds and mitigation undertaken accordingly. It is the developer's responsibility to ensure breeding birds are not disturbed during the implementation of the development, to comply with the Wildlife and Countryside Act 1981 (as amended).
2. If a solid fuel stove is intended, this should be specified as being under 45kw. If specified to be larger, a screening assessment will be required in liaison with the Council's Environmental Health Service to ensure there is no risk of a statutory nuisance from emissions. Solid fuel heating installations can cause smoke and odour complaints and Planning Permission for this development does not indemnify the applicant in respect of nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted Planning Permission. It is recommended, therefore, that:
 - a. the flue should be terminated with a cap that encourages a high gas efflux velocity.
 - b. the flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.
 - c. the appliance should only burn fuel of a type and grade that is recommended by the manufacturer.
 - d. if you live in a Smoke Control Area you must only use an Exempt Appliance (www.smokecontrol.defra.gov.uk) and the fuel that is approved for use in it.
 - e. in wood burning stoves you should only burn dry, seasoned timber. Guidance is available on www.forestry.gov.uk
 - f. treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel. Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

DRAWING NUMBERS

Proposed Site Plan - Rev 1.5.22

Proposed Plans Rev - 1.5.22

Proposed Elevations – Elevations 1

Proposed Elevations – Elevations 2

Other – Arboricultural Impact Assessment and Tree Protection Scheme

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.

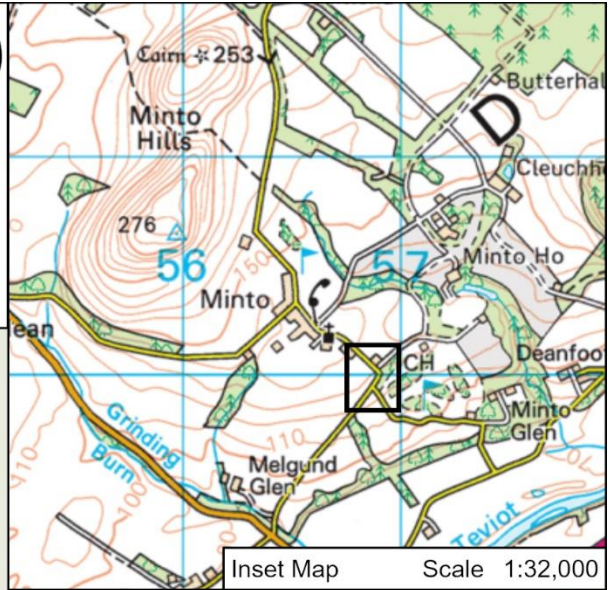
Author(s)

Name	Designation
Carlos Clarke	Team Leader



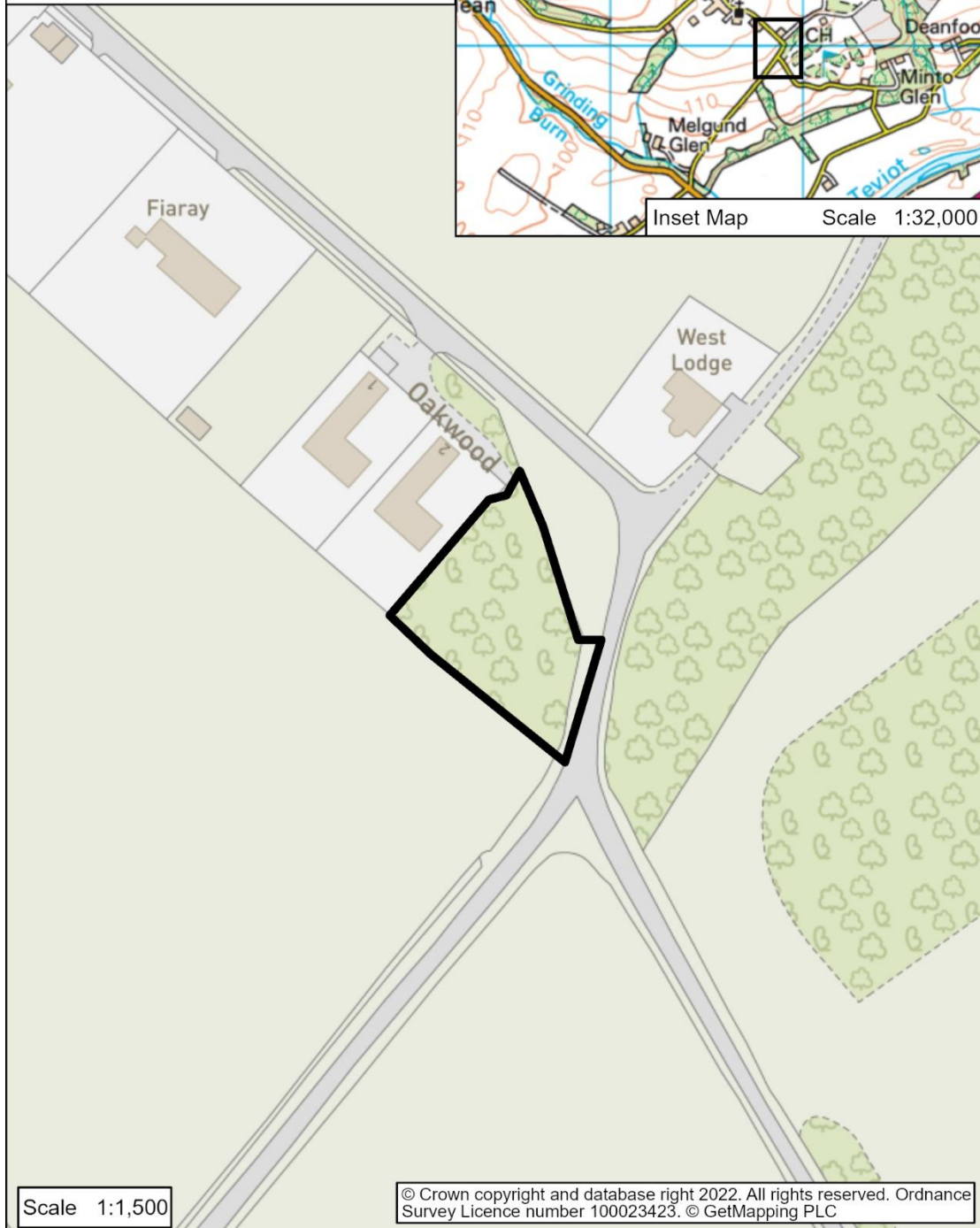
21/01302/FUL

Erection of Dwellinghouse
Minto



Inset Map

Scale 1:32,000



Scale 1:1,500

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