

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 21/01625/PPP

APPLICANT : Mr And Mrs Jerry And Shona Ponder

AGENT : Ferguson Planning

DEVELOPMENT : Erection of dwellinghouse and formation of new access

LOCATION: Land East Of The Garden Cottage
South Laws
Duns
Scottish Borders

TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
11833-04	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

No representations have been received.

Consultations

Community Council: No response received at the time of writing this report.

Education and Lifelong Learning: No response received at the time of writing this report.

Flood and Coastal Management: They have concerns regarding flood risk to the application site. The SEPA flood maps indicate that the application site is within the 1 in 200 year flood envelope of the Redlaw Burn which runs north. This indicative flood envelope cover the access road and the northern part of the application site. It also includes a large flow path which starts to the east of the application site and runs south west until it turn south towards the Harcarse Burn.

Due to the large indicative flow path and the flat topography of the application site, they cannot rule out the requirement for a Flood Risk Assessment (FRA).

Should this application be granted and a subsequent application submitted to the Planning Authority, a topographical survey for the application site, the Redlaw Burn and its floodplain, including the indicative flow path, should be submitted in support of the application. This will inform if a FRA is required.

Roads Planning Service: No objection, subject to standard conditions and informatives being attached should permission be granted.

Scottish Water: They advise that there is currently sufficient capacity in the Rawburn Water Treatment Works to service the proposed development.

Unfortunately, their records indicate that there is no public Scottish Water, waste water infrastructure within the vicinity of this proposed development and private treatment options must be investigated.

SEPA: Objection. The proposed development is for the erection of a dwellinghouse. The proposed dwellinghouse would be classed as a 'highly vulnerable' use according to their Flood Risk and Land Use Vulnerability Guidance (2018). Therefore, the proposed development must be located outwith the functional floodplain and outwith the 1 in 200 year flood extent.

The site is partly within the functional floodplain based on the SEPA Flood Maps. This indicates that there is a medium risk of flooding from the Redlaw Burn.

No topographic information has been provided. However, based on the topographic information available for the area it appears that the opposite bank of the Redlaw Burn is at a lower elevation compared to the area of the proposed development. However, this should be confirmed with additional information.

Other appropriate information should include current and proposed development site and finished floor levels related to nearby watercourses, appropriate photographs and/or any nearby historical flood levels. Topographic level information should include cross sections across the watercourse (including the channel bed levels and bank levels of the opposite bank), upstream, downstream and adjacent to the site. However, if this information is insufficient to provide a robust assessment of the risk of flooding to the proposed development then a detailed flood risk assessment may need to be carried out by a suitably qualified professional.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils

HD2: Housing in the Countryside

HD3: Protection of Residential Amenity

EP13: Trees, Woodlands and Hedgerows

IS2: Developer Contributions

IS7: Parking Provision and Standards

IS8: Flooding

IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Supplementary Planning Guidance

Developer Contributions 2011 (updated 2021)

New Housing in the Borders Countryside 2008

Placemaking and Design 2010

Waste Management 2015

Recommendation by - Cameron Kirk (Assistant Planning Officer) on 15th March 2022

Site description

The application site relates to the north west corner of an agricultural field, which is located approximately 1.5 miles north of the settlement of Swinton. The topography of the application site is relatively level. Laws North Plantation and Redlaw Burn lie to the north, agricultural land lies to the east and south, and there are neighbouring properties to the west of the application site. The public road (C99) flanks the north boundary of the application site. A hedgerow defines the north boundary, while the east, south and west boundaries

are not defined by any particular boundary treatment. The application site is identified as being an area of prime quality agricultural land.

Proposed development

Planning permission in principle is sought for the erection of a dwellinghouse. Vehicular access to the application site would be taken from the public road that flanks the north boundary of the application site. The proposed dwellinghouse would be connected to the public water supply network. Foul water must be dealt with by private drainage arrangements.

Relevant planning history

There is no planning history for the application site.

Assessment

Principle of development

The application site is not located within the defined development boundary of a settlement and as such would equate to development in the countryside. In order to establish the principle of development it must be assessed against Policy HD2: Housing in the Countryside. The application site is not located in the Southern Housing Market Area. At present, it is agricultural land and the proposal would not result in the conversion of an existing building to a house, the restoration of an existing house or result in the proposed replacement of an existing house. In addition, no justification has been provided to demonstrate that there is an economic requirement for a house to be built in this location. Therefore, sections (B) - (F) of Policy HD2 would not be applicable in establishing the principle of development in this particular location. It would only be appropriate to assess the proposal against section (A) Building Groups of Policy HD2.

Section (A) Building Groups of Policy HD2 advises that additional dwellings should only be permitted where the site relates well to an existing building group of at least three dwellings and will only result in the addition of two dwellings or a 30% increase to the group, whichever is greater, during the period of the Local Development Plan. The cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining applications.

It is acknowledged that there is a building group of six dwellinghouses to the west of the application site. One dwellinghouse has been granted as an acceptable addition to the building group during the Local Development Plan period. Therefore, there is still the numerical capacity to consider the addition of one dwellinghouse. The main consideration is whether the proposed development would be an appropriate addition to the existing building group.

The Council's Supplementary Planning Guidance 'New Housing in the Borders Countryside 2008' makes it clear that extensions of ribbon development along public roads will not normally be permitted. Furthermore, it states that application sites should not normally break into undeveloped fields, particularly where there exists a definable natural boundary between the building group and the field and that new development should be limited to the area contained by that sense of place.

The application site is an undeveloped agricultural field. The building group is located to the west of the application site and all of the dwellinghouses associated with the building group are contained to the south of the public road. The application site is conterminous with the dwellinghouse, The Garden Cottage, to the west. The linear form of development along the public road means that the application site would have no connection with the dwellinghouses associated with the building group that lie to the west of the dwellinghouse, The Garden Cottage. This proposal would not add to the sense of place felt within the existing building group.

Only a short section of the boundary between the application site and the aforementioned property is clearly defined by a boundary treatment/ vegetation. However, the agricultural land is clearly distinguishable from the curtilage of the neighbouring property. This boundary is considered to be the defensible boundary for the building group. The proposed development would lie to the east of this boundary, outwith the building group's sense of place, and it would result in ribbon development along the public road. In addition, the

application breaks into an undeveloped field which would result in an incongruous field shape and boundary. The proposed development would be contrary to Policy HD2 and the Council's Supplementary Planning Guidance 'New Housing in the Borders Countryside 2008'.

In addition, the application site is identified as being an area of prime quality agricultural land. The principle of development must also be assessed against Policy ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils. Policy ED10 states development which results in the permanent loss of prime quality agricultural land will not be permitted unless:

- a) the site is otherwise allocated within this local plan;
- b) the development meets an established need and no other site is available;
- c) the development is small scale and directly related to a rural business.

The application site is not allocated within the current Local Development Plan. The proposed development would not be for an establish need and whilst it may be small scale, it would not be directly related to a rural business.

In light of the above, the proposed development would be contrary to Policy HD2 and Policy ED10, as well as the Council's adopted Supplementary Planning Guidance 'New Housing in the Borders Countryside 2008'. There are no material planning considerations which suggest that housing development in this location would be acceptable and there are no known extenuating circumstances of other material considerations which indicate that the application should be supported as an acceptable departure from the Scottish Borders Local Development Plan 2016. Therefore, the principle of development is not considered to be acceptable in this location.

Layout, design and materials

Policy PMD2 aims to ensure that all new development is of a high quality and respects the environment in which it is contained. Indicative details have been provided layout and design for the dwellinghouse. As the application is for planning permission in principle, aspects such as the layout, siting and design of the proposed dwellinghouse cannot be adequately assessed at this time. Further consideration would be given to layout, siting and design of the proposed development on the submission of a subsequent application. Nonetheless, it is expected that a dwellinghouse could be accommodated within the application site.

Residential amenity

Policy HD3 aims to protect neighbouring residential properties against inappropriate development that would result in the loss of amenity or privacy. It is not anticipated that the proposed development would adversely affect the residential amenity or privacy of neighbouring properties, having regard to size and location of the application site relative to neighbouring properties. A full assessment would be undertaken on the submission of a subsequent application to detail layout, siting and design for the proposed development.

Roads

Vehicular access to the application site would be taken from the public road to the north. The Roads Planning Service was consulted as part of the application process. They do not object to the application, subject to standard conditions and informatives being attached should permission be granted.

Parking and turning for two vehicles must be provided within the curtilage of the dwellinghouse, excluding any garages. It is anticipated that this requirement could be met.

Services

The proposed development would be connected to the public water supply network. Scottish Water was consulted as part of the application process and they advise that there is currently sufficient capacity in Rawburn Water Treatment Works to service the proposed development. This approach is welcomed by the Planning Authority.

In the application form it states that the proposed development would be connected to the public drainage network. However, Scottish Water has confirmed that their records indicate that there is no public Scottish

Water, waste water infrastructure within the vicinity of this proposed development. Therefore, private treatment options must be investigated. The principle of a private drainage system in this rural location is acceptable in principle. Drainage would be subject to further consideration at the building warrant stage. Conditions would be attached to ensure that further details are provided in respect of water supply and drainage to demonstrate that they are achievable.

Trees

A section of the hedge to the north boundary would be required to be removed to accommodate the vehicular access. This is acceptable to the Planning Authority provided the remaining section of the hedge is retained to this boundary. This can be controlled by way of condition.

Flooding

The Council's Flood and Coastal Management department and SEPA were consulted on the application due to application site's proximity to Redlaw Burn. The application site lies within a 1 in 200 year flood extent. The site is partly within the functional floodplain based on the SEPA Flood Maps. This indicates that there is a medium risk of flooding from the Redlaw Burn. The proposed development is for the erection of a dwellinghouse, which would be classed as a 'highly vulnerable' use according to SEPA's Flood Risk and Land Use Vulnerability Guidance (2018).

The Council's Flood and Coastal Management department advise that they cannot rule out the requirement for a Flood Risk Assessment. They would require further information to be submitted, including a topographical survey for the application site, the Redlaw Burn and its floodplain, including the indicative flow path to determine whether a Flood Risk Assessment is required.

SEPA advise that the information submitted to support the application is insufficient to allow them to determine the potential impact of flooding. No topographic information has been provided. However, based on the topographic information available for the area, it appears that the opposite bank of the Redlaw Burn is at a lower elevation compared to the area of the proposed development. However, this should be confirmed with additional information.

Other appropriate information should include current and proposed development site and finished floor levels related to nearby watercourses, appropriate photographs and/or any nearby historical flood levels. Topographic level information should include cross sections across the watercourse (including the channel bed levels and bank levels of the opposite bank), upstream, downstream and adjacent to the site. However, if this information is insufficient to provide a robust assessment of the risk of flooding to the proposed development then a detailed Flood Risk Assessment may need to be carried out by a suitably qualified professional.

SEPA has submitted a holding objection to the application until further information has been submitted and reviewed by them. They advised that if the Planning Authority is not minded to request this information, or the applicant does not provide it, then this representation should be considered as an objection from SEPA. The applicant did provide some information later on the assessment of the application, which pertains to flooding, although this was not passed on to SEPA or the Council's Flood and Coastal Management department as the Planning Authority is minded to refuse the planning application as being contrary to the Council's housing in the countryside policies. Therefore, SEPA's response to the application is being treated as an objection.

Taking into consider the above, it cannot be ruled out that the proposed development may be susceptible to flooding.

Developer contributions

Policy IS2 aims to ensure that the cost of new or additional infrastructure required for new development is met by the developer. Developer contributions are sought towards education and lifelong learning, specifically Duns Primary School and Berwickshire High School. The applicant must enter into either a Section 69 or 75 Legal Agreement for the developer contributions sought by the Council.

Waste

There would be sufficient room for a dedicated bin storage area within the application site to serve the proposed dwellinghouse. This should be located in a discreet position within application site. The precise details will be agreed with a subsequent application.

Conclusion

In light of the above, the proposed development would fail to comply with Policy HD2 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance, New Housing in the Borders Countryside 2008, as it would not relate well to the existing building group, it would break into an undeveloped field and, it would result in ribbon development along the public road, which would adversely impact upon the composition and quality of the landscape character.

Furthermore, the proposed development would fail to comply with Policy ED10 as it would result in the permanent loss of prime quality agricultural land.

There are no material planning considerations which suggest that housing development in this location would be acceptable and there are no known extenuating circumstances of other material considerations which indicate that the application should be supported as an acceptable departure from the Scottish Borders Local Development Plan 2016.

REASON FOR DECISION :

The proposed development fails to comply with Policy HD2 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance, New Housing in the Borders Countryside 2008, as it would not relate well to the existing building group, it would break into an undeveloped field, outwith the building groups's sense of place, and it would result in ribbon development along the public road, which would adversely impact upon the composition and quality of the landscape character. Furthermore, the proposed development fails to comply with Policy ED10 as it would result in the permanent loss of prime quality agricultural land. It is recommended that the application be refused.

Recommendation: Refused

- 1 The proposed development fails to comply with Policy HD2 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance, New Housing in the Borders Countryside 2008, as it would not relate well to the existing building group, it would break into an undeveloped field, outwith the building groups's sense of place, and it would result in ribbon development along the public road, which would adversely impact upon the composition and quality of the landscape character. Furthermore, the proposed development fails to comply with Policy ED10 as it would result in the permanent loss of prime quality agricultural land.

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