

**Local Review Reference:** 22/00022/RREF

**Planning Application Reference:** 21/01625/PPP

**Development Proposal:** Erection of dwellinghouse and formation of access

**Location:** Land East of The Garden Cottage, South Laws, Duns

**Applicant:** Mr and Mrs Jerry and Shona Ponder

## **Scottish Borders Local Development Plan 2016**

### **POLICY PMD1: SUSTAINABILITY**

In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plan's policies and which developers will be expected to incorporate into their developments:

- a) the long term sustainable use and management of land
- b) the preservation of air and water quality
- c) the protection of natural resources, landscapes, habitats, and species
- d) the protection of built and cultural resources
- e) the efficient use of energy and resources, particularly non-renewable resources
- f) the minimisation of waste, including waste water and encouragement to its sustainable management
- g) the encouragement of walking, cycling, and public transport in preference to the private car
- h) the minimisation of light pollution
- i) the protection of public health and safety
- j) the support to community services and facilities
- k) the provision of new jobs and support to the local economy
- l) the involvement of the local community in the design, management and improvement of their environment

### **POLICY PMD2: QUALITY STANDARDS**

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

#### **Sustainability**

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,
- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,
- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,
- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development

and that appropriate arrangements are put in place for long term landscape/open space maintenance,

g) it considers, where appropriate, the long term adaptability of buildings and spaces.

#### Placemaking & Design

h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,

i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,

j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,

k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,

l) it can be satisfactorily accommodated within the site,

m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,

n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

#### Accessibility

o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,

p) it incorporates, where required, access for those with mobility difficulties,

q) it ensures there is no adverse impact on road safety, including but not limited to the site access,

r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,

s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

#### Greenspace, Open Space & Biodiversity

t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,

u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

### **POLICY HD2: HOUSING IN THE COUNTRYSIDE**

The Council wishes to promote appropriate rural housing development:

a) in village locations in preference to the open countryside where permission will only be granted in special circumstances on appropriate sites,

b) associated with existing building groups where this does not adversely affect their character or that of the surrounding area, and

- c) in dispersed communities in the Southern Borders housing market area.

These general principles in addition to the requirement for suitable roads access will be the starting point for the consideration of applications for housing in the countryside, which will be supplemented by Supplementary Planning Guidance / Supplementary Guidance on New Housing in the Borders Countryside and on Placemaking and Design.

#### (A) BUILDING GROUPS

Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such conversion has been implemented,
- b) 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 new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts,
- c) any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.

In addition, where a proposal for new development is to be supported, the proposal should be appropriate in scale, siting, design, access, and materials, and should be sympathetic to the character of the group.

The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point.

#### (B) DISPERSED BUILDINGS GROUPS

In the Southern Housing Market area there are few building groups comprising 3 houses or more, and a more dispersed pattern is the norm. In this area a lower threshold may be appropriate, particularly where this would result in tangible community, economic or environmental benefits. In these cases the existence of a sense of place will be the primary consideration.

Housing of up to 2 additional dwellings associated with dispersed building groups that meet the above criteria may be approved provided that:

- a) the Council is satisfied that the site lies within a recognised dispersed community in the Southern Borders housing market area,
- b) any consents for new build granted under this part of this policy should not exceed two housing dwellings in addition to the group during the Plan period. No further development above this threshold will be permitted,
- c) the design of housing will be subject to the same considerations as other types of housing in the countryside proposals.

#### (C) CONVERSIONS OF BUILDINGS TO A HOUSE

Development that is a change of use of a building to a house may be acceptable provided that:

- a) the Council is satisfied that the building has architectural or historic merit, is capable of conversion and is physically suited for residential use,
- b) the building stands substantially intact (normally at least to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion, and
- c) the conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.

#### (D) RESTORATION OF HOUSES

The restoration of a house may also be acceptable provided that the walls of the former residential property stand substantially intact (normally at least to wallhead height). In addition:

- a) the siting and design reflects and respects the historical building pattern and the character of the landscape setting,
- b) any proposed extension or alteration should be in keeping with the scale, form and architectural character of the existing or original building, and
- c) significant alterations to the original character will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and/or a more sustainable and energy efficient design.

#### (E) REPLACEMENT DWELLINGS

The proposed replacement of an existing house may be acceptable provided that:

- a) the siting and design of the new building reflects and respects the historical building pattern and the character of the landscape setting,
- b) the proposal is in keeping with the existing/original building in terms of its scale, extent, form and architectural character,
- c) significant alterations to the original character of the house will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and /or a more sustainable and energy efficient design.

#### (F) ECONOMIC REQUIREMENT

Housing with a location essential for business needs may be acceptable if the Council is satisfied that:

- a) the housing development is a direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and it is for a worker predominantly employed in the enterprise and the presence of that worker on-site is essential to the efficient operation of the enterprise. Such development could include businesses that would cause disturbance or loss of amenity if located within an existing settlement, or
- b) it is for use of a person last employed in an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and also employed on the unit that is the subject of the application, and the development will release another house for continued use by an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and

- c) the housing development would help support a business that results in a clear social or environmental benefit to the area, including the retention or provision of employment or the provision of affordable or local needs housing, and
- d) no appropriate site exists within a building group, and
- e) there is no suitable existing house or other building capable of conversion for the required residential use.

In ALL instances in considering proposals relative to each of the policy sections above, there shall be compliance with the Council's Supplementary Planning Guidance where it meets the terms of this policy and development must not negatively impact on landscape and existing communities. The cumulative effect of applications under this policy will be taken into account when determining impact.

### **POLICY HD3 : PROTECTION OF RESIDENTIAL AMENITY**

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
  - (i) the scale, form and type of development in terms of its fit within a residential area,
  - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or 'backland' development,
  - (iii) the generation of traffic or noise,
  - (iv) the level of visual impact.

### **POLICY HD4: MEETING THE HOUSING LAND REQUIREMENT/FURTHER HOUSING LAND SAFEGUARDING**

The areas indicated in the settlement profiles for longer term expansion and protection shall be safeguarded accordingly. Proposals for housing development in such expansion areas coming forward in advance of the identification of a shortfall in the effective housing land supply will be treated as premature.

As the plan does not adequately address the housing land requirement set out in SESplan and its Supplementary Guidance on Housing Land, the council will prepare and adopt supplementary guidance in order to identify additional sites to provide for a further 916 units during the plan period

### **POLICY EP13: TREES, WOODLANDS AND HEDGEROWS**

The Council will refuse development that would cause the loss of or serious damage to the woodland resource unless the public benefits of the development clearly outweigh the loss of landscape, ecological, recreational, historical, or shelter value.

Any development that may impact on the woodland resource should:

- a) aim to minimise adverse impacts on the biodiversity value of the woodland resource, including its environmental quality, ecological status and viability; and
- b) where there is an unavoidable loss of the woodland resource, ensure appropriate replacement planting, where possible, within the area of the Scottish Borders; and
- c) adhere to any planning agreement sought to enhance the woodland resource.

## **POLICY IS2: DEVELOPER CONTRIBUTIONS**

Where a site is otherwise acceptable in terms of planning policy, but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or partial contribution towards the cost of addressing such deficiencies.

Contributions may be required for one or more of the following:

- a) treatment of surface or foul waste water in accordance with the Plan's policies on preferred methods (including SUDS maintenance);
- b) provision of schools, school extensions or associated facilities, all in accordance with current educational capacity estimates and schedule of contributions;
- c) off-site transport infrastructure including new roads or road improvements, Safer Routes to School, road safety measures, public car parking, cycle-ways, bridges and associated studies and other access routes, subsidy to public transport operators; all in accordance with the relevant standards and the provisions of any Travel Plan;
- d) leisure, sport, recreation, play areas and community facilities, either on-site or off-site;
- e) landscape, open space, allotment provision, trees and woodlands, including costs of future management and maintenance;
- f) protection, enhancement and promotion of environmental assets either on-site or off-site, having regard to the Local Biodiversity Action Plan and the Council's Supplementary Planning Guidance on Biodiversity, including compensation for any losses and/or alternative provision;
- g) provision of other facilities and equipment for the satisfactory completion of the development that may include: measures to minimise the risk of crime; provision for the storage, collection and recycling of waste, including communal facilities; provision of street furniture and digital connectivity with associated infrastructure.

Wherever possible, any requirement to provide developer contributions will be secured by planning condition. Where a legal agreement is necessary, the preference for using an agreement under other legislation, for example the 1973 Local Government (Scotland) Act and the 1984 Roads (Scotland) Act will be considered. A planning obligation will only be necessary where successors in title need to be bound by its terms. Where appropriate, the council will consider the economic viability of a proposed development, including possible payment options, such as staged or phased payments.

## **POLICY IS7: PARKING PROVISION AND STANDARDS**

Development proposals should provide for car and cycle parking in accordance with approved standards.

Relaxation of technical standards will be considered where appropriate due to the nature of the development and/or if positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of seeking additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

## **POLICY IS8: FLOODING**

At all times, avoidance will be the first principle of managing flood risk. In general terms, new development should therefore be located in areas free from significant flood risk. Development will not be permitted if it would be at significant risk of flooding from any source or would materially increase the probability of flooding elsewhere. The ability of functional flood plains to convey and store floodwater should be protected, and development should be located away from them.

Within certain defined risk categories, particularly where the risk is greater than 0.5% annual flooding probability or 1 in 200 year flood risk, some forms of development will generally not be acceptable. These include:

- a) development comprising essential civil infrastructure such as hospitals, fire stations, emergency depots etc., schools, care homes, ground-based electrical and telecommunications equipment unless subject to an appropriate long term flood risk management strategy;
- b) additional built development in undeveloped and sparsely developed areas.

Other forms of development will be subject to an assessment of the risk and mitigation measures.

Developers will be required to provide, including if necessary at planning permission in principle stage:

- a) a competent flood risk assessment, including all sources of flooding, and taking account of climate change; and
- b) a report of the measures that are proposed to mitigate the flood risk.

The information used to assess the acceptability of development will include:

- a) information and advice from consultation with the council's flood team and the Scottish Environment Protection Agency;
- b) flood risk maps provided by the Scottish Environment Protection Agency which indicate the extent of the flood plain;
- c) historical records and flood studies held by the council and other agencies, including past flood risk assessment reports carried out by consultants and associated comments from the Scottish Environment Protection Agency, also held by the council;
- (d) the Scottish Environment Protection Agency's Land Use Vulnerability Guidance.

## **POLICY IS9: WASTE WATER TREATMENT STANDARDS AND SUSTAINABLE URBAN DRAINAGE**

### **WASTE WATER TREATMENT STANDARDS**

The Council's preferred method of dealing with waste water associated with new development will be, in order of priority:

- a) direct connection to the public sewerage system, including pumping if necessary, or failing that:
- b) negotiating developer contributions with Scottish Water to upgrade the existing sewerage network and/or increasing capacity at the waste water treatment works, or failing that:
- c) agreement with Scottish Water and SEPA where required to provide permanent or temporary alternatives to sewer connection including the possibility of stand alone treatment plants until sewer capacity becomes available, or, failing that:
- d) for development in the countryside i.e. not within or immediately adjacent to publicly seweraged areas, the use of private sewerage treatment may be acceptable, providing it can

be demonstrated that this can be delivered without any negative impacts to public health, the environment or the quality of watercourses or groundwater.

In settlements served by the public foul sewer, permission for an individual private sewage treatment system will normally be refused unless exceptional circumstances prevail and the conditions in criteria (d) above can be satisfied.

Development will be refused if:

- a) it will result in a proliferation of individual septic tanks or other private water treatment infrastructure within settlements,
- b) it will overload existing mains infrastructure or it is impractical for the developer to provide for new infrastructure.

#### **SUSTAINABLE URBAN DRAINAGE**

Surface water management for new development, for both greenfield and brownfield sites, must comply with current best practice on sustainable urban drainage systems to the satisfaction of the council, Scottish Environment Protection Agency (where required), Scottish Natural Heritage and other interested parties where required. Development will be refused unless surface water treatment is dealt with in a sustainable manner that avoids flooding, pollution, extensive canalisation and culverting of watercourses. A drainage strategy should be submitted with planning applications to include treatment and flood attenuation measures and details for the long term maintenance of any necessary features.

#### **Other Material Considerations**

- SBC Supplementary Planning Guidance on Housing in the Countryside 2008
- SBC Supplementary Planning Guidance on Developer Contributions 2021
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Waste Management 2015
- Proposed Local Development Plan
- SPP 2014
- Draft NPF4