

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

5 SEPTEMBER 2022

APPLICATION FOR PLANNING PERMISSION

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| ITEM: | REFERENCE NUMBER: 22/00372/FUL |
| OFFICER: | Barry Fotheringham |
| WARD: | Selkirkshire |
| PROPOSAL: | Erection of ticket booth, access gates, and overflow carpark |
| SITE: | Bowhill House Estate, Bowhill, Selkirk |
| APPLICANT: | Buccleuch Estates Limited |
| AGENT: | Buccleuch Estates Limited |

PLANNING PROCESSING AGREEMENT: PPA agreed to 5th September 2022

BACKGROUND: This application has been brought before the Planning and Building Standards Committee under the Council's Scheme of Delegation due to the number of objections from separate households exceeding the approved threshold.

SITE DESCRIPTION

The application site is located in the main entrance drive to Bowhill House, a short distance from the main gates to estate. The house is located approximately 5km west of Selkirk within the Bowhill Estate which forms part of the wider Buccleuch Estate. The house, and the application site, are accessed from the A708 over the Yarrow Water.

This site is located within the Tweed, Etrick and Yarrow Confluences Special Landscape Area, the Bowhill Estate Garden and Designed Landscape and is situated on the edge of the Battle of Philiphaugh Battlefield.

PROPOSED DEVELOPMENT

The application seeks planning consent for the erection of a ticket booth, access gates and formation of overflow carpark. The ticket booth would be located on a small, grassed island at the junction of Duchess's Drive with the principal access serving the house. Multi-use access gates and sliding vehicular gates would be formed either side of the ticket both over the main drive and Duchess's Drive. New entrance and exit points would be formed through existing post and wire field boundaries to serve a new over flow car park in land to the east of the proposed ticket booth.

The booth would be a simple hexagonal structure with pitched lead roof featuring decorative timber eaves detail. It would be finished in larch cladding, painted fir green (RAL 6009), and would feature fixed windows and a stable door with glazed top section.

The proposed timber fence, sliding vehicular gates and multi-use two-way gates will also be painted fir green.

Modest areas of localised road widening would be required and automatic number plate recognition cameras positioned on entrance to and exit from the estate.

The proposed overflow carpark would be finished using a combination of type 1 hardcore and permeable reinforced grass matting to parking spaces.

PLANNING HISTORY

There is no planning history associated with this particular site although the following application is relevant:

15/01448/FUL - Formation of parking areas and footpath - Walled Garden and Stables Bowhill Approved 22 March 2016.

REPRESENTATION SUMMARY

Six third party representations from separate households were submitted in connection with this application. The objections are summarised below but Members can view the representations in full on Public Access:

- Inadequate access
- Out of season access
- Ability to park on drive to Newark Tower would be removed
- Overflow and Out of Hours Parking – gate can remain locked preventing parking and access to the estate outwith normal opening hours
- Scottish Outdoor Access Code – advises land owners not to hinder responsible access to land
- Detrimental to residential amenity
- Legal Issues – impacts on public rights of access
- Road safety
- Access to the estate and many customary paths including the Cross Borders Drove Road, Duchess's Drive and Lady's Walk would be restricted
- Access for the elderly and disabled would be restricted.
- Opportunity to increase estate income at the expense of Borders residents
- Access to the estate on foot should remain free of charge under Open Access Rights
- Bowhill Estate paths are an important local amenity and the proposal would have a significant negative impact on residents ability to enjoy the area
- Access to the existing car park would be impeded
- any changes likely to reduce access to long established walking routes for the public should not be allowed to go ahead
- access for those who use wheelchairs or mobility scooters should not be made difficult
- proposals should allow users to access the estate easily and independently without having to rely on estate staff to open gates for them
- the pedestrian access gates should remain open at all times and not be limited by the general closing hours of the estate
- Issues identified in supporting statement could be managed by closing off informal parking and increasing ranger visibility
- Proposals will adversely affect cyclists, wheelers and horse riders
- Proposed gates are not appropriate for pedestrians or cyclists. Sustrans recommends 'staggered access points'

- Questions whether the proposals meet equality legislation
- Proposals will give clearance for further gates to be erected
- Proposed gates are unnecessary and will deter people from taking access
- Proposals should be conditional on the submission of further designs accounting for best practice advice from Sustrans and ensuring compliance with relevant legislation.

APPLICANTS' SUPPORTING INFORMATION

- Design Statement
- Supporting Statement

DEVELOPMENT PLAN POLICIES:

Scottish Borders Council Local Development Plan 2016

PMD1 – Sustainability

PMD2 – Quality Standards

ED7 – Business, Tourism and Leisure Development in the Countryside

EP1 – International Nature Conservation Sites and Protected Species

EP2 – National Nature Conservation Sites and Protected Species

EP3 – Local Biodiversity

EP5 – Special Landscape Areas

EP7 – Listed Buildings

EP8 – Archaeology

EP10 – Gardens and Designed Landscapes

IS5 – Protection of Access Routes

OTHER PLANNING CONSIDERATIONS:

Historic Environment Scotland Managing Change in the Environment: Gardens and Design Landscapes

Historic Environment Scotland Managing Change in the Environment: Historic Battlefields

Historic Environment Scotland Managing Change in the Environment: Setting

SBC Supplementary Planning Guidance

Landscape and Development (March 2008)

Local Landscape Designations (August 2012)

Placemaking and Design (January 2010)

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: No objections

Access Officer: The officer acknowledges that access to Bowhill Estate has been freely accessible during the open season when visitors entered Bowhill Estate by the ticket booth sited by the adventure playground for recreational purposes and were not using any of the facilities; during the open season when visitors entered the estate by

any other route; and out of season, when visitors entered the estate from the General's Bridge and other roads, utilising the official car park by the house and other informal parking areas. The officer also acknowledges that the visitors to the estate pay during the open season at the ticket booth when they are intending to use the estate facilities such as the adventure playground, visiting the house or joining ranger walks.

The Loch's Walk, the Bell o' the Woods, the Lady's Walk and the Duchess' Drive, are considered promoted paths and were included in the Paths around Selkirk booklet (reprinted by Scottish Borders Council) following discussion with the ranger service. The Cross Borders Drove Road, one of Scotland's Great Trails, comes through the Estate, heading onwards along the drive to Newark Castle.

The access officer advises that, with the exception of entering the Estate by car or entering by other means with the intention of partaking in the facilities, a right of responsible access has been enjoyed around the Estate on the open land. Open land comprises, for example, policy woodlands, woodlands, Estate roads and farmland; this is not an exclusive list of open land.

The access officer is not concerned with the proposed management of motorised vehicle access on to the estate and the prior existence of an entry fee in this regard, nor is she concerned with the management of persons arriving by non-vehicular means who are entering the Estate with the intention of partaking in facilities/activities/events. The pedestrian gate however must be upgraded to a two-way bridle gate that is suitable for horse entrance and wheel users.

It is recommended that the estate considers having a parking fee at a lower cost than a regular entry fee, in a similar way to Forestry and Land Scotland or the Hirsell in Coldstream; a donations box is installed for those who are not obliged to pay an entry fee but may wish to contribute; and an entry ticket could be used to make use of the toilets, therefore, securing the use of these for paying visitors only.

According to the records held by the Council there are no claimed rights of way on this area of land. However, as noted above there are promoted routes and one long distance route that would be affected by this proposal, unless the conditions for access are adhered to.

There are other tracks in the area that the public would have a 'right of responsible access' to under the Land Reform (Scotland) Act 2003. This right also extends to most land and inland water in Scotland.

The access officer recommends that consent is granted subject to condition that the facilitation of non-vehicular users through the currently proposed 'pedestrian gate' will be agreed in writing, including specifications for gate width and type, with Scottish Borders Council before any works can commence on site.

Re-consultation: The revised proposals are acceptable in order to maintain public access to the estate.

Heritage & Design Officer: No reply

Landscape Architect: No reply

Statutory Consultees

Ettrick and Yarrow Community Council: It is the CC's understanding of the proposal that the right to roam and access to walkers, horse riders and cyclists will not be affected, however there are concerns that the proposed pedestrian gates are not suitable for all.

KEY PLANNING ISSUES:

The key planning issues associated with this application are:

- Potential impacts on the setting of listed buildings, including Bowhill House
- Potential impacts on the garden and designed landscape
- Potential impacts on the archaeological interest
- Right of responsible access to the estate

ASSESSMENT OF APPLICATION:

Principle

The principle of the proposed development is acceptable and in accordance with policies covering quality standards and business, tourism and leisure development in the countryside. It will support an existing and established rural estate which provides a range of outdoor activities including walking and hiking, horse riding, and fishing. There is also an adventure playground, café and theatre adjacent to the house. The house, gardens and grounds are open during the holiday season to paying visitors. The estate is also available to non-paying visitors for recreational walking, horse riding and wheeled activities under access legislation.

Access and parking

Members will note that the Roads Planning Service has no objections to the proposed development. The proposed fence and gates over existing private roads within the estate do not raise any concerns from a road safety perspective. Similarly, the principle of a proposed overspill car park does not raise any concerns. All works will be carried out on private land and will not be adopted by the Council.

The proposed parking area and bellmouth junctions will however, lead to minimal disruption to the ground, in an area designated within the inventory of Battlefields (Battle of Philiphaugh). The archaeological implications of the proposed development are discussed later in the report.

Policy IS5 of the Local Development Plan 2016 (LDP) aims to protect all access routes in accordance with the Land Reform (Scotland) Act 2003 and the Countryside (Scotland) Act 1967. Together, these Act place a duty on local authorities to assert, protect and keep open and free from obstruction any route, waterway or other means of access whereby access rights may reasonably be exercised including most open land and rights of way. Development that would have an adverse impact upon an access route available to the public will not be permitted under this policy unless a suitable diversion or appropriate alternative route can be provided.

There are no established rights of way that would be affected by the proposed development, however, the Duchess's Drive, which runs through the site from the General's Bridge is a recognised promoted path – promoted in local guides by the Council and the Estate.

The proposed fence, gates and ticket booth are clearly designed to manage traffic in and out of the estate, particularly during busy periods where there will be a large number of visitors arriving by car. The management of vehicles accessing the estate and the prior existence of an entry fee, where visitors are intending to use the facilities is not a concern. What does raise concern, and this is reflected in the letters of objection and the comments submitted by the Access Officer, is the ability of visitors to exercise their right of responsible access to the estate for recreational purposes (walking, cycling, horse riding etc) out of hours or where visitors do not intend to use the on-site facilities. A right of responsible access has been enjoyed around the estate on the open land (policy woodlands, woodlands, Estate roads, farmland etc) for many years and it is important, to ensure compliance with prevailing LDP policy and access legislation, that this is maintained.

The Access Officer has requested that the pedestrian gates either side of the vehicular gates are upgraded to a two-way bridle gate that is suitable for pedestrian, horse and wheel users. Revised plans have been submitted that show two-way bridle gates with an opening of 1.5m (5 feet) which is wide enough to allow pedestrian, wheeled and horse access.

Concern was also raised by third parties about out of hours access to the estate and parking arrangements, when the ticket booth (and presumably the vehicular gates) are closed. Members of the public exercise their rights of responsible access to the estate when the estate facilities are closed or during the off-season, making use of existing car parking facilities close to the house or along the Duchess's Drive.

In their supporting statement, the applicant has confirmed that there has been a significant increase in the number of visitors to the estate, and the pattern of usage has changed and this has prompted them to make changes to the way in which vehicular traffic to the estate is managed.

It is understood that a number of vehicles park outwith designated parking areas and this damaging to the ground and raises safety concerns for others visiting the estate. At times, this can also block access to emergency vehicle routes.

The supporting statement confirms that the installation of gates, which can be controlled as appropriate at key access points across the estate is recommended. It is considered that the gates installed on Duchess's Drive, will have an immediate positive impact on safety, security and the environment. The statement then goes on to say that "the gate will allow Buccleuch to secure the immediate area around Bowhill House, where the majority of visitors begin their time on the estate and help with parking and traffic flow; guiding visitors to designated parking areas and contributing to the reduction of the inherent risks associated with disruptive parking. Being better able to monitor access will, in turn, lead to increased security and a more enjoyable experience for those visiting, living and working within such a key environmental and historic destination".

Out of hours and out of season access to the estate was discussed with the applicant and they have confirmed that access to the estate for members of the public who wish to exercise their right of responsible access would be maintained. It is not the estate's intention to prevent members of the public accessing the estate for recreational purposes. The intention of the gates and ticket booth is to safely manage traffic numbers and movements within the estate, particularly during the busy peak periods, such as summer and Easter when visitor numbers are much higher.

The proposed overflow car park would continue to allow for out of hours parking to the estate when the main vehicular gates are closed (this is confirmed in the design statement) but concerns have been raised by third parties that the gates to this car park will be locked shut, preventing visitors from parking safely. This concern is shared by officers and a simple planning condition – should the application be approved – requiring these gates to remain open (closed but unlocked) will ensure safe parking arrangements are maintained for out of hours or out of season visitors, when the main gates are closed.

Landscape and visual impacts

The application site is located within the Tweed, Ettrick and Yarrow Confluences Special Landscape Area and Bowhill Estate Garden and Designed Landscape. Policies EP5 and EP10 are relevant. These policies offer protection against inappropriate development that may have significant unacceptable adverse impacts on the landscape or designed landscape.

The proposed ticket booth and fence/gates have been designed sympathetically to the setting and would be appropriate for this location within the designated areas. It would be a small scale development, using appropriate materials and finishes and will not affect the special landscape quality of the SLA or have an adverse impact on the setting of the historic designed landscape.

Design

The proposed development comprises the construction of a ticket booth, access gates, and an overflow carpark, as well as automatic number plate recognition cameras, road widening and new field gates.

The applicants supporting design statement confirms that the proposals are “designed to sit comfortably within the agricultural landscape, retaining existing infrastructure where possible and keeping all new interventions within the current aesthetic”.

The ticket booth, fencing and gates have been designed to complement the estate and historic landscape. They would be small scale structures in comparison to the wider estate and would sit comfortably on approach to the house. The fencing and gates would reflect existing estate fencing and the booth would be sympathetically designed using rolled lead roof and larch cladding. The fencing, gates and booth would all be painted ‘fir green’, which would help minimise any impacts on the landscape. A simple conformity condition will ensure that the development is completed in accordance with the approved plans.

No details have been provided of the proposed ANPR cameras, their supports or the intercoms but this can be controlled by condition.

Other works to form the parking area and new bell-mouths would involve simple materials such as type one hardcore and reinforced grass matting. Both materials are considered acceptable for this location.

Residential Amenity

The proposed development would be sufficiently distant from any residential properties to result in any significantly adverse effect on residential amenity.

Flooding

The application site is located outwith SEPA's predicted flood extents of the Ettrick Water. There are no issues with regards surface water flooding.

Cultural heritage

The proposed development would be located close to a number of listed buildings and structures, including Bowhill House (Category A Listed), the Ice House (Cat C), Generals Bridge (Cat B) and Philiphaugh West Lodge (Cat C). The site is also close to Newark Castle, a medieval tower house.

However, this is a small scale proposal, that is reversible, and will not have an adverse impact on the setting of any of the listed structures or historic environment records nearby. The proposals comply with policy EP7 of the LDP.

Archaeology

There are archaeological implications associated with this application and Policy EP8 is relevant. This policy aims to give protection to scheduled monuments and any other archaeological or historic asset including battlefields. The proposed overspill car park is located within the designated Philiphaugh Battlefield site. The Council's Archaeologist has advised that there may be the possibility of battle related finds being made in this area particularly and damage caused to the area around the hillfort located to the NW of the car park

Whilst the proposed groundworks to form the new access bellmouths and car park are minimal they may need consideration to avoid any scalping, compaction poaching and/or erosion of the hillfort site. In order to avoid any unnecessary adverse impacts on the hillfort, and to ensure that any finds are properly recorded, the Archaeologist has suggested a developer funded battlefield survey be added to any grant of planning permission. This should be informed by an applicant informative to secure metal detecting, recovery and reporting, as well as soil stripping and weathering.

Provided the terms of the proposed condition are met, the development will comply with Policy EP8 and there will be no unacceptable adverse impacts on the site of archaeological interest.

CONCLUSION

Subject to 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 the following conditions and applicant informative:

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Local Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.

2. The external surfaces of the development hereby permitted shall be completed in the materials shown on the plan hereby approved, and no other materials shall be used without the prior written consent of the Local Planning Authority.
Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.
3. Further details of the automatic number plate recognition cameras and supporting structure as well as out of hours intercom units, shall be submitted to and approved in writing by the planning authority before they are installed. The development shall thereafter take place only in strict accordance with the details so approved.
Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.
4. The entrance and exit gates to the overflow car park, shown on drawing number PL002 Rev A, shall remain unlocked at all times, unless otherwise agreed in writing by the planning authority.
Reason: To ensure adequate access is maintained at all times to the overflow car park.
5. No development shall take place until the applicant has secured and implemented a programme of archaeological work and reporting in accordance with a **Written Scheme of Investigation (WSI)** outlining an **Archaeological Battlefield Survey**. The requirements of this are:
 - The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Institute for Archaeologists (IfA) approval of which shall be in writing by the Planning Authority.
 - The developer shall allow sufficient time in advance of development for all archaeological works to be conducted to the satisfaction and written approval of the Planning Authority.
 - The developer shall allow the archaeologist(s) access to all areas where development is to be undertaken.
 - Results will be submitted prior to development to the Planning Authority for review and agreement in writing in the form of a **Battlefield Survey Report**.
 - In the event that the report highlights areas of archaeological potential these will require further targeted evaluation prior to development.
 - If significant archaeology is identified by the contracted archaeologists and in agreement with the Planning Authority, a further scheme of mitigation subject to an amended WSI shall be implemented.
Reason: The site is within an area where ground works may interfere with, or result in the destruction of, battlefield remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

Informatives

1. In relation to Condition 5 above the applicant/developer shall account for the guidance below when completing groundworks required to form the bell-mouth junctions:
 - if anything going below topsoil depths then a systematic metal-detector sweep over would be suitable together with watching for, recovery and reporting of any finds as per the usual law of the land for archaeological finds in Scotland (as per previous Philiphaugh recommendations – the standard wording of the battlefield metal-detecting survey condition below).

- if purely within topsoil depth then an informative for the watching for, recovery and reporting of any finds as per the usual law of the land for archaeological finds in Scotland.

The site should be stripped and left to weather a few days in case any features and/or deposits reveal themselves as the likes of different coloured soils, and if so revealed then excavations/recording might be necessary.

DRAWING NUMBERS

PL001 Location Plan
 PL002 Rev A Detailed Plan
 PL003 Rev A Elevations and Plans

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.

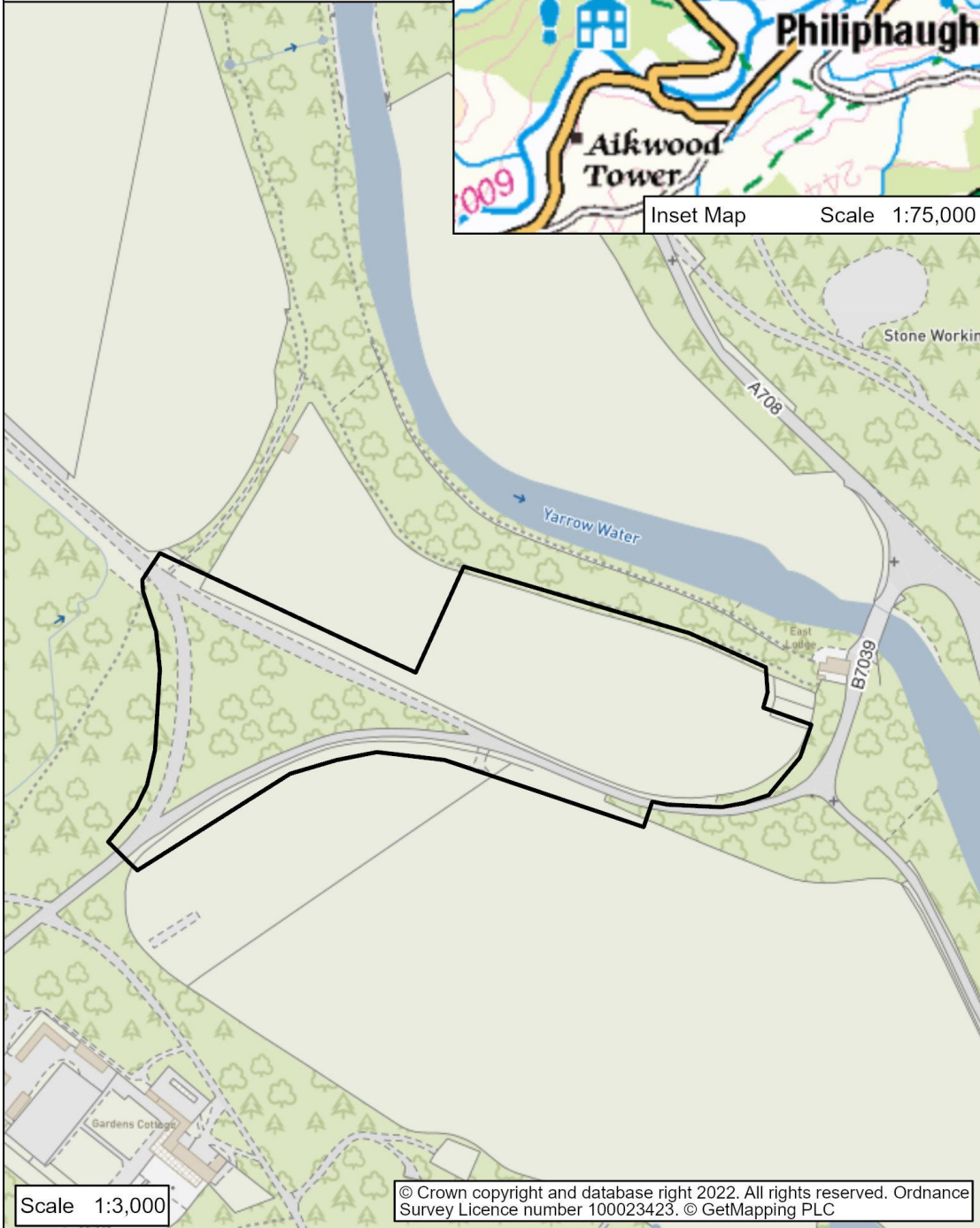
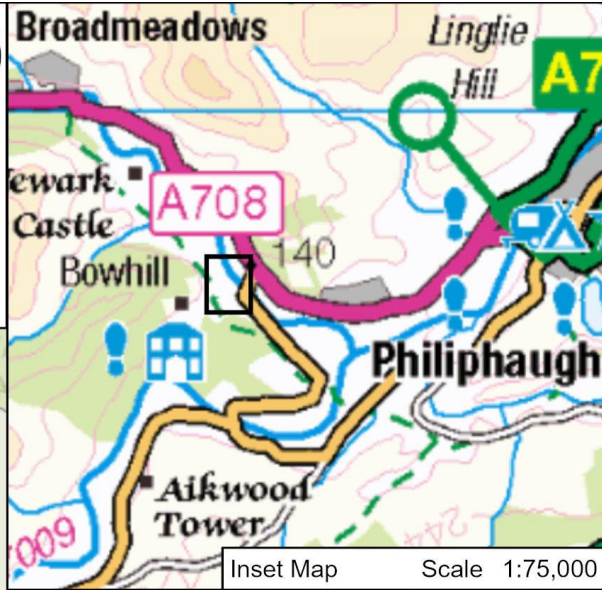
Author(s)

| Name | Designation |
|--------------------|-----------------------|
| Barry Fotheringham | Lead Planning Officer |



22/00372/FUL

Bowhill House Estate
Bowhill
Selkirk



Scale 1:3,000