

SCOTTISH BORDERS COUNCIL

CHEVIOT AREA COMMITTEE

20 SEPTEMBER 2006

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 04/00763/COU
OFFICER:	Frank Bennett
LOCAL MEMBER:	Councillor A Hutton
PROPOSAL:	Change of use of open space to garden ground
SITE:	Hendersyde Avenue, Kelso
APPLICANT:	Chum Kui Kwan
AGENT:	Derek Wichary

SITE AND APPLICATION DESCRIPTION:

The ground which is the subject of the application, is an area of land of some 0.2 acres, between the rear boundaries of properties 65,66,67, 76 and 77 Hendersyde Avenue, and the strip of woodland to the south east within which is a public footpath. The land is part of the housing site allocated in the Roxburgh Local Plan, now developed, and with the houses built and having been occupied now for a number of years. The land that the applicant wishes to have incorporated into the gardens of a number of properties, was shown in the approved layout for the development as retention for public open space and a play area. The area of ground has remained as wasteland until recently, when AWG Property Ltd, to whom the land was transferred by the parent company Morrison Developments, have fulfilled the developers obligation to landscape the site for use as public amenity open space.

PLANNING HISTORY:

The application site area relates to phase 2 of the Hendersyde development submitted by Oregon Homes and approved in November 1997 (ref 97/0788/C).

DEVELOPMENT PLAN POLICIES:

Roxburgh Local Plan 1995

Proposal HSG. 8

The site is allocated for housing development in Kelso during the Local Plan period

Appendix 1 Playspace Standards

Scottish Borders Local Plan: Finalised December 2005

POLICY G1 – QUALITY STANDARDS FOR NEW DEVELOPMENT

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. As a general principle, the Council will encourage full planning applications in preference to outline. The standards which will apply to all development are that:

1. It is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
2. it can be satisfactorily accommodated within the site,
3. 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,
4. it creates developments with a sense of place, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
5. 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 and the incorporation of sustainable construction techniques,
6. 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,
7. it provides open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards and incorporating as a minimum, the National Playing Fields Association "Six Acre Standard". In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
8. it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
9. it provides for linkages with adjoining built up areas including public transport connections and provision for bus laybys, and new paths and cycleways, linking where possible to the existing path network; Green Travel Plans will be encouraged to support more sustainable travel patterns;
10. it provides for Sustainable Urban Drainage Systems where appropriate and their after-care and maintenance,
11. it provides for recycling, re-using and composting waste where appropriate,
12. it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
13. 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,
14. it incorporates, where required, access for those with mobility difficulties,
15. it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on "designing out crime".

Developers may be required to provide design statements, design briefs or landscape plans as appropriate.

POLICY BE6 – PROTECTION OF OPEN SPACE

Open space within the Development Boundary of settlements will be protected from development wherever this can be justified by reference to any of the following:

1. The strategic, local or neighbourhood importance of the open space;
2. The environmental, social or economic value of the open space;
3. The role that the open space plays in defining the landscape and townscape structure and identity of the settlement;
4. The function that the open space serves.

The categories of open space applicable to this policy comprise:

- (a) Functional open spaces including: outdoor sports facilities such as playing fields; play areas; allotments; cemeteries; churchyards; green corridors such as rivers or former railway lines, and
- (b) Amenity open spaces including: parks and gardens; natural green spaces and woodlands; green spaces within residential areas used informally; and civic spaces.

Development that would result in the loss of open space will only be permitted if it can be satisfactorily demonstrated that, based on consultation with user groups and advice from relevant agencies:

1. The loss of the open space is judged to have minimal environmental, social and economic impacts; OR
2. The need for the development is judged to outweigh the need to retain the open space; AND
3. Where appropriate, comparable open space or enhancement of existing open space may be provided and/or paid for by the developer at an alternative location within or immediately adjacent to the settlement where this will provide adequate and acceptable replacement for the open space lost as a result of the development. In some cases, recreational provision in the form of indoor sports facilities may be a suitable alternative provided it is equally accessible and is judged to compensate fully for the loss of the open space resource.

Development that would result in the loss of functional open space where a quantifiable demand can be demonstrated must in addition be justified by reference to:

1. The levels of existing provision and predicted requirements for the settlement;
2. The extent to which current or predicted future demand can be met on a reduced area.

OTHER PLANNING CONSIDERATIONS:

None

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

None

Statutory Consultees

Kelso Community Council -- The proposal to extend the gardens of local residents is supported.

OTHER RESPONSES:

None.

PLANNING ISSUES:

The agent has requested that the application is determined by the Committee

ASSESSMENT OF APPLICATION:

The approved plan for the Hendersyde housing development made provision for public open space, and the application site was one of the areas intended for this purpose. The considerable delays that have occurred in achieving a landscaping of the site have been due to the original developer going into receivership and the site being taken over by another building firm, and the protracted discussions that have taken place between the current owners and the Planning Department.

Landscaping has now been carried out and the area will be managed and maintained as public open space. A change of use of the land to garden ground is considered inappropriate now that the area is to be public open space. It is understood that the owner of the land is not willing to sell the land to the applicant or other house owners.

It is considered that it would be detrimental to the amenities of the housing development to see the loss of this open amenity area.

RECOMMENDATION BY THE HEAD OF PLANNING AND BUILDING STANDARDS:

I recommend that the application be refused for the following reason:

The proposal would be contrary to Policies G1 and BE6 contained in the Scottish Borders Local Plan: Finalised December 2005 in that the incorporation of the site into the private garden of the applicant and the adjoining residents would result in the loss of valuable public open space to the detriment of the amenity and appearance of the locality.

*Original copy of report signed by
BRIAN FRATER (Head of Development
Control)*

04/00763/COU



Site At Open Space
Hendersyde Avenue
Kelso



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