From: Clarke, Carlos
Sent:3 Aug 2022 13:33:21 +0100
To: Ross Martin
Cc:PJ Lewis
Subject:RE: FW: [OFFICIAL] RE: Application Ref: 21/01618/FUL - Erection of dwellinghouse, Land South West of Castleside Cottage, Ashkirk, Selkirk

Ross

I appreciate your point about Building Standards and English legislation, but neither supersede BRE or our own policy guidance. I will review the extent of impact, and if a condition were deemed to be feasible to address the matter I will address that in my recommendation. Ordinarily though, disproving any concern that a breach of the 25 degree line is determinative would involve an assessment of the vertical sky component.

I will proceed to have the application determined based on your attached submission, including roads input who have since confirmed they accept the parking dimensions.

I will discuss the advert fee with our registration officer and get back to you should this remain an issue preventing a decision being issued.

Regards,

Carlos Clarke

Team Leader

Development Management

Regulatory Services

Scottish Borders Council

Tel: 01835 826735

Email: cgclarke@scotborders.gov.uk

From: Ross Martin <rmarchitecture4@gmail.com>
Sent: 02 August 2022 08:22
To: Clarke, Carlos <CGClarke@scotborders.gov.uk>
Cc: PJ Lewis [redacted]
Subject: Re: FW: [OFFICIAL] RE: Application Ref: 21/01618/FUL - Erection of dwellinghouse, Land South West of Castleside Cottage, Ashkirk, Selkirk

CAUTION: External Email

Carlos,

Thanks for your reply.

I note what you say about dealing with astragals as a condition should it be material.

The shadow path analysis has been updated to confirm the date of the data used to calculate the shadow path together with a sun-on-ground-indicator in the neighbouring garden which demonstrates that the rear garden received at least 2 hours of natural sunlight on this particular day.

Regarding the challenge to daylight and sunlight, I'd point out that as you know, SBC/BRE guidance is at odds with the advice contained in the Scottish Building Standards and GPDO (England) which do not recognise a Kitchen as a habitable room unless it includes a dining provision, but in any event the following calculations show that the reduction is minor and immaterial. The attached and updated daylighting assessment shows that there is a modest impingement of the proposed building when reviewed against the vertical assessment (deficient by 7 degrees) , but also demonstrates that both windows are in excess of the required standard for the horizontal assessment (in excess by at least 15.5 degrees).

So even with the implied reduction on the vertical assessment, on balance there is sufficient daylight should the SBC guidance be applied as if it was regulation. Should you not be in agreement with this view on the matter there are other means by which natural light can be introduced into this room that will compensate for the perceived loss of light (additional/replacement window(s) in front/rear wall or roof) and we assume that this could be addressed by a suitable condition?

I have also attached an updated site plan with additional dimensions as requested by the Roads Department.

Regarding the outstanding £80 advert fee for the newspaper advertisement, this has never been raised before, probably because there is no requirement for an advertisement since the applicant owns all the land within 90m of the site. It's unfortunate if SBC has incurred this cost (more likely, a proportion of the cost as the advertisement would be consolidated with others) but had it been proposed we could have confirmed there was no need.

Trusting you will find this to be in order. However, should you require any further information please do not hesitate to contact me.

Kind regards

Ross

On Fri, Jul 29, 2022 at 1:28 PM Clarke, Carlos <CGClarke@scotborders.gov.uk> wrote:

Ross

Further to my email below I intend to proceed to a determination on the application as previously advised, though the outstanding advert fee will prevent a decision notice actually being issued.

In the meantime, Roads have advised me today that they cannot confirm agreement to the revised parking plan on 21-001/SD/002G without dimensions on it to ensure it can work as planned. Can you provide basic dimensions for this element please?

Thank you

Carlos Clarke

Team Leader

Development Management

Regulatory Services

Scottish Borders Council

Tel: 01835 826735

Email: cgclarke@scotborders.gov.uk

From: Clarke, Carlos
Sent: 12 July 2022 14:06
To: Ross Martin <rmarchitecture4@gmail.com>
Cc: PJ Lewis [redacted]
Subject: RE: [OFFICIAL] RE: Application Ref: 21/01618/FUL - Erection of dwellinghouse, Land South West of Castleside Cottage, Ashkirk, Selkirk

Ross

In response to your email below, I confirm that the application will be determined based on the current design, and your revised positioning, by 8th August.

I note your comment regarding astragals. If that is a determinative factor (though I don't expect it will be) it will be addressed by planning condition.

Thank you for confirming the extent of windows to the rear, though I can't agree that a kitchen is not a habitable window, since both our SPG on privacy and daylight, and BRE guidance (Site Layout Planning for Daylight and Sunlight) do refer to kitchens as being habitable/principal rooms within which daylight is required. I also note the shadow plan's date is not confirmed, and I require that to determine its significance in assessing garden shading.

If you wish to respond to the above, please do so by 1st August. I shall, in any case, proceed to determine the application by the 8th, and assume this timescale is agreeable as a processing agreement. I would be unable, due to current workload, to determine it any earlier.

Please note that there is an outstanding £80 advert fee for the newspaper advertisement for this application, and a decision will not be issued without this having been paid. Please contact Laura Tait or Bruce Murray in our registration team to arrange payment.

Regards,

Carlos Clarke

Team Leader

Development Management

Regulatory Services

Scottish Borders Council

Tel: 01835 826735

Email: cgclarke@scotborders.gov.uk

From: Ross Martin <rmarchitecture4@gmail.com>
Sent: 06 July 2022 11:13
To: Clarke, Carlos <CGClarke@scotborders.gov.uk>
Cc: PJ Lewis [redacted]

Subject: Re: [OFFICIAL] RE: Application Ref: 21/01618/FUL - Erection of dwellinghouse, Land South West of Castleside Cottage, Ashkirk, Selkirk

CAUTION: External Email

Carlos,

Thank you for your reply to our points on 13th June 2022. I'd like to make the following points to address yours:

I accept neither Roads or flooding consultees or Brett asked directly for the building to be re-orientated; we 'elected to re-orientate the proposed house so the gable end faces the public road' as a consequence of the Roads and Brett seeking positive responses to consultation:

- Roads expressed a preference for access to be moved to the current location and Brett invited us to respond to that. In order to do so positively we relocated the access and consequently re-orientated and repositioned the building in order to accommodate this i.e. allow the access to serve the building without disproportionate hard standing. For the same reason the site boundary was extended in order to accommodate, in anticipation, the Roads department for turning in order to exit the site facing forward (as you now know the applicant owns all the adjoining land), although you will see we propose a further revision (attached), which moves the building a little further away from the cottage so avoiding the need for this extension of the site.

- Brett expressed concerns about the finish and fenestration but, as previously explained, said 'we could do what we liked with the non-road facing elevations'. Our reasonable interpretation was that we could retain the desired finish and fenestration on those elevations. I note you place a different interpretation on what he meant, but it does not change the fact that the re-orientation was a response to Brett's comments as we understood them. So we re-orientated the building in order to retain the client's desire on the non-road facing elevations and amended the road facing elevation substantially to produce a solution which we hoped was acceptable eg using the elevation with the least fenestration to face the road with an amended finish which has been considered acceptable elsewhere on the extended site. As the building is now proposed, the only elevation with significant visibility from the road has only one widow. In an effort to compromise further, if it persuades you, my client would be prepared to add astragals to this window, albeit reluctantly as we feel it undermines the overall design.

We did directly address Brett's concerns regarding the finish and fenestration: we explicitly stated that we were unwilling to change, except in the case of the road facing elevation which was amended, whilst accepting that this general lack of change might lead to refusal. This is a perfectly reasonable response even if not a positive one from your department's view.

When I said 'In sum, prior to you assuming the planning lead, bar formal notification the consultation process was complete and the application was ready to move to a decision' it was in the context of:

- Apart from finish and fenestration, consultees' requirements having been addressed.
- A clear statement that we would not amend the finish and fenestration as Brett sought, acknowledging the likely consequence.

My point is that there is nothing more to be done prior to you moving to a decision and we're grateful for your agreement to do so, whatever that might be.

I'm sorry if my choice of the word 'assuming' incorrectly implied you were not involved prior to Brett's departure; I simply meant we had not dealt directly with you on this application until that point.

We did remind Brett of the ownership of all properties when his Notification list was published on the portal, as well as querying the rather wider than usual range i.e. beyond immediate neighbours. It was agreed with him that rather than withdraw the Notifications, we could just see what came back (which we understand is nothing, appropriately).

Turning to the amenity information you require, having checked, the south facing windows of the cottage serve a non-habitable kitchen so a daylighting assessment is not actually required and we have now omitted this from the attached shadow path assessment. We have however made the decision to position the re-orientated house a further metre away from the existing Cottage which is reflected on the attached amended drawings. I confirm the one window shown to the rear of the cottage is the only one.

Lastly, I note your appeal for your pragmatism to be reciprocated. We have tried to do so eg the re-orientation to accommodate Roads. But the changes of the finish and fenestration you seek would, in the view of my client, completely undermine the type of house he wishes to create. We believe that the type of finish you suggest would create pastiche AND fail to take advantage of modern building techniques such as solar gain from large windows. Possibly it also could make the building unbuild-ably expensive. I'm grateful for you acknowledgement that the applicant is seeking to achieve an agricultural aesthetic: we argue that when viewed in the context of whole site, as per our contextual elevation and planning statement, this aesthetic is far more true to the site, acknowledging the evolution of housing and avoiding the worst type of aping of historic style whilst still incorporating some sympathetic style cues eg timber cladding echoing other buildings on the site. As you know, houses are not and should not be all the same.

Kind regards

Ross

On Tue, Jun 14, 2022 at 1:36 PM Clarke, Carlos <CGClarke@scotborders.gov.uk> wrote:

Ross

My responses are in red below, for ease of reference against your comments.

Regards,

Carlos Clarke

Team Leader

Development Management

Regulatory Services

Scottish Borders Council

Tel: 01835 826735

Email: cgclarke@scotborders.gov.uk

From: Ross Martin <rmarchitecture4@gmail.com>
Sent: 13 June 2022 16:22
To: Clarke, Carlos <CGClarke@scotborders.gov.uk>
Cc: PJ Lewis [redacted] Hayward, John <JHayward1@scotborders.gov.uk>
Subject: Re: [OFFICIAL] RE: Application Ref: 21/01618/FUL - Erection of dwellinghouse, Land South West of Castleside Cottage, Ashkirk, Selkirk

CAUTION: External Email

Dear Carlos,

I refer to the above noted application and previous correspondence. I have now been able to discuss the matter in more detail with the applicant and, responding to your email of 09/06/22, we wish to **set out why we consider the application should be decided by yourself now.**

Situation prior to you assuming the planning lead

The adaptation of the proposal, including the re-orientation of the building is entirely in response to comments on the initial design proposals by Brett and the consultees, exclusively the Roads and Flood Risk Department. Generally there were very few responses to consultation as you might expect given the applicant owns all of the adjacent buildings and land for some distance. It included Brett telling us by way of a telephone discussion on 10/02/22 that while he had concerns with the road facing elevation, we could do 'what we liked' with the elevations which didn't face the road.

So the adjustments, including re-orientation, have been entirely in response to, and to deal with, that advice and requirements. I don't imagine you want to penalise us for responding to consultation, which insisting on a new application would do.

- Brett Taylor asked for you to respond to flooding and roads consultees, neither of whom asked for the building to be re-orientated.

- Brett Taylor did not ask for the building to be re-orientated either. He advised in his email of 4th February "*I would be looking for a more traditional window fenestration on the front elevation with a change in the materials to render/stone with a natural slate roof".*

- Your response has been to re-orientate the building, move it closer to the existing cottage, and extend the site boundary several metres towards and behind the existing cottage. You stated in your email of 4th April "*we have elected to re-orientate the proposed house so the gable end faces the public road*". Based on the recorded correspondence, the decision to change the site boundary and move and re-orientate the house was your decision, not a request by Brett Taylor

- I note too that, simply re-orientating the building did not address the fenestration issue – the fact the front elevation is now called the side elevation, despite this being clearly visible from the road and fronting the garden, does not address the fenestration issue. If Brett Taylor only had concerns with the fenestration to the front initially, it was because he considered the gable elevations to be of secondary importance in that context. The fact you have now turned the building, does not actually address the issue of the suitability of the fenestration now being exposed to public view on those "side" elevations.

The two external responses have been dealt with to their satisfaction:

- Paul Grigor from the Roads Department has advised me that is now happy with the amended proposals for the means of access and vehicular turning and has removed his objection. I understand that Paul had already conveyed this to Brett in writing but this had not been uploaded to the Planning Portal as yet.
- As noted in my email of 09/06/22, Ian Chalmers from the Infrastructure & Environment Department has confirmed to me he is now content following a correction in drawings confirming the proposed finished floor level. I understand he will formally confirm that to you shortly.

So the only remaining issue raised by Brett was the finish of the elevation facing the road. In response, we have adapted this to echo the finish of previously approved buildings in the group.

I also explained to Brett that should he be minded to refuse the application even after the revision to the finish, my client would refer it to the Review Committee.

You consider the only issue is the "finish of the elevation facing the road". However, your response did not directly address his initial comments satisfactorily by simply re-orientating the building as he advised in his email of 5th May, in which he maintained his request for a slate roof and render/stone for the walls, and that the window fenestration should be more traditional in proportions to reflect neighbouring properties.

In sum, prior to you assuming the planning lead, bar formal notification **the consultation process was complete and the application was ready to move to a decision**.

That is quite evidently not the case given Brett Taylor's email of 5th May. He was the case officer at the time, and I discussed the application with him (as I did with all his caseload at regular intervals). However, I had not 'assumed' the lead on the application at that time and, until he left the Council, have had no direct involvement in its handling.

Situation post you assuming the planning lead

First we should make clear that we respect entirely your right to differ from your predecessor so long as we are not unreasonably penalised.

You have decided to take a different approach:

- You raised a concern with regard to potential privacy and daylighting issues as a result of the re-orientation of the proposed house. In response to this I have attached a copy of our assessment which demonstrates compliance with the relevant supplementary planning guidance. I did not raise this matter. Brett Taylor did in his email of 5th May. I discussed the application with him prior to his email, but his advice to you was from him to you as case officer.
- You insist on a rendered finish with a slate roof and therefore should we proceed with the application as it currently is made, you are minded to refuse it. This is the same situation as with Brett and my client's response is the same: refuse and move to the Review Committee. I concur with Brett Taylor on the matter. Your response to external materials does not adequately account for the predominance of slate (all buildings here are slate roofed); stone and render (all are so finished, with timber being a minor element overall). Instead you propose fibre cement sheeting for virtually the entire building, despite there being no visual context to support it. The fact the applicant is seeking to achieve an agricultural aesthetic is appreciated but, as I stated in our phone call following Brett Taylor's departure, I disagree with that approach, as did Brett Taylor, as it does not relate to the sense of place and character of the existing building group. The choice of materials, combined with the fenestration of the publicly visible elevations of your proposal, are not sympathetic to the context.

You have intimated that the re-orientation of the house would require a fresh application, despite it being a positive response to consultees' comments. We are very concerned that since the application process has been completed i.e. all issues either have been addressed or will not reach agreement, there is nothing to gain by withdrawing the present application & submitting a new application. It would simply

delay the same planning outcome. We have now prepared and submitted all of the information you require to determine this application now. Not to do so would unreasonably be to the detriment of my client since it would serve no purpose at all and involve my client in pointless cost and all consultees in nugatory work.

As I say, you chose to extend the site boundary, move and re-orientate the house closer to the adjacent house. This level of amendment involves renotification of neighbours, and a fresh examination of the proposal from our perspective. That should be via a fresh planning application. I now note (and only now am aware of this having now reviewed the file in detail), that the applicant owns the neighbouring property (albeit we notified this property as a 'neighbour'). I understand too the applicant owns all other properties here. That being the case, and for that reason alone, I will proceed to have the application determined as is. I do not consider the outcome will be positive on design grounds, however.

I would add that I have not reviewed your amenity information in detail, but I would flag up initially:

- Your shadow plans have no date. Please confirm these are for March 21 or resubmit for that date.

- I assume the one window you have shown to the rear of the cottage is the only habitable window on that elevation and there are no others

- You have indicated a 45 degree vertical line from the facing south elevation windows of the cottage at cill level. However, as the proposal is directly facing these windows, the line is a 25 degree requirement, taken from the centre point. If this is breached, then both daylight and sunlight are at material risk of being undermined for the room lit by those windows.

So we invite you to reconsider your position and take the pragmatic approach of determining the present application on the basis of the amended design proposals in the knowledge that all other aspects having been suitably addressed, my client is prepared for your refusal on the grounds of finish.

I will approach the matter pragmatically given the ownership of the adjacent properties and proceed to determine the application, based on design concerns and material specifications. I will, however, require your response to the amenity matters noted above and will confirm an intended determination date following receipt of this information. Nonetheless, I would recommend again that the applicant reconsider the design and material specifications for this proposal, with a view to responding pragmatically to our request so the outcome can be a positive one.

Trusting you will find this to be in order and look forward to hearing back from you at your next convenience.

Kind regards

Ross

On Thu, Jun 9, 2022 at 11:05 AM Clarke, Carlos <CGClarke@scotborders.gov.uk> wrote:

Ross

Notwithstanding your direct consultation with Ian, as I have previously advised, this application will not be progressed based on your revised siting and layout. I can only progress assessment of your revised proposal via a fresh planning application, during which this service will carry out any necessary consultations.

Regards,

Carlos Clarke

Team Leader

Development Management

Regulatory Services

Scottish Borders Council

Tel: 01835 826735

Email: cgclarke@scotborders.gov.uk

From: Ross Martin <rmarchitecture4@gmail.com>
Sent: 09 June 2022 10:51
To: Chalmers, Ian <Ian.Chalmers@scotborders.gov.uk>
Cc: Clarke, Carlos <CGClarke@scotborders.gov.uk>; PJ Lewis [redacted]

Subject: Application Ref: 21/01618/FUL - Erection of dwellinghouse, Land South West of Castleside Cottage, Ashkirk, Selkirk

CAUTION: External Email

Dear Ian,

Further to our telephone conversation of 07/06/22 I have attached a copy of the updated site plan & contextual elevation that you were able to view on the planning portal. These were amended in response to the initial comments made by your colleague Raphaela Diesel on 22/12/21. I have extracted the following excerpt from my response email to Brett Taylor dated 04/04/22 which accompanied the amended site plan & contextual elevation, but as discussed, did not seem to have reached your colleague:-

Floods Risk Consultation

The flood level indicated on our initial submission drawing was noted as indicative and reflected the advice that formed the basis of the approval (ref: 11/00213/FUL) for the conversion of the existing steading buildings to residential use. This was noted on the site flood sections and levels drawing dated 04/05/11 which confirmed the flood level to be 185.454. Our initial submission had indicated that the minimum proposed floor level would be at least 186.054, by allowing for an additional 0.6m freeboard on this level. However, I can confirm that the levels have been checked within the application site which is elevated sufficiently to achieve the 183.600 or 400mm above the existing roads level desired.

Trusting that on the basis of our discussions you were happy that the desired floor level had now been achieved, the attached information will now allow you to respond favourably to the incoming Planning Case Officer Carlos Clarke. I would also be grateful if you could advise me when this consultation has taken place and when the response is available to view on the planning portal.

--

Kind Regards

Ross Martin

Bloomfield

Heatherlie Park

Selkirk

TD7 5AL

01750 21709

07745 379257

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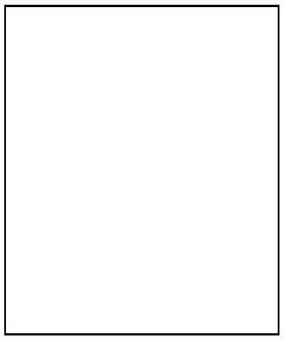

Winner - Individual House or Small Development of the Year

Finalist - Property Team of the Year

Finalist - Small Private Development of the Year

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Kind Regards

Ross Martin

Bloomfield

Heatherlie Park

Selkirk

TD7 5AL

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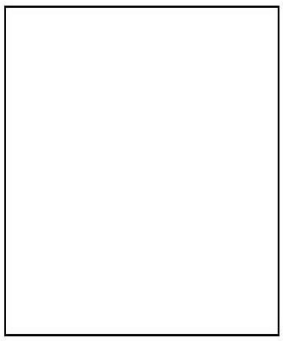
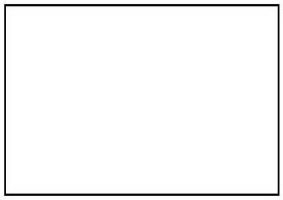


Winner - Individual House or Small Development of the Year

Finalist - Property Team of the Year



Finalist - Small Private Development of the Year

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Kind Regards

Ross Martin

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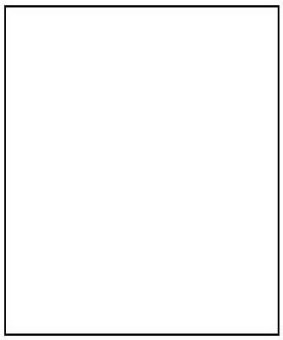

Winner - Individual House or Small Development of the Year

Finalist - Property Team of the Year

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Kind Regards

Ross Martin

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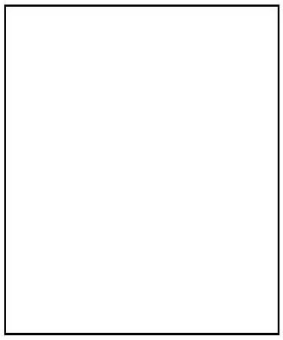

Winner - Individual House or Small Development of the Year

Finalist - Property Team of the Year

Finalist - Small Private Development of the Year