

**SCOTTISH BORDERS COUNCIL**

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

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 09/00191/FUL  
**APPLICANT :** C & V Developments Ltd  
**AGENT :** Stuart Davidson Architecture  
**DEVELOPMENT :** Erection of two dwellinghouses  
**LOCATION:** Land North East Of Edington Mill  
Chirnside  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
CV-EN-SK4 REV A	Proposed Elevations	Approved
CV-EN-SK3 REV A	Proposed Plans	Approved
CV-EN-SK3	Proposed Sections	Approved
CV-EN-SK2 REV A	Proposed Elevations	Approved
CV-EN-SK1 REV A	Proposed Plans	Approved
CV-EN-LOC	Location Plan	Approved
CV-EH-SK2 REV A	Proposed Site Plan	Approved

**NUMBER OF REPRESENTATIONS: 2**

**SUMMARY OF REPRESENTATIONS:**

**PLANNING CONSIDERATIONS AND POLICIES:**

**Recommendation by** - Paul Duncan (Assistant Planning Officer) on 21st April 2009

SCOTTISH BORDERS COUNCIL

BERWICKSHIRE AREA COMMITTEE

28th April 2009

APPLICATION FOR PLANNING PERMISSION

**ITEM:** REFERENCE NUMBER: 09/00191/FUL

**OFFICER:** J Hiscox

WARD: East Berwickshire  
PROPOSAL: Erection of two dwellinghouses  
SITE: Land north of Edington Mill, Chirnside  
APPLICANT: C & V Developments Ltd  
AGENT: Sidney Palmer

#### SITE DESCRIPTION:

The application site is situated in the vicinity of the building group known as Edington Mill, approximately 2km south-east of Chirnside village. The group is accessed from the A6105 via an unclassified public road. The distance from the A6105 to the site is approximately 1.2km, north to south.

Edington Mill as it stands rose from the ashes of a sizeable milling business which ceased in the late stages of the 20th Century. The steading and mill have been converted to dwellings; a number of new-build dwellings have been introduced; existing houses have been adapted or refurbished.

The application site, which is unusual in that it is set into the clifftop above the River Whiteadder, lies to the east of the group. It includes a detached storage building and other structures. It is the intention, as will be shown in the next section, to work with the top and face of the slope.

In plan form, the site is irregular in shape; its western edge meets the unclassified public road and is aligned with it; its northern boundary is shared with an area of ground which was previously developed and is now used for rough storage; to the east is open ground and to the south is the cliff and riverbank associated with the river.

#### PROPOSED DEVELOPMENT:

Two dwellings would be built in a contemporary manner at the top of the cliff, wrapping over the land and projecting southwards. The drawings clearly show the design and visual impact of the development, which would comprise two detached dwellings, both having primary accommodation looking towards the landscape to the south.

A new access would be formed off the public road to the west, and new tree planting would occur, to supplement existing vegetation in and around the site.

#### PLANNING HISTORY:

In and around the building cluster at Edington Mill are more than twenty dwellings arising from new-build, original dwellings and conversions. Various planning decisions have taken place, including refusals.

At/adjacent to the site specifically, and of clear relevance to the current application, are the following determinations;

03/02024/OUT – Erection of 4 no. office suites, refused on 7th June 2004 and dismissed at appeal on 23 November 2004. N.B. relates to site adjoining to the north, not the current site.

01/00792/OUT – Erection of four dwellinghouses, refused on 8th October 2001 and dismissed at appeal on 17 October 2002. N.B. relates to site adjoining to the north, not the current site.

It should be noted that a significant level of pre-application dialogue has taken place in respect of the current proposal, including referral to internal consultees.

#### REPRESENTATION SUMMARY:

Three letters of representation have been received in respect of this application, all of which are stated objections. A summary of the issues raised in objection would be as follows:

- existing road network is insufficient to accommodate additional traffic;
- potential adverse impact on pedestrian safety caused by additional traffic;
- additional traffic would increase level of damage caused to verges and road surface;

- current illegal use of weighbridge as informal passing place conflicts with operations at existing farm business centre.

#### APPLICANTS' SUPPORTING INFORMATION:

A detailed Design and Access Statement has been submitted with the planning application, by Box 22, dated February 2009. A summary of the key information contained within it would be as follows:

- philosophy behind the development described: contemporary and energy efficient design with renewable materials proposed;
- perceived compatibility with information contained within SBC consultation responses at pre-application stage;
- relationship of the proposed development with existing development in the locale;
- relationship of the development with the local landscape/vegetation;
- issues of vehicle and pedestrian access.

#### CONSULTATION RESPONSES:

##### Scottish Borders Council Consultees:

Director of Education and Lifelong Learning: Development Contributions required towards local primary and high schools, for both dwellings in the event of planning permission being granted.

Director of Technical Services (Road User Manager): No objection to the principle, but requiring specific access construction, visibility splays and permanent parking within the curtilage, if planning permission is granted.

Director of Technical Services (Environmental Health): Likely to be site/ground contamination; condition recommended if planning permission is granted.

##### Statutory Consultees:

Chirnside Community Council: Object to the proposal on two issues, that of inappropriate design (out of keeping with other properties in the area) and the inadequacy of the approach road.

It should be noted that the Scottish Environmental Protection Agency (SEPA) was consulted at pre-application stage. No issues were raised in respect of this application site. The proposal would not be of a level and nature that would require it to be referred to SEPA under normal consultation procedure.

##### Other Consultees:

None.

#### DEVELOPMENT PLAN POLICIES:

##### Scottish Borders Structure Plan 2001-2011:

Policy N20 – Design  
Policy H5 – New Housing in the Borders Countryside – Building Groups  
Policy I11 – Parking Provision in New Development  
Policy I18 – Contaminated Land  
Policy I21 – Small Scale Renewable Technologies

##### Scottish Borders Local Plan: September 2008:

Policy G1 – Quality Standards for New Development  
Policy G2 – Contaminated Land  
Policy G5 – Developer Contributions  
Policy Inf4 – Parking Provision and Standards  
Policy D2 – Housing in the Countryside

## OTHER PLANNING CONSIDERATIONS:

### Supplementary Planning Guidance:

- Developer Contributions (updated April 2008)
- New Housing in the Borders Countryside (December 2008)
- Renewable Energy (March 2007)

### KEY PLANNING ISSUES:

- whether the principle of the development is acceptable in this location, having regard to land use policy principles only and to previous appeal decisions on the adjacent site;
- if the land-use policy principle is acceptable, whether there are any technical difficulties which would preclude support of the development principle;
- whether the design and layout of the development would be compatible with the local environment;
- whether any issues raised in representation would influence the planning position.

## ASSESSMENT OF APPLICATION:

### Land Use Policy Principle:

It is accepted that a building group exists at Edington Mill. It consists of a variety of developments and spaces, includes a section of the River Whiteadder and is unique in terms of its setting, nature and evolution, in this part of the Borders.

The site is peripheral to the building group but is nonetheless within it. The historic Mill use included ground to the north of it, which was integral to the running of the commercial enterprise. Defining a 'sense of place' for Edington Mill would be an onerous task; eclectic would perhaps be an appropriate description of the development to date but it is clear that the development site lies within the overall envelope of the group.

However, in terms of the unusual setting and history and the level of development that has already taken place, the detailed development now applied for is considered to be compatible in terms of scale (proportionate to existing development) and in terms of design and layout. Indeed, the energy efficient and contemporary approach is consistent with the Council's policy approach relating to good quality new development. It is consistent with the principles within the adopted Supplementary Planning Guidance for rural housing, mentioned above (2008).

On its merits, therefore, the development is considered to be consistent with land use policy within the Structure and Local Plans.

### Significance of Previous Appeal Decisions:

It should be noted that the appeal decisions both relate to the land to the north of the site, and not this site. The proposals are substantially different on this occasion and on this site. Furthermore, Local Plan Policy has been updated following the superseding of the 1994 Berwickshire Local Plan, which was the core policy document in operation at that time.

The main thrust of the most relevant appeal decision, in relation to the four houses, was that the site would not relate well to the building group at Edington Mill, and that the visual impact of the development would be undesirable. It is not difficult to see why such a view was taken by Scottish Ministers at the time, with the bulk of that site being prominent on land above the building group. However, the same view is not taken with the current application site, which for reasons mentioned earlier, is considered to be compatible with Edington Mill and its setting.

### Design and Appearance:

The contemporary design and energy efficiency philosophy are welcomed. The appearance of the development is considered to be innovative, dealing with the unusual shape of the land in a constructive way. The result is a pleasing development with high quality design characteristics. The policy framework

within which the Council operates allows for good quality contemporary design and it is contended that the current proposals meet this aspiration.

#### Landscape Impact:

The local landscape is capable of accommodating this development without any significant wider impact occurring. It would help to assimilate the development into the landscape, which is well contained by local topography. Edington Mill is a secluded building group, only seen by visiting the place; it is not served by a through road, so the public do not tend to see the setting unless they have the purpose of visiting Edington Mill.

Nevertheless, due to the design and appearance of the proposed development, it is considered that the houses will be well integrated into the landscape and be consistent with the local landscape setting.

#### Road Safety:

All objections refer to this matter, including that of the Community Council. Concerns arise due to the narrowness of the access road and the level of usage already occurring.

The addition of two dwellings would not give rise to a disproportionate increase in the amount of traffic coming to and from Edington Mill. The Council's road safety specialist acknowledges this in a positive consultation response. Furthermore, the addition of 2 no. passing places in the stretch of road between the A6105 and the application site will benefit not only site users, but visitors and residents of the building group generally. The applicant is aware of this requirement, is willing and has the ability to implement the passing places as specified by the Director of Technical Services.

#### CONCLUSION:

The application shows a development which conforms with rural housing policy, can be served by a safe vehicular access and which is considered to be a good example of how contemporary, energy efficient development can be positively introduced into rural locations.

There are no planning issues arising from internal consultations that cannot be addressed through planning conditions; the road safety and design concerns raised in objection do not outweigh the acceptability of the scheme. Approval is therefore recommended.

#### RECOMMENDATION BY HEAD OF PLANNING AND BUILDING STANDARDS:

I recommend the application is approved subject to a legal agreement addressing contribution towards local schooling and off-site affordable housing, and the following conditions:

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 A sample of all materials to be used on all exterior surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before development.

Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

3 No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority.

Details of the scheme shall include (as appropriate):

- (i) existing and finished ground levels in relation to a fixed datum preferably ordnance
- (ii) existing landscaping features and vegetation to be retained and, in the case of damage, restored
- (iii) location and design, including materials, of walls, fences and gates
- (iv) soft and hard landscaping works
- (v) existing and proposed services such as cables, pipelines, sub-stations
- (vi) other artefacts and structures such as street furniture, play equipment
- (vii) A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

4 Details of all proposed means of enclosure shall be submitted to and approved in writing by the Local Planning Authority before work on the site is commenced.

Reason: To enable the proper effective assimilation of the development into its wider surroundings.

5 Before any part of the development hereby permitted is commenced detailed drawings showing which trees are to be retained on the site shall be submitted to, and be approved in writing by the Local Planning Authority, and none of the trees so shown shall be felled, thinned, lopped, topped, lifted or disturbed without the prior written consent of the Local Planning Authority.

Reason: To enable the proper effective assimilation of the development into its wider surroundings, and to ensure that those existing tree(s) representing an important visual feature are retained and maintained.

6 Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.

7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent Order amending, revoking or re-enacting that Order);

(i) There shall be no addition or extension to the dwellings (including the insertion of dormer windows or chimneys);

(ii) There shall be no further building, structure or other enclosure constructed or placed on the site;

(iii) No additional window or other opening shall be made in any elevation;

unless an application for planning permission in that behalf has first been submitted to and approved by the Local Planning Authority.

Reason: To safeguard the character, appearance and setting of the development that will be established at this site.

8 Prior to any development commencing on site, a scheme will be submitted by the Developer to identify and assess potential contamination on site. No construction work shall commence until such scheme has been submitted to, and approved, by the Council, and is thereafter implemented to like satisfaction. The scheme shall contain details of proposals to investigate and remediate potential contamination and must include:-

a) A desk study and development of a conceptual site model, measurement of pollutant linkages through a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents. The scope and method of this investigation to be agreed in advance with the Council, and be undertaken in accordance with PAN 33 (2000) and BS10175:2001.

b) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).

c) Submission of a Validation Report (should remedial action be required) by the competent person employed by the developer who will validate and verify the completion of works to a satisfactory standard as agreed with the Council.

d) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: The site is potentially contaminated, therefore a suitable investigation and mitigation should be considered to avoid harm to health of any site users.

9 The following requirements shall be fully undertaken prior to the occupation of any new dwelling built as a result of this planning permission:

(i) The approved access must be 5.5 metres wide over the first 7.5 metres, formed with 6 metre radii and constructed to the following specification '40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.'

(ii) Visibility splays of 2.4 by 90 metres to the north and 2.4 by 70 metres to the south onto the public road must be provided and retained in perpetuity.

(iii) Parking and turning for two vehicles, not including garages, within the curtilage of the plot shall be provided and retained in perpetuity.

(iv) 2 no. passing places, in a location and of a specification to be agreed by the Director of Technical Services, shall be installed within the public highway/verge

Reason: In the interests of amenity and road safety.

10 No development shall take place until the applicant has provided details of an Archaeological Watching Brief in relation to the disturbance of ground in preparation for implementation of the development. The Brief shall be submitted to and approved in writing by the Local Planning Authority prior to any disturbance of ground within the site, and thereafter any recommendations agreed shall be strictly adhered to. Access shall be afforded to allow archaeological investigation, at all reasonable times, by a person or persons nominated by the Local Planning Authority.

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

11 Prior to the commencement of the development hereby approved, a Construction Method Statement shall be submitted to, and approved in writing by the Planning Authority. Thereafter, the development shall be undertaken in strict accordance with the method statement, and shall include the following information:

(i) details of site preparation and any temporary compounds or enclosures;

(ii) approximate timing for activities such as archaeological and contamination investigation,

and any mitigation arising from said activities;

(iii) details of level of excavation required;

(iv) geological survey information identifying the capacity of the site to safely hold the development;

(v) proposals for protection of the land between the cliff base and the River Whiteadder (to ensure materials do not contaminate that area).

Reason: The development hereby approved is likely to require construction methods which are not straightforward due to the form and location of the land, and its proximity to the river. Further consideration must be given to the potential impacts of the undertaking of the development.

#### Informatives

This planning permission does not purport to grant consent under any other legislation or Regulations, operated by any other body including SEPA, Scottish Natural Heritage, Scottish Water and/or any other Department within Scottish Borders Council.

Approved by

Name Designation Signature

Brian Frater

Head of Planning and Building Standards

"The original version of this report has been signed by the Head of Planning and Building Standards and the signed copy has been retained by the Council."

Author(s)

Name Designation

John Hiscox Planning Officer

#### **REASON FOR DECISION :**

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the development plan and there are no material considerations that would justify a departure from these provisions.

**Recommendation:** Approved - conditions, inform & LA

- 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 A sample of all materials to be used on all exterior surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before development.  
Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
- 3 No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):

  - (i) existing and finished ground levels in relation to a fixed datum preferably ordnance
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  - (vii) A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.
- 4 Details of all proposed means of enclosure shall be submitted to and approved in writing by the Local Planning Authority before work on the site is commenced.  
Reason: To enable the proper effective assimilation of the development into its wider surroundings.
- 5 Before any part of the development hereby permitted is commenced detailed drawings showing which trees are to be retained on the site shall be submitted to, and be approved in writing by the Local Planning Authority, and none of the trees so shown shall be felled, thinned, lopped, topped, lifted or disturbed without the prior written consent of the Local Planning Authority.  
Reason: To enable the proper effective assimilation of the development into its wider surroundings, and to ensure that those existing tree(s) representing an important visual feature are retained and maintained.
- 6 Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.  
Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.
- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent Order amending, revoking or re-enacting that Order);

  - (i) There shall be no addition or extension to the dwellings (including the insertion of dormer windows or chimneys);
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- 8 Prior to any development commencing on site, a scheme will be submitted by the Developer to identify and assess potential contamination on site. No construction work shall commence until such scheme has been submitted to, and approved, by the Council, and is thereafter implemented to like satisfaction. The scheme shall contain details of proposals to investigate and remediate potential contamination and must include:-

  - a) A desk study and development of a conceptual site model, measurement of pollutant linkages through a detailed investigation of the nature and extent of contamination on site, and



assessment of risk such contamination presents. The scope and method of this investigation to be agreed in advance with the Council, and be undertaken in accordance with PAN 33 (2000) and BS10175:2001.

b) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).

c) Submission of a Validation Report (should remedial action be required) by the competent person employed by the developer who will validate and verify the completion of works to a satisfactory standard as agreed with the Council.

d) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: The site is potentially contaminated, therefore a suitable investigation and mitigation should be considered to avoid harm to health of any site users.

9 9 The following requirements shall be fully undertaken prior to the occupation of any new dwelling built as a result of this planning permission:

(i) The approved access must be 5.5 metres wide over the first 7.5 metres, formed with 6 metre radii and constructed to the following specification '40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.'

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Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

11 Prior to the commencement of the development hereby approved, a Construction Method Statement shall be submitted to, and approved in writing by the Planning Authority. Thereafter, the development shall be undertaken in strict accordance with the method statement, and shall include the following information:

(i) details of site preparation and any temporary compounds or enclosures;

(ii) approximate timing for activities such as archaeological and contamination investigation, and any mitigation arising from said activities;

(iii) details of level of excavation required;

(iv) geological survey information identifying the capacity of the site to safely hold the development;

(v) proposals for protection of the land between the cliff base and the River Whiteadder (to ensure materials do not contaminate that area).

Reason: The development hereby approved is likely to require construction methods which are not straightforward due to the form and location of the land, and its proximity to the river. Further consideration must be given to the potential impacts of the undertaking of the development.

## Informatives

It should be noted that:

- 1 This planning permission does not purport to grant consent under any other legislation or Regulations, operated by any other body including SEPA, Scottish Natural Heritage, Scottish Water and/or any other Department within Scottish Borders Council.

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