

**SCOTTISH BORDERS COUNCIL**

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

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

**REF :** 17/00379/PPP

**APPLICANT :** Robert Stather

**AGENT :**

**DEVELOPMENT :** Erection of dwellinghouse (renewal of previous application 13/00491/PPP)

**LOCATION:** Plot 1  
Hardens Road  
Duns  
Scottish Borders

**TYPE :** PPP Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
L01	Location Plan	Approved
	Site Plan	Approved

**NUMBER OF REPRESENTATIONS: 0**  
**SUMMARY OF REPRESENTATIONS:**

Roads Planning Service: No objection provided conditions of the previous consent relating to access and parking are re-attached if approved.

Flood Risk and Coastal Management: No objection, the site is adjacent to but outwith the functional flood plain of Milldown Burn.

Director of Education and Lifelong Learning: Seeking contributions towards both local primary and high schools as a result of this development.

Landscape Architect: Recommend approval. Mature roadside planting provides setting and backdrop to the site, it is desirable that these trees are retained. The point of access should avoid these trees. Approval is recommended subject to a limited tree survey for the trees affected by the new access. Advise the intended point of access appears logical but the survey will verify that sufficient ground is available.

**PLANNING CONSIDERATIONS AND POLICIES:**

Local Development Plan 2016:

PMD2 - Quality Standards  
HD2 - Housing in the Countryside  
HD3 - Protection of Residential Amenity  
EP13 - Trees, Woodlands and Hedgerows

IS2 - Developer Contributions  
IS7 - Parking Provision and Standards  
IS9 - Waste Water Treatment Standards and Sustainable Urban Drainage

Supplementary Planning Guidance on;  
New Housing in the Borders Countryside 2008  
Trees and Development 2008

**Recommendation by** - Scott Shearer (Planning Officer) on 3rd May 2017

This is a PPP application for the erection of a single dwelling on a 1.5ha plot on Hardens Road, Duns. The site is relatively flat and known as Plot 1. This site was one of three plots at this location that obtained consent for residential development as part of a legal agreement linked to the extension of Duns Golf Course which wraps around the back of the site. The other two sites, Plot 2 and 3 are located to the east and have been developed.

The original outline consent for this site has previously been extended in 2007 and 2013. This latest proposal seeks to renew the latest permission, ref 13/00491/PPP which was valid when this renewal was lodged but lapsed on 16/4/17.

Since the determination of the last application, despite their being a new LDP, determining policy provision or the context of this site has not changed. The wind turbine developed in the north western corner of the site is operational still. Two sites in between Plot 2 and 3 on the submitted plan benefit from recommendations to approve the development of a single house on each plot. Each of these sites are still awaiting to conclude their legal agreements which was also the case when the development of Plot 1 (this application site) was last considered. Conclusion of the legal agreements on these sites is being pursued separately.

Given that nothing has changed since the last approval, the assessment within the Report of Handling of the last application of the suitability of this site remains relevant and is quoted below;

"The site is outwith the settlement of Duns and falls to be assessed against Housing in the Countryside Policies. The planning history of this area is crucial to the consideration of this application. Since this application site last obtained a renewal of planning consent, two further PPP proposals each for a house in-between Plot 2 and 3 were both supported. These proposals were accepted following the Reporter decision to overturn a refusal of the first application on grounds that the application site was not isolated due to its location within part of a built enclave which was contributed by this application site. The development of the second site was determined in line with the Reporter's support of there being a suitable built context for development at this location. These decisions led to the variation of a Section 50 agreement to allow for housing development on previously restricted land.

The Council no longer have any development plan policy provision to allow for residential development associated with golf courses which provided the grounds of acceptability for this proposal in the first place. It therefore falls to be considered against relevant Housing in the Countryside Policy, whereby as only two houses presently exists there is no building group at this location meaning that this situation would normally result in a refusal.

The need for each planning application to be assessed on its own merits is imperative. The planning history stemming from the Reporter's interpretation of this being an acceptable location for development is compelling. While subsequent decisions related to 'infill' plots, part of the ability to support these developments transcended from the enclosure provided from surrounding development which this site directly contributed to. This site therefore plays an important role in terminating the extent of development at this location and it has been unfortunate that the development of this site has not been delivered so far. On the basis of; the sites positive contribution to the built context at this rural location as viewed by the Reporter, a previous decision to extend permission at this site; and the development of a small wind turbine at its top corner, it is contented that these decisive factors presents sufficient justification to allow for continued support of this proposal."

It is recommended that despite there being a new LDP, no material planning matters have changed significantly since the determination of application 13/00491/PPP. It remains considered that the precedent set by the original decision to accept development at this site and subsequent decisions granted by the Reporter remains decisive. This development will still not lead to any additional levels of development that was expected at this location and will help complete this group. The principle of the development is supportable on these planning grounds.

In terms of other matters, the Landscape Architect has reiterated the importance of the road side trees. There is sufficient space to develop the site without removing these mature trees. The formation of the access are works which could affect these trees, the identified point of access on the indicative site plan seems sensible and should avoid mature trees. The advice for a limited tree survey is acknowledged however the site plan is indicative so for the avoidance of any doubt, the condition should not specify the survey area however but the extent of it could be agreed at AMC stage. The requests of the Roads Planning Officer relating to details of; visibility splays, turning, parking and site access can be addressed via conditions. The site is within 1km of a quarry which now triggers a need for a consultation with HSE. This has been carried out using their online portal which confirms that the development is outwith the distance of a major hazard site or major accident pipeline to require further consultation.

Developer Contributions sought towards Duns Primary and Berwickshire High School have previously been paid. No further contributions are required.

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

Subject to compliance with the schedule of conditions, the development is acceptable, having principally had regard to the relevant provisions of the Local Development Plan 2016 but also having had regard to overriding material considerations in this case which are as set out in the Report of Handling.

#### **Recommendation:** Approved subject to conditions

- 1 No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority.  
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
- 2 Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:  
(a) the expiration of three years from the date of this permission, or  
(b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.  
Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.  
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
- 3 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.  
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

- 4 No trees shall be removed and all applications for approval of reserved matters under Condition 1 shall include an Arboricultural Implications Assessment which covers all trees within and adjacent to the site in accordance with BS5837:2012. The development shall be designed to safeguard all existing trees as identified on the indicative Site Plan (Drawing No L01) unless otherwise agreed in writing by the Planning Authority.  
Reason: In the interests of preserving the health and vitality of existing trees on the development site, the loss of which would have an adverse effect on the visual amenity of the area.
- 5 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.
- 6 The means of water supply and of both surface water and foul drainage to be submitted to and approved by the Planning Authority before the development is commenced.  
Reason: To ensure that the site is adequately serviced.
- 7 The access shall provide visibility splays of 2.4m by 160m in both directions on to the public road unless an alternative distance of visibility is agreed with by the Planning Authority in response to Condition 1 and the new access shall be completed prior to occupation of the dwellinghouse and the visibility splays shall be maintained in perpetuity thereafter.  
Reason: To provide safe vehicular access on to the public road.
- 8 Prior to occupation of the dwelling house two parking spaces and turning area shall be properly formed and consolidated within the site and thereafter retained in perpetuity.  
Reason: To ensure the appropriate parking provision is provided and maintained within the site.

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