

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**4 SEPTEMBER 2023**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 23/00787/FUL

**OFFICER:** Carlos Clarke  
**WARD:** Selkirkshire  
**PROPOSAL:** Erection of dwellinghouse  
**SITE:** Land North East of The Lodge Philiphaugh Mill  
Ettrickhaugh Road, Selkirk  
**APPLICANT:** Rural Renaissance  
**AGENT:** Camerons Strachan Yuill Architects

**SITE DESCRIPTION**

The site is located at the south-westerly end of Selkirk, on the south-easterly side of Ettrickhaugh Road which it fronts, beyond which is a row of detached and semi-detached dwellinghouses. There are further residential neighbours to the north-east and south-west. The site is located to the rear of Plot 4 of a six-house development previously granted under consents 19/01687/PPP and 22/00019/AMC and currently being constructed.

**PROPOSED DEVELOPMENT**

This application seeks approval of a single storey detached house to be located on what is now referred to as Plot 7. The house would be accessed via the turning head and private driveway consented under 22/00019/AMC to serve Plot 6. It would be roofed with fibre cement tiles, and wall finishes include coloured smooth render, reconstituted stone basecourse and precast surrounds. The positioning and orientation of the house were revised during the processing of the application in response to placemaking and design considerations (see the assessment section of this report). The amendments did not require renotification of neighbouring properties.

**PLANNING HISTORY**

04/02026/OUT – Outline planning permission for eight dwellinghouses was refused in 2005 due to serious flood concerns.

19/01687/PPP – Planning Permission in Principle was granted for six houses in March 2021

22/00019/AMC – Approval of matters referred to in conditions imposed on 19/01687/PPP was approved in September 2022

## **REPRESENTATION SUMMARY**

Eight objections have been submitted in response to the application. All are available to view in full on *Public Access*. A summary of the key issues raised is provided below:

- The approved houses are higher than expected and completely out of character, failing to blend in
- Road drainage and adaptations have not been carried out, road widening is still insufficient; and Condition 7 of 22/0019/AMC is being ignored
- Traffic issues and insufficient parking, which would be exacerbated by the proposed house
- Drainage plans don't show the proposed house
- The site is being overdeveloped and the proposal will increase the density
- Flooding concerns, including impact on other properties – it's essential to provide flood prevention rather than exacerbating the situation
- Will add to the 'original build timetable'
- Would be of further detriment to residential amenity

## **APPLICANT'S SUPPORTING INFORMATION**

The application is supported by the following:

- Tree Survey Report
- Drainage Strategy and Surface Water Management Plan
- Planning Statement

## **DEVELOPMENT PLAN POLICIES:**

### **National Planning Framework 4**

Policy 1: Tackling the Climate and Nature Crises

Policy 2: Climate Mitigation and Adaptation

Policy 3: Biodiversity

Policy 4: Natural Places

Policy 7: Historic Assets and Places

Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings

Policy 12: Zero Waste

Policy 13: Sustainable Transport

Policy 14: Design, Quality and Place

Policy 16: Quality Homes

Policy 18: Infrastructure First

Policy 22: Flood Risk and Water Management

Policy 23: Health and Safety

### **Scottish Borders Council Local Development Plan 2016**

PMD1 – Sustainability

PMD2 – Quality standards

PMD5 – Infill Development

HD3 – Protection of residential amenity

EP1 – International nature conservation sites and protected species

EP2 – National nature conservation sites and protected species

EP3 – Local biodiversity

EP8 – Archaeology

EP13 – Trees, woodlands and hedgerows  
EP15 – Development Affecting the Water Environment  
EP16 – Air Quality  
IS5 – Protection of access routes  
IS6 – Road adoption standards  
IS7 – Parking provision and standards  
IS8 – Flooding  
IS9 – Wastewater treatment standards and SUDS  
IS13 – Contaminated Land

## **OTHER PLANNING CONSIDERATIONS:**

Supplementary Planning Guidance:

Landscape and Development (2008)  
Sustainable Urban Drainage Systems (2020)  
Trees and Development (2020)  
Waste Management (2015)  
Placemaking and Design (2010)  
Guidance on Householder Development (2006)  
Designing out crime in the Scottish Borders (2007)

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Roads Planning Service:** The first 6 units in the site were approved with conditions attached relating to infrastructure upgrades on Ettrickhaugh Road. These upgrades included:

- Ettrickhaugh Road to be widened to 5.5 metres along the frontage of the site, including kerbing. New footway to be provided along the frontage of the site.
- New surface water drainage provision to account for the widened section of road.
- A review of the current street lighting provision and any improvements identified to be incorporated into the design.
- A formal turning head at the southwestern end of Ettrickhaugh Road needs to be provided.

Whilst most of these upgrades are due to be completed prior to the first of the initial 6 dwellings being occupied, the road has already been widened and the turning head has been provided, excluding its final surface course. These works are currently subject to Road Construction Consent through application 22/01420/RCC.

Parking for the first 6 units were provided at a rate of 200% + 25% visitor parking for in curtilage parking. The 6 units all have in curtilage parking and therefore 2 visitor parking spaces were provided. Therefore, the Roads Planning Service is content that the site would still meet their requirements for visitor parking if the proposed new dwelling was to be approved. They have no objections to this application provided the infrastructure upgrades which were agreed through the previous applications are in place prior to the dwelling being occupied.

Conditions are recommended requiring parking within the curtilage of the plot, and the footway formed prior the house being occupied.

**Landscape Architect:** No reply

**Outdoor Access Officer:** No reply

**Flood Officer:** SEPA mapping indicates that the site is at risk from a flood event with a return period of 1 in 200 years. Review of the application shows that the application site is located within the 1:200 year (0.5% annual probability) flood map and is at medium to high risk of flooding from the Ettrick Water. The site is defended from the Ettrick Water by the Selkirk Flood Protection Scheme, (SFPS), completed in 2016 which offers 1:200 year + 20% standard level of protection. SEPA's flood maps do not consider SFPS or show the area(s) defended by the scheme.

The proposal forms part of a wider development which was approved in September 2022. The previous development was assessed for flood risk and a flood risk assessment (FRA) was submitted. As a result, the finished floor level (FFL) of the plots were agreed and exceeded the suggested level in the FRA. The current proposal for a single dwelling to the rear of the development is acceptable and whilst the FFL is slightly lower than adjacent units, it is still above the FFL suggested in the FRA. Given the above, the Flood Officer has no objections.

**Education and Lifelong Learning:** No reply

**Statutory Consultees**

**Royal Burgh of Selkirk and District Community Council:** No reply

**Scottish Water:** Have no objection, though this does not confirm the development can currently be serviced. There is sufficient capacity at Howden Water Treatment Works and for a foul only connection at Selkirk Waste Water Treatment Works. Capacity at either cannot be reserved. There is also live infrastructure in the proximity of the development area that may impact on existing Scottish Water assets. No surface water connections into their combined sewer system will be accepted, unless in limited exceptional circumstances.

**Scottish Environment Protection Agency:** SEPA object in principle to the application and recommend that planning permission is refused. This is because the proposed development may put people or property at risk of flooding which is contrary to national planning policy. SEPA have a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and promote sustainable flood risk management. The cornerstone of sustainable flood risk management is the avoidance of flood risk as a first principle, and this is set out in National Planning Framework 4 (Policy 22). They therefore object in principle and recommend refusal of the application because the proposed development is expected to put people or property at risk of flooding, which is contrary to their above duties.

They previously objected in principle to the 6-house development proposed under application 19/01687/PPP and their position remains unchanged. They have assessed this application against current policy and guidance.

NPF4 Policy 22 requires a precautionary approach to flood risk be taken by avoiding development within flood risk areas or areas at risk of flooding (land or built form with an annual probability of being flooded of greater than 0.5% which must include an appropriate allowance for future climate change). There is a long history of flooding in Selkirk from the Ettrick Water and the Long Philip Burn (detailed in their comments). SEPA acknowledge that the Selkirk Flood Protection Scheme (FPS) will reduce the risk of flooding to Selkirk, including some protection to this site. However, they consider

that the primary purpose of a flood protection scheme is to protect existing development from flooding rather than facilitate new development.

Assessment of the “as built” standard of protection of the Selkirk FPS was undertaken in August 2020. This involved a revision of the hydrology and assessed the protection offered by the scheme during a 200 year plus 33% climate change event. The report concluded that “the main area of weakness within the scheme is at the upstream extent on the Yarrow” where the defences would be bypassed upstream allowing overland flow pathways to travel towards the site. Modelled flood depths are generally below 1m however there is inundation behind defences at properties on Ettrickhaugh Road, in the region of the site. This would result in flows from the Yarrow Water surrounding and partly inundating the wider 6 house development site, meaning this site would effectively become an island of development. These flows would accumulate on the landward side of the defences without being able to freely discharge to the River Ettrick. Ongoing periods of inundation can increase the risk of damage to property and extend the time taken for services and access/egress to be fully restored following a flood event.

The required climate change uplift for the Tweed River Basin Region is 53% in line with current guidance. To comply with NPF4, it would therefore need to be demonstrated that the development would not be at risk of flooding during a 200 year plus 53% climate change flood event. As the 200 year plus 33% climate change scenario has been shown to impact the site, it is reasonable to assume that the risk would increase when considering a 53% uplift. For this reason, they are not requesting any additional information be provided in relation to flood risk.

As well as high flows bypassing the upstream extent of the FPS, they would stress that defences can be breached or fail leading to a scenario that can be significantly worse than if there are no defences present. Flooding in such cases would be sudden and unexpected; and floodwater trapped behind defences could extend the period of inundation leading to greater damage. FPSs also have a finite design life, which may be less than that of the proposed and future development.

The intent of NPF Policy 22 is to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding. For new development such as the proposed, this can only be achieved by ensuring that development is outwith flood risk areas. The information available to SEPA demonstrates that this cannot be achieved and they therefore object in principle.

**Historic Environment Scotland:** Have assessed the application accounting for Philiphaugh Scheduled Monument and the Battle of Philiphaugh Battlefield Ste and have no comments to make.

#### **KEY PLANNING ISSUES:**

The key planning issues are whether the proposed development complies with Statutory Development Plan policies principally as regards visual and amenity impacts; road safety; servicing; and flood risk and, if not, whether there are other material considerations that would justify a departure from the Development Plan.

## **ASSESSMENT OF APPLICATION:**

### Principle

The site is on unallocated land within the settlement boundary, on a site already granted consent for six houses under 19/01687/PPP and 22/00019/AMC, which is not bound (under its planning consents) to build to a 'specified timetable'. Local Development Plan 16 (LDP) Policy PMD5 supports appropriate infill. National Planning Framework 4 (NPF) Policy 9 supports brownfield development. This is a development site within the settlement boundary so, therefore, comprises brownfield land. Policy 16 of the NPF is also not conflicted with by adding a further house to the six already consented. The general principle of additional residential development is not, therefore, contrary to planning policies. The suitability of the site as regards site-specific matters is, however, considered further below.

### Flood risk

Policy IS8 of the LDP requires that avoidance of flood risk be applied as a first principle, and development should be free of significant flood risk and not increase its probability elsewhere. Policy 22 of NPF4 is the most recent expression of policy and that supports development in flood risk areas only if meeting certain exemptions, and none of those apply here. It does, however, state that the protection offered by existing flood protection schemes can be taken into account when determining flood risk.

In this case, the site is protected by the Selkirk Flood Protection Scheme to the 1 in 200 year risk level plus 20% climate change. The approved six houses have floor levels that are above anticipated risk levels, and this current proposal also has a floor level exceeding the risk level.

SEPA, however, objected to the principle of any residential development on this site previously, and maintain their objection to this further house. They advise that flood protection schemes are to protect existing development, not new development. However, NPF4 specifically allows for flood protection schemes to be accounted for when determining the level of risk to a development, albeit such schemes will clearly have a finite lifespan. Since a primary purpose of NPF4 is to guide new spatial development, it must be presumed that accounting for existing protection schemes is directly material to the planning merits of proposed new developments.

The other principal concern raised by SEPA is that the flood protection scheme will not provide protection to recommended climate change uplift levels, which they refer to as being 53% (though this is understood to be 59% in SEPA's current guidance). As NPF4 requires that 'appropriate' allowance for climate change must be accounted for, and the level of 'appropriate allowance' should be taken from the latest available guidance and evidence, SEPA's objection on this point is understandable and a substantial consideration. Had this been an undeveloped site, then it would be entirely reasonable to apply the higher threshold to any proposed new development as recommended by SEPA.

However, a material consideration in this case is that this proposal is for an additional house within the same site boundary as six houses currently being constructed, and not yet occupied. That consent would not have expired until September 2024, and where works have lawfully commenced on a development, the consent will never expire. Also, this additional house would also be served by the same means of access to and from the public road as Plot 6. Its floor level would be above the same level of risk as the adjacent six houses, which is greater than a 1 in 200 year plus 20% climate

change risk level and includes freeboard allowance. SEPA refer to the as-built modelling for 33% climate change indicating risk of partial inundation for the consented six houses, leaving the site as an 'island of development' though they do not refer to the proposed plot itself becoming inundated. The Flood Officer has been advised of SEPA's concerns regarding the climate change uplift but considers that this does not change their view that the development would be acceptable in flood risk terms. Also, neither SEPA nor our Flood Officer raise concerns that this development would increase the likelihood of flooding elsewhere.

Therefore, a decision on this application as regards flood risk rests on whether this proposed house should be permitted only if it is protected to a higher level than six houses already consented, and not yet completed and occupied. Or, whether the fact it is within the same application site, at the same level of risk as, and protected to the same level, as those six consented houses, accessed by the same means (and, therefore, the same issues as regards access/egress) is a more substantial material consideration.

Significant weight must be given to climate change (as per NPF 4 Policy 1), and that has been given due consideration. Having regard to our Flood Officer's advice who raises no concern with this additional house, and the relationship of this development to the consented development, however, it is considered that accepting the proposed house, in this particular case, would be a reasonable decision when accounting for the fact that six consented houses on this site have not yet been completed but for which construction is underway. Account should, however, be had to potential breaches and/or failing of the flood protection scheme, by incorporating water resilient materials/design and ensuring an evacuation scheme. A planning condition could require both but, again, given the extent of existing residential development (which is not bound by such a requirement), it is not considered reasonable to impose greater obligations on this dwellinghouse. An Informative is, however, recommended.

As SEPA are a statutory consultee, and this application would increase the number of buildings at risk of being damaged by flooding, any decision by the Council to approve it would have to be referred to the Scottish Ministers, with the potential for the application to be 'called-in' for their approval.

### Ecology

The AMC consent for six houses was subject to agreed species protection plans and enhancement measures, which include bat and bird boxes in ladeside trees outside this plot. This proposal would not conflict with approved measures and raises no further ecological concerns. Conditions and an Informative Note can address these.

### Archaeology

Historic Environment Scotland raise no concerns with potential risk to the designated Battlefield of Philiphaugh site. The AMC consent referred to above was subject to an agreed watching brief and Metal Detecting Survey that satisfied Condition 14 of the 19/01687/PPP. Implementation and reporting under that will fully satisfy requirements. This proposal within the same site raises no additional need for mitigation.

### Services

Water supply and foul drainage would be serviced from the mains. The application's drainage report does not account for this additional plot, but Scottish Water note there are no capacity issues. A condition can suitably regulate.

Approval for the six houses under 22/00019/AMC included sustainable urban drainage measures. This proposal initially had no measures specified. However, the proposal now includes a basic indication for an infiltration trench, as approved on other plots. The driveway would be gravelled, so should be specified as permeable. This will be sufficient for planning purposes, with details considered under the Building Warrant application.

### Placemaking and Design

The site is in a 'backland' location. However, the house's scale, form, design and materials would be complementary to the single-storey house already approved on Plot 6, which is also in a backland location. The siting of Plot 6 was accepted under 22/00019/AMC because it would reflect the siting anticipated at the PPP stage; be loosely characteristic of existing houses to the south-west; and it would have a low-key visual impact. The currently proposed 'Plot 7' would add to the extent of 'backland' development, but the plot itself would effectively mirror that of Plot 6 and be served by the same access road.

However, this proposed house was initially sited far to the north-east side of the plot, potentially being visible between houses when viewed from Ettrickhaugh Road. Even allowing for the principle established by Plot 6, its siting would not be visually sympathetic, albeit it was sited such to maintain the outlook from Plot 4. The applicant has since responded positively, by relocating the house in a manner that effectively mirrors that on Plot 6. This will provide for a better visual relationship between the plots and, albeit there will be some compromise to the proposal's solar gain, this is a better means by which to relate the proposal to the sense of place.

The proposal would not risk trees subject to protection under 22/00019/AMC, and a condition can require the hedging proposed to the same specification as required under that consent. The house's specification has also been modified by slimming the eave and verge treatments to reflect those approved already.

Plot 6's construction is regulated by planning condition on 22/00019/AMC requiring implementation of plots 1-5 first, and that should also be applied to this additional plot.

### Neighbouring amenity

The proposal would not adversely affect the amenity of existing neighbouring properties in terms of daylight, sunlight, outlook or privacy loss. As regards adjacent plots within the development itself, the proposal will not have adverse consequences for the amenity of adjacent plots in these regards either. It may be that occupiers may wish to add screen fencing on their boundaries, though using their Permitted Development rights to do so would not have adverse visual impacts.

### Road safety and parking

Two parking spaces are proposed, accessed from the same access serving Plot 6. The RPS raise no concerns as regards parking implications from this additional house.

Condition 7 on 22/00019/AMC required the widening of Ettrickhaugh Road and turning head into Plot 6 before development commenced. As the RPS notes, the widening and turning head have been provided, excluding its final wearing course. These works are subject to Roads Construction Consent too. Compliance with 22/00019/AMC will facilitate the servicing of Plot 7, since its completion will not be permitted until plots 1-



5 are completed, though requiring the road works' completion before its occupancy by means of a planning condition will ensure this.

#### Waste storage

The proposal provides for suitable waste storage.

#### Development contributions

Contributions towards the Waverley Line and Flood Protection Scheme are required. A legal agreement will, therefore, be necessary if the application is to be approved.

#### CONCLUSION

The development is compliant with the statutory Development Plan as regards most matters referred to above. Though there will be conflict with the Development Plan as regards flood risk this is considered balanced, in this case, by the context and history of the site, which already is to be developed for six houses. Subject to referral to the Scottish Ministers, completion of a legal agreement and compliance with the schedule of conditions, the proposed dwellinghouse is considered acceptable.

#### **RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:**

I recommend the application is approved subject to referral to the Scottish Ministers, a legal agreement and compliance with the schedule of conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. No development shall commence until evidence confirming that mains water and foul drainage connections have been approved by Scottish Water has been submitted for the written approval of the Planning Authority. The development shall be serviced only using the approved mains water and foul drainage connections, unless otherwise agreed in writing with the Planning Authority.  
Reason: To ensure the development is adequately serviced.
3. The development shall be implemented in accordance with the plans and drawings, including external material specifications, approved under this consent unless otherwise required by any other condition in this schedule.  
Reason: To ensure the development has a sympathetic visual impact.
4. The development shall be serviced only using mains water and foul drainage connections, unless otherwise agreed in writing with the Planning Authority.  
Reason: To ensure the development is adequately serviced.
5. Development shall be implemented in accordance with the ecological mitigation measures approved under Conditions 11 and 12 of 19/01687/PPP and under 22/00019/AMC, where applicable to the approved site.  
Reason: To ensure suitable ecological mitigation is implemented during construction of the development.
6. Hedging specified on the approved site plan 10349-CSY-XX-XX-D-A-1302 Rev C shall be implemented to the same specifications as approved for Plots 1-6 under

22/00019/AMC within the first planning season following completion of the development and subsequently maintained in accordance with the measures agreed under that consent for Plots 1-6.

Reason: To ensure the development has a sympathetic landscape and visual impact.

7. Surface water drainage within the site shall be provided to the same specification as approved for Plots 1-6 under 22/00019/AMC prior to occupancy of the dwellinghouse, and the parking area/driveway shall be of permeable construction unless alternative means are otherwise agreed in writing with the Planning Authority.

Reason: To ensure sustainable management of surface water.

8. Protective fencing, of a specification that accords with BS5837:12, shall be erected along the route shown on the approved site plan (10349-CSY-XX-XX-D-A-1302 Rev C) prior to development commencing and shall be retained until development is complete. No works shall be carried out within the protected areas unless compliant with BS5837:12.

Reason: To minimise risk to trees with public amenity value.

9. Bin storage shall be provided within the site in accordance with the approved site plan 10349-CSY-XX-XX-D-A-1302 Rev C prior to the dwellinghouse being occupied sufficient for one general waste and one recycling wheelie bin and subsequently retained unobstructed for such purposes.

Reason: To ensure the visually sympathetic and accessible storage of bins.

10. The parking area specified on the approved site plan 10349-CSY-XX-XX-D-A-1302 Rev C, and access to and improvement works, including footway, on Ettrickhaugh Road (all in accordance with 22/00019/AMC) shall be implemented prior to occupancy of the dwellinghouse. The parking area shall be subsequently retained free from obstruction for the movement and parking of at least two cars.

Reason: To ensure the development is adequately serviced in the interests of road and pedestrian safety.

11. The approved dwellinghouse shall not be completed prior to the completion of all houses within plots 1-5 approved under 22/00019/AMC.

Reason: To ensure the development has a sympathetic visual impact

### Informatives

1. The new footway, turning head, road widening, drainage, and any enhanced street lighting required on Ettrickhaugh Road is currently subject to a Road Construction Consent (22/01420/RCC) and these features will potentially be adopted by the Council upon satisfactory completion. The carriageway widening will have to tie in with the existing carriageway in a manner acceptable to the Council as Roads Authority. All prospectively adoptable work must be undertaken by a contractor first approved by the Council.
2. Scottish Water advise that there is live infrastructure in the proximity of the site that may impact on existing Scottish Water assets. The applicant must identify any potential conflicts with Scottish Water assets and contact their Asset Impact Team via their Customer Portal for an appraisal of the proposals.
3. It is recommended that the Applicant signs up to FLOODLINE at [www.sepa.org.uk](http://www.sepa.org.uk) or by telephone on 0845 988 1188; review the Online Planning Advice on Flood

Risk; develop an evacuation plan for the building during times of flood warning and adopt water resilient materials and construction methods as appropriate within the development. Flood protection products such as floodgates and air-vent covers should also be considered for the development. Details of these can be provided by SBC Flood & Coastal Management team who will be able to offer advice and provide discounts for the products.

#### DRAWING NUMBERS

Location Plan 10349–CSY-XX-XX-D-A-1301 rev A  
Proposed Site Plan 10349–CSY-XX-XX-D-A-1302 rev C  
Proposed Plans and Elevations 10349–CSY-XX-XX-D-A-2301 rev A

#### **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
Carlos Clarke	Team Leader



23/00787/FUL

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Ettrickhaugh Rd Selkirk

