

**SCOTTISH BORDERS COUNCIL**  
**PLANNING AND BUILDING STANDARDS COMMITTEE**

**3 JUNE 2019**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 18/01712/PPP

**OFFICER:** Julie Hayward  
**WARD:** Leaderdale And Melrose  
**PROPOSAL:** Erection of two dwellinghouses  
**SITE:** Land North of Leader House Oxtou  
**APPLICANT:** Mr Michael Ridgway  
**AGENT:** Ferguson Planning

**PLANNING PROCESSING AGREEMENT:** Expires 10 June 2019

**SITE DESCRIPTION**

The site is part of an agricultural field situated to the north of the Carfraemill Hotel, to the north of Lauder. A minor road from the A697 is to the east and there are houses to the east and south. To the north and west are fields. The land slopes up to the west from the public road and falls away to the east. The east boundary is defined by a mature roadside hedge and the south boundary is defined by a combination of post and wire fence, hedging and timber fence. The west and north boundaries are undefined.

**PROPOSED DEVELOPMENT**

The proposal, as submitted, was to erect three houses on the site served by two accesses onto the public road. This has been reduced to two houses with one shared access onto the public road. Indicative tree planting is shown on the revised site plan.

**PLANNING HISTORY**

There is no planning history for this site.

**REPRESENTATION SUMMARY**

Four representations have been received objecting to the application as originally submitted for three dwellinghouses. These can be viewed in full on public Access and raise the following issues:

- Loss of privacy and overlooking not mitigated by hedges;
- Surface water run-off from the site will worsen the current situation;
- Topography, in terms of elevation and slope, would have adverse impacts on the existing properties to the east;
- Loss of sunlight;

- Increase in traffic would affect the safety of all road users;
- The placement of driveways, laybys and passing places is important given the narrowness of the lane and visibility;
- There are discrepancies in the application in terms of the number of houses proposed;
- It would be totally unacceptable for the proposed waste/sewage facilities to discharge effluent into the ground by a soakaway as all the properties to the east are supplied with fresh water from a number of boreholes. Any contamination of the groundwater would endanger the water supplies of those houses and the health of the residents;
- The site is outwith the boundary of the building group, as previously defined in the Local Plan, and the development would break into an undeveloped field;
- No sense of place with the existing building group, given the previous intimation by SBC Planning that the road is a robust boundary to the current grouping, particularly considering the topography of the land to the east of the road (i.e. low lying), compared with the proposed development to the west of the road (i.e. on considerably higher and rising ground).

Three representations have been received in respect of the amended proposals for two dwellinghouses, raising the following issues:

- This is ribbon development. The housing group opposite the proposal is hardly noticeable due to the low level of the land, however, the proposed two houses on high ground turn the lane into a ribbon corridor. The proposal is not fully compliant with policy HD2 (A) of the Local Development Plan 2016 as it would cause unacceptable adverse impacts on the landscape due to the existing use of the land (agricultural), and the topography (steep rising land), and to the amenity of the surrounding properties;
- The proposal is in contravention of policy HD3 of the LDP as it does not protect residential amenity. Planting will only result in a screen after around 20 years. By the time the trees are established to screen Leader House, shading will adversely affect houses on the east side of the lane. Also, the closest house to Leader House would be on high ground, and will look down on Leader House, and therefore be detrimental to privacy;
- Due to the topography of the land only single storey dwellings should be considered;
- The application is contradictory in terms of change of use, suggesting on the application document that there is no change of use, however, the Planning Statement states that it is currently agricultural land, it does break into undeveloped agricultural fields, and therefore does constitute a change of use;
- Traffic will increase in the lane and a further access point into the road will increase the risk of an accident as vehicles already travel at dangerous speeds;
- The siting of a septic tank and soakaway is not specified and has the potential to be detrimental to the housing group;

- Waste/sewage facilities discharging effluent into the ground by a soakaway could pollute private water supplies. The site is steeply sloping, and the road and properties below already suffer from significant rainwater run-off. Any further hard surfaces envisaged in the proposed development will exacerbate this problem and increase the flood risk;
- The proposed development is on a steep hillside above the properties to the east of the road. The topography means any development on the hillside would dominate the skyline and impact on the light of existing properties. Any screening (trees or additional hedges) will exacerbate the problem;
- Whilst the road is generally quiet, the majority of vehicle movements occur in the vicinity of the proposed development. Many vehicles exceed a safe speed, given the number of entrances and limited visibility. The lane is also used as an amenity by a large number of visitors and residents for walking, cycling and horse-riding. With even a moderate increase in turning traffic, a lower speed limit needs to be in place and enforced. The Planning Statement fails to note that the level of the land inside the hedge-line is some 2 metres above road level, so a steep entrance/exit is inevitable;
- The existing building group would permit two new buildings, but this would be the precursor to subsequent planning applications and amount to strip development along the existing road;
- The proposed site is agricultural land. There is no agricultural requirement for the development;
- This concentration of houses overlooking existing houses home will compound the potential negative impacts on well-being and property;
- Loss of sunlight and overshadowing exacerbated by the planting proposed;
- During periods of heavy rain the lane below the proposed site channels water towards the joint driveway of the existing building group; this will be exacerbated during and after any construction on the site.

#### **APPLICANTS' SUPPORTING INFORMATION**

- Planning Statement

#### **DEVELOPMENT PLAN POLICIES:**

##### **SESplan Strategic Development Plan June 2013:**

Policy 1B: The Spatial Strategy: Development Principles

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

PMD1: Sustainability

PMD2: Quality Standards

HD2: Housing in the Countryside

HD3: Protection of Residential Amenity

EP5: Special Landscape Area

EP13: Trees, Woodland and Hedgerows  
IS2: Developer Contributions  
IS3: Developer Contributions Related to the Borders Railway  
IS7: Parking Provisions and Standards  
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

## **OTHER PLANNING CONSIDERATIONS:**

Supplementary Planning Guidance:

Placemaking and Design 2010  
Householder Development (Privacy and Sunlight) 2006  
Trees and Development 2008  
Landscape and Development 2008  
Development Contributions 2011 (updated April 2019)  
New Housing in the Borders Countryside 2008  
Local Landscape Designations 2012

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Roads Planning Service:** The Roads Planning Service (RPS) has no objections in principle to this proposal. There are a number of acceptable access permutations available for this site, each plot can have its own access, one access can serve all three plots or two plots can be served by one access and the third plot with its own individual access. Each of the access options would have to incorporate a service layby.

Any new access would double as passing provision for the existing users of the minor public road. Provided conditions covering, access, parking, gradients and drainage are incorporated into any consent issued RPS offer no objections to the proposed development

**Director of Education and Lifelong Learning:** No response.

### **Statutory Consultees**

**Transport Scotland:** No objections.

**Scottish Water:** No response

**Community Council:** Object:

- Overlooking and a loss of privacy and sunlight due to the elevated position of the site in relation to the properties to the east and the proposed screen of trees will exacerbate the problem;
- The properties to the east are supplied with water from boreholes and any proposals to discharge foul drainage into the ground via a soakaway would contaminate water supplies and impact on health. The sloping nature of the ground would result in surface water run-off flowing into the properties to the east. Any further hard surfaces would exacerbate the run-off problem and increase the flood risk to these properties;

- The road is generally quiet but the majority of vehicle movements occur in the vicinity of the proposed development. Adequate sightlines at the new access would be required. The level of the land within the site is 2m above the road level so a large approach will be required;
- The site is outwith the building group defined by the road. The proposal is for three houses whereas the limit is no more than 30% of the existing building group, which is 2 dwellings. The ground is agricultural and Council policy requires that developments should not normally break into undeveloped agricultural fields.

**Community Council Re-consultation:** No response.

### **Other Consultees**

None

### **KEY PLANNING ISSUES:**

- Whether the proposal complies with the Council's housing in the countryside policies;
- Whether there are unacceptable adverse impacts on visual amenities and the Special Landscape Area;
- Whether there are adverse impacts on the residential amenity of nearby properties;
- Whether safe vehicular access and on-site parking and turning can be achieved.

### **ASSESSMENT OF APPLICATION:**

#### **Planning Policy**

The site lies outwith any settlement boundary as defined by the Local Development Plan, and so the proposal has to be assessed principally against the Council's policies for new housing in the countryside.

Policy HD2 (A) supports new housing in the countryside provided that the site is well related to an existing building group of at least three houses or buildings capable of conversion to residential use. Any consents for new build granted under the building group part of the policy should not exceed two houses or a 30% increase in addition to the group during the current Plan period. No further development above this threshold will be permitted. Calculations on building group size are based on the existing number of housing units within the group at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point. The cumulative impact of the new development on the character of the building group, landscape and amenity of the surrounding area will also be taken into account in determining applications.

The Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 states that the existence of a group will be identifiable by a sense of place which will be contributed to by natural and man-made boundaries. Sites should not normally break into undeveloped fields particularly where there exists a definable natural boundary between the building group and the field and the new development should be limited to the area contained by that sense of place. Any new development should be within a reasonable distance of the existing properties within the building group and this distance should be guided by the spacing between the existing properties in the building group. The scale and siting of new development should reflect and respect the character and amenity of the existing building group.

It is accepted that there is a building group at Carfraemill as there are nine existing houses, all but two situated on the eastern side on the minor road. There are three houses opposite the hotel and four to the north of the caravan park as well as two houses to the north of the hotel, west of the public road.

The site comprises part of an undeveloped agricultural field north of Leader House. The boundary being defined by a fence and hedge. The main part of the building group is to the east and contained within a distinct sense of place with the public road providing a distinct boundary along with surrounding topography and the trees to the north and west of North Corner House and Mid House on the east side of the public road. The houses to the east of the road are situated on land well below the level of the road whereas the application site rises up from it, with a mature hedge on the road boundary.

As stated above, there are currently nine houses within the building group and policy HD2 states that any consents for new build should not exceed two houses or a 30% increase in addition to the existing group during the current Plan period. As there have been no recent planning permissions for additional houses in this building group during the current Local Development Plan period the maximum number of houses permitted under this Policy would be two. Members will note that the original proposal was for three houses, exceeding the permitted threshold as set out in policy HD2. However, following discussions with the agent, the number of houses proposed was subsequently reduced to two in order to ensure compliance with HD2. The revised site boundaries do not extend further north than the junction serving the existing houses on the eastern side of the road or the existing trees defining the north and west boundaries of the group. It is considered that the revised layout would be better related to the houses to the south. As an addition to the existing building group, the proposed residential development now falls within the accepted threshold for additions to building groups during the current plan period. The principle of residential development in terms of unit numbers is considered acceptable.

It is accepted that the approved SPG on new housing in the countryside states that sites should not normally break into undeveloped fields particularly where there exists a definable natural boundary between the building group and the field. The use of the words 'not normally' are particularly relevant in this case as this suggests that there may be situations where it is acceptable for sites to break into previously undeveloped fields, as is the case here. There is a minor road to the east of the application site which helps define the western edge of the group however this is a man-made boundary and the guidance makes specific reference to natural boundaries taking precedence over man-made boundaries when defining the extent of a building group. The application site and land to the west rises up from the road to a ridge beyond the application site boundary, helping to contain the site within an identifiable sense of place. Proposed indicative planting as shown on the site plan would further assist in assimilating the development into the group. The precise details of structure planting can be covered by condition in the event of an approval. Furthermore the proposed units would be located within a reasonable distance of the existing properties within the group and would be consistent with the spacing between these properties, consistent with supplementary guidance.

Concerns have been expressed by third parties about the potential for ribbon development. The SPG advises that extensions of ribbon development along public roads will not normally be permitted however the existing dwellings on the east side of the public road already demonstrate a form of ribbon development. The development of two houses on the west side of the road would simply mirror this pattern of development and would not extend the group outwith the defining edge of the group.

In terms of the policy principle for additions to building groups, it is considered that the proposed development is acceptable. The proposals will not exceed the permitted threshold for additions to established groups, would be appropriate in terms of scale and siting relative to existing units and would be limited to the area contained by the identifiable sense of place.

### **Siting, Design and Visual Impacts**

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings.

The Council's SPG on new housing in the countryside states that the scale and siting of new development should reflect and respect the character and amenity of the existing building group.

As this application seeks planning permission in principle only at this stage, no details of the siting, design or material of the houses have been submitted. These matters will be considered at the detailed stage should Members agree to approve this application. As discussed earlier, the application site slopes up from the public road and so any development would have the potential to be prominent in the landscape. The tree planting shown on the proposed plans would take time to establish into an effective screen and backdrop although the fact that the site slopes up behind the site will help in the short term. It is considered that appropriate levels of landscaping are included with any detailed application for the site. This should include a robust planting strip along the west and north boundaries of the site to further enhance the identifiable edge to the group.

No site levels have been provided but it is likely that the development would require significant excavation to provide a level platform for the houses, access and parking areas. This has the potential to be an overly engineered solution for this rural area, potentially involving retaining walls and terracing. A sensitive design approach would be required to satisfactorily fit this development into the landscape so that it does not have an adverse impact on the character of the area and Special Landscape Area. These matters can however be controlled by condition and assessed in more detail at the detailed application stage.

Provided appropriately designed houses are approved following the submission and approval of a detailed application(s) it is considered that the proposed development would be appropriate to its surroundings, respecting the character of the neighbouring built form.

### **Residential Amenity**

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The approved SPG on householder developments (Privacy and Sunlight) supports Policy HD3 and contains guidance on privacy, overlooking and access to light. This can also be applied when considering planning applications for new housing developments to ensure that proposals do not adversely affect the residential amenities of occupants of existing and proposed properties.

Concern has been expressed by occupants of the houses on the lower ground to the east that the development would affect their sunlight and privacy.

As discussed earlier, the precise details of the proposed houses will be considered at the detailed application stage where the residential amenity of proposed and existing houses will be fully assessed. However, given the distances between existing houses and the application site, as well as intervening tree cover and mature hedging, it is considered that the residential amenity of existing properties will not be unduly compromised. The east boundary of the application site is approximately 20m from the west elevation of Corner House and 33 m from the west elevation of Carfraemill House. It is reasonable to assume that the proposed houses will be set back from this boundary, albeit on higher ground, and the distances between properties will be well in excess of our minimum standards as set out in the SPG.

### **Access and Parking**

Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards. Members will note from the indicative block plans submitted that the site is large enough to accommodate parking and servicing for each house.

The Roads Planning Service has no objections to the proposed residential development provided that conditions on access, parking, gradients and drainage are attached to any permission that may be granted. This will ensure compliance with the terms of Policy IS7.

### **Water and Drainage**

Policy IS9 states that the preferred method of dealing with waste water associated with new developments would be the direct connection to the public sewerage system and for development in the countryside the use of private sewerage may be acceptable provided that it can be provided without negative impacts to public health, the environment, watercourses or ground water. A SUDS is required for surface water drainage.

The application form confirms that the proposed houses would be served by water from the existing mains supply and that foul water drainage would be connected to a new private system, though no details have been submitted. This would be secured by appropriately worded planning conditions in the event of an approval. Surface water drainage would be handled by way of sustainable urban drainage techniques.

Mains water and private foul drainage arrangements are proposed, and this is agreeable in principle. A condition will be necessary to ensure that mains services will be achieved. Impacts on existing drainage will be matters for the applicants as well as potentially through the Building Warrant process. Surface water drainage will be an issue requiring particular care for this site, given its slope towards the east, and any run-off issues on the public road and neighbouring properties. Acknowledging concerns raised by third parties, a condition can secure a surface water drainage scheme that confirms that Greenfield run-off levels will be maintained.

### **Development Contributions**

Development contributions, in accordance with policies IS2 and IS3 are required towards the Borders Railway, education and affordable housing. These would be secured through a legal agreement should Members be minded to approve this application.



## **CONCLUSION**

Following the submission of amended drawings and the reduction in the number of proposed houses from three to two, the proposal is now considered compliant with policies and guidance designed to allow appropriate rural housing development within established building groups. Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

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

I recommend the application is approved subject to a legal agreement addressing contribution towards the Borders Railway, education and affordable housing and the following 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. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.  
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. A drawing showing existing and proposed ground levels, finished floor levels and sectional drawings of the site and proposed dwellings to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site. Once approved in writing by the Planning Authority the development then to be completed in accordance with the approved drawings.  
Reason: To enable the proper effective assimilation of the development into its wider surroundings.
4. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Planning Authority, and shall include:
  - i. Indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration;
  - ii. Location of new trees, shrubs, hedges and grassed areas, including replacement of any trees removed;
  - iii. Schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - iv. Programme for completion and subsequent maintenance.Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.
5. Details of all proposed means of enclosure around the site and between plots to be submitted with the first Approval of Matters Specified in Conditions application

or detailed application for the site. Once approved in writing by the Planning Authority the development then to be completed in accordance with the approved details.

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

6. Full details of the means of water supply and of foul and surface water drainage are to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site. Once approved in writing by the Planning Authority the development is to be completed in accordance with the approved details and the drainage and water supply to be functioning, as approved, before the dwellinghouses are occupied.

Reason: To ensure that adequate drainage and a sufficient supply of wholesome water is provided and to ensure that there are no unacceptable impacts upon the amenity of any neighbouring properties.

7. Parking and turning for a minimum of two vehicles, excluding any garages, are to be provided within the curtilage of each plot prior to occupation and thereafter to be retained in perpetuity.

Reason: To ensure the development is served by satisfactory off-street parking so as to not have a detrimental impact on the adjacent public road network.

8. No development shall commence until a surface water drainage scheme has been with the first Approval of Matters Specified in Conditions application or detailed application for the site which demonstrates that surface water run-off from the site will be maintained at pre-development levels using sustainable drainage methods during construction of the development and occupancy of the dwellinghouse. The development shall be completed in accordance with the approved details.

Reason: To ensure the development can be adequately serviced and to safeguard the public road and neighbouring properties from potential run-off.

9. A detailed drawing showing the access to each plot, to the specification of the Planning Authority, to be submitted with the first Approval of Matters Specified in Conditions application or detailed application for the site. The first 5m of any access and the parking and turning areas to be no greater than 1 in 15 with the intervening lengths to be no greater than 1 in 8. Visibility, a minimum of 2.4m x 43m, to be provided where an access meets the public road. The accesses to be completed in accordance with the approved drawing prior to occupation of the dwellinghouse it serves.

Reason: To ensure the development is served by an adequate access of acceptable gradients.

#### Informatives

1. In respect of Condition 4, and notwithstanding the indicative landscaping shown on the approved site plan, the scheme of soft landscaping shall include a robust planting strip along the west and north boundaries of the application site to ensure the development is properly assimilated into the building group.
2. In respect of condition 9, it should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

#### DRAWING NUMBERS

2A Site Plan

**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.

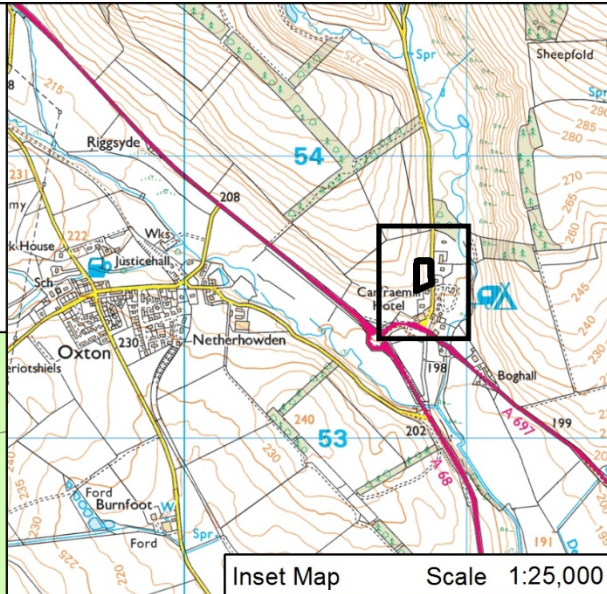
**Author(s)**

Name	Designation
Julie Hayward	Team Leader Development Management

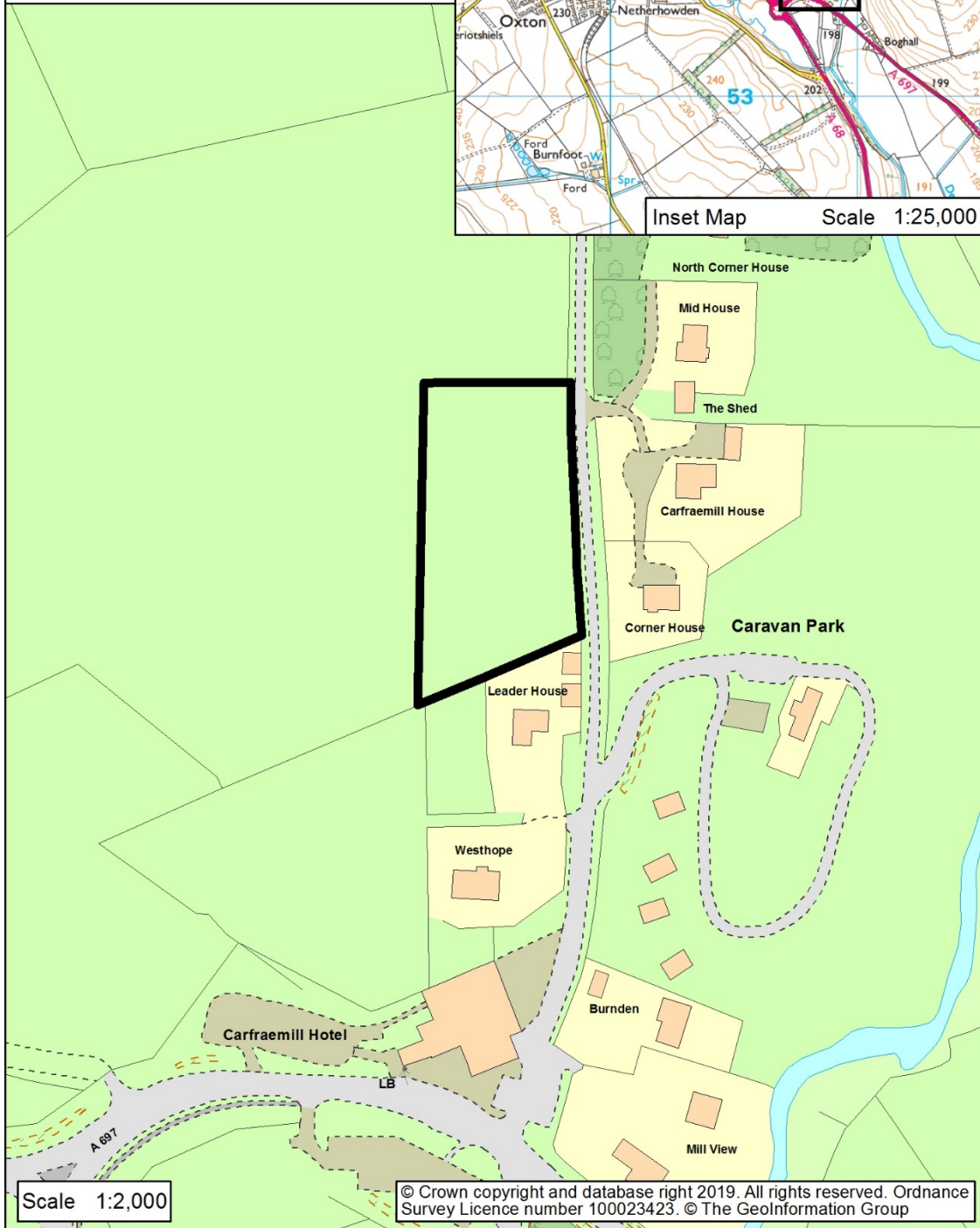


18/01712/PPP

Land North Of Leader House  
Oxton



Inset Map Scale 1:25,000



Scale 1:2,000