

**SCOTTISH BORDERS COUNCIL**

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

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

**REF :** 23/00716/FUL  
**APPLICANT :** Mr Nigel Carey  
**AGENT :**  
**DEVELOPMENT :** Erection of dwellinghouse  
**LOCATION:** Garden Ground Of Cheviot View  
Eden Road  
Gordon  
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>
CC662-PP-2-001	Location Plan	Refused
CC662-PP-2-002 A	Proposed Site Plan	Refused
CC662-PP-2-003 A	Proposed Plans	Refused
CC662-PP-2-004 A	Existing Site Plan	Refused

**NUMBER OF REPRESENTATIONS: 7**

**SUMMARY OF REPRESENTATIONS:**

Four representations have been received objecting to the application and raising the following issues:

- o The height of the proposed house will overshadow neighbouring properties.
- o Loss of light and privacy to neighbouring properties.
- o Overdevelopment of the site out of keeping with the character of the village.
- o Backland development.
- o Poor design.
- o The dwellinghouse is too small for permanent living and will be used as holiday accommodation.
- o There was an agricultural/ commercial garage on the site with inspection pit, petrol pump and storage tank and waste disposal pit on the site. The ground may be contaminated and no ground investigation has taken place.
- o The size of the plot is not large enough to accommodate the proposed dwellinghouse and communal parking and turning, which will be required for 6 vehicles. The two parking spaces shown

on the plans are already allocated and used by neighbouring properties. This could cause a safety issue for all parties that have access to the communal parking and turning area.

- o Construction vehicles associated with the development of the adjacent plot parked their vans without permission on land owned by neighbours on the pavement. Eden Road, being the main A68 to Berwick link, is a busy road and there is little room for extra cars on the pavements or on the road.

- o There is currently one house being built adjacent to this site granted under 22/00716/FUL, which almost covers the entire plot except for 2 parking spaces. This new application concerns the right hand side of the plot, and has been previously refused under application 21/01905/FUL.

- o Scottish Water is not guaranteeing that this new house will be able to be connected to the current services. Previously, there was concerns regarding the extra water and sewage disposal demands that new builds were making and the capacity was close to its limit. Since then another house is currently being built in Eden Road and 6 more have been granted permission off Edinburgh Road.

- o The representation submitted in support of the application is by a person with an interest in the application and not a neighbour. The address shown on the representations is the house currently under construction. Neighbours have kept the site tidy and clear of rubbish and weeds in the past.

One representation has been received in support of the proposal:

- o Previously the site had been abandoned and abused for decades. It became an unsafe and unsanitary, weed and vermin infested dumping ground. This new proposal will return a prime piece of land to the community and be cared for.

- o There is evidence of the site being overgrown and the dumping of rubbish and no evidence of anyone looking after the site.

#### CONSULTATIONS:

Environmental Health: No response.

Community Council: No response.

Education and Lifelong Learning: No response.

Roads Planning Service: We were consulted about the previous applications on this site and offered no objections to the principle of development at this site. Concern was however noted about the operation of the parking and turning at the adjacent plot, subject to application 21/00913/FUL.

The amended plans provided for the new application address this issue and allow for parking and turning for two vehicles and provision for the same at the adjacent plot.

As such, I shall have no objection to this proposal subject to a condition securing parking and turning for 2 vehicles within the site being included in any subsequent approval.

Scottish Water: No objections. There is currently sufficient capacity in the Howden Water Treatment Works, though further investigations may be required.

This proposed development will be serviced by Gordon Waste Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow them to fully appraise the proposals a Pre-Development Enquiry should be submitted to them.

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

Archaeology Officer: The site is shown free of buildings by the various 19th and early 20th century editions of the Ordnance Survey mapping. No archaeological finds, features and/or deposits have been previously recorded from this area of Gordon.

The submitted details include mention of a 1940s to 1970s buildings being on site prior to its removal; some disturbance of the site will have already taken place in the erection of the building. The proposed footprint of the new building appears to be largely over the area of the previous buildings. These appear in the first post-Second World War mapping to have had a narrow space between them and it is there that fresh groundworks may encounter archaeological materials, but to either side of this gap the previous buildings may have led to some disturbance already.

It is possible that there may be some evidence of backland activities identified during these groundworks for the house's foundations and service trenches. These are not likely to be any more than locally significant. There will be no impact from this application to the church building located on the opposite (northern) side of Eden Road.

An informative is recommended in case of any major concentrations of finds, features and/or deposits.

Contaminated Land Officer: The application appears to be proposing the redevelopment of land which was previously operated as a garage. This is understood to have included licensed petroleum storage which was subsequently converted to diesel.

This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

It is recommended that planning permission should be granted on condition that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority. Any requirement arising from this assessment for a remediation strategy and verification plan would become a condition of the planning consent, again to be submitted and agreed upon by the Planning Authority prior to development commencing.

## **PLANNING CONSIDERATIONS AND POLICIES:**

National Planning Framework 4

Policy 1: Tackling the Climate and Nature Crises

Policy 2: Climate Mitigation and Adaptation

Policy 5: Soils

Policy 14: Design, Quality and Place

Policy 16: Quality Homes

Local Development Plan 2016

PMD1: Sustainability

PMD2: Quality Standards

PMD5: Infill Development

ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils

HD3: Protection of Residential Amenity

EP8: Archaeology

IS2: Developer Contributions

IS7: Parking Provisions and Standards

IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

IS13: Contaminated Land

Supplementary Planning Guidance

Sustainable Urban Drainage Systems August 2020

Development Contributions (2023)

Householder Development (incorporating Privacy and Sunlight Guide) (2006)

Placemaking and Design (2010)

**Recommendation by** - Julie Hayward (Lead Planning Officer) on 5th September 2023

Site and Proposal

The application relates to an area of garden ground that was associated with the former dwellinghouse, Cheviot View, which has since been demolished. The site is fairly flat and there is an existing vehicular access from Eden Road (A6105) to the north. There are neighbouring residential properties to the north, east and west, while the tennis court and bowling green lie to the south. The application site is identified as being an area of prime quality agricultural land.

Planning permission is sought for the erection of a single storey dwellinghouse, which would have a gabled pitched roof. The proposed dwellinghouse would have a footprint of approximately 72 square meters and would have two bedrooms. It would be located fairly centrally within the plot with an area of garden ground to the rear. No details of external materials have been provided.

A communal parking and turning area that is shown to accommodate two parking spaces would be accessed from the existing vehicular access from Eden Road

The proposed dwellinghouse would be connected to the public water supply network and public drainage network.

Planning History

21/01111/FUL: Erection of dwellinghouse. Withdrawn 6th September 2021.

21/01905/FUL: Erection of a dwellinghouse. Refused 2nd June 2022 for the following reason:

The proposed development would fail to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the proposed dwellinghouse would be far removed from the road frontage, as it would be situated behind an existing dwellinghouse, it would be in a position set apart and not integrated with the established character or pattern of the street scene and it would have no clear relationship to neighbouring properties, their established building lines or the general street pattern. It would not respect or respond to the established character of the surrounding area and it would not positively contribute to the overall sense of place. It is therefore considered that the proposed development would be inappropriate in this context as it would result in backland development.

An appeal to the Local Review Body was dismissed but the reason for refusal was varied:

The proposed development would fail to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the small size of the site resulted in the proposal leading to a form of overdevelopment which does not respect the density of its surroundings and adversely impacts on the character and amenity of the surrounding area.

Planning History for the Site to the East (Garden Ground of Cheviot View Eden Road Gordon)

17/01491/FUL: Demolition of derelict cottage and erection of dwellinghouse. Approved 23rd October 2018.

21/00913/FUL: Erection of a dwellinghouse (change of house type previously approved under permission 17/01491/FUL). Approved 29th July 2021.

22/00968/FUL: Erection of a dwellinghouse (change of house type previously approved under permission 21/00913/FUL). Approved 1st September 2022. The application was submitted by the same applicant as this current planning application and is currently under construction.

Assessment

Policy Principle

Policy 16 of National Planning Framework 4 encourages the delivery of high quality, affordable and sustainable homes in the right locations.

The application site lies within the Development Boundary for the settlement of Gordon. It is not designated or allocated for a particular use. In order to establish the principle of development, the proposal must be assessed against Policy PMD5 of the Local Development Plan 2016.

Policy PMD5 states that within development boundaries development on non-allocated, infill or windfall sites will be approved if certain criteria are met.

One criterion is that the development should not conflict with the established land use of the area.

The application site is located within a residential area and so the proposal would be in keeping with the established use and character of the area.

The general principle of exploring residential development is acceptable subject to other site specific considerations as explored below.

### Layout, Siting and Design

Policy 14 of NPF 4 requires development proposals to be designed to improve the quality of an area, whether urban or rural locations and regardless of scale. The policy encourages, promotes and facilitates well designed development that makes successful places by a design-led approach. Proposals will be supported where they are consistent with the 6 qualities of successful places: healthy, pleasant, connected, distinctive, sustainable and adaptable.

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 policy contains a number of standards that would apply to all development.

Policy PMD5 requires that the development respects the scale, form, design, materials and density of its surroundings; the individual and cumulative effects of the development should not lead to over-development or town cramming; the proposal should not detract from the character and amenity of the surrounding area.

The Council's Supplementary Planning Guidance Placemaking and Design 2010 emphasises that new development must integrate well with the existing pattern of development, build upon the established character of an area and contribute positively to a sense of place.

Eden Road is characterised predominantly by traditional, terraced residential properties, of varying heights and design. Most properties flank the public road or at least have a presence from the public road.

There was a derelict cottage to the east of the application site (Cheviot View), which was an exception to this as it was located behind the row of cottages fronting Eden Road. Planning permission was originally granted in 2018 (17/01491/FUL) to demolish this cottage and erect a replacement dwellinghouse; this was subsequently revised and the development that is now being constructed was approved in 2022 (22/00968/FUL). It was considered that this approval did not set a precedent for backland development in this area.

The dwellinghouse now proposed would have no road frontage or direct public outlook as it would be situated behind an existing dwellinghouse. When the previous application on this site was assessed (21/01905/FUL) it was considered that the proposed dwellinghouse would be set apart from and not integrated with the established character or pattern of the street scene and would have no clear relationship to neighbouring properties, their established building lines or the general street pattern. It was concluded that the proposed development would be inappropriate in this context as it would result in backland development contrary to policies PMD2 and PMD5.

The Local Review Body determined that the principle of backland development on this particular site would conform to the building pattern within the surrounding streetscape and that this was influenced by planning

permission to build a house on another part of garden ground associated with the former dwelling of Cheviot View immediately adjacent to this proposal.

This current application has been submitted to address the previous reasons for refusal. The site area has increased slightly from 231 square metres to 450 square metres, as the red line boundary now includes the access and communal car parking and turning area at northern part of the site. The floor area of the house has also been reduced from approximately 78 square metres to 72 square metres, though the dwellinghouse is positioned in the same location within the site.

Despite the changes to the site area, this is still considered to be a small site when compared to house and plot ratios elsewhere in this part of Gordon, out of keeping with the character of the area. The size of the site means that the proposed dwellinghouse would be positioned close to the boundary with the existing house to the west and also to the boundary with the house being erected to the east under planning permission 22/00968/FUL. This current proposal would result in an uncomfortable relationship with the new house.

In addition, the large surfaced area required for parking and turning would result in a very small area of usable garden ground and a large area of hardstanding.

It is considered, that due to the size of the site and despite the reduction in the house footprint, the proposal would still constitute overdevelopment that does not respect the character of the area or existing pattern of development. The proposal therefore fails to comply with policies PMD2 and PMD5 and Supplementary Planning Guidance Placemaking and Design 2010.

In respect of the design of the proposed dwellinghouse, this is lacking in architectural interest and features and is not the high quality of design required by policy PMD2 and the Supplementary Planning Guidance Placemaking and Design 2010. The need to avoid overlooking of neighbouring properties was resulted in large areas of wall with no windows or features of interest and the wide gable on the east elevation is particularly unattractive. No details of the external materials have been provided.

However, the proposal would be seen in conjunction with the new house being built to the east and would be well screened from the main road by existing buildings so that the proposal would not be prominent in the streetscene. The poor design, therefore, is not considered to be a reason for refusal of the application. Had the principle been acceptable, discussions could have taken place to improve the design and secure details of the external materials.

#### Impact on 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 Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new household developments to ensure that proposals do not adversely affect the residential amenities of occupants of neighbouring properties.

The proposed dwellinghouse would not result in an unacceptable loss of daylight or sunlight to neighbouring properties, though the proposed development would create a degree of overshadowing to Sherwood Cottage's garden ground to the west; this would not be significant enough to justify refusal.

The windows to the north elevation of the proposed dwellinghouse would overlook the parking and turning area, while the windows to the south elevation would overlook the proposed rear garden ground and the tennis courts beyond. The windows to the north and south elevations of the proposed dwellinghouse would not unduly impact upon the amenity or privacy of neighbouring properties.

The windows to the west elevation of the proposed dwellinghouse would overlook the neighbouring property as it would be close to the mutual boundary. However, the window would be to a secondary room (bathroom) and it is expected that the bathroom would have obscure glazing for privacy.

The window in the east elevation would serve the kitchen/dining/living room. There would be no direct window-to-window overlooking with the new house being built but this window would overlook the garden ground of the new property.

The relationship between the dwelling under construction and the proposed dwellinghouse is also a concern. The proposed dwellinghouse would be 4m from the front elevation of the house being constructed, impacting on the light and outlook of the house to the east. This emphasises the cramped layout of the site and the uncomfortable relationship between the two houses. The proposal therefore fails to comply with policy HD2 and the guidance within the Supplementary Planning Guidance on Householder Developments.

#### Access, Parking and Road Safety

Policy PMD2 aims to ensure that there is no adverse impact on road safety, including but not limited to the site access. In addition, Policy IS7 states that development proposals should provide car parking in accordance with the approved standards.

Vehicular access to the site would be taken from the public road to the north (A6105). There would be a communal parking and turning area and two on-site parking spaces are shown on the site plan.

The Roads Planning Service has no objections as the site plan allows for parking and turning for two vehicles for the proposed house and provision for the same at the adjacent plot.

A condition would secure parking and turning for 2 vehicles within the site.

#### Services

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 proposed dwellinghouse would be connected to the public water supply network and public drainage network. The proposed servicing for the development would be acceptable in principle and the precise details for drainage would be agreed at the Building Warrant stage. Conditions would be required to ensure that the proposed development is serviced as specified, unless otherwise agreed in writing by the Planning Authority.

There would be space within the application site to store refuse bins.

#### Contaminated Land

Policy IS13 advises that where development is proposed on land that is contaminated or suspected of contamination, appropriate site investigation and mitigation will be required.

The application appears to be proposing the redevelopment of land which was previously operated as a garage. This is understood to have included licensed petroleum storage, which was subsequently converted to diesel.

The Contaminated Land Officer advises that land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

It is recommended that should planning permission be granted a condition be attached that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority. Any requirement arising from this assessment for a remediation strategy and verification plan would become a condition of the planning consent, again to be submitted and agreed upon by the Planning Authority prior to development commencing.

#### Archaeology

Policy EP8 states that development proposals which will adversely affect local archaeological assets will only be permitted if it can be demonstrated that the benefits of the proposal outweigh the heritage value of the asset. All proposals that adversely affect such an asset must include an acceptable mitigation strategy.

The Archaeology Officer has set out the history of the site and advises that no archaeological investigation is required, though recommends an informative.

#### Prime Quality Agricultural Land

Policy 5 of NPF 4 seeks to minimise disturbance to soils from development. The policy states that proposals on prime agricultural land, as identified by the Local Development Plan, will only be supported where it is for essential infrastructure and there is a specific locational need and no other suitable site is available; where it is for small scale development directly linked to a rural business, farm or for essential workers for the rural business to live on-site; where it is for the development of production and processing facilities associated with the land and where no other local site is suitable; and for the generation of renewable energy.

Policy ED10 states that development that results in the permanent loss of prime quality agricultural land will not be permitted unless this site is allocated within the Local Development Plan; the development meets an established need and no other site is available and the development is small scale and directly related to a rural business.

The application site is identified as being an area of prime quality agricultural land. The site is regarded as domestic garden ground. Therefore, the proposal would not result in the loss of prime quality agricultural land.

#### Developer contributions

Where a site is otherwise acceptable in terms of planning policy, but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or partial contribution towards the cost of addressing such deficiencies. This is set out in policy IS2.

Developer contributions are required towards education (Earlston High School: £4,709) and would be secured by way of a legal agreement.

#### Conclusion

It is considered that the proposed development would fail to comply with policies PMD2 and PMD5 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance Placemaking and Design 2010, in that the small size of the site and cramped layout would constitute overdevelopment that fails to respect or respond to the character or density of the surrounding area resulting in adverse impacts on the character and amenity of the surrounding area.

In addition, the proposal fails to comply with policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance on Householder Development as, due to the small size of the site, the proposal would harm the residential amenities of future occupants of the new house being constructed to the east as a result of the proximity of the proposed house.

There are no material planning considerations which suggest that housing development in this location would be acceptable and there are no known extenuating circumstances of other material considerations which indicate that the application should be supported as an acceptable departure from the Scottish Borders Local Development Plan 2016.

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

The proposed development is contrary to policies PMD2 and PMD5 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance on Placemaking and Design 2010, in that the small size of the site and cramped layout would constitute overdevelopment that fails to respect or respond to the



character or density of the surrounding area resulting in adverse impacts on the character and amenity of the surrounding area.

In addition, the proposal is contrary to policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance on Householder Development in that the small size of the site would result in the proposed dwellinghouse being positioned in close proximity to the new house being built to the east, harming the residential amenities of future occupants of the new house in terms of light, privacy and outlook.

**Recommendation:** Refused

- 1 The proposed development is contrary to policies PMD2 and PMD5 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance on Placemaking and Design 2010, in that the small size of the site and cramped layout would constitute overdevelopment that fails to respect or respond to the character or density of the surrounding area resulting in adverse impacts on the character and amenity of the surrounding area.

The proposed development is contrary to policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance on Householder Development in that the small size of the site would result in the proposed dwellinghouse being positioned in close proximity to the new house being built to the east, harming the residential amenities of future occupants of the new house in terms of light, privacy and outlook.

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