

**SCOTTISH BORDERS COUNCIL**

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

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

**REF :** 23/00684/FUL  
**APPLICANT :** M&J Ballantyne Ltd  
**AGENT :** Aitken Turnbull Architects Ltd  
**DEVELOPMENT :** Change of use from amenity land to garden ground  
**LOCATION:** 58 Waldie Griffiths Drive  
Kelso  
Scottish Borders  
TD5 7UH  
**TYPE :** FUL Application  
**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
P65 L 101	Proposed Site Plan	Refused
P65 LOC	Location Plan	Refused
P65 L 102	Specifications	Refused

**NUMBER OF REPRESENTATIONS: 0**

**SUMMARY OF REPRESENTATIONS:**

10 neighbours were notified. No representations were received.

Consultations:

Roads Planning: No objection.

**PLANNING CONSIDERATIONS AND POLICIES:**

National Planning Framework 4

Policy 20 Blue and Green Infrastructure

Local Development Plan 2016

PMD1 Sustainability

PMD2 Quality Standards

EP11 Protection of Greenspace

Supplementary Planning Guidance

Placemaking and Design 2010

Householder Development 2006

**Recommendation by** - Euan Calvert (Assistant Planning Officer) on 23rd August 2023

Site and Proposal

This is an application for the enlargement of garden ground and the erection of a fence on land adjacent to 58 Waldie Griffiths Drive, Kelso.

The property is located within the Broomlands housing development and is a detached dwellinghouse located adjacent to an area of open space. The proposal is to include an area of the open space into the garden ground of the property and enclose it with a 1.8m high timber fence.

Planning Policy

Policy 20: Blue and green infrastructure of National Planning Framework 4 states that development proposals that result in fragmentation or net loss of existing blue and green infrastructure will only be supported where it can be demonstrated that the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision, and the overall integrity of the network will be maintained. The Planning Authority's Open Space Strategy should inform this.

Policy PMD2 of the Local Development Plan 2016 requires that developments provide meaningful open space that wherever possible links to existing open spaces.

Policy EP11 seeks to protect greenspace from development where this can be justified by reference to any of the following:

- a) The environmental, social or economic value of the greenspace;
- b) The role the greenspace plays in defining the landscape and townscape structure and identify of the settlement;
- c) The function the greenspace serves.

Development that would result in the loss of greenspace will only be permitted if it can be satisfactorily demonstrated that:

- d) There is a social, economic and community justification for the loss of the open space; or
- e) The need for the development is judged to outweigh the need to retain the open space; and
- f) Where appropriate, comparable open spaced or enhancement of existing open space may be provided by the developer to provide an adequate and acceptable replacement.

Policy HD3 ensures neighbouring residential amenity is protected, when considering development proposals.

Planning History

This site is allocated in the Local Development Plan 2016 for housing (RKE1B) and planning permission was approved in May 2008 for a scheme of 76 houses (06/02027/FUL). Plots 37 - 58 (22 units) remain to be constructed and there is presently a live application being considered to change this layout: 22/00550/FUL: re-orientation of 5no dwellinghouses (revision to planning permission 06/02027/FUL), erection of an additional 12 dwellinghouses and associated roads and infrastructure.

There is an adopted planning brief for the site and the location of this green space corresponds with this brief (Broomlands East, Kelso Supplementary Planning Guidance, March 2007).

Assessment

The determining issue is whether this form of development can be accommodated without impact to road/pedestrian safety, green space, or the character and appearance of the street scene.

Loss of Greenspace

The proposal is for enlargement of garden and enclosure of public open/ green space by forming the fence in a convex rather than a concave shape resulting in a 6m larger garden. The fence change would extend over 26m in length.

The approved landscape plan for this site (06/02027/FUL) identifies that this area of land is to become an adopted pavement characterised by six specimen trees surrounding a (presumably grass) public open space.

This area of open space is intended to deliver environmental and social benefits to the local community, especially those in the immediate environs. The grassland will deliver wildlife benefits and act as an informal recreation space for new residents.

Importantly, the semi-circular form is intended to define the appearance of the estate and form an entrance to the less formal native woodland/ open space beyond. Changes to the fenceline and loss of a portion of this open space would not enhance the appearance of the streetscene.

The site is one of the few designated informal recreation spaces in the entire development therefore the importance of maintaining the size and shape cannot be stressed enough.

The proposed development would result in the loss of this open space, which would prejudice the wider character of this residential estate. This loss is resisted by policy EP11. This is land designated for public amenity benefit both for visual amenity and as functional open space; it contributes to the setting of the housing development and visual amenities of the area. Any encroachment, even marginal, is liable to reduce the qualities and benefits of this open space for the public. There is no social, economic or community justification for this loss as the open space would become private garden ground. The need for the development does not outweigh the need to retain the open space as it can be argued that the plot already has an adequate area of private garden ground similar to other plots within the development.

In addition, the proposal would result in alterations to the route of the adopted pavement. There would be changes required to the tree planting scheme and there would be a consequential reduction in green space. None of this has been demonstrated, quantified or justified on the submitted plans.

There has been no consultation with user groups, as required by Policy EP11, to substantiate that the loss of greenspace is either acceptable in principle or outweighed by another factor. The agent has not demonstrated that this green space can be relocated to an alternative location within the estate.

It is considered that this proposal is unacceptable and contrary to National Planning Framework 4 and Local Development Plan policies as it will result in, and exacerbate, a deficit in green infrastructure provision. It must be concluded that the site is valuable open space and any encroachment or reduction should be resisted.

#### Impact on Amenity

The fence would be identical to other fences in the surroundings therefore would not in itself be an incongruous addition. However, the change would have a detrimental impact to the visual amenity of the public open space. The approved landscape plan demonstrates a public open space deliberately semi-circular in shape with pavement and trees to match this semi elliptical shape. This shape was deliberately designed to counter the linearity appearance of the road and cul-de-sac layout. The change to fenceline would not improve or enhance the appearance of the estate.

#### Road Safety and Design Standards

No objections are made from the Roads Planning Service to this layout therefore, from a road safety and design standards point of view, the proposals to adjust the pavement layout are acceptable.

#### Conclusion

This site will play an important role in defining the landscape and townscape structure and setting of this part of the residential estate and it is considered that this should be protected for its value as greenspace.

Any encroachment by neighbouring fences and gardens is liable to compromise the quality of the area and not assimilate successfully with the surroundings contrary to policies PMD2 and EP11 and Supplementary Planning Guidance on Placemaking and Design). Any acceptance to this proposal would set an indefensible and undesirable precedent for other similar applications in the immediate surroundings resulting in diminished quality of greenspace.

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

The proposal would be contrary to NPF4 Policy 20 in that the proposal would result in net loss of green infrastructure exacerbating a deficit in green infrastructure provision locally and affecting the overall integrity of the limited local network.

The proposal would be contrary to Policies PMD2 and EP11 of the Local Development Plan 2016, and Supplementary Planning Guidance Placemaking and Design 2010 in that it would result in development that is out of character with the existing and proposed development pattern to the detriment of the amenity and character of the surrounding area.

Development would cause a loss and detrimental impact to the landscape and open space plan as approved 06/02027/FUL to the detriment of the visual amenity of the estate and it not been demonstrated that the public benefits of the development outweigh the loss of this landscape value.

It has not been demonstrated that there is a social, economic or community benefit for the loss of open space or that the need for development outweighs the need to retain the space. No comparable or enhancement of existing open space has been provided to mitigate the potential loss.

#### **Recommendation:** Refused

- 1 The proposal would be contrary to Policy 20 of National Planning Framework 4 and Policies PMD2 and EP11 of the Local Development Plan 2016 and the Supplementary Planning Guidance on Placemaking and Design 2010 in that it would result in the loss of public open space that would be out of character with the existing and proposed development pattern to the detriment of the visual amenity and character of the surrounding area. In addition, it has not been demonstrated that there is a social, economic or community benefit for the loss of open space or that the need for development outweighs the need to retain the space. No comparable or enhancement of existing open space has been provided to mitigate the potential loss.

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