

**SCOTTISH BORDERS COUNCIL**

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

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

**REF :** 20/01327/FUL  
**APPLICANT :** Mr Mark Graham  
**AGENT :** PD Architecture  
**DEVELOPMENT :** Erection of dwellinghouse  
**LOCATION:** Land Adjacent Carnlea  
Main Street  
Heiton  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

---

**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
A LOCATION PLAN	Location Plan	Refused
009	Proposed Site Plan	Refused
010	Proposed Plans & Elevations	Refused
006	Proposed Plans	Refused
007	Proposed Elevations	Refused
008	Proposed Roof Plan	Refused

**NUMBER OF REPRESENTATIONS: 6**

**SUMMARY OF REPRESENTATIONS:**

12 neighbours were notified.

Two comments were received noting no objection but requiring confirmation of ownership of a mutual boundary and recommending a turning circle be provided. Trees were requested to be retained and privacy issues highlighted.

Three Objections were received raising the following planning issues:

- o Sunlight and daylight would be considerably diminished as a result of the roof pitch height.
- o Potential first floor accommodation in future.
- o Density of the site, the design is too large for the plot, over-development.
- o Height of the development.
- o Inadequate access and increased traffic.
- o Overlooking.

- o Overshadowing.

Consultations:

Scottish Water: No objection.

Community Council: Object. Too close to neighbouring houses and insufficient vehicular access. The development would require adoption of the road.

Roads Planning:

First response: Unable to support the proposal. The existing private access is very constrained with no formal turning area.

Second response: A turning area has been demonstrated. This requires the use of a driveway for Hillcrest, which is unacceptable. A solution avoiding this would be to move the turning area east to the midpoint of the site. This solution would remove concerns with regards to the ability of vehicles to enter and exit the private access in a forward gear.

However the objection is sustained until:

1. The sub-standard access onto the public road is widened to 5.5m wide with 6m radii and
2. Visibility splays of 2.4m by 43m in either direction are provided.
3. Access surfaced with a bound surface.

The proposal does not comply with policy PMD2 of the Local Development Plan 2016 in that it would be result in extra vehicular traffic on a sub-standard access to the detriment of road safety.

#### **PLANNING CONSIDERATIONS AND POLICIES:**

SBC Local Development Plan 2016

PMD2 Quality Standards

PMD5 Infill Development

HD3: Protection of Residential Amenity

EP13: Trees, Woodlands and Hedgerows

IS2: Developer Contributions

IS7: Parking Provision and Standards

IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Supplementary Planning Guidance:

Developer Contributions, April 2015

Guidance on Householder Developments, July 2006

Placemaking and Design, 2010

Landscape and Development, 2008

**Recommendation by** - Euan Calvert (Assistant Planning Officer) on 24th May 2021

This is a full planning application for the erection of a dwellinghouse on a vacant site in Heiton, Kelso.

Site

This is a vacant site within a cu-de-sac of four neighbouring houses dating from approval in the mid1970s. This site was said to be occupied by a chalet at this time however the site was cleared and has remained undeveloped since.

Planning History

R127/94

In June 1994, full planning consent for a house on the site was granted and subsequently lapsed in 1999. The Planning Committee approved this application contrary to the advice of the Director of Roads and Transportation. The Committee stated "the bungalow is (would be) located on an in-fill site which has already demonstrated its ability to accommodate a house when used for the chalet."

04/01984/OUT and 05/00012/REM

These applications were also for the erection of one house on the site. The Director of Roads and Transportation maintained their objection. Access to the main street was deemed an unsuitable standard to accommodate a fifth house and visibility on to the main A class road was inadequate (the access entrance/exit was required to be widened to allow two cars to pass at the junction and the visibility splays of 2.5 x 100 metres were required in both directions).

The Planning Officer's report noted the site was of sufficient size to accommodate a house, having previously accommodated a dwellinghouse and that the land is within a residential area. The Officer recommended approval to the Cheviot Area Committee, overruling The Director of Roads and Transportation, noting that road widening and improved visibility were all dependent on third party land who would incur loss of garden area and the need to move a boundary retaining wall. The mitigating circumstances were stipulated as "traffic calming measures for the village are in prospect" and that there was "history of the site in residential use".

#### Proposals

The site and layout has been designed to be similar to the previously approved building. It is a T-planned footprint featuring a projection on the principal elevation of similar scale to the approved bungalow. The main roof of this proposal would have a higher ridge than that previously approved, which would accommodate a vaulted ceiling over the public lounge and kitchen areas.

Amendments have been provided throughout the course of application:

- o Window removed from Bedroom 3, replaced with a Velux combination window, the vertical element to be glazed with obscure glass.
- o Window facing Hillcrest in the Master Bedroom to be glazed with obscure glass.
- o A new beech hedge 1800mm high, to be planted along the East and North boundaries, as privacy and overlooking screening.
- o The Conifer tree is to be felled.

Amended elevations have been provided to demonstrate the relationship of this building to the neighbour, Hillcrest. The residential amenity impacts have been considered in respect of overlooking, privacy, daylighting, sunlight and overshadowing impacts.

#### Planning Policy

##### Policy PMD2: Quality Standards

Requires all development to be of high quality and be compatible with the character and neighbouring built form. Boundary treatments are considered essential to ensure proper effective assimilation with the wider surroundings.

The Placemaking and Design 2010 SPG seeks for new development to contribute to the locally distinctive built character.

##### Policy PMD5: Infill Development

Development on non-allocated, infill or windfall, sites, including the re-use of buildings within Development Boundaries as shown on proposal maps will be approved where the following criteria are satisfied:

- a) where relevant, it does not conflict with the established land use of the area; and
- b) it does not detract from the character and amenity of the surrounding area; and
- c) the individual and cumulative effects of the development can be sustained by the social and economic infrastructure and it does not lead to over-development or 'town and village cramming'; and
- d) it respects the scale, form, design, materials and density in context of its surroundings; and
- e) adequate access and servicing can be achieved, particularly taking account of water and drainage and schools capacity; and
- f) it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

All applications will be considered against the Council's Supplementary Planning Guidance on Placemaking and Design. Developers are required to provide design statements as appropriate.

#### Policy IS7

The Roads Planning Officer makes comment with regard to road safety standards, access and parking accommodation.

#### Policy HD3

Siting, scale and location of development is considered with regard to protecting neighbouring residential amenity.

#### Policy EP13

Seeks to protect trees and hedgerows from development.

### ASSESSMENT

#### Principle

The Local Development Plan 2016 identifies this site falling within the Development Boundary, but not allocated and it is therefore appropriate to consider Policy PMD5: Infill Development.

I find the site to satisfy several but not all of the infill policy criteria:

1. The proposal does not conflict with the established land use. The land is vacant and it has previously been confirmed by the Council that the change to private residential use will not conflict with neighbouring use;
2. This is a tight site but the choice of design and rear location from the Main Street would avoid any adverse impacts to the character and amenity of Heiton. The site has previously been an acceptable infill development opportunity. In terms of design, the building presented would be a suitable addition to the neighbouring built form, both appearing modern but retaining similar form as the neighbouring bungalows. I am satisfied that development would appear contiguous in size and plot ratio as the neighbours, specifically noting that Craimar opposite features 1.5 storey form; and
3. A further residential dwelling would contribute to sustaining the social and economic infrastructure of Heiton. Developer Contributions Policy would require contribution to Kelso High School in accordance with policy IS2. However, contributions have not been agreed or reconciled because of overarching issues arising from the Road Planning Officer's sustained objection to a house on this site. The site is considered to be over-development. The site does not satisfy visitor parking, visibility and junction requirements currently; and
4. I am satisfied that the building to plot ratio are within the margins of acceptability in terms of scale, form, design, materials and density and are not dissimilar to the previous approval; and
5. There are material concerns over vehicular safety in accessing this site and these have been irreconcilable throughout prolonged discussions. The agent has insisted that the previous permission was implemented, 04/01984/OUT/ 05/00012/REM, however the Planning Authority cannot accept this as no

evidence has been presented of operational development or that the site was previously occupied as a dwellinghouse (described as a chalet in 1994) or of commencement in terms of the Building Warrant. Through the passage of time the land use has reverted to vacant land, not a site of a dwellinghouse. The agent contends that drainage, demolition and clearance of site constituted development however these operations may have been undertaken outwith the requirements of planning permission.

In accordance with Policy IS7, the Roads Planning Officer requires three items to be secured to achieve future support to development of this dwellinghouse:

1. Access onto the public road is currently substandard for a 5th dwelling and it must be widened to 5.5m wide with 6m radii and;
2. Visibility splays of 2.4m by 43m must be provided in either direction;
3. This access to be surfaced with bound surface;
4. Provision of visitor turning and parking within the cul-de-sac.

Without these items being provided, the development is contrary to both Policy PMD2 and parking standards within Policy IS7, in that the extra vehicular traffic on a sub-standard access would be to the detriment of public road safety, both vehicular and pedestrian.

Public mains water is proposed and waste water to the mains sewer. Both would be acceptable in this village location; and

6 I do not identify any significant loss of daylight, sunlight or privacy to neighbouring properties as a result of overshadowing or overlooking (owing to the appropriate choice of floor level, cut in to the slope). Locations of windows, overshadowing and privacy matters have been considered. I have assessed the distance to the nearest neighbour and the choice of window locations. It has been demonstrated that the amendments would ensure neighbouring residential amenity in accordance with overlooking and loss of privacy guidance. Obscure glass would protect privacy of the habitable bedroom in the front projection. A 1.8m privacy hedge would be added behind the existing west boundary to introduce further privacy between plots. This hedge would compensate for the loss of (relatively juvenile) trees shown to be removed.

The principle of the development of one dwelling on this site has not been adequately demonstrated. Policy PMD5 of the Local Development Plan 2016 requires means of access to the public road network to be satisfactory achievable to standards identified above. The road improvements cannot be secured by a suspensive as the land is outwith the control of the applicant.

External Appearance: Materials, Fabrics and Colours

The proposed external finishes would be quite appropriate to the location within the estate and in accordance with Placemaking and Design SPG, 2010.

Landscaping

A condition would be required in the event of approval to ensure the boundary treatments (the proposed hedge) were implemented in accordance with a full specification.

Three objections have been received. I have addressed the points concerning loss of neighbouring residential amenity above. I do not identify any significant adverse impacts on the nearest neighbours. The density/ plot ratio would be high but not harmful to daylight or privacy standards of neighbours. The density would be similar to and therefore reflective of the neighbouring built form in this residential estate. The proposal is therefore not considered to be an incongruous addition.

The Community Council and the objectors' concerns over suitable safe vehicular access and egress (and visitor parking) are noted and are reasons for refusal.

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

The proposed development would not comply with Policies PMD2: Quality Standards and PMD5: Infill Development of the Local Development Plan 2016 in that the development would result in additional

vehicular traffic on a substandard access to the detriment of road safety, both vehicular and pedestrian, and it has not been demonstrated that the improvements required to upgrade the access, as specified, can be carried out.

**Recommendation:** Refused

- 1 The proposed development would not comply with Policies PMD2: Quality Standards and PMD5: Infill Development of the Local Development Plan 2016 in that the development would result in additional vehicular traffic on a substandard access to the detriment of road safety, both vehicular and pedestrian, and it has not been demonstrated that the improvements required to upgrade the access, as specified, can be carried out.

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