

**SCOTTISH BORDERS COUNCIL**

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**4 MARCH 2024**

**APPLICATION FOR PLANNING PERMISSION**

**ITEM:** **REFERENCE NUMBER:** 23/01838/FUL

**OFFICER:** Carlos Clarke  
**WARD:** Galashiels and District  
**PROPOSAL:** Change of use of visitor parking and land to form garden ground, erection of shed and raised decking  
**SITE:** Land West of and Incorporating 19 Birks View, Galashiels  
**APPLICANT:** Mr J Cockburn  
**AGENT:** Stuart Aitchison

**SITE DESCRIPTION**

The site comprises a detached house and its garden, and an area of open space to its north-west side that includes three public car parking spaces used for visitor parking. The site is located on the northerly side of the public road serving Birks View, and is located at its far north-westerly end, where it sits above banked woodland to the north-east, and alongside open fields to the north-west. Detached houses and gardens are located alongside and opposite the site, to its south-east and south-west.

**PROPOSED DEVELOPMENT**

This application seeks full Planning Permission for the change of use of the open space, including the three visitor spaces, to residential garden ground associated with the adjacent house. As part of that, the application initially proposed 2-metre-high timber fencing to enclose the proposed front garden area, and a 4 metre high shed was proposed on the visitor parking spaces. During the processing of the application, however, the proposed fencing has since been reduced to 1 metre in height, and the shed is now proposed behind the house frontage, along its north-westerly side. Also proposed is a deck within the existing and proposed rear garden area, the underside of which would be 4.8 metres in height above the sloping ground.

**PLANNING HISTORY**

The relevant planning history for the site comprises:

- 05/01011/FUL: 31 dwellinghouses approved subject to conditions in November 2006
- 07/00780/FUL: Change of house types on selected plots approved subject to conditions in June 2007
- 07/01537/FUL: Change of house types on selected plots, and changes to landscaping and fencing, approved subject to conditions in January 2008

## **REPRESENTATION SUMMARY**

Eleven representations have been submitted in response to the application in which objections are raised. The key concerns are summarised as follows:

- Lack of communication regarding sale of the land
- The development contravenes title burdens
- Loss of visitor parking when there is limited parking at the end of Birks View; no turning; leading to parking on the road and on pavement (and pavement parking legislation has recently been introduced), restricting/blocking access to emergency vehicles
- Precedence for loss of more parking
- Impact on visual continuity and frontage building line – the rest of the street has open gardens, predominantly hedged. The proposal would conflict with Policy PMD2 of the Local Development Plan 2016 and Government guidance (Designing Streets and Designing Places)
- Would restrict maintenance access to the woodland area behind

## **DEVELOPMENT PLAN POLICIES:**

### **National Planning Framework 4**

Policy 6: Forestry, Woodland and Trees

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

Policy 13: Sustainable Transport

Policy 14: Design, Quality and Place

Policy 20: Blue and Green Infrastructure

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

Policy PMD1 – Sustainability

Policy PMD2 – Quality standards

Policy PMD5 – Infill Development

Policy IS7 – Parking Provision and Standards

Policy HD3 – Protection of residential amenity

Policy EP13 – Trees, woodlands and hedgerows

## **OTHER PLANNING CONSIDERATIONS:**

Supplementary Planning Guidance:

Sustainable Urban Drainage Systems (2020)

Trees and Development (2020)

## **CONSULTATION RESPONSES:**

### **Scottish Borders Council Consultees**

**Roads Planning Service:** When this development was originally considered, visitor parking was provided at the appropriate level and evenly spaced throughout the development. It was originally proposed that two parking spaces to serve this part of the development would be provided off the end of the southerly leg of the turning area, between plots 16 and 17. A further application for changes to the house type/layout of these plots which proposed access to plots 16 and 17 to be taken off the same end of the turning area. As part of the consideration of that application, the Roads Planning

Service (RPS) requested that alternative parking be provided in the vicinity of this end of the development. The proposal was to provide the replacement parking nose-in to the amenity area opposite plots 17 and 18. This was subsequently provided although given the space available, three spaces were provided rather than the two that were previously deemed appropriate.

This current proposal would result in the loss of these spaces and, they would again look for these to be “replaced”. Having visited the site on numerous occasions, the RPS are satisfied that two parking spaces could be catered for in the westerly leg of the turning area, outside plot 18, without causing any detrimental impact on the access to this plot. Vehicles will still be able to enter and leave the parking spaces associated with plot 18. It was also noted during these visits, at various times of the day and week, that the uptake in the existing parking spaces was very low with limited vehicles utilising the spaces. There are also areas where vehicles will be able to park on-street if needed, although these are limited due to the plot access arrangements. As such, the RPS recommended a planning condition requiring a “T-bar” be provided to indicate two parking spaces at the road end.

In response to the above initial comments, the applicants submitted a plan which includes the provision of the road lining to provide for the two spaces. The RPS has, subsequently confirmed that the provision of these two parking spaces at the end of the existing road will not prevent safe access and egress to/from the parking for the adjacent property and, anyone using the new spaces will be able to either reverse to the turning area (between Nos 16 & 17) or turn within the existing carriageway and adjacent dropped-kerb footways safely, both of which are acceptable and safe manoeuvres. The RPS is satisfied that the proposal is acceptable in terms of road safety including pedestrian safety.

If the planning application is supported, a Stopping-Up Order will have to be promoted for the parking area to be removed from public use and the area returned to the title holder for the land in question. The grit bin will also need relocated.

### **KEY PLANNING ISSUES:**

The key planning issues are whether the proposed development would be appropriate in terms of use of the open space as residential garden ground; be visually sympathetic; and, whether the loss of the visitor parking spaces would have unacceptable road and/or pedestrian safety consequences that cannot be mitigated.

### **ASSESSMENT OF APPLICATION:**

#### Principle

This application requires to be determined with due regard to planning policy and material planning considerations. However, title deeds and burdens, as well as communication regarding the sale/purchase of land, are legal issues that are not material to this planning application. It is for any aggrieved person to challenge any alleged breaches in those regards privately.

As regards the planning merits, aside from the loss of the public visitor parking spaces (the implications for which are considered further below), the incorporation of the open space area into the private garden of the adjacent property will not have any notable recreational, landscape or townscape consequences, such that the use of the land for domestic garden ground would fail Policies 9 or 20 of National Planning Framework 4 or Policies PMD5 or EP11 of the Local Development Plan 2016, taking all factors into

consideration. The area is of a size and in a location where it has limited value as public open space, and where its use as garden ground for the adjacent property would have more practical benefit. Its current limited value as open space does not suggest it need be compensated for elsewhere. The woodland area behind has maintenance access to it further to the south-east.

#### Parking and road safety

The proposed garden ground would result in the loss of an area of visitor parking providing space for three vehicles. These are conveniently located and provide easy access for visitors at the far end of the street. The loss of these spaces is not ideal. However, the Roads Planning Service have carefully considered the implications and have identified that only two spaces are necessary, and that these can be adequately provided by means of road lining at the road-end. As they have confirmed in their comments, these two spaces can be provided safely without undue hindrance on access to and from the adjacent parking area within no 18 Birks View. The precise positioning, width and extent of the lining will require to be confirmed on site when the works are carried out and may likely not be to the layout shown on the revised plan. While the proposal may not be as convenient as the current parking arrangement it does provide for visitor parking which, on its own merits, can be endorsed by RPS as a safe and suitable arrangement, and that is a significant material consideration in the determination of this application. It is noted that the proposal includes a signboard, though that is not necessary.

Relocation of the grit bin and the Stopping Up Order are not material to this application and can be referred to the applicant by way of an Informative Note.

#### Visual impacts

The proposed fencing was originally 2 metres high which, given its location forward of the building line, would be wholly inappropriate to the visual appearance of the street, which is characterised by low garden frontage enclosures, largely comprising hedging. This has since been reduced to 1 metre in height which is more visually sympathetic and, while hedging would be preferred, a 1-metre-high fence would be Permitted Development for existing front gardens. A condition should clarify it as 1 metre, as the drawing (though amended), still erroneously contains the previous height dimension.

The shed was also originally proposed in the frontage area where it would also have had a visually obtrusive impact, given its location and size. However, the revised proposals now site it behind the house frontage where it will not have an unreasonably adverse impact on the streetscene. A condition should secure an appropriate floor level, and clarity on external materials and finishes/colours.

The decking would be sited to the rear, where it would have no visual impact on views from the street. Set alongside the house, with woodland to its north-east, it would benefit from the setting and its distance from public view. Nonetheless, its basic design, whereby the entire deck is set on one level resulting in a considerable extent of support (with posts up to 4.8m high) would be a visually unsympathetic way to provide domestic decking. When visible, the decking would be more visually conspicuous than is necessary. A condition is, therefore, recommended that seeks a lower, more terraced arrangement. Clarity on materials and their colour/finish should also be sought by planning condition.

### Neighbouring amenity

The proposals will not have any determinative impacts on neighbouring properties as regards privacy, daylight, sunlight or outlook loss.

### **CONCLUSION**

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the statutory Development Plan 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 the following conditions and informatives:

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.
2. The fencing shall not exceed a height of 1 metre above the existing ground level.  
Reason: To ensure the development has a sympathetic visual impact
3. The finished floor level of the shed shall not exceed that of the existing house (No 19 Birks View Galashiels), and the shed shall be constructed using external wall and roof materials/finishes/colours that have first been submitted to and approved in writing by the Planning Authority.  
Reason: To ensure the development has a sympathetic visual impact
4. Notwithstanding the references otherwise on the approved plans and drawings, a revised design for the decking shall be submitted for the written approval of the Planning Authority prior to this part of the development commencing. The revised design shall comprise a stepped/terraced arrangement that reduces the height of the deck above the existing sloping ground and shall include specifications for all materials/colours/finishes. The development shall be implemented in accordance with the approved revised design and specifications.  
Reason: To ensure the development has a sympathetic visual impact
5. No development shall commence on the change of use of the land to garden ground, including the erection of the approved fencing, until two visitor parking spaces are identified by means of "T-bar" lining in the road-end location specified on drawing 729-3.  
Reason: To ensure the visitor parking spaces are adequately compensated for in the interests of road and pedestrian safety

### Informatives

1. Prior to the parking area being incorporated within the garden of 19 Birks View and the fence being erected, a Stopping Up Order for the existing parking area must be promoted and confirmed.
2. The "T-bar" required by Condition 5 should be carried out through discussions with the Council's Roads Planning and Traffic Teams, and the precise positioning, extent and width of the lining agreed as part of that. Costs associated with this are

to be met by the applicant. All works within the public road must be carried out by a Council-approved contractor.

3. The signboard for the visitor parking area is not required to satisfy Condition 5 and its provision would, in any case, be subject to compliance with the Control of Advertisements (Scotland) Regulations 1984 (as amended)

### **DRAWING NUMBERS**

Location Plan

Proposed Plans and Elevations 729-1

Proposed Plans and Elevations 729-3

### **Approved by**

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

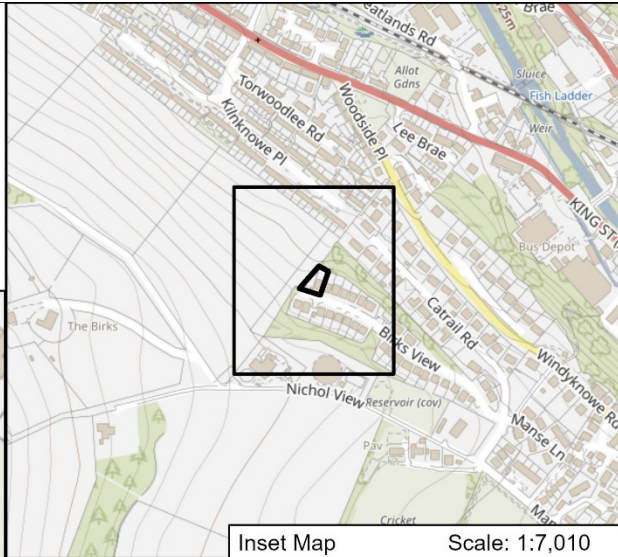
The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

### **Author(s)**

Name	Designation
Carlos Clarke	Team Leader



23/01838/FUL  
19 Birks View  
Galashiels



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