

**SCOTTISH BORDERS COUNCIL**

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

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

**REF :** 22/01358/FUL

**APPLICANT :** Smith & McMath

**AGENT :** Stuart Davidson Architecture

**DEVELOPMENT :** Erection of 2 no dwellinghouses (change to house type to previously approved 05/01796/FUL)

**LOCATION:** Plots 7 And 8  
Land At St Dunstan Farm  
Lilliesleaf  
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>
P714-PL-LOC	Location Plan	Approved
P714-PL-006C	Proposed Site Plan	Approved
P714-BW-007H	Proposed Plans & Elevations	Approved

**NUMBER OF REPRESENTATIONS: 3**

**SUMMARY OF REPRESENTATIONS:**

Three representations raise objections. The key issues raised, material to this application, are in relation to:

- o Privacy of neighbouring houses, and garden ground
- o Landscaping and boundary treatments

**Consultations**

Roads Planning Service: Have no objections provided previous roads related conditions are attached

Community Council: No comments to make

Contaminated Land Officer: There appears to be a possible historic use of the land as an agricultural steading within the vicinity. The requirement for a full site assessment and potential remediation may not be practical or proportionate given the nature of the application and it is recommended that the applicant is advised of potential land contamination issues by way of an Informative Note.

Scottish Water: No objection. There is capacity at Robertson Water Treatment Works and a foul only connection at Lilliesleaf Waste Water Treatment Works. Capacity cannot be reserved. No surface water into the combined sewer will be accepted.

## **PLANNING CONSIDERATIONS AND POLICIES:**

Local Development Plan 2016

PMD2, PMD3, PMD5, HD1, HD3, EP1, EP2, EP3, EP7, EP8, EP16, IS2, IS3, IS6, IS7, IS9, IS13

SPGs Development Contributions 2011(updated 2022); Affordable Housing 2015; Guidance on Householder Development 2006; Landscape and Development 2008; Placemaking and Design 2010; Sustainable Urban Drainage Systems 2020; Waste Management 2015

**Recommendation by** - Carlos Clarke (Lead Planning Officer) on 25th October 2022

This application seeks full consent for amended proposals for a pair of semi-detached houses on plots 7 and 8 of an extant consent for 8 new-build and two converted houses originally approved under 05/01796/FUL. The houses are under construction. The proposals, fundamentally, involve reorientation of the two houses in order to account for a change of boundary with the adjacent converted dwelling.

### Principle

The site is allocated for housing in the LDP and the previous consent is extant. The change in layout does not materially alter the acceptability of the proposals. Albeit the LDP includes a landscape buffer requirement to the rear, the extant consent would have made compliance with that practically unfeasible in any case.

### Archaeology

A condition on the extant consent requires archaeological mitigation. However, that appears to be relevant to the conversions, and not new-builds.

### Ecology

The proposals have no implications in this regard

### Services

Mains water and foul drainage are proposed. The extant PP applied no control over these, so there is no necessity to regulate them at this stage. Surface water drainage is referred to as including permeable hard surfaces and connection to an off-site drainage system. Ultimately the details are for Building Standards/SEPA requirements and need not be examined here. As there is no particular drainage issue here affecting the planning merits, a condition can apply an overarching requirement.

### Development contributions

The previous consent is extant, and had no development contributions applied. There is no scope now as a result.

### Access and parking

The houses would be served by the existing road (approved under the original consent and being required to adoptable standards). The original consent also required a path link along the B6400. Conditions are no longer necessary to secure these as I have discussed with the RPS who advise that these are secured under the RCC and associated roads bond. As regards parking areas, these have been amended. Plot 7 is agreeable to the RPS but Plot 8 requires adjustment. This will need to be addressed by a condition.

### Placemaking and design

The foreshortening of the westerly boundary has meant that developing as per the original houses' orientation would be inappropriate (albeit not impossible). This proposal seeks to overcome this by setting the houses further back, splaying them differently to how they were originally consented. The result is not

ideal in several regards, not least the reduction in Plot 7's size. However, the visual consequences for the public realm would not be unacceptable. Design changes to the houses themselves are also incorporated, but the revised house designs are very much attuned to the character of the original houses, with relatively minor changes involved, and the proposals would be no less visually sympathetic to the site and context. Conditions can regulate materials, in as similar manner to the extant consent conditions, but accounting for the fact works have commenced on this development.

Level information is not conclusive, but it wasn't on the original consent either. That said, floor levels will be the same. Boundary treatments and landscaping are acceptable (low fencing/hedging to the front, and higher fencing only on the west side with the neighbouring house), though more hedging should be specified to the front of Plot 7. Conditions can regulate implementation.

#### Neighbouring amenity

The resited dwellinghouses do not have an entirely satisfactory relationship with neighbouring properties as regards light and outlook. However, following submission of further information during the processing of the application, and having examined risks to all existing and proposed properties, I would not consider impacts to be determinatively adverse.

As regards privacy, again I have examined impacts on all existing and prospectively built houses and note the reorientation has changed relationships as regards privacy in some regards. In the main, I do not consider that these impacts are severe/unreasonable, or require mitigation. However, adjustment/mitigations are required in the following regards:

- o Boundary fencing is required along Plot 6 to screen ground floor windows (as per the fencing proposed); and the facing bedroom window needs to be obscure glazed (this room has a full outlook from its rooflight, so obscure glazing is acceptable mitigation)
- o The converted house in the former Plot 9 has one habitable window (a dormer), the privacy for which would be undermined. However, my interpretation is that the effect of this proposal on that dormer (and the garden) would be less intrusive than if plot 8 were built as approved
- o The rear garden of the former Plot 10 would be intruded on by a dining room window and dormer. The applicants have, however, deleted the dormer and replaced with a rooflight. The effect is not ideal - a rooflight can still allow overlooking - but this appears to me to be the most pragmatic response to the matter, and bearing in mind PD rights allow for rooflights in houses generally, the resulting effect on privacy is reasonable. The facing dining room window will be screened partly by fencing, but this is not high enough. The agent has agreed this can be raised slightly and a condition is recommended to this effect.

Given the constraints on these sites, and issues identified above, it would be reasonable to regulate Permitted Development rights by condition.

#### Bin storage

This is not a requirement of the extant consent. However, suitable bin storage is shown on these proposals.

#### Contaminated Land

An Informative can be applied as per the CLO (since the original consent had no requirements as regards contamination).

#### Air quality

An Informative can refer to potential emissions

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

Subject to compliance with the schedule of conditions, the development is acceptable, having principally had regard to the relevant provisions of the Local Development Plan 2016 but also having had regard to overriding material considerations in this case which are as set out in the Report of Handling.

**Recommendation:** Approved - conditions & informatives

- 1 The development shall be implemented in accordance with the plans and drawings approved under this consent, unless otherwise amended by any other condition in this schedule. Notwithstanding the General Permitted Development (Scotland) Order 1992 (or any subsequent Order or revision), there shall be no alterations to, or additions of, external window or door openings, including roof windows/lights; adjustments to the obscure glazing required in plot 7; or enlargements of the approved dwellinghouses without a planning application for the same having been submitted to and approved by the Planning Authority  
Reason: To ensure the development has sympathetic visual and amenity impacts
- 2 The roofing material shall be natural slate  
Reason: To safeguard the visual amenity of the area
- 3 The external materials (i.e. those not already covered by condition 2) shall be implemented only in accordance with details agreed in writing with the Planning Authority.  
Reason: To safeguard the visual amenity of the area
- 4 The gable window in bedroom 2 of Plot 7 shall be fitted with obscure glazing of a specification first agreed in writing with the Planning Authority prior to occupancy of the dwellinghouse, and the obscure glazing shall be retained throughout occupancy of the dwellinghouse in accordance with the approved details  
Reason: To minimise the effects of the development on the privacy of neighbouring properties
- 5 The development shall be implemented in accordance with a revised planting scheme, incorporating hedging within the frontage of Plot 7 in addition to the planting specified on drawing P714-PL-006C, and revised hedging for plot 8 (to account for the revised parking area required by condition 7) that has been submitted to and approved in writing by the Planning Authority and the planting shall be implemented in accordance with the approved details within the first planting season following completion of the development and maintained thereafter. All failed planting within the first five years shall be replaced on a like-for-like basis the following planting season  
Reason: To ensure the development has a sympathetic visual impact
- 6 Boundary treatments specified on plan P714-PL-006C shall be implemented prior to occupancy of the dwellinghouses, and retained throughout their occupancy, subject to the fencing on the south-westerly boundary of plot 8 being amended in accordance with details (location, height, specification) that have been submitted to and approved in writing by the Planning Authority. The amendment shall be implemented prior to the occupancy of Plot 8  
Reason: To ensure the development has a sympathetic visual impact and to minimise the effects of the development on the privacy of neighbouring properties
- 7 The dwellinghouse on Plot 7 shall not be occupied until the parking area within its plot has been completed in accordance with plan P714-PL-006C. Plot 8 shall not be occupied until a revised parking area layout has been submitted to and approved in writing by the Planning Authority and the parking area has been completed in accordance with the approved revised layout.  
Reason: in the interests of road safety
- 8 Surface water drainage within the site shall maintain pre-development run-off levels such that there shall be no increase in run-off from the site onto neighbouring properties or the adopted/prospectively adopted road  
Reason: To ensure the adequate treatment of surface water within the site

**Informatives**

It should be noted that:

- 1 Notwithstanding that the existing dwellinghouse being constructed on Plot 8 has incorporated a dormer into Bedroom 1, this consent permits only a rooflight in this location. In order to comply with this Planning Permission, the development must be implemented with a rooflight only. Non-compliance with the plans and drawings approved under this consent would constitute a breach of planning control with the prospect of enforcement action being undertaken by the Council.
- 2 If a solid fuel stove is intended, this should be specified as being under 45kw. If specified to be larger, a screening assessment will be required in liaison with the Council's Environmental Health Service to ensure there is no risk of a statutory nuisance from emissions.

Solid fuel heating installations can cause smoke and odour complaints and Planning Permission for this development does not indemnify the applicant in respect of nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted Planning Permission. It is recommended, therefore, that:

- o the flue should be terminated with a cap that encourages a high gas efflux velocity.
  - o the flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.
  - o the appliance should only burn fuel of a type and grade that is recommended by the manufacturer.
  - o if you live in a Smoke Control Area you must only use an Exempt Appliance ([www.smokecontrol.defra.gov.uk](http://www.smokecontrol.defra.gov.uk)) and the fuel that is approved for use in it.
  - o in wood burning stoves you should only burn dry, seasoned timber. Guidance is available on [www.forestry.gov.uk](http://www.forestry.gov.uk)
  - o treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel. Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems
- 3 The former use of the site is potentially contaminative and may have resulted in land contamination. The land is not currently identified as contaminated land and the Council is not aware of any information which indicates the level of risk the potential contamination presents. The historic use of the site is recorded within a Council database. This database is used to prioritise land for inspection within the Council's Contaminated Land duties. Should the applicant wish to discuss these duties their enquiry should be directed to the Council's Environmental Health Service.

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