

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

25 APRIL 2016

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 15/01217/FUL
OFFICER:	Carlos Clarke
WARD:	Galashiels and District
PROPOSAL:	Works to amend ground levels and plot finished floor levels (revision to planning permission 12/00803/FUL)
SITE:	Phase 2 Land North And North East Of Easter Langlee Farmhouse, Galashiels
APPLICANT:	Persimmon Homes East Scotland
AGENT:	None

SITE DESCRIPTION

The site comprises the north-western 'panhandle' portion of the Easter Langlee housing development currently under construction. The site is located east of the C77 public road, beyond which is housing within and adjoining the Coopersknowe Crescent residential area. The site is lower than neighbouring land to north and south. To the north is the Council's landfill site, which includes associated recycling facilities including an aggregate recycling site. To the south is a cottage and Easter Langlee House.

PROPOSED DEVELOPMENT

The site forms part of Phase 2 of the housing development which was approved under planning reference 12/00803/FUL in November 2012. The site comprises land that would accommodate 43 houses. The original planning permission was issued subject to conditions, including Condition 3 which required that it be developed in accordance with approved ground and floor levels. The applicant commenced work on site with raising the site levels to well above the levels approved under that condition. This application seeks retrospective approval for the levels undertaken to date, and for their completion. The resulting house levels would be up to 4m higher than approved in the north-western corner (plot 170) though most house floor levels would be changed by 2-2.5 metres. The changes could not reasonably be considered within the scope of the condition without public and statutory consultation and, therefore, require determination of the current planning application. This application does not, however, seek to vary the original condition nor does it seek consent for any changes to the housing development in itself. The housing development approved under the original consent would, therefore, still be bound by the original schedule of conditions, but allow for this portion to be implemented on the new, higher levels.

This application requires referral to the Planning and Building Standards Committee because the size of the site identifies it as a 'Major' development within the Hierarchy of Developments (Scotland) Regulations 2009. The site falls within the area for which pre-application consultation was undertaken for the overall housing development (under 10/01725/PAN) and, therefore, it has not been subject to additional pre-application consultation.

PLANNING HISTORY

Phase 1 (11/00832/FUL) of the Easter Langlee housing development was consented for 118 residential units in October 2011, and an amendment covering 49 of the houses was approved in May 2012 (12/00194/FUL). Phase 2, which proposed 396 units and includes this particular site, was approved in November 2012 (12/00803/FUL). There have been other approvals since (14/00226/FUL and 14/00227/FUL) that have increased housing numbers within the overall development by 27 units, though no further applications directly affect this particular site.

REPRESENTATION SUMMARY

Two representations raise matters including:

- Unattractive roadside frontage will result
- Landscaping at higher level will obscure sightlines on the road
- Effects on surface water and ground water
- Diminished effectiveness of the bund as regards noise and odour from the aggregates and landfill site. The noise and odour has increased/become more obvious since the land was raised. The bund will need increased to restore its height
- Query why this work went ahead without permission. The increase should be removed and levels returned as per the approved plan

APPLICANT'S SUPPORTING INFORMATION

The applicant submitted comments from noise and air quality consultants during the processing of the application.

DEVELOPMENT PLAN POLICIES:

Consolidated Scottish Borders Local Plan 2011

G1 Quality Standards for New Development
G2 Contaminated Land
H2 Protection of Residential Amenity
H3 Land Use Allocations
INF6 Sustainable Urban Drainage
BE2 Archaeological Sites and Ancient Monuments
NE1 International Nature Conservation Sites
NE3 Local Biodiversity
NE4 Trees, Woodlands and Hedgerows
EP5 Air Quality

OTHER PLANNING CONSIDERATIONS:

Scottish Planning Policy 2014
SPG Trees and Development 2008
SPG Landscape and Development 2008
SPG Placemaking and Design 2010
Easter Langlee Master Plan Revision C Approved 10 June 2011
Easter Langlee Planning Brief 2006

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Flood Protection Officer: The site is not at risk in a 1 in 200 year event. He would require that post development run-off rates do not exceed the pre-development greenfield rates, as was discussed in 12/00803/FUL. So long as surface water and overland run-off are managed in a suitable manner and flows routed around housing, if necessary, then he has no objections

Roads Planning Service: No issues from a roads planning perspective, so no objections

Landscape Service: Brief comments, not a full consultation response - If the proposed revision lifts the house sites in a way that minimises slopes and the need for retaining walls then that should be beneficial. In particular, it will reduce the stress on adjoining tree root systems. Another effect will be to lift the houses up so that they are more visible but we have already accepted that by allocating the land for housing.

Environmental Health Service: Advise that an assessment of increased exposure to noise and odour should be undertaken. Following subsequent submission of information from the applicant's consultants, the EHS advised that further information was required regarding noise. Again, following further consultant's information, the EHS concluded that the consultants have given justification for their conclusions, rather than just saying that further assessment is unnecessary, and if that is their professional opinion, then so be it.

As regards potential contamination from the landfill, their Contaminated Land Officer advises that, excluding the ground gas issue, which was assessed separately (under 12/00803/FUL), the concerns in this area related to a trench feature and ponding of water, along with uncertainties associated with the landfill. This had been assessed under the previous application and concluded that concentrations of contaminants within site soils did not exceed selected thresholds and were suitable for residential use. Similarly, groundwater quality did not exceed selected thresholds. On the basis of the assessment undertaken, the CLO sees no concerns regarding the proposals to raise levels.

Archaeology Officer: Trenches previously excavated in this area in 2008 failed to identify archaeological features or deposits. Therefore, this proposal has no archaeological implications.

Statutory Consultees

Scottish Environment Protection Agency: Originally made no objection and no comment. In response to this department asking for their specific view on the issue of noise/odour from the recycling/landfill site, they further advise that they are unable to quantify what, if any, adverse impact may be experienced by existing or proposed householders adjacent their regulated sites. They suggest consultation with the Council's Environmental Health Service for their advice and local knowledge.

They confirm that soil used in the raising of the ground was obtained within the site and did not require waste management regulation. The landfill site is regulated by SEPA under the PPC license. The aggregate recycling area is controlled under a Waste Exemption. It is not envisaged that raising the land will impact on the ability of these two facilities to operate. SEPA has received complaints from properties to the south-west - 1 in 2015; 2 in 2014; 1 in 2012 and 1 in 2011. They are aware that noise in the area can resonate but they are not aware that this has altered in any significant way now that the land has been raised as no noise complaints have been received recently.

The landfill site is due to close at the end of 2017 depending on the time taken to deposit the required volume of waste to fill the cells. It will be capped and landfill gas collected for energy use. Once it is capped and the aftercare plan in place it is not envisaged there will be an issue with odour from the site unless there are operational issues with the gas collection system. SEPA has received odour complaints from new properties in the Persimmon development which have been occupied over the last two years. As far as they know there are approximately 150 houses occupied with 18 complainants.

The aggregate site is regulated under an exemption and will continue to operate. Any concern regarding noise, dust and odour from regulated sites would be dealt with under SEPA's enforcement policy.

Scottish Natural Heritage: They have no comments to make on this application and are content to rest on all their previous responses to this phased development (12/00803/FUL), noting the actions that have been taken in mitigation for protected species and adjacent habitats and designated sites.

KEY PLANNING ISSUES:

Whether the proposed raising of the site levels will have acceptable implications in terms of landscape and visual impacts; archaeology; ecology; drainage; and, amenity implications for existing neighbouring properties and, whether or not the housing development proposed on the site will be at a materially increased risk from contamination, noise or air quality issues arising from the adjacent landfill and recycling activities

ASSESSMENT OF APPLICATION:

Principle

The site is allocated for housing in the Consolidated Local Plan 2011 and this proposal will facilitate the delivery of the approved housing development. It will also not prejudice the Local Development Plan 2016 for the same reason.

Ecology

This part of the site is not near statutory designations. There would appear to be no implications for badgers that would undermine mitigation measures required under Condition 12 of 12/00803/FUL.

Archaeology

As noted by our Archaeology Officer, this part of the housing development contains no archaeological interest

Land contamination

Ground gas and ground water implications from the adjacent landfill site are accounted for under Condition 6 of 12/00803/FUL. The Council's Contaminated Land Officer does not advise that the increases in ground levels proposed here would have any implications for the previous evaluations of potential land contamination from the landfill site.

Roads

The Roads Planning Service does not raise any concerns regarding the implications of the raising of levels for the road and parking network within the approved development. They also separately advise that there is negligible change to visibility on the C77 as a result of landscaping required at the north-western road side of the site (under 12/00803/FUL) which was designed to be outwith the visibility splays for the C77 in any case.

Flooding and surface water drainage

The site is not designated at flood risk. Ponding within the site during the works is understandable given the levels and huge rainfall experienced at the time of the initial period of this application. It would have occurred even with the old levels. However, the proposed levels would not lead to run-off to neighbouring land because the topographical relationship is not materially different. The Flood Protection Officer has raised no concerns. The applicant has advised that the standing water would be removed for company health and safety reasons before works re-start and controlled during the construction for the same reasons, up until the formal drainage scheme is in operation for the housing development. Because the development is bound by the requirement to implement a drainage scheme to maintain greenfield levels under 12/00803/FUL, it would still be bound by that requirement. However, because the level changes could have direct implications for any measures already to be implemented (and to be adopted by Scottish Water) it is prudent to reiterate the requirement specifically for the new scheme of levels so there is no doubt.

Noise and air quality

The site is south of the landfill site and associated recycling works, including aggregate recycling area, which is located beyond a bund that marks the northern boundary of this site. Consent 12/00803/FUL is bound by Condition 22 which requires off-site planting to firm up planting on the bund and that requirement will be unchanged as a result of the amended levels.

With respect to this proposal, SEPA have been unable to quantify if the changes in levels would have a material implication for impacts on air quality or noise. It is to be noted that SEPA are the enforcing authority for the landfill and recycling operations. The Council's Environmental Health Service (EHS) did, however, ask for further information. In response, the applicant's consultants concluded that the changes in levels would not have any bearing on original conclusions (at the time of 12/00803/FUL) on air quality. The EHS have not challenged this conclusion. As regards noise, the EHS did consider more scrutiny was required and, in response, the applicant's consultants reviewed the matter and concluded that noise will not be a factor that would be affected by the change in levels in this case because the bund between the site and the aggregates area would still be effective. The EHS appears to have accepted this conclusion. Ultimately, as much clarity as possible has been sought from all parties on these matters, and there is no firm evidence that the changes in levels proposed here would have implications for the amenity of the householders within the development site, or existing residents in the surrounding area.

Neighbouring amenity

The raising of the ground, road and house levels would have no material implications for neighbouring amenity in terms of outlook, daylight, sunlight or privacy loss.

Landscape and visual implications

This application is largely retrospective. The proposed level changes have largely been completed on site, although not fully, since there are some adjustments still required to complete the levels. The applicant submitted a revised site plan during the processing of the application which, though not changing the proposed levels, compares them against the levels on site now, rather than the levels as they were before the unauthorised works. This is helpful by way of comparison with on-site circumstances. The levels so far completed on site are very similar to the levels for which consent is sought. Perhaps another half-metre or thereby of fill is still required, and more cut in to the rear but, otherwise, what is on site is a good indication of what is proposed as the final levels.

Tree buffers are protected by the original consent for trees to the north and south. Though the level information on the submitted plan is a little ambiguous on the north side, it is understood that no levels are to be changed within the buffer there, or to the south. Because this is not clear on the plan, however, a condition is recommended to ensure buffers are protected.

The houses and road network would be set up to 4m above the approved levels (in the north-west corner) though, over the site, the level changes are generally 2-2.5m higher than approved. In wider landscape terms, the changes will have no real bearing. The houses will still be below the bank to the north side, and their levels will be lower than the road to the west (the new site plan misses out most of the existing road levels, but the original plan shows them clearly). The houses will relate well to each other, the road network and gardens. Retaining walls are required to the north, but only up to 2m high, which is less than would have been required under the original scheme (the plan shows an extra wall behind plot 170 when only one will be needed - the applicant confirms this is an error). Screen planting of the walls is agreed under 12/00803/FUL, and a condition tallying this proposal with that planting is recommended here.

Screen planting is required to the north-west end of the site, between gardens and the roadside, and its implementation is a condition of the original planning consent. The proposed changes to the levels will have no direct physical bearing on whether the landscaping can be achieved. The gardens along here will bank up a little towards the houses, but they are still below the road level. The houses and garden fencing will be more directly visible from the road. However, in the long term, the landscaping required here should screen the fencing on the new levels, as it was intended to do on the approved levels. Houses and garden fencing were always going to be visible from the road, at least until landscaping matures. Raising the levels may expose them more directly, but the net visual implications of doing so will not be significant. Ultimately, it is considered that the site is capable of accommodating the housing development on these higher levels in a manner which is still appropriate to the landscape setting of the site and without adverse impact on views from the relatively short stretch of passing public road.

Conclusion

The location of the site, and landscaping required along the western boundary, means that the landscape and visual implications of the proposed development are acceptable. There are no additional archaeological or ecological implications, nor adverse impacts on neighbouring amenity. Surface water can be managed by a suitable drainage scheme. It is also not considered that there is sufficient evidence to conclude that raising the levels of the houses will lead the approved houses (or neighbouring properties) to be materially more exposed to contamination, air or noise from the nearby landfill and recycling site any more than would have been the case under the original planning consent, the potential implications for which were fully addressed, where necessary, by the conditions imposed on

the original approval. Therefore, the proposed development will accord with the Consolidated Local Plan 2011 and relevant supplementary planning guidance, subject to compliance with the schedule of conditions

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application be approved subject to the following conditions and informative note:

1. A site notice or sign shall be displayed in a prominent place at or in the vicinity of the site until completion of the development, which shall be readily visible to the public, and printed on durable material. The Notice shall take the following form:

Development at (Note 1)

Notice is hereby given that planning permission has been granted, subject to conditions (Note 2) to (Note 3) on (Note 4) by Scottish Borders Council.

The development comprises (Note 5)

Further information regarding the planning permission, including the conditions, if any, on which it has been granted can be obtained, at all reasonable hours at Scottish Borders Council Headquarters, Newtown St. Boswells, Melrose. Telephone (01835) 825060, or by visiting <http://eplanning.scotborders.gov.uk/publicaccess>, using the application reference (Note 6).

Reason: To ensure compliance with Section 27C of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. Surface water shall be managed during the construction period in a manner which maintains pre-development greenfield run-off rates and the surface water drainage scheme for the housing development approved under 12/00803/FUL shall be implemented and operated to maintain existing greenfield run-off levels having accounted for the changes in levels approved under this consent
Reason: To ensure that the level changes approved under this consent do not lead to run-off from the site onto neighbouring property and to ensure the approved housing development itself is adequately serviced by a surface water drainage scheme as required under 12/00803/FUL and which accounts for the approved changes in levels.

3. Retaining wall material specifications and planting of retaining walls shall be as approved under the principal planning consent 12/00803/FUL; retaining walls shall not exceed the heights specified on the approved plan; and no additional retaining walls shall be erected unless otherwise agreed with the Planning Authority
Reason: To tally the varied retaining wall requirements with the specifications and landscaping required under the principal planning consent.

4. No ground level changes are approved within the tree buffers required under planning consent 12/00803/FUL. Tree buffers shall be protected in accordance with the measures approved under Condition 5 of that consent
Reason: To ensure trees of public amenity value are protected during the works

Informatives

1. The Notes for Condition 1 should be completed as follows:

Note 1: Insert address or describe the location of the development

Note 2: Delete “subject to conditions” if the planning permission is not subject to any conditions

Note 3: Insert the name and address of the developer

Note 4: Insert the date on which planning permission was granted (normally the date of this Notice)

Note 5: Insert the description of the development.

Note 6: Insert the application reference number.

2. This consent approves changes in levels within the area of the application site, subject to conditions directly related to the physical consequences of the level changes. The housing development on the site is, however, otherwise bound by the schedule of conditions applied to it by planning consent reference 12/00803/FUL, including on and off site planting. If levels need adjusted to allow tree protection fencing (as covered by Condition 4), the applicant should establish with the Planning Authority whether or not such changes are non-material.

3. If levels on the remainder of the original development site (under 12/00803/FUL) need adjusted to tie in with the levels approved here, the applicant must establish with the Planning Authority whether or not such level changes fall within the scope of the original planning consent.

DRAWING NUMBERS

01-LP-PHA	Location Plan
PH-LOC	Location Plan
02-01-EL A	Site Plan

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning Officer	

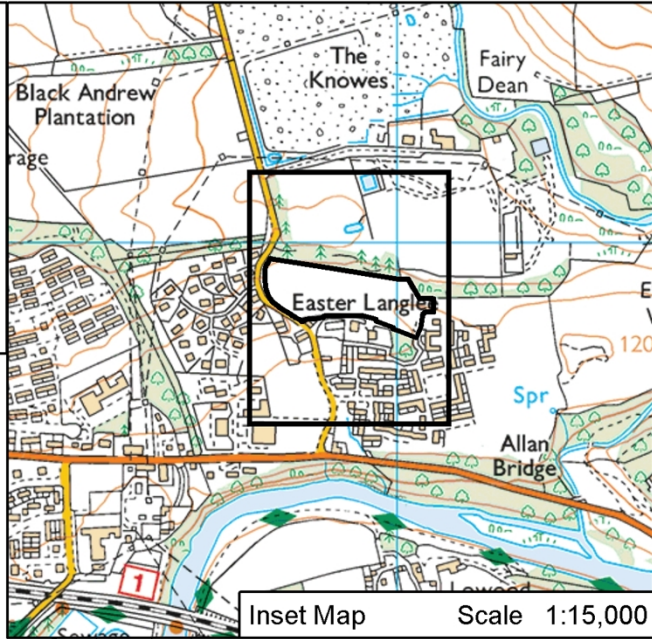
The original version of this report has been signed by the Chief Planning Officer and the signed copy has been retained by the Council.

Author(s)

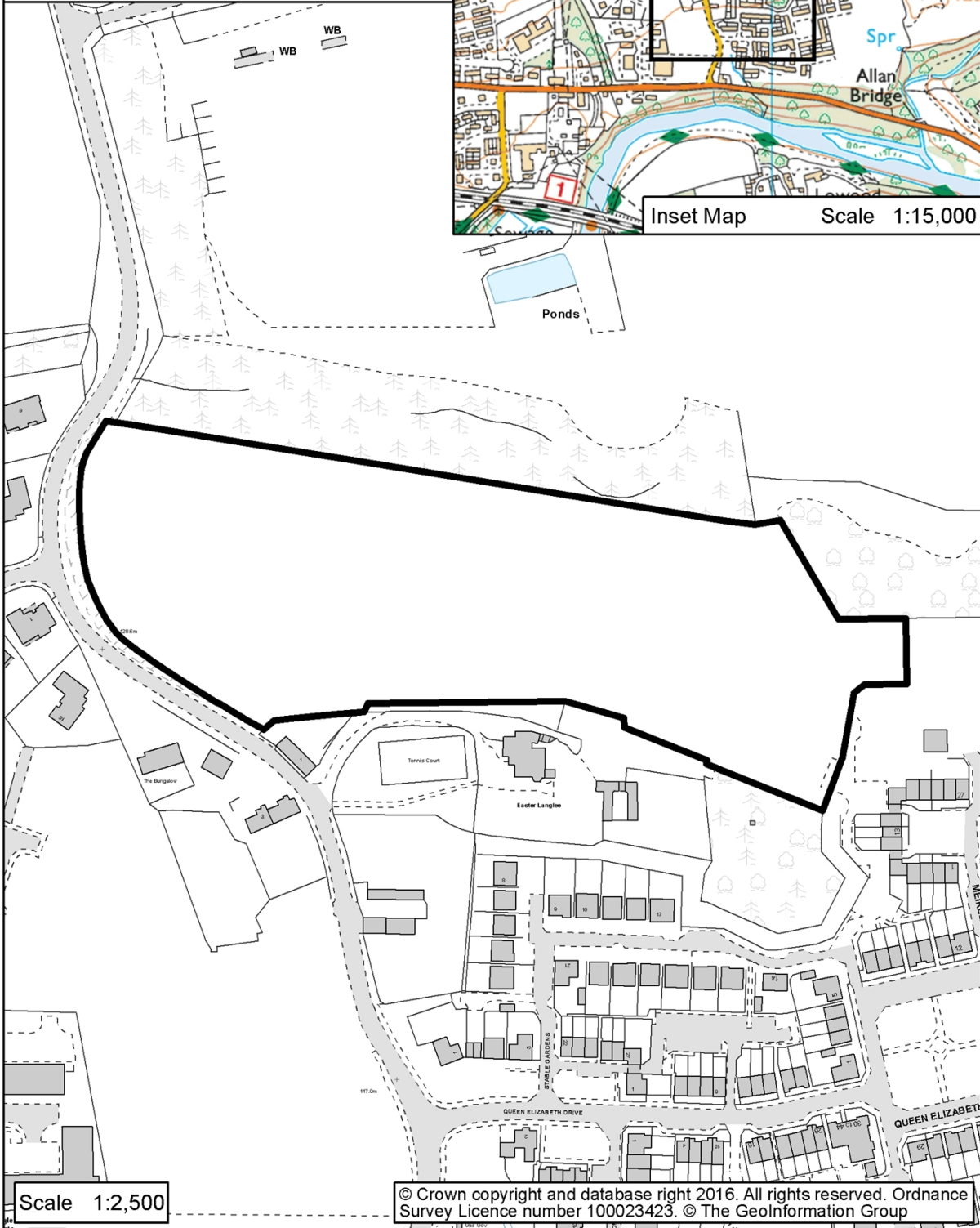
Name	Designation
Carlos Clarke	Lead Planning Officer



15/01217/FUL
Phase 2 Land North And North East
Of Easter Langlee Farmhouse,
Galashiels



Inset Map Scale 1:15,000



Scale 1:2,500

© Crown copyright and database right 2016. All rights reserved. Ordnance Survey Licence number 100023423. © The GeoInformation Group