

FAO Charles Johnston
Lead Officer Plans & Research
Scottish Borders Council

[REDACTED]
[REDACTED]
11th Nov 2018

11/00676/PPP Romanno Bridge

Dear Sir,

I refer to the above application put forward by myself which was refused and I and my professional advisors, solicitors and QC are all of the opinion that this decision amounts to unfair treatment.

I have enclosed some of the paperwork from my very large file and would be most obliged if you could peruse it sometime if at all possible.

We felt so strongly about this refusal that it was thought that your CEO should be involved in my case.

I therefore wrote to the CEO and I have no idea if my letter was ever seen by her and that may be a matter for another time.

I received a reply but it was from Ian Aikman.

I assume Mr Aikman was carrying out his duties as required but the whole point of writing to the CEO was to involve someone in authority who had no previous part in this exercise.

I would have contacted Mr Aikmans director and then the CEO as he suggested but the only reason I could not take the matter further at the time was due to ill health and a heart attack.

Had it not been for this illness I would have undoubtedly pursued an appeal to the Scottish Government and/or The Scottish Reporters Dept and my professional team were extremely confident of being successful, rightly or wrongly.

I am now however about to pursue this matter again as we are in no doubt that my application was not treated fairly.

It is also relevant that I asked Fiona Walling to put my letter to your CEO and Mr Aikmans reply in the public domain but she took advice and told me this could not be done.

Due to the passage of time there have also been other matters which appear to have altered the situation.

The large trees which were all overhanging the A701 to the left of the roadside cottage have all been completely cut down by the new owner of the cottage as have all the offending bushes which encroached upon the roadway which has of course improved the sight lines.

In recent times there appears to have been all sorts of applications passed in spite of complaints about access, sight lines etc etc some of which appear to be on sites sold by SBC.

Some considerable time ago a property called Sandyknowe became available at the bottom of The Loan [REDACTED]

I had a meeting with a planning officer and he seen no problem in developing the site. I placed an offer on the site which I intended to develop for myself since I am unable to walk up The Loan [REDACTED]

On the day offers closed I received a phone call from the planning officer who informed me that he had just been made aware that roads department would form an objection to any application for development.

I telephoned the roads department and was informed that due to their policy there would never be any development allowed up The Loan due to the junction of The Loan to the A702 and the fact that it was incapable of improvement.

I was also informed that all other applications up The Loan had been refused and they confirmed that this was indeed the case.

I was the highest offer but in the light of my conversation with the roads department I reduced the offer I put in for this property and it was bought by a local person for development.

This site was then granted consent for one house by a local councillor and was seconded by another local councillor.

How this was sanctioned and not stopped by the roads department remains a mystery since the sight line to the left is non existant.

This consent obviously upset numerous residents of The Loan who had been refused consent for other projects in the past and led to an official complaint about the circumstances of this consent and councillor.

This same site is now for sale and is advertised with consent for two houses and how this consent was obtained also remains a mystery.

The fact remains that the roads department appear to have allowed the first site to gain consent and I assume allowed the consent to be changed to two sites recently with no roads department objections.

You may begin to appreciate that the roads department rules and opinions appear to have changed and I have no problem with that other than I consider even more that my application suffered from unfair treatment.

Due to the apparent change in policy when consent was granted some time ago for the Old Manor Garage site which is probably the most dangerous junction in the village and sight lines are practically zero but to which the roads department had no objections I would suggest that the review should take place on my site at Romanno Bridge and the refusal decision should be reversed.

I also note that Mr Aikmans letter to myself made no mention of how consent was granted at Melville Cottage Coldingham, ref:05/01647/FUL on this extremely dangerous corner subject to a sight line of 70metres when it is impossible to obtain this as the maximum distance available measures 34metres.

I have no objections to this site obtaining consent but yet again I consider my own site suffered unfair treatment.

It may be of interest to note that the bend and junction concerned in Coldingham is now considered to be so dangerous that the bus from Edinburgh to Berwick no longer goes in to Coldingham due to the dangerous access and the problem of trying to turn the bus to get back out again.

The main point of writing to yourself is because I have lost touch with who is in what position at SBC now and rather than involve wrong persons in endless paperwork, including myself, I would rather speak to appropriate persons personally to resolve this matter by whatever means necessary.

Since the planning department is perfectly happy with their part of the application it may be a senior roads person that should be involved as well as planning.

Any assistance or guidance in this matter would be greatly appreciated to reach a satisfactory conclusion.

Since the planning officer was satisfied but could not grant consent due to an objection from the roads department it would appear that a conversation with the roads department should take place before incurring the cost of a full planning application.

On a different matter I shall likely see you at the future M.I.R. meetings as you are probably aware that I have always said that any non contentious business should be considered for empty town centre shops and I am glad to see that a decision appears to have taken place to try to bring these shops back into use.

You may not be aware that I buy commercial premises and refurbish them to a high standard before renting them out to suitable tenants.

There is often someone with a viable idea who cannot quite go to the cost involved to put down a deposit, pay the rent up front, pay the legal fees etc and then try to refurbish and fit out a shop.

We have provided such premises over many years and have taken a chance with some new start up businesses and have found the people to appreciate getting a shop which requires no expenditure and most have been with us for many years and made a success of their business.

I hope to attend various M.I.R meetings and learn a bit more about the councils change in policy.

Should anyone wish to discuss anything I am always available on my mobile but it does not take or send emails or texts.

Regards

[Redacted signature]

[Redacted name]

[Redacted address]

FAO Tracey Logan
CEO
Scottish Borders Council
Council Headquarters
Newton St Boswells



28th May 2012

11/00676/PPP Romanno Bridge

Dear Ms Logan

I regret that I am obliged to pursue the granting of the above planning consent which I applied for and was refused due to what I consider to be wrong information given to various parties concerned by one of your roads traffic officers.

The above application was lodged after a great deal of investigation and discussion with all sorts of senior planning and roads department professionals whom I employed and investigation of the councils policy as well as a survey of numerous applications granted by the council to confirm that there would be no reason why my application would not gain consent.

My application was assessed by a planning officer who reported that she was quite happy that the application was satisfactory and the site was suitable for the erection of 2 houses but she then stated that she was unable to grant consent only due to an objection by [REDACTED] who is a roads department employee of the council.

The reason for this objection was given as a lack of a sight line to the North of 120 metres and a purported lack of a satisfactory sight line to the South.

During my initial investigations, discussion and site inspection with numerous professionals it was agreed that a figure of 120 metres to the right was of no relevance to this application since it is a figure only used in the assessment of new roads and developments which will eventually be adopted by the council.

It was also agreed by all persons that the site line to the South was satisfactory.

Throughout this planning process it has been pointed out by myself and others that there is no regulation requiring 120 metre sight line in the context of the junction under discussion and I have provided many examples of similar and worse junctions where the council has granted planning consent regardless of poor and sometimes no sight lines.

[REDACTED] continued to state his objection due to the lack of 120 metre sight line and the planning officer stated again that due to this objection she was unable to grant consent.

When this matter went to appeal it was refused again due to the sight line opinion put forward by Mr Paterson.

I am fully aware that the members of the review committee have no technical or professional qualifications in matters they are dealing with and they appear to depend on advice given by the planning adviser and roads officer and I would have expected the planning adviser or someone on the committee management team to point out to the appeal councillors that there is no such thing as a regulation requiring a sight line of 120 metres relating to this existing junction.

This unfortunately did not happen and I was not allowed to speak to point it out.

It will be seen by the file on my application, held by yourselves, that I also asked [REDACTED] where I might see the regulation for the 120 metre sight line that he kept referring to documented in relation to the road junction under discussion in my application, I regret to say, no such information was ever forthcoming.

It is my considered opinion that the only reason my application was refused was because the wrong information was put forward to all persons involved inferring that the information was correct.

We are all familiar with the roads & bridges act and the recommendations of SBC for newly constructed road junctions but yet again I must state that this has no legal bearing on the junction under discussion.

It is blatantly obvious that if there was any legal requirement which would preclude the granting of the planning consent which I applied for I would not have wasted the time and money which I have expended on this exercise.

Since the review committee chose to refuse this application on the submission of what I and many others consider to be wrong information provided by a council officer I then instructed my solicitor to instruct counsel specialising in planning matters to investigate and provide an opinion relating to my case.

I have enclosed a copy of an e-mail dated 30th January 2012 (enclosure number 1) which I sent to my solicitor for inclusion in the file sent to counsel which points out many things which I consider to be sufficient grounds for a case of unfair treatment in this matter.

I find this particularly relevant considering the councils statement on page 5, item 1.1.2 of the councils Scottish Borders Local Plan document dated January 2011 relating to fair treatment for all persons (copy enclosed, enclosure number 2).

My solicitor is now in possession of the document from counsel relating to my case and he has stated that in his opinion there is no such thing as a legal requirement for a sight line of 120 metres at any junction similar to the one relating to my planning application.

Counsel has also raised the issue of reference to the use of the Councils Standard for Development of Roads despite their indication that they were promulgated to regulate the construction of new roads.

Counsel has also raised the fact that a public body is obliged to take decisions which are consistent on the basis that consistent and hence equal treatment of different members of the public who are placed in the same circumstances is an essential element of fairness, as a matter of legal obligation.

He has stated many other points including the obvious one that the council appears not to act in a consistent manner which could also be considered to be unfair and this is obvious to all due to the applications that I have identified as gaining planning consent when the junctions are much worse than the one related to my application and did not stop the granting of planning consent.

You will note the councils refusal of my application states that the councillors considered the other cases identified by myself would be treated on their own merits.

There was no discussion on these other junctions which I identified at the meetings which I attended and I have not yet recalled the minutes of the planning meetings where these applications were granted to see who granted them and what the input was from the roads department officer.

Should it transpire that the councillors who attended my appeal were not involved with and had no first hand knowledge of these junctions then I wonder why a site visit to these sites was not carried out to evaluate for what reason these applications were passed and mine was not.

I have also enclosed a copy of a letter and an e-mail (enclosure 3 / 4) from one of my own professional advisers asking the same question and pointing out that supposition is not good enough and some technical reason must apply.

In pursuit of fair treatment it is my opinion that since all that stopped the planning officer granting consent to my first application was the objection lodged by the roads officer stating a figure of 120 metres requirement when all professional persons with whom I have dealt stated that there is no such legal requirement I consider that all further expense which I have incurred has been occasioned by the wrong inference that this 120 metres is a legal requirement.

You will also note from my application that as per the recommendations of one of my roads professionals I offered to provide various enhancements to the junction concerned but pointed out that only the council can instruct the cutting back of the overhanging foliage in the area.

At the time of writing there has been no action taken regarding this foliage and I am not aware if the council has instructed any action or not.

I also offered to give consideration to any other suggestions from the council to enhance this junction but none were forthcoming and I assume that if the council roads department have any concerns about this road junction then they also have proposals to alleviate their concerns since it is used by their own employees for refuse collection, maintenance of the cemetery etc as well as service providers.

I have already incurred a great deal of unnecessary expense on this matter and will no doubt incur more and I cannot help but feel this is all due to the wrong information being provided by your roads officer which did not allow the planning officer to grant consent initially.

You will also note from my letter to my solicitor that the one question asked at the appeal meeting by councillor Ron Smith was "why was the radar device placed so far past the junction on the long straight road by the roads department" and the planning adviser at the meeting stated that he did not know and the matter was then dropped.

I do not consider this to be good enough when the speed survey had been asked for and I had already delivered by hand numerous copies of a document dated 12/12/2011 which pointed out that the results of the speed survey did not provide the answer to the question asked due to being placed in completely the wrong position and monitoring both directions.

Whilst carrying out my own speed survey I was quite surprised that the majority of traffic, but not all of it appeared to be quite cautious and the speed at the junction was regularly 36-38 mph.

I am still of the opinion however that due to the new community facility which has been opened, the presence of the school and the fact that Romanno Bridge has no street lighting it would be prudent to reduce the limit to 30mph which is the speed allowed through Carlops which has no street lighting and this would also create some consistency in council policy.

You will also note from my letter of 12/12/2011 which my solicitor passed to counsel that I consider the planning system to be completely flawed and unfair when I, as the appellant, am not allowed to object to a member of the panel whom I consider should have declared an interest and left the room when asked, due to his recent involvement with another application in West Linton, where he lives, and which he passed after I had been told by roads department that under no circumstances would planning ever be granted on this site due to the road junction between The Loan and the A702 Trunk road.

The consent this councillor granted on this site at Sandyknowe on The Loan led to numerous letters of astonishment from the persons who live on The Loan who had previously been refused planning consent.

This matter was exacerbated by the involvement of the Police for damage caused to a large hedge owned by another proprietor which led to an inference to planning that the sight line to the A702 had been improved and the decision of this councillor led to an official complaint to the Public Standards Commission, rightly or wrongly.

To appreciate the seriousness of this matter it is necessary to read the case history relating to the site at Sandyknowe Ref 08/01494/OUT but I have previously provided photographs of this junction [REDACTED] and the almost non-existent sight line to the left.

Under these circumstances I would not expect for one minute that this councillor would vote to grant consent for any site in the West Linton area due to the current situation relating to the last one he passed.

I would have expected this councillor to have declared an interest due to the above circumstances and the fact that he lives in West Linton.

Had he stepped down I may well have got another councillor who would have voted to grant consent and the vote would then have been 2 for and 2 against and the chairman may well have voted to grant consent.

I am also of the opinion that although the council may carry out reviews according to what parliament allows it is neither fair or logical that I, or any other appellant, is allowed no legal or other representation and I am required to sit but not speak especially when I hear matters mentioned which do not receive satisfactory answers which I could clarify instantly.

I definitely do not consider this to be fair treatment.

It may well be that at some future date SBC may make a decision to invoke a regulation that all similar planning applications will require a sight line of 120 metres or they will be refused and at such time all parties will then know not to waste money on applications and planning fees unless they can comply but since this is not the case at present it would appear that the council are obtaining planning fees under false pretences since it appears that my application was refused only because the figure of 120 metres appears to be thought of as a regulation by your roads officer when it is not.

I am aware of numerous junctions in the borders similar to some of the photographs which I have provided and I can provide endless examples similar as well as recalling the appropriate planning papers identifying the position of the roads department in these decisions but it is going to be a very prolonged exercise which I really hope is not going to be required.

I cannot help but feel the refusal of consent to my application could be resolved by a realistic and fair appraisal of my entire case by someone experienced in resolving such matters of planning and it may well be that a genuine mis-understanding has taken place relating to the inference that a sight line of 120 metres is a regulation when it is not in the case of existing adopted junctions in the Borders region.

I should perhaps mention at this time that I have put my case to numerous professionals for evaluation in case any of my existing team of experts have missed any relevant point but the consensus of opinion is that the facts are correct as I have stated them.

I feel justified in asking for a review of my case and I would appreciate if you could give some consideration to this matter and possibly find some way to resolve it without us having to embark on a very long, tedious and probably expensive route to rectify what I consider to be a great injustice and an example of very unfair treatment of what should have been a simple exercise to grant planning consent.

I can provide more examples of junctions which do not comply with the 120 metre sight line referred to by your roads officer and I could provide literally thousands of examples of junctions where following traffic has no room to pass if the car in front wishes to turn right on a single carriageway road.

Since I have also involved other professional planning and roads department companies and, if it is of any assistance, I have confirmed that they would be happy to provide reports of their opinions on this case should you so wish.

I am also happy to discuss any relevant matters with anyone with a view to resolving this matter and can be contacted on my mobile number at any time.

As far as I am aware I do not think that a site visit ever took place to the site of the proposed development in my application but for the avoidance of doubt I should point out that this is not a new site which never created traffic but a site which has always been in use involving the use of lorries, horse boxes, 4 wheel drive vehicles & trailers as well as service vehicles and private cars. This site also sits within the development boundary of Romanno Bridge and my own opinion has always been that to dispense with all the above vehicles and revert to domestic / residential use can only be a great improvement to the use of this road and junction rather than the continued use of the above vehicles which are allowed unlimited use of the access.

I have already stated that I checked numerous previously granted planning applications prior to agreeing with all my technical experts that there should be no reason not to grant consent to my application and I will detail just one more case which defies logic of why my application was not approved in the application of fair and equal treatment for all persons and the fact that the junction under discussion in my case already exists and has been used for all sorts of heavy vehicle traffic its whole life.



Melville Cottage, Coldingham



Melville Cottage, Coldingham



Melville Cottage, Coldingham

The application for the above Melville Cottage, Eyemouth Road, Coldingham Ref 05/01647/FUL is one that I watched throughout as I pass this site several times a month and you will see from the enclosed planning documents that it was passed and fully supported by all persons involved and you will be able to ascertain who these persons were from your files. (enclosures 5/1 to 5/8 refer)

You will note that a site line of 70 metres was a condition of the consent granted but from the position in the drive of 2.5 metres it is a physical impossibility to obtain a sight line of 70 metres on the left on the Eyemouth Road.

The measurement I obtained was 36 metres to the stone wall.

This road is extremely busy and carries some large traffic not counting the traffic which enters Coldingham from the A1 coming down the Reston Road, often at speed which is in excess of what is safe for the type of junction which it is.

You will note that one of your officers supported this application in the interest of road safety and this confuses me as to how this equates with a requested sight line of 70 metres which it is very apparent to all cannot be obtained.

It was assumed by myself and my team of professionals that common sense had prevailed and the owners of Melville Cottage were allowed a drive on the assumption that the vehicles using this junction would proceed with caution as I have done on this junction for the last 50 years and I have no issue with this policy at all.

I would however expect that the same courtesy would be extended to my own case.

Since it is my opinion that very unfair, if not negligent treatment has taken place in my case, it is my sincere hope that we can arrive at some suitable juncture to grant planning consent which I think would be a fair decision in the circumstances and if I can be any further assistance please feel free to contact me at any time or pass my telephone number to anyone you consider relevant.

Yours Sincerely

[REDACTED]

Home: [REDACTED]
Mobile: [REDACTED]

CC

[REDACTED] (Solicitor, Lindsays)
[REDACTED] (Regional Director of Planning Halliday Fraser Munro Architects)
[REDACTED] (Principal Consultant, Colin Buchanan & Partners)
[REDACTED] (Senior Transport Planner, SBA)

Enclosure 1

Letter To Solicitor Headed Unfair Treatment

Local Review Body 11/00676/ppp

From: [REDACTED]

Sent: 30 January 2012 13:27:11

To: [REDACTED]

Cc: [REDACTED]

1 attachment

Unfair Treatment letter to Lindsays.docx (16.4 KB)

[REDACTED]

Please find attached a letter for your information.

I can be contacted directly on the mobile number below at any time.

Regards

[REDACTED]

[REDACTED]

Unfair Treatment

My application was submitted for Romano Bridge after various discussions with planning consultants and road traffic professionals and the opinion was that in the light of other applications which the council have passed there should be no reason not to pass my application as per the councils statement in their policy document that everyone must be treated fairly.

The planning officer confirmed her satisfaction with our application and the site etc but stated that she could not grant consent due to an objection from [REDACTED] who is in the roads department.

He refers to the lack of a sight line of 120m but since this figure relates to new roads being created for completely new larger developments which will later be adopted by the council it is completely irrelevant to our circumstances since the road junction we would use is an existing adopted junction to which we have access for all sorts of traffic and its most recent use was for horse boxes, tractors, trailers, feed supply lorries and land rovers as well as for other residents and service vehicles.

You will also see some of the sites which have been passed by the council which have much worse sight lines than the junction to my property and to which the roads department made no objections or comment.

You will see in the file a report from one of the traffic specialists whom I employed a similar statement that he did not understand the relevance of quoting a required figure of 120m in the context of my planning application.

I would therefore propose that the planning officer was given the wrong information from the roads department and without this objection she would have granted planning consent to my application.

You will also find in the file a letter I wrote to [REDACTED] where we might find the figure of 120m documented as a regulation rather than a recommendation for new works but I did not receive intimation of where this could be found.

The planning appeal process is a completely flawed system as it leaves decisions to Councillors who are considered to be lay persons with no technical or professional qualifications and no experience on the matters upon which they make decisions.

I also find it ridiculous that at these meetings which I attended I am not allowed any representation or speech and am forced to listen to matters which I could have clarified instantly if I was allowed to speak.

At the first appeal meeting one Councillor asked if there was any traffic speed figures in

existence but since the senior planning officer, who advises the meeting, could not answer the question the appeal was carried on to a future date to obtain figures.

When these figures were obtained I enquired further about them and it became apparent that they had been obtained 130m past our junction and on a long straight road. The device being used was also monitoring in both directions which was completely wrong as we had already proved that the road South had good sight lines for more than 120m. I created a document indicating this mistake amongst other things and made 10 copies which I delivered by hand at 08:45 AM on Tuesday 13/12/2011 to be given to all members of the appeal process.

On the morning of 19/12/2011 at the continuation of the planning appeal only one Councillor asked a question which was why the radar device was placed 130m past the junction under discussion.

The senior planning officer stated that he did not know why and the only person that could answer the question was the traffic officer who instructed the installation of the device.

The point of delivering my submission by hand on 13/11/2012 was to provide time for the council to obtain the answer to such matters but obviously this had not been done.

In the light of no answer the matter was passed over and a vote was taken with no further questions and no reference to submissions of photographs of consents previously granted to applications with extremely poor or no sight lines.

One Councillor stated that he had no experience of road junctions and he would therefore agree with the roads officer and vote for refusal even although he had no knowledge of whether the roads officer was correct or not.

A second Councillor voted for refusal due to the roads officers opinion that traffic travelling South to North would have to stop if the car in front wanted to turn in to the junction under discussion.

This observation defeated me as the same scenario applies to every single carriageway road junction in the world if someone wishes to turn right.

A third Councillor who did not get his answer to his question on the radar device voted to grant consent.

A fourth Councillor, namely Councillor Calvert said nothing but voted to refuse consent.

The inclusion of Councillor Calvert in this committee brings me to a point which I intend to make the subject of an official complaint to the CEO of Borders Council as I consider the whole method of this appeal process to be extremely flawed and most definitely precludes the application of fair treatment for all persons.

I had no idea who the Councillors were going to be who formed this appeal panel until I entered the council chambers and upon seeing Councillor Calvert I wished to lodge an objection to his presence on this committee but as per the current process I was not allowed to speak.

The chairman proceeded to ask the members if anyone had an interest to declare and if so declare it and leave the room.

No one declared an interest including Councillor Calvert.

I do not consider that Councillor Calvert was a suitable person to be on this panel since it was him who passed a planning application for a site on the road where I currently live and at the junction of the Loan and the A702 where the site line to the left is almost non-existent.

Since it was suggested by others that because he was a friend of the applicant he passed the application on a road where all other persons have been refused consent and the Police have also been involved due to the destruction of a hedge by an unknown party to make a very minor improvement to the sight line to the left.

The combination of circumstances led to an official complaint relating to Councillor Calvert's actions and involvement in this consent which he granted and in these circumstances I do not consider it appropriate for Councillor Calvert to be included in any committee considering planning applications in West Linton as I would imagine he will have great misgivings about which way to vote in case it leads to further allegations.

The whole scenario should be viewed on the council's website under application 08/1494/OUT for Sandyknowe and it then becomes a matter of conjecture why he voted against consent for my application whilst granting consent for an application with a junction directly onto the A702 trunk road which has an almost zero mtrs sight line to the left and is also a well known dangerous junction which I use every day.

The refusal letter from the council also suggests that matters were discussed in depth relating to my planning application but if that is the case it was certainly not at the 2 planning meetings which I was allowed to attend and the only thing mentioned at the final meeting was the question about the positioning of the speed camera.

There was absolutely no reference to the documents I provided relating to other sites.

This planning application failed purely on the opinions of [REDACTED] from the roads department and should it prove that these opinions have no legal substance and are formed only from council recommendations for new roads I do not think it reasonable to infer to others in the planning process that they must support his opinions, especially in the light of other cases which I have highlighted when there appears to be no logic why they were passed and the same policies certainly were not applied that appear to be applied to my application.

I am also of the opinion that an in depth investigation of the Borders council planning and roads department method of operation requires to be carried out by an independent body since they appear to be taking planning fees under false pretences as in my case a lack of a sight line of 120m incurs instant refusal in which case there is absolutely no point in sending out a planning officer to inspect the site.

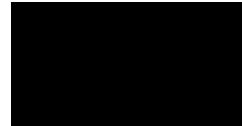
I lodged my planning application after thorough investigation and a great amount of discussion with various qualified persons in the fields of planning and roads in relation to numerous planning applications which had been granted by the council regardless of sight lines and obviously we looked at these decisions and discussed under what individual merits they had been approved but could find none.

Since my application was refused there is now great confusion regarding what logic refused my application whilst approving ones which I have identified and can obviously identify more.

I am of the definite opinion that the council requires to install someone qualified in authority to oversee the planning and roads process and ensure that all facts held by the senior planning officer and divulged and explained to the persons who are going to make decisions as this was certainly not the case in my application.

Since the councils refusal of my application letter refers to the accesses which I highlighted in my submission of 12/12/2011 being considered on their own merits I feel obliged to ask on what merit and technical point they were approved as they were undoubtedly directly comparable or they would not have been put forward as an example which yet again brings me back to all persons being treated fairly.

Yours Sincerely

A black rectangular redaction box covering the signature of the sender.

Mobile: 

Enclosure 2

SBC Document Relating To Maintaining Highest Ethical Standards

1.1.12 SBC requires all its staff and members to observe the highest ethical standards when carrying out its business. It accordingly undertakes to treat all applicants X
fairly and equitably, negotiating strictly within the boundaries of the appropriate X
regulatory framework and with due regard to its own Code of Conduct.

1.2 Purpose

1.2.1 This Supplementary Planning Guidance (SPG) sets out the basis for a consistent and transparent approach to implementing the Council's policy on development contributions. The information provided will be of particular interest to landowners, developers and other stakeholders engaging with the planning process. It should, however, be noted that this information is essentially for indicative purposes only providing general guidance on policy and associated potential implications for proposed development in the Scottish Borders.

1.2.2 Development contribution policy and other relevant SBC documents can be accessed via the Council's website (www.scotborders.gov.uk) or from the Planning and Economic Development Department, Council HQ, Newtown St Boswells, TD6 0SA.

1.2.3 A key objective of providing guidance on development contribution policy is to facilitate informed decision making by those involved in the development process. This allows potential financial implications to be factored into development appraisals prior to commercial decisions and actions being undertaken.

1.2.4 SBC recognises that, although the broad principles and policies related to development contributions can be set out in guidance, the outcomes can be more complex for individual development proposals. SBC employs a Development Negotiator to assist interested parties with the identification of contribution requirements, provide a provisional assessment of contribution liabilities that their proposed development may attract and advise on the appropriate delivery mechanism for the contributions.

1.2.5 Whilst this SPG provides a useful overview, any party with a vested interest in a proposed development is encouraged to contact the Development Negotiator prior to committing to any commercial decisions, with a view to ascertaining a more definitive assessment of potential policy implications.

2 Legal authority/Government guidance and Policy context

2.1 Legal authority and Government guidance

- 2.1.1 The key government legislation and guidance pertinent to development contributions are:
- Circular 1/2010 - this document provides a statement of Government policy, containing guidance on policy implementation
 - Section 75 (s 75) of the Town & Country Planning (Scotland) Act 1997,
 - Section 69 (s 69) of the Local Government (Scotland) Act 1973.
 - The Waverley Railway (Scotland) Act 2006, sections 38 and 40 of which govern

Enclosures 3 / 4

E-mail From Senior Transport Planner SBA

SBA

WYG

SBA

9 December 2011



Our Reference: JD/A074051/L01

Dear [Redacted]

Proposed Residential Development Romanno Bridge, Access Appraisal

This letter is provided as a further response to the continued objection by [Redacted] of SBC Roads to the proposed [Redacted] at Romanno Bridge.

It is accepted that the visibility to the right from the site access road is limited although it has been confirmed that no injury accidents have been recorded in the last five years. The 120m standard that [Redacted] refers to is contained within the Scottish Borders Standards for Development Roads which relate to the design and approval of new roads as stated below:

X

"This document should be used by developers and members of the public who require guidance and necessary authorisation regarding the construction of roads which subsequently, may be adopted by the roads authority in accordance with current legislation."

X

As the junction in question is already constructed and adopted by Scottish Borders Council it is not clear what relevance the 120m standard has other than providing guidance in relation to the ideal visibility. There are significant numbers of existing junctions within the Scottish Borders Council area that, due to their historic layout, do not achieve the standard for new junctions.

X

There is a need for Scottish Borders Council to show consistency in its approach to the approval of development in relation to the perceived impact on junctions with reduced visibility. The remainder of this letter describes a number of examples of existing junctions with visibility constraints where development will impact but has been approved; so highlighting that the Council does not have a consistent policy in relation to such development and that there can be no justification for refusal in this instance.

X

Transport Planning Specialists

RE: Local Review Body - 11/00676/PPP

From: [REDACTED]

Sent: 17 January 2012 15:48:21

To: [REDACTED]

[REDACTED]

Having reviewed the document that you sent through it would seem that as previously thought the review panel didn't bother to consider the information available in any great detail. On that basis there isn't a lot to comment on although I am disappointed that they chose to ignore the other applications/access junctions that were included in the submission.

Although each application has to be decided on its own merits the examples selected are directly comparable on the basis that they are on the same stretch of road, having similar visibility characteristics, similar traffic speeds and in the case of two of the examples higher volumes of traffic on the minor road. There must be a technical reason why these examples were acceptable and your application is not although I guess only Keith Patterson can answer that question and the review panel weren't prepared to ask.

I would again reiterate that it is not sensible to rigidly apply guidelines associated with new road construction in relation to existing situations.

Best Regards

[REDACTED]

Senior Transport Planner

Tel: [REDACTED]

.....
WYG Environment Planning Transport Ltd. Registered in England number: 3050297. Registered Office: Arndale Court, Otley Road, Headingley, Leeds, West Yorkshire LS6 2UJ VAT No: 431-0326-08

Enclosure 5

Planning Details Melville Cottage, Eyemouth Road, Coldingham

Brian Frater
Head of Planning and Regulatory Services

Please ask for : [REDACTED]
Application Ref :
Your Ref : 12/00574/SEAR
Date : 15th May 2012

Dear Sir/Madam

PROPOSAL: request to see file 05/01647/FUL and obtain copies if necessary
LOCATION: Melville Cottage Eyemouth Road Coldingham Scottish Borders TD14 5NH

Please find enclosed copies as requested of the planning report and consent this was approved by [REDACTED] and signed off by [REDACTED], Roads Technical Services Response detailing the name [REDACTED] and initialled by [REDACTED] Berwickshire Civic Society and Coldingham Community Council response. Please note we are required to remove signatures from public copies.

Due to the minimal cost of copying there is no charge for the service provided.

Yours faithfully

[REDACTED]

[REDACTED]
Clerical Assistant



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (General Development Procedure) (Scotland) Order 1992

Application for Planning Permission

Reference : 05/01647/FUL

To : Mrs E Dagleish 29 Baroness Drive Denton Burn Newcastle Upon Tyne NE15 7AT

With reference to your application validated on 12th September 2005 for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Formation of access and driveway

at : Melville Cottage Eyemouth Road Coldingham Scottish Borders TD14 5NH

The Scottish Borders Council hereby grant planning permission in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 subject to the following condition:-

that the development to which this permission relates must be begun within five years from the date of this consent.

and subject to the conditions on the attached schedule imposed by the Council for the reasons stated

Dated 4th November 2005
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

Signed


Head of Planning & Building Standards

Application reference : 05/01647/FUL

SCHEDULE OF CONDITIONS

- 1 The first 2 metres of the access to be formed with a bituminous surface to the specification of the Planning Authority.
Reason: In the interest of road safety.
- 2 A visibility splay of 2.5 x 70 metres to be provided in both directions at the access and maintained in perpetuum.
Reason: In the interest of road safety.
- 3 Drainage to be provided to the satisfaction of the Planning Authority to prevent surface water flowing from the development on to the highway.
Reason: In the interest of road safety.

FOR THE INFORMATION OF THE APPLICANT

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
East of Scotland Water (Borders Division), West Grove, Waverley Road, Melrose, TD6 9SJ
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – 0800 800 333

If the applicant is aggrieved by the decision of the Planning Authority, an appeal may be made to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997, within six months from the date of this notice. The appeal should be addressed to the Chief Reporter, Scottish Executive Inquiry Reporter's Unit, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part V of the Town and Country Planning (Scotland) Act, 1997.

Reference: 05/01647/FUL

Site: Melville Cottage, Eyemouth Road, Coldingham, Berwickshire, TD14 5NH

Proposal: Formation of access and driveway

Applicant: Mrs E Dalgleish

Agent:

Officer: Steven Callan

Observations by Development Control Officer

Application site is an area of garden ground immediately south of Melville Cottage which faces directly onto the Main Road that runs through Coldingham Village and is within the conservation area. The site rises steadily from the boundary with the main road which is protected by a 1 foot high concrete kerb.

Proposal is to remove some of the kerbing to form an access and driveway leading to a parking area for the dwelling. Some earthworks will be involved to achieve the required gradient.

X There have been no objections regarding the proposal. The Director of Technical Services fully supports the proposal as there is no off street parking associated with the dwelling at present. He has certain technical requirements which can be enforced by way of conditions. X

Proposal is for reasonably minor works which will result in a road safety improvement. Even in the Conservation Area the visual intrusion will be minimal and it will have no impact on any neighbouring properties. The Planning Department supports the proposal.

Recommendation: It is recommended that the application be approved subject to the following conditions.

The first 2 metres of the access to be formed with a bituminous surface to the specification of the Planning Authority.
Reason: In the interest of road safety.

X A visibility splay of 2.5 x 70 metres to be provided in both directions at the access and maintained in perpetuum. X
Reason: In the interest of road safety.

Drainage to be provided to the satisfaction of the Planning Authority to prevent surface water flowing from the development on to the highway.
Reason: In the interest of road safety.

Steven Callan
Assistant Development Control Officer

2/11/05
Date

TECHNICAL SERVICES – ROADS & FLEET MANAGEMENT

To: HEAD OF ED & EP – FAO Steven Callan

Date: 4 October 2005

From: R Cramb

Ext: 5838

Ref: MRCM092/05/1647/FUL

**Subject: FORMATION OF ACCESS AND DRIVEWAY, MELVILLE COTTAGE,
EYEMOUTH ROAD, COLDINGHAM**

X I can fully support this application as there is no off-street parking facility associated with the dwelling at present. X

The first 2 metres of the access must be formed to the following specification:
75mm of 40mm size single course bituminous layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming blinded with sub-base, type 1.

In addition surface water from the garden area must not be allowed to drain directly onto the B6438 and must be diverted by some physical means. Visibility splays of 2.5 x 70 metres must be provided in both directions and maintained in perpetuum. X

It should be borne in mind that only contractors on the Council's approved list can work within the road boundary and that a road opening permit must be completed and returned to this office before any works commence. I have attached copies of both of these documents.

DN

ENTERED 10 OCT 2005

Economic Development & Environmental Planning
Rec'd - 7 OCT 2005
To
Ackn
File
.....
.....

PLANNING CONSULTATION

To: Development Control (Technical Services)

From: Head of Development Control
2005

Date: 13th September

Contact: Mr Steven Callan ☎ 01361 886105 EXT 6064

Ref: 05/01647/FUL

PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 27th September 2005, If further time will be required for a reply please let me know. If no extension of time is requested and no reply is received by 27th September 2005, it will be assumed that you have no observations and a decision may be taken on the application.

Name of Applicant: Mrs E Dalglish

Agent: N/A

Nature of Proposal: Formation of access and driveway

Site: Melville Cottage Eyemouth Road Coldingham Scottish Borders TD14
5NH

Outline Consent :

OBSERVATIONS OF: Development Control (Technical Services)

CONSULTATION REPLY

BERWICKSHIRE CIVIC SOCIETY

RECEIVED 15 SEP 2005

Officer Mr Steven Callan
☎ 01361 886105 EXT 6064

Our Ref : 05/01647/FUL

Date : 13th September 2005

NAME OF APPLICANT: Mrs E Dalgleish

NATURE OF PROPOSAL: Formation of access and driveway

SITE: Melville Cottage Eyemouth Road Coldingham Scottish
Borders TD14 5NH

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

REQUEST FOR OBSERVATIONS OF: Berwickshire Civic Society

Thank you for the opportunity to look at this application. The Society has no comment to make on it.

ENTERED 15 SEP 2005

Signed: *pp*

Reply Date: 15.9.05

THE PLANS AND APPLICATION FORM ARE RETURNED HEREWITH.

RECEIVED 23 SEP 2005

Officer Mr Steven Callan
01361 886105 EXT 6064
Our Ref : 05/01647/FUL

Date : 13th September 2005

NAME OF APPLICANT: Mrs E Dalgleish
NATURE OF PROPOSAL: Formation of access and driveway
SITE: Melville Cottage Eyemouth Road Coldingham Scottish Borders
TD14 5NH

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

REQUEST FOR OBSERVATIONS OF: Coldingham Community Council

No objections but request for provision
of pavement from Melville Cottage
to turn into the Bow

Signed:

Reply Date: 21.9.05

THE PLANS AND APPLICATION FORM ARE RETURNED HEREWITH.

ENTERED 23 SEP 2005



15 November 2011



Our Reference: JD/A074051/L01

Dear [REDACTED]

Proposed Residential Development Romanno Bridge, Access Appraisal

SBA was appointed by [REDACTED] Property to undertake a further access appraisal in support of a proposal to construct up to two new dwellings to the north of Romanno Bridge, Scottish Borders. This note builds upon the findings of the Colin Buchanan report submitted with the planning application and seeks to establish the visibility parameters that can be achieved at the existing junction with the A701 that provides access to a number of existing residential properties and the proposed development.

Visibility at the existing junction is constrained by the presence of a cottage immediately to the north of the junction and the vertical alignment of the road to the south of the junction. It is noted that the roads officer recommended refusal of the application based on the visibility constraints at the junction as follows:

"Sightlines at the junction of the access track with the A701 are substandard in both directions, being hindered by the roadside cottage and both horizontal and vertical alignment of the road. In addition, northbound traffic on the A701 suffers from substandard forward visibility particularly when there are vehicles waiting to turn right into the junction"

The remainder of this note seeks to establish the sightlines that **can** be achieved at the junction. While it is accepted that these will not meet the standards required for new rural roads it should be remembered that the junction is already in existence, there will be no material change in traffic volume compared to the previous usage and that as the roads authority Scottish Borders Council has a duty of care in relation to the safety of the existing road layout.

Although the applicant is unable to improve the sightlines at the junction, the measures proposed within the submitted Colin Buchanan report would improve the safety of the **existing** junction layout for all road users.

15 November 2011

Property

Our Reference: JD/A074051 /L01

Page: 2

Forward Visibility

In relation to visibility and the design of new rural roads, Scottish Borders Council standards revert to the Design Manual for Roads and Bridges as stated in Section 8.10;

"These guidelines refer essentially to urban areas. Higher vehicles speeds in rural areas will necessitate more stringent design criteria, therefore reference should be made to the current Design Manual for Roads and Bridges governing road design.

This requirement particularly applies to the criteria for minimum sight distances. In the rural situation, the Y-distances of visibility splays (shown for the urban situation in Table 7) should be the same as the minimum Stopping Sight Distance specified in TD/93 in volume 6 of the Design Manual for Roads and Bridges."

Table 2 of TD/93 of DMRB sets out the stopping sight distance for various speeds of road. In relation to the A701 in the vicinity of the existing junction, the desirable minimum sight stopping distance based on a 70Kph design speed is 120m, with one step below desirable minimum being 90m.

An on-site investigation of the sight stopping distance for northbound vehicles concluded this to be in the region of 120m. The photo below indicates a right turning vehicle as viewed from a distance of 120m from the junction. Southbound, the junction is visible from a distance of 70m which is two steps below desirable minimum. This would still provide adequate stopping distance to the junction at 40mph. Southbound visibility of the junction will be greatly improved through the introduction of junction markings and reflective bollards.



Northbound forward visibility at 120m from access junction

Existing Warning Signage

Existing signage to Diag 506.1 is provided at a distance of approximately 120m back from the junction on both the northbound and southbound approaches. As highlighted below, both signs are currently partially obscured by vegetation. It is recommended that, irrespective of the current application, the vegetation is cut back and yellow backing boards are provided to heighten the visibility of the signage.



Existing Diag 506.1 signage

Visibility Splay

The provision of adequate visibility splays in relation to the construction of new rural roads is described in Section 16.13 of the Scottish Borders Council standards noting that in this situation a new junction would be required to have a visibility splay of 4.5m X 120m.

An on-site investigation of the sightlines available to approaching northbound vehicles indicates that even when taking into account the vertical geometry of the road, from a drivers eye view at an X distance of 4.5m, vehicles can be partially seen at an approach distance of 120m due to the curve of the carriageway. It is also worth noting that at an approach distance of 90m (one step below desirable minimum) from the junction, vehicles can be clearly seen as they approach the crest of the curve.

The images below highlight the the drivers view to the left from an X distance of 4.5m and the visibility back to the junction from the nearside edge of the carriageway, 120m from the junction.



Visibility to the left from a 4.5m X-distance



Visibility of the junction from 120m

Visibility of southbound vehicles from the junction to the right is currently obscured by vegetation within the public road and visibility from 4.5m back from edge of carriageway is currently negligible. Assuming that the existing vegetation is removed, visibility from 2.5m back (the relative position of a driver stopped at the give-way line) to a southbound approaching vehicle is in the region of 50m. This is highlighted in the image below. The provision of a stop-line and signage, along with roads markings on the minor arm will aid in the positioning of vehicles to maximise available visibility.

15 November 2011

Property

Our Reference: JD/A074051 /L01

Page: 6



Visibility to the right from a 2.5m X-distance

Conclusions

SBA was appointed by John Wilson Property to undertake a further **access** appraisal in support of a proposal to construct up to two new dwellings to the north of Romanno Bridge, Scottish Borders. The positioning of the existing junction in terms of the available visibility and sight lines does not meet with Scottish Borders Council Standards for new rural roads and an on-site investigation was undertaken to establish the existing visibility parameters.

The forward visibility to the junction from the south is considered adequate and within the standards set out by DMRB for forward visibility. The forward visibility to the junction from the north is below standard although still provides adequate stopping distance for a vehicle travelling at 40mph; this will be enhanced by the provision of junction markings and reflective bollards.

The sight lines to the left from the junction are considered adequate in relation to the visibility of a vehicle from 120m. The visibility to the right remains substandard due to the positioning of the cottage but the provision of a stop-line, stop sign, junction markings and the removal of existing vegetation on the minor arm will aid in the positioning of vehicles to maximise visibility.

Taking into consideration the minimal level of traffic generated by the proposed development, the introduction of the measures proposed in this note and the Colin Buchanan report will improve the safety of existing junction for all road users on the A701.

15 November 2011

Property

Our Reference: JD/A074051 /L01

Page: 7

Yours sincerely

A large black rectangular redaction box covering the signature area.

Senior Transport Planner
for **SBA**

Direct: 
email: 

Please ask
for: Ian Aikman
Our Ref: Tel [REDACTED]
Your Ref: 01CS00296
E-Mail: [REDACTED]
Date: 26th June 2012

Dear Sir,

RE: 11/00676/PPP – ROMANNO BRIDGE

I refer to your formal complaint letter to the Chief Executive dated 28th May 2012 regarding the handling of the above mentioned planning application.

The Council's formal complaints procedure requires that the relevant service manager provide a response to the issues raised. As I am the planning manager that provides guidance to the Local Review Body (LRB) it was considered that I was the most appropriate officer to respond to your letter. If you are not satisfied with my response you can ask for your complaint to be reviewed by my Director, Mr Rob Dickson. Ultimately, if you are not satisfied with his reply the matter can then be referred to the Chief Executive.

You have provided a detailed outline of the planning history of your application but the basis of your complaint appears to me to boil down to the status of the advice provided by the Roads Officer Mr Keith Patterson, and how that advice was considered by the Planning Officer and the Local Review Body when it reviewed the case.

The advice given to the Planning Officer by Mr Patterson is exactly that, it is merely advice. The Planning Officer must assess all of the relevant information and come to a view as to the weight to give to each factor when undertaking the "balancing of considerations" required of the decision maker. Whilst I will not comment on the merits of the decision, I am satisfied that this balancing was done correctly and that all of the relevant matters, including the question of the access, were considered in detail by the Planning Officer.

In terms of the Local Review Body's consideration of the case, I am also satisfied that they considered the matter appropriately and took account of all relevant information. My role in providing advice to the Review Body is to guide the Members of the LRB through the review documents, respond to factual issues that arise and to advise on the Planning Act and Regulations. I provide guidance on planning matters but do not take part in the decision making process. It is for the members of the Local Review Body to decide the weight to be attached to the relevant policies and material considerations in each case.

At no time did I indicate to Members that the Roads Officer's reference to the need for 120m sight lines was a legal requirement, nor was it, in my view, implied by the Roads Officer. The observations submitted by Mr Patterson were his professional opinion based on the Council's guidelines and his experience. I would agree that the "Standard for Development Roads" specifically relates to the provision of roads for new housing developments. However, they do



also provide a guideline for assessing development relating to existing roads. The view of the Roads Officer, and the ultimately Review Body, was influenced by the nature of the road conditions at that particular locus, not the rigid application of this standard. His view was that the access was inadequate and could not be improved to the appropriate standards to accommodate the development applied for. Indeed, the reports prepared by your consultants also highlighted the limitations on visibility at the junction. It is of note that the reason for refusal, which was upheld by the Review Body, makes no direct reference to the need to provide 120m sightlines, it states that:

"...Sightlines at the junction of the access track with the A701 are substandard in both directions, being hindered by the roadside cottage and both horizontal and vertical alignment of the road. In addition, northbound traffic on the A701 suffers from substandard forward visibility particularly when there are vehicles waiting to turn right into the junction."

The Review Body noted that you had lodged additional information with the review that was not before the Planning Officer when she determined the application. As they felt this was important to their consideration of the case and directly responded to the reasons for refusal, they agreed that this new evidence could be accepted. This enabled all parties to comment on the access in more detail and allowed Members to take into account your consultant's report. I am content that the Local Review Body in deciding this case fully appreciated the circumstances at the road junction.

Whilst you question the level of debate by Members, I believe that they addressed all relevant considerations. Members also had all of the Review documentation prior to their meetings in November and December so would be familiar with the background to the case. The critical element is that they gave greater weight to the concerns raised by the Roads Officer than to the explanations of road conditions by your consultants or the effectiveness of your proposed mitigation measures. This is a judgement they are at liberty to make.

The position of the radar device was queried by Councillor Smith and I did indicate that I did not know why it had been placed in the position chosen. The Review Body could have sought that information if it had considered this critical to their determination. They were however, satisfied that the survey provided sufficient indication on current traffic speeds in the vicinity of the junction. I have subsequently noted that the Roads Officer had indicated in correspondence with the Review Body that:

"The radar was located in a convenient location close to the junction in order to give vehicles speeds in the vicinity of the junction area."

I am advised that the equipment needs to be erected on a traffic pole and this was the one closest to the junction.

Members did examine the other cases referred to in your submissions but felt that they could not give them significant weight. In their view, the circumstances of each case had to be considered on their own merits and that the other cases may not be directly comparable. I would agree that you should expect that the Council will provide a consistency of advice on road safety. However, the advice given will be strongly influenced by the particular characteristics of a junction, nature of existing road alignment and road capacity in terms of may be permissible at any particular site. In terms of consistency, I would refer you to the fact that the Roads Officer had recommended refusal for the earlier application 09/00800/OUT for the development of this land on the same grounds.

No party has the right to speak at the Local Review Body, be they applicant or objector, unless a formal oral hearing session is arranged. Members did consider whether further procedure was required in the form of a hearing or site visit but felt that they had sufficient information before them to decide the case. They did not feel that it was necessary to visit the application site or the sites suggested in your submissions. Whilst I can appreciate your frustration at not being able to speak there is no legislative provision to enable this outwith that which I have already outlined.

I note that you have sought legal advice on challenging what you perceive as the unfairness of the Council consideration of your case and that is clearly a matter for to consider but I am of the view that the matter has been handled fairly by the Planning Authority.

All Members of the Council are covered by Standards Commission for Scotland Code of Conduct. If you consider that any members of the Local Review Body acted with impropriety then there is a formal process for making a complaint about their conduct. The letter should be addressed to the Chief Executive directly and provide the following information:

- the name of the Councillor against whom the complaint is being alleged
- the nature of the conduct alleged
- the part of the Councillors' Code of Conduct which is alleged to have been breached.

The letter should be clearly headed as a formal complaint about the Councillor in question and should be accompanied by any supporting evidence on which you intend to rely.

Yours faithfully



Ian L Aikman
Major Applications, Review & Enforcement Manager

FAO Fiona Walling
Committee and Elections Officer
Legal and Democratic Services
Scottish Borders Council
Council Headquarters
NEWTOWN ST BOSWELLS TD6 0SA

12th December 2011

Local Review Body - 11/00676/PPP

Dear Sirs

I refer to your letter of 5/12/11 and the two enclosures therein.

I should point out that I did a great deal of research before lodging this application as I had no wish to waster anyone's time including my own.

This investigation involved all sorts of meetings with appropriate professionals to discuss all aspects of this application and in the light of the applications recently approved by the council it was agreed that there did not appear to be any reason why my application would not be approved.

The contentious issue that we now appear to have refers to sightlines and the continuous reference to a required sightline of 120m appears to infer that this is a legal requirement.

Unless I have been given wrong information from numerous professionals this is only a figure that is used for the construction of new roads being created and to later be adopted by the council.

This figure is quoted by a roads officer and I suspect that the planning officer assumes that it is correct but I most certainly do not think this is the case and therefore not relevant to my application.

I also disagree that there is anything wrong with the sightline to the South and I believe we have proved that it is more than adequate.

I am aware of numerous junctions throughout the entire Borders area which do not attain the recommendations for the construction of new roads but that is just a fact of country life and has not stopped the granting of planning consent by the council.

I have enclosed a further report from SBA Traffic Planning Specialists which is self explanatory and merely confirms the opinion of other professionals with whom I had meetings before lodging this application.

The report shows some examples but I have also enclosed a very small number of cases from my own files which highlight what I consider to be more extreme cases of poor sight lines.

I have enclosed photographs of The Loan in West Linton where I currently live and the site which has now received planning consent, ref 08/1494/OUT, was one which I wished to build myself a house on but I was informed by the roads department that under no circumstances would this site ever receive planning consent due to the junction of The Loan and the A702.

This Junction is chaos at all times due to the lack of sightlines, traffic trying to enter and leave at the same time and the bus stops either side of the junction.

I also believe however that the consent granted will have no effect of any consequence on The Loan since we already suffer endless hassle at this road junction with domestic traffic, service vans, oil tankers and some huge traffic which services the farm at the top of the road.

I have also enclosed photographs of the site of The Old Manor garage in the main street, ref 03/02185/CON and 03/02186/OUT which had 3 houses built upon it and I would consider that the sightlines are effectively non-existent but yet again consent was granted and supported by the roads department as per the relevant enclosure.

You will perhaps appreciate that I consider that in view of all the evidence which I have gathered I see no reason not to grant consent to my own application and as you are aware I have already offered to carry out improvements as suggested by the report by my own roads consultant including discussing any further suggestions by the council.

I am also still of the opinion that regardless of my own application the council requires to instruct the relevant owners to cut back the trees and foliage which greatly overhangs their boundaries and this will assist all road users on the A701 as well as the councils own employees as you will see from the enclosed photograph of the council refuse vehicle.

I should perhaps also point out that what was Newlands school now has a community facility called Newlands Centre built beside it to be used for all sorts of functions both day and night and as per my previous suggestion I think that the 40MPH speed limit should be reduced to 30MPH.

It should also be noted that although this new centre is to host all sorts of functions, weddings etc including a future new years party from 8PM to 1AM there will be both pedestrian and vehicular traffic and since there is no street lighting in Romanno Bridge a reduction in the speed limit would do no harm as all persons and vehicles will be leaving in the dark.

I regret that I do not consider the recent speed survey by the council to be relevant since the device used was a very considerable distance past the road end we are discussing namely 130 metres and has included traffic travelling Northbound which is the direction which we have already proved has satisfactory sightline and is a very straight section of road.

In the light of the examples identified which have been granted planning consent I feel it not unreasonable to expect my own application to be granted and would hope that the committee would concur and that we might carry out the proposed improvements to this junction for the benefit of all traffic.

Yours Sincerely



John Wilson

SBA

part of the WYG group



9 December 2011



Our Reference: JD/A074051/L01

Dear John

Proposed Residential Development Romanno Bridge, Access Appraisal

This letter is provided as a further response to the continued objection by [REDACTED] of SBC Roads to the proposed [REDACTED] Property development at Romanno Bridge.

It is accepted that the visibility to the right from the site access road is limited although it has been confirmed that no injury accidents have been recorded in the last five years. The 120m standard that Mr Paterson refers to is contained within the Scottish Borders Standards for Development Roads which relate to the design and approval of new roads as stated below:

"This document should be used by developers and members of the public who require guidance and necessary authorisation regarding the construction of roads which subsequently, may be adopted by the roads authority in accordance with current legislation."

As the junction in question is already constructed and adopted by Scottish Borders Council it is not clear what relevance the 120m standard has other than providing guidance in relation to the ideal visibility. There are significant numbers of existing junctions within the Scottish Borders Council area that, due to their historic layout, do not achieve the standard for new junctions.

There is a need for Scottish Borders Council to show consistency in its approach to the approval of development in relation to the perceived impact on junctions with reduced visibility. The remainder of this letter describes a number of examples of existing junctions with visibility constraints where development will impact but has been approved; so highlighting that the Council does not have a consistent policy in relation to such development and that there can be no justification for refusal in this instance.

Transport Planning Specialists

9 December 2011

Property

Our Reference: JD/A074051 /L02

Page: 2

A701 / Bogsbank Road

The Bogsbank Road junction with the A701 is located around 1.1km south west of the Romano Bridge site along the A701, is within a 40mph zone and suffers from visibility constraints as highlighted in the photo below. At 2.5m back from the give-way line, visibility to the left is restricted to approximately 30m. Bogsbank Road provides a through route leading to West Linton with a number of residential dwellings and a farm located close to the A701 junction.



A701 / Bogsbank Road

A number of additional dwellings were consented (08/01570/FUL / 09/00638/OUT / 07/00744/FUL) in the recent past and although SBC Roads was asked to comment on the applications, no concern was raised regarding the junction with the A701. In addition, a further application (09/00710/OUT), although refused on other matters was not objected to by SBC roads.

9 December 2011

Property

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A701 / Mountincross

The Mountincross junction is located around 2.3Km south west of the Romano Bridge site along the A701, is within the 40mph zone and suffers from visibility constraints as highlighted in the photo below. At 2.5m back from the give-way line visibility to the left is restricted to approximately 30m.



A701 / Mountincross Access Road

Although not a through route, the access road provides access to a number of residential dwellings and a farm. A further residential dwelling (09/01562/FUL) was consented in 2010 and although SBC Roads were asked to comment on the application, no concern was raised regarding the junction with the A701. It is noted that conditions associated with consent do not allow the proposed dwelling to be sold separately to the existing dwelling on the plot although there are no conditions associated with its occupation.

9 December 2011

Property

Our Reference: JD/A074051 /L02

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A72 / Kirkdean Crossroads

The Kirkdean Crossroads junction is located around 6Km south west of the Romanno Bridge site along the A701/A72, is subject to a 60mph speed limit and suffers from visibility constraints as highlighted in the photo below. At 2.5m back from the give-way line visibility to the right restricted to approximately 50m.



A72 / Kirkdean Crossroads

This junction provides the closest comparison to the access junction at Romanno Bridge in that visibility is severely restricted by an existing dwelling to the right of the junction. However, traffic speeds are higher and the junction also forms a crossroads. The un-named minor road also provides a through route leading to A72 with a number of residential dwellings located close to the A701 junction.

9 December 2011

Property

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A number of dwellings including (05/01523/FUL / 02/01802/FUL / 01/01766/OUT) have been consented in the past without any detriment to the operation of the junction and presumably with the approval of SBC Roads. More recently, applications for residential development along this road have been objected to by SBC Roads based on the following justification:

"Visibility at the junction with the main road is considerably restricted in the northerly direction owing to the horizontal alignment of the road coupled with the existence of roadside property. It is with this in mind that the minor road has been signed to discourage through traffic. There has already been a significant amount of residential development approved served by the minor public road and suitable control must now be exercised over further development. I am therefore recommending this application be refused on road safety grounds."

Conclusions

There is need for SBC Roads to show consistency in its position regarding the development of residential dwellings accessed from minor public roads with restricted visibility. It is clear from the above examples that this is currently not being applied. It should be noted that the above examples are all located within a short distance of the proposed site and that there are many more relevant examples with the Scottish Borders Council area.

The closest comparison to Romanno Bridge is at Kirkdean where there is now a standard objection to further development due to the lack of visibility at the Kirkdean Crossroads. Within the vicinity of the junction, significant residential has been approved and the route is also subject to through traffic including school buses.

It is accepted that similar control should be applied in the future to prevent over development at Romanno Bridge for the same reasons. However, with a significantly reduced amount of development currently served by the access, lower traffic volumes, no through route, lower traffic speeds and no existing accident issues, it would not be justified to refuse the application for two additional units in this location. Further, the traffic generation associated with the development is minimal and measures previously proposed by the applicant will improve the safety of existing junction for all road users on the A701.

Without clarification in relation to the approval of the above examples and the lack of a coherent policy it is not clear how the objection by SBC Roads to the proposed development can be justified based on the potential uplift in traffic volumes.

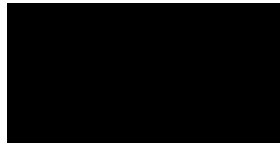
9 December 2011

Property

Our Reference: JD/A074051 /L02

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Yours sincerely

A large black rectangular redaction box covering the signature area.

Senior Transport Planner
for SBA

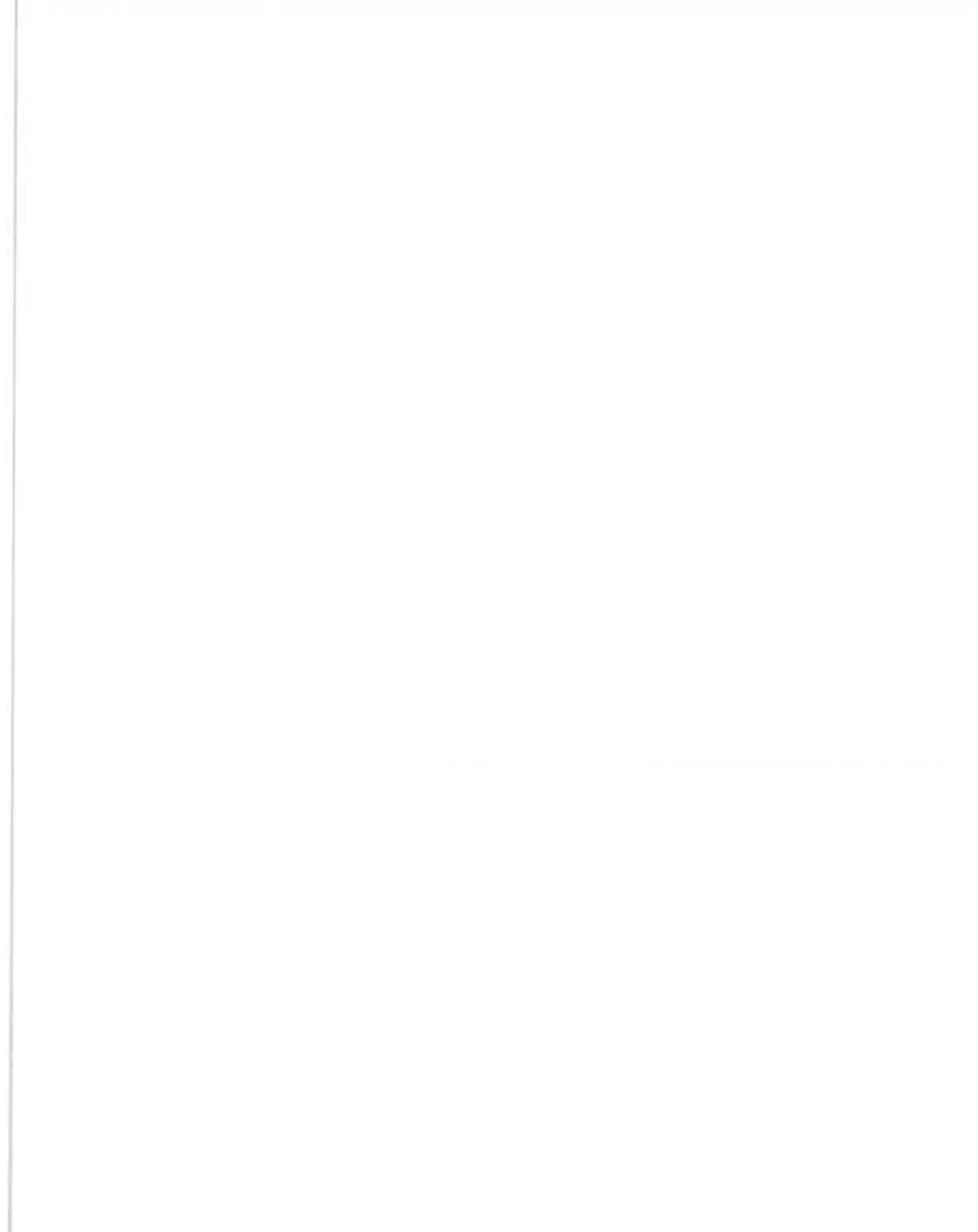
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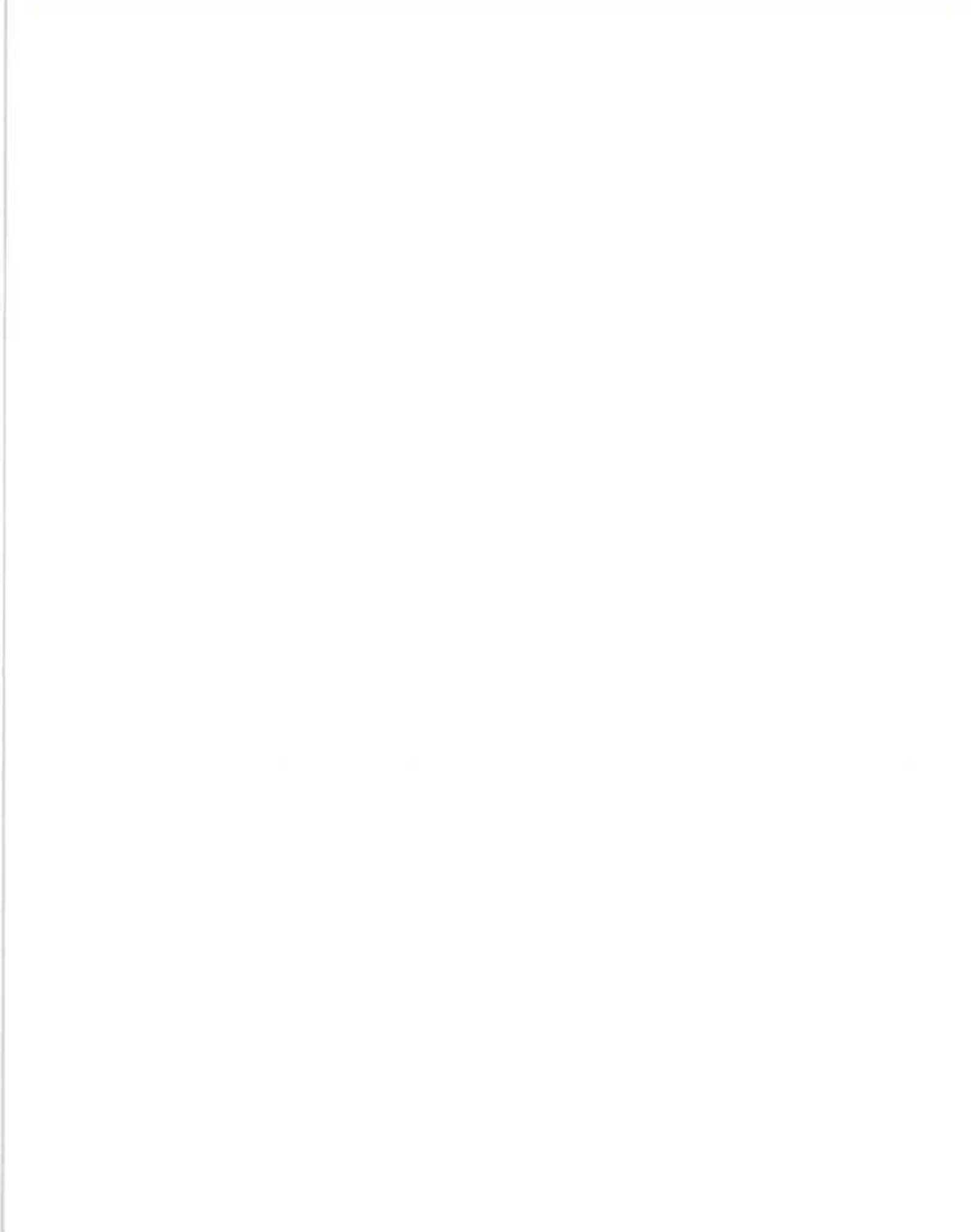
Manor Garage

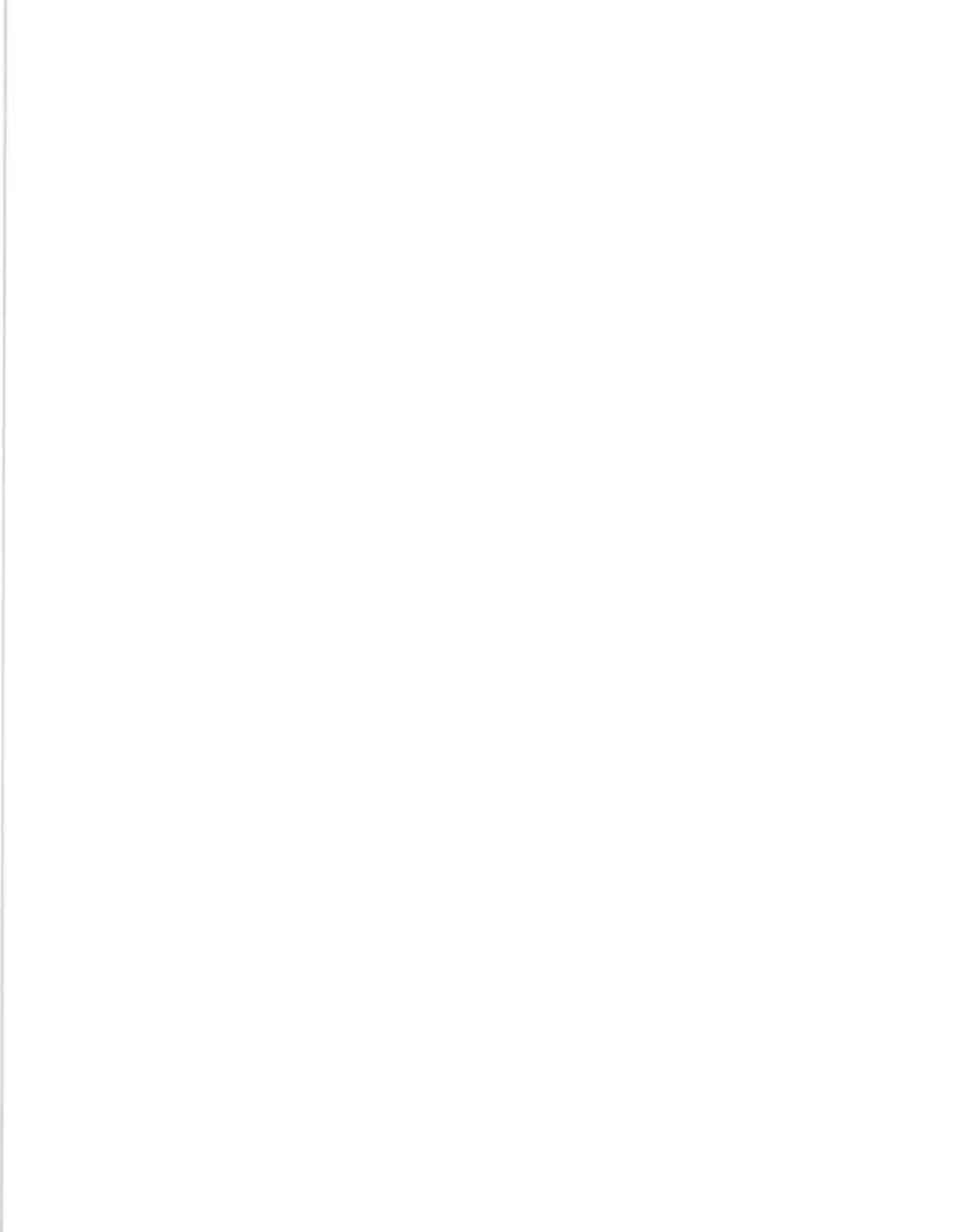
Main Street

West Linton









PLANNING CONSULTATION

To: Development Control (Transport And Env)

From: Head of Development Control

Date: 18-Dec-03

Contact: Barry Fotheringham ☎ X8453

Ref: 0302165CON

PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 2nd January 2004. If further time will be required for a reply please let me know. If no extension of time is requested and no reply is received by 2nd January 2004, it will be assumed that you have no observations and a decision may be taken on the application.

Name of Applicant: R McKinn

Agent: AD Architectural Design

Nature of Proposal: Demolition of garage
Site: Manor Garage Main Street West Linton Peeblesshire EH48 7EA
Outline Consent:

OBSERVATIONS OF Development Control (Transport And Env)

CONSULTATION REPLY

**NO ROADS
OBJECTIONS**
[Signature]
[Signature]

ENTERED 21 JAN 2004

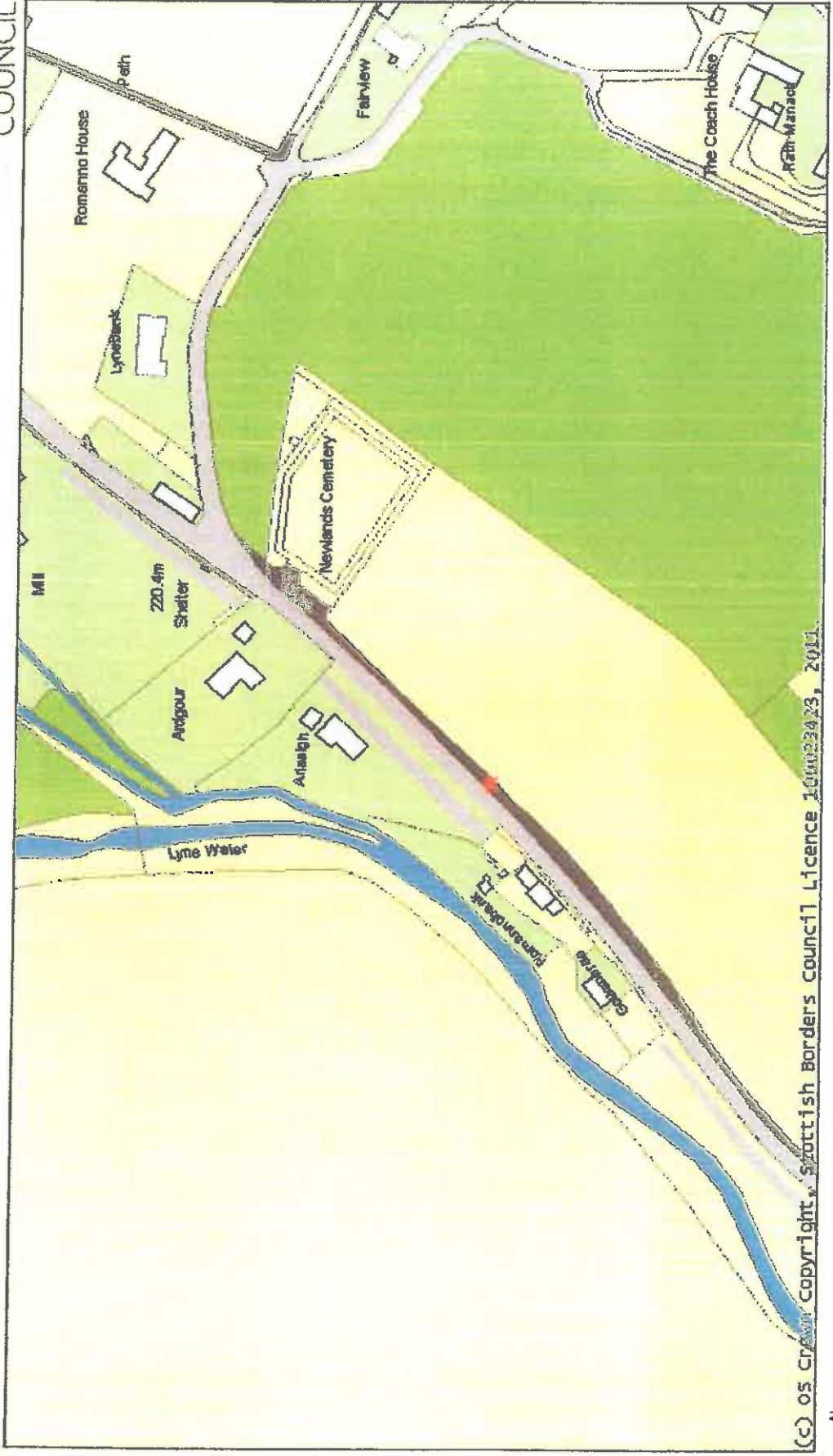
The Loan / A702 Junction
West Linton





Speed Survey Location

Romanno Bridge



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This product includes mapping data licensed from Supplier(s) with permission.
Traffic Counter Location

SCOTBORDERS\SPeffers

08/12/2011 10:18:57

Scale 1:2000



Address A701
Address is approximate
Speed Survey Location, Northbound





Address **A701**

Address is approximate

Speed Survey Location, Southbound



From: [REDACTED]
Sent: 22 January 2019 11:13
To: Armstrong, Deborah; localplan
Subject: MIR Comments Land North Of Dolphinton

Dear Sirs,

As the owner of the 'Land North Of Dolphinton' (which has been selected as a preferred site within the recent MIR Call for sites) I am writing to inform you that I would be delighted to respond and address any comments which arise through the public portal.

I did search for a facility on your website to pro-actively undertake this action prior to the deadline of the 31st January but after verbal discussions with the planning department yesterday I was informed that public responses are not yet in the public domain and all responses will be summarised once the consultation has closed.

Please feel free to contact me at any time on my mobile: [REDACTED]

Regards

[REDACTED]

Bell, Laura (Planning HQ)

From: [REDACTED]
Sent: 28 January 2019 12:44
To: localplan
Cc: [REDACTED]
Subject: MIR Comments
Attachments: MAIN ISSUES REPORT 2018.docx

Follow Up Flag: Follow up
Flag Status: Completed

Dear Sirs

Please find attached a Word document with various comments on the current MIR from John Wilson.

Please can you confirm safe receipt of this document.

Many thanks.

Grant Wilson
Director

Follow Us



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DD: 01506 530495
M: 07736 698680
E: Grant.Wilson@tracsis.com
W: www.tracsistraffic.com

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Registered Office: Tracsis Traffic Data Ltd, Templar House, 1 Sandbeck Court, Sandbeck Way, Wetherby, England LS22 7BA. Company Registration No:3896384. VAT Registration No:945787661.

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MAIN ISSUES REPORT

Dear Sirs,

I write in relation to the above plan and hope to provide some relevant comments to assist any decisions.

I am pleased that my site at Dolphinton has been put forward as a preferred housing option with the capacity for 10 houses ref ADOLP004. I would also like to explain why I only suggested 10 houses was due to the fact that I hoped these spacious sites will be used by persons who would like to work from home with the space for an office, studio, workshop or similar as long as the uses are non-contentious.

These house sites will also be able to provide accommodation and parking for larger families and perhaps parents. This decision not to over develop this site was occasioned by viewing the site plans for the Springfield site in West Linton for 90 plus houses and when I viewed the plans there was not one single house with a downstairs bedroom to accommodate a disabled person or even a separate dining room that could be adapted.

There was also not one house with a double garage or the possibility to create one and I was informed by the Springfield representative on site that consent would not be granted to create such a facility.

Since some of these houses had 4 bedrooms it is only a matter of time until children become old enough to obtain a vehicle and the parking on this whole site will become chaotic.

I only point these facts out as it perhaps explains why I have had several enquiries, mostly from persons who already live in the area, if there was any possibility of obtaining a site from myself to self-build to their own requirements.

I was getting these enquiries when I was obtaining consent for the first 5 sites as per ADOLP003.

In anticipation of developing the site now designated ADOPL004 I allowed a substantial plot for the first house just inside the gate on the plan for site ADOPL003 so that it might have a room built on that could double as a workplace and shop.

This plot would also be adjacent to a new access to the bus stop on the A702.

You will be aware that there is no shop of any type in Dolphinton and there is someone who was interested in combining his antique/curios business with a small shop.

The same gentleman lost the premises for his antique business in West Linton which brings us to the fact that there is a definite requirement for small business premises as well as offices in West Linton and also there is a definite requirement of premises for small contractors where they can obtain a small unit which provides an office space, secure storage space and secure lock fast premises for their van.

West Lothian and then East Lothian built such units as a trial a great many years ago and it was such a success they have since built hundreds of them. These units require to be lock fast and functional rather than expensively designed and fitted out but a suitable sized site could accommodate both.

A suitable site which I would suggest could be investigated is the possibility of obtaining some ground from Broomlee Camp on Station road. Since the use I am suggesting would be almost all used by existing local people I would not anticipate any increase or heavy traffic problems.

The above possibility would be of great assistance to local lighter type businesses but for heavier vehicles there would be a possibility of suitable premises on Boggsbank Road and the stumbling block appears to be the weight restriction on the bridge over the river which would obviously be a more expensive exercise. This expense should perhaps still be allowed for in the future as there are not many possible alternatives in the village.

I believe Springfield hope to develop on more land and if this is a possibility for the planning department I hope it will be a condition that they provide the road that was mentioned in the past between the area of the A702 roundabout and Station Road which would allow larger industrial development in the area of Station Road as the village centre cannot cope with the size of the existing traffic far less any more.

The size of the tractors and trailers which come through the village is ridiculous as well as all the other lorries, buses etc

On a different subject I was very pleased to see that you are considering non retail businesses in town centres and I can perhaps provide examples of my own experience in such situations.

I own various premises in Edinburgh City Centre and the adjacent peripheral area and I have bought numerous premises over the last 40 plus years and even at the start the situation with various premises was changing and businesses were starting to struggle.

Amongst the businesses were ones which were struggling due to the arrival of large supermarkets. Lots of the premises I purchased had eventually become run down due to lack of funds although they were in buoyant areas close to the city centre. These premises required considerable expense to be put back in order, especially butchers and fish mongers but I restored them to perfection.

Because of their condition and reasonable rents they were rented comparatively reasonably and we have had the same tenants for many years as they did not require to spend money they did not have on upgrading and repairing the fabric.

What I would suggest in your own case is to look favourably on tenants whose services cannot be obtained online and customers are required to visit the premises.

Examples from my own tenants are the obvious barbers, hair dressers, a very busy bike repair and sales business who employ 4 staff, a Kip McGrath for Education facility which provides assistance to school children as well as adults and is open 7 days per week for tuition in maths and English. One that did surprise me was a request for a small pilates studio which I created from a large grocers and news agents shop and customers were wide and varied.

Some persons came at 7 AM for a session before going to work, other persons came at 9 AM after dropping children at school. Some older and retired persons came during the day and then all sorts came after work, evenings and weekends.

What also surprised me was that apart from one item, there was very little expense required to start and run this business especially as I gave them premises in immaculate condition.

I am aware you may have concern that a request for a tattoo parlour may not generate much footfall due to the time it takes for one tattoo and since there is a tattoo parlour adjacent to some of my premises I enquired from the staff what they thought on the matter.

The opinion appears to be that when someone goes to get a tattoo they seldom go alone whether they are with friends or relatives and due to the time the tattoo takes the other persons go to the coffee shop next door, the take away shop across the street and all the other shops etc which are close by.

It also appears that having come into the town they tend to stay in town for long periods and this shop supports three tattoo artists.

One thing that may also be worth considering is that any shops which are closed, boarded up, or covered in posters/graffiti etc always brings the area down and creates a terrible depressed feeling for the public and other shop owners.

In these circumstances if this has been the situation for a long period it may be better to consider any non-contentious business. If the business fails to flourish you are no worse off but if it survives it is one less empty shop even if it is just breaking even.

A good example is Hawick which was visited by some relatives several weeks ago and which was considered to be very depressing and full of charity shops.

Another example of which I am very aware is in Eyemouth where I have a house and where the original newsagent has been for sale for over one year and although it is in the town centre has not received one offer.

Another thing that I consider absolutely essential to maintain footfall and encourage visitors to come then stay longer is the provision of suitable toilets. I read recently about the possibility of closing toilets in Peebles including the ones at School Brae and I would not underestimate the number of visitors who will never return for days out if this was to happen.

Many years ago I had interests in Dunbar which was a very buoyant holiday and day trip destination and was busy all summer with tourists and a great many bus trips.

When Torness power station started to get built there was such a large labour force involved occupying most of the accommodation and spending so much money that a local councillor thought that they did not need tourists.

This councillor then embarked on a policy of closing the tourist information centre which housed the main street toilets, he then closed the rest of the toilets one by one including the toilet block at the tourist bus park, the toilet block at the amusement park and the amusement park closed down.

A decision was taken to sell one of the fully occupied caravan sites for housing and run down the second caravan site and not maintain the toilet block which ended up being closed. A further decision was taken not to maintain Dunbar's biggest tourist attraction which was the open air swimming and paddling pool and was eventually closed down.

The outcome of all these actions was that when Torness was finished and the workforce all left, Dunbar died of death and has never recovered.

In recent years Dunbar has made some attempts to introduce some facilities back again but I regret that it will never recover to the tourist venue that it once was.

The situation has not helped the High Street by the addition of a large Asda being built on the A1.

On the matter of developer contributions I would suggest that in today's market it would be of great assistance if they did not apply in any circumstances where premises were not being restored, repaired or developed simply because it is not financially viable and the property lies as a derelict eyesore as I have watched happen for years.

A good example is the old town hall in Eyemouth which stands derelict with not even a toilet facility.

I looked at this site many times but to do anything useful with this unit and the adjoining old solicitors offices would cost greatly in excess of what its' final value would be on completion even with no developer contributions.

I will however continue to look at this site and consider the options.

One thing that concerns me greatly is the granting of more and more wind farms.

The theory of wind farms is not cost effective and there are abandoned wind farms all over the world which are now in broken down derelict condition. These wind farms have been abandoned and left to become derelict because the owners would not spend the money to dismantle them and clear the site after which the company concerned disappears or goes into liquidation. I fear the same thing will happen in this country.

In spite of all the comments inferring the good points of this method of power generation these units spend a great deal of time motionless since they generate no power in calm conditions and they are closed down in excessive wind conditions.

There was a case many years ago when a large turbine was allowed to be erected on a farm down South at a distance allowable under legislation and in spite of protests from the farm owner.

The owner ended up ill through the constant pulsations and flicker effect and had to leave the house and move elsewhere. A claim was pursued through the courts for compensation and as part of the claim a surveying company was commissioned to value the property. The valuation provided by the company valued the property at zero due to the fact that it could not even be occupied during the day far less during the night due to the constant and excessive pulsations and flicker effect.

The point being, apart from the visual destruction these things should never have been placed where they can cause any pulsations or flicker effect which makes life unbearable to members of the public.

I am sure there will be many things to consider relating to the Main Issues Report and I would like to make one last suggestion.

I have dealt with planning departments etc most of my life and I have hopefully had a good relationship with them but one thing that has always concerned me is that often a planning decision is left to one single officer whether it be planning or road department and it is sometimes a very experienced officer and sometimes a younger less experienced officer.

On two occasions I have been refused consent for a project and on both occasions the reporter has disagreed and overruled the SBC officer. I now require to pursue a project which I was refused consent for due to the opinion of one roads officer in spite of the opinion and reports of my employed traffic and roads specialist consultants including employing solicitors and a QC who disagreed with the road officers opinion for refusal.

Unfortunately I did not have time to put forward an appeal to the Scottish government due to ill health but this matter still requires to be pursued. The suggestion I would like to make with good intent is that on occasions where one officer who may or may not be fairly recently qualified makes a decision to approve an application they should proceed but if the decision is to refuse the application they should perhaps be instructed to seek a second opinion from a more experienced senior officer before issuing a refusal.

I am a case in point where two out of two decisions of refusal were overruled by the reporter and the third refusal 11/0067/PPP is still to be pursued and although the site was considered perfectly suitable for two houses by the planning officer and is in the existing settlement area, due to a change in my circumstances, consent for either one or two houses would suffice.

I have noticed several cases recently where a planning roads officers' decision has been overruled by the local review body, which did not exist in its present form when 11/0067/PPP was refused but I have just read a good example in the Southern Reporter. The case involves Tim Ferguson of Ferguson Planning who put an application in for a house and stables on a field near Lillies Leaf. This application was refused by a planning officer but on appeal it was granted by the review committee.

The committee granted this by a six to one majority.

Whilst no disrespect is meant to the planning officer who is entitled to his opinion a vote against his decision of six to one would suggest that a consultation with a second planning officer may have changed the council's decision. It may be that the small amount of time speaking to a second planning officer may have arrived at a decision to grant consent and saved endless wasted time and expense for the appellant, the planning officer and the review committee.

It may also be of interest that in my dealings with the Highland and Island planning departments their policy appears to be, "Let's not say no, let's sort the problem so that we can say yes".

At my age I remember seeing the same attitude when I dealt with Lennie Bell who was the planning officer who was based in Peebles.

I make the above comments with good intent in the hope that it may be of some interest as I have found it very time consuming and more expensive to go through appeals and reporters when it should perhaps not be necessary.

I hope some of the above comments are of some interest and I look forward to seeing the progression of the MIR and I can be contacted on my mobile number at any time.

Kind Regards

[REDACTED]

Mobile: [REDACTED]