

# *Community Council of the Royal Burgh of Peebles & District*

04 April 2022

Planning and Regulatory Services  
Scottish Borders Council Headquarters  
Newtown St Boswells  
Melrose  
TD6 0SA

## Objection

**Reference: 22/00422/AMC – Erection of block of residential flats comprising 14 No units.**

### 1.0 Executive Summary

Peebles and District Community Council (PCC) objects to the application identified above in support of numerous representations made (more than 300 at the time of writing). The PCC would like to direct SBC officers and planning Committee members to the following which are considered of special importance in assisting with the decision-making process.

- Objection by Reuben Singleton (attached to the SBC planning portal).
- Objection by Catriona McKay (attached to the SBC planning portal).
- The website <http://savekingsmeadows.org.uk>
- The website <https://kingsmeadows.org.uk>

Although not part of the Special Area of Conservation, the site is adjacent to it. The site contains a badger set, bat roosts, red squirrels and also plays host to passing otters. Most important is the rare mature woodland comprising of trees up to 200 years old which are irreplaceable.

There is a history with this site. In 2014/2015, the Managing Director of Granton Homes as part of his campaign for planning approval pledged to protect the woodlands. The following quotations are from news items recorded in Peeblesshire.



*"The trees especially are as sacrosanct to me as anyone else"  
(27.11.14)*

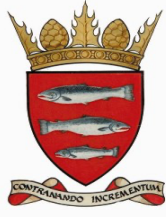
*"No protected trees will be affected" [NOTE: All these trees enjoy protection due to their location within the Conservation Area] (08.07.15)*

*"Estate owner Alan Mawer re-iterated his pledge to preserve the beauty of the site and stressed that there were no plans to build house within the 17.5 acre site..... but Mr. Mawer said, I am stressing that there are no plans to build houses. I know a lot of people would not like that. I am from Peebles myself and I don't want to drive around town in a darkened vehicle. We are determined that the estate will remain a country estate and not become a housing estate. We want to safeguard the future of the estate and not allow it to fall into the hands of developers". (02.07.15)*

It is now understood that Granton Homes included clauses within the title deeds of properties on the estate to the effect that they, Granton Homes maintained the right to develop further within the woods and/or to sell these rights to developers.

In the light of experience, this all appears disingenuous. Perhaps there were no plans drawn up then, but the company has applied for houses on the site more than once since; and an original application for 10 flats has now been increased to 14. In considering this application, this writer urges SBC Planning Officers and Planning Committee members to consider the company's words and deeds and to take this history into account. This is not the only time that reality appears to have been stretched. In a previous proposal (withdrawn) (20/00275/FUL) for seven houses to be built, the tennis courts and bowling green were considered "brownfield land". This was not a correct use of the term, and these were not "brownfield". A competent developer or architect would be expected to know this. This proposal demonstrates to the writer that the developer had no intention of keeping to the pledges made in 2014/2015.

This new proposal again appears to be tactical in nature. Having seen that the proposal for seven houses was bound to fail, it was withdrawn to be superseded by another proposal for these fourteen flats and a reduced number of houses. However, this latter proposal was described as a major development and presumably would have again been likely



to fail. Therefore, we now see a new proposal for the 14 flats alone, presumably to be followed later by a new proposal for houses.

Scotland is one of the least wooded countries in Europe with only around 17% of the land area being wooded. Only 14% of this is broadleaved and 4% mixed woodland. Only 1.4% comprises ancient and semi-natural woodland. Kingsmeadows is semi-natural woodland bordering on ancient.

The new proposal has four floors rather than the three as in the previous proposal and 40% more flats. It will have a serious visual impact upon the aspect provided by the 18<sup>th</sup> century house and gardens, especially when viewed from the north and east.

Peebles Community Council, other representative bodies, and individual town residents, including residents on the Kingsmeadows estate took the earlier assurances at face value and did not raise objections when the original, first proposal was made. Experience has taught us that this was a mistake.

## 2.0 Relevant Legislation, Policies and Guidance (Habitat and Ecological)

### 2.1 **The Conservation (Natural Habitats, etc) Regulations 1994 (as amended) – Section 48 – (1)**

2.1.1 This requires that “an appropriate assessment of the implications for the site in view of the site’s conservation objectives” shall be undertaken due to the proximity of the river Tweed Special Area of Conservation (SAC) and the site of special Scientific Interest (SSSI)

2.1.2 A proportionate Habitats Regulations Appraisal will be required.

2.1.3 All bat species found in Scotland are classed as a European protected species and receive full protection under these regulations. Please see Appendix 1

### 2.2 **The Wildlife and Countryside Act, 1981 (as amended) and the Nature Conservation (Scotland) Act, 2004**



2.2.1 It is an offence to damage or destroy a red squirrel drey. Dreys are protected whether they are in use or not. Any development within 5m of a red squirrel drey may require a licence from NatureScot. The exclusion zone is extended during the breeding season.

2.2.2 Red squirrels have been recorded on the site. Reference saving Scotland's Red Squirrels. [Saving Scotland's Red Squirrels. Saving Scotland's Red Squirrels – Saving Scotland's red squirrels through community action \(scottishsquirrels.org.uk\)](http://SavingScotland'sRedSquirrels.org.uk)

2.2.3 A full survey is required to assess the possible impact on the red squirrel population.

### **2.3 Policy EP1 – International Nature Conservation Sites and Protected Species**

2.3.1 The assessment undertaken is incomplete and does not consider the potential impact to the Tweed SAC or on European Protected species such as bats.

### **2.4 Policy EP2 – National Nature Conservation Sites and Protected Species**

2.4.1 The assessment undertaken is incomplete and does not consider the potential impact upon the red squirrel population.

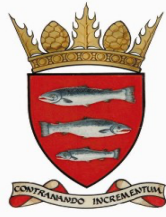
### **2.5 Policy EP3 – Local Biodiversity**

2.5.1 This 200 year old woodland is the only tract of seriously old woodland remaining in the Peebles Conservation Area and provides a unique and very important wildlife corridor along the river Tweed.

2.5.2 The mature and notable trees represent an ecological resource that cannot be replaced with new planting, at least for a number of lifetimes. Reports imply that trees with defects and dead trees may have no value. However, it is these very defects that provide homes and food sources for many species.

### **2.6 Policy EP7 – Listed Buildings**

2.6.1 b) “any alterations, etc. must “respect the original structure in terms of setting, scale, design and materials....” –



Kingsmeadows House is a Category B listed building built in 1795. It is a significant landmark when viewed from the North and East. The proposals will completely spoil a significant aspect of the town.

## **2.7 Policy EP9 – Conservation Areas**

**2.7.1 “Conservation Areas make a unique and irreplaceable contribution towards the character and quality of the Scottish Borders, and as such must be protected from inappropriate development”.**

## **2.8 Policy EP10 – Gardens and Designed Landscapes**

2.8.1 Kingsmeadows is a rare example within the Peebles Conservation Area, of a stately home adjacent to the River Tweed with a mature wooded garden. The site is historically important.

## **2.9 Policy EP11 – Protection of Greenspace**

2.9.1 Greenspace with a development boundary will be protected where this can be justified because of its environmental, social, or economic value and where the greenspace plays a role in defining the landscape. The site at Kingsmeadows meets these criteria.

2.9.2 “The aim of this policy is to give protection to a wide range of defined types of greenspace (also known as open space) within settlements and to prevent their piecemeal loss to development”. – The developer as identified in the executive summary clearly intends to chip away at this site.

## **2.10 Policy EP12 – Green Networks**

2.10.1 The River Tweed is identified as a “Green Network”. This policy is written to provide protection for such sites and to avoid their fragmentation. As a green corridor and important habitat, this site is integral to the area identified within the policy and requires protection from badly planned development.

## **2.11 Policy EP13 – Trees, Woodlands, and Hedgerows**

2.11.1 SBC through its policy EP13, demonstrates an awareness of the importance of trees and woodlands and signifies the



intent to protect them. EP13 states that **the council will refuse development that would cause the loss of or serious damage of the woodland resource unless the public benefits outweigh the loss.** A financial benefit to a developer does not outweigh the loss to the environment.

## **2.12 Supplementary Guidance – Scottish Borders Local Plan**

2.12.1 **“Development which would result in the unjustified felling, or which would result in damage to important trees or woodland resources, will not be permitted”** no one can argue that the trees endangered by this proposal are not important.

## **2.13 Scottish Borders Woodland strategy**

2.13.1 “Riparian, semi-natural and policy woodlands ..... are among those identified as priority habitats” – Kingsmeadows is therefore a priority woodland.

2.13.2 “Encourage the protection and enhancement of the ancient woodland and planted ancient woodland sites in the Scottish borders” – It is not possible to be definitive as to whether Kingsmeadows meets this criterion or not. However, if not it is very close.

2.13.3 “Secure recognition and promote understanding of the contribution of trees and woodland to the health and wellbeing of the Scottish Borders people”.

2.13.4 To protect and enhance the biodiversity value of the scottish Borders woodland resource”. – In Scotland and throughout the British Isles we have benefited from the far sightedness of previous generations who planted for future generations. The proposed new planting is welcome. However, it cannot in anyway replace “Notable” and “Veteran” trees. The loss of each one being a tragedy.

## **3.0 Relevant Legislation, Policies and Guidance (Place Making & Design)**

### **3.1 Policy PMD1 – Sustainability**

3.1.1 c) “The protection of natural resources, landscapes, habitats and species”



- 3.1.2 l) “The involvement of the local community in the design, management and improvement of their environment” – **More than 260 people have objected to these plans.**

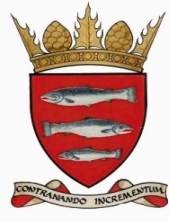
### **3.2 Policy PMD2 – Quality Standards**

- 3.2.1 i) “It is of a scale, **massing, height and density** appropriate to its surroundings” – Whilst the previous application for 10 flats may have met this criteria, the new proposals for 14 does not.
- 3.2.2 k) “it is compatible with, and respects the character of the surrounding area, neighbouring uses and neighbouring built form”. – This proposal is completely out of character with the historic estate and its buildings”.
- 3.2.3 u) “It retains physical or natural features or habitats which are important to the amenity or biodiversity of the area”. – this proposal seriously damages the biodiversity potential of the site.

## **4.0 Kingsmeadows House Woodland**

The woodland forms a large part of the 17.5-acre Kingsmeadows estate, with the house built in 1795 and it contains numerous trees of “Veteran” and “Notable” status as defined by the Woodland Trust. These trees are in the process of being surveyed and registered and at the time of writing 7 “Veteran” trees have been registered and another 36 registered with the Woodland trust as “Notable”; there will be many more. These trees have taken almost 200 years to reach this status and are therefore irreplaceable. Veteran, Notable, and ancient trees provide significant benefits to the ecology of an area. New planting saplings do not provide such significant benefits for generations. This woodland is the last mature woodland within the Peebles Conservation Area and contains Beech, Oak, Sycamore, Lime, Douglas Fir, Noble fir, Sitka Spruce, giant Redwood, birch, Hawthorne, and Scots Pine to name but a few.

This application proposes to fell 46 trees from within the Kingsmeadows woodland. Four of the trees identified on the application as expendable are registered as “Notable”. A further 28 registered trees are in the vicinity of the proposed construction site. Granton Homes are reported (ITV Borders News website 30-11-21) as stating that the “trees on the site of the apartment block are mostly young, self-seeded, and not part of the original landscape of the site. Clearly this is inaccurate. Further, it is immaterial that trees are self-seeded, they are still of ecological and



landscape value regardless. Only three out of the 46 may be classed as young. The remainder are mature, early mature, or semi-mature (BS 5837:2012)

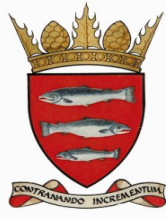
The Arboricultural Impact Assessment (ARB) demonstrates that the construction site boundary impacts the root protection areas of multiple additional mature trees.

Regardless of age, all trees within a conservation area are protected as if the maximum possible tree protection order is in place. Kingsmeadows woodland lies within the conservation area and is therefore so protected (Section 172 (1) of the Planning Act). The Eastern woods are designated part of Scottish Forestry's native woodland habitat network. This designation also demonstrates the serious value which these woods have. They deserve the fullest protection that SBC are able to provide.

Yours Faithfully

Peter Maudsley  
Planning Convener





## **Appendix 1 The Importance of Kingsmeadows House Woods and Gardens to Bats**

It is an offence to disturb a bat in a roost (any structure or place it uses for shelter or protection). It is also an offence to damage or destroy a breeding site or nesting place of such an animal. The ecological baseline report acknowledges that because the preliminary roost assessment was carried out in June 2019, some potential roosts may have been hidden behind foliage. Consequently, the existing survey is inadequate.

In September 2016, a national bat survey was conducted on behalf of the Bat conservation Trust. This survey monitored bat activity on three consecutive nights in woodland belonging to Kingsmeadows House and adjacent areas. Significant bat activity was monitored including the recording of rare and endangered species. It is important to note that of 1,243 recordings, 764 or 62% were made directly in Kingsmeadows House woods on a single night. As the last example of very old woodland in the Peebles Conservation Area, these trees provide a unique habitat that cannot be replaced by new planting, at least not within the next 150 years.

Bats recorded included

- The brown long eared bat
- Common pipistrelle
- Daubenton's bat
- Soprano pipistrelle (**species of conservation concern**)
- Leisler's bat (**Rare in Britain**)
- Natterer's bat (**Rare in Britain**)
- Whiskered bat (**Rare in Britain**)
- Myotis species (**Rare in Britain**)

When mature trees, especially those designated as "Notable" or "Veteran" are felled such as those in Kingsmeadows it does not only destroy roosts but also food sources as well. The brown long eared bat for example, roosts in trees or buildings and prefers to forage in deciduous woodland where it captures insects from leaves and bark. Bats often choose holes and cavities in trees as roosts.

Regardless of the mitigation methods proposed, it is inevitable that this development will have a damaging effect on the bat population.



## **Appendix 2 Climate Emergency**

No one can dispute the threat posed to mankind from the large increase in Co2 within the earth's atmosphere. SBC have declared a Climate Emergency and in so doing have identified a need to take account of the impact of the decisions that they make.

A BBC documentary in April 2021 identified that only 7% of Britain's native woods and trees are in good condition and that if threats to woodland were not addressed, the country's ability to influence climate change would be severely damaged.

The Woodland Trust noted that as woodland become more and more fragmented, so it has a disproportionate negative effect on wildlife.

Mature and Ancient woodlands lock up more carbon proportionally than any other form of tree cover.

## **Appendix 3 Definitions from the Woodland Trust**

**What is a notable tree?** Notable trees are usually **magnificent** mature trees which stand out in their local environment because they are large by comparison with other trees around them. They are often taller than ancient trees and they may be fatter than many veteran trees but do not have any obvious veteran characteristics. In parts of the UK where trees are less common, a tree that is relatively small may be notable because it is significant in its local environment. Some notable trees may be relatively young eg Wellingtonias but still appear remarkably large. **Most notable trees will be worthy of recognition regionally or local**

**What is a veteran tree?** Veteran is a term describing a tree with habitat features such as wounds or decay. The terms ancient and veteran have been used interchangeably in the past, however, it is important to know what the differences between them. A veteran tree is a survivor that has developed some of the features found on an ancient tree, not necessarily as a consequence of time, but of its life or environment. Ancient veterans are ancient trees, not all veterans are old enough to be ancient. A veteran may be a young tree with a relatively small girth in contrast to an ancient tree but bearing the 'scars' of age such as decay in the trunk, branches or roots, fungal fruiting bodies, or dead wood. **These veteran features will still provide wildlife habitat.**