



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

18 March 2024

To DC Consultees
Scottish Borders Council
By email

Reference: 24/00247/FUL - Kingsmeadows House application to vary planning conditions 2 & 7 of planning permission 19/00182/PPP (erection of residential apartments) to vary wording of conditions

Also reference applications **24/00030/FUL**, **24/00031/FUL** to which this objection also applies.

Objection

1.0 **General**

We are concerned, to find ourselves yet again faced with what we consider an unsatisfactory application by Granton Homes for this site. We did not have an issue with the original application which was a renewal of the previous consent related to application 15/00822/PPP. Indeed, Granton homes stated in 2015 through the medium of Peeblesshire News

“Estate owner Alan Mawer re-iterated his pledge to preserve the beauty of the site I am from Peebles myself and I don't want to have to drive around town in a darkened vehicle. We are determined that the estate will remain a country estate We want to safeguard the future of the estate and not allow it to fall into the hands of developers”.

Perhaps Mr. Mawer meant what he said to Peeblesshire News at that time, but since then there have been several variations on the application front and seemingly with little regard for this unique habitat. This history, at least to the writer has shown up some questionable statements, for example a previous application claimed that the site in question.



“Can be considered brownfield land” and “redundant urban land”. Vacant and unused land that is not contaminated is not labelled as brownfield. Nor can this site be considered as redundant urban land which is defined as previously developed land occupied by a permanent structure. These statements were inaccurate at the time and possibly contravened the Town and Country Planning (Scotland) Act 1997. The track record to date gives this writer pause for thought and we suggest should also concern officers.

2.0 Expiry of 19/00182/PPP

It appears clear to this writer that the timing of the new application is not coincidental. The new application was dated just one day before the third anniversary of the 2019 application as approved 05 March 2021. Presumably, with the object of preserving the original consent. However, we would argue that the original consent cannot be extended at this late juncture and that consequently the original judgement relating to 19/00182/PPP has expired.

This is based upon the following clause from that approval.

That an application for approval of matters specified in the conditions set out in this decision shall be made to the planning authority before whichever is the latest of the following:

a) The expiration of three years from the date of this permission.

In the schedule of conditions, there are 14 conditions that are required to be met. If any one of these is still outstanding and has not been submitted and approved in writing, then the original consent has lapsed. In brief these conditions include:

- Details of layout, external appearance, and landscaping, etc.
- A written scheme of archaeological works
- Full detail of foul and surface water drainage
- Updated tree survey and impact assessment
- Management plan for the remainder of the site
- Details of access roads, parking, and pathways, etc.



- Environmental management plan
- Bat low impact licence.
- Species protection plans
- Landscape and habitat management plan.
- Conservation lighting scheme

Further to this, another clause in the approval states:

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

The former is important. The development has not begun and Planning circular “3/2022: Development Management Procedures”, issued by the Scottish Government (DMP) clearly states in Annex H:

Section 42(4) specifies that section 42 does not apply if the previous permission was granted subject to a condition as to the time within which the development to which it related was to be begun, and that time has expired without the development having been begun.

Consequently, these new Section 42 applications, 24/00030/FUL, 24/00031/FUL and 24/00247/FUL, which seek new permissions to be granted and extend the original permission are not considered legally viable by us.

3.0 Additional Considerations

Notwithstanding the arguments raised in section 2.0 previous, we would like to emphasise once again that Kingsmeadows House and woodlands are a unique and irreplaceable resource, not just for Peebles but for the Scottish Borders as a rare and unique ecosystem.

In determining a Section 42 application, Annex H (5) states.

5. In determining a Section 42 application, authorities may consider only the issue of the conditions to be attached to any resulting permission.



However, in some cases this does not preclude the consideration of the overall effect of granting a new planning permission, primarily where the previous permission has since lapsed or is incapable of being implemented.

In the light of the importance of this site and its woodland, the developers track record to date and the nature of the three applications, we think that consideration of the overall effect is of serious importance.

4.0 **National Planning Framework 4 (NPF4)**

The developer appears desperate to avoid some of the conditions imposed in the previous approval process and possible new conditions going forward. We would argue that as the original planning permission has expired and that NPF4 now provides stronger protection due to the global climate crisis and the corresponding nature crisis that any future permissions should seriously take these into account. After all, Granton Homes have had more than eight years to comply with the previous conditions and commence the development.

Yours Faithfully

Peter Maudsley
Chairman



Appendix 1

The importance of Kingsmeadows House Woods and Gardens to Bats

1.0 Executive Summary

It is thought that a new bat survey has been held in May 2023.

All bat species found in Scotland are classed as a European protected species and as such receive full protection under the Conservation (Natural Habitats, &c.) Regulations 1994 (As amended). 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.

In September 2016, a National Bat Survey was conducted on behalf of the Bat Conservation Trust and this monitored bat activity over three consecutive nights in woodland belonging to Kingsmeadows House and adjacent areas. Significant bat activity was monitored including recording 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. These woods provide a unique habitat that cannot be replaced.

2.0 Team

The monitoring team comprised, Alison Pearson, formerly the Secretary of a Scottish Wildlife Trust group (SWT) and Mandy Clydesdale, a museum conservator. They were trained through observation of the use of the monitoring equipment in the field by SWT and by information provided. Data analysis and record keeping was done by the Bat Conservation Trust U.K.

3.0 Bat Species Detected

Scotland plays host to 10 species of bats. During the survey 8 or possibly 9 of these were recorded, including 2 or possibly 3 of our rarest bats.



The figures provided within the matrix are the recorded number of passes over the equipment. Although they do not identify bat numbers, they do provide a record of the types of bats present and an indication of their rarity.

	Species	Recorded	Notes
1	Brown Long Eared Bat	2	Big old houses with mature trees. Hunts above woodland and roosts in trees
2	Common Pipistrelle	355	Although common, it is a species of conservation concern
3	Daubenton's bat	25	Roosts in trees. Mostly found in woodland close to water sources
4	Leisler's bat	5	Roosts in trees (13%) – Rare in Britain
5	Natterer's Bat	14	Summer roosts in trees - Rare in Britain
6	Soprano Pipistrelle	677	Although common, it is a species of conservation concern
	Species	Recorded	Notes
7	Noctule	1 Possibly Leisler's	Roosts in trees
8	Whiskered bat	1	Forages along tracks near water - Rare in Britain
9	Brandt's Bat		
	Myotis species	45	Most of these are Rare in Britain
	Pipistrelle species	64	



4.0 Effects of Development

It is known that when a site of mature trees like those in Kingsmeadows are felled that it does not only destroy roosts but also food sources as well. The Brown Long-eared Bat, for instance, roosts in trees or buildings, and prefers to forage in deciduous woodland where it gets insects from leaves and bark. Also, bats may use certain trees as navigational aids and where these trees suddenly disappear this may cause distress and confusion. The Noctule bat is the UK's largest bat and usually a tree dweller. It likes to use woodpecker holes, and rotten areas, to roost. Woodpeckers are commonly heard in Kingsmeadows woods.

5.0 Conclusion

The woods at Kingsmeadows House provide a unique and increasingly rare habitat that is identified as a home for a wide range of bat species including a number designated as rare in Britain. Both Natterer's bat and Leisler's bat are known to roost in holes in mature trees and have been identified. The loss of any of the trees noted by the developers for felling will have an adverse impact upon these species. Consequently, we strongly support the objection raised by Alison Pearson.



Appendix 2

The importance of Kingsmeadows House Woods

1.0 Local Plan supplementary Guidance

We note that Supplementary Planning Guidance on Trees and Development is contained in the Scottish Borders Local Plan. This supplementary guidance states: “Development which would result in unjustified felling, or which would result in damage to important trees or woodland resources, will not be permitted”. No one can argue currently that mature trees as identified at Kingsmeadows House are not important.

2.0 Scottish Borders Woodland strategy

We have further reviewed the council’s “Scottish Borders Woodland Strategy” and have selected several statements contained therein that bear on this issue.

“Riparian, semi-natural and policy woodlands, wood pasture & parkland, coniferous woodland and upland scrub & cleuch woodland are among those identified as priority habitats in the Scottish Borders”. These are therefore priority woodlands.

“Scotland is one of the least wooded countries in Europe. It has about 1.3 million hectares (ha) of woodland and forest, equivalent to 17% of total Map1 land area (see Map 1). Of this total, about 70% is coniferous, 14% broadleaved and 4% mixed woodland with the balance being open space”. The mix of trees within the proposed development area is unique.

“It is estimated that only 1.4% of the total woodland area comprises remnants of ancient and semi-natural woodland (see Map 3). This represents only 0.26% of total land area and compares unfavorably with other parts of Scotland. Nonetheless they have an intrinsically high biodiversity value”. Scottish Borders is already disadvantaged in respect of this type of woodland.

“Encourage the protection and enhancement of the ancient woodland and planted ancient woodland sites in Scottish Borders through the delivery of the LBAP Native Woodland Habitat Action Plan”.



“Secure recognition and promote understanding of the contribution of trees and woodland to the health and well-being of the Scottish Borders people”.

“To protect and enhance the biodiversity value of the Scottish Borders woodland resource.

It appears clear to us that despite the original assurances made in 2015, that Granton Homes have little interest in protecting this important site and that their plans will do the very opposite and reduce the biodiversity of this rare and unique resource which includes rare and mature woodland comprising of trees up to 200 years old: Beech, Oak, Sycamore, Lime Douglas Firs, Noble Fir, Sitka Spruce, Giant Redwood and Birch with Hawthorne and Scots Pine. Trees of this age and grandeur are irreplaceable. Further, the ecological benefit at present is immense and the site contains a badger set, bat roosts and plays host to passing otters.

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