



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

29 July 2025

Ranald Dods
Planning and Regulatory Services
Scottish Borders Council
By email: DC Consultees

Dear Ranald Dods / Planning & Regulatory Services,

25/00974/FUL holding objection and request for further information

“Erection of dwellinghouse and Section 42 application to remove condition no.4 of planning permission 02/01783/FUL pertaining to include adequate provision for children’s play area”

Thank you for consulting Peebles Community Council in respect of this application.

Unfortunately, the application appears to be invalid in its current form. We would be grateful if you would:

1. Confirm whether this application is a section 42 in respect of 02/01783/FUL
2. Confirm whether this application is valid in its current form
3. Provide the missing information requested below
4. Grant us an extension so that we will have three weeks to make a considered reply after the above has been provided.

In the meantime, would you please register this letter as a holding objection.

1. Confirm whether this is a section 42 in respect of 02/01783/FUL

The applicant appears desirous of two entirely separate permissions:

1. Construction of a house on the play area in Ballantyne Place.
2. Recognising the prohibition against doing so contained in condition 4 of 02/01783/FUL, the applicant seeks removal of that condition.

But these require two entirely separate planning applications:

1. Permission to construct a new house requires a new planning application.
2. Removal of condition 4 of 02/01783/FUL requires a section 42 application.

In order to provide an appropriate consultation response, it is necessary to understand which of these two very different applications the local authority is considering.

The application clearly meets all three requirements of Regulation 11 (3) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (the Regulations), i.e. it:

- Is in writing.
- Clearly identifies the previous grant of planning permission (02/01783/FUL).
- Contains a statement that it is made under section 42.

We believe this application should therefore be treated as a request under section 42 of the Town and Country Planning (Scotland) Act 1997 (the Act) for a new permission identical in all respects to 02/01783/FUL other than the removal of condition 4.

Would the planning authority please confirm our understanding?

2. Confirm whether this application is valid in its current form

Regulation 11 (2) requires section 42 applications for full permission to comply with Regulations 9 (3) (c) & (d).

The land ownership certificate provided in respect of Regulation 9 (3) (d) states that the applicant is the owner of the entire land. However, that appears to be untrue because it does not match the land register. The site boundary for 02/01783/FUL largely coincides with land within the red boundary shown on title PBL921 (diagram below). The ownership of that land is now held by the owners of the 28 plots within the development at Ballantyne Place and others – not the applicant.



Similarly, there is no map of neighbouring land owned by the applicant in respect of Regulation 9 (3) (c). Perhaps this is correct, but given that both Mr McFarlane and his agent Ferguson Planning appear mistaken in respect of Regulation 9 (3) (d), perhaps they are mistaken in respect of 9 (3) (c) also?

We note that Regulation 14 (1) provides that the validation date of an application is the day on which the last of the information required by Regulations is provided.

We would appreciate the authority:

1. Confirming our understanding that the application is not yet validly made.
2. Requesting information from the applicant to meet Regulations 9 (3) (d) and (c).
3. Correcting the validation date once all information is provided.

3. Provide missing information

3.1 Solicitor Letter

Section 1.2 of the applicant's Design Statement refers to a Solicitor Letter submitted in support of this application, but that letter is not available on the public access portal.

Would the authority please publish that letter, suitably redacted if necessary?

If the letter is material to consideration of the application, we believe it should be in the public domain (as set out in "Publishing Planning Applications Online, Data Protection Guidance for Planning Authorities", The Scottish Government, August 2013ⁱ). We would not expect there to be grounds to redact or withhold the letter. For example, we would not expect a letter from an applicant's solicitor in support of an application to contain legal advice to the planning authority. If the authority believes the letter must be withheld or redacted, we would appreciate a statement of reasons being made publicly available.

3.2 Approved Site Layout 02/01783/FUL



The latest available site layout available on the portal for 02/01783/FUL clearly shows the “Equipped Play Area” coinciding with the applicant’s desired location for a new house (see diagram above). If there is a later version of the site layout available, would the authority please make it publicly available on the planning portal?

4. Extension request

We respectfully request an extension to the consultation period for this application. As a minimum, we ask that the three-week consultation period does not start prior to the application being validated.

In the interests of fairness and providing an opportunity for informed public comment, we would request that the three-week consultation period also not start until our queries have been answered and the missing information provided.

Yours faithfully
Peebles & District Community Council

Michael Marshall, PhD
Planning Convener

ⁱ Available: <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2013/08/data-protection-planning-guidance/documents/publishing-planning-applications-online-dp-guidance-pdf/publishing-planning-applications-online-dp-guidance-pdf/govscot%3Adocument/Publishing%2Bplanning%2Bapplications%2Bonline%252C%2BDP%2BGuidance.pdf>