



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

18 August 2025

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

Dear Carlos Clarke,

[25/00974/FUL](#) Application to build on Ballantyne Place Play Area

3rd consultation response: Objection

Thank you for your email dated 14 Aug 2025 replying to our [7 Aug 2025 letter](#)

“Councillor Begg,

Thank you for your email and attached copy of the letter from Dr Marshall.

Dr Marshall is raising procedural matters that are important to the Council's proper handling of the application and, in order to provide a full response to the issues raised, our service is liaising with the Council's Legal Services team. A response to Dr Marshall's letter will, therefore, be provided with the benefit of such legal advice.

Notwithstanding that the procedural issues must be addressed and concluded prior to the application being determined (whether in its current form or following necessary changes,) the view of the Community Council as regards the merits of what has been submitted remains outstanding. It is evident that the application is for the erection of a house and removal of the planning condition on the previous consent that required a play area within the development. I would respectfully suggest that the Community Council is in a position to make its representation on the merits of the proposals, regardless of the procedural concerns. It would be very helpful to this process (without prejudice to the outcome of the legal matters raised), if the Community Council were able to submit its representation on behalf of the community as to the planning merits of what is proposed, and do so within the timescale provided.

The original 'holding' objection from the Community Council is already available on the portal, so I presume Dr Marshall is referring to this letter of 7th August and so that has now also been published

If it is convenient for you, please feel free to forward this email response directly to Dr Marshall.

Regards,

Carlos Clarke
Team Leader
Development Management
Regulatory Services
Scottish Borders Council"

We are grateful that you accept that the legal issues raised are important to the Council's proper handling of the application, must be addressed and are liaising with the Council's Legal Services team in respect of both possible necessary changes to the application as well as provision of a full response.

To be clear, we do not consider these to be minor "procedural issues". The legal questions have been considered by planners from Planning Aid Scotland and solicitors from Citizen's Advice Bureau and elsewhere. While they did not provide us with legal advice, they share our concerns and agree that it is right for us to raise these issues – which potentially affect every play area and green space in the borders.

Further, we disagree that it is possible for PCC to adequately comment further "on behalf of the community as to the planning merits of what is proposed and do so within the timescale provided". Careful consideration of the planning merits of this application begins with the lawfulness of the application itself and the legal constraints on SBC's power to grant (or even consider) this request. This has necessitated PCC take appropriate planning and legal advice, which has consumed the entire consultation period. Our best endeavours lead us to conclude that the application as made is meritless:

- To the extent the application is for full permission, it is prohibited by condition 4 of [02/01783/FUL](#) (as the applicant and officers appear to accept) so should be rejected.
- To the extent the application is a section 42, condition 4 of 02/01783/FUL will remain in force regardless of outcome, so again the new permission should be rejected.
- To the extent officers intend to use section 65 powers, these cannot be exercised where the build has been completed, leaving condition 4 of 02/01783/FUL intact and again the application for new permission should be rejected.

Regardless of how we imagine this application might have been made, our analysis of the legal merits indicate that this application should be rejected. Moreover, PCC should not be placed in the position of needing to imagine what the application might be. We believe that correcting deficiencies in the application (such as paying the section 42 application fee) are necessary, and we disagree that further consideration at this time would not prejudice the outcome of the legal matters raised.

We again ask therefore for the consultation period to be restarted once clarification has been provided by SBC Legal and any changes to the application have been made.

Yours sincerely
Peebles & District Community Council

Michael Marshall, PhD
Planning Convener