

Report to:	Planning Committee
Date of Meeting:	23 March 2010
Report by:	Executive Director (Enterprise Resources)

Application No	CL/09/0447
Planning Proposal:	Formation Of House Plot (Permission In Principle)

1 Summary Application Information

- Application Type : Permission in principle
- Applicant : Dr Abdullah Majumdar
- Location : The Bramblings
Mid Loan Street
Braidwood
ML8 5NX

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant Planning Permission in Principle (subject to conditions – based on conditions stated)

2.2 Other Actions/Notes

- (1) The Planning Committee has delegated powers to determine this application.

3 Other Information

- ◆ Applicant's Agent: Architectonic
- ◆ Council Area/Ward: 01 Clydesdale West
- ◆ Policy Reference(s): **South Lanarkshire Local Plan (Adopted)**
 - Policy STRAT3: Greenbelt
 - Policy STRAT7: Strategic Green Network
 - Policy CRE1: Housing in the Countryside
 - Policy ENV4: Protection of the Natural and Built Environment
 - Policy ENV29: Regional Scenic Area and Areas of Great Landscape Value
 - Policy RES6: Residential Land Use
 - Policy DM5: Sub-division of Garden Ground

- ◆ Representation(s):
 - ▶ 3 Objection Letters
 - ▶ 0 Support Letters
 - ▶ 0 Comments Letters

- ◆ Consultation(s):

Environmental Services

Scottish Water

Power Systems

Roads and Transportation Services (South Division)

Planning Application Report

1 Application Site

- 1.1 The application site is located on the south eastern edge of Lower Braidwood and comprises part of the garden of a detached dwelling (The Bramblings) and small paddock. The paddock, which falls outwith the defined settlement boundary encompasses approximately 40% of the total site whilst the remaining garden area falls entirely within the settlement boundary. The site is accessed from the nearest public road (Braidwood Road) by a private road (Mid Loan Street). This access road is also a designated Right of Way.
- 1.2 Topographically the land both slopes in an east/west and north/south direction. An electricity pylon crosses the site. In terms of surrounding land the site is bounded to the north by the donor house and the remaining garden area, to the west by agricultural land, to the south by the remains of vacant nursery ground and to the east by the private access road and beyond that by dwellinghouses. Part of the garden ground of the closest house opposite the application site has been subject of a planning consent (CL/08/0268) for a house plot (in outline) which was granted in June 2008.

2 Proposal(s)

- 2.1 The applicant seeks planning permission in principle consent to form a house plot in the garden area to the south of his house and within an adjacent paddock.
- 2.2 An indicative plan has been submitted showing the indicative positions of the proposed house, garage and vehicular access from the private road.

3 Background

3.1 Local Plan Status

- 3.1.1 In the South Lanarkshire Local Plan (Adopted March 2009) there are several relevant policies which apply in respect of this proposal. Part of the site (the paddock) is identified as lying beyond the settlement boundary and within the Green Belt. Policy STRAT3: The Green Belt aims to facilitate development within settlement boundaries whilst maintaining the Green Belt as an area for agricultural, forestry, recreation and other appropriate uses. Within the Green Belt the Council will strongly resist the encroachment or introduction of urban uses. Any housing proposal development within the Green Belt should conform with Policy CRE1: Housing for the Countryside which states that new housing in the countryside will normally not be permitted other than for a number of circumstances. These relate to the erection of a house for an agricultural worker associated with a new or associated business, the re-use of an existing building or a replacement building. The site is also covered by Policy STRAT7: Strategic Green Network which identifies a Strategic Green Network as indicated on the Proposal Map, where the creation of a framework of accessible green spaces and corridors will be supported.

The site is located within an Area of Great Landscape Value. Policy ENV4: Protection of the Natural and Built Environment states that the Council will assess all development proposals in terms of their effect on the character and amenity of the natural and built environment. The Council will seek to safeguard Areas of Great Landscape Value within which the site is located as well as Rights of Way – the access road/path which adjoins the eastern boundary of the site is a Registered

Right of Way. Policy ENV29: Regional Scenic Areas and Areas of Great Landscape Value aims to protect the integrity of the landscape resource.

- 3.1.2 The garden area of the donor house falls within the settlement boundary of Braidwood where Policy RES6: Residential Land Use applies. Within this policy area the principle of new houses are considered acceptable, however the Council will resist developments that will be detrimental to amenity. As the proposal involves sub-division of an existing garden, Policy DM5: Sub-division of Garden Ground is relevant. This policy indicates that there is a presumption against the sub-division of garden ground unless the proposed plot is compatible with the established pattern of development in the locality and privacy and amenity can be adequately protected.

3.2 **Relevant Government Advice/Policy**

- 3.2.1 The new Scottish Planning Policy which consolidates previous and up-dates advice into one document, contains relevant to housing proposals in the countryside. This reiterates previous advice that the objectives of Green Belt is to:
- Direct planned growth to the most appropriate locations and support regeneration
 - Protect and enhance the quality, character landscape setting and identity of towns and cities, and
 - Protect and give access to open space within and around towns and cities.

It states that Green belt designation should be used to direct development to suitable locations, not to prevent development from happening.

3.3 **Planning History**

- 3.3.1 Over the previous five years there have been no planning applications relating to the application site.

4 **Consultation(s)**

- 4.1 **Roads & Transportation Services** – no objections subject to the provision of adequate access, parking, turning area, drainage and a verge frontage.

Response: These matters can be covered by appropriate conditions if planning permission is granted.

- 4.2 **Environmental & Strategic Services** – no objection subject to conditions relating to refuse storage and contaminated land investigations being applied.

Response: Noted. If consent is granted these conditions will be incorporated.

- 4.3 **Scottish Power** – no response to date.

Response: Noted

- 4.4 **Scottish Water** – no response to date.

Response: Noted. If consent is granted a condition will be applied requiring confirmation from Scottish Water that connections into the water and sewerage systems will be approved.

5 **Representation(s)**

- 5.1 In response to the advertisement of the application in the local press, as Development Contrary to the Development Plan and the non-notification of neighbours and the carrying out of statutory neighbour notification, 3 letters of objection have been received. The issues raised are summarised below:

- (a) **A substantial part of the proposed development encroaches upon the green belt and is therefore contrary to the local plan/structure plan.**

Response: The paddock which encompasses 40% of the site area falls outwith the settlement boundary. Although on that basis the proposal contravenes the Local Plan there are occasions when a departure can be considered favourably. An assessment of the proposal in policy terms is set out in section 6 of the report.

- (b) **The proposed access to the development site is through what is currently a small garden gate designed for pedestrian use only. This would require greatly extending this pedestrian access from the lane to form a new vehicular access, which has the potential to cause access difficulties.**

Response: I am satisfied that an adequate vehicle access can be achieved. Although the lane is narrow, traffic generation would be light and Roads & Transportation Services have not offered any objections.

- (c) **It appears to be more feasible for vehicular access to the development site to be taken from the relatively broader top part of Mid Loan Street with its safer, less restricted field of vision and better road surface, for example over that area of ground which was relinquished as a planning condition for the erection of the Bramblings or through the current access to the applicant's home.**

Response: The purpose of the application is to form a separate house plot with its own access. Roads & Transportation Services have not offered any objections to the access point being from the area shown on the indicative plan submitted with the application. The area of land referred to comprises ground within the title of the applicants property within which kerbing has been formed. A condition on the planning consent for the donor house required the private road to be kept clear of physical structure. This condition has been breached for more than 10 years, and is therefore immune from enforcement action.

- (d) **In the event that the application is to be granted the height of the proposed development should be restricted to the height of the Bramblings.**

Response: The Bramblings which is single storey in height sits at a higher level than the application site. For these reasons I believe it would be unduly restrictive to restrict the height of the proposed dwelling to single storey. However a restriction of one and half storey is considered appropriate.

- (e) **The site plan identifies the lane between the objectors home and the home of the applicant as 'Private Road'. For the sake of clarity, the public has always enjoyed right of access over this lane.**

Response: It is recognised that the access is an established Right of Way. The proposal will not prevent continuing public access along the route.

- (f) **The applicant has already gained a border out from his boundary wall, making the road even narrower, giving no thought to passing vehicles having to manoeuvre past.**

Response: This matter has fully investigated and it is clear the title deeds of the property that the applicant is acting within his legal rights to have installed edging along the side of his boundary wall. A careful analysis of the situation on site has been undertaken by both Planning and Roads Officers and the conclusion is that the border has not resulted in a significant impact upon the accessibility of the road.

- (g) **Wildlife would be disrupted. Deer, badgers and foxes have also made the right of way a passage for their hunting grounds.**

Response: The application site does not contain habitats considered to be of special value to wildlife. As stated above the Right of Way will remain unimpeded.

These letters have been copied and are available for inspection in the usual manner.

6 Assessment and Conclusions

- 6.1 The application seeks planning permission in principle consent for a house plot at the edge of Braidwood on land that straddles the settlement boundary in the adopted local plan. The main determining issues are compliance with the adopted Local Plan policies, whether a departure from the local plan can be justified and the impact on amenity and road safety.
- 6.2 The area of the site within the settlement boundary is covered by Policy RES6 in the adopted south Lanarkshire Local Plan where a house is considered to be acceptable in principle in planning terms. However this area is too small to fully accommodate a house and garden. The application site encroaches beyond the established village boundary in to the Green Belt where Policy STRAT3 discourages encroachment by development in the Green Belt unless necessary for agriculture, horticulture, forestry, recreation or other uses considered appropriate by the Council. As the proposed house is not required for occupation of a worker associated with agriculture or a business appropriate countryside use, as a replacement dwelling or the conversion of an existing building then in this instance the proposal contravenes Policy CRE1 and therefore fails to accord with policy STRAT3.
- 6.3 The settlement boundary follows the southern boundary of the existing garden ground and does not include the paddock area. However on the eastside of the access lane the settlement boundary projects further southward beyond the line of the applicant's garden reflecting the garden ground of the nearest house where a similar proposal to sub-divide the garden and create a house plot was approved (CL/08/0268) last year. As such the shape of the boundary at this location gives the impression of being imbalanced. The southern boundary of the application site if extrapolated would tie in with the settlement boundary to the east, creating a logical settlement edge. The paddock is overgrown, is not in productive agricultural/horticultural use, is not of value to nature conservation and has limited amenity value. In addition, the wider objectives of the Green Belt would not be compromised. Therefore I am of the opinion that a minor encroachment into the Green Belt can be justified.
- 6.4 The proposal will not impede public access along the adjacent public right of way. The site is relatively well contained and no significant landscape features will be removed. A condition can be incorporated to ensure the implementation of a landscaping scheme which allows the development to integrate with the surrounding countryside and the creation of a defensible Green belt boundary. Therefore Policies ENV4 and ENV29 will not be compromised.
- 6.5 Policy STRAT7 supports the creation of accessible green spaces and corridors as identified on the proposals map. The area of the site compared to the total green network is miniscule. The proposed development will not inhibit easy access to the countryside and there would be no adverse impact on wildlife corridors in the area.

- 6.6 Although the proposal represents sub-division of garden ground, the house will have a reasonable road frontage and the plot is large enough to accommodate a detached house without comprising privacy or amenity. The plot size will not be at odds with the established settlement pattern of Braidwood which contains a mixture of house types with gardens of varying shape and size. There are no landscape features that would be adversely affected. I am therefore satisfied the proposal complies with policy DM5.
- 6.7 The application was advertised as being contrary to the local plan and after a thorough assessment, I am of the opinion that planning permission in principle be granted and a departure be justified for the following reasons:
- The proposal will allow a rounding off of the settlement edge;
 - There would be no adverse impacts on the rural character of the area nor on the function of the Green Belt;
 - There would be no adverse impact on residential amenity and;
 - The site can be safely accessed and there are no known infrastructure problems.

7 Reasons for Decision

- 7.1 For the reasons set out in 6.7 above.

Colin McDowall
Executive Director (Enterprise Resources)

15 March 2010

Previous References

- ◆ None

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ Consultations
 - Environmental Services 26/11/2009
 - Roads and Transportation Services 15/10/2009
- ▶ Representations
 - Representation from : Isabella G Hunter, 21 Mid Loan Street, Braidwood, ML8 5NX, DATED 10/11/2009
 - Representation from : Isabella G Hunter, 21 Mid Loan Street, Braidwood, ML8 5NX, DATED 10/02/2010
 - Representation from : Miss Elaine Smith , 10 Oswald Gardens, Braidwood, Carluke, ML8 5PA, DATED

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Ian Hamilton

(Tel :01555 673186)

E-mail: Enterprise.lanark@southlanarkshire.gov.uk

Permission in principle

PAPER APART – APPLICATION NUMBER : CL/09/0447

CONDITIONS

- 1 This decision relates to drawing numbers: AL(0) 01 C, AL(0)02 C and AL(0)03 A.
- 2 Unless development commences, planning permission in principle expires 2 years from approval of the specified matters being granted, or if different matters are approved on different dates, then 2 years from the date of the last approval.
- 3 The application(s) for approval of these further matters must be made to the Council as Planning Authority before whichever is the latest of the following:
 - (a) expiry of 3 years from when permission in principle was granted
 - (b) expiry of 6 months from date when an earlier application for approval was refused, and
 - (c) expiry of 6 months from date on which an appeal against the refusal was dismissed.

Approval of the further specified matters can be made for -

- (i) different matters, and
 - (ii) different parts of the development
- at different times.

Only one application for approval of matters specified in conditions can be made after 3 years from the grant of planning permission in principle.

- 4 Prior to the commencement of development on site, a further application(s) for the approval of the matters specified in this condition must be submitted to and approved by the Council as Planning Authority. These matters are as follows:
 - (a) the layout of the site, including all roads, footways and parking areas;
 - (b) the siting, design and external appearance of all building(s) and any other structures, including plans and elevations showing their dimensions and type and colour of external materials;
 - (c) detailed cross-sections of existing and proposed ground levels, details of underbuilding and finished floor levels in relation to a fixed datum, preferably ordnance datum.
 - (d) the means of access to the site;
 - (e) the design and location of all boundary treatments including walls and fences;
 - (f) the landscaping proposals for the site, including details of existing trees and other planting to be retained together with proposals for new planting specifying number, size and species of all trees and shrubs;
 - (g) the means of drainage and sewage disposal.
 - (h) details of the phasing of development (covering all relevant aspects of development detailed in (a) above);
 - (i) submission of an energy statement which demonstrates that on-site zero and low carbon energy technologies contribute at least an extra 10% reduction in CO2 emissions beyond the 2007 building regulations carbon dioxide emissions standard.
- 5 The energy statement required by condition (4) above, shall include:
 - a) the total predicted energy requirements and CO2 emissions of the development, clearly illustrating the additional 10% reduction beyond the 2007

building regulations CO2 standard;

b) a schedule of proposed on-site zero and low carbon energy technologies to be included in the development and their respective energy contributions and carbon savings;

c) an indication of the location and design of the on-site energy technologies; and

d) a maintenance programme for the on-site zero and low carbon energy technologies to be incorporated.

The approved on-site zero and low carbon energy technologies shall be fully installed and operational prior to the occupation of any approved buildings and shall thereafter be maintained and shall remain fully operational in accordance with the approved maintenance programme, unless otherwise agreed in writing by the Council as Planning Authority.

- 6 That the further application required under Condition 4 above shall include provision for (a) a 2 metre wide grass verge along the entire site frontage; (b) a 3 metre wide dropped kerb verge crossing; (c) access to adjoin the existing road at right angles; (d) an access driveway hardsurfaced for the first 4 metres from the edge of the public road; (e) a turning facility within the confines of the site; (f) a drainage system capable of preventing any water from flowing onto the public road or into the site from surrounding land, provided and maintained at the applicants expense.
- 7 That no building to be erected on the site shall exceed 1.5 storeys in height.
- 8 That the further application(s) required under the terms of Condition [4] above, shall make reference to and incorporate the criteria specified within the approved South Lanarkshire Council 'Residential Development Guide'.
- 9 That the developer shall arrange for any alteration, deviation or reinstatement of statutory undertakers apparatus necessitated by this proposal all at his or her own expense.
- 10 (a) Prior to commencement of any works on site, a comprehensive site investigation carried out to the appropriate Phase level, shall be submitted to and approved in writing by the Council as Planning Authority. The investigation shall be completed in accordance with the advice given in the following:
 - (i) Planning Advice Note 33 (2000) and Part IIA of the Environmental Protection Act 1990 (as inserted by section 57 of the Environment Act 1995);
 - (ii) Contaminated Land Report 11 - 'Model Procedures for the Management of Land Contamination (CLR 11) - issued by DEFRA and the Environment Agency;
 - (iii) BS 10175:2001 - British Standards institution 'The Investigation of Potentially Contaminated Sites - Code of Practice'.
- (b) If the Phase 1 investigation indicates any potential pollution linkages, a Conceptual Site Model must be formulated and these linkages must be subjected to risk assessment. If a Phase 2 investigation is required, then a risk assessment of all relevant pollution linkages using site specific assessment criteria will require to be submitted.

(c) If the risk assessment identifies any unacceptable risks as defined under Part IIA of the Environmental Protection Act, a detailed remediation strategy will be submitted to and approved in writing by the Council as Planning Authority. No works other than investigative works shall be carried out on site prior to receipt of the Council's written approval of the remediation plan.

- 11 That no dwellinghouse shall be occupied until the developer provides a written agreement from Scottish Water that the site can be served by a sewerage and water scheme constructed to the specification and satisfaction of Scottish Water as the Water and Sewerage Authority.
- 12 No permission is granted for the indicative house and garage footprints outlined on the approved site plan.
- 13 That notwithstanding the terms of Condition 4 above, the design and siting of any dwellinghouse on the site shall take due cognisance of the rural location, with particular regard being paid to scale, massing, roof pitch, fenestration and materials; and shall be in accordance with the Council's approved policy on new dwellings in the Greenbelt.

REASONS

- 1 For the avoidance of doubt and to specify the drawings upon which the decision was made.
- 2 To comply with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended.
- 3 To comply with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended.
- 4 To comply with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended.
- 5 These details have not been provided or approved.
- 6 In the interest of road safety.
- 7 In the interests of amenity.
- 8 In the interests of amenity and to ensure that the Council's key residential development standards are met.
- 9 In order to retain effective planning control.
- 10 To avoid unacceptable risks to human health and the environment, to ensure that the land is remediated and made suitable for its proposed use.
- 11 To ensure that the development is served by an appropriate effluent disposal system and water supply.
- 12 It has not been demonstrated that a house and garage of the size, orientation and position indicated can be accommodated on site without adversely affecting amenity.
- 13 In the interests of amenity and to ensure satisfactory integration of the new dwellinghouse with the designated Countryside.

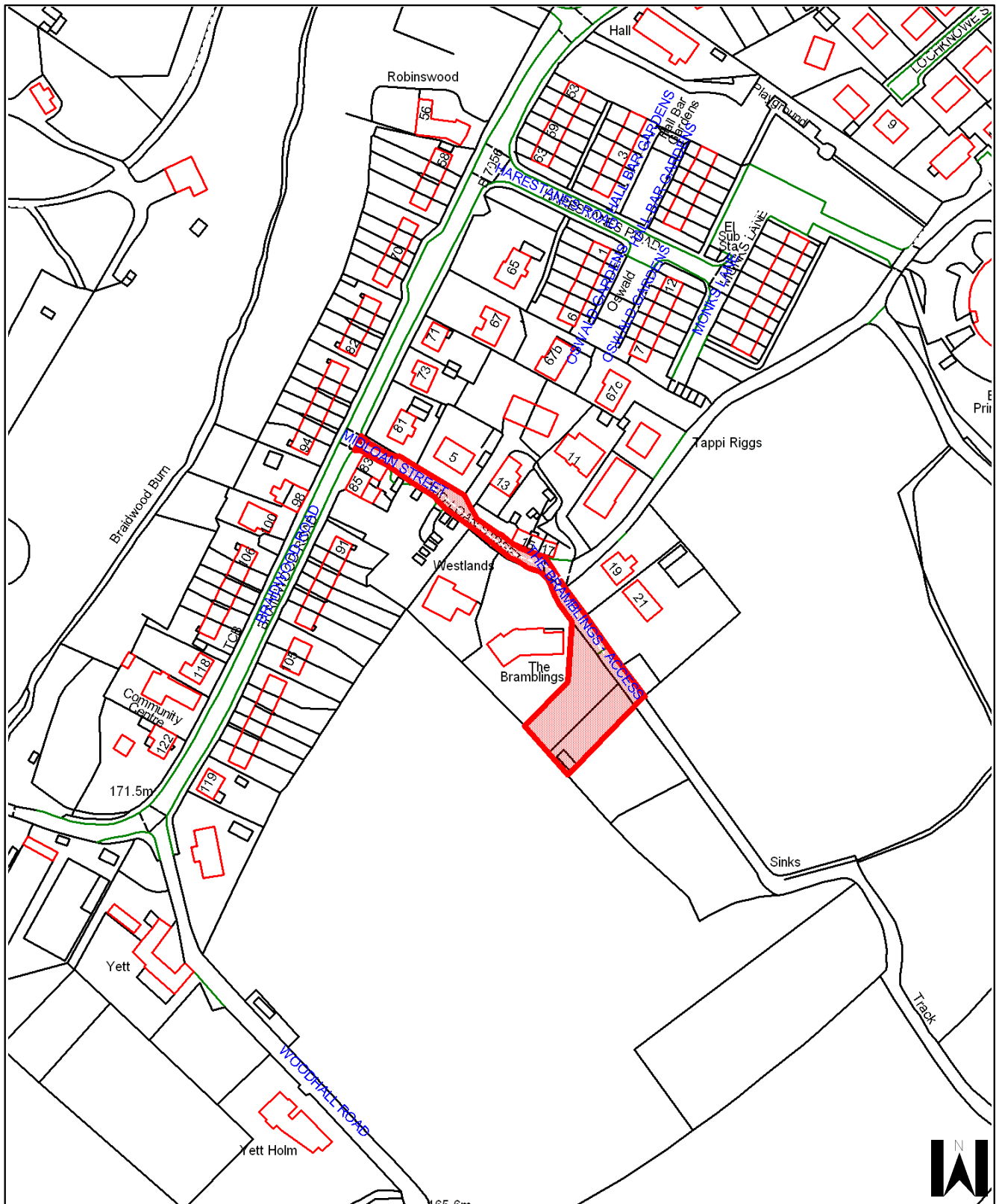
CL/09/0447

The Bramblings, Mid Loan Street, Braidwood

Planning and Building Standards Services

Scale: 1: 2500

For information only



For information only