

Public Document Pack



LOCAL REVIEW BODY MONDAY, 21 AUGUST 2017

A MEETING of the LOCAL REVIEW BODY will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS, TD6 0SA on MONDAY, 21 AUGUST 2017 at 10.00 am

J. J. WILKINSON,
Clerk to the Council,

14 August 2017

BUSINESS		
1.	Apologies for Absence.	
2.	Order of Business.	
3.	Declarations of Interest.	
4.	<p>Continuation: Review of refusal of planning consent in respect of erection of vehicle body repair workshop and associated parking on land north west of Dunrig, Spylaw Farm, Lamancha, West Linton. 16/01174/PPP. 17/00015/RREF.</p> <p>Copies of the following papers attached:-</p>	
	(a) Further information provided by applicant/agent	(Pages 1 - 18)
	(b) Planning Officer's statement in response to further information	(Pages 19 - 22)
	(c) Review papers	(Pages 23 - 124)
	<p>Copies of papers re-circulated as follows:-</p> <p>Notice of Review – page 23 Officer's report – page 93 Decision Notice – page 101 Papers referred to in report – page 103 Consultations – page 115 List of policies – page 119</p>	
5.	<p>Consider request for review of refusal of planning consent for change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works NW of Pots Close Cottage, Kelso. 17/00118/FUL. 17/00024/RREF.</p> <p>Copies of the following papers attached:-</p>	

	(a) Notice of Review Including:- Officer's Report – page 171 Decision Notice – page 179	(Pages 125 - 184)	
	(b) Consultations	(Pages 185 - 200)	
	(c) List of policies	(Pages 201 - 210)	
6.	Consider request for review of refusal of planning consent in respect of erection of dwellinghouse on land south of Balmerino, Ashkirk. 17/00005/PPP. 17/00023/RREF.		
	Copies of the following papers attached:-		
	(a) Notice of Review	(Pages 211 - 234)	
	(b) Decision Notice	(Pages 235 - 236)	
	(c) Officer's Report	(Pages 237 - 242)	
	(d) Consultations	(Pages 243 - 250)	
	(e) Objections	(Pages 251 - 254)	
	(f) Additional representation	(Pages 255 - 256)	
	(g) List of Policies	(Pages 257 - 266)	
7.	Consider request for review of refusal of planning consent in respect of erection of dwellinghouse with attached garage and workshop at Alderbank. Macbiehill, West Linton 17/00530/FUL. 17/00027/RREF.		
	Copies of the following papers attached:-		
	(a) Notice of Review Including:- Decision Notice – page 293 Officer's Report – page 295	(Pages 267 - 300)	
	(b) Papers referred to in Officer's Report	(Pages 301 - 306)	
	(c) Consultations	(Pages 307 - 314)	
	(d) List of Policies	(Pages 315 - 322)	
8.	Consider request for review of refusal of planning consent in respect of replacement windows and installation of chimney flue at 5 High Street, Innerleithen. 17/00257/FUL. 17/00028/RREF.		
	Copies of the following papers attached:-		
	(a) Notice of Review	(Pages 323 -	

		366)	
	(b) Decision Notice	(Pages 367 - 368)	
	(c) Officer's Report	(Pages 369 - 372)	
	(d) Papers referred to in report	(Pages 373 - 380)	
	(e) Consultation	(Pages 381 - 382)	
	(f) List of Policies	(Pages 383 - 388)	
9.	Any Other Items Previously Circulated		
10.	Any Other Items which the Chairman Decides are Urgent		

NOTES

1. **Timings given above are only indicative and not intended to inhibit Members' discussions.**
2. **Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

Membership of Committee:- Councillors T. Miers (Chairman), S. Aitchison, A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage and E. Small

Please direct any enquiries to Fiona Walling 01835 826504
email fwalling@scotborders.gov.uk

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Supplementary Statement

LOCAL REVIEW 17/00015/RREF

Land north west of Dunrig, Spylaw Farm, Lamancha, West Linton
Erection of vehicle body repair workshop and associated parking
GS Chapman Ltd. (the Appellant)

27 July, 2017

1.0 LOCAL REVIEW BODY 17 JULY 2017 – PROCEDURE NOTICE

- 1.1 With regard to the Local Review in relation to land north west of Dunrig, Spylaw Farm, Lamancha, West Linton where there is a proposal to erect a vehicle body repair workshop and create associated parking, the Local Review Body (LRB) of 17th July, 2017 determined that it required further procedure in the form of written submissions.
- 1.2 The matters upon which the LRB require further representation are set out in a Procedure Notice which has been served upon the Appellant. The two matters are:
1. **As the Applicant has, in pursuing this application, intimated that there is no other site available for the proposed development, the LRB now requires the Applicant to detail what consideration has been given to siting the proposed development within or near to the currently existing farm building group. Is there space which could be utilised or existing buildings which could be converted? If this has been discounted by the Applicant, the LRB would ask to be advised of the reason or reasons for so discounting.**
 2. **It has been suggested that if the proposed development were to be consented at the current location the Authority might seek to tie the new business to the land and to the current farming land. The LRB would now request that the Applicant comment on whether such a proposal would be achievable (in terms of current land ownership) and would invite the Applicant to make any further comment on this suggestion they consider appropriate to make.**

This supplementary submission, which directly answers the questions above, consists of:

1. This written **Supplementary Statement with photographs at Appendix 1**
2. **Explanatory Plan 1** – Shows the 26 acre landholding at Spylaw with constraints marked thereon;
3. **Explanatory Plan 2** – Focusses on the **steading area** at Spylaw with constraints marked thereon;
4. **Plan 3:** A plan of the 26 acre landholding with **Ordnance Survey contours** marked thereon.
5. **Plan 4:** Aplan of the proposed site with **Ordnance Survey contours** marked thereon.

2.0 **REASONING FOR NOT SITING PROPOSED DEVELOPMENT AT OR IN CLOSE PROXIMITY TO SPYLAW STEADING**

2.1 Please refer to the three plans submitted with this Statement. These illustrate **key constraints** in the steading area.

- Plan 1: Explanatory Plan – Context
- Plan 2: Explanatory Plan – Steading
- Plan 3: Ordnance Survey contours at Spylaw

Note: The factual information provided herein and on the accompanying plans has been provided by the Appellant. No inspection has been made of legal titles.

Nature of the Appellant

2.2 The Appellant is the limited company 'GS Chapman Ltd'. It is important to note that this is a separate legal entity from Graeme and Deborah Chapman in their personal capacities, notwithstanding that both are Company Directors of GS Chapman Ltd.

2.3 Graeme and Deborah Chapman, together, 'personally' own Dunrig and the c. 26 acres of land indicated on the plans at Spylaw, which **excludes** 0.35ha (0.86 acres) at **Spylaw Steading**. Graeme and Deborah Chapman own no land or buildings within the steading area. The steading area is within the ownership of Mr and Mrs Chapman (senior) who both live in the dwellinghouse within that area. A second dwelling, which is the other half of Mr and Mrs Chapman's (snr) property, is not occupied.

2.4 The business "GS Chapman Ltd" (the Appellant) holds no land ownership or other legal interest, at Spylaw steading or the surrounding land. Graeme and Deborah Chapman are able to ensure that the business has the necessary rights (e.g. lease, access rights etc) at the proposed location as they own and control the land at the proposed site.

Lack of right of access along track to Spylaw from public road

2.5 Graeme and Deborah Champan do not own the access from the public road to Spylaw. They merely have a right over it sufficient for accessing the single dwellinghouse ONLY "Dunrig". The right of access is for domestic purposes. The access is owned by the owners of Spylaw Steading (Mr & Mrs Chapman snr). Easter Deans Farm (Glenrath Farms) has a right of access over the access road. Graeme and Deborah Chapman's existing domestic right of access does not provide the necessary rights for a business entity and its customers to utilise the access in the capacity of an operational business.

- 2.6 Essentially, GS Chapman Ltd would not have any ability to utilise the existing access, in terms of existing rights held, for the purposes of operating a business. This matter is not in the control of the Company Directors, Graeme and Deborah Chapman, as they do not own the access.
- 2.7 The Roads Planning Service raised no objections to the proposal at the currently proposed location. Graeme and Deborah Chapman have the legal capacity to ensure that the business has the necessary right of access at the proposed location.
- 2.8 It has been noted above that the Appellant, GS Chapman Ltd, (the business) has no right to utilise the existing access from the public road to Spylaw and that Graeme and Deborah Chapman, in their 'personal capacities' have no capacity to grant the business the necessary right of access. Notwithstanding this position, for the sake of completeness, it is further demonstrated below that any alternative location at, or in close proximity to, Spylaw steading or Dunrig is inappropriate.

Topography and Visual Impact

- 2.9 The ground slopes steeply up towards the area of flat ground where the Appeal site lies, having a moderately steep south easterly aspect as shown below. Explanatory Plan 2 also demonstrates the slope. A 3rd plan is also been provided with **Ordnance Survey contour data** thereon. It is abundantly clear just how steep the ground is around the steading area. **Photographs** are provided at Appendix 1 of this document.
- 2.10 Digging out sufficient ground for a shed measuring 24.4m x 12.0m and creating sufficient level parking space in accordance with the application drawings would result in many hundreds of tonnes of soil removal and significant lengths of unsightly retaining walls, given the steep gradients involved. All the ground below the plateau presents this problem as can be seen from the plans provided. The extent of "digging out" required for the much smaller development of Dunrig (the dwelling) is evident, with a substantial retaining wall evident to the rear of the property.
- 2.11 Disturbance of ground around the steading area would also produce significant disturbance to the several arterial field drains which run along the back of the steading and would be problematic to re-route.
- 2.12 The shed and parking area which would be hewn out of the ground if a location on the sloping ground around Spylaw were to be utilised would be **highly visible**, with its south easterly aspect, from the public road when travelling towards Spylaw for considerable

distance. In comparison, the proposed plateau location of the Appeal site is not visible in any close views.

- 2.13 The development in the proposed location **will not have detrimental landscape impact or impact upon visual amenity**. There are virtually no **SHORT DISTANCE** views to the proposed site. The point raised by a member of the LRB on 17/07/17 that “*standing on the site one can see Fife*” is not relevant. A small shed (12.0 x 24.4 metres), as proposed, will not be visible in such long views. The Council’s own Landscape Officer has not raised any concerns.
- 2.14 **The photographs provided with the original application show that the site will be barely visible from anywhere**. The parking area is behind the shed and is wholly screened from the road to the south west. No scrap cars or metal are stored outside, as has been suggested at LRB.
- 2.15 The site can be screened/ assimilated into the rural environment by landscaping and tree planting based on a scheme controlled by the Council at the next stage of the planning process. It is noted that such landscaping has been an important feature of seeking to assimilate the many c. 120m long nearby poultry houses (hen sheds) into the Tweeddale landscape.
- Residential Amenity and Safety**
- 2.16 Locating the development in close proximity to the 2no. occupied dwellings at Spylaw and Dunrig would be inappropriate in terms of impact upon residential amenity – from a noise and safety perspective. Whilst the business has limited operating hours (0830 – 1730 Monday – Friday; 0830 -1230 Saturday; closed Sunday), it would be inappropriate to site a business which regularly uses power tools and compressed air equipment right next to existing dwellings. The Case Officer has noted that the *proposed site has no impact of residential amenity* whatsoever as it is not located close to any dwellings.
- 2.17 The nature of the business gives rise to customer traffic movements. The Roads Officer has no objection to the proposed location of the access/ junction. In contrast, at Spylaw and Dunrig there are three young children who play around the steading area and between Dunrig and Spylaw. It would be wholly inappropriate to mix domestic access and curtilages of dwellings with the business’ access. This would give rise to significant safety concerns on behalf of the occupants of the dwellings.

- 2.18 It can be seen from the Explanatory Plans provided that there is no vehicular route from the access track to land to the east of Spylaw Steading without passing immediately in front of the dwelling house. This would be wholly inappropriate, even if the business were able to secure a legal right of access.

Water Supplies of Dunrig and Spylaw

- 2.19 The dwelling at Spylaw Steading receives its drinking water from a well immediately to the north of the house, as shown on the Explanatory Plan 2. There is serious risk of disturbance to the supply (and contamination during the build) were the site to be located uphill (to the north-west) of the Steading. Dunrig likewise has a private supply; it obtains its water from a borehole, as indicated on the Explanatory Plan 2, to the south west of the house. This would be at risk of disturbance also during the build period, were the development above or close to the supply point.
- 2.20 Whilst the proposal for the siting of the business has raised no objections from Environmental Health and the business will have to comply fully with all environmental regulations, it would appear imprudent to locate the business in close proximity to, or uphill from, the source of two private drinking water supplies.

Power cables

- 2.21 There is a myriad of overhead and underground power cables at Spylaw. The indicative location of several of these is shown on the plans. These pose a constraint to the location of the development.

Existing Sheds/ Conversion Opportunities

- 2.22 A table with information on the sheds at Spylaw Steading and a photograph are shown overleaf. As noted, Graeme and Deborah Chapman nor the Appellant, GS Chapman Ltd, own or have any legal interest in Spylaw Steading or the sheds located therein. Nonetheless, for completeness given the LRB's areas of inquiry, consideration is given to this matter.
- 2.23 Spylaw is no longer farmed in-hand on a commercial basis. Potato crops are grown 'in-hand' by the occupants at Spylaw Steading, but the land is let to a third party for grazing. The Steading is used largely for personal/ hobby use connected to potato growing and residential occupation at Spylaw.
- 2.24 The 3no. sheds at the Steading are **timber framed** with single skin box profile cladding which would clearly be wholly unsuitable for the proposed use (activities such as

welding are completely inappropriate in timber framed buildings). The sheds are also much smaller in size than the proposed shed (12.0 x 24.4 metres). They are numbered in the table below as shown on the Explanatory Plan 2. It is reiterated that these buildings are not within the ownership or control of the Appellant.

Fig 1: Sheds at Spylaw Steading - Information

Building	Construction	Dimensions (Approx. m)	Distance from Dwelling	Current Use
Shed 1	Timber framed, mono-pitch, clad with box profile sheeting.	11.5 x 7.3	15 m	Double garage, potato store + general purpose (in-hand) farm activity storage.
Shed 2	Timber framed, pitched, clad with box profile sheeting.	13.5 x 8.5	7 m	Farm machinery and tool store.
Shed 3	Timber framed, mono-pitch, clad with box profile sheeting.	18.0 x 6.5	6m	Farm machinery and secure storage.

Fig 2: Sheds at Spylaw Steading



Security

- 2.25 The proposed site is no less secure than any site closer to the steading would have been. Had a site at the steading been (a) legally and physically accessible and (b) suitable in respect of all matters detailed herein, it would have had to be located sufficiently distant from the dwellings in the interests of residential amenity. Buildings must be “secured by design” in terms of building standards. The Appellant may install a remote alarm system which would sound (only) in his dwelling as well as other security measures. In the event of an emergency, the Appellant has confirmed that he can reach the proposed site from his dwelling, on foot, in under one minute. It is noted that it takes approximately 6 minutes by car to reach the current premises at Sunnyside. **Security at the proposed site is not considered to be an issue.**

2.26 Mobile Phone Reception

As a final practical point which is not insignificant, it should be noted that mobile phone reception is poor at Spylaw/ Dunrig. The Appellant relies on mobile phone communications for the majority of his business as is increasingly common in current times.

3.0 POTENTIAL USE OF SECTION 75 TO “TIE” THE BUSINESS TO c.26 ACRES OF FARMLAND AT SPYLAW

- 3.1 With regard to concerns over future use for the building it is important to understand that the building will essentially be an agricultural portal framed shed which is internally fitted-out for the Appellant’s bespoke purpose. It could readily revert to agricultural use.
- 3.2 The Appellant confirmed in the Supporting Statement that was submitted with the Notice of Review that a **planning condition** to control the use of the premises in order to prevent ‘wider Class 5 industrial use’ would be wholly acceptable to the Appellant.
- 3.3 At that time, the Appellant also confirmed that the option of using a **section 75 legal agreement** to regulate the use of land would also be acceptable if such was achievable. In this regard, as requested, the following points are drawn to the attention of the LRB and its legal adviser:
- 3.4 The Applicant/ Appellant is a limited company business – GS Chapman Ltd. The owner of the land identified on Explanatory Plans 1 and 2 is owned personally by Graeme and Deborah Chapman, who are also Directors of GS Chapman Ltd.

- 3.5 Graeme and Deborah Chapman (personally), nor GS Chapman Ltd, have any ownership or other legal interest in the land or buildings at Spylaw Steading as shown on the Explanatory Plans.
- 3.6 It is understood that a section 75 agreement containing a disposal restriction was imposed on Graeme and Deborah Chapman in respect of the 26 acres of land at Spylaw in c. 2004 in connection with the outline planning permission (04/00836/OUT) for the dwelling "Dunrig" (consented at Committee despite it being acknowledged that "the farm is not large enough to sustain full time employment"). This document has not been made available for inspection, but it is noted that the Planning Authority will have a record of the Agreement.
- 3.7 **Whilst the Directors of GS Chapman Ltd have no objection whatsoever to the principle of the proposed business premises being tied to the land**, in their personal capacities as landowners, they seek confirmation that such is achievable in legal terms given the presence of an existing section 75 which means that the Appellant's landholding at Spylaw (Dunrig and 26 acres of land) is already subject to a section 75 making it an 'indivisible unit' with no part being able to be sold separately.
- 3.8 Again, whilst the Appellant has no objection in principle, the Council's legal section would need to satisfy itself that any proposed planning obligation, understood to be a proposed "tie" by way of a "disposal restriction" (meaning that no part of the land could be sold separately), would be able to meet with the 3/2012 Planning Circular tests. Planning Circular 3/2012 'Planning Obligations and Good Neighbour Agreements', sets out the Scottish Government's policy on the use of planning obligations. All tests would need to be met. The tests are noted to be:
- Necessary to make the proposed development acceptable in planning terms;
 - Serve a planning purpose;
 - Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area;
 - Fairly and reasonably relate in scale and kind to the proposed development; and
 - Be reasonable in all other respects.
- 3.9 Whether tying the business to 26 acres of unrelated farmland owned in a different legal capacity (personal) to the Appellant (business) is possible and serves a planning purpose, in particular, requires confirmation. **The Appellant does wish to stress, however, that if such a restriction can properly be imposed, they have no objection to the principle.**

**APPENDIX 1
PHOTOGRAPHS**

Fig 1: "Shed 1" at Spylaw



Fig 2: "Shed 2" at Spylaw



Fig 3: "Shed 3" (Garage) at Spylaw



Fig 4: The 3no. Sheds grouped at Spylaw



Fig 5: Moderately steeply sloping ground to south east of Dunrig (dwelling)



Fig 6: Steep ground to north west of Dunrig



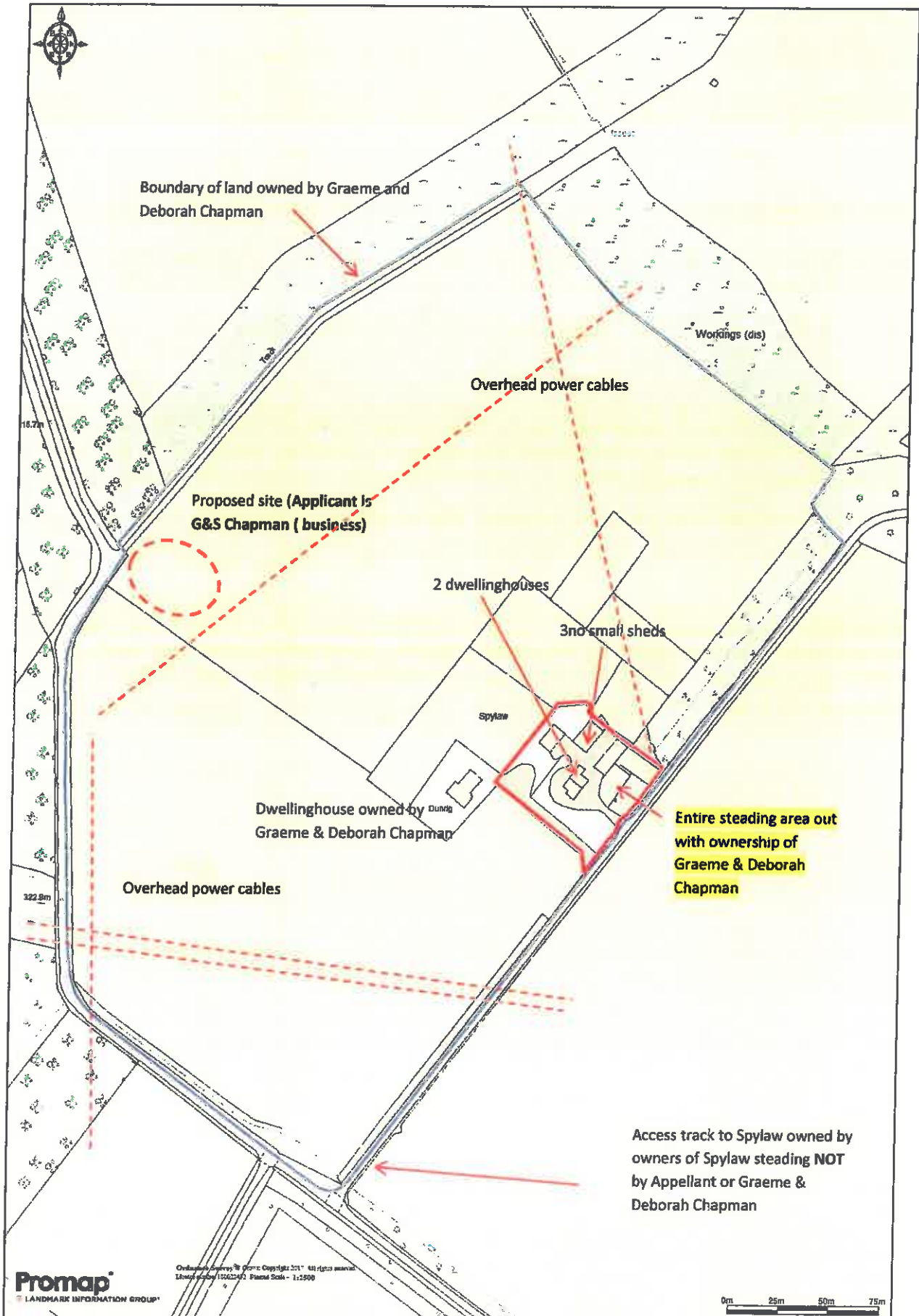
Fig 7: Steep ground to south east of Dunrig

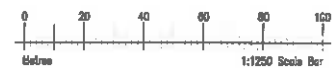
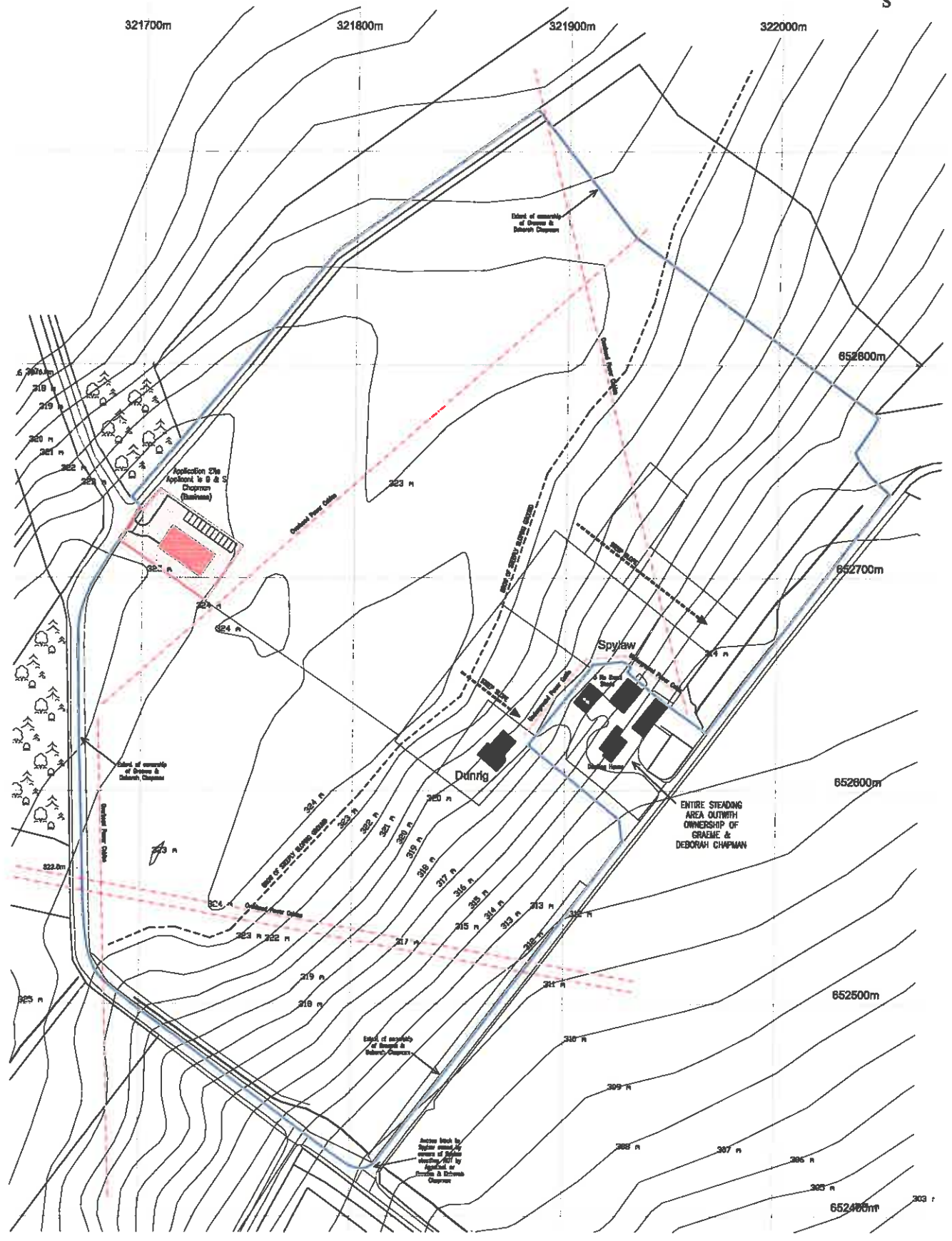
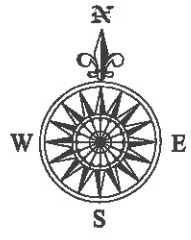


Fig 8: Steep ground generally at Spylaw

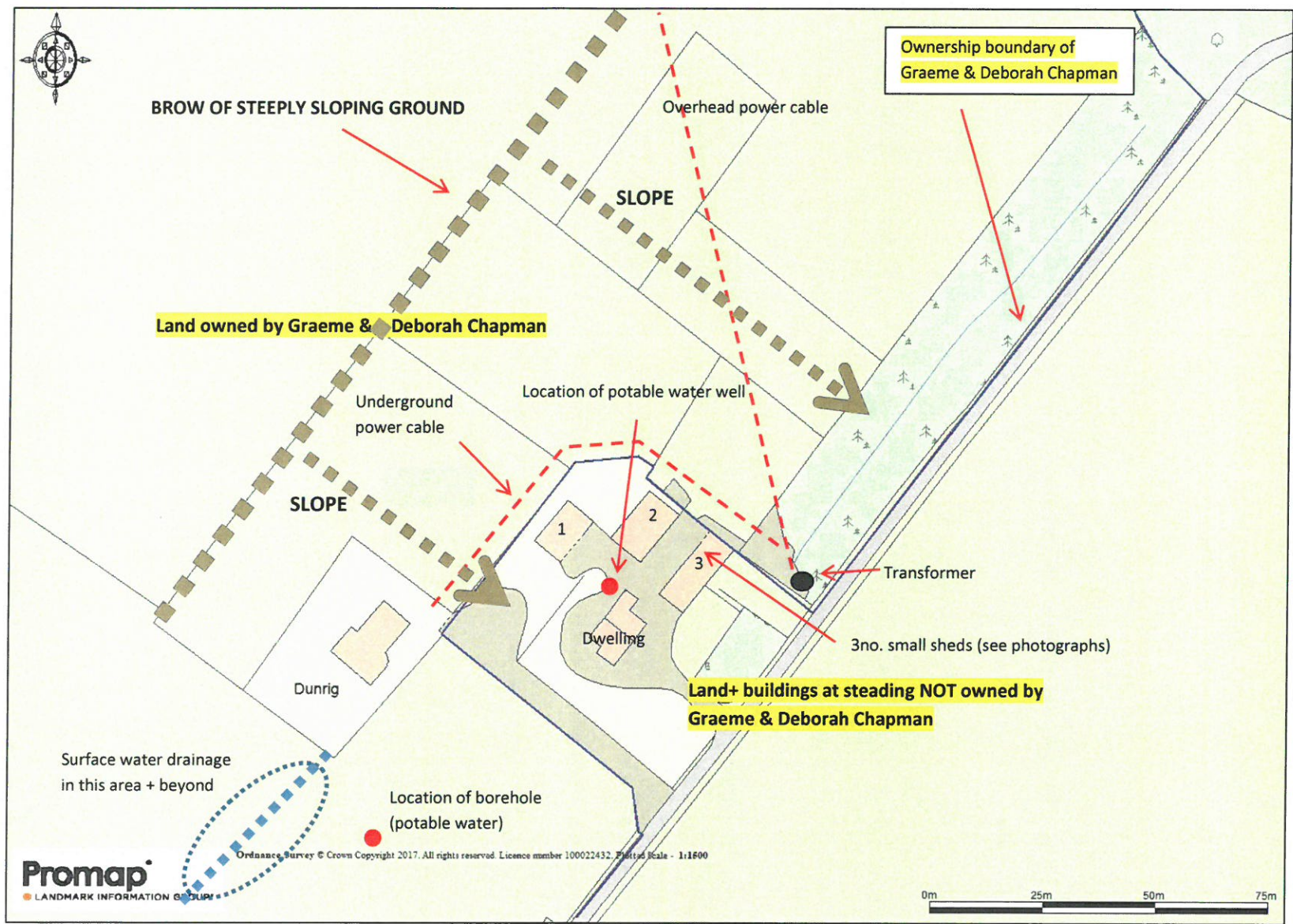


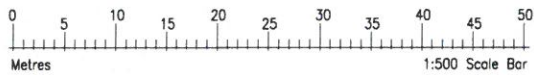
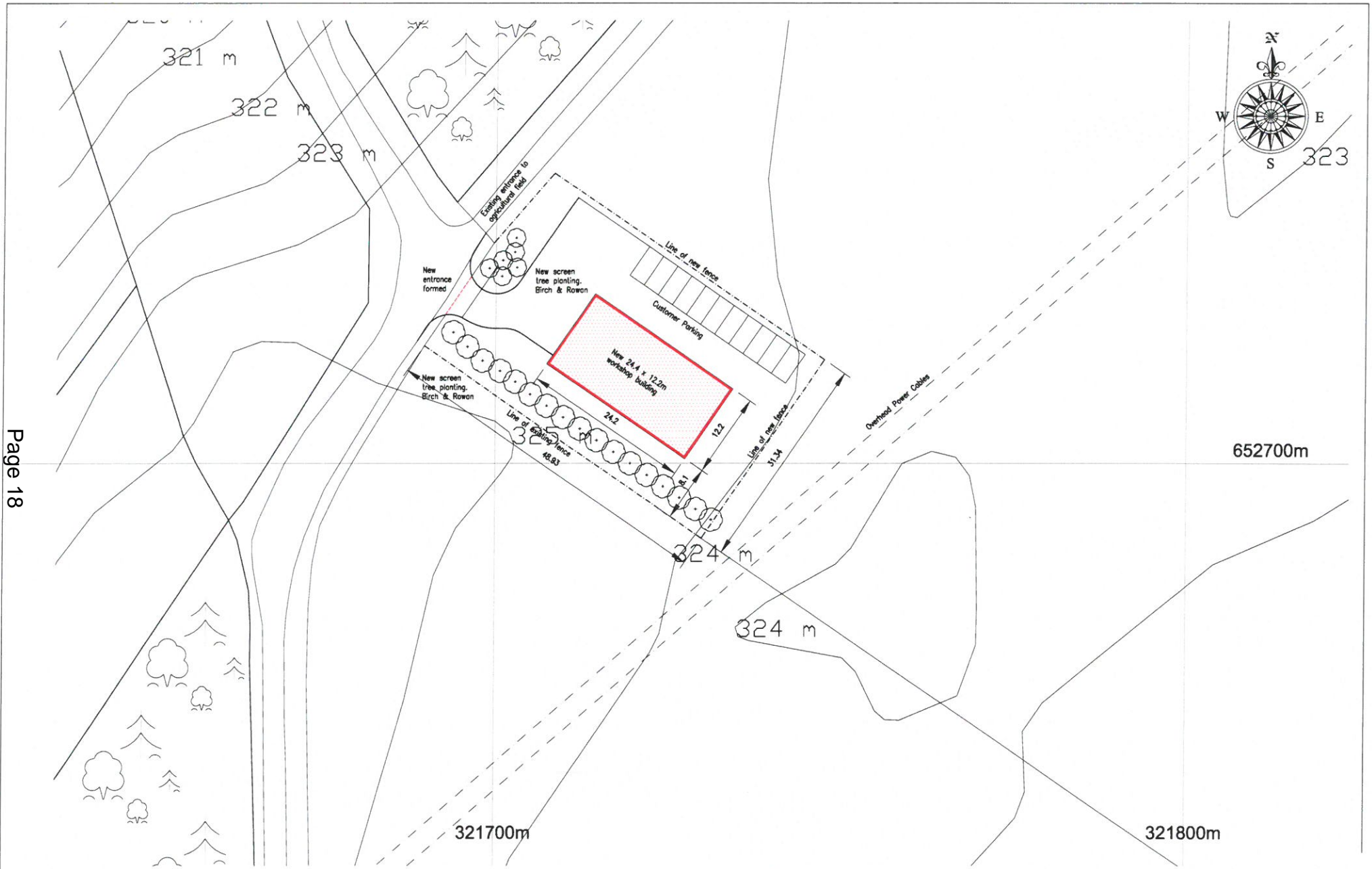
PLAN 1 – SPYLAW: CONTEXT. INDICATIVE LOCATIONS OF CONSTRAINTS





PLAN 2 – SPYLAW STEADING. INDICATIVE LOCATION OF CONSTRAINTS





Rev 'B' 24.07.17 Contours Added

Proposed New Vehicle Repair Workshop		
Land at Spylaw, Lamancha, West Linton		
Site Plan		
1:500	A3	Apr 2016
		2016/13/101/B

Richard Allen Architectural Design	
4 Stirling Terrace	01896 850520
Clovenfords	07870 194639
Galashiels	www.richard-allen.co.uk
TD1 3NB	richard.allen39@btinternet.com



LOCAL REVIEW BODY
STATEMENT OF APPOINTED OFFICER
16/01174/PPP
Erection of vehicle body repair workshop and associated parking

ISSUES TO BE CONSIDERED:

For further consideration to be given to:

- 1) The reasoning for not siting the proposed development at, or in close proximity to, Spylaw Steading; and
- 2) The potential use of a Section 75 to 'tie' the business to the Appellant's land holding at Spylaw.

RESPONSE:

1) *The reasoning for not siting the proposed development at, or in close proximity to, Spylaw Steading*

It is noted that the Appellant has within its Supplementary Statement, set out various operational, environmental and amenity concerns which it considers would not make operation from Spylaw Steading viable or appropriate for the business. However, the relocation of the proposal to (or nearer to) the farmyard and buildings at Spylaw, would not in any case reasonably address the concern that the proposal does not comply in principle with Adopted Local Development Plan Policy ED7.

Rather than the proposal being relocated within or around Spylaw, it is maintained by the Planning Service that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this countryside location. Further, the Appellant has still not demonstrated any overriding economic and/or operational need for any location at Spylaw, regardless of the precise site.

The Appellant's advice that the building would be: "*an agricultural portal framed shed*", is disputed. Regardless of its appearance (which would in any case, require to be addressed within a detailed ulterior application), the proposed use – vehicle body repair workshop – is a Class 5 industrial use. This is not an agricultural use, or a use that would be anticipated to be located on a farm, or in the open countryside. The indicative elevation and floor plan details that have been provided, are also consistent with the description of an industrial building (as might occur on an industrial estate) rather than with an agricultural shed. The latter tend to be higher and narrower structures than the indicated building, which has an exaggerated horizontal appearance that would not routinely be associated with farming. It has also been pointed out in the Report of Handling that the building would have a notably different operation from an agricultural building in terms of the use of its yard areas, which would not be sympathetic to the amenity of this countryside location.

Any proposal to locate the building on land elsewhere at Spylaw Steading would require to be the subject of a new planning application.

2) *the potential use of a Section 75 to 'tie' the business to the Appellant's land holding at Spylaw*

The Appellant advises that it has no objection in principle to the imposition of a planning obligation, at least where such a restriction can be properly imposed.

It is unclear though what a legal tie between the building and the Appellant's land holding would achieve in practical terms in this particular context; and beyond this, how any such requirement would be justified in planning terms. Firstly, planning obligations are not themselves appropriately used where planning conditions might serve the same purpose. Secondly, it is not in any case, considered that the regulation of the operation and/or disposal of the building, whether by planning condition or by legal agreement, would in this context, reasonably address (or otherwise mitigate) the concern that the siting and operation of this industrial building at this site would in itself, be contrary in principle to Adopted Local Development Plan Policy ED7.

Were restrictions upon the use and disposal of the building to be imposed (whether by planning condition or by legal agreement), and even as the subject of an exceptional approval, it would still need to be considered at this stage how the building might be disposed of in future, were the Appellant's business to cease trading from the premises. In the event of applications being made at some future time to remove or vary any planning conditions or obligation imposed, and for the purpose of allowing a new successor business to take up occupancy, it would be difficult to maintain that any restrictions imposed upon the building's use and disposal should be maintained where the only alternative was the building's dereliction.

Moreover, approval of the current proposal might in itself be liable to be seen as tantamount to an acceptance on the part of the Planning Authority of the principle that a general industrial use could be sited and operated at this site, and critically without any need first having been substantiated in planning terms for it to operate from this particular countryside location. Accordingly, in this context, the imposition of any legal agreement or planning condition(s) to restrict the industrial use and users of the premises in the long-term might be capable of subsequent challenge on the grounds that where the principle has otherwise been accepted, the imposition of such restrictions might be seen as unreasonable and unnecessary where these do not demonstrably ensure the proposal's compliance with planning policy.

All in all, if the concern is that the site should not be, or in time become, available for general industrial use, then the current application would be more reasonably refused due to the lack of reassurance and control that is offered by the context of this proposal in the long-term.

SUPPORTING DOCUMENTS:

- 1) Adopted Scottish Borders Council Local Development Plan:

https://www.scotborders.gov.uk/info/20051/plans_and_guidance/121/local_development_plan

- 2) New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008):

[http://www.scotborders.gov.uk/directory_record/7443/new housing in the borders countryside](http://www.scotborders.gov.uk/directory_record/7443/new_housing_in_the_borders_countryside)

- 3) Planning Officer's Delegated Report of Handling:

<https://eplanning.scotborders.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=ODU9YQNTGY100>



Newtown St Boswells Melrose TD6 0SA Tel: 01835 825251 Fax: 01835 825071 Email: ITSystemAdmin@scotborders.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100048119-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Ericht Planning & Property Consultants		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	Kate	Building Name:	The Office - Gifford House
Last Name: *	Jenkins	Building Number:	<input type="text"/>
Telephone Number: *	07795 974 083	Address 1 (Street): *	Bonnington Road
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	Peebles
Fax Number:	<input type="text"/>	Country: *	United Kingdom
		Postcode: *	EH45 9HF
Email Address: *	kate@kjenkins.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Unit 1"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Sunnyside"/>
Company/Organisation	<input type="text" value="GS Chapman Ltd"/>	Address 2:	<input type="text" value="Macbiehill"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="West Linton"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH46 7AZ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Scottish Borders Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="652715"/>	Easting	<input type="text" value="321707"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Erection of vehicle body repair workshop and associated parking

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see attached Supporting Statement to Notice of Review and all other supporting documentation

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

An email from the Community Council is included (obtained since determination). It supports the proposal. This should be accepted as part of the local review as it is reasonable for the Appellant to have assumed that the Community Council had been consulted at application stage. The Applicant's communications with a particular member of the Community Council indicate that the Community Council was not consulted at application stage. This information should have been before the Appointed Officer.

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Supporting Statement to Notice of Review Letter from GS Chapman Ltd to Mrs Bell Letter from Hamish Dykes of South Slipperfield Farm to GS Chapman Ltd Letter from A Laird, Blyth Farms to GS Chapman Ltd Email from Community Council Decision Notice 16/01174/PPP Original Application Documents: Floor Plan and Elevation of Workshop Indicative Site Plan Location Plan Original Planning Supporting Statement 16/01174/PPP Abbreviated Accounts 14_15 and 15_16

Application Details

Please provide details of the application and decision.

What is the application reference number? *

16/01174/PPP

What date was the application submitted to the planning authority? *

21/09/2016

What date was the decision issued by the planning authority? *

17/01/2017

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

It will be necessary for elected members to understand the locational context of the proposal in terms of lack of general visibility, lack of impact on residential amenity and in the context of 'industrial-scale' poultry buildings. This can only reasonably be done by way of site inspection.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mrs Kate Jenkins

Declaration Date: 11/04/2017

Supporting Statement to Notice of Review

in relation to Scottish Borders Council's refusal of planning permission for:

**Erection of vehicle body repair workshop and associated parking
on land north west of Dunrig, Spylaw, Lamancha, West Linton (16/01174/PPP)**

on behalf of GS Chapman Ltd. (the Appellant)

11th April, 2017

EXECUTIVE SUMMARY

The fundamental aim of this appeal is to ensure the continuance of a highly successful established local business, GS Chapman Ltd, which is unable to locate a suitable site within or adjacent to a Tweeddale settlement, and which will potentially be without premises or a suitable site upon which to locate at expiry of a lease in April, 2018. The business provides existing employment (1 full time, 1 part time and contract labour) and would, if relocated as proposed, provide additional rural employment for 2 individuals.

This Notice of Local Review is submitted on behalf of GS Chapman Ltd against the decision of Scottish Borders Council to refuse planning permission, on 17th January, 2017, for the erection of a vehicle body repair workshop and associated parking on land north west of Dunrig, Spylaw, Lamancha. The application reference was 16/01174/PPP. The application area is 0.153 ha.

Notwithstanding the PPP nature of the application, indicative architectural drawings were prepared including Site Plan, Elevations and Floor Plan in order to provide the Planning Authority with as much information as possible at PPP stage. The siting of the building, access, vehicle parking arrangements and proposed landscaping were indicated.

It must be noted, at the outset, that the application was NOT for a general motor repair garage, but for a 'body repair workshop', housed in a shed which will resemble an agricultural building within the landscape. The significance of this is referred to herein.

The reasons for refusal include the Planning Officer's view that:

- The proposal would more reasonably be accommodated within the Development Boundary of a settlement;
- The Applicant has not demonstrated any overriding economic and / or operational need for the proposed location;
- The operation of the business, including the (purported) storage of general vehicles at the site would be unsympathetic to the rural character of the site;
- The operation of the business, including the (purported) storage of general vehicles at the site would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

This Statement summarises important context and background, drawing upon information from the original application. Formal grounds for the Local Review are then

set out, followed by detailed justification of the necessity and acceptability of the proposal under the three Grounds.

Members are urged to agree to hold a **site visit** in order to understand the lack of visibility of the proposed building within the wider landscape, despite its elevated location on account of local topography. The limited visibility would be reduced even further once landscaping proposals, acceptable to the Planning Authority, are implemented.

Note on information within this Statement

Firstly, this Appeal is based upon information associated with Application 16/01174/PPP which was refused by the Planning Authority.

Secondly, two letters from local landowners are now included. This information is not 'new information', merely an expansion on existing information provided within the refused application. The Appellant made it clear in the Application that he was aware that no other land was available for his proposal on farms or estates around West Linton, based upon his local knowledge, which must not be under-estimated given a lifetime living and working in the local area.

Thirdly, the now-included email from the Community Council has been provided as 'new information' on the basis that this information should have been before the appointed Officer at determination, but it appears for reasons unknown, that the Community Council may not, in fact, have been consulted on the Application. The support for the proposal by the Community Council is clear. This information must be taken into account as the Community Council should have been consulted and the response should have been a consideration in the determination of the application.

1.0 INTRODUCTION – CONTEXT AND BACKGROUND

- 1.1 This appeal is submitted by Ericht Planning & Property Consultants on behalf of GS Chapman Ltd, a business wholly dedicated to vehicle **body** (not mechanical) repairs. The Appellant wishes to challenge the refusal, by Scottish Borders Council, of planning permission for the erection of a vehicle body repair workshop on land to the north west of Dunrig (applicant's residence), Spylaw, Lamancha.
- 1.2 In 2015, planning application (15/01410/PPP) was submitted by GS Chapman Ltd for the erection of a vehicle repair workshop and associated parking. The Planning Officer noted a significant number of shortcomings with the application, which was then refused in January, 2016. A subsequent application (16/01174/PPP) addressing shortfalls in information was submitted by Ericht Planning & Property Consultants in September, 2016. It is the decision on this 2016 application which is the subject of Local Review.
- 1.3 Original drawings are provided again as separate documents for this local review but, for ease, please refer to the following plans below:
- Fig 1: General Location Plan;
 - Fig 2: Application Location Plan;
 - Fig 3: Indicative Site Plan showing landscaping –to be strengthened as required by SBC.

Fig 1: Location Plan – General

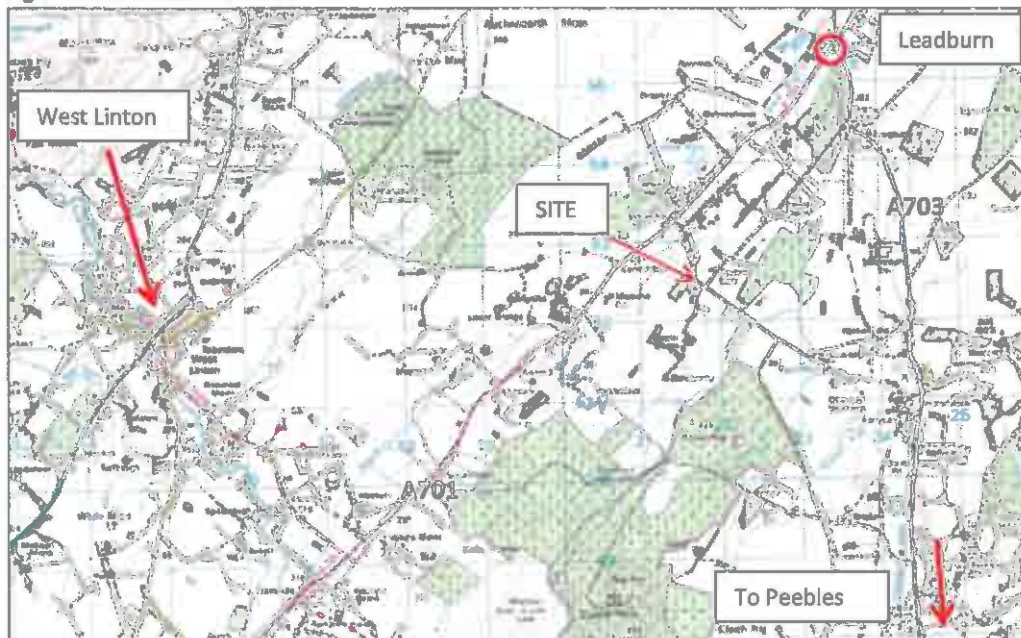


Fig 2: Application Location Plan

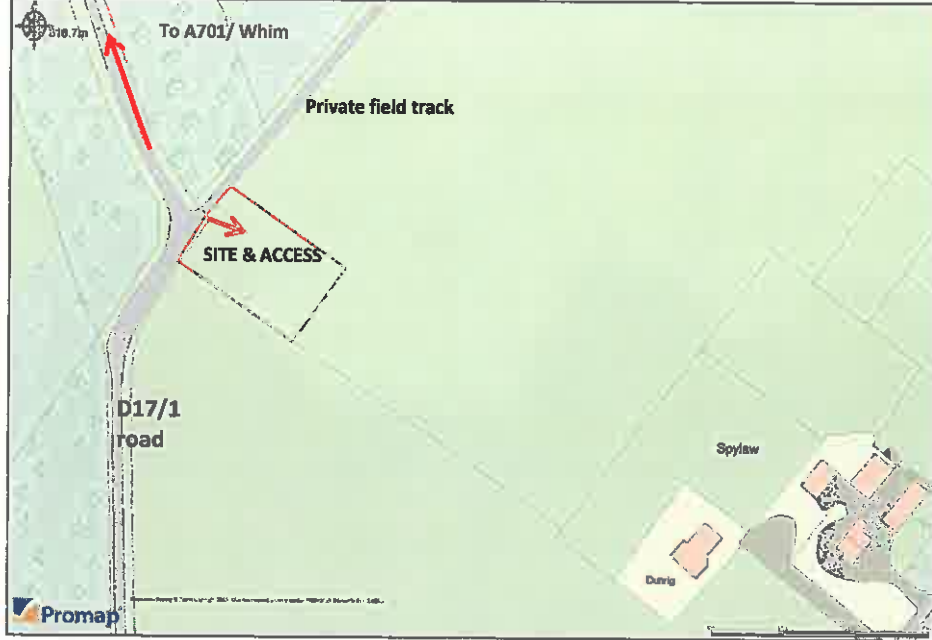
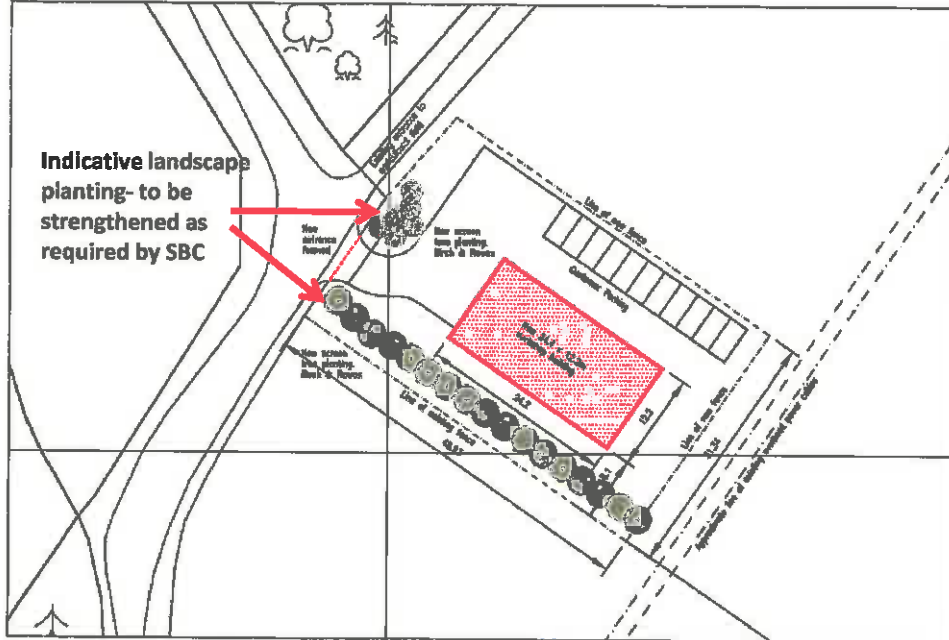


Fig 3: Application Indicative Site Plan



- 1.4 Access to the subjects is to be taken from the minor D17/1 road which links the A701 to the A703 via Shiplaw.

Fig 4: View to the entrance to the subjects (from the north)



Fig 5: View towards the entrance to the subjects (from the west)



Proposed Site

- 1.5 The proposed site is at Spylaw, a 10ha (25 acre) former farm, owned by the Applicant, which lies a short distance of 5km from the business' current premises at Sunnyside., Lamancha. The proposed building would measure (l) 24.4m x (b) 12.2m x (h) 4.4m (298 sqm footprint) and be a purpose-built steel framed building which, externally, would appear as an agricultural building with green-painted box profile insulated cladding. The building would have two sectional roller shutter doors on the north-east and north-west elevations. Reference should be made to original application plans.

Existing Premises

- 1.6 The existing premises at Sunnyside occupied by the business are not sustainable for a wide range of reasons.
- **There is uncertainty over the future of the business' tenancy at Sunnyside beyond April, 2018. There is an absence of security for this important local business.**
 - The building is not fit for purpose. The structure is unsound and in need of major refurbishment, including defective roof and water penetration through blockwork walls. The concrete floor is breaking up in places.
 - Tenure does not allow the tenant to carry out alterations or improvements, only like for like repairs.
 - There is no draught proofing or insulation. Working conditions are challenging and inappropriate for attracting employment.
 - In the winter months internal temperature regularly drops below zero degrees and the water supply freezes. The gable (door) end of the building faces directly into the prevailing wind and is very exposed.
 - The east side of the building floods a few times a year. In the winter this is dangerous.
 - There is no damp proof membrane under the floor. When frost thaws the floor becomes soaking wet.
 - The business relies on a space heater which is ineffective given the level of air movement due to the poor condition of cladding and lack of insulation. The use of energy is therefore extremely inefficient and costly.
 - The three phase electricity supply is inadequate for the needs of the business and as a result it often fails completely under load demands made by equipment.
 - The impact of the uncontrollable internal environment upon spraying operations is that they become inefficient in cold temperatures. It is simply impossible to regulate the temperature in a building with various significantly perforated panels.

- ⇒ At below 5 degrees, the air compressor ceases to work. Given the elevated position and the poor quality of the building, in the winter months it is not unusual for the internal temperature to drop to/below this level.

1.7 In summary, Members of the Local Review Body are requested to note the following key points regarding the proposal. These points are justified, in considerable detail, under section 4.0 "Case for the Appellant".

- ⇒ The Planning Officer has accepted that a site within or close to West Linton (specifically) is necessary for the business to relocate onto within the next 12 months. The business has a firmly established Client base in the area;
- ⇒ The business will likely be "homeless" at the end of its lease in April, 2018;
- The single allocated industrial site within West Linton is not available and has not been available since its allocation in the 1990s due to an "unwilling owner". Extensive enquiries have been made.
- There are no suitable brownfield sites in or around West Linton and landowners who have been approached are unwilling to sell land for the premises;
- Previous (unrelated) applications (e.g. 15/01260/FUL) show that the Planning Authority is not willing to site industrial use on the edge (just outside) of West Linton;
- The proposal will not have detrimental landscape impact;
- The proposal is sited in an area EXTENSIVELY populated with large (100m + long) poultry units. The single agricultural type shed will only measure 24.4m x 12m;
- The Roads Planning Service raised no objections to the proposal;
- It is acknowledged by the Case Officer that there would be no detrimental impact upon residential amenity;
- There is no objection from Environmental Health;
- There were no public objections;
- There was no comment from the Landscape Officer;
- No mechanical repairs are, or will be, carried out, so there are, and will be, no mechanical-related fluids such as engine oil, coolants or hydraulic fluids stored or utilised on site;
- No vehicle tyres are supplied or fitted so there is, and will be, no requirement to store or dispose of tyres;
- ⇒ No vehicle sales or exhibiting of vehicles for sale are, or will be, carried out;
- ⇒ There is no involvement with end-of-life vehicles so there is, and will be, no scrap cars on site at any time;

GS Chapman Vehicle Body Repairs – The Business

- 1.8 The business was founded in April, 2008 and is now a limited company with 2 Directors: Graeme and Deborah Chapman. Full time employment is provided for Graeme Chapman and part-time administrative employment is provided for Mrs Chapman. The business also engages additional self-employed individuals for approximately 20 hours/ week for body repair work and has employed local school leavers on full-time apprenticeship schemes in conjunction with Stevenson College, Edinburgh. The business now needs to employ an additional full time skilled worker, but is unable to do so due to physical working conditions of the existing premises and the lack of security offered by the limited unexpired term of the lease.
- 1.9 Abbreviated accounts for 2014/15 and 2015/16 were provided with the original application in order to demonstrate business' viability.
- 1.10 GS Chapman are fully booked for several months and have had to turn away over one month's worth of work in 2017 alone due to unsuitable premises, lack of space and manpower.
- 1.11 The business encompasses repairs to all types of **vehicle bodywork**, including spray-painting, panel beating, fabricating, welding, structural repairs and minor cosmetic repairs. Work is carried out across a broad range of vehicles including agricultural, plant vehicles, cars, commercial vehicles, leisure vehicles and motorcycles. Customers include farms, local businesses, (including local garages) insurance companies and trade. The primary market is the **north western Borders, with the focus on West Linton and district**, but also stretching into Peebles and surrounding area. Over the past two years the percentage of customers bringing business from West Linton has risen from 39% to 43%. Much smaller percentages are split between Broughton, Biggar, Peebles, Eddleston and multiple other areas.
- 1.12 GS Chapman's main "competitors" are located in Innerleithen (Harrisons Accident Repair centre) and Penicuik (A.F. Noble & Son). The Manor Garage at West Linton carries out a very limited amount of body work. The business is located in the heart of its customer base and must remain so.
- 1.13 The business needs to be close to its customer base to enable it to offer a collection and delivery service and to carry out on-site vehicle inspections, where required. If the business is unable to continue in the West Linton area then it is likely to lose everything that it has built up over the past eight years.

GS Chapman Vehicle Body Repairs – Current Premises

- 1.14 The workshop is within a basic former 1960s agricultural steel-framed building at Sunnyside Farm, Macbiehill which houses a range of businesses including Class 4 and Class 5 uses. It was originally constructed for grain storage and comprises 19 bays, 4 of which are occupied by the vehicle body repair business. The premises are not fit for purpose. Occupation is under a 5 year lease which ends in April, 2018. The premises house the main workshop area, a professional spray booth and welfare facilities.

Equipment and Operations

- 1.15 Operational hours are 0830 – 1730 Monday – Friday; 0830 – 1230 Saturday and Sunday (closed). Operational equipment was detailed in the original application.

2.0 REFUSAL OF APPLICATION BY SCOTTISH BORDERS COUNCIL

2.1 The application was refused by Scottish Borders Council on 17th January, 2017 on the basis set out below.

- (1) The proposal does not comply in principle with Adopted Local Development Plan Policy ED7 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.*
- (2) Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Development Plan Policies ED7 and PMD2 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.*

3.0 GROUNDNS FOR LOCAL REVIEW

- 3.1 The Appellant sets out the following three Grounds for Review, which are explained in considerable detail in the next section 4.0 'Case for the Appellant'.

GROUND 1

The proposal cannot be accommodated within an appropriate development boundary and the Applicant has demonstrated an economic and operational need for the proposed location at Spylaw.

GROUND 2

The operation of the business would not be (a) unsympathetic to the rural character of the site and surrounding area or (b) have an unacceptable detrimental landscape and visual impact upon the appearance of the site and its environs.

GROUND 3

The proposal has raised no concerns with the Council's Roads Planning Service or Environmental Health. The proposal has received support from the Community Council and no objections from members of the public. The proposal is strongly **supported** by the Council's Economic Development Section and no comment was provided by the Landscape Section.

4.0 CASE FOR THE APPELLANT

4.1 It is fully acknowledged that adopted Local Development Plan policy (ED7) relating to business development in the countryside includes the following requirements:

- a) The development must be used for a use which is appropriate by its nature to the rural character of the area; or
- b) The development is to be used for a business or employment generating use provided that the Council is satisfied that there is an economic and/ or operational need for the particular countryside location, and that it cannot be reasonably accommodated in the Development Boundary of a settlement.
- c) The development must respect the amenity and character of the surrounding area;
- d) The development must have no significant impact on surrounding uses, particularly housing;
- e) The developer will be required to provide evidence that no appropriate existing building or brownfield site is available;
- f) The development must take account of accessibility considerations;
- g) The development must take into account siting and design criteria as set out in policy.

4.2 It is robustly asserted by the Appellant, and supported by detailed narrative within this Statement, under 3 Grounds of Appeal, that the proposal is able to meet all these criteria (a) – (g) in the specific context of the site. It is, however, also recognised, that class 5 'industrial' uses would more commonly be located within a settlement boundary.

4.3 In the event that Members have their own doubts about the satisfaction of any particular criterion, this application certainly warrants the granting of an **exceptional approval** for many reasons:

- The Planning Officer has accepted that a site within or close to West Linton (specifically) is necessary for the business to relocate onto within the next 12 months. The business has a firmly established Client base in the area;
- The single allocated industrial site within West Linton is not available and has not been available since its allocation in the 1990s due to an "unwilling owner". Extensive enquiries have been made;
- There are no suitable brownfield sites in or around West Linton and landowners who have been approached are unwilling to sell land for the premises;

- Previous applications (e.g. 15/01260/FUL) show that the Planning Authority is not willing to site industrial use on the edge (just outside) of West Linton;
- The proposal will not have detrimental landscape impact;
- The proposal is sited in an area EXTENSIVELY populated with large (100m + long) poultry units. The single agricultural type shed will only measure 24.4m x 12m;
- The Roads Planning Service raised no objections to the proposal;
- It is acknowledged by the Case Officer that there would be no detrimental impact upon residential amenity;
- There is no objection from Environmental Health;
- There were no public objections;
- There was no comment from the Landscape Officer;
- No mechanical repairs are, or will be, carried out, so there are, and will be, no mechanical-related fluids such as engine oil, coolants or hydraulic fluids stored or utilised on site;
- No vehicle tyres are supplied or fitted so there is, and will be, no requirement to store or dispose of tyres;
- No vehicle sales or exhibiting of vehicles for sale are, or will be, carried out;
- There is no involvement with end-of-life vehicles so there is, and will be, no scrap cars on site at any time;

GROUND 1: THE PROPOSAL CANNOT BE ACCOMMODATED WITHIN AN APPROPRIATE DEVELOPMENT BOUNDARY AND THE APPLICANT HAS DEMONSTRATED AN ECONOMIC AND OPERATIONAL NEED FOR THE PROPOSED LOCATION.

- 4.4 This first Ground of Appeal deals specifically with points (b) and (e) of the LDP policy set out above at 4.1 – *“The development is to be used for a business or employment generating use provided that the Council is satisfied that there is an economic and/ or operational need for the particular countryside location, and that it cannot be reasonably accommodated in the Development Boundary of a settlement ” and “The developer will be required to provide evidence that no appropriate existing building or brownfield site is available.”*
- 4.5 Scottish Planning Policy (SPP), 2014 makes certain requirements of the planning system including: (parag. 93)
- *“Promote business and industrial development that increases economic activity while safeguarding and enhancing natural and built environments.*
 - *Allocate sites that meet the diverse needs of the different sectors and sizes of businesses... in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities”*
 - *Give due weight to net economic benefit of proposed development.”*
- 4.6 Further, parag. 75 states that the planning system should:
- *In all rural areas, promote a pattern of development that is appropriate to the character of the particular rural area...*
 - *Encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality.”*
- 4.7 It would appear that the Council has not allocated deliverable industrial land within the settlement of West Linton. It is also considered that the Case Officer has failed to take into account the specific and altered “character of the local area”. Please refer to Fig 6 (page 23) and parags 4.42 – 4.45.
- 4.8 At consultation, the Council’s Economic Development Section’s responded in a **supportive manner, recognising:**
- The “*extremely scarce*” nature of “*available sites within Tweeddale*”;
 - The lack of availability of the single site at Deanfoot Road, despite its ‘industrial’ allocation;
 - ☞ The efforts made by the Appellant in trying to identify a suitable site in or near to an appropriate settlement;

- The increased work capacity that could be accommodated within the single purpose built shed being proposed;
- The potential job creation opportunities in the rural area that could arise for one additional skilled and one unskilled worker as well as retention of existing labour;
- The Applicant's strong desire to work with Business Gateway and engage in support offered by the Local Growth Advisory Service;
- The severe shortcomings of the existing premises in terms of tenure and quality;
- The lack of space, inability to attract staff due to quality of workplace and hence the limitations in capacity.

- 4.9 In the acknowledged absence of an available site within West Linton, the Planning Officer suggests that a site *"in close proximity to the settlement"* should be found. The Appellant notes that policy PMD4 'Development Outwith Development Boundaries' notes that *"proposals for development outwith development boundaries, and not allocated on proposals maps will normally be refused."* The policy notes that exceptional approvals may be granted where the proposal is a job generating development in the countryside with an economic justification under the above-noted rural business policy ED7.
- 4.10 It is, however, noted by the Appellant that in October, 2015, John Swan Garage Services made an application for a motor vehicle repair garage 200m outside the settlement boundary of West Linton, along Deanfoot Road. The application was refused. This site was deemed to be unacceptable as locating an 'employment use' outside the settlement boundary and out with an existing or allocated site would be contrary to policy. In this case the Community Council stated *"The natural site for the business is land zoned for employment to the west, an area that has been discussed over the years, in which it is difficult, if not impossible, for local businesses to obtain plots"*
- 4.11 It is noted that the Planning Officer, in her report, also suggests finding a "brownfield site" within West Linton. In short, no such appropriate exists.
- 4.12 The Appellant has expanded upon existing information (see two enclosed letters) confirming the non-availability of sites in or around West Linton. This is not 'new information', but greater detail on the already-made statement within the original application that no such sites were available. Several landowners were approached and confirmed verbally that they did not have land available, but only two were willing to issue a letter. Given that siting the premises on land just outside the development boundary would be contrary to Local Development Plan policy, it is unreasonable to

have expected the applicant to have been aware that the Officer would seek an in depth appraisal at application stage of sites on which the location of the proposal would be contrary to policy, particularly in light of the above mentioned 2015 garage application in an edge-of-settlement location on Deanfoot Road.

4.13 The current application by Bordermix at Dolphinton (17/00087/FUL) similarly demonstrates a lack of industrial land in and around West Linton. The Applicant in that case has been able to obtain written confirmation from several substantial local landowners in the West Linton area to confirm that they do not have any agricultural, or other, land available for industrial development.

4.14 The Planning Officer states, in her report:

“I consider it material that Economic Development anticipates that the Applicant is liable to have experienced difficulties in attempting to secure an existing or allocated industrial site in the wider area, including West Linton.”

“I therefore accept that the Applicant does have a need to identify new premises in the West Linton area, due to shortage of suitable and available existing and allocated industrial sites”

4.15 Unfortunately the Officer’s realistic approach ends when the Officer considers it to be “a leap of faith” to suggest that this means that the proposed site at Spylaw is acceptable. The Officer does not, however, provide any positive suggestion whatsoever, of where the Appellant *might* site his business, after clearly acknowledging there to be no available land in or around West Linton and district.

4.16 The Officer, rather unpalatably, suggests that the siting of the proposal is an attempt to “minimise costs by developing land they own”. In reality, the proposal stems directly out of the lack of identification, by the Council, of effective and available “employment land” in West Linton. **The single site that is allocated is not available.** The Appellant having lived and worked locally during his entire life would be fully aware if there was a suitable site available in or on the edge of West Linton.

4.17 It is noted that the Planning Authority has been willing to support local businesses at Sunnyside, including several class 4 and 5 uses. Sections 2.1 – 2.3 of the Supporting Statement which accompanied the original application 16/01174/PPP details significant and relevant planning history relating to the applicant’s current premises at Sunnyside.

Here, *numerous* applications were granted in 2006 -2008 permitting multiple changes of use from the agricultural building to class 4 business uses and class 5 industrial uses.

- 4.18 It is thus clear that Class 5 use has been accepted by the Planning Authority in the locality, within 5km of the proposed site. Despite this, the Officer states that *“it is not material that the Applicant’s business currently operates from a rural site elsewhere”*. Whether the Officer considers it to be material or not, it is fact that (a) the Planning Authority has permitted the Appellant’s use previously, (b) a successful business has been built up over an 9 year period, and (c) that this employment-generating business now has nowhere to go and its future is at stake.
- 4.19 The Applicant would have been willing to consider suitable sites in Peebles or West Linton, but there appear to be none. The Applicant has made several verbal enquiries, and a formal written enquiry, in 2015 and 2016 to the owners of the single allocated industrial site on Deanfoot Road, West Linton (letter enclosed). No positive response was received to verbal enquiries and no response *at all* was received to the written enquiry, most recently in summer 2016. Whilst allocated for industrial use **since the 1990s, this site is not available**, in practice. The Applicant’s agent made direct enquiries with Estate Agents, including CKD Galbraith, and monitored commercial property websites, for suitable available sites/ buildings within the northern Scottish Borders. No suitable premises or land have been located in Peebles, Broughton, West Linton (or Penicuik).
- 4.20 In 2008, when the Appellant was setting up business, he did consider South Parks in Peebles. The Appellant states that the marketing particulars specifically stated “no motor trade” business. It is for this reason that the business located at its current rural premises. It is acknowledged that development land is available at South Parks at present. Aside from being away from the established customer base, the land is for sale at a price significantly in excess of what a small local business can afford.

GROUND 2: The operation of the business would not be (a) unsympathetic to the rural character of the site and surrounding area or (b) have an unacceptable detrimental landscape and visual impact upon the appearance of the site and its environs.

- 4.21 This second Ground of Appeal deals with the points in the 'rural development' policy (ED7) set out 4.1 above relating to the need for the proposal to be appropriate to, and respecting, the rural character and amenity of the area and also being appropriately sited and designed (i.e. points (a), (c), (d) and (g).
- 4.22 Policy PMD2 'Quality Standards' is also relevant under this Ground. This policy (under the heading 'Placemaking and Design') requires proposals to be of a scale and massing appropriate to its surroundings, be finished externally in suitable materials, be compatible with, and respect the character of, the area and have appropriate boundary treatment.
- 4.23 Both these policy requirements are met, as detailed in the remainder of this section.
- 4.24 The Planning Officer believes that "*the proposal is both in the short-term and in the long-terms, unacceptably injurious to the amenities of this rural site and the surrounding area*". No details are given, by the Officer, as the nature of scale of these purported "injurious aspects". Nor does it appear that the Officer deemed it necessary to consult with the Council's Landscape Section. No comments were consequently made by the Landscape Section. The proposal is for an agricultural style shed in a rural location with one existing dwelling (owned by G. Chapman) nearby. It is also noted that only one roadside dwelling lies between the A701 and the proposed site. The limited proposed activities have been clearly set out and the Appellant feels that the Officer has 'stereotyped' his business unreasonably.
- 4.25 The site can be screened/ assimilated into the rural environment by landscaping and tree planting based on a scheme controlled by the Council at the next stage of the planning process. The photographs provided with the original application show that the site will be barely visible from anywhere. The parking area is behind the shed and is wholly screened from the road. The Appellant and his Agent fail completely to understand the nature of the purported "injurious qualities", particularly in the context of the immediate area and the significant number of huge poultry sheds, (regardless of their place in the Use Class Order- which does, not of course affect their visual impact). This point is examined further at section 4.42 – 4.45.

- 4.26 The Officer's report states that "in planning terms there would be no meaningful distinction to be made between a vehicle body repair workshop and a mechanical repair workshop". While this is true in terms of the Use Class Order (both Class 5), given that one of the Officer's reasons for refusal specifically relates to the "operation of the business" and related impact upon the character of the area it asserted that there is significant difference in planning terms (in the widest sense) between the two uses.
- 4.27 The throughput of customer's vehicles for a body workshop is far lower than a mechanical repair garage would necessitate. Body work jobs generally take longer. There will be no mechanical vehicle repairs or car sales – only bodywork repairs. The proposed premises will appear as an agricultural building. The landscape scheme will be presented to, and approved by, the Planning Authority at 'detailed' stage. The Applicant is willing and able, in terms of extent of ownership, to provide more extensive tree/hedge planting, as desired.
- 4.28 A series of photographs was taken, as part of the original application, towards the site from the Shiplaw to Lamancha minor public road and also *from* the site outwards. These are again set out within Appendix 1 to this document, together with a map index of photograph positions. It is clear that the site has limited visibility other than from immediately adjacent positions. The planning Officer appears to disagree with this assertion, but has provided no basis for doing so. In short, the photographs appear to have been disregarded.
- 4.29 The Officer expresses the view that the site is "open and elevated in views from much of the surrounding landscape". In reality, approaching from the north, one cannot even see the site owing to the road gradient/ topography until one is upon it. This is clearly demonstrated in Fig 1 above and other photographs provided at Appendix 1. From the Shiplaw road, (to the west and south), again the site is barely visible, as demonstrated by the aforementioned photographs.
- 4.30 Despite the elevated position, the rolling topography is such that the building would be visible from a very limited number of locations on the Shiplaw to Lamancha Road. It is clear from the photographs at Appendix 1 how the land falls away from the site. It is unlikely that the building would be visible from the A701 or A703 on account of topography. The photographs taken *from* the site looking towards more distant views provide an indication of sightlines towards the site. Given the small scale of the building, particularly relative to nearby multiple poultry houses, it would not feature in distant views from distant surrounding high ground such as the Lammermuir or Pentland Hills.

- 4.31 The Officer acknowledges that the building may resemble an agricultural building but appears to have concerns about *“all vehicle movements and yard activities”*. Vehicle movements will comprise one or two cars arriving/ leaving per day, a weekly delivery and employees’ cars. The Appellant is unclear as to the envisaged *“yard activities”*. Cars are worked upon indoors in a necessarily controlled environment.
- 4.32 The Officer is of the view that the site would not be well screened, saying that the indicative planting proposals would be insubstantial and would not constitute an appropriate level of screening. The Officer was, however, fully aware that the Appellant is entirely willing to present a scheme of landscaping to the Planning Authority for approval at the next stage in the planning process, even stating *“it would be possible to improve markedly the proposed landscaping treatment of the site through the establishment of new woodland shelter belts (indeed the Applicant is agreeable to enhancing its landscape proposals if required”*
- 4.33 With regard to concerns over future use for the building it is important to understand that the building will essentially be an agricultural portal framed shed which is internally fitted-out for the Appellant’s bespoke purpose. It could thus readily revert to agricultural use.
- 4.34 The Appellant wishes to comment upon the Officer’s concern that a planning condition (which could be placed upon a permission to regulate use of the premises to ensure that they are used by the Applicant’s business for the intended use – to prevent use by general industry) might be *“liable to be characterised as unnecessary and unreasonable”* in planning terms and may therefore be liable to challenge in time, if not immediately.
- 4.35 There are two aspects to this statement: (a) the potential use of a personal permission (permission limited to Appellant only) and (b) the potential use of an appropriately worded planning condition. Both are possible (and acceptable) routes to secure the necessary regulation.
- 4.36 If the Planning Authority is of the view that wider/ general class 5 industrial use is inappropriate for the site for sound planning reasons, it should be perfectly possible to word a robust and appropriate planning condition. There is also the option of using a legal agreement to regulate the use of land, which is, again, acceptable to the Appellant. It is important that this specific case is assessed on its own merits, not a theoretical concern about what may, or may not, happen in the future with regard to an entirely different business.

- 4.37 The Officer states that *“There might be potential to require, by conditions, that the Applicant does not engage in potentially related operation and activities which it has categorically advised it does not seek to pursue, specifically the operation of an ancillary scrapyard or old tyre storage areas, or ancillary vehicle sales”*. It is confirmed that this restriction would be entirely acceptable to the Appellant. Again the Officer expresses concern that such conditions may be challenged in the long term. Again, the Appellant requests that the appeal be treated on its own merits and not upon a theoretical future concerns.
- 4.38 The Officer is of the view that *“loss”* of such site would not be mitigated by substantial landscaping. Looking at the *“loss”* in perspective, this amounts to 0.15ha of Grade 3:2 agricultural land; most certainly not ‘prime agricultural land’, on a site that can barely be seen from anywhere.
- 4.39 Importantly, neither the A701 nor the A703 are visible when standing on the site. The ridge height of the proposed building, as shown on the indicative elevation drawing, is 4.4m and eaves height is 3.1m.
- 4.40 Landscaping and screen planting will further limit the visibility of the building to people travelling between the A701 and A703 on the minor D class road. The access/ parking area will also intentionally be screened to vehicles travelling from the A703 direction.
- 4.41 Parked cars would not be visible to users of the public road, in accordance with the layout shown on the indicative Site Plan;
- **No car sales occur or will occur** in association with this bodywork repair business. This has been made clear within the previous, 2015, application and the application which is subject of this appeal.
 - The Applicant is from an agricultural background and has a strong desire to keep Spylaw appearing as an agricultural unit. It is confirmed that neither high fencing nor large roadside signs will be sought or required. Traditional boundary treatments will be used, including dry stone dykes and agricultural fencing. Boundary treatment and landscaping can be controlled by the Planning Authority at the next stage in the planning process.
- 4.42 The numerous **‘industrial-scale’ poultry sheds** in the immediate locality around the appeal site fall under *“agricultural use”* (not industrial use), but the reality (and a material consideration) is that **their scale and appearance is far more ‘industrial’ in nature and scale than the proposed relatively modest building**. The distribution of

many of the numerous poultry sheds in the locality can be seen from the aerial photograph below. Clearly, the proposed building (location shown) is of a much smaller scale than these buildings.

Fig 6: Proposed site within a landscape of 'industrial scale' poultry houses all over 100m in length



- 4.43 By way of recent example, an extract from the Officer's Report (same Case Officer) regarding one of the latest additional poultry sheds 16/00997/FUL (identified on the aerial photograph below) reads:

***“LANDSCAPE:** This proposal would be an addition to a number of similar single sheds now positioned in the area in a fairly dispersed arrangement with a larger massing of them immediately south at the Millennium Farm. Although this shed and associated works might be visible for a short section from the A703 its addition should not have a severe impact on landscape and visual amenity due to the existing dispersed layout of sheds, the nature of the surrounding landform and the proposals for mitigation...”*

- 4.44 Despite one of the latest poultry shed proposals (a **2,800 sqm** shed now under construction) being visible from the A703, just south of Leadburn, it was deemed to be acceptable, yet a an agricultural type shed of **293 sqm** (almost one tenth of the size) is deemed to have significant visual impact from a D class minor road, in a location where it can barely be seen from anywhere. The reasonableness and consistency of this view is questioned.
- 4.45 **The Appellant appreciates the Use Class differentiation between Class 5 industrial use and agricultural use, but feels it is valid and necessary to make the point shown in the aerial photograph**
- ❖ The poultry sheds are typically (well) in excess of **100m** in length (typically 100m -150m) and 20m wide.
 - ❖ The proposed 'agricultural-type' shed measures **24.4m x 12.2m x 4.4m**.

Fig 7: Poultry House 1km south of the appeal site on the same D17/1 road. (Typical in scale to the multiple others marked on aerial photograph)



- 4.46 **With regard to other landscape changes, it is noted that the windfarm at Cloich has recently been approved. The turbines will be clearly visible from Spylaw and will alter the landscape in this location.**

GROUND 3. The proposal has raised no concerns with the Council's Roads Planning Service or Environmental Health. The proposal has received support from the Community Council. The proposal is strongly **supported** by the Council's Economic Development Section.

- 4.47 This third Ground of Appeals deals with, firstly, the point in LDP policy on rural development (set out parag 4.1 above) relating to the need for the proposal to have had regard to "accessibility considerations" and also considers other important consultation responses.
- 4.48 At consultation, in response to application 16/01174/PPP, the Roads Planning Officer reiterated his support offered in response to the previous application (15/01410/PPP), stating:
- The business currently operates in a rural location, therefore it is almost a like for like replacement in terms of location;
 - The fit-for-purpose building will be located on land where the Applicant currently resides, which potentially reduces commuting traffic;
 - The traffic generation associated with this type of **business is generally less than a general mechanical repair garage**;
 - The single track public road serving the site benefits from a number of passing places and the proposed site lies a short distance from the A701; (**only 550m**)
 - The proposed access to the site is located at a point where traffic speeds are low and good visibility can be achieved in all directions;
 - The access (into the premises) must be constructed to the specification stated.
- 4.49 The Applicant has taken accessibility considerations into account. The distance of the proposed site from the A701 is only c. 550m, as compared to the distance from the existing site at Sunnyside to the A701 of 1,200m.
- 4.50 The Planning Officer's concerns regarding customers and delivery vehicles being routed "into the countryside to access a remote rural site" are unjustified. The proposed location of the business is closer to the A701 than the existing premises. Importantly, Roads Planning Service has offered support for the proposal.
- 4.51 In terms of vehicle movements, figures have been obtained from the business' accountant, based upon invoicing. These confirm that on average there is one customer vehicle movement per day associated with the body repair workshop. Supplier vehicle

movements are occasional only, thus the number of vehicle movements generated by the business on a daily basis is insignificant.

- 4.52 Both Roads Planning Service and Economic Development are of the view that the operation of the business from the appeal site would compare more favorably than the operation from the current base.
- 4.53 The Council's Environmental Health Section did not object to the proposal, having been satisfied by the information provided by the Appellant within the original application.
- 4.54 There has been no comment whatsoever from the Council's own Landscape Section, despite the Case Officer's view that visual impact is an issue, which seems surprising.
- 4.55 The Case Officer has confirmed that with respect to water supply, drainage, site levels and planting, these could all be required at the detailed application stage.

APPENDIX 1 – Photograph Locations and Photographs

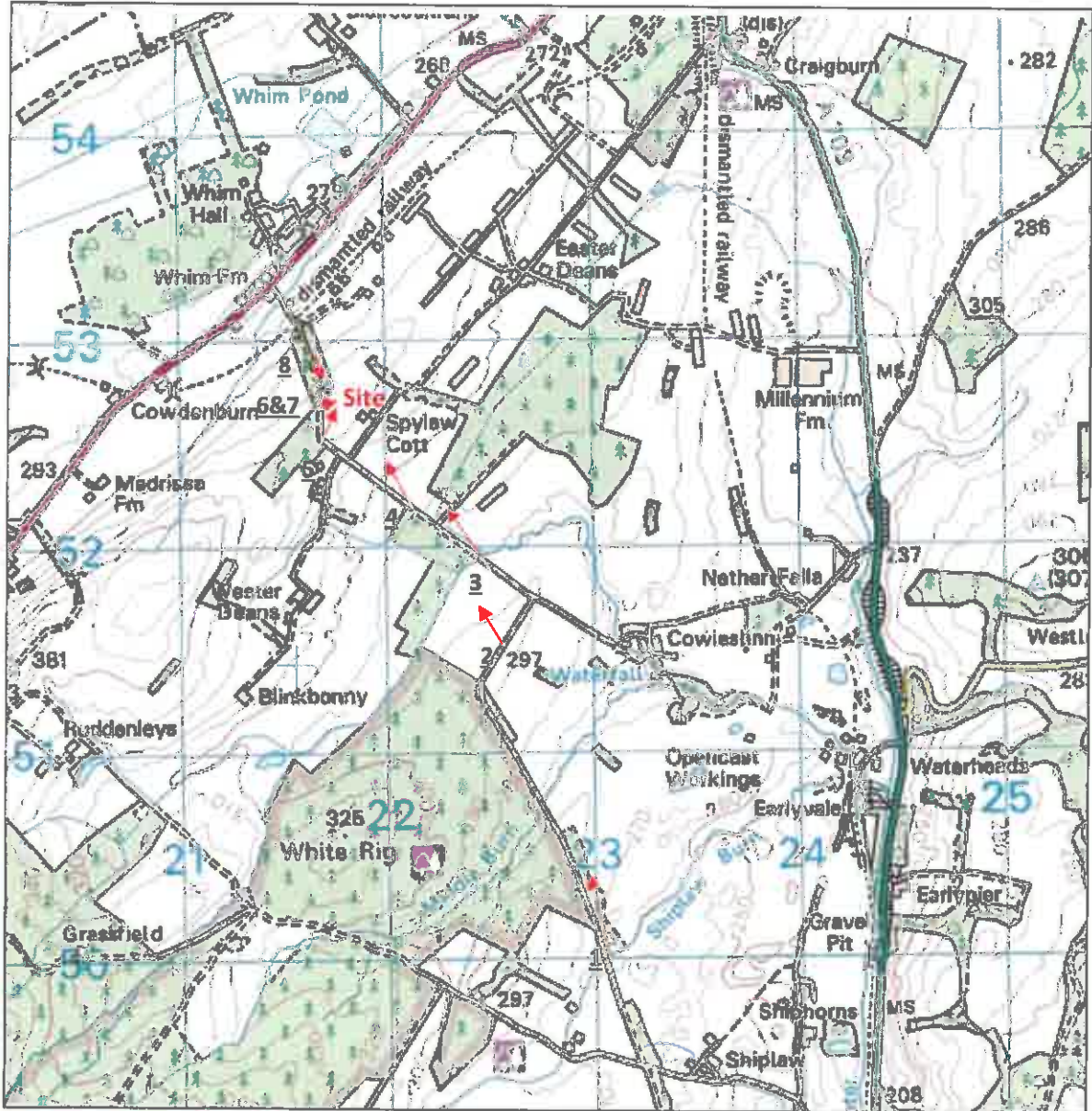


Fig 1: Location 1 - Travelling north (site not visible)



Fig 2: Location 2 - Travelling north east (site not visible)



Fig 3: Location 3 - Travelling north-west past poultry shed (Dunrig – Applicant’s dwelling is visible)



Fig 4: Location 4 - Travelling north-west towards Spylaw (site not visible)



Fig 5: Location 5 - Travelling north (site would be visible)



Fig 6: Location 6 - Travelling north (site would be visible)



Fig 7: Location 7 – Adjacent to site. (site visible with Dunrig (dwelling) in the background)



Fig 8: Location 7 – Travelling north towards access point (site visible)



Fig 9: Location 8 - Travelling south (some, but limited, visibility of building)



Fig 10: On site. View north-east. A701 not visible



Fig 11: On site. View south east. A703 not visible



Fig 12: On site. View west to minor public road

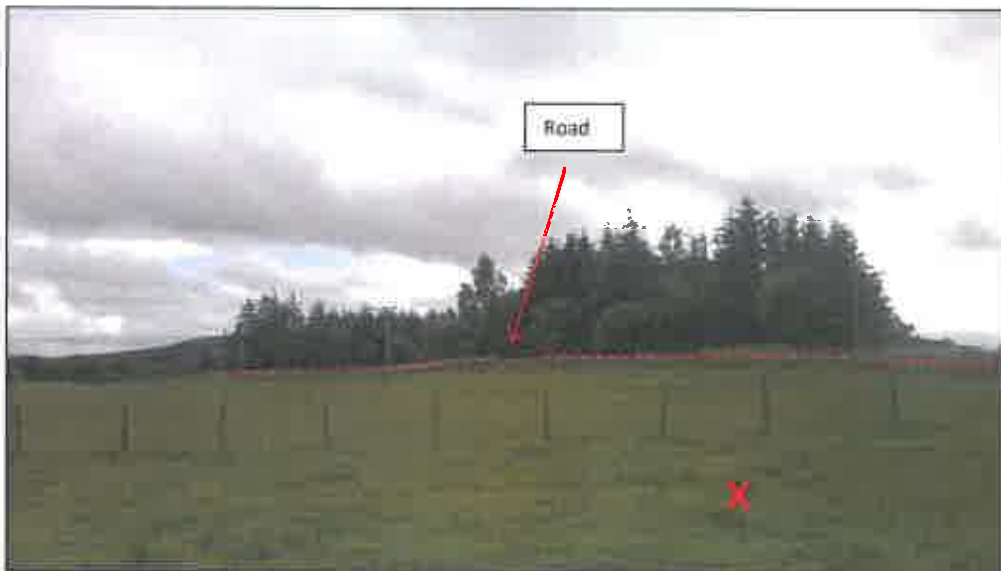


Fig 13: On site. View north



GS Chapman Ltd

Vehicle Body Repairs _____



Unit 1
Sunnyside
Macbiehill
West Linton
EH46 7AZ

Tel: 07718 923 541

Registration No. SC419049

22.07.16

Dear Mrs Bell,

Further to our previous telephone conversation several weeks ago, I am writing to you to ask if you have given any further consideration as to whether any of the land on Deanfoot Road, West Linton, belonging to yourself, would be made available for purchase in the immediate future? As discussed previously, I would be interested in exploring the possibility of purchasing a portion of this land with a view to erecting a vehicle body repair garage for my existing business.

Many thanks for your time and hope to hear from you.

Yours sincerely

Graeme Chapman

**FIRM OF JOHN DYKES
SOUTH SLIPPERFIELD FARM
WEST LINTON
PEEBLESHIRE
EH46 7AA**

13-03-2017

To whom it may concern.

GS Chapman Vehicle Body Repairs

Dear Sir/Madame

I have been asked to confirm that Graham Chapman has approached me as a local landowner in search of available land for him to buy.

I have known Graham for many years now and have been aware of and used his business since its inception. In order for him to be able to continue developing and investing in his successful business I fully understand the need for him to be operating in securely owned premises.

I do own land near to West Linton but we are not currently planning to make any available for sale.

I know the land that Graham owns and that this is where he'd like to develop his business. In my opinion this would be equally as suitable as where he currently operates and would provide the long-term security of 100% ownership. Businesses such as this are extremely important for the community infrastructure by providing employment and population in the rural areas.

I hope you will look upon his current application favourably.

Yours Sincerely



Hamish Dykes.





BLYTH FARMS

28th March 2017

Dear Graham,

We have discussed the possibility of selling you a plot of land for the expansion of your business. Although we would like to support you in this venture, which we think will be an asset to the community, we are not currently in the position to be selling land.

We would like to wish you every success in sourcing a location for your thriving business and we are disappointed to not be able to aid you in the venture at this time.

Yours faithfully,



Alister Laird

From: [REDACTED]
Sent date: 21/02/2017 - 18:29
To: graemechapman [REDACTED]
Subject: Re: Planning application

Hello

As far as I'm aware we hadn't been consulted about your application. It was noted at our meeting last week that we haven't been getting consulted about all applications in our area and we intend to have that situation sorted as quickly as possible.

It was also mentioned by one of our members that your application had been refused. The discussion that followed confirmed that we are keen to support developments in our area that contribute to employment and a range of community facilities. It was noted that if you were appealing the decision then we would support that appeal.

Hope this helps.

Iain

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Application for Planning Permission

Reference : 16/01174/PPP

To : GS Chapman Vehicle Body Repairs per Erich Planning & Property Consultants Per Kate Jenkins 57 Northgate Peebles EH45 8BU

With reference to your application validated on **21st September 2016** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of vehicle body repair workshop and associated parking

At : Land North West Of Dunrig Spylaw Farm Lamancha West Linton Scottish Borders

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s)** stated on the attached schedule.

**Dated 17th January 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



.....
Chief Planning Officer

APPLICATION REFERENCE : 16/01174/PPP**Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

REASON FOR REFUSAL

- 1 The proposal does not comply in principle with Adopted Local Development Plan Policy ED7 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.
- 2 Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Development Plan Policies ED7 and PMD2 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 OSA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

PLANNING SUPPORTING STATEMENT

**Erection of vehicle repair workshop and associated parking | Land West of Dunrig, Spylaw
Farm Lamancha West Linton Scottish Borders EH46 7BG**

on behalf of

Graeme Chapman, GS Chapman Ltd

16 September, 2016

1.0 APPLICATION AND BACKGROUND INFORMATION

- 1.1 This application in principle (PPP) is submitted by Ericht Planning & Property Consultants on behalf of Graeme Chapman, GS Chapman Ltd. The application is for planning permission in principle for the erection of a vehicle body repair workshop (not a mechanical repair garage), landscaping and associated parking on land owned by the Applicant at Spylaw, Lamancha. The application area is 1,533 sqm (0.1533 ha).
- 1.2 Notwithstanding the PPP nature of the application, indicative drawings have been prepared by Richard Allen, Architect, including: Site Plan, Elevations and Floor Plan in order to provide the Planning Authority with as much information as possible at PPP stage. The siting of the building, access, vehicle parking arrangements and proposed landscaping are indicated.

GS Chapman Vehicle Body Repairs – The Business

- 1.3 The business was founded in April, 2008 and is now a limited company with 2 Directors: Graeme and Deborah Chapman. Full time employment is provided for Graeme Chapman and part-time employment is provided for Mrs Chapman (administrative work). The business also engages additional self-employed individuals for approximately 20 hours/week for body repair work and has employed local school leavers on full-time apprenticeship schemes in conjunction with Stevenson College, Edinburgh. The business now needs to employ an additional full time skilled worker, but is unable to do so due to physical working conditions of the existing premises and the lack of security offered by the limited unexpired term of the lease.
- 1.4 The business encompasses repairs to all types of vehicle bodywork, including spray-painting, panel beating, fabricating, welding, structural repairs and minor cosmetic repairs. Work is carried out across a broad range of vehicles including agricultural, plant vehicles, cars, commercial vehicles, leisure vehicles and motorcycles. Customers include farms, local businesses, (including local garages) insurance companies and trade. The primary market is the north western Borders, with the focus on West Linton and district, but also stretching into Peebles and surrounding area.

- 1.5 It is important to note that:
- No mechanical repairs are, or will be, carried out;
 - No vehicle sales or exhibiting vehicles for sale are, or will be, carried out;
 - As a consequence of no mechanical repairs being carried out, there are, and will be, no separate mechanical-related fluids such as engine oil, coolants or hydraulic fluids stored or utilised on site;
 - No vehicle tyres are supplied or fitted so there is, and will be, no requirement to store or dispose of tyres;
 - There is no involvement with end-of-life vehicles so there is, and will be, no scrap cars on site at any time.

GS Chapman Vehicle Body Repairs – Current Premises

- 1.6 The workshop is within a basic former 1960s agricultural building at Sunnyside Farm, Macbiehill which houses a range of businesses including Class 4 and Class 5 uses. It was originally constructed for grain storage and comprises 19 bays, 4 of which are occupied by the vehicle body repair business. The premises are not fit for purpose. Occupation is under a 5 year lease which ends in April, 2018. The premises house the main workshop area, a professional spray booth and welfare facilities.
- 1.7 The large single span building is constructed in steel frame. It appears “*industrial*” in character in accordance with the Officer’s report in 08/01167/FUL (partial change of use from Class 4 to vehicle mechanical repair – Applicant John Swan).

Equipment and Operations

- 1.8 Operational hours are 0830 – 1730 Monday – Friday; 0830 – 1230 Saturday and Sunday (closed). Operational equipment includes:
- Fully compliant, purpose-built automotive spray booth which incorporates filtered extraction plant for the removal of airborne paint material. The equipment provides a controlled environment for the paint spraying of a body repair job. It is used once a day for an average of 1-2 hours at a time. The noise level generated is low. The equipment cannot readily be heard from the outside of the building.
 - A rotary screw air compressor;
 - A 2-post vehicle lift;
 - A selection of electric and pneumatic hand tools.
- 1.9 Whilst the application is in principle, in order to provide full understanding, the following information has been supplied by the Applicant.

- Paint goods (primarily waterbased) to be stored in a purpose-built paint store.
- The paint store will also house the waste paint recycling unit for the cleaning of sprayguns etc.
- ☒ Waste material uplift contracts will be implemented.

2.0 PLANNING HISTORY

Current Premises – Sunnyside

- 2.1 In the first instance, brief consideration is given to various applications which relate to the current building. The Applicant occupies 4 (end) bays of a 19 bay building.
- 2.2 Planning information about the entire 19-bay building: Formal change of use of a disused agricultural building (to Class 4 Business) was granted in May, 2001 and in May 2006 (01/00373/COU and 06/00603/FUL).
- 2.3 Within the building, there have been numerous individual applications which have been consented for change of use from Class 4 Business to Class 5 Industrial, as set out below. Class 5 Industrial use has thus been accepted at Sunnyside under 3 separate applications.
- ☒ A 2008 application (08/00242/FUL) was made for the partial change of use from Class 4 to vehicle body repair workshop (Class 5). This was granted on 17th April, 2008. (Applicant: Graeme S Chapman);
 - A 2008 application (08/01167/FUL) was approved for partial change of use from Class 4 to vehicle mechanical repair workshop Class 5. (Applicant John Swan);
 - A 2008 application (08/01331/FUL) was approved for partial change of use from Class 4 to Class 5 use.

Proposed Site – Spylaw

- 2.4 A planning application was submitted by GS Chapman Ltd for the erection of a vehicle repair workshop and associated parking in November, 2015. It was refused on 19th January, 2016.
- 2.5 The application was refused on the following basis:

- (1) *The proposal does not comply in principle with Adopted Local Plan Policy D1 in that the proposal would more reasonably be accommodated within the Development*

Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.

- (2) *Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Plan Policies D1 and G1 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.*

3.0 **PLANNING POLICY CONTEXT**

- 3.1 Relevant local planning policy is contained within the Scottish Borders Local Development Plan – policy ED7 ‘Business Tourism and Leisure in the Countryside’ and policy PMD2 – ‘Quality Standards’.

Policy ED7 Business, Tourism and Leisure in the Countryside

- 3.2 Policy relating to business development in the countryside includes the following requirements in respect of the proposal:

- The development must be used for a use which is appropriate by its nature to the rural character of the area; or
- The development is to be used for a business or employment generating use provided that the Council is satisfied that there is an economic and/ or operational need for the particular countryside location, and that it cannot be reasonably accommodated in the Development Boundary of a settlement.
 - The development must respect the amenity and character of the surrounding area;
 - The development must have no significant impact on surrounding uses, particularly housing;
 - The developer will be required to provide evidence that no appropriate existing building or brownfield site is available;
- The development must take account of accessibility considerations;
- The development must take into account siting and design criteria as set out in policy.

4.0 ASSESSMENT OF PROPOSAL

4.1 The purpose of this section is to address shortfalls in information within the previous application and to demonstrate that the proposal meets with the provisions and intentions of Scottish Borders Local Development Plan policy. For completeness, the shortfalls/ issues with the previous application 15/01410/PPP were noted, by the Planning Officer, to be:

- No details are provided in support of re-location to the site, beyond a concern to remain centrally located relative to customers;
- No business case has been provided to substantiate the business' viability in financial and/ or functional terms;
- No Planning Statement has been provided to account for how the proposal would meet with planning policy;
- No Planning Statement has been provided to justify the proposal being the subject of an 'exceptional approval'. No reasons have been provided to override the need to determine the application in accordance with the requirements of policy;
- The Supporting Statement provided does not engage with planning policy/ planning implications;
- No account has been given of the detail of any site selection considerations that have informed the business' identification of the application site as being most appropriate for it to be re-accommodated in planning terms;
- No account has been provided of efforts to secure premises more acceptable in planning terms, within a settlement;
- Insufficient justification has been provided as to why the site needs to be operated from the location proposed;
- In the absence of a detailed design statement, there is concern that the building could have unacceptable landscape and visual impacts, particularly given the elevated nature of the site;
- There is concern over the visual impact of parked cars awaiting service or collection or potentially being stored for ancillary car sales;
- There is concern over the need for the business to be visible because of "vehicles for sale";
- There is concern that there would be no ability to ensure that the existing (leased) premises will revert to agricultural use – so there would be a net rise in industrial-use buildings in the local area;
- The Officer does not support the Roads Officer's comments and refers to the need to travel along "long sections of narrower country roads";
- Concern is expressed about potential to control the future use of the building in the event that the proposed use does not prevail.

Proposed Site

- 4.2 The proposed site is at Spylaw, a 10ha (25 acre) former farm, owned by the Applicant, which lies a distance of 5km from the current premises at Sunnyside. The proposed building would measure (i) 24.4m x (b) 12.2m x (h) 4.4m (298 sqm footprint) and be a purpose-built steel framed building which, externally, would appear as an agricultural building with green-painted box profile insulated cladding. The building would have two sectional roller shutter doors on the north-east and north-west elevations. Reference should be made to plans included.
- 4.3 It is likely that solar panels will be erected on the roof to enable the business to increase its energy efficiency.
- 4.4 Access would be taken off the Eddleston – Shiplaw road at the same location which was supported by the Roads Planning Officer in respect of the 2015 application 15/01410/PPP.

Existing Premises

- 4.5 The condition of existing premises occupied by the business is not sustainable for a wide range of reasons: A letter confirming this, in respect of the vehicle lift, has been provided as part of the application documents by R.A. Cox (Garage Equipment).
- The building is not fit for purpose. The structure is unsound and in need of major refurbishment, including in terms of defective roof and water penetration through blockwork walls. The concrete floor is breaking up in places.
 - Tenure does not allow the tenant to carry out alterations or improvements, only like for like repairs. In addition, the unexpired term of the lease is only approximately 1.5 years.
 - There is no draught proofing or insulation and working conditions are extremely challenging and inappropriate.
 - In the winter months internal temperature regularly drops below zero degrees and the water supply freezes. The gable (door) end of the building faces directly into the prevailing wind and is very exposed.
 - The east side of the building floods a few times a year. When this freezes in the winter it can be dangerous.
 - There is no damp proof membrane under the floor. When frost thaws the floor becomes soaking wet.
 - The business relies on a space heater which is ineffective given the level of air movement due to the poor condition of cladding and lack of insulation. The use of energy is therefore extremely inefficient and costly.

- ❖ The three phase electricity supply is inadequate for the needs of the business and as a result it often fails completely under load demands made by equipment.
 - The impact of the uncontrollable internal environment upon spraying operations is that they become inefficient in cold temperatures. It is simply impossible to regulate the temperature in a building with various significantly perforated panels.
 - ❖ At below 5 degrees, the air compressor ceases to work. Given the elevated position and the poor quality of the building, in the winter months it is not unusual for the internal temperature to drop to/below this level.
- 4.6 In addition, crucially there is uncertainty over the future for Sunnyside and an associated absence of security for this important local business.
- Economic Need, Lack of Alternative Sites and Viability**
- 4.7 There is an economic and operational need for a new site for this successful Scottish Borders-based business due to the deficiencies of the existing premises and the lack of security of tenure. The business has a firmly established Client base within the northern Borders and needs to remain *within the locality* in which it has secured its Client base – the bulk of the work comes from West Linton and District.
- 4.8 The business needs to be close to its customer base to enable it to offer a collection and delivery service and to carry out on-site vehicle inspections, where required. If the business is unable to continue in the West Linton area then it is likely to lose everything that it has built up over the past eight years. The Planning Authority has been willing to support local businesses at Sunnyside, including several class 5 uses.
- 4.9 Roadworthy cars and other vehicles are a fundamental part of modern rural life and the business provides an important service within the local area – which has been proved during the whole life of the business with high demand for its services.
- 4.10 There is a lack of suitable alternative sites with appropriate allocation within settlement boundaries in the northern Borders, as outlined below. The proposed site is owned by the Applicant, is well sited in terms of customer base and will not have a detrimental impact on residential amenity or the landscape. Further detail is provided in later sections.
- 4.11 The Applicant would have been willing to consider suitable sites in Peebles or West Linton, but there appear to be none. The Applicant has made several verbal enquiries, and a formal written enquiry, in 2015 and 2016 to the owners of the single allocated

- industrial site on Deanfoot Road, West Linton. No positive response was received to verbal enquiries and no response *at all* was received to the written enquiry, most recently. Whilst allocated, this site does not appear to be available, in practice. The Applicant's agent has also made direct enquiries with Estate Agents, including CKD Galbraith, and monitored commercial property websites, including Eric Young & Co, for suitable available sites/ buildings within the northern Scottish Borders. No suitable premises or land has been located in Peebles, Broughton, West Linton (or Penicuik).
- 4.12 In terms of the previous application, the Economic Development Officer stated that the Department would normally support the protection and creation of jobs, but felt that the Applicant needed to provide justification in terms of the development plan (which is done herein). **The Officer indicated that use should be restricted to the specific proposed use. It is confirmed that this would be acceptable to the Applicant either by way of planning condition or section 75 legal agreement.**
- 4.13 Abbreviated accounts for 2014/15 and 2015/16 are provided with the application in order to demonstrate business' viability. These are for the information of the Planning Authority and not for publication. The previous Officer's Report and, specifically, the comments of the Economic Development Officer within 15/01410/PPP, indicated that provision of such is required. If further accounting information is required by the Planning Authority this could also be available on a confidential basis.
- 4.14 A full time skilled worker is now needed due to business expansion but the working environment is unreasonable and wholly inappropriate within the current premises. The proposed development would secure the employment of existing employees and one additional person.
- Siting within the Landscape**
- 4.15 The proposal is appropriate by its nature to the rural character of the area. The operations of the business have been clearly set out. Specifically there will be no mechanical vehicle repairs or car sales – only bodywork repairs. The proposed premises will appear as an agricultural building and will be landscaped as proposed within the indicative site plan or as within a scheme to be agreed at 'detailed' stage. Increased tree planting can be provided, if desired by the Council.
- 4.16 A series of photographs have been taken towards the site from the Shiplaw to Lamancha minor public road and also *from* the site. These are set out within Appendix 2, following a map index of photograph positions (Appendix 1). It is clear that the site has limited

- visibility in the locality other than from immediately adjacent positions. Importantly, neither the A701 nor the A703 are visible from standing on the site. The ridge height of the proposed building, as shown on the indicative elevation drawing, is 4.4m and eaves height is 3.1m.
- 4.17 Despite the elevated position, the rolling topography is such that the building would be visible from a very limited number of locations on the Shiplaw to Lamancha Road. It is clear from the photographs how the land falls away from the site. It is unlikely that the building would be visible from the A701 or A703 on account of topography. The photographs taken *from* the site looking towards more distant views provide an indication of sightlines towards the site. Given the small scale of the building, particularly relative to nearby multiple poultry houses, it would not feature in distant views from distant surrounding high ground such as the Lammermuir or Pentland Hills.
- 4.18 The previous Officer's Report suggested that the site will be "*potentially visible from the wider area*". The proposed site offers far lower visibility than the existing site, and unlike the existing site it is specifically not visible from the A701 or any other road apart from the minor public road between Eddleston and Lamancha. The nearest dwelling is at Spylaw – the Applicant's house.
- 4.19 The indicative landscaping has been shown specifically to limit the visibility of the building to people travelling between the A701 and A703 on the minor road. The access/parking area is also partly screened to vehicles travelling from the A703 direction.
- 4.20 Whilst it is acknowledged that the numerous 'industrial-scale' poultry sheds in the local area fall under "agricultural use" (not industrial use), their scale and appearance is far more 'industrial' in nature than the proposed relatively modest building. The distribution of some of the poultry sheds in the locality can be seen from the aerial photograph overleaf. Clearly, the proposed building is of a much smaller scale than these buildings.

Fig 1: Proposed site within a landscape of 'industrial scale' poultry houses



- 4.21 It is also noted that the windfarm at Cloich has recently been approved. The turbines will be clearly visible from Spylaw and will alter the landscape in this location.
- 4.22 The development will respect the amenity and character of the surrounding area and will not have a detrimental impact on surrounding uses. It appears agricultural in scale and nature and the parking area is specifically set to the east site of the building. Whilst the site is in an elevated position, it is not visible from any dwellings. There would be an opportunity to assess the specific design and landscape treatments as the subject of an AMC application.
- 4.23 The Officer acknowledges in his 15/01410/PPP report that *“there would be potential for the workshop building to have the general form and appearance of an agricultural building...”* The Officer then expressed concerns that the building and its operation would *“not be sympathetic to the rural character of the site or its wider landscape setting”*. His reason for this view appears to stem from his view that there would be *“an incongruous appearance of a substantial number of parked non-agricultural vehicles awaiting service or collection, or potentially being stored for ancillary car sales.”* The Officer also refers to a need to be visible to *“display of vehicles for sale”*.

4.24 In response to this concern:

- Parked cars would not be visible to users of the public road, in accordance with the layout shown on the indicative Site Plan;
- No car sales occur or will occur in association with this bodywork repair business. This has been made clear within both the previous and the current application.
- The Applicant is from an agricultural background and has a strong desire to keep Spylaw appearing as an agricultural unit. It is confirmed that neither high fencing nor large roadside signs will be sought or required. Traditional boundary treatments will be used, including dry stone dykes and agricultural fencing.

4.25 In relation to the business' planning consent 08/00242/FUL (Partial change of use from business Class 4 to vehicle body repair workshop –class 5) the Officer stated that *“The building is a significant distance away from the nearest residential property and is not located within a residential area of a town. In this instance there would be no adverse impact on the residential amenity of dwellings.....”* The proposed site, likewise, is located a significant distance from the nearest residential property, other than Spylaw (the Applicant's dwelling). It is noted that the elevation and high visibility of the (existing) Sunnyside site did not appear to be an issue.

4.26 The Officer seems to have been particularly concerned, in his assessment of 15/01410/FUL about the possibility of the site being used for any class 5 industrial use. As the Economic Development Officer suggested, it is asserted that the use could be limited to the specific use consented (body work repair garage). This could be done by way of planning condition. This is often done, for example, to restrict Class 2 use in a town centre location to a specific use such as an Estate Agent e.g 13/00137/FUL.

4.27 The Applicant would be willing to enter into a section 75 legal agreement to link the premises with the dwelling at Spylaw as a single planning unit if required to do so.

Roads and Accessibility Considerations

4.28 The Applicant has taken accessibility considerations into account. The distance of the proposed site from the A701 is only c. 550m, as compared to the distance from the existing site at Sunnyside to the A701 of 1,200m.

4.29 In terms of vehicle movements, figures have been obtained from the business' accountant, based upon invoicing. These confirm that on average there is one customer vehicle movement per day associated with the body repair workshop. Supplier vehicle

movements are occasional only, thus the number of vehicle movements generated by the business on a daily basis is insignificant.

4.30 The Applicant notes that the Roads Planning Officer offered his support for the previous application (15/01410/PPP) subject to the business being tied to the existing dwelling (the Applicant's home) and only used as a vehicle body shop business. Specifically, the Officer stated:

- The business currently operates in a rural location, therefore it is almost a like for like replacement in terms of location;
- The fit-for-purpose building will be located on land where the Applicant currently resides, which potentially reduces commuting traffic;
- The traffic generation associated with this type of business is generally less than a general mechanical repair garage;
- The single track public road serving the site benefits from a number of passing places and the proposed site lies a short distance from the A701; (only 500m)
- The proposed access to the site is located at a point where traffic speeds are low and good visibility can be achieved in all directions;
- The access must be constructed to the specification stated.

4.31 Whilst the case Officer was unwilling to support the proposal as presented within 15/01410/FUL, he did state, in conclusion that, *"It is reasonably recognised that Roads has not specifically advised of any concern that the local road network could not acceptably accommodate operation of the proposed business from the application site."*

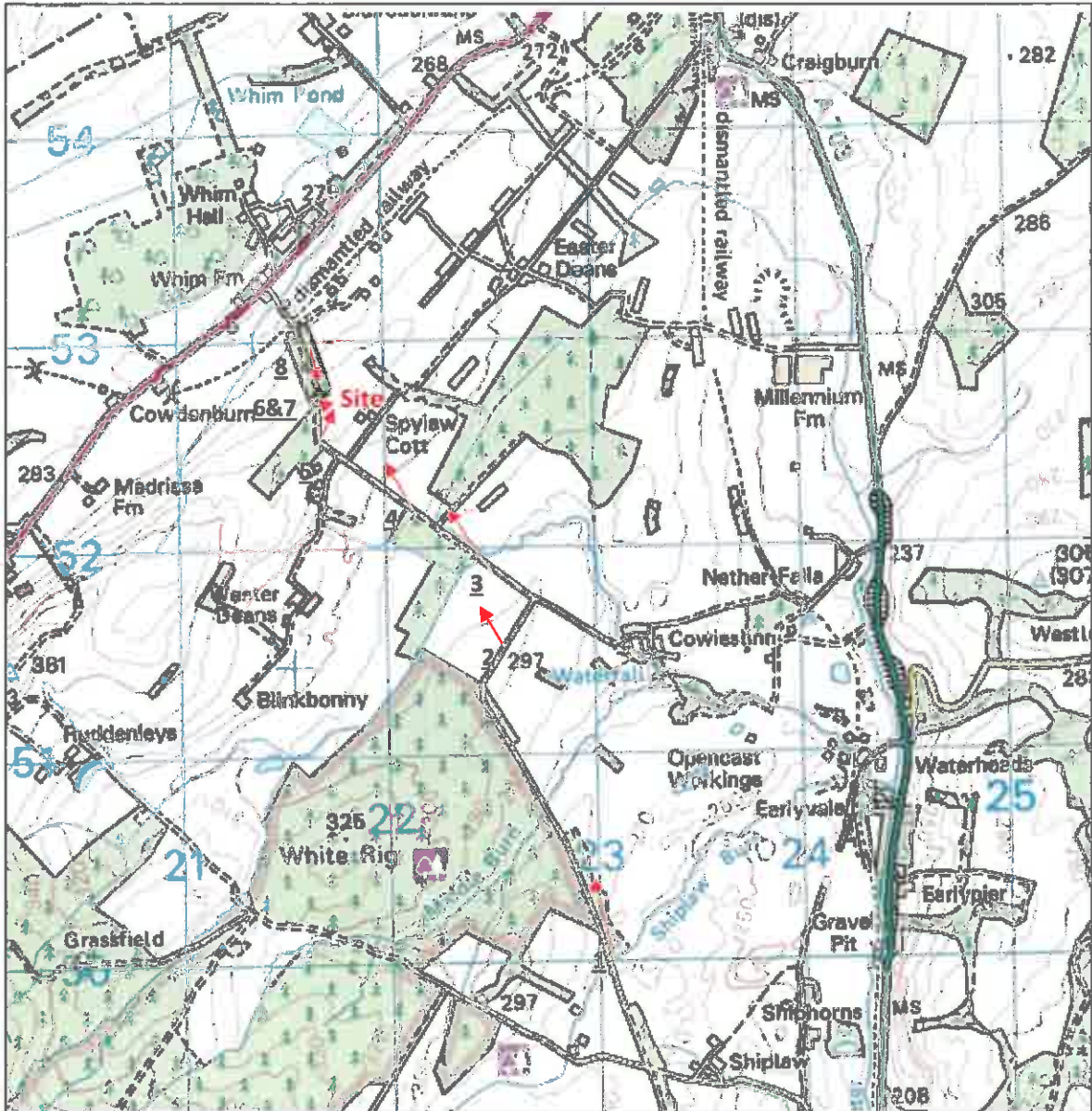
Environmental Health

4.32 The Council's Environmental Health Officer did not object to the proposal, but requested further information be provided by the Applicant relating to operational hours and equipment number and type to be used. The Applicant responded with further information as noted herein (parag 1.8).

Security

4.33 The proximity of the workshop to the Applicant's house would provide good security which is important given that the business is in charge of customers' vehicles. The size of the premises would allow the business to largely house customers' cars which were being worked on within the building during hours of closure.

APPENDIX 1 – Photograph Locations



APPENDIX 2 – Site Visibility from Shiplaw to Lamancha public road

Fig 1: Location 1 - Travelling north (site not visible)



Fig 2: Location 2 - Travelling north east (site not visible)



Fig 3: Location 3 - Travelling north-west past poultry shed (Dunrig – Applicant’s dwelling is visible)



Fig 4: Location 4 - Travelling north-west towards Spylaw (site not visible)



Fig 5: Location 5 - Travelling north (site would be visible)



Fig 6: Location 6 - Travelling north (site would be visible)



Fig 7: Location 7 – Adjacent to site. (site visible with Dunrig in the background)



Fig 8: Location 7 - Travelling north towards access point (site visible)



Fig 9: Location 8 - Travelling south (some visibility of building)



Fig 10: On site. View north-east. A701 not visible



Fig 11: On site. View south east. A703 not visible



Fig 12: On site. View west to minor public road

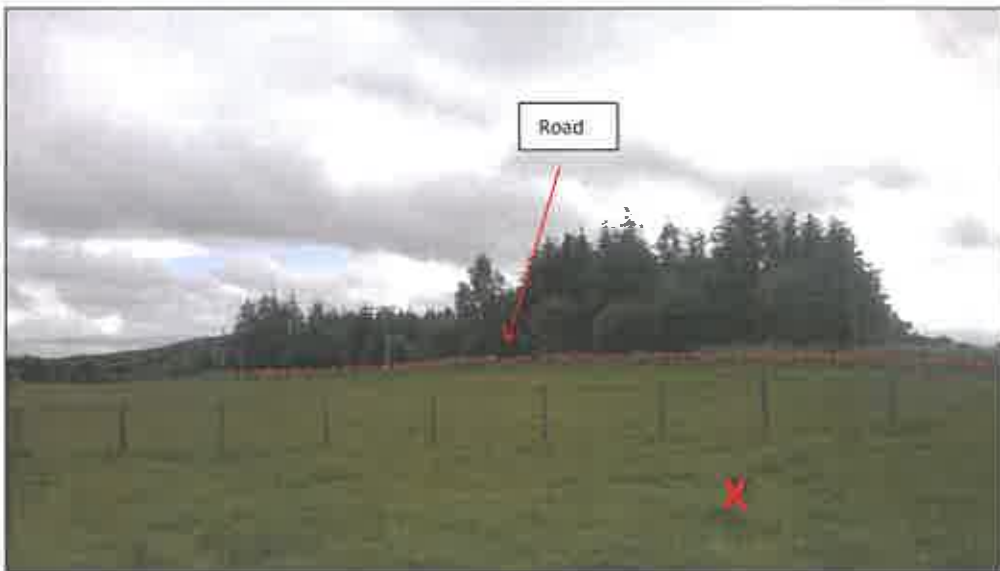
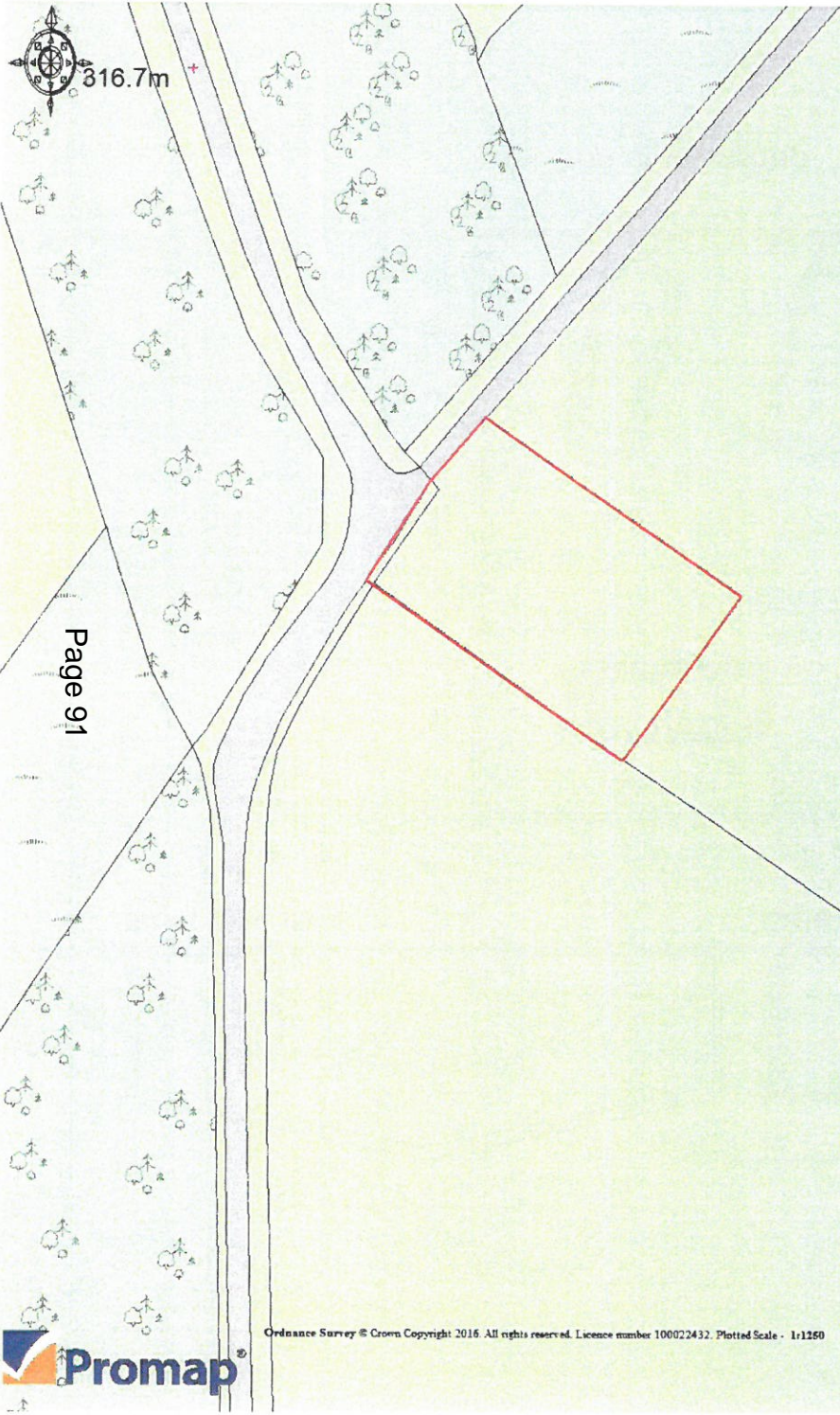


Fig 13: Location 9. On site. View north





16/01174/PPP

Scottish Borders Council
Town And Country
Planning (Scotland) Act
1997

REFUSED

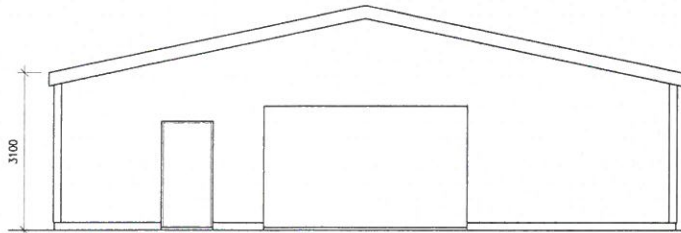
subject to the
requirements of the
associated Decision
Notice

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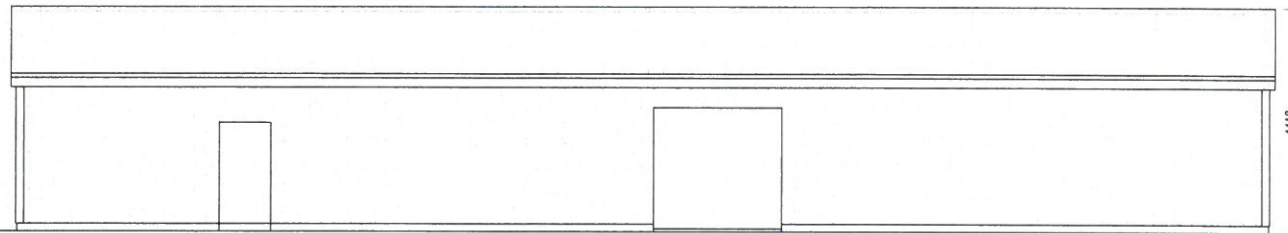
Spylaw

Dunrig

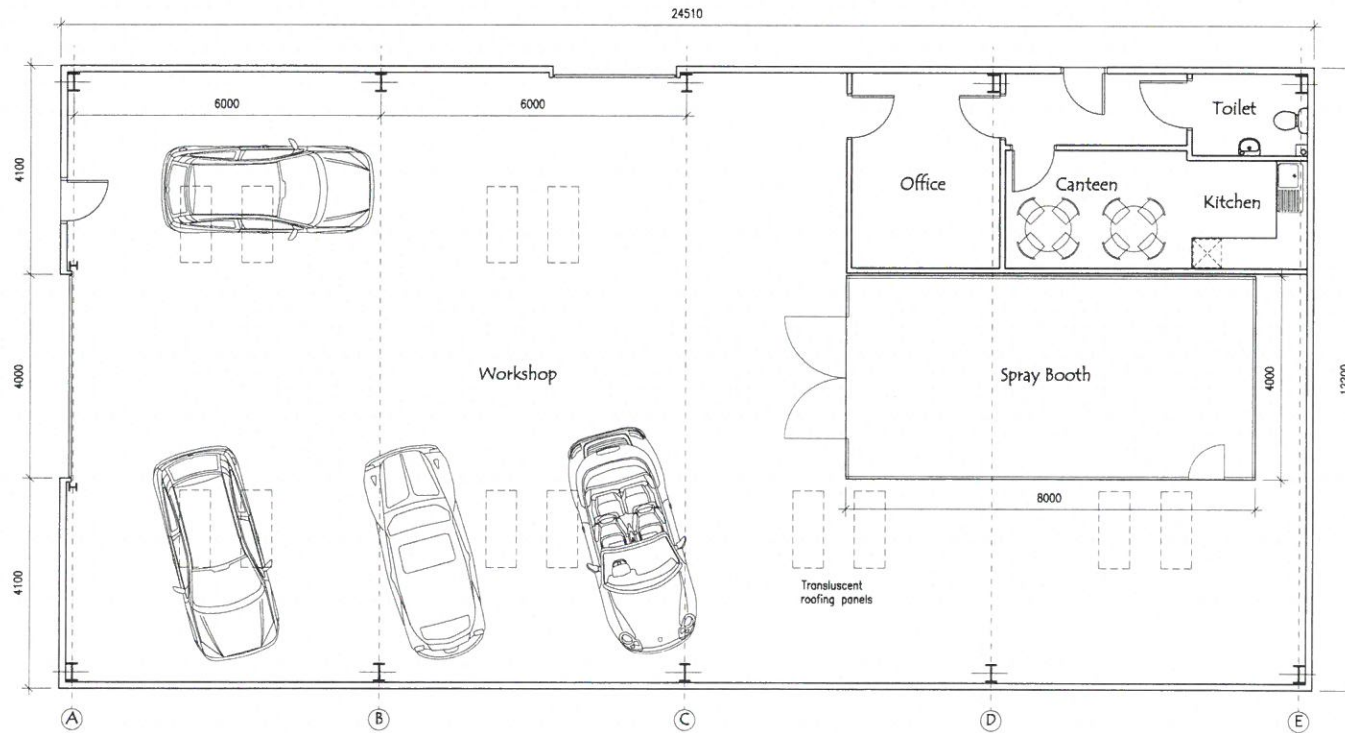




Front Elevation



Side Elevation



Floor Plan of Workshop

Proposed New Vehicle Repair Workshop	
Land at Spylaw, Lamancha, West Linton	
Sketch Plans & Elevations of New Workshop	
1:100	A3 Apr 2016
2016/13/102	

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SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 16/01174/PPP
APPLICANT : GS Chapman Vehicle Body Repairs
AGENT : Ericht Planning & Property Consultants
DEVELOPMENT : Erection of vehicle body repair workshop and associated parking
LOCATION: Land North West Of Dunrig Spylaw Farm Lamancha
West Linton
Scottish Borders

TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

No representations.

Roads Planning Section: maintains in full the advice given at the time of the determination of Planning Application 15/01410/PPP.

Environmental Health Section: no comments.

Community Council: has been consulted, but has not responded.

Economic Development Section: provides advice on the Applicant's business, its current site, and the proposed site, and essentially confirming the advice of the Applicant with respect to the business' requirement to move out of its current premises to address certain constraints and alleviate uncertainties. With respect to the identification of the application site, it is advised that the Applicant has tried to find an alternative site, specifically it is advised with respect to unanswered or unsuccessful enquiries made with respect to sites at Deanfoot Road, West Linton, and South Park, Peebles. It summaries the Applicant's own support for the application site on the grounds that the latter would be relatively better than the site of the existing premises. Economic Development advises that the additional capacity that a new site would allow, combined with the added value services the Applicant proposes to operate, could generate significant growth for the business and realise employment opportunities in a rural area (for one skilled and one unskilled worker). Economic Development recognises that from a planning viewpoint, adherence to Policy ED7 is required. It considers that the Applicant has attempted to find an alternative site within a settlement but has been unable to find such a site; and supports the results of this investigation, as available sites within the Tweeddale area are extremely scarce. Economic Development considers that under Policy ED7, item (c), the proposal meets this criterion and that the proposal would support the local agricultural sector,

where there is a predominance of off-road and 4x4 vehicles. Businesses of this nature do support the local rural economy and are dotted around rural areas, therefore it is considered that the application should not be refused purely on the basis that it is a new facility, if it meets all other criteria.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Council Local Development Plan 2016:

Policy PMD1: Sustainability
Policy PMD2: Quality Standards
Policy ED7: Business, Tourism and Leisure Development in the Countryside
Policy HD3: Residential Amenity
Policy EP13: Trees, Woodlands and Hedgerows
Policy EP16: Air Quality
Policy IS7: Parking Provision and Standards
Policy IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Recommendation by - Stuart Herkes (Planning Officer) on 16th January 2017

BACKGROUND

Notwithstanding that it relates to a slightly larger site, this application is essentially for the same proposal that was the subject of Planning Application 15/01410/PPP, however additional supporting information and clarification with respect to the context in which the proposal is being brought forward, has now been provided in support of the Applicant's case. This includes a planning statement (prepared by Ericht Planning and Property Consultants), financial information, and letters from the Applicants' accountant and a garage equipment installer. Although the application is for planning permission in principle, a detailed site plan drawing and detailed elevations and floor plan drawings of the proposed premises have been provided. I have reviewed all of this information, and my review informs my assessment set out below.

Notwithstanding the adoption of a new statutory development plan in the interim (and the consequent need for the proposal to be re-assessed relative to this new planning policy context), I consider that the assessment of the proposal as set out in the Report of Handling on Planning Application 15/01410/PPP remains valid in terms of the identification and assessment of the impacts of the siting and operation of the proposal upon the environment and amenity of the site and surrounding countryside. The current report should therefore be read in association with this previous Report of Handling. This current report is primarily intended to address the requirements that the proposal be assessed against current planning policy and that appropriate account be taken of the new and additional information that has been provided in support of the proposal on this occasion. There has also been a need to take account of new advice from consultees, specifically Economic Development.

PLANNING HISTORY

The previous application was refused last year on the grounds that the proposal did not comply in principle with the Council's business in the countryside policies, specifically in that: (a) the proposal would more reasonably be accommodated within the Development Boundary rather than in the particular countryside location identified; (b) the Applicant had not demonstrated any overriding economic and/or operational need for the particular countryside location identified; and (c) the operation of the business would not be sympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact.

The current application has sought to respond directly to these reasons for refusal.

PLANNING POLICY CONTEXT

Since the refusal of Planning Application 15/01410/PPP, the Scottish Borders Council Local Development Plan 2016 has succeeded the Consolidated Local Plan as the statutory development plan. Notwithstanding this, Local Development Plan Policy ED7 (Business, Tourism and Leisure Development in the Countryside)

has not substantially affected the Council's approach to business development in the countryside that had been enshrined within Policy D1 of the Consolidated Local Plan.

Policy ED7 requires that a development that is to be used for other business or employment generating uses should only be supported where the Council is satisfied that there is an economic and/or operational need for the particular countryside location and that the development cannot reasonably be accommodated within the Development Boundary of a settlement. As with Policy D1, beyond the assessment of the actual principle of a proposal, Policy ED7 requires assessment in relation to additional criteria which are applicable to the assessment of the impacts of the specific proposal. This includes impacts upon the amenity and character of the surrounding area.

PLANNING PRINCIPLE

With respect to the assessment of the principle of the proposal, it is required by Policy ED7 that, in order to be supportive, the Council should be satisfied that there is an economic and/or operational need for the proposal to be located in the particular countryside location identified, and that the business could not more reasonably be accommodated within the Development Boundary.

The position remains essentially as it was at the time of the determination of the previous planning application. The site is an isolated, greenfield, agricultural site, which lies out with the Development Boundary and which is not allocated for industrial use, or indeed for any other use. The business described, a vehicle body repair workshop, is a Class 5 industrial use, which would serve the general public. (The Applicant, I note, is at pains to stress that the operation would not be a vehicular repair garage, but in planning terms, there would be no meaningful distinction to be made between a vehicle body repair workshop and mechanical repair workshop. The one set of operations is no more inherently better suited to a rural location than the other, and both are Class 5 industrial uses).

A workshop for general motor vehicle repairs has no inherent requirement to be sited and operated in the countryside. Such premises would ordinarily be expected to be more reasonably accommodated within the Development Boundary, where a central and easily accessible location might be expected to facilitate their operation, avoiding any unnecessary routing of customer and delivery vehicles into the countryside to access a remote rural site.

The financial details provided by the Applicant, in conjunction with the advice of Economic Development, indicate that the Applicant operates an established vehicle body repair business with an existing customer base in the surrounding area. These do not however, establish the need for the Applicant to re-locate their business to this particular rural site. The Applicant's business is not currently operating at the site, nor within the near vicinity, and it would serve the general public rather than any established operation with an inherent need to be sited in this location. For the reasons considered at the time of the previous planning application, it is not material that the Applicant's business currently operates from a rural site elsewhere. It is understandable that the Applicant may need to re-locate their business from their current premises. However, problems at their established base of operations are not in themselves positive support for the business being located off-site, to this particular greenfield location.

Notwithstanding that the Applicant's supporting details do not describe, or at least detail, a particularly exhaustive search for alternative sites, I consider it material that Economic Development anticipates that the Applicant is liable to have experienced difficulties in attempting to secure an existing or allocated industrial site within the wider area, including at West Linton. I therefore accept that the Applicant does have a need to identify new premises in the West Linton area due to a shortage of suitable and available existing and allocated industrial sites. However, there is something of a leap from an acceptance of this point, to an acceptance that the subject application site, a remote, greenfield site which lies outwith the Development Boundary, is the most suitable site within the locality to accommodate the required new premises.

Beyond general concerns that the business should remain close to its established customer base, the decisive factor in the Applicant's selection of the application site appears to be that the operators themselves own and control the land at the site. While it is understandable that the Applicant should wish to minimise their costs by developing land they own, their ownership is not in itself justification in planning terms, for their proposed siting.

In planning terms, the expectation would be that this type of business would be more acceptably located within the Development Boundary, and if this were demonstrated not to be viable, then at least on a site in close proximity to a settlement. Further, there would also be a concern that the reuse of a brownfield site should be preferred ahead of the development of a greenfield site. Given that the premises would service the general public, it is a reasonable expectation that the business' premises should also be located on a site that is readily accessible to the majority of its customers, including provision, if at all possible, for the site to be accessed on foot from a settlement; all in the interests of minimising the need for most, if not all, customers to have to make lengthy car journeys to access the premises.

While I consider that the Applicant has a reasonable need to identify a new site for their premises within the West Linton area, I do not consider that the supporting case has demonstrated that the use of other more appropriate sites for the accommodation of the development within and around West Linton itself, has been appropriately investigated and discarded ahead of the identification of the application site. In terms of a hierarchy, the development of an isolated rural greenfield site, remote from any larger settlement, would be the least preferable situation for this type of business operation. I do not consider that the Applicant's supporting case provides sufficient justification in planning terms, for this siting, let alone for the specific site that has been identified for the proposal.

In summary, it has not been demonstrated that there is an economic and/or operational need for the proposal to be located at the site in this particular countryside location, nor that it could not be more reasonably accommodated within the Development Boundary. I therefore do not consider that the proposal complies in principle with Policy ED7. Accordingly, and unless material considerations dictate otherwise, the application should be refused on the basis that the proposal does not comply in principle with Policy ED7.

MATERIAL CONSIDERATIONS

I do not consider that the Applicant's supporting case identifies any material considerations that would outweigh the need to determine the application in strict accordance with planning policy. There is an appreciable concern to relocate an existing business and employer within the general area of its established customer base, but this does not in itself outweigh the need to require that the need for the specific rural site identified by the application be justified in planning terms (as opposed to in economic terms in isolation). It is material that this is a successful local business which is seeking to expand, requires to be re-accommodated within the local area, and faces appreciable difficulties in finding an existing or established industrial site for these purposes. However, even allowing for the possibility of an exceptional approval, I do not consider that these circumstances reasonably substantiate the selection of this particular isolated greenfield site in the countryside, particularly when the potential for more suitable sites in planning terms has not been addressed.

Landscape and visual impacts are considered in the next section below, but even allowing that it were considered that the premises indicated, could be accommodated sensitively in landscape terms, this would not in itself be a reason to make the proposal the subject of an exceptional approval. Policy ED7 requires that there should be no unacceptable impacts upon the environment and amenity of the site and surrounding area, in addition to the principle of the proposal complying with the requirements of this same policy.

The Applicant considers that operation from the application site would compare more favourably than operation from its current base, and is supported in this view by both Roads Planning and Economic Development. However, as noted at the time of the previous planning application, account is not reasonably had in planning terms to the relative merits of the two sites, since the Applicant's current premises could continue in an industrial use such that the effect of approving the current application would in fact be a proliferation of industrial sites in the countryside. The Applicant does not own its current premises and therefore there is no ability, even through a legal agreement, to allow or require that the one site be substituted for the other. In short, the merits of the site relative to those of the existing premises are not material to the assessment of the current planning proposal.

Economic Development frames its support for the proposal in part, on the basis that the business supports the rural economy, and local farms, by servicing farm vehicles. However, the business, which it is concerned with body work repairs only, would serve the general public, not just surrounding farms. The service and repair of farm vehicles, while potentially liable to develop out of a farm business, does not by necessity, have to be based on farm land itself. It might more reasonably be expected to operate from a convenient central location, where it might be more readily accessible from the wider area, including local

farms. In short, and regardless of the business' potential to serve farming customers, this is not reasonably characterised as either a farm business enterprise or a business that has any inherent need to operate from a countryside location.

I note the Applicant's concern to have the business sited near the owners' home for security reasons, but security concerns can reasonably be met in other ways (e.g. alarms, fencing, security cameras etc), and are more likely to be appropriately met off-site within an industrial unit or other secure premises. There is no inherent requirement for industrial business owners to live at or near the site of their business premises, and any concern to do so for reasons of security or convenience can in planning terms, only be considered a lifestyle choice rather than a necessity or operational requirement.

The Applicant is agreeable to the site being regulated by conditions or legal agreement to tie the site's operation to the specific proposed use and/or for the site to be linked to the property at Spylaw, the home of the business owners. I further note that Economic Development is supportive of the proposals on the condition that the premises should be regulated by a planning condition requiring that the premises should only be occupied by the Applicant's business for the identified purpose. This is intended to prevent the building from being or becoming available for use by general industry. However, I do not consider that any concern to regulate the use of the premises in this way, would achieve what Economic Development seeks. I would moreover be concerned that such a condition might in any case be liable to be characterised as unnecessary and unreasonable in planning terms, and therefore be liable to challenge in time, if not immediately. These points are considered in the next, and next again, paragraphs below.

In the context of any concern that the application might be made the subject of an exceptional approval subject to a condition restricting its use to the Applicant's business, there needs to be some consideration of how the building would, or should, be disposed of, were the Applicant's business to cease trading from the premises. Where there is no particular sense of how the building might be 'recycled' if or when it were no longer required by the Applicant, there is a risk that the building would be liable to remain unoccupied in the long-term, before becoming derelict and an eyesore. Alternatively, and assuming the premises were to be of interest to other industrial or business users, in the event of applications being made to remove or vary the conditions, it would be difficult to resist the view that restrictive planning conditions upon the building's use should be maintained beyond the point in time when the building was no longer in use by the Applicant, particularly where the only alternative was the building's dereliction.

I would be concerned that approval of the current proposal would in itself be tantamount to an acceptance of the principle that a general industrial use, critically one without any substantiated need to operate from this particular countryside location, could be sited and operated at the site. In this context, there is no meaningful distinction to be made between the Applicant's proposed class 5 use, and any alternative (or successor) class 5 or other business operation. Accordingly, I would be concerned that in this context, any condition(s) imposed to restrict the industrial use and users of the premises in the long-term, would be unreasonable and unnecessary.

While Economic Development wishes to support the application without the site being made, or becoming, generally available for uptake by other industrial and/or business uses and users, I would be concerned that this is neither practical nor possible within the particular circumstances of this proposal; especially in the long-term. If the concern is that the site should not be, or in time become, available for general industrial use, then the current application would be more reasonably refused due to the lack of reassurance and control that is offered by the context of this proposal in the long-term. Unless it is considered that the need for the proposal outweighs any long-term concerns that the premises might at some point become derelict or be made available for general industrial or business use, the application would be more reasonably refused. Ultimately however, I do not consider that the imposition of conditions to restrict the use of the site along the lines Economic Development seeks, would reasonably or necessarily address the planning concern that the proposal is both in the short-term and in the long-term, unacceptably injurious to the amenities of this rural site and the surrounding area. The imposition of conditions to regulate the use of the building would therefore neither allow the proposal to meet the requirements of Policy ED7 nor in my view, substantiate, or help substantiate, an exceptional approval.

LANDSCAPE AND VISUAL IMPACTS

I am aware that the Applicant has sought to address the basis of the second identified reason for refusal of Planning Application 15/01410/PPP that the proposal would not have any unacceptable landscape and

visual impacts. The supporting case includes photographs of the site and surrounding area and drawings of the proposed site and a description of the proposed building. Both of the latter in the context of a PPP proposal can only be taken as indicative.

I have reviewed this aspect of the Applicant's supporting case, including the photographs and drawing, but this does not address the central concerns that the site is both open and elevated in views from much of the surrounding landscape, including in views from the public road. While, as previously acknowledged at the time of the determination of the last application, it may be that the building might at a distance, resemble a modern agricultural building, I would still consider that the operation of the site, including all vehicle movements and yard activities would be detrimental to the visual amenities of the area, which currently accommodates no equivalent operation. I do not consider that the site is well-screened. The indicated tree planting proposals would be insubstantial and would not constitute an appropriate level of screening of the site.

It would be possible to improve markedly the proposed landscaping treatment of the site through the establishment of new woodland shelter belts (indeed, the Applicant is agreeable to enhancing its landscape proposals if required). Were the proposal otherwise considered to be capable of support, it would have been appropriate to have sought an enhanced landscape treatment for the site, the details of which could have been required at the detailed application stage.

The relative landscape and visual merits of the current site as opposed to the Applicant's existing premises detailed in the supporting details, are not relevant.

There might be potential to require by conditions that the Applicant does not engage in potentially related operations and activities which it has categorically advised it does not seek to pursue, specifically the operation of an ancillary scrapyard or old tyre storage areas, or ancillary vehicle sales. However, while this might control some of the more adverse landscape and visual impacts that might otherwise result, it is again questionable for the reasons considered in the previous section, how practical or reasonable it would be to seek to regulate in the long-term an industrial site and operation, whose presence is insufficiently substantiated in planning terms; and in relation to which there is a foreseeable lack of reassurance and control going forward with respect to the site's long-term future and disposal beyond its accommodation of the Applicant's business. If the imposition of such conditions were not liable to challenge in the short-term, I would be concerned that any such bespoke regulation would be rendered redundant in the long-term; particularly in the event of reuse by another industrial or business operation being considered preferable to dereliction.

The concerns previously identified with respect to the potential for unsympathetic landscape and visual impacts as a consequence of the siting and operation of the proposed development therefore remains. It is material that this is an isolated greenfield site in the countryside and while there may be mitigative measures that might be employed to minimise landscape and visual impacts, these do not address, or outweigh, the loss of such a site in the first place, particularly where that loss is not considered to be substantiated in planning terms.

OTHER CONCERNS

Roads Planning is content that subject to certain design and construction requirements being met, the application site could be made appropriately accessible. These specific requirements are set out in Roads' consultation response. In the event of approval, these details could be required at the detailed design stage. Again I note comparisons between the siting and accessibility of the Applicant's current site and the proposed site, but this comparison is not relevant to this planning decision.

Details with respect to water supply, drainage as well as site levels and planting could all be required at the detailed application stage, were the proposal to be supported.

I note Environmental Health has no comments to make at this PPP stage. It has not noted any concern to review any further details at the detailed application stage. Deficits in information identified at the time of the first application therefore appear to have been met to Environmental Health's satisfaction.

Given the distance of set back from surrounding properties, and taking account of Environmental Health's advice, it is considered that the proposal would not in principle, be liable to have any unacceptable impacts upon the residential amenity of surrounding properties.

Given that the application is for Planning Permission in Principle, the detailed drawings of the site plan and building are not appropriately included amongst those to be stamped, since they are only indicative. It is only the descriptions of the site boundary which should be included amongst the subject drawings.

CONCLUSION

I have considered the Applicant's supporting case and while it is appreciable that the Applicant both has a need to seek new accommodation for the vehicle body repair business and reasonably requires to be located in the West Linton area in order to allow it to continue to service an established customer base, it has not been demonstrated that the Applicant has appropriately considered and discarded all more appropriate alternatives in planning terms to the siting and operation of the proposal from this particular remote rural greenfield site. As such, I am not persuaded that the Applicant has demonstrated an economic and/or operational need for the development to be sited at the application site, and therefore I consider that the proposal remains contrary in principle to Policy ED7.

There are no material considerations which would dictate that the application should not be refused on the basis that the proposal does not comply in principle with Policy ED7.

The objections previously identified at the time of the determination of Planning Application 15/01410/PPP, with respect to the impact of the siting and operation of the proposal upon the visual amenities of the site and surrounding area are therefore maintained, albeit that the reasons are necessarily updated to cite the relevant policies of the current statutory development plan.

REASON FOR DECISION :

It is considered that the proposal should be refused for the following reasons:

1. The proposal does not comply in principle with Adopted Local Development Plan Policy ED7 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location; and
2. Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Development Plan Policies ED7 and PMD2 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

Recommendation: Refused

- 1 The proposal does not comply in principle with Adopted Local Development Plan Policy ED7 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.
- 2 Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Development Plan Policies ED7 and PMD2 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013****Application for Planning Permission****Reference : 15/01410/PPP****To : G S Chapman Ltd Unit 1 Sunnyside Farm Lamancha West Linton EH46 7AZ**

With reference to your application validated on **19th November 2015** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of vehicle repair workshop and associated parking**at : Land West Of Dunrig Spylaw Farm Lamancha West Linton Scottish Borders**

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s) stated on the attached schedule**.

**Dated 19th January 2016
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed.....
Chief Planning Officer

APPLICATION REFERENCE : 15/01410/PPP**Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

REASON FOR REFUSAL

- 1 The proposal does not comply in principle with Adopted Local Plan Policy D1 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.
- 2 Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Plan Policies D1 and G1 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 OSA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 15/01410/PPP

APPLICANT : G S Chapman Ltd

AGENT :

DEVELOPMENT : Erection of vehicle repair workshop and associated parking

LOCATION: Land West Of
Dunrig Spylaw Farm
Lamancha
West Linton
Scottish Borders

TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

No representations.

ROADS PLANNING SECTION: has advised as follows:

"Normally I would be against the principle of this type of business in such a rural location. However it is worth noting that this business currently operates in a rural location, therefore it is almost a like-for-like replacement in terms of location. In addition, the fit-for-purpose building will be located on land where the Applicant currently resides, which potentially reduces commuting traffic. The traffic generation associated with this type of business is generally less than a general mechanical repair garage.

Given the above, I would be seeking for an appropriately worded condition to be placed on any consent whereby the business is tied to the applicants dwelling (Dunrig) and that the proposed building can only be used in connection with a vehicle body shop business, unless otherwise approved.

The single track public road serving the site benefits from a number of passing places and the proposed site lies a short distance from the A701. The proposed access to site is located at a point where traffic speeds are low and good visibility can be achieved in all directions.

The application is for outline consent; therefore the details of the access and parking areas will be covered at detailed planning stage should this proposal be granted consent. However, I will expect the access to be constructed to the following specification; 75mm of 40mm size single course bituminous

layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming blinded with sub-base, type 1.

In summary, I am able to support the principle of this business at this location providing conditions on the restriction of use and details of access are placed on any consent".

ENVIRONMENTAL HEALTH (CONTAMINATED LAND): no comments.

ENVIRONMENTAL HEALTH (AMENITY AND POLLUTION): has considered this proposal with respect to noise nuisance and private water supply. It notes that it is proposed that private water and drainage systems are used for the premises and advised that the Applicants should confirm the proposed hours of operation of the business and confirm the numbers and types of equipment to be used on the premises.

ECONOMIC DEVELOPMENT: would normally support the protection and creation of jobs, but advises that the decision on whether this proposal is acceptable is guided by Council policy D1 in the 2011 Local plan and ED2 in the LDP. The Applicant therefore needs to provide justification to satisfy these policies. Should approval be supported under the policy, it is suggested that a condition be applied to ensure that only the specific use applied for is possible, and this be restricted to ensure that no other alternative business uses in class 4, 5 or 6 be allowed, unless that use also satisfies the policies mentioned above. In terms of the viability of the proposed business, it is advised that Economic Development cannot comment on this aspect without some clarity on the nature and size of the business use planned for this building. If appropriate, it is noted that the Applicant could be provided with advice from Business Gateway to assist them.

PLANNING CONSIDERATIONS AND POLICIES:

Consolidated Scottish Borders Local Plan 2011

Policy D1 - Business, Tourism and Leisure Development in the Countryside

Policy EP5 - Air Quality

Policy G1 - Quality Standards For New Development

Policy H2 - Protection of Residential Amenity

Policy Inf4 - Parking Provisions and Standards

Policy Inf11 - Developments that Generate Travel Demand

Recommendation by - Stuart Herkes (Planning Officer) on 18th January 2016

SITE DESCRIPTION, PLANNING HISTORY AND PROPOSED DEVELOPMENT

The site is an area of open agricultural land outside of the Development Boundary, which lies adjacent to the public road. There are no existing buildings on the site or within the near vicinity. It has no planning history.

The application seeks planning permission in principle for the change of use of the site to a motor vehicle repair garage premises.

The Applicants' supporting statement advises that the proposed workshop is required to re-accommodate, and allow for the expansion of, its existing general vehicle body repair business. The latter is currently operating from premises at Sunnyside Farm, Macbiehill, and serves the general public. It is advised that these existing premises - a converted farm shed - are increasingly no longer fit-for-purpose, and in future, may no longer be available to the Applicants. It is advised that the business' re-accommodation in purpose-built premises is now urgent to secure the business' future and facilitate its growth and development.

The site is within the Applicants' own ownership, within their agricultural holding at Spylaw, which, it is advised, has not been farmed commercially since the 1970s. It is not anticipated that there would be a need for any new residential property because the Applicants would continue to reside at their home, 'Dunrig', at Spylaw, 150m to the southeast. In the event of approval, they are agreeable to the business premises site being tied to their existing home as a single planning unit.

It is advised that the business' rural location is integral to the business' operation and success, in being centrally located relative to its existing customer base (which is advised to include West Linton and Peebles) and to its intended target areas (South Lanarkshire and Midlothian). Re-location of the vehicle repair business to the site would allow it to continue to offer convenience to its existing and intended customers, who would otherwise have to travel to Edinburgh for similar services, particularly for vehicle body repair work. Since there is a concern to continue to serve an existing and established customer base, which has been developed over the past seven years, it is advised that the business' options are restricted, but beyond a concern to remain centrally located relative to their customers, no further details are given within the supporting statement in support of re-location to this particular site. It is simply advised that the site is seen to fulfil the business' concern to be re-accommodated in a way that would allow it to expand and improve its facilities while continuing to serve and grow its customer base within the local and surrounding area.

Beyond the supporting statement, no business case has been provided to substantiate the business' position in financial and/or functional terms; no planning statement been provided to account for how the proposal would meet planning policy (or justify being made the subject of an exceptional planning approval); and no account has been given of the detail of any site selection considerations that have informed the business' identification of the application site as being the most appropriate way for it to be re-accommodated in planning terms.

PLANNING PRINCIPLE

The proposed use of the site is Class 5 industrial use.

The site is agricultural land, out with the Development Boundary, which is not allocated for industrial use, or indeed for any other use.

The key policy in terms of the assessment of this proposal is Adopted Local Plan Policy D1 - Business, Tourism and Leisure Development in the Countryside. As such, there is a requirement that the Council be satisfied that there is an economic and/or operational need for this particular countryside location; that the business cannot reasonably be accommodated within the Development Boundary; and that its operation would not have any unacceptable impacts upon the amenity and/or environment of the surrounding area.

A workshop for general motor vehicle repairs has no inherent requirement to be sited and operated in the countryside. Further, the Applicants have not advised, or otherwise provided any evidence of, any operation need for this specific business to be sited and operated from the site. Accordingly, it is considered that the proposal is clearly contrary to Adopted Local Plan Policy D1 and should be refused unless material considerations dictate otherwise.

The Applicants have provided a supporting statement but it does not engage at all with planning policy or with the planning implications of their proposal. Instead, it largely describes the business' aspirations in very general terms, and only considers how these (such as they are defined) would be best served in locational and economic terms by re-location to the application site. However, all of this advice is unqualified by any detailed financial or functional business case, or indeed by any evidence of the business' concern or efforts to secure premises that would be more acceptable in planning terms than the development of a remote rural greenfield site.

It is noted that the Applicants own an agricultural holding, including the site itself, but the supporting case is clear that the car repair business is entirely separate from any farm business that the Applicants might run from their home at Spylaw. Moreover, the business' current operation from another site entirely, is a clear indication that the two concerns are entirely separate and perfectly capable of independent operation. The proposal to re-locate the car repair garage business is therefore not reasonably associated with any essential operational requirements of any agricultural business or any business with any inherent need to be located in a rural area.

In summary, the Applicant's supporting case does not provide any advice or demonstrate any case that might reasonably be seen to override the need to determine this application in accordance with the requirements of Policy D1. Accordingly, it is considered that the application should be refused as being contrary in principle to Policy D1 since there are no overriding reasons to support any contrary decision.

DESIGN AND LANDSCAPE

In the event of approval, the Applicants would require to submit a detailed design as the subject of at least one AMC application. This would be an opportunity to assess the specific design and landscape treatments required, to ensure most acceptable accommodation of this proposal in the landscape. However, there is a concern at this stage, to establish whether or not the siting and/or operation of a general vehicle repair workshop and yard, would in principle, have any unacceptable landscape and visual impacts.

There would be potential for any workshop building to have the general form and general appearance of an agricultural building, but notwithstanding this, the appearance and operation of a vehicle repair garage building in this location would not be sympathetic to the rural character of the site and its wider landscape setting, introducing the incongruous appearance of a substantial number of parked non-agricultural vehicles, awaiting service or collection, or potentially being stored for ancillary car sales.

Further, and notwithstanding the potential to introduce new, and reinforce existing, screen planting around the site, such an appearance would be out-of-keeping with the environment and amenity of what is currently a greenfield site, remote from any buildings or development. Ultimately as a premises operating in the service of the general public, it would be unlikely that the business, or at least its operation, would be discreetly accommodated in this location. In addition to advertisement and directional signage, there may be a concern to be readily visible from the public road, even perhaps for the display of vehicles for sale, all of which would be out-of-keeping with what is currently open agricultural land, adjacent to a quiet country road.

Notwithstanding the potential for the building's design and for screen planting to mitigate the impact, it is considered that the development's landscape and visual impacts would be unacceptable; particularly since the site, although gently sloping, is higher in the landscape than most of its immediate surroundings, making it potentially visible from the wider area.

ACCESS AND PARKING

The Applicants' vehicle repair business currently operates from Sunnyside Farm at Macbiehill (Unit 1). This appears to be the use that was approved by Planning Consent 08/00242/FUL (Partial change of use from business Class 4 to vehicle body repair workshop).

Notwithstanding that the Planning Authority may have previously supported and approved the operation of the Applicants' business at another rural site, the current proposal can only be assessed on its own planning merits within the prevailing planning policy context. The previous approval relates to another site entirely, and has no direct relevance to the planning assessment of the current proposal. It has not in itself established any justification in principle for the business to be re-accommodated at another rural site, including the application site.

Notwithstanding this, the Roads Planning Section is supportive (exceptionally, it recognises) of the principle of the current proposal. This is on the basis that the Applicants currently operate their existing car repair business from a rural location and that the business' re-location to another rural site within the vicinity in Roads' terms at least, might be considered a 'like-for-like' replacement. Roads Planning is content that subject to certain design and construction requirements being met, the application site could be made appropriately accessible. These specific requirements are set out in Roads' consultation response.

While it is reasonable that approval of the current planning application would not change the fact that the Applicants themselves currently operate a general vehicle repair business from a rural location, it is nonetheless also material that approval of the current application would potentially release the Applicant's existing premises for use by another industrial business. This would therefore be liable to result in a net addition of one new industrial premises within the surrounding countryside, thereby contributing to a proliferation of industrial sites within this rural locality.

Since the Applicants' business is apparently leasing its current site, there would additionally be no planning or legal mechanism to secure a 'like-for-like' replacement of the business premises (e.g. requiring the existing premises to revert to agricultural use when it is vacated). In any case, if the Applicants are operating from an established industrial site, as seems to be the case, there would be no planning need or reason to seek to control the future use of this other site. The latter would remain capable of use by a successor industrial business once the Applicants had vacated it. Contrary to Roads' conclusion then, the proposed new business premises is therefore only reasonably viewed as being an entirely new and

additional industrial premises liable to operate alongside the Applicants' existing industrial site. Any roads concerns with respect to operations from the existing site are therefore liable to prevail beyond the period of the Applicants' use of the same, and the wider impacts upon the local road network would only be increased by approval of the current proposal, as a new and additional industrial site in the countryside.

Roads' use of the term 'like-for-like' is also questionable in a context where the Applicants' current site of business operations is apparently accommodated within a converted farm building, whereas the current proposal is for a new building on a greenfield agricultural site, which currently has no road access. In these circumstances, it is unclear how the proposal, or its impacts, are reasonably characterised as being equivalent, since the proposal is liable to be more intrusive in terms of its impacts upon the environment and amenity of the surrounding area.

Ultimately, and regardless of Roads' consideration, the fact of the Applicants' existing operation at another rural site in the area does not reasonably allow the assessment of the planning merits of their current proposal to be so comprehensively set aside. Any proposed re-location of the business from the existing premises to a completely new rural site is only appropriately assessed against the full requirements of Policy D1 with respect to the justification for the proposed site. Accordingly, the above noted assessment in terms of Adopted Local Plan Policy D1, is maintained in full.

Notwithstanding Roads' own assessment with respect to the principle of this proposal, consideration does still need to be given within the assessment of the roads implications of this application, to the potential for members of the public to deliver and recover their vehicles from the site. Due to the site's remoteness, this is something that would rarely, if ever, be achievable on foot, and/or by public transport, for the majority of its customers and visitors, as might be the case were the premises to be located within the Development Boundary. This would be a proposal that would have an inherent (and likely total) reliance on private vehicular transport for customer access. Given the remoteness of the site, operation from this location would also be liable to generate trips of substantially longer duration than operation from a site within the Development Boundary. (For the avoidance of doubt, it is not material to the assessment of this current application that similar considerations are liable to be applicable to the current operation of the business. This would only have been relevant had the Applicants proposed to replace their existing business premises on its existing site, or on one in the very near vicinity of the latter).

The only benefit in access terms relating to the current proposal, would be to the Applicants themselves, and owing to their dwelling being in close proximity to their work. However, it is considered that this personal convenience would not reasonably offset the wider transport impacts of the proposal's operation since the majority of customers and visitors, not to mention delivery vehicles, would require to make long detours specifically to access this site, including along long sections of narrower country roads. Roads Planning it is noted, has positive regard to less trips needing to be made by the Applicants themselves to access their place of work, but this is not considered to outweigh the larger disbenefits that the operation of the site would have upon the local road network.

In summary, it is not agreed with Roads that the particular circumstances of the Applicants' business are such in planning terms, as to justify the setting aside of any planning (or for that matter, any Roads) considerations with respect to the principle of this proposal that would normally apply to its planning assessment. On the contrary, and taking account of the potential addition of another industrial site into the locality without this need having first been properly substantiated in planning terms, it is considered that the proposal's impacts upon the local road network would be unacceptable. However, this point is more reasonably considered to be subsumed within the reason for refusal already identified above with respect to the principle of this proposal. It is reasonably recognised that Roads has not specifically advised of any concern that the local road network could not acceptably accommodate operation of the proposed business from the application site.

ENVIRONMENT AND AMENITY

No advice is given by the Applicant as to how any new business premises building would be used (or re-used) were the business not to succeed, and no business case has been provided to describe the viability or otherwise of the existing business. Accordingly if the proposed building were built, it is uncertain if or how it might be reused. This risks the site becoming an eyesore, but it also makes it liable to be made available for general industrial site, which depending on future uses, might be liable to accommodate industrial uses with potentially even greater impacts upon the rural environment and its amenity than the current proposal. The

site at the proposed distance of remove from the Applicant's property would also be readily capable of independent use, and therefore if established, would potentially be available for a wide variety of industrial and business uses.

Even if the use or disposal of the site were to be regulated by planning condition (as Economic Development suggests) or by a legal agreement (as the Applicants anticipate), it still needs to be considered whether or not the site is an appropriate location for a general industrial site in the longer-term. Even with planning conditions or legal agreements in place, there would inevitably be pressures in the longer-term, if not sooner, to remove or vary planning conditions and legal burdens to release the site for other uses, or users, particularly if it were to be the case that the premises were no longer required to service the Applicants' own business and the property were otherwise only liable to become an eyesore if left in situ, unmaintained. In other words, there is a risk that any specific arrangement that might be made to accommodate the Applicants' particular circumstances would inevitably only deliver a longer-term issue with respect to the future use and disposal of any business premises so located, particularly given the potential for the site to be operated independently of the Applicants' dwelling, and be capable of being significantly expanded, all of which would make it susceptible to interest by businesses of types and scales beyond any that might realistically be expected to operate from the owners' dwellinghouse.

The Applicants have provided additional information in direct response to the concerns of Environmental Health with respect to potential noise nuisance concerns identified by that consultee, principally by advising as to the type of equipment and machinery that would be in operation. However, given that the application is for Planning Permission in Principle, were it to be supported, appropriate information could be considered at the time of the AMC application. The latter would also be an occasion to incorporate any mitigation measures liable to be required to ensure noise impacts could be appropriately minimised. Since the site would be at some remove from the nearest residential properties, including the Applicants' own home, which is the nearest, there would be no concerns in principle that the Applicants would be able to identify appropriate noise mitigation measures within their detailed proposal.

Had there not been an objection in principle to this proposal, it would have been appropriate to investigate the potential for the site to be served by an appropriate water supply, although again the context of a PPP proposal, there would still be potential for this to be addressed within a subsequent AMC application.

CONCLUSION

The proposal is contrary in principle to the Council's business in the countryside policy and would have unacceptable impacts upon the environment and amenity of the site and surrounding area, including landscape and visual impacts and impacts upon the local road network. It is therefore considered that it is contrary to Adopted Local Plan Policies D1 and G1, and should be refused on this basis.

REASON FOR DECISION :

It is considered that the proposal should be refused for the following reasons:

1. The proposal does not comply in principle with Adopted Local Plan Policy D1 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location;
2. Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Plan Policies D1 and G1 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

Recommendation: Refused

- 1 The proposal does not comply in principle with Adopted Local Plan Policy D1 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.
- 2 Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Plan Policies D1 and G1 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.

Cunningham Haldane & Co Ltd

CHARTERED ACCOUNTANT



The Mark of Quality

Scottish Borders Council
Planning Department
Newtown St Boswells
Melrose
TD6 0SA

Manortoun, Manor, Peebles, EH45 9JN
Registered number SC244272

Phone: 01721-740306
e-mail: Haldanes1@aol.com

23 August 2016

Dear Sir,

G S Chapman Ltd - Planning Application to erect a workshop at Dunrig, Spylaw Farm.

I write in my capacity as accountant to G S Chapman Ltd in support of the company's planning application for the erection of a vehicle repair workshop at Dunrig, Spylaw Farm, West Linton.

I have been the accountant for G S Chapman Ltd since the company was incorporated in March 2012, and prior to that was accountant for Mr Graeme Chapman, director and sole-owner of G S Chapman Ltd, from the outset of his sole trader vehicle body-repair business in 2008 prior to incorporating that business as G S Chapman Ltd in 2012. I have therefore been involved with this business from its very beginning and have watched it grow into the established and successful business that it is today.

As I have come to know Mr Graeme Chapman I find him to be a very honest and hard working family man who is committed to the success of the vehicle body-repair business he has created out of nothing. I can vouch for the high standard of workmanship and customer service provided by G S Chapman Ltd and for the company's perpetually full order book. As far as is possible to predict, I have no doubts that Mr Chapman intends to continue in this business throughout his working career and is entirely genuine in the longevity of his intention to employ the proposed workshop at Dunrig for his vehicle body-repair business with no ulterior intentions for any other planned use of this building.

I can also vouch for the short comings in the company's existing premises which are, quite frankly, not fit for purpose, and it is testament to Mr Chapman's commitment to his business that he has persevered to build a successful company from this unsatisfactory site. Notwithstanding the deficiencies of the company's existing premises which inhibit the recruitment of additional staff, prevent any further growth of the business and cause Mr Chapman to have to work in winter temperatures that most would not tolerate, it is my understanding that there are serious concerns for the security of the company's tenure at these premises pending a foreseeable change of ownership of the building.

I understand also that G S Chapman Ltd has explored and exhausted all other options to locate an affordable alternative location for the business prior to submitting the application to build a workshop at Dunrig.

To assist you in determining the merits of the company's planning application it is important to clarify the nature of G S Chapman Ltd's business in order to dismiss any misunderstanding or preconceptions of the company's trade.

The services offered by G S Chapman Ltd are distinctly different from those of a general vehicle service garage where a vehicle owner would typically go to have their car serviced and MOT'd, to have tyres & exhausts fitted or to trade-in and purchase a new vehicle. G S Chapman Ltd is not an MOT station and the company does not buy & sell motor vehicles. Neither does the company provide general vehicle servicing. Rather, it is a vehicle body-repair and paint-shop business with a particular specialisation in the renovation of vintage Land Rovers.

The volume of customer vehicles through the company's workshop averages around five vehicles per week and the number of customer vehicles parked outside the workshop at any given time is very small. The proposed new workshop would house most of these customer vehicles indoors, minimising the visual impact of the business in its proposed rural location. The company has only one business vehicle which is currently a Land Rover and is likely to remain so. Typical of the understated style in which Mr Chapman chooses to run his business, this business vehicle has no livery markings and, other than having immaculate paintwork, is indistinguishable from a regular farm vehicle. It would therefore not look out of place parked outside the proposed new workshop.

As a well established business, G S Chapman Ltd has no need, and no desire, for advertising signage. Nor does the business require directional signage as the low volume of customer throughput and personal customer service enables verbal directions to be given to all new customers. In any event, the company's web site would provide all the directions required to locate the proposed new site.

Given the close proximity of the proposed workshop to Mr Chapman's house and the facility to store customer vehicles inside the workshop, the security risks associated with the custody of customer vehicles will be minimal, thus eliminating any need for unsightly perimeter security fencing. Indeed, for the very reason of its close proximity to Mr Chapman's family home there is an increased desire on Mr Chapman's part for the proposed workshop to sit well in its rural location and to remain devoid of any commercial trappings that might detract from the agricultural appearance intended for the workshop.

I first met Graeme Chapman several years before I became his accountant when he had the unenviable role as treasurer of his local Young Farmer's group. His integrity was evident then and I have never doubted it over the years. His roots are in the countryside and with a young family of his own now growing up on the same farm that he did, I believe Graeme to be a sincere and honest guardian of our rural heritage. With the greatest of respect for the planning constraints required to maintain this rural heritage I therefore have no hesitation in supporting the planning application submitted by G S Chapman Ltd or in verifying the importance of this application to the future growth and economic viability of the company.

Yours faithfully,



Linda Haldane CA

R. A. COX (Garage Equipment)

61 BELWOOD ROAD
MILTON BRIDGE, PENICUIK
MIDLOTHIAN EH26 0QN

Telephone/Fax 01968 673567

Mobile 07831 370 640

Email Racoxge@aol.com

Vehicle Lift Specialists
Repairs, Services & Sales
Air Line Installations

Monday 22nd August 2016

To whom it may concern,

Since 2010, we have been carrying out bi-annual maintenance and repairs on the 2 post vehicle lift for G.S. Chapman Ltd at Unit 1, Sunnyside, Macbiehill, West Linton, EH46 7AZ.

It is of our opinion that the state of the building has been and continues to be detrimental to the life span and condition of the vehicle lift. There is a leak in the roof causing damp in the control box, and this has also caused corrosion to the base frame. There has been occasions throughout the winter when the cold has caused the lift to stick while lifting a vehicle (this is caused by thickening of the grease on the main screws, due to the extremely low temperature). The shed is also situated on a slope which makes it difficult to get the lifting arms under the vehicles. The fact the building entrance is situated in an exposed area, subject to the prevailing winds is also likely to cause dust to be blown around and get stuck to the main screws causing excessive and premature load nut wear.

It is our opinion that whilst the building is not dangerous, it is poorly suited to house and operate an electro-mechanical vehicle lift and other workshop equipment.

Yours sincerely



Andrew Cox
Partner

G.S. Chapman
Unit 1
Sunnyside
Macbiehill
West Linton
EH46 7AZ

Bank Details Sort Code 80 09 33 Account No. 00276589

Scottish Borders Council

Regulatory Services – Consultation reply

Planning Ref	16/01174/PPP
Uniform Ref	16/01900/PLANCO
Proposal	Erection of vehicle body repair workshop and associated parking
Address	Land North West Of Dunrig Spylaw Farm Lamancha West Linton Scottish Borders
Date	18 October 2016
Amenity and Pollution Officer	David A. Brown
Contaminated Land Officer	No Comments

Amenity and Pollution

Assessment of Application

Air quality
Noise
Nuisance
Private Water Supply

Recommendation

No Comment

PLANNING CONSULTATION

To: Economic Development Section

From: Development Management

Date: 26th September 2016

Contact: Dorothy Amyes ☎ 01835 826743

Ref: 16/01174/PPP

PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 17th October 2016, If further time will be required for a reply please let me know. If no extension of time is requested and no reply is received by 17th October 2016, it will be assumed that you have no observations and a decision may be taken on the application.

Please remember to e-mail the DCConsultees Mailbox when you have inserted your reply into Idox.

Name of Applicant: GS Chapman Vehicle Body Repairs

Agent: Ericht Planning & Property Consultants

Nature of Proposal: Erection of vehicle body repair workshop and associated parking

Site: Land North West Of Dunrig Spylaw Farm Lamancha West Linton Scottish Borders

OBSERVATIONS OF: Economic Development Section

CONSULTATION REPLY

GS Chapman Ltd is owned by husband and wife team, Graeme and Debbie Chapman and operates from an agricultural unit at Macbiehill near West Linton. The business started in 2008 with a rolling five year lease; the current lease has until April 2018 remaining.

The current site owners are elderly, causing uncertainty, and therefore all 4 of the traders operating from the units are looking for alternative sites. In addition to the instability of ownership, major work is now required on the roof with no action being taken by the owners.

The current premises are also presenting operational challenges for the business:

- The internal space is restricting the number of cars they can physically work on at a time and as their work is carried out in stages this can mean 4 or 5 'in progress' vehicles filling the workspace with no room to start a new job. The applicant has been operating a 2 to 3 month waiting list this past year; this presents a risk to the business in that customers may choose to take their custom outside of the Borders to their competitors in MidLothian.
- The business is offering two added value services to their customer base
 - underbody wax treatment
 - safeguarding treatment for the bodywork

Both of these treatments can generate between £300 - £500 per treatment, currently the business is limited in offering this service due to the lack of space and staff.

The applicant has tried to find an alternative site to relocate his business and identified industrial land near to Deanfoot Road in West Linton. The site is owned by Mrs Bell of Robinsland Farm, West Linton. The applicant believes this site was zoned as industrial around 20 years ago although no development has been forthcoming since, it is currently overgrown with trees and vegetation. The applicant has spoken with the owner and has sent a formal letter of enquiry but no response was received. Enquiries in Peebles proved unsuccessful with the units in Southpark in Peebles not accepting vehicle trades.

In terms of this planning application, the applicant has emphasised the following to support his case:

- The unit would be 1000 metres closer to the A701 than the current site
- Numerous residential properties are passed at the present site, the potential site only passes one property
- There is an existing business operating from this B road, Glenrath Farms operate further up from Spylaw Farm with daily traffic.
- The applicant is satisfied with any condition restricting use of the unit to farm ownership

The business is generating a steady income with loyal custom from the agricultural sector in Biggar, Broughton, West Linton and Peebles. Tweeddale Garage in Peebles closed their bodyshop and now solely provides mechanical services, as an ex-employee (Bodyshop Manager) of Tweeddale Garage; they are actively directing their customers to GS Chapman.

The additional capacity that a new site would deliver combined with the added value services could generate significant growth for the business and realise employment opportunities in a rural area for one skilled and one unskilled worker.

The family farm, Spylaw, has been in the ownership of the Chapmans since the late-fifties, and was farmed as a commercial enterprise by Graeme's Grandfather until his death in 1967. The farm is 25 acres in size and is no longer sustainable as a commercial unit, however it is still maintained as such by Graeme and his father, and the grazing is let out. They grow potatoes on the land, more as a hobby than a profit making enterprise. Graeme and Debbie built their house on the farm 10 years ago, and full ownership of the farmland has been transferred over to them now with Graeme's parents continuing to live in the original farmhouse.

The applicant is keen to work with Business Gateway to develop the business, we would aim to support this business through our Local Growth Advisory Service and have identified the following areas for initial support.

- Digital Marketing
- Recruitment of Modern Apprentice
- Process improvements in administration (booking & billing)

We understand, however, that the decision from a planning viewpoint means that adherence to Policy ED7 is required. We consider that the applicants have attempted to find an alternative site within a settlement but have been unable to find such a site. We support the results of this investigation, as available sites within the Tweeddale area are extremely scarce. We consider that under the policy, item (c), that it meets this criterion and does support the local agricultural sector, where there is a predominance of off road and 4x4 vehicles. Businesses of this nature do support the local rural economy and are dotted around rural areas, therefore we feel it should not be refused purely on the basis that it is a new facility, if it meets all other criteria.

To: **Development Management Service**
FAO Dorothy Amyes

Date: **28 Oct 2016**

From: **Roads Planning Service**
Contact: **Paul Grigor**

Ext: **6663**

Ref: **16/01174/PPP**

**Subject: Erection of vehicle body repair workshop and assoc. parking
Land North West of Dunrig, Spylaw Farm, Lamancha**

My comments to the previous application (15/01410/PPP), which was refused, are still applicable to the current submission and I have copied them below for your information.

Normally I would be against the principle of this type of business in such a rural location. However it is worth noting that this business currently operates in a rural location, therefore it is almost a like for like replacement in terms of location. In addition, the fit for purpose building will be located on land where the applicant currently resides, which potentially reduces commuting traffic. The traffic generation associated with this type of business is generally less than a general mechanical repair garage.

Given the above, I would be seeking for an appropriately worded condition to be placed on any consent whereby the business is tied to the applicants dwelling (Dunrig) and that the proposed building can only be used in connection with a vehicle body shop business, unless otherwise approved.

The single track public road serving the site benefits from a number of passing places and the proposed site lies a short distance from the A701. The proposed access to site is located at a point where traffic speeds are low and good visibility can be achieved in all directions.

The application is for outline consent; therefore the details of the access and parking areas will be covered at detailed planning stage should this proposal be granted consent. However, I will expect the access to be constructed to the following specification; 75mm of 40mm size single course bituminous layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming blinded with sub-base, type 1.

In summary, I am able to support the principle of this business at this location providing conditions on the restriction of use and details of access are placed on any consent.

AJS

Local Review Body – List of Policies

Local Review Reference: 17/00015/RREF

Planning Application Reference: 16/01174/PPP

Development Proposal: Erection of vehicle body repair workshop and associated parking

Location: Land North West Of Dunrig Spylaw Farm Lamancha West Linton

Applicant: GS Chapman Vehicle Body Repairs

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2016

POLICY HD3 – PROTECTION OF RESIDENTIAL AMENITY

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,
 - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or ‘backland’ development,
 - (iii) the generation of traffic or noise,
 - (iv) the level of visual impact.

POLICY PMD1: SUSTAINABILITY

In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plan’s policies and which developers will be expected to incorporate into their developments:

- a) the long term sustainable use and management of land
- b) the preservation of air and water quality
- c) the protection of natural resources, landscapes, habitats, and species
- d) the protection of built and cultural resources
- e) the efficient use of energy and resources, particularly non-renewable resources
- f) the minimisation of waste, including waste water and encouragement to its sustainable management
- g) the encouragement of walking, cycling, and public transport in preference to the private car
- h) the minimisation of light pollution
- i) the protection of public health and safety
- j) the support to community services and facilities
- k) the provision of new jobs and support to the local economy
- l) the involvement of the local community in the design, management and improvement of their environment

POLICY PMD2: QUALITY STANDARDS

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

Sustainability

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient

Local Review Body – List of Policies

use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,

- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,
- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,
- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
- g) it considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking & Design

- h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
- i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
- j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
- k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
- l) it can be satisfactorily accommodated within the site,
- m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
- n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

Accessibility

- o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,
- p) it incorporates, where required, access for those with mobility difficulties,
- q) it ensures there is no adverse impact on road safety, including but not limited to the site access,
- r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,
- s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Greenspace, Open Space & Biodiversity

Local Review Body – List of Policies

- t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
- u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

POLICY IS7 – PARKING PROVISION AND STANDARDS

Development proposals should provide for car and cycle parking in accordance with approved standards.

Relaxation of technical standards will be considered where appropriate due to the nature of the development and/or if positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of seeking additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

POLICY IS9 - WASTE WATER TREATMENT STANDARDS AND SUSTAINABLE URBAN DRAINAGE

Waste Water Treatment Standards

The Council's preferred method of dealing with waste water associated with new development will be, in order of priority:

- a) direct connection to the public sewerage system, including pumping if necessary, or failing that:
- b) negotiating developer contributions with Scottish Water to upgrade the existing sewerage network and/or increasing capacity at the waste water treatment works, or failing that:
- c). agreement with Scottish Water and SEPA where required to provide permanent or temporary alternatives to sewer connection including the possibility of stand alone treatment plants until sewer capacity becomes available, or, failing that:
- d) for development in the countryside i.e. not within or immediately adjacent to publicly sewered areas, the use of private sewerage treatment may be acceptable, providing it can be demonstrated that this can be delivered without any negative impacts to public health, the environment or the quality of watercourses or groundwater.

In settlements served by the public foul sewer, permission for an individual private sewage treatment system will normally be refused unless exceptional circumstances prevail and the conditions in criteria d above can be satisfied,

Development will be refused if:

- a) it will result in a proliferation of individual septic tanks or other private water treatment infrastructure within settlements,
- b) it will overload existing mains infrastructure or it is impractical for the developer to provide for new infrastructure.

Sustainable Urban Drainage

Local Review Body – List of Policies

Surface water management for new development, for both greenfield and brownfield sites, must comply with current best practice on sustainable urban drainage systems to the satisfaction of the council, Scottish Environment Protection Agency (where required), Scottish Natural Heritage and other interested parties where required. Development will be refused unless surface water treatment is dealt with in a sustainable manner that avoids flooding, pollution, extensive canalisation and culverting of watercourses. A drainage strategy should be submitted with planning applications to include treatment and flood attenuation measures and details for the long term maintenance of any necessary features.

POLICY EP13: TREES, WOODLANDS AND HEDGEROWS

The Council will refuse development that would cause the loss of or serious damage to the woodland resource unless the public benefits of the development clearly outweigh the loss of landscape, ecological, recreational, historical, or shelter value.

Any development that may impact on the woodland resource should:

- a) aim to minimise adverse impacts on the biodiversity value of the woodland resource, including its environmental quality, ecological status and viability; and
- b) where there is an unavoidable loss of the woodland resource, ensure appropriate replacement planting, where possible, within the area of the Scottish Borders; and
- c) adhere to any planning agreement sought to enhance the woodland resource.

POLICY ED7: BUSINESS, TOURISM AND LEISURE IN THE COUNTRYSIDE BUSINESS, TOURISM AND LEISURE

Proposals for business, tourism or leisure development in the countryside will be approved and rural diversification initiatives will be encouraged provided that:

- a) the development is to be used directly for agricultural, horticultural or forestry operations, or for uses which by their nature are appropriate to the rural character of the area; or
- b) the development is to be used directly for leisure, recreation or tourism appropriate to a countryside location and, where relevant, it is in accordance with the Scottish Borders Tourism Strategy and Action Plan;
- c) the development is to be used for other business or employment generating uses, provided that the Council is satisfied that there is an economic and/or operational need for the particular countryside location, and that it cannot be reasonably be accommodated within the Development Boundary of a settlement.

In addition the following criteria will also be considered:

- a) the development must respect the amenity and character of the surrounding area,
- b) the development must have no significant adverse impact on nearby uses, particularly housing,
- c) where a new building is proposed, the developer will be required to provide evidence that no appropriate existing building or brownfield site is available, and where conversion of an existing building of architectural merit is proposed, evidence that the building is capable of conversion without substantial demolition and rebuilding,
- d) the impact of the expansion or intensification of uses, where the use and scale of development are appropriate to the rural character of the area,
- e) the development meets all other siting, and design criteria in accordance with Policy PMD2, and
- a) the development must take account of accessibility considerations in accordance with Policy IS4.

Where a proposal comes forward for the creation of a new business including that of a

Local Review Body – List of Policies

tourism proposal, a business case that supports the proposal will be required to be submitted as part of the application process.

POLICY EP16: AIR QUALITY

Development proposals that, individually or cumulatively, could adversely affect the quality of air in a locality to a level that could potentially harm human health and wellbeing or the integrity of the natural environment, must be accompanied by provisions that the Council is satisfied will minimise such impacts to an acceptable degree. Where it is considered appropriate the Council may request that an Air Quality Assessment is undertaken to assist determination of an application.

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Newtown St Boswells Melrose TD6 0SA Tel: 01835 825251 Fax: 01835 825071 Email: ITSystemAdmin@scotborders.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100051178-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Ferguson Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Tim	Building Name:	Shiel House
Last Name: *	Ferguson	Building Number:	54
Telephone Number: *	01896 668 744	Address 1 (Street): *	Island Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Galashiels
Fax Number:		Country: *	UK
		Postcode: *	TD1 1NU
Email Address: *	tim@fergusonplanning.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:

You must enter a Building Name or Number, or both: *

Other Title:

Building Name:

C/O

First Name: *

Building Number:

Last Name: *

Address 1
(Street): *

Shiel House

Company/Organisation

Roxburghe Estates

Address 2:

54 Island Street

Telephone Number: *

Town/City: *

Galashiels

Extension Number:

Country: *

UK

Mobile Number:

Postcode: *

TD1 1NU

Fax Number:

Email Address: *

Site Address Details

Planning Authority:

Scottish Borders Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

634245

Easting

378295

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Conversion of existing steading to form one residential dwelling together with associated parking and infrastructure works

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Refer to Grounds of Appeal Statement

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review. * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Statement of Appeal, Planning Application Form, Planning Statement, Site Layout Plan, Plans & Elevations, Report of Handling, Decision Notice

Application Details

Please provide details of the application and decision.

What is the application reference number? *

17/00118/FUL

What date was the application submitted to the planning authority? *

08/02/2017

What date was the decision issued by the planning authority? *

11/04/2017

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Ferguson Planning Tim Ferguson

Declaration Date: 12/05/2017



LOCAL REVIEW BODY – STATEMENT OF APPEAL
(17/00118/FUL)

CONVERSION OF EXISTING STEADING TO FORM ONE
RESIDENTIAL DWELLING TOGETHER WITH
ASSOCIATED PARKING AND INFRASTRUCTURE
WORKS

KERCHESTERS FARM, KELSO, TD5 8BN

CLIENT: ROXBURGHE ESTATES

MAY 2017

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Appendix 1: Appeal Documents List

Appendix 2: Site Layout Plan

Ref: ROX1

LPA Ref: SBC

Author: TF/GF

Telephone: 01896 668 744

Date of Issue: May 2017

1. Introduction

- 1.1 This statement of appeal has been prepared by Ferguson Planning on behalf of Roxburghe Estates who wish to convert and upgrade an existing steading at Kerchesters Farm to form one high quality residential dwelling.
- 1.2 The related planning application (17/00118/FUL) was lodged on 8th February 2017 with a decision, via delegated powers, to refuse the application received on 11th April 2017. As such, we now seek to appeal the decision via the Local Review Body.
- 1.3 This statement responds to the reason for refusal and, where appropriate, cross referring to the delegated officer's report, Local Development Plan and material considerations. The relevant appeal documentation is listed within Appendix 1.

2. Reason for Refusal

2.1 Within the decision notice the reason for refusal was that:

"The proposal is contrary to Policy HD2 of the Local Development Plan 2016 and the advice of Supplementary Planning Guidance (SPG) – New Housing in the Borders Countryside, in that:

- i) The proposal does not appropriately constitute a conversion in that it is not physically capable of conversion;**
- ii) The building is not worthy of conversion in terms of its architectural or historical merit**
- iii) The site lies outwith any recognised settlement or building group and the need for a new dwellinghouse on this site has not been adequately substantiated**

The proposal is contrary to PMD2 of the LDP and SPG New Housing in the Borders Countryside and SPG Placemaking and Design, in that the resulting building would not be in keeping with the design and character of the existing building.

The proposal is contrary to Policy EP2 and EP3 of the LDP in that the potential impact on local biodiversity and protected species is unknown as surveys of the surrounding buildings and trees have not been carried out, informed by a Preliminary Roost Assessment."

Representations

- 2.2 There were a total of seven representations to the application.
- 2.3 The Landscape Architect **supports** the application as the **"existing steading is something of an eyesore and development represents an improvement in landscape and visual terms"**. They propose a condition to protect the two oak trees to the north of the plot.
- 2.4 The Ecology Officer considers the suitability of the existing structure for bats as **low** and the mature oak trees may provide roosting opportunities for bats. The steading building may afford opportunities for barn owl, barn swallow and crevice-dwelling species such as common pipistrelle. Bird species recorded with 2km of the proposed site include breeding lapwing, curlew and oystercatcher, greylag goose and barn owl. As a result Ecology recommended two conditions – a bat survey of the building and oak trees prior to determination and a species protection plan for breeding birds prior to commencement of development.
- 2.5 Archaeology has **no objections** and recommends that a Watching Brief is undertaken during any below excavations required for this development.
- 2.6 The Outdoor Access Officer has **no objections** to the proposal as the right of way BR15 utilizes the existing access road leading to the site.

- 2.7 Roads Planning Service have **no objections** to the proposal. They have raised a number of points that could be conditioned and be incorporated into any final design.
- 2.8 The Environmental Health Officer sent a questionnaire to the applicant which was completed and returned. As a result they recommend planning permission should be **granted** on condition that development is not to be permitted until a site investigation and risk assessment has been carried out to identify and assess potential contamination on site.
- 2.9 Education and Lifelong Learning require a contribution of £2,718 for Sprouston Primary School and Kelso High School. The contribution would be deemed acceptable by the applicant.

3. Planning Context

Site Context

- 3.1 The steading is located to the south of Kerchesters Farm, Kelso, TD5 8BN and is accessed via a track from Kerchesters or a track off the B6396 opposite the yard of Eric Gillie. The site extends to some 0.3 hectares and is contained within its own boundary fencing. A wooded area called the Jockscairn Plantation is located to the north, Haddenrig Wood is to the east and farmland to the south and west.
- 3.2 The steading is in a 'U' formation and is made of brick work up to full wall height. It has a corrugated iron roof structure fully intact with wooden beam structures separating and structurally holding the barn.

Related Planning Policy

- 3.3 Within the 'Report of Handling' the Planning Officer has focussed the determination of the application on Policy HD2 Housing in the Countryside (C) Conversions, Policy PMD2 Quality Standards, Policy EP2 Protected Species and Policy EP3 Local Biodiversity. Supplementary Planning Guidance 'New Housing in the Borders Countryside' and 'Placemaking and Design' are also key material considerations.
- 3.4 Policy HD2 (C) Conversions states:
- Development that is a change of use of a building to a house may be acceptable provided that:
- a) The council is satisfied that the building has architectural or historic merit, is capable of conversion and is physically suited for residential use,
 - b) The building stands substantially intact (normally at least to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion
 - c) The conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.
- 3.5 Policy PMD2 ensures that all new development including housing is of a high quality and respects the environment in which it is set. It is expected that new development be of high quality in terms of sustainability, placemaking and design, accessibility and green/open space.
- 3.6 The aim of Policies EP2 and EP3 are to protect nationally important nature conservation sites and protected species and to safeguard and enhance local biodiversity.

Material Considerations

- 3.7 A key material consideration in the determination of this application is Supplementary Planning Guidance 'New Housing in the Borders Countryside' (2008). This document states that

rehabilitation of any available existing buildings should be considered as an alternative to new development and the Council should look sympathetically at proposals for the sensitive reuse, conversion or rehabilitation of traditional buildings. The following criteria should apply when assessing proposals for conversions:

- No adverse effect on the viability of a farming unit or conflict with the operations of a working farm;
- Satisfactory access and other road requirements
- Satisfactory public or private water supply and drainage facilities
- The building is structurally sound, in a reasonable state of repair, and capable of conversion without substantial rebuilding. If it is incapable of conversion, any replacement building should reflect the form and character of the original structure;
- The building can be converted without alterations to its external appearance which would detract from its character and attractiveness;
- The building makes a positive contribution to the landscape and has no adverse effect on countryside amenity or nature conservation'
- No adverse impact on ancient monuments or archaeological sites;
- Appropriate siting, design and materials

3.8 SPG 'Placemaking and Design' (2010) is also a key consideration in the determination of this application. This states that new development must seek to achieve the following objectives:

- Development must fit with the wider landscape
- New design should always respond to the wider landform in terms of views, settlement pattern, drainage and long term growth
- Identify key landscape heritage features
- Key views from the wider area toward the proposed development must be considered
- Must form a logical addition in terms of distribution and form
- Must make most efficient use of existing roads and services infrastructure

3.9 This guidance states that a positive relationship must be created from the development to views from main roads/focal points. Traditional materials should be used as they sit naturally within the rural landscape.

4. Grounds of Appeal

Reason for Refusal

4.1 The reason for refusal is outlined in chapter two. It centres on the belief that the application fails to comply with Policy HD2 (C), PMD2, EP2 and EP3 of the Scottish Borders Local Development Plan 2016 in that:

- the building is not capable of conversion or not worthy of conversion in terms of its architectural or historic merit;
- the proposed building would not be in keeping with the design and character of the existing building; and
- the potential impact on local biodiversity and protected species is unknown

4.2 Our response to the reason for refusal forms the Grounds of Appeal and which are now listed below.

Grounds of Appeal (GOA)

GOA 1

4.3 We strongly challenge the assertion that the building is not worthy of conversion in terms of its architectural or historic merit or indeed that this should be a core reason for refusal when a building is substantially intact and redundant in use.

4.4 We disagree with the notion that there is no historic context for this proposed layout. A key historical feature of the building is its steading shape and style. This commitment to preserve the historical merit of this building by keeping the u-shaped steading layout and orientation should have gained greater recognition. The courtyard will be used as garden/recreational space thus enhancing what currently exists.

4.5 The Report of Handling also asserts that the use of cladding to “hide” the brickwork proves that there is no historic or architectural merit to the building. The use of cladding is to enhance the existing brickwork and which will respect the rural character of the setting. The original brickwork will remain intact and will be used in part within the interior to pay respect to its historical past. The iron roof structure needs replacement due to rot and damage and will be replaced with a high quality natural slate, again respecting the architectural character of the building.

4.6 The proposal therefore complies with Policy HD2 (C) in that the historical building is capable of conversion, the building lies substantially intact and the conversion would be in keeping with the character and scale of the building and rural location.

GOA 2

- 4.7 It is worth noting that it is accepted within the Report of Handling that “*the proposal would be high quality in design*” but the scale and character of the proposal is a “*significant enlargement*”.
- 4.8 The proposed conversion results in the footprint of the building being less than what currently exists. This together with the high quality materials, landscaping and planting ensures the proposal complies with Policy PMD2 and thus should not have been refused on this basis.

GOA 3

- 4.9 It was the intention to protect existing woodland, including the two oak trees, to the north while retaining the historic wall structure by retaining that in the boundary but building a new rear wall some 5 metres away. The existing wall will then form a boundary wall and used as a feature of the garden.

GOA 4

- 4.10 It has been misinterpreted that we intend to demolish the existing brick walls as the proposed plans and elevations lodged show the lines of the proposed clad stone walls directly aligned with the existing brick walls. Although the officer's report states that the drawings could be inaccurate the officer comes to the conclusion that the proposal is for demolition which “*is not supported by the conversion policy*”.
- 4.11 For clarity the plans that were submitted were indicative and were originally for a PPP application which was subsequently not validated by the council as they advised a detailed application is required for a conversion. These indicative plans were then used for the detailed application. It is not our intention to demolish the existing structure as we explained in Paragraph 5.4 of our Planning Statement.
- 4.12 The walls are to remain intact with the building survey showing that this is possible. The applicant seeks a consistent external finish using high quality and rural acceptable stonework cladding.

GOA 5

- 4.13 The report states that the “*proposal relies heavily on intervention to introduce light*” into the proposed dwelling and thus the frequency of the windows and doors and the enclosure of the internal courtyard “*is not historically accurate*”.
- 4.14 The existing walls have no windows or doors due to the fact that it was previously built for use as an agricultural steading. New openings in the existing wall are needed to allow the building to act as residential and we have minimised these openings to respect the character of the building. Again the use of timber windows in a simple design complies with Supplementary Planning Guidance, New Housing in the Borders Countryside (p. 44).

- 4.15 The internal courtyard will remain and will be used as open space/garden area and thus will remain historically accurate. There are no internal walls within the building's quadrant and thus stone cladding will be introduced which again respects the existing brickwork and rural character of the building.
- 4.16 As stated we believe the decision has overly focussed on a building requiring to have historical significance. It is our position that the building is largely intact and appears on largely the same footprint from key receptor points that should be deemed acceptable. The proposal does that and is an enhancement to what exists.

GOA 6

- 4.17 The Structure Condition Survey that was conducted finds that *"the walls are constructed in a good quality brick in a lime mortar and in general are in a very good condition"*. The iron roof structure needs replaced due to rot and damage. This will be replaced with a high quality natural slate, again respecting the rural area in which the existing building is set.
- 4.18 The officer's report states that *"it is accepted that the building does stand substantially intact in its present use"*. As there will be no significant demolition the proposal complies with Policy HD2 (C) b.

GOA 7

- 4.19 The officer's report states that the existing building is of single storey and that the extra attic space, six skylights and three windows to the front makes the proposal *"not appear consistent with current scale and character"*.
- 4.20 The proposed layout is indeed consistent with the current scale and character. The attic space is to be used for storage only with the windows and skylights on the roof/gable area to provide more light to the house. The roof/gable area requires to be removed due to "decay and rot" and thus the addition of the windows do not significantly alter the scale or character of the building.
- 4.21 If it is considered critical in the determination of this application these three windows and six skylights can be reduced in scale.
- 4.22 It is also worth noting that the footprint of the proposed house will be less than the existing steading which again respects its scale.

GOA 8

- 4.23 The Landscape Architect supports the application. They feel that the existing steading is *"something of an eyesore and development represents an improvement in landscape and visual terms"*.
- 4.24 They also state that *"the proposed building is set well away from public receptors and the existing trees and woodland provide a visual backdrop"*.

- 4.25 We therefore question how one can refuse the application on the basis of the “scale” of the proposal given that it is deemed appropriate in visual and landscape terms.

GOA 9

- 4.26 We question why the third reason for refusal has been stated regarding surveys of the buildings not being carried out.
- 4.27 In our correspondence with the case officer we asked if these surveys could be conditioned prior to commencement of works rather than prior to the determination of the application.
- 4.28 The response was that “*There shall be no requirement for bat/ecology surveys; the recommendation is for refusal, as advised previously*” (In Pre-App 16/00455/PREAPP).
- 4.29 For clarity, the applicant is willing to undertake the required surveys and happy to be conditioned prior to any site works beginning.
- 4.30 It is somewhat disappointing that a decision on the application was made prior to all of the statutory consultations being received and considered.
- 4.31 It is essential to have all the relevant statutory consultee’s comments before any decision is made. Unfortunately this has not been the case.

GOA 10

- 4.32 The roads planning service have no objections to the proposal. They have raised a number of points that could be conditioned and be incorporated into any final design.
- 4.33 Supplementary Guidance advises that “*satisfactory access and other road requirements*” is a key consideration in assessing any conversion proposal. Therefore we again question how one could come to a decision before they received a response from the roads department.

GOA 11

- 4.34 As outlined within SPG a key criterion in assessing conversion proposals is the availability of satisfactory public or private water and drainage facilities. This does not seem to have been taken into account in the determination of this application.
- 4.35 The site benefits from being next to an existing mains power supply and water supply and private drainage arrangements will be used in the form of a septic tank. Again these related matters can be conditioned.

GOA 12

- 4.36 The site is at no risk of flooding and does not have any environmental or historical designations of note. We are in agreement with the landscape officer in that what is proposed is a net enhancement to what currently exists.

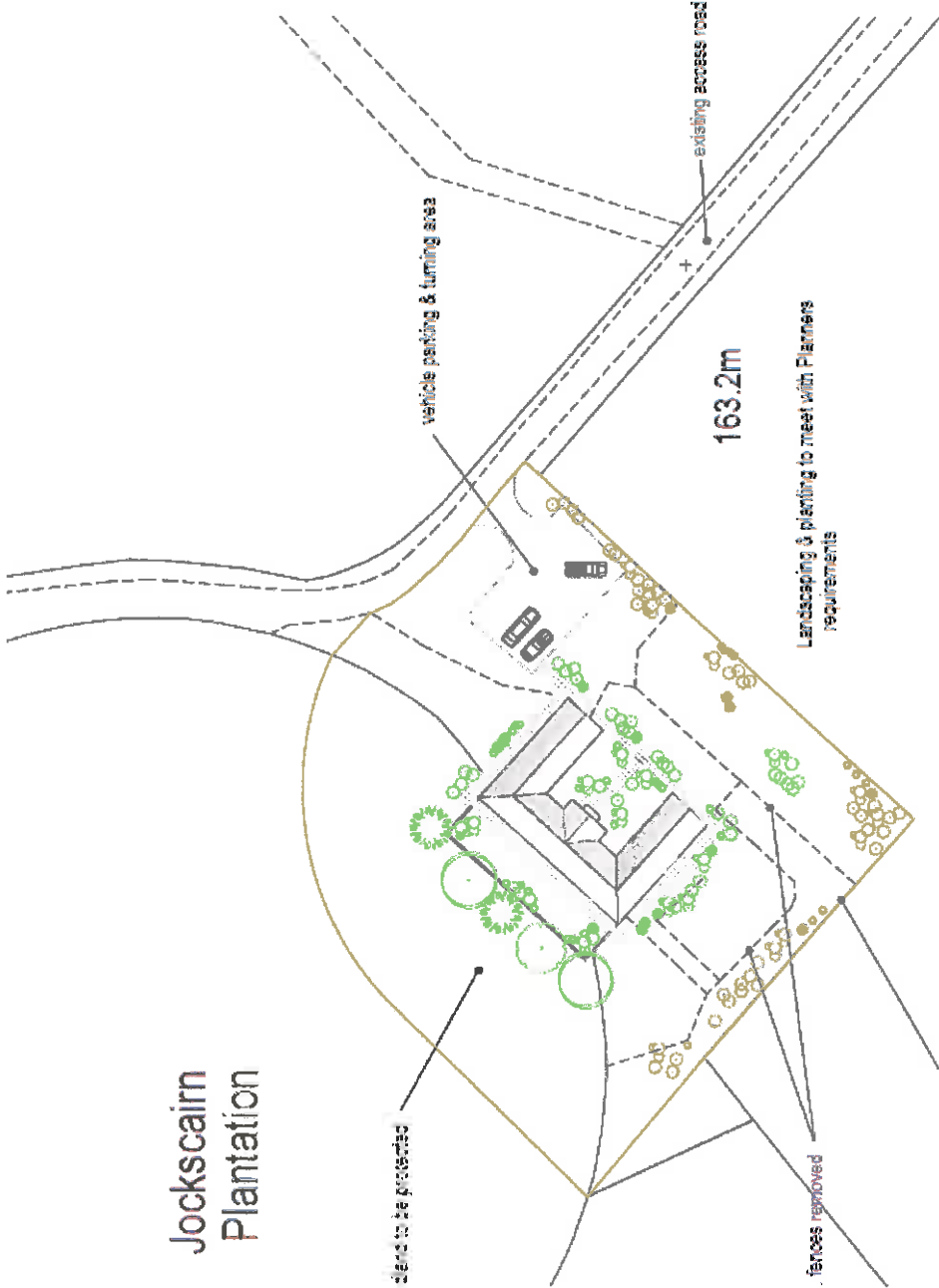
5. Conclusion

- 5.1 We believe that the proposal represents an appropriate conversion of an existing steading for the reasons outlined within our Grounds of Appeal.
- 5.2 The application was refused on the basis that it was considered not to comply with Policy HD2 (C) in that the building is not worthy of conversion in terms of architectural/historical merit and Policy PMD2 in that the resulting building would not be in keeping with the design and character of the existing building.
- 5.3 Although we sought clarity on the required ecological surveys the application was also refused on the basis that these were not carried out.
- 5.4 We consider that the proposal does comply with Policy HD2 (C). The building does have historical/architectural merit in the form of the existing materials and layout/orientation. The proposal seeks to respect this by enhancing the existing brickwork with stone cladding and keeping the existing courtyard formation.
- 5.5 The building does lie substantially intact and there will be no significant demolition works. The building survey undertaken found the walls are constructed in a good quality brick and are in “a very good condition”.
- 5.6 The conversion is in keeping with the scale and character of the existing building. In fact the footprint of the proposed building will be less than what currently exists. The decaying roof and gable will be replaced with a natural slate which acknowledges the buildings rural setting and an enhancement to what currently exists. The use of the roof for attic space or the addition of windows on the gables does not increase the scale of the building.
- 5.7 The proposal will respect its rural surroundings and will not have an adverse impact on key receptor points from the B6396 and the access road.
- 5.8 This is confirmed by the Landscape Architect who considers the existing building “an eyesore” at present with the proposal representing “an improvement in landscape and visual terms”. The building will appear in form largely as it currently stands from the key receptor points.
- 5.9 The mature woodland to the rear of the steading will remain and which will provide a defensible boundary and backdrop setting which ensures the house is well enclosed. This is further strengthened by the existing fence line around the curtilage of the site.
- 5.10 The site is not at risk of flooding and does not have any environmental or historical designations to be concerned with.
- 5.11 Although not mentioned within the Report of Handling the site benefits in being next to an existing mains power supply, water supply and having a suitable existing access road from the main road. Private drainage arrangements will be used in the form of a septic tank.
- 5.12 We therefore respectfully request that this appeal be allowed.

Appendix 1: Appeal Documents List

1. Appeal Form
2. Statement of Appeal
3. Planning Application Form
4. Planning Statement
5. Site Layout Plan
6. Plans & Elevations
7. Report of Handling
8. Decision Notice
9. Structure Survey
10. Consultation Responses (Refer to Planning Portal)

Appendix 2: Site Layout Plan



Jockscain
Plantation



Newtown St Boswells Melrose TD6 0SA Tel: 01835 825251 Fax: 01835 825071 Email: ITSystemAdmin@scotborders.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100035616-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Conversion of existing steading to form one residential dwelling together with associated parking and infrastructure works

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

Yes No

Has the work already been started and/or completed? *

No Yes - Started Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Ferguson Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Tim	Building Name:	Shiel House
Last Name: *	Ferguson	Building Number:	54
Telephone Number: *	01896 688 744	Address 1 (Street): *	Island Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Galashiels
Fax Number:		Country: *	UK
		Postcode: *	TD1 1NU
Email Address: *	tim@fergusonplanning.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:		You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	C/O Ferguson Planning
First Name: *		Building Number:	
Last Name: *		Address 1 (Street): *	Shiel House
Company/Organisation	Roxburghe Estates	Address 2:	54 island Street
Telephone Number: *		Town/City: *	Galashiels
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	TD1 1NU
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Scottish Borders Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

634243

Easting

378297

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

Council officer outlined what was required in application. Initially it was thought the building may not be suitable for conversion. We have now provided a structure survey with this application.

Title:

Mr

Other title:

First Name:

Euan

Last Name:

Calvert

Correspondence Reference Number:

16/00455/PREAPP

Date (dd/mm/yyyy):

27/05/2016

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

0.33

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Former farm steading

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

Yes No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *

- Yes – connecting to public drainage network
 No – proposing to make private drainage arrangements
 Not Applicable – only arrangements for water supply required

As you have indicated that you are proposing to make private drainage arrangements, please provide further details.

What private arrangements are you proposing? *

- New/Altered septic tank.
 Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).
 Other private drainage arrangement (such as chemical toilets or composting toilets).

What private arrangements are you proposing for the New/Altered septic tank? *

- Discharge to land via soakaway.
 Discharge to watercourse(s) (including partial soakaway).
 Discharge to coastal waters.

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: *

Details can be provided by way of a suitably worded condition.

Do your proposals make provision for sustainable drainage of surface water?? *
(e.g. SUDS arrangements) *

Yes No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? * Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? * Yes No

Is any of the land part of an agricultural holding? * Yes No

Do you have any agricultural tenants? * Yes No

Are you able to identify and give appropriate notice to ALL the agricultural tenants? Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate E

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate E

I hereby certify that –

(1) – No person other than myself/the applicant was the owner of any part of the land to which the application relates at the beginning of the period 21 days ending with the date of the application.

(2) - The land to which the application relates constitutes or forms part of an agricultural holding and there are no agricultural tenants

Or

(1) – No person other than myself/the applicant was the owner of any part of the land to which the application relates at the beginning of the period 21 days ending with the date of the application.

(2) - The land to which the application relates constitutes or forms part of an agricultural holding and there are agricultural tenants.

Name:

Address:

Date of Service of Notice: *

Name:

Address:

Date of Service of Notice: *

(4) – I have/The applicant has taken reasonable steps, as listed below, to ascertain the names and addresses of the other owners or agricultural tenants and *have/has been unable to do so –

Signed: Tim Ferguson

On behalf of: Roxburghe Estates

Date: 26/01/2017

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

Yes N/A

A Design Statement or Design and Access Statement. *

Yes N/A

A Flood Risk Assessment. *

Yes N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *

Yes N/A

Drainage/SUDS layout. *

Yes N/A

A Transport Assessment or Travel Plan

Yes N/A

Contaminated Land Assessment. *

Yes N/A

Habitat Survey. *

Yes N/A

A Processing Agreement. *

Yes N/A

Other Statements (please specify). (Max 500 characters)

Planning Statement; Structure Condition Survey

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Ferguson Planning Tim Ferguson

Declaration Date: 26/01/2017

Payment Details

Cheque: Tim Ferguson, 012345678

Created: 26/01/2017 14:57

FERGUSON
PLANNING



PLANNING STATEMENT

CONVERSION OF EXISTING STEADING TO FORM ONE RESIDENTIAL DWELLING TOGETHER WITH ASSOCIATED PARKING AND INFRASTRUCTURE WORKS

KERCHESTERS FARM, KELSO, TD5 8BN

CLIENT: ROXBURGHE ESTATES

JANUARY 2017



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Appendix 1: Location Plan

Appendix 2: Plan & Elevations

Appendix 3: Structure Condition Survey

Ref: ROX1

LPA Ref: SBC

Author: TF/GF

Telephone: 01896 668 744

Date of Issue: January 2017

1. Introduction

- 1.1 This statement has been prepared by Ferguson Planning on behalf of the applicant, Roxburghe Estates, who wish to convert and upgrade an existing steading at Kerchesters Farm to form one high quality residential dwelling.
- 1.2 Full Planning Permission is being sought for the conversion to a single dwellinghouse together with associated garden, parking area and associated infrastructure works. Further detail of the proposal is outlined within Section Three of this statement together with the associated architectural drawings produced by Boydell Architecture (Refer to Appendix 2).
- 1.3 The purpose of this statement is to provide an overview of the proposal and set out the reasoning as to why such application should be supported. The remainder of this statement is structured as follows:
 - Section 2: Site Context
 - Section 3: The Proposal
 - Section 4: Planning Policy
 - Section 5: Policy Compliance
 - Section 6: Conclusion

2. Site Context

- 2.1 The steading is located to the south of Kerchesters, Kelso, TD5 8BN and is accessed via a track from Kerchesters or a track off the B6396 opposite the yard of Eric Gillie. It extends to some 0.33 hectares and is within a short drive to Kelso.
- 2.2 To the north is a wooded area called Jockscairn Plantation, to the east is Haddenrig Wood and to the south and west is farmland. Refer to the Location Plan in Appendix 1.
- 2.3 The steading is contained within its own boundary fencing. It is in a 'U' formation and is made of brick work up to full wall height. It also has a corrugated iron roof structure fully intact. Wooden beam structures separate and structurally hold the barn.
- 2.4 A central courtyard relates to the barn structure with further hard standing to the side allowing vehicle movements in and out.

Figure 1: View of steading from South East corner



3. The Proposal

- 3.1 The proposal is for full planning permission for the conversion to a single house to replace the now redundant steading building.
- 3.2 The site is largely rectangular in shape and extends to approximately 0.33 hectares. We feel the proposal represents a suitable conversion to a dwelling house for the reasons outlined within Section 5.
- 3.3 It is important to note that a structural survey was undertaken and which showed that the walls were in "very good condition". Thus there is a sound existing structure from which to work with. The full survey can be found within Appendix 3.
- 3.4 The intention would be that the existing walls of the steading to remain intact clad with high quality stonework with the main alteration being the insertion of windows and replacement of the iron structure roof which is in decay. This will be replaced with a natural slate to acknowledge the buildings rural setting and an enhancement to what currently exists.
- 3.5 The internal courtyard will be retained to form a garden with further garden area surrounding the converted steading together with boundary planting to enable a defensible edge. The existing access and forecourt would be utilised and provide ample space for two parked cars and turning area. Existing and new fencing will be provided, in the form of post and rail, enabling a clearly defined plot.
- 3.6 The key receptor points from the B6396 and the access road are the east and west sides of the building. The existing and principle walls face in these directions and thus the scale and profile of built form will largely be as it is today.
- 3.7 The existing rear wall will remain intact to preserve reference to that which has gone before. The gap between the existing and proposed rear walls will result in a buffer between the house and existing wall/woodland. Access will be via a gate on the east and west sides. It will also provide a form of barrier between the built form and associated tree root areas.
- 3.8 The external brickwork walls would be clad with high quality stone work to reflect traditional steadings found throughout the Scottish Borders. It is likely internally the existing brickwork will remain exposed in places as a reference to the buildings historical past. The floorplan and elevations have been provided for general context and can be found within Appendix 2.
- 3.9 There is an existing overhead power line which comes alongside the track from Potsclose. The site also benefits from having a suitable existing access road from the main road with minimal farm traffic using it.
- 3.10 There is a 2" alkathene water pipe which comes up the track from Kerchesters and supplies the buildings and fields at the top of the farm (including Jock's Cairn buildings).

- 3.11 There is a separate mains supply to Potsclose which comes from Lempitlaw. An underground pipe was laid across the fields to connect to the main on the Lempitlaw road when Potsclose was sold by the Estate some years ago. It would therefore be feasible to extend this supply to serve Jock's Cairn if required.
- 3.12 There are many existing examples of high quality conversions of former u-shaped steadings in the countryside as shown in the images below.



4. Planning Policy

- 4.1 The development plan is made up of the Strategic Development Plan for South East Scotland (SESPan) and the Scottish Borders Local Development Plan 2016.

Scottish Borders Local Development Plan 2016

- 4.2 One of the principal policies in the determination of this application is **Policy HD2: Housing in the Countryside** where councils wish to promote appropriate rural housing development:

- a) in village locations in preference to the open countryside
- b) associated with existing building groups where this does not adversely affect their character or that of the surrounding area

Section (C) of Policy HD2 is relevant for this proposal. This states that development that is a change of use of a building to a house may be acceptable provided that:

- a) the Council is satisfied that the building has architectural or historic merit, is capable of conversion and is physically suited for residential use,
 - b) the building stands substantially intact (normally to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the council it appears that the building may not be capable of conversion, and
 - c) the conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.
- 4.3 **Policy PMD2 Quality Standards** seeks high quality design and which respects the environment in which it is contained.

Material Considerations

- 4.4 The key material considerations in the determination of an application of this nature are considered to be:
- Supplementary Planning Guidance:
 - 'New Housing in the Borders Countryside' (2008).
 - 'Placemaking & Design' (2010)
- 4.5 **SPG New Housing in the Countryside (2008)** provides advice on conversions of farm steadings (Appendix 2). It states that "*where buildings become redundant it may be considered appropriate that they be re-used to keep the appearance and character of the rural farm buildings as well as the rural countryside*".

5. Planning Policy Compliance

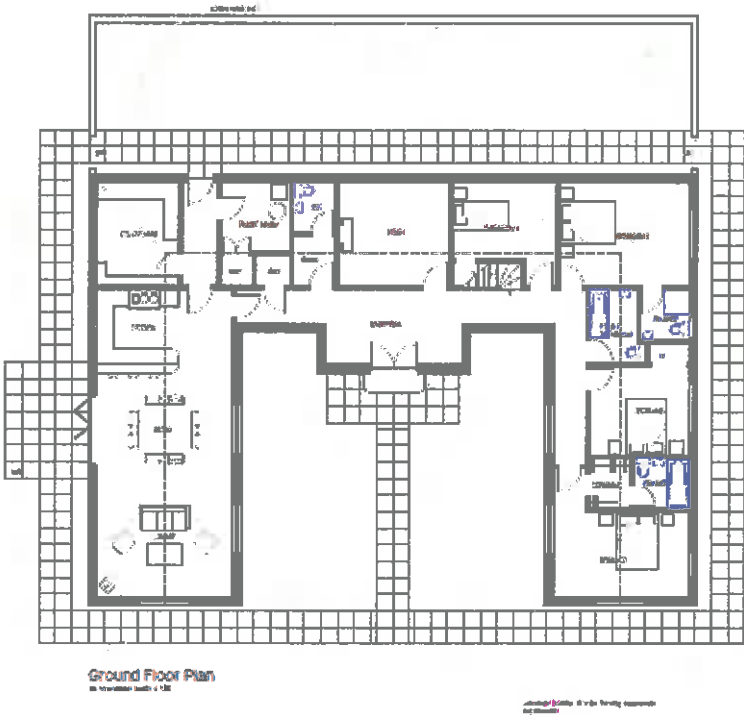
- 5.1 This section will focus on how the proposal meets the current relevant Local Development Plan policies under HD2 Housing in the Countryside and other considerations.
- 5.2 Due to the proposal falling outwith the nearest development boundary of Sprouston and therefore within a countryside location, Policy HD2 is a key consideration in the overall determination of this application. The proposal represents the conversion of a former farm steading back into use in the form of a single residential dwelling and thus criterion 'C' is relevant.
- 5.3 In the Pre-application response (16/00455/PREAPP) the Council were concerned that the building in question was not capable of conversion or physically suited for residential use. In response a condition survey was carried out in October 2016. It finds that "the walls are constructed in a good quality brick in a lime mortar and in general are in a very good condition". It is acknowledged certain propping or foundation works may be needed but the related costing can be absorbed as part of the overall build. The Building Survey is contained within Appendix 3.
- 5.4 The existing walls are largely room height and would remain intact. They would be used and cladded in high quality stone externally. Where existing openings exist they would be built up as per existing walls. Windows and doors would be inserted to aid the conversion for residential purposes.
- 5.5 The proposed new rear wall has been moved further to the south in order to preserve the mature woodland to the north where the existing wall currently sits against. This existing wall will not be altered.
- 5.6 The proposed conversion will result in the footprint of the building being less than what currently exists. Any alteration will not upset the current architectural character of the building. The report finds that the iron roof structure needs replaced due to rot and damage. This will be replaced with a high quality natural slate, again respecting the architecture of the building.
- 5.7 It is important to note that the key receptor points from the B6396 and the access road are the east and west sides of the building and these will be used as the outer walls of the house with only minor adjustments to accommodate timber windows. The structural form will therefore largely be as it is today when viewed from the main road.
- 5.8 The existing courtyard formation of the building will be kept and will accommodate a garden area and pathway connected to the parking area. Soft landscaping works will be planted throughout the site to minimise the level of visual impact and soften built form.
- 5.9 The parking area will have ample space for two cars and a turning area and will be connected to the existing access road.

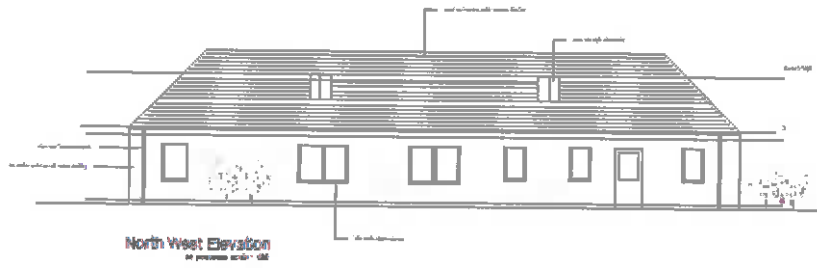
- 5.10 The appended architectural drawings provide the positioning of the new windows and doors, the accommodation of vehicular parking, and the provision of the garden area and thus complies with SPG New Housing in the Borders Countryside.
- 5.11 It is important to note the core walls from key receptor points (i.e. road) are fully intact and will be used as the outer floorplate. The site frontage will therefore follow its existing formation.
- 5.12 The existing fence line at the curtilage of the site ensures it has its own defensible boundary and again complies with SPG New Housing in the Borders Countryside, (page 46). Any new fencing that is required will be in the form of post and rail as specified in the SPG.
- 5.13 The mature woodland which will be protected to the north of the building again provides this defensible boundary and backdrop setting which will ensure that the house is well enclosed and again provide a defensible edge.
- 5.14 The site is not at risk of flooding and does not have any environmental designations. Existing nearby utilities would be availed of.
- 5.15 The site benefits in being next to an existing mains power supply, water supply and having a suitable existing access road from the main road with minimal farm traffic using it. Private drainage arrangements will be used in the form of a septic tank.
- 5.16 Finally, there has been a defined and significant housing shortfall within the Scottish Borders and the proposal will play its part in seeking to address that shortfall and within a short period of time.

6. Conclusion

- 6.1 We believe that the proposal represents a sound conversion to a dwelling house for the reasons outlined within Chapter 5.
- 6.2 A condition survey of the farm steading has been carried out and finds that the structure of the building is in good condition. It is capable of a conversion to a residential use with no significant demolition works expected.
- 6.3 There are no flooding or environmental issues associated with the site.
- 6.4 The fence line at the curtilage of the site and mature woodland to the rear provides its own defensible boundary. Any new fencing that is required will be in the form of post and rail as specified in the SPG.
- 6.5 The conversion will result in the use of the existing or core structure and be less than the existing footprint of the current steading.
- 6.6 A new rear wall is proposed which will ensure that no trees are effected by the proposal. The existing rear wall will remain intact and act as a reference to the historic built form of the steading.
- 6.7 For the reasons mentioned within this statement we kindly request that this conversion be granted.

Appendix 2: Plan & Elevations





Appendix 3: Structure Condition Survey

McKay & Partners
CONSULTING CIVIL & STRUCTURAL ENGINEERS

CLIENT: ROXBURGHE ESTATES

PROJECT TITLE: SUPERFICIAL STRUCTURAL INSPECTION
KERCHESTERS FARM, KELSO

PROJECT REF: 16/185

DATE: 1ST NOVEMBER 2016

6 Market Place, Selkirk TD7 4BT 01750 7217260

INTRODUCTION:

At the request of Boydell Architecture acting on behalf of Roxburghe Estates, Messrs McKay & Partners carried out a condition survey of a farm steading to advise if it would be suitable for conversion to a domestic property.

During the inspection no coverings or finishes were disturbed and we are thus unable to confirm that hidden detail are entirely free from defect.

The inspection was undertaken on 28th October 2016.

DESCRIPTION:

The steading is located to the south of Kerchesters, Kelso TD5 8BN and is accessed either from a track from Kerchesters or a track off the B6396 opposite the yard of Eric Gillie.

The precise location is NGR 378294E, 634243N at 165m above sea level.

To the north is a wooded area called Jockscairn Plantation, to the east is Haddenrig Wood and to the south and west is open farmland.

The west side also has a series of disused stock pens. No dipper was present.

The steading forms an inverted 'U' shape with the open end facing south.

The main external perimeter wall is constructed in brickwork which varies from 2.5m to 2.65m in height.

The internal supports consist of large section timber posts and beams at approximately 3.0m centres. Each post corresponds with a truss which supports purlins and cement fibre roof sheeting.

The floor over the covered areas was concrete.

3 No. feeding troughs had been cast against the wall face internally on each leg of the steading.

OBSERVATIONS: (to be read with drawing 16/185/SN1)

For the purpose of this report, the roof, timber beams and timber posts were not inspected as these require replacement due to rot and damage.

The walls are constructed in a good quality brick in a lime mortar and in general are in a very good condition with no loss of face and mortar dropping out.

The walls were checked every 6-7m for plumbness using a 1.2m long level and found to be true at all locations.

There was some minor looseness to the top bricks where water from the roof/missing gutters had washed out the mortar and some movement above the rotten door lintel to the gable end.

Some very slight settlement cracking was noted to the opposite gable end.

A trial pit was dug to this gable and the wall was founded at 100mm depth on a rough strip foundation bearing onto a Firm Red Clayey Sandy Silt.

CONCLUSIONS:

Although the brick perimeter wall is in good condition, it is poorly founded and would require underpinning before any works were undertaken i.e. removing beams, posts, slab.

Any future works would also have to provide temporary propping of the wall until the new structure had been built and tied to this wall.

The ground conditions would indicate to us that porosity will be poor for the disposal of roof water and foul effluent. Alternative methods such as existing field drains should be investigated.

Although the walls themselves are in good condition the cost of the underpinning and temporary propping of the walls would have to be carefully considered and taken into account if a conversion scheme is to be progressed.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/00118/FUL

APPLICANT : Roxburghe Estates

AGENT : Ferguson Planning

DEVELOPMENT :

Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works

LOCATION: Redundant Steading North West Of
Pots Close Cottage
Kelso
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
1175 P03 A	Location Plan	Refused
1175 P02 A	Planning Layout	Refused
1175 P01 B	Block Plans	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No neighbours were required to be statutory notified. No adverts were made in the local press. The surrounding landowner is the applicant.

Consultations:

Landscape Architect: Supports the development. Jockscairn, the woodland plantation to the rear of the building, consists largely of un-thinned conifers with a few broadleaves immediately behind the steading. This includes 2 rather fine spreading oak trees which are well worthy of retention.

The existing steading is something of an eyesore and development represents an improvement in landscape and visual terms. Conditions of support:

i. It will be desirable to manage the plantation woodland by thinning and it may be felled at some stage.

ii. Retention of the broadleaves is desirable, in particular the 2 oak trees which are of specimen quality. These 2 trees should be individually identified on the Site Layout plan and a suitable protection area set out.

Roads Planning Service: No objections. Conditions required:

i. Parking and turning

- ii. Track to be improved to 14ton axle load and to ensure surface water run off does not affect public road.
- iii. Visibility splays of 2.5m x 215m in either direction must be provided at the junction with the public road prior to the property being occupied and retained in perpetuity thereafter. Should traffic figures and speeds be suitable, this figure may be reduced with the written approval of the Roads Planning Section.
- iv. The initial 6m of the access from where it meets the existing public road must be surfaced to the specification: 40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.5. All work within the public road boundary must be carried out by a contractor first approved by the Council.

Sprouston Community Council: No response.

Education: The site is within catchment area for Sprouston Primary School and Kelso High School. A contribution of £2,718 is sought for the High School.

Ecology Officer: The suitability of this structure for bats is low, however it may afford some opportunities for crevice-dwelling species such as common pipistrelle and there is substantial good woodland habitat to the immediate north and east. The mature oak trees may also provide roosting opportunities for bat species. Bird species recorded within 2km of the proposed site include breeding lapwing, curlew and oystercatcher, greylag goose and barn owl. The steading building may afford opportunities for barn owl and also barn swallow.

Two conditions are required to ensure a survey of the buildings and trees. This should be informed by a PRA. A species protection plan for bats and breeding birds may be required in the interests of wildlife protection, in the event of approval.

Archaeology Officer: Development is within an area suspected to be a battlefield. The Battle of Haddon Rig was fought in the vicinity in 1542 between English and Scottish forces. If the battle took place at Haddon (Hadden) Rig as the historical sources imply then it probably was on the flatter ground at the top of the hill between Haddenrig Wood and Potsclose. Witches Cairn is located approximately 1km south-west of the steading and Jockscairn Plantation immediately to the north. These two names suggest cairns existed on the ridgeline of Hadden Rig. The Witches Cairn no longer exists, and I have no information for a cairn in Jockscairn Plantation. The existence of cairns on a ridgeline could imply prehistoric burials. The steading has a moderate potential for encountering buried human remains, and also early musket shot and objects dropped by the combatants during the battle.

There is a secondary potential impact of this proposal. The steading itself, which dates from the end of the 19th century, is of some historic interest. However, given its form, appearance and the almost total re-use in the proposed development, I do not feel that a record of the structure is required.

A developer funded watching brief is required in event of approval.

Environmental Health Officer: Contaminated land potential. This historic use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose. A site investigation and risk assessment are required to be secured by condition.

Access Officer: Right of Way BR15 utilizes the existing access road leading to the site. No objection. Rights of Way are specifically protected by law under the Countryside (Scotland) Act 1967 sec. 46 'It shall be the duty of a planning authority to assert, protect, and keep open and free from obstruction or encroachment any public right of way which is wholly or partly within their area.' No objection.

PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

PMD2: Quality Standards

HD2: Housing in the Countryside
HD3: Protection of Residential Amenity
EP2: Protected Species
EP3: Local Biodiversity
EP8: Archaeology
EP12: Green Networks
EP13: Trees, Woodlands and Hedgerows
IS2: Developer Contributions
IS7: Parking Provision and Standards
IS13: Contaminated Land

Supplementary Planning Guidance
New Housing in the Borders Countryside, 2008
Guidance on Householder Developments, July 2006
Developer Contributions April 2014
Placemaking and Design, 2010
Landscape and Development, 2008

Recommendation by - Euan Calvert (Assistant Planning Officer) on 10th April 2017

Full planning permission is sought for change of use and alterations to an agricultural steading to form a dwellinghouse.

Site and Location

This semi-derelict farm steading is on the crest of Hadden Rig, a very gently sloping ridge of land. It is accessed by a farm track, leading 300m north from the Kelso to Wooler public road. The nearest neighbours are Pots Close, where an equestrian business and two residential properties are located opposite this track junction, at the roadside 7km east of Kelso.

This building sits in the backdrop of a roundel (plantation) of trees, called Jockscairn. North of the site is a telecommunications masts. Continuing along this farm track (right of way), downhill, leads to Kerchesters Farm.

History

16/00455/PREAP: The Council does not consider this building to adhere to policy HD2 (C) a). The Council does not support a proposed single dwelling or a group of 2-3 dwellings at this site.

Policy

HD2 (C): CONVERSIONS OF BUILDINGS TO A HOUSE

Development that is a change of use of a building to a house may be acceptable provided that:

- a) the Council is satisfied that the building has architectural or historic merit, is capable of conversion and is physically suited for residential use;
- b) the building stands substantially intact (normally at least to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion, and
- c) the conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.

Proposal

A horseshoe planned dwelling would be constructed on the site of the existing footprint. No annotations of doughtakings are given on the drawings and no existing plan is provided. I rely on the Planning Statement to inform of the design principles: "The conversion will result in the use of the existing or core structure and be less than the existing footprint of the current steading."

The existing walls to the north western extent would be retained, to serve as enclosure to a rear garden. A new back wall would be constructed within to offset development from the sensitive specimen trees to the north. This wall would serve as a rear to a new link building between the wings. It would feature a main reception, utility and bedroom 4. The reception would feature a short internal projection which would serve

as the main entrance to the dwellinghouse, accessed from the courtyard. This would be designed to be identical in proportions and gable features of the wings flanking it.

The Agent makes a case for cladding the brick walls of the wings in a "high quality stone". The proposed gables would be 5.5m in width (presumably matching the existing width) with gable roofs, clad in natural slate. The upper half of these gables would be finished in vertical timber cladding, with a feature central window.

The southern wing would feature an open plan kitchen, dining and lounge with bi-folding doors and full height windows to the south elevation. The north wing would be enclosed sleeping accommodation with 3 bedrooms, 2 en suite and a bathroom.

The resulting footprint of the horseshoe plan would be 22m x 15.5m based on the siting and orientation of the existing structure.

Supporting Statement

- i. A structural survey supports that the walls are in "very good condition".
- ii. A buffer area to the rear of the property will ensure root protection areas of adjacent trees.
- iii. The external brick walls would be clad with stone to reflect traditional steadings in the Borders.
- vi. Alteration would not upset the architectural character of the building.
- v. The iron roof structure would be replaced with natural slate to respect the architecture of the building.

Assessment

Principle

Policy HD2 notes that conversions will only be considered (by the Council) where;

(a) a building has architectural or historic merit. It must also be capable of conversion and be physically suited to residential use.

I am unsupportive of this proposal on all three grounds:

1. This proposal is for cladding exterior walls with stone. The existing walls are constructed in a double skin red clay brick with an English bond. These bricks have most likely been fired in Midlothian and brought in by the railway therefore dating this building to post 1860, when the Kelso Line opened. My assumption is confirmed by the absence of any building being displayed at this location on the OS 1st Epoch. It is contested that there is no architectural or historic merit in this structure and this is proven by the agent's desire to use cladding to hide this built character.

2. This new layout is proposed to imitate a traditional agricultural steading however it would rely heavily on significant elements of new building to enclose the structure. There is no historic context for this proposed layout and the necessity for these new elements emphasises that the building is not physically capable of conversion. The existing building has no internal walls within its quadrant. Instead makeshift timber props (from old railway sleepers) support timber lintols and oak A-frame trusses, clad in corrugated asbestos sheeting. I am left to assume that the proposal is for mortar bound whinstone walling with cream sandstone dressings, under slate dual pitches, to imitate local vernacular. This building has no capacity for conversion, and these proposals to enclose the building would not be historically accurate.

3. The existing walls have no windows or door reveals. The proposal relies heavily on intervention to introduce light to these external spaces, once enclosed. Introducing doors and windows in such frequency, and enclosing the internal courtyard elevation with walling, is not historically accurate and is not supported by New Housing in the Countryside SPG. The building is not therefore deemed to be physically suited to residential use.

This proposal would be tantamount to rebuilding or the development of a new building, un-supportable by present Housing in the Countryside policy.

(b) A structural survey supports the application and highlights the walls being in good condition although it does warn about potential cost of underpinning and propping for conversion (presumably against the cost of replacement). The survey makes no mention to requirements for external stone cladding.

I find significant errors in the accuracy of the drawings. The lines of the proposed external walls (clad in stone) align directly with those "existing brick walls". This is either inaccurate or the proposal is for demolition. The thickness of these proposed walls is 300mm. I am led to the conclusion that the external walls are being demolished and replaced in their entirety, something which is not supported by the conversion policy.

It is accepted that the building does stand substantially intact in its present use, serving as open-air courts for animals.

(c) The scale of existing is accepted as single storey. This proposal is for stairs and attic space which would benefit from 6 skylights and 3 large windows. These windows would be prominent and would characterise the building, when seen from afar. Thus, the proposal would not appear consistent with current scale and character.

HD3 Protection of residential amenity

No adverse amenity to neighbours is identified (policy HD3). There are no overlooking or loss of privacy, noise, overshadowing or loss of light issues.

PMD2 Placemaking and design

The proposals would be high quality in design however the scale and character of the proposal is noted (as above) to be a significant enlargement.

Fenestration

The fenestration is inappropriate for conversion policy, being overtly square in proportions and with a poor window to wall mass.

External appearance: Materials, fabrics and colours

External use of stone and slate is not historically accurate for this site. Local architectural styles typically appear in this format however this building is not of that era.

EP2 Protected Species and EP3 Local Biodiversity

The Ecology Officer notes suitability of this structure for bats is low, however some opportunities for crevice-dwelling species such as common pipistrelle and there is substantial good woodland habitat to the immediate north and east. The mature oak trees may also provide roosting opportunities for bat species. Bird species recorded within 2km of the proposed site include breeding lapwing, curlew and oystercatcher, greylag goose and barn owl. The steading building may afford opportunities for barn owl and also barn swallow.

On basis of the precautionary principle, I am unable to confirm the impacts on local biodiversity without more survey data therefore a reason for refusal is cited as potential adverse impact for biodiversity. It is not possible to make Protected Species issues subject of planning conditions.

EP8 Archaeology

The Council's Archaeologist notes potential for remains to be found which may link the site to a battlefield. I find a requirement for a developer funded watching brief quite acceptable in the event of approval, in order to document and protect potential for buried archaeology.

EP12 Green Networks

The Access Ranger notes that the track between Potsclose and Kerchesters is a claimed right of way, but does not identify any issues with development provided the route is maintained open and free from obstruction. The proposed development site is adjacent to the route. I am satisfied that there is no requirement for a planning condition.

EP13 Trees, Woodlands and hedgerows

The Council's Landscape Architect supports development and notes the existing steading is something of an eyesore. In qualifying this support, he requires the two oaks (of specimen quality) to be individually identified on the Site Layout plan and a suitable protection area set out, in accordance with BS standards. I am satisfied that policy EP13 could be satisfied by the submission of further plans demonstrating the Root Protection Areas of neighbouring trees in accordance with British Standards.

IS2 Developer contributions

Contributions are required towards Kelso High School in the event of approval, in the sum of £2,718. This could either be deferred by legal agreement or a payment made up front in the event of approval.

IS7 Parking provision and standards

Roads Planning require conditions to ensure satisfactory road standards and safety in respect of: parking and turning in curtilage, the track has to be improved to 14ton axle load and to ensure surface water run off does not affect public road and visibility splays of 2.5m x 215m in either direction must be provided at the junction with the public road prior to the property being occupied and retained in perpetuity thereafter. I am satisfied that the conditions would be appropriate and necessary in the event of approval.

IS13 Contaminated Land

Potential for contaminated land has been identified and conditions would be required to ensure the applicant undertakes necessary surveys and mitigation in the event of contamination being identified.

REASON FOR DECISION :

The proposed development does not satisfy Policies PMD2, HD2, EP2 and EP3 of the Local Development Plan 2016 in that the proposal does not appropriately constitute a conversion. The building is not physically capable of conversion, it is not worthy of conversion in terms of its architectural or historic merit and the resulting building would not be in keeping with the design and character of the existing building. In addition, there are potential adverse impacts for biodiversity which have not been adequately investigated via appropriate surveys.

Recommendation: Refused

- 1 The proposal is contrary to Policy HD2 of the Local Development Plan 2016 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008), in that:
 - i. the proposal does not appropriately constitute a conversion in that it is not physically capable of conversion;
 - ii. the building is not worthy of conversion in terms of its architectural or historic merit;
 - iii.) the site lies outwith any recognised settlement or building group and the need for a new dwellinghouse on this site has not been adequately substantiated.
- 2 The proposal is contrary to PMD2 of the Local Development Plan 2016 and the advice contained within Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Placemaking and Design (January 2010), in that the resulting building would not be in keeping with the design and character of the existing building.
- 3 The proposal is contrary to policies EP2 and EP3 of the Local Development Plan 2016 in that the potential impact on local biodiversity and protected species is unknown as surveys of the surrounding buildings and trees have not been carried out, informed by a Preliminary Roost Assessment.

Informatives

It should be noted that:

- 1 The following issues have not been resolved:
 1. The site is potentially contaminated and a site investigate and risk assessment is required in respect of historic uses and potential contamination. At present the proposal does not satisfy policy IS13: Contaminated Land.

2. There is potential for disturbing buried archaeology. A developer funded watching brief is required in order to document and protect buried artifacts.
3. Contributions are required to Kelso High School, in the sum of £2,718. This would be secured by a legal agreement.
4. Two oaks of specimen quality are required to be individually identified on the Site Layout Plan and a suitable Root Protection Area established to protect these trees from harm.
5. Parking and turning would have to be protected in-curtilage in perpetuity. The track must be improved to a 14ton axle load and to ensure surface water run off does not affect public road. Visibility splays of 2.5m x 215m (in either direction) would have to be provided at the junction with the public road prior to any property being occupied and retained in perpetuity thereafter. All these requirements would be in the interests of ensuring roads safety and construction standards.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Application for Planning Permission

Reference : 17/00118/FUL

**To : Roxburghe Estates per Ferguson Planning Per Tim Ferguson 54 Island Street Galashiels
Scottish Borders TD1 1NU**

With reference to your application validated on **8th February 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works

at : Redundant Steading North West Of Pots Close Cottage Kelso Scottish Borders

The Scottish Borders Council hereby refuse planning permission for the reason(s) stated on the attached schedule.

**Dated 11th April 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



.....
Chief Planning Officer

APPLICATION REFERENCE : 17/00118/FUL

Schedule of Plans and Drawings Refused:

Plan Ref	Plan Type	Plan Status
1175 P03 A	Location Plan	Refused
1175 P02 A	Planning Layout	Refused
1175 P01 B	Block Plans	Refused

REASON FOR REFUSAL

- 1 The proposal is contrary to Policy HD2 of the Local Development Plan 2016 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008), in that:
 - i. the proposal does not appropriately constitute a conversion in that it is not physically capable of conversion;
 - ii. the building is not worthy of conversion in terms of its architectural or historic merit;
 - iii. the site lies outwith any recognised settlement or building group and the need for a new dwellinghouse on this site has not been adequately substantiated.

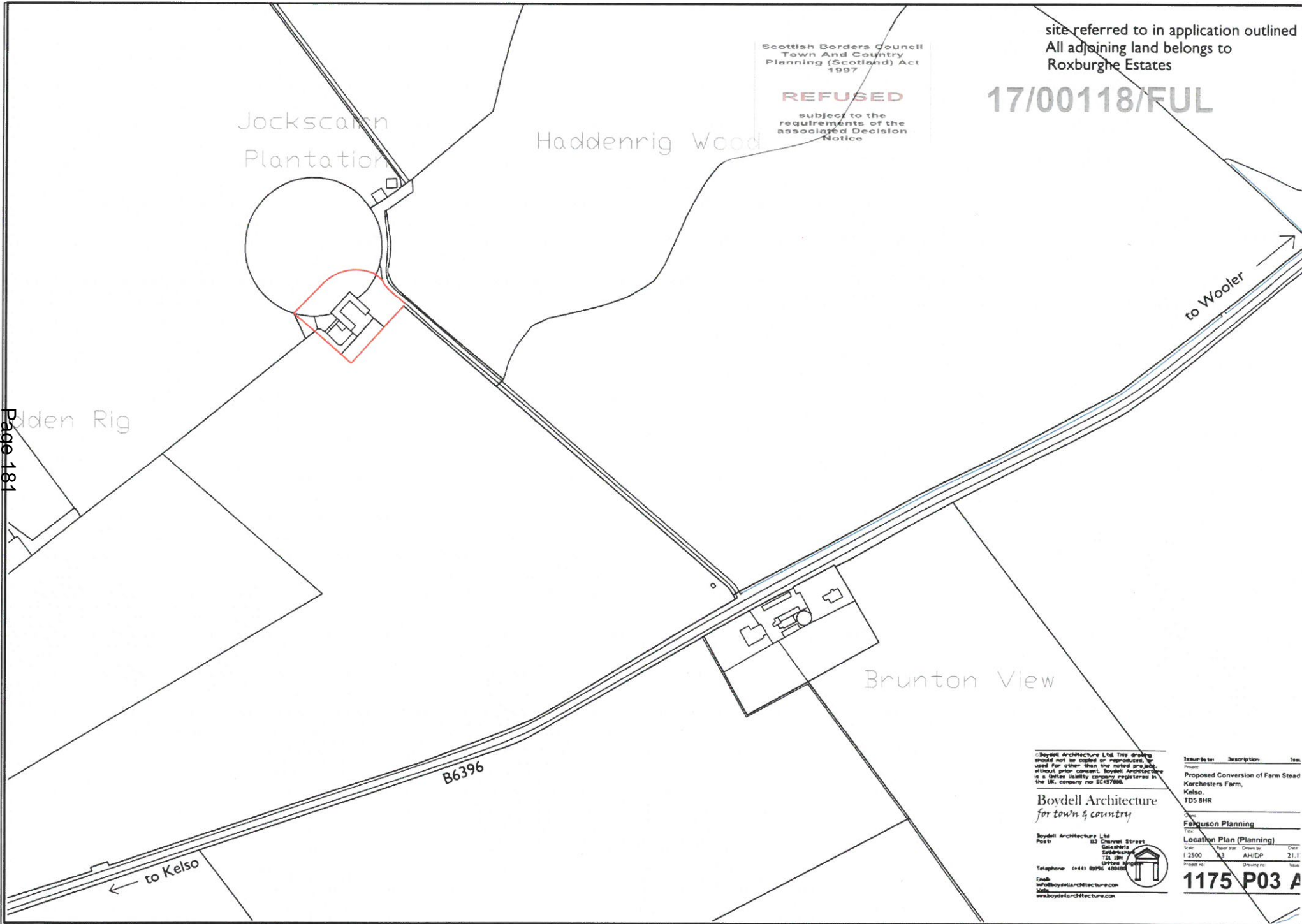
- 2 The proposal is contrary to PMD2 of the Local Development Plan 2016 and the advice contained within Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Placemaking and Design (January 2010), in that the resulting building would not be in keeping with the design and character of the existing building.

- 3 The proposal is contrary to policies EP2 and EP3 of the Local Development Plan 2016 in that the potential impact on local biodiversity and protected species is unknown as surveys of the surrounding buildings and trees have not been carried out, informed by a Preliminary Roost Assessment.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 OSA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.



site referred to in application outlined in
 All adjoining land belongs to
 Roxburghe Estates

17/00118/FUL

Scottish Borders Council
 Town And Country
 Planning (Scotland) Act
 1997

REFUSED
 subject to the
 requirements of the
 associated Decision
 Notice

Page 181

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Boydell Architecture
for town & country

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www.boydellarchitecture.com



Issue/Date	Description	Iss.
Proposed	Proposed Conversion of Farm Stead Kerchesters Farm, Kelso, TD5 8HR	
Ferguson Planning		
Location Plan (Planning)		
Scale:	1:2500	
Drawn by:	AH/DP	21.1
Project no.:		
Drawing no.:		
1175 P03 A		

Jockscairn Plantation

mature woodland to be protected

all surrounding land owned by Roxburghe Estates

line of ex. fences removed

site boundary outlined red

vehicle parking & turning area

163.2m

existing access road

Landscaping & planting to meet with Planners requirements



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Boydell Architecture
for town & country

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Issue Date Description Issued by

Project:
Proposed Conversion of Farm Steading at Kerchesters Farm, Kelso, TD5 8HR

Client:
Ferguson Planning

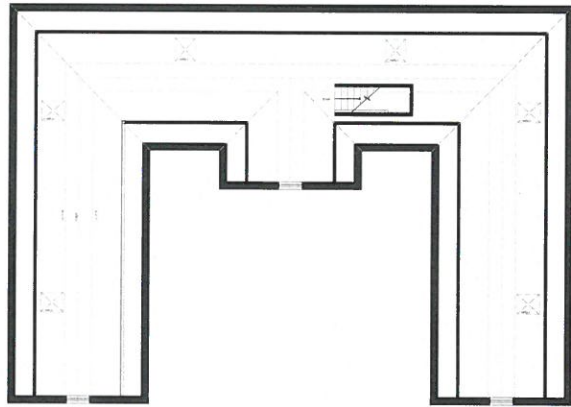
Title:
Site Layout Plan (Planning)

Scale:

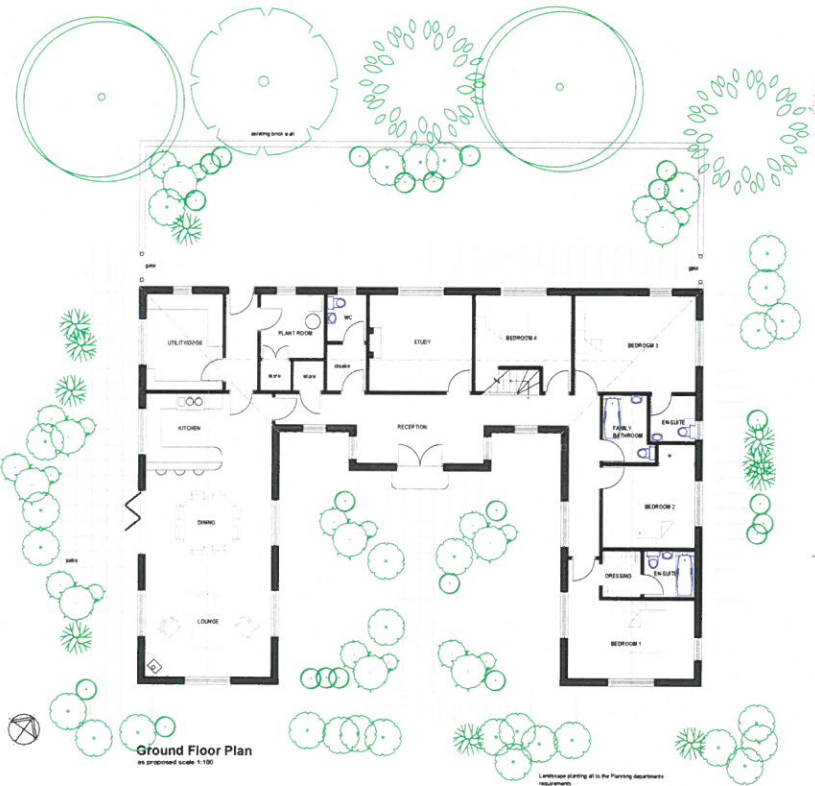
Sheet size	Drawn by	Date
1:500	A3 AH/DP	21.12.16

Project no:

Drawing no:	Issue
1175 P02 A	



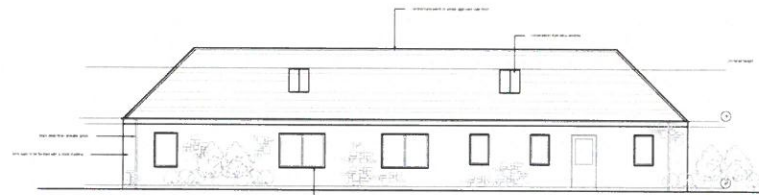
First Floor Plan
as proposed scale 1:100
NOTE: First Floor Area for Storage Only



Ground Floor Plan
as proposed scale 1:100
Landscape starting at to the Planning department's requirements



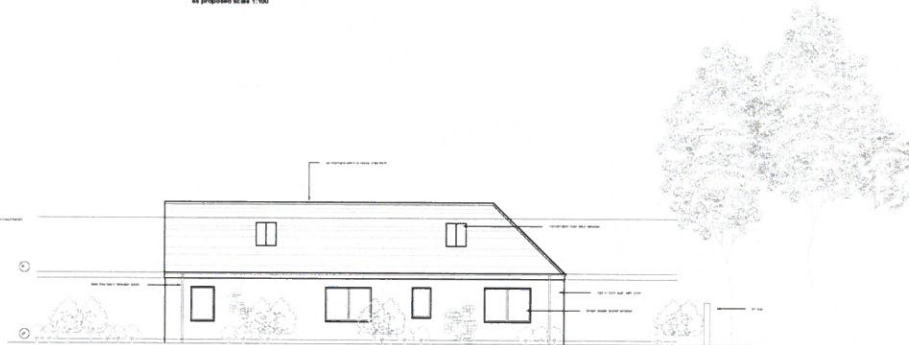
South East Elevation
as proposed scale 1:100



North West Elevation
as proposed scale 1:100

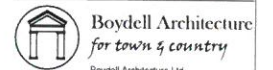


South West Elevation
as proposed scale 1:100



North East Elevation
as proposed scale 1:100

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Project:
Proposed Conversion of Farm Steading at Kerchester Farm Kelso TDS 8HR

Client:
Ferguson Planning

Date:
PLAN & ELEVATIONS (Planning Application Drawing)

Scale:	Paper size:	Drawn by:	Date:
1:100	A1	DP&AH	20.12.16
Project no:	Drawing no:	Sheet:	
1175	P01	B	

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PLANNING CONSULTATION

On behalf of: Director of Education & Lifelong Learning

From: Service Director Assets & Infrastructure
Contact: Neil Hastie, Estates Manager

From: Head of Planning & Building Standards

Date: 10th February 2017

Contact: Euan Calvert ☎ 01835 826513

Ref: 17/00118/FUL

PLANNING CONSULTATION

Name of Applicant: Roxburghe Estates

Agent: Ferguson Planning

Nature of Proposal: Change of use of redundant steading and alterations to form dwelling house with associated parking and infrastructure works

Site: Redundant Steading, North West of Pots Close Cottage, Kelso, Scottish Borders

OBSERVATIONS OF: Education & Lifelong Learning (Neil Hastie)

CONSULTATION REPLY

I refer to your request for Educations view on the impact of this proposed development which is located within the catchment area for Sprouston Primary School and Kelso High School.

A contribution of £2,718 is sought for the High School.

Rolls over 90% place strain on the schools teaching provision, infrastructure and facilities and reduce flexibility in timetabling, potentially negatively effecting quality standards within the school environment. Contributions are sought to raise capital to extend or improve schools or where deemed necessary to provide new schools in order to ensure that over capacity issues are managed and no reduction in standards is attributed to this within the Borders Area.

This contribution should be paid upon receipt of detailed planning consent but may be phased subject to an agreed schedule.

Please note that the level of contributions for all developments will be reviewed at the end of March each year and may be changed to reflect changes in the BCIS index – therefore we reserve the right to vary the level of the contribution if the contribution detailed above is not paid before 1 April 2017.

If you require any further information please do not hesitate to contact me by emailing estatemangement@scotborders.gov.uk

PLANNING CONSULTATION



To: Development Management

F.A.O. Euan Calvert

From: Planning & Regulatory Services

Contact: Mike Marsh Ext. 5267 Ref: 17/00118/FUL Date: 13th February 2017

Nature of Proposal: Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works

Site: Redundant Steading North West of Pots Close Cottage Kelso Scottish Borders

CONSULTATION REPLY

ACCESS OFFICER REPLY:

Thank you for your request to receive an outdoor access planning consultation response. You should note the following:

LEGISLATION

It is the duty of local authority to uphold access rights, under the Land Reform (Scotland) Act 2003, in doing so to, protect and keep open and free from obstruction or encroachment any route, waterway or other means by which access rights may reasonably be exercised.

Rights of Way are specifically protected by law under the Countryside (Scotland) Act 1967 sec. 46 'It shall be the duty of a planning authority to; assert, protect, and keep open and free from obstruction or encroachment any public right of way which is wholly or partly within their area.'

COMMENTS

According to our records there are no known Core Paths / Promoted Paths / Rights of Way that are directly affected by this proposal. Right of Way BR15 utilizes the existing access road leading to the site. The Access Team have no objections to make regarding the application.

Please note that Scottish Borders Council does not have a definitive record of every claimed right of way within its area. The Scottish Rights of Way and Access Society, the community council and local residents may have evidence of existence of claimed rights of way that have not yet been recorded by SBC.



Access Ranger (East)
Planning & Regulatory Services
Scottish Borders Council
Newtown St Boswells
TD6 0SA



Scottish Borders COUNCIL

**Planning Application
17/00118/FUL
Pots Close,
Kelso**

**Scottish Borders
Legend**

- Managed Path (Local Community)
- ↔ Managed Path SBC (Core Path), Promoted Route; Aspirational Core Path
- - - Other (Flight of Way, Permissive/ Customary Path; Longer-term Aspirational Path)
- Path Link on SBC Adopted Road (No Pavement) (Core Path Link and Promoted routes)



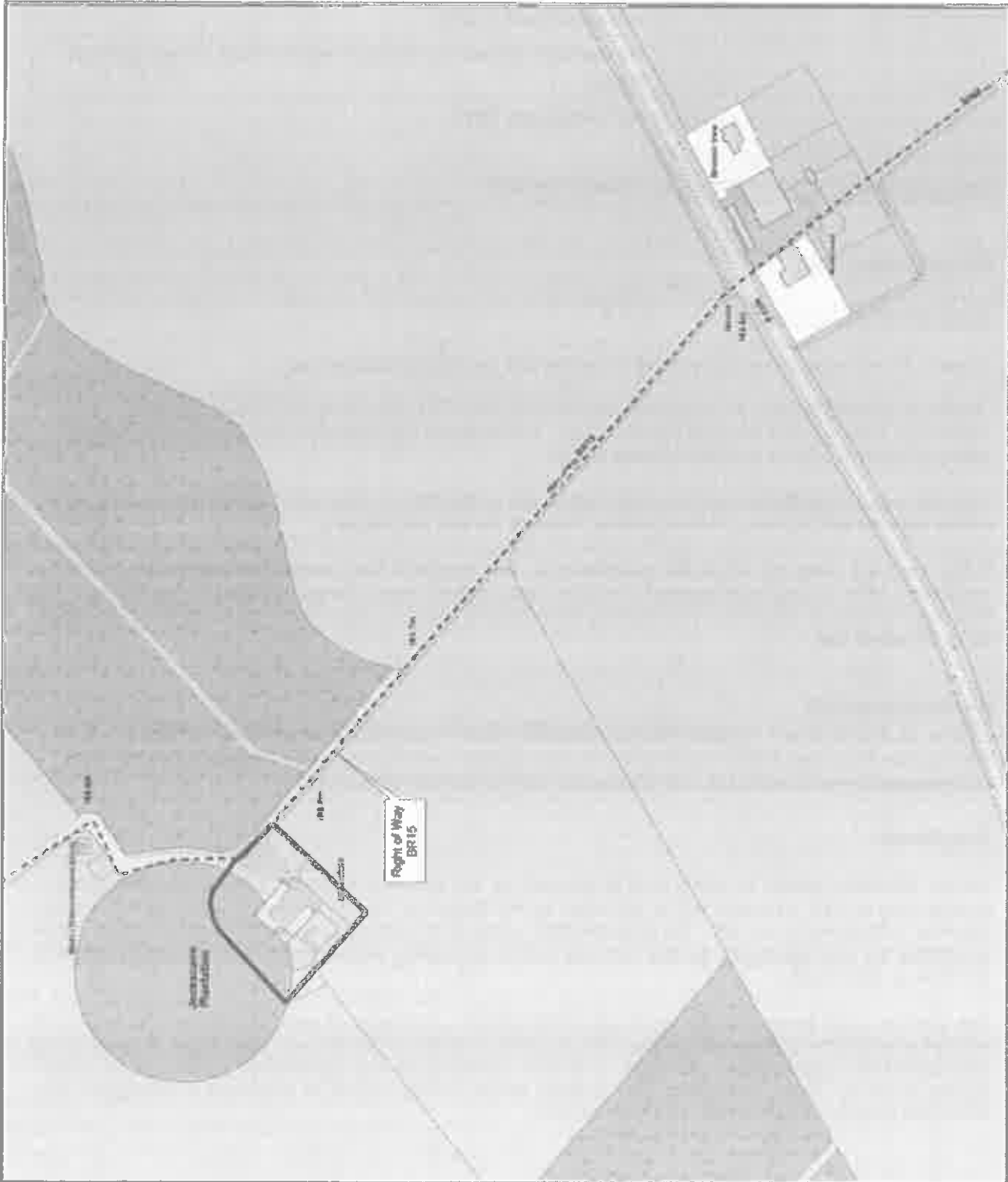
Scale: 1:1,700

This map has been prepared by the Countryside Access Ranger Service of Scottish Borders Council.

For further details contact:
countrysideaccess@scotborders.gov.uk
01835 226509

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Scottish Borders Council

Regulatory Services – Consultation reply

Planning Ref	17/00118/FUL
Uniform Ref	17/00381/PLANCO
Proposal	Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works
Address	Redundant Steading North West Of Pots Close Cottage Kelso
Date	14th February 2017
Amenity and Pollution Officer	
Contaminated Land Officer	Gareth Stewart

Contaminated land

Assessment of Application

There is an indication within the application that the site has had agricultural use.

I therefore recommend that the Applicant complete and return the attached questionnaire providing information relating to the previous use of the site. The applicant has been sent the questionnaire directly with instruction to return it to Environmental Health

Once the questionnaire has been returned it will be put on the IDOX system and I will advise you on whether further assessment of potential contamination issues at the site is necessary.

If the Applicant does not return the questionnaire, it is important that the potential for contamination is considered when issuing the Planning Permission. I recommend that if the questionnaire is not returned, the following condition is attached to the Planning Permission in order to ensure that the development is suitable for its proposed use.

Recommendation

Delete as appropriate – Agree with application in principle, subject to conditions /Further Information Required Before Application is Determined /Information to be Provided Before Work Commences (see conditions) / No Comment / Object /Informative Note

Conditions

*Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. **No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.***

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) *A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition.*

and thereafter

- b) *Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.*
- c) *Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).*
- d) *Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.*
- e) *Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.*

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

**Scottish Borders Council
Redevelopment of Agricultural & Other Buildings Questionnaire**

Planning Application Number: 17/00118/FUL

Yes/No

Is asbestos known or suspected to be present in the fabric of any buildings present?	
Has any part of the site been used for the storage of liquid fuel, such as petrol, diesel, DERV, kerosene?	
Has any part of the site been used for the storage or use of agricultural chemicals, such as preservatives or pesticides?	
Has any part of the site been used for sheep dipping, storage or disposal of sheep dip chemicals?	
Has any part of the site been used for disposal of solid farm waste?	
Has any part of the site been used for the disposal of liquid wastes or washings other than to an approved drainage system?	
Has the site been used to store/maintain vehicles?	
Has there been any building fires or bonfires onsite?	

Please give the source of all available information used to answer these questions and an indication of the time period which it covers (continue on separate sheet/reverse side if required):	
Source e.g. Previous farmer/operator	Time Period Covered e.g. 1975-1990

Please provide a description of the use of the agricultural land (*continue overleaf if necessary*):

If you have answered yes to any of the above questions please give details below (*continue overleaf if necessary*):

PLEASE NOTE – YOUR RESPONSE WILL BE PLACED IN THE PUBLIC DOMAIN

Signed

Date

Name

(Block Capitals) _____

Thank you for completing this questionnaire, please return it to :-

Gareth Stewart, Contaminated Land Officer, at the address below.

*Council Headquarters, Newtown St Boswells, MELROSE, Scottish Borders, TD6 0SA
Customer Services 0300 100 1800 www.scotborders.gov.uk*

PLANNING CONSULTATION

To: Landscape Architect

From: Development Management

Date: 10th February 2017

Contact: Euan Calvert ☎ 01835 826513

Ref: 17/00118/FUL

PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 3rd March 2017, If further time will be required for a reply please let me know. If no extension of time is requested and no reply is received by 3rd March 2017, it will be assumed that you have no observations and a decision may be taken on the application.

Please remember to e-mail the DCConsultees Mailbox when you have inserted your reply into Idox.

Name of Applicant: Roxburghe Estates

Agent: Ferguson Planning

Nature of Proposal: Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works

Site: Redundant Steading North West Of Pots Close Cottage Kelso Scottish Borders

OBSERVATIONS OF: Landscape Architect, J. Knight following site visit on 17.02.17

CONSULTATION REPLY dated 20 February 2017

It is recognised that a formal recommendation can only be made after consideration of all relevant information and material considerations. This consultation advice is provided to the Development Control service in respect of landscape related issues.

Description of the Site

The site is a semi-derelict farm steading at the crest of Hadden Rig, a very gently sloping ridge of land. It is set back over 300m from the public road which passes to the south and there is a plantation of trees called Jockscairn immediately to the north. The plantation consists largely of un-thinned conifers with a few broadleaves immediately behind the steading. This includes 2 rather fine spreading oak trees which are well worthy of retention.

Nature of the Proposal

It is proposed to construct a new house on the footprint of the steading with associated parking and garden ground.

Implications of the Proposal for the Landscape including any mitigation

The existing steading is something of an eyesore and development represents an improvement in landscape and visual terms. The proposed building is set well away from public receptors and the existing trees and woodland provide a visual backdrop. It will be desirable to manage the plantation woodland by thinning and it may be felled at some stage so retention of the broadleaves is desirable, in particular the 2 oak trees which are of specimen quality. I would like to see these 2 trees individually identified on the Site Layout plan and a suitable protection area set out.

Recommendation

I support the application but propose a condition to protect the 2 oaks referred to.

Council Headquarters, Newtown St Boswells, MELROSE, Scottish Borders, TD6 0SA
Customer Services: 0300 100 1800 www.scotborders.gov.uk

PLANNING CONSULTATION

To: Ecology Officer

From: Development Management

Date: 9th February 2017

Contact: Euan Calvert ☎ 01835 826513

Ref: 17/00118/FUL

PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 2nd March 2017, if further time will be required for a reply please let me know. If no extension of time is requested and no reply is received by 2nd March 2017, it will be assumed that you have no observations and a decision may be taken on the application.

Please remember to e-mail the DCConsultees Mailbox when you have inserted your reply into Idox.

Name of Applicant: Roxburghe Estates

Agent: Ferguson Planning

Nature of Proposal: Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works

Site: Redundant Steading North West Of Pots Close Cottage Kelso Scottish Borders

OBSERVATIONS OF: Ecology Officer

CONSULTATION REPLY

It is recognised that a formal recommendation for a decision can only be made after consideration of all relevant information and material considerations. This consultation advice is provided to the Development Management service in respect of natural heritage issues (biodiversity).

The local landscape is characterised by large arable and pastoral fields enclosed by hedgerows with scattered coniferous plantations and shelterbelts and infrequent broadleaf trees and woodlands close to farmsteads and riparian strips (Borders Landscape Type 8 – Rolling Farmland).¹

I have not visited the site to inform this response. There are no designated sites, nor local biodiversity sites within 2km of the proposed development. Surrounding habitat includes improved grassland and arable land and the plantation woods of Jockscairn Plantation and Haddenrig Wood to the north and east. Areas of mixed woodland and coniferous plantation are found 240m to the west and 1.4km to the south.

I note that in the consultation response from Landscape Architecture, two mature oak trees have been identified as good specimens within Jockscairn Plantation, adjacent to the development site and recommends their retention. Paragraph 6.6 of the Planning Statement indicates a wall will be erected to the rear of the site and that no trees will be affected by the proposal.

The structures proposed for development within the site boundary are two steading buildings. The Structure Condition Survey (27/01/17) describes the walls as in good condition although with some washed out mortar on the top bricks. The survey notes rotten door lintels to the gable end. The structure is brick built with Yorkshire boarding.

I consider the suitability of this structure for bats to be low, however it may afford some opportunities for

Council Headquarters, Newtown St Boswells, MELROSE, Scottish Borders, TD6 0SA
Customer Services: 0300 100 1800 www.scotborders.gov.uk

crevice-dwelling species such as common pipistrelle and there is substantial good woodland habitat to the immediate north and east. The mature oak trees may also provide roosting opportunities for bat species. Bird species recorded within 2km of the proposed site include breeding lapwing, curlew and oystercatcher, greylag goose and barn owl. The steading building may afford opportunities for barn owl and also barn swallow.

Bats are protected under The Conservation (Natural Habitats &c.) Regulations 1994 (as amended). It is illegal to intentionally or deliberately kill or injure them, intentionally, deliberately or recklessly damage, destroy, or obstruct access to any place used for shelter or protection including resting or breeding places (all roosts, whether occupied or not), or deliberately, intentionally or recklessly disturb them. In accordance with guidance from the Scottish Government, surveys and any subsequent licensing requirements for European Protected Species (EPS) will need to be resolved before the planning application is determined. Impacts on EPS will be assessed against the three key tests.

All wild birds are afforded protection and it is an offence to deliberately or recklessly kill, injure and destroy nests and eggs of wild birds. Additionally for those species protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) it is illegal to intentionally or recklessly disturb any bird whilst it is nest-building or at or near a nest containing eggs or young, or to disturb any of its dependent young

Recommendation:

- Prior to determination, a bat survey by a suitably qualified person will be required for all buildings to be altered or demolished. An assessment of potential roost features within the mature oak trees should be made. The survey requirement should be informed by a Preliminary Roost Assessment undertaken by a suitably qualified person (this can be carried out at any time). If evidence of bats or their roosts is found, the developer will be required to submit as part of their submission to the Planning Authority a Species Protection Plan for bats.
- Prior to commencement of development, a Species Protection Plan for breeding birds shall be submitted to and approved by the Planning Authority. The SPP shall include provision for a pre-development supplementary survey and a mitigation plan where any works are proposed within the bird breeding season (March-August). No development shall commence during the bird breeding season unless the development is implemented wholly in accordance with the approved SPP.

I will comment further on receipt of information from bat surveys.

Liz Hall MSc
Assistant Ecology Officer
27/02/17

¹ ASH Consulting Group 1998. The Borders Landscape Assessment. SNH Review No. 112

Scottish Borders Council

Regulatory Services – Consultation reply

Planning Ref	17/00118/FUL
Uniform Ref	17/00381/PLANCO
Proposal	Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works
Address	Redundant Steading North West Of Pots Close Cottage Kelso Scottish Borders
Date	2 March 2017
Amenity and Pollution Officer	Kashif Ghos
Contaminated Land Officer	Response previously submitted

Amenity and Pollution

Assessment of Application

Nuisance

Plant Room

It was noted that the development will contain a plant room. The applicant should provide further information detailing what will be housed within this room.

Recommendation

Further Information Required Before Application is Determined

REGULATORY SERVICES



To: Development Management Service
FAO Mr. C. Clarke, Council H. Q.

Date: 16th March 2017

From: Roads Planning Service
Contact: A. Scott

Ext: 6640

Ref: 17/00118/FUL

**Subject: Change of use from steading to dwelling
Steading building, NW of Pots Close Cottage, Kelso –
17/00118/FUL**

I shall have no objections to this proposal provided the following conditions are adhered to.

1. Parking and turning for a minimum of two vehicles, excluding any garages, must be provided within the curtilage of the property prior to occupation and thereafter be retained in perpetuity.
2. The existing access track must be improved to provide a compacted level running surface capable of taking a 14 ton axle loading. the track must also be self-draining and be graded such that any surface water run-off does not affect the adjacent public road.
3. Visibility splays of 2.5m x 215m in either direction must be provided at the junction with the public road prior to the property being occupied and retained in perpetuity thereafter. Should traffic figures and speeds be suitable, this figure may be reduced with the written approval of the Roads Planning Section.
4. The initial 6m of the access from where it meets the existing public road must be surfaced to the specification shown below.
5. All work within the public road boundary must be carried out by a contractor first approved by the Council.

Access Spec.

40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.

AJS

Scottish Borders Council

Regulatory Services – Consultation reply

Planning Ref	17/00118/FUL
Uniform Ref	17/00381/PLANCO
Proposal	Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works
Address	Redundant Steading North West Of , Pots Close Cottage, Kelso
Date	31st March 2017
Amenity and Pollution Officer	
Contaminated Land Officer	Gareth Stewart

Contaminated land

Assessment of Application

With reference to my Planning Response dated 14 February 2017, the Applicant has now returned the Agricultural Buildings Questionnaire and provided additional information by email. The document is attached below.

The information available indicates asbestos has been used within the construction of the buildings with the roof of one building roof having collapsed and subsequently removed. This historic use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

It is recommended that planning permission should be granted on condition that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority.

Any requirement arising from this assessment for a remediation strategy and verification plan would become a condition of the planning consent, again to be submitted and agreed upon by the Planning Authority prior to development commencing.

The attached standard condition may be helpful in this respect

Standard Planning Condition

Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. **No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.**

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition.

and thereafter

- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, **shall be required by the Developer before any development hereby approved commences**. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

**Scottish Borders Council
Redevelopment of Agricultural & Other Buildings Questionnaire**

Planning Application Number: 17/00118/FUL

	Yes/No
Is asbestos known or suspected to be present in the fabric of any buildings present?	YES
Has any part of the site been used for the storage of liquid fuel, such as petrol, diesel, DERV, kerosene?	No
Has any part of the site been used for the storage or use of agricultural chemicals, such as preservatives or pesticides?	No
Has any part of the site been used for sheep dipping, storage or disposal of sheep dip chemicals?	No
Has any part of the site been used for disposal of solid farm waste?	YES
Has any part of the site been used for the disposal of liquid wastes or washings other than to an approved drainage system?	No
Has the site been used to store/maintain vehicles?	No
Has there been any building fires or bonfires onsite?	

Please give the source of all available information used to answer these questions and an indication of the time period which it covers (continue on separate sheet/reverse side if required):

Source e.g. Previous farmer/operator	Time Period Covered e.g 1975-1990
PRESENT FARMER	LAST 25 YEARS
ROXBURGH ESTATES	.

Please provide a description of the use of the agricultural land

HOUSING FOR BEEF COWS AND CALVES

If you have answered yes to any of the above questions please give details below (continue overleaf if necessary):

- (1) Roof of Agricultural Building is asbestos
- (2) Farm yard waste stored on site

PLEASE

REMAINED IN THE PUBLIC DOMAIN

Signed

Date 17/3/17

Name

(Block Capitals)

R. E. ORRISON

Thank you for completing this questionnaire, please return it to :-

Gareth Stewart, Contaminated Land Officer, at the address below.

Council Headquarters, Newtown St Boswells, MELROSE, Scottish Borders, TD6 6SA
Customer Services 0300 100 1800 www.scotborders.gov.uk

PLANNING CONSULTATION

To: Archaeology Officer

From: Development Management

Date: 9th February 2017

Contact: Euan Calvert ☎ 01835 826513

Ref: 17/00118/FUL

PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 2nd March 2017, If further time will be required for a reply please let me know. If no extension of time is requested and no reply is received by 2nd March 2017, it will be assumed that you have no observations and a decision may be taken on the application.

Please remember to e-mail the DCConsultees Mailbox when you have inserted your reply into Idox.

Name of Applicant: Roxburghe Estates

Agent: Ferguson Planning

Nature of Proposal: Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works

Site: Redundant Steading North West Of Pots Close Cottage Kelso Scottish Borders

OBSERVATIONS OF: Archaeology Officer

CONSULTATION REPLY

Thank you for requesting an archaeology consultation. There are potential archaeological implications for this proposal. However, despite the modest alterations and landscaping I do feel there is a requirement to mitigate this.

The proposal to convert the redundant steading for housing has two potential impacts to the historic environment. Firstly, the development is within an area suspected to be a battlefield. The Battle of Haddon Rig was fought in the vicinity in 1542 between English and Scottish forces. There may have been several thousand combatants on both sides, though the historical records that I have access to are not clear. The Scots won this battle and this led them to believe they could defeat the English again at the Battle of Solway Moss, which they lost (and which ultimately led to the Union of the Crowns in 1606). The exact site of the battlefield is unknown. However the descriptions suggest the English force was returning from a raid on Kelso and Roxburgh, perhaps with looted livestock. The likeliest road they would have taken was the Kelso to Wooler road (which appears on General Roy's map c. 1750s), which is the current B6396 running to the south of the steading. If the battle took place at Haddon (Hadden) Rig as the historical sources imply then it probably was on the flatter ground at the top of the hill between Haddenrig Wood and Potsclose.

The number of dead in the battle is unknown, though undoubtedly there will have been a number. It is probable that they will have been buried on Hadden Rig itself or nearby in mass burials. We have no records of human remains from the area, though curiously two place-names are of interest. These are the Witches Cairn approximately 1km south-west of the steading, and the Jockscairn Plantation immediately to its north. These two names suggest cairns existed on the ridgeline of Hadden Rig. The Witches Cairn no longer exists, and I have no information for a cairn in Jockscairn Plantation. The existence of cairns on a ridgeline could imply prehistoric burials. Equally (and the place-name of Jockscairn is curious) these may be grave pits for the battle dead.

The development of the steading has a moderate potential for encountering buried human remains, and also early musket shot and objects dropped by the combatants during the battle.

There is a secondary potential impact of this proposal. The steading itself, which dates from the end of the 19th century, is of some historic interest. However, given its form, appearance and the almost total re-use in the proposed development, I do not feel that a record of the structure is required.

Given the moderate potential for encountering battlefield archaeology, I recommend that a watching brief is maintained during any below ground excavations required for this development.

If consented, I recommend the following condition:

Archaeology: Developer Funded Watching Brief

No development shall take place until the applicant has secured a programme of archaeological work in accordance with an approved **Written Scheme of Investigation (WSI)** outlining a **Watching Brief**. **Development and archaeological investigation shall only proceed in accordance with the WSI.**

The requirements of this are:

- The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA) approval of which shall be in writing by the Planning Authority.
- If significant finds, features or deposits are identified by the attending archaeologist(s), all works shall cease and the nominated archaeologist(s) will contact the Council's Archaeology Officer immediately for verification. The discovery of significant archaeology may result in further developer funded archaeological mitigation as determined by the Council.
- Development should seek to mitigate the loss of significant archaeology through avoidance in the first instance according to an approved plan.
- If avoidance is not possible, further developer funded mitigation for significant archaeology will be implemented through either an approved and amended WSI, a new WSI to cover substantial excavation, and a Post-Excavation Research Design (PERD).
- Initial results shall be submitted to the Planning Authority for approval in the form of a **Data Structure Report (DSR)** within one month following completion of all on-site archaeological works. These shall also be reported to the National Monuments Record of Scotland (NMRS) and Discovery and Excavation in Scotland (DES) within three months of on-site completion
- The results of further mitigation of significant archaeology shall be reported to the Council following completion for approval and published as appropriate once approved.

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

Local Review Body – List of Policies

Local Review Reference: 17/00024/RREF

Planning Application Reference: 17/00118/FUL

Development Proposal: Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works

Location: Redundant steading North West of Pots Close Cottages, Kelso

Applicant: Roxburghe Estates

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2016

POLICY PMD1: SUSTAINABILITY

In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plan's policies and which developers will be expected to incorporate into their developments:

- a) the long term sustainable use and management of land
- b) the preservation of air and water quality
- c) the protection of natural resources, landscapes, habitats, and species
- d) the protection of built and cultural resources
- e) the efficient use of energy and resources, particularly non-renewable resources
- f) the minimisation of waste, including waste water and encouragement to its sustainable management
- g) the encouragement of walking, cycling, and public transport in preference to the private car
- h) the minimisation of light pollution
- i) the protection of public health and safety
- j) the support to community services and facilities
- k) the provision of new jobs and support to the local economy
- l) the involvement of the local community in the design, management and improvement of their environment

POLICY PMD2: QUALITY STANDARDS

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

Sustainability

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,
- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,
- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,

Local Review Body – List of Policies

- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
- g) it considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking & Design

- h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
- i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
- j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
- k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
- l) it can be satisfactorily accommodated within the site,
- m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
- n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on ‘designing out crime’.

Accessibility

- o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,
- p) it incorporates, where required, access for those with mobility difficulties,
- q) it ensures there is no adverse impact on road safety, including but not limited to the site access,
- r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,
- s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Greenspace, Open Space & Biodiversity

- t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
- u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

POLICY HD2: HOUSING IN THE COUNTRYSIDE

The Council wishes to promote appropriate rural housing development:

Local Review Body – List of Policies

- a) in village locations in preference to the open countryside where permission will only be granted in special circumstances on appropriate sites,
- b) associated with existing building groups where this does not adversely affect their character or that of the surrounding area, and
- c) in dispersed communities in the Southern Borders housing market area.

These general principles in addition to the requirement for suitable roads access will be the starting point for the consideration of applications for housing in the countryside, which will be supplemented by Supplementary Planning Guidance / Supplementary Guidance on New Housing in the Borders Countryside and on Placemaking and Design.

(A) BUILDING GROUPS

Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such conversion has been implemented,
- b) the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts,
- c) any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.

In addition, where a proposal for new development is to be supported, the proposal should be appropriate in scale, siting, design, access, and materials, and should be sympathetic to the character of the group.

The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point.

(B) DISPERSED BUILDINGS GROUPS

In the Southern Housing Market area there are few building groups comprising 3 houses or more, and a more dispersed pattern is the norm. In this area a lower threshold may be appropriate, particularly where this would result in tangible community, economic or environmental benefits. In these cases the existence of a sense of place will be the primary consideration.

Housing of up to 2 additional dwellings associated with dispersed building groups that meet the above criteria may be approved provided that:

- a) the Council is satisfied that the site lies within a recognised dispersed community in the Southern Borders housing market area,
- b) any consents for new build granted under this part of this policy should not exceed two housing dwellings in addition to the group during the Plan period. No further development above this threshold will be permitted,

Local Review Body – List of Policies

- c) the design of housing will be subject to the same considerations as other types of housing in the countryside proposals.

(C) CONVERSIONS OF BUILDINGS TO A HOUSE

Development that is a change of use of a building to a house may be acceptable provided that:

- a) the Council is satisfied that the building has architectural or historic merit, is capable of conversion and is physically suited for residential use,
- b) the building stands substantially intact (normally at least to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion, and
- c) the conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.

(D) RESTORATION OF HOUSES

The restoration of a house may also be acceptable provided that the walls of the former residential property stand substantially intact (normally at least to wallhead height). In addition:

- a) the siting and design reflects and respects the historical building pattern and the character of the landscape setting,
- b) any proposed extension or alteration should be in keeping with the scale, form and architectural character of the existing or original building, and
- c) significant alterations to the original character will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and/or a more sustainable and energy efficient design.

(E) REPLACEMENT DWELLINGS

The proposed replacement of an existing house may be acceptable provided that:

- a) the siting and design of the new building reflects and respects the historical building pattern and the character of the landscape setting,
- b) the proposal is in keeping with the existing/original building in terms of its scale, extent, form and architectural character,
- c) significant alterations to the original character of the house will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and /or a more sustainable and energy efficient design.

(F) ECONOMIC REQUIREMENT

Housing with a location essential for business needs may be acceptable if the Council is satisfied that:

- a) the housing development is a direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and it is for a worker predominantly employed in the enterprise and the presence of that worker on-site is essential to the efficient operation of the enterprise. Such development could include businesses that would cause disturbance or loss of amenity if located within an existing settlement, or

Local Review Body – List of Policies

- b) it is for use of a person last employed in an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and also employed on the unit that is the subject of the application, and the development will release another house for continued use by an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and
- c) the housing development would help support a business that results in a clear social or environmental benefit to the area, including the retention or provision of employment or the provision of affordable or local needs housing, and
- d) no appropriate site exists within a building group, and
- e) there is no suitable existing house or other building capable of conversion for the required residential use.

In ALL instances in considering proposals relative to each of the policy sections above, there shall be compliance with the Council's Supplementary Planning Guidance where it meets the terms of this policy and development must not negatively impact on landscape and existing communities. The cumulative effect of applications under this policy will be taken into account when determining impact.

POLICY HD3: PROTECTION OF RESIDENTIAL AMENITY

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,
 - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or 'backland' development,
 - (iii) the generation of traffic or noise,
 - (iv) the level of visual impact.

POLICY EP2: NATIONAL NATURE CONSERVATION SITES AND PROTECTED SPECIES

Development proposals which are likely to have a significant adverse effect, either directly or indirectly, on a Site of Special Scientific Interest or habitat directly supporting a nationally important species will not be permitted unless:

- a) the development will not adversely affect the integrity of the site, and
- b) the development offers substantial benefits of national importance, including those of a social or economic nature, that clearly outweigh the national nature conservation value of the site.

The developer will be required to detail mitigation, either on or off site, of any damage that may be caused by development permissible under the exception criteria.

POLICY EP3: LOCAL BIODIVERSITY

Development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused unless it can be demonstrated that the public benefits of the development clearly outweigh the value of the habitat for biodiversity conservation.

Local Review Body – List of Policies

Any development that could impact on local biodiversity through impacts on habitats and species should:

- a) aim to avoid fragmentation or isolation of habitats; and
- b) be sited and designed to minimise adverse impacts on the biodiversity of the site, including its environmental quality, ecological status and viability; and
- c) compensate to ensure no net loss of biodiversity through use of biodiversity offsets as appropriate; and
- d) aim to enhance the biodiversity value of the site, through use of an ecosystems approach, with the aim of creation or restoration of habitats and wildlife corridors and provision for their long-term management and maintenance.

POLICY EP8: ARCHAEOLOGY

(A) National Archaeological Sites

Development proposals which would destroy or adversely affect the appearance, fabric or setting of Scheduled Monuments or other nationally important sites will not be permitted unless:

the development offers substantial benefits, including those of a social or economic nature, that clearly outweigh the national value of the site, and there are no reasonable alternative means of meeting the development need.

(B) Battlefields

The Council may support development proposals within a battlefield on the Inventory of Historic Battlefields Register, or a regionally significant site, that seek to protect, conserve, and/or enhance the landscape characteristics or important features of the battlefield. Proposals will be assessed according to their sensitivity to the battlefield.

(C) Regional or Local Archaeological Assets

Development proposals which will adversely affect an archaeological asset of regional or local significance will only be permitted if it can be demonstrated that the benefits of the proposal will clearly outweigh the heritage value of the asset.

In all of the above cases, where development proposals impact on a Scheduled Monument, other nationally important sites, or any other archaeological or historical asset, developers may be required to carry out detailed investigations.

Any proposal that will adversely affect a historic environment asset or its appropriate setting must include a mitigation strategy acceptable to the Council.

POLICY EP12: GREEN NETWORKS

The Council will support proposals that protect, promote and enhance the Greenspace Network.

Where a proposal comes forward that will result in a negative impact on the natural heritage, greenspace, landscape, recreation or other element of a Green Network, appropriate mitigation will be required.

Where infrastructure projects or other developments are required that cross a Green Network, such developments must take account of the coherence of the Network. In doing this, measures which allow access across roads for wildlife, or access for outdoor recreation will be required.

Local Review Body – List of Policies

POLICY EP13: TREES, WOODLANDS AND HEDGEROWS

The Council will refuse development that would cause the loss of or serious damage to the woodland resource unless the public benefits of the development clearly outweigh the loss of landscape, ecological, recreational, historical, or shelter value.

Any development that may impact on the woodland resource should:

- a) aim to minimise adverse impacts on the biodiversity value of the woodland resource, including its environmental quality, ecological status and viability; and
- b) where there is an unavoidable loss of the woodland resource, ensure appropriate replacement planting, where possible, within the area of the Scottish Borders; and
- c) adhere to any planning agreement sought to enhance the woodland resource.

POLICY IS2: DEVELOPER CONTRIBUTIONS

Where a site is otherwise acceptable in terms of planning policy, but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or partial contribution towards the cost of addressing such deficiencies.

Contributions may be required for one or more of the following:

- a) treatment of surface or foul waste water in accordance with the Plan's policies on preferred methods (including SUDS maintenance);
- b) provision of schools, school extensions or associated facilities, all in accordance with current educational capacity estimates and schedule of contributions;
- c) off-site transport infrastructure including new roads or road improvements, Safer Routes to School, road safety measures, public car parking, cycle-ways, bridges and associated studies and other access routes, subsidy to public transport operators; all in accordance with the relevant standards and the provisions of any Travel Plan;
- d) leisure, sport, recreation, play areas and community facilities, either on-site or off-site;
- e) landscape, open space, allotment provision, trees and woodlands, including costs of future management and maintenance;
- f) protection, enhancement and promotion of environmental assets either on-site or off-site, having regard to the Local Biodiversity Action Plan and the Council's Supplementary Planning Guidance on Biodiversity, including compensation for any losses and/or alternative provision;
- g) provision of other facilities and equipment for the satisfactory completion of the development that may include: measures to minimise the risk of crime; provision for the storage, collection and recycling of waste, including communal facilities; provision of street furniture and digital connectivity with associated infrastructure.

Wherever possible, any requirement to provide developer contributions will be secured by planning condition. Where a legal agreement is necessary, the preference for using an agreement under other legislation, for example the 1973 Local Government (Scotland) Act and the 1984 Roads (Scotland) Act will be considered. A planning obligation will only be necessary where successors in title need to be bound by its terms. Where appropriate, the council will consider the economic viability of a proposed development, including possible payment options, such as staged or phased payments.

Local Review Body – List of Policies

POLICY IS7: PARKING PROVISIONS AND STANDARDS

Development proposals should provide for car and cycle parking in accordance with approved standards.

Relaxation of technical standards will be considered where appropriate due to the nature of the development and/or if positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of seeking additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

POLICY IS9: WASTE WATER TREATMENT STANDARDS AND SUSTAINABLE URBAN DRAINAGE

WASTE WATER TREATMENT STANDARDS

The Council's preferred method of dealing with waste water associated with new development will be, in order of priority:

- a) direct connection to the public sewerage system, including pumping if necessary, or failing that:
- b) negotiating developer contributions with Scottish Water to upgrade the existing sewerage network and/or increasing capacity at the waste water treatment works, or failing that:
- c) agreement with Scottish Water and SEPA where required to provide permanent or temporary alternatives to sewer connection including the possibility of stand alone treatment plants until sewer capacity becomes available, or, failing that:
- d) for development in the countryside i.e. not within or immediately adjacent to publicly seweraged areas, the use of private sewerage treatment may be acceptable, providing it can be demonstrated that this can be delivered without any negative impacts to public health, the environment or the quality of watercourses or groundwater.

In settlements served by the public foul sewer, permission for an individual private sewage treatment system will normally be refused unless exceptional circumstances prevail and the conditions in criteria (d) above can be satisfied.

Development will be refused if:

- a) it will result in a proliferation of individual septic tanks or other private water treatment infrastructure within settlements,
- b) it will overload existing mains infrastructure or it is impractical for the developer to provide for new infrastructure.

SUSTAINABLE URBAN DRAINAGE

Surface water management for new development, for both greenfield and brownfield sites, must comply with current best practice on sustainable urban drainage systems to the satisfaction of the council, Scottish Environment Protection Agency (where required), Scottish Natural Heritage and other interested parties where required. Development will be refused unless surface water treatment is dealt with in a sustainable manner that avoids flooding, pollution, extensive canalisation and culverting of watercourses. A drainage strategy should be submitted with planning applications to include treatment and flood attenuation measures and details for the long term maintenance of any necessary features.

Local Review Body – List of Policies

POLICY IS13: CONTAMINATED LAND

Where development is proposed on land that is contaminated, suspected of contamination, or unstable the developer will be required to:

- a) carry out, in full consultation with, and to the satisfaction of Scottish Borders Council, appropriate phased site investigations and risk assessments; and
- b) where necessary, and to the satisfaction of Scottish Borders Council design, implement, and validate appropriate remedial or mitigation measures to render the site suitable for its proposed use.

OTHER MATERIAL CONSIDERATIONS

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008

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Appd. 25/5/17



NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Failure to supply all the relevant information could invalidate your notice of review.

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

Name MR & MRS N MACKAY

Address WOODLANDS - THE WOLL ASHKIRK

Postcode TD7 4RY

Contact Telephone [redacted]

Contact Telephone 2 [redacted]

Fax No [redacted]

E-mail* [redacted]

Agent (if any)

NONE

Name [redacted]

Address [redacted]

Postcode [redacted]

Contact Telephone 1 [redacted]

Contact Telephone 2 [redacted]

Fax No [redacted]

E-mail* [redacted]

Mark this box to confirm all contact should be through this representative:

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes No

Planning authority SCOTTISH BORDERS

Planning authority's application reference number 17/000051 PPP

Site address LAND - SOUTH OF BALMARINO & NW OF WOODLANDS

Description of proposed development PPP FOR ONE RESIDENTIAL DWELLING HOUSE ACCESS & ASSOCIATED INFRASTRUCTURE WORKS

Date of application 5-1-2017 Date of decision (if any) 27-2-2017

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- 1. Can the site be viewed entirely from public land?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>
- 2. Is it possible for the site to be accessed safely, and without barriers to entry?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

NO EASY ACCESS & PARKING THROUGH WOODLAND - THE WALL

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE ATTACHED SHEET

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

PLANNING STATEMENT ORIGINALLY SUBMITTED
 WITH THE APPLICATION + SITE PLANS
 SITE PLAN WITH SOME NEW NOTES ON
 LOCAL PLAN FOR ASHWAIR SHOWING SITE

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed [REDACTED]

Date 24-5-2017

The Completed form should be returned to the Head of Corporate Administration, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA.

Notice of review Statement for 17/00005/ppp

We wish to raise the following points so the decision can be reconsidered.

- The decision was taken solely on the grounds that the the site was outwith the settlement boundary .
- The views of the statutory consultees are all favourable .
- The settlement boundary in the local plan is drawn around houses and gardens. The field on which the application site is located has been treated as part of the garden of our house named Woodlands since before 2000. It is not an agricultural field. There is no fencing between Woodlands and the plot (although it looks like there is on the site plan). It is mowed and planted with flowers regularly. The bottom access has a track mowed to it . No livestock have been on the land in this time. Pet pigs are keep in a small area fenced off in the western corner of the garden, well away from the proposed site.
- When viewed on the local plan the site could just as easily have been included as a natural rounding off of the settlement boundary as it abuts the development plan boundary on 3 sides. When viewed from above (from the passing place on the Woll estate access road) it naturally separates itself from the rest of the garden, and fits naturally as part of the existing housing group. There is a natural boundary on 2 sides. On one side the steep bank to the estate road (not land owned by Ninians as stated by the planning officer); on another a line of trees separate it off from the top of the field/ garden. By any logical assessment it is part of a building group. It is only the unnatural line of the local plan which separates it off . The original planning statement argues this well . New housing in the Borders countryside 1.2 p 5 states that "New housing is guided to existing "building groups " . Surely it makes no sense that if the building group and the plot had not been included in and adjacent to the local plan

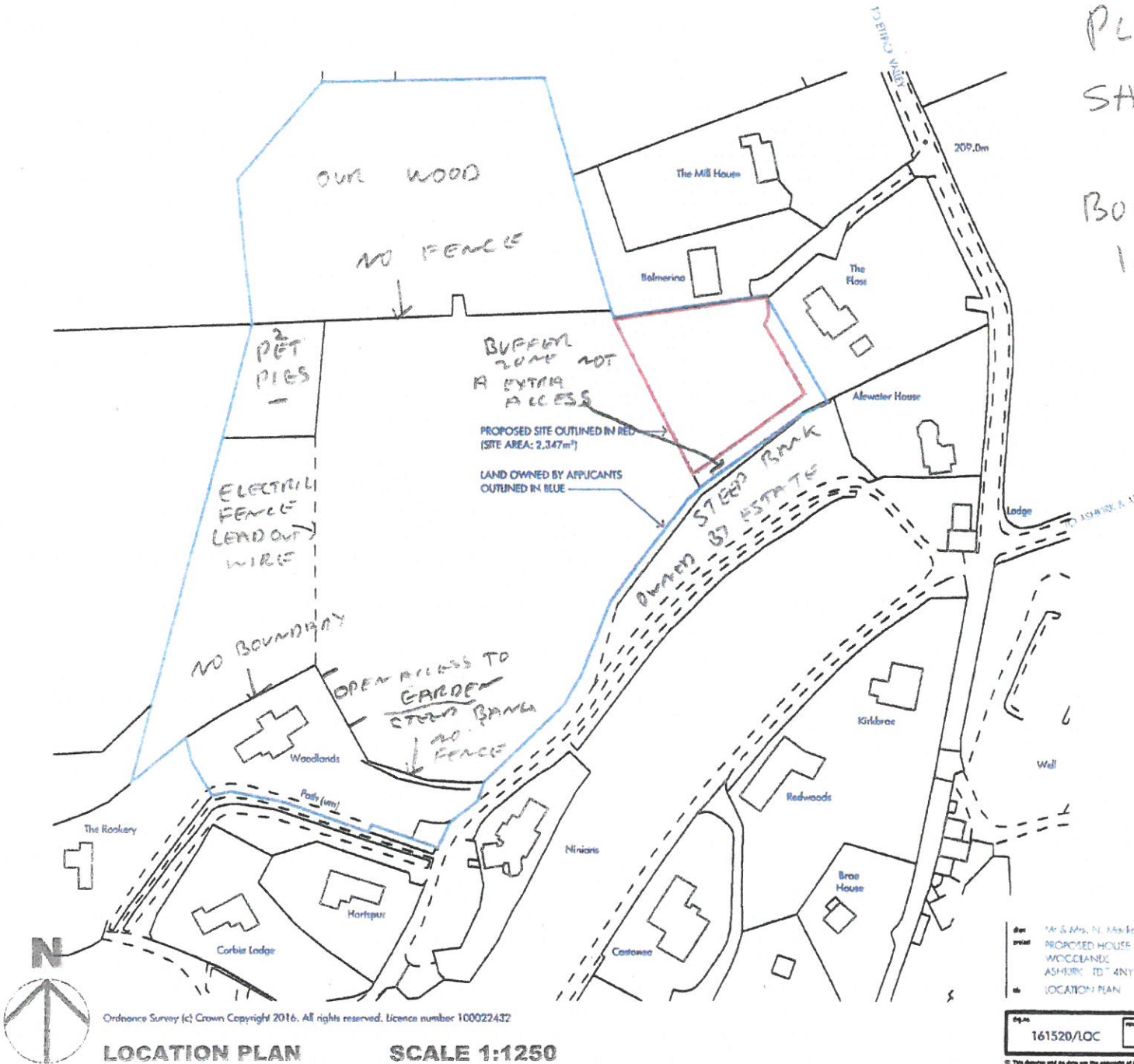
boundary then the application would have been treated more favourably.

- The planning officer comments that there is nothing to prevent a further sporadic expansion including further south west into the same field. This concern will be negated by Woodlands giving its access rights and burdens to the new house so there can be no further development in the land owned by Woodlands. However, this is a legal not a planning matter .
- This is a windfall / backland site and the original application argues the case on p 4 of the planning statement. The local plan vol 1 p15 admits that the current economic situation will present severe challenges to meeting the current housing targets for the Borders..It later states vol 2 p153 4.8 "some demand for new housing will be met through windfall sites" . This is a typical windfall site with no other planning problems other than a unnatural line drawn on the local plan.
- The new house is not ribbon development it will not even be seen from the road, as it is hidden behind the existing building group .
- It is no surprise that 2 neighbours objected as nobody wants the disruption of a new built next door. But none of their objection were identified as issues by the statutory consultees or the planning officer.
- The new house will be built for our daughter who works in the borders and lives at home . A young person could not afford any of the houses for sale in Ashkirk at the moment as they tend to be between £300,000and £500,000. Perhaps with hindsight we could have expanded our pet pigs into a business and claimed an economic need . But the countryside already has many houses built on the excuse of a pet horse and stable block masquerading as a bona fide

business. But who knows what business could evolve and be run from this new house.

- the house plans submitted in the application are illustrative only. Our intention is to build in a country cottage style with roof lights, in keeping with The Floss.
- Ashkirk has become a retirement village and the cost of big houses is prohibitive to young people. Although not an affordable house in the social housing sense of the word, this will be at the affordable end for a younger person.
- The planning officer comments that the development does not offer significant community benefits that would justify a building outwith the current settlement boundary. We would point out that Ashkirk hall and church are in desperate need of support. Encouraging a young person to stay and put down roots in the village is surely a community benefit. The site is in walking distance of a good bus service which links to the transport hub. There is a good school bus to Selkirk High and Lilliesleaf Primary.

PLAN WITH NOTES
SHOWING THERE
ARE NO
BOUNDARY FENCES
IN THE GARDEN



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LOCATION PLAN **SCALE 1:1250**

des: Mr & Mrs. N. Alex Kay
proj: PROPOSED HOUSE
WOODLANDS
ASHBURY TD 4NY
dt: LOCATION PLAN

proj: 161520/LOC date: 12/06/2018



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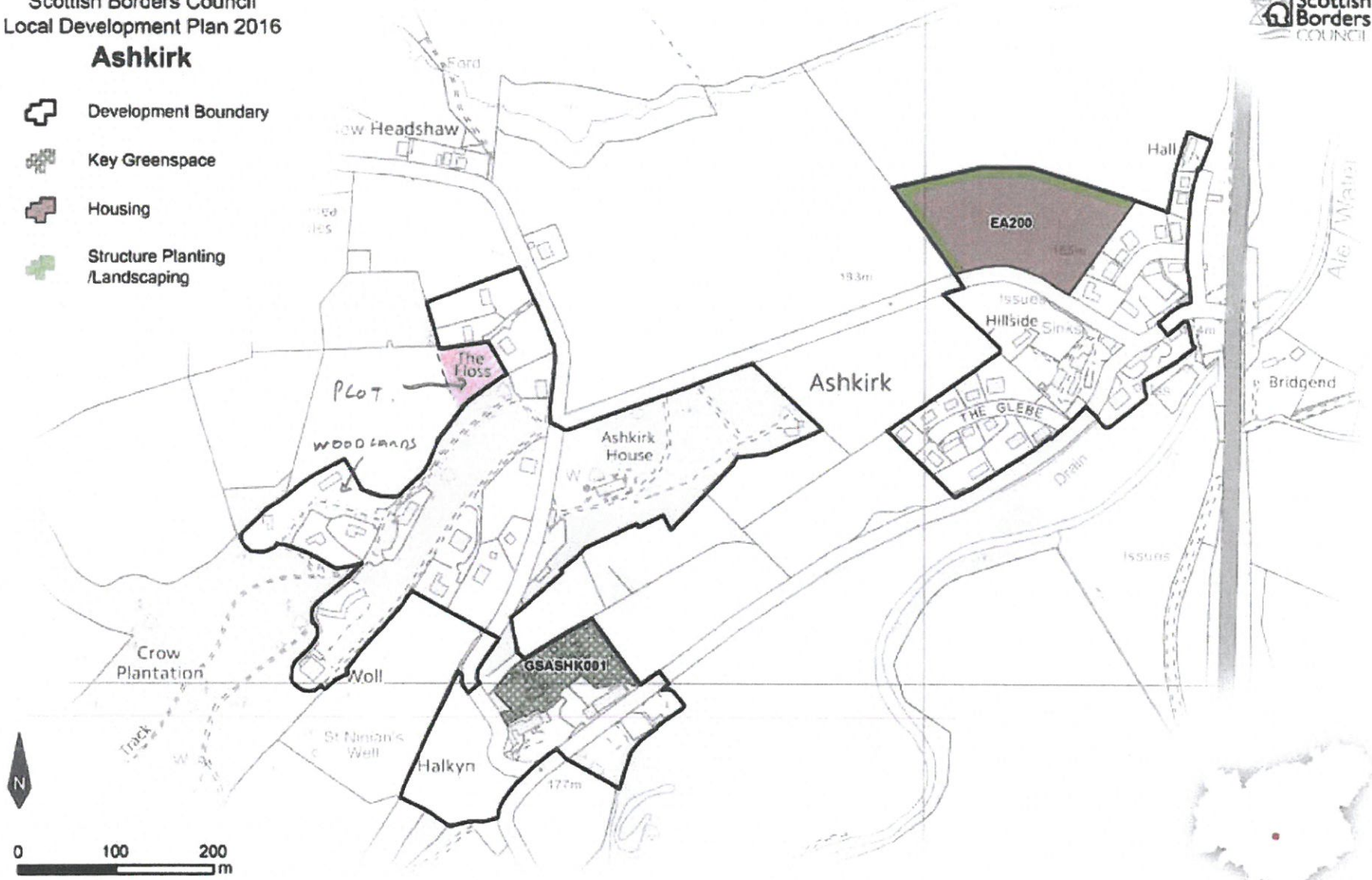
MAP SHOWING PLOT ON LOCAL PLAN

Scottish Borders Council
Local Development Plan 2016



Ashkirk

- Development Boundary
- Key Greenspace
- Housing
- Structure Planting / Landscaping



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For further information, including help reading this document, please contact: Planning Policy & Access, Regulatory Services, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel: 01835 626511. Email: localplan@scotborders.gov.uk
Disclaimer: Scottish Borders Council uses spatial information from a range of sources to produce the mapping contained within this document. The mapping is for illustrative purposes only. The original sources should be consulted to confirm information.

FERGUSON
PLANNING
1
MILE

PLANNING STATEMENT

ERECTION OF RESIDENTIAL DWELLINGHOUSE, ACCESS AND ASSOCIATED INFRASTRUCTURE WORKS

WOODLANDS, THE WOLL, ASHKIRK, TD7 4NY

CLIENT: MR & MRS MACKAY

JANUARY 2017



Main Office 2nd Floor 24 Broad Street Glasgow TD7 4NY	T: 01259 891 973 F: 01259 891 974 E: enquiries@fergusonplanning.co.uk W: www.fergusonplanning.co.uk	Glasgow Office 20 Buchanan Street Glasgow G1 3JL	W: 01259 891 973 E: scotland@fergusonplanning.co.uk W: www.fergusonplanning.co.uk	NE Office 61 High Road Blythville Co. Tyrone BT54 6LQ
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Appendix 1: Location Plan

Appendix 2: Site Plan

Ref: MKAY1

LPA Ref: SBC

Author: TF/GF

Telephone: 01896 668 744

Date of Issue: January 2017

1. Introduction

- 1.1 This statement has been prepared by Ferguson Planning on behalf of the applicant, Mr and Mrs MacKay, who wish to erect a residential dwellinghouse for their daughter to the north west of Ashkirk Village.
- 1.2 Planning Permission in Principle (PPP) is being sought for the erection of a single dwellinghouse with the formation of an access and associated infrastructure works. Further detail of the proposal is outlined within Section Three of this statement together with the associated indicative architectural drawings produced by Gordon Melrose Building Design.
- 1.3 The purpose of this statement is to provide details of the proposal and set out the key factors that should be taken into account when determining this application. The remainder of this statement is structured as follows:
- Section 2: Site Context
 - Section 3: The Proposal
 - Section 4: Planning Policy
 - Section 5: Policy Compliance
 - Section 6: Conclusion

2. Site Context

- 2.1 Ashkirk is located approximately 5 miles south of Selkirk and is accessed off the A7. The village comprises two clusters of buildings separated by open farmland, one beside the A7 and the other around the Church.**
- 2.2 The site in question extends to some 0.23 hectares and is located within and to the north west of Ashkirk Village. The site directly abuts the development boundary with existing residential properties on either side. The site is within walking distance of community facilities and a short drive to the local golf course.**

3. The Proposal

- 3.1 The proposal is for Planning Permission in Principle (PPP) and seeks to erect a single family dwelling house immediately to the north west of the Ashkirk settlement boundary. The site is largely square in shape and extends to 2,347sq.m. We feel the site is a suitable location for a dwelling house for the reasons outlined within Section 5.
- 3.2 The house location, while not fixed, has been indicatively shown on the site plan. It relates well and has been kept close to the existing built form and aligned with the neighbouring dwellings and access road that runs from the main road.
- 3.3 The plot and approximate footprint is similar to the dwellings to the east and north to provide a form of synergy. There is a natural buffer or edge to the west of the plot/settlement proposed in the form of native mix hedging. Again existing and new boundary planting is proposed to soften the built form and provide a defensible edge.
- 3.4 The plot in question represents a natural "rounding" or extension to the settlement boundary and does not impede on the distinct separation identity between the two parts of the Ashkirk boundary. Again if housing in the countryside policy were to be applied it would comfortably fall within the confines of the additional dwelling allowance given the existing number of houses and no existing permissions locally.
- 3.5 The proposed house is for a local need and will be occupied by the applicant's daughter who works in the Scottish Borders and which will further strengthen the local Ashkirk community.

4. Planning Policy

- 4.1 The development plan is made up of the Strategic Development Plan for South East Scotland (SESPlan) and the Scottish Borders Local Development Plan 2016.

Scottish Borders Local Development Plan 2016

- 4.2 **Policy PMD4 Development Outwith Development Boundaries** recognises that *"it is inevitable that unanticipated or windfall developments will arise immediately outwith the development boundary and that on occasion these might be acceptable provided they are in line with the Plan's other policies"*.

- 4.3 One of the principle policies in the determination of this application is **Policy HD2: Housing in the Countryside** where councils wish to promote appropriate rural housing development:

- a) in village locations in preference to the open countryside
- b) associated with existing building groups where this does not adversely affect their character or that of the surrounding area

Section (A) of Policy HD2 is relevant for this proposal. This states that housing of up to a total of two additional dwellings or a 30% increase of the building group, whichever is greater, associated with existing building groups may be approved provided that:

- a) the council is satisfied that the site is well related to an existing group of at least three houses
- b) the cumulative impact of the proposal on the character of the building group, and on the landscape and amenity of the surrounding area will not cause unacceptable adverse impacts,
- c) no development above the 2 housing dwellings/30% increase will be permitted.

The proposal should appropriate in terms of scale, siting, design, access and materials, and should be sympathetic to the character of the group.

- 4.4 **Policy PMD2 Quality Standards** seeks high quality design and one which can be appropriately accommodated on the site, respect its surroundings and is sustainable in terms of accessibility.

- 4.5 **Policy HD3 Protection of Residential Amenity** relates to development on 'backland' and gap sites. It states that development that is judged to have an adverse impact on the amenity of existing residential areas will not be permitted. Developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and

b) the details of the development itself particularly in terms of:

- i) the scale, form and type of development in terms of its fit within a residential area,
- ii) the impact of the proposal on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions,
- iii) the generation of traffic or noise,
- iv) the level of visual impact

Material Considerations

4.6 The key material considerations in the determination of an application of this nature are considered to be:

- Supplementary Planning Guidance:
 - 'New Housing in the Borders Countryside' (2008).
 - 'Placemaking & Design' (2010)

5. Planning Policy Compliance

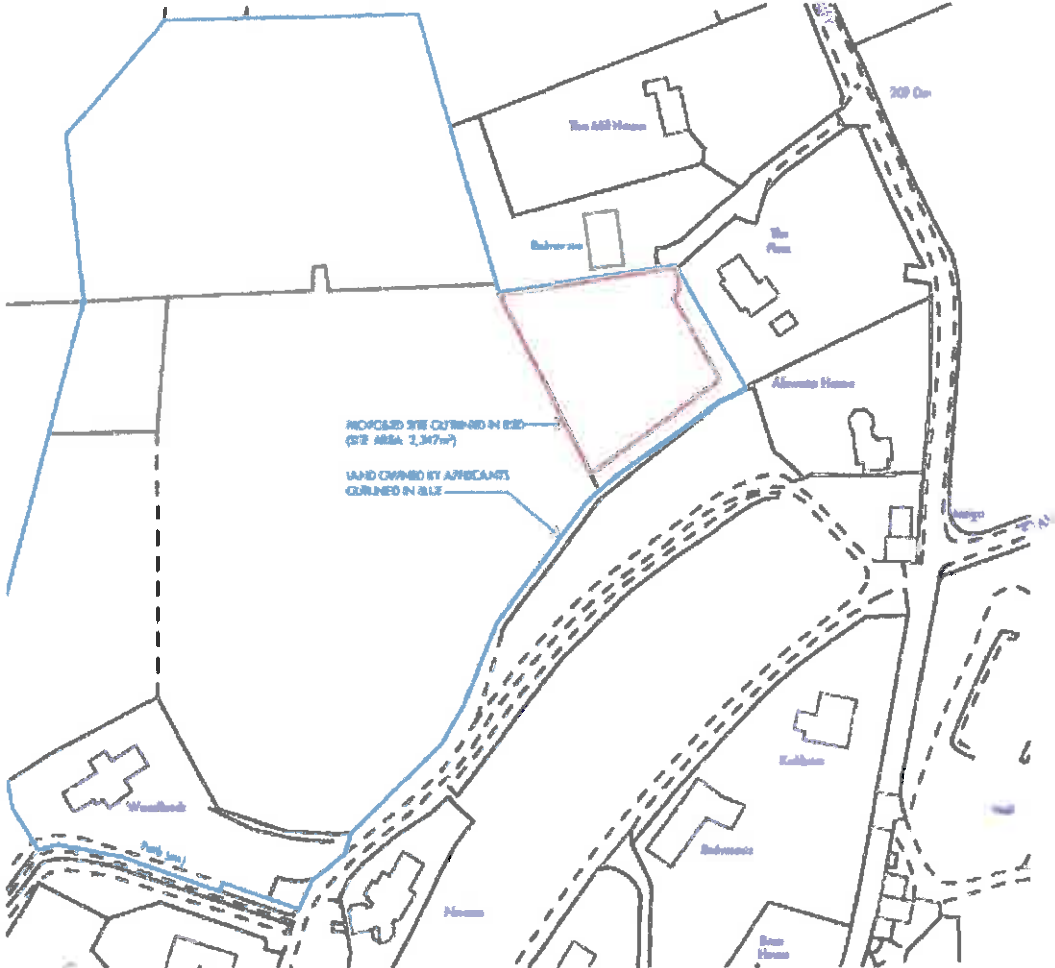
- 5.1 This section will focus on how the proposal meets the current relevant Local Development Plan policies under HD2 Housing in the Countryside, HD3 Protection of Residential Amenity and other considerations.
- 5.2 Due to the proposal falling outwith the Ashkirk development boundary, and therefore within a countryside location, Policy HD2 is a key policy in the overall determination of this application.
- 5.3 The proposal represents a natural extension to the development boundary and one which will not adversely affect the separation between the two parts of the Ashkirk settlement which, as stated in the LDP, is important to maintain their distinct identities.
- 5.4 The site sits comfortably within a building group of at least four dwellings then within close proximity of a further ten dwellings. The proposed is a single dwelling addition and thus in compliance with Policy HD2.
- 5.5 The cumulative impact of the proposal will not be adverse. It will not see any future development as it represents the natural rounding off of the building group and the house will not have any amenity issues on the neighbouring dwellings. The scale of the proposal fits well within the group and it will not result in any overlooking, loss of privacy or loss of sunlight and is thus in compliance with Policy HD3.
- 5.6 The level of visual impact will be minimal and boundary hedging, trees and shrubs will be an improvement on the current visual impact of the low quality under utilised backland.
- 5.7 The site is not at risk of flooding and does not have any environmental designations.
- 5.8 The proposed house is within a sustainable location in Ashkirk being approximately 0.5 miles from the Village Hall Bus Stop which provides regular bus services to Edinburgh, Hawick and Carlisle.

6. Conclusion

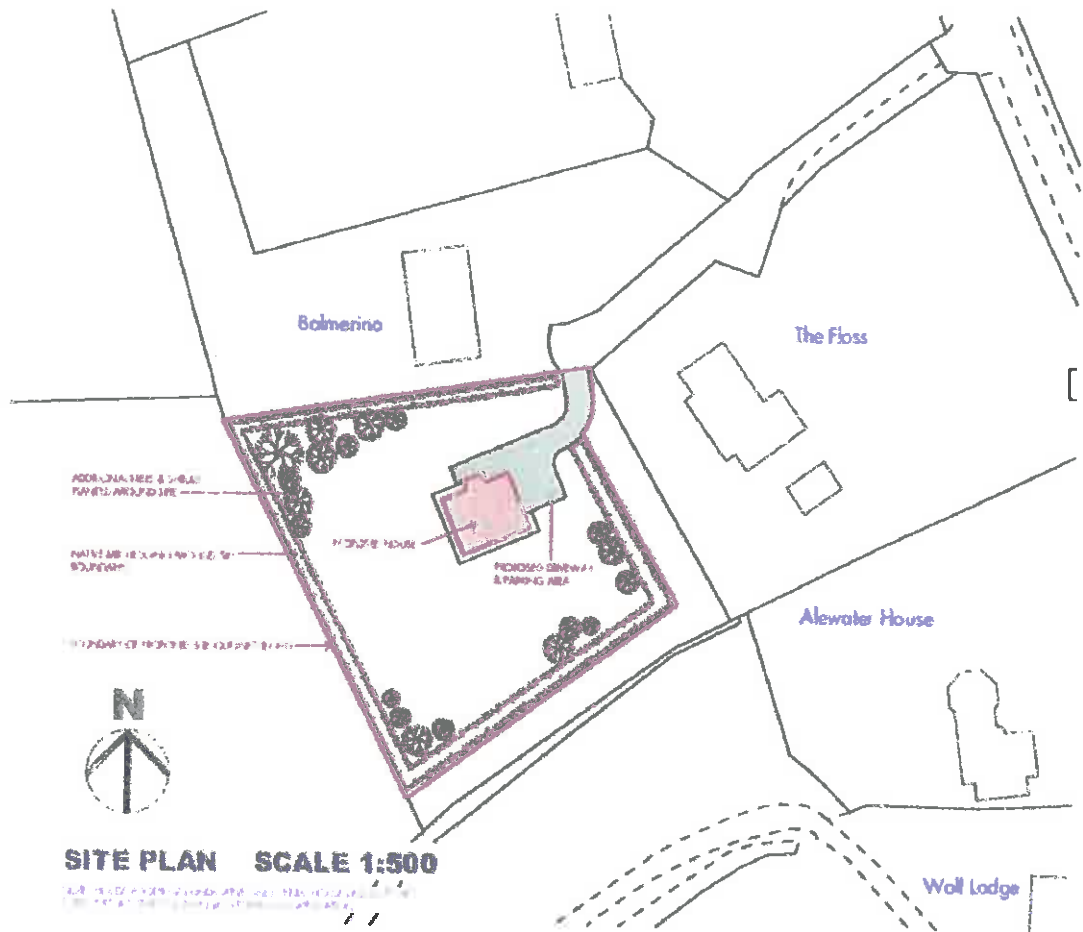
- 6.1 We believe that the proposal represents a sound location for a dwelling house for the reasons outlined within Chapter 5.**
- 6.2 The site represents a sustainable location within Ashkirk being centrally located and in close proximity to public transport.**
- 6.3 The site is within an existing immediate cluster of 4 dwelling houses and forms part of a wider settlement of a further 10 dwellings. It will represent an acceptable extension to this building group. It can also assist in meeting the housing shortfall in the Scottish Borders which is currently shown to be by some 916 houses.**
- 6.4 There are no flooding or environmental issues associated with the site.**
- 6.5 There will be no adverse impact on neighbouring housing and represents a natural extension to the building group and development boundary and will have a defensible boundary in the form of existing and proposed landscape/fence treatment.**
- 6.6 The occupier of the proposed dwelling will be the daughter of the applicant. She works in the Scottish Borders region and seeks to be an active part in the local community.**
- 6.7 For the reasons mentioned within this statement we kindly request that this application be approved.**

Appendices

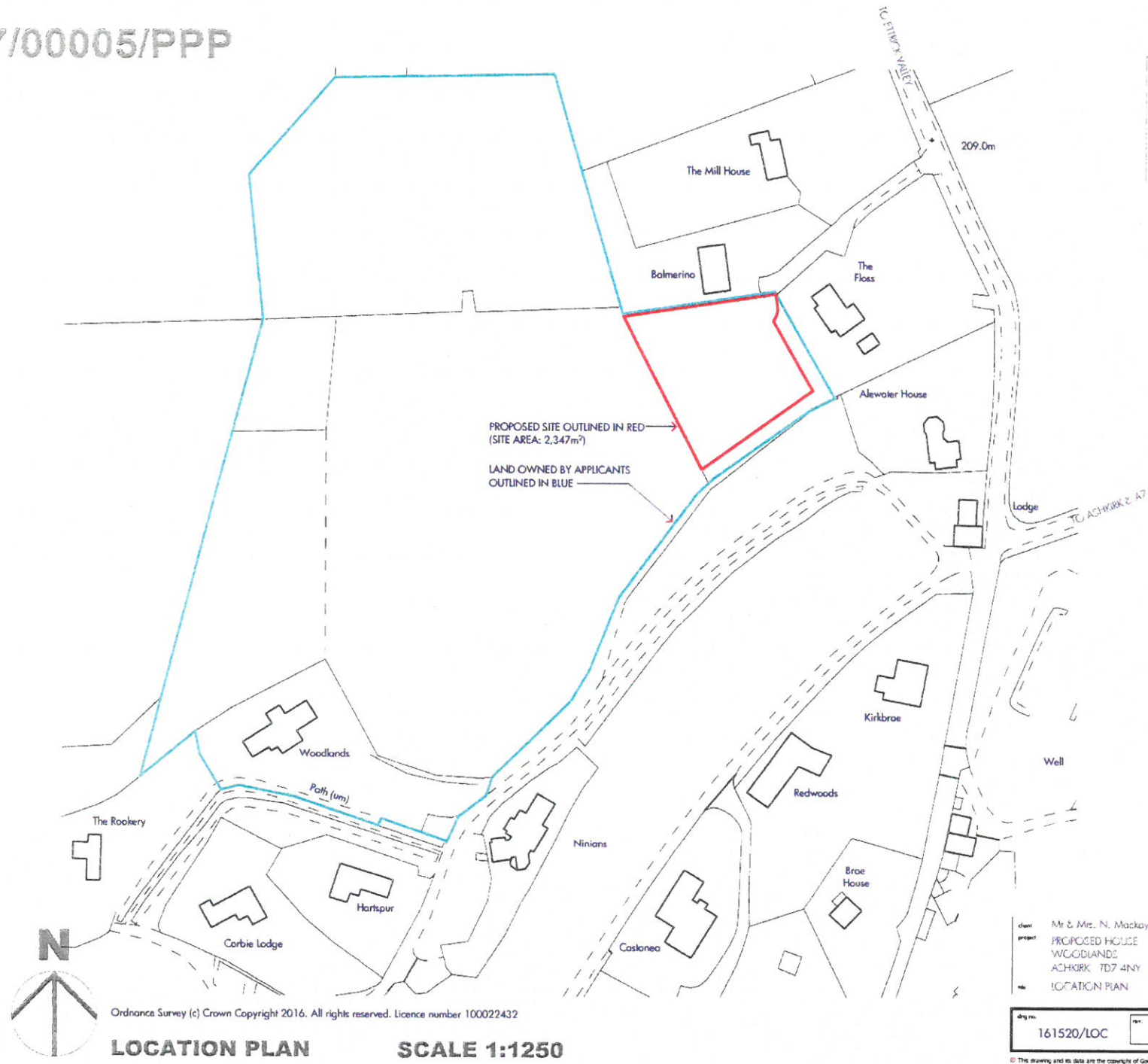
Appendix 1: Location Plan



Appendix 2: Site Plan



Scottish Borders Council
Town And Country
Planning (Scotland) Act
1997
REFUSED
subject to the
requirements of the
associated Decision
Notice



PROPOSED SITE OUTLINED IN RED
(SITE AREA: 2,347m²)
LAND OWNED BY APPLICANTS
OUTLINED IN BLUE



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LOCATION PLAN **SCALE 1:1250**

client: Mr & Mrs. N. Mackay
project: PROPOSED HOUSE
WOODLANDS
ACHKIRK TD7 4NY
no: LOCATION PLAN

diag no: 161520/LOC
scale: 1:1250 A4S
date: 19 Dec 2016

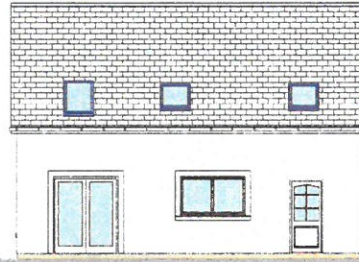


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NORTH ELEVATION



SOUTH ELEVATION



EAST ELEVATION

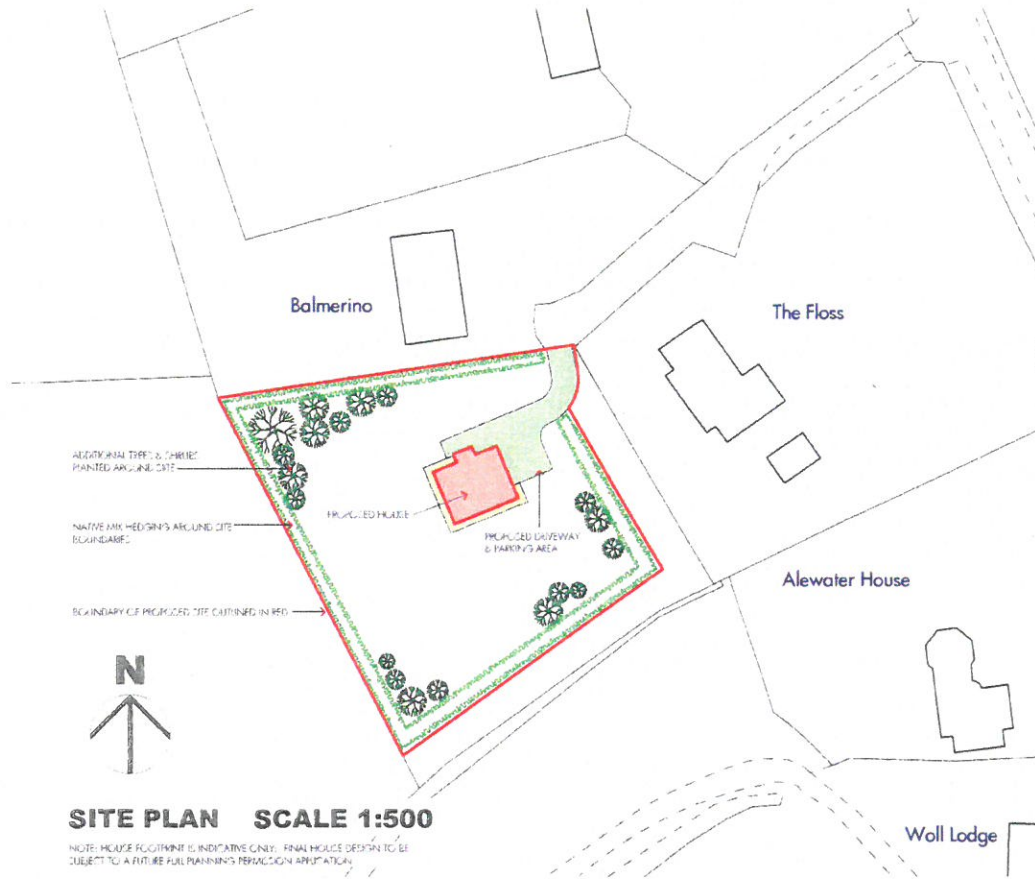
INDICATIVE ELEVATIONS

NOTE: ELEVATIONS ARE INDICATIVE ONLY. FINAL HOUSE DESIGN TO BE SUBJECT TO A FUTURE FULL PLANNING PERMISSION APPLICATION.

Scottish Borders Council
Town And Country
Planning (Scotland) Act
1997

REFUSED

subject to the
requirements of the
associated Decision
Notice



SITE PLAN SCALE 1:500

NOTE: HOUSE FOOTPRINT IS INDICATIVE ONLY. FINAL HOUSE DESIGN TO BE SUBJECT TO A FUTURE FULL PLANNING PERMISSION APPLICATION.

Client	Mr & Mrs. N. Mackay
Project	PROPOSED HOUSE
Address	WOLLSBURNE
Site	ASHKIRK TOTT AIN
Drawn	SITE PLAN & INDICATIVE ELEVATIONS
Ref No	161520/PL/01



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Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Application for Planning Permission

Reference : 17/00005/PPP

**To : Ms Gillian MacKay per Ferguson Planning Per Gary Farrelly 54 Island Street Galashiels
Scottish Borders TD1 1NU**

With reference to your application validated on **6th January 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse

at : Land South Of Balmerino Ashkirk Scottish Borders

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s) stated on the attached schedule**.

**Dated 27th February 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



.....

Chief Planning Officer

APPLICATION REFERENCE : 17/00005/PPP**Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
161520/LOC	Location Plan	Refused
161520/PL/01	Site Plan	Refused

REASON FOR REFUSAL

- 1 The proposed development would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016, in that the proposed development would be located outwith the Ashkirk Development Boundary, and insufficient reason and justification for an exceptional approval has been advanced. Other material considerations do not justify a departure from the Development Plan in this case.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 OSA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/00005/PPP
APPLICANT : Ms Gillian MacKay
AGENT : Ferguson Planning
DEVELOPMENT : Erection of dwellinghouse
LOCATION: Land South Of Balmerino
 Ashkirk
 Scottish Borders

TYPE : PPP Application
REASON FOR DELAY: No Reason

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
161520/LOC	Location Plan	Refused
161520/PL/01	Site Plan	Refused

NUMBER OF REPRESENTATIONS: 2
SUMMARY OF REPRESENTATIONS:

ROADS PLANNING SERVICE: Confirms that the RPS has no objections in principle to a dwelling on this site. Will however require the following improvements to the access onto the public road to be addressed at detailed planning stage, should this development be granted consent.

- o Existing access to be widened on both sides to allow two vehicles to pass in the bellmouth area.
- o The first 5 metres of the access track to be surfaced to the following specification "40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1."
- o Vegetation on north side of the access to be cut back to stop overhanging which narrows the access.

Given that the land associated with the above works appears to be outwith the control of the applicant, the RPS engineer will require confirmation that the works detailed can be carried out with the agreement of the appropriate land owners. In addition to the above, parking and turning for a minimum of two vehicles, not including garages, must be provided within the curtilage of the plot prior to occupation and be retained thereafter in perpetuity. It should be noted that all work within the public road boundary must be undertaken by a contractor first approved by the Council.

EDUCATION AND LIFELONG LEARNING: Confirms the site is located within the catchment area for Lilliesleaf Primary School, St Joseph's R C Primary School and Selkirk High School. There are no contributions sought for this application.

LANDSCAPE ARCHITECT: The site lies at the north east edge of The Woll Designed Landscape, identified in the Borders Designed Landscapes Survey 2008 as a 'Simple layout of plantations on hillside' of locally high significance. The site is part of a larger field that slopes down north-eastward from Woodlands, the elevated property to the SW which owns the field and site. The larger field has been planted with a number of trees, both individually and in groups and there are a number of wide grass paths or tracks cut around and through the field/site. While these trees are generally young they are, in the main, establishing well. The Landscape Architect suggests the main access into the field is through the gate in the north -east corner, having come up the shared access track to the three adjacent properties.

While it looks like there would be enough space to develop a single house on this site, towards the middle/ western part, would want to see a site plan showing all the trees on site, with their Root Protection Areas (RPA) - see BS 5837:2012 Trees in relation to design, demolition and construction - recommendations, for method of establishing RPAs. This would allow the extent of the developable area to be established and would avoid future conflict with established trees. It may not be necessary to retain every tree on the site but ideally a good proportion should be retained, especially those offering some screening to adjacent properties, e.g. The 3 trees along the eastern boundary that effect a degree of separation and screening from The Floss. The groups of trees to the west, outwith the site, should be retained to provide screening and shelter from the west.

If consent is deemed appropriate in this location, would want a condition requiring details of boundary treatments, which ideally should be hedges in combination with any fencing and a planting scheme that would enhance the amenity and mitigate for any trees removed. In summary, the landscape architect does not have any serious reservation for the development of this part of the larger field as a single house, if a scheme of planting to ameliorate the development into the immediate area can be agreed.

COMMUNITY COUNCIL: No objection. Comment that the proposals seem to fit well into the settlement.

SEPA: Ask that a planning condition be attached to the consent. If this will not be applied, then please consider this representation as an objection. - Waste water drainage - We welcome the applicant's proposal to connect to the public sewer. It is unclear from the site plans how this will be achieved and therefore for the avoidance of doubt we request that connection to public sewer is secured by condition.

AGENT RESPONSE TO SEPA COMMENT: In response to SEPA's comment client has notified us that drainage will be private as there is no mains sewerage in Ashkirk. Everyone is on an individual septic tank apart from the houses in the core of Ashkirk village which share a communal septic tank.

PUBLICITY AND REPRESENTATIONS

This application was publicised by means of the direct postal notification of 4 neighbouring premises. Further publicity was carried out in the form of an advert in the Southern Reporter, and a notice on the national public notices website.

Objection was received from two neighbouring resident. These objections can be viewed in full on the public access website. Matters raised in the objections can be summarised as follows:

- Proposal is contrary to Local Plan
- Detrimental to Residential Amenity
- Siting - - The house could be built at the top end of the field where it would be more compatible with the existing cluster of houses near Woodlands and serviced by a more suitable access road.
- Inadequate access - The track to the site is not suitable or sufficient for more traffic and construction vehicles entering and exiting will cause severe damage to an already poor track
- Inadequate drainage - On the application the house is to be connected to the mains drains-there is no mains drains
Anywhere near the site.
- Increased traffic
- Legal issues

- Environmental / Ecology Issues - The application will have a serious detrimental effect on the local wildlife environment as deer have used this part of the field moving from the woods at the rear of Balmerino on a daily basis for the 30 years we have lived here.
- Loss of view
- Noise nuisance
- Over Provision of facility in area (No need for additional housing here). Furthermore, there is an access strip left between the proposed site and The Floss-Is this so further development could be applied for in the future
- Overlooking
- Privacy and amenity of neighbouring properties affected - The cumulative impact of the proposal will have amenity issues on the neighbouring dwellings
- Trees/landscape affected
- Value of property
- Water Supply
- The land is outwith the SBC development area
- Scale of the proposal does not fit well within the group and will look down and dwarf the existing properties
- On the application it states that the Daughter seeks to be an active part in the local community and staying on the proposed site will further strengthen the local Ashkirk community.---You don't have to build a house to do that ---you could buy one of the nine properties currently on the market.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016
PMD1, PMD2, PMD4, HD2, HD3, EP10, EP13, IS2, IS3, IS7, IS9

OTHER

Supplementary Planning Guidance

- Placemaking and Design
- Householder Development
- Development Contributions
- Trees and Development
- Landscape and Development
- Waste

Recommendation by - Andrew Evans (Planning Officer) on 24th February 2017

This application relates to an area of existing land on the edge of Ashkirk. The site is located outwith the Development Boundary set out in the Local Development Plan. The site is bound by the existing dwellings "Balmerino" to the North, and "The Floss" to the east. To the west of the site is a paddock, owned by the applicant, who owns the House "Woodlands" on the other side of the intervening hill. South of the site is garden ground of another neighbouring dwelling "Ninians".

Planning Permission in principle is sought for the erection of a single detached dwelling on the site. The site is located outside the Ashkirk Settlement boundary as set out in the Scottish Borders Local Development Plan 2016. The application is supported by a planning statement. The site is part of a larger field that slopes down north-eastward from Woodlands, the elevated property to the SW which owns the field and site.

POLICY CONTEXT

Policy PMD4 (Development outwith development boundaries) is applicable to this application. The policy sets out in detail, that where development boundaries are shown in the LDP, they indicate the extent to which towns and villages should be able to expand during the local plan period. Development should be contained within the development boundary, and proposals for new development outwith the boundary, not on allocated sites on the proposals maps, will normally be refused. The supporting statement sets out that the house is proposed for the applicant's daughter.

Whilst proposals for development outside the boundary would "normally" be refused, policy PMD4 goes on to set out four qualifying criteria against which any proposals for exceptional approvals contrary to the remainder of the policy, must be assessed, before the proposals are considered against the subsequent criteria of the policy. This current proposal for a single dwelling does not meet any of these four qualifying criteria. Specifically:

- a. It is not a job generating or economically justified dwelling on the countryside under policy ED7 or HD2,
- b. It is not an affordable housing proposal which can be justified under policy HD1,
- c. Though there is a shortfall of 916 houses identified though the housing land audit with regards provision of an effective 5 year housing land supply, a process has been undertaken to produce supplementary guidance on housing which will fully address this shortfall,
- d. The development is not considered to offer significant community benefits that would outweigh the need to protect the development boundary.

In this case I note that the agents supporting statement quotes from the supporting text of policy PMD4. However I would take issue with the emphasis placed in the agent's statement. The section of policy preamble quoted from paragraph 1.2 refers to cases where there is a noted, justified exception to the policy being considered. That is not the case here. This proposal does not meet any of the 4 qualifying criteria for exceptional approvals in the policy text. Section 1.2 of the preamble refers to cases where exceptional approvals might be granted for schools, or where in a village there is community support for a housing proposal that provides a population to support local services. That is not the case here. Ashkirk does not have any significant community services that require the support of additional housing.

The LDP which dates from 2016 makes specific mention in relation to Ashkirk that:

"There are some opportunities for small scale infill development within the settlement boundary ... The Plan does not identify any areas for future expansion beyond the period of this Local Development Plan."

The settlement development boundaries shown in the LDP exist so as to prevent sporadic housing development such as that set out in this current application.

The supporting statement goes on to quote parts of policy HD2 (on Housing in the Countryside). I would take issue with the quoting of the Building Group part of the policy. The surrounding houses which the agent contends form a "Building Group" are in fact dwellings within the settlement boundary of Ashkirk. Policy PMD4 on Development Outwith Development Boundaries is clearly the predominant and relevant policy against which the application should be considered, and for the reasons set out above, the proposal is considered to be on conflict with this policy.

The proposal does not amount to "natural rounding off of the building group" as set out in point 5.5 of the supporting statement. Rather, it represents an unacceptable development beyond a settlement boundary, contrary to policy PMD4.

I also note the comments in the agents supporting statement (paragraph 6.3) that the development "can also assist in meeting the housing shortfall in the Scottish Borders which is currently shown to be by some 916 houses". There is a mechanism in place to address this shortfall, by means of the call for sites undertaken last year, and subsequent supplementary guidance on housing, which has been produced, and will address fully this shortfall.

I acknowledge the relationship of the site to the existing structure of the settlement, set relatively inconspicuously behind existing houses. However, that, in itself, is insufficient to justify a departure from a policy designed to prevent unplanned, sporadic expansion of the village further into surrounding countryside. If accepted, this sporadic expansion could be repeated in other such locations, including further south-west into the same field. The varied pattern of Ashkirk's growth means it is particularly important to manage even small-scale extensions to it, thus the settlement boundary is a crucial policy consideration.

PLACEMAKING AND SITE

Policy PMD2 of the LDP sets out the Council position in relation to design and placemaking considerations. Whilst the indicative house design is uninspired, a suitable design could be secured at a later stage. I note the boundaries of the site, which are bound by a mixture of existing hedgerow, and post and wire fence. The proposed plot would feature hedging around the boundary. The indicative plans lodged with the

application show a house oriented to face the blank southern gable wall of "Balmerino". Two ground floor windows would face towards "The Floss". I note there is relatively mature beech hedging along this boundary. The indicative proposed plans for the house show a dormer bungalow, which would be of greater overall height than the single storey bungalows at "Balmerino", and "The Floss; but of lesser height than the Storey and 3/4 dwelling at "The Mill House" to the north.

TREES AND HEDGEROWS

The site is located in the corner of an existing field, bound by post and wire fence to the north, and a domestic fence and beech hedge in the garden of "The Floss" to the east. The larger field, of which the site is part, has been planted with a number of trees, both individually and in groups and there are a number of wide grass paths or tracks cut around and through the field/site. Policy EP13 of the LDP on Trees, Woodland and Hedgerows sets out that existing trees and hedgerows will be protected. A dwelling in the site proposed would require removal of a number of young trees to permit the development to take place. There are no significant trees which would be affected by the proposed development.

LANDSCAPE

The site lies at the north east edge of The Woll Designed Landscape, identified in the Borders Designed Landscapes Survey 2008 as a 'Simple layout of plantations on hillside' of locally high significance,

The Landscape Architect advises that whilst the development will impact on some trees, these trees are generally young and they are, in the main, establishing well. The Landscape Architect suggests that while it looks like there would be enough space to develop a single house on this site, towards the middle/ western part, she would want to see a site plan showing all the trees on site, with their Root Protection Areas (RPA) as this would allow the extent of the developable area to be established and would avoid future conflict with established trees.

If consent had been deemed appropriate in this location, conditions could cover matters regarding tree protection, to establish a developable area, and new planting and boundary treatments. However, the site is fundamentally considered unacceptable for policy reasons, in terms of its unacceptable expansion beyond the settlement boundary. Had it otherwise been acceptable, I would have been content that the tree and landscaping issues could be dealt with via planning condition.

ROAD SAFETY

Road safety is a material planning consideration. The Roads Planning Service was consulted on the application, and advises of no significant concerns to the principle - detailed requirements for safety are set out in the consultation reply and could be addressed via planning conditions. The requirements of the condition should be drafted to overcome any land ownership issues, by ensuring the works are carried out before any development of the site. Subject to a condition to address the RPS requirements then it could be possible for the proposals to be considered acceptable in terms of impacts on road safety.

AMENITY

Policy HD3 of the Scottish Borders Local Development Plan sets out that residential amenity will be afforded protection. The Council has adopted supplementary planning guidance on Householder Development which sets out standards for privacy and amenity. In the case of these current proposals, the site is indicatively located in a manner sufficiently distant from, or oriented relative to, the nearest residential dwellings that I am satisfied that the proposed development of a house could be possible in a manner not resulting in an adverse impact on neighbouring amenity. The position of the house is such that acceptable privacy relationships could be achieved, and compliance with policy HD3 and the SPG standards on privacy and amenity could be achieved.

WATER SUPPLY AND DRAINAGE

Policy IS9 of the Local Development Plan on Waste Water Treatment Standards and Sustainable Urban Drainage is relevant to this application. Water and drainage services would require confirmation in due course, and this could be ensured via standard planning condition, were the application otherwise acceptable.

I note the consultation response of SEPA, who ask that a planning condition be attached to the consent. If this will not be applied, then SEPA would object. SEPA welcome the applicant's proposal to connect to the public sewer on the application form. The agent, in response to SEPA's comment advise that drainage will be private as there is no mains sewerage in Ashkirk. Surrounding properties are to individual septic tanks apart from the houses in the core of Ashkirk village which share a communal septic tank. Given there is no available public sewer, this is not objectionable in principle.

Were the application acceptable in principle, I would be content that drainage and water supply issues could be addressed via a suitably worded suspensive planning condition.

DEVELOPMENT CONTRIBUTIONS

Policy IS2 Developer Contributions of the LDP is relevant to this application. The policy is further set out in the adopted SPG on development contributions. The site would attract development, development contributions in terms of the Borders Railway. A legal agreement would have been necessary to collect these contributions were the proposed development otherwise acceptable. The applicant has indicated acceptance of meeting the identified contribution requirements.

REASON FOR DECISION :

The proposed development would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016, in that the proposed development would be located outwith the Ashkirk Development Boundary, and insufficient reason and justification for an exceptional approval has been advanced. Other material considerations do not justify a departure from the Development Plan in this case

Recommendation: Refused

- 1 The proposed development would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016, in that the proposed development would be located outwith the Ashkirk Development Boundary, and insufficient reason and justification for an exceptional approval has been advanced. Other material considerations do not justify a departure from the Development Plan in this case.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.

PLANNING CONSULTATION

On behalf of: Director of Education & Lifelong Learning

From: Service Director Assets & Infrastructure

Contact: Neil Hastie, Estates Manager

To: Head of Planning & Building Standards

Date: 12 January 2017

Contact: Andrew Evans ☎ 01835 826739

Ref: 17/00005/PPP

PLANNING CONSULTATION

Name of Applicant: Ms Gillian MacKay

Agent: Ferguson Planning

Nature of Proposal: Erection of dwellinghouse

Site: Land South Of Balmerino Ashkirk Scottish Borders

OBSERVATIONS OF: Education & Lifelong Learning (Neil Hastie)

CONSULTATION REPLY

I refer to your request for Educations view on the impact of this proposed development, which is located within the catchment area for Lilliesleaf Primary School, St Joseph's R C Primary School and Selkirk High School.

There are no contributions sought for this application.

If you require any further information, please do not hesitate to contact me.

PLANNING CONSULTATION

To: Landscape Architect

From: Development Management

Date: 10th January 2017

Contact: Andrew Evans ☎ 01835 826739

Ref: 17/00005/PPP

PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 31st January 2017, If further time will be required for a reply please let me know. If no extension of time is requested and no reply is received by 31st January 2017, it will be assumed that you have no observations and a decision may be taken on the application.

Please remember to e-mail the DCConsultees Mailbox when you have inserted your reply into Idox.

Name of Applicant: Ms Gillian MacKay

Agent: Ferguson Planning

Nature of Proposal: Erection of dwellinghouse

Site: Land South Of Balmerino Ashkirk Scottish Borders

OBSERVATIONS OF: Landscape Architect

CONSULTATION REPLY

The site was visited on 19th January.

The site lies at the north east edge of The Woll Designed Landscape, identified in the Borders Designed Landscapes Survey 2008 as a '*Simple layout of plantations on hillside*' of locally high significance,

The site is part of a larger field that slopes down north-eastward from Woodlands, the elevated property to the SW which owns the field and site. The larger field has been planted with a number of trees, both individually and in groups and there are a number of wide grass paths or tracks cut around and through the field/site.

While these trees are generally young they are, in the main, establishing well.

I suggest the main access into the field is through the gate in the north –east corner, having come up the shared access track to the three adjacent properties.

While it looks like there would be enough space to develop a single house on this site, towards the middle/ western part, we would want to see a site plan showing all the trees on site, with their Root Protection Areas (RPA) - see BS 5837:2012 Trees in relation to design, demolition and construction – recommendations, for method of establishing RPAs. This would allow the extent of the developable area to be established and would avoid future conflict with established trees. It may not be necessary to retain every tree on the site but ideally a good proportion should be retained, especially those offering some screening to adjacent properties, e.g. the 3 trees along the eastern boundary that effect a degree of separation and screening from The Floss. The groups of trees to the west, outwith the site, should be retained to provide screening and shelter from the west.

If consent is deemed appropriate in this location, we would want a condition requiring details of boundary treatments, which ideally should be hedges in combination with any fencing and a planting scheme that would enhance the amenity and mitigate for any trees removed.

In summary, I do not have any serious reservation for the development of this part of the larger field as a single house, if a scheme of planting to ameliorate the development into the immediate area can be agreed.

Siobhan McDermott
LANDSCAPE ARCHITECT

Our ref: PCS/150833
Your ref: 17/00005/PPP

If telephoning ask for:
Cerian Baldwin

20 January 2017

Andrew Evans
Scottish Borders Council
Planning & Economic Development
Council Headquarters
Newtown St Boswells
Melrose
TD6 0SA

By email only to: dcconsultees@scotborders.gov.uk

Dear Mr Evans

Town and Country Planning (Scotland) Acts
Planning application: 17/00005/PPP
Erection of dwellinghouse
Land South Of Balmerino Ashkirk Scottish Borders

Thank you for your consultation email which SEPA received on 10 January 2017.

Advice for the planning authority

We ask that the planning **condition** in Section 1 be attached to the consent. If this will not be applied, then please consider this representation as an **objection**.

1. Waste water drainage

- 1.1 We welcome the applicant's proposal to connect to the public sewer. It is unclear from the site plans how this will be achieved and therefore for the avoidance of doubt we request that connection to public sewer is secured by **condition**.

2. Other planning matters

- 2.1 For all other matters we have provided standing advice applicable to this type of local development.

Continued...



Chairman
Bob Downes

Chief Executive
Sue Arden

SEPA Edinburgh Office
Silvan House, 3rd Floor, 231 Corstorphine Road,
Edinburgh EH12 7AT.

www.sepa.org.uk • customer enquiries 03000 99 66 99

Regulatory advice for the applicant

3. Regulatory requirements

- 3.1 Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office at Burnbrae, Mossilee Road, Galashiels, TD1 1NF, Tel: 01896 754797, Fax: 01896 754412.

If you have any queries relating to this letter, please contact me by telephone on 01349 860415 or e-mail at planning.sw@sepa.org.uk.

Yours sincerely

Cerian Baldwin
Senior Planning Officer
Planning Service

ECopy to: gary@fergusonplanning.co.uk;

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).

Comments for Planning Application 17/00005/PPP

Application Summary

Application Number: 17/00005/PPP

Address: Land South Of Balmerino Ashkirk Scottish Borders

Proposal: Erection of dwellinghouse

Case Officer: Andrew Evans

Customer Details

Name: Mrs Carolyn Riddell-Carre

Address: Cavers Carre House U61-4 B6359 At Clarilawburn To Newhall Road End, Melrose,
Melrose, Scottish Borders TD6 9EJ

Comment Details

Commenter Type: Community Council

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: No objection. Seems to fit well into the settlement.

REGULATORY SERVICES



To: **Development Management Service**
FAO Andrew Evans

Date: 27 Jan 2017

From: **Roads Planning Service**
Contact: **Paul Grigor**

Ext: 6663

Ref: 17/00005/PPP

Subject: Erection of dwellinghouse
Land South of Balmerino, Ashkirk, Scottish Borders

Whilst I have no objections in principle to a dwelling on this site, I will require the following improvements to the access onto the public road to be addressed at detailed planning stage, should this development be granted consent.

- Existing access to be widened on both sides to allow two vehicles to pass in the bellmouth area.
- The first 5 metres of the access track to be surfaced to the following specification *"40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1."*
- Vegetation on north side of the access to be cut back to stop overhanging which narrows the access.

Given that the land associated with the above works appears to be outwith the control of the applicant, I will require confirmation that the works detailed can be carried out with the agreement of the appropriate land owners.

In addition to the above, parking and turning for a minimum of two vehicles, not including garages, must be provided within the curtilage of the plot prior to occupation and be retained thereafter in perpetuity.

It should be noted that all work within the public road boundary must be undertaken by a contractor first approved by the Council.

AJS

Comments for Planning Application 17/00005/PPP

Application Summary

Application Number: 17/00005/PPP

Address: Land South Of Balmerino Ashkirk Scottish Borders

Proposal: Erection of dwellinghouse

Case Officer: Andrew Evans

Customer Details

Name: Mr alastair fraser

Address: Balmerino, Ashkirk, Selkirk, Scottish Borders TD7 4NY

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Contrary to Local Plan
- Detrimental to environment
- Detrimental to Residential Amenity
- Height of
- Inadequate access
- Inadequate drainage
- Inadequate screening
- Increased traffic
- Loss of light
- Loss of view
- Noise nuisance
- Overlooking
- Privacy of neighbouring properties affected

Comment: Planning Application Ref 17/00005/ppp

Land south of Balmerino Ashkirk

We wish to strongly object to the above Planning Application for the erection of a dwelling house for the following reasons.

The land is outwith the SBC development area

Scottish Borders Consolidated Local Plan 2011

Chapter 3 Policy G1-Quality Standards for New Development---This states that all new development will be designed to fit townscapes and integrate with its landscape surroundings.

This proposal fails to integrate and is not compatible with the build form of the two nearest

dwellings (Balmerino & The Floss) which are both single storey houses.

The track to the site is not suitable or sufficient for more traffic and construction vehicles entering and exiting will cause severe damage to an already poor track (if they can actually negotiate the sharp bend to get into the site)

There is an access strip left between the proposed site and The Floss-Is this so further development could be applied for in the future

Need for further Housing in Ashkirk

The development at Cransfield Drive still has vacant plots after more than 20 years and if there was a need ,would these not have been utilised.

Also the proposal behind Cransfield would have been snapped up by a commercial builder if they thought there was a need in the village.

The application will have a serious detrimental effect on the local wildlife environment as deer have used this part of the field moving from the woods at the rear of Balmerino on a daily basis for the 30 years we have lived here.

The cumulative impact of the proposal will have amenity issues on the the neighbouring dwellings- the scale of the plan does not fit well within the group and will look down and dwarf the existing properties resulting in loss of privacy and winter sunlight and is not in compliance with Policy HD3.

On the application the house is to be connected to the mains drains-there is no mains drains anywhere near the site.

On the application it states that the Daughter seeks to be an active part in the local community and staying on the proposed site will further strengthen the local Ashkirk community.---You don't have to build a house to do that ---you could buy one of the nine properties currently on the market.

The house could be built at the top end of the field where it would be more compatible with the existing cluster of houses near Woodlands and serviced by a more suitable access road.

Alastair & Mandy Fraser
Balmerino
Ashkirk.

Comments for Planning Application 17/00005/PPP

Application Summary

Application Number: 17/00005/PPP

Address: Land South Of Balmerino Ashkirk Scottish Borders

Proposal: Erection of dwellinghouse

Case Officer: Andrew Evans

Customer Details

Name: Mr Derek Sawyers

Address: The Floss, Ashkirk, Selkirk, Scottish Borders TD7 4NY

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Contrary to Local Plan
- Detrimental to Residential Amenity
- Inadequate access
- Inadequate drainage
- Increased traffic
- Legal issues
- Loss of view
- Noise nuisance
- Over Provision of facility in area
- Overlooking
- Privacy of neighbouring properties affected
- Trees/landscape affected
- Value of property
- Water Supply

Comment: We wish to object to the above planning application on the following grounds -
The site of the proposed new dwelling would impose upon our property (The Floss) and the adjoining property (Balmerino). The field level rises considerably behind our property which would be overshadowed by any dwelling sited as shown.

After heavy rainfall our property suffers with excess water draining from the field where this proposed new dwelling would be sited. Any work to accommodate footings, driveways etc. could adversely affect the water course and could therefore put our property at further risk.

The application states that the new dwelling would be connected to the existing public drainage system. There is no main sewerage or surface water system, each property has its own systems

in place. If a septic tank and/or soakaways were to be applied to the proposed dwelling, any run off from these would affect our property due to the fall of the field towards us.

If the proposed dwelling was sited at the top of the field adjacent to Woodlands, it could be linked in to the existing systems available to that group of houses and would also benefit from better access.

The plan shows access across a shared driveway from the public road , we are responsible for 50% of the upkeep of this and it could not cope with any increase in traffic. We understand that the applicants (owners of Woodlands) have access rights into the field which they are wanting to retain. There is no access right to an additional property.

Should this application be granted and the dwelling not then built, the permission would be valid for a further five years which could adversely affect the sale of our property.

It is stated that the proposed dwelling is for the applicant's daughter but once permission is granted this could change and the plot or any subsequent building could be placed on the open market.

There is no need for any more housing in Ashkirk which is substantiated by the fact that there are several houses already on the market, there is a building plot which has been on the market for over 5 years and there is another proposed substantial building development with outline permission which does not seem to be attracting any developers.

We feel that the proposed dwelling is sited within a field which we consider to be outside the boundaries of normal permitted housing development.

Derek and Glynis Sawyers

Derek and Glynis Sawyers
The Floss
Ashkirk
TD7 4NY

Planning appeal on behalf of Mr and Mrs Mackay, Woodlands, Ashkirk
Ref. 17/00023/RREF

As one of the two objectors to the original application, in addition to our original points we would like to comment on the proposed appeal as follows –

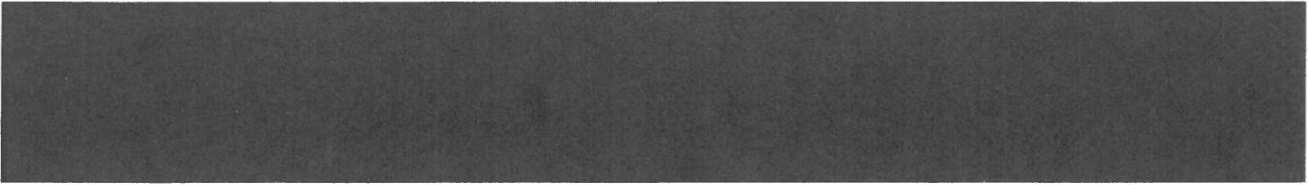
The proposed site is outwith the settlement boundary which was one of the main reasons for the refusal. We feel strongly that these restrictions should be adhered to so that there is not a case for future backland infilling which would be detrimental to the layout of existing houses.

It is stated that the objections received from the two neighbouring houses were not taken into consideration, one would hope that they were considered even though nothing specific was mentioned on the refusal document.

Ashkirk is a small settlement and has several vacant building plots which have not attracted developers over the course of the past few years. Surely if there was a considered need they would have been developed by now. With regard to affordable housing there was a reasonably priced flat on the market last year which we understand attracted no purchasers.

It is stated that there is a need to attract younger people to stay in the village to support the village hall and the church. Both the church and the hall are at the centre of a scattered community. There are several younger people living outwith the main centre of the village who, in the main, choose not to support these two organisations, one young lady staying within the village would not constitute a community benefit.

The community council apparently had no objection, commenting that “the proposals seemed to fit well into the settlement.” There is no mention of this having been discussed at a community council meeting in the minutes of what would have been the relevant meeting. Also, we were not asked for our opinion by any member of the community council which we would have thought to be the correct thing to do before a decision was reached. Who reached that decision and why was it not discussed at a meeting?



The report by the Roads Planning Service states that the existing access must be widened to allow two vehicles to pass in the bellmouth area and that the first 5 metres of the track must be surfaced. The access driveway is owned by a third party who is not prepared to allow such works to take place. Surely this would be the first thing to sort out before even considering an appeal to the initial planning refusal as without this consent the whole thing is a non starter.

The applicants state that the house plans shown on the initial application are illustrative only and that the intention would be to build a country cottage style with roof lights. This would still impose on our property due to the fall of the proposed site towards us.

It is stated that access rights would be transferred to the new house but the applicants still wish to retain an access right to the field as shown on the original plan.

Local Review Body – List of Policies

Local Review Reference: 17/00023/RREF

Planning Application Reference: 17/00005/PPP

Development Proposal: Erection of dwellinghouse

Location: Land South of Balmerino, Ashkirk

Applicant: Ms Gillian MacKay

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2016

POLICY PMD1: SUSTAINABILITY

In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plan's policies and which developers will be expected to incorporate into their developments:

- a) the long term sustainable use and management of land
- b) the preservation of air and water quality
- c) the protection of natural resources, landscapes, habitats, and species
- d) the protection of built and cultural resources
- e) the efficient use of energy and resources, particularly non-renewable resources
- f) the minimisation of waste, including waste water and encouragement to its sustainable management
- g) the encouragement of walking, cycling, and public transport in preference to the private car
- h) the minimisation of light pollution
- i) the protection of public health and safety
- j) the support to community services and facilities
- k) the provision of new jobs and support to the local economy
- l) the involvement of the local community in the design, management and improvement of their environment

POLICY PMD2: QUALITY STANDARDS

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

Sustainability

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,
- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,
- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,
- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the

Local Review Body – List of Policies

wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,

- g) it considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking & Design

- h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
- i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
- j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
- k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
- l) it can be satisfactorily accommodated within the site,
- m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
- n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

Accessibility

- o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,
- p) it incorporates, where required, access for those with mobility difficulties,
- q) it ensures there is no adverse impact on road safety, including but not limited to the site access,
- r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,
- s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Greenspace, Open Space & Biodiversity

- t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
- u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

POLICY PMD4: DEVELOPMENT OUTWITH DEVELOPMENT BOUNDARIES

Where Development Boundaries are defined on Proposals Maps, they indicate the extent to which towns and villages should be allowed to expand during the Local Plan period.

Local Review Body – List of Policies

Development should be contained within the Development Boundary and proposals for new development outwith this boundary, and not on allocated sites identified on the proposals maps, will normally be refused.

Exceptional approvals may be granted provided strong reasons can be given that:

- a) it is a job-generating development in the countryside that has an economic justification under Policy ED7 or HD2, OR
- b) it is an affordable housing development that can be justified under in terms of Policy HD1, OR
- c) there is a shortfall identified by Scottish Borders Council through the housing land audit with regard to the provision of an effective 5 year housing land supply, OR
- d) it is a development that it is considered would offer significant community benefits that outweigh the need to protect the Development Boundary.

AND the development of the site:

- a) represents a logical extension of the built-up area, and
- b) is of an appropriate scale in relation to the size of the settlement, and
- c) does not prejudice the character, visual cohesion or natural built up edge of the settlement, and
- d) does not cause a significant adverse effect on the landscape setting of the settlement or the natural heritage of the surrounding area.

The decision on whether to grant exceptional approvals will take account of:

- a) any indicators regarding restrictions on, or encouragement of, development in the longer term that may be set out in the settlement profile;
- b) the cumulative effect of any other developments outwith the Development Boundary within the current Local Plan period;
- c) the infrastructure and service capacity of the settlement.

POLICY HD2: HOUSING IN THE COUNTRYSIDE

The Council wishes to promote appropriate rural housing development:

- a) in village locations in preference to the open countryside where permission will only be granted in special circumstances on appropriate sites,
- b) associated with existing building groups where this does not adversely affect their character or that of the surrounding area, and
- c) in dispersed communities in the Southern Borders housing market area.

These general principles in addition to the requirement for suitable roads access will be the starting point for the consideration of applications for housing in the countryside, which will be supplemented by Supplementary Planning Guidance / Supplementary Guidance on New Housing in the Borders Countryside and on Placemaking and Design.

(A) BUILDING GROUPS

Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to

Local Review Body – List of Policies

residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such conversion has been implemented,

- b) the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts,
- c) any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.

In addition, where a proposal for new development is to be supported, the proposal should be appropriate in scale, siting, design, access, and materials, and should be sympathetic to the character of the group.

The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point.

(B) DISPERSED BUILDINGS GROUPS

In the Southern Housing Market area there are few building groups comprising 3 houses or more, and a more dispersed pattern is the norm. In this area a lower threshold may be appropriate, particularly where this would result in tangible community, economic or environmental benefits. In these cases the existence of a sense of place will be the primary consideration.

Housing of up to 2 additional dwellings associated with dispersed building groups that meet the above criteria may be approved provided that:

- a) the Council is satisfied that the site lies within a recognised dispersed community in the Southern Borders housing market area,
- b) any consents for new build granted under this part of this policy should not exceed two housing dwellings in addition to the group during the Plan period. No further development above this threshold will be permitted,
- c) the design of housing will be subject to the same considerations as other types of housing in the countryside proposals.

(C) CONVERSIONS OF BUILDINGS TO A HOUSE

Development that is a change of use of a building to a house may be acceptable provided that:

- a) the Council is satisfied that the building has architectural or historic merit, is capable of conversion and is physically suited for residential use,
- b) the building stands substantially intact (normally at least to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion, and
- c) the conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.

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(D) RESTORATION OF HOUSES

The restoration of a house may also be acceptable provided that the walls of the former residential property stand substantially intact (normally at least to wallhead height). In addition:

- a) the siting and design reflects and respects the historical building pattern and the character of the landscape setting,
- b) any proposed extension or alteration should be in keeping with the scale, form and architectural character of the existing or original building, and
- c) significant alterations to the original character will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and/or a more sustainable and energy efficient design.

(E) REPLACEMENT DWELLINGS

The proposed replacement of an existing house may be acceptable provided that:

- a) the siting and design of the new building reflects and respects the historical building pattern and the character of the landscape setting,
- b) the proposal is in keeping with the existing/original building in terms of its scale, extent, form and architectural character,
- c) significant alterations to the original character of the house will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and /or a more sustainable and energy efficient design.

(F) ECONOMIC REQUIREMENT

Housing with a location essential for business needs may be acceptable if the Council is satisfied that:

- a) the housing development is a direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and it is for a worker predominantly employed in the enterprise and the presence of that worker on-site is essential to the efficient operation of the enterprise. Such development could include businesses that would cause disturbance or loss of amenity if located within an existing settlement, or
- b) it is for use of a person last employed in an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and also employed on the unit that is the subject of the application, and the development will release another house for continued use by an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and
- c) the housing development would help support a business that results in a clear social or environmental benefit to the area, including the retention or provision of employment or the provision of affordable or local needs housing, and
- d) no appropriate site exists within a building group, and
- e) there is no suitable existing house or other building capable of conversion for the required residential use.

In ALL instances in considering proposals relative to each of the policy sections above, there shall be compliance with the Council's Supplementary Planning Guidance where it meets the terms of this policy and development must not negatively impact on landscape and existing communities. The cumulative effect of applications under this policy will be taken into account when determining impact.

Local Review Body – List of Policies

POLICY HD3 – PROTECTION OF RESIDENTIAL AMENITY

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,
 - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or 'backland' development,
 - (iii) the generation of traffic or noise,
 - (iv) the level of visual impact.

POLICY EP3: LOCAL BIODIVERSITY

Development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused unless it can be demonstrated that the public benefits of the development clearly outweigh the value of the habitat for biodiversity conservation.

Any development that could impact on local biodiversity through impacts on habitats and species should:

- a) aim to avoid fragmentation or isolation of habitats; and
- b) be sited and designed to minimise adverse impacts on the biodiversity of the site, including its environmental quality, ecological status and viability; and
- c) compensate to ensure no net loss of biodiversity through use of biodiversity offsets as appropriate; and
- d) aim to enhance the biodiversity value of the site, through use of an ecosystems approach, with the aim of creation or restoration of habitats and wildlife corridors and provision for their long-term management and maintenance.

POLICY EP10: GARDENS AND DESIGNED LANDSCAPES

The Council will support development that safeguards or enhances the landscape features, character or setting of:

- a) sites listed in the Inventory of Gardens and Designed Landscapes, or
- b) sites included in historic gardens and designed landscapes records.

All development should be carefully sited, be of the highest standards of design using appropriate finishing materials and planting, and be informed by and respectful of the historic landscape structure. Proposals that will result in an unacceptable adverse impact will be refused.

All applications affecting a Garden or Designed Landscape will be required to be supported by a Design Statement.

Local Review Body – List of Policies

POLICY EP13: TREES, WOODLANDS AND HEDGEROWS

The Council will refuse development that would cause the loss of or serious damage to the woodland resource unless the public benefits of the development clearly outweigh the loss of landscape, ecological, recreational, historical, or shelter value.

Any development that may impact on the woodland resource should:

- a) aim to minimise adverse impacts on the biodiversity value of the woodland resource, including its environmental quality, ecological status and viability; and
- b) where there is an unavoidable loss of the woodland resource, ensure appropriate replacement planting, where possible, within the area of the Scottish Borders; and
- c) adhere to any planning agreement sought to enhance the woodland resource.

POLICY IS2: DEVELOPER CONTRIBUTIONS

Where a site is otherwise acceptable in terms of planning policy, but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or partial contribution towards the cost of addressing such deficiencies.

Contributions may be required for one or more of the following:

- a) treatment of surface or foul waste water in accordance with the Plan's policies on preferred methods (including SUDS maintenance);
- b) provision of schools, school extensions or associated facilities, all in accordance with current educational capacity estimates and schedule of contributions;
- c) off-site transport infrastructure including new roads or road improvements, Safer Routes to School, road safety measures, public car parking, cycle-ways, bridges and associated studies and other access routes, subsidy to public transport operators; all in accordance with the relevant standards and the provisions of any Travel Plan;
- d) leisure, sport, recreation, play areas and community facilities, either on-site or off-site;
- e) landscape, open space, allotment provision, trees and woodlands, including costs of future management and maintenance;
- f) protection, enhancement and promotion of environmental assets either on-site or off-site, having regard to the Local Biodiversity Action Plan and the Council's Supplementary Planning Guidance on Biodiversity, including compensation for any losses and/or alternative provision;
- g) provision of other facilities and equipment for the satisfactory completion of the development that may include: measures to minimise the risk of crime; provision for the storage, collection and recycling of waste, including communal facilities; provision of street furniture and digital connectivity with associated infrastructure.

Wherever possible, any requirement to provide developer contributions will be secured by planning condition. Where a legal agreement is necessary, the preference for using an agreement under other legislation, for example the 1973 Local Government (Scotland) Act and the 1984 Roads (Scotland) Act will be considered. A planning obligation will only be necessary where successors in title need to be bound by its terms. Where appropriate, the council will consider the economic viability of a proposed development, including possible payment options, such as staged or phased payments.

Local Review Body – List of Policies

POLICY IS3: DEVELOPER CONTRIBUTIONS RELATED TO THE BORDERS RAILWAY

In accordance with the provisions of the Waverley Railway (Scotland) Act 2006, the Council will seek developer contributions towards the cost of providing the Borders railway from any developments that may be considered to benefit from, or be enhanced by, the re-instatement of the rail link.

POLICY IS7: PARKING PROVISION AND STANDARDS

Development proposals should provide for car and cycle parking in accordance with approved standards.

Relaxation of technical standards will be considered where appropriate due to the nature of the development and/or if positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of seeking additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

POLICY IS9: WASTE WATER TREATMENT STANDARDS AND SUSTAINABLE URBAN DRAINAGE

WASTE WATER TREATMENT STANDARDS

The Council's preferred method of dealing with waste water associated with new development will be, in order of priority:

- a) direct connection to the public sewerage system, including pumping if necessary, or failing that:
- b) negotiating developer contributions with Scottish Water to upgrade the existing sewerage network and/or increasing capacity at the waste water treatment works, or failing that:
- c) agreement with Scottish Water and SEPA where required to provide permanent or temporary alternatives to sewer connection including the possibility of stand alone treatment plants until sewer capacity becomes available, or, failing that:
- d) for development in the countryside i.e. not within or immediately adjacent to publicly sewered areas, the use of private sewerage treatment may be acceptable, providing it can be demonstrated that this can be delivered without any negative impacts to public health, the environment or the quality of watercourses or groundwater.

In settlements served by the public foul sewer, permission for an individual private sewage treatment system will normally be refused unless exceptional circumstances prevail and the conditions in criteria (d) above can be satisfied.

Development will be refused if:

- a) it will result in a proliferation of individual septic tanks or other private water treatment infrastructure within settlements,
- b) it will overload existing mains infrastructure or it is impractical for the developer to provide for new infrastructure.

SUSTAINABLE URBAN DRAINAGE

Surface water management for new development, for both greenfield and brownfield sites, must comply with current best practice on sustainable urban drainage systems to the satisfaction of the council, Scottish Environment Protection Agency (where required), Scottish Natural Heritage and other interested parties where required. Development will be

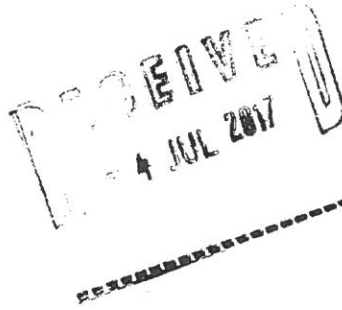
Local Review Body – List of Policies

refused unless surface water treatment is dealt with in a sustainable manner that avoids flooding, pollution, extensive canalisation and culverting of watercourses. A drainage strategy should be submitted with planning applications to include treatment and flood attenuation measures and details for the long term maintenance of any necessary features.

OTHER MATERIAL CONSIDERATIONS

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015

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Notice of Review

Chief Executive

- 5 JUL 2017

Democracy's Directorate

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Agent (if any)

Name **MR & MRS D GOLD**

Name **KANAK BOSE**

Address **JUNIPER COTTAGE, MACBIEHILL**

Address **OGSCASTLE, CARNWATH, LANARK**

Postcode **EH46 7AZ**

Postcode **ML11 8NE**

Contact Telephone 1

Contact Telephone 1

Contact Telephone 2

Contact Telephone 2

Fax No

Fax No

E-mail*

E-mail*

Mark this box to confirm all contact should be through this representative:

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes No

Planning authority **SCOTTISH BORDERS COUNCIL**

Planning authority's application reference number **17/00530/FUL**

Site address **LAND TO NORTH-WEST OF ALDERBANK, MACBIEHILL, WEST LINTON**

Description of proposed development **ERECTION OF SINGLE STOREY DWELLINGHOUSE WITH ATTACHED GARAGE AND WORKSHOP**

Date of application **7TH APRIL 2017**

Date of decision (if any) **14 JUNE 2017**

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE ATTACHED STATEMENT FOR NOTICE OF REVIEW DATED 29TH JUNE 2017 (4 PAGES)

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

MORE FACTUAL INFORMATION CONCERNING EXISTING AND PROPOSED GROUND LEVELS.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

FORM FOR NOTICE OF REVIEW
 STATEMENT FOR NOTICE OF REVIEW (4 PAGES)
 PRODUCTIONS 1-7 INCLUSIVE
 DOCUMENTS 1-5 INCLUSIVE

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

[Redacted Signature Box]

Date

29.6.2017

The Completed form should be returned to the Head of Corporate Administration, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA.

Mr & Mrs D Gold

ERECTION OF DWELLINGHOUSE WITH ATTACHED GARAGE AND WORKSHOP

Land to Northwest of Alderbank, Macbiehill, West Linton

Statement for Notice of Review – Refusal Notice 17/00530/FUL

The grounds for refusal are

The proposals do not comply with Local Development Plan Policy HD2 and Supplementary Planning Guidance on New Housing in the Borders Countryside as the site is located outwith, and not well related to, the recognised boundary of the existing building group at Macbiehill which is the natural slope between the site and Alderbank, breaking into an undeveloped field at a higher level.

The proposals do not comply with the Local Development Plan Policy HD3 and Supplementary Planning Guidance on Privacy and Sunlight in that the proximity and change in levels in relation to “Alderbank” would result in significant adverse effects on the residential amenity enjoyed by that property, creating an overbearing impression.

Argument in the cause of review

In the recommendations contained in the Part III report by the planning officer the following points are noted :

It is agreed the site is undeveloped ground with some planting. Indeed it is vacant ground and has no agricultural land use, the farming activities at Macbiehill now having ended. The ground is in poor condition and not prime arable. There existed a small quarry for stone for dyking/tracks to the NW corner of the site. The ground historically has not been used for agricultural use and indeed fell within the policies of the original Macbiehill Estate (see production No 1). At that time it was planted as woodland and bounded along its north western boundary by a mature tree belt. It will never be suitable or indeed viable for agricultural use as it has limited access.

It is noted that the planning officer agrees that the style of house as designed is relevant with that of the rest of the steading and in particular, “Alderbank”. Some renewables are proposed and a multifuel stove is also to be installed. Cognisance will be paid at detailed design stage to the inclusion of renewables and sustainability within design.

It is further noted (although this has been previously argued) the planning officer still feels the proposed house is out-with the settlement envelope. That the ground in question formed part of the estate and the boundaries for the estate can be seen clearly on the 1st edition OS map (see production 1 again) seems not enough to demonstrate this. The mansion at Macbiehill was demolished in the 1950's and constructed around 1835. The house and policies of the estate were clearly demarcated from the working agricultural ground. The application site falls within the demarcation of the estate policies and not within the outlying farmed areas.

It is noted that the local plan (current) can support two further houses at Macbiehill at the current time. These are represented by an application in the walled garden area (I believe to be currently being considered) and the refusal notice under this review.

The planning officer refers to the small slope along the north western boundary of Alderbank as being the natural boundary. He also refers to Alderbank as being 'located in a small hollow' which indeed is man-made as is the banking to the north-west, the latter emphasised as a result of scraping back the ground to form a level area in which Alderbank has been placed (see production 2).

Historical Applications

The writer cannot comment on the applications for consent prior to that of 14/00994/FUL as these were prior to appointment. It is understood that at the time of the design of "Alderbank" there was considerable discourse between the client, agent and Planning Department. The overall result is a successful solution of a modern house in a rural setting (production 3 – this also helps to see the density of the planting to the North-East boundary of the site).

Leading up to the current refusal, the agent and the applicants had a number of meetings with the planning officer who has now since retired. She explained to us that policy could not support the application 14/00994 hence our decision to withdraw the application. She also believed that policy would change with the acceptance of the new local plan and she suggested we wait for that change to occur, and then re-apply.

Over the ensuing 18 months the policy was amended with the onset of the new local plan and we were informed that policy for rural housing could now support 2 further houses at Macbiehill. We made the application 16/00835/FUL which was based on a 'high end' design - a similar house-type features on the front cover of 'New Housing in the Borders Countryside' (designed by the writer – see production 4).

Despite the high-end nature of the design, we were advised that again this would not be supported so a more conventional design was submitted following withdrawal of the application. All of this with discussion and debate with the acting planning-officer.

Prior to her retirement, Mrs Aymes had a discussion with the agent and it seemed that the mass of the 1.5 storey nature of the building was the most significant issue that would result in refusal of 16/01319/FUL. The rather subjective view of the interpretation of a defined boundary was still felt to be an arguable and a serious debate. As such we were in agreement with the 1.5 storey house being too high. It was decided that to appeal the decision was inappropriate and it would be better to reconsider the entire design aspect and resubmit.

This is where we are today. A house-design based on the acceptable principles already set down in the application 2011 was adopted, although altogether a much smaller footprint and a much simpler solution.

Client Matters

In addition to the above, the applicant has made some comments which they wish to be noted. I attach their own notes (document 1) in this respect, however I summarise the points relevant to this argument :

- 1 Following the adoption of the new local plan at no time did the planning officer lead the applicant to think that an application on this site for a single house would be wholly unsuccessful, despite a number of meetings, a site meeting and various pre-application discussions.
- 2 There now being no facility for pre-application discussions, the current refusal was unable to be discussed with the Planning Department prior to submission. Pre-application advice was sought but rejected (document 2 – no advice forthcoming).
- 3 The planting plan for Alderbank is felt to be complete and at no time has question been raised about its inappropriateness despite a number of visits by the former Planning Officer. It has been suggested that this is sparse in the current part III report. The granting of the current refusal by review would enable the landscaping to be revisited and a more robust scheme designed and put in place. Again, it is stressed there have been no formal complaints about the existing planting and to our knowledge no formal inspection to ascertain acceptance and compliance of the planting in respect of 11/00197/FUL has ever taken place.
- 4 There is already a shelterbelt and privacy planting screen between Alderbank and the new site which can be strengthened should this review be successful.
- 5 The current application under review exceeded a two-month decision period.

Summary

The refusal of this consent hinges on two factors – (1) the subjective interpretation of the robust boundaries around the building group and (2) the possible over-bearing of the new house over “Alderbank”.

The *robust boundary* is clear for all to see. It was designated before 1850 as can be seen on the Ordnance Survey maps for Macbiehill Estate (production 5, the site is marked by a green spot, the robust boundaries by a blue hatching). The boundary not only was a tree belt, it also has a ditch and fence line. It ought to be considered as an indisputable and historical boundary of substantial significance.

I have attached a summary taken by GPS of the heights of the site in relation to “Alderbank” (see production 2 again). It is clear by interpreting the contours that the ground has been ‘scooped out’ to the North-west corner of “Alderbank” to create the level platform for “Alderbank”. This spoil was pulled back and used to form the level plateau at the turning area on the track (approx height 254.4) and also used to emphasise and steepen the banking between the review site and “Alderbank”.
Man-made and not natural as stated in the planning officer’s report.

No floor levels or site sections were included in the application being reviewed (see production 6-submission drawings) and as such any interpretation made within the report is *hypothetical and without substance*. **At no time were floor levels and site sections requested.**

Notwithstanding that, if the new house were to be built I would propose a similar exercise of earthworks as with "Alderbank" to establish the level of the new house, creating a finished ground level of around 251.75m – the eaves height therefore around 1.5m (half a storey) above "Alderbank".

The new house lies behind "Alderbank" (as you approach along the driveway) and will have little or no impact on "Alderbank". The sight line from eye-level over the "Alderbank" ridge will hide the new house.

As there are no habitable windows looking toward "Alderbank" there are no privacy issues (accepted in the Planning Officer's report) (production 6 – floor plans of Alderbank).

The house being on a South-East to North-West access, and sited to the North West of "Alderbank" make it a *physical impossibility* to preclude sunlight from "Alderbank" and the new property being 13m from Alderbank render loss of light a weak if not flawed argument (there is one kitchen window and two garage windows facing the proposed house site).

To Finish

The granting of this consent by review enables the council to insist on natural landscaping that would preclude any further development in the paddock to the North-West of the site and this could be conditioned to guarantee longevity. If properly thought through and well-executed the landscaping could result in a high-quality long-term planting solution.

Heights and level adaptations on the site could also be conditioned (*these should have been requested during the application process if they were considered to be fundamental*)

It is understood that personal circumstances should not be taken into account but these were clearly mapped in my original design statement (production 7). If this review is unsuccessful the appellants will have to move from Macbiehill.

They will then be forced to consider their right to serve a purchase notice on the Planning Authority as the ground would be considered to be incapable of reasonably beneficial use to the appellant.

I would hope that my arguments enable the council to reconsider and overturn the decision made to refuse the planning consent for this house.

Kanak Bose B Arch (hons) Dip Architecture

29th June 2017

Additional documents

- Document 1 Applicants' notes dated 24.6.2017
- Document 2 Pre-application to Planning Officer dated 20.1.2017
- Document 3 Planning Refusal Notice
- Document 4 Part III report by planning officer
- Document 5 Submitted Drawing OGS 173 30

PRODUCTIONS 1-7 INCL.

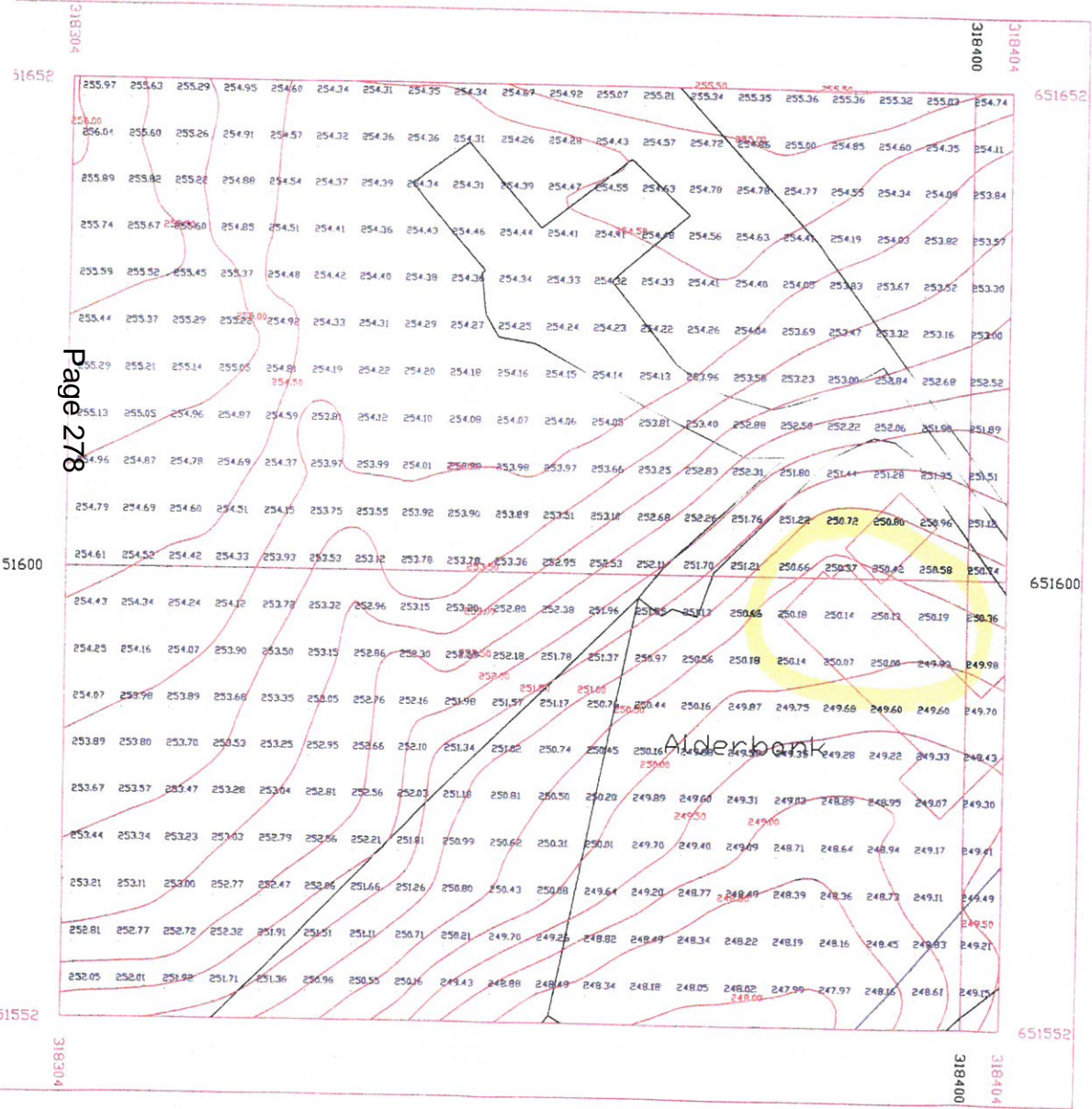
17/00530/FUL

Notice of review to Scottish Borders Council
Land to North-West of Alderbank, Macbiehill, West Linton

J N T D N P F



PRODUCTION 1 SHOWING THE
POLICY BOUNDARIES OF
THE ESTATE
THE SITE IS THE BLUE SPOT



Page 278

PRODUCTION 2
 THE 'SCOPE OUT' AREA
 IS HIGH LIGHTED.



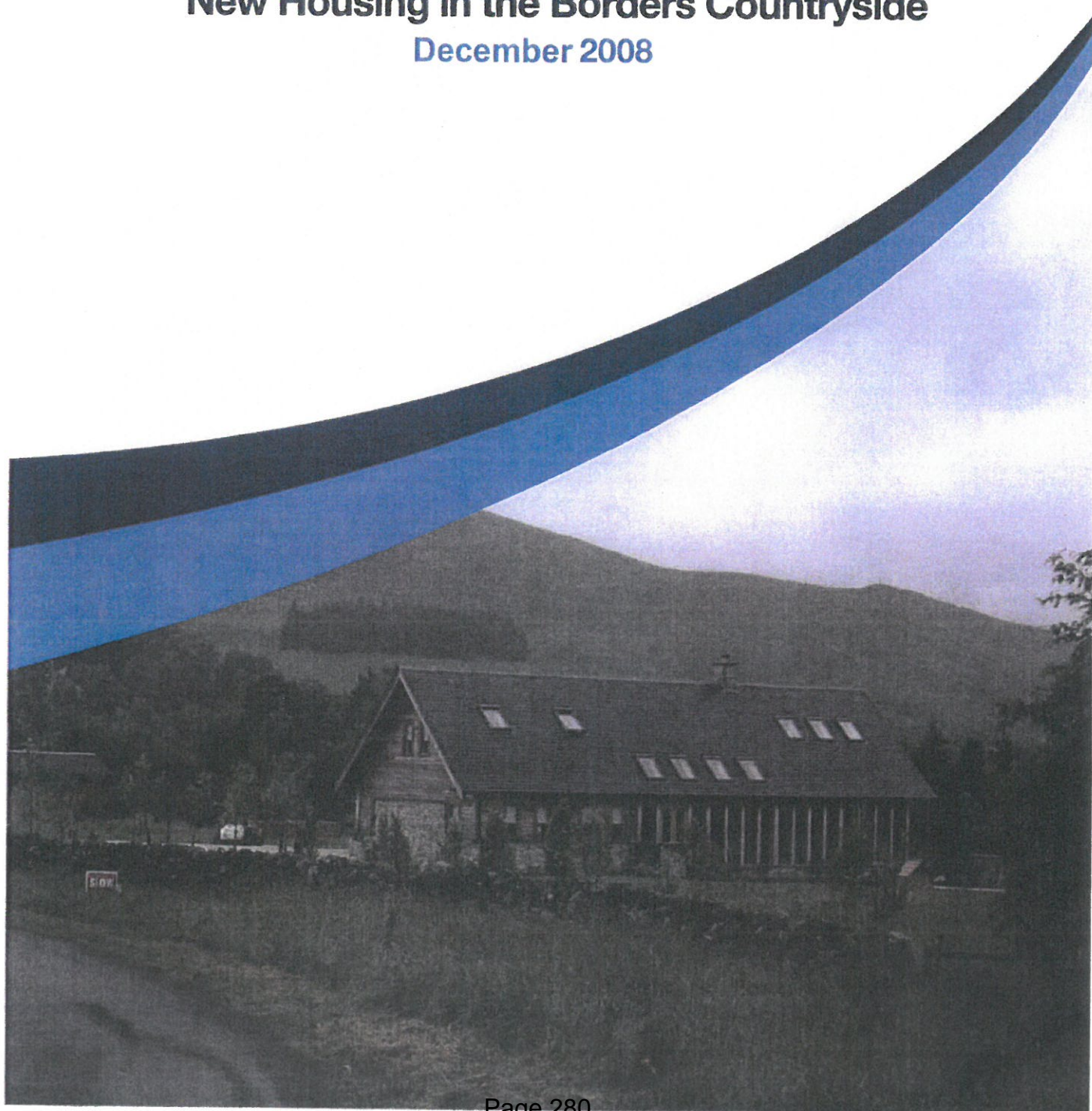
PRODUCTION 3

Scottish Borders Local Plan

Supplementary Planning Guidance on

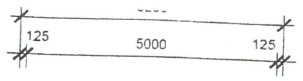
New Housing in the Borders Countryside

December 2008



I N T O N P H





Symbol Legend

- = Activity spaces.
- [Symbol] = Internal clothes drying space, with a minimum size of 1.0m².
- [Symbol] = External clothes drying space, with a minimum size of 1.0m². Refer to drawing - (11) 11.

Post and wire fence to new private garden, fence to match existing neighbour's fence.

Wheeler bin storage area.

ONE LIGHTING POINT PROVIDED TO EVERY CIRCULATION SP, A MINIMUM OF 75% OF THE FIXED LIGHTING AND LAMPS INST ENERGY TYPE.
 POWER POINTS TO KITCHEN - 4NO & 4NO OUTLETS ELSEWHERE
 ALL SOCKET OUTLETS AND LIGHT SWITCHES SHOULD BE 350mm AND THE HEIGHT TO COMPLY WITH TECHNICAL STANDARD 4 OUTLETS AND CONTROLS OF ELECTRICAL FIXTURES AND SYSTEM THAN 1.2m ABOVE FLOOR LEVEL UNLESS THE NEED FOR A HIGH LIGHT SWITCHES SHOULD BE POSITIONED AT A HEIGHT OF 800mm STANDARD SWITCHED/UN-SWITCHED SOCKET OUTLETS SHOULD BE AT LEAST 400mm ABOVE THE FLOOR LEVEL AND AT LEAST 150mm OTHER OBSTRUCTION.
 WHERE SOCKETS ARE CONCEALED SEPARATE SWITCHING SH POSITION.

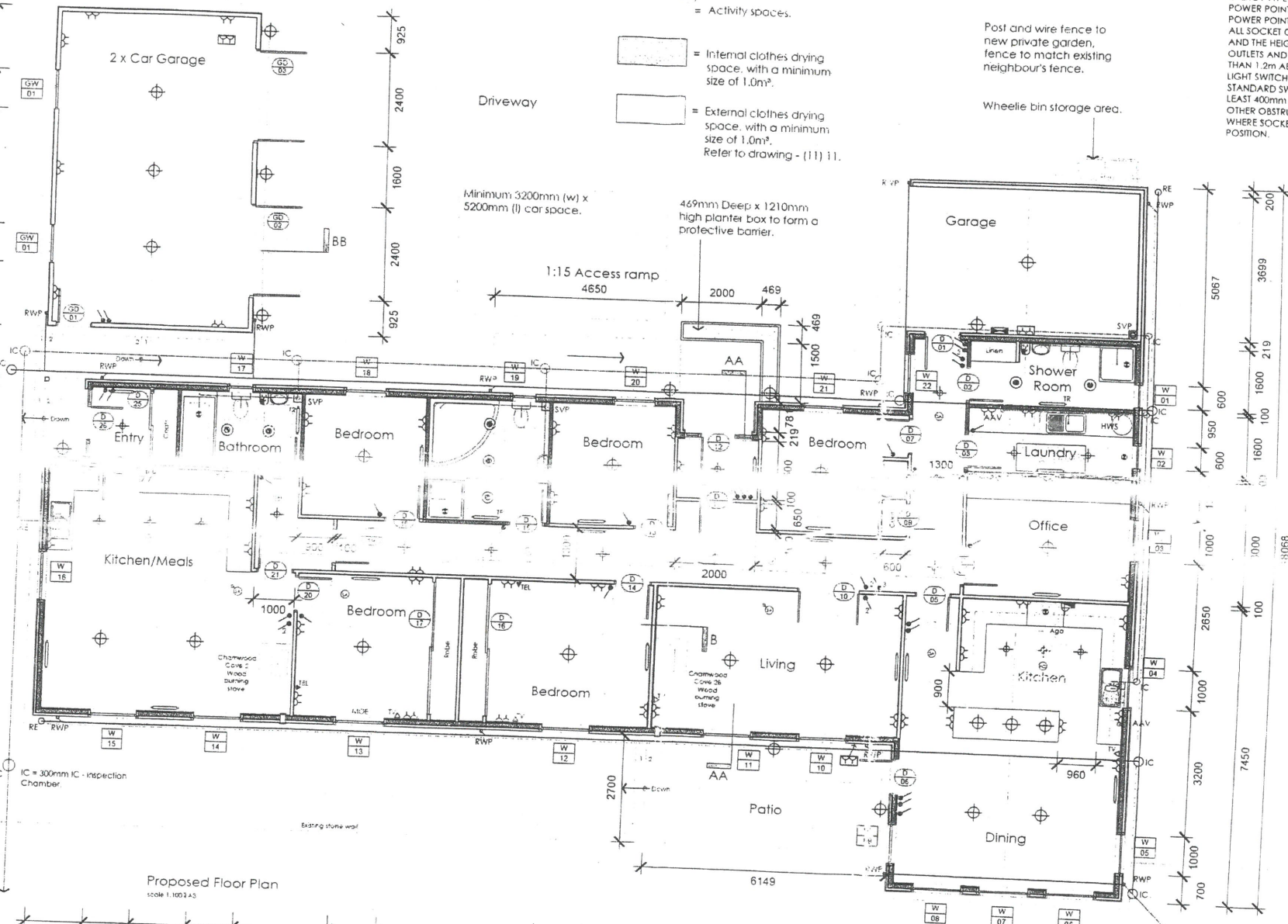
External Steps:
 On-site stairs/steps to be made treated SW decking as shown proposed floor plan.
 Rise = 155mm
 Tread = 250mm
 Pitch = 31.8°
 There are no other stairs/steps proposed new build.

Note:
 Thermostatic mixing valves (TM fittings complying with BS EN 1 or BS EN 1287: 1999, fitted to be as close to the point of delivery

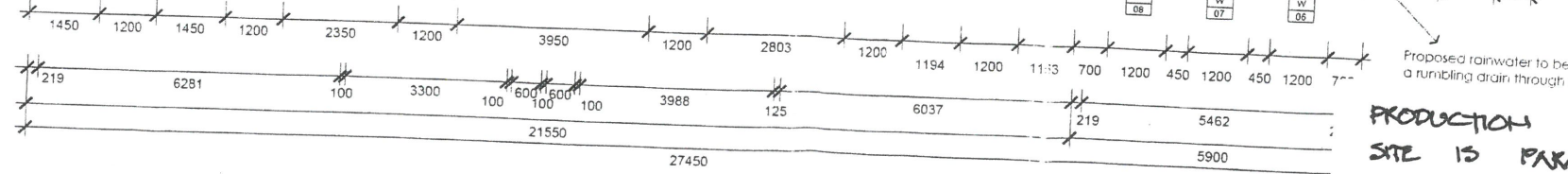
all electrical cables to be enclosed within a proprietary fire rated cable tray.

An air test with an as designed v is to be performed near the corner of the project. The results of this test to be passed on to Building Control, Scottish Borders Council, AS per the SAP 2009 calculations - 06/02/2012.

"Solar PV Power Inverter" unit to be located close to the insulated access hatch for ease of access maintenance.



Proposed Floor Plan
 scale 1:100 @ A3



PRODUCTION 6
 SITE IS PARALLEL TO
 THE LEFT HAND WALL
 & LOOKS TOWARDS REAR

GE 1817 - Mound way Design for Domestic fluent by SAC Consulting.

dwgs: for further details.

KANAK K BOSE

B ARCH HONS DIP ARCH

OGSCASTLE
CARNWATH
LANARK
ML11 8NE

TEL 01555 840971 MOB 07736 503321 E kanakbose@yahoo.co.uk

Site to north west of Alderbank
Macbiehill
West Linton

DESIGN STATEMENT AND BACKGROUND.

This application is a further application following a refusal of a previous request for consent, reference 16/01319/FUL. Rather than appealing the refusal it was felt better to try to address the issues raised by the planning officer by redesigning the proposals.

I talked with the planning officer at the time of refusal and was made aware of the matters leading to the refusal. It was felt that whilst some of these could be easily addressed others may need either more flexibility or a strengthened argument.

In particular, what seemed to be important was a definition of 'robust' boundaries binding the building group together. In my opinion, this is where there needs to be a more critical look at the building group at Macbiehill, as I do not believe the 'robustness' of the boundaries has been properly assessed.

I would also stress that I have been working at Macbiehill for a number of years, and I have seen the countryside in all states of the four seasons, and have also watched how the extensive planting carried out has taken shape.

HISTORY

Previously there was a granted consent for the paddock to the North East of the building group. I attach a copy of the site plan for this (see document No 1). This consent has now lapsed, however it does create the precedent that a further house can be accommodated within the building group. It is my further understanding that the current adopted local plan can also support one more house at Macbiehill.

The previous designs submitted for this site were for 1.5 storey houses, and whilst room-in-the-roof buildings do occur within the building group, I decided that single storey would be a better approach.

STATEMENT

Alderbank, which was built in the last five years, is a good design solution for a rural dwelling and I have used the style and massing of Alderbank and created a smaller, more compact house sited at the end of the existing Alderbank drive which results in an informal courtyard.

The frontage or principle elevation of the house respects the building line defined by the principle elevation of Alderbank.

A mixture of home-grown Larch and render has been used which again ties with the colour and textures of Alderbank. Principle rooms take advantage of the views and aspect, whilst there is limited overlooking towards Alderbank's less important elevation.

THE BUILDING GROUP AND BOUNDARIES

The buildings are located at the head (south west end) of a private access drive. The drive proper terminates at the building group although there is further access to fields beyond and a suggestion that the drive did once link to adjacent cottages within a larger estate.

The principle building group was a 'C' shaped steading punctuated on the South West side by the principle farmhouse.

The steading originally sat at the rear of Macbiehill House which was sited to the south east of the building group, overlooking the burn and the ornamental lake below Macbiehill.

The developments which have taken place in recent years have generally been in a south-east/north-west direction which given the jux-ta-position of the building group shown on the 1st edition Ordnance Survey map (Document 2) is the logical progression. It has extended the building group at right angles to the access drive, rather than creating a ribbon along the drive.

This emphasises the argument that the site as shown on Document 1 does not reflect any logical progression in extending the building group, whereas the current application for planning consent falls within the North West/South East extent of the original estate (I have outlined this on document 2) and continues this progression of extension.

The applicants have spent a number of years developing the buildings at Macbiehill Farm. They have created a group of fine rural dwellings, and developed a small community at Macbiehill. Whilst doing this, they have also been conscious to put energy and effort into the landscaping, and not least to create a physical boundary to encompass the building group. This can be seen from the information contained in Document 3, where again I have shown what I believe to be the true 'robust' boundary' The photographs show the extent of planting along these lines and within the 'buffer zone' noted.

In particular, the boundary I believe to be most important when considering this application for consent - the North East boundary - is not only defined by a fence & planting, but also by a drainage ditch separating it from what would have been the policies of Macbiehill Estate and the neighbouring farmland. Reference back to Document 2 shows how this ground fell within the original policies.

Lastly, and although not strictly a planning issue, the applicants are older in years and now retired, but have suffered as a result of the 2008 property crisis. The granting of this application means a great deal to them financially, and without this they may be unable to stay within the community they have played such a large part in creating.

Kanak Bose
April 2017

RECEIVED - 7 APR 2017



PHOTO 1
Looking South East toward the proposed site
along the North East Robust Boundary
Note the dense Sycamore Planting.

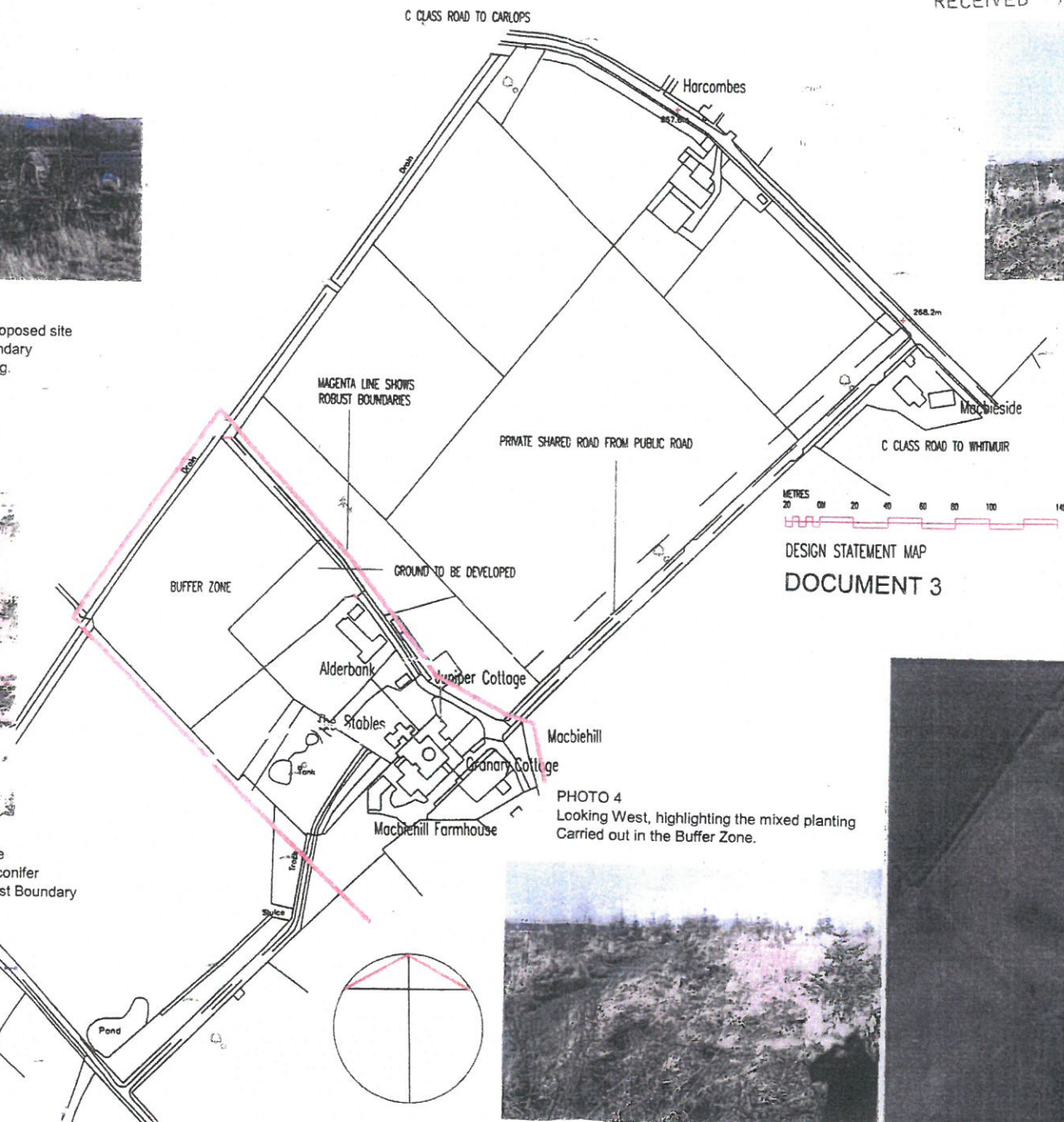


PHOTO 3
Looking North West from the proposed site
Along the North West Robust Boundary – again
Note the dense Sycamore planting along with
Other more recent planting



Page 285

PHOTO 2
Looking West from the proposed site
Come mature planting but note the conifer
Planting along the North West Robust Boundary



METRES
0 20 40 60 80 100 140

DESIGN STATEMENT MAP
DOCUMENT 3

PHOTO 4
Looking West, highlighting the mixed planting
Carried out in the Buffer Zone.



AERIAL PHOTO
Demonstrates how the the building group has
developed on a South East to North West access
and highlights the incompatibility of including
the site to the North East (document 1)
within the building group



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DOCUMENTS 1-5 INCL.

17/00530/FUL

**Notice of review to Scottish Borders Council
Land to North-West of Alderbank, Macbiehill, West Linton**

1. **Permitted development in the countryside** - If no development is permitted on the hill site behind Alderbank because of the HD2 regulation, we should have been told that by Dorothy Aymes when a first visit was made by Douglas, Kanak and Gillian about a year and a half ago.
2. At this first meeting of D & G + Kanak the application was a 3-house application and then Dorothy said ribbon development would not be permitted, but suggested a single house.
3. There was also a subsequent visit when Kanak and GG visited Dorothy at St. Boswells to further discuss the propositions for a house, but then the discussion was on the particulars of the house and its location relative to the proposed site. **At no time was it brought to our notice that the HD2 regulation would not permit development.**
4. The fact that there are now **no pre-application meetings** makes things increasingly difficult. Such meetings were held to avoid wasting clients' time and money and to iron out any issues prior to application.
5. **Planting plan** – the finished work on the Alderbank planting plan should have been checked at the time of signing off, however there was no inspection. Happy to embrace a **new planting plan with native hardwoods.**
6. The proposed site is **not an agricultural field**, as there is a considerable hard standing which leads to an old quarry – this area must have been used commercially in earlier times.
7. The sloping ground at Alderbank is **not a natural boundary** – this was created by a digger prior to building the house.
8. **The level of the land could be reduced considerably if required** – ie. To the level of the Alderbank gas tank level.
9. If there is a **good bank of shrub/tree planting between Alderbank and the proposed new house** this would give the privacy required and take away from the visual impact of a new house dominating Alderbank.
10. The building proposed is an Eco house with solar panels and will be very well planted.
11. Demand for housing is so high just now and Mid and East Lothian have huge new developments, so presumably **Borders must also need new housing.**

KANAK K BOSE

B ARCH (HONS) DIP ARCH (CONSERVATION)

**OGSCASTLE
CARNWATH
LANARK
ML11 8NE**

Mob : 07736 503321 - Tel : 01555 840971 - e-mail : kanakbose@yahoo.co.uk

Craig Miller
Planning & Development
Scottish Borders Council
Headquarters
Newtown St Boswells
TD6 0SA

20th January 2017

Dear Mr Miller

Re : New House (proposed) at Site to North West of Alderbank, Macbiehill

I have had a number of unsuccessful attempts at obtaining consent for a further dwelling adjacent to Alderbank, Macbiehill which I understand from the client you dealt with originally. On looking through the various attempts I think one thing stands out and that was the height of the building. Also I think the question arose as to what is the robust boundary of the building group.

Rather than an appeal the last application (16/01319/FUL), I have suggested to the client that we have a discussion with you and maybe indeed they have one more attempt. With this in mind I also thought we needed some more information and I now have accurate spot heights taken over a 10m grid on the site. I also have photographs of the trees that have already been planted. This all helps me in my understanding of the site.

Here is my thinking :

At some point there has been a consent for the paddock to the North East of the buildings (see attached drawing marked No 1). This has now lapsed. This must have assumed the boundary of the building group could be extended to the North and East. To my mind, this was a flawed approach as I believe the robust boundary of the building group is the existing demarked boundary between points A&B on my drawing (marked No 2). However, it does demonstrate there is an acceptability for a further house in the building group.

By adding to the not unsubstantial planting along the North West Boundary (point B-C) the whole of the west paddock can be wrapped into the building group and this boundary, defined not only by a fence, by existing planting (some mature) and by a ditch, should be considered (in my opinion) the limit of the building group, or indeed the extent of the robust boundary that envelopes the community. The South West boundary (C-D) speaks for itself in any case.

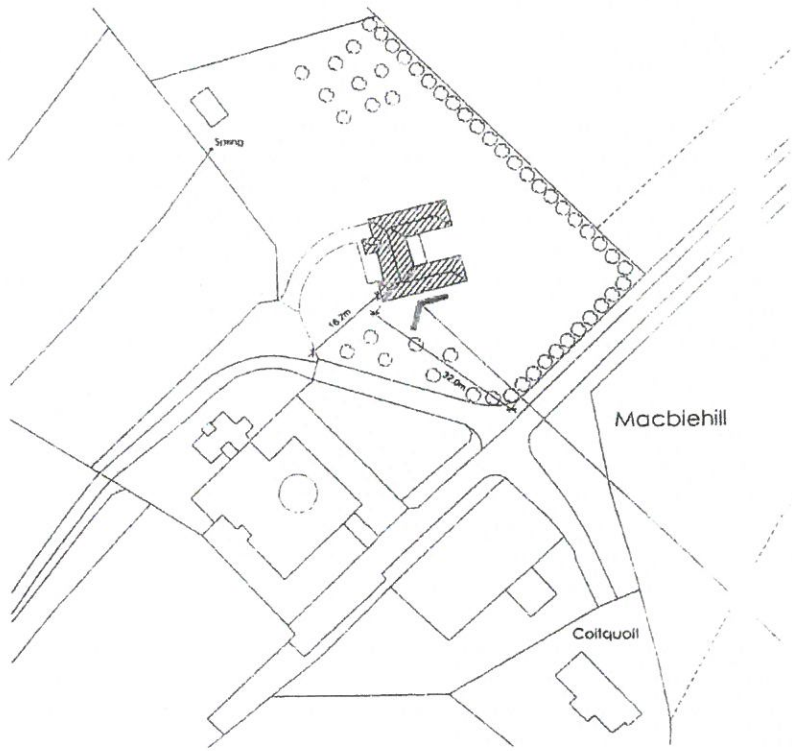
The house you assisted with (Alderbank) is a good design solution. I have suggested and the client has agreed that any new house should pick up the scale, massing and details of Alderbank, so they become a 'pair'. The new house should also be smaller in footprint than Alderbank so as it does not dominate. It should use the same building line as the South West elevation of Alderbank, and be returned to form a small courtyard, creating an 'end' to the building group and giving closure to any further development. I have marked the footprint on my drawing.

I wondered Craig, if you could give the matter some serious consideration. My clients are into their retirement and the construction of one more house would really make a difference to them – without this they will probably have to give up their existing home at Macbiehill which would be a shame after spending so long developing a community there.

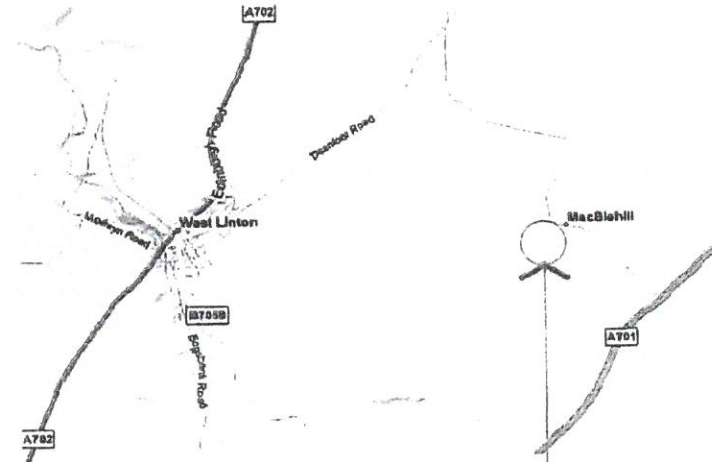
I also attach some photos of the planting that has been carried out to date. I would be happy to either meet you on site or indeed come to St Boswells if you wish to discuss this.

Yours sincerely

Kanak Bose



Site Location Plan
scale 1:1000@A3

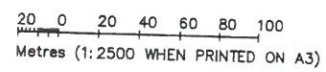
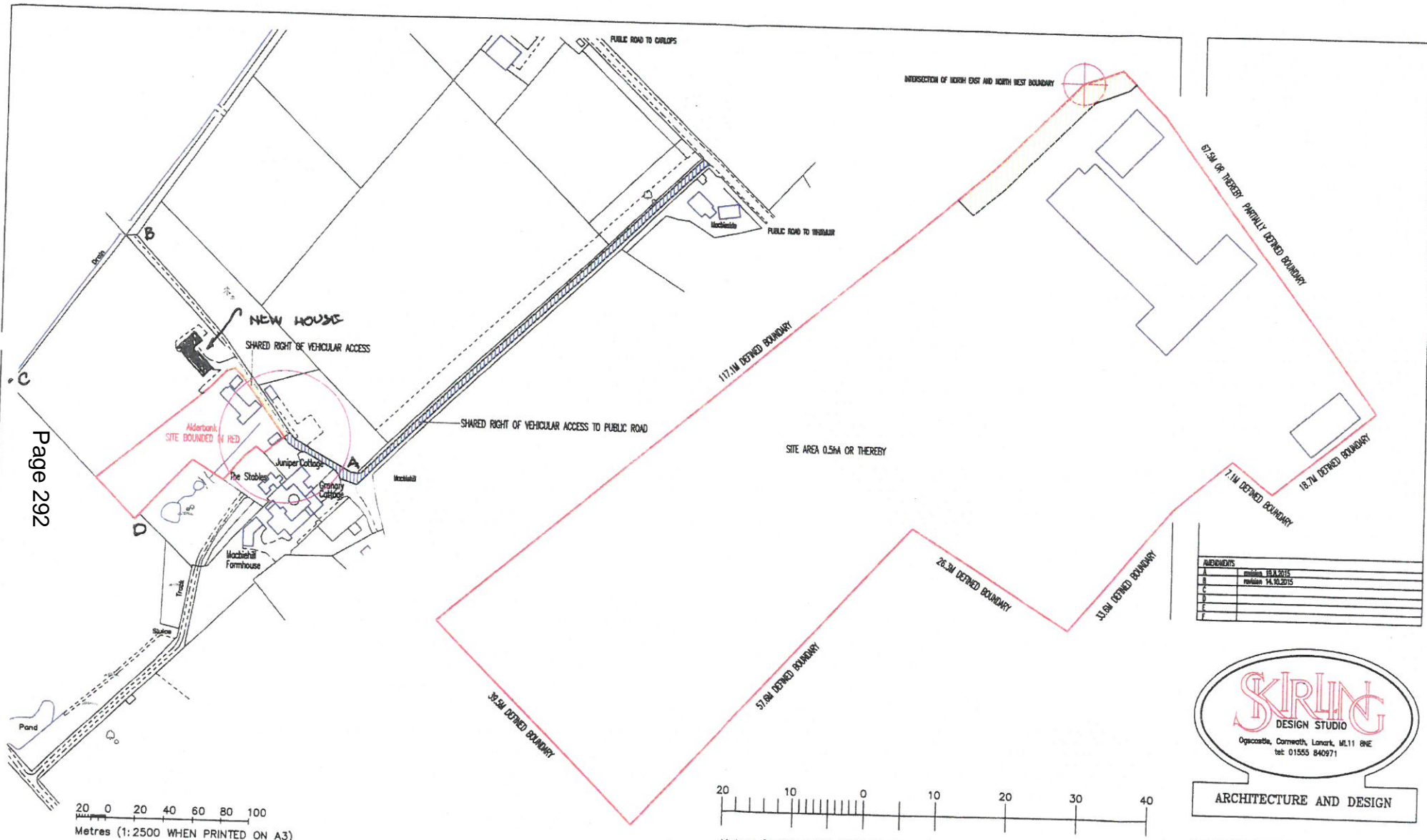


Location Plan
scale 1:25000

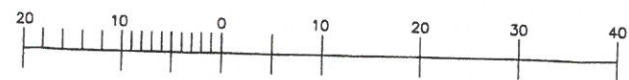
Circle indicating the location of the current
steading & the proposed new build.

Hatch indicating the location of the
proposed new build.

*PERMISSION THAT WAS GRANTED
TO US 2009*



LOCATION PLAN
(showing access)



BOUNDARY PLAN

REVISIONS	
A	amended 08.08.2015
B	revised 14.10.2015
C	
D	
E	
F	



ARCHITECTURE AND DESIGN

SCALE AS SHOWN AUGUST 2015

OCS 173 FEU REV -B-	PLANS TO ANNEXE WITH TITLES
------------------------	-----------------------------

HOUSE KNOWN AS ALDERBANK,
MACBIEHILL FARM, WEST LINTON,
EH46 7AZ
Mr & Mrs Douglas Gold

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Application for Planning Permission

Reference : 17/00530/FUL

To : Mr And Mrs D Gold per Kanak Bose Ltd Ogscastle Roman Road Carnwarth ML11 8NE

With reference to your application validated on **7th April 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse with attached garage and workshop

at : Land North West Of Alderbank Macbiehill West Linton Scottish Borders

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s) stated on the attached schedule**.

Dated 14th June 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

Signed


.....
Chief Planning Officer

APPLICATION REFERENCE : 17/00530/FUL

Schedule of Plans and Drawings Refused:

Plan Ref	Plan Type	Plan Status
DOCUMENT 1	Site Plan	Refused
DOCUMENT 2	Location Plan	Refused
DOCUMENT 3	General	Refused
OGS 173 30	General	Refused

REASON FOR REFUSAL

- 1 The proposals do not comply with Local Development Plan Policy HD2 and the Supplementary Planning Guidance on New Housing in the Borders Countryside as the site is located outwith, and not well related to, the recognised boundary of the existing building group at Macbiehill which is the natural slope between the site and "Alderbank", breaking into an undeveloped field at a higher level.

The proposals do not comply with Local Development Plan Policy HD3 and the Supplementary Planning Guidance on Privacy and Sunlight in that the proximity and change in levels in relation to "Alderbank" would result in significant adverse effects on the residential amenity enjoyed by that property, creating an overbearing impression.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 OSA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/00530/FUL
APPLICANT : Mr And Mrs D Gold
AGENT : Kanak Bose Ltd
DEVELOPMENT : Erection of dwellinghouse with attached garage and workshop
LOCATION: Land North West Of Alderbank
Macbiehill
West Linton
Scottish Borders
TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
DOCUMENT 1	Site Plan	Refused
DOCUMENT 2	Location Plan	Refused
DOCUMENT 3	General	Refused
OGS 173 30	General	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations received.

Consultations were carried out with: Roads - A number of applications have been made for this site and the comments made before still apply. No objections in principle for this new dwelling which is to be accessed via the existing private road. The parking and turning area must be properly consolidated prior to occupation of the dwelling and the parking retained in perpetuity. If approved, this proposal will not breach the threshold for the number of new builds served by a private road. This unit would constitute the 3rd new dwelling served by the private road (application 12/00205/AMC is deemed to have lapsed and application 16/00709/FUL is yet to be determined); Environmental Health - No objection. Proposals include a stove which could impact on public health if not properly installed and maintained; Education and Lifelong Learning - a contribution for Peebles high School would be required if granted; the Coal Authority - the site does not lie within the Development High Risk Area; SEPA - no objection.

No further assessments (ES; design statement etc.) were required.

If granted, a developer contribution would be required for education provision. Due to the low level of the contribution, it is unlikely that a section 75 would be required and it is more likely that the contribution would be secured by means of a section 69 agreement.

There are no Ministerial Directions on the site.

There is planning history associated with this site. This is summarised below.

11/00197/FUL Erection of dwellinghouse and detached garage Withdrawn 19 May 11
14/00994/FUL Erection of dwellinghouse and attached garage and workshop Withdrawn 4 Dec 14
16/00835/FUL Erection of dwellinghouse and attached garage and workshop Withdrawn 6 Oct 16
16/01319/FUL Erection of dwellinghouse and attached garage and workshop Refused 15 Dec 16

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

PMD1 - Sustainability

PMD2 - Quality standards

HD2 - Housing in the countryside

HD3 - Protection of residential amenity

EP13 - Trees, woodlands and hedgerows

IS7 - Parking provision and standards

Supplementary Planning Guidance

Placemaking and Design

New Housing in the Borders Countryside

Landscape and Development

The site is not strategic, therefore the policies contained within SESplan are not considered.

Recommendation by - Ranaid Dods (Planning Officer) on 13th June 2017

The site is approximately 800m north of the A701 and is accessed from a private road some 300m long which runs westwards from the unclassified public road. Macbiehill is within the countryside and is in an elevated position, with the ground level rising from the A701. A number of properties lie to the south of the application site and, due to the topography, they are at a lower level than the application site. The eaves of the property immediately to the south east of the site (known as Alderbank) are roughly level with the ground level of the application site. The site itself is undeveloped land on which there is some planting and an area of gravel hardstanding. Beyond the site boundary lies rough grazing ground.

The proposal is to construct a single storey "L" shaped house with a pitched roof, the ridge of which would be approximately 5.2m above ground level. The south west elevation, which would be largely glazed, would be lined up with that of Alderbank. The two buildings would sit gable to gable and would be separated by approximately 13m. In terms of design and materials, the proposal would fit with Alderbank and the other properties to beyond. Solar panels would be located on the roof and there would be a stainless steel flue. Although it is not specifically mentioned on the drawings, it is assumed this would serve a wood burning stove. The applicant proposes boundary planting on the northwest and south west boundaries of the site. In addition, there would be an area of planting on the north east boundary.

That having been said, the principle of development on this site is not acceptable. Applications for housing outwith settlement envelopes must be assessed against the policies contained within the local development plan (LDP), the council's supplementary planning guidance and Scottish Government policy and guidance on development in the countryside. The principal policy within the LDP which relates to rural development is HD2.

There is an existing building group at Macbiehill and housing up to a total of 2 or 30% may be approved whichever is greater during the current Local Plan period. Alderbank was approved and built during the previous local plan period. There is currently an application under consideration for a new dwellinghouse within the walled garden to the south. If both the current applications were to be approved, this would bring the number of new dwellings approved during the current local plan period to two, which would comply with this part of policy HD2.

There are, however, other policy considerations which must be taken into account. In particular, the requirement that the council is satisfied that the site is well related to an existing building group. In addition, Scottish Government policy and guidance is clear that it is important to protect the countryside from suburbanisation and to ensure that new development is designed properly to fit within the landscape and surroundings.

There have been several previous applications, set out above, for development of a house on this site. A brief outline of those applications follows. In 2011 an application for a dwelling on almost the same part of the site as the current application (11/00197/FUL) was withdrawn as it could not be supported in planning policy terms. The main issue was that the proposed development was too detached from the steading and building group by virtue of distance and level.

Later in 2011 a further application was submitted for a house with the footprint closer to the existing building group. That application was approved since it related well to the existing building group and the design was acceptable. The property was subsequently constructed and is now known as Alderbank. Included in that permission was a planting scheme within the current application site and, potentially, the footprint of the proposed house would be partly within the area of planting associated with Alderbank. Although it would appear that some planting has taken place, this does not appear to be as extensive as shown on the plan submitted as part of the relevant condition.

In 2014 a planning application (14/00994/FUL) was submitted for a house on the current application site. The application was withdrawn after the applicant was advised that this application could not be supported as the location of the house did not relate well to the existing building group.

Two applications were submitted in 2016. The first (16/00835/FUL) was withdrawn after the applicants were informed that the application could not be supported. Again the proposed building did not relate well to the existing building group.

The second application (16/01319/FUL) was for a one and a half storey house. Although that proposal was more closely related to Alderbank, the difference in levels between the application site and Alderbank resulted in the principle of the development of this previously undeveloped site again being called into question. The council's supplementary planning guidance (SPG) on housing in the countryside states that 'Sites should not normally break into previously undeveloped fields, particularly where there exists a definable natural boundary between the existing group and the field. Natural boundaries should take precedence over man-made boundaries when defining the extent of a building group'.

Alderbank is a single storey property located in a small hollow and the small slope along the north western boundary of that property to the application site is a natural boundary that defines the extent of the building group. The application site lies in an area of undeveloped ground beyond that natural, defensible boundary. For this reason, the proposed dwellinghouse does not comply with policy HD2 and guidance for housing in the countryside. The slope on the north western edge of the site provides a clear boundary to the building group and creates a sense of place at Macbiehill of a tightknit group of residential properties. This boundary should be maintained and any new development should be contained within the existing group.

Although the application under consideration is for a single storey property, the difference in levels as noted above and the location outwith the existing building group, still creates a tension with policy and guidance. This will not contribute to the sense of place created by the compact and low nature of the former farm steading buildings and building group to the south. Instead, it will create a sense of development creeping into undeveloped land beyond the building group and will be at a considerably higher level.

There is no reference in the proposals to the required planting, which was agreed as a condition on the consent for Alderbank. An area of planting is shown along the north western and south western boundaries of the site, which would create a strong boundary feature. If implemented however, this would have the effect of moving the existing natural boundary of the building group (the slope between the site and Alderbank) some distance to the north west and provide further potential house plots. A double beech hedge is proposed on the boundary with Alderbank. This will provide some screening although it will take time to establish and, in any event, will not mitigate for the difference in levels between the two properties. It is council policy to discourage linear developments of building groups, which would occur if the current application and any future applications were approved.

The proposed house is closer to Alderbank than previous applications and, due to the orientation and fenestration of the building, the proposal will not have an adverse impact on the privacy of Alderbank. There will be a negative impact on the visual amenity of that property due to the level difference and a feeling of the proposed building being overbearing.

In conclusion, the proposed development is located in an open area of undeveloped ground which lies beyond a defensible boundary and outwith an existing building group. The proposal is contrary to policy HD2 and published guidance on new housing in the countryside. The applicant has advanced no material reasons to set aside the policies contained within the development plan and council and Scottish Government guidance.

REASON FOR DECISION :

The proposed development does not relate well to the existing building group. It is outwith the natural boundary of the building group and is at a considerably higher level than the adjacent house. The site is within an undeveloped field. The proposals do not, therefore, comply with policy HD2 of the Scottish Borders Local Development Plan. Further, it is contrary to Scottish Government and Scottish Borders Council guidance on new housing in the countryside.

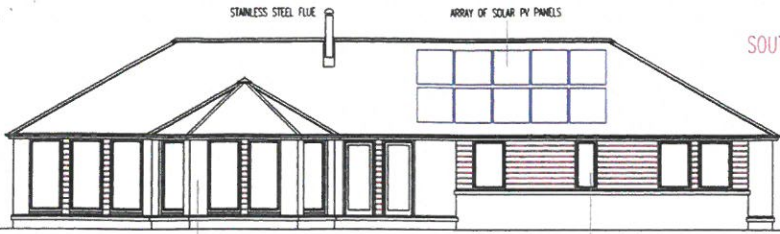
The difference in levels between Alderbank and the application site and the proximity of the two buildings will result in an overbearing appearance. This will be detrimental to the amenity currently enjoyed by residents of Alderbank. The proposal is, therefore, contrary to policy HD3 of the Scottish Borders Local Development Plan.

Recommendation: Refused

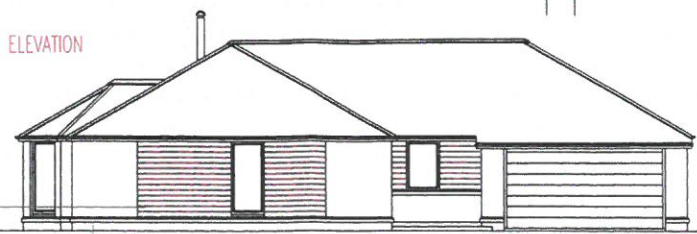
- 1 The proposals do not comply with Local Development Plan Policy HD2 and the Supplementary Planning Guidance on New Housing in the Borders Countryside as the site is located outwith, and not well related to, the recognised boundary of the existing building group at Macbiehill which is the natural slope between the site and "Alderbank", breaking into an undeveloped field at a higher level.

The proposals do not comply with Local Development Plan Policy HD3 and the Supplementary Planning Guidance on Privacy and Sunlight in that the proximity and change in levels in relation to "Alderbank" would result in significant adverse effects on the residential amenity enjoyed by that property, creating an overbearing impression.

"Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling".



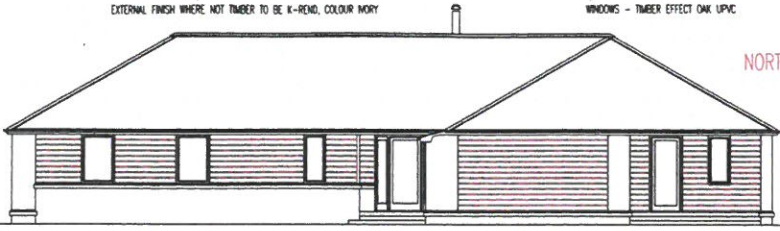
SOUTH WEST ELEVATION



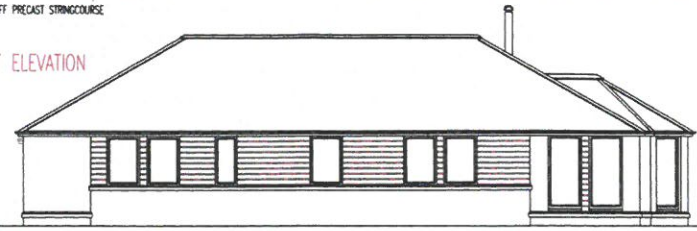
SOUTH EAST ELEVATION



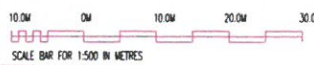
CLADDING WHERE SHOWN IS HOME-GROWN SCOTTISH LARCH



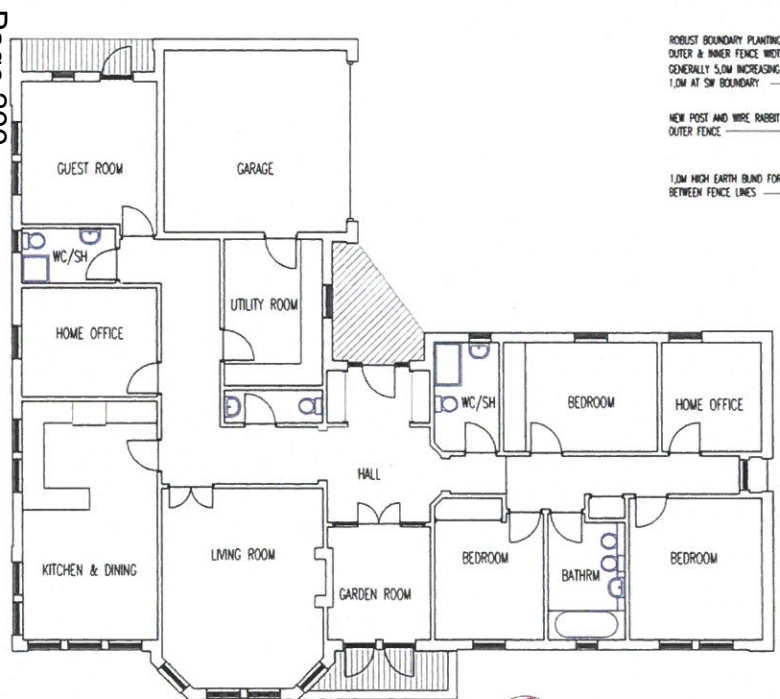
NORTH EAST ELEVATION



NORTH WEST ELEVATION



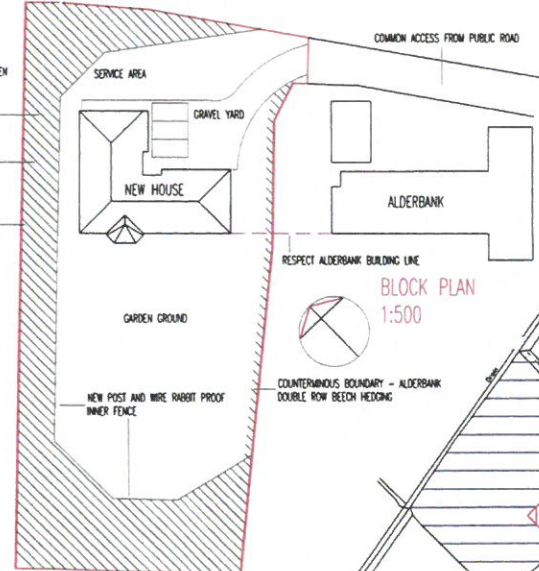
SCALE BAR FOR 1:500 IN METRES



Page 299



GROUND FLOOR PLAN



BLOCK PLAN 1:500



COUNTERSINKED BOUNDARY - ALDERBANK DOUBLE ROW BEECH HEDGING

ROBUST BOUNDARY PLANTING BETWEEN OUTER & INNER FENCE WITH GENERALLY 5.0M INCREASING TO 1.0M AT SW BOUNDARY

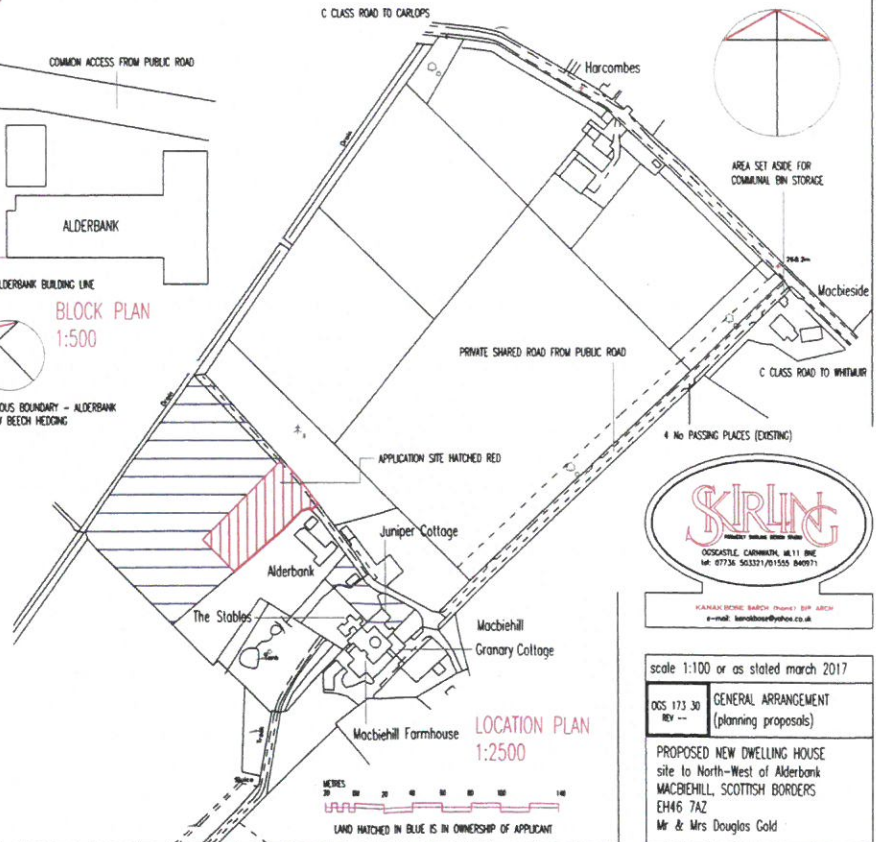
NEW POST AND WIRE RABBIT PROOF OUTER FENCE

1.0M HIGH EARTH BLIND FORMED BETWEEN FENCE LINES

RESPECT ALDERBANK BUILDING LINE

NEW POST AND WIRE RABBIT PROOF INNER FENCE

NO.	REVISION



LOCATION PLAN 1:2500

LAND HATCHED IN BLUE IS IN OWNERSHIP OF APPLICANT



scale 1:100 or as stated march 2017

DSS 173 30
REV -- GENERAL ARRANGEMENT (planning proposals)

PROPOSED NEW DWELLING HOUSE site to North-West of Alderbank MACBIEHILL, SCOTTISH BORDERS EH46 7AZ
Mr & Mrs Douglas Gold

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Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Application for Planning Permission

Reference : 16/01319/FUL

To : Mr And Mrs D Gold per Kanak Bose Ltd Ogscastle Roman Road Carnwarth ML11 8NE

With reference to your application validated on **19th October 2016** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

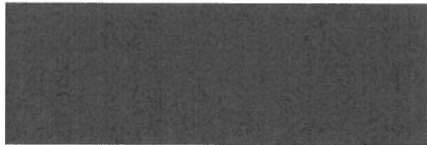
Proposal : Erection of dwellinghouse with attached garage and workshop

At : Land North West Of Alderbank Macbiehill West Linton Scottish Borders

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s) stated on the attached schedule**.

**Dated 15th December 2016
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



.....
Chief Planning Officer

APPLICATION REFERENCE : 16/01319/FUL

Schedule of Plans and Drawings Refused:

Plan Ref	Plan Type	Plan Status
OGS173 01 REVD	Location Plan	Refused
OGS173 02 REVD	Block Plans	Refused
OGS173 03 REVC	Floor Plans	Refused

REASON FOR REFUSAL

- 1 The proposals do not comply with Local Development Plan Policy HD2 and the Supplementary Planning Guidance on New Housing in the Borders Countryside as the site is located outwith the recognised boundary of the existing building group which is the natural slope between the site and Alderbank. It is in an undeveloped field at a higher level and it does not relate well to the existing group in terms of location and design.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 16/01319/FUL

APPLICANT : Mr And Mrs D Gold

AGENT : Kanak Bose Ltd

DEVELOPMENT : Erection of dwellinghouse with attached garage and workshop

LOCATION: Land North West Of Alderbank
Macbiehill
West Linton
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
OGS173 01 REVD	Location Plan	Refused
OGS173 02 REVD	Block Plans	Refused
OGS173 03 REVC	Floor Plans	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

Consultation Responses
Education
Contributions required for Peebles High School

Roads Planning

My comments to the previous application (16/00835/FUL), which was withdrawn prior to determination, are applicable to the current application and I have copied them below for your information.

However, I would add that the workshop must be for the ancillary purposes of the proposed dwelling and should not be used as a commercial business.

No objections in principle for this new dwelling which is to be accessed via the existing private road. The parking and turning area must be properly consolidated prior to occupation of the dwelling and the parking retained in perpetuity.

It should be noted that if approved, this proposal will not result in the threshold being breached for the number of new builds served by a private road. As far as I can see, this unit would constitute the 3rd new dwelling served by the private road if it is approved as application 12/00205/AMC is deemed to have lapsed and application 16/00709/FUL is yet to be determined at the time of writing this report.

Environmental Health

No objections subject to conditions relating to private drainage and water supply and an Informative relating to the use and maintenance of the proposed stove and the drainage system.

SEPA

There appears to be limited detail of the drainage arrangements. We do note the presence of a septic tank marked on one of the drawings however there are no details of the discharge. Assuming the discharge is to a mounded or closed soakaway SEPA has no objection to this proposal.

The waste water drainage proposals will require authorisation under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended).

Our preference would be that all the technical information required for all permissions and licensing is submitted at the same time as the planning application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application and/or neighbour notification or advertising.

Coal Authority

Standing advice should be placed on any consent notice.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

PMD1 - Sustainability

PMD2 - Quality Standards

HD2 - Housing in the Countryside

HD3 - Protection of Residential Amenity

EP13 - Trees, Woodlands and Hedgerows

IS7 - Parking Provision and Standards

Supplementary Planning Guidance

Placemaking and Design

New Housing in the Borders Countryside

Landscape and Development

Recommendation by - Dorothy Amyes (Planning Officer) on 12th December 2016

The application site is located on higher ground to the north west of the property known as Alderbank at Macbiehill. It is proposed to erect a one and a half storey dwellinghouse on the site.

The dwellinghouse will be located towards the south eastern corner of the site and access will be via an existing track. It is proposed that the dwellinghouse will be L shaped with an integral garage and workshop. The building will have a pitched roof with a ridge height of approximately 6.5m and there will be large areas of glazing on the southwest facing elevation. The external materials are to be slate on the roof and render on the walls. There will be a short length of hedgerow between the proposed house and Alderbank and further planting along the boundary of the proposed paddock area. Four parking spaces are shown adjacent to the house.

Any application for housing in the countryside must be assessed against the prevailing Local Development Plan, principally HD2 Housing in the Countryside and Supplementary Planning Guidance New Housing in the Borders Countryside. There is an existing building group at Macbiehill and housing up to a total of 2 or 30% may be approved whichever is greater during the current Local Plan period. The adjacent property, Alderbank was approved and built during the previous local plan period. A consent for a new dwelling to east of Alderbank details of which were approved in 2012 (12/00205/AMC) has now lapsed. There is currently an application under consideration for a new dwellinghouse within the walled garden to the south. If both the current applications were to be approved this would bring the number of new dwellings approved during the current Local Plan period to 2 which would comply with this part of the policy.

However, there are also other policy considerations in particular whether or not the site is well related to the existing building group. There have been a number of previous applications for all or part of this site that are relevant to this consideration.

In 2011 an application for a dwelling on almost the same part of the site as the current application (11/00197/FUL) was withdrawn as it could not be supported in planning policy terms. The main issue was that the site and dwellinghouse were considered to be too detached from the steading and building group by virtue of distance and level.

Later in 2011 a further application was submitted for a dwellinghouse with the footprint closer to the existing building group. This application was approved as it was considered that it related well to the existing building group and that the design was appropriate. The property is called Alderbank. However, as part of the consent a planting scheme was approved which is within the current application site and potentially the proposed footprint of the dwellinghouse would be partly within the proposed area of planting. Although it would appear that some planting has taken place this does not appear to be as extensive as shown on the plan submitted as part of the relevant condition. Over time and, if all of the planting had taken place, this would provide a strong edge to the building group. The current application indicates that additional tree planting will take place along the north western boundary of the site.

In 2014 a planning application (14/00994/FUL) was submitted for a dwellinghouse on the current application site but the footprint was located further north from the current site. Again the applicant was advised that this application could not be supported as the location of the house did not relate well to the existing building group and the application was withdrawn.

Earlier this year an application(16/00835/FUL) for a dwellinghouse on the site was withdrawn after the applicants were informed that the application could not be supported as it was considered that the site did not relate well to the existing building group.

The current application shows the house to be located closer to the new dwellinghouse called Alderbank yet it is still located at a higher level in an open field. The SPG advises that 'Sites should not normally break into previously undeveloped fields, particularly where there exists a definable natural boundary between the existing group and the field. Natural boundaries should take precedence over man-made boundaries when defining the extent of a building group.'

Alderbank is a single storey property located in a small hollow and it is considered that the small slope up to the field along the north western boundary of this property is a natural boundary that defines the extent of the building group. For this reason the proposed dwellinghouse does not comply with policy HD2 and guidance for housing in the countryside. It is considered that this natural slope provides a clear boundary to the building group and creates a sense of place at Macbiehill of a tightknit group of residential properties. It is considered that this boundary should be maintained any that any new development should be contained within the existing group.

In addition, the majority of the properties at Macbiehill are single storey, what is proposed is a one and a half storey property with a ridge height of 6.5m. Given the difference in levels as noted above, the new house will sit well above the existing houses and will not contribute to the sense of place created by the compact and low nature of the former farm steading buildings. It will appear to tower above the existing properties. It is accepted that the newer house, Coitquoit is an exception to this but this is at the opposite end of the building group and is well screened.

There is no reference in the proposals to the required planting which was agreed as a condition on the consent for Alderbank. An area of planting is shown along the north western boundary of the paddock site with the intention of creating a strong boundary feature. If this was approved it could have the effect of moving the existing natural boundary of the building group (the slope between the site and Alderbank) some distance to the north west and provide further potential house plots. It is policy to discourage linear developments of building groups which would occur if the current application and any future applications were approved.

A double beech hedge is proposed for a short distance along the entrance to two of the parking spaces. This will provide some screening in the long term. Although the house is closer to Alderbank than the previous applications, the proposal will not have a significant adverse impact on the residential amenity of the existing

residents. It is of a different design to any of the other individual houses within the building group and a design statement demonstrating the context for the design has not been submitted with the application.

There are no other issues relating to the proposal and the applicants are willing to enter into a legal agreement for the required development contributions towards Education and Lifelong Learning.

In conclusion, it is considered that the application cannot be supported as the proposed site is located in an open field beyond a recognisable boundary to the existing building group and there are no overriding reasons why an exception should be made in this case. It is therefore contrary to policy HD2 and the SPG on new housing in the countryside.

REASON FOR DECISION :

The proposals are not acceptable as they do not comply with Local Development Plan policy HD2 and Supplementary Planning Guidance on new housing in the countryside in that the site does not relate well to the existing building group as it is outwith the natural boundary of the building group formed by an area of sloping ground and it is at a higher level within an undeveloped field.

Recommendation: Refused

- 1 The proposals do not comply with Local Development Plan Policy HD2 and the Supplementary Planning Guidance on New Housing in the Borders Countryside as the site is located outwith the recognised boundary of the existing building group which is the natural slope between the site and Alderbank. It is in an undeveloped field at a higher level and it does not relate well to the existing group in terms of location and design.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.

PLANNING CONSULTATION

On behalf of Education & Lifelong Learning

From: Service Director Assets & Infrastructure
Contact: Neil Hastie, Estates Manager

To: Head of Planning & Business Standards

Date: 14th April 2017

Contact: Ranald Dods ☎ Ext. 8574

Ref: 17/00530/FUL

PLANNING CONSULTATION

Name of Applicant: Mr and Mrs D Gold

Agent: Kanak Bose Ltd

Nature of Proposal: Erection of dwelling house with attached garage and workshop

Site: Land North West of Alderbank, Macbiehill, West Linton, Scottish Borders

OBSERVATIONS OF: Education & Lifelong Learning (Neil Hastie)

CONSULTATION REPLY

I refer to your request for Educations view on the impact of this proposed development, which is located within the catchment area for Halyrude Primary School, Newland Primary School and Peebles High School.

A contribution of £1,051 is sought for the High School.

Rolls over 90% place strain on the schools teaching provision, infrastructure and facilities and reduce flexibility in timetabling, potentially negatively effecting quality standards within the school environment. Contributions are sought to raise capital to extend or improve schools or where deemed necessary to provide new schools in order to ensure that over capacity issues are managed and no reduction in standards is attributed to this within the Borders Area.

This contribution should be paid upon receipt of detailed planning consent but may be phased subject to an agreed schedule.

Please note that the level of contributions for all developments will be reviewed at the end of each financial year and may be changed to reflect changes in the BCIS index – therefore, we reserve the right to vary the level of the contributions.

If you require any further information please do not hesitate to contact me by emailing estatemangement@scotborders.gov.uk

For the Attention of: Ranald Dods
Scottish Borders Council

[By Email: dcconsultees@scotborders.gov.uk]

25 April 2017

Dear Ranald Dods

PLANNING APPLICATION: 17/00530/FUL

Erection of dwellinghouse with attached garage and workshop; LAND NORTH WEST OF ALDERBANK MACBIEHILL, WEST LINTON, SCOTTISH BORDERS

Thank you for your consultation notification of the 12 April 2017 seeking the views of The Coal Authority on the above planning application.

The Coal Authority Response: Material Consideration

I can confirm that the above planning application has been sent to us incorrectly for consultation.

The application site **does not** fall with the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach that has been agreed with the LPA for a Coal Mining Risk Assessment to be submitted or for The Coal Authority to be consulted.

The Coal Authority Recommendation to the LPA

In accordance with the agreed approach to assessing coal mining risks as part of the development management process, if this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety.

Yours sincerely

Rachael A. Bust *B.Sc.(Hons), MA, M.Sc., LL.M., AMIEnvSci., MInstLM, MRTPI*
Chief Planner / Principal Manager
Planning and Local Authority Liaison

Our ref: PCS/152576
Your ref: 17/00530/FUL

If telephoning ask for:
Stephanie Balman

27 April 2017

Ranald Dods
Scottish Borders Council
Planning & Economic Development
Council Headquarters
Newtown St Boswells
Melrose
TD6 0SA

By email only to: dcconsultees@scotborders.gov.uk

Dear Mr Dods

Town and Country Planning (Scotland) Acts
Planning application: 17/00530/FUL
Erection of dwellinghouse with attached garage and workshop
Land North West of Alderbank, Macbiehill, West Linton, Scottish Borders

Thank you for your consultation email which SEPA received on 12 April 2017.

Advice for the planning authority

Whilst it is acknowledged that the site lies within one of SEPA's waste water drainage consultation areas we have **no objection** to this planning application.

There is limited information provided with this current planning application, however a previous application (ref: 16/01319/FUL) for this site, which we note was refused, proposed a septic tank discharging to mounded soakaway. Assuming the discharge is to a mounded or closed soakaway then we have no objection to this proposal. Please note that secondary treatment must be provided for discharges to mounded soakaways.

The waste water drainage proposals will require authorisation from us under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended). Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office at:

SEPA Galashiels, Burnbrae, Mossilee Road, Galashiels, Borders, TD1 1NF, Tel: 01896 754797

Our preference would be that all the technical information required for all permissions and licensing is submitted at the same time as the planning application. However, we consider it to be at the



Chairman
Bob Downes
Chief Executive
Terry A'Hearn

Perth Strathearn House
Broxden Business Park,
Lamberkine Drive, Perth, PH1 1RX
tel 01738 627989 fax 01738 630997
www.sepa.org.uk • customer enquiries 03000 99 66 99

applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application and/or neighbour notification or advertising. If you have any queries relating to this letter, please contact me by telephone on 0131 273 7218 or e-mail at planning.se@sepa.org.uk.

Yours sincerely

Stephanie Balman
Planning Officer
Planning Service

ECopy to: Kanak Bose kanakbose@yahoo.co.uk

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).



Chief Executive
Bob Downes

Chief Executive
Terry A'Hearn

Perth Strathearn House

Broxden Business Park,
Lamberkine Drive, Perth, PH1 1RX
tel 01738 627989 fax 01738 630997

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Scottish Borders Council

Regulatory Services – Consultation reply

Planning Ref	17/00530/FUL
Uniform Ref	17/00945/PLANCO
Proposal	Erection of dwellinghouse with attached garage and
Address	Land North West Of Alderbank Macbiehill West Linton Scottish Borders
Date	3/5/17
Amenity and Pollution Officer	David A. Brown
Contaminated Land Officer	Reviewed – no comments

Amenity and Pollution

Assessment of Application

*Air quality
Noise
Nuisance*

This is an Application to erect a dwelling house.
The papers lodged in connection with the application indicate that a stove will be installed and that a private drainage system will be used.
These can impact on public health if not properly installed, maintained and operated.

Recommendation

Agree with application in principle, subject to Conditions and Informatives.

Conditions

No development should commence until the applicant has provided evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition.

Reason: To ensure that the development does not have a detrimental effect on public health.

No development is to commence until a report has been submitted to and approved in writing by the Planning Authority that the public mains water supply is available and can be provided for the development. Prior to the occupation of the building(s), written confirmation shall be provided to the approval of the Planning Authority that the development has been connected to the public mains water supply.

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

No water supply other than the public mains shall be used to supply the property without the written consent of the Planning Authority.

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

Informative

Private Drainage System

Private drainage systems often cause public health problems when no clear responsibility or access rights exist for maintaining the system in a working condition.

Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law.

To discharge the Condition relating to the private drainage arrangements, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified.

Stoves and Use of Solid Fuel

These installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do not indemnify the applicant in respect of Nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted building/planning permission.

Accordingly this advice can assist you to avoid future problems.

The location of the flue should take into account other properties that may be downwind.

The discharge point for the flue should be located as high as possible to allow for maximum dispersion of the flue gasses.

The flue should be terminated with a cap that encourages a high gas efflux velocity.

The flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.

The appliance should only burn fuel of a type and grade that is recommended by the manufacturer. If you live in a Smoke Control Area you must only use an Exempt Appliance <http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is Approved for use in it <http://smokecontrol.defra.gov.uk/fuels.php?country=s> .

In wood burning stoves you should only burn dry, seasoned timber. Guidance is available on - [http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuel-woodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuel-woodasfuelguide.pdf)

Treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel.

Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

REGULATORY SERVICES



To: **Development Management Service**
FAO Ranald Dods

Date: **4 May 2017**

From: **Roads Planning Service**
Contact: **Paul Grigor**

Ext: **6663**

Ref: **17/00530/FUL**

Subject: Erection of dwellinghouse with attached garage and workshop
Land North West of Alderbank, Macbiehill, West Linton

There have been a number of planning applications for this plot and my comments have generally been the same for each application. As such I have copied below my comments to the previous application (16/01319/FUL) which are still applicable to the current submission.

However, I would add that the workshop must be for the ancillary purposes of the proposed dwelling and should not be used as a commercial business.

"I have no objections in principle for this new dwelling which is to be accessed via the existing private road. The parking and turning area must be properly consolidated prior to occupation of the dwelling and the parking retained in perpetuity.

It should be noted that if approved, this proposal will not result in the threshold being breached for the number of new builds served by a private road. As far as I can see, this unit would constitute the 3rd new dwelling served by the private road if it is approved as application 12/00205/AMC is deemed to have lapsed and application 16/00709/FUL is yet to be determined at the time of writing this report."

AJS

Local Review Body – List of Policies

Local Review Reference: 17/00027/RREF

Planning Application Reference: 17/00530/FUL

Development Proposal: Erection of dwellinghouse with attached garage and workshop,

Location: Land North West of Alderbank, Macbiehill, West Linton

Applicant: Mr & Mrs D Gold

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2016

POLICY PMD1: SUSTAINABILITY

In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plan's policies and which developers will be expected to incorporate into their developments:

- a) the long term sustainable use and management of land
- b) the preservation of air and water quality
- c) the protection of natural resources, landscapes, habitats, and species
- d) the protection of built and cultural resources
- e) the efficient use of energy and resources, particularly non-renewable resources
- f) the minimisation of waste, including waste water and encouragement to its sustainable management
- g) the encouragement of walking, cycling, and public transport in preference to the private car
- h) the minimisation of light pollution
- i) the protection of public health and safety
- j) the support to community services and facilities
- k) the provision of new jobs and support to the local economy
- l) the involvement of the local community in the design, management and improvement of their environment

POLICY PMD2: QUALITY STANDARDS

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

Sustainability

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,
- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,
- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,

Local Review Body – List of Policies

- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
- g) it considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking & Design

- h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
- i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
- j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
- k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
- l) it can be satisfactorily accommodated within the site,
- m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
- n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on ‘designing out crime’.

Accessibility

- o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,
- p) it incorporates, where required, access for those with mobility difficulties,
- q) it ensures there is no adverse impact on road safety, including but not limited to the site access,
- r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,
- s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Greenspace, Open Space & Biodiversity

- t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
- u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

POLICY HD2: HOUSING IN THE COUNTRYSIDE

The Council wishes to promote appropriate rural housing development:

Local Review Body – List of Policies

- a) in village locations in preference to the open countryside where permission will only be granted in special circumstances on appropriate sites,
- b) associated with existing building groups where this does not adversely affect their character or that of the surrounding area, and
- c) in dispersed communities in the Southern Borders housing market area.

These general principles in addition to the requirement for suitable roads access will be the starting point for the consideration of applications for housing in the countryside, which will be supplemented by Supplementary Planning Guidance / Supplementary Guidance on New Housing in the Borders Countryside and on Placemaking and Design.

(A) BUILDING GROUPS

Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such conversion has been implemented,
- b) the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts,
- c) any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.

In addition, where a proposal for new development is to be supported, the proposal should be appropriate in scale, siting, design, access, and materials, and should be sympathetic to the character of the group.

The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point.

(B) DISPERSED BUILDINGS GROUPS

In the Southern Housing Market area there are few building groups comprising 3 houses or more, and a more dispersed pattern is the norm. In this area a lower threshold may be appropriate, particularly where this would result in tangible community, economic or environmental benefits. In these cases the existence of a sense of place will be the primary consideration.

Housing of up to 2 additional dwellings associated with dispersed building groups that meet the above criteria may be approved provided that:

- a) the Council is satisfied that the site lies within a recognised dispersed community in the Southern Borders housing market area,

Local Review Body – List of Policies

- b) any consents for new build granted under this part of this policy should not exceed two housing dwellings in addition to the group during the Plan period. No further development above this threshold will be permitted,
- c) the design of housing will be subject to the same considerations as other types of housing in the countryside proposals.

(C) CONVERSIONS OF BUILDINGS TO A HOUSE

Development that is a change of use of a building to a house may be acceptable provided that:

- a) the Council is satisfied that the building has architectural or historic merit, is capable of conversion and is physically suited for residential use,
- b) the building stands substantially intact (normally at least to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion, and
- c) the conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.

(D) RESTORATION OF HOUSES

The restoration of a house may also be acceptable provided that the walls of the former residential property stand substantially intact (normally at least to wallhead height). In addition:

- a) the siting and design reflects and respects the historical building pattern and the character of the landscape setting,
- b) any proposed extension or alteration should be in keeping with the scale, form and architectural character of the existing or original building, and
- c) significant alterations to the original character will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and/or a more sustainable and energy efficient design.

(E) REPLACEMENT DWELLINGS

The proposed replacement of an existing house may be acceptable provided that:

- a) the siting and design of the new building reflects and respects the historical building pattern and the character of the landscape setting,
- b) the proposal is in keeping with the existing/original building in terms of its scale, extent, form and architectural character,
- c) significant alterations to the original character of the house will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and /or a more sustainable and energy efficient design.

(F) ECONOMIC REQUIREMENT

Housing with a location essential for business needs may be acceptable if the Council is satisfied that:

- a) the housing development is a direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and it is for a worker predominantly employed in the enterprise and the presence of

Local Review Body – List of Policies

- that worker on-site is essential to the efficient operation of the enterprise. Such development could include businesses that would cause disturbance or loss of amenity if located within an existing settlement, or
- b) it is for use of a person last employed in an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and also employed on the unit that is the subject of the application, and the development will release another house for continued use by an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and
 - c) the housing development would help support a business that results in a clear social or environmental benefit to the area, including the retention or provision of employment or the provision of affordable or local needs housing, and
 - d) no appropriate site exists within a building group, and
 - e) there is no suitable existing house or other building capable of conversion for the required residential use.

In ALL instances in considering proposals relative to each of the policy sections above, there shall be compliance with the Council's Supplementary Planning Guidance where it meets the terms of this policy and development must not negatively impact on landscape and existing communities. The cumulative effect of applications under this policy will be taken into account when determining impact.

POLICY HD3 – PROTECTION OF RESIDENTIAL AMENITY

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,
 - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or 'backland' development,
 - (iii) the generation of traffic or noise,
 - (iv) the level of visual impact.

POLICY EP13: TREES, WOODLANDS AND HEDGEROWS

The Council will refuse development that would cause the loss of or serious damage to the woodland resource unless the public benefits of the development clearly outweigh the loss of landscape, ecological, recreational, historical, or shelter value.

Any development that may impact on the woodland resource should:

- a) aim to minimise adverse impacts on the biodiversity value of the woodland resource, including its environmental quality, ecological status and viability; and
- b) where there is an unavoidable loss of the woodland resource, ensure appropriate replacement planting, where possible, within the area of the Scottish Borders; and
- c) adhere to any planning agreement sought to enhance the woodland resource.

Local Review Body – List of Policies

POLICY IS7: PARKING PROVISION AND STANDARDS

Development proposals should provide for car and cycle parking in accordance with approved standards.

Relaxation of technical standards will be considered where appropriate due to the nature of the development and/or if positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of seeking additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

POLICY IS2: DEVELOPER CONTRIBUTIONS

Where a site is otherwise acceptable in terms of planning policy, but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or partial contribution towards the cost of addressing such deficiencies.

Contributions may be required for one or more of the following:

- a) treatment of surface or foul waste water in accordance with the Plan's policies on preferred methods (including SUDS maintenance);
- b) provision of schools, school extensions or associated facilities, all in accordance with current educational capacity estimates and schedule of contributions;
- c) off-site transport infrastructure including new roads or road improvements, Safer Routes to School, road safety measures, public car parking, cycle-ways, bridges and associated studies and other access routes, subsidy to public transport operators; all in accordance with the relevant standards and the provisions of any Travel Plan;
- d) leisure, sport, recreation, play areas and community facilities, either on-site or off-site;
- e) landscape, open space, allotment provision, trees and woodlands, including costs of future management and maintenance;
- f) protection, enhancement and promotion of environmental assets either on-site or off-site, having regard to the Local Biodiversity Action Plan and the Council's Supplementary Planning Guidance on Biodiversity, including compensation for any losses and/or alternative provision;
- g) provision of other facilities and equipment for the satisfactory completion of the development that may include: measures to minimise the risk of crime; provision for the storage, collection and recycling of waste, including communal facilities; provision of street furniture and digital connectivity with associated infrastructure.

Wherever possible, any requirement to provide developer contributions will be secured by planning condition. Where a legal agreement is necessary, the preference for using an agreement under other legislation, for example the 1973 Local Government (Scotland) Act and the 1984 Roads (Scotland) Act will be considered. A planning obligation will only be necessary where successors in title need to be bound by its terms. Where appropriate, the council will consider the economic viability of a proposed development, including possible payment options, such as staged or phased payments.

Local Review Body – List of Policies

OTHER MATERIAL CONSIDERATIONS

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008

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NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Failure to supply all the relevant information could invalidate your notice of review.

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name

Address

Postcode

Contact Telephone

Contact Telephone 2

Fax No

E-mail*

Mark this box to confirm all contact should be through this representative:

Yes No

* Do you agree to correspondence regarding your review being sent by e-mail?

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

No

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

FIRST APPLICATION

1. In earlier conversations with the Environmental Health officer it was clear that from the start he has a bias against wood burning stoves and "possible" nuisances caused wherever the installation was. His original consultation response dated 30/9/15 to object to the proposals was made without any visit to the site.

2. We provided photographic evidence that, until recently when the property was used as a butchers shop, it had an existing chimney in exactly the position of the proposed flue. This was removed when the shop ceased to be used as a butchers.

3. We provided written confirmation from a registered HETAS engineer that the proposed installation complied with: HETAS Approved Document J, Outlets from flues, Section 2.11, Diagram 17. Flue outlet positions for solid fuel appliances.

Other than the above referred to documents, we are not aware of any other technical guidelines for the siting of a stove flue.

SECOND APPLICATION

1. To the address the reasons for refusal we proposed the use of an ABCAT flue gas filter which reduces flue emissions.

We believe insufficient consideration was given to the ABCAT technical information provided with the second application. Given the complexity of the information and test data we would have expected some queries or correspondence from the Environmental Health officer being consulted on the application. No queries or correspondence were received.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

These are the documents submitted with the applications:

FIRST APPLICATION
 Location Plan, 13011-E-101, 13011-SITE, 13011-101, 13011-101-A
 15_01079_FUL-AGENT_SUBMISSION-2731029.jpg
 15_01079_FUL-AGENT_EMAIL-2731028.pdf

SECOND APPLICATION
 Location Plan, 13011-101-B
 ABCAT Product Information
 ABCAT Background and application
 ABCAT Remains with and without ABCAT
 ABCAT Residuals of wood burning
 ABCAT SP test results summary
 ABCAT test with Wohler SM 500 analyzer

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

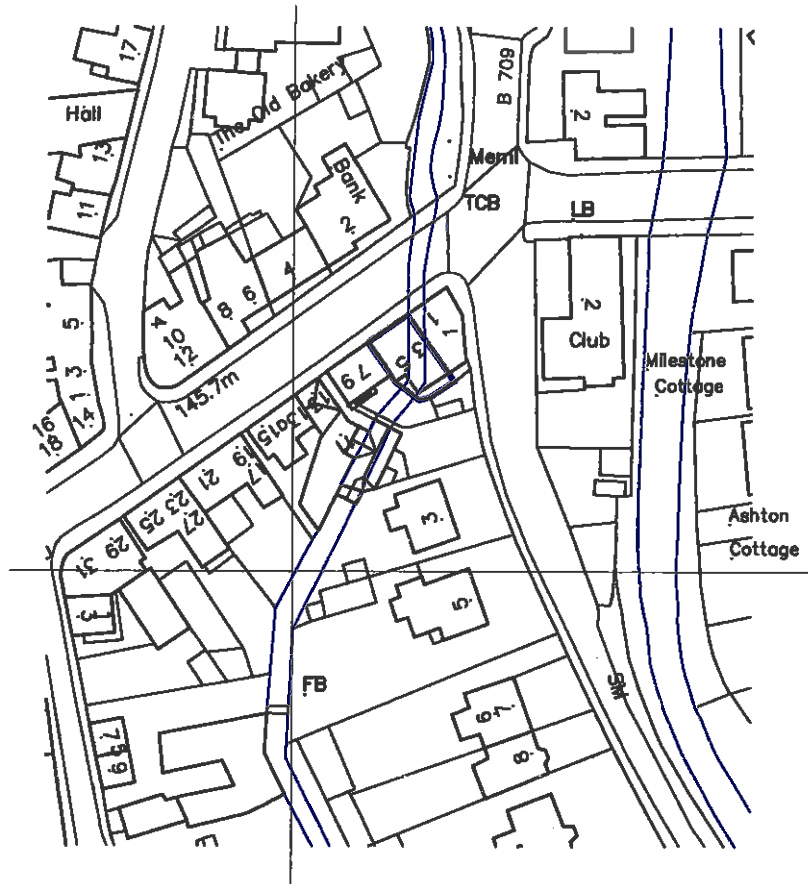
Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed Date 13/07/17

The Completed form should be returned to the Head of Corporate Administration, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA.





project
**Replacement Windows &
 Metal Flue at 5 High Street
 Innerleithen EH44 6HA**

client
Mr & Mrs Gordon

drawing title
Location Plan

drawing number
13011-LOC

scale date
1:1250 @A4 Aug 15



**5 High Street
 Innerleithen
 EH446HA**

tel **01896 833131**
 mob **07789 016514**

david@davidjanearchitects.co.uk
 www.davidjanearchitects.co.uk

Background and application of the ABCAT flue gas oxidizing catalytic converter for the reduction of flue gas nuisances from wood stoves and -boilers

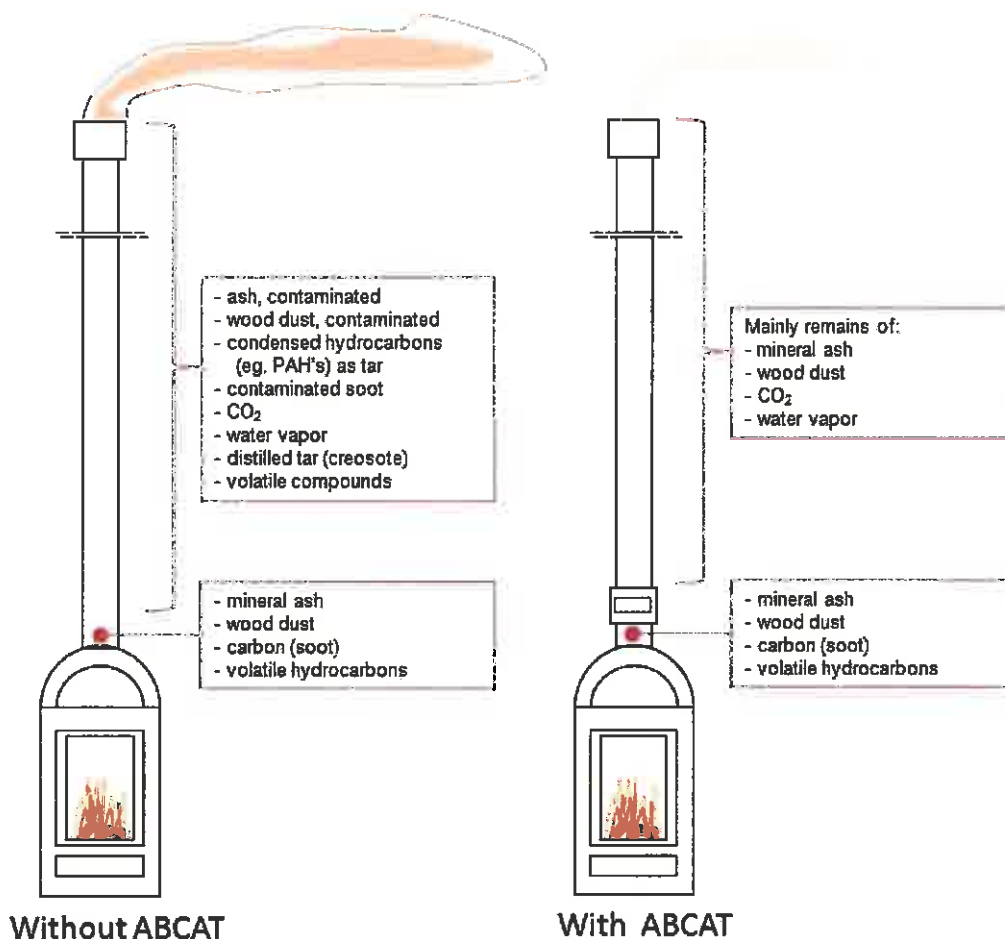
Firing wood is in various ways a good alternative to heating with fossil fuel. However, wood is chemically a highly complex fuel. Basically it comes down to the fact that the use of wood in woodstoves, even the best and most expensive stoves, is always paired with the emission of odorous substances, soot, particulate matter and many other components. This is where our innovative technique helps out. Most cars on the road have a catalytic converter and/or diesel particulate filter build into their exhaust system to reduce the inevitable emission of carbon monoxide (CO) and particulate matter (mainly soot particles) from their internal combustion engines. Ecolink Solutions now applies the catalytic converter technology to the "exhaust" of wood fired stoves with the ABCAT (AfterBurningCATalyst).

The ABCAT flue gas catalytic converter, which is developed and patented by Ecolink Solutions, looks different from a particulate filter for cars and trucks. There is no real filter of a ceramic catalyst with many small openings. Furthermore, unlike many diesel particulate filters, there is no need for extra fuel injection of special chemicals to keep the ABCAT clean and active. The catalytic converter Ecolink Solutions has developed comprises of a simple construction with a module which fits into the stovepipe in a drawer-like fashion. Subsequently the module can be manually rotated into a full bypass position if necessary. The module contains metals, among which several precious metals. The fumes flow almost undisturbed through the modules and while doing so they are treated by the catalytic converter, which burns harmful compounds through catalytic oxidation. Additionally a significant part of the ash-, wood dust- and soot particles -all are particulate matter- is caught by the ABCAT. In the process of "catalytic afterburning", soot particles and many odorous particulates are also converted into odor- and colorless water vapor and carbon dioxide (CO₂). The non-combustible parts which stay behind in the module - consisting mostly of mineral ashes and for example iron oxides- need to be removed from the ABCAT regularly by flushing them out with water or by means of vibration (shaking by hand). For this reason the ABCAT can only be installed in a easily accessible location.

The draught in the stovepipe is hardly influenced when installing the ABCAT. The resistance of the ABCAT, also called pressure loss, is approx. 2 Pa (0,02 mbar). The minimal natural draught of a properly constructed, hot chimney easily reaches 20 Pa so that the pressure loss of the ABCAT is easily over-won. The ABCAT has a permanent build-in safety bypass in case the modules provide too much resistance due to a blockage with soot for example. So, when needed, the flue gas can always pass the ABCAT and exit the chimney.

The emission of polluting flue gas is highest during startup of a fire in a cold stove with a cold stovepipe. The particulate filters in cars and trucks only start working optimally when they reach a sufficient temperature. The ABCAT works from start by filtering particulate matter and already at low temperatures carbon monoxide (CO) is converted. Soot- and odorous particles are converted later, starting when the catalytic ABCAT reaches a temperature of approx. 350°C. The ABCAT works best at temperatures between 300°C and 800°C.

The figure below shows a comparison of problematic components which can be present in a stovepipe with and without ABCAT flue gas filter.



The ABCAT does not need electricity or any other connection. When the catalytic converter needs to be replaced after several heating seasons it suffices to renew the ABCAT-module only. The stovepipe can be kept in place.

The ABCAT is available for wood fired stoves and -boilers in the range from 4 kW to 999 kW using square, rectangular or round stovepipes in diameters ranging from 100 to over 300 mm. The layout of the ABCAT can also be adapted to the wishes of the user to mainly convert and reduce odorous substances and/or particulate matter and/or components such as carbon monoxide (CO). The ABCAT can also be applied in a woodstove or -boiler with an heat exchanger when it is built in before the heat exchanger. Applying the ABCAT here generally does require some adaptations to the construction of the stove or boiler however.

The ABCAT is entirely constructed using steel, stainless steel and precious metals. The ABCAT is resistant to temperature shocks and mechanical shocks. It is robust, durable and of course recyclable. The ABCAT is produced in the Netherlands and patented. There is a 2 year warranty on the construction of the ABCAT.



Product specifications ABCAT (AfterBurner CATalyst)

Specifications summary ABCAT flue gas filter	
Application	Wood burning stoves
Applied "filter technique"	Full metal palladium catalyst
Operation based on	Catalytic oxidation and mechanical filtration
Treatment/reduction of	Hydrocarbons, CO, particulate matter
Installation	Directly after the stove as first flue gas pipe element
Position of installation	Horizontally, vertically and any position in between
Operational temperature catalyst-module	From 100°C. Optimal >350°C
Maximum operational temperature	800°C
Approved fuel	Untreated wood with max. 20% moisture
Particulate emission reduction (mainly PM2.5)	Up to 95%
PAHC's emission reduction	Up to 90%
CO emission reduction	Up to 65%
HC's emission reduction	Up to 90%
Pressure-loss at 1,5m/s (clean ABCAT)	Bypass 0-1 Pa, operational 2-5 Pa
Material	(Stainless) steel, painted
Warranty	2 years on construction

General

The ABCAT has been developed to reduce the emission from wood burning stoves' and boilers' chimneys. Most attention has gone into reducing the odor of woodsmoke. The ABCAT is installed directly after the wood burning device by replacing the first stove-pipe element by the ABCAT. The ABCAT contains a precious metal catalyst and is entirely constructed from steel. The ABCAT is generally available for all going stove-pipe diameters and stoves with different capacities. The ABCAT is very robust and operating and maintaining the system is very easy.

Operation

The filter in the ABCAT consists of a palladium and/or platinum catalytic converter. The catalytic material is fixed in a round module which is placed in the stovepipe like a sort of open valve. Most of the woodsmoke passes through this catalyst. The catalytic converter cracks incompletely burned components like hydrocarbons, which color and odor the woodsmoke. Besides cracking the catalyst also functions as a filter which captures a part of the particulate matter (fly-ash). A catalytic converter needs temperature (approx 300-350°C) and oxygen from the woodsmoke. At this temperature compounds are cracked and burnt without combustion (catalytic oxidation). Therefore the ABCAT needs to be installed directly on or after the wood stove.

The ABCAT is delivered with a bi-metal insert thermometer with a range up to 500 °C and an analogue scale. With this thermometer the temperature of the flue gases can be measured and the state of the ABCAT can be estimated.



Picture 1: ABCAT operational (left) and in by-pass position (right)

Properties and performance

Shortly after lighting the fire, when the temperature of the ABCAT rises, at first the least stable components of the woodsmoke, like CO, will be cracked. When the ABCAT reaches a temperature of around 350°C and becomes fully active, more stable components will be cracked. These include tar-forming, long-chain hydrocarbon components like PAH's which have a strong odor and can be very harmful to health and environment.

After cracking the components, the separate parts are burned without ignition (flame-less) with oxygen. The oxygen needed comes from the remaining oxygen in the woodsmoke. In an optimal situation – a so called total-oxidation – the ABCAT produces color- and odorless watervapor and carbon-dioxide (CO₂) as a result of this after-burning. The carbon-dioxide can be absorbed by growing trees and stays in the so called short-CO₂-cycle without negatively contributing to the greenhouse effect.

Next to a catalytic function the ABCAT also has a filtering function as a result from its construction. This filters out solid particles from the woodsmoke. This means a part of the fly-ash will also be filtered from the woodsmoke when the ABCAT is still warming up. When the ABCAT reaches its operational temperature, a big part of this filtered fly-ash will be oxidized (burnt). However, a part of this fly-ash can not be burnt and in time will cover the active surface of the catalyst. Therefore the ABCAT needs to be cleaned by shaking or rinsing with water regularly.

Various tests have shown that the ABCAT mainly cracks the smallest particulate fraction, namely PM2.5. This fraction of particulate matter is most problematic for our health since it can get deep into our lungs and penetrate lung tissue.

Particulate matter: consists of liquid and solid particles. Liquid particles are very fine dispersed droplets (aerosols) of gaseous components which, as a result of cooling, condensate into a liquid phase. This goes for, for example, hydrocarbons like polycyclic hydrocarbons (PAH's). Solid particles can be made up of wood dust, soot (carbon) and inert mineral inorganic ashes (noncombustible ashes). From the complete combustion of 1kg air dry (20% moisture) beech approx. 10 grams of ashes remain. A part of this ash stays behind in the stove as so called bottom-ash and a part leaves the stove through the chimney as so called fly-ash. During the cooling of woodsmoke as it travels up the chimney, more and more gaseous components – watervapor, benzene, PAH's – condensate and attach to the solid fly-ash particles. Through this process the particles will grow in size as the travel up the chimney and cool down. The longer (or the higher) the chimney or the poorer the insulation thereof, the more the woodsmoke will cool down and the bigger these particles can become. That is, if these particles do not stick to the inner wall of the chimney as tar and in combination with water form the highly acidic creosoot (which is also called tar-distillate). One of the important building blocks of tar are harmful PAH's.

The particulate matter concentration directly above the stove is therefore different from the concentration at the end of the chimney. The concentration of particulate matter at the end of the chimney will be higher. It is also particulate matter that colors the woodsmoke and contributes to its odor. The particulate matter emitted by wood burning appliances mainly consists of non-combusted organic components and to a smaller amount of inert mineral (inorganic) ashes.

The ABCAT treats the woodsmoke directly after the stoves' combustion chamber. Solid, organic components such as soot and components which can further on in the chimney condensate and form particulate matter are cracked and catalytically oxidized close to the source. Inert solid (noncombustible) particles to which gaseous components can stick during condensation are partly filtered by the ABCAT. The ABCAT can, depending on the type and quantity of fuel in the stove and the temperature of the ABCAT, reduce the emission of organic and inorganic components in woodsmoke with up to 90%.

Odor: Woodsmoke consists of 70-80 volume% of nitrogen, 10-20% residual oxygen, then a small percentage carbon-dioxide, water-vapor (from the not completely dry wood and as a result of combustion), inert gases, carbon, tar-droplets, ash, sulfur dioxide, nitrogen oxide, etc. The components in woodsmoke that can have a strong smell and can be harmful only account for 1-2% of the woodsmoke-volume. These components belong to the groups listed below. Within these groups, approx. 500 different components can be identified.

- Multiple, mostly polycyclic, hydrocarbons
- Aldehydes, for example ethanol, propanal, formaldehyde and others
- Organic acids including formic acid, acetic, propionic (propanoic) and others
- Condensed aromatics
- Styrene (ethyl benzene)
- Phenol (hydroxybenzene)
- Other compounds: guaiacol, ethyl guaiacol, furfuryl alcohol

Since the ABCAT can catalytically oxidize (burn) a large part of the components mentioned above, the odor of the woodsmoke which can be detected from the top of the chimney onwards is strongly reduced. When the ABCAT functions optimally the odor will be as good as neutralized. There are, however, big differences in properties of different types of wood, stove design, operation of the stove, weather conditions, etc which all have a great influence on the odor of the woodsmoke. To be able to reduce the odor effectively, everything before the ABCAT needs to be in order. The ABCAT is no wonder product which solves all problems without the user paying proper attention to all other important factors of responsible wood burning, which enables the user to burn anything in the stove under poor weather conditions or which solves a wrongful operation of any stove.

Tests and approval

In the development and testing of the catalytic converter used in the ABCAT, several research institutes have contributed.

Furthermore many companies have played a part in the creation of the ABCAT. The ABCAT should be effective in reducing wood burning-emissions but also has to fulfill strict demands regarding safety and reliability. Much attention has gone into getting the system as air-tight as possible, reducing the pressure loss (flow-resistance), increasing user-friendliness and improving the mechanical and thermal load. For the latter the ABCAT even has to be able to withstand a chimney fire (being exposed to very high temperature) without critical damage to the construction. At this moment Germany is the only European country which has this obligatory strict testing. A system without approval may not be applied.

The pressure loss or flow-resistance of the ABCAT in operation is approx. 2 – 5 Pascal (0,02 – 0,05 mBar) at a flow of 0,5 – 1 m/s. This flow could occur with stoves that are used at full power and with an optimal chimney construction. The minimal draft required for a good combustion (and sufficient supply of oxygen into the stove) is approx. 10 Pa. With this amount the flow-resistance of the ABCAT is easily over won. When in tests the ABCAT was fully blocked to simulate a hypothetical worst-case scenario, the flow resistance was approx. 11 Pa at 0,5 m/s. As mentioned, this is a hypothetical situation, however it is one of the requirements for the German approval to ensure maximum safety. A well designed, warm chimney produces a draft of approx. 20 Pa.

Versions

The standard ABCAT comes in a chimney-pipe of 250 or 500 mm length. The ABCAT is available for stovepipes with a diameter of Ø150 mm. The segment containing the ABCAT can be integrated in a standard flue gas channel without additional changes.

The pipes are made from 2mm steel and have a decreased diameter on one side to fit into another stovepipe. These pipes can be connected to pipes made from thin blued steel, stainless steel, 2mm steel, etc.

The standard ABCAT is painted with heat resistant, matt-black paint (RAL9005). Alternative colors upon request are black-gloss, anthracite, cast iron or unpainted.

Together with the ABCAT a special analogue flue gas thermometer with a range up to 500°C is supplied.

As an option the ABCAT can also be equipped with an extra, build in soot filter. With this additional filter the effectiveness of the ABCAT as a particulate matter filter will be increased. The additional filter operates as a powerless electromagnetic filter using a principle known as the Seebeck-effect. Soot particles are para-magnetic, which means they can be captured in the created magnetic field where they are oxidized by the ABCAT.

Installation

To install the ABCAT, the first stovepipe-segment after the stove has to be replaced by the segment containing the ABCAT. The ABCAT segment is reversible and does not have to be installed in a specific position. Furthermore the ABCAT can be installed in any position (horizontal, vertical or anything in between).

The design and use of the stove and the position of the ABCAT have to guarantee that the flames can not reach the ABCAT. Flames can reach very high temperatures and permanently damage the ABCAT's active catalytic surface. When the catalytic converter is exposed to temperatures of over approx. 800°C, the precious metals applied can become unstable or even evaporate. When the included thermometer is placed before or after the ABCAT, the temperature of the ABCAT can be monitored.

The handle and the sealing cap should remain accessible since the ABCAT needs to be removed from the stovepipe regularly to remove the (inert) ashes which have been collected by the ABCAT-module.

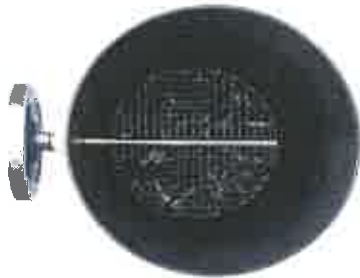


Picture 2: ABCAT in parts

Operation and maintenance

The ABCAT has a handle on the outside of the stovepipe. By turning this handle the module inside the stovepipe can be rotated into a bypass- or operation position. In bypass-position the woodsmoke can pass the ABCAT without any resistance worth mentioning. This position can be useful when the natural draft in the chimney is low (for example when the stove and chimney are still cold). This position can also be useful when opening the stove to add wood.

Another option is to rotate the ABCAT 360° to remove any ashes that have fallen down the chimney and have landed on top of the ABCAT-module.



Picture 3: Catalyst in operational position



Picture 4: Catalyst in bypass-position

Ash collects in the ABCAT and needs to be periodically removed since otherwise the effectiveness of the ABCAT will decrease. In order to clean the module, it can be removed from the stovepipe. The module can be shaken, vacuumed or rinsed with water. The ash from the module mainly consists of mineral components like potassium- and sodium-salt and iron- and silicon-oxide (sand) and is harmless to the environment. In case the ABCAT contains black remains of soot, tar or creosote it should not be flushed but instead be collected and treated as normal household waste. Concerning organic components like soot and tar, the ABCAT is self-cleaning. When these components build up in the ABCAT and the operational temperature of 350°C is reached it will also crack and oxidize (after-burn) these components.



Picture 5: Position of handle before removal for cleaning

Durability

The warranty on the construction of the ABCAT is 2 years from the date of purchase. The expected lifetime of the catalytic converter with normal and responsible use is many thousands of hours or several wood-burning seasons. Normal and responsible use means that:

- Woods are used that are suitable for burning in a wood stove (untreated wood, preferably of a low-odor-nuisance species). For various aspects of different types of wood we kindly refer to the overview 'Energy from native woods' on our website www.ecolinksolutions.com
- Air-dry wood is used with max. 20% moisture. Wood which contains mold also contains spores. This occurs when wood is stored and/or dried using a poor technique. Spores that are released from wood can be very harmful when inhaled. Moldy wood is normally also too wet to be used in a stove
- The ABCAT frequently reaches a temperature of 350°C
- The ABCAT is not exposed to temperatures of over 800°C
- An ABCAT that is still hot is not exposed to water or any other cooling liquid or gas. This could cause so called 'inner-crystal-corrosion' in the catalyst metal leading to a loss of precious metals.
- The ABCAT is not cleaned with any acid, salt or strongly basic liquid. Cleaning can be done in cold or hot water to which optionally dish soap is added. Chlorine or soda containing additives may not be used.

Individual parts can also be replaced.

De functionality of a used catalyst can be tested by us. In this process the catalyst will be cleaned, the starting temperature of the catalytic oxidation will be determined with a test gas and the reactivity (exothermic reaction) of the catalyst will be monitored. A report will be given in writing or by telephone and the module will be returned.

The residuals of wood burning; particulate matter, odorous- and gaseous components.

Besides carbon, hydrogen and oxygen wood also contains nitrogen (0,1 to 0,2%), potassium (beech for example approx. 0,2%), sulfur (0,015%), chlorine (0,005%) and trace elements. The majority of the trace elements are metals; arsenic, cadmium, chrome, copper, mercury, lead, and zinc. These metals are taken up from the bottom (ground and groundwater) and stored in the wood. The majority of these so called inorganic components, like potassium and metals, do not burn or evaporate and can be found in the fly ash and the bottom ash.

In the table below, properties and the average composition of several fossil- and renewable fuel are shown.

Fuel	Calorific value MJ/kg (100% Dry matter)	Volatile components in weight%	Ash in weight%	Elements in weight%						
				C	H	O	N	S	Cl	K
FOSSIL										
Natural gas	38 (31,5/m ³)									
Propane/ butane (LPG)	45,2									
Oil	41,5									
Peat	14,5									
Coal*	31,8	38,8	6,3	79,4	5,1	6,7	1,5	1	<0,2	0,09
Lignite*	31,8	55	7,6	68,4	5,5	15,4	1,8	1,3	?	0,03
BIOGENE										
Willow	18,4**	80,3	2,2	47,1	6,1	43,2	0,54	0,05	0,006	0,26
Spruce fir (pine wood)	18,8	82,9	0,6	49,7	6,3	42,3	0,13	0,02	0,01	0,13
Beech	18,4	84	0,5	47,9	6,2	44,7	0,22	0,02	0,007	0,15
Oak	18,2	80,2	0,4	?	?	?	0,18	?	0,005	?
Wheats traw	17,2	77	5,7	40,9	5,8	40,9	0,48	0,08	0,19	1
Corn straw	17,7	76,8	6,7	45,7	5,3	41,7	0,65	0,12	0,35	?
Hay	17,4	75,4	5,7	45,5	6,1	39,2	1,14	0,16	0,31	1,5
ENERGY-CROPS										
Forage grass	14,5									
Miscanthus	14,5									

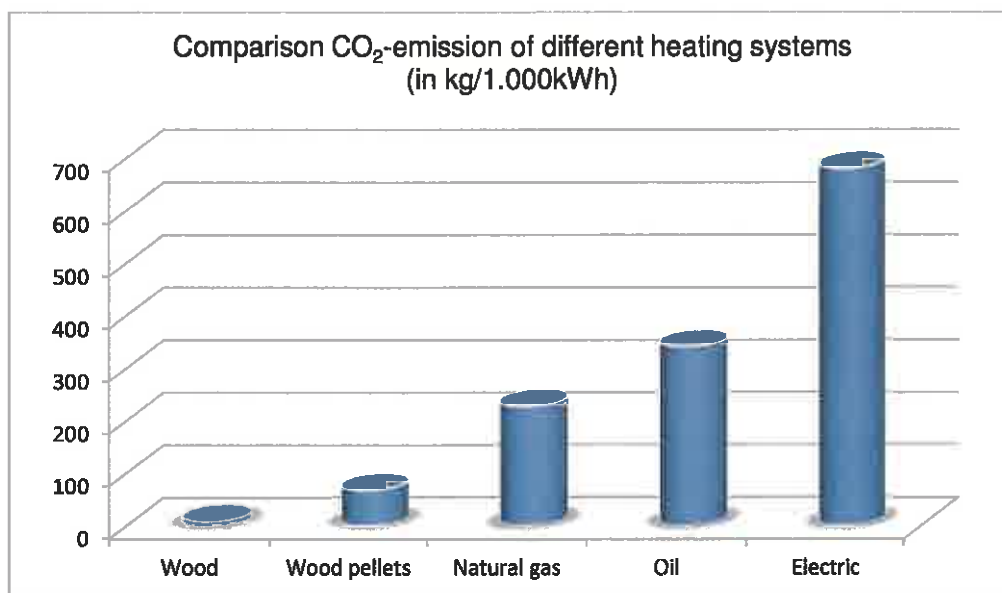
* Properties strongly depend on location of extraction

** The differences between woods are large in MJ/m³

When burning wood residuals are created or released. De emission of these residuals from stovepipes can cause health problems, environmental damage and nuisance. Wood smoke consists for 70 – 80 vol% of nitrogen. Second is 10 – 20 vol% unused oxygen, then several percent carbon dioxide, water vapor (originating from the not 100% dry wood), unburned gasses, carbon, tar droplets, ash, sulfur dioxide, nitrogen oxide, etc.

The emission of the greenhouse gas CO₂ by the burning of wood and wood pellets in heating systems is very favorable compared to other types of heating. In the graph below the CO₂ emission of various forms of heating is compared. The comparison is based on 2006 data and includes for example the harvesting of wood, the possible use of fertilizer, the losses in production (mainly thermal losses in electricity production), etc.

Graph: Comparison CO₂ emission of different heating systems (in kg/1.000kWh)



The CO₂ which is released when burning wood has been absorbed by the growing tree over a period of approx. 10 to 100 years. When burning fossil fuel, CO₂ is released which was stored in fossil layers in the earth by plants and trees over a period of millions of years. This fossil CO₂ is released rapidly and added to the atmosphere and has a negative impact on the earth's thermal management. When burning wood, most CO₂ released into the atmosphere is almost directly consumed by growing trees and is not added to the atmosphere. This is called the short CO₂ cycle since there is a balance in CO₂ release and CO₂ absorption in the short term. When burning fossil fuel on the other hand, the present vegetation on earth is not capable of consuming the overload of fossil CO₂, which will take millions of years again to be consumed and stored in the form it was released from in the first place.

Still, burning wood is not completely CO₂-neutral. Because of the use of fossil fuel in the planting of the trees, the harvesting and processing of the wood and the transportation there is a slight addition of fossil CO₂ adding to a total of approx. 9 kg per 1.000 kilowatt-hour (kWh) of thermal wood-energy. The fossil CO₂ addition resulting from the use of fossil fuel in the production and transportation of wood pellets was approx. 68 kg per 1.000 kWh. The reason for this higher amount of CO₂ added is that the process to get from wood to pellets is very energy-consuming. Since wood pellets nowadays are imported from for example Canada to Europe, the emission of fossil CO₂ will possibly be slightly higher.

The flue gas from a wood burning device is composed of, amongst others, the following:

- Fly-ash composed of incombustible, inert dustparticles
- Heavy metals including copper, lead, zinc and cadmium
- Sulfur, chlorine and potassium compounds (SO₂, HCl, KCl)
- Dioxins and furans
- Nitrogen compounds (NO, NO₂, HCN, NH₃, N₂O)
- Hydrocarbons: Aliphatics, cyclical (mostly benzene) and polycyclical aromatic hydrocarbons (PAH's), formaldehydes, alcohol, ketones, esters and others
- Carbon and soot
- Unburned wood dust
- Oxygen, carbon dioxide (CO₂), carbon monoxide (CO) and water



Picture: Approx. 5 grams of mineral ash remain after the burn of approx. 500 grams air-dry beech (20% moisture)

The components of wood smoke that can have an intense odor come from the groups below. Within these groups there are approx. 500 different chemical compounds.

- Multiple, mostly polycyclic, hydrocarbons
- Aldehydes, for example ethanol, propanal, formaldehyde and others
- Organic acids including formic acid, acetic, propionic (propanoic) and others
- Condensed aromatics
- Styrene (ethyl benzene)
- Phenol (hydroxybenzene)
- Other compounds: guaiacol, ethyl guaiacol, furfuryl alcohol



Picture: A statue at the entrance of the chimney sweep academy (Schornsteinfegerschule) in Dülmen, Germany

A number of the compounds described above condense in the stovepipe, during the cooling down, on fly-ash consisting of mineral compounds and wood dust. This means that various volatile compounds change into the solid compound tar. Wood dust, mineral ash, soot and tar jointly form the particulate matter which is emitted when burning wood.



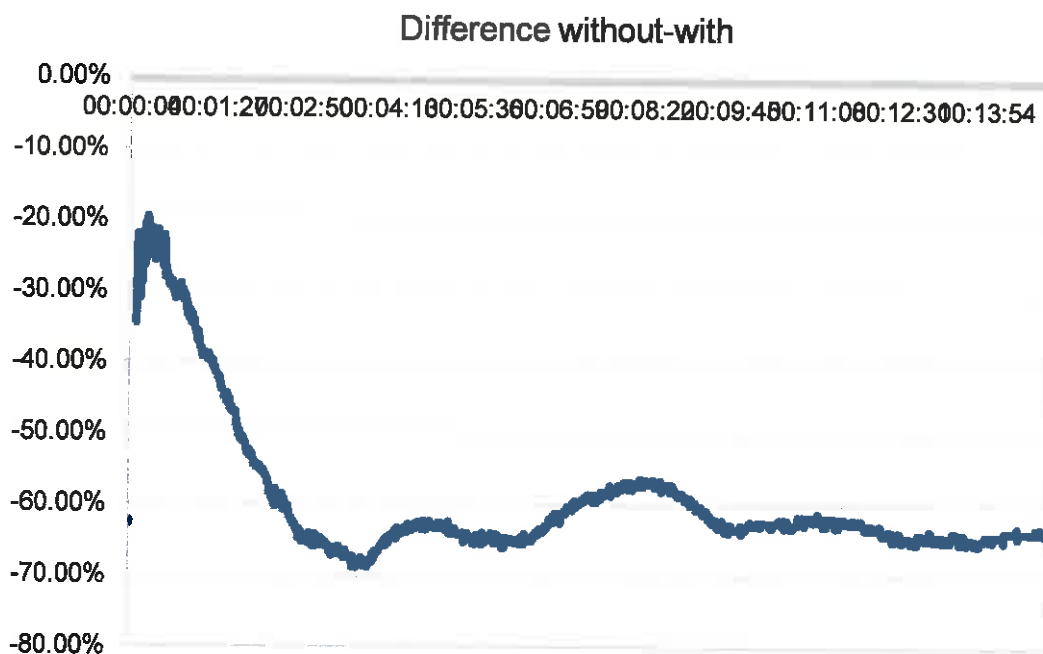
Picture: A quantity of ash (mineral, iron containing ash) which was filtered from the flue gas by the ABCAT modules after the burn of approx. 20 kg air-dry beech. This ash, if not filtered by the ABCAT, would have been emitted into the atmosphere.

Particulate matter as well as many other components of wood smoke are potentially dangerous for the public health and the environment. Odorous components do not have to be harmful but can be the cause for complaints about nuisance. Wood smoke which is perceived as very unpleasant can be an indicator of poor burning conditions and the presence of many harmful components. There is, however, no necessary correlation between the two. An almost complete burn of woods of tropical origin can result in a very strong odor. Since these odors are unfamiliar and exotic to people in the west, they are qualified as unpleasant easily, while there do not necessarily have to be many harmful components in the wood smoke. Complaints often result from the odor and the psychological association with health risk and harmfulness. The emission of particulate matter will, as far as it is not visible as colored smoke or perceived as odor, on the contrary not be the cause for people to complain while particulate matter is certainly a threat to the public health.



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ABCAT test with WÖHLER SM 500 SUSPENDED PARTICULATE ANALYZER



Tijd	AVG without mst(mg/m3)	AVG with mst(mg/m3)	Difference without-with
00:00:01			-59.20% gem red gehele stook
00:00:02			-61.12% gem -1° min
00:00:03			-58.44% gem -1° 2 min
00:00:04			-62.80% gem -1e 3 min
00:00:05			-62.29% gem -1° 5 min
00:00:06			
00:00:07			
00:00:08			
00:00:09			
00:00:10			
00:00:11	294	218	-34.63%
00:00:12	250	205	-22.15%
00:00:13	273	208	-31.25%
00:00:14	245	200	-22.50%
00:00:15	269	205	-31.19%
00:00:16	244	200	-22.00%
00:00:17	261	202	-28.96%
00:00:18	243	199	-21.86%
00:00:19	257	203	-26.60%
00:00:20	241	199	-20.65%
00:00:21	254	202	-25.54%
00:00:22	240	201	-19.60%
00:00:23	253	203	-24.43%
00:00:24	241	199	-20.90%
00:00:25	253	202	-25.00%

Part.Reduction

00:00:26	242	198	-22.18%
00:00:27	252	203	-23.93%
00:00:28	242	199	-21.40%
00:00:29	255	202	-25.78%
00:00:30	244	200	-21.75%
00:00:31	252	202	-24.50%
00:00:32	243	200	-21.50%
00:00:33	253	202	-25.00%
00:00:34	248	200	-23.54%
00:00:35	253	202	-25.25%
00:00:36	246	199	-23.62%
00:00:37	254	200	-26.75%
00:00:38	248	202	-22.32%
00:00:39	256	199	-28.18%
00:00:40	256	202	-26.73%
00:00:41	256	199	-28.39%
00:00:42	257	201	-28.07%
00:00:43	256	198	-29.26%
00:00:44	257	200	-28.50%
00:00:45	257	198	-29.58%
00:00:46	257	200	-28.71%
00:00:47	257	198	-30.02%
00:00:48	259	199	-29.90%
00:00:49	258	197	-31.19%
00:00:50	258	198	-30.30%
00:00:51	259	199	-30.37%
00:00:52	259	198	-31.03%
00:00:53	259	199	-29.90%
00:00:54	259	200	-29.03%
00:00:55	260	198	-31.06%
00:00:56	260	200	-29.97%
00:00:57	260	198	-31.53%
00:00:58	260	199	-30.43%
00:00:59	260	198	-31.28%
00:01:00	265	199	-33.39%
00:01:01	261	197	-32.01%
00:01:02	266	199	-33.89%
00:01:03	262	197	-32.74%
00:01:04	266	198	-34.57%
00:01:05	262	197	-33.22%
00:01:06	267	198	-34.37%
00:01:07	264	196	-34.21%
00:01:08	269	198	-35.83%
00:01:09	266	196	-35.46%
00:01:10	270	197	-37.06%
00:01:11	267	196	-35.74%
00:01:12	271	197	-37.33%
00:01:13	271	196	-38.27%
00:01:14	272	197	-38.05%
00:01:15	272	195	-39.25%
00:01:16	272	196	-38.54%
00:01:17	272	196	-39.01%
00:01:18	273	196	-38.79%
00:01:19	273	197	-38.81%
00:01:20	273	196	-39.52%

Part.Reduction

00:01:21	273	197	-38.81%
00:01:22	274	195	-40.02%
00:01:23	274	196	-39.54%
00:01:24	274	195	-40.26%
00:01:25	274	196	-39.78%
00:01:26	274	194	-40.98%
00:01:27	274	194	-40.74%
00:01:28	274	193	-41.71%
00:01:29	273	193	-41.70%
00:01:30	273	192	-42.19%
00:01:31	273	192	-41.93%
00:01:32	272	190	-42.91%
00:01:33	272	190	-43.41%
00:01:34	272	189	-43.90%
00:01:35	272	188	-44.16%
00:01:36	272	187	-44.93%
00:01:37	271	187	-44.66%
00:01:38	271	186	-45.70%
00:01:39	270	187	-44.39%
00:01:40	270	185	-45.68%
00:01:41	270	186	-45.15%
00:01:42	270	184	-46.73%
00:01:43	269	184	-46.20%
00:01:44	269	183	-46.99%
00:01:45	269	183	-46.99%
00:01:46	268	182	-47.25%
00:01:47	267	182	-46.97%
00:01:48	270	180	-49.45%
00:01:49	269	180	-48.89%
00:01:50	269	179	-50.28%
00:01:51	268	179	-49.72%
00:01:52	268	178	-50.84%
00:01:53	267	178	-50.28%
00:01:54	267	177	-50.56%
00:01:55	267	176	-51.42%
00:01:56	266	176	-51.14%
00:01:57	266	175	-52.00%
00:01:58	266	174	-52.29%
00:01:59	266	174	-52.88%
00:02:00	265	174	-52.30%
00:02:01	265	173	-53.19%
00:02:02	264	173	-52.61%
00:02:03	264	172	-53.20%
00:02:04	264	171	-53.79%
00:02:05	263	170	-54.40%
00:02:06	263	170	-54.11%
00:02:07	262	169	-54.72%
00:02:08	262	169	-54.72%
00:02:09	262	169	-54.73%
00:02:10	261	169	-54.44%
00:02:11	261	168	-55.06%
00:02:12	261	168	-55.06%
00:02:13	260	167	-55.39%
00:02:14	259	167	-55.09%
00:02:15	259	166	-55.71%

Part.Reduction

00:02:16	259	166	-55.72%
00:02:17	258	165	-56.05%
00:02:18	258	165	-56.36%
00:02:19	260	164	-58.23%
00:02:20	258	164	-57.33%
00:02:21	259	163	-58.90%
00:02:22	258	163	-57.98%
00:02:23	259	162	-59.57%
00:02:24	257	162	-58.33%
00:02:25	259	161	-60.23%
00:02:26	256	162	-57.70%
00:02:27	258	161	-59.94%
00:02:28	256	161	-58.37%
00:02:29	257	161	-59.96%
00:02:30	255	161	-58.40%
00:02:31	256	160	-59.67%
00:02:32	254	160	-58.42%
00:02:33	256	159	-60.69%
00:02:34	254	159	-59.10%
00:02:35	255	159	-60.38%
00:02:36	253	158	-59.79%
00:02:37	254	158	-60.76%
00:02:38	252	157	-60.17%
00:02:39	254	157	-61.46%
00:02:40	253	156	-61.83%
00:02:41	254	157	-61.81%
00:02:42	253	155	-62.55%
00:02:43	253	156	-62.21%
00:02:44	252	155	-62.58%
00:02:45	252	155	-62.58%
00:02:46	252	154	-63.31%
00:02:47	252	154	-63.31%
00:02:48	253	154	-64.64%
00:02:49	251	154	-63.34%
00:02:50	252	153	-64.35%
00:02:51	251	153	-63.73%
00:02:52	252	152	-65.10%
00:02:53	250	152	-64.11%
00:02:54	251	152	-64.80%
00:02:55	249	152	-64.18%
00:02:56	250	151	-64.87%
00:02:57	249	151	-64.57%
00:02:58	249	151	-65.27%
00:02:59	247	151	-63.94%
00:03:00	248	150	-65.33%
00:03:01	246	150	-64.00%
00:03:02	248	149	-65.74%
00:03:03	246	149	-64.40%
00:03:04	247	149	-65.81%
00:03:05	245	149	-64.09%
00:03:06	246	149	-65.13%
00:03:07	244	148	-64.53%
00:03:08	245	148	-65.58%
00:03:09	243	148	-64.56%
00:03:10	244	147	-65.61%

Part.Reduction

00:03:11	242	147	-64.63%
00:03:12	243	147	-65.31%
00:03:13	242	146	-65.03%
00:03:14	242	146	-65.75%
00:03:15	241	146	-65.10%
00:03:16	242	146	-65.79%
00:03:17	240	145	-65.52%
00:03:18	241	145	-66.21%
00:03:19	241	145	-66.59%
00:03:20	240	145	-65.90%
00:03:21	240	144	-67.05%
00:03:22	240	144	-65.94%
00:03:23	239	143	-66.74%
00:03:24	239	144	-66.01%
00:03:25	239	143	-66.40%
00:03:26	238	143	-66.05%
00:03:27	238	143	-66.82%
00:03:28	238	143	-65.70%
00:03:29	238	142	-66.86%
00:03:30	237	142	-66.51%
00:03:31	237	142	-66.90%
00:03:32	237	142	-66.55%
00:03:33	236	141	-67.38%
00:03:34	236	142	-66.24%
00:03:35	236	141	-67.42%
00:03:36	235	141	-67.06%
00:03:37	235	141	-67.06%
00:03:38	235	140	-67.10%
00:03:39	234	140	-67.54%
00:03:40	234	140	-67.14%
00:03:41	235	139	-68.66%
00:03:42	233	139	-67.22%
00:03:43	234	139	-68.35%
00:03:44	233	139	-68.03%
00:03:45	234	138	-68.80%
00:03:46	233	138	-68.07%
00:03:47	234	139	-68.39%
00:03:48	232	138	-67.71%
00:03:49	233	138	-68.07%
00:03:50	231	138	-67.39%
00:03:51	232	138	-68.12%
00:03:52	232	137	-68.57%
00:03:53	231	138	-67.80%
00:03:54	231	137	-68.61%
00:03:55	231	137	-68.25%
00:03:56	231	137	-68.66%
00:03:57	230	137	-67.88%
00:03:58	230	137	-67.93%
00:03:59	229	137	-67.56%
00:04:00	229	136	-67.97%
00:04:01	228	137	-66.83%
00:04:02	228	136	-67.65%
00:04:03	228	137	-66.46%
00:04:04	227	136	-66.95%
00:04:05	227	136	-66.54%

Part.Reduction

00:04:06	226	135	-66.63%
00:04:07	226	136	-66.22%
00:04:08	225	135	-65.89%
00:04:09	225	135	-65.89%
00:04:10	224	135	-65.52%
00:04:11	224	135	-65.15%
00:04:12	223	135	-65.59%
00:04:13	223	135	-64.81%
00:04:14	222	134	-65.67%
00:04:15	222	135	-64.44%
00:04:16	222	134	-65.30%
00:04:17	221	134	-64.55%
00:04:18	220	134	-64.18%
00:04:19	220	134	-64.18%
00:04:20	220	134	-64.21%
00:04:21	219	134	-63.84%
00:04:22	219	134	-63.84%
00:04:23	218	133	-63.50%
00:04:24	219	133	-64.66%
00:04:25	217	133	-63.16%
00:04:26	218	133	-63.91%
00:04:27	218	133	-63.94%
00:04:28	217	132	-63.98%
00:04:29	217	132	-64.02%
00:04:30	216	132	-63.22%
00:04:31	216	132	-63.26%
00:04:32	215	132	-63.29%
00:04:33	215	131	-63.71%
00:04:34	214	131	-62.94%
00:04:35	214	131	-63.78%
00:04:36	213	131	-62.60%
00:04:37	213	131	-63.01%
00:04:38	213	130	-63.43%
00:04:39	213	130	-63.46%
00:04:40	212	130	-62.66%
00:04:41	212	130	-63.11%
00:04:42	211	130	-62.72%
00:04:43	211	129	-63.14%
00:04:44	211	129	-63.18%
00:04:45	210	129	-62.37%
00:04:46	210	129	-62.40%
00:04:47	209	128	-62.86%
00:04:48	209	128	-62.47%
00:04:49	209	128	-63.28%
00:04:50	208	128	-62.92%
00:04:51	208	128	-62.11%
00:04:52	208	128	-62.53%
00:04:53	208	127	-63.39%
00:04:54	207	127	-62.57%
00:04:55	207	127	-62.60%
00:04:56	206	127	-62.63%
00:04:57	206	127	-62.24%
00:04:58	206	126	-62.66%
00:04:59	206	126	-63.10%
00:05:00	206	126	-63.10%

Part.Reduction

00:05:01	205	125	-63.16%
00:05:02	205	126	-63.13%
00:05:03	204	125	-62.77%
00:05:04	204	125	-63.20%
00:05:05	203	125	-62.40%
00:05:06	203	124	-63.27%
00:05:07	202	124	-62.47%
00:05:08	203	125	-62.83%
00:05:09	202	124	-62.50%
00:05:10	202	124	-62.90%
00:05:11	201	123	-62.97%
00:05:12	202	123	-63.38%
00:05:13	201	123	-62.57%
00:05:14	201	123	-63.01%
00:05:15	200	123	-62.20%
00:05:16	201	122	-63.90%
00:05:17	200	122	-63.49%
00:05:18	200	122	-63.52%
00:05:19	200	122	-63.97%
00:05:20	199	122	-63.11%
00:05:21	199	122	-63.15%
00:05:22	199	121	-64.05%
00:05:23	198	121	-63.64%
00:05:24	198	121	-64.09%
00:05:25	198	120	-64.13%
00:05:26	198	120	-64.13%
00:05:27	197	120	-64.17%
00:05:28	197	120	-64.21%
00:05:29	196	120	-63.79%
00:05:30	197	119	-65.13%
00:05:31	196	119	-64.71%
00:05:32	196	119	-64.29%
00:05:33	195	119	-63.87%
00:05:34	195	119	-64.33%
00:05:35	195	118	-64.79%
00:05:36	195	118	-64.83%
00:05:37	194	118	-64.41%
00:05:38	194	118	-64.41%
00:05:39	195	118	-65.30%
00:05:40	194	117	-65.38%
00:05:41	194	117	-65.38%
00:05:42	193	117	-64.06%
00:05:43	193	117	-64.53%
00:05:44	192	117	-64.57%
00:05:45	193	117	-64.53%
00:05:46	192	117	-64.14%
00:05:47	192	116	-65.52%
00:05:48	191	117	-63.71%
00:05:49	192	116	-65.09%
00:05:50	191	116	-64.66%
00:05:51	191	116	-65.13%
00:05:52	190	116	-64.27%
00:05:53	191	116	-64.70%
00:05:54	190	115	-64.31%
00:05:55	190	115	-64.74%

Part.Reduction

00:05:56	189	115	-63.87%
00:05:57	190	115	-64.78%
00:05:58	189	115	-63.91%
00:05:59	189	114	-65.31%
00:06:00	189	115	-64.39%
00:06:01	189	114	-64.87%
00:06:02	188	114	-63.99%
00:06:03	188	114	-64.91%
00:06:04	188	114	-64.47%
00:06:05	188	114	-65.40%
00:06:06	188	114	-64.47%
00:06:07	188	113	-65.88%
00:06:08	187	113	-65.00%
00:06:09	188	113	-65.93%
00:06:10	187	113	-64.56%
00:06:11	187	113	-65.04%
00:06:12	187	113	-64.56%
00:06:13	186	113	-65.09%
00:06:14	186	113	-64.64%
00:06:15	186	112	-65.13%
00:06:16	186	112	-65.13%
00:06:17	185	112	-64.69%
00:06:18	185	112	-65.18%
00:06:19	185	112	-64.73%
00:06:20	185	112	-65.22%
00:06:21	185	112	-65.22%
00:06:22	184	112	-64.78%
00:06:23	184	111	-65.27%
00:06:24	184	111	-65.27%
00:06:25	183	111	-64.37%
00:06:26	184	111	-64.82%
00:06:27	183	111	-64.86%
00:06:28	183	111	-65.36%
00:06:29	182	111	-63.96%
00:06:30	183	111	-64.91%
00:06:31	182	110	-64.50%
00:06:32	182	110	-64.95%
00:06:33	182	110	-64.50%
00:06:34	182	110	-64.50%
00:06:35	181	110	-64.55%
00:06:36	182	110	-65.00%
00:06:37	181	110	-64.09%
00:06:38	181	110	-64.55%
00:06:39	180	110	-64.13%
00:06:40	180	110	-63.64%
00:06:41	180	110	-64.13%
00:06:42	180	110	-64.13%
00:06:43	179	110	-63.22%
00:06:44	180	110	-63.68%
00:06:45	179	109	-63.26%
00:06:46	179	109	-63.72%
00:06:47	179	109	-63.26%
00:06:48	179	109	-63.26%
00:06:49	178	109	-62.80%
00:06:50	179	109	-63.26%

Part.Reduction

00:06:51	178	109	-62.84%
00:06:52	178	109	-62.80%
00:06:53	177	109	-61.89%
00:06:54	177	109	-62.39%
00:06:55	177	109	-62.39%
00:06:56	177	109	-62.39%
00:06:57	176	109	-61.47%
00:06:58	177	109	-61.93%
00:06:59	176	109	-61.01%
00:07:00	176	109	-61.96%
00:07:01	176	109	-61.50%
00:07:02	176	108	-62.00%
00:07:03	175	109	-61.04%
00:07:04	176	108	-62.50%
00:07:05	175	108	-61.08%
00:07:06	175	108	-61.08%
00:07:07	175	108	-61.08%
00:07:08	174	108	-60.62%
00:07:09	175	108	-61.08%
00:07:10	174	108	-60.62%
00:07:11	174	108	-60.15%
00:07:12	173	108	-60.19%
00:07:13	174	108	-60.65%
00:07:14	173	108	-60.19%
00:07:15	173	108	-60.68%
00:07:16	173	108	-59.72%
00:07:17	172	108	-59.75%
00:07:18	172	108	-59.29%
00:07:19	172	107	-60.25%
00:07:20	172	107	-59.78%
00:07:21	172	107	-59.78%
00:07:22	171	107	-59.32%
00:07:23	172	107	-59.78%
00:07:24	171	107	-59.32%
00:07:25	171	107	-59.32%
00:07:26	170	107	-58.88%
00:07:27	171	107	-59.35%
00:07:28	170	107	-58.88%
00:07:29	170	107	-58.88%
00:07:30	170	107	-58.41%
00:07:31	170	107	-58.41%
00:07:32	170	107	-58.41%
00:07:33	170	107	-58.91%
00:07:34	169	107	-58.44%
00:07:35	169	106	-59.43%
00:07:36	169	107	-58.44%
00:07:37	169	106	-59.43%
00:07:38	169	106	-58.46%
00:07:39	169	106	-59.43%
00:07:40	168	106	-58.49%
00:07:41	169	106	-58.96%
00:07:42	168	106	-58.99%
00:07:43	168	106	-58.99%
00:07:44	168	106	-58.02%
00:07:45	168	106	-58.52%

Part.Reduction

00:07:46	168	106	-58.52%
00:07:47	168	106	-58.52%
00:07:48	167	106	-58.04%
00:07:49	167	106	-58.04%
00:07:50	167	106	-58.04%
00:07:51	167	106	-58.04%
00:07:52	167	106	-57.08%
00:07:53	167	105	-58.54%
00:07:54	167	106	-57.57%
00:07:55	167	106	-57.57%
00:07:56	166	105	-57.59%
00:07:57	167	105	-58.07%
00:07:58	166	105	-57.59%
00:07:59	166	105	-58.10%
00:08:00	166	105	-57.12%
00:08:01	166	105	-57.62%
00:08:02	166	105	-57.62%
00:08:03	165	105	-57.14%
00:08:04	166	105	-57.62%
00:08:05	165	105	-57.14%
00:08:06	165	105	-56.67%
00:08:07	165	105	-56.67%
00:08:08	165	105	-57.17%
00:08:09	165	104	-57.67%
00:08:10	164	105	-56.69%
00:08:11	164	104	-56.71%
00:08:12	164	105	-56.69%
00:08:13	164	104	-56.71%
00:08:14	164	104	-57.69%
00:08:15	163	104	-56.73%
00:08:16	163	104	-57.23%
00:08:17	163	104	-57.23%
00:08:18	163	104	-57.23%
00:08:19	163	104	-56.75%
00:08:20	163	104	-56.75%
00:08:21	162	104	-56.27%
00:08:22	163	103	-57.26%
00:08:23	162	103	-56.29%
00:08:24	162	103	-57.28%
00:08:25	161	103	-56.31%
00:08:26	161	103	-56.31%
00:08:27	161	103	-56.31%
00:08:28	161	103	-56.82%
00:08:29	161	102	-56.84%
00:08:30	161	102	-56.84%
00:08:31	160	102	-56.86%
00:08:32	160	102	-56.86%
00:08:33	160	102	-56.37%
00:08:34	160	102	-56.37%
00:08:35	160	102	-56.89%
00:08:36	160	101	-57.40%
00:08:37	159	101	-56.91%
00:08:38	159	101	-56.91%
00:08:39	159	101	-56.93%
00:08:40	159	101	-56.91%

Part.Reduction

00:08:41	158	101	-56.44%
00:08:42	159	100	-57.97%
00:08:43	158	100	-56.98%
00:08:44	158	100	-56.98%
00:08:45	158	100	-57.50%
00:08:46	158	100	-56.98%
00:08:47	158	100	-57.50%
00:08:48	157	100	-57.53%
00:08:49	157	100	-57.02%
00:08:50	157	99	-58.05%
00:08:51	157	99	-58.08%
00:08:52	156	99	-57.05%
00:08:53	156	99	-57.58%
00:08:54	156	99	-57.58%
00:08:55	156	99	-58.11%
00:08:56	156	98	-58.14%
00:08:57	155	98	-58.16%
00:08:58	156	98	-58.67%
00:08:59	155	98	-58.70%
00:09:00	155	98	-58.19%
00:09:01	155	98	-58.19%
00:09:02	154	97	-58.22%
00:09:03	154	97	-58.76%
00:09:04	154	97	-58.76%
00:09:05	154	97	-59.31%
00:09:06	154	97	-58.79%
00:09:07	154	97	-58.79%
00:09:08	153	96	-58.82%
00:09:09	154	96	-59.90%
00:09:10	153	96	-58.85%
00:09:11	153	96	-59.41%
00:09:12	153	96	-59.41%
00:09:13	153	96	-59.41%
00:09:14	152	95	-59.44%
00:09:15	152	95	-60.56%
00:09:16	152	95	-60.00%
00:09:17	152	95	-60.00%
00:09:18	152	95	-60.04%
00:09:19	152	95	-60.04%
00:09:20	152	95	-60.04%
00:09:21	152	94	-60.60%
00:09:22	152	94	-61.17%
00:09:23	152	94	-61.17%
00:09:24	151	94	-61.21%
00:09:25	151	94	-61.21%
00:09:26	151	94	-60.68%
00:09:27	151	93	-61.79%
00:09:28	151	93	-61.25%
00:09:29	151	93	-61.25%
00:09:30	151	93	-62.41%
00:09:31	151	93	-61.83%
00:09:32	151	93	-62.41%
00:09:33	150	93	-61.87%
00:09:34	150	93	-61.87%
00:09:35	150	92	-62.45%

Part.Reduction

00:09:36	150	92	-63.04%
00:09:37	150	92	-63.04%
00:09:38	150	92	-63.04%
00:09:39	150	92	-62.50%
00:09:40	149	92	-61.96%
00:09:41	150	92	-62.50%
00:09:42	149	92	-62.55%
00:09:43	150	91	-63.69%
00:09:44	149	91	-63.14%
00:09:45	149	91	-63.14%
00:09:46	149	91	-62.59%
00:09:47	149	91	-63.74%
00:09:48	149	91	-62.59%
00:09:49	148	91	-62.64%
00:09:50	149	91	-63.19%
00:09:51	148	91	-63.24%
00:09:52	148	91	-63.24%
00:09:53	148	91	-63.24%
00:09:54	148	91	-63.24%
00:09:55	148	91	-63.24%
00:09:56	148	91	-63.24%
00:09:57	148	90	-63.28%
00:09:58	147	90	-62.73%
00:09:59	148	90	-63.89%
00:10:00	147	90	-62.73%
00:10:01	147	90	-63.33%
00:10:02	147	90	-62.78%
00:10:03	147	90	-63.33%
00:10:04	147	90	-62.78%
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Part.Reduction

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Part.Reduction

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Part.Reduction

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Part.Reduction

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Part.Reduction

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00:14:59	119	72	-64.58%
00:15:00	119	72	-64.58%
00:15:01	119	72	-64.58%



single storey building
 1½ storey building
 2½ storey building

project
**Stove installation at
 5 High Street
 Innerleithen EH44 6HA**
 client
Mr & Mrs Gordon

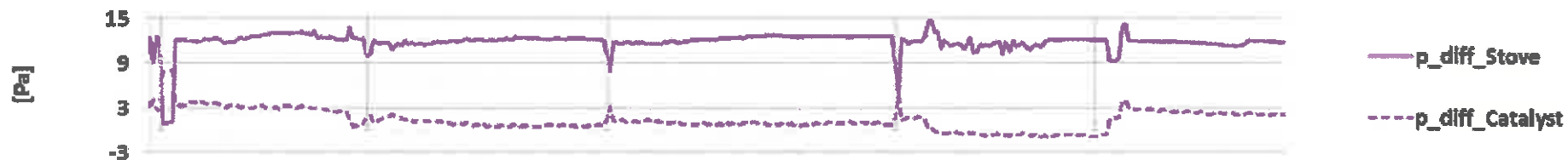
drawing title
Site Plan
 drawing number
13011-SITE
 scale date
1:200 @A4 Jan 16



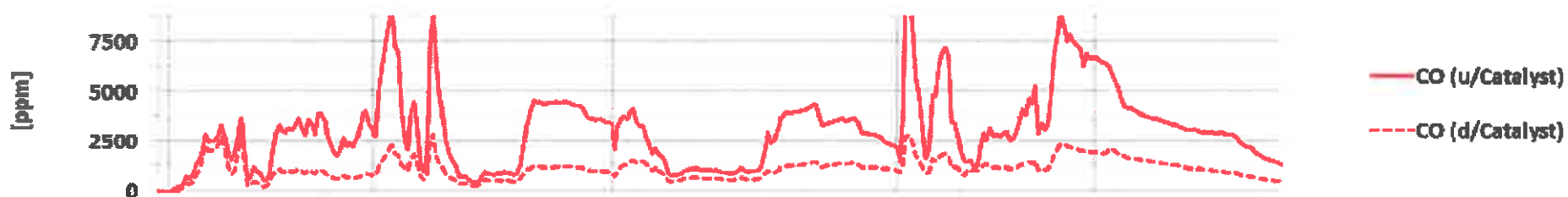
**5 High Street
 Innerleithen
 EH446HA**
 tel **01896 833131**
 mob **07789 016514**
 david@davidjanearchitects.co.uk
 www.davidjanearchitects.co.uk

Preliminary test results SP Technical Research Institute of Sweden (Winter 2016)

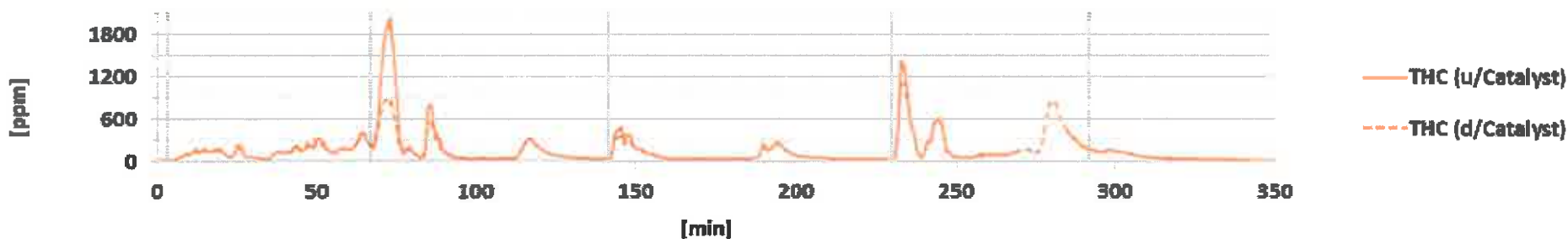
Tests performed with approx. 1.4 liter Palladium catalyst which fully covers the flue gas channel (all wood smoke goes through the catalyst)



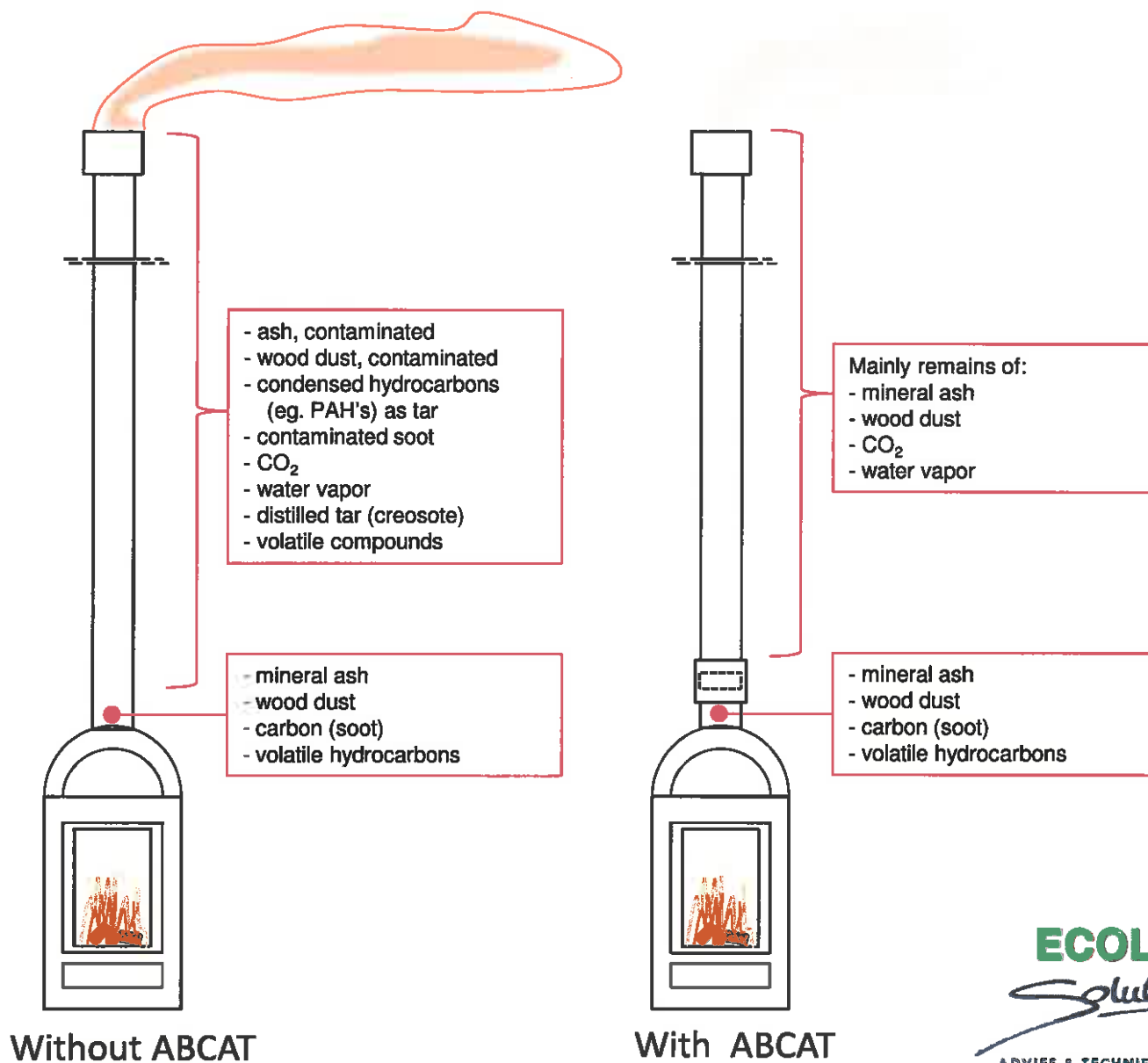
What can be seen is that the flow resistance of the catalyst is low and moves around 0-2Pa.



The reduction effect on CO was greater than expected with an average reduction of 66% over 4 burn cycles (resp. 57, 68, 67, 70%)

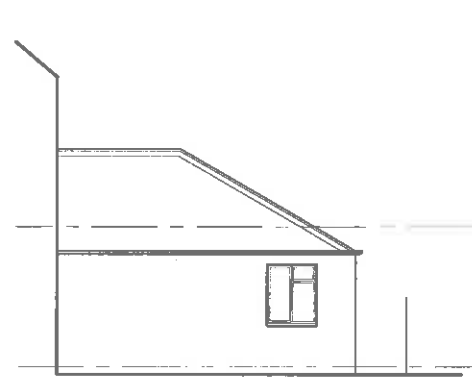


The reduction of hydrocarbons was less than expected, although the emission-peaks were nicely dampened. A possible explanation is the presence of methane in the flue gas. This particular gas is difficult for the catalyst to crack, is also detected as PAH and possibly blocks the catalyst surface for other hydrocarbons. Follow up research will be done which will hopefully provide answers. Additionally particulate measurements will also be done.

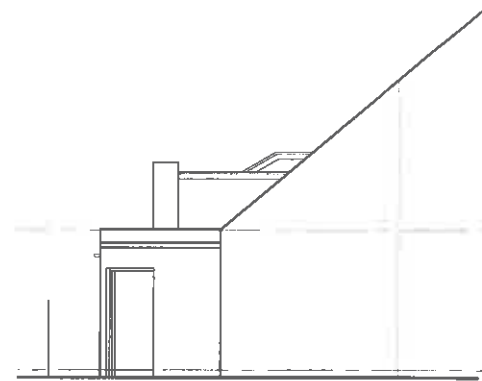




SOUTH ELEVATION

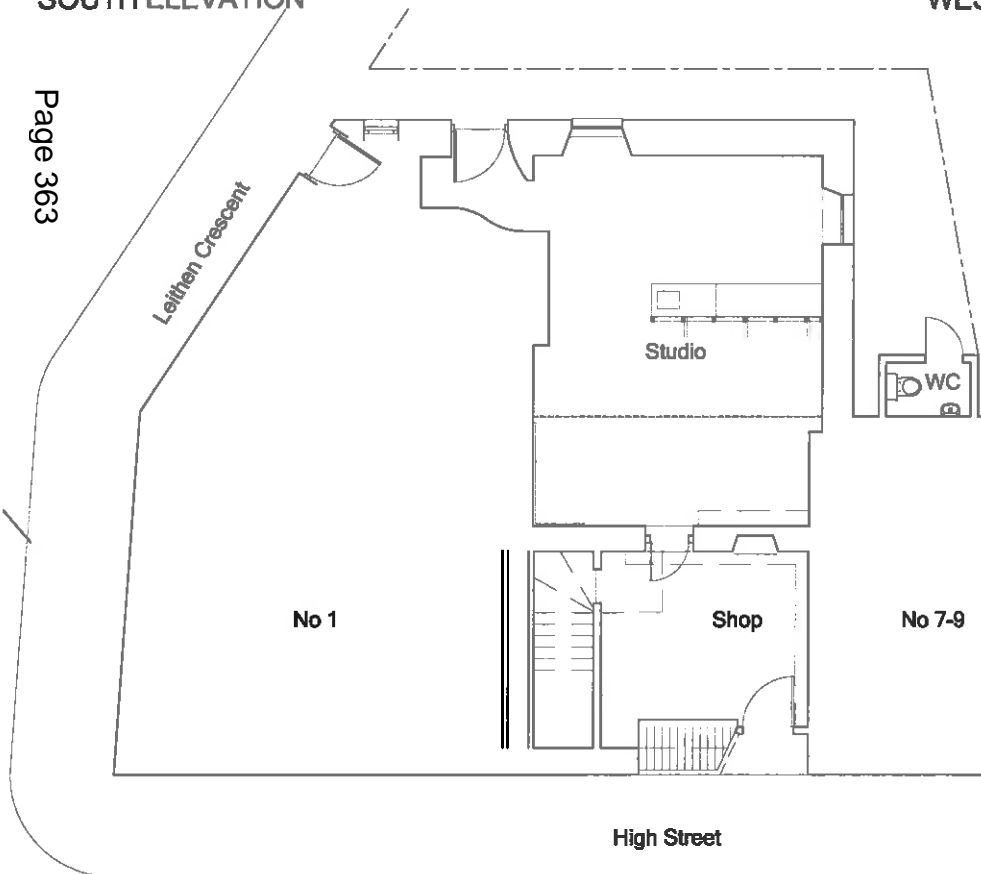


WEST ELEVATION

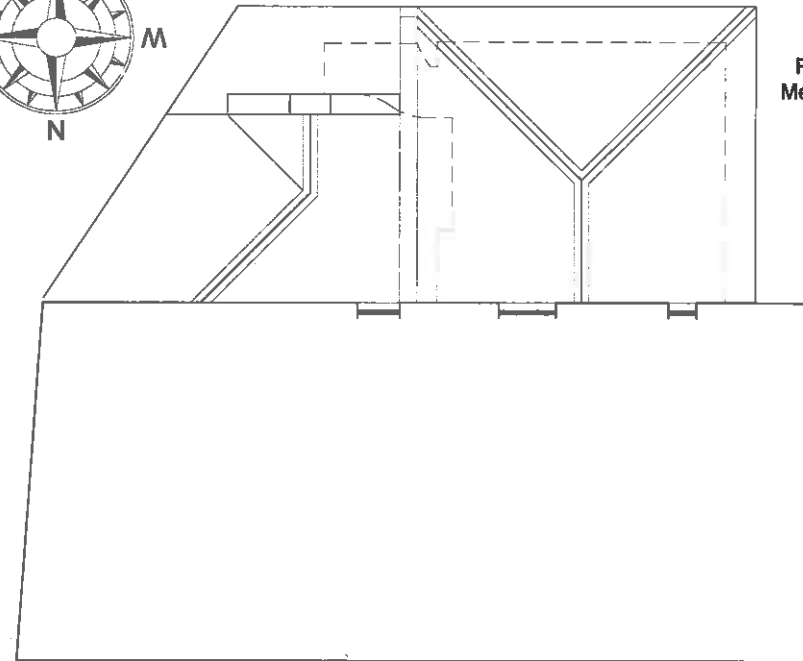
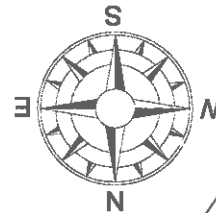


EAST ELEVATION

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GROUND FLOOR PLAN



ROOF PLAN

project
**Replacement Windows &
 Metal Flue at 5 High Street
 Innerleithen EH44 6HA**

client
Mr & Mrs Gordon

drawing title
**Existing Plans
 & Elevations**

drawing number
13011-E-101

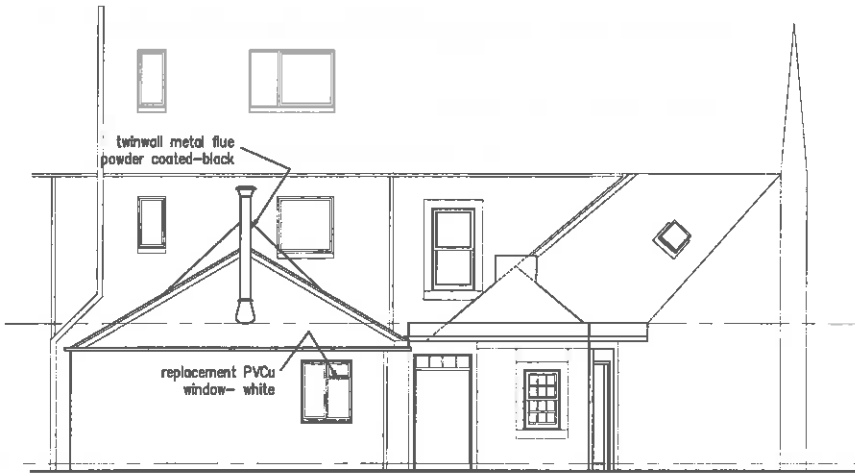
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Sep 15



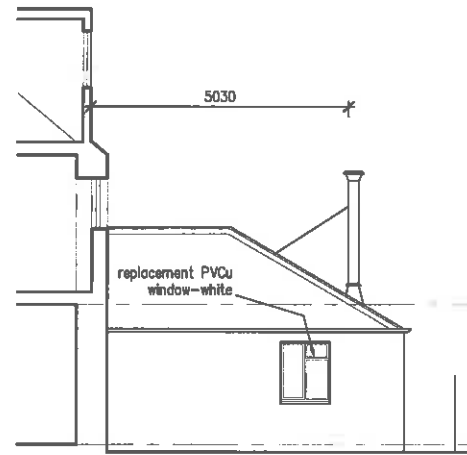
**5 High Street
 Innerleithen
 EH44 6HA**

tel **01896 833131**
 mob **07789 016514**

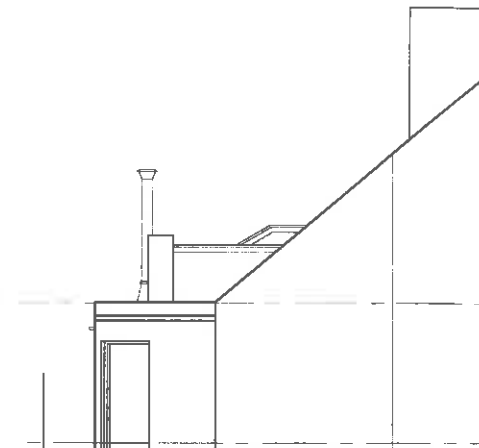
david@davidjanearchitects.co.uk
 www.davidjanearchitects.co.uk



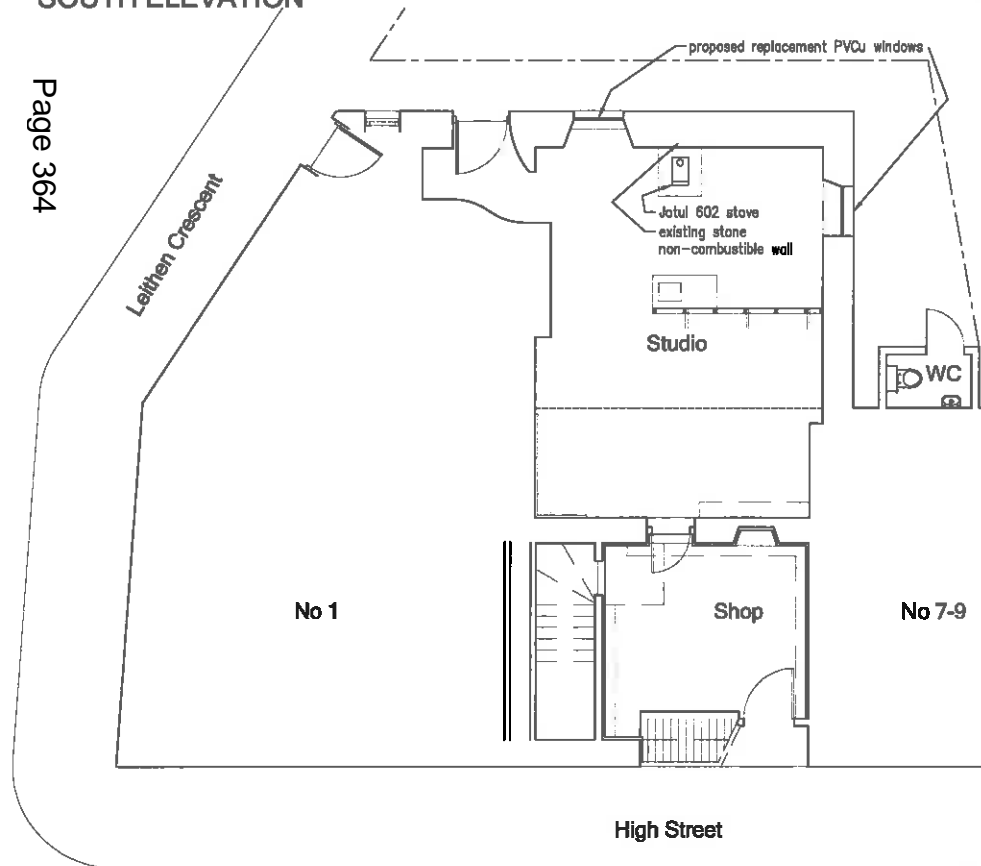
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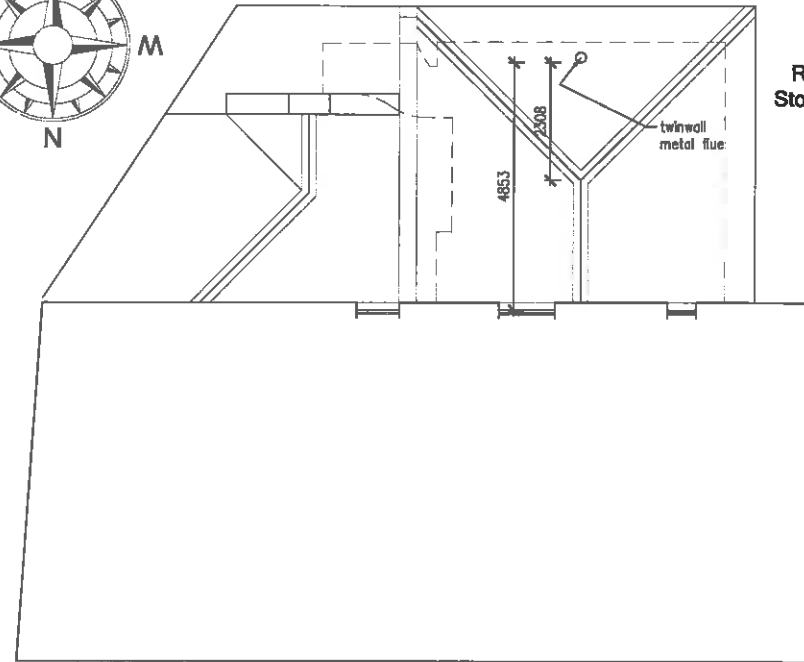
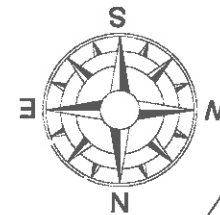
WEST ELEVATION



EAST ELEVATION



GROUND FLOOR PLAN



ROOF PLAN

Page 364

A-flue height raised 11/01/16
Revisions

project
Replacement Windows & Stove Flue at 5 High Street Innerleithen EH44 6HA

client
Mr & Mrs Gordon

drawing title
Proposed Plans & Elevations

drawing number
13011-101-A

scale
1:100 @A3

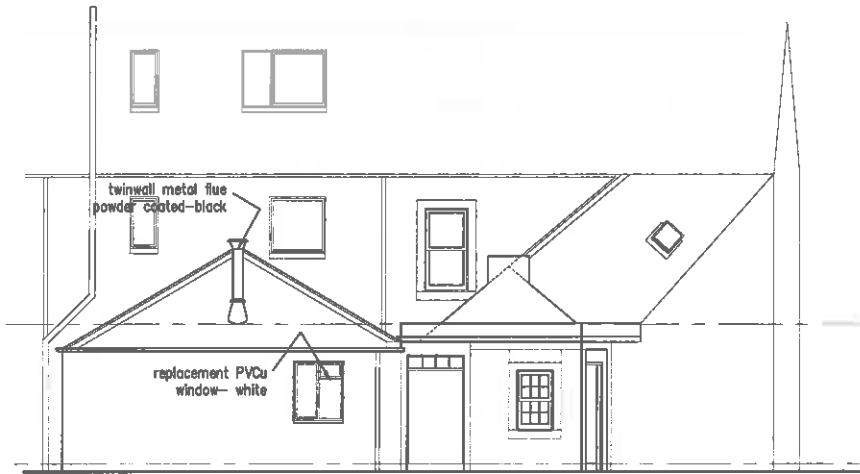
date
Sept 15



5 High Street
Innerleithen
EH446HA

tel 01896 833131
mob 07789 016514

david@davidjanearchitects.co.uk
www.davidjanearchitects.co.uk

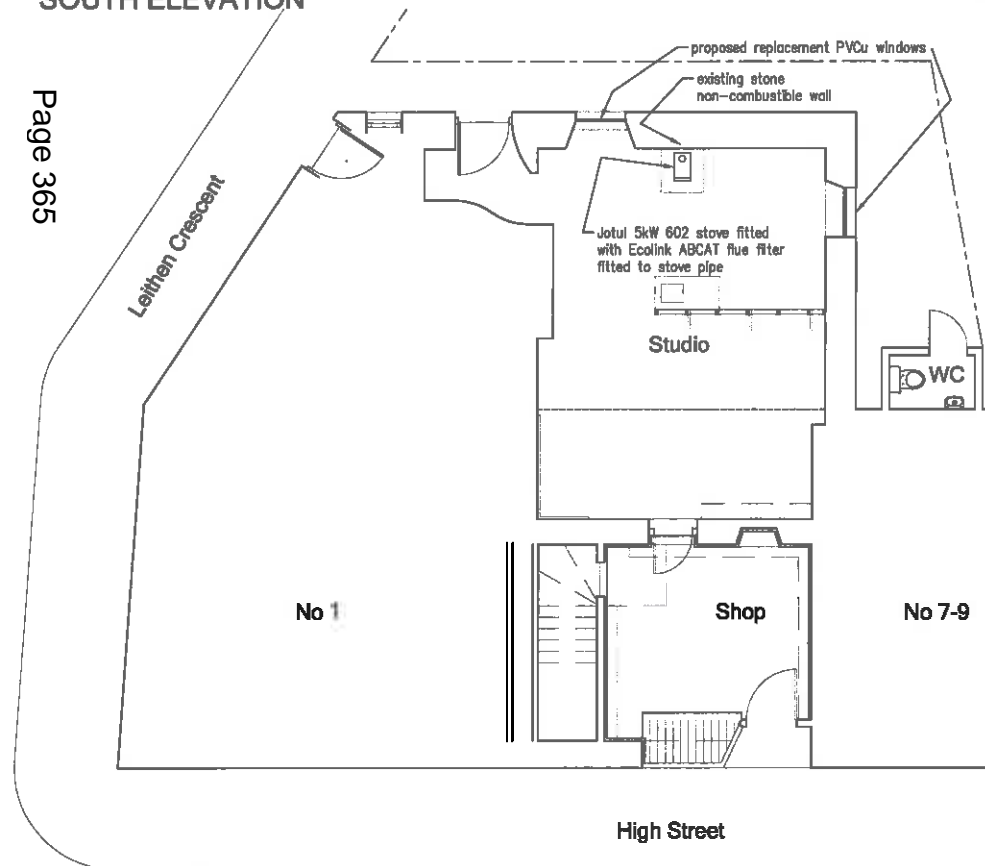


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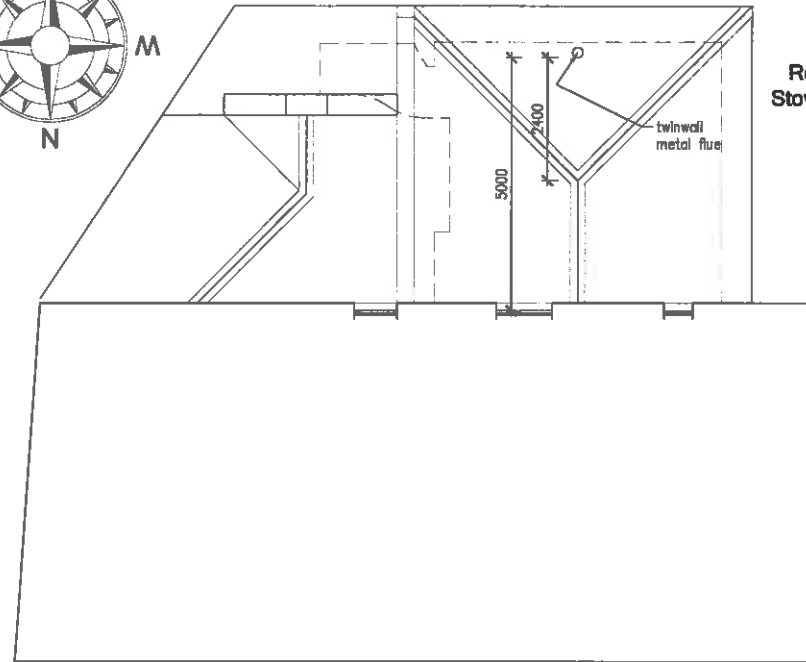
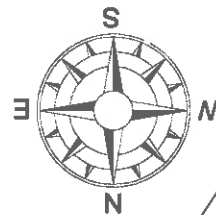


WEST ELEVATION

EAST ELEVATION



GROUND FLOOR PLAN



ROOF PLAN

B- flue filter fitted to stove pipe
20/02/17
Revisions

project
**Replacement Windows &
Stove Flue at 5 High Street
Innerleithen EH44 6HA**

client
Mr & Mrs Gordon

drawing title
**Proposed Plans
& Elevations**

drawing number
13011-101-B

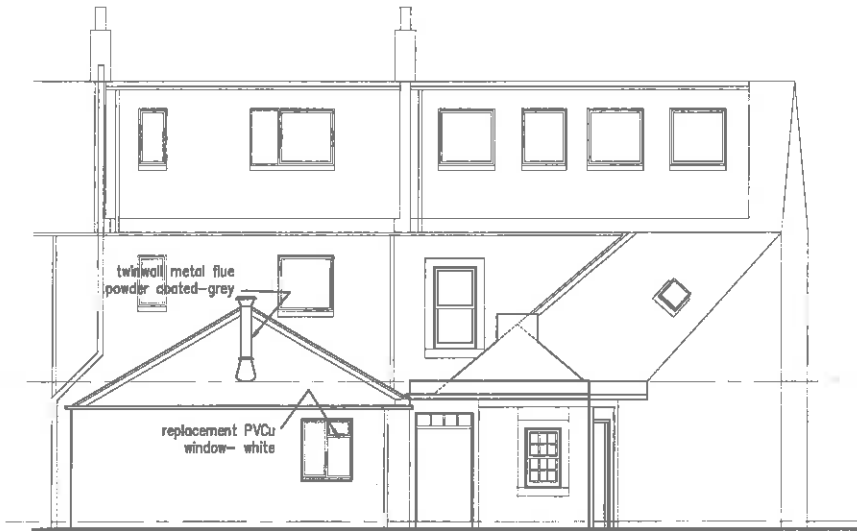
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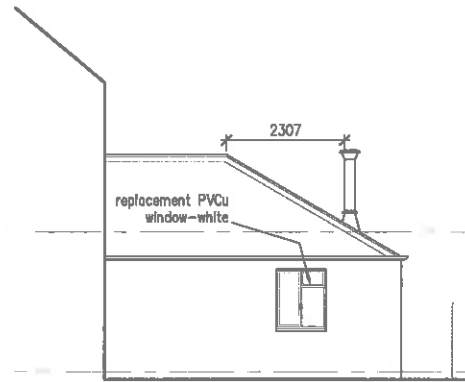
5 High Street
Innerleithen
EH446HA

tel 01896 833131
mob 07789 018514

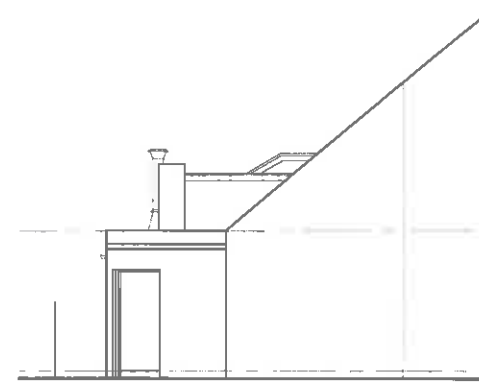
david@davidjanearchitects.co.uk
www.davidjanearchitects.co.uk



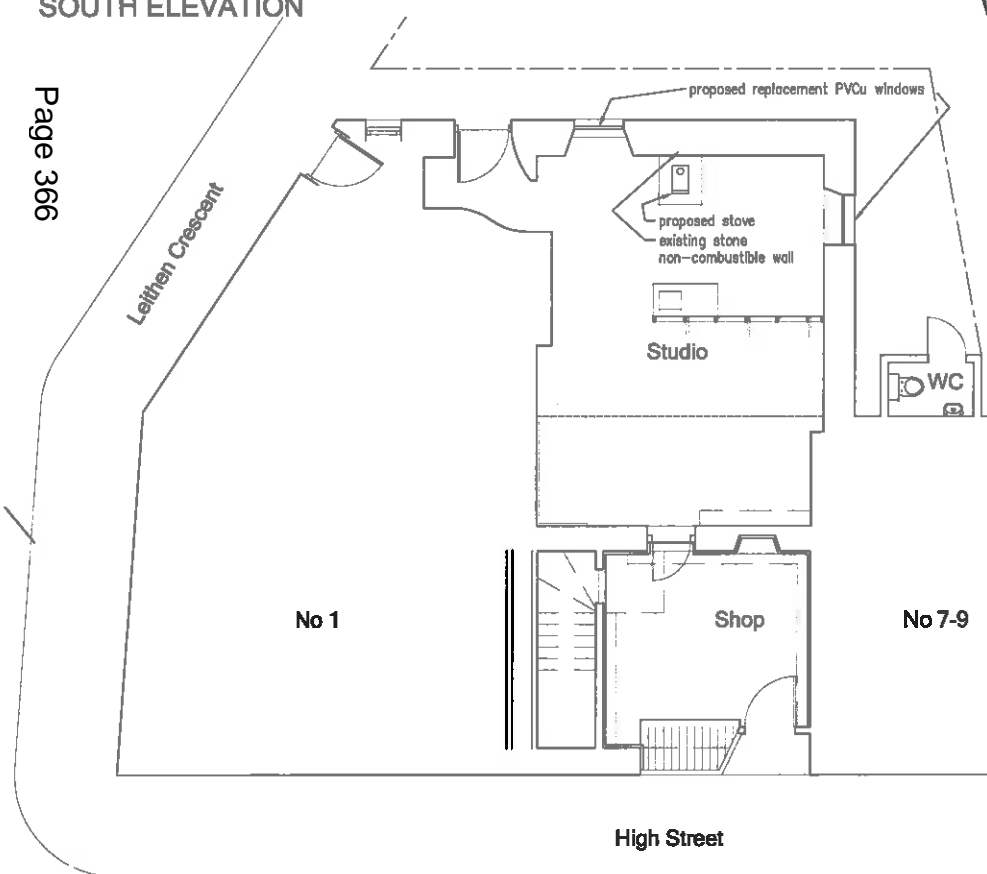
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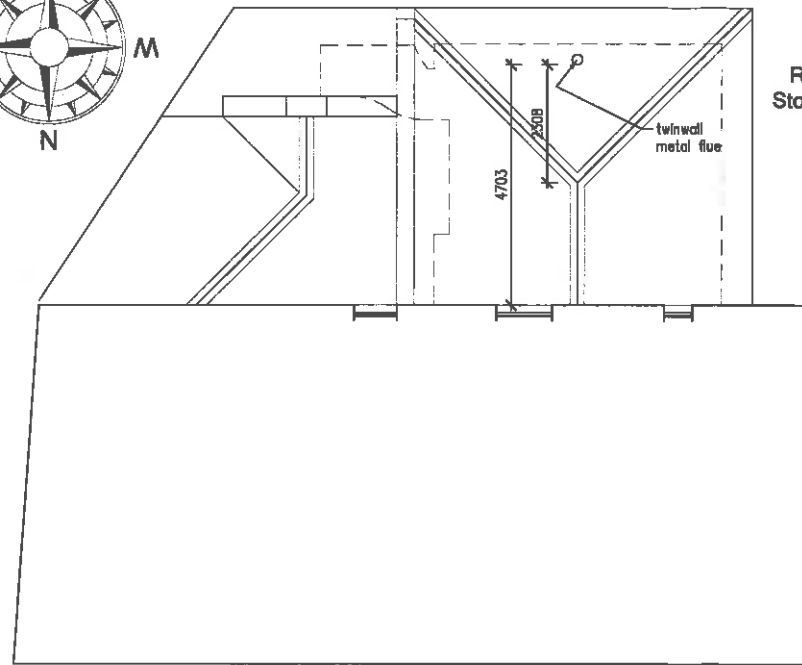
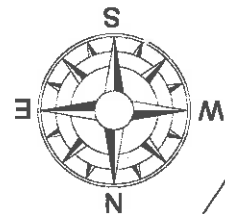
WEST ELEVATION



EAST ELEVATION



GROUND FLOOR PLAN



ROOF PLAN

Page 366

project
Replacement Windows &
Stove Flue at 5 High Street
Innerleithen EH44 6HA

client
Mr & Mrs Gordon

drawing title
Proposed Plans
& Elevations

drawing number
13011-101

scale
1:100 @A3
date
Sept 15



5 High Street
Innerleithen
EH446HA

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Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Application for Planning Permission Reference : 17/00257/FUL

To : Mr & Mrs David & Jane Gordon per David Jane Architects 5 High Street Innerleithen Scottish Borders EH44 6HA

With reference to your application validated on **21st February 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Replacement windows and installation of chimney flue

At : 5 High Street Innerleithen Scottish Borders EH44 6HA

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s) stated on the attached schedule**.

Dated 14th April 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA



Signed

.....
Chief Planning Officer

APPLICATION REFERENCE : 17/00257/FUL

Schedule of Plans and Drawings Refused:

Plan Ref	Plan Type	Plan Status
13011-101-B	Elevations	Refused
ECOLINK SOLUTIONS	Sections	Refused
EMISSIONS GRAPHS	Specifications	Refused
13011-LOC	Location Plan	Refused
ABCAT TEST	Report	Refused
ABCAT BACKGROUND	Report	Refused
PRODUCT SPECIFICATIONS	Specifications	Refused
RESIDUALS OF WOOD BURNING	Specifications	Refused

REASON FOR REFUSAL

- 1 The application is contrary to Policy EP16 of the Scottish Borders Local Development Plan in that the proposed flue is of insufficient height to allow fumes to disperse properly without adversely affecting the air quality and residential amenity of surrounding property occupiers.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

Please note that the replacement windows may still be proceeded with under planning permission reference 15/01079/FUL.

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/00257/FUL

APPLICANT : Mr & Mrs David & Jane Gordon

AGENT : David Jane Architects

DEVELOPMENT : Replacement windows and installation of chimney flue

LOCATION: 5 High Street
Innerleithen
Scottish Borders
EH44 6HA

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
13011-101-B	Elevations	Refused
ECOLINK SOLUTIONS	Sections	Refused
EMISSIONS GRAPHS	Specifications	Refused
13011-LOC	Location Plan	Refused
ABCAT TEST	Report	Refused
ABCAT BACKGROUND	Report	Refused
PRODUCT SPECIFICATIONS	Specifications	Refused
RESIDUALS OF WOOD BURNING	Specifications	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

Environmental Health:

The indicated flue height is insufficient to allow fumes to disperse properly and will affect the amenity of other occupiers.

Recommendation
Object.

Innerleithen and District Community Council: Response awaited.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

Policy PMD2 Quality Standards
Policy HD3 Protection of Residential Amenity
Policy EP9 Conservation Areas

Recommendation by - Craig Miller (Lead Planning Officer) on 13th April 2017

Much of the earlier application (15/01079/FUL) Handling Report provides useful background to this resubmission, as follows:

"These works relate to a shop/office property which fronts onto the High Street in Innerleithen, restricted to the rear part of the building adjoining the R Smail Printing Works along Leithen Crescent. The proposals relate to the erection of a grey powder coated metal flue serving a proposed internal stove and replacement of two windows with uPVC units.

The windows are in compliance with Development Plan Policy and Supplementary Planning Guidance on replacement windows within a Conservation Area. Neither current window unit is traditional sash and one is totally concealed to public view on the west facing wall of the office building. Replacement with white uPVC casement units would not be of any consequence to the character of this part of the building or the Conservation Area and consent can be granted for them.

The flue proposal causes no significant aesthetic issues as the proposal is for a grey coloured modest flue emerging from the hipped roof of the office and terminating just above office ridge. Whilst visible from Leithen Crescent, the flue would be a maximum of two metres in length and its grey colour and minimal projection above the ridge of the office roof means that there is no Conservation Area reason to oppose it.

However, the flue serves a solid fuel appliance inside the office and the response from Environmental Health has been one of objection, despite several additional submissions from the applicant. The EHO, who quite often will merely request an Applicant Informative, believes that this proposal is likely to give rise to insurmountable smoke complaint due to the level of venting and the location of neighbours' residential window openings. The applicant has attempted to display that the impacts would not be as severe by proposing a raising of the flue by one further metre, stating that residential properties are not downwind of the prevailing wind and providing a HETAS guarantee of safe installation of such a stove and flue. These subsequent submissions and a meeting with Environmental Health have not dissuaded them from a sustained objection. Had there been support for a one metre raising of the flue, then the revised plans would have needed to be the subject of a new planning application and a fresh assessment of the impact on the Conservation Area and visual amenity carried out. The taller the flue, the greater the impact from Leithen Crescent and the greater the impact on the amenity of the Conservation Area.

As any additional raising of the flue is likely to be opposed on visual amenity grounds and as one metre is not sufficient to allow removal of the EHO objection, this element of the application cannot be supported. Based upon the guidance from the EHO, it would be likely to convey smoke and air pollution issues to nearby windows, even allowing for the fact that the premises seeking the flue are commercial shop/office premises which would only be likely to be seeking heating during office hours. However, if there is a demonstrable problem with lack of flue height and proximity of residential windows, then restrictions in operating hours are an unsatisfactory patch over a more fundamental problem."

The windows remain acceptable but they received planning permission under 15/01079/FUL. An informative will be attached to this decision to advise that the windows can be proceeded with under that consent. The position with the flue remains the same. Environmental Health have considered the new submission but remain opposed to the application as the indicated flue height is insufficient to allow fumes to disperse properly and will affect the amenity of other occupiers.

The applicant had submitted additional information outlining a gas oxidizing catalytic converter to reduce nuisance from wood stoves and boilers through flues. Output information and particulate tests before and after the converter were also supplied. The advice from Environmental Health is still one of objection and, therefore, it has to be concluded that Local Development Plan Policy EP16 Air Quality cannot be complied with. Despite the mitigation proposals, Environmental Health maintain that the flue height is too low in relation to surrounding windows belonging to residential property.

Unlike the St Ronan's Hotel case, a significant increase in the flue pipe height in this location would be far more prominent in the Conservation Area and impact on the public realm in a more significant and adverse way. Such a solution to meet air quality issues would be likely to create insurmountable aesthetic and visual amenity impacts in this location.

The application, therefore, should be refused as being contrary to LDP Policy EP16.

REASON FOR DECISION :

The application is contrary to Policy EP16 of the Scottish Borders Local Development Plan in that the proposed flue is of insufficient height to allow fumes to disperse properly without adversely affecting the air quality and residential amenity of surrounding property occupiers.

Recommendation: Refused with informatives

- 1 The application is contrary to Policy EP16 of the Scottish Borders Local Development Plan in that the proposed flue is of insufficient height to allow fumes to disperse properly without adversely affecting the air quality and residential amenity of surrounding property occupiers.

Informatives

It should be noted that:

- 1 Please note that the replacement windows may still be proceeded with under planning permission reference 15/01079/FUL.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.



Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Application for Planning Permission **Reference : 15/01079/FUL**

To : Mr & Mrs David & Jane Gordon per David Jane Architects Bank House Innerleithen Scottish Borders EH44 6HA

With reference to your application validated on **10th September 2015** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Replacement windows

at : 5 High Street Innerleithen Scottish Borders EH44 6HA

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, subject to the following direction:

- That the development to which this permission relates must be commenced within three years of the date of this permission.

And subject to the conditions on the attached schedule imposed by the Council for the reasons stated

Dated 22nd February 2016
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

Signed



.....
Chief Planning Officer

APPLICATION REFERENCE : 15/01079/FUL**Schedule of Plans and Drawings Approved:**

Plan Ref	Plan Type	Plan Status
13011-LOC	Location Plan	Approved
13011-101	Elevations	Approved
13011-E-101	Existing Elevations	Approved

REASON FOR DECISION

The application, with appropriate condition, complies with Development Plan Policies on replacement windows and impacts on residential amenity in that the window replacements are of acceptable design and the flue proposal can be prohibited by condition.

SCHEDULE OF CONDITIONS

- 1 The consent is only for the replacement windows and not for the proposed flue.
Reason: The application has failed to adequately demonstrate that the erection of the proposed flue would not have significant detrimental impacts on nearby residential amenity through transmission of smoke nuisance.

FOR THE INFORMATION OF THE APPLICANT

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable. A form is enclosed with this decision notice for this purpose.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 15/01079/FUL

APPLICANT : Mr & Mrs David & Jane Gordon

AGENT : David Jane Architects

DEVELOPMENT : Replacement windows

LOCATION: 5 High Street
Innerleithen
Scottish Borders
EH44 6HA

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
13011-LOC	Location Plan	Approved
13011-101	Elevations	Approved
13011-E-101	Existing Elevations	Approved

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

Environmental Health:

Assessment of Application

Air quality

Nuisance

This is an application to install replacement windows and a flue.

The documents lodged in connection with the Application indicate the provision of a solid fuel appliance.

These have the potential to cause smoke and odour problems if not properly installed and maintained.

The plans indicate that the flue will discharge below the level of windows in adjacent premises.

Recommendation

Delete as appropriate - Object.

Objection maintained after successive meetings and submissions made by applicant.

Innerleithen and District Community Council: Response awaited.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Consolidated Local Plan 2011

Policy G1 Quality Standards for New Development
Policy H2 Protection of Residential Amenity
Policy BE4 Conservation Areas
Policy D4 Renewable Energy

"Replacement Windows and Doors" SPG

Recommendation by - Craig Miller (Lead Planning Officer) on 2nd November 2015

These works relate to a shop/office property which fronts onto the High Street in Innerleithen, restricted to the rear part of the building adjoining the R Smail Printing Works along Leithen Crescent. The proposals relate to the erection of a grey powder coated metal flue serving a proposed internal stove and replacement of two windows with uPVC units.

The windows are in compliance with Development Plan Policy and Supplementary Planning Guidance on replacement windows within a Conservation Area. Neither current window unit is traditional sash and one is totally concealed to public view on the west facing wall of the office building. Replacement with white uPVC casement units would not be of any consequence to the character of this part of the building or the Conservation Area and consent can be granted for them.

The flue proposal causes no significant aesthetic issues as the proposal is for a grey coloured modest flue emerging from the hipped roof of the office and terminating just above office ridge. Whilst visible from Leithen Crescent, the flue would be a maximum of two metres in length and its grey colour and minimal projection above the ridge of the office roof means that there is no Conservation Area reason to oppose it.

However, the flue serves a solid fuel appliance inside the office and the response from Environmental Health has been one of objection, despite several additional submissions from the applicant. The EHO, who quite often will merely request an Applicant Informative, believes that this proposal is likely to give rise to insurmountable smoke complaint due to the level of venting and the location of neighbours' residential window openings. The applicant has attempted to display that the impacts would not be as severe by proposing a raising of the flue by one further metre, stating that residential properties are not downwind of the prevailing wind and providing a HETAS guarantee of safe installation of such a stove and flue. These subsequent submissions and a meeting with Environmental Health have not dissuaded them from a sustained objection. Had there been support for a one metre raising of the flue, then the revised plans would have needed to be the subject of a new planning application and a fresh assessment of the impact on the Conservation Area and visual amenity carried out. The taller the flue, the greater the impact from Leithen Crescent and the greater the impact on the amenity of the Conservation Area.

As any additional raising of the flue is likely to be opposed on visual amenity grounds and as one metre is not sufficient to allow removal of the EHO objection, this element of the application cannot be supported. Based upon the guidance from the EHO, it would be likely to convey smoke and air pollution issues to nearby windows, even allowing for the fact that the premises seeking the flue are commercial shop/office premises which would only be likely to be seeking heating during office hours. However, if there is a demonstrable problem with lack of flue height and proximity of residential windows, then restrictions in operating hours are an unsatisfactory patch over a more fundamental problem.

Policies H2 and D4 do require works to protect residential amenity. Whilst H2 is more in relation to visual and audible issues of amenity, D4 certainly requires micro-renewables to respect and protect residential amenity. Given that Environmental Health sustain their objection on the basis of an apparently irresolvable air pollution likelihood, Local Plan Policy D4 would not be complied with. The revised plan was tabled in draft form but also not accepted - so the original application drawings should be used for a decision on this application. As there is another element of the proposals that is acceptable (the replacement windows), the application should not be refused as this would deny an important and acceptable element of the proposals. The application will be approved with a condition denying the external flue on the grounds of protection of residential amenity.

REASON FOR DECISION :

The application, with appropriate condition, complies with Development Plan Policies on replacement windows and impacts on residential amenity in that the window replacements are of acceptable design and the flue proposal can be prohibited by condition.

Recommendation: Approved subject to conditions

- 1 The consent is only for the replacement windows and not for the proposed flue.
Reason: The application has failed to adequately demonstrate that the erection of the proposed flue would not have significant detrimental impacts on nearby residential amenity through transmission of smoke nuisance.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.

Scottish Borders Council

Regulatory Services – Consultation reply

Planning Ref	17/00257/FUL
Uniform Ref	17/00499/PLANCO
Proposal	Replacement windows and installation of chimney flue
Address	5 High Street Innerleithen Scottish Borders EH44 6HA
Date	17/3/17
Amenity and Pollution Officer	David A. Brown
Contaminated Land Officer	Reviewed – no comments

Amenity and Pollution

Assessment of Application

*Air quality
 Nuisance*

This Application includes a proposal to install a flue.

The indicated flue height is insufficient to allow fumes to disperse properly and will affect the amenity of other occupiers.

Recommendation

Object.

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Local Review Body – List of Policies

Local Review Reference: 17/00028/RREF

Planning Application Reference: 17/00257/FUL

Development Proposal: Replacement windows and installation of chimney flue,

Location: 5 High Street, Innerleithen

Applicant: David & Jane Gordon

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2016

POLICY PMD1: SUSTAINABILITY

In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plan's policies and which developers will be expected to incorporate into their developments:

- a) the long term sustainable use and management of land
- b) the preservation of air and water quality
- c) the protection of natural resources, landscapes, habitats, and species
- d) the protection of built and cultural resources
- e) the efficient use of energy and resources, particularly non-renewable resources
- f) the minimisation of waste, including waste water and encouragement to its sustainable management
- g) the encouragement of walking, cycling, and public transport in preference to the private car
- h) the minimisation of light pollution
- i) the protection of public health and safety
- j) the support to community services and facilities
- k) the provision of new jobs and support to the local economy
- l) the involvement of the local community in the design, management and improvement of their environment

POLICY PMD2: QUALITY STANDARDS

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

Sustainability

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,
- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,
- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,

Local Review Body – List of Policies

- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
- g) it considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking & Design

- h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
- i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
- j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
- k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
- l) it can be satisfactorily accommodated within the site,
- m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
- n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on ‘designing out crime’.

Accessibility

- o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,
- p) it incorporates, where required, access for those with mobility difficulties,
- q) it ensures there is no adverse impact on road safety, including but not limited to the site access,
- r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,
- s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Greenspace, Open Space & Biodiversity

- t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
- u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

Local Review Body – List of Policies

POLICY HD3 – PROTECTION OF RESIDENTIAL AMENITY

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,
 - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or ‘backland’ development,
 - (iii) the generation of traffic or noise,
 - (iv) the level of visual impact.

POLICY ED9: RENEWABLE ENERGY DEVELOPMENT

RENEWABLE ENERGY DEVELOPMENTS

The council will support proposals for both large scale and community scale renewable energy development including commercial wind farms, single or limited scale wind turbines, biomass, hydropower, biofuel technology, and solar power where they can be accommodated without unacceptable significant adverse impacts or effects, giving due regard to relevant environmental, community and cumulative impact considerations.

The assessment of applications for renewable energy developments will be based on the principles set out in Scottish Planning Policy (2014), in particular, for onshore wind developments, the terms of Table 1: Spatial Frameworks. Renewable energy developments, including wind energy proposals, will be approved provided that there are no relevant unacceptable significant adverse impacts or effects that cannot be satisfactorily mitigated. If there are judged to be relevant significant adverse impacts or effects that cannot be satisfactorily mitigated, the development will only be approved if the council is satisfied that the wider economic, environmental and other benefits of the proposal outweigh the potential damage arising from it.

SUPPLEMENTARY GUIDANCE

The council will produce statutory Supplementary Guidance on wind energy and renewable energy. This shall be submitted to Ministers within 12 months of adoption of the plan. The guidance will accord with Scottish Planning Policy (2014), and will set out the detailed policy considerations against which all proposals for wind energy and other forms of renewable energy will be assessed, based on those considerations set out at paragraph 169. The guidance on wind energy will contain the onshore spatial framework as required by Scottish Planning Policy (2014), identifying areas where wind farms will not be acceptable, areas of significant protection, and areas with potential for wind farm development, and indicating the minimum scale of onshore wind development that the framework applies to.

The council will produce statutory Supplementary Guidance to update the landscape and visual guidance for single and groups of 2 or 3 wind turbines in Berwickshire so that it accords with Scottish Planning Policy (2014).

The assessment of wind energy proposals will include the following considerations:

Local Review Body – List of Policies

- the onshore spatial framework which identifies those areas that are likely to be most appropriate for onshore wind turbines;
- landscape and visual impacts, to include effects on wild land, and taking into account the report on Landscape Capacity and Cumulative Impact (July 2013) as an initial reference point, the landscape and visual impact assessment for a proposal (which should demonstrate that it can be satisfactorily accommodated in the landscape, and should properly address the issues raised in the 2013 report), and other relevant landscape, visual and cumulative impact guidance, for example that produced by Scottish Natural Heritage;
- all cumulative impacts, including cumulative landscape and visual impact, recognising that in some areas the cumulative impact of existing and consented development may limit the capacity for further development;
- impacts on communities and individual dwellings (including visual impact, residential amenity, noise and shadow flicker);
- impacts on carbon rich soils (using the carbon calculator), public access, the historic environment (including scheduled monuments and listed buildings, and their settings), tourism and recreation, aviation and defence interests and seismological recording, telecommunications and broadcasting installations, and adjacent trunk roads and road traffic;
- effects on the natural heritage (including birds), and hydrology, the water environment and flood risk;
- opportunities for energy storage;
- net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities;
- the scale of contribution to renewable energy generation targets, and the effect on greenhouse emissions;
- the need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration; and
- the need for a robust planning obligation to ensure that operators achieve site restoration.

Developers must demonstrate that they have considered options for minimising the operational impact of wind turbine proposals, including ancillary development such as tracks.

CONSIDERATION OF OTHER RENEWABLE ENERGY DEVELOPMENTS

Small scale or domestic renewable energy developments including community schemes, single turbines and micro-scale photovoltaic/solar panels will be encouraged where they can be satisfactorily accommodated into their surroundings in accordance with the protection of residential amenity and the historic and natural environment.

Renewable technologies that require a countryside location such as the development of bio fuels, short crop rotation coppice, “biomass” or small scale hydro-power will be assessed against the relevant environmental protection and promotion policies, and other relevant policies in the local development plan.

Waste to energy schemes involving human, farm and domestic waste will be assessed against Policy IS10 Waste Management Facilities.

POLICY EP16: AIR QUALITY

Development proposals that, individually or cumulatively, could adversely affect the quality of air in a locality to a level that could potentially harm human health and wellbeing or the integrity of the natural environment, must be accompanied by provisions that the Council is satisfied will minimise such impacts to an acceptable degree. Where it is considered

Local Review Body – List of Policies

appropriate the Council may request that an Air Quality Assessment is undertaken to assist determination of an application.

OTHER MATERIAL CONSIDERATIONS

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

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