Public Document Pack

LOCAL REVIEW BODY
MONDAY, 20 NOVEMBER 2023

A MEETING of the LOCAL REVIEW BODY will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS on MONDAY, 20 NOVEMBER 2023 at 10.00 am.

This will be a blended meeting.

All Attendees, including members of the public, should note that the public business in this meeting will be livestreamed and video recorded and that recording will be available thereafter for public view for 180 days .

NUALA McKINLAY,
Director of Corporate Governance,

10 November 2023

BUSINESS	
1.	**Apologies for Absence.**
2.	**Order of Business.**
3.	**Declarations of Interest.**
4.	**Consider request for review of refusal in respect of the Demolition of Stable and Erection of dwellinghouse on site Adjacent to the Steading, Whiteburn Farm, Lauder - 23/00031/RREF**
	(a) **Submission by Officer and Applicant's response on new information** (Pages 5 - 20)
	(b) **Notice of Review** (Pages 21 - 142) Including:- Decision Notice Officer's Report
	(c) **Papers referred to in the Officers Report** (Pages 143 - 148)

	(d)	**Further Representations and Applicant Response** (Pages 149 - 160)
	(e)	**Additional Information** (Pages 161 - 220)
	(f)	**Consultations Replies** (Pages 221 - 226)
	(g)	**Objections** (Pages 227 - 260)
	(h)	**List of Policies** (Pages 261 - 262)
5.	**Consider request for review of refusal in respect of change of use from agricultural land to lorry storage yard and erection of building on Land East of Unit 3 Croft Park Industrial Estate, Morebattle, Kelso - 23/00043/RCOND**	
	(a)	**Notice of Review** (Pages 263 - 342) Including:- Decision Notice Officers Report
	(b)	**Consultation Replies** (Pages 343 - 348)
	(c)	**List of Policies** (Pages 349 - 350)
6.	**Consider request for review of refusal in respect of the Erection of dwellinghouse on Garden Ground of Cheviot View, Eden Road, Gordon - 23/00044/RREF**	
	(a)	**Notice of Review** (Pages 351 - 388)
	(b)	**Papers Referred to in the Officer's Report** (Pages 389 - 392)
	(c)	**Further Representation and Applicant's response** (Pages 393 - 396)
	(d)	**Additional Information** (Pages 397 - 454)
	(e)	**Consultation Replies** (Pages 455 - 464)
	(f)	**Support Comment** (Pages 465 - 466)

	(g)	**General Comment** (Pages 467 - 468)
	(h)	**Objections** (Pages 469 - 480)
	(i)	**Policy List** (Pages 481 - 482)
7.	**Any Other Items Previously Circulated**	
8.	**Any Other Items the Chairman decides are Urgent**	

NOTE
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 S. Mountford (Chair), J. Cox, M. Douglas, D. Moffat, A. Orr, N. Richards, S. Scott, E. Small, V. Thomson.

Please direct any enquiries to Fiona Henderson 01835 826502
email fhenderson@scotborders.gov.uk

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APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013

Planning Application No: 22/01905/FUL
Local Review Body No: 23/00031/RREF
Applicant: Ms Elaine McKinney
Agent: Ferguson Planning
Proposal: Demolition of stable and erection of dwellinghouse
Location: Site Adjacent the Steading Whiteburn Farm Lauder

Comments of the Planning Officer in Respect of New Information

The Local Review Body determined to proceed with the review of the above application with further procedure. In this instance, the Local Review Body requires comments from the Council's Planning Officer on the three 3D visualisations of the proposed development and site plan showing where the viewpoints were taken from, which was submitted with the Review but was not before the appointed officer at the time of determination.

Appendix 1 contains three 3D visualisations and a site plan showing the direction from which the visualisations are taken from (north west, south east and south west).

Viewpoint 1

This is taken from the north west of the site looking south east into the site. This is particularly useful as it demonstrates that the proposed dwellinghouse would not be well related to the building group at Whiteburn as no other houses are visible, as they are screened by trees and other vegetation. The visualisation emphasises that the woodland forms the boundary of the building group and the site is outwith the sense of place, being a paddock clearly divorced from the closest house to the south.

Viewpoint 2

This provides a view of the site taken from the south east looking north west. The track across the burn is visible in the foreground, as is the mature hedge that separates the site from the closest house, the Roost. This viewpoint emphasises the distance between the site and houses within the building group. The burn and mature hedge are considered to be the natural boundary of the building group, separating the site from the building group.

Both Viewpoint 1 and 2 provide an illustration of the scale, design and materials of the proposed house. This would be small scale of a contemporary design with black corrugated steel sheeting for the walls and roof.

Although none of the other houses within the building group are visible within the visualisations, the design and materials do not reflect the character of existing houses within the building group.

However, as an isolated development, divorced and some distance from the building group, such a contemporary approach can be accepted.

Viewpoint 3

This image is taken from the western side of the A697 looking east into the site. The proposed house can be seen beyond the field access from the public road, where there would be a degree of screening provided by the mature trees along the eastern side of the public road. The visualisation indicates that the dwellinghouse would not be prominent when viewed from the A697.

Conclusion

It is considered that visualisations 1 and 2 demonstrate that the site is outwith the defined boundaries of the building group and sense of placed and the proposal does not relate well to the existing houses within the building group in terms of spacing. The development would read as isolated and divorced from the building group.

For the reasons outlined above, the proposal does not comply with policy 17 of National Planning Framework 4 and policy HD2 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 and it is respectfully requested that the review is dismissed and the application refused.

FERGUSON
PLANNING

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Edinburgh
EH2 1EL
E: georgia@fergusonplanning.co.uk
M: 07477864216

Fiona Henderson
Democratic Services
Council Headquarters
Newtown St Boswells TD6 0SA

12 October 2023

SBC Ref: 22/01905/FUL and 23/00031/RREF

RESPONSE TO COMMENTS OF THE PLANNING OFFICER IN RESPECT OF NEW INFORMATION

Thank you for providing copies of the comments of the Planning Officer in respect of the new information submitted with our notice of review.

In the first instance, we would like to make clear that these are visual representations of the proposed development, provided to aid in understanding how it will sit within the landscape of the area. The site visit that LRB Members are set to attend should provide them with a fuller appreciation of how the proposed dwelling will relate to the building group at Whiteburn and allow them a deeper appreciation of its context. We appreciate the time taken by the Members to attend.

We would also like to make clear that the materiality or design of the proposed dwelling was not given as a reason for refusal as set out in the decision notice that was issued on 18 April 2023.

Our response to the specific comments made is as follows:

The photos below (Figures 1 and 2) which were included in the Appeal Statement as Figure 4 and Figure 16, show a slightly different angle of 'Viewpoint 1' but still taken from the north-west

of the site looking towards the south-east. These clearly show the visual relationship between the site of the proposed dwelling and the other dwellings within the building group.

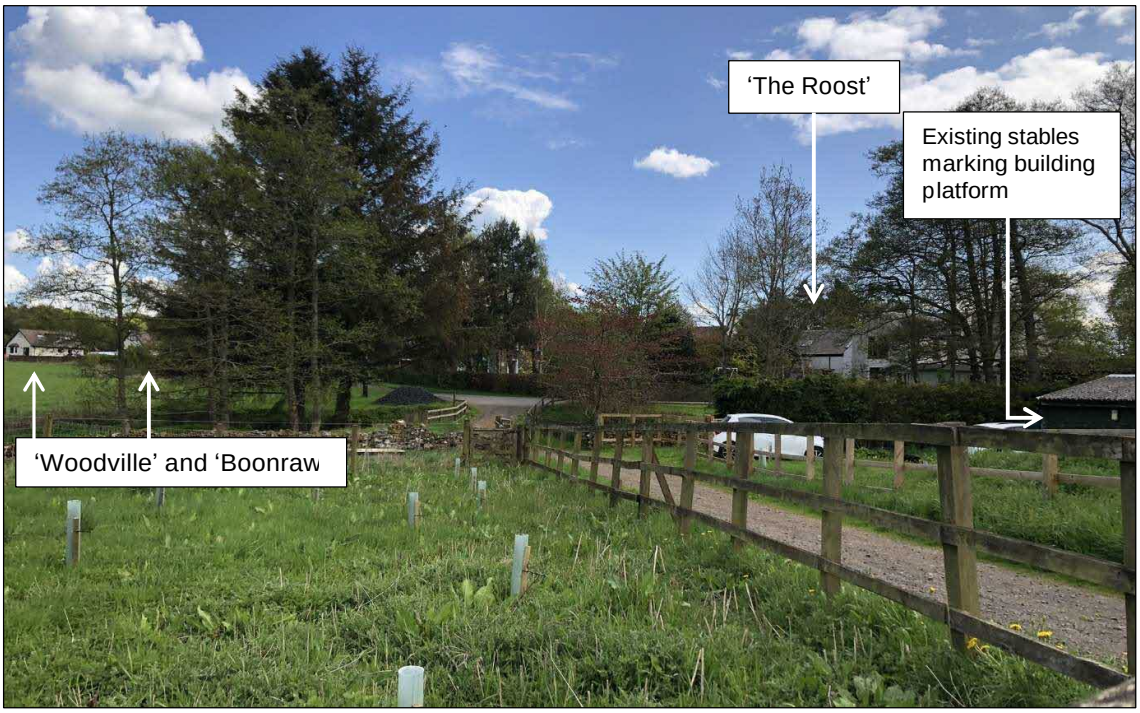

Figure 1. View of subject site from north-west looking towards building group at Whiteburn with 'The Roost', 'Woodville' and 'Boonraw' visible in background. Source: Ferguson Planning Site Visit.

Figure 2. Panorama of subject site between the dwelling at 'The Roost' to the left and outbuildings associated with 'The Roost' to the right. Source: Ferguson Planning Site Visit.

The Planning Officer's comments regarding the distance between the subject site and the other houses within the building group was addressed in the initial Appeal Statement at paragraphs 4.16 –4.18 which have summarised here for completeness.

As shown in Figure 3 below, there is no characteristic spacing between the other dwellings within the Whiteburn building group. The minimum separation distance between the proposed dwelling and 'The Roost' is the same as the spacing between 'Whiteburn Farm House' and Merrick Cottage'.

As such, we consider it incorrect for the subject site to be characterised as being 'divorced' from the rest of the Whiteburn Group. Figures 1 and 2 also show that due to the siting of the dwellings at Whiteburn, the proposed dwelling would be apparent within the same view as several of the other dwellings at Whiteburn, thus reinforcing the sense of place.

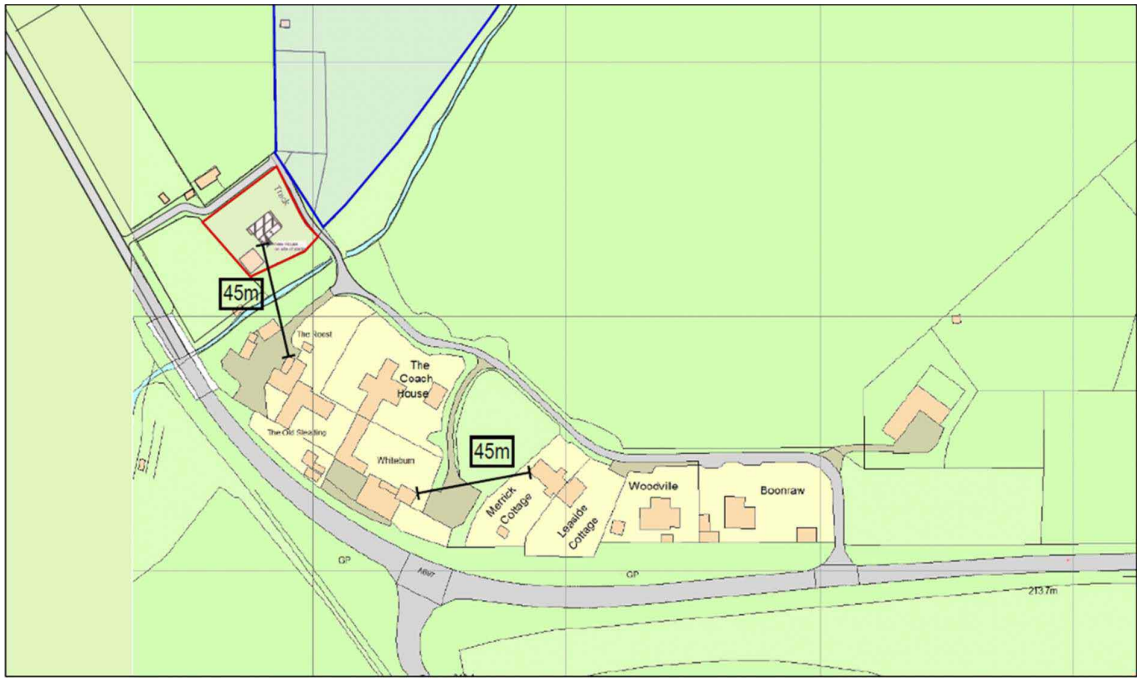

Figure 3. Spacing between dwellings within Whiteburn building group. Source: Quercus.

Figure 3 also shows how there is no characteristic or distinct distance that the other dwellings within the Whiteburn group are set back from the boundary of the A697. The proposed dwelling would be a similar distance from the road as Merrick and Leaside cottages.

The Planning Officer's comments regarding the presence of 'woodland' between the subject site and The Roost were also addressed in the initial Appeal Statement at paragraph 4.19. Our comments are summarised here for completeness and further photographs showing the characteristic interval of woodland between other dwellings within the Whiteburn building group are appended to this statement.

There is dense vegetation between 'Whiteburn Farm House' and 'Merrick Cottage', yet these properties have been confirmed as forming part of the same building group. The volume of vegetation between the subject site and 'The Roost' is not as great as that between these two dwellings. Figure 4 below shows the spacing and vegetation as viewed from the junction of the A6089 and A697.

Figure 4. Distance between Whiteburn and Merrick Cottage as viewed from the A6089 intersection. Source: Ferguson Planning Site Visit.

The photos appended to this statement also show the presence of dense vegetation between other dwellings within the building group and confirm that this forms part of the pattern of development, rather than forming a break or boundary to the group.

The materiality and design of the proposed dwelling is described by the Planning Officer in their most recent comments as not reflecting the character of existing houses within the building group. This aspect of the proposal was also addressed within the initial Appeal Statement at paragraphs 4.21 –4.28. Our assessment and conclusions on this aspect are summarised below for completeness.

The New Housing in the Borders Countryside SPG does encourage the design of new dwellings to take account of the widely appreciated and accepted traditions of Border house design. However, it caveats this by warning that the guidance should not be applied unthinkingly or across the board and recognises that there are circumstances where, with sound reasoned justification, a different solution, in terms of building form, proportion and materials, can legitimately be pursued. Innovative designs, therefore, which are sympathetic to their setting and to the general principles in respect of siting, will also be encouraged.

The design of the dwellinghouse has been carefully considered and references many elements of the other dwellings in the Whiteburn building group and rural Borders housing generally, while representing a more compact and less resource intensive solution to a standard construction.

The proposed dwelling has a narrow frontage of approximately 4.8m and a depth of double this, creating a well-proportioned building which, in this way, is similar to that of traditional workers cottages.

The height of the proposed dwelling is in keeping with the built development in the surrounding area. For example, the dwelling in the Whiteburn building group, nearest the subject site, ‘The Roost’, possesses a two-storey western wing and ‘The Coach House’ and other buildings further east in the group are also of a reasonable height being two-storey or having enough height to allow for habitable space at the roof level.

The windows at the ground floor level of the dwellinghouse are vertically proportioned with multiple panes, an element of building design identified as desirable in the New Housing in the Borders Countryside SPG. The SPG also notes that porches are a common feature of housing in the countryside and encourages new porches to reference traditional styles. The proposed porch is simple and traditional in its form while also adding visual interest and breaking up the bulk of the building.

The exterior cladding materials and colour would be recessive in the environment with low reflectivity values to allow the building to be absorbed into its rural environment. Although none of the dwellings within the Whiteburn building group have a corrugated steel construction, the use of this material can be seen in the outbuildings at ‘Boonraw’ and ‘The Roost’ as well as in the farm buildings at to the north-west of the subject site.

The restricted scale of the dwellinghouse, in conjunction with the materiality, gives it the feeling of an agricultural building which is entirely appropriate for its context, while the form, proportion and detailing directly references dwelling in the Whiteburn group and the Borders Countryside more generally.

The footprint of the proposed dwelling would be similar to that of the existing stable block and no greater than any of the other dwellings within the building group. As such, it would not appear obtrusive or dominant within its setting.

Works began in May / June of 2023 at the property adjacent to the subject site for the erection of a replacement garage which was granted planning permission on 28 July 2022 (reference 22/00781/FUL). The dwelling proposed at the subject site would arguably have a minimal impact on the character or appearance of this area, especially when compared to the new garage/workshop.

Figure 5. Construction of garage/workshop at 'The Old Steading'.

We trust the above is of assistance, however, we are more than happy to response to any further comments, enquiries or requests for clarification.

Yours faithfully,

[redacted]

Ferguson Planning

APPENDIX 1

View towards Whiteburn Farmhouse and Coach house illustrating the level of vegetation between those two properties within the existing building group.

View along access track looking towards Whiteburn Farmhouse, Coachhouse illustrating the level of vegetation between properties within the existing building group.

View along access track looking towards Woodville and Boonraw, illustrating the level of vegetation between properties within the existing building group.

View towards Whiteburn farmhouse and towards the Coachhouse illustrating the level of vegetation between properties within the existing building group.

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Newtown St Boswells Melrose TD6 0SA Tel: Payments/General Enquiries 01835 825586 Email: regadmin@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 100609565-001

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)

Application for Planning Permission for Demolition of Stable and Erection of a Residential Dwelling Together with associated Amenity, Parking, Infrastructure and Access at Whiteburn Stables, Whiteburn, Berwickshire

Is this a temporary permission? * ☐ Yes ☒ No

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

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: *	Georgia	Building Name:	Shiel House
Last Name: *	Burborough	Building Number:	54
Telephone Number: *	01896809455	Address 1 (Street): *	Island Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Galashiels
Fax Number:		Country: *	Scotland
		Postcode: *	TD1 1NU
Email Address: *	georgia@fergusonplanning.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Ms	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	C/O Ferguson Planning
First Name: *	Elaine	Building Number:	54
Last Name: *	McKinney	Address 1 (Street): *	Island Street
Company/Organisation		Address 2:	
Telephone Number:	[redacted]	n/City: *	Galashiels
Extension Number:		ntry: *	ScotLAND
Mobile Number:		code: *	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

WHITEBURN STABLES, WHITEBURN, BERWICKSHIRE, TD2 6SQ

Northing 647638 Easting 359078

Pre-Application Discussion

Have you discussed your proposal with the planning authority? * ☐ Yes ☒ No

Site Area

Please state the site area: 1000.00

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)

Currently stable block.

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.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site? 2

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? * 2

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

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).

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

Please see planning statement for full details.

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.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * ☒ Yes ☐ No

If Yes or No, please provide further details: * (Max 500 characters)

Please see planning statement for full details.

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? * ☒ Yes ☐ No

How many units do you propose in total? * 1

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

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

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Georgia Burborough

On behalf of: Ms Elaine McKinney

Date: 06/12/2022

☒ 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 principal 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

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: Ms Georgia Burborough

Declaration Date: 06/12/2022

Ms Elaine McKinney
per Ferguson Planning
54 Island Street
Galashiels
Scottish Borders
TD1 1NU

Please ask for:	Julie Hayward
☎	01835 825585
Our Ref:	22/01905/FUL
Your Ref:	
E-Mail:	jhayward2@scotborders.gov.uk
Date:	20th April 2023

Dear Sir/Madam

PLANNING APPLICATION AT Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders

PROPOSED DEVELOPMENT: Demolition of stable and erection of dwellinghouse

APPLICANT: **Ms Elaine McKinney**

Please find attached the formal notice of refusal for the above application.

Drawings can be found on the Planning pages of the Council website at https://eplanning.scotborders.gov.uk/online-applications/.

Your right of appeal is set out within the decision notice.

Yours faithfully

John Hayward

Planning & Development Standards Manager

Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

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

Application for Planning Permission **Reference : 22/01905/FUL**

To : Ms Elaine McKinney per Ferguson Planning 54 Island Street Galashiels Scottish Borders TD1 1NU

With reference to your application validated on **13th December 2022** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

Proposal : Demolition of stable and erection of dwellinghouse

at : Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders

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

Dated 18th April 2023
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

John Hayward
Planning & Development Standards Manager

APPLICATION REFERENCE : 22/01905/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
2126-L01	Location Plan	Refused
2126-L05B	Proposed Site Plan	Refused
2126-L07A	Proposed Plans	Refused
2126-L08C	Proposed Plans	Refused
2126-L09C	Proposed Elevations	Refused

REASON FOR REFUSAL

The proposal is contrary to policy 17 of National Planning Framework 4 and policy HD2 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 as the site is outwith the defined boundaries of the building group and sense of place and does not relate well to the existing houses within the building group in terms of their spacing. The development would read as isolated and divorced from the group, to the detriment of the character, amenity and setting of the building group.

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 (as amended) within three months from the date of this notice. To seek a review of the decision, please complete a request for local review form and return it to the Clerk of the Local Review Body, Democratic Services, 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 (as amended).

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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 : 22/01905/FUL

APPLICANT : Ms Elaine McKinney

AGENT : Ferguson Planning

DEVELOPMENT : Demolition of stable and erection of dwellinghouse

LOCATION: Site Adjacent The Steading Whiteburn Farm
Lauder
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
2126-L01	Location Plan	Refused
2126-L05B	Proposed Site Plan	Refused
2126-L07A	Proposed Plans	Refused
2126-L08C	Proposed Plans	Refused
2126-L09C	Proposed Elevations	Refused

NUMBER OF REPRESENTATIONS: 12
SUMMARY OF REPRESENTATIONS:

Representations have been received from 8 households objecting to the proposal, raising the following planning issues:

o There are currently 8 dwellings in the Whiteburn group, the maximum allowed. As such, no further dwelling should be permitted as there is no further land available within accepted boundaries and this will degrade the amenity and seclusion of the group.

o The western boundary of the Whiteburn building group is the Whiteburn stream and trees which line the burn. There are no dwellinghouses west of this and building a dwelling on a site that is agricultural land and currently has only has a barn and stables would breach that clear boundary.

o Planning permission was refused for the erection of 2 dwellinghouses in 2011 as the proposal were contrary to policy HD2. Members were of the view that group had a tight, linear and compact appearance and that there were strong boundaries that enclosed the building group. To the east and west this was formed by existing tree belts and to the south by the A697 road. The access track to the north edge of the group and southern boundaries of the plots was a relatively recent construction but constituted a distinct and defendable edge to the building group that should not be breached. The site is outwith these boundaries on agricultural land to the west. Whitburn is at maximum capacity.

o The proposal would constitute ribbon development into undeveloped farmland beyond the natural boundary of the building group.

o The design and construction materials of the dwelling are completely different from any of the properties at Whiteburn and are not in keeping, especially the black steel cladding.

o The stable block is approximately 10 feet high whereas the planned residential building is at least 20 feet high, so although the footprint may be similar the height of the proposed building is twice the height of the existing stables.

o The Council has stated that commercial accommodation is not appropriate at Whiteburn, specifically as there are no transport links or infrastructure in place to service such accommodation.

o The primary access proposed is via the existing private road. While there may already be access to the stable using the private road and a weak, historic bridge over the Whiteburn, the access, via the bridge, would be unsuitable for constant vehicular use, construction traffic or emergency vehicles, which would damage the bridge.

o The deeds for Whiteburn Farmhouse state that the access track to the agricultural land 'is not to be used for heavy vehicles' and do not specify 3.5 tonnes is acceptable to travel over the bridge.

o Additional traffic would result in a hazard to road users turning off the A697 onto the private road.

o The application proposes a secondary access via a gate to the south west. This is unsuitable for access being on a blind corner of the A697 and very close to the junction of the A697/A6089. Use of this access point would constitute a danger to road users and it needs to be closed at all times due to livestock.

o Additional use of the private road is likely to result in additional wear of the non-tarmac surface resulting in additional maintenance costs and would cause noise and visual intrusion.

o The plans for the development suggest the dwelling will be used as a summer or holiday home. A short term holiday let would result in additional traffic/footfall and nuisance within a quiet residential group.

o The proposal would apply more pressure on infrastructure such as water, foul drainage and electricity supplies.

o The applicant has undertaken planting of approximately 1800 trees to attempt to support the planning application. A dwellinghouse on the site is not needed to allow maintained of the trees. There are no overriding economic benefits for this application to be approved. The extensive planting of trees does not contribute to its containment within the building group and will not provide screening to lessen the visual impact for existing residents.

o The Section 50 planning obligation was specifically designed to retain the rural aspect of the area, limiting the number and type of developments. This protects existing residents and the environment. Modifying the legal agreement would set a precedent for future development. The application contravenes this agreement.

o The aerial image of site in red is inaccurate and encompasses a portion of land belonging to The Steading.

o Concern about the treatment of greywater in a landscaped soakaway and disposal of the composting toilet waste. The grey water reed beds are adjacent to the boundary and water would run into the burn, which regularly floods during heavy rain or snow, or onto neighbouring land.

o The reed bed would be next to the wood where children play; this area floods with heavy rain and sewage (treated or otherwise) may run into this area.

o There are several large, mature trees overhanging the site.

o All the comments submitted are legitimate, material planning considerations and should not be viewed as irrelevant or the result of historic personal conflicts.

CONSULTATIONS:

Roads Planning Service: Whilst the site itself has no major planning history, nearby there have been two applications for the erection of a dwelling which were both refused (11/00157/PPP & 11/00156/PPP), although the Roads Planning Service did not object to either application at the time.

Whilst I have no objection to the principle of a new dwelling at this location, and previous correspondence from the Roads Planning Service has indicated that there is capacity for the existing private junction with the A697 for an increased number of vehicles, I have concerns over the proposed use of the western access.

As the primary function of derestricted 'A' class principle roads is to provide for the safe and expeditious movement of traffic, the number of direct accesses onto such roads should be strictly limited. Therefore, I am opposed to the principle of new accesses onto derestricted 'A' class roads unless there is a strong road safety justification, and I must then object to this application in its current form. If the use of the western access is removed from the submission, I will likely look upon the application more favourably.

I object to this proposal as it does not comply with the Council's Local Development Plan Policy PMD2 which ensures that a development has no adverse impact on road safety.

Education and Lifelong Learning: No response.

Scottish Water: No objection. There is currently sufficient capacity in the Howden Water Treatment Works to service the development. However, further investigations may be required once a formal application has been submitted to Scottish Water. There is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.

Environmental Health: No response.

Community Council: Note the significant number of local objections. Concerned about the access on a busy road near a corner and junction.

APPLICANT'S SUPPORTING INFORMATION:

o Planning Statement
o Further Supporting Information

PLANNING CONSIDERATIONS AND POLICIES:

National Planning Framework 4

Policy 1: Tackling the Climate and Nature Crises
Policy 2: Climate Mitigation and Adaptation
Policy 6: Forestry, Woodland and Trees
Policy 14: Design, Quality and Place
Policy 16: Quality Homes
Policy 17: Rural Homes

Local Development Plan 2016

PMD1: Sustainability
PMD2: Quality Standards
HD2: Housing in the Countryside
HD3: Protection of Residential Amenity
EP13: Trees, Woodland and Hedgerows

IS2: Developer Contributions
IS7: Parking Provisions and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Supplementary Planning Guidance

Sustainable Urban Drainage Systems August 2020
Development Contributions 2022
Householder Development (incorporating Privacy and Sunlight Guide) 2006
Landscape and Development 2008
New Housing in the Borders Countryside 2008
Placemaking and Design 2010
Trees and Development 2020

Recommendation by - Julie Hayward (Lead Planning Officer) on 18th April 2023

Site and Proposal

Whiteburn is situated to the east of Lauder and comprises of 8 houses in a linear form to the north/north east of the A697, consisting of traditional houses, converted buildings and newer dwellinghouses. The junction of the A697 with the A6089 is to the south.

The site is situated to the north of the White burn and comprises of a paddock with a stable block and timber shed, enclosed by a post and rail fence. There is an area of woodland to the south west adjacent to the A697 and fields to the north and east. The site is served by a private access road that also serves the existing houses from an access onto the A697 to the east. There is also a field access onto the main road to the west.

The proposal is to demolish the stables and erect a dwellinghouse on the site. This would have an open plan living room, kitchen and dining room at ground floor level and 2 bedrooms and a balcony at first floor level. The dwelling would have a sun room and covered decking on the south eastern elevation. The proposal is for a contemporary design with mono-pitched roofs. The walls and main roof would be black corrugated steel sheeting and the sun room would have a sedum roof. The windows and doors would be alu-clad timber. Solar panels and a wood burning stove are included in the design.

The timber shed in the south west corner of the site would be retained.

Access would be from the access road that serves the building group via the bridge over the White burn. An alternative access is shown onto the A697 via the field access. A hardcore driveway and parking area for 2 cars are proposed.

Planning History

99/00028/AGN: Erection of agricultural store. No objections 18th January 1999.

22/01937/MOD75: Modification of planning obligation pursuant to planning permission B290/91 and E389/91. Approved 21st February 2023.

Within the building group:

11/00156/PPP: Erection of dwellinghouse. Plot 2 Land North Of Boonraw Whiteburn.

11/00157/PPP: Erection of dwellinghouse. Plot 2 Land North Of Boonraw Whiteburn.

These applications were refused 8th April 2011 for the following reason:

The proposal would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies HD2 (A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that the erection of a dwellinghouse on this site would not reflect or

respect the character and amenity of the existing building group and would not relate to the established built form and pattern of development within the building group. Furthermore the proposal would not be contained within the identified sense of place created by the existing buildings and means of enclosure.

The Local Review Body upheld the appointed officer's decision and refused the applications on the same grounds.

There have been a series of consents for change of use of agricultural/steading buildings to dwellinghouses since the early 1990s.

Planning Policy

Housing in the Countryside

Policy 17 of National Planning Framework 4 seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations. Proposals will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area. The policy contains a number of criteria by which to assess proposals.

Development proposals for new housing will consider how the development will contribute to towards local living, take account of local housing needs (including affordable housing), economic considerations and the transport needs of the development as appropriate for the rural area.

In respect of the criteria within policy 17 part a), the site is not allocated for housing in the Local Development Plan; the proposal will not use brownfield land (this is discussed below); the proposal does not relate to the use of a historic environment asset; the proposal does not support the sustainable management of a viable rural business and there is no essential need for a worker to live permanently at or near their place of work; the proposal is not a single home for the retirement succession of a viable farm holding; and the proposal is not for the subdivision of an existing dwelling and does not reinstate a former dwelling or replace an existing dwelling.

The proposal does not meet any of the above criteria.

The site is outwith the Development Boundary for Lauder and so the proposal has to be assessed against the Council's housing in the countryside policies.

Policy HD2 (A) of the Local Development Plan 2016 allows new housing in the countryside provided that the site is well related to an existing building group of at least three houses or buildings capable of conversion to residential use. Any consents for new build granted under the building group part of the policy should not exceed two houses or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted. Calculations on building group size are based on the existing number of housing units within the group at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point. The cumulative impact of the new development on the character of the building group, landscape and amenity of the surrounding area will be taken into account in determining applications.

The Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 states that the existence of a group will be identifiable by a sense of place which will be contributed to by natural and man-made boundaries. Sites should not normally break into undeveloped fields particularly where there exists a definable natural boundary between the building group and the field and the new development should be limited to the area contained by that sense of place. Any new development should be within a reasonable distance of the existing properties within the building group and this distance should be guided by the spacing between the existing properties in the building group. The scale and siting of new development should reflect and respect the character and amenity of the existing building group. Existing groups may be complete and may not be suitable for further additions.

It is accepted that a building group exists at Whiteburn, as there are 8 existing houses. The main issues with this application is whether the site is considered to be within the natural and man-made boundaries of the building group and whether the proposal is well related to of houses within the building group in terms of spacing.

The Planning Statement argues that the access track to the west forms the boundary of the building group, there is no defined building line and that the development fits within existing spacing in the building group.

The building group is characterised by linear layout, with compact spacing and distinct boundaries. The access road forms the man-made boundary to the north and east, further emphasised by woodland to the east of the access and open fields to the north. The sense of place is contributed to by the farmhouse, converted farm steading buildings and new dwellings contained within a strip of land between the A697 to the south and the private access road to the north and east.

To the west, it is contended that the burn, trees, woodland and a mature hedge form the boundary of the building group and not the access track, which continues over 100m to the north west to the field boundary and then loops back within the next field beyond. The private access road that serves the existing houses from the east is hard surfaced and the character changes to a less formal farm track on the western side of the bridge over the burn. This track wraps around the north western boundary of the application site to the access onto the public road and is not substantial enough to form a strongly defined boundary to the building group. Granting planning permission for a new dwellinghouse on this site would set a precedent for further housing development to the north west, as there is no clear boundary to the building group beyond the site.

The proposed dwellinghouse would be 45m from the nearest property within the building group, the Roost. This would not respect the spacing within the building group or its character, which is compact and well contained within the natural and man-made boundaries. The application site reads as being divorced from what is essentially, a complete building group, and would be outwith the sense of place.

The stables on the site were built in 1992 and the shed in 1997 and so these are modern structures that have no historic relationship with the properties within the building group. The land to the west of the burn is rural, characterised by farm land, farm sheds and woodland.

The aerial photo within Planning Statement demonstrates how the mature trees and burn provide a distinct natural boundary to the building group.

It is considered that the site is outwith the defined boundaries of the building group and sense of placed and does not relate well to the existing houses within the building group in terms of spacing. The development would read as isolated and divorced from the building group, to the detriment of the character and setting of the building group.

There have been no planning approvals within the current Local Development Plan 2016 and so there is capacity within the building group for an additional house. However, the application cannot be supported for the reasons outlined above.

Part (F) of policy HD2 states that housing with a location essential for business needs may be acceptable if the Council is satisfied that the housing development is a direct operational requirement of an agricultural enterprise which is itself appropriate to a countryside location 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. The housing development would help support a business that results in clear social or environmental benefit to the area or the provision of affordable or local needs housing and no appropriate site exists within a building group and there is no suitable existing house or other building capable of conversion to the required residential use.

The Planning Statement advises that the applicant has planted 1800 trees throughout 2021 and 2022 and the provision of a dwellinghouse on the land would allow these trees to be maintained.

This is not s sufficient justification for a new dwellinghouse on the site as trees and woodlands are low maintenance and do not require a worker to be on-site 24/7. The proposal does not comply with Part (F) of policy HD2.

Brownfield, Vacant and Derelict Land

Policy 9 of NPF 4 encourages, promotes and facilitates the reuse of brownfield land, vacant and derelict land and empty buildings and to help reduce the need for greenfield development. The policy encourages

Local Development Plans to set out opportunities for the sustainable reuse of brownfield land. Developments that will result in the sustainable reuse of brownfield land, including derelict and vacant land, will be supported.

The site is a paddock with a stable block and barn within it and so it is accepted that this is a partially developed site. However, the buildings are not derelict and can be reused (the proposal seeks to retain the barn) and take up a small proportion of the paddock, which is laid to grass. It is contended that this is not brownfield land targeted by policy 9. It can also be argued that a house built in this rural location that would be dependent on the private car is not wholly sustainable.

Siting and Design and Impact on Visual Amenities

Policy 14 of NPF 4 requires development proposals to be designed to improve the quality of an area, whether urban or rural locations and regardless of scale. Proposals will be supported where they are consistent with the 6 qualities of successful places: healthy, pleasant, connected, distinctive, sustainable and adaptable.

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings.

The Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 states that the scale and siting of new development should reflect and respect the character and amenity of the existing building group

The building group is characterised by the traditional farmhouse, steading conversions and more modern houses, constructed of render, stone, tile and slate.

The proposal is for small scale dwellinghouse of a contemporary design with mono-pitched roofs, a balcony along the north west elevation, decking with a hot tub, black corrugated steel sheeting for the walls and roof, larch for the porch and a small area of sedum roof over the sun room.

The Planning Statement advises that the dwellinghouse would be constructed on piles over the stable foundations. The design and materials intend to reflect agricultural buildings in the surrounding area and to ensure the building recedes into the landscape.

The design and materials do not reflect the character of existing houses within the building group. No other houses within the building group have black corrugated steel sheeting or mono-pitched roofs.

However, as the development would be divorced from the building group such an approach can, on balance, be accepted.

The site would be well screened by existing trees and woodland and so the visual impact would not be significant, provided the trees are retained.

Impact on Residential Amenities

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new household developments to ensure that proposals do not adversely affect the residential amenities of occupants of neighbouring properties.

The closest dwelling is the Roost, 45m from the proposed dwellinghouse. There is screening from the high hedge and trees in between the site and this property. Whilst it is accepted that there would be no impact on the light or privacy of existing houses within the building group, this distance is out of keeping with spacing between other properties within the building group, further demonstrating the divorced and separate nature of the site.

Access, Parking and Road Safety

Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards.

The site can be served by the existing access road from the eastern access off the A697. An alternative access (western access) is shown on the site plan utilising the farm access from the A697, with an extended access road constructed to serve the plot.

The Roads Planning Service has no objections to the principle of a new dwelling at this location, but has expressed concerns over the proposed use of the western access. As the primary function of derestricted 'A' class principle roads is to provide for the safe and expeditious movement of traffic, the number of direct accesses onto such roads should be strictly limited. Therefore, the Roads Planning Service is opposed to the principle of new accesses onto derestricted 'A' class roads unless there is a strong road safety justification and object to the application unless the use of the western access is removed from the submission, as it does not comply with the Council's Local Development Plan Policy PMD2, which ensures that a development has no adverse impact on road safety.

A revised site plan has been submitted that removes the reference to the western access as an alternative access to the site. A condition could prevent use of this access by vehicles associated with the development.

Concern has been expressed within representations about the ability of the bridge over the White burn to cater for additional traffic, especially heavy construction vehicles and emergency vehicles due to its age and construction, and the damaging impact such additional traffic movements would have.

A note on the revised site plan states that during the construction works only light vehicles would be allowed to cross the bridge. The agent advises that the strength/stability of the bridge is considered a building warrant matter and is the responsibility of the owner to maintain it to the standard specified in their title deed (able to withstand up to 3.5 tonnes). This matter has not been pursued as the principle of the proposal is not acceptable but could be investigated further by way of a structural report secured by condition.

It is accepted that there is sufficient space within the site for parking and turning.

Trees and Woodlands

Policy EP13 seeks to protect trees from development. There are trees within and overhanging the site to the north and along the western boundary.

There are trees to the south west and south of the site that potentially overhang the site and route of the track to the western access but no tree survey or arboricultural impact assessment have been provided.

The revised site plan indicates that there are 2 trees of note within the site (those with a stem diameter greater than 75mm at 1.5m above ground level), though the canopy spread or root protection areas (RPA) are not accurately shown. It should be possible to locate the house, access, parking and services outwith the RPA of these trees (now that no upgrading works are required for the western access) and a condition would secure an accurate tree survey and tree protection measures for the construction phase.

Water and Drainage

Policy IS9 states that the preferred method of dealing with waste water associated with new developments would be the direct connection to the public sewerage system and for development in the countryside the use of private sewerage may be acceptable provided that it can be provided without negative impacts to public health, the environment, watercourses or ground water. A SUDS is required for surface water drainage.

The Planning Statement advises that there is already an electricity and water supply to the site. Rainwater collection tanks would supply water for the development. Grey water would collected in a tank to the south west of the dwelling and discharged in a controlled manner to a landscaped bed to be treated and detained before draining into the soil through the use of a soakaway.

Foul sewage waste from the compositing toilets will be used to fertilise the trees recently planted by the applicant.

The exact details would be agreed via the Building Warrant process.

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. This is set out in policy IS2.

Developer contributions are required towards education (Earlston High School and Lauder Primary School). These would be secured by a legal agreement, should the application be approved.

Section 50 Agreement

Planning Permissions (91/01023/OUT and 91/01624/OUT) were granted for three houses on the combined farms of Whiteburn, Dods and Pyatshaw in 1992 subject to a Section 50 Agreement, which contains a clause that restricts any further residential development on the land except for any dwellinghouse granted approval by the Planning Authority subject to an occupancy condition.

Consent (19/00047/MOD75) was granted in March 2019 to modify this legal agreement to remove to remove 9.06 hectares of land at Whiteburn Farm from the legal agreement in relation to this clause.

An application (22/01937/MOD75) was submitted by the applicant of this current planning application seeking to further modify the Section 50 to remove 1,000 square metres from the legal agreement (the land required for this current proposal). This application was approved, as the clause of the Section 50 Agreement preventing any new dwellinghouses from being erected on the land is now inconsistent with recent national guidance.

Concern has been expressed within the representations received that the Section 50 was specifically designed to retain and protect the rural nature of the area, the environment and modifying the legal agreement would set a precedent for future development. However, this can adequately be controlled through the planning application process and each application would be assessed against the relevant development plan policies and on its own merits.

The agent has clarified that the building would be a dwellinghouse and would not be used for short term lets or holiday accommodation use; this could be controlled by condition, if considered necessary.

REASON FOR DECISION :

It is considered that the proposal is contrary to policy 17 of National Planning Framework 4 and policy HD2 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 as the site is outwith the defined boundaries of the building group and sense of place and does not relate well to the existing houses within the building group in terms of spacing. The development would read as isolated and divorced from the building group, to the detriment of the character, amenity and setting of the building group.

Recommendation: Refused

0 The proposal is contrary to policy 17 of National Planning Framework 4 and policy HD2 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 as the site is outwith the defined boundaries of the building group and sense of place and does not relate well to the existing houses within the building group in terms of their spacing. The development would read as isolated and divorced from the group, to the detriment of the character, amenity and setting of the building group.

“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

Newtown St Boswells Melrose TD6 0SA Tel: Payments/General Enquiries 01835 825586 Email: regadmin@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 100632051-001

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: *	Georgia	Building Name:	37 One
Last Name: *	Burborough	Building Number:	37
Telephone Number: *	01896809455	Address 1 (Street): *	George Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	Scotland
		Postcode: *	EH2 2HN
Email Address: *	georgia@fergusonplanning.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Ms	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Elaine	Building Number:	6
Last Name: *	McKinney	Address 1 (Street): *	BURG. V. HEELENBURG
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Hilversum
Extension Number:		Country: *	Netherlands
Mobile Number:		Postcode: *	
Fax Number:			
Email Address: *	georgia@fergusonplanning.co.uk		

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	647631	Easting	359083

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)

Demolition of stable and erection of dwellinghouse.

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 a 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 refer to the supporting appeal statement and appendix enclosed.

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)

Appendix 1 of the Appeal Statement contains three 3D visualisations of the proposed development and a site plan showing where the viewpoints are taken from. These have been provided in response to the reason for refusal.

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)

- Appeal Statement with Appendix Documents from Original Planning Application - SBC Decision Notice and Officers Report - Architectural Drawings • Location Plan • Proposed Site Plan • Proposed Plans • Proposed Elevations - Supporting Planning Statement - Statement Addressing Neighbour Consultation Responses - Statement in Response to Lead Planning Officer's Comments

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/01905/FUL

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

12/12/2022

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

20/04/2023

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)

As the reason for refusal is focused on how 'well related' the site is to the building group, we believe this can only be determined via a site visit.

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

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

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: Ms Georgia Burborough

Declaration Date: 14/06/2023

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GOING THE EXTRA MILE

APPEAL STATEMENT

NEW DWELLING AT WHITEBURN STABLES

June 2023

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1. INTRODUCTION

1.1 This statement, prepared by Ferguson Planning (the agent) on behalf Elaine McKinney (the appellant), sets out the grounds of appeal against the decision of the Scottish Borders Council (SBC) to refuse an application for planning permission at Whiteburn Stables, TD2 6SQ (the site) under LPA Reference 22/01905/FUL on 20 April 2023.

1.2 The detailed planning application sought the "*Demolition of stable and erection of dwellinghouse*" at the site, which is owned by the appellant.

1.3 The SBC had one reason for refusal of the application:

"*The proposal is contrary to policy 17 of National Planning Framework 4 and policy HD2 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 as the site is outwith the defined boundaries of the building group and sense of place and does not relate well to the existing houses within the building group in terms of their spacing. The development would read as isolated and divorced from the group, to the detriment of the character, amenity and setting of the building group*".

1.4 Other technical consultees commented as follows:

Consultee	Response
Roads Planning	Following the initial response from SBC Roads, a revised access plan was provided with an original secondary access omitted and confirmation provided that access to the site would be via the shared private driveway which the appellant has legal rights of access over. The Roads Officer indicated the removal of the secondary access would allow them to look more favourably upon application.
Scottish Water	No objection

1.5 To illustrate how the proposed dwelling will appear within the building group at Whiteburn, the appellant has provided architectural 3D renders of the proposed development in this context. An updated site plan has provided to illustrate the viewpoints the visualisations capture. We request that the LRB accept these as part of their review.

1.6 The Appellant invites the LRB Members to undertake a site visit to help in their understanding of the subject site in its context and to complement the assessment provided in this statement.

1.7 The remaining sections in this appeal statement comprise:

A description of the appeal site and surrounding context (Section 2)

A description of the proposed development (Section 3)

The appellant's grounds for appeal (Section 4)

Material considerations in favour of the appeal proposal (Section 5)

Summary of the appellant's case (Section 6)

1.8 This appeal statement should be read in the context of all supporting evidence documents submitted as appendices to this appeal statement, and all those from the previous planning application which are listed below:

Appendix to Appeal Statement (New Information)	Author
Appendix 1 – 3D Visualisations of Proposed Dwelling in Context of Building Group with Site Plan Showing Viewpoints	Quercus
Document from Original Planning Application	**Author**
SBC Decision Notice and Officers Report	SBC
Architectural Drawings Location Plan Proposed Site Plan Proposed Plans Proposed Elevations	Quercus
Supporting Planning Statement	Ferguson Planning
Statement Addressing Neighbour Consultation Responses	Ferguson Planning
Statement in Response to Lead Planning Officer's Comments	Ferguson Planning

1.9 This appeal is made to the Local Review Body on the basis it was a local application, which was determined by delegated powers. For the reasons outlined in this statement, we conclude that the development is in accordance with relevant

development plan policies and supported by significant material considerations. On that basis, we respectfully request that this appeal is allowed.

2. SITE LOCATION AND PLANNING CONTEXT

2.1 The site is located adjacent to the settlement at Whiteburn which is situated at the junction of the A697 and A6089 roads. Whiteburn currently consists of eight residential dwellings and various agricultural outbuildings. The surrounding area is rural in nature with another residential settlement situated at Pyatshaw, less than 1.0km to the north-west. The site's primary access is via a private road from the A697, located to the east of the existing building group and runs along the north of the group in parallel to the A697. Figure 1 shows an aerial image of this site in the wider landscape context and Figure 2 shows the access arrangement at a larger scale.

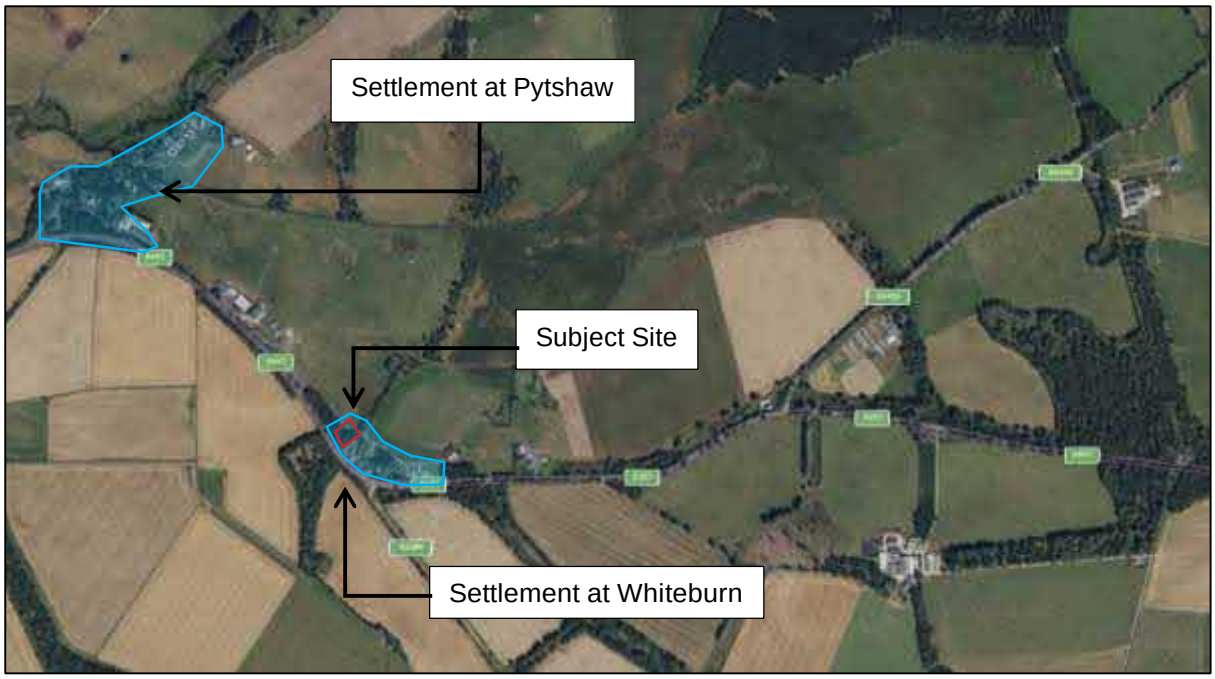

Figure 1. Landscape context of the subject site. Source: Bing Maps.

2.2 The site lies between 'The Roost', a residential dwelling with outbuildings in its curtilage, to the south-east and to the north-west, and paddocks which belong to the owners of 'The Roost' and contain farm sheds, a chicken hutch and are regularly used for motorised leisure recreation by the owners (shown in Figure 2). The access which links the 'The Roost' and these paddocks runs along the north-eastern and north-

western boundaries of the subject site. This layout is illustrated in Figure 2 and Figure 3 below.

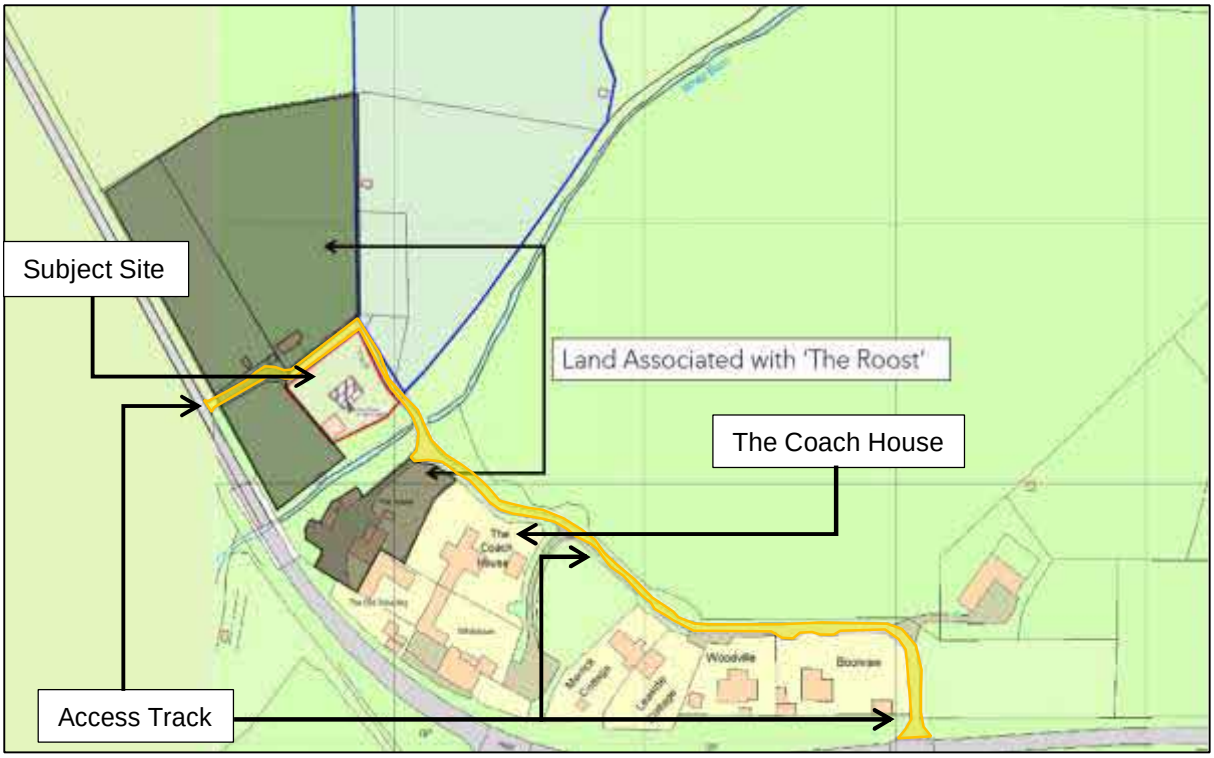

Figure 2. Subject site in context of 'The Roost' land holdings and access track containment. N.B. boundaries shown for illustrative purposes only. Source: Quercus.

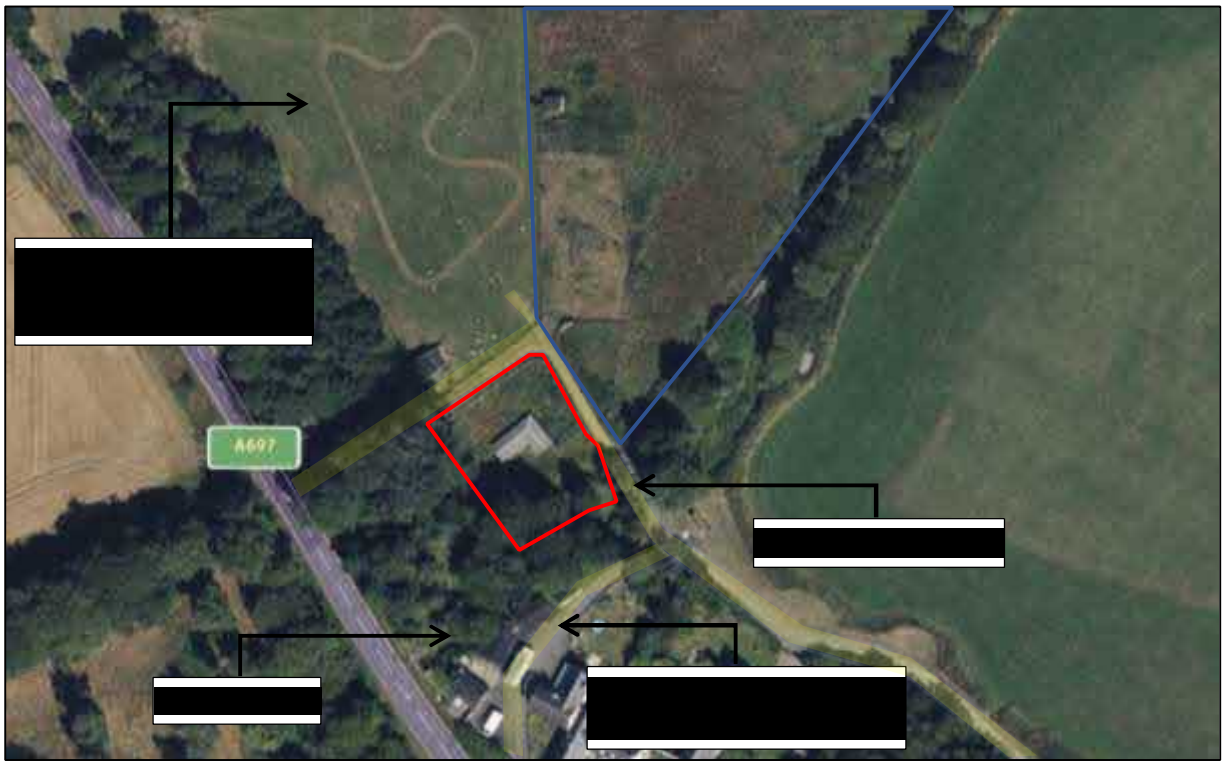

Figure 3. Relationship between subject site and 'The Roost'. Source: Bing Maps.

2.3 The subject site covers approximately 1000m^2 (0.1ha) and is generally flat with a gentle slope from the north down to the south towards the burn. The site contains an existing stable building located towards the centre of the site and a timber shed in the southern corner. The stables were constructed in 1992 and the timber shed in 1997. The site is enclosed by a post and rail fence. The Appellant also owns the field to the north of the subject site (outlined in blue in Figure 3 above).

2.4 The Appellant previously owned and occupied the Whiteburn Coach House (indicated in Figure 2) which was held in the same land title as the subject site and the field to the north. When the Appellant sold the Coach House in 2005, the Appellant retained ownership of the subject site and field to the north with full access rights.

2.5 On-site vegetation consists mainly of grass cover. The Appellant has a strong interest in the betterment of the environment and in an effort to improve the biodiversity and amenity of the area, she has undertaken significant planting of approximately 1800 trees throughout 2021 and 2022 across the northern portion of the subject site as well as within the adjacent land also under her ownership immediately to the north. There

are no 'important' trees (i.e., those with a stem diameter greater than 75mm at 1.5m above ground level) within the subject site.

2.6 The site was previously subject to a Section 50 Agreement, imposed in 1992 when planning permission was granted for three houses on the combined farms of Whiteburn, Dods and Pyatshaw. The FOURTH clause of the Section 50 Agreement stated that no further residential development shall be permitted on the sites except for dwellinghouses that have received planning permission with a condition that their occupancy be restricted to a person, or persons, employed in agriculture and their dependents. This approach is no longer recognised as representing best practice with the Scottish Government's Chief Planner writing to all Planning Authorities in November 2011 to advise their position that such occupancy restrictions secured by a legal agreement should be avoided and that the development plan should be relied upon to assess appropriate rural development.

2.7 An application to modify this obligation on the subject was made in tandem with the planning permission application and was approved on 23 February 2021. Therefore there is no longer any legal restriction on the development of the site.

2.8 It is noted that the same obligation has also been uplifted from an adjacent site (Land South East Of Applecross Pyatshaw Lauder) and a subsequent permission for the construction of a dwelling granted in 2016 under reference 15/00193/PPP.

2.9 Figures 4 – 7 are photos of the subject site as currently stands.

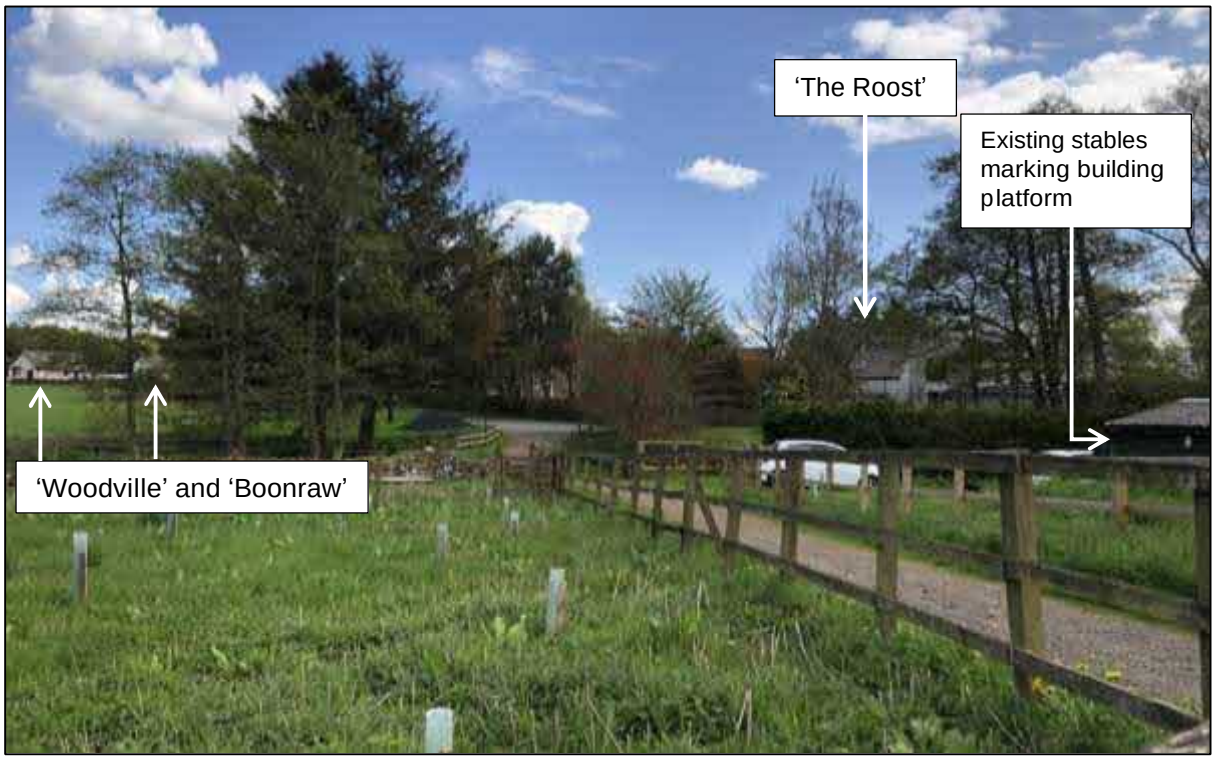

Figure 4. View of subject site from north-west looking towards building group at Whiteburn with 'The Roost', 'Woodville' and 'Boonraw' visible in background. Source: Ferguson Planning Site Visit.

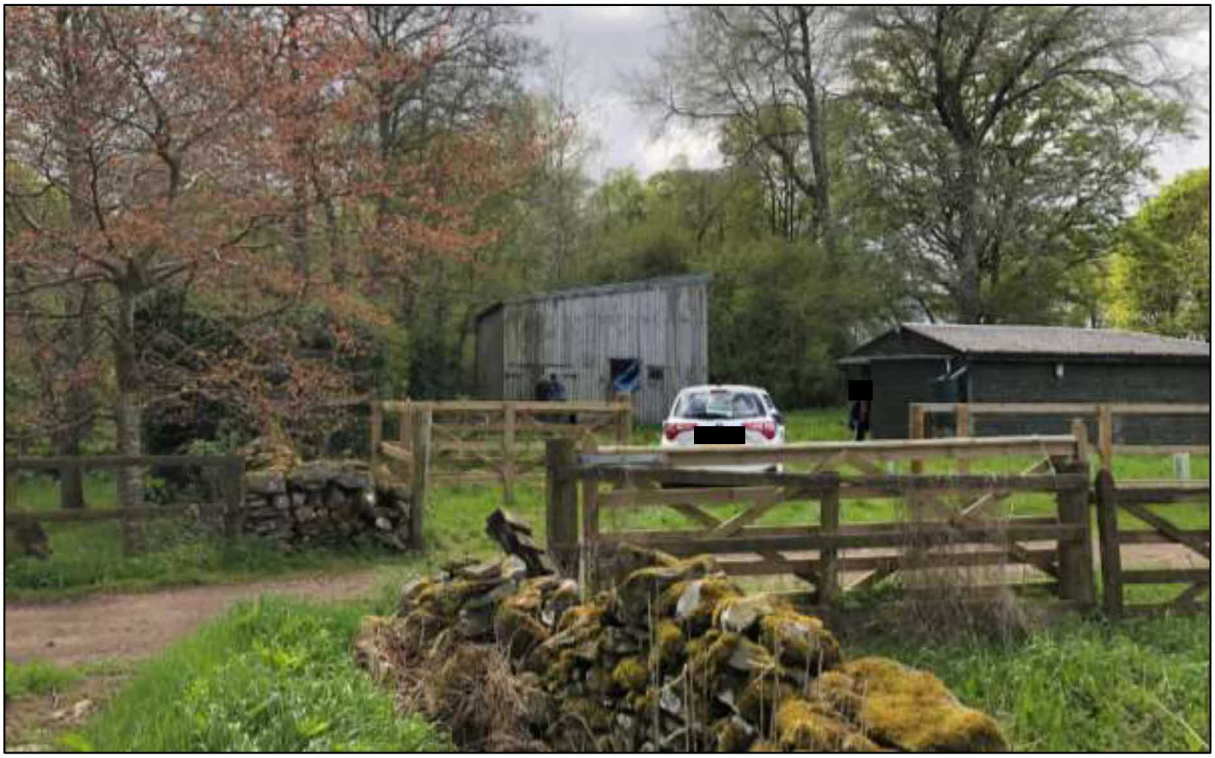

Figure 5. View of site from north-east down the side boundary towards the south-west. Source: Ferguson Planning Site Visit.

Figure 6. View of north-western corner of site showing trees already planting. Dwelling within Whiteburn building group visible in top-left of photo. Source: Ferguson Planning Site Visit.

Figure 7. South-eastern elevation of stables. Source: Appellant.

3. PROPOSED DEVELOPMENT

3.1 The provision of a home at this site would allow the Appellant to return to the Borders from overseas and be closer to her elderly mother and friends. The Appellant previously lived at the Whiteburn 'Coach House' which has given her and her three children a strong affinity for the area. The dwelling is not proposed to be utilised as holiday/short term commercial accommodation.

3.2 The stables to be demolished are a single storey, L-shaped in plan, and have a floor area of approximately 80m^2. The proposed dwelling would be a part 1/part 2-storey, 2-bedroom building constructed on piles above the stable's foundations with a 55m^2 footprint plus an 18m^2 covered deck and cantilevered balcony at the first floor.

3.3 The existing access arrangement to the site is via the private access which has a formed junction with the A697 approximately 250m to the east and is used to provide access to the other dwellings within the Whiteburn Building Group.

3.4 The dwelling has been designed to incorporate several energy efficient and low emission building technologies, including:

Constructing the dwelling on piles over the stable foundations,

The use of SIP Eco Panels for the exterior walls,

Composting toilets,

Detention and treatment of greywater in a landscaped soakaway,

Installation of solar panels on the roof and rainwater collection tanks (although the site does benefit from existing power and water supply to supplement this),

Triple glazing, and

The use of a wood burning stove/oven as a heat source.

3.5 Figure 8 shows the proposed elevations of the new dwelling.

3.6 Figures 9 –11 show the 3D visualisation of the proposed dwelling in the context of the Whiteburn Building Group.

Figure 8. Proposed elevations. Source: Quercus.

Figure 9. 3D Visualisation from the north-west. Source: Quercus.

Figure 10. 3D Visualisation from the south-east. Source: Quercus.

Figure 11. 3D Visualisation from the south-west. Source: Quercus.

4. GROUNDS OF APPEAL

SBC's Reason for Refusal

4.1 *The proposal is contrary to policy 17 of National Planning Framework 4 and policy HD2 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 as the site is outwith the defined boundaries of the building group and sense of place and does not relate well to the existing houses within the building group in terms of their spacing. The development would read as isolated and divorced from the group to the detriment of the character, amenity and setting of the building group*

Appellant's Response

4.2 Policy 17 of the NPF4 sets out eight situations for which development proposals for new homes in rural areas will be supported. Although 'extension to an existing building group' is not one of the situations specifically listed, Policy 17 does direct that LDPs should reflect locally appropriate delivery approaches. This makes clear that there is an allowance for local Planning Authorities to detail their own acceptable means for rural homes to be developed, such as SBC has with Policy HD2 of the LDP.

4.3 With regard to Policy HD2, there is agreement between the Council and the appellant that a building group exists. The officer states that, "*It is accepted that a building group exists at Whiteburn, as there are 8 existing houses. The main issues with this application is whether the site is considered to be within the natural and man-made boundaries of the building group and whether the proposal is well related to of houses within the building group in terms of spacing*". We address each issue in turn below.

4.4 Site lies within the natural and man-made boundaries of the building group

4.5 The Lead Planning Officer's Report of Handling identifies the northern and eastern boundaries of the Whiteburn building group as being defined by the private access road which is further emphasised by woodland to the east of the access and open fields to the north. The southern extent of the Whiteburn building group is identified by the Lead Planning Officer as the A697 road. We completely agree with the extent of the building group in these directions.

4.6 Where the Appellant disagrees is on the western extent of the building group. Accepting that the access track defines the northern and eastern building group

boundaries, then it follows that this same access track also forms the western extent to the group.

4.7 The Lead Planning Officer notes that:

The private access road that serves the existing houses from the east is hard surfaced and the character changes to a less formal farm track on the western side of the bridge over the burn. This track wraps around the north western boundary of the application site to the access onto the public road and is not substantial enough to form a strongly defined boundary to the building group.

4.8 Figures 12, 13 and 14 show the nature of the private access road. The standard of formation of the access is compacted surface overlain by gravel for much of its length before it reaches the burn with only a small section of driveway leading to 'The Roost' actually covered with tarmac.

Figure 12. Standard of access track formation to the east of 'The Roost'. Source: Ferguson Planning Site Visit.

Figure 13. Standard of access track formation as it passes 'The Roost'. Source: Ferguson Planning Site Visit.

Figure 14. Formation standard of access along boundary of the subject site. Source: Ferguson Planning Site Visit.

4.9 The Appellant contends that the private access track does represent a strong defining boundary of the building group as where it runs to the north of the subject site, it is of the same formation standard as it is for the majority of its length (bar the section leading immediately to 'The Roost').

4.10 In terms of natural boundaries, as shown in Figure 6 and more clearly in Figure 15 below, the Appellant has already undertaken significant planting along the north-western and north-eastern site boundaries. A condition of consent would be accepted to undertake further planting along here to enhance the landscape containment.

Figure 15. Site photo looking along the north-western boundary towards the corner of the site showing existing planting along boundaries. Source: Appellant.

4.11 Furthermore, as illustrated in Figures 2 and 3, the subject site is situated between two parcels of land under the same ownership. It has been established that 'The Roost' forms part of the Whiteburn Building Group and the proposed dwelling would lie between the residential dwelling at 'The Roost' and the agricultural outbuilding that are within the same land ownership. The Appellant has noted that the field to the north-west of the subject site is often used for recreation involving motorised vehicles by the occupants of 'The Roost' which is further evidence of it being linked directly and frequently used as ancillary amenity land for 'The Roost', and therefore, that the position of the subject site between is also within this group. The track used for the recreation involving motorised vehicles can be seen in the aerial image in Figure 3 of this statement. This arrangement is shown in Figure 16 below from which it is clear that the proposed building site would fit within the building group at Whiteburn.

Figure 16. Panorama of subject site between the dwelling at 'The Roost' to the left and outbuildings associated with 'The Roost' to the right. Source: Ferguson Planning Site Visit.

4.12 The Lead Planning Officer considered that:

Granting planning permission for a new dwellinghouse on this site would set a precedent for further housing development to the north west, as there is no clear boundary to the building group beyond the site.

4.13 We contend that the access road which runs along the north-western boundary of the subject site forms the extent of the building group in this direction and therefore limits further development beyond forming the same group. The existing boundary planting and the enhancement offered above would also ensure that the western extent of the building group was clear. In any case, as each planning application must be judged on its own merits, the granting of a dwelling at the subject site does not, in itself, mean that further dwellings could be constructed to the west.

4.14 Proposal is well related to of houses within the building group in terms of spacing

4.15 The Lead Planning Officer's Report of Handling states that:

The proposed dwellinghouse would be 45m from the nearest property within the building group, the Roost. This would not respect the spacing within the building group or its character, which is compact and well contained within the natural and man-made boundaries. The application site reads as being divorced from what is essentially, a complete building group, and would be outwith the sense of place.

4.16 As shown in Figure 17 below, there is no characteristic spacing between the other dwellings within the Whiteburn building group. The minimum separation distance between the proposed dwelling and 'The Roost' is the same, as the spacing between 'Whiteburn Farm House' and Merrick Cottage'.

4.17 As such, we consider it incorrect for the subject site to be characterised as being 'divorced' from the rest of the Whiteburn Group. Figure 4 also shows that due to the siting of the dwellings at Whiteburn, the proposed dwelling would be apparent within the same view as several of the other dwellings at Whiteburn, thus reinforcing the sense of place.

Figure 17. Spacing between dwellings within Whiteburn building group. Source: Quercus.

4.18 Figure 17 also shows how there is no characteristic or distinct distance that the other dwellings within the Whiteburn group are set back from the boundary of the A697.

The proposed dwelling would be a similar distance from the road as Merrick and Leaside cottages.

4.19 Furthermore, there is dense vegetation between 'Whiteburn Farm House' and 'Merrick Cottage', yet these properties have been confirmed as forming part of the same building group. The volume of vegetation between the subject site and 'The Roost' is not as great as that between these two dwellings. Figure 18 shows the spacing and vegetation as viewed from the junction of the A6089 and A697.

Figure 18. Distance between Whiteburn and Merrick Cottage as viewed from the A6089 intersection. Source: Ferguson Planning Site Visit.

4.20 The Lead Planning Officer's Report of Handling states that:

The building group is characterised by the traditional farmhouse, steading conversions and more modern houses, constructed of render, stone, tile and slate.

The proposal is for small scale dwellinghouse of a contemporary design with mono-pitched roofs, a balcony along the north west elevation, decking with a hot tub, black corrugated steel sheeting for the walls and roof, larch for the porch and a small area of sedum roof over the sun room.

The Planning Statement advises that the dwellinghouse would be constructed on piles over the stable foundations. The design and materials intend to reflect agricultural buildings in the surrounding area and to ensure the building recedes into the landscape.

The design and materials do not reflect the character of existing houses within the building group. No other houses within the building group have black corrugated steel

sheeting or mono-pitched roofs. However, as the development would be divorced from the building group such an approach can, on balance, be accepted.

4.21 The New Housing in the Borders Countryside SPG does encourage the design of new dwellings to take account of the widely appreciated and accepted traditions of Border house design. However, it caveats this by warning that the guidance should not be applied unthinkingly or across the board and recognises that there are circumstances where, with sound reasoned justification, a different solution, in terms of building form, proportion and materials, can legitimately be pursued. Innovative designs, therefore, which are sympathetic to their setting and to the general principles in respect of siting, will also be encouraged

4.22 The design of the dwellinghouse has been carefully considered and references many elements of the other dwellings in the Whiteburn building group and rural Borders housing generally, while representing a more compact and less resource intensive solution to a standard construction.

4.23 The proposed dwelling has a narrow frontage of approximately 4.8m and a depth of double this, creating a well-proportioned building which, in this way, is similar to that of traditional workers cottages.

4.24 The height of the proposed dwelling is in keeping with the built development in the surrounding area. For example, the dwelling in the Whiteburn building group, nearest the subject site, 'The Roost', possesses a two-storey western wing and 'The Coach House' and other buildings further east in the group are also of a reasonable height being two-storey or having enough height to allow for habitable space at the roof level.

4.25 The windows at the ground floor level of the dwellinghouse are vertically proportioned with multiple panes, an element of building design identified as desirable in the New Housing in the Borders Countryside SPG. The SPG also notes that porches are a common feature of housing in the countryside and encourages new porches to reference traditional styles. The proposed porch is simple and traditional in its form while also adding visual interest and breaking up the bulk of the building.

4.26 The exterior cladding materials and colour would be recessive in the environment with low reflectivity values to allow the building to be absorbed into its rural environment. Although none of the dwellings within the Whiteburn building group have a corrugated steel construction, the use of this material can be seen in the outbuildings

at ‘Boonraw’ and ‘The Roost’ as well as in the farm buildings at to the north-west of the subject site.

4.27 The restricted scale of the dwellinghouse, in conjunction with the materiality, gives it the feeling of an agricultural building which is entirely appropriate for its context, while the form, proportion and detailing directly references dwelling in the Whiteburn group and the Borders Countryside more generally.

4.28 The footprint of the proposed dwelling would be similar to that of the existing stable block and no greater than any of the other dwellings within the building group. As such, it would not appear obtrusive or dominant within its setting.

Other Matters Raised in the Report of Handling

4.29 Although not forming reasons for the refusal, the Lead Planning Officer's Report of Handling did comment on the following which we will now address in turn so that Members can see that there are no constraints relating to future development of the proposed site:

Part (F) of Policy HD2 of the LDP – Economic Requirement

Policy 9 of NPF4 – Brownfield, Vacant and Derelict Land and Empty Buildings

Policy PMD2 of the LDP and Bridge Stability

Policy EP13 – Trees

Policy IS9 – Waste Water Treatment Standards and Sustainable Urban Drainage

Part (F) of Policy HD2 of the LDP – Economic Requirement

4.30 Although it was noted in the original planning statement that by living on-site the Appellant would be better able to maintain the 1800 trees they recently planted, the justification for the dwelling is based on being part of a building group and not economic requirement.

Policy 9 of the NPF4

4.31 Policy 9(a) of NPF4 states that:

Development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account.

4.32 The Lead Officer's Report of Handling states that:

The site is a paddock with a stable block and barn within it and so it is accepted that this is a partially developed site. However, the buildings are not derelict and can be reused (the proposal seeks to retain the barn) and take up a small proportion of the paddock, which is laid to grass. It is contended that this is not brownfield land targeted by policy 9.

4.33 The definition of 'Brownfield' in NPF4 is:

Land which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused buildings and developed land within the settlement boundary where further intensification of use is considered acceptable.

4.34 To be 'brownfield' any buildings on the land do not need to be derelict, the land must only have been previously developed. This is the case for the subject site and therefore it is 'brownfield' as defined by NPF4.

4.35 Policy 9(a) of NPF4 supports the sustainable reuse of brownfield land. The use of the word 'including' is well established is planning case law as to mean that the description or words following it are not an exhaustive or limited list. As such, Policy 9(a) of NPF4 does not explicitly require the sustainable reuse of vacant and derelict buildings.

4.36 Policy 9(d) of NPF4 states that:

Development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses. Given the need to conserve embodied energy, demolition will be regarded as the least preferred option.

4.37 The wording of the Policy 9(d) does not go so far as to prohibit demolition.

4.38 The existing stables, due to their condition and construction method, would require a far greater input of resources to make habitable and bring up to a quality standard for modern living, including by retrofitting of energy efficiency measures, than the construction of the proposed dwelling which has been designed using materials with the lowest forms of embodied emissions and those suitable for reuse with minimal reprocessing. Measures, such as double glazing, thermal insulation, energy efficient heat source and solar panels will be incorporated within the new dwelling. This will result in an overall positive position in terms of future waste, carbon emissions and energy use.

<u>Policy PMD2 of the LDP, Bridge Stability and Sustainable Transport</u>

4.39 The Lead Planning Officer's Report of Handling states that:

A revised site plan has been submitted that removes the reference to the western access as an alternative access to the site. A condition could prevent use of this access by vehicles associated with the development.

4.40 The Appellant is agreeable to such a condition.

4.41 The Lead Planning Officer's Report of Handling states that:

Concern has been expressed within representations about the ability of the bridge over the White burn to cater for additional traffic, especially heavy construction vehicles and emergency vehicles due to its age and construction, and the damaging impact such additional traffic movements would have.

A note on the revised site plan states that during the construction works only light vehicles would be allowed to cross the bridge. The agent advises that the strength/stability of the bridge is considered a building warrant matter and is the responsibility of the owner to maintain it to the standard specified in their title deed (able to withstand up to 3.5 tonnes). This matter has not been pursued as the principle of the proposal is not acceptable but could be investigated further by way of a structural report secured by condition.

4.42 As submitted as part of the original submission, the appellant has legal rights of access across the bridge for light vehicles up to 3.5 tonnes. It is also noted by the Appellant that this bridge, which provides the route between 'The Roost' and the fields within the same land holding to the west of the subject site, has in the past been crossed by tractors and lorries delivering/picking up livestock with no incident.

4.43 Nevertheless, the Appellant is agreeable to such a condition to confirm the stability of the bridge.

4.44 The Lead Planning Officer's Report of Handling states that:

It can also be argued that a house built in this rural location that would be dependent on the private car is not wholly sustainable.

4.45 While we accept that, we consider that the sustainable building measures and extensive planting already undertaken on site, means that the development, as a whole, will have a minimal environmental impact.

4.46 Furthermore, although not within the immediate vicinity, the site is within an 8-minute drive from Lauder which is served by local and regional bus services which provide links to the Tweedbank Train Station.

Policy 13 - Trees

4.47 The Lead Planning Officer's Report of Handling states that:

The revised site plan indicates that there are 2 trees of note within the site (those with a stem diameter greater than 75mm at 1.5m above ground level), though the canopy spread or root protection areas (RPA) are not accurately shown. It should be possible to locate the house, access, parking and services outwith the RPA of these trees (now that no upgrading works are required for the western access) and a condition would secure an accurate tree survey and tree protection measures for the construction phase.

4.48 Submitted with this appeal and copied as Figure 19 below, is a site plan that more accurately locates the two trees of note. These are both outwith the site boundary. However, as there is potential that their root protection areas are within the site, the applicant is agreeable to such a condition to prove these will not be impacted by the proposed development.

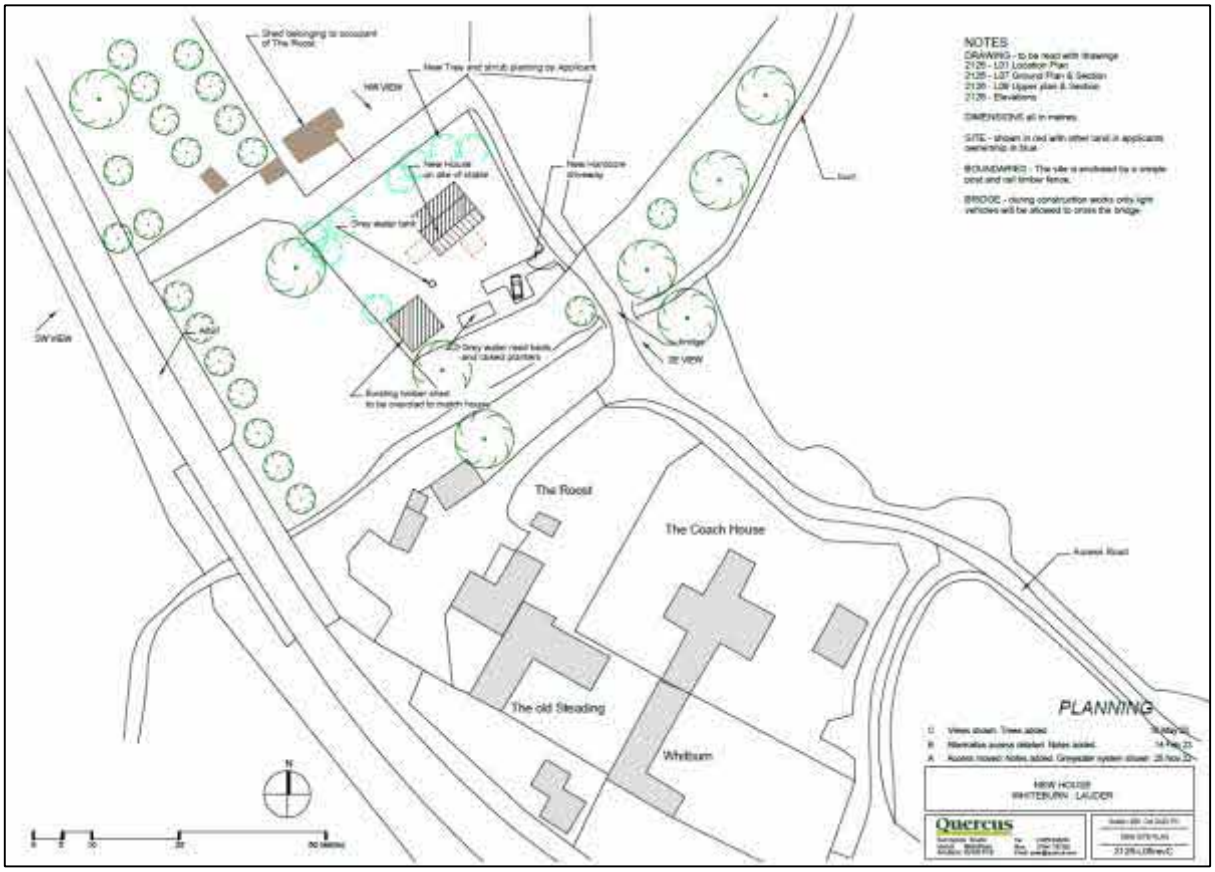

Figure 19. Site plan. Source: Quercus.

Policy IS9 - Waste Water Treatment Standards and Sustainable Urban Drainage

4.49 The Lead Planning Officer's Report of Handling states that:

The Planning Statement advises that there is already an electricity and water supply to the site. Rainwater collection tanks would supply water for the development. Grey water would collected in a tank to the south west of the dwelling and discharged in a controlled manner to a landscaped bed to be treated and detained before draining into the soil through the use of a soakaway. Foul sewage waste from the compositing toilets will be used to fertilise the trees recently planted by the applicant.

The exact details would be agreed via the Building Warrant process.

4.50 This approach is agreed with.

Neighbour Objections

4.51 In total, 13 'neighbour' objections were received – noting some were submitted on behalf of two individuals and some neighbours submitted multiple times. The reasons for objecting have been broadly grouped and set out in the table below with the Appellant's response.

Neighbour Objection	Appellant's Response
Modification to Planning Obligation	As addressed in paragraphs 2.6 – 2.7 of this statement, the modification to the planning obligation has already b approved and there are no legal restrictions on the development of t subject site.
Maximum Number of Dwellings in Building Group	This issue was resolved during the processing of the planning applicatio The building group is comprised o 8 existing houses with none being constructed or approved during the current LDP period. As per LDP Poli HD2, there is capacity for two additiona dwellings to be added.
Boundary of Building Group	As addressed in paragraphs 4.1 – 4.18 of this statement, our contention is that the proposed dwelling does lie within natural and man-made boundaries of the building group at Whiteburn.
Use of Building	As stated in the initial planning application and reiterated in this statement, the use of the prop building as is a standard reside dwelling – not as a holiday let.

Design of Building	As addressed in paragraphs 4.19 – 4.27 of this statement, the building has bee designed not to appear as a pastiche c other buildings within the group but t use elements of their design, and othe rural buildings in the wider area, to create a dwelling which is complementar appearance and scale.
Servicing, Infrastructure and Flood Risk	The Scottish Environment Protection Agency (SEPA) are the statutory body for flood management in Scotland and maintain flood maps for publi development purposes. Based on available maps, the site does not fall in an area at risk of flooding by any source. The servicing of the site, in terms of storm water and waste water disposal, will b through on-site methods. As addressed in paragraph 4.48 of this statement, th details of this will be secured at buildinç warrant stage.
Transport and Access	As addressed in paragraphs 4.38 – 4.42 of this statement, access to the site will be solely via the existing private road to the east of the site. Given the nature of the proposed construction, only light-weight vehicles will be required to cross bridge, as allowed by the Appellant's deed of access.
Light and Noise Pollution	Paragraphs 5.10 – 5.13 of this statement address this matter. To summarise, the proposed development will not result i a reduction in the level of reside amenity experienced at the adjac sites.

4.52 It is noted that only the 'Boundary of Building Group' formed the SBC's Lead Planning Officer's reason for refusal, nevertheless, all these concerns have been addressed throughout this appeal statement and the documents submitted in support of the original application.

5. MATERIAL CONSIDERATIONS IN FAVOUR OF THE APPEAL PROPOSAL

National Spatial Strategy

5.1 The National Spatial Strategy underpinning NPF4 is expressed by six overarching spatial principles, the most relevant to this application is *Rural Revitalisation.* This principle is to encourage sustainable development in rural areas, recognising the need to grow and support urban and rural communities together. The spatial strategy and policies of NPF4 support development that helps to retain and increase the population of rural areas in Scotland.

5.2 The provision of a new dwelling at Whiteburn fulfils the NPF4's vision for rural revitalization as it will increase the local population with flow on benefits to local services and economy, thus supporting the rural community.

NPF4 Policy 16 –Quality Homes

5.3 Annex A –How to Use This Document, sets the intent that the NPF4 be read as a whole. It is for the decision maker to determine what weight to attach to policies on a case-by-case basis. Where a policy states that development will be supported, it is in principle, and it is for the decision maker to take into account all other relevant policies.

5.4 As such, it is not only Policy 17 of the NPF4 which is pertinent to the principle of the development in this instance, but also Policy 16 –Quality Homes.

5.5 Criterion c) of Policy 16 of the NPF4 is as follows:

Development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and which address identified gaps in provision, will be supported. This could include:

i. self-provided homes;

ii. accessible, adaptable and wheelchair accessible homes;

iii. build to rent;

iv. affordable homes;

v. a range of size of homes such as those for larger families;

vi. homes for older people, including supported accommodation, care homes and sheltered housing;

vii. homes for people undertaking further and higher education; and

viii. homes for other specialist groups such as service personnel.

5.6 The proposal is in accordance with Policy 16(c)(i) as it will be a self-provided home. Given the scale and nature of the proposal house, there is no possibility of it being delivered by a housebuilder or other corporate developer. Development of the new dwelling would be delivered on a self-build basis – either by the Appellant or a successor in title.

Compliance with Policies Regarding Landscape Visual Impact and Residential Amenity of Adjacent Sites

5.7 Policy 14 of NPF 4 requires development proposals to be designed to improve the quality of an area, whether urban or rural locations and regardless of scale. Proposals will be supported where they are consistent with the 6 qualities of successful places: healthy, pleasant, connected, distinctive, sustainable and adaptable.

5.8 In the Lead Planning Officer's Report of Handling, it is commented that:

The site would be well screened by existing trees and woodland and so the visual impact would not be significant, provided the trees are retained.

5.9 We would go further to say that the proposal represents a high quality addition to the local area and would make a positive contribution to its appearance. Nevertheless, it is agreed that existing established trees and, in time, those planted by the Appellant will provide visual screening of the site.

5.10 Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

5.11 The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new household developments to ensure that proposals do not adversely affect the residential amenities of occupants of neighbouring properties.

5.12 The separation distance between the proposed building platform and the nearest residential dwelling, and the restricted scale of the proposed development, the level of residential amenity experienced at the surrounding sites would not be impacted.

5.13 This is agreed with. In the Lead Planning Officer's Report of Handling.

6. CONCLUSIONS

6.1 The submitted appeal, supported by this statement, seeks the Local Review Body's approval for '*demolition of stable and erection of dwellinghouse*' at Site Adjacent to The Steading Whiteburn Farm, Lauder, Scottish Borders.

6.2 For the reasons outlined in this statement and summarised below we believe the LRB should allow this appeal because:

The building site sits within the established Whiteburn Building Group and the proposal will enhance the building group's sense of place through additional planting along the western extent. This will also aid in precluding any further development beyond the boundary of the subject site.

The proposed building will be in keeping with the spacing evident between other dwellings within the Whiteburn Building Group and follows a similar pattern in relation to setback from the A697 road as two of the other dwellings in the group.

The proposal will allow for the well-being of the Appellant and contribute to the NPF4's spatial principle of Rural Revitalisation, by facilitating the Appellants relocation back to the area she raised her family in and where her elderly mother still resides.

The proposal is a sustainable use of brownfield land and will have a low impact on the environment due to its restricted scale and through the use of compostable toilets, on-site storm water management, the provision of solar PV panels, construction using highly insulated materials and use of an energy efficient heat source.

There will be no negative impact on the level of residential amenity experienced at any surrounding sites and safe, legal access is provided via the existing private vehicle access.

6.3 In contrast to the officer's report, we consider the proposal is in fact compliant with Policy 17 of the NPF4 and HD2(A) of the LDP. There are also several material planning considerations that weigh in its favour. We therefore respectfully request that this appeal is allowed by the Local Review Body on that basis.

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Proposal Details

Proposal Name	100632051
Proposal Description	Notice of review for the decision of the Scottish Borders Council (SBC) to refuse an application for planning permission at Whiteburn Stables, TD2 6SQ (the site) under LPA Reference 22/01905/FUL on 20 April 2023.
Address	
Local Authority	Scottish Borders Council
Application Online Reference	100632051-001

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

Attachment Details

Notice of Review	System	A4
FP Notice of review for 22_01905_FUL at Whiteburn Stables	Attached	Not Applicable
Appendix 1 - 3D visualisations	Attached	A0
Planning Statement for House at Whiteburn Stables	Attached	Not Applicable
Statement in Response to Lead Planning Officers Comments	Attached	Not Applicable
Statement Addressing Neighbour Consultation Responses	Attached	Not Applicable
Location Plan for Whiteburn Stables	Attached	A0
Site Plan	Attached	A0
Elevations	Attached	A0
Ground Floor Plan and Section A-A	Attached	A0
Upper Floor Plan and Section B-B	Attached	A0
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0

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FERGUSON PLANNING

RESIDENTIAL DEVELOPMENT AT WHITEBURN STABLES, WHITEBURN, BERWICKSHIRE, TD2 6SQ

ELAINE MCKINNEY

NOVEMBER 2022

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PLANNING

Residential Development at Whiteburn Stables, Whiteburn, Berwickshire

INTRODUCTION

INTRODUCTION

1.1 This Planning Statement, prepared by Ferguson Planning, is submitted to Scottish Borders Council on behalf of our client Elaine McKinney (the applicant) in support of an Application for Planning Permission at the Land at Whiteburn Stables, Whiteburn Lauder, Berwickshire, TD2 6SQ (the site).

1.2 The site is located adjacent to the west of the settlement at Whiteburn which is situated at the junction of the A697 and A6089 roads. Whiteburn currently consists of six residential dwellings and various agricultural outbuildings. The surrounding area is rural in nature with another residential settlement situated at Pyatshaw, less than 1.0km to the north-west. The site's primary access is via a private road from the A697, located to the east of the existing building group and runs along the north of the group in parallel to the A697. The site also has a secondary access to the north-west. The site location plan is provided as Figure 1 and Figure 2. The site is shown with a red outline while the land outlined in blue is also owned by the applicant but not the subject of this application.

1.3 The site covers approximately 1000m^2 and is generally flat with a gentle slope from the north down to the south towards the burn. The site is mostly covered by grass and trees with an existing stable building located approximately in the middle and a timber shed in the southern corner of the site. The stables were constructed in 1992 and the timber shed in 1997. The site is enclosed by a post and rail fence.

1.4 An aerial image of the site is shown in Figure 3. Figures 4 and 5 show the existing stables and timber shed.

1.5 The planning application submission relates to the demolition of the stable block and construction of one residential dwellinghouse in its place together with associated site works.

Figure 1. Site Location Plan showing the site in red and other land owned by the applicant, but not subject of this application, in blue (Source: Quercus).

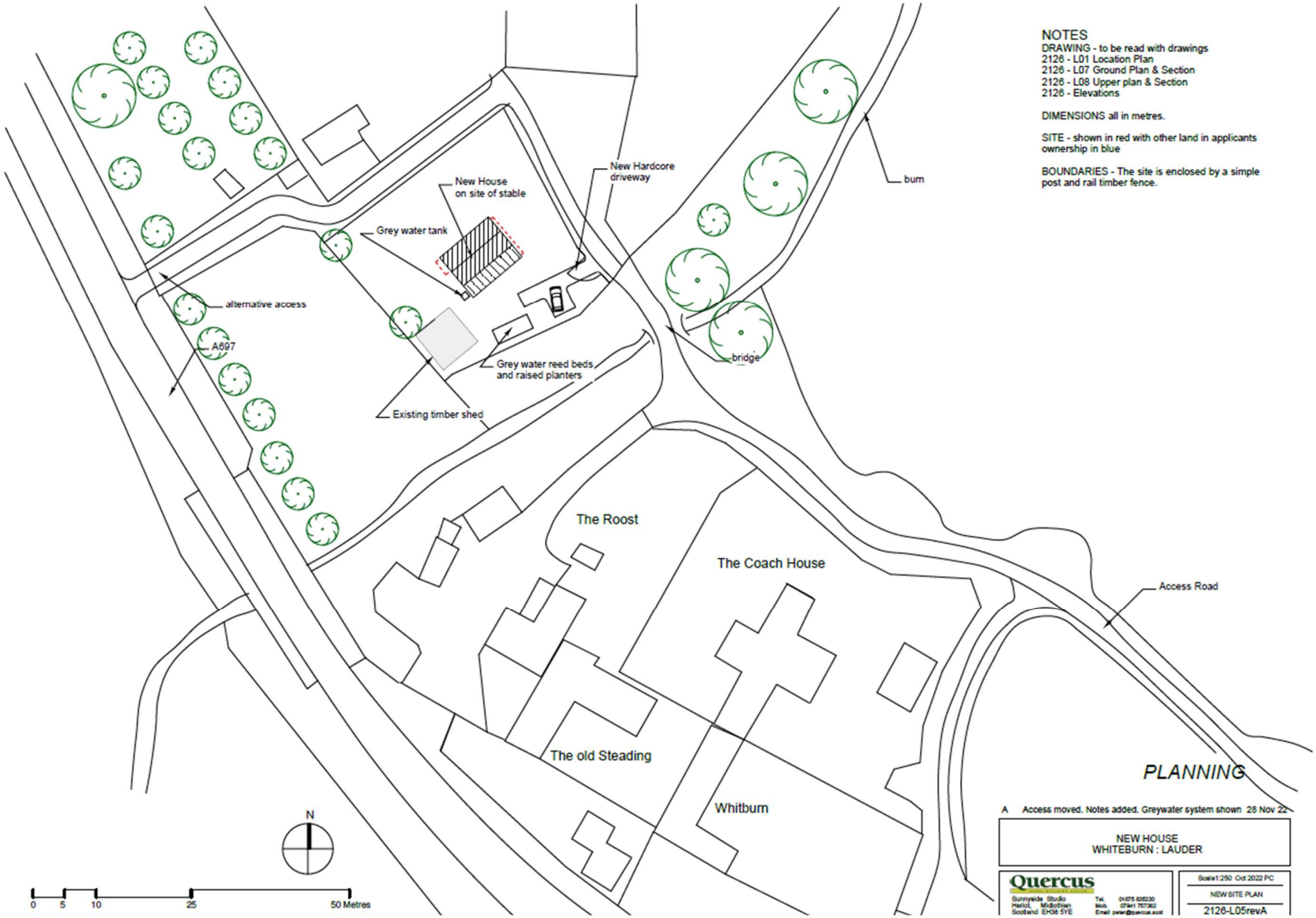

Figure 2. Site Plan (Source: Quercus).

Figure 3. Aerial image of site in red.

Figure 4. Photo of stables and timber shed as viewed from north-eastern direction.

Figure 5. Eastern elevation of stables.

Designations

1.6 In terms of heritage assets, there are no listed buildings on or within proximity to the site, nor is the site within a Conservation Area.

1.7 With reference to The Scottish Borders Local Development Plan (LDP) Policy Maps, the site holds no other designations or allocations.

1.8 The Scottish Environment Protection Agency (SEPA) are the statutory body for flood management in Scotland and maintain flood maps for public and development purposes. Based on the available maps, the site does not fall in an area at risk to flooding.

Planning History

1.9 From review of Scottish Borders Council online planning register, there has been no previous planning applications made for the site. The table below detailed planning applications on the adjacent sites.

Table 1: Past Applications

Reference	Address	Description	Decision	Date
19/00047/MOD75	Sites At Whiteburn Farm Lauder Scottish Borders	Discharge of planning obligation pursuant to planning permission B290/91 & E389/91	Approved	13 March 2019
Application: 11/00156/PPP & 11/00157/PPP Appeal: 11/00023/RREF & 11/00024/RREF	Plots 1 & 2 Land North Of Boonraw Whiteburn Lauder Scottish Borders	Erection of dwellinghouses	Local Review Board Appeal Dismissed	8 July 2011
20/01076/FUL	Land South East Of Applecross Pyatshaw Lauder Lauder Scottish Borders	Erection of dwellinghouse	Approved	21 April 2021
21/00402/MOD75	Land South East Of Applecross Pyatshaw Lauder Scottish Borders	Discharge of planning obligation pursuant to planning permission 15/00193/PPP and 20/01076/FUL	Approved	12 May 2021

1.10 The planning obligation referred to in the first application in the table above (reference 19/00047/MOD75) is applicable to the subject site.

1.11 In the early 1990s it is understood that Whiteburn, Dods and Pyatshaw Farms were within a single ownership. Two planning applications were submitted by the owner and approved as follows:

- 91/01624/OUT (B290/91) for 2 dwelling houses and garages at Whiteburn Farm, Westrurther.
- 91/01023/OUT (E389/91) for 1 dwelling and garage at Pyatshaw Farm, Lauder

1.12 Planning permission was granted for these two developments, subject to a section 50 agreement which includes a requirement that no further residential development will, at any time, be permitted on the subjects at Pyatshaw and Whiteburn, described with reference to legal titles and as indicated on Plan annexed to the Section 50 agreement, expect for dwellinghouses which are approved with a condition that the occupation is limited to a person employed in agriculture (the fourth schedule).

1.13 A separate application to modify this planning obligation, with respect to the subject site, will accompany this application for full planning permission.

1.14 The purpose of this statement is to provide detail of the proposal and set out the key material considerations in the determination of this application. The remainder of this statement is structured as follows:

- Section 2: The Proposal
- Section 3: Planning Policy
- Section 4: Planning Assessment
- Section 5: Conclusion

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Residential Development at Whiteburn Stables, Whiteburn, Berwickshire

THE PROPOSAL

THE PROPOSAL

2.1 This section sets out details of the proposed scheme which forms the subject of this planning application. The description of development is as follows:

"Application for Planning Permission for Demolition of Stable and Erection of a Residential Dwelling Together with associated Amenity, Parking, Infrastructure and Access at Whiteburn Stables, Whiteburn, Berwickshire"

2.2 The proposed development involves the demolition of the existing stables on the site which have a floor area of approximately 80m^2 and construction of a new, part 1/part 2-storey, 2-bedroom dwelling.

2.3 The proposed dwelling would have a ground floor area of approximately 71.5m^2 (including covered deck at the ground floor level) and have a maximum roof height of 5.9m, sloping to a minimum of 3.9m at the eaves. An approximately 25m^2 projecting balcony is proposed at the first floor with access gained via tri-folding doors in the upper hallway.

2.4 The exterior walls would be clad in black corrugated steel. The main roof and roof of the porch would also be constructed of corrugated steel. A sedum roof over part of the ground floor level roof is also proposed. An area of hardstanding for vehicle access and car parking is proposed adjacent to the eastern corner of the site.

2.5 The new house would be situated on the area of the existing stables with primary access gained over the existing private driveway which the applicant benefits from a right of way over. The secondary access directly from the A697 will also be retained.

2.6 The applicant has undertaken significant planting of approximately 1800 tress throughout 2021 and 2022 and the provision of a dwelling on the site would allow these to be maintained.

2.7 The applicant intends to employ a range of measures to reduce the environmental impact of the new dwellinghouse, including:

- Constructing the dwelling on piles over the stable foundations,
- Composting toilets,
- Detention and treatment of greywater in a landscaped soakway,
- Installation of solar panels on the roof and rainwater collection tanks (although the site does benefit from existing power and water supply to supplement this),
- Triple glazing, and
- The use of a wood burning stove/oven as a heat source.

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Residential Development at Whiteburn Stables, Whiteburn, Berwickshire

PLANNING POLICY

PLANNING POLICY

3.1 This section outlines the principle planning policy and other material considerations which provide the context for the determination of the proposed development.

The Scottish Borders Local Development Plan (2016)

3.2 The Scottish Borders Local Development Plan (LDP) was adopted on 12th May 2016 and sets out the policies on development and land use within the Scottish Borders.

3.3 The emerging Local Development Plan 2 for the Scottish Borders is at an advanced stage and was submitted to Scottish Ministers on 14 July 2022 for examination. As the plan is nearing adoption, it should be considered a material consideration.

3.4 The key policies under which the development will be assessed include:

- LDP Policy PMD1: Sustainability
- LDP Policy PMD2: Quality Standards
- LDP Policy HD2: Housing in the Countryside
- LDP Policy HD3: Protection of Residential Amenity
- LDP Policy HD4: Meeting the Housing Land Requirements/ Further Housing Land Safeguarding

3.5 Policy PMD1: Sustainability.
Policy PMD1 sets out the "sustainability principles which underpin all the Plan's policies" and that the Council expects to inform development proposals and planning decisions.

3.6 Policy PMD2: Quality Standards
The Policy sets out a range of sustainability, placemaking and design, accessibility and open space/ biodiversity requirements to ensure development is of a high quality and respects the environment in which it is contained

3.7 Policy HD2: Housing in the Countryside
This policy aims to primate appropriate rural housing development associated with existing building groups where this does not adversely affect their character or that of the surrounding area. Additional requirements for the provision of suitable road access are also applicable.

3.8 Policy HD3: Protection of Residential Amenity
The aim of this policy is to protect the amenity of both existing established residential areas and proposed new housing developments. Development that is deemed to have an adverse impact will not be permitted

3.9 Policy HD4: Meeting the Housing Land Requirements/ Further Housing Land Safeguarding
This policy, in conjunction with the Scottish Borders Council Supplementary Guidance: Housing (2017), sets out the need to provide for an estimated 811 units plus flexibility to meet the residual housing shortfall and therefore ensure that Scottish Borders Council has a 5 year effective housing land supply

Scottish Borders Council Supplementary Guidance: New Housing in the Borders Countryside (2008)

3.10 This SPG provides guidance on how location and siting of new housing, housing design and associated landscaping can be used to ensure that new housing in in accordance with a long term sustainable pattern of rural housing development that reduces the development of inappropriate isolated housing in the countryside, and directs development to identifiable building groups or to remote rural anchor points.

3.11 The SPG lists several criteria that should be met in order to ensure new housing development occurs in appropriate locations. The SPG further specifies that there is scope for adding to, or creating, small groups of housing in the countryside provided that they are sympathetic in terms of scale, proportion and materials to other buildings in the locality.

Case Law

3.12 In the reasonings of the decision of the Local review Body to uphold the decision to refuse planning permission for new dwellinghouses at Plots 1 and 2 Land North of Boonraw, Whiteburn, Lauder (references detailed in Table 1), the following was noted:

> *Members were of the view that the group had a tight, linear and compact appearance and that there were strong boundaries that enclosed it. To the east and west this was formed by existing tree belts and to the south by the A697 road. They acknowledged that the access track to the north edge of the group, and southern boundaries of the plots, was a relatively recent construction but were content that it constituted a distinct and defendable edge to the building group, that should not be breached.*

3.13 The assessment in Section 4 of this report will provide a comparison of the current proposal to those refused for the reasons provided above.

Revised Draft NPF4

3.14 On 8 November 2022, The Revised Draft National Planning Framework was laid in the Scottish Parliament for approval along with an Explanatory Report that outlines the changes from Draft NPF4 to the Revised Draft. The NPF plan seeks to encourage rural investment, encouraging development to contribute to the viability, sustainability and diversity of rural economies and communities. It very much supports sustainable rural housing.

Scottish Planning Policy (SPP) 2014

3.15 SPP creates a presumption in favour of sustainable development and establishes that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term.

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Residential Development at Whiteburn Stables, Whiteburn, Berwickshire

PLANNING ASSESSMENT

PLANNING ASSESSMENT

4.1 This section of the statement sets out the key planning considerations arising from the proposal. It provides a reasoned justification for the development in the context of the adopted Local Development Plan and other relevant planning policy. It should be read together with the wider planning application package reports and drawings.

Principle of Development

4.2 The subject site sits adjacent to the established building group at Whiteburn which is comprised of six dwellings. As such, there is capacity under Policy HD2(A) for up to two additional dwellings to be approved. There are no approved/unimplemented planning permissions that would allow for any new dwellinghouses to be constructed, therefore the threshold would not be breached by this application.

4.3 In their decision on the proposed dwellings at Plots 1 and 2 Land North of Boonraw, Whiteburn, Lauder, the Local Review Body stated that the private access track and the A697 formed the northern and southern boundaries of the Whiteburn building group, respectively.

4.4 The subject site sits within these defined and accepted northern and southern boundaries and therefore would relate well to the building group in this aspect.

4.5 The access track continues along the northern boundary of the subject site and then makes a 90° turn and runs parallel to the site's western boundary before joining the A697 where the secondary/alternative access to the site is. As the access road has been accepted as forming the northern boundary of the building group, it follows that it should also be considered as the western boundary. Figure 5 illustrates the considered building group.

4.6 It is acknowledged that natural boundaries to building groups are typically preferred over manmade. Aside from the fact that the man-made access road has been accepted by the Local Review Board, the western boundary of the subject site has also been planted extensively by the applicant which further delineates this as the western edge of the building group. Figures 6 and 7 show examples of the planting undertaken.

4.7 There is no consistent separation between the other dwellinghouses within the Whiteburn Farm group with distances ranging from approximately 10m to 60m. As such, the distance between the proposed dwelling and the Roost of approximately 45m would not result in it appearing as a distinct outlier.

4.8 The setback from the A697 road boundary of the proposed dwelling is directly comparable to that of the other buildings within the defined group. The development would not be within an undeveloped field, nor would it project into open countryside.

4.9 The proposed dwelling will sit on a similar footprint to that of the existing stable block and thus the landscape impact will be largely as is today. There would be limited glimpses from any local receptor points.

4.10 Figure 8 shows the siting of the two dwellings refused planning permission under Application: 11/00156/PPP & 11/00157/PPP and Appeal: 11/00023/RREF & 11/00024/RREF.

Figure 5. Aerial image of building group boundaries.

Figure 6. Photo of planting to the north of the site, access track in left of photo.

Figure 7. Photo of planting on the subject site.

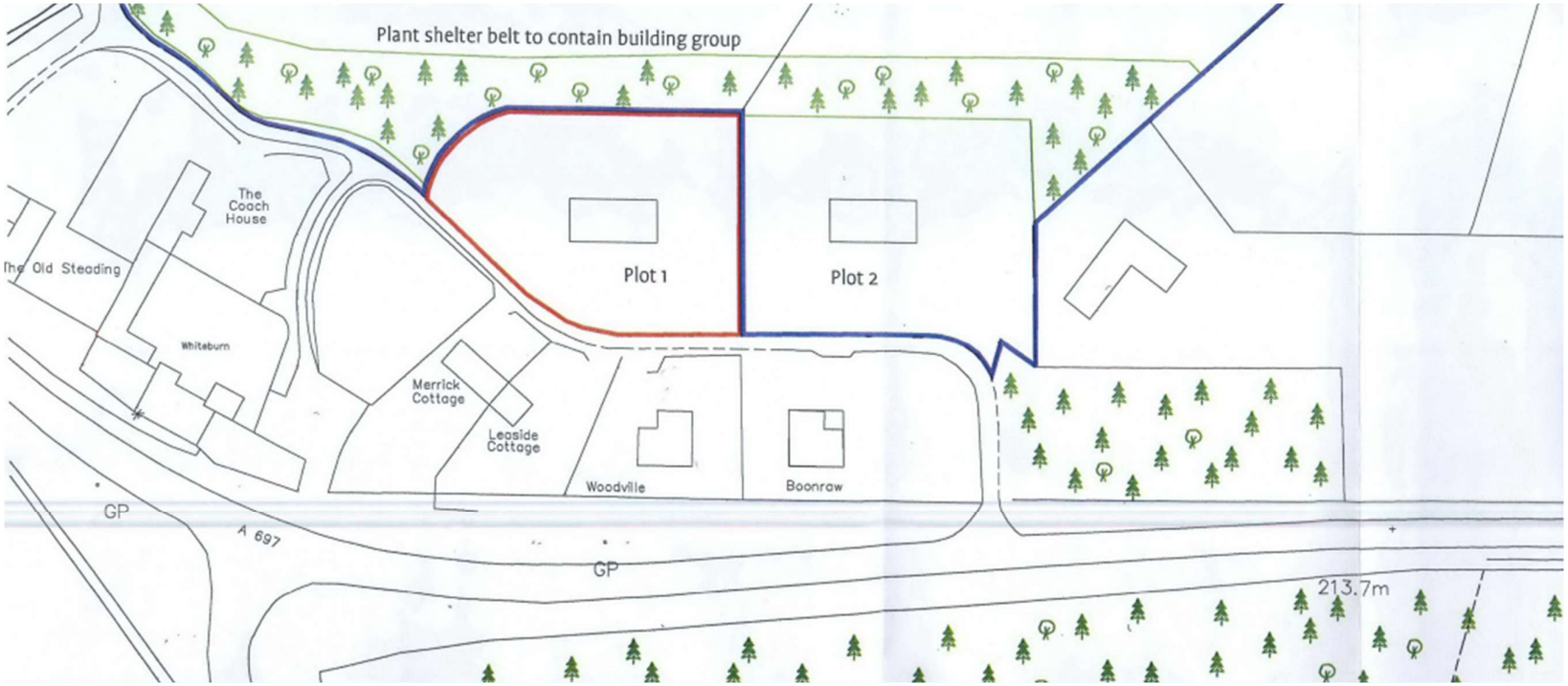

Figure 8. Proposed site plan refused under Application: 11/00156/PPP & 11/00157/PPP and Appeal: 11/00023/RREF & 11/00024/RREF.

4.11 In contrast to the development in Figure 8, the dwelling proposed by this development is contained within the perimeter that the LRB considered defined the building and will not project into a previously undeveloped field or open countryside. As such, the reasons for the refusal and dismissed appeal are not applicable to this proposal.

4.12 For the reasons above, the proposal is considered to be consistent with Policy PMD1 and HD2(A) of the LDP.

4.13 The proposal will also contribute to the Scottish Borders Council's effective housing land supply and is therefore consistent with Policy HD4 of the LDP.

Siting, Design, Materiality and Residential Amenity

4.14 As demonstrated in Figure 5, the proposed dwelling would be contained by the existing private access road to the north, the secondary private access to the west, the A697 to the south and to the east would be the rest of the building group it would form part of. The position within the existing building group would further reduce the visual impact of the new dwelling on the countryside location

4.15 By being constructed on the footprint of the existing stable blocks, the visual impact of the new dwellinghouse would be tempered as a building in this location already forms part of the established environmental context. Furthermore, significant vegetation and the timber shed on the site are intended to be retained and would provide visual screening of the new dwellinghouse from the public viewpoints along the A697 Road.

4.16 The design of the dwellinghouse has been carefully considered and references a simple, monopitch farm shed (the likes of which can be seen in the building group directly adjoining the site to the north-west).

4.17 The windows at the ground floor level of the dwellinghouse are vertically proportioned with multiple panes, an element of building design identified as desirable in the New Housing in the Borders Countryside SPG. That same SPG notes that porches are a common feature of housing in the countryside and encourages new porches to reference traditional styles. The proposed porch is simple and traditional in its form while also adding visual interest and breaking up the bulk of the building.

4.18 The exterior cladding materials and colour would be recessive in the environment with low reflectivity values to allow the building to be absorbed into its rural environment. The restricted scale of the dwellinghouse would also contribute to this.

4.19 The footprint of the proposed dwelling would be similar to that of the existing stable block and no greater than any of the other dwellings within the building group. As such, it would not appear obtrusive or dominant within its setting.

4.20 The depth and width of the proposed dwellinghouse are approximately even, thus creating a building that is proportionate and, in this way, similar to traditional workers cottages.

4.21 The nearest dwelling in the Whiteburn building Group, The Roost, possesses a two-storey wing nearest the boundary of the subject site and 'The Coach House' and other buildings further east in the group are also of a reasonable height as to allow for accommodation in the roof level or a second storey. Similarly to the above, the proposed height of the dwellinghouse would be in keeping with the built development in the surrounding area.

4.22 As detailed in section 2 of this report, the design and materiality of the dwellinghouse will ensure it respects and complements its countryside setting.

4.23 The extensive planting undertaken by the applicant, in conjunction with existing vegetation, would not only contribute to its containment within the building group but would also provide an element of screening thus tempering the visual impact of the development from public viewpoints as well as from the fields to the north and west.

4.24 The design of the dwellinghouse would provide a high-quality living environment for future occupants.

4.25 The location of the new dwellinghouse would allow an appropriate separation distance of approximately 45m between it and the nearest other dwelling ('The Roost'). This would ensure that the level of residential amenity experienced at that site would not be impacted.

4.26 For the reasons above, the proposal is considered to be consistent with Policy PMD2, HD2 and HD3 of the LDP.

Access and Parking

4.27 The applicant intends to use the existing track to the north of the site as the primary access. There is adequate maneuvering space on the site to allow for vehicles to enter and exit without reversing onto the access road or A697. Adequate space for on-site car parking would also be provided.

4.28 A condition specifying the standard of formation of the alternative access would be accepted.

Sustainability and Servicing

4.29 The Revised Draft NPF4 places a significant emphasis on the need for The proposal intends to support a sustainable form of development through the interventions listed in paragraph 2.7 of this report.

4.30 Although there is an existing connection to water and power, the applicant intends for the development to primarily be self-sustained, with connections to the existing infrastructure retained but not relied upon entirely.

4.31 Rainwater will be collected and store in appropriately sized rainwater collection tank and used as fresh water supply for the site. This accords with Scottish Water's 'Preferred Option 1' in their Surface Water Policy.

4.32 Grey water from the development will be conveyed and collected in an appropriately sized tank to the south-west of the dwelling and discharged in a controlled manner to a landscaped bed to be treated and detained before draining into the soil through the use of a soakaway.

4.33 Foul sewage waste from the compositing toilets will be used to fertilise the approximately 1800 tress recently planted on the site.

4.34 As noted above, the provision of the dwelling will enable the applicant to tend to and manage the significant planting they have undertaken on their land. Policy 29(a)(x) of the Revised Draft NPF4 supports development proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy will be supported, including improvement or restoration of the natural environment.

4.35 For these reasons, the proposal is considered to be consistent with Policy PMD1 of the LDP and Policy 29 of the Revised Draft NPF4.

Economic Benefits

4.36 The proposal will support local jobs with the applicant committed to appointing local tradesmen, creating economic benefits during the construction process.

FERGUSON
PLANNING

Residential Development at Whiteburn Stables, Whiteburn, Berwickshire

CONCLUSION

CONCLUSION

5.1 An Application for Full Planning Permission for the erection of a single dwelling together with associated infrastructure on the site at Whiteburn Stables, is considered acceptable when viewed against appropriate planning policy.

5.2 The proposal represents the enlargement of an existing Building Group by one dwelling upon a site which is well related to the existing built form. The siting, design and materiality of the dwelling will ensure it is in keeping with the character and appearance of the subject site and the wider area.

5.3 The proposed dwelling has been carefully positioned and designed ensuring there is a good level of amenity for future occupiers whilst safeguarding the level of residential amenity experienced by the owners'/occupiers' of the adjacent sites.

5.4 The Planning Authority is respectfully requested to approve this application which is in accordance with the relevant policies of the LDP, associated supplementary planning guidance and the Revised Draft NPF4.

FERGUSON PLANNING

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Appendix 1 – 3D Visualisations

Shed belonging to occupant of The Roost

NW VIEW

New Tree and shrub planting by Applicant

New House on site of stable

New Hardcore driveway

burn

Grey water tank

SW VIEW

A697

Grey water reed beds and raised planters

bridge

SE VIEW

Existing timber shed to be overclad to match house

The Roost

The Coach House

Access Road

The old Steading

Whitburn

N

0 5 10 25 50 Metres

Page 116

NOTES

DRAWING - to be read with drawings
2126 - L01 Location Plan
2126 - L07 Ground Plan & Section
2126 - L08 Upper plan & Section
2126 - Elevations

DIMENSIONS all in metres.

SITE - shown in red with other land in applicants ownership in blue

BOUNDARIES - The site is enclosed by a simple post and rail timber fence.

BRIDGE - during construction works only light vehicles will be allowed to cross the bridge

PLANNING

C	Views shown. Trees added	16 May 23
B	Alternative access deleted. Notes added	14 Feb 23
A	Access moved. Notes added. Greywater system shown	28 Nov 22

NEW HOUSE
WHITEBURN : LAUDER

Quercus
RURAL BUILDING DESIGN
Sunnyside Studio
Heriot, Midlothian
Scotland EH38 5YE
Tel. 01875 835220
Mob. 07941 757382
Email peter@quercus.scot

Scale1:250 Oct 2022 PC

NEW SITE PLAN

2126-L05revC

NORTH WEST VIEW

SOUTH EAST VIEW

SOUTH WEST VIEW

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Georgia Burborough

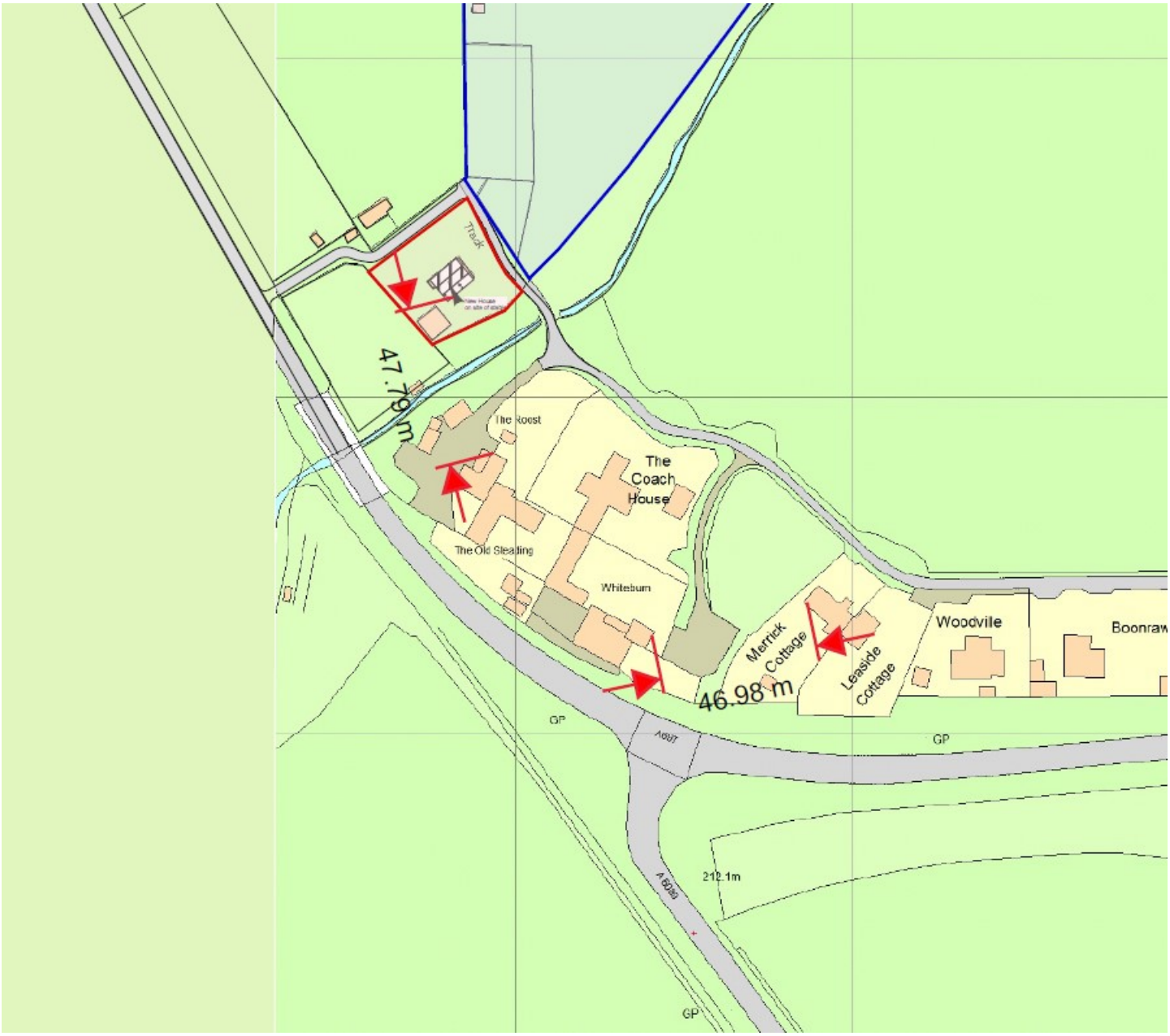
From: Georgia Burborough
Sent: 24 February 2023 15:15
To: Hayward, Julie
Subject: RE: [OFFICIAL] 22/01905/FUL: Site Adjacent The Steading Whiteburn Farm Lauder
Attachments: image001.jpg; image002.jpg; image003.jpg; image004.jpg; image005.jpg; image006.jpg; 2126-L05B(Plan).pdf; 2126-L09C(Plan).pdf

Dear Julie,

Thank you for suspending the issuing of the decision on this application to allow for the further information and amended plans to be provided.

To address the points raised, please see the below:

1. Building Group Boundaries:
    a. We still consider that as previous applications for development immediately to the north of Whiteburn set the northern extent as the access track then it follows that as this track crosses the burn, the boundary of the building group follows it too. So explicitly we see the track as defining the extent of the building group.
    b. As evidenced by the significant planting the applicant has voluntarily undertaken on her properties, we would be open to discussing further landscape containment to the north-western site boundary if this would aid in demonstrating the extent of the building group. There are already trees planted to the north of the land parcel - sample on photos provided.
    c. As shown in the marked up location plan below, the spacing between the proposed dwelling and the nearest existing dwelling is similar to the spacing between 'Merrick Cottage' and its neighbour to the west. It is also clear there is no characteristic spacing of the group against which the proposed building site would appear 'divorced'.
2. Access and Traffic:
    a. Please find attached amended site layout plan with the western access omitted. You will also see in the 'notes' that the bridge is to be restricted for only light good vehicles (ie. Under 3.5 tonnes) to cross.
    b. The applicant's deed to the site confirms the applicant has legal access via this track. A copy of the deed can be provided under confidential cover if requested.
    c. The strength/stability of the bridge is considered a building warrant matter and is up to the owner of the bridge to maintain it to the standard specified in the deed (e.g. able to withstand up to 3.5 tonnes).
3. Trees:
    a. The site plan attached also shows the location of existing important trees (i.e. those with a stem diameter greater than 75mm at 1.5m above ground level) on or adjacent to the site. The area proposed to be developed for the house, access, parking and servicing are not in proximity to any such trees. The only other trees on site are those that the applicant planted recently. Any materials, vehicles or machinery required for construction will also be kept far from the important trees.
    b. If it would provide comfort, a condition of consent requiring a Tree Constraints Plan to be submitted confirming the above prior to development (including demolition) could be imposed.
4. Solar Panels
    a. Please find attached amended elevation drawings showing solar PV panels on the roof of the dwelling.
    b. If required, a condition could be imposed stating that manufacturers specification be submitted prior to construction for approval by Council.



I look forward to hearing your thoughts on the above.

Warm regards
Georgia

From: Hayward, Julie <JHayward2@scotborders.gov.uk>
Sent: Thursday, February 16, 2023 10:30 AM
To: Georgia Burborough <Georgia@fergusonplanning.co.uk>
Subject: RE: [OFFICIAL] 22/01905/FUL: Site Adjacent The Steading Whiteburn Farm Lauder

Good morning

Thank you for your e-mail. I will keep the application on hold until this further information/revised drawings have been submitted.

Julie

Julie Hayward
Team Leader
Development Management
Planning, Housing and Related Services
Corporate Improvement and Economy
Scottish Borders Council

Tel: 01835 825585

E-mail: jhayward2@scotborders.gov.uk

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From: Georgia Burborough <Georgia@fergusonplanning.co.uk>
Sent: 15 February 2023 15:02
To: Hayward, Julie <JHayward2@scotborders.gov.uk>
Subject: RE: [OFFICIAL] 22/01905/FUL: Site Adjacent The Steading Whiteburn Farm Lauder

CAUTION: External Email

Hi Julie,

Thank you for waiting for our response.

Although disappointed with your view on the extent of the building group, it is accepted and assume that it is unlikely to be overcome by any further information or mitigation we offer at this point and, as such, the decision will be for a refusal. Can you please confirm.

If this is the case, we would like to address the other points below (access, trees and solar panels) so that the objection from the Roads Planning Officer can be removed and the only remaining reason for refusal to be inconsistency with Policy HD2.

There are no trees within or overhanging the area where building or servicing is proposed as you would have seen on your site visit and we will update the site plan to explicitly state this.

We will also update the site plan to remove the western access route. The applicant has a deed of right for access across the bridge up to 3.5 tonne. We will provide a copy of the deed showing this and confirmation from contractors that they can complete the project without any need for materials or machinery to exceed that limit.

Solar panels will be shown on a revised elevation drawing.

I will endeavour to provide the above by the end of this week so as to not hold up the issuing of the decision.

Warm regards
Georgia

From: Georgia Burborough
Sent: Monday, February 13, 2023 12:05 PM
To: Hayward, Julie <JHayward2@scotborders.gov.uk>
Subject: RE: [OFFICIAL] 22/01905/FUL: Site Adjacent The Steading Whiteburn Farm Lauder

Dear Julie,

Thank you very much for your email.

All clear and understood, we are going to have a chat with the applicant on the points raised below and revert back to you with our response.

Warm regards
Georgia

From: Hayward, Julie <JHayward2@scotborders.gov.uk>
Sent: 10 February 2023 18:18
To: Georgia Burborough <Georgia@fergusonplanning.co.uk>
Subject: [OFFICIAL] 22/01905/FUL: Site Adjacent The Steading Whiteburn Farm Lauder

Good afternoon

I refer to the above planning application submitted on behalf of Ms Elaine McKinney and I apologise for the delay on coming back to you.

The consultation responses and representations received can be viewed on public access.

Having considered the proposal, I have the following comments to make:

It is accepted that a building group exists at Whiteburn, as there are 8 existing houses, however, it is considered that the site is outwith the natural and man-made boundaries of the building group. To the west, it is clear that the burn, trees/woodland and hedge form the boundary of the building group. The building group is characterised the farmhouse, converted farm steading buildings and new dwellings contained within a strip of land between the A697 to the south and the private access road to the north and east. The site is considered to be outwith this sense of place. In addition, the spacing does not respect the compact nature of the building group and a house on the application site would appear divorced from the existing houses, to the detriment of the character of the building group.

For these reason, the proposal is considered to be contrary to policy HD2 of the Local Development Plan 2016 and the application cannot be supported.

The Roads Planning Service objects to the proposed use of the westerly access for the reasons set out in their consultation response. This must be removed from the site plan in order for the Roads Planning Service to remove their objection. A number of representations have expressed concern that the bridge over the burn is not capable of serving additional traffic, especially construction traffic. As the Roads Planning Service would not approve this proposal if it utilises the western access, I would advise that the stability and suitability of the bridge is investigated.

There are trees within and overhanging the application site. No tree survey or Arboricultural Assessment has been submitted in respect of the new house, access, driveway, parking, turning or services.

The Planning Statement refers to solar panels but none are shown on the building or site plan.

Developer contributions would be required towards education (Earlston High School: £4,088 and Lauder Primary School: £8,898). These would be secured by a legal agreement, should the application be approved.

I will wait to hear from you before determining the application.

Thanks

Julie

Julie Hayward
Team Leader
Development Management
Planning, Housing and Related Services
Corporate Improvement and Economy
Scottish Borders Council

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E: georgia@fergusonplanning.co.uk
M: 07477864216

Julie Hayward
Environment and Infrastructure
Council Headquarters
Newtown St Boswells TD6 0SA

23 January 2023

Scottish Borders Council Planning Ref: 22/01905/FUL

DEMOLITION OF STABLE AND ERECTION OF DWELLINGHOUSE AT SITE ADJACENT THE STEADING WHITEBURN FARM LAUDER

The application for full planning permission above was validated by Scottish Borders Council on 13 December 2022. Neighbour consultation expired on 5 January 2023, notification of the development to neighbour unknown via advertisement was made and expired on 19 January 2023. Internal consultations were also made.

We have reviewed the representations made by the neighbours and consultees and the aim of this letter is to adequately address the concerns raised therein. It is noted that many of the objections from the neighbours contain reasons that are not material planning considerations and may instead be reflective of difficult interpersonal relationships. Past conflict between the applicant and neighbours, due to the applicant declining to sell their land, may also have a bearing on the number of objections received. The matters raised that are not planning considerations will not be addressed in this statement as they are deemed irrelevant.

The concerns can be grouped into the areas as below. This letter will address these in turn and make reference to the planning statement submitted with the application which it is to be read in conjunction with.

- Modification to Planning Obligation
- Maximum Number of Dwellings in Building Group
- Boundary of Building Group

- Use of Building
- Design of Building
- Servicing, Infrastructure and Flood Risk
- Transport and Access
- Light and Noise Pollution

1. Modification of Planning Obligation

   As set out in the planning statement submitted in favour of application reference 22/01937/MOD75, the FOURTH clause of Minute of Agreement between Scottish Borders Council (stated as the former Borders Regional Council) and Philip Neville Grindell, Julian Mark Grindell and Christopher Philip Grindell (and their successors) dated April 18 1992 and April 27 1992, recorded in the General Register of Sasines on May 7 1992 is considered, in the present day, to be unreasonable, unnecessary and not well related to the development which was permitted in 1992.

   The restriction on occupancy contained within this clause is contrary to the 2011 directive from the Scottish Government Chief Planner, Paragraph 83 of the Scottish Planning Policy (2014) and Circular 3/2012 (as revised November 2020): Planning Obligations and Good Neighbour Agreements.

   A plan led system allows for decision to be made on the individual merit of cases. Policy HD2 of the LDP provides the mechanism for this to occur. As such, although related, the presence of the planning obligation does not prevent the granting of planning permission for the current proposal.

   The modification of the obligation in itself does not set a precedent or allow a free for all on residential development. Any such applications will still require planning permission and to be in accordance with the development plan policies in order to be approved.

2. Maximum Number of Dwellings in Building Group

   We accept an error was made in the planning statement submitted in support of 22/01905/FUL in that the number of existing dwellings within the Whiteburn group is 8, rather than 6.

   The applicable policy, Policy HD2 of the LDP, does not set a total limit of houses within a group, but rather allows for either 2 additional houses to be added to a group, or an increase of 30%. The existing number of dwellings in the housing group is based on the LDP period, which, in this case, is 2016. No record of unimplemented or expired consents for approved additional dwellings has been found. Therefore, based on an existing building group of 8 houses, 2 additional dwellings can be added, therefore bringing the total in the group to 10.

The proposal is within this limit.

3. Boundary of Building Group and Design
   There seems to be agreement in the response from neighbours as to the northern, southern and eastern boundaries of the building group at Whiteburn, these being the private access road and the A697. The proposed dwelling at Whiteburn Stables will sit within these.

   Where opinions differ is to where the western extent of the building group should be. The planning statement submitted in support of the application sets out our argument as to where the western boundary of the building group lies.

   The planning statement also provides robust reasoning as to the detail, siting, scale, materiality and overall design of the proposed dwelling.

4. Use of/Reason for Building
   The proposal is for the construction of a standard residential dwellinghouse. The application is not for use as a short term let or holiday accommodation. The current living situation of the applicant is not a material planning consideration in this regard.

   The use of the building for any other purposes would require additional consent, the merits of which would be assessed at that time. It is unreasonable for this to form a material planning consideration in the present case.

   Similarly, a condition removing permitted development rights for the building in terms of extensions could be imposed, requiring any further such proposals to seek planning permission at which stage they too could be assessed on their own merits.

   Neighbours have stated that a justification for the dwelling based on the need for the applicant to maintain the on-site planting is not well founded. It is acknowledged that LDP Policy HD2(F) may allow for housing that is essential for agriculture horticulture, forestry or other enterprises appropriate to a countryside location to be located in the countryside, however, the current proposal is not reliant on this.

   Our reference to the significant planting that the applicant has undertaken is to demonstrate the level of investment and commitment of the applicant to creating an environmentally sustainable site with biodiversity benefits. This was not intended to show an economic requirement for the applicant to reside on site, merely to illustrate that a benefit in terms of ease of maintenance would occur. The planting also provides a suitable natural setting for the proposed development.

5. Servicing and Infrastructure
   The proposed development has been designed to manage as much of the servicing and infrastructure requirement on-site, for example, through the use of a grey-water treatment system and solar panels. This will ensure minimal impact on the services at the adjacent sites.

   The grey water treatment system will be designed and maintained so that untreated grey water is not discharged to any water ways and a condition of consent to ensure this may be imposed.

   The use of a composting toilet will also ensure effluent does not enter adjacent properties or water ways.

   However, the applicant is open to discussion about providing specialist input to demonstrate that there will be no detrimental impact on the environment from the proposed servicing.

6. Transport and Access
   The applicant enjoys full, legal access rights to the subject site via the existing private access road. The access rights permit vehicles of up to 3.5 tonnes to travel over the bridge across the White Burn. There is no clause in the access rights agreement that restricts the purpose or in what circumstances, vehicles can use the road.

   There is no restriction on the volume of traffic that the applicant can create in accessing their site. The applicant has rights to use the track as they wish, be it for residential or non-residential purposes. As such, concerns from neighbours related to the disturbance from vehicles associated with residential use of the site should hold little weight.

   As the access road is not owned by the Council. the standard of formation and maintenance is a private matter and not a material planning consideration. In the past, requests for payments to be made to contribute to the upkeep of the access track have been made.

   Council's Roads Planning Officer provided a consultation response which noted that *'… previous correspondence from the Roads Planning Service have indicated that there is capacity for the existing private junction with the A697 for an increased number of vehicles..'.*

   The western access, as stated in the planning statement, is an existing point of entry to the subject site from the A697. It is not intended for this to be used for ordinary residential access to the site. There may be potential use of this access during construction, where the use of vehicles to transport material exceeding the 3.5 tonne weight limit imposed on the bridge over the White Burn are necessary. A condition of consent may be imposed stipulating that the private access to the east of the site be used as the primary access.

Yours faithfully,

[redacted]

Ferguson Planning

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SITE LOCATION PLAN
AREA 25 HA
SCALE 1:2500 on A4

Site in red
Other land owned by the applicant in blue

Supplied by Streetwise Maps Ltd
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0 25 50 125 250 Metres

PLANNING

N

NEW HUT
WHITEBURN :LAUDER

Quercus RURAL BUILDING DESIGN
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Scotland EH38 5YE
Tel. 01875 835220
Mob. 07941 757382
Email peter@quercus.scot

Scale1:2500 Oct 2022 PC

Location Plan

2126-L01

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New House
on site of stable

New Hardcore
driveway

burn

Grey water tank

alternative access

A697

bridge

Grey water reed beds
and raised planters

Existing timber shed

The Roost

The Coach House

Access Road

The old Steading

Whitburn

N

0 5 10 25 50 Metres

NOTES

DRAWING - to be read with drawings
2126 - L01 Location Plan
2126 - L07 Ground Plan & Section
2126 - L08 Upper plan & Section
2126 - Elevations

DIMENSIONS all in metres.

SITE - shown in red with other land in applicants ownership in blue

BOUNDARIES - The site is enclosed by a simple post and rail timber fence.

PLANNING

A Access moved. Notes added. Greywater system shown 28 Nov 22

NEW HOUSE
WHITEBURN : LAUDER

Quercus
RURAL BUILDING DESIGN
Sunnyside Studio
Heriot, Midlothian
Scotland EH38 5YE
Tel. 01875 835220
Mob. 07941 757382
Email peter@quercus.scot

Scale1:250 Oct 2022 PC

NEW SITE PLAN

2126-L05revA

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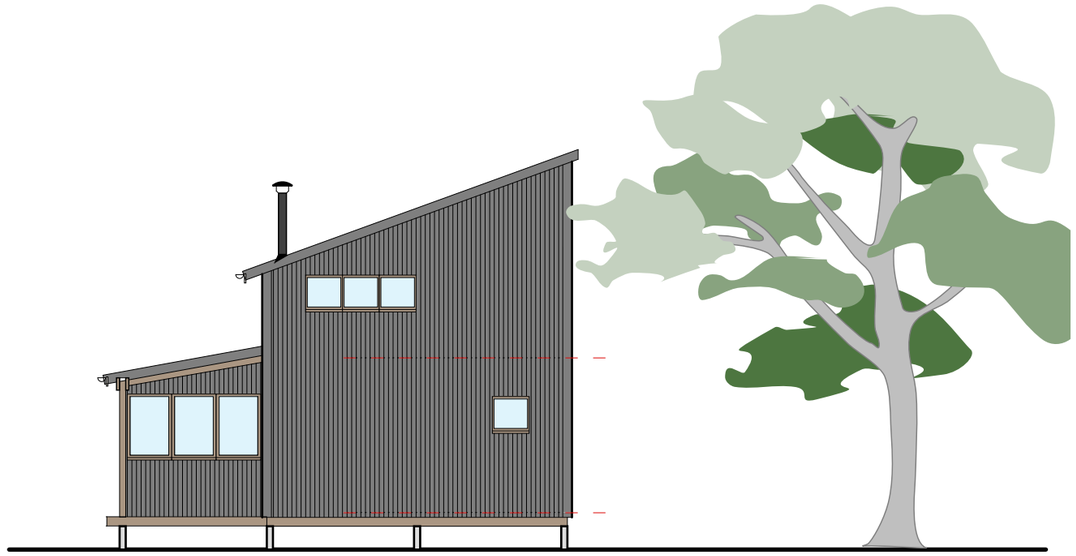
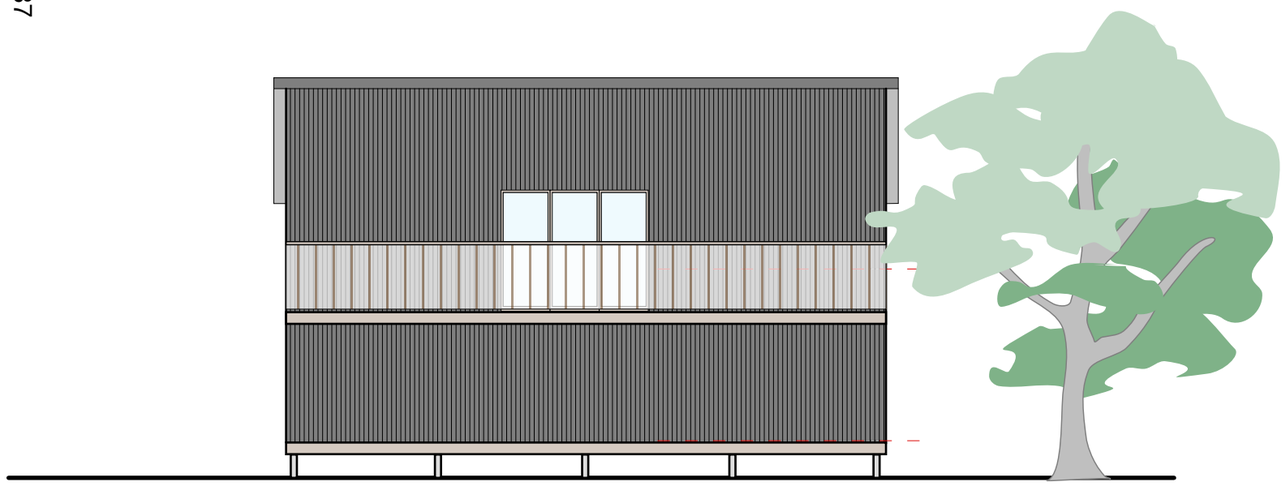
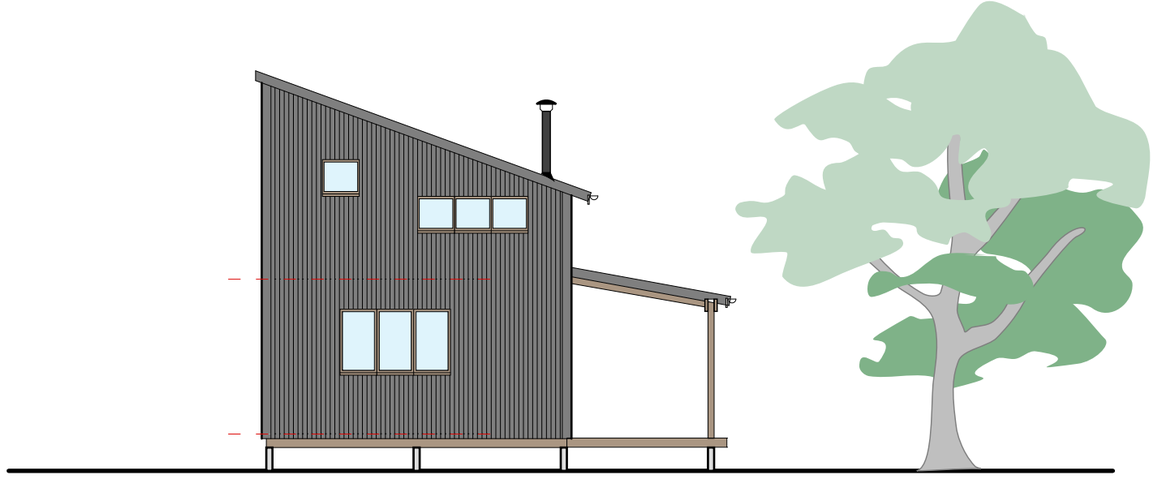
SOUTH EAST



NORTH EAST



NORTH WEST



SOUTH WEST

NOTES

DRAWING - To be read with
2126 - L07 Ground Floor & Section
2126 - L08 Upper Floor & Section

CONSTRUCTION - Structural Insulated Panel (SIPS) kit on galvanised steel screw foundations

MATERIALS - Walls: corrugated steel sheet colour Black
Roof; corrugated steel sheet colour Black
Roof to porch: as main roof with sedum roof over room
Porch from untreated Larch
Windows and doors Aluclad timber with triple glazing.

SCALE OF METRES

0 0.5 1 2.5 5 Metres

PLANNING

A Window to NE Elevation moved. Balcony added 28 Nov 22

NEW HOUSE
WHITEBURN : LAUDER

Quercus
RURAL BUILDING DESIGN
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Heriot, Midlothian
Scotland EH38 5YE
Tel. 01875 835220
Mob. 07941 757382
Email peter@quercus.scot

Scale1:100 Oct 2022 PC

ELEVATIONS

2126-L09revA

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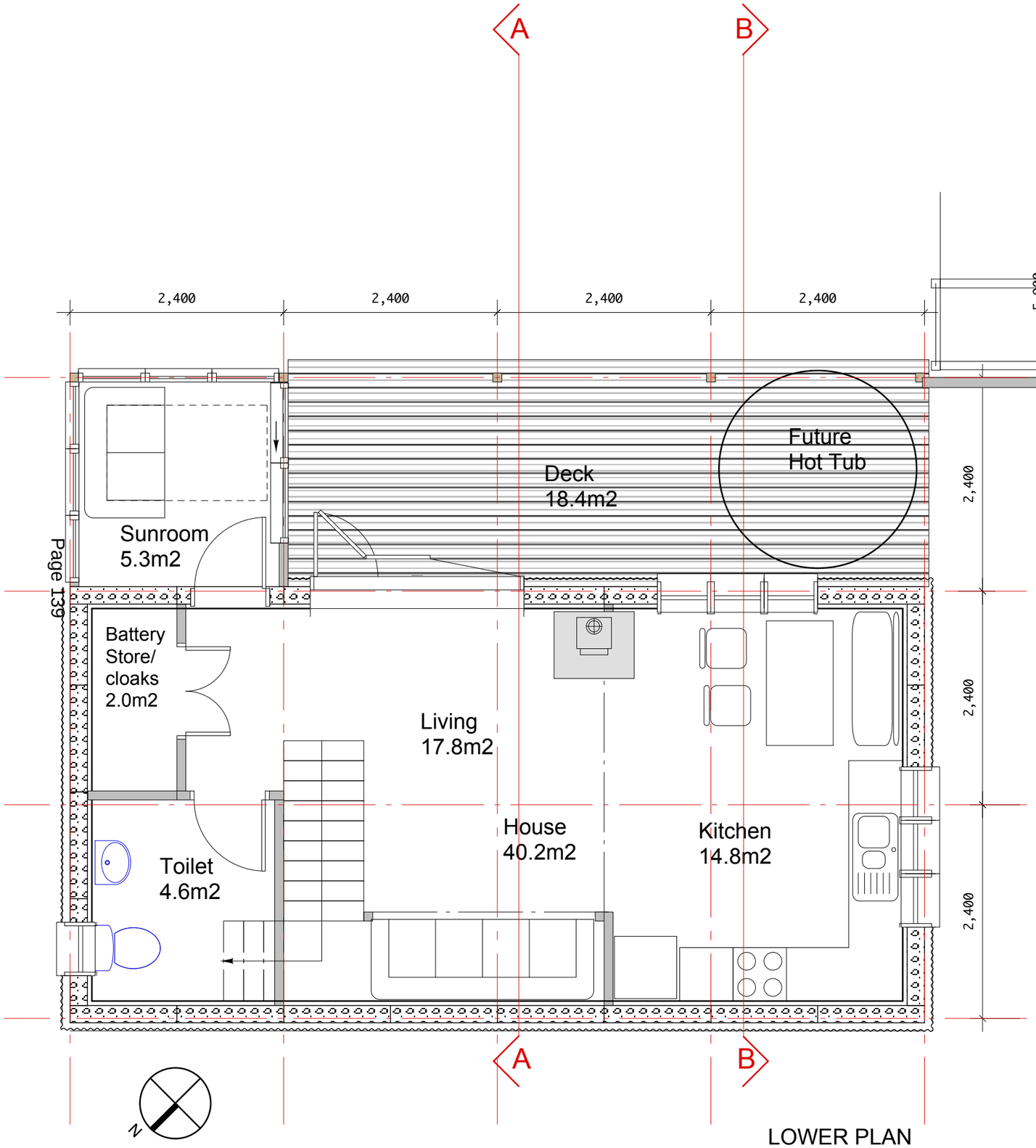
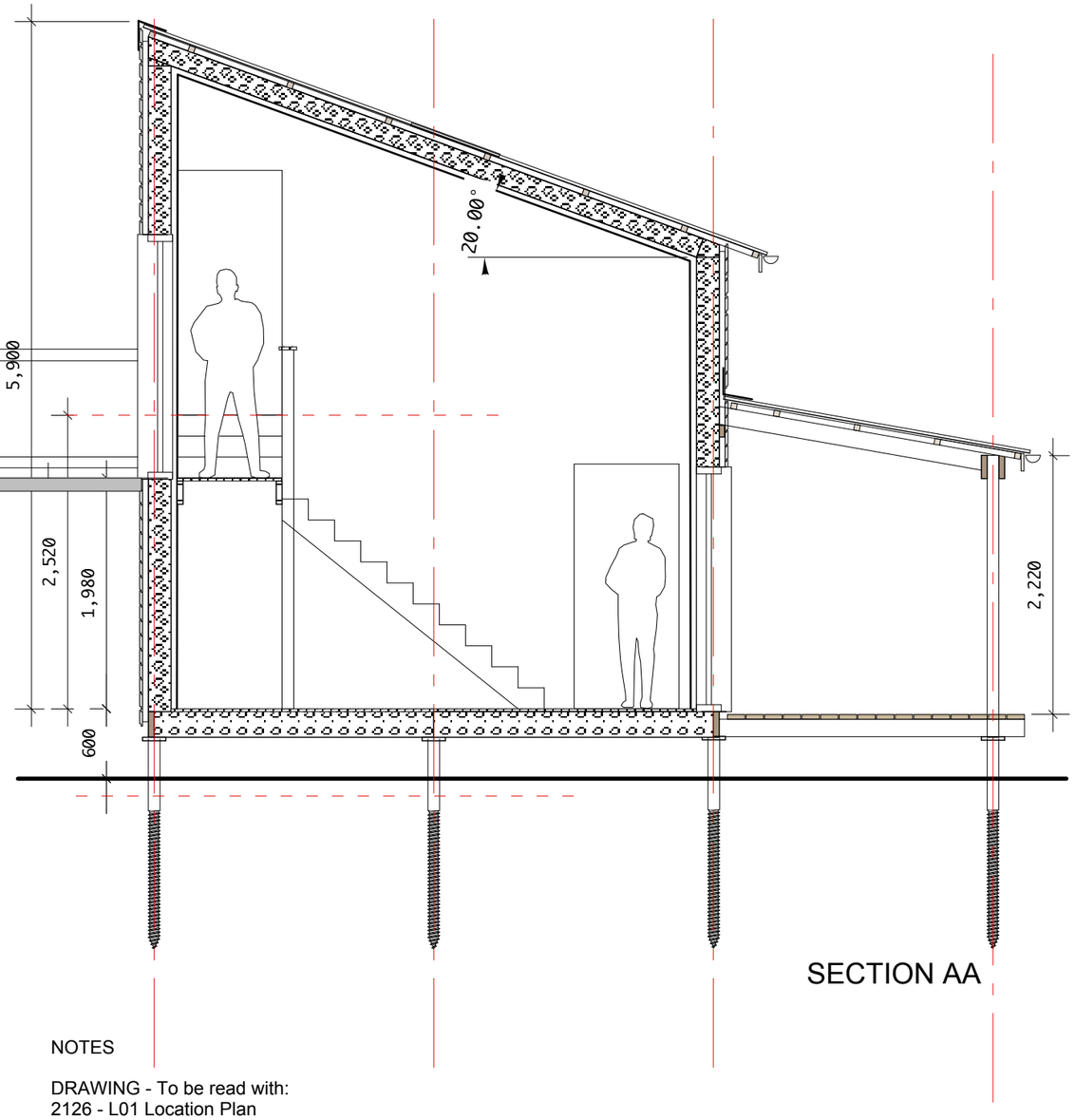


LOWER PLAN



SECTION AA

NOTES

DRAWING - To be read with:
2126 - L01 Location Plan
2126 - L05 Site Plan
2126 - L08 Upper Floor & Section
2126 - L09 Elevations

PLANNING

A Window in toilet moved.Balcony widened 28 Nov 22

NEW HOUSE
WHITEBURN : LAUDER

Quercus
RURAL BUILDING DESIGN
Sunnyside Studio
Heriot, Midlothian
Scotland EH38 5YE
Tel. 01875 835220
Mob. 07941 757382
Email peter@quercus.scot

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PLAN & SECTION

2126-L07revA

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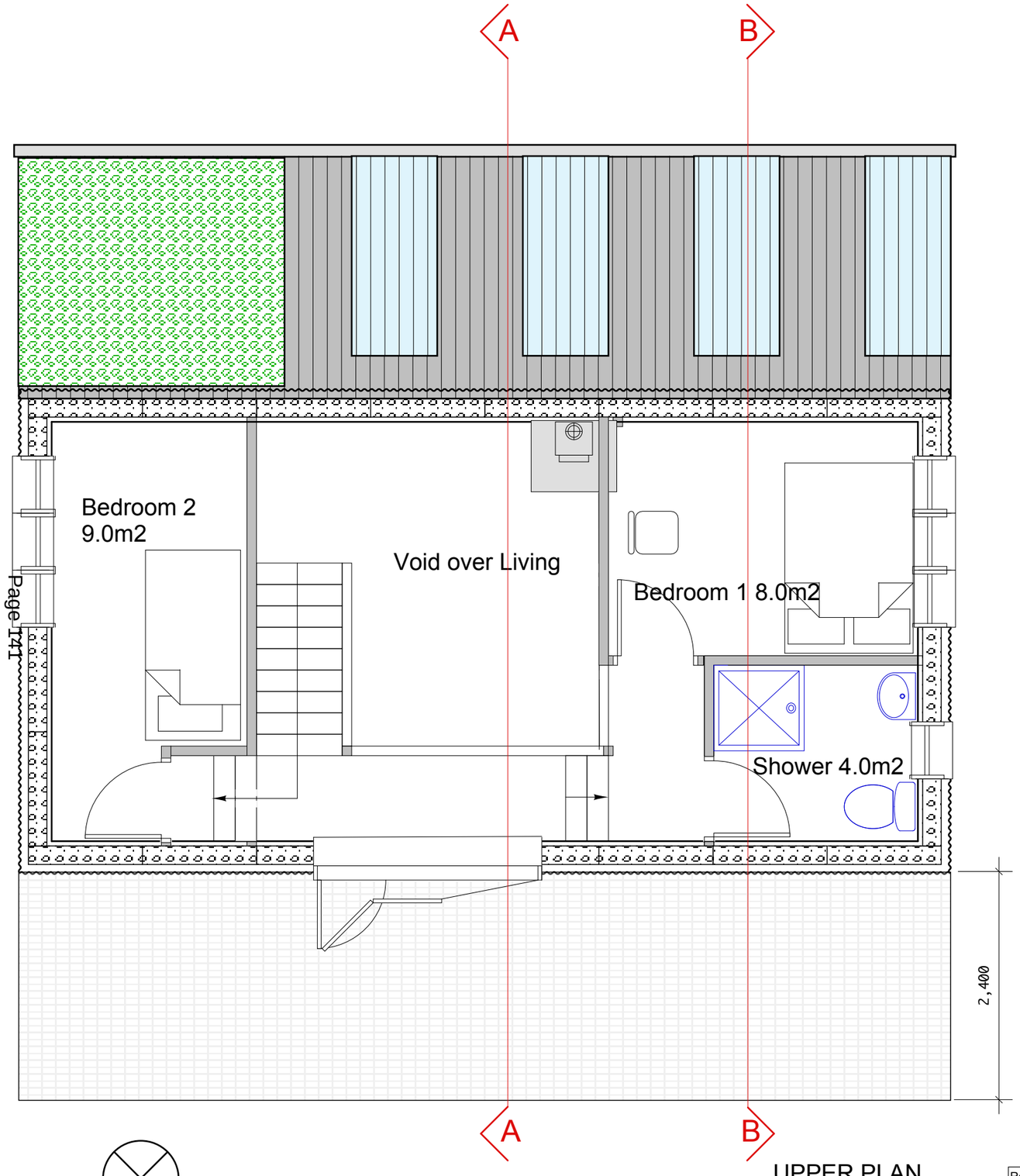
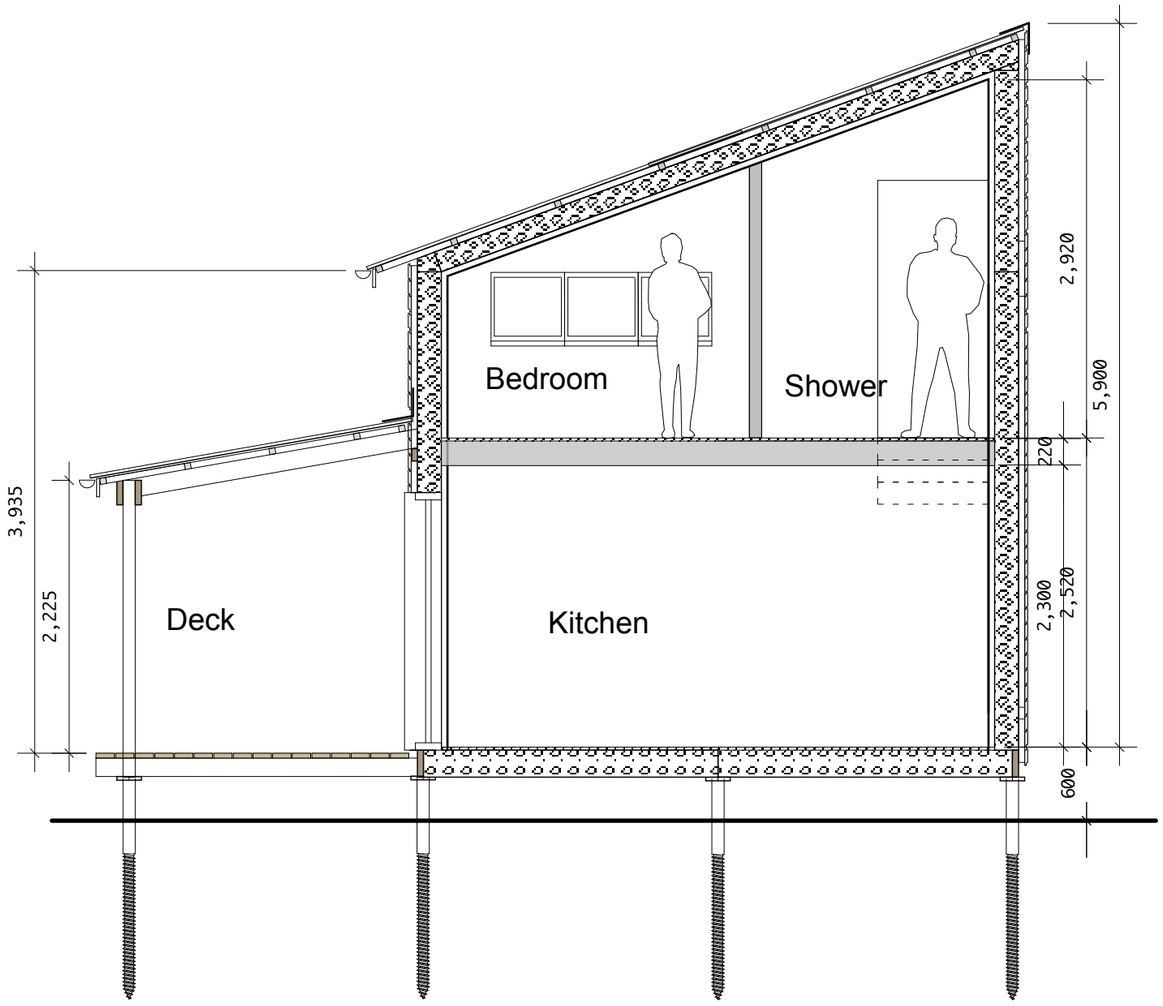
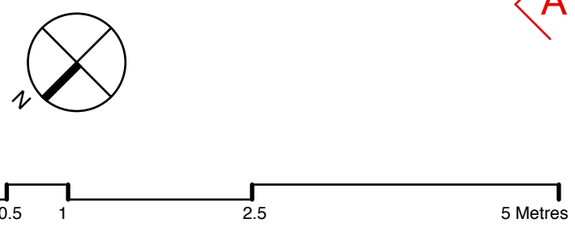


UPPER PLAN



SECTION BB



PLANNING

Rev	Remarks	Date
A	Fittings altered, stove added,window removed, orientation changed, hot tub added, Roof to monopitch	3 Oct 22
B	Gallery to have trifold door. windows altered	5 Oct 22
C	Balcony enlarged	28 Nov 22

NEW HOUSE
WHITEBURN : LAUDER

Quercus
RURAL BUILDING DESIGN
Sunnyside Studio
Heriot, Midlothian
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Email peter@quercus.scot

Scale1:50 Oct 2022 PC

UPPER PLAN & SECTION

2126-L08revC

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SITE LOCATION PLAN
AREA 25 HA
SCALE 1:2500 on A4

Site in red
Other land owned by the applicant in blue

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0 25 50 125 250 Metres

PLANNING

N

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

REFUSED

subject to the requirements of the associated Decision Notice

NEW HUT
WHITEBURN :LAUDER

Quercus RURAL BUILDING DESIGN
Sunnyside Studio
Heriot, Midlothian
Scotland EH38 5YE
Tel. 01875 835220
Mob. 07941 757382
Email peter@quercus.scot

Scale1:2500 Oct 2022 PC
Location Plan
2126-L01

NOTES

DRAWING - to be read with drawings
2126 - L01 Location Plan
2126 - L07 Ground Plan & Section
2126 - L08 Upper plan & Section
2126 - Elevations

DIMENSIONS all in metres.

SITE - shown in red with other land in applicants ownership in blue

BOUNDARIES - The site is enclosed by a simple post and rail timber fence.

BRIDGE - during construction works only light vehicles will be allowed to cross the bridge

22/01905/FUL
18/04/2023

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

REFUSED

subject to the requirements of the associated Decision Notice

New Hardcore driveway
New House on site of stable
Grey water tank
burn
A697
bridge
Grey water reed beds and raised planters
Existing timber shed
The Roost
The Coach House
Access Road
The old Steading
Whitburn

N

0 5 10 25 50 Metres

PLANNING

B	Alternative access deleted. Notes added	14 Feb 23
A	Access moved. Notes added. Greywater system shown	28 Nov 22

NEW HOUSE
WHITEBURN : LAUDER

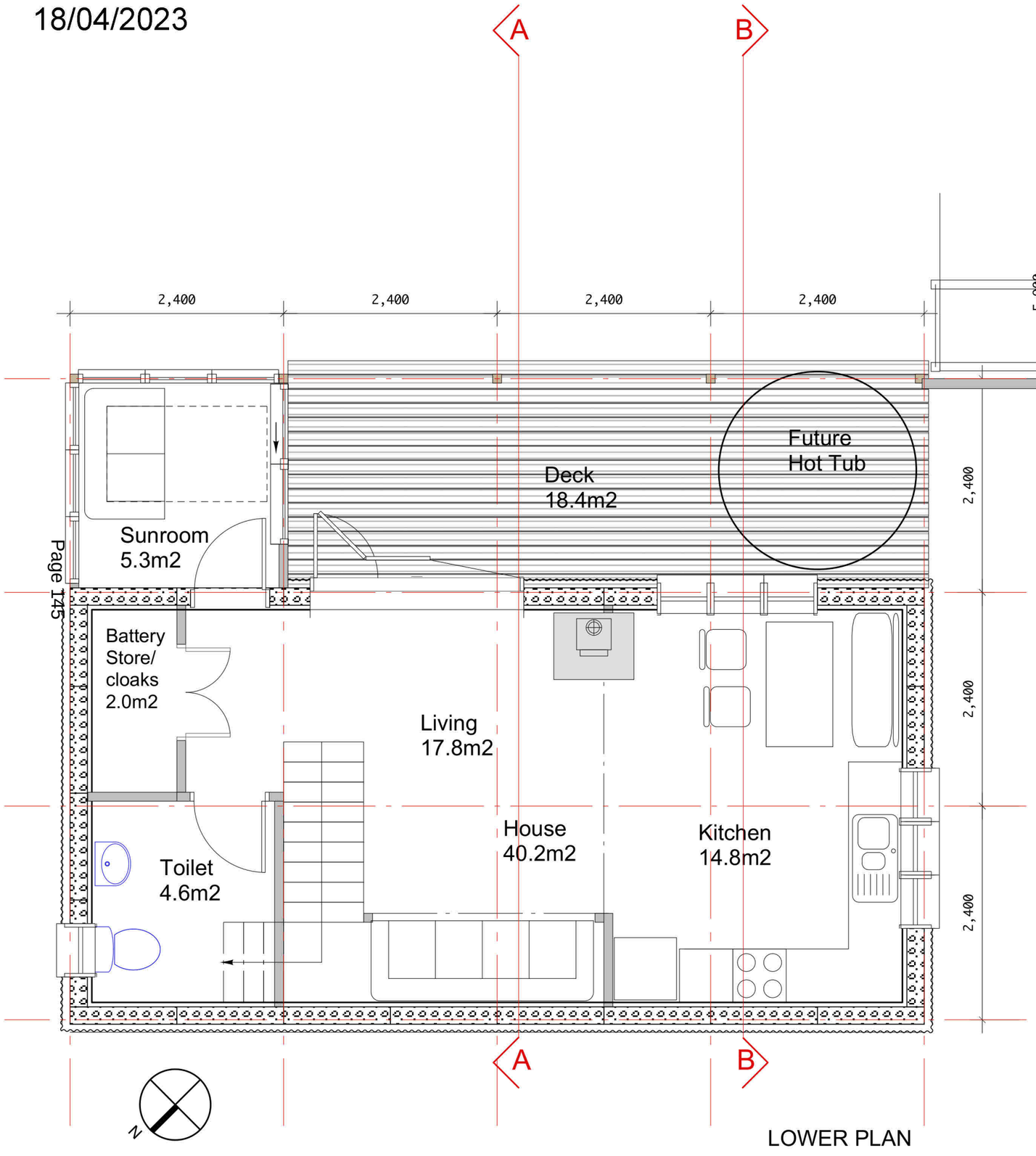
Quercus RURAL BUILDING DESIGN
Sunnyside Studio
Heriot, Midlothian
Scotland EH38 5YE
Tel. 01875 835220
Mob. 07941 757382
Email peter@quercus.scot

Scale1:250 Oct 2022 PC

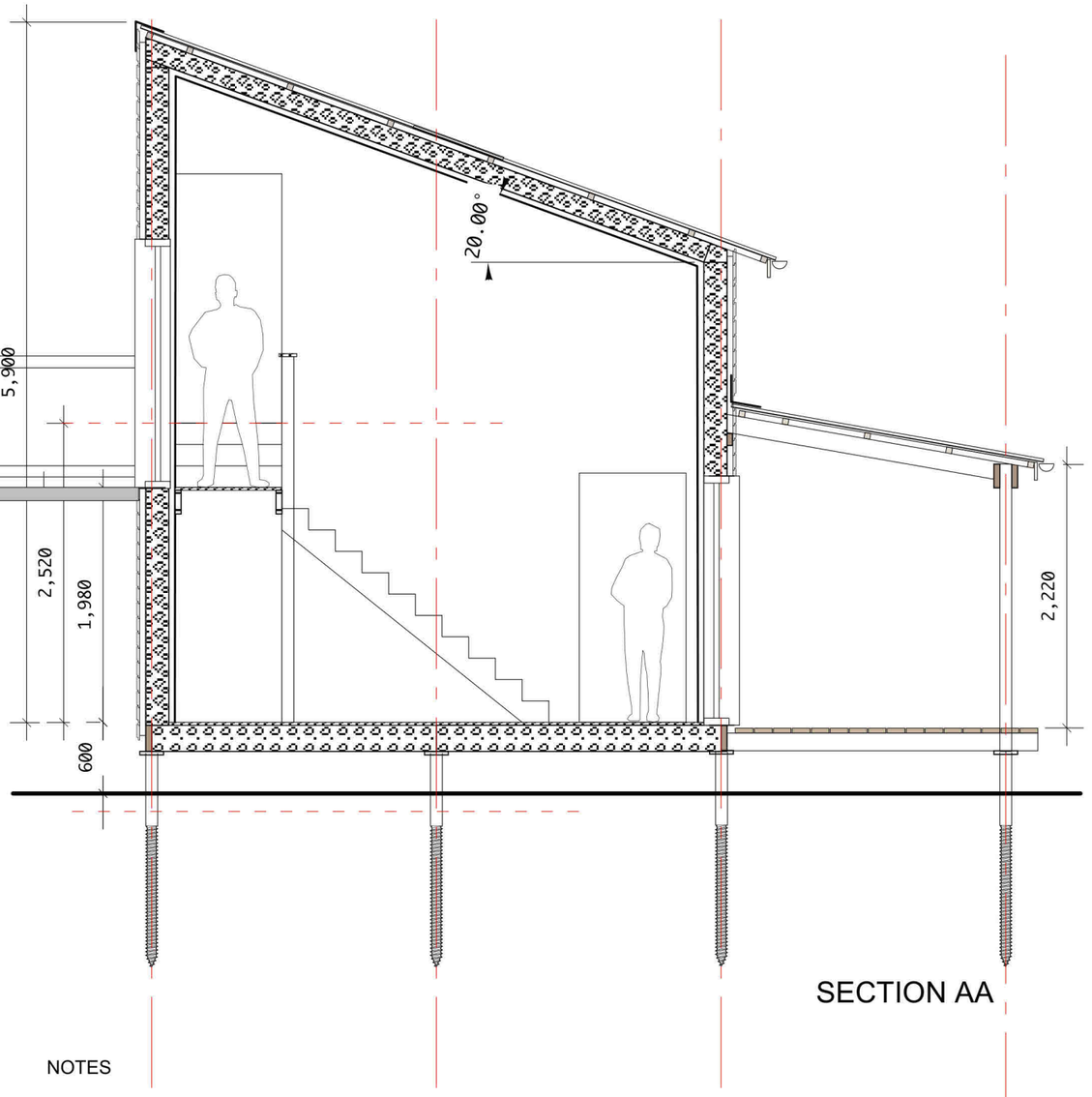
NEW SITE PLAN

2126-L05revB

22/01905/FUL
18/04/2023



LOWER PLAN



SECTION AA

NOTES

DRAWING - To be read with:
2126 - L01 Location Plan
2126 - L05 Site Plan
2126 - L08 Upper Floor & Section
2126 - L09 Elevations

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

REFUSED

subject to the requirements of the associated Decision Notice

PLANNING

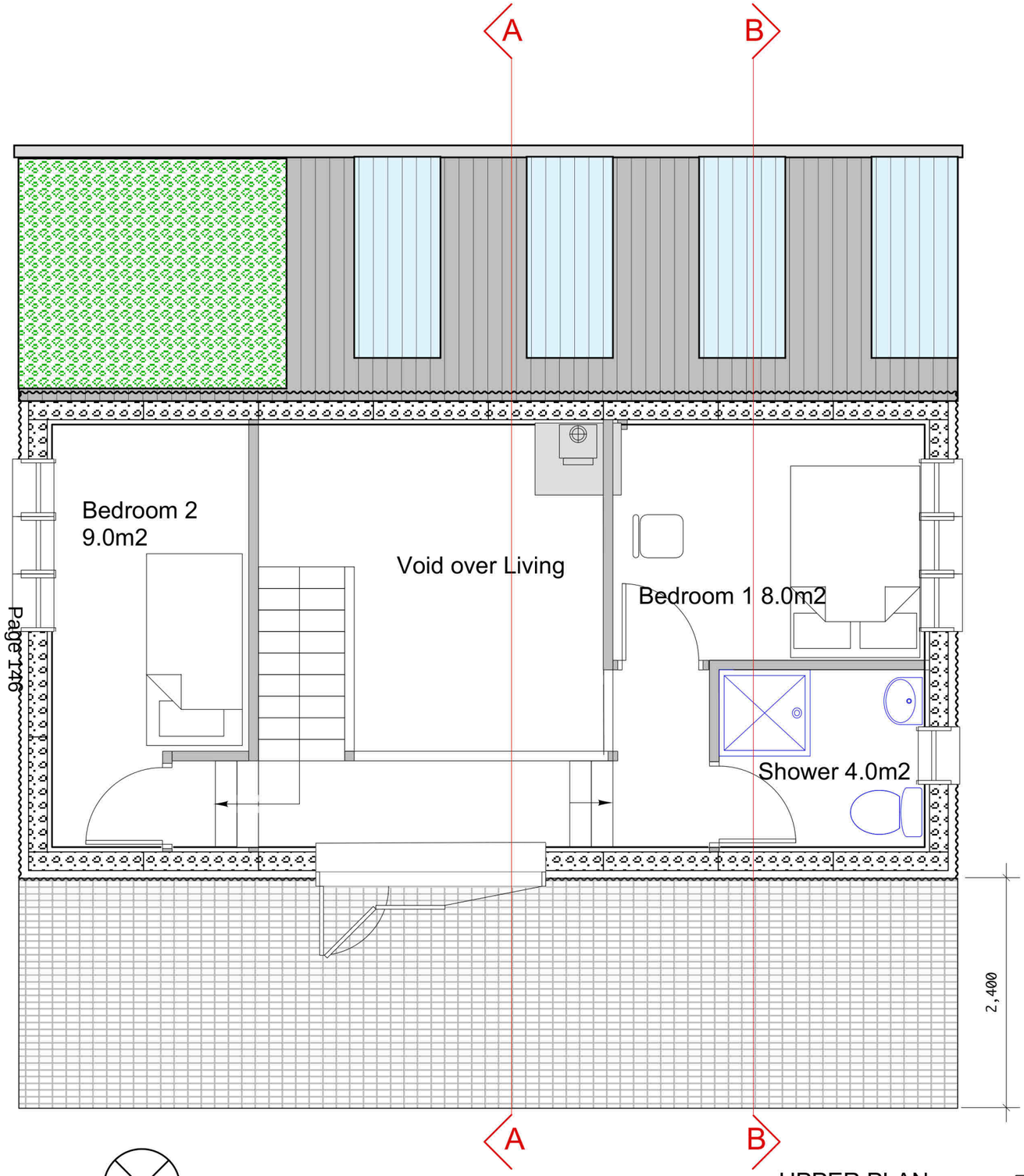
A Window in toilet moved.Balcony widened 28 Nov 22

NEW HOUSE
WHITEBURN : LAUDER

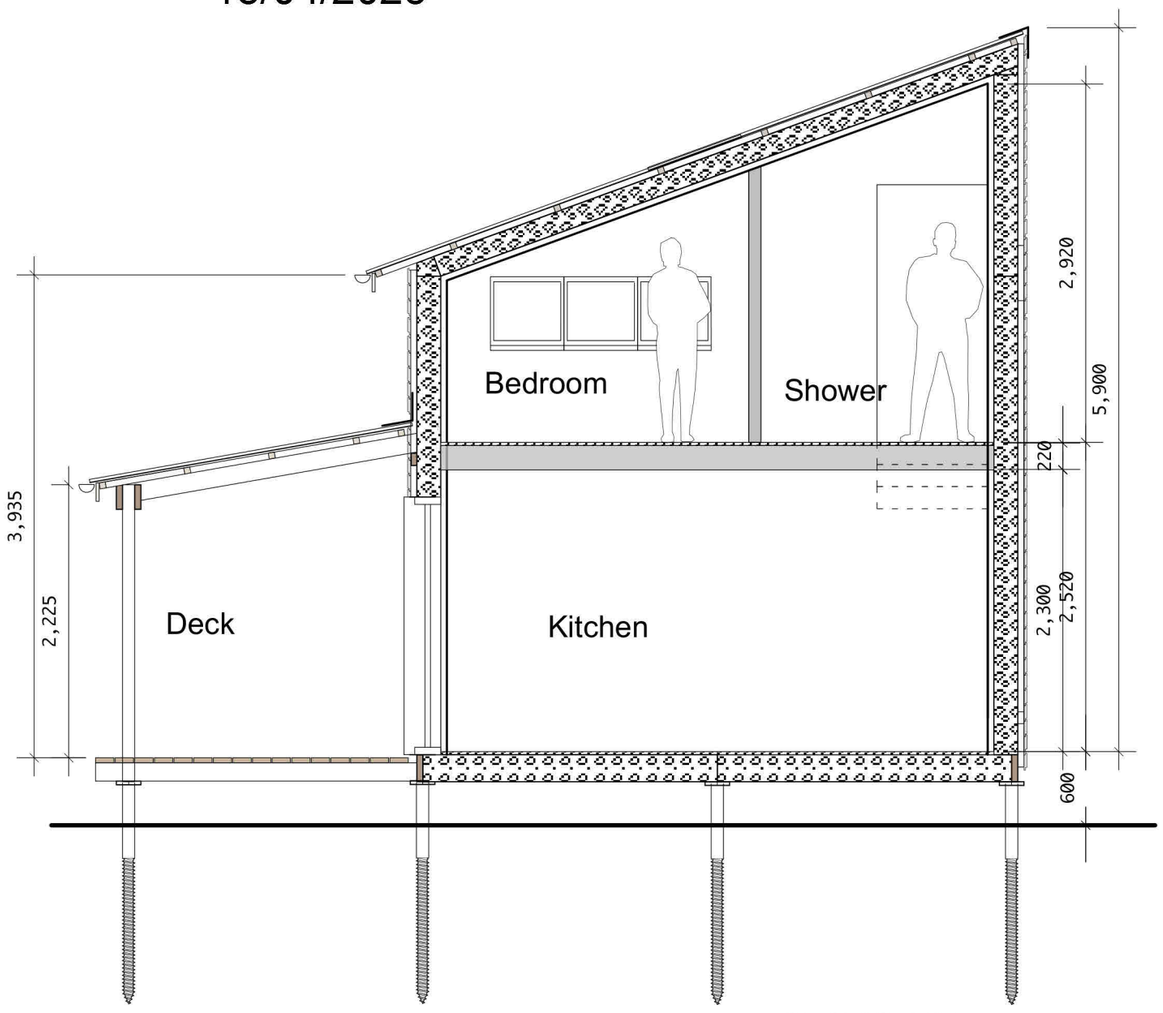
Quercus
RURAL BUILDING DESIGN
Sunnyside Studio
Heriot, Midlothian
Scotland EH38 5YE
Tel. 01875 835220
Mob. 07941 757382
Email peter@quercus.scot

Scale1:50 Oct 2022 PC
PLAN & SECTION
2126-L07revA

22/01905/FUL
18/04/2023



UPPER PLAN

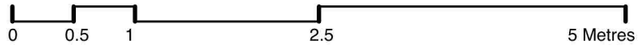


SECTION BB

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

REFUSED

subject to the requirements of the associated Decision Notice



PLANNING

Rev	Remarks	Date
A	Fittings altered, stove added,window removed, orientation changed, hot tub added, Roof to monopitch	3 Oct 22
B	Gallery to have trifold door. windows altered	5 Oct 22
C	Balcony enlarged	28 Nov 22

NEW HOUSE
WHITEBURN : LAUDER

Quercus
RURAL BUILDING DESIGN
Sunnyside Studio
Heriot, Midlothian
Scotland EH38 5YE
Tel. 01875 835220
Mob. 07941 757382
Email peter@quercus.scot

Scale1:50 Oct 2022 PC

UPPER PLAN & SECTION

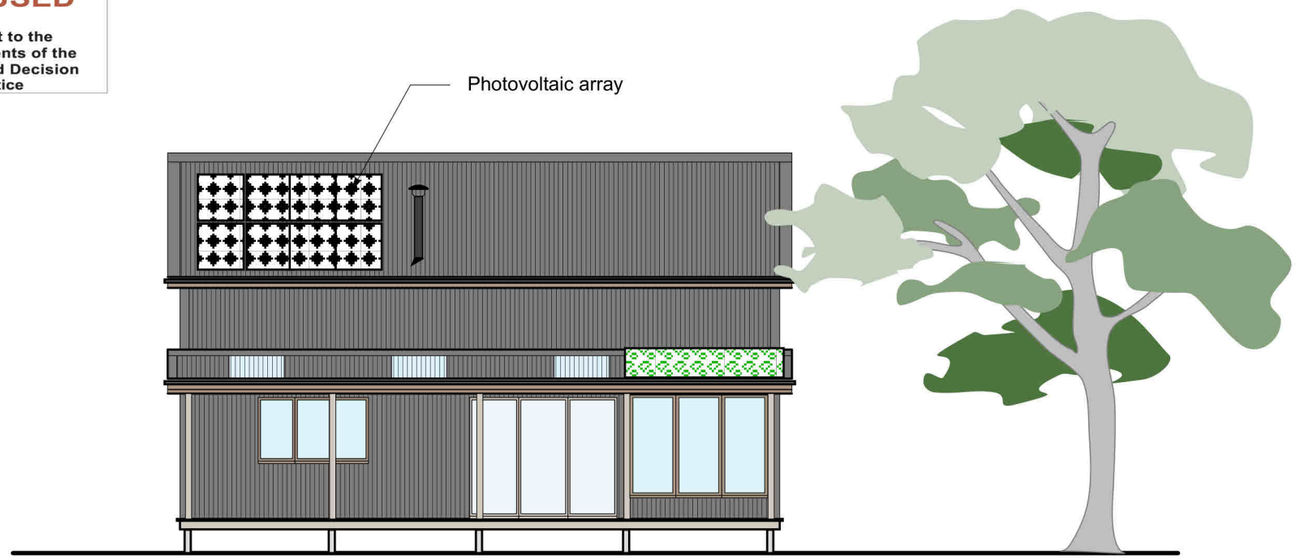
2126-L08revC

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

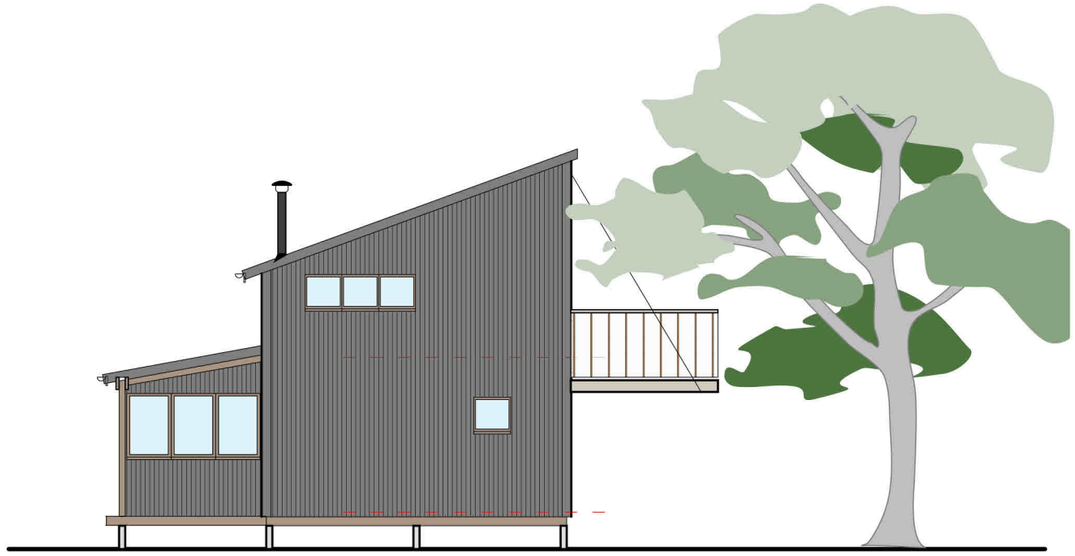
REFUSED

subject to the
requirements of the
associated Decision
Notice

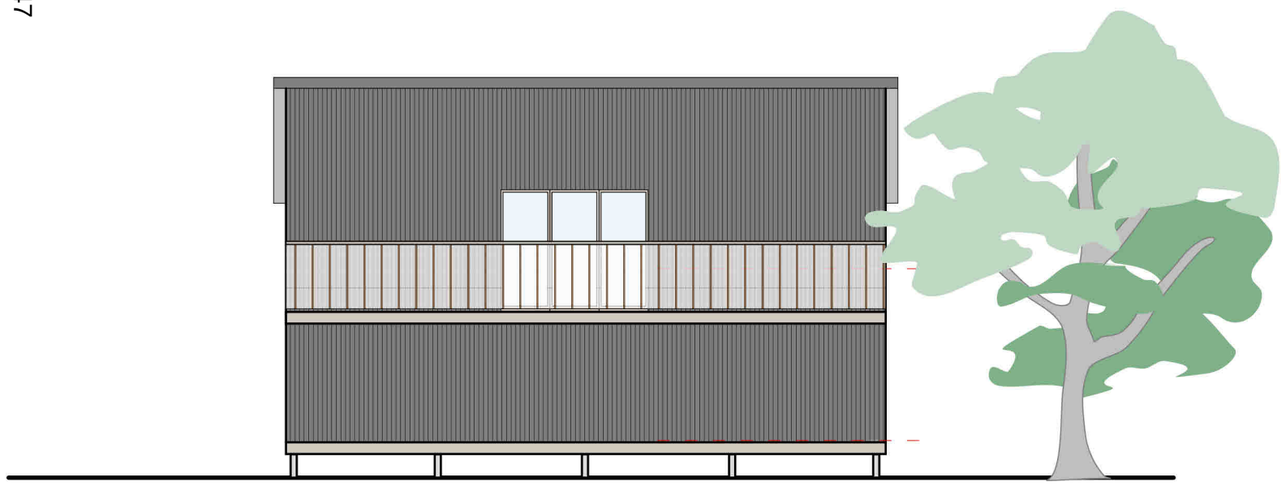
22/01905/FUL
18/04/2023



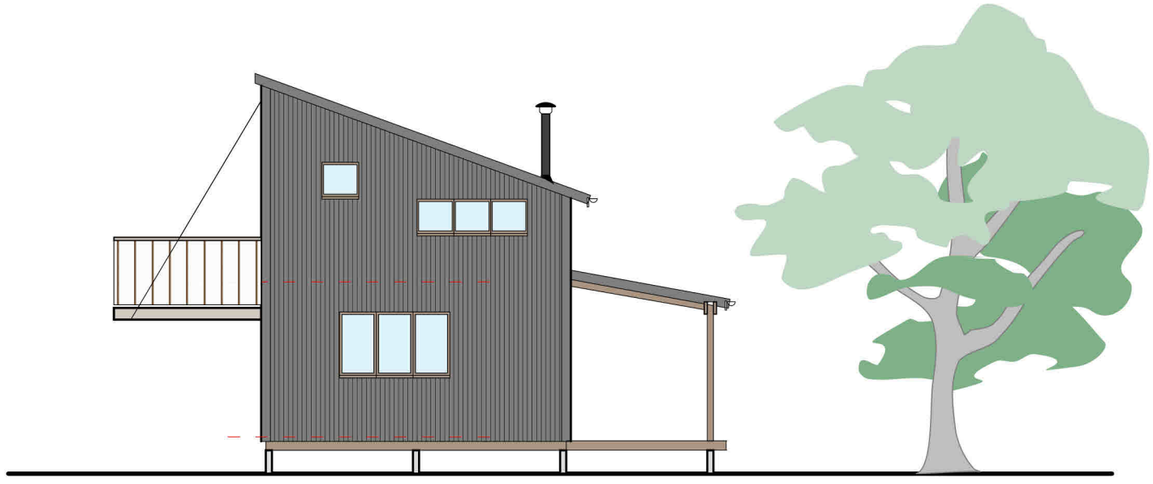
SOUTH EAST



NORTH EAST



NORTH WEST



SOUTH WEST

NOTES

DRAWING - To be read with
2126 - L07 Ground Floor & Section
2126 - L08 Upper Floor & Section

CONSTRUCTION - Structural Insulated Panel (SIPS) kit on galvanised steel screw foundations

MATERIALS - Walls: corrugated steel sheet colour Black
Roof; corrugated steel sheet colour Black
Roof to porch: as main roof with sedum roof over room
Porch from untreated Larch
Windows and doors Aluclad timber with triple glazing.

SCALE OF METRES

0 0.5 1 2.5 5 Metres

PLANNING

Rev	Remarks	Date
A	Scale changed. Roof changed to monopitch, windows altered	3 Oct 22
B	Windows altered	5 Oct 22
C	PV's Added	14 Feb 23

NEW HOUSE
WHITEBURN : LAUDER

Quercus
RURAL BUILDING DESIGN
Sunnyside Studio
Heriot, Midlothian
Scotland EH38 5YE
Tel. 01875 835220
Mob. 07941 757382
Email peter@quercus.scot

Scale1:100 Sept 2022 PC

ELEVATIONS

2126-L09revC

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FERGUSON
PLANNING

Ferguson Planning Ltd
38 Thistle Street
Edinburgh
EH2 1EL
E: georgia@fergusonplanning.co.uk
M: 07477864216

Fiona Henderson
Democratic Services
Council Headquarters
Newtown St Boswells TD6 0SA

20 July 2023

SBC Ref: 22/01905/FUL and 23/00031/RREF

RESPONSE TO FURTHER REPRESENTATIONS FROM INTERESTED PARTIES

Thank you for providing copies of the further representations from interested parties in response to the Notice of Review we submitted in respect of 22/01905/FUL.

We note that two further representations were made, both from neighbours of the subject site at Whiteburn. This letter is to respond to the matters raised therein, bearing in mind that the only reason given for the refusal of the planning application by SBC's Lead Planning Officer was due to their consideration that the proposed dwelling would not relate to the building group.

The further representations raised concerns which can be grouped into the areas as below:

- Boundary of Building Group
- Vehicle Access
- Servicing

1. Boundary of Building Group and Precedent
   As set forth in the Appeal Statement submitted in support of the Notice of Review, it is our contention that the northern and western boundaries of the building group at Whiteburn are defined by the access track and planting/vegetation, respectively. Our contention that the exiting building groups extends over the burn towards the west is further supported by the way in which the fields to the west of the subject site are used as ancillary to the land to the east of the subject site (occupied by 'The Roost'). As the proposed dwelling will sit within

these natural, man-made and land-use boundaries of the Whiteburn building group, it will be in keeping with and enhance (through additional planting to the west of the site) the character, amenity and setting of the building group.

The existing boundary planting and the enhancement offered by the Appellant would also ensure that the western extent of the building group was clear. In any case, as each planning application must be judged on its own merits, the granting of a dwelling at the subject site does not, in itself, mean that further dwellings could be constructed to the west.

2. Servicing and Infrastructure
   The proposed servicing of the development through on-site disposal of waste water is a common and widely practised approach, particularly in rural setting where reticulated infrastructure is not available.

   The site is large enough for a soakaway field to be positioned so that no effluent will be discharged to the burn.

   As stated in the Appeal Stated submitted in support of the Notice of Review, we agree with the approach of SBC's Lead Planning Officer that the specific details of the treatment/disposal systems are matters that are addressed through the Building Warrant process.

3. Transport and Access
   We reiterate again that the bridge will not be used by heavy vehicles during the construction phase, or indeed occupation, of the proposed dwelling. The design of the proposed dwelling is to have minimal impact on the site and therefore can be predominantly fabricated and constructed off-site.

   Nevertheless, as offered in the Appeal Statement, if the Local Review Body consider it appropriate, the Appellant is agreeable to a condition that required the structural integrity of the bridge be confirmed prior to construction works commencing.

We trust the above is of assistance, however, we are more than happy to response to any further enquiries or requests for clarification.

Yours faithfully,

[redacted]

From: Shearer, Scott <SShearer@scotborders.gov.uk>
Sent: 20 July 2023 09:49
To: localreview <localreview@scotborders.gov.uk>; Planning & Regulatory Services <prs@scotborders.gov.uk>
Subject: FW: 22/01905/FUL | Demolition of stable and erection of dwellinghouse

Hello,

Could this email please be added to 22/01905/FUL and 23/00031/RREF please as an 'Objection'

Thanks

Scott Shearer
Peripatetic Planning Officer
Planning Housing and Related Services
Scottish Borders Council
tel: 01835 826732
e-mail: sshearer@scotborders.gov.uk

Scottish Quality in 2017: Aw

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From: Hayward, Julie <JHayward2@scotborders.gov.uk>
Sent: 19 July 2023 12:15
To: Shearer, Scott <SShearer@scotborders.gov.uk>
Subject: FW: 22/01905/FUL | Demolition of stable and erection of dwellinghouse

Hi Scott

This representation was received whilst I was on leave regarding the appeal 23/00031/RREF: Site Adjacent The Steading Whiteburn Farm Lauder.

Thanks

Julie

Julie Hayward
Team Leader
Development Management
Planning, Housing and Related Services
Corporate Improvement and Economy
Scottish Borders Council

Tel: 01835 825585

E-mail: jhayward2@scotborders.gov.uk

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From: Mrs Kershaw [redacted]
Sent: 03 July 2023 22:06
To: Hayward, Julie <JHayward2@scotborders.gov.uk>
Subject: 22/01905/FUL | Demolition of stable and erection of dwellinghouse

CAUTION: External Email

Dear Julie,

We are emailing regarding the application 22/01905/FUL | Demolition of stable and erection of dwellinghouse. I have tried to comment through the online portal but it does not seem to be live for commenting anymore.

We would like to make it known to the review body dealing with the appeal of this application that [redacted] our objections to the application still stand in full.

We give permission for this email to be uploaded to the portal for public viewing / made available to the review panel.

We would appreciate receipt of this email.

Many thanks for your time,
Rhea & Stephen Kershaw

Rhea Kershaw
[redacted]

From: Hayward, Julie <JHayward2@scotborders.gov.uk>
Sent: 22 February 2023 16:07
To: Mrs Kershaw [redacted]
Subject: [OFFICIAL] RE: A Query: 22/01905/FUL | Demolition of stable and erection of dwellinghouse

Good afternoon

Thank you for your e-mail.

The applicant has the right of appeal to the Council's Local Review Body once the decision notice has been issued in cases where applications are refused.

In this case, it is the principle of the development that cannot be supported, as the proposal is considered to be contrary to the Council's housing in the countryside policies. In cases such as this, agents normally seek to deal with all other outstanding issues before determination of the application (such as the western access, trees etc) so that there is only one reason for refusal (policy grounds) and only the principle has to be considered by the Local Review Body. The agent has been allowed additional time to address these outstanding issues.

I hope this clarifies the situation

Thanks

Julie

Julie Hayward
Team Leader
Development Management
Planning, Housing and Related Services
Corporate Improvement and Economy
Scottish Borders Council

Tel: 01835 825585

E-mail: jhayward2@scotborders.gov.uk

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From: Mrs Kershaw [redacted]
Sent: 21 February 2023 18:48
To: Hayward, Julie <JHayward2@scotborders.gov.uk>
Subject: A Query: 22/01905/FUL | Demolition of stable and erection of dwellinghouse

CAUTION: External Email

Dear Ms Hayward,

Re. Application 22/01905/FUL | Demolition of stable and erection of dwellinghouse | Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders

We are emailing you directly rather than posting on the Public Portal as we are aware that decisions are pending regarding the above application. We are content for this to be added to the Public Portal if necessary.

We are curious as to why the planning application is still pending when, in your correspondence to Ferguson Planning on 10th February, you stated:

It is accepted that a building group exists at Whiteburn, as there are 8 existing houses, however, it is considered that the site is outwith the natural and man-made boundaries of the building group. To the west, it is clear that the burn, trees/woodland and hedge form the boundary of the building group. The building group is characterised the farmhouse, converted farm steading buildings and new dwellings contained within a strip of land between the A697 to the south and the private access road to the north and east. The site is considered to be outwith this sense of place. In addition, the spacing does not respect the compact nature of the building group and a house on the application site would appear divorced from the existing houses, to the detriment of the character of the building group.

For these reason, the proposal is considered to be contrary to policy HD2 of the Local Development Plan 2016 and the application cannot be supported.

It appears to us that this factor cannot be changed.

As such, we believe that requests such as removing the proposed western access from the plan, the requested tree survey and adding solar panels to the plan are irrelevant because no changes can be made by the applicant to reverse your statement that the application cannot be supported.

If our understanding is incorrect, we would welcome an explanation to help us understand why the application is still pending and not decided (declined).

With kind regards,
Rhea & Stephen Kershaw

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****

From: Hayward, Julie <JHayward2@scotborders.gov.uk>
Sent: 19 July 2023 12:15
To: Shearer, Scott <SShearer@scotborders.gov.uk>
Subject: FW: 22/01905/FUL | Demolition of stable and erection of dwellinghouse

Hi Scott

This representation was received whilst I was on leave regarding the appeal 23/00031/RREF: Site
Adjacent The Steading Whiteburn Farm Lauder.

Thanks

Julie

Julie Hayward
Team Leader
Development Management
Planning, Housing and Related Services
Corporate Improvement and Economy
Scottish Borders Council

Tel: 01835 825585

E-mail: jhayward2@scotborders.gov.uk

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From: Mrs Kershaw <[redacted]>
Sent: 03 July 2023 22:06
To: Hayward, Julie <JHayward2@scotborders.gov.uk>
Subject: 22/01905/FUL | Demolition of stable and erection of dwellinghouse

CAUTION: External Email

Dear Julie,

We are emailing regarding the application 22/01905/FUL | Demolition of stable and erection of
dwellinghouse. I have tried to comment through the online portal but it does not seem to be
live for commenting anymore.

We would like to make it known to the review body dealing with the appeal of this application
that, our objections to the
application still stand in full.

We give permission for this email to be uploaded to the portal for public viewing / made
available to the review panel.

We would appreciate receipt of this email.

Many thanks for your time,
Rhea & Stephen Kershaw

Rhea Kershaw
[redacted]
***

From: Roger Kershaw [redacted]
Sent: 03 July 2023 22:36
To: localreview
Subject: Site adjacent The Steading, Whiteburn Farm Lauder - 22/01905/ful and 23/00031/RREF

CAUTION: External Email

Dear Louise

Thank you for your e.mail re the planning appeal relating to Ms McKinney at Whiteburn Farm.

We would like all our previous objections and comments to be taken into consideration at the appeal
meeting.

We wish to reiterate our main concerns which are:

The proposed build is outside the natural Whiteburn boundaries i.e. the burn and the treeline.

Any new build would set a president for more new build applications and therefore would ruin living at
Whiteburn for all the residents.

There are also unanswered questions from our initial objections regarding disposal of grey water and
use of the crossing over the Whiteburn being only for light vehicles. Our deeds make no mention of a
3.5 ton rating and it clearly states light vehicles only.

Yours sincerely

Roger and Niccy Kershaw

[redacted]

This page is intentionally left blank

From: John Gray [redacted]
Sent: 03 July 2023 09:33
To: localreview
Subject: RE: Site Adjacent The Steading Whiteburn Farm Lauder - 22/01905/FUL and
23/00031/RREF
Attachments: Local Review Letter to IP - 20.06.23 (e-mail).rtf

CAUTION: External Email

Dear Louise,

Thank you for informing me there will be a planning appeal (23/00031/RREF) related to the refused
planning application near Whiteburn.

I wanted to reiterate that my objections to the planning remain. While the applicant implies the only
reason for refusal relates the proposal being outside Whiteburn dwelling group boundaries, I believe
there are still other reasons that were not fully pursued due to the overriding boundary restriction, and
hope these will also be considered. These include unanswered questions on use of the fragile bridge
over the Whiteburn (there is no mention of 3 ton rating on any title deeds I have seen), and other
concerns related to dirty water management.

[redacted]

I hope you can take my comments into account,

Yours sincerely,

John

[redacted]

From: localreview <localreview@scotborders.gov.uk>
Sent: Tuesday, June 20, 2023 5:54 PM
Subject: Site Adjacent The Steading Whiteburn Farm Lauder - 22/01905/FUL and
23/00031/RREF

Dear Sir/Madam

Please find attached a letter with regard to the above planning application.

Regards Fiona

Fiona Henderson
Democratic Services Officer
Democratic Services
Resources
Council Headquarters
NEWTOWN ST BOSWELLS TD6 0SA
? DDI : 01835 826502
? fhenderson@scotborders.gov.uk

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Freedom of Information (Scotland) Act 2002 .
****

John Hayward
Planning & Development Standards Manager

Mrs Elaine McKinney
per Ferguson Planning
54 Island Street
Galashiels
Scottish Borders
TD1 1NU

Please ask for : Julie Hayward
01835 825585

Application Ref : 22/01937/MOD75

E-Mail: jhayward2@scotborders.gov.uk

Date : 21st February 2023

Dear Sir/Madam

Applicant Name: **Mrs Elaine McKinney**
Application Number: **22/01937/MOD75**
Location: **Sites at Whiteburn Farm Lauder Scottish Borders**

The Council has now considered your application for the modification or discharge of a planning obligation entered into under Section 75 of the Town and Country Planning (Scotland) Act 1997 at the above mentioned site and has determined that:

the proposed modification or discharge of a planning obligation be approved subject to an informative.

It should be noted that:

> The area of land to be removed from the Section 50 legal agreement is shown outlined in red on Figure 2 of the agent's Planning Statement and comprises of 1,000 square metres.

The Notice of Determination is attached to this letter.

You are advised to contact the Council's Legal Services Department for further advice in respect of the formal recording of this Notice.

If you have any queries regarding the decision taken by the Council, please contact the case officer directly.

Yours faithfully

John Hayward

Planning & Development Standards Manager

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

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 AS AMENDED

NOTICE OF DETERMINATION

Application for Modification or Discharge of Planning Obligation **Reference : 22/01937/MOD75**

To : Mrs Elaine McKinney per Ferguson Planning 54 Island Street Galashiels Scottish Borders TD1 1NU

This Notice relates to your application validated on **13th December 2022**, whose details are set out below, for the modification or discharge of a planning obligation at the undernoted site, which was entered into under the Town and Country Planning (Scotland) Act 1997 in connection with the original planning permission described below :-

at : Sites at Whiteburn Farm Lauder Scottish Borders

Modification of planning obligation pursuant to planning permission B290/91 and E389/91

The Scottish Borders Council hereby described and set out in the particulars given in your application and in accordance with Section 75A of the Town and Country Planning (Scotland) Act 1997.

REASON FOR DECISION

The proposal to modify this Section 50 Agreement is accepted as it no longer satisfies the advice contained within Circular 3/2012 (as amended). Any proposal for future development of housing in this location would be assessed against prevailing development plan policies.

Dated 17th February 2023
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

NOTE

If the applicant is aggrieved by the decision of the planning authority to refuse to modify or discharge a planning obligation, the applicant may appeal to the Scottish Ministers under section 75B of the Town and Country Planning (Scotland) Act 1997 within three months from (and including) the date of this notice. The notice of appeal should be addressed to the Directorate for Planning and Environmental Appeals, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk,FK1 1XR

SCOTTISH BORDERS COUNCIL

APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO CHIEF PLANNING OFFICER

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 22/01937/MOD75

APPLICANT : Mrs Elaine McKinney

AGENT : Ferguson Planning

DEVELOPMENT : Modification of planning obligation pursuant to planning permission B290/91 and E389/91

LOCATION: Sites At Whiteburn Farm
Lauder
Scottish Borders

TYPE : MOD75 Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Approved

NUMBER OF REPRESENTATIONS: 5
SUMMARY OF REPRESENTATIONS:

There was no statutory requirement to advertise the application or notify neighbours. However, five representations have been received objecting to the application and raising the following planning issues:

o The Section 50 planning obligation was specifically designed to retain the rural aspect of the area, limiting the number and type of developments. The application is at odds with that principle.

o The agreement protects the current residents of 8 dwellings from having their rural views and location under threat of further new build elsewhere at Whiteburn.

o The application, if agreed, could set a precedence for future new development. Only conversions and extensions have been approved at Whiteburn and the legal agreement has always prohibited new residential developments after 1991.

o If land is sold later to a developer and Section 50 is no longer securing the landscape, there will be nothing to protect the landscape from multiple houses being built, littering the landscape with houses and ruining the rural character.

o The erection of a residential building will increase light and noise pollution, having a direct impact on the wildlife in the adjacent woodland and surrounding area. The agreement is intended to protect the land and should be upheld in order to serve its purpose.

CONSULTATIONS:

Legal: Clause 4 of the Section 50 Agreement prevents further residential development unless any dwellinghouse to be erected is restricted to the occupation of a person employed or last employed in agriculture as defined in Section 275 of the Town and Country Planning (Scotland) Act 1997. The application seeks to modify the Section 50 Agreement to remove that restriction from the land owned by the applicant.

At Para 3.2 of the Planning Statement, reference is made to Circular 3/2012 as revised in November 2020 regarding Planning Obligations and Good Neighbour Agreements. In particular, the agent specifically refers to the five tests that require to be met in order for planning obligations to be sought setting out such restrictions. If these tests cannot be met then it seem appropriate in line with Circular 3/2012 as revised that the application be approved.

In addition, at para 3.5 of the agent's statement, reference is made to several residential developments having occurred at the location which appear to be contrary to Clause 4 of the Section 50 Agreement. The paragraph appears to suggest that the Section 50 Agreement has been previously modified over one parcel to the north of the subject site and therefore perhaps further information with regard to the suggested previous modification of the Section 50 Agreement and the several residential developments referred to would assist.

I agree with Para 3.6 of the Planning Statement that any future proposals for residential development on the subject site will still require to go through the planning process even in the event that this application to modify the Section 50 Agreement is approved.

APPLICANT'SSUPPORTING STATEMENT

o Planning Statement

PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

HD2: Housing in the Countryside

Supplementary Planning Guidance:

New Housing in the Borders Countryside 2008

Other:

National Planning Framework 4

Scottish Government Chief Planner's letter to Planning Authorities, November 2011, "Use of conditions or obligations to restrict the occupancy of new rural housing".

Circular 3/2012 Planning Obligations and Good Neighbour Agreements (revised November 2020)

Recommendation by - Julie Hayward (Lead Planning Officer) on 15th February 2023

Site and Proposal

Whiteburn Farm is situated to the east of Lauder at the junction of the A697 and A6089.

Planning Permission was granted for three houses on the combined farms of Whiteburn, Dods and Pyatshaw in 1992 subject to a Section 50 Agreement which contains the following clauses:

Second Clause: the approval of a reserved matters application for the development;

Third Clause: that the development is built in accordance with the plan and that the conditions are complied with;

Fourth Clause: restricts any further residential development on the land except for any dwellinghouse granted approval by the Planning Authority subject to an occupancy condition.

The applicant owns 9.06 hectares of land at Whiteburn Farm and wishes to modify the legal agreement to remove 1,000 square metres from the Section 50 agreement in respect of Clause 4.

The agent argues in the Supporting Statement that the terms of the legal agreement are unreasonable and no longer comply with planning policy.

Planning History

91/01023/OUT (E389/91): Erection of dwellinghouse and garage. Approved 15th June 1992.

91/01624/OUT (B290/91): Sites for 2 dwellinghouses and garages. Approved 21st May 1992.

94/01204/OUT: Erection of dwellinghouse and garage. Approved 16th January 1995.

95/01089/FUL: Erection of dwellinghouse. Approved 5th October 1995.

97/05564/REM: Erection of dwellinghouse. Approved 10th September 1997.

19/00047/MOD75: Discharge of planning obligation pursuant to planning permission B290/91 & E389/91. Approved 11th March 2019.

Consent was granted to a different applicant to modify the legal agreement and remove 9.06 hectares of land at Whiteburn Farm in relation to the above clauses.

22/01905/FUL: Demolition of stable and erection of dwellinghouse. Site Adjacent the Steading Whiteburn Farm Lauder. Pending Consideration.

Planning Policy

Policy HD2 (Section F) no longer contains a requirement for applicant to enter into a Section 75 Agreement to tie proposed houses to the business for which they are justified and to restrict the occupancy of the house to a person solely or mainly employed or last employed in that specific business. The requirement in the Council's Supplementary Planning Guidance New Housing in the Borders Countryside 2008 for such an agreement is now seen as being out of date, as it pre-dates and is inconsistent with subsequent national policy.

In November 2011 the Scottish Government Chief Planner wrote to all Planning Authorities to clarify the Scottish Government's view on obligations that restrict the occupancy of new rural housing. It may be necessary to assess the justification for a proposed rural dwelling but it should not be necessary to restrict the occupancy of that dwelling. Such restrictions should be avoided due to the difficulty they can cause for those seeking to obtain finance.

Circular 3/2012: Planning Obligations and Good Neighbour Agreements (as amended) reinforces this, stating that such restrictions have been historically used, particularly in respect of rural housing, and imposing restrictions on use are rarely appropriate and should be avoided.

This advice is reflected in recent Scottish Government planning appeals.

Policy 17 of National Planning Framework 4 states that development proposals for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area and provided certain criteria are met.

Scottish Government advice is clear that occupancy restrictions secured by a legal agreement should be avoided and that the development plan should be relied upon to assess appropriate rural development.

Assessment

This current application seeks to remove further land from the agreement. The land is situated to the north west of the Whiteburn building group (outlined in red on Figure 2 of the Planning Statement) and is currently the subject of a planning application for the erection of a dwellinghouse (22/01905/FUL).

The determination of applications to modify legal agreements is delegated to officers and so there is no requirement for determination by the Planning and Building Standards Committee, despite the number of representations received. In addition, there is no statutory requirement to notify neighbours of the application or advertise it in the local press.

It is accepted that the Second and Third Clauses of the legal agreement are no longer relevant as the houses have been built.

In respect of the clause preventing any new dwellinghouses being erected on the land, and the main cause for concern of local residents, this can adequately be controlled through the planning application process and each application would be assessed against the relevant development plan policies and on its own merits and justification.

Therefore, the Section 50 Agreement is considered to be inconsistent with recent national guidance and there are no material planning considerations that would prevent its modification.

REASON FOR DECISION :

The proposal to modify this Section 50 Agreement is accepted as it no longer satisfies the advice contained within Circular 3/2012 (as amended). Any proposal for future development of housing in this location would be assessed against prevailing development plan policies.

Recommendation: Approved with informatives

Informatives

It should be noted that:

1 The area of land to be removed from the Section 50 legal agreement is shown outlined in red on Figure 2 of the agent's Planning Statement and comprises of 1,000 square metres.

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

John Hayward
Planning & Development Standards Manager

George D R And Fiona R C Megahy
per Cullen Kilshaw Solicitors
Waverley Chambers
Ladhope Vale
Galashiels
Scottish Borders

Please ask for : Julie Hayward
01835 825585

Application Ref : 21/00402/MOD75

E-Mail: jhayward2@scotborders.gov.uk

Date : 12th May 2021

Dear Sir/Madam

Applicant Name: **George D R And Fiona R C Megahy**
Application Number: **21/00402/MOD75**
Location: **Land South East Of Applecross Pyatshaw Lauder Scottish Borders**

The Council has now considered your application for the modification or discharge of a planning obligation entered into under Section 75 of the Town and Country Planning (Scotland) Act 1997 at the above mentioned site and has determined that:

- the proposed modification or discharge of a planning obligation be approved.

The Notice of Determination is attached to this letter.

You are advised to contact the Council's Legal Services Department for further advice in respect of the formal recording of this Notice.

If you have any queries regarding the decision taken by the Council, please contact the case officer directly.

Yours faithfully

John Hayward

Planning & Development Standards Manager

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

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 AS AMENDED

NOTICE OF DETERMINATION

Application for Modification or Discharge of Planning Obligation **Reference : 21/00402/MOD75**

To : George D R And Fiona R C Megahy per Cullen Kilshaw Solicitors Waverley Chambers Ladhope Vale Galashiels Scottish Borders TD1 1BW

This Notice relates to your application validated on **11th March 2021**, whose details are set out below, for the modification or discharge of a planning obligation at the undernoted site, which was entered into under the Town and Country Planning (Scotland) Act 1997 in connection with the original planning permission described below :-

at : Land South East Of Applecross Pyatshaw Lauder Scottish Borders

Discharge of planning obligation pursuant to planning permission 15/00193/PPP and 20/01076/FUL

The Scottish Borders Council hereby **AGREES TO THE MODIFICATION OR DISCHARGE**. described and set out in the particulars given in your application and in accordance with Section 75A of the Town and Country Planning (Scotland) Act 1997.

REASON FOR DECISION

The development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

Dated 7th May 2021
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

NOTE

If the applicant is aggrieved by the decision of the planning authority to refuse to modify or discharge a planning obligation, the applicant may appeal to the Scottish Ministers under section 75B of the Town and Country Planning (Scotland) Act 1997 within three months from (and including) the date of this notice. The notice of appeal should be addressed to the Directorate for Planning and Environmental Appeals, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk,FK1 1XR

SCOTTISH BORDERS COUNCIL

APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO CHIEF PLANNING OFFICER

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 21/00402/MOD75

APPLICANT : George D R And Fiona R C Megahy

AGENT : Cullen Kilshaw Solicitors

DEVELOPMENT : Discharge of planning obligation pursuant to planning permission 15/00193/PPP and 20/01076/FUL

LOCATION: Land South East Of Applecross Pyatshaw
Lauder
Scottish Borders

TYPE : MOD75 Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

There are no representations.

CONSULTATIONS:

Legal: No response.

PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

HD2: Housing in the Countryside

Supplementary Planning Guidance: New Housing in the Borders Countryside 2008

Other:

Scottish Planning Policy 2014.

Scottish Government Chief Planner's letter to Planning Authorities, November 2011, "Use of conditions or obligations to restrict the occupancy of new rural housing".

Circular 3/2012 Planning Obligations and Good Neighbour Agreements

Recommendation by - Julie Hayward (Lead Planning Officer) on 6th May 2021

Site and Proposal

The site is located to the east of Lauder and to the north east of the A697 Carfraemill to Greenlaw road. There are agricultural buildings on the site and an access onto the public road. The site is surrounded by fields.

Planning Permission in Principle (15/00193/PPP) was approved on 14th December 2016 subject to a Section 75 Agreement that requires:

o The whole of the land including the new dwellinghouse and buildings to be held as a single property and farmed as a single agricultural unit and no part to be sold or disposed of;

o Occupation of the new dwellinghouse to be limited to a person employed or last employed in the full time management of the farm for the purpose of agriculture or their dependants;

o No further dwellinghouses to be erected on the land without the consent of the Planning Authority;

o The developer to pay the required developer contributions.

The justification for the dwellinghouse was that the applicant needed to be closer to the farm steading to manage the farm. A business case showed that there was evidence of a sustained and continuing business and the level of farming activity reflected the standard man day requirement of more than one worker on the unit.

The Approval of Matters Specified in Conditions application (18/00622/AMC) was approved on 16th November 2018.

In 2019 an application (19/00513/MOD75) was submitted that sought to remove the requirement of the Section 75 Agreement that the whole of the land shall be held as a single property and no part sold from it. The justification is that VAT would be charged on the construction costs at 20% due to this requirement and the requirement goes against current planning policy.

The application was approved on 28th May 2019 as it was accepted that the clause of the Section 75 Agreement was inconsistent with recent national guidance and current local planning policy.

Planning permission (20/01076/FUL) was granted on 20th April 2021 for the erection of dwellinghouse on this site, revising the design of the house approved under 18/00622/AMC. The developer contributions were secured by a Section 69 Agreement.

This current application seeks to discharge the Section 75 agreement.

Planning Policy

Policy HD2 (Section F) no longer contains a requirement for applicant to enter into a Section 75 Agreement to tie proposed houses to the business for which they are justified and to restrict the occupancy of the house to a person solely or mainly employed or last employed in that specific business. The Supplementary Planning Guidance requirement is now seen as being out of date, as it pre-dates and is inconsistent with subsequent national policy.

In November 2011 the Scottish Government Chief Planner wrote to all Planning Authorities to clarify the Scottish Government's view on obligations that restrict the occupancy of new rural housing. It may be necessary to assess the justification for a proposed rural dwelling but it should not be necessary to restrict the occupancy of that dwelling. Such restrictions should be avoided due to the difficulty they can cause for those seeking to obtain finance. This letter mainly focussed on restrictions on occupancy but also referred to restrictions on ownership; there is considerable overlap between the two.

Scottish Planning Policy (SPP) of 2014 provides the policy framework for rural development and states explicitly that occupancy restrictions should be avoided. Circular 3/2012: Planning Obligations and Good

Neighbour Agreements reinforces this, stating that such restrictions have been historically used, particularly in respect of rural housing, and imposing restrictions on use are rarely appropriate and should be avoided.

This advice is reflected in recent Scottish Government planning appeals.

Scottish Government advice is clear that restrictions, such as those on occupancy, secured by a legal agreement should be avoided and Local Development Plan 2016 should be relied upon to assess appropriate rural development.

The five tests set out in Circular 3/2012 dictate that Planning Authorities are required to ensure Planning Obligations meet tests of being necessary; serve a planning purpose, be related to the development; fairly and reasonably relate in scale and kind; and be reasonable.

Assessment

Following the approved modification in 2019, the Section 75 agreement contained the following clauses:

o Occupation of the new dwellinghouse to be limited to a person employed or last employed in the full time management of the farm for the purpose of agriculture or their dependants;

o No further dwellinghouses to be erected on the land without the consent of the Planning Authority;

o The developer to pay the required developer contributions.

The Section 69 agreement concluded as part of planning permission 20/01076/FUL and payment of the developer contributions renders the clause regarding the developer contributions unnecessary.

The clause that no further dwellinghouses to be erected on the land without the consent of the Planning Authority can be dealt with via the submission of planning applications and assessment against the relevant planning policies at that time.

The letter issued by the Scottish Government Chief Planner set out the Scottish Government's view on obligations that restrict the occupancy of new rural housing advising that it should not be necessary to restrict the occupancy of new dwellings and this has been incorporated into SPP. Therefore, this clause of the legal agreement no longer complies with government planning policy and so it would be unreasonable to retain it.

REASON FOR DECISION :

The development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

Recommendation: Approved

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

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Mr & Mrs David Megahy
per Gordon Scott Architectural Services Ltd
Scotframe
Inverurie Business Park
Souterford Avenue
Inverurie
AB51 0ZJ

Please ask for:	Julie Hayward
☎	01835 825585
Our Ref:	20/01076/FUL
Your Ref:	
E-Mail:	jhayward2@scotborders.gov.uk
Date:	21st April 2021

Dear Sir/Madam

PLANNING APPLICATION AT Land South East of Applecross Pyatshaw Lauder Scottish Borders

PROPOSED DEVELOPMENT: Erection of dwellinghouse

APPLICANT: **Mr & Mrs David Megahy**

Please find attached the decision notice for the above application.

Please read the schedule of conditions and any informative notes carefully.

Drawings can be found on the Planning pages of the Council website at https://eplanning.scotborders.gov.uk/online-applications/ . Please see the requirement for notification of initiation and completion of development as well as for Street naming and numbering as appropriate.

It should be noted that before works commence, where applicable, all necessary consents should be obtained under the Building (Scotland) Act 2003. If you require any further information in this respect, please contact the relevant Building Standards Surveyor.

Yours faithfully

John Hayward

Planning & Development Standards Manager

Scottish Borders COUNCIL

Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

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

Application for Planning Permission **Reference : 20/01076/FUL**

To : Mr & Mrs David Megahy per Gordon Scott Architectural Services Ltd Scotframe Inverurie Business Park Souterford Avenue Inverurie AB51 0ZJ

With reference to your application validated on **21st September 2020** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

Proposal : Erection of dwellinghouse

at : Land South East of Applecross Pyatshaw Lauder Scottish Borders

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 (as amended), 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 20th April 2021
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

John Hayward
Planning & Development Standards Manager

APPLICATION REFERENCE : 20/01076/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
	Location Plan	Approved
SF29848-001	Proposed Elevations	Approved
SF29848-101	Proposed Site Plan	Approved
SF29848-103	Proposed Site Plan	Approved
SF29848-102	Proposed Site Plan	Approved

REASON FOR DECISION

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

SCHEDULE OF CONDITIONS

1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.

2 Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls, doors, windows and roofs of the dwellinghouse have been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

3 The finished floor levels of the dwellinghouse hereby approved shall be consistent with those indicated on a scheme of details which shall be submitted to and approved in writing by the Planning Authority before the development commences. Such details shall indicate the existing and proposed levels throughout the application site and shall be measurable from a fixed datum point in a location clearly indicated in the scheme of details so approved.
Reason: To ensure that the proposed development does not have an adverse effect upon visual amenities.

4 No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Planning Authority before the development commences. This to include:
i. Indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
ii. Location of new trees, shrubs, hedges and grassed areas, including replacement of any trees removed
iii. Schedule of plants to comprise species, plant sizes and proposed numbers/density
iv. Programme for completion and subsequent maintenance.

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

5 Details of all proposed means of enclosure around the site to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved details.
Reason: To enable the proper effective assimilation of the development into its wider surroundings.

6 Visibility splays of 2.4m by 160m to the north west and 2.4m by 215m to the south east shall be provided to the specification of the Planning Authority prior to occupation of the dwellinghouse hereby approved and retained thereafter in perpetuity.
Reason: To ensure adequate visibility splays in the interests of road safety.

7 Two parking spaces, not including any garages, and turning shall be provided within the site prior to occupation of the dwellinghouse hereby approved and retained thereafter in perpetuity.
Reason: To ensure the property is served by adequate off street parking provision at all times.

8 The vehicular access to the site to be formed to the specification of the Planning Authority prior to occupation of the dwellinghouse.
Reason: To ensure satisfactory access to the property and to provide for adequate servicing.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

1 In respect of condition 8, the access to the site must be formed as a service layby as per diagram DC-3 (attached).

It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

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.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:
Monday-Friday 0700-1900
Saturday 0800-1300
Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 “Code of Practice for Noise and Vibration Control on Construction and Open Sites”.

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act 1997 (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 available on the Council's website for this purpose.

Notice of Completion of Development

Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) 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 (as amended) within three months from the date of this notice.

The notice of review must be submitted on the standard form and addressed to the Clerk of The Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St Boswells. TD6 0SA or sent by email to localreview@scotborders.gov.uk. The standard form and guidance notes can be found online at Appeal a Planning Decision. Appeals to the Local Review Body can also be made via the Scottish Government Planning and Environmental Appeals Division by clicking on the following link PEAD

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 (as amended).

SCOTTISH BORDERS COUNCIL

APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO CHIEF PLANNING OFFICER

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 20/01076/FUL

APPLICANT : Mr & Mrs David Megahy

AGENT : Gordon Scott Architectural Services Ltd

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Land South East Of Applecross Pyatshaw Lauder
Lauder
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Approved
SF29848-001	Proposed Elevations	Approved
SF29848-101	Proposed Site Plan	Approved
SF29848-103	Proposed Site Plan	Approved
SF29848-102	Proposed Site Plan	Approved

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

There are no representations.

CONSULTATIONS:

Roads Planning Service: This application is effectively for a change of house type to that approved under application 18/00622/AMC and as such I shall have no objections to the proposal provided the same roads related conditions are attached to this consent that were attached to the previous approval.

Community Council: No response.

Education and Lifelong Learning: No response.

Scottish Water: No response.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

Policy PMD2: Quality Standards
Policy HD2: Housing in the Countryside

Policy HD3: Protection of Residential Amenity
EP10: Gardens and Designed Landscapes
Policy EP13: Trees, Woodlands and Hedgerows
Policy IS1: Developer Contributions
Policy IS7: Parking Provision and Standards
Policy IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Supplementary Planning Guidance

New Housing in the Borders Countryside 2008
Placemaking and Design 2010

Recommendation by - Julie Hayward (Lead Planning Officer) on 11th November 2020

Site and Proposal

Pyatshaw is situated to the east of Lauder. The application site is an area of agricultural land immediately adjacent to the applicant's farm steading, to the south east of the Pyatshaw building group. It is surrounded by fields and the A697 (Carfraemill to Greenlaw road) is to the south west.

The proposal is to erect a detached dwellinghouse to the south east of the existing farm buildings. This would be one-and-three quarter storeys, with 3 bedrooms. It would have timber cladding, render and stone cladding for the walls, grey UPVC doors and windows and a slate roof.

The proposed dwelling would utilise the existing vehicular access from the A697 used by the farm steading, to the north west. It would be upgraded to include a service layby and visibility splays each side. A gravel driveway, with a passing place, a turning area and parking area would be provided within the site. Foul drainage would be to a treatment plant to an attenuation pond within the adjacent field and surface water drainage would discharge to the attenuation pond, the outfall from which would be directed to existing field drains.

The site is enclosed on three sides by a post and wire fence and there is a dry stone dyke along the south west/road boundary. A new post and wire fence would be erected along the driveway. Indicative planting is shown in the site plan.

The principle of a dwelling on this site was approved on the basis of economic justification in 2016; the justification for the dwellinghouse was that the applicant needed to be closer to the farm steading to manage the farm. A business case showed that there was evidence of a sustained and continuing business and the level of farming activity reflected the standard man day requirement of more than one on the unit. The Planning Permission in Principle was subject to a Section 75 Agreement that required:

o The whole of the land including the new dwellinghouse and buildings to be held as a single property and farmed as a single agricultural unit and no part to be sold or disposed of;

o Occupation of the new dwellinghouse to be limited to a person employed or last employed in the full time management of the farm for the purpose of agriculture or their dependants;

o No further dwellinghouses to be erected on the land without the consent of the Planning Authority;

o The developer to pay the required developer contributions.

An application was approved in May 2019 (19/00513/MOD75) to remove the clause that ties the dwellinghouse to the land holding.

The Approval of Matters Specified in Conditions application was approved in 2018. This was for a larger, five bedroom, one-and-a-half and two storey dwellinghouse.

Planning History

15/00193/PPP: Erection of dwellinghouse. Approved 14th December 2016.

18/00622/AMC: Erection of dwellinghouse ((Approval of Matters Specified in Conditions pursuant to planning permission 15/00193/PPP). Approved 16th November 2018.

19/00513/MOD75: Modification of Planning Obligation. Approved 28th May 2019.

Policy

Part F of policy HD2 supports housing with a location essential for business needs if 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.

This application is for the same applicants as the previous Planning Permission in Principle and Approval of Matters Specified in Conditions applications and on the same site. The justification remains and the applicant now wishes to downsize to reduce construction costs to within his budget.

A new Section 75 agreement would be required to apply the restrictions within the (modified) legal agreement.

Siting, Design and Impact on Visual Amenities

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings.

The proposed dwelling would be sited to the south east of the farm buildings, with a clear relationship between the two. It would be significantly smaller in footprint and scale to that approved. The design and materials are considered to be acceptable, as it would be one-and three quarter storey, with a single wing to the side to break up the bulk of the building, pitched roof dormers, a front gable and porch to provide interest, vertical emphasis to the windows and a symmetrical frontage. The walls would be predominantly timber clad but with the front gable clad in stone and the rear gable part rendered. A condition would agree the exact details of the materials,

Photos taken in 2018 show large agricultural buildings to the north east and a row of small trees and hedging along the road boundary. Additional tree planting along the boundaries of the site would help the development integrate into the landscape. It is considered that the visual impact would be significantly less than the previously approved house and there would be no adverse detrimental impact on the visual amenities of the area.

Impact on Residential Amenities

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new household developments to ensure that proposals do not adversely affect the residential amenities of occupants of neighbouring properties.

There ae no residential properties close to the site that would be affected by the proposal.

Access, Parking and Road Safety

Policy PMD2 requires that a development incorporates adequate access and turning space and for vehicles and ensures that there is no adverse impact on road safety. Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards.

The site would utilise the existing access onto the public road from the farm steading and a new access track would be formed along the south west boundary. There is sufficient space within the site for on-site parking and turning.

The Roads Planning Service has no objections as this is a change of house type to that previously approved provided the same roads related conditions are attached to this consent that were attached to the previous approval.

Water and Drainage

Policy IS9 states that the preferred method of dealing with waste water associated with new developments would be the direct connection to the public sewerage system and for development in the countryside the use of private sewerage may be acceptable provided that it can be provided without negative impacts to public health, the environment, watercourses or ground water. A SUDS is required for surface water drainage.

Drainage would be to a treatment plant and attenuation pond discharging to field drains. The exact details would be agreed at the Building Warrant stage. The water supply would be from the public mains.

Development 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. This is set out in policies IS2 and IS3.

Contributions are required towards Lauder Primary School and Earlston High School. These would be secured by the Section 75 agreement.

REASON FOR DECISION :

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

Recommendation: Approved - conditions, inform & LA

1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.

2 Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls, doors, windows and roofs of the dwellinghouse have been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

3 The finished floor levels of the dwellinghouse hereby approved shall be consistent with those indicated on a scheme of details which shall be submitted to and approved in writing by the Planning Authority before the development commences. Such details shall indicate the existing and proposed levels throughout the application site and shall be measurable from a fixed datum point in a location clearly indicated in the scheme of details so approved.
Reason: To ensure that the proposed development does not have an adverse effect upon visual amenities.

4 No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Planning Authority before the development commences. This to include:
i. Indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration
ii. Location of new trees, shrubs, hedges and grassed areas, including replacement of any trees removed
iii. Schedule of plants to comprise species, plant sizes and proposed numbers/density
iv. Programme for completion and subsequent maintenance.
Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

5 Details of all proposed means of enclosure around the site to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved details.
Reason: To enable the proper effective assimilation of the development into its wider surroundings.

6 Visibility splays of 2.4m by 160m to the north west and 2.4m by 215m to the south east shall be provided to the specification of the Planning Authority prior to occupation of the dwellinghouse hereby approved and retained thereafter in perpetuity.
Reason: To ensure adequate visibility splays in the interests of road safety.

7 Two parking spaces, not including any garages, and turning shall be provided within the site prior to occupation of the dwellinghouse hereby approved and retained thereafter in perpetuity.
Reason: To ensure the property is served by adequate off street parking provision at all times.

8 The vehicular access to the site to be formed to the specification of the Planning Authority prior to occupation of the dwellinghouse.
Reason: To ensure satisfactory access to the property and to provide for adequate servicing.

Informatives

It should be noted that:

1 In respect of condition 8, the access to the site must be formed as a service layby as per diagram DC-3 (attached).

It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

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

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Scottish Borders COUNCIL

Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

Application for Planning Permission in Principle **Reference : 15/00193/PPP**

To : Mr David Megahy per Suzanne McIntosh Planning Limited 12-14 Lochrin Buildings Edinburgh EH3 9NB

With reference to your application validated on **25th February 2015** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse

At : Land South East Of Applecross Pyatshaw Lauder

The Scottish Borders Council hereby **grant planning permission in principle** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997, subject to the following directions:

- That an application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
  a) The expiration of three years from the date of this permission, or
  b) The expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

  Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

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

And subject to the conditions on the attached schedule imposed by the Council for the reasons stated

Dated 14th December 2016
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

Signed .....
Chief Planning Officer

Scottish Borders COUNCIL

Regulatory Services

APPLICATION REFERENCE : 15/00193/PPP

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
	Site Plan	Approved

REASON FOR DECISION

Subject to the conclusion of a legal agreement to tie the dwellinghouse to the owned land holding and to compliance with the schedule of conditions, the proposed development will accord with Adopted Scottish Borders Consolidated Local Plan Policies D2, G1, G5, H2, Inf4, Inf5, Inf6 and NE4; and will accord with the advice and guidance of the Supplementary Planning Guidance on New Housing in the Scottish Borders Countryside (December 2008) and Supplementary Planning Guidance on Placemaking and Design (January 2010).

SCHEDULE OF CONDITIONS

1 No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto, and the landscaping of the site, have all been submitted to, and approved in writing by, the Planning Authority. These details shall include:
(i) provision for on-site parking and turning appropriate to accommodate the parking and movement of at least two vehicles;
(ii) provision for the upgrading of the existing site access onto the public road in accordance with the advice of Informative Note 2;
(iii) provision for the maintenance or, if impacts are proposed, recreation, of the roadside boundary hedge and trees;
Information provided to describe the layout, siting, design and external appearance of the dwellinghouse shall take full account of the advice and guidance of Informative Note 3.
Information provided to describe the landscaping proposals, including the concerns identified under items iii. above, shall take full account of the advice and guidance of Informative Note 4.
Thereafter, the development shall be implemented in accordance with the approved details.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006; and in the interests of road safety, to ensure that appropriate provision is made within the design and layout of the residential property hereby approved, for the access of vehicles to and from the site, while ensuring that the finished appearance of the residential property is sympathetic to the rural and agricultural character of the site and the surrounding area.

2 No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3 The occupation of the dwellinghouse hereby approved, shall be limited to either:
(i) a person solely or mainly employed, or last employed, in the locality in agriculture as defined in section 277 of the Town and Country Planning (Scotland) Act 1997, along with any dependent(s) of such a person residing with him or her; or otherwise, only to
(ii) a widow or widower of a person described in item i. above, along with any dependent(s) residing with that widow or widower.

Reason: The site is in a rural area where it is not the Council's policy to permit unrestricted residential development, and permission has therefore only been granted on account of the demonstrated agricultural need for the dwellinghouse hereby approved. Further, there is a need to protect the amenity of the occupiers of the dwellinghouse hereby consented due to its proximity to the working farm, which would result in unacceptable impacts upon the amenity of the dwellinghouse were this to be occupied independently of the farm.

4 The dwellinghouse hereby consented shall not be occupied until:
(a) the site access from the public road to the residential property hereby approved, and
(b) the provision of parking and turning for the accommodation of two vehicles within the curtilage of the residential property hereby approved,
have all first been completed in accordance with the details approved at the AMC stage to address the relevant information requirements of Planning Condition No 1 attached to this same planning consent.
Reason: In the interests of road safety to ensure that provision for the appropriate and safe access, parking and turning of occupants' vehicles is complete and available for use prior to the occupation of the residential property hereby approved.

5 Notwithstanding the details submitted in support of the planning application, the development shall not be commenced until precise details of:
(a) the arrangements for surface water drainage treatment;
(b) the arrangements for foul drainage treatment; and
(c) the arrangements for water supply,
have all first been submitted to, and approved in writing by, the Planning Authority. (Please see Informative Note 5 with regard to the information required to address this planning condition). Thereafter, the surface water drainage treatment, foul drainage treatment, and water supply shall all be implemented in accordance with the approved details. Further, surface water drainage, foul drainage and the water supply shall all be functional prior to the occupation of the dwellinghouse hereby approved.
Reason: To ensure that the site is adequately serviced and fit for habitation prior to its occupation.

6 The finished floor level(s) of the dwellinghouse and any associated outbuilding(s), and the finished ground level(s) within the curtilage of the residential property hereby consented, shall all be consistent with levels indicated on a scheme of details that shall first have been submitted to, and approved in writing by, the Planning Authority prior to the commencement of development. Such details shall include:
(i) the proposed finished floor level(s) of the consented dwellinghouse and any associated outbuilding(s);
(ii) the existing and proposed ground levels within the curtilage of the consented residential property; and
(iii) a clearly identifiable datum point, or clearly identifiable datum points, located outwith the site and sufficient for the purpose of establishing the heights of the existing and proposed levels detailed in (i) and (ii) above, relative to the level(s) of the existing public road.
Reason: To ensure that the consented development does not have any detrimental impact upon the appearance, environment and amenity of the site and surrounding area, or upon the amenity of neighbouring properties as a consequence of the levels within the site being raised to an inappropriate height.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

INFORMATIVE NOTE 1:

It should be noted that ALL information requirements identified in the planning conditions attached to this planning consent require to be made the subject of a subsequent application, or subsequent applications, for Approval of Matters specified in Conditions (AMC).

When making an AMC application to address the information requirements of the planning conditions attached to this planning consent, the Applicant should explicitly state the reference numbers of the relevant planning conditions in the appropriate place (currently Section 5b) on the Planning Application Form.

In the event that the Applicant would seek to address the information requirements of ALL planning conditions attached to this planning consent within one AMC application, they must ensure that they supply information that fully and properly addresses ALL information requirements identified within ALL planning conditions.

INFORMATIVE NOTE 2:

The details provided to address the information requirements of Planning Condition No 1, item ii., should address in full the following:

(i) the existing vehicular access between the site and the main road (A697) should be maintained; and no new separate road access should be created between the A697 and the residential property hereby approved. The latter should instead only be accessible via the existing farm access;

(ii) arrangements for the achievement and maintenance of appropriate visibility splays from the site access junction onto the public road; and

(iii) the surface of the existing junction between the site and the A697 needs to be upgraded and improved (properly leveled and tarred) over its initial 6.0m length with the public road.

INFORMATIVE NOTE 3:

The details provided to address the information requirements of Planning Condition No 1, with regard to the layout, siting, design and external appearance of the dwellinghouse, should address in full the following matters:

(i) the site described by the approved location plan is over-sized relative to the identified proposal (a single dwellinghouse). However, there are no concerns in principle that the latter would be acceptably accommodated within a smaller area of this same site. The detailed proposal must however describe a considerably reduced area for the accommodation of the residential property at the AMC stage. This reduced site should be proportionate in its size to the existing farmyard and should describe the curtilage of a residential property that is capable of being accommodated within a shared landscape setting alongside the existing farmyard;

(ii) although the site described by the approved location plan includes the existing farmyard, the existing farmyard should nonetheless be excluded from the site boundary of the residential property. If this cannot be achieved, appropriate provision for the relocation of farm buildings, or reconfiguration, of the farmyard would need to be incorporated into the proposal. Given that the dwellinghouse is being approved to serve the existing farmyard, there would be a concern if the associated farmyard were to be removed, reduced, or its operations otherwise compromised, by the siting of the dwellinghouse and/or by the layout of the residential property hereby approved. For clarity, and without any appropriate alternative arrangements, it is not anticipated that the detailed proposal would be supported in any of these circumstances;

(iii) given that the dwellinghouse hereby approved is being supported to serve the established agricultural business, the dwellinghouse and associated residential property should be located adjacent to the existing farmyard area. In the event that it were proposed that the dwellinghouse were set back any notable distance from the existing farmyard, justification would be sought to explain the necessity for this amount of set back.

(iv) the dwellinghouse is liable to be extremely visible from the public road as well as within the wider landscape, including from within the building group at Pyatshaw and surrounding area. It is anticipated that only a traditional rural architectural design approach, including use of traditional materials (natural slate; wet dash render; stone; and/or timber), would be liable to be supported in this location. Again, a justification would be sought for any non-traditional design approach and materials were these to feature in any detailed proposal at the AMC stage.

INFORMATIVE NOTE 4:

The details provided to address the information requirements of Planning Condition No 1, with regard to the landscaping proposals, including the concerns identified under item iii of the same Planning Condition, should include:

(a) a landscaping plan;

(b) a planting schedule; and

(c) a maintenance schedule.

The proposals so described, should address in full the following matters (1 to 4):

(1) a description of how the existing roadside hedgerow and trees would be conserved. These details should also include the location of any new planting required to re-align the hedgerow such that this can be retained as a boundary feature (albeit a boundary feature that does not compromise the creation or maintenance of the visibility splays at the site access); and

(2) a description of how an appropriate residential boundary would be established to differentiate garden ground from the adjacent fields.

(3) Planting plans must provide sufficient information to be enforceable, by detailing the following:

i.) Plan is to an identified true scale (e.g. 1:200).

ii.) Boundary of the application site is clearly marked.

iii.) Site orientation is indicated by a North point or OS grid lines.

iv.) All existing trees, shrubs and hedges to be retained are clearly marked.

v.) Take account of site factors such as slope, aspect, soil conditions, proximity of buildings and minimum distances from pipe and cable runs, when choosing planting positions. Where necessary, seek professional landscape advice.

vi.) Planting positions are clearly marked showing individual trees and shrubs and / or planting area boundaries using dimensions as necessary.

vii.) All species of plants identified using their full botanical name (e.g. oak - Quercus robur)

viii.) All plant numbers to be identified individually or by group or area as appropriate. Species mixes can be identified by percentages and an overall number or a specified area and a planting density (e.g. Betula pendula 30%, Quercus robur 70%, 120 square metres @ 1 plant per 4 square metres = 9 B. pendula & 21 Q. robur)

ix.) A planting schedule identifies all the proposed planting by species and specification indicating size and nature of plants to be used (e.g.: Extra heavy standard tree 14-16cms girth or shrub 60-75cms high in 2 litre pot.)

x.) Notes on the plan describe how the planting is to be carried out and maintained to ensure successful establishment.

xi.) The plan indicates when the work will be completed and ready for inspection taking account of planting seasons (e.g. November to end March each year for bare rooted plants.)

N.B. Planting conditions are only discharged following an inspection of the completed work

(4) Please also note that the programme for completion and subsequent maintenance must include action points describing actions that will definitely be taken by the Applicant, and must also note precisely when these are to be carried out (i.e. definite actions to be carried out at clearly identifiable times). Use of ambiguous, vague or otherwise non-committal words or phrases (including "should", "could" or "may") must be avoided in favour of words and phrases that are clear and definite (such as "will" and "shall") when detailing these actions that the Applicant will carry out. A critical concern is that the detail and timing of the measures are capable of being checked if necessary by a third party, rather than left as discretionary or optional.

INFORMATIVE NOTE 5:

If proposals to service the site from the public network are to be maintained within the detailed proposal, then the information provided to address the requirements of Planning Condition No 5 should include correspondence from Scottish Water clarifying the position with regard to the potential capacity for achieving public mains connections.

However, and in any event, full details of the SUDS proposals are required for review at the detailed application stage.

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 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.

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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 : 15/00193/PPP

APPLICANT : Mr David Megahy

AGENT : Suzanne McIntosh Planning Limited

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Land South East Of Applecross
Pyatshaw
Lauder

TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Site Plan	Approved

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

No representations.

Roads Planning Section: has no objections in principle to this proposal. The existing access onto the A697 main road is the only access that would be supported at this location. The existing junction also needs to be upgraded and improved (properly leveled and tarred) over its initial 6.0m length with the public road. If approved, further details of the junction improvement will be provided.

Economic Development: requested further information following its initial review of the supporting business case. Following its review of the additional documents, in conjunction with those previous supplied, it has advised that it has no issue with this application. There is evidence of a sustained and continuing business and the level of farming activity reflects the standard man day requirement of more than one SMD on the unit.

Environmental Health (Contaminated Land): has identified potential land contamination issue and requests imposition of planning condition to regulate this matter.

Education and Lifelong Learning: contributions are required towards the upgrade of local education provision.

Community Council: has not responded to the public consultation.

Landscape Section: has not responded to the public consultation.

PLANNING CONSIDERATIONS AND POLICIES:

Adopted Scottish Borders Local Plan Policy D2 - Housing in the Countryside
Adopted Scottish Borders Local Plan Policy G1 - Quality Standards For New Development

Adopted Scottish Borders Local Plan Policy G5 - Developer Contributions
Adopted Scottish Borders Local Plan Policy H2 - Protection of Residential Amenity
Adopted Scottish Borders Local Plan Policy Inf4 - Parking Provisions and Standards
Adopted Scottish Borders Local Plan Policy Inf5 - Waste Water Treatment Standards
Adopted Scottish Borders Local Plan Policy Inf6 - Sustainable Urban Drainage
Adopted Scottish Borders Local Plan Policy NE4 - Trees, Woodlands and Hedgerows

Supplementary Planning Guidance on New Housing in the Scottish Borders Countryside (December 2008)
Supplementary Planning Guidance on Placemaking and Design (January 2010)

SPP (2014)
Circular 3/2012
Director and Chief Planner's Letter of 04 November 2011

Recommendation by - Stuart Herkes (Planning Officer) on 27th April 2015

SITE DESCRIPTION AND PROPOSED DEVELOPMENT

This application seeks Planning Permission in Principle for a new dwellinghouse to oversee the operations of an existing farmyard on a site near Pyatshaw and immediately adjacent to the A697. There is no existing residential unit associated with the farmyard. The Applicant has instead for some years operated the unit from a property ('Applecross') within the nearby building group at Pyatshaw, but is concerned to live on the site in the vicinity of his established farmyard, which is the centre of his agricultural business operations.

PLANNING PRINCIPLE

Given the displacement in distance of the Applicant's existing home from his farmyard, it is understandable that he would be concerned in the long-term to be accommodated on site for supervisory reasons. However, notwithstanding the clear logic in this, it still requires to be demonstrated that the specific agricultural business itself, has a justifiable need for a new dwellinghouse in terms of the business' size and activities. In order for the application to be supported, the business must be capable of supporting at least one full-time worker, and the business' management should require the input of the labour of at least one full-time worker. Without this justification, there would be no reason to support a new dwellinghouse in connection with the existing operation.

The Applicant has provided a business case which has been reviewed by Economic Development. The latter has advised that there is evidence of a sustained and continuing business and the level of farming activity reflects the standard man day requirement of more than one on the unit.

Taking account of Economic Development's review, and given that there is also evidence within the planning system of the Applicant's efforts in recent years to build up a farming business based at this site, there are no concerns in principle about the accommodation of an isolated dwellinghouse at the farm for the purposes of accommodating a farm worker.

The proposal therefore complies in principle with Adopted Local Plan Policy D2, Section E: Economic Requirement. However, in order to ensure compliance, there would need to be a requirement by planning condition that the property only be occupied by a farm worker, or retired farm worker, which can be achieved appropriately by the imposition of a planning condition. Additionally, a legal obligation should be imposed to require that the house be tied to the agricultural holding described in the business case; that is, the 123 acres that the Applicant currently owns and farms. The additional 50 acres of rented land cannot reasonably be involved in any legal agreement.

It is acknowledged that national policy and guidance seek to discourage the use of legal obligations in relation to planning approvals for new houses in the countryside. In this case however, it is considered that the dispersed nature of the agricultural holding concerned, would make this holding more vulnerable to break up than an established holding, where the existence of a contiguous block of land sufficient to support a full time farm business, provides greater reassurance that the holding would be more likely to be held within a common ownership in the long-term. In order to avoid any concern that the farm business might

become unviable as a consequence of land being sold off in parcels in the long-term, incrementally or otherwise, it would be appropriate to impose a planning obligation to require (a) that the Applicant's holding of 123 acres be retained in tact, to ensure the maintenance in the long-term of the agricultural unit which the farmhouse is required to serve; and (b) that the farmhouse should be tied to this holding.

ASSESSMENT OF SPECIFIC SITE

With regard to the specific site indicated, the Applicant has identified the entire existing farm steading within his site boundary, along with areas of land lying either side of this, to both the northwest and southeast.

Given that the site takes in the existing farmyard, it is supposed that the Applicant has identified a general area in which he would look to locate the dwellinghouse rather than the precise boundaries of a specific proposal. On the one hand, the proposed site boundary can be viewed favourably because it allows for the farmhouse to be accommodated immediately adjacent to the existing farm steading and in at least one of two situations that are in principle perfectly acceptable: either to the immediate northwest or southeast of the existing farm steading.

On the other hand, the "over-large" site identified, does raise its own technical considerations. Firstly, some protection would need to be afforded to the existing farm buildings and farmyard to have these excluded from the developable site, principally by requiring that the existing farmyard and buildings should be retained, and that the dwellinghouse should be sited only on one or other side of the farm steading rather than replace the steading. Secondly, there would be a concern to see the farmhouse located as close to the farmyard as practical, which would be liable to exclude the northwest and certainly, the southeast extremities of the identified site. (Even allowing that the latter might accommodate garden ground, it is anticipated that there would be a concern for some justification were this amount of set back to be proposed at the detailed planning application stage).

However, notwithstanding these concerns, the site would nonetheless allow for a farmhouse to be located adjacent to the farm steading it would serve and is considered acceptable in principle subject to conditions and informatives to address the above noted concerns with regard to the most acceptable siting of the farmhouse.

OTHER CONCERNS

In terms of considerations for the detailed application stage, a traditional design approach would be encouraged. This is due to the high visibility of this site from the adjacent public road and within the wider landscape, including from within, and within the vicinity of, the nearby building group at Pyatshaw. (A highly visible non-traditional design of house would be liable to detract from any immediate reading of this as a farmhouse).

The landscaping treatment should seek to conserve the existing roadside hedge on the boundary nearest the road, but otherwise the concern would be for an appropriate landscape treatment along all boundaries that would be open field. Otherwise it is considered that standard planning conditions and informatives would serve to guide the development through the detailed application stage and beyond.

The existing access onto the the A697 main road is the only access that would be supported at this location. Roads requires that the existing junction be upgraded and improved (properly leveled and tarred) over its initial 6.0m length with the public road. Again, this matter is capable of being appropriately regulated by planning condition. The need to have the farmhouse served by the existing access is another reason why the extremities of the site would be less preferable than a siting in close proximity to the farmyard.

It is advised that foul drainage and the water supply would be served from the public mains. This raises no concerns in principle but as with any isolated site it would still be reasonable to regulate this matter appropriately in case the potential to achieve a public mains connection has not been established. Surface water drainage would be to a SUDS system but no details are given. Again, prior approval would be a reasonable requirement.

Given the relative isolation of the site, there would be no residential amenity concerns.

A legal agreement would be required to secure the collection of development contributions towards local education provision within the surrounding area.

CONCLUSION

A legal agreement is required to: (a) secure the development contribution; (b) tie the dwellinghouse to the agricultural unit; and (c) tie the owned land holding to ensure that the dwelling would serve what has been assessed as being a viable agricultural unit.

Subject to a legal agreement and the imposition of planning conditions and informatives to address the above highlighted concerns, the proposal is permissible.

REASON FOR DECISION :

Subject to the conclusion of a legal agreement to tie the dwellinghouse to the owned land holding and to compliance with the schedule of conditions, the proposed development will accord with Adopted Scottish Borders Consolidated Local Plan Policies D2, G1, G5, H2, Inf4, Inf5, Inf6 and NE4; and will accord with the advice and guidance of the Supplementary Planning Guidance on New Housing in the Scottish Borders Countryside (December 2008) and Supplementary Planning Guidance on Placemaking and Design (January 2010).

Recommendation: Approved - conditions, inform & LA

1 No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto, and the landscaping of the site, have all been submitted to, and approved in writing by, the Planning Authority. These details shall include:
(i) provision for on-site parking and turning appropriate to accommodate the parking and movement of at least two vehicles;
(ii) provision for the upgrading of the existing site access onto the public road in accordance with the advice of Informative Note 2;
(iii) provision for the maintenance or, if impacts are proposed, recreation, of the roadside boundary hedge and trees;
Information provided to describe the layout, siting, design and external appearance of the dwellinghouse shall take full account of the advice and guidance of Informative Note 3.
Information provided to describe the landscaping proposals, including the concerns identified under items iii. above, shall take full account of the advice and guidance of Informative Note 4.
Thereafter, the development shall be implemented in accordance with the approved details.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006; and in the interests of road safety, to ensure that appropriate provision is made within the design and layout of the residential property hereby approved, for the access of vehicles to and from the site, while ensuring that the finished appearance of the residential property is sympathetic to the rural and agricultural character of the site and the surrounding area.

2 No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3 The occupation of the dwellinghouse hereby approved, shall be limited to either:
(i) a person solely or mainly employed, or last employed, in the locality in agriculture as defined in section 277 of the Town and Country Planning (Scotland) Act 1997, along with any dependent(s) of such a person residing with him or her; or otherwise, only to
(ii) a widow or widower of a person described in item i. above, along with any dependent(s) residing with that widow or widower.

Reason: The site is in a rural area where it is not the Council's policy to permit unrestricted residential development, and permission has therefore only been granted on account of the demonstrated agricultural need for the dwellinghouse hereby approved. Further, there is a need to protect the amenity of the occupiers of the dwellinghouse hereby consented due to its proximity to the working farm, which would result in unacceptable impacts upon the amenity of the dwellinghouse were this to be occupied independently of the farm.

4 The dwellinghouse hereby consented shall not be occupied until:
(a) the site access from the public road to the residential property hereby approved, and
(b) the provision of parking and turning for the accommodation of two vehicles within the curtilage of the residential property hereby approved,
have all first been completed in accordance with the details approved at the AMC stage to address the relevant information requirements of Planning Condition No 1 attached to this same planning consent.
Reason: In the interests of road safety to ensure that provision for the appropriate and safe access, parking and turning of occupants' vehicles is complete and available for use prior to the occupation of the residential property hereby approved.

5 Notwithstanding the details submitted in support of the planning application, the development shall not be commenced until precise details of:
(a) the arrangements for surface water drainage treatment;
(b) the arrangements for foul drainage treatment; and
(c) the arrangements for water supply,
have all first been submitted to, and approved in writing by, the Planning Authority. (Please see Informative Note 5 with regard to the information required to address this planning condition). Thereafter, the surface water drainage treatment, foul drainage treatment, and water supply shall all be implemented in accordance with the approved details. Further, surface water drainage, foul drainage and the water supply shall all be functional prior to the occupation of the dwellinghouse hereby approved.
Reason: To ensure that the site is adequately serviced and fit for habitation prior to its occupation.

6 The finished floor level(s) of the dwellinghouse and any associated outbuilding(s), and the finished ground level(s) within the curtilage of the residential property hereby consented, shall all be consistent with levels indicated on a scheme of details that shall first have been submitted to, and approved in writing by, the Planning Authority prior to the commencement of development. Such details shall include:
(i) the proposed finished floor level(s) of the consented dwellinghouse and any associated outbuilding(s);
(ii) the existing and proposed ground levels within the curtilage of the consented residential property; and
(iii) a clearly identifiable datum point, or clearly identifiable datum points, located outwith the site and sufficient for the purpose of establishing the heights of the existing and proposed levels detailed in (i) and (ii) above, relative to the level(s) of the existing public road.
Reason: To ensure that the consented development does not have any detrimental impact upon the appearance, environment and amenity of the site and surrounding area, or upon the amenity of neighbouring properties as a consequence of the levels within the site being raised to an inappropriate height.

Informatives

It should be noted that:

1 INFORMATIVE NOTE 1:

It should be noted that ALL information requirements identified in the planning conditions attached to this planning consent require to be made the subject of a subsequent application, or subsequent applications, for Approval of Matters specified in Conditions (AMC).

When making an AMC application to address the information requirements of the planning conditions attached to this planning consent, the Applicant should explicitly state the reference numbers of the relevant planning conditions in the appropriate place (currently Section 5b) on the Planning Application Form.

In the event that the Applicant would seek to address the information requirements of ALL planning conditions attached to this planning consent within one AMC application, they must ensure that they supply information that fully and properly addresses ALL information requirements identified within ALL planning conditions.

2 INFORMATIVE NOTE 2:

The details provided to address the information requirements of Planning Condition No 1, item ii., should address in full the following:

(i) the existing vehicular access between the site and the main road (A697) should be maintained; and no new separate road access should be created between the A697 and the residential property hereby approved. The latter should instead only be accessible via the existing farm access;

(ii) arrangements for the achievement and maintenance of appropriate visibility splays from the site access junction onto the public road; and

(iii) the surface of the existing junction between the site and the A697 needs to be upgraded and improved (properly leveled and tarred) over its initial 6.0m length with the public road.

3 INFORMATIVE NOTE 3:

The details provided to address the information requirements of Planning Condition No 1, with regard to the layout, siting, design and external appearance of the dwellinghouse, should address in full the following matters:

(i) the site described by the approved location plan is over-sized relative to the identified proposal (a single dwellinghouse). However, there are no concerns in principle that the latter would be acceptably accommodated within a smaller area of this same site. The detailed proposal must however describe a considerably reduced area for the accommodation of the residential property at the AMC stage. This reduced site should be proportionate in its size to the existing farmyard and should describe the curtilage of a residential property that is capable of being accommodated within a shared landscape setting alongside the existing farmyard;

(ii) although the site described by the approved location plan includes the existing farmyard, the existing farmyard should nonetheless be excluded from the site boundary of the residential property. If this cannot be achieved, appropriate provision for the relocation of farm buildings, or reconfiguration, of the farmyard would need to be incorporated into the proposal. Given that the dwellinghouse is being approved to serve the existing farmyard, there would be a concern if the associated farmyard were to be removed, reduced, or its operations otherwise compromised, by the siting of the dwellinghouse and/or by the layout of the residential property hereby approved. For clarity, and without any appropriate alternative arrangements, it is not anticipated that the detailed proposal would be supported in any of these circumstances;

(iii) given that the dwellinghouse hereby approved is being supported to serve the established agricultural business, the dwellinghouse and associated residential property should be located adjacent to the existing farmyard area. In the event that it were proposed that the dwellinghouse were set back any notable distance from the existing farmyard, justification would be sought to explain the necessity for this amount of set back.

(iv) the dwellinghouse is liable to be extremely visible from the public road as well as within the wider landscape, including from within the building group at Pyatshaw and surrounding area. It is anticipated that only a traditional rural architectural design approach, including use of traditional materials (natural slate; wet dash render; stone; and/or timber), would be liable to be supported in

this location. Again, a justification would be sought for any non-traditional design approach and materials were these to feature in any detailed proposal at the AMC stage.

4 INFORMATIVE NOTE 4:

The details provided to address the information requirements of Planning Condition No 1, with regard to the landscaping proposals, including the concerns identified under item iii of the same Planning Condition, should include:

(a) a landscaping plan;
(b) a planting schedule; and
(c) a maintenance schedule.

The proposals so described, should address in full the following matters (1 to 4):

(1) a description of how the existing roadside hedgerow and trees would be conserved. These details should also include the location of any new planting required to re-align the hedgerow such that this can be retained as a boundary feature (albeit a boundary feature that does not compromise the creation or maintenance of the visibility splays at the site access); and

(2) a description of how an appropriate residential boundary would be established to differentiate garden ground from the adjacent fields.

(3) Planting plans must provide sufficient information to be enforceable, by detailing the following:

i.) Plan is to an identified true scale (e.g. 1:200).
ii.) Boundary of the application site is clearly marked.
iii.) Site orientation is indicated by a North point or OS grid lines.
iv.) All existing trees, shrubs and hedges to be retained are clearly marked.
v.) Take account of site factors such as slope, aspect, soil conditions, proximity of buildings and minimum distances from pipe and cable runs, when choosing planting positions. Where necessary, seek professional landscape advice.
vi.) Planting positions are clearly marked showing individual trees and shrubs and / or planting area boundaries using dimensions as necessary.
vii.) All species of plants identified using their full botanical name (e.g. oak - Quercus robur)

viii.) All plant numbers to be identified individually or by group or area as appropriate. Species mixes can be identified by percentages and an overall number or a specified area and a planting density (e.g. Betula pendula 30%, Quercus robur 70%, 120 square metres @ 1 plant per 4 square metres = 9 B. pendula & 21 Q. robur)
ix.) A planting schedule identifies all the proposed planting by species and specification indicating size and nature of plants to be used (e.g.: Extra heavy standard tree 14-16cms girth or shrub 60-75cms high in 2 litre pot.)
x.) Notes on the plan describe how the planting is to be carried out and maintained to ensure successful establishment.
xi.) The plan indicates when the work will be completed and ready for inspection taking account of planting seasons (e.g. November to end March each year for bare rooted plants.)
N.B. Planting conditions are only discharged following an inspection of the completed work

(4) Please also note that the programme for completion and subsequent maintenance must include action points describing actions that will definitely be taken by the Applicant, and must also note precisely when these are to be carried out (i.e. definite actions to be carried out at clearly identifiable times). Use of ambiguous, vague or otherwise non-committal words or phrases (including "should", "could" or "may") must be avoided in favour of words and phrases that are clear and definite (such as "will" and "shall") when detailing these actions that the Applicant will carry out. A critical concern is that the detail and timing of the measures are capable of being checked if necessary by a third party, rather than left as discretionary or optional.

5 INFORMATIVE NOTE 5:

If proposals to service the site from the public network are to be maintained within the detailed proposal, then the information provided to address the requirements of Planning Condition No 5 should include correspondence from Scottish Water clarifying the position with regard to the potential capacity for achieving public mains connections.

However, and in any event, full details of the SUDS proposals are required for review at the detailed application stage.

"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

Planning and Economic Development

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Application for Planning Permission **Reference : 11/00157/PPP**

To : Lauder Farms Ltd per Edwin Thompson & Co (Galashiels) 76 Overhaugh Street Galashiels Scottish Borders TD1 1DP

With reference to your application validated on **10th February 2011** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse

at : Plot 2 Land North Of Boonraw Whiteburn Lauder Scottish Borders

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

Dated 8th April 2011
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

[redacted]

Signed .....
Head of Planning and Regulatory Services

Scottish Borders COUNCIL

Planning and Economic Development

APPLICATION REFERENCE : 11/00157/PPP

Schedule of Plans and Drawings Refused:

Plan Ref	Plan Type	Plan Status
GC1058	Location Plan	Refused

REASON FOR REFUSAL

1 The proposal would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies D2(A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that the erection of a dwellinghouse on this site would not reflect or respect the character and amenity of the existing building group and would not relate to the established built form and pattern of development within the building group. Furthermore the proposal would not be contained within the identified sense of place created by the existing buildings and means of enclosure.

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 THE HEAD OF PLANNING AND REGULATORY SERVICES

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 11/00157/PPP

APPLICANT : Lauder Farms Ltd

AGENT : Edwin Thompson & Co (Galashiels)

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Plot 2 Land North Of Boonraw
Whiteburn
Lauder
Scottish Borders

TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
GC1058	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 3
SUMMARY OF REPRESENTATIONS:

This is a joint report on Planning Applications 11/00156/PPP and 11/00157/PPP.

REPRESENTATIONS

Eight objections (two of which are identical but submitted at different times) have been received from seven different households. While some of these only cite planning reference 11/00156/PPP, they demonstrate an awareness of two dwellings being proposed, and accordingly, the points raised are considered to be as valid for 11/00157/PPP as for 11/00157/PPP. These representations object to the proposed developments on the following grounds:
1) Whiteburn is not within the Development Boundary as defined within the Adopted Local Plan;
2) the access road clearly demarcates the boundary of the building group, forming a natural permanent boundary;
3) the site is the subject of a legal agreement that requires that no further dwellings should be built on agricultural land at Whiteburn Farm;
4) access to the field is for agricultural purposes only and not for residential use;
5) additional traffic using the access road would be detrimental to the existing road surface and raise road safety concerns for current residents at Whiteburn and users of the A697;
6) there would be a loss of open space;
7) there would be an unacceptable noise impact contrary to Adopted Local Plan Policy H2;
8) the proposal would be detrimental to the character, setting and amenity of Whiteburn and the surrounding area, and therfore contrary to Adopted Local Plan Policy D2;
9) no agricultural access is maintained from the building group to the agricultural land behind the plots when there is a legal requirement that access should be maintained for owners of Whiteburn Farm;

10) the proposed development would have an adverse impact upon the setting of a site that will be the last resting place of a member of the Whitburn community;
11) one objector has advised that he is the owner of the private access road and that access to the sites would be restricted to the existing field accesses;
12) although previous land has been taken from the field in which the sites are located, it was used to accommodate an appropriate new access to the building group and the Section 50 agreement was required to prevent further residential development. This should be seen as a natural progression and not as a precedent for further encroachment into useful agricultural land;
13) development to the north of the access road should be considered to constitute a new building group, which would make the proposals contrary to the Adopted Local Plan;
14) development of the sites would involve breaking into undeveloped agricultural land;
15) existing drainage and electricity works on the site;
16) legal agreement would require housing to be limited to a person employed or last employed in agriculture;
17) site incorporates a reentrant opposite Merrick Cottage and Leaside Cottage, which belongs to the owner of the track; and
18) the houses that were built in the early 1990s, had agricultural restrictions placed on them;

STATUTORY CONSULTEES

The Road User Manager has advised that over the years there has been significant residential development around this site, and arguably the current situation seems to cope quite well. The access onto the main road has good sightlines in either direction, though the surfacing of the junction is showing some deterioration, and some improvement would be welcomed. It should also be noted that the proposed number of new build dwellings may require the need for a public road to be provided, to meet with the current policy for housing in the countryside (4 new build from 1984) and this particular point needs to be checked.

The Director of Education and Lifelong Learning has not responded to the public consultation.

Gordon and Westruther Community Council has responded to advise that it objects on the following grounds:
1) Site access would be from a dangerous corner of the A697;
2) Proposal would result in the development of an agricultural field, contrary to the Council's Housing in the Countryside Policy;
3) Neighbouring residents understand that there is a legal requirement that the land should not be developed for housing; and
4) There is an excess of plots within the CC boundary that have not yet been developed.

PLANNING CONSIDERATIONS AND POLICIES:

Consolidated Structure Plan 2001-2018

H7: Housing in the Countryside: Building Groups

Scottish Borders Local Plan Adopted 2008

G1: Quality Standards for New Development
D2: Housing in the Countryside
D2(A): Building Groups
G5: Developer Contributions
H2: Protection of Residential Amenity

SPG: New Housing in the Borders Countryside December 2008

Recommendation by - Stuart Herkes (Assistant Planning Officer) on 7th April 2011

This is a joint report on Planning Applications 11/00156/PPP and 11/00157/PPP, Plots 1 and 2, Land North of Booraw, Whiteburn, Lauder.

SITE DESCRIPTION

The sites lie immediately adjacent to one another and are agricultural land. They lie to the immediate north of an existing access road which serves the building group at Whiteburn. In accordance with the requirements of the New Housing in the Countryside Policy, the latter is an extant building group, which is capable of augmentation by two new dwellings.

PROPOSED DEVELOPMENTS

The planning applications seek Planning Permission in Principle for two new dwellings. In a covering letter, the applicants advise that the site is not a previously undeveloped field since part of the field has already been developed in order to build dwellings at 'Woodville' and 'Boonraw' and to create the access road.

It is proposed that a new wooded shelter belt should be created to the north of the proposed residential plots to provide an attractive feature and define the longer term natural boundary to the building group "as opposed to the current man-made boundary which is a recent feature".

PLANNING HISTORY

Prior to the issuing of planning consent (B290/91) for two new dwellings ('Woodville' and 'Boonraw'), a legal agreement (Section 50) was concluded for the purposes of preventing the development of any further new build housing on land within the agricultural holding at Whiteburn.

PLANNING PRINCIPLE

It is considered that in their locations, the sites are well-related to a building group that is in principle capable of augmentation by two new dwellings. However, Supplementary Planning Policy Guidance 'New Housing in the Scottish Borders Countryside' (December 2008), Section 2.b.1. page 10, advises that the existence of a building group will be identifiable by a sense of place which will be contributed to by natural boundaries or man-made boundaries such as existing buildings, roads, plantations or means of enclosure. It is further advised 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. It is clarified that natural boundaries should take precedence over man-made boundaries when defining the extent of a building group.

It is considered that both the access road and the field boundary to the north of the existing building group are features, albeit recent (1990s) and man-made, that define appropriate limits to the building group at Whiteburn. The existing building group consists of converted farm steading buildings and new dwellings, and is contained within a strip of land between the A697 (to the south) and the access road (to the north and east). At present, it can clearly be 'read' as a building group based upon the pre-existing farm steading. The introduction of housing to the north of the building group would significantly change the character and setting of the building group from its existing linear form to one that is essentially centred on the access road. Further, and given that the access road is a recent rather than a traditional feature, it is not considered appropriate that the latter should become the new 'spine' of an established building group.

The proposals would involve the development of undeveloped agricultural land. It is acknowledged that historically land from within the fields has been used to accommodate housing for farm workers and the access road, and that there is not a natural boundary between the field and the building group (only the road and field boundary) but it is considered that in this specific case, the road and field boundary do collectively constitute a clearly defined and defensible boundary, which are the logical limit to development within the building group. Given the open nature of the agricultural landscape to the north of the building group, if breached, any new northern and northeastern boundary to the building group could only be constituted by the fenceline of the rear gardens of the proposed dwellings, reinforced by landscaping. In short, a completely new boundary that does not presently exist within the landscape, would have to be created. As proposed, the position of this boundary appears completely arbitrary, since it is patently not informed in its position or orientation by any existing natural or man-made features.

The proposed tree planting to the north of the proposed plots could create a defensible boundary and 're-complete' the building group, but it would also significantly change the character of the setting of the existing building group from its current open agricultural outlook to one of greater visual containment, spatially

divorced from the agricultural setting that is currently so immediately apparent, and integral to the character of the group.

The applicant has advised that the access road was constructed in the 1990s on land that was previously part of the field which contains the sites. It is not considered that this history negates the essential point noted above, which is that the sites are undeveloped agricultural land which does not represent a logical or natural extension of the existing building group.

It is considered that the proposed developments would not respect the character and setting of the existing building group, altering it from a linear and essentially complete and contained building group centred on the farmsteading at Whiteburn Farm, to a larger building group centred on the access road with (and notwithstanding the applicants' proposed shelter belt) no obvious limit to further augmentation to the immediate northwest. Accordingly, it is considered that the proposals would be contrary to Adopted Local Plan Policies D2 (A) and G1 in that the proposals are not compatible with, and do not respect, the sense of place of the building group, the character of the surrounding area and the character and setting of the neighbouring built form.

OTHER CONCERNS

It is considered that the plots as proposed are notably out-of-proportion to those of existing residential properties, and that in the event that the principle of the proposals were ever to be supported, a reduction in the size of the plots should be sought, to bring these into proportion with the rest of the building group.

It is not considered that the development of the plots would in principle raise any concerns of any unacceptable impacts upon the amenity of existing properties, although this would ultimately need to be demonstrated within detailed designs.

The Road User Manager has indicated that the access road would need to be upgraded to an adoptable standard if the proposed developments were to result in more than four new builds (specifically, four new dwellings constructed after 31 October 1984) being served off the existing access road. However, there are only two existing new builds that fall into this category (the rest being either longer established dwellings or converted farm buildings). Accordingly, approval of two new build dwellings to be served off the existing private access to Whiteburn would not require the private access road to be upgraded to an adoptable standard.

The Director of Education and Lifelong Learning has not responded to the public consultation but it is understood that development contributions would be required towards the upgrading of local education provision; specifically provision of the new Lauder Primary School and provision of the new Earlston High School. Additionally, since the applicants are proposing two new dwellings, there would be an additional requirement for one affordable housing contribution if both were consented. Whiteburn falls out with the area in which a contribution towards the Waverley rail link would be required. In the event of planning approval, a legal agreement would be required to secure two development contributions towards education provision and one towards affordable housing.

Objectors have advised of a number of legal impediments to the proposed developments including the legal agreement preventing the development of any further dwellings on agricultural land within the holding and potential rights of access over the site, while one objector has advised that the private access road, which would be used to access the plots, is within his ownership. These are essentially legal rather than planning matters. However, in the event of planning approval, the applicants should be advised of the need for them to apply to the Planning Authority to vary the legal agreement restricting/preventing the development of housing on the site. Although noted as desirable, the Road User Manager has not identified any requirement for the access to be upgraded to serve the proposed developments, so provided the applicants had a legal right of access over the road, it is not considered that the ownership of the road itself would be an impediment to the proposed developments, although it would have to be established whether the sites could be appropriately accessed from the private road, particularly if there were to be legal constraints with regard to the positioning/form of the access. However, in the event of approval, this issue might be appropriately dealt with by planning condition, and ultimately in the detailed design of the proposed dwellings at the AMC stage. Any other legal matters would need to be pursued by the objectors through the legal rather than planning process.

Objectors cite the refusal of a previous planning application, 05/01627/OUT, as raising similar concerns to the proposed developments, but this application relates to a site that is unrelated to the building group at Whiteburn, and accordingly is not considered to have any relevance to the determination of the current applications.

CONCLUSION

It is considered that the proposed developments, both individually and collectively, would be contrary to Approved Structure Plan Policy H7, Adopted Local Plan Policies D2 (A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that the proposals are not compatible with, and do not respect, the sense of place of the building group, the character of the surrounding area and the character and setting of the neighbouring built form. Accordingly, it is recommended that both applications should be refused.

REASON FOR DECISION :

It is considered that the proposed developments, both individually and collectively, would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies D2 (A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that they are not compatible with, and do not respect, the sense of place of the building group, the character of the surrounding area, and the character and setting of the neighbouring built form.

Recommendation: Refused

1 The proposal would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies D2(A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that the erection of a dwellinghouse on this site would not reflect or respect the character and amenity of the existing building group and would not relate to the established built form and pattern of development within the building group. Furthermore the proposal would not be contained within the identified sense of place created by the existing buildings and means of enclosure.

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

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Scottish Borders COUNCIL

Planning and Economic Development

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Application for Planning Permission **Reference : 11/00156/PPP**

To : Lauder Farms Ltd per Edwin Thompson & Co (Galashiels) 76 Overhaugh Street Galashiels Scottish Borders TD1 1DP

With reference to your application validated on **10th February 2011** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse

at : Plot 1 Land North Of Boonraw Whiteburn Lauder Scottish Borders

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

Dated 8th April 2011
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

Signed .....
Head of Planning and Regulatory Services

Scottish Borders COUNCIL

Planning and Economic Development

APPLICATION REFERENCE : 11/00156/PPP

Schedule of Plans and Drawings Refused:

Plan Ref	Plan Type	Plan Status
GC1058	Location Plan	Refused

REASON FOR REFUSAL

1 The proposal would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies D2(A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that the erection of a dwellinghouse on this site would not reflect or respect the character and amenity of the existing building group and would not relate to the established built form and pattern of development within the building group. Furthermore the proposal would not be contained within the identified sense of place created by the existing buildings and means of enclosure.

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 THE HEAD OF PLANNING AND REGULATORY SERVICES

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 11/00156/PPP

APPLICANT : Lauder Farms Ltd

AGENT : Edwin Thompson & Co (Galashiels)

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Plot 1 Land North Of Boonraw
Whiteburn
Lauder
Scottish Borders

TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
GC1058	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 7
SUMMARY OF REPRESENTATIONS:

This is a joint report on Planning Applications 11/00156/PPP and 11/00157/PPP.

REPRESENTATIONS

Eight objections (two of which are identical but submitted at different times) have been received from seven different households. While some of these only cite planning reference 11/00156/PPP, they demonstrate an awareness of two dwellings being proposed, and accordingly, the points raised are considered to be as valid for 11/00157/PPP as for 11/00157/PPP. These representations object to the proposed developments on the following grounds:
1) Whiteburn is not within the Development Boundary as defined within the Adopted Local Plan;
2) the access road clearly demarcates the boundary of the building group, forming a natural permanent boundary;
3) the site is the subject of a legal agreement that requires that no further dwellings should be built on agricultural land at Whiteburn Farm;
4) access to the field is for agricultural purposes only and not for residential use;
5) additional traffic using the access road would be detrimental to the existing road surface and raise road safety concerns for current residents at Whiteburn and users of the A697;
6) there would be a loss of open space;
7) there would be an unacceptable noise impact contrary to Adopted Local Plan Policy H2;
8) the proposal would be detrimental to the character, setting and amenity of Whiteburn and the surrounding area, and therfore contrary to Adopted Local Plan Policy D2;
9) no agricultural access is maintained from the building group to the agricultural land behind the plots when there is a legal requirement that access should be maintained for owners of Whiteburn Farm;

10) the proposed development would have an adverse impact upon the setting of a site that will be the last resting place of a member of the Whitburn community;
11) one objector has advised that he is the owner of the private access road and that access to the sites would be restricted to the existing field accesses;
12) although previous land has been taken from the field in which the sites are located, it was used to accommodate an appropriate new access to the building group and the Section 50 agreement was required to prevent further residential development. This should be seen as a natural progression and not as a precedent for further encroachment into useful agricultural land;
13) development to the north of the access road should be considered to constitute a new building group, which would make the proposals contrary to the Adopted Local Plan;
14) development of the sites would involve breaking into undeveloped agricultural land;
15) existing drainage and electricity works on the site;
16) legal agreement would require housing to be limited to a person employed or last employed in agriculture;
17) site incorporates a reentrant opposite Merrick Cottage and Leaside Cottage, which belongs to the owner of the track; and
18) the houses that were built in the early 1990s, had agricultural restrictions placed on them;

STATUTORY CONSULTEES

The Road User Manager has advised that over the years there has been significant residential development around this site, and arguably the current situation seems to cope quite well. The access onto the main road has good sightlines in either direction, though the surfacing of the junction is showing some deterioration, and some improvement would be welcomed. It should also be noted that the proposed number of new build dwellings may require the need for a public road to be provided, to meet with the current policy for housing in the countryside (4 new build from 1984) and this particular point needs to be checked.

The Director of Education and Lifelong Learning has not responded to the public consultation.

Gordon and Westruther Community Council has responded to advise that it objects on the following grounds:
1) Site access would be from a dangerous corner of the A697;
2) Proposal would result in the development of an agricultural field, contrary to the Council's Housing in the Countryside Policy;
3) Neighbouring residents understand that there is a legal requirement that the land should not be developed for housing; and
4) There is an excess of plots within the CC boundary that have not yet been developed.

PLANNING CONSIDERATIONS AND POLICIES:

Consolidated Structure Plan 2001-2018

H7: Housing in the Countryside: Building Groups

Scottish Borders Local Plan Adopted 2008

G1: Quality Standards for New Development
D2: Housing in the Countryside
D2(A): Building Groups
G5: Developer Contributions
H2: Protection of Residential Amenity

SPG: New Housing in the Borders Countryside December 2008

Recommendation by - Stuart Herkes (Assistant Planning Officer) on 7th April 2011

This is a joint report on Planning Applications 11/00156/PPP and 11/00157/PPP, Plots 1 and 2, Land North of Booraw, Whiteburn, Lauder.

SITE DESCRIPTION

The sites lie immediately adjacent to one another and are agricultural land. They lie to the immediate north of an existing access road which serves the building group at Whiteburn. In accordance with the requirements of the New Housing in the Countryside Policy, the latter is an extant building group, which is capable of augmentation by two new dwellings.

PROPOSED DEVELOPMENTS

The planning applications seek Planning Permission in Principle for two new dwellings. In a covering letter, the applicants advise that the site is not a previously undeveloped field since part of the field has already been developed in order to build dwellings at 'Woodville' and 'Boonraw' and to create the access road.

It is proposed that a new wooded shelter belt should be created to the north of the proposed residential plots to provide an attractive feature and define the longer term natural boundary to the building group "as opposed to the current man-made boundary which is a recent feature".

PLANNING HISTORY

Prior to the issuing of planning consent (B290/91) for two new dwellings ('Woodville' and 'Boonraw'), a legal agreement (Section 50) was concluded for the purposes of preventing the development of any further new build housing on land within the agricultural holding at Whiteburn.

PLANNING PRINCIPLE

It is considered that in their locations, the sites are well-related to a building group that is in principle capable of augmentation by two new dwellings. However, Supplementary Planning Policy Guidance 'New Housing in the Scottish Borders Countryside' (December 2008), Section 2.b.1. page 10, advises that the existence of a building group will be identifiable by a sense of place which will be contributed to by natural boundaries or man-made boundaries such as existing buildings, roads, plantations or means of enclosure. It is further advised 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. It is clarified that natural boundaries should take precedence over man-made boundaries when defining the extent of a building group.

It is considered that both the access road and the field boundary to the north of the existing building group are features, albeit recent (1990s) and man-made, that define appropriate limits to the building group at Whiteburn. The existing building group consists of converted farm steading buildings and new dwellings, and is contained within a strip of land between the A697 (to the south) and the access road (to the north and east). At present, it can clearly be 'read' as a building group based upon the pre-existing farm steading. The introduction of housing to the north of the building group would significantly change the character and setting of the building group from its existing linear form to one that is essentially centred on the access road. Further, and given that the access road is a recent rather than a traditional feature, it is not considered appropriate that the latter should become the new 'spine' of an established building group.

The proposals would involve the development of undeveloped agricultural land. It is acknowledged that historically land from within the fields has been used to accommodate housing for farm workers and the access road, and that there is not a natural boundary between the field and the building group (only the road and field boundary) but it is considered that in this specific case, the road and field boundary do collectively constitute a clearly defined and defensible boundary, which are the logical limit to development within the building group. Given the open nature of the agricultural landscape to the north of the building group, if breached, any new northern and northeastern boundary to the building group could only be constituted by the fenceline of the rear gardens of the proposed dwellings, reinforced by landscaping. In short, a completely new boundary that does not presently exist within the landscape, would have to be created. As proposed, the position of this boundary appears completely arbitrary, since it is patently not informed in its position or orientation by any existing natural or man-made features.

The proposed tree planting to the north of the proposed plots could create a defensible boundary and 're-complete' the building group, but it would also significantly change the character of the setting of the existing building group from its current open agricultural outlook to one of greater visual containment, spatially

divorced from the agricultural setting that is currently so immediately apparent, and integral to the character of the group.

The applicant has advised that the access road was constructed in the 1990s on land that was previously part of the field which contains the sites. It is not considered that this history negates the essential point noted above, which is that the sites are undeveloped agricultural land which does not represent a logical or natural extension of the existing building group.

It is considered that the proposed developments would not respect the character and setting of the existing building group, altering it from a linear and essentially complete and contained building group centred on the farmsteading at Whiteburn Farm, to a larger building group centred on the access road with (and notwithstanding the applicants' proposed shelter belt) no obvious limit to further augmentation to the immediate northwest. Accordingly, it is considered that the proposals would be contrary to Adopted Local Plan Policies D2 (A) and G1 in that the proposals are not compatible with, and do not respect, the sense of place of the building group, the character of the surrounding area and the character and setting of the neighbouring built form.

OTHER CONCERNS

It is considered that the plots as proposed are notably out-of-proportion to those of existing residential properties, and that in the event that the principle of the proposals were ever to be supported, a reduction in the size of the plots should be sought, to bring these into proportion with the rest of the building group.

It is not considered that the development of the plots would in principle raise any concerns of any unacceptable impacts upon the amenity of existing properties, although this would ultimately need to be demonstrated within detailed designs.

The Road User Manager has indicated that the access road would need to be upgraded to an adoptable standard if the proposed developments were to result in more than four new builds (specifically, four new dwellings constructed after 31 October 1984) being served off the existing access road. However, there are only two existing new builds that fall into this category (the rest being either longer established dwellings or converted farm buildings). Accordingly, approval of two new build dwellings to be served off the existing private access to Whiteburn would not require the private access road to be upgraded to an adoptable standard.

The Director of Education and Lifelong Learning has not responded to the public consultation but it is understood that development contributions would be required towards the upgrading of local education provision; specifically provision of the new Lauder Primary School and provision of the new Earlston High School. Additionally, since the applicants are proposing two new dwellings, there would be an additional requirement for one affordable housing contribution if both were consented. Whiteburn falls out with the area in which a contribution towards the Waverley rail link would be required. In the event of planning approval, a legal agreement would be required to secure two development contributions towards education provision and one towards affordable housing.

Objectors have advised of a number of legal impediments to the proposed developments including the legal agreement preventing the development of any further dwellings on agricultural land within the holding and potential rights of access over the site, while one objector has advised that the private access road, which would be used to access the plots, is within his ownership. These are essentially legal rather than planning matters. However, in the event of planning approval, the applicants should be advised of the need for them to apply to the Planning Authority to vary the legal agreement restricting/preventing the development of housing on the site. Although noted as desirable, the Road User Manager has not identified any requirement for the access to be upgraded to serve the proposed developments, so provided the applicants had a legal right of access over the road, it is not considered that the ownership of the road itself would be an impediment to the proposed developments, although it would have to be established whether the sites could be appropriately accessed from the private road, particularly if there were to be legal constraints with regard to the positioning/form of the access. However, in the event of approval, this issue might be appropriately dealt with by planning condition, and ultimately in the detailed design of the proposed dwellings at the AMC stage. Any other legal matters would need to be pursued by the objectors through the legal rather than planning process.

Objectors cite the refusal of a previous planning application, 05/01627/OUT, as raising similar concerns to the proposed developments, but this application relates to a site that is unrelated to the building group at Whiteburn, and accordingly is not considered to have any relevance to the determination of the current applications.

CONCLUSION

It is considered that the proposed developments, both individually and collectively, would be contrary to Approved Structure Plan Policy H7, Adopted Local Plan Policies D2 (A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that the proposals are not compatible with, and do not respect, the sense of place of the building group, the character of the surrounding area and the character and setting of the neighbouring built form. Accordingly, it is recommended that both applications should be refused.

REASON FOR DECISION :

It is considered that the proposed developments, both individually and collectively, would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies D2 (A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that they are not compatible with, and do not respect, the sense of place of the building group, the character of the surrounding area, and the character and setting of the neighbouring built form.

Recommendation: Refused

1 The proposal would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies D2(A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that the erection of a dwellinghouse on this site would not reflect or respect the character and amenity of the existing building group and would not relate to the established built form and pattern of development within the building group. Furthermore the proposal would not be contained within the identified sense of place created by the existing buildings and means of enclosure.

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

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SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY DECISION NOTICE

APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

Local Review Reference: 11/00023/RREF & 11/00024/RREF

Planning Application Reference: 11/00156/PPP & 11/00157/PPP

Development Proposal: Erection of dwellinghouses

Location: Plots 1 & 2 Land North of Boonraw, Whiteburn, Lauder

Applicant: Lauder Farms Ltd

Date Review Received: 08/07/11

Decision Date:

DECISION

The Local Review Body upholds the decision of the appointed officer and refuses planning permission for both applications on the following grounds:

1. The proposal would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies D2 (A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that the erection of a dwellinghouse on this site would not reflect or respect the character and amenity of the existing building group and would not relate to the established built form and pattern of development within the building group. Furthermore the proposal would not be contained within the identified sense of place created by the existing buildings and means of enclosure.

DEVELOPMENT PROPOSAL

The applications relate to the erection of dwellinghouses on adjoining plots at land north of Boonraw, Whiteburn, Lauder. The applications drawings consisted of the following drawings:

Plan Type	**Plan Reference No.**
Location Plan	GC1058

PRELIMINARY MATTERS

After examining the review documentation, which included: (a) Decision Notices, (b) Notices of Review and supporting papers, (c) Reports of Handling, (d) Correspondence from objectors, (e) Correspondence from Consultees, and (f) further correspondence from objector and response from applicant and (g) List of Policies, the Review Body concluded that it had sufficient information to determine the review and that further procedure was not required in this instance. In coming to this conclusion, the Review Body took into account the applicant's request for further procedure in the form of a site visit.

The Local Review Body considered the Review competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 19th September 2011.

REASONING

The determining issues in this review were:

(1) whether the proposal would be in keeping with the Development Plan, and
(2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: consolidated Scottish Borders Structure Plan 2001-2018 and consolidated Scottish Border's Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- Structure Plan Policies: H7
- Local Plan Policies: G1, D2, H2 and G5

Other material key considerations the Local Review Body took into account related to:

- Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- Supplementary Planning Guidance on Placemaking and Design 2010
- Supplementary Planning Guidance on Development Contributions 2011

After considering the documentation and the slides shown by the Planning Advisor, the Review Body accepted that there was a building group at Whiteburn as defined in Structure Plan Policy H7, Policy D2 of the Local Plan and in the approved Supplementary Planning Guidance. In coming to this conclusion, Members noted that there were a number of existing houses at Whiteburn and that previous planning decisions for the houses Boonraw and Woodville, acknowledged the existence of a building group at the locality.

In considering the capacity of the building group to accommodate additional housing the Local Review Body accepted that the proposed developments would not exceed the 30% or 2 house limit in Policy D2 of the Local Plan.

The Review Body examined the question of the desirability of developing the sites and whether the development of the plots would constitute suitable additions to the building group. Whilst it was accepted that the sites were adjacent to the building group at Whiteburn, Members considered that they fell out with the area contained by its boundaries and its sense of place. Members were of the view that the group had a tight, linear and compact appearance and that there were strong boundaries that

enclosed it. To the east and west this was formed by existing tree belts and to the south by the A697 road. They acknowledged that the access track to the north edge of the group, and southern boundaries of the plots, was a relatively recent construction but were content that it constituted a distinct and defendable edge to the building group, that should not be breached.

The Review Body contended that the sites, and any dwellinghouses erected thereon, would appear to project into the open countryside, into an undeveloped field and would not be well related to the character and pattern of building in the group. The Review Body concluded that the proposals would not constitute suitable or appropriate additions to the building group and were therefore contrary to Policy D2 of the Local Plan and the advice set out in the supplementary planning guidance note.

The Local Review Body having concluded that the application did not comply with the Development Plan, considered whether there were any other material considerations that should be given weight in the decision making process. Members noted that a Section 50 Agreement (now Section 75) was in force on the land that restricted further development. They considered that the reasons why such an agreement had been entered into were still relevant and were comfortable that the planning policy and context had not changed sufficiently in the intervening period (since 1991) for this to influence their consideration of the application.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse 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 question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions 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 of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed.....
Chairman of the Local Review Body

Date:……..

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Comment from Lauderdale Community Council

22/01905/FUL Demolition of stable and erection of dwellinghouse

We note the significant number of local objectors to this proposal. We also are concerned with the issue of access on a busy road near a corner and junction.

Monday, 19 December 2022

Local Planner
Development Management
Scottish Borders Council
Newtown St. Boswells
TD6 0SA

Development Operations
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow
G33 6FB

Development Operations
Freephone Number - 0800 3890379
E-Mail - DevelopmentOperations@scottishwater.co.uk
www.scottishwater.co.uk
Follow Us

Dear Customer,

Site Adjacent The Steading, Whiteburn Farm Lauder, Scottish Borders, TD2 6SQ
Planning Ref: 22/01905/FUL
Our Ref: DSCAS-0078107-V9F
Proposal: 22/01905/FUL | Demolition of stable and erection of dwellinghouse | Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders

Please quote our reference in all future correspondence

Audit of Proposal

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced. Please read the following carefully as there may be further action required. Scottish Water would advise the following:

Water Capacity Assessment

Scottish Water has carried out a Capacity review and we can confirm the following:

- There is currently sufficient capacity in the Howden Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

Waste Water Capacity Assessment

- Unfortunately, according to our records there is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.

SW Internal
General

Please Note

- The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- Scottish Water asset plans can be obtained from our appointed asset plan providers:

- Site Investigation Services (UK) Ltd
- Tel: 0333 123 1223
- Email: sw@sisplan.co.uk
- www.sisplan.co.uk

- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.

- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.

- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

SW Internal
General

- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.

- Please find information on how to submit application to Scottish Water at our Customer Portal.

Next Steps:

All Proposed Developments

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via our Customer Portal prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

Non Domestic/Commercial Property:

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

Trade Effluent Discharge from Non-Domestic Property:

Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.

- If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject “Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found here.
- Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

SW Internal
General

- The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at planningconsultations@scottishwater.co.uk.

Yours sincerely,

Ruth Kerr
Development Services Analyst
PlanningConsultations@scottishwater.co.uk

Scottish Water Disclaimer:

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."

SW Internal
General

CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION

Comments provided by	**Officer Name and Post:**	**Contact e-mail/number:**
Roads Planning Service	Craig Johnston Roads Planning Officer	Craig.johnston@scotborders.gov.uk 01835 826856
Date of reply	16/01/2023	**Consultee reference:**
Planning Application Reference	22/01905/FUL	**Case Officer:** Cameron Kirk
Applicant	Ms Elaine McKinney	
Agent	Ferguson Planning	
Proposed Development	Demolition of stable and erection of dwellinghouse	
Site Location	Land And Stables North Of The Roost Whiteburn Lauder Scottish Borders	

The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.

Background and Site description	Whilst the site itself has no major planning history, nearby there have been two applications for the erection of a dwelling which were both refused (11/00157/PPP & 11/00156/PPP), although the Roads Planning Service did not object to either application at the time.			
Key Issues (Bullet points)				
Assessment	Whilst I have no objection to the principle of a new dwelling at this location, and previous correspondence from the Roads Planning Service have indicated that there is capacity for the existing private junction with the A697 for an increased number of vehicles, I have concerns over the proposed use of the western access. As the primary function of derestricted 'A' class principle roads is to provide for the safe and expeditious movement of traffic, the number of direct accesses onto such roads should be strictly limited. Therefore, I am opposed to the principle of new accesses onto derestricted 'A' class roads unless there is a strong road safety justification, and I must then object to this application in its current form. If the use of the western access is removed from the submission, I will likely look upon the application more favourably.			
Recommendation	☒ **Object**	☐ Do not object	☐ Do not object, subject to conditions	☐ Further information required
Reason for Objection:	I object to this proposal as it does not comply with the Council's Local Development Plan Policy PMD2 which ensures that a development has no adverse impact on road safety.			

Signed: DJI

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL

Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders

Proposal: Demolition of stable and erection of dwellinghouse

Case Officer: Julie Hayward

Customer Details

Name: Mr JOHN GRAY

Address: Whiteburn Coach House, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Contrary to Local Plan
- Detrimental to Residential Amenity
- Inadequate access
- Increased traffic
- Privacy of neighbouring properties affec
- Road safety

Comment:

John Gray
Whiteburn Coach House
Lauder
TD2 6SQ
[redacted]

29-Dec-2022

Hello,

I am the owner of Whiteburn Coach House, Lauder TD2 6SQ, and have noticed that my property may be affected by planning applications lodged with Scottish Borders Council.
The applications are for development on land within approximately 40m of my boundary and are:

Ref: 22/01905/FUL (7-Dec-2022) Demolition of stable and erection of dwellinghouse

Ref: 22/01937/MOD75 (13-Dec-2022) Modification of planning obligation pursuant to planning

permission B290/91 and E389/91

I object to the applications on these grounds:

Building Group and Boundaries

The planning application states that "The subject site sits adjacent to the established building group at Whiteburn which is comprised of six dwellings. As such, there is capacity under Policy HD2(A) for up to two additional dwellings to be approved." This is incorrect, there are currently 8 dwellings in the Whiteburn group, the maximum allowed. As such, no further dwelling should be permitted as this will degrade the amenity and seclusion of the group.

The planning application fails to mention that the western boundary of the Whiteburn dwelling group is the Whiteburn stream/river itself. There are no dwelling houses west of this and building a dwelling on a site that currently has only has a barn and stables would break that clear boundary.

Inadequate Access, Increased Traffic, and Road Safety

- Primary access proposed is via the existing private road. While there may already be access to the stable using the private road and a frail bridge over the Whiteburn, that access may not exist for a private dwelling - originally the land in question was developed as a private stables and riding menage that utilised 2 grassed paddocks (92/01114/FUL, 1992) as part of the overall estate of Whiteburn Coach House. When the Coach House was sold, domestic access via the private road was retained by the Coach House, and while some form of access may have been retained to the stables by the applicant, it is not clear that this access supports domestic use for a dwelling.

- Given the current maximum of 8 dwellings use the private road as access, there is a real risk that additional traffic would result in a hazard to road users turning off the A697 onto the private road.

- The application proposes a secondary access via a gate to the southwest. This gate is wholly unsuitable for access being on a blind corner of the A697 and very close to the junction of the A697/A6089. Use of this access point would constitute a danger to road users.

- Additional use of the private road is likely to result in additional wear the non-tarmac surface, and additional maintenance costs would be incurred for other users.

Detrimental to residential amenity

- The plans for the development suggest the dwelling will be used as a summer or holiday home (future hot tub for example). This ties with the fact that the owner's primary residence is outside the UK, and they visit a few times a year. This opens a further concern that the intention is to use the holiday as a short term let, with the attendant noise, additional traffic/footfall and nuisance that

the presence of non-residents would have in a very quiet residential group of only 8 dwellings.

- While it is accurate that the applicant has undertaken planting of approximately 1800 tress throughout 2021 and 2022, the reason for this planting is clearly to attempt to support the dwelling application - it defies credulity that a dwelling house on the site is needed to allow the trees to be maintained, as mentioned in the application. Instead, it appears the tree planting was done to remove the possibility that the stables could continue to be used with adjoining paddocks, and to suggest some form of agricultural use in 'maintaining the trees'.

Finally, the section 50 planning obligation was specifically designed to retain the rural aspect of the area, limiting the number and type of developments in the area. The application is at odds with that principle.

Please consider my objections within the planning process. I am happy to cooperate with any questions or information the planning team might need,

Yours sincerely,
John Gray
Whiteburn Coach House, Lauder TD2 6SQ

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL
Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders
Proposal: Demolition of stable and erection of dwellinghouse
Case Officer: Julie Hayward

Customer Details

Name: Mr Roger Kershaw
Address: The Old Steading Whiteburn Farm, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Contrary to Local Plan
- Fire Safety
- Height of .....
- Inadequate access
- Increased traffic
- Road safety

Comment:
Demolition of stable and erection of dwellinghouse
Firstly we are disappointed that we only received the above notification on 23 December 2022, possibly due to the postal strikes and only have 14 days in which to respond which includes Christmas and New Year.
We consider there are two main issues here:
1. The modification of the Section 50 agreement at Whiteburn Farm and
2. The development of a new build dwelling.

We wish to place an objection to both points above.
Modification of planning application at Whiteburn Stables
In 1998 the Berwickshire local plan policy 9 states it would encourage conversions of appropriate existing buildings, including non residential to residential use providing the building is structurally sound. This is not a derelict residential site and the existing stables are of a wooden construction and in a poor state of repair, therefore do not comply with the above and the proposed dwelling is larger and possibly twice as high as the existing stables.

In 1999 when Mr James Simpson and Ms Elaine McKinney lived at Whiteburn Coachhouse they strongly objected to any modification of the Section 50 for new build. This application is now for

exactly that. A new build from Ms Elaine McKinney for which the Section 50 would need to be modified! At the time (1999) the Council stated the prohibition of further residential development was intended to relate to new build development. Correspondence from the owners of Whiteburn Coachhouse at the time, 5 November 1998,(Mr Simpson and Ms McKinney) states "there is one unifying Section 50 Agreement covering the lands and buildings at Whiteburn Farm, rather than separate customised agreements with each property owner, it follows that any variation whatsoever to the original agreement must be agreed by all parties".

We object to the Section 50 being modified to exclude the land owned by the applicant as it protects the current residents of 8 dwellings, not 6 as quoted in the application, from having their rural views and location under threat of further new build elsewhere at Whiteburn. An application for 2 residential dwellings at Whiteburn has more recently been refused (2011) as quoted in the Ferguson Planning application on behalf of Ms McKinney.
This application, if agreed, could set a precedence for future new development. Only conversions and extensions have been approved at Whiteburn and the legal agreement has always prohibited new residential developments after 1991. See Ferguson Planning Assessment point 4.10 (page 16) where planning permission was refused. Also point 4.9 the stable block is approximately 10 feet high whereas the planned residential building is at least 20 feet high. So although the footprint may be similar the height of the proposed building is twice the height of the existing stables.

Figure 3 Aerial image of site in red is inaccurate and encompasses a portion of land belonging to The Steading.

Figure 5 Aerial image of building group shows Whiteburn Stables as being in the building group which at present isn't correct as the stables do not constitute part of the 'building group' in terms of residential development. The natural building group boundary is the White burn. Beyond the White burn is agricultural land and wooden constructed farm buildings, including the wooden stables.

Access to the proposed new dwellinghouse from the East is at the far end of a shared track and over a small burn crossing which is not suitable for emergency or heavy vehicles and the access from the North East is a field entrance on a bend of the A697 which is dangerous and needs to be closed at all times due to livestock. Access to the site crossing the White burn has limited capacity for vehicular access. This has not been mentioned in the application. Historically SBC demanded the main entrance to Whiteburn be moved further South due to the other entrances being deemed unsafe. The applicant has right of access both ways but the burn crossing from the track was built for low volume light useage to service the 10 acres of land and stables to minimise constant use of the field entrance onto the A697. The burn crossing consists of 2 corregated steel drainage tubes backfilled with stone which we have already had to repair due to the stones collapsing. See photo 1.(I will forward photo by e.mail)

The planting of trees does not necessitate a permanent new build dwelling on site to maintain them. There are also no overriding economic benefits for this application to be approved. The

extensive planting of trees does not contribute to its containment within the building group and will not provide an element of screening to the visual impact for residents living at Whiteburn.

We are concerned about the detention and treatment of 'greywater in a landscaped soakaway' and disposal of the composting toilet waste as our property borders all four boundaries of the proposed new build. The grey water reed beds are almost on our boundary and we have concerns about water running into the burn which runs through our gardens and regularly floods when we have heavy rain or snow. See photos taken recently. The boundary is the other side of the row of conifers which is where the grey water soakaway is proposed to be placed. See photos 2 and 3.(I will forward by e.mail)

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL
Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders
Proposal: Demolition of stable and erection of dwellinghouse
Case Officer: Julie Hayward

Customer Details

Name: Mr Jamie Smart
Address: Merrick Cottage Whiteburn Farm, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Detrimental to Residential Amenity
- Inadequate access
- Road safety

Comment:Section 50 is to stop residential dwelling being constructed, I understand the need to maintain live stock, however, the proposers argument that she can attend the trees she has planted, seems ridiculous. The trees will not need the maintenance that would justify a permanent residency, they could be maintained remotely.
I have concerns regarding the small footbridge leading to the proposers land. The bridge was not built to withstand constant vehicle use, and I do not think it would be strong enough to withstand heavy vehicles required to transport building equipment and materials. The second access point leading to A697 would be inappropriate. This is a dangerous bend, then a junction leading to Gordan. There have been many accidents on the bend. It would be dangerous to have stationary traffic waiting on the road to turn into the proposed plot.
The proposal refers to 6 dwellings within Whitburn, however, there are 8 residential dwellings within the boundaries explained.
I am concerned that once a residential dwelling is on the site, what is to stop future owners from extending the building, hiring it out for AirBnB, joining the water/waste system etc.
The electricity within this area is already pretty strained with the current 8 dwellings, often we have blackouts, another residence on the system can only apply more pressure to the infrastructure.

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL
Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders
Proposal: Demolition of stable and erection of dwellinghouse
Case Officer: Julie Hayward

Customer Details

Name: Mr Andrew Glendinning
Address: Woodville, Whiteburn, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Contrary to Local Plan
- Detrimental to Residential Amenity
- Inadequate access
- Increased traffic
- Noise nuisance
- Privacy of neighbouring properties affec
- Road safety

Comment:Woodville
Whiteburn Farm
Lauder
TD2 6SQ
02/01/2023
to
Case officer
Julie Hayward

Dear Ms Hayward

We object to the planning applications:-
Ref: 22/01937/MOD75 (13-Dec-2022) Modification of planning obligation pursuant to planning permission B290/91 and E389/91
Ref: 22/01905/FUL (7-Dec-2022) Demolition of stable and erection of dwellinghouse

As the owners of one of the properties associated with the creation of the MOD75 obligation, we do not feel it is reasonable to modify it for the building of a holiday home. This will be of no benefit

to the existing residents and will only affect them adversely.
The building group of Whiteburn farm now consists of eight dwellings, not six as stated in the planning statement, and so precludes further development.

In the planning rejection of application 11/00156/PPP & 11/00157/PPP in 2011, it states

Members were of the view that the group had a tight, linear and compact appearance and that there were strong boundaries that enclosed it. To the east and west this was formed by existing tree belts and to the south by the A697 road. They acknowledged that the access track to the north edge of the group, and southern boundaries of the plots, was a relatively recent construction but were content that it constituted a distinct and defendable edge to the building group, that should not be breached.

The Review Body contended that the sites, and any dwellinghouses erected thereon, would appear to project into the open countryside, into an undeveloped field and would not be well related to the character and pattern of building in the group. The Review Body concluded that the proposals would not constitute suitable or appropriate additions to the building group and were therefore contrary to Policy D2 of the Local Plan and the advice set out in the supplementary planning guidance note.

The current application would extend the group, in ribbon development, into undeveloped farmland along a farm track not designed for regular traffic, over the Whiteburn(the natural boundary) crossing which is not designed for heavy vehicles.
The western entrance to the track is unsafe because of traffic and was historically only used for access to the fields, not for access to the building group.

The planting of trees to obligate a boundary change is not reasonable.
To state that the dwelling would help in the maintenance of the trees is erroneous.
The recent planting of trees does not require accommodation for maintenance, If it did then there would be dwellings beside every plantation.

The design and construction materials of the dwelling are completely different from any of the properties at Whiteburn and are not in keeping.

This development would cause extra traffic on the track in front of our house causing noise, visual intrusion and wear of the track.

Yours Sincerely
Andrew & Therese Glendinning

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL
Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders
Proposal: Demolition of stable and erection of dwellinghouse
Case Officer: Julie Hayward

Customer Details

Name: Mrs Rhea Kershaw
Address: The Roost Whiteburn, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Comments about play area
- Contrary to Local Plan
- Detrimental to environment
- Detrimental to Residential Amenity
- Fire Safety
- Health Issues
- Inadequate access
- Inadequate Boundary/Fencing
- Inadequate drainage
- Increased traffic
- Road safety

Comment:The Roost
Whiteburn Farm
Lauder
TD2 6SQ

3rd January 2023

Dear Sir / Madam,

Concerns about applications:

22/01937/MOD75
Modification of planning obligation pursuant to planning permission B290/91 & E389/91
Officer: Julie Hayward

22/01905/FUL
Demolition of stable and erection of dwelling house at Whiteburn, Lauder
Officer: Cameron Kirk

The following details our concerns about the applications noted above which propose to build a new house on land adjacent to our land. We would like to register our opposition for the following reasons:

1) Proposal by Ferguson Planning to lift the Section 50/75 Agreement which covers Whiteburn.

We believe that by lifting this agreement, which prevents building new dwellings at Whiteburn, for a small area of land could potentially allow further dwellings to be built in future therefore rendering the agreement ineffective. With protection of rural land in mind, we believe that the erection of a residential building will increase light and noise pollution, having a direct impact on the wildlife in the adjacent woodland and surrounding area.

The agreement is intended to protect the land and should be upheld in order to serve its purpose. Ms McKinney made reference herself to the importance of this in an objection to planning of new builds at Whiteburn in March 2011.

2) Access to the site not suitable.

The primary access to the site, as stated in the application by Ferguson Planning, is via a rural track and over a 'burn crossing' consisting of corrugated tin pipes with compacted 'Type 1' surrounding them. This crossing is not designed to withstand regular traffic and, due to its strength and width, certainly not heavy duty vehicles required to build a house. Additionally, this access would not be suitable for emergency vehicles, in particular a fire engine.

The secondary access to the site is from the main A697 road, immediately before a bend when travelling south and immediately after the bend when travelling north. The A697 is a fast trunk road, with a speed limit of 60mph, used by lorries, commuters and other traffic. We believe that vehicles turning in or out of that field gateway, which must remain shut at all times due to livestock kept in neighbouring fields, could potentially cause a serious road traffic accident (RTA). Again, Ms McKinney stated in March 2011 that the current access, situated further south than this proposed access, could be unsafe with increased traffic, potentially causing a serious RTA, therefore this logic must surely be applied to the lesser, and infinitely less suitable, access proposed.

3) Maximum number of dwellings at Whiteburn already reached.

The Ferguson Planning application states that there must be no more than eight dwellings built at Whiteburn. They then go on to say that there are currently six dwellings. This is incorrect; there

are already eight dwellings at Whiteburn and therefore no new builds may be permitted, as per the agreement they reference in their plan.

4) The natural boundary at Whiteburn

The Ferguson Planning application makes reference to the 'natural boundary' of Whiteburn as being the track to the north-west of the land owned by Ms McKinney. In fact, and stated by Ms McKinney (again in March 2011), the natural boundary at Whiteburn is in fact the Whiteburn (small stream running to the south of Ms McKinney's land). This means that the proposed new build lies out-with the Whiteburn residential area and within agricultural land instead, again meaning that no new build should be permitted.

5) Sewage / Grey Water concern

The planning application by Ferguson Planning gives brief details about sanitary plans for the new build. We have concerns about these as the area where a 'reed bed' is proposed is next to the wood where our young children play regularly; this area floods with heavy rain (a regular occurrence) and it is concerning that sewage (treated or otherwise) may run into our children's private play area.

In conclusion, we would like to register our opposition to the proposed planning permission by Ms Elaine McKinney for the lifting of Section 50/75 building restrictions and the building of a new house at Whiteburn.

We realise that we have referenced Ms McKinney's previous reasons for objecting to new builds at Whiteburn and would like to make it explicit that there is no personal grievance there, simply our agreement with points she has made in the past about the need to prevent new builds at Whiteburn.

Yours faithfully,
Stephen and Rhea Kershaw

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL
Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders
Proposal: Demolition of stable and erection of dwellinghouse
Case Officer: Julie Hayward

Customer Details

Name: Mr steven stamenkovic
Address: Whiteburn Farm, Whiteburn, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Contrary to Local Plan
- Density of site
- Detrimental to Residential Amenity
- Health Issues
- Inadequate access
- Increased traffic
- Road safety

Comment:I am concerned about the effect of another property on the already well-populated small hamlet of Whiteburn.
In particular, there is no safe direct access from the main road into the plot.
I have personally had to deal with casualties and emergencies from vehicles driving too fast on the A697. We have had fatalities outside our series of houses. Anything that causes cars to stop suddenly on this road outside our properties will increase this risk.
The alternative of vehicles for building purposes or after the build is complete will necessitate vehicles crossing a small arched bridge which was not designed for regular use.
The council has repeatedly and even recently stated that commercial accommodation is not appropriate at Whiteburn specifically as there are no transport links or infrastructure in place to service such accommodation. This has a bearing on whether the applicant could move to use the plot as such.
The proposed house is small and has the hallmark of a holiday rental property, which would contravene this and result, if allowed, in total strangers regularly coming to Whiteburn and putting at risk the safety of the young families who live here.
There are 9 properties at Whiteburn and the local plan is specific about not permitting ribbon development, which the proposed build would represent.
Whilst not being directly affected by this potential new house, I am concerned about the effect this

would have on the amenity of Whiteburn and the distress to our good neighbours. There has been cynically minimal time to assess the application due to the presentation in the holiday season and there has equally been no time allowed to seek professional advice about this application which is deeply unfair to those materially affected by the proposal.

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL
Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders
Proposal: Demolition of stable and erection of dwellinghouse
Case Officer: Julie Hayward

Customer Details

Name: Dr Rosemarie and Jonathan Hundal
Address: Leaside Cottage, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Density of site
- Detrimental to Residential Amenity
- Inadequate access
- Increased traffic
- Poor design
- Road safety

Comment:We are a little concerned about a couple of things with this plan:

1- The access, particularly for heavy vehicles. The track is barely sound enough as it is. Therefore we are worried it may become completely unusable for current residents with standard cars. It would also be very difficult to turn or pass any lorries. Access could maybe come from the West gate but this is not very safe leading onto the major road.

2- The septic tank and electricity supply. Being so rural it would be nice to have some assurance that there is enough infrastructure to support another dwelling.

3- The black steel cladding may be quite harsh; is there any way of altering the exterior to fit in better with current buildings or hiding this from view?

4- If I understand correctly there are already 8 dwellings at Whiteburn so unsure if this contravenes section 50? It would be a great detriment to the environment and to the current occupants if this allowed other dwellings to be built here.

MR. & MRS R CLARK
BOONRAE
WHITEBURN FARM
LAUDER
TD2 6SQ

16th JAN 2023

PLANNING APPLICATION

WE ARE STRONGLY AGAINST THE LIFTING OF BUILDING RESTRICTIONS AT WHITEBURN FARM LAUDER. TO ALLOW A HOUSE OR HOUSES TO BE ERECTED AT THIS LOCATION.

THE APPLICANT USED TO LIVE AT WHITEBURN AND WHEN PREVIOUS PLANNING PERMISSION WAS SOUGHT. SHE FOUGHT TOOTH & NAIL TO PREVENT THIS GOING AHEAD. SO WHY SHOULD THINGS CHANGE NOW.

ONCE ANY RESTRICTION'S ARE LIFTED THIS WOULD OPEN THE FLOOD GATES FOR MORE HOUSES TO BE BUILT.

ACCESS TO THE PROPOSED SITE IS OVER AN ANCIENT BRIDGE WHICH COULD BE DAMAGED BY. HEAVY VEHICLES DELIVERING. THE BUILDING MATERIAL

THIS BRIDGE WILL BE HUNDERDS OF YEARS OLD IT IS ON THE ROUTE USED BY. COACH & HORSES GOING SOUTH FROM EDINBURGH AND STOPPING AT WHITEBURN WHEN IT WAS A COACH HOUSE

THE ONLY OTHER ACCESS WHICH IS BLOCKED OFF AT THE MOMENT WOULD BE TAKING VEHICLES ON TO THE A 697 ON A DANGEROUS BEND HENCE THIS ACCESS BEING BLOCKED OFF.

[redacted]

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL
Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders
Proposal: Demolition of stable and erection of dwellinghouse
Case Officer: Julie Hayward

Customer Details

Name: Mr Andrew Glendinning
Address: Woodville, Whiteburn, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
Comment:With reference to Ferguson Planning comments of 23rd January 2023.

In the second paragraph "We have reviewed .....deemed irrelevant"
I find this unethical and personally offensive.
I have never met the applicant nor had correspondence with them in any way.
All the comments I have made have been on a factual basis on material planning considerations.
Not so with Ferguson Planning!
To imply supposed difficult interpersonal relationships and past conflicts in an effort to character assassinate and so, nullify comments from any neighbour is unprofessional and should not be accepted as relevant comment. As far as I was aware comments of a personal nature were not permitted.

2. Maximum number of Dwellings in a Building Group
The maximum number of dwellings within a building group cannot continually be increased by 2 or 30%, ad infinitum as the building group has finite boundaries. At the moment there is a group of 8 dwellings with no further land available within the accepted boundaries.

3.Boundary of Building Group
There is agreement in the response from all neighbours as to the Northern, Eastern, Southern and Western boundaries these being the private access road, private access road tree belt, A697, Existing tree belt / Whiteburn stream.

"In the planning rejection of application 11/00156/PPP & 11/00157/PPP in 2011,

Members were of the view that the group had a tight, linear and compact appearance and that

there were strong boundaries that enclosed it. To the east and west this was formed by existing tree belts and to the south by the A697 road. They acknowledged that the access track to the north edge of the group, and southern boundaries of the plots, was a relatively recent construction but were content that it constituted a distinct and defendable edge to the building group, that should not be breached."

The proposed dwelling at Whiteburn Stables is outwith these boundaries in agricultural land to the west.

Respectfully
Andrew Glendinning

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL
Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders
Proposal: Demolition of stable and erection of dwellinghouse
Case Officer: Julie Hayward

Customer Details

Name: Mrs Rhea Kershaw
Address: The Roost Whiteburn, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Comments about play area
- Contrary to Local Plan
- Fire Safety
- Health Issues
- Inadequate access
- Inadequate Boundary/Fencing
- Increased traffic
- Road safety

Comment:Scottish Borders Council Planning ref: 22/01937/MOD & 22/01905/FUL

We wish to document counter objections to Ferguson Planning's letter 23 January 2023.

Firstly, the following statement "and may instead be reflective of difficult interpersonal relationships. Past conflict between the applicant and neighbours, due to the applicant declining to sell their land" is an unprofessional statement for Ferguson planning to make and also has no bearing on the matter in hand.

1. Modification of planning obligation
Because a clause was put in place in 1992, it does not warrant it being brushed aside due to it being "in the present day ... unreasonable, unnecessary and not well related." The clause is to stop further development at Whiteburn Farm. Just like a dwelling in conservation area is protected from modernisation. If it were simply lifted because it wasn't present day, planning would have no structure anywhere.

2. Maximum number of dwellings in building group

The maximum number of dwellings from the original farm house has already met the 30% barrier at 8 dwellings. This can't be then moved to 30% of 8 to make 10. Then one could make it 30% of 9 and so on. Whiteburn is at its maximum capacity for domestic dwellings.

3. Boundary of building group and design
The western Boundary is unanimously agreed on by residents of the 8 dwellings and stated in previous planning notes to be the "Whiteburn" burn or the trees which line the burn, therefore putting the proposed new build out-with this and on the agricultural side of the boundary. This is not an "opinion" as stated; it is show on previous planning drawings as a fact.

4. Use of/reason for building
We have no comment on this point.

5. Servicing and infrastructure
We need professional, factual evidence that the grey water and composting toilet will not breach onto neighbouring land as our children play in this area. We were concerned about the photo evidence of the flooding that was posted onto the portal compromising the draining system stated and therefore creating hazardous substances for children.

6. Transport and access
The statement "the access rights permit vehicles of up to 3.5 tonnes to travel over the bridge across the Whiteburn," causes concern as it is not deemed a "bridge"; it is an unrated, fragile crossing. A fire engine or ambulance both weigh in excess of 3.5T so how does one propose the emergency services attend the proposed dwelling? A fire engine would not fit over the crossing due to its size.

The western access should not be used for any vehicle at anytime. A light good vehicle (LGV) or heavy goods vehicle (HGV) turning in off the corner several times throughout the proposed build would be of great concern and is likely cause a serious incident (as the roads planning officer stated). The use of human traffic control must also not be permitted; it is far too dangerous to try and stop traffic on a main, 60mph trunk road, on a corner, it will likely cause serious injury to the traffic controller or motorist.

In summary, the points made by Ferguson Planning have not dispelled our concerns about the proposed planning, ref 22/01937/MOD75 and 22/01905/FUL, and we still object in full.

Regards
Stephen & Rhea Kershaw

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL
Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders
Proposal: Demolition of stable and erection of dwellinghouse
Case Officer: Julie Hayward

Customer Details

Name: Mr JOHN GRAY
Address: Whiteburn Coach House, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Contrary to Local Plan
- Fire Safety
- Inadequate access
- Increased traffic
- Privacy of neighbouring properties affec
- Road safety

Comment:Hello,

With respect to planning applications near Whiteburn:

- Ref: 22/10905/FUL (7-Dec-2022) Demolition of stable and erection of dwelling house
- Ref: 22/01937/MOD75 (13-Dec-2022) Modification of planning obligation pursuant to planning permission B290/91 and E389/91.

I read with some dismay the response from Ferguson Planning to the legitimate concerns raised by all 8 households residing at Whiteburn. In the introduction to the response, attempts are made to trivialise and side-line concerns as either irrelevant or due to historic conflicts the applicant may have had with neighbours - this approach seems very unprofessional.

Moving on to individual points of response, I do not feel they addresses my concerns raised, in particular but not limited to:

1) Western boundary. The applicant seems to want to change the boundary of the grouping of residential dwellings to include land that is for non-residential agricultural use further west to the boundary which is the Whiteburn.

2) Access over a weak crossing. The applicant provides no evidence that the crossing is rated to support 3.5 tonne vehicles. There is no mention of a rated bridge in any documentation that I have seen when purchasing our property. From the photos and submission that the crossing owner has provided, it is clear that it is extremely flimsy. The crossing has had to be repaired multiple times with the minimal light traffic that it currently subjected to. Additionally, the response does not identify how large vehicles such emergency vehicles could access the proposed development.

Please consider these inputs in addition to my original objections as you review the application,

Yours sincerely,
John Gray
Whiteburn Coach House, Lauder TD2 6SQ

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL
Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders
Proposal: Demolition of stable and erection of dwellinghouse
Case Officer: Julie Hayward

Customer Details

Name: Mrs Niccy Kershaw
Address: The Old Steading Whiteburn Farm, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Inadequate access
- Inadequate drainage
- Increased traffic
- Legal issues
- Road safety
- Smell

Comment:With reference to Ferguson Planning letter of 23 Jan 2023.

In reply to Ferguson Planning response to our objections we believe our objections are material planning considerations and are not due to past conflicts with the applicant as we know that the Council will not consider taking into account any neighbour disputes. Our objections would stand regardless of who applied for planning here.
- We maintain that the Section 50 should not be modified to accommodate a new residential dwelling outwith the current Whiteburn development. The 'White Burn' is the natural boundary for development and this proposal sits outwith this boundary on agricultural land.
- The number of dwellings at Whiteburn is 8, made up of the 2 new builds from 1995 and conversions, so has absorbed any permitted new builds increase and the section 50 was put in place to protect Whiteburn from further new developments. We understand this is why no further new developments have been permitted in the last two development plans.
- The treatment of grey water is still of serious concern to us.
- In 1995 when we purchased Whiteburn Farmhouse, the access road and 5 acres our deeds specified, on more than one occasion, that the access track to the agricultural land 'is not to be used for heavy vehicles'. The access rights in our deeds do not specify 3.5 tonnes is acceptable to travel over the bridge crossing 'not to be used for heavy vehicles'.

Comments for Planning Application 22/01905/FUL

Application Summary

Application Number: 22/01905/FUL
Address: Site Adjacent The Steading Whiteburn Farm Lauder Scottish Borders
Proposal: Demolition of stable and erection of dwellinghouse
Case Officer: Julie Hayward

Customer Details

Name: Mrs Niccy Kershaw
Address: The Old Steading Whiteburn Farm, Lauder, Scottish Borders TD2 6SQ

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
Comment:
We are frustrated with Ferguson Planning that we have to reiterate facts we made in our original objections, yet again.

According to our original Whiteburn Farm deeds it specifies light vehicles only for the crossing. We reiterate there is no mention of a 3.5 tonne limit being acceptable. The left-hand side of the crossing is beginning to subside again, therefore traffic up to 3.5 tonne is not acceptable. The title deeds for Whiteburn Coachhouse state the crossing is not to be used for heavy vehicles. If this is not the case in the deeds which Ms Mckinney holds we have never been consulted as owners of the crossing.
Ferguson Planning also state there are no overhanging trees within or overhanging the area where building or services are proposed. There are however, several large mature trees overhanging the boundary walls. See e.mail for photos.
Regards
Niccy Kershaw

[redacted]

From: Hayward, Julie
Sent: 22 February 2023 11:43
To: Planning & Regulatory Services
Subject: 22/01905/FUL: Site Adjacent The Steading Whiteburn Farm Lauder
Attachments: IMG-20230217-WA0007.jpg; IMG-20230217-WA0008.jpg; IMG-20230217-WA0009.jpg

Hi

Could you please insert this representation into Idox.

Thanks

Julie

Julie Hayward
Team Leader
Development Management
Planning, Housing and Related Services
Corporate Improvement and Economy
Scottish Borders Council

Tel: 01835 825585

E-mail: jhayward2@scotborders.gov.uk

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-----Original Message-----
From: [redacted]
Sent: 19 February 2023 19:56
To: Hayward, Julie <JHayward2@scotborders.gov.uk>
Subject: photos re Whiteburn

CAUTION: External Email

Dear Julie

Please find attached photos re our latest comments on planning application for Whiteburn.

Regards

Niccy Kershaw

From: Hayward, Julie
Sent: 17 March 2023 10:23
To: Planning & Regulatory Services
Subject: FW: Whiteburn 22/01905/FUL

Hi

Could you please enter this representation into Idox and Uniform and acknowledge it.

Thanks

Julie

Julie Hayward
Team Leader
Development Management
Planning, Housing and Related Services
Corporate Improvement and Economy
Scottish Borders Council

Tel: 01835 825585

E-mail: jhayward2@scotborders.gov.uk

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-----Original Message-----
From: Roger Kershaw [redacted]
Sent: 16 March 2023 19:25
To: Hayward, Julie <JHayward2@scotborders.gov.uk>
Subject: Whiteburn 22/01905/FUL

CAUTION: External Email

Hi Julie

We have just been made aware of further correspondence from Ferguson Planning.

1. Building Group Boundaries

We dispute that the track is now the boundary for domestic development.
It is there to access the agricultural land. The burn and trees are the natural boundary for development at Whiteburn. The site is outwith the natural boundary. A new build would also be divorced from the character of Whiteburn.

2. Access and Traffic

There is nothing in our deeds to say that 3.5 tonnes is acceptable. It states that it is only suitable for light vehicles. If the 3.5 tonnes is on Ms Mckinney's deeds then we were never consulted re this (it is on our land) and would not expect to work on the bridge/crossing to accommodate such a weight. We are unclear regarding the statement in Para 2c. relating to a building warrant? We do not dispute that Ms Mckinney has light vehicle access.

We are also aware that no-one has addressed our concerns regarding the disposal of grey water with a reed bed so close to our boundary and how/where the water will run. There is also no information about composting toilets and disposal of same.

Sorry to keep repeating our worries to you but we are feeling very frustrated and maintain a new build outwith the group at Whiteburn is unacceptable.

Regards

Roger and Niccy Kershaw

The Steading, Whiteburn

Local Review Reference: 23/00031/RREF
Planning Application Reference: 22/01905/FUL
Development Proposal: Demolition of stable and erection of dwellinghouse
Location: Site Adjacent The Steading Whiteburn Farm Lauder
Applicant: Ms Elaine McKinney

National Planning Framework 4 (NPF4)

Policy 1: Tackling the Climate and Nature Crises
Policy 2: Climate Mitigation and Adaptation
Policy 6: Forestry, Woodland and Trees
Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings
Policy 14: Design, Quality and Place
Policy 16: Quality Homes
Policy 17: Rural Homes

Scottish Borders Local Development Plan 2016 (LDP)

PMD1: Sustainability
PMD2: Quality Standards
HD2: Housing in the Countryside
HD3: Protection of Residential Amenity
EP13: Trees, Woodland and Hedgerows
IS2: Developer Contributions
IS7: Parking Provisions and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Other Material Considerations

- SBC Supplementary Planning Guidance on Householder Development (incorporating Privacy and Sunlight Guide) 2006
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems August 2020
- SBC Supplementary Planning Guidance on Trees and Development 2020
- SBC Supplementary Planning Guidance on Development Contributions 2011 (updated 2023)

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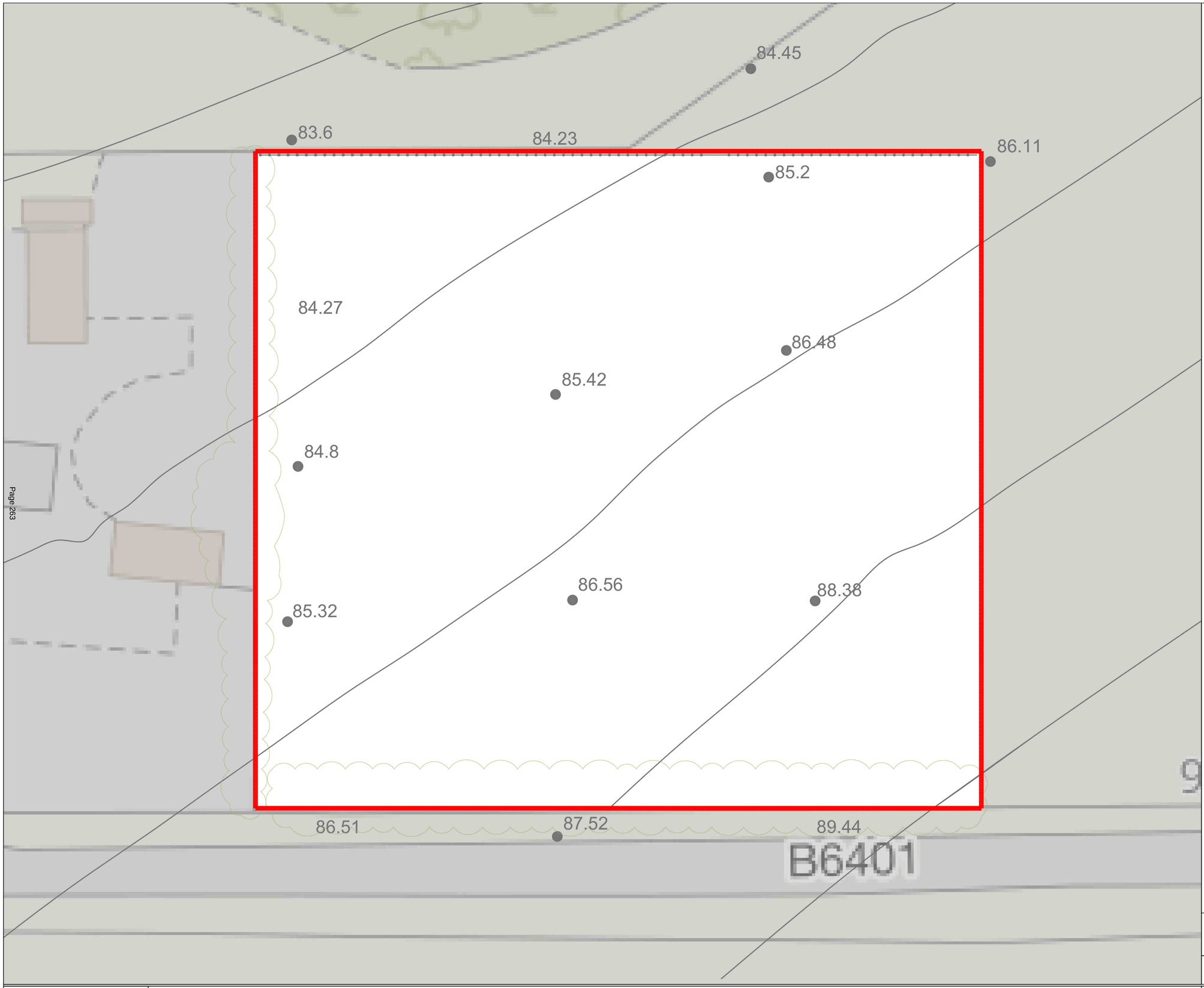

KEY

SITE BOUNDARY

23/00553/FUL
25/08/2023

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

APPROVED

subject to the requirements of the associated Decision Notice

Project: Lorry Storage Yard, Morebattle, Kelso
James Y Burns Haulage

Title: As Existing Site Plan
.

Rev	Description	Date	By	Chk'd
X	X	X	X	X

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Drawings to be read & fully understood before work commences. **IF IN DOUBT ASK.** Use figured dimensions only.

All dimensions, spot levels and drainage positions to be checked on site by Contractor prior to construction. Any discrepancies to be reported back to FBR Seed Ltd.

N

0 5 10 20

Scale in metres - 1:200 scale bar

Status: PLANNING

Scale: 1:200 @ A1

Date: 06.22

Project Reference:

Dwg No.: 101

Rev.: /

Drawn: SB

Chk'd: NB

fbrseed
48 High Street | Haddington | East Lothian | EH41 3EF
t: 01620 824000 e: architecture@fbrseed.com w: fbrseed.com/architecture

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

APPROVED

subject to the requirements of the associated Decision Notice

KEY

SITE BOUNDARY

N

0 25 50 75 100

Scale in metres - 1:1250 scale bar

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Drawings to be read & fully understood before work commences. **IF IN DOUBT ASK.** Use figured dimensions only.

All dimensions, spot levels and drainage positions to be checked on site by Contractor prior to construction. Any discrepancies to be reported back to FBR Seed Ltd.

Project	Lorry Storage Yard Morebattle, Kelso James Y Burns Haulage
Title	Location Plan .
Status	PLANNING
Scale	1:1250 @ A4
Date	06.22
Drawn	SB
Chk'd	NB
Project Reference	Page 264
Dwg No.	100
Rev.	/

Rev	Description	Date	By	Chk'd
X	X	X	X	X

fbrseed
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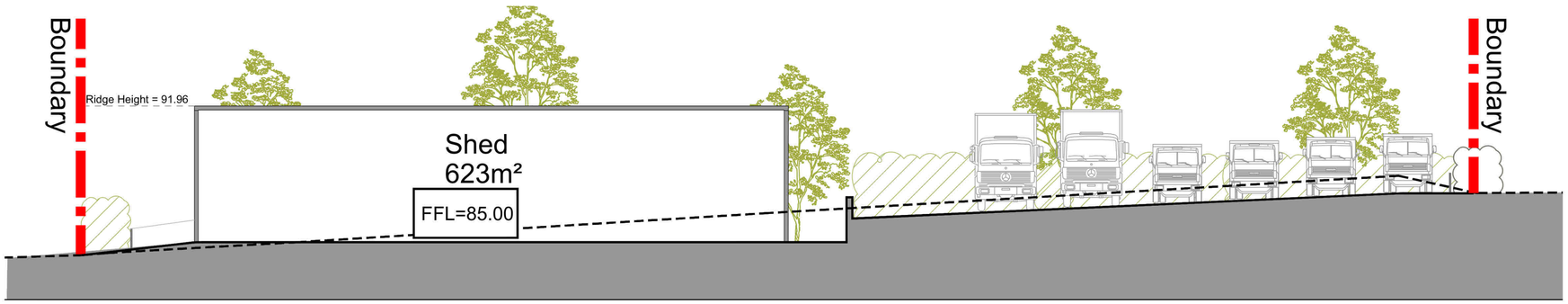
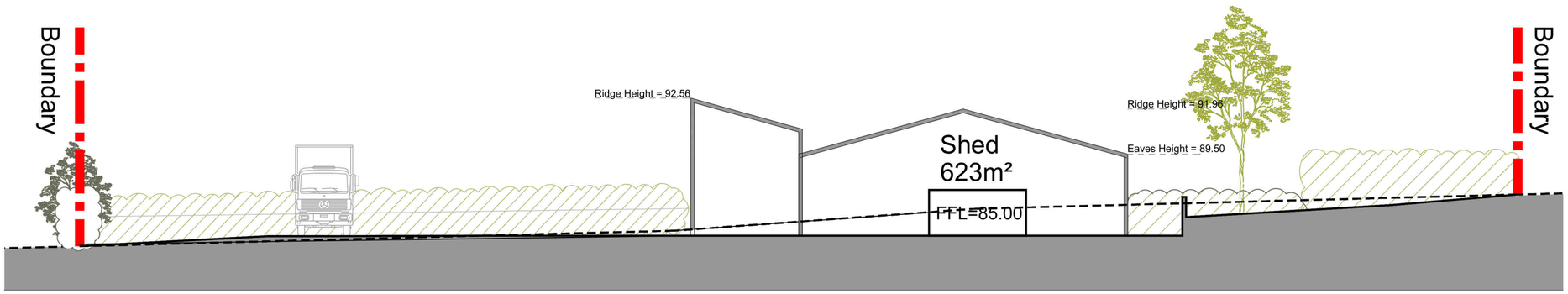
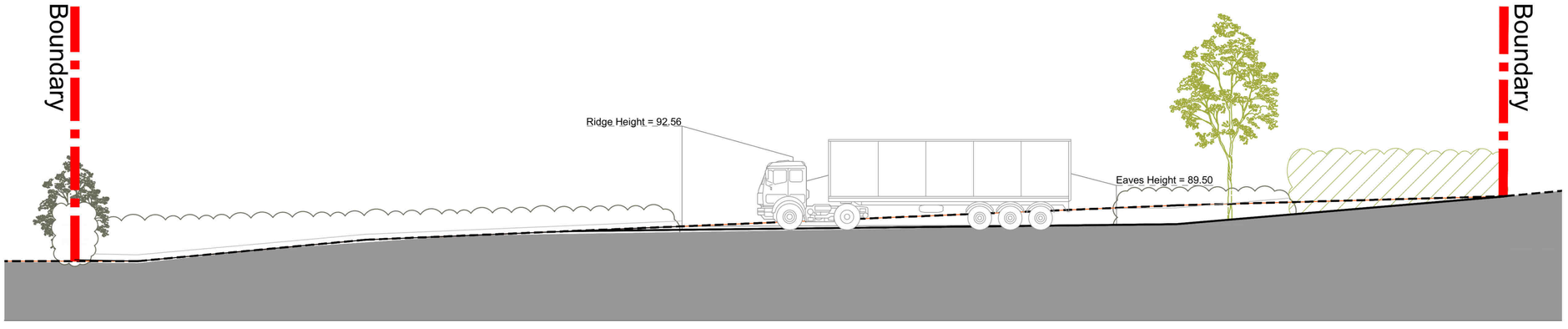


Section A-A|
Scale 1:200 @ A3



Section B-B|
Scale 1:200 @ A3



Section C-C|
Scale 1:200 @ A3

KEY

PROPOSED GROUND LINE

EXISTING GROUND LINE

23/00553/FUL
25/08/2023

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

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0 5 10 20

Scale in metres - 1:200 scale bar

Project: Lorry Storage Yard, Morebattle, Kelso
James Y Burns Haulage

Title: Proposed Sections
.

Rev	Description	Date	By	Chk'd
A	Updated to planner comments	07.23	SB	JD
X	X	X	X	X

Status: PLANNING

Scale: 1:200 @ A3

Date: 06.22 | Drawn: SB | Chk'd: NB

Project Reference:

Dwg No.: 103

Rev.: /

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23/00553/FUL
25/08/2023

KEY

- SITE BOUNDARY
- RIGHT OF ACCESS
- TYPE 1 AGGREGATE FORMING HARDSTANDING
- EXISTING CATTLE FENCING
- PROPOSED CATTLE 1m FENCING TO MATCH EXISTING
- PROPOSED SURFACE WATER FIELD DRAIN
- PROPOSED 110mm dia (UNO) PVCu BELOW GROUND FOUL DRAINAGE
- NEW 1.5M PAVEMENT WITH 255X125MM HALF BATTERED P.C KERB ALONG ROADSIDE.
  SPECIFICATION AS PER SBC ROADS DRAWING DC-10
  FLEXIBLE CONSTRUCTION: SUB BASE: 280MM SUB-BASE TYPE 1
  BINDER COURSE: 50MM DEEP AC20 DENSE BINDER 100/150 TO EN13108-1.
  SURFACE COURSE: 30MM DEEP AC6 DENSE SURF 100/150 TO EN13108-1

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

APPROVED

subject to the requirements of the associated Decision Notice

84.45
A-A
83.6
84.23
Gate
86.11
85.00
5m min
4m min
Soakaway for septic tank
Septic tank
84.27
Wash Bay
Shed 623m²
FFL=85.00
Retaining Wall
B-B
B-B
600 MIN
Diesel tank
85.00
86.38
FW RE
R12200
85.00
86.01
Retaining Wall
Overall Site Area 0.565ha
6500
86.56
88.38
85.32
C-C
C-C
Staff Parking
Levels graded but within lie of existing land
Lorry Parking
Gate
DISCONNECTING SW MH
93.0m
3600
160mm visibilty splay
86.51
2400
6000
87.52
160mm visibilty splay
1.5m
89.44
A-A
B6401
New 1.5m pavement with kerb continuing all the way to village.
Dropped Kerb providing access to field

Page 266

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Drawings to be read & fully understood before work commences. **IF IN DOUBT ASK.** Use figured dimensions only.

All dimensions, spot levels and drainage positions to be checked on site by Contractor prior to construction. Any discrepancies to be reported back to FBR Seed Ltd.

N

0 5 10 20

Scale in metres - 1:200 scale bar

Project	Lorry Storage Yard Morebattle, Kelso James Y Burns Haulage
Title	Proposed Site Plan .

Rev	Description	Date	By	Chk'd
A	Updated to planner comments	19.07	SB	JD
B	Pavement added along roadside	01.08	SB	JD
X	X	x	x	x

Status	PLANNING			
Scale	1:200 @ A1			
Date	06.23	Project Reference	Dwg No. 102	Rev. B
Drawn	SB	Chk'd NB		

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Scottish Borders COUNCIL

James Y Burn Haulage
per FBR Seed Ltd
Rose Lane
Kelso
Scottish Borders
TD5 7AP

Please ask for:	Euan Calvert
☎	01835 826513
Our Ref:	23/00553/FUL
Your Ref:	
E-Mail:	ecalvert@scotborders.gov.uk
Date:	29th August 2023

Dear Sir/Madam

PLANNING APPLICATION AT Land East of Unit 3 Croft Park Industrial Estate Morebattle Kelso Scottish Borders

PROPOSED DEVELOPMENT: Change of use from agricultural land to lorry storage yard and erection of building

APPLICANT: **James Y Burn Haulage**

Please find attached the decision notice for the above application.

Please read the schedule of conditions and any informative notes carefully.

Drawings can be found on the Planning pages of the Council website at https://eplanning.scotborders.gov.uk/online-applications/ . Please see the requirement for notification of initiation and completion of development as well as for Street naming and numbering as appropriate.

It should be noted that before works commence, where applicable, all necessary consents should be obtained under the Building (Scotland) Act 2003. If you require any further information in this respect, please contact the relevant Building Standards Surveyor.

Yours faithfully

John Hayward

Planning & Development Standards Manager

Scottish Borders Council

Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

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

Application for Planning Permission **Reference : 23/00553/FUL**

To : James Y Burn Haulage per FBR Seed Ltd Rose Lane Kelso Scottish Borders TD5 7AP

With reference to your application validated on **6th April 2023** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

Proposal : Change of use from agricultural land to lorry storage yard and erection of building

at : Land East of Unit 3 Croft Park Industrial Estate Morebattle Kelso Scottish Borders

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 (as amended), subject to the conditions attached to the following schedule for the reasons stated.

Dated 25th August 2023
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

John Hayward
Planning & Development Standards Manager

APPLICATION REFERENCE : 23/00553/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
100	Location Plan	Approved
102 REV B	Proposed Site Plan	Approved
103 REV A	Proposed Sections	Approved
101	Existing Sections	Approved

REASON FOR DECISION

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Statutory Development Plan and there are no material considerations that would justify a departure from these provisions.

SCHEDULE OF CONDITIONS

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.

2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.

3 No development of the shed (hereby approved on site plan 102 Rev B) shall be commenced until the following precise details:

i. Proposed plans and elevations of the building;
ii. Full details of the external materials, including colour, to be used in the construction of the building;
iii. The finished floor levels of the building hereby approved;

have been submitted to and approved in writing by the Planning Authority. Thereafter development to be completed in accordance with the approved details.
Reason: To protect the character and amenity of the area.

4 The site and building hereby approved shall only be used for Class 4 (office, research and development or light industry), Class 5 (general industry) or Class 6, (storage and distribution) of Schedule of The Town and Country Planning (Use Classes) (Scotland) Order 1997, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
Reason: To ensure that the use remains compatible within the site.

5 No septic tank, washbay or building hereby approved may be developed before fully detailed design proposals for foul and surface water drainage, demonstrating that there will be no negative impact to public health, the environment or the quality of watercourses or ground water, have been submitted to and approved in writing by the Planning Authority. Thereafter development to be undertaken in accordance with these details.
Reason: The Planning Authority requires consideration of full details of surface water drainage (SUDS), foul water connections and/or any private systems proposed.

6 No development shall be commenced until the precise construction details of the bell mounth and pavement (and precise streetlighting details, if required) shown on site plan, 102 Rev B, has been submitted to and approved in writing by the Planning Authority. Thereafter the bell mouth and pavement to be completed in accordance with these details before the site is brought in to use, or a timescale which has been prior agreed with the Planning Authority.
Reason: To ensure the development hereby approved is served by an appropriate form of access, in the interests of road safety.

7 No development shall commence until precise details of:
i. location of new trees, shrubs, hedges and grassed areas
ii. schedule of plants to comprise species, plant sizes and proposed numbers/density
iii. programme for completion and subsequent maintenance.
of the proposed tree and hedge planting shown on Site Plan 102 Rev B have been submitted to and approved in writing by the Planning Authority.
Thereafter this scheme shall be carried out in the first planting and seeding seasons following the site coming in to use, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.
Reason: To ensure that the proposed landscaping is carried out as approved.

8 Before any part of the permitted development is commenced, the hedge to be retained on the site shall be protected by a fence 1.5 metres high placed at a minimum distance of 2.0 metres from the edge of the hedge, and the fencing shall be removed only when the development has been completed. During the period of construction of the development the existing soil levels around the boles of the hedges so retained shall not be altered.
Reason: In the interests of preserving the hedges which contribute to the visual amenity of the area.

9 The visibility splay (2.4m x 160m) as shown on Site Plan, 102 Rev B must be provided on site before the site is brought in to use and retained free of visual obstruction (when viewed from drivers eye height of 1.05m) in perpetuity.
Reason: To ensure adequate drivers visibility for access and egress to the B-classified road.

10 No external flood lighting of the site is permitted except in accordance with an exterior lighting plan which shall first have been submitted to and approved in writing by the Planning Authority. The lighting plan shall be designed in accordance with the guidance produced by The Institution of Lighting Professionals and the Bat Conservation Trust, Aug 2018 (as outlined: Guidance Note 8/18 (2018): Bats and artificial lighting in the UK). Thereafter no development shall take place except in strict accordance with the approved lighting plan. All lights shall be suitably shuttered/shielded and directed to prevent unwanted light flood.
Reason: In the interests of protecting bats, biodiversity, residential amenity and the character of the predominantly rural area.

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.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:
Monday-Friday 0700-1900
Saturday 0800-1300
Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act 1997 (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 available on the Council's website for this purpose.

Notice of Completion of Development

Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) 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**

There are a number of risks created by built over gas mains and services; these are:

- Pipework loading – pipes are at risk from loads applied by the new structure and are more susceptible to interference damage.
- Gas entry into buildings – pipework proximity increases risk of gas entry in buildings. Leaks arising from previous external pipework able to track directly into main building from unsealed entry.
- Occupier safety – lack or no fire resistance of pipework, fittings, or meter installation. Means of escape could be impeded by an enclosed meter.

Please note therefore, if you plan to dig, or carry out building work to a property, site, or public highway within our gas network, you must:

1. Check your proposals against the information held at https://www.linesearchbeforeudig.co.uk/ to assess any risk associated with your development **and**
2. Contact our Plant Protection team to let them know. Plant location enquiries must be made via email, but you can phone us with general plant protection queries. See our contact details below:

Phone 0800 912 1722 / Email plantlocation@sgn.co.uk

In the event of an overbuild on our gas network, the pipework must be altered, you may be temporarily disconnected, and your insurance may be invalidated.

Further information on safe digging practices can be found here:

- Our free Damage Prevention e-Learning only takes 10-15 minutes to complete and highlights the importance of working safely near gas pipelines, giving clear guidance on what to do and who to contact before starting any work https://www.sgn.co.uk/damage-prevention

Further information can also be found here https://www.sgn.co.uk/help-and-advice/digging-safely

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 (as amended) within three months from the date of this notice. To seek a review of the decision, please complete a request for local review form and return it to the Clerk of the Local Review Body, Democratic Services, 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 (as amended).

SCOTTISH BORDERS COUNCIL

APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO CHIEF PLANNING OFFICER

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 23/00553/FUL

APPLICANT : James Y Burn Haulage

AGENT : FBR Seed Ltd

DEVELOPMENT : Change of use from agricultural land to lorry storage yard and erection of building

LOCATION: Land East Of Unit 3 Croft Park Industrial Estate
Morebattle
Kelso
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
100	Location Plan	Approved
102 REV B	Proposed Site Plan	Approved
103 REV A	Proposed Sections	Approved
101	Existing Sections	Approved

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

There were two periods of public consultation and adverts placed in the Southern Reporter. Three neighbours were notified.
There were no representations received.

Consultations
Community Council: Noise, increased traffic, impacts on school, impacts on walkers of St Cuthbert's Way, unsocial hours, impact on other roads specifically that recently created for farm traffic from Whitton.

Roads Planning: First response: Further details required.
Second response: Roads Planning can now accept the reasons for creation of a new access to the B-class road in location shown. Visibility splays of 2.4m x160m accepted. There remains requirement for creation of a pedestrian route to Morebattle. Precise details of surface to be agreed. Precise streetlighting details to be confirmed by SBC.

Forward Planning: A lorry yard at this location is considered acceptable. Site requirements within the LDP state that structure planting is required to the northern and eastern site boundaries however the applicant's proposed site plan only shows planting to the eastern site boundary.

Economic Development: No response.

Access Officer: No response.

PLANNING CONSIDERATIONS AND POLICIES:

National Planning Framework 4

Policy 14: Design, Quality and Place
Policy 15: Local Living and 20 Minute Neighbourhoods
Policy 26: Business and Industry

Local Development Plan 2016

Policy PMD1 Sustainability
Policy PMD2 Quality Standards
Policy PMD3 Land Use Allocations
Policy HD3 Protection of Residential Amenity
Policy ED1 Protection of Business and Industrial Land
Policy IS6 Road Adoption Standards
Policy IS7 Parking Provision and Standards
Polcicy IS9: Waste Water Treatment Standards and SUDS

Supplementary Planning Guidance: Placemaking and Design, 2010.

Recommendation by - Euan Calvert (Assistant Planning Officer) on 22nd August 2023

This is a full planning permission for change of use of agricultural land to form a lorry storage yard and erection of a building on land east of Unit 3, Croft Park Industrial Estate, Morebattle.

This is a green field site located to the west of Morebattle village and situated north of the public road (B6401). The site is a portion of agricultural field adjacent to the established industrial estate. The application concerns the entire site (0.6ha) allocated within the Local Development Plan 2016 as business and industrial land (BMORE001).

Proposals
A vehicular access is proposed which would lead directly into the site from the B class road. The site is to be surfaced in hardstanding to accommodate lorry parking and staff parking. The site would be enclosed with agricultural stock fencing and would be gated. There would be a landscaped area (structure planting) on the eastern boundary and a hedge enclosure to the northern boundary.

Latterly amendments have been submitted which introduce arrangements for a diesel tank, wash bay, septic tank and soakaway and shed in the lower/ northern part of the site. The shed would require a level construction platform and a proposed floor level of 85.00m AOD is given. The section demonstrates proposed retaining walls on the east and partially through the middle of the site. The precise design of shed is to be reserved by condition in event of approval but the section demonstrates proposals for a steel portal framed shed in the north eastern part of the site.

Planning policy
Policy 26 of NPF4 supports development of business and industrial sites, where they are compatible with the primary business function of the area.

Policy and History
The site is allocated within the LDP for business and industrial uses and is identified within Policy ED1 of the Plan as a District business and industrial site, with a presumption in favour of Use Classes 4, 5 and 6 but other uses would be considered in accordance with a given criteria.

Assessment
Principle and Use

The proposed development is considered to comply with the requirements of Policy ED1. Lorry storage use is acceptable on a site which has been identified in the LDP for business and light industry. The Forward Planning Officer confirms that the site also appears in LDP 2020 and the Reporter did not identify any changes to this allocated land at examination.

Proposals for a temporary welfare building have been removed from the site plan. The Officer has identified that temporary portacabin buildings are not appropriate permanent accommodation and the Agent is recommended that a welfare building should be designed for the site in future, if required.

The principle of vehicle storage for a local livestock transporter business is acceptable as the proposal will not cause unacceptable levels of pollution or public nuisance or result in an unacceptable hazard to the public or environment. The concerns of the Community Council are acknowledged however the use is considered to be compatible with the employment designation of the site and compatible with the rural area.

The site is not within the village but 30m beyond the periphery and concerns for noise, traffic and impact on residents are not considered to have a significantly adverse impact on residential neighbours. Introduction of a landscape buffer should ensure that the visual amenity of the wider area is protected. The principle to business and industrial use has been established in the Local Development Plan and these proposals are considered to be aligned with Policy ED1 concerning district sites. The concerns of the community council are acknowledged but the principle to industrial use on the site takes precedence. No neighbouring residential amenity impacts are identified in the use as a haulage yard - the use is considered compatible with the area. A condition will prohibit floodlighting except in accordance with a prior approved designed scheme.

Visual Amenity
The location and design of fences has now been shown. Agricultural stock fences are to enclose the site. These will be introduced behind the roadside hedge which is shown for retention. Hedge protection will be a condition of approval. No natural heritage or ecology issues are identified with the chosen site.

A fully detailed landscape scheme will be a requirement of approval. The Forward Planning Officer has identified requirements arising from the LDP on the eastern and northern boundaries and these precise details will now be requested by condition including numbers, species, density and maintenance schedule to ensure establishment.

Roads planning
The Roads Planning Officer has now accepted the principle to a new junction and the proposed location of this junction on the B-class road. The new road junciton opposite does not benefit from planning permisison and is not determinant to this application. Accessing this new site from the existing junction/ industrial estate has proven not to be feasible and has been discounted. A parking layout and junction has now been designed and the precise construction details of the junction will be reserved by condition. Visibility splays of 2.4m x 160m have been shown and these too will be a condition of approval. Lastly the provision of an adopted pavement is considered to be necessary to link the industrial site to the village.
The pavement is considered to be necessary in this instance as consequence of NPF4 which does identify requirements under Policy 15 concerning Local Living and 20 minute neighbourhoods. This route is also part of St Cuthbert's Way/ Core Path which adds weigh to the requirement for a segregated pavement in this development.

Drainage will be a condition of approval to ensure the water environment.

There was no response from Economic Development.

There were no representations received.

The proposals are now considered compatible for the site and are in accordance with NPF4 specifically Policy 26.

REASON FOR DECISION :

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Statutory Development Plan and there are no material considerations that would justify a departure from these provisions.

Recommendation: Approved subject to conditions

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.

2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.

3 No development of the shed (hereby approved on site plan 102 Rev B) shall be commenced until the following precise details:

i. Proposed plans and elevations of the building;
ii. Full details of the external materials, including colour, to be used in the construction of the building;
iii. The finished floor levels of the building hereby approved;

have been submitted submitted to and approved in writing by the Planning Authority. Thereafter development to be completed in accordance with the approved details.
Reason: To protect the character and amenity of the area.

4 The site and building hereby approved shall only be used for Class 4 (office, reseach and development or light industry), Class 5 (general industry) or Class 6, (storage and distribution) of Schedule of The Town and Country Planning (Use Classes) (Scotland) Order 1997, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
Reason: To ensure that the use remains compatible within the site.

5 No septic tank, washbay or building hereby approved may be developed before fully detailed design proposals for foul and surface water drainage, demonstrating that there will be no negative impact to public health, the environment or the quality of watercourses or ground water, have been submitted to and approved in writing by the Planning Authority. Thereafter development to be undertaken in accordance with these details.
Reason: The Planning Authority requires consideration of full details of surface water drainage (SUDS), foul water connections and/or any private systems proposed.

6 No development shall be commenced until the precise construction details of the bell mounth and pavement (and precise streetlighting details, if required) shown on site plan, 102 Rev B, has been submitted to and approved in writing by the Planning Authority. Thereafter the bell mouth and pavement to be completed in accordance with these details before the site is brought in to use, or a timescale which has been prior agreed with the Planning Authority.
Reason: To ensure the development hereby approved is served by an appropriate form of access, in the interests of road safety.

7 No development shall commence until precise details of:
i. location of new trees, shrubs, hedges and grassed areas
ii. schedule of plants to comprise species, plant sizes and proposed numbers/density
iii. programme for completion and subsequent maintenance.
of the proposed tree and hedge planting shown on Site Plan 102 Rev B have been submitted to and approved in writing by the Planning Authority.
Thereafter this scheme shall be carried out in the first planting and seeding seasons following the site coming in to use, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.

Reason: To ensure that the proposed landscaping is carried out as approved.

8 Before any part of the permitted development is commenced, the hedge to be retained on the site shall be protected by a fence 1.5 metres high placed at a minimum distance of 2.0 metres from the edge of the hedge, and the fencing shall be removed only when the development has been completed. During the period of construction of the development the existing soil levels around the boles of the hedges so retained shall not be altered.
Reason: In the interests of preserving the hedges which contribute to the visual amenity of the area.

9 The visibility splay (2.4m x 160m) as shown on Site Plan, 102 Rev B must be provided on site before the site is brought in to use and retained free of visual obstruction (when viewed from drivers eye height of 1.05m) in perpetuity.
Reason: To ensure adequate drivers visibility for access and egress to the B-classified road.

10 No external flood lighting of the site is permitted except in accordance with an exterior lighting plan which shall first have been submitted to and approved in writing by the Planning Authority. The lighting plan shall be designed in accordance with the guidance produced by The Institution of Lighting Professionals and the Bat Conservation Trust, Aug 2018 (as outlined: Guidance Note 8/18 (2018): Bats and artificial lighting in the UK). Thereafter no development shall take place except in strict accordance with the approved lighting plan. All lights shall be suitably shuttered/shielded and directed to prevent unwanted light flood.
Reason: In the interests of protecting bats, biodiversity, residential amenity and the character of the predominantly rural area.

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

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Scottish Borders COUNCIL

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 2013

IMPORTANT: Failure to supply all the relevant information could invalidate your notice of review.

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

Name James Y Burns Haulage

Address c/o FBR Seed Ltd

Postcode

Contact Telephone 1
Contact Telephone 2
E-mail*

Agent *(if any)*

Name FBR Seed Ltd

Address Rose Lane, Kelso

Postcode TD5 7AP

Contact Telephone 1 [redacted]
Contact Telephone 2
E-mail* jenni.douglas@fbrseed.com

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 23/00553/FUL

Site address Land east of Unit 3 Croft Park Industrial Estate, Morebattle, Kelso, Scottish Borders

Description of proposed development: Change of use from agricultural land to lorry storage yard and erection of agricultural building, with new entrance off B6041 to the west of the village of Morebattle

Date of application 05 April 2023 Date of decision (if any) 29 August 2023

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 (tick one box)

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:

We believe the Review should consider the evidence submitted to conclude if the condition is justified, a site visit would aid this, and then discussion/hearing thereafter as we do not feel this is a fair condition.

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?	☐	☐
2 Is it possible for the site to be accessed safely, and without barriers to entry?	☐	☐

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

For ease as there is a large boundary hedge along B6041 it may be easier to access the site from the existing field entrance towards the village & walk down field

Statement

You must state, in full, why you are seeking a review of 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.

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. Note: there will be no opportunity to submit further documents to accompany this notice of review.

We have provided one document giving our reason for the appeal, and attaching all of the evidence as one document. This includes:

Finalised detailed site plan for proposal
Supporting Document submitted with application
Planning Decision
Local Development Plan for Morebattle
Roads response 23.5.23
FBRSeed's response to Roads 17.5.23
Email trail with Roads re. justification of path and location of path
Roads response 14.7.23 and FBRSeed's response

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 26.09.23

The completed form should be returned to the Clerk of the Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA or sent by email to localreview@scotborders.gov.uk

Scottish Borders COUNCIL

Newtown St Boswells Melrose TD6 0SA Tel: Payments/General Enquiries 01835 825586 Email: regadmin@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 100624253-001

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: *

T 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)

Change of use from Agricultural Rough Grazing (zoned by Local Development Plan as preferred location for Industrial/Business Use) to Agricultural Lorry Depot for livestock lorry company, on outskirts of Morebattle

Is this a temporary permission? * ≤ Yes T 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 T No

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

T 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 T Agent

Agent Details

Please enter Agent details

Company/Organisation:	FBR Seed Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Jennifer	Building Name:	FBR Seed
Last Name: *	Douglas	Building Number:	
Telephone Number: *	01573 224 381	Address 1 (Street): *	Rose Lane
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	KELSO
Fax Number:		Country: *	Scotland
		Postcode: *	TD5 7AP
Email Address: *	jenni.douglas@fbrseed.com		

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

≤ Individual T Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Kaleside
First Name: *	Alistair	Building Number:	
Last Name: *	Gray	Address 1 (Street): *	Main Street
Company/Organisation	James Y Burn Haulage	Address 2:	
Telephone Number: *		Town/City: *	Morebattle
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	TD5 8QG
Fax Number:	[redacted]		
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 624939 Easting 376756

Pre-Application Discussion

Have you discussed your proposal with the planning authority? * ≤ Yes T No

Site Area

Please state the site area: 0.60

Please state the measurement type used: T Hectares (ha) ≤ Square Metres (sq.m)

Existing Use

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

Rough Grazing (Agriculture)

Access and Parking

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

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site? 0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? * 6

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

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

T Not Applicable – only arrangements for water supply required

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

T 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 T 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 T No ≤ Don't Know

Trees

Are there any trees on or adjacent to the application site? * ≤ Yes T 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.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * ≤ Yes T No

If Yes or No, please provide further details: * (Max 500 characters)

Not applicable to proposed use

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? * ≤ Yes T No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? * ≤ Yes T 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 T 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 T 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 T No

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

Do you have any agricultural tenants? * ≤ Yes T No

Are you able to identify and give appropriate notice to ALL the other owners? * T Yes ≤ No

Certificate Required

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

Certificate B

Land Ownership Certificate

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

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:	Mr Stuart Lang
Address:	Stamford Hall, Stamford Hall, Gullane, UK, EH31 2BA
Date of Service of Notice: *	01/03/2023

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:	
Address:	
Date of Service of Notice: *	

Signed:	Jennifer Douglas
On behalf of:	James Y Burn Haulage
Date:	05/04/2023

T 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 T Not applicable to this application

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

≤ Yes ≤ No T 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 T 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 T 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 T 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 T 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:

T Site Layout Plan or Block plan.

≤ Elevations.

≤ Floor plans.

≤ Cross sections.

≤ Roof plan.

≤ Master Plan/Framework Plan.

≤ Landscape plan.

T 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	T N/A
A Design Statement or Design and Access Statement. *	≤ Yes	T N/A
A Flood Risk Assessment. *	≤ Yes	T N/A
A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *	≤ Yes	T N/A
Drainage/SUDS layout. *	≤ Yes	T N/A
A Transport Assessment or Travel Plan	≤ Yes	T N/A
Contaminated Land Assessment. *	≤ Yes	T N/A
Habitat Survey. *	≤ Yes	T N/A
A Processing Agreement. *	≤ Yes	T N/A

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

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: Mrs Jennifer Douglas

Declaration Date: 05/04/2023

Appeal regarding: Condition set within Planning decision for Application No: 23/00553/FUL

Planning Application at land east of Unit 3 Croft Park Industrial Estate, Morebattle, Kelso, Scottish Borders

Change of use from Agricultural land to lorry storage yard and erection of building

Applicant: James Y Burns Haulage

fbrseed

LAND AGENTS &
CHARTERED SURVEYORS

Planning Ref: 23/00553/FUL
Appeal regarding Planning Application At Land East of Unit 3 Croft Park Industrial Estate, Morebattle, Kelso, Scottish Borders
Change of use from Agricultural land to lorry storage yard and erection of building
Applicant: James Y Burns Haulage

Below is our appeal regarding a condition set within Planning decision 23/00553/FUL, for which various pieces of evidence are added as appendices:

Appendix 1 – Finalised detailed site plan

Supporting document by FBRSeed

Planning Decision

Appendix 2 – Local Development Plan for Morebattle

Appendix 3 – Roads response (email) 12 May 2023

Appendix 4 – FBRSeed's written response to Roads 17th May 2023

Appendix 5 – email trail with Roads & Planning Officer re. justification for path and where it should be located

Appendix 6 – Roads response 14th July 2023 & FBRSeed email trail responding

On behalf of our client, we submitted a planning application to create a Lorry Park for approximately 6 livestock haulage lorries with the future possibility of erecting a livestock shed and a wash bay to Scottish Borders Council Planning Department. The finalised detailed site plan is attached at **Appendix 1**, as well as our supporting document which was submitted along with the application.

The application was submitted on the 5th April 2023, with the addition of the shed and wash bay on to the drawings on 4th June, for which we received the decision on the 29th August 2023 confirming that the application was successful subject to conditions – one of which is the subject of this appeal –

> Condition 6 – ***'****No development shall be commenced until the precise construction details of the bell mouth and pavement (and precise street lighting details, if required) shown on site plan, 102 Rev B, has been submitted to and approved in writing by the Planning Authority.*
> *Thereafter the bell mouth and pavement to be completed in accordance with these details before the site is brought in to use, or a timescale which has been prior agreed with the Planning Authority.*
> *Reason: To ensure the development hereby approved is served by an appropriate form of access, in the interests of road safety'*

Background

The applicant currently operates out of a unit on a farm between Kelso and Morebattle which has recently been granted planning consent to develop a distillery. One of the conditions of the development was that the haulage business is relocated. As a result, the applicant lodged the above application to move their business back to the village of Morebattle where it first started, when it was previously located in the center of the village many years ago.

The site our client is looking to develop is on the western outskirts of the village of Morebattle south of the town of Kelso and was zoned by the Local Development Plan for 'Business and Industrial use' as an extension to the existing Croft Industrial Park (marked MORE001 at **Appendix 2**).

The LDP and propose LDP specifically state that '***separation between employment sites and settlement should be retained by not developing the slope towards the Primary School'*** - leaving an area undeveloped to the east of our client's application site before the settlement boundary.

Furthermore, the LDP suggested access to this site would be through the existing industrial site, marked BMORE002 on the LDP.

Entranceway considerations

Upon researching our application, the applicant approached the businesses within the adjacent Industrial Park to discuss access, determining that the access is owned by a third party and is not an adopted road, therefore access would need to be by negotiation. Furthermore, access into the center of the site makes for a large unworkable space to enable lorries to turn etc. and as a result, the application proposed a new access direct off the B6401 into the site, which has been agreed with Roads.

The proposed new entrance is on the Western edge of the proposed site (allowing sufficient distance from the boundary to create a compliant entrance for articulated lorries to enter/exit the site).

As not only the entranceway, but most of the development site is out with the village 20mph zone, care was taken with regards to visibility splays, assuming that although drivers will have just left a 20mph zone or would be slowing for an imminent 20mph restriction, therefore within a 60mph speed limit along this stretch of the B6401 and therefore a minimum of 160m visibility splay in each direction would be required.

Furthermore, due to the topography of the B6401 steepening as it approaches the western edge of the village, this entrance point gave the most sufficient visibility splays. Moving only a short distance towards the village started to restrict visibility splays.

This new entrance would be adjacent to the existing entrance to Croft Industrial Park and diagonally adjacent to a very recently created large concrete entrance into a field across the B6401 from the proposed site.

Google Maps Streetview looking east towards Morebattle, our proposed entrance marked red, Cessford Motors entrance on the left and the new farm entrance on the right

Meeting with Roads

Upon submission of the application, we arranged to meet with Roads on site to discuss the proposal, agreeing on 16th May. The Roads department then submitted their initial comments and concerns less than 24 hours prior to our meeting, attached at **Appendix 3**.

On site we therefore discussed their concerns, which I felt I was able to counter or give reassurance to the various points including location of the site entrance, and another being the possibility of creating a footpath from the village to the site entrance. Roads said that as there would then be 3 bell mouth entrances in the vicinity, they *may* look to extend the 20mph zone beyond Croft Industrial Park, and therefore a footpath may be required. At that time I did counter should they wish to change the 20mph zone due to all of these entrances, shouldn't put the sole responsibility on our client with regards to investment of a footpath surely.

There has been no comment since that this condition is as a result of a change to the speed limit, and in their written response of May it simply asked for:

> '*details of the extension of the existing pedestrian route and street lighting from their existing termination to the access to the site.'*

We believed that as this was written before our site meeting, it was merely a misunderstanding suggesting we were offering this, however site meeting and then written response clarified as there is no justification for this, the applicant would not be including a footpath and street lighting as part of the application.

Appendix 4 shows that in our response of 17th May we explained that this is a private lorry park for which the 6-7 staff all live out with the village and commute by car. Furthermore, the site would be locked at all times when the lorries are out on site, and no external parties should be taking access to the site for Health & Safety reasons, therefore there would be no need for anyone to walk to and from the village to our site. I reiterated that the landowner who owns the proposed site also owns the green space between the site and the village, therefore should any staff deem it necessary to walk to the village (which is very unlikely), this could be done safely within the field boundary, but no members of the public should be entering the site.

Roads appeared happy with this explanation on site and asked that I respond as soon as I return to the office as perhaps some of their queries were made in haste, which we submitted the next day (17th May).

Once we submitted what we believed to be all of the relevant information, there was a period of trying to make contact with the planner for an update on a decision which we had been expecting in June, and it was only when we gained a response on 14th July that the Planner confirmed the footpath was a formal requirement which had been confirmed by Roads in a further response, forwarded on to my on the 14th July – (a copy of SBC Response and FBRSeed's reply to this response at **Appendix 6**).

This is the first time NPF4 was used as a justification for the footpath, stating that it places greater emphasis on 'active travel and connectivity'. The Roads department also felt that by erecting a livestock shed (which would be used as layerage to enable livestock making a long journey to have a break from travel for a short period) we 'need to introduce a method for safe travel to walk to Morebattle should staff wish'. This response also stated, '*it should be noted that there may also be a requirement for street lighting over this section of proposed footway'*. At the date of submitting this appeal (26th September 2023) we still have had no confirmation from Roads as to whether lighting is required, just short of 6 months after submitting the application. And if it is a requirement, no development can take place until installed.

The footpath must lead from the curtilage of the village to the entrance to our site, a length of approximately 165m, to an acceptable standard with a roadside kerb. This would be a significant cost to the applicant, making his modest lorry park proposal unviable. We challenged why the pavement could not go on the opposite side of the road leading to the farm entrance that was created within the previous year, to which Roads replied that there is no reason why it couldn't be (email attached at **Appendix 5**). Why therefore is it our client's cost to bear and if it is to connect our development, why would a pavement on the opposite side of the road be sufficient. The cause behind the pathway is not clear, and we don't feel justified.

The possible erection of a building for layerage only provides short term accommodation for livestock, there would not be staff on site all day, therefore the requirement to walk to the village has not increased as a result of this amendment to the application.

Once we had confirmation that Roads were insisting on a footpath, we responded disagreeing with this (also detailed within the email trail at **Appendix 5**). Our planner responded separately explaining that it should our application be successful, it would be a condition that could be appealed, but not before. We did not receive a formal decision to this until 29th August, a further 6 week later.

National Planning Framework 4 (NPF4)

NPF4 came into force earlier this year, looking at a National Spatial Strategy for Scotland 2045 with extra consideration for street design. We are informed that the justification for a footpath is as a result of NPF4, which we would like to counter as part of this appeal. We believe the below Policies are being used as justification for the footpath

Sustainable Transport, Policy 13 stating that:

Development will be supported where it can demonstrate that the transport requirements generate have been considered in line with sustainable travel, where they i) provide direct, easy, segregated safe links to local facilities via walking, wheeling and cycling networks before occupation.'

Furthermore, **Design, Quality and Place Policy 14** stating that development will be supported if it meets the six qualities of successful places, including 'Connected: Supporting well connected networks that make moving around easy and reduce car dependency'.

Our counter view however is that Morebattle is remote village south of Kelso, near the English border. The village has a small population of approximately 400, many of whom are retired or commute for employment.

J Y Burns Haulage previously had their depot within the village; however the villagers were concerned about the disruption caused by large lorries turning and parking off the narrow main street, therefore when an opportunity to move arose, the business moved several miles away to its current location. All parties were happy with this decision.

None of the employees of the business reside in Morebattle, all commuting by car, and will continue to do so at the new site. With shift patterns and a limited public transport system to this remote village, this is the only method of commuting to work. Policy 13 encourages walking but also cycling networks, which could benefit employees in the summer months that are close enough to cycle, however this is dependent on a network of cycle networks on the roads, for which there are no cycle provisions in the locality. This is shortfall of SBC, not the applicant.

The nature of the applicant's business is that lorries are collected, and drivers are either away all-day moving livestock, or more commonly away all week, from Monday morning until Friday afternoons. We do not anticipate therefore that the footfall to the village shop will increase at all because of this development. Furthermore, it is a private lorry park with no public access so there is no requirement for this business to have a connection to the village, and no requirement for the village to have a connection to the business.

We would argue instead that by adding this condition to our client's consent, making it economically unviable, goes against two of the six overarching spatial principles within NPF 4, namely:

- **Rebalanced development** - target development to create opportunities for communities and investment in areas of past decline and manage development sustainably in areas of high demand.'

  Rural revitalisation – 'encourage sustainable development in rural areas, recognising the need to grow and support urban and rural communities together'.

This site has been zoned for industrial/business within the current Local Development Plan which was adopted in May 2016. The 2020 Proposed LDP remains unchanged for Morebattle with the exception of the population rising slightly. There has not been any expansion in residential building, and the primary school has only expanded in numbers due to taking in a larger catchment area. The village is in decline and in need of some investment to help it prosper for future generations.

The proposed LDP residential and business opportunities remain the same, having not been developed since zoning in 2015/16. The applicant is looking to move his business to the edge of the village, creating growth for the area however if economic barriers are imposed by SBC on development of such sites, the not thrive.

Withing NPF4, 'Street Designing and National Planning Framework' gives ways of improving street design, such as ways to connect with adjacent street networks, encouraging walking, be safe and pleasant, to connect well to existing movement networks etc. In this instance, however

the proposed development is out with the village, therefore we do not believe to be within a ‘street network’. It is an extension to an existing industrial site located near the village.

The same policy wants to build on the ‘National Walking, cycling and wheeling network’ by ‘extending a national active travel network to reduce emissions from transport, ***focusing on areas where improvements to accessibility are most needed.’*** We do not believe that creating a footpath from the edge of the village to the entrance to our private car park meets any of these needs. Cycle routes and increased public transport to the area is needed, but a footpath to a private business out with the village does not provide any benefit to the inhabitants of Morebattle or the employees of our client’s business.

Conclusion

To conclude, we are grateful for the successful granting of planning consent for our applicant’s planning application, however we do not believe that Condition 6 is a fair, or fully justified condition. The additional investment required by the applicant to meet this condition alone before starting his development of a lorry park would make the project completely unviable, therefore unless this condition could be lifted, this development will not be able to take place.

Scottish Government planning and economic policies all target boosting rural areas whilst protecting their rural character, however if conditions make it unviable for businesses to invest in the area, these villages will be unable to thrive for future generations.

Thank you for your time.

Jennifer Douglas, MRICS FAAV
Director

FBRSeed Ltd
Rose Lane
Kelso
TD5 7AP

Jenni.douglas@fbrseed.com

Supporting Statement

For the creation of a lorry storage yard

For James Y Burns Haulage

Produced: April 2023

fbrseed
LAND AGENTS &
CHARTERED SURVEYORS

Introduction

The applicant, James Burns Haulage is an established livestock haulier based in the Scottish Borders, transporting primarily sheep across the United Kingdom. The business has a fleet of 6 livestock lorries which are parked overnight on a local farm, however due to a change in circumstances the business now requires to find a new premises.

Application Aim

This application is for the change of use from Agriculture to Business & Industrial through the creation of a new yard to store the business's livestock transporters (Plan at **Appendix 1**). The proposal would create a new entrance off the B6401 directly adjacent to Croft Industrial Park (to the East) and diagonally across from the recently created entrance to Whitton Farm, on the outskirts of Morebattle.

Lorries would park in a row along the existing hedge line boundary to the site, providing sufficient area for turning.

Siting

The proposed yard will be within the area known as BMORE001 within SBC Local Development Plan (Map at **Appendix 2**) which is zoned to be an extension of Croft Industrial Park. The area of the yard will total 0.60 Ha and will be based directly adjacent (to the East) of the existing Croft Industrial Park on the flatter area of land, providing a natural sloped boundary between the industrial space and Morebattle Primary School to the East, as specified in the Local Plan Site Requirements for this site. Photographs of the site are at **Appendix 3**.

The yard will have a new entrance created approximately 4.5m from the boundary hedge, providing sufficient space for articulated vehicles to enter and exit the site safely. By creating a new entrance rather than using the existing entrance further east – which is only 30m out of the village, the site is kept quite separate from the residential area and provides more than sufficient visibility splays in excess of 160m in each direction (Photographs of visibility at **Appendix 4**).

Services

The site will be excavated and levelled, removing the top-soil and laying an area of hardstanding if required (approx. area shaded grey on the plan). Power will be taken from the 3-phase transformer North of the site, and water will be taken from the mains which we understand runs up the verge along the B6401.

There is a ditch running along the roadside which is currently running dry, however, as with the neighbouring industrial estate, across the entrance way this ditch will be piped and laid with tarmac into the site.

A drain will be laid along the western boundary of the site to catch surface water as it flows towards the edge of the site.

A septic tank will be installed to the west of the site to provide facilities for a portacabin toilet for staff.

An area will be developed to safely wash the lorries and dispose of the water safely in accordance with SEPA guidance. We are in the process of trying to arrange a site meeting with SEPA to discuss their requirements as part of the application.

Precedent

The proposed site is recommended for industrial use and is adjacent to an industrial yard with a similar entranceway off the B6401. Furthermore, adjacent to the site is recently developed entranceway to Whitton Farm, photographs of existing entranceways at **Appendix 5.** By keeping industrial uses to the outskirts of the village it is hoped that it reduces any safety concerns of vehicles being parked in the village, on a site with good visibility in every direction.

Planning Guidance

This proposal meets the Local Development Plan, which has designated this site as Business and Industrial, as defined in Policy ED1. The applicant is willing to plant a tree line boundary to the east of the site if desired and will retain the hedgerow to the west of the site.

Although the LDP mentions access to the site may be possible via the adjacent site, we feel that due to the size of vehicles used by the business, from a safety perspective, the business should use its own access to and from the site.

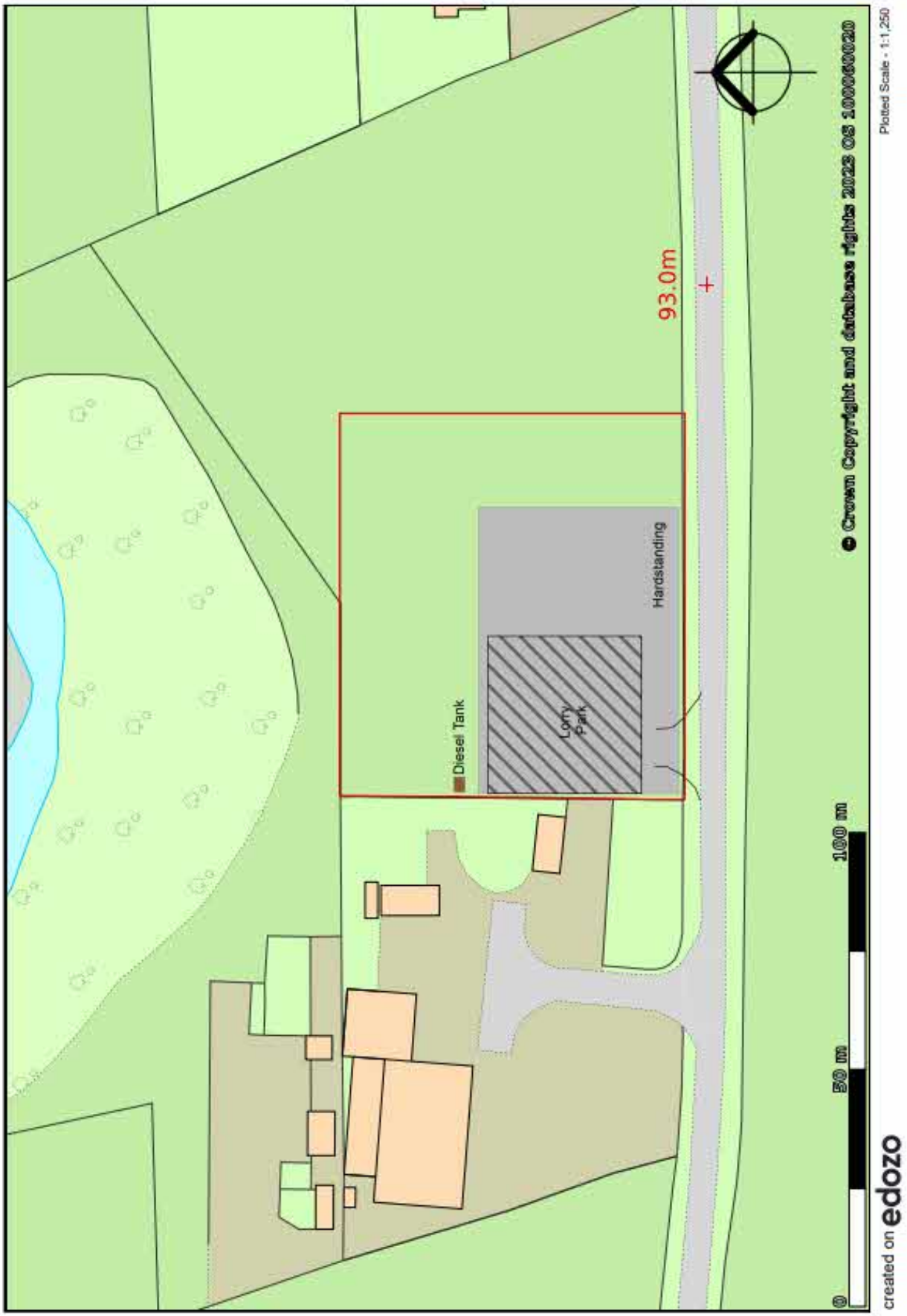
Policy ED7 – Business, Tourism & Leisure Development in the Countryside' notes that SBC considers that opportunities do exist at appropriate locations outwith settlements where economic activity can take place. Furthermore, it highlights that the Scottish Government acknowledges that one of the core values of the planning service is to play a key role in facilitating sustainable economic growth, particularly strengthening economic capacity and resilience within communities.

This yard would enable the business to store its vehicles on the outskirts of the village where the owner resides, without impacting the village, improving safety due to proximity to the site and time saving travelling to a yard elsewhere. Due to a change of circumstances for the

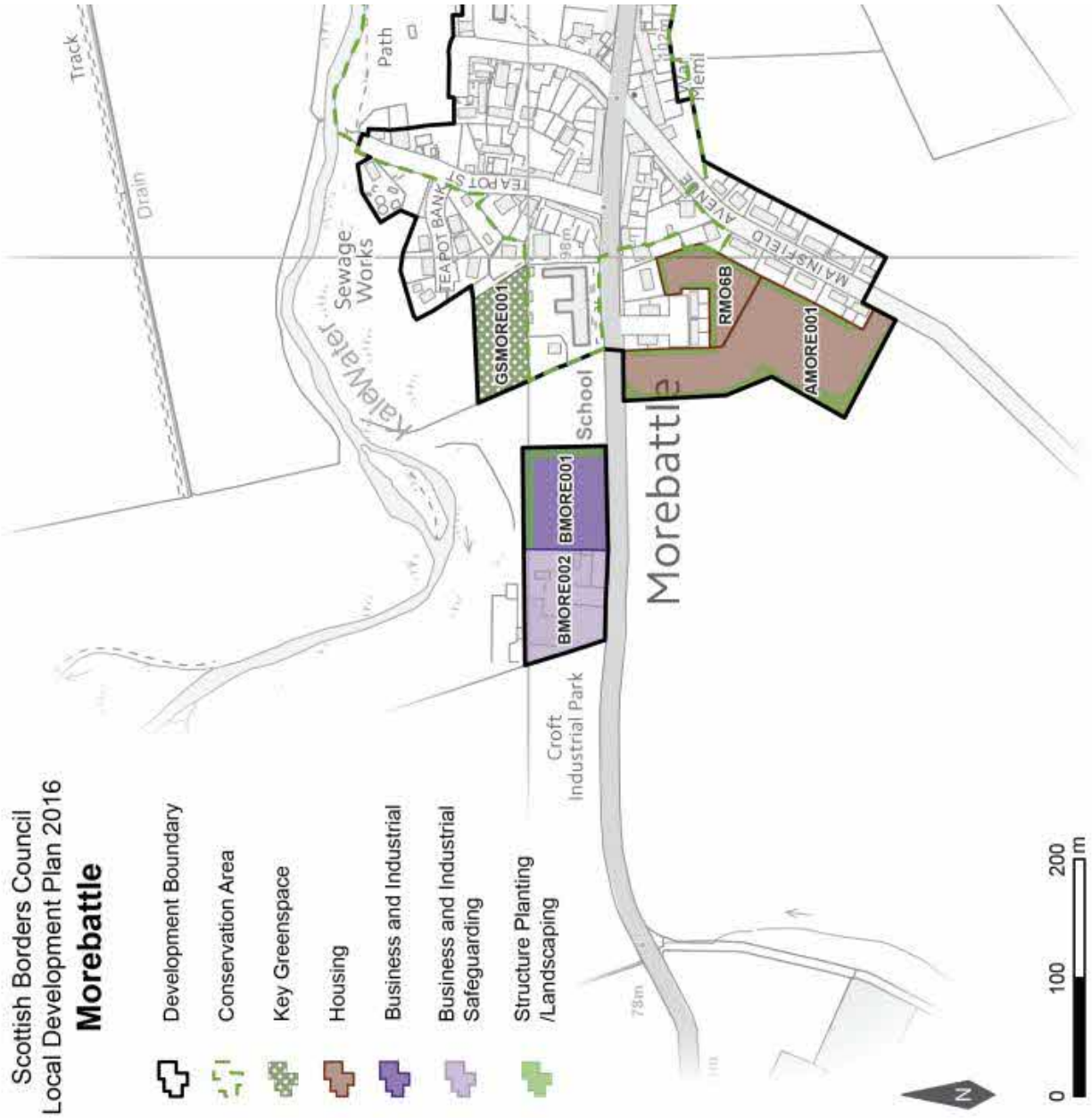
Landlord of their current premises, the business must move imminently, therefore for the future functionality of the business, a new premises is required.

Due to the nature of the business transporting livestock, and the size of the lorries, the possibility of finding a suitable empty yard is proving extremely challenging, therefore the applicant feels the best way to progress is to invest in a new purpose built site for his business.

Appendix 1 - Proposal Plan for Application



Appendix 2 - Local Development Plan Map for Morebattle



Appendix 3 - Photographs of site

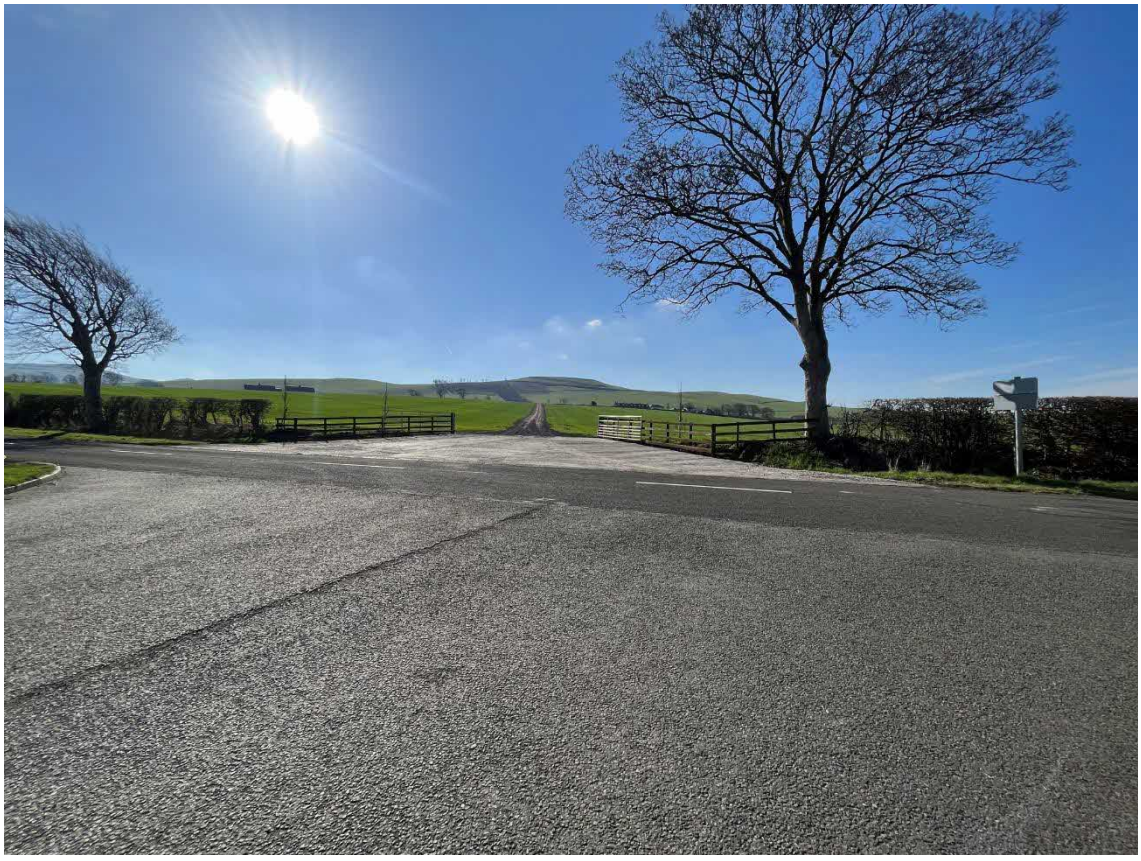
Looking West from eastern edge of site (roadside to the left of picture)

Looking North West across site

Looking North with western boundary hedge shown on the left

Appendix 4 - Photographs of adjacent entranceways

Looking across to Croft Industrial Park entrance



Looking across to Whitton Farm Entrance

Appendix 5 - Visibility Splay Photographs (photographs taken from approximate entranceway)

Looking East into village

Looking West

Scottish Borders COUNCIL

James Y Burn Haulage
per FBR Seed Ltd
Rose Lane
Kelso
Scottish Borders
TD5 7AP

Please ask for: Euan Calvert
☎ 01835 826513
Our Ref: 23/00553/FUL
Your Ref:
E-Mail: ecalvert@scotborders.gov.uk
Date: 29th August 2023

Dear Sir/Madam

PLANNING APPLICATION AT Land East of Unit 3 Croft Park Industrial Estate Morebattle Kelso Scottish Borders

PROPOSED DEVELOPMENT: Change of use from agricultural land to lorry storage yard and erection of building

APPLICANT: **James Y Burn Haulage**

Please find attached the decision notice for the above application.

Please read the schedule of conditions and any informative notes carefully.

Drawings can be found on the Planning pages of the Council website at https://eplanning.scotborders.gov.uk/online-applications/ . Please see the requirement for notification of initiation and completion of development as well as for Street naming and numbering as appropriate.

It should be noted that before works commence, where applicable, all necessary consents should be obtained under the Building (Scotland) Act 2003. If you require any further information in this respect, please contact the relevant Building Standards Surveyor.

Yours faithfully

John Hayward

Planning & Development Standards Manager

Scottish Borders COUNCIL

Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

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

Application for Planning Permission **Reference : 23/00553/FUL**

To : James Y Burn Haulage per FBR Seed Ltd Rose Lane Kelso Scottish Borders TD5 7AP

With reference to your application validated on **6th April 2023** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

Proposal : Change of use from agricultural land to lorry storage yard and erection of building

at : Land East of Unit 3 Croft Park Industrial Estate Morebattle Kelso Scottish Borders

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 (as amended), subject to the conditions attached to the following schedule for the reasons stated.

Dated 25th August 2023
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

John Hayward
Planning & Development Standards Manager

APPLICATION REFERENCE : 23/00553/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
100	Location Plan	Approved
102 REV B	Proposed Site Plan	Approved
103 REV A	Proposed Sections	Approved
101	Existing Sections	Approved

REASON FOR DECISION

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Statutory Development Plan and there are no material considerations that would justify a departure from these provisions.

SCHEDULE OF CONDITIONS

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.

2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.

3 No development of the shed (hereby approved on site plan 102 Rev B) shall be commenced until the following precise details:

i. Proposed plans and elevations of the building;
ii. Full details of the external materials, including colour, to be used in the construction of the building;
iii. The finished floor levels of the building hereby approved;

have been submitted to and approved in writing by the Planning Authority. Thereafter development to be completed in accordance with the approved details.
Reason: To protect the character and amenity of the area.

4 The site and building hereby approved shall only be used for Class 4 (office, research and development or light industry), Class 5 (general industry) or Class 6, (storage and distribution) of Schedule of The Town and Country Planning (Use Classes) (Scotland) Order 1997, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
Reason: To ensure that the use remains compatible within the site.

5 No septic tank, washbay or building hereby approved may be developed before fully detailed design proposals for foul and surface water drainage, demonstrating that there will be no negative impact to public health, the environment or the quality of watercourses or ground water, have been submitted to and approved in writing by the Planning Authority. Thereafter development to be undertaken in accordance with these details.
Reason: The Planning Authority requires consideration of full details of surface water drainage (SUDS), foul water connections and/or any private systems proposed.

6

7 No development shall commence until precise details of:
i. location of new trees, shrubs, hedges and grassed areas
ii. schedule of plants to comprise species, plant sizes and proposed numbers/density
iii. programme for completion and subsequent maintenance.
of the proposed tree and hedge planting shown on Site Plan 102 Rev B have been submitted to and approved in writing by the Planning Authority.
Thereafter this scheme shall be carried out in the first planting and seeding seasons following the site coming in to use, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing.
Reason: To ensure that the proposed landscaping is carried out as approved.

8 Before any part of the permitted development is commenced, the hedge to be retained on the site shall be protected by a fence 1.5 metres high placed at a minimum distance of 2.0 metres from the edge of the hedge, and the fencing shall be removed only when the development has been completed. During the period of construction of the development the existing soil levels around the boles of the hedges so retained shall not be altered.
Reason: In the interests of preserving the hedges which contribute to the visual amenity of the area.

9 The visibility splay (2.4m x 160m) as shown on Site Plan, 102 Rev B must be provided on site before the site is brought in to use and retained free of visual obstruction (when viewed from drivers eye height of 1.05m) in perpetuity.
Reason: To ensure adequate drivers visibility for access and egress to the B-classified road.

10 No external flood lighting of the site is permitted except in accordance with an exterior lighting plan which shall first have been submitted to and approved in writing by the Planning Authority. The lighting plan shall be designed in accordance with the guidance produced by The Institution of Lighting Professionals and the Bat Conservation Trust, Aug 2018 (as outlined: Guidance Note 8/18 (2018): Bats and artificial lighting in the UK). Thereafter no development shall take place except in strict accordance with the approved lighting plan. All lights shall be suitably shuttered/shielded and directed to prevent unwanted light flood.
Reason: In the interests of protecting bats, biodiversity, residential amenity and the character of the predominantly rural area.

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.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:
Monday-Friday 0700-1900
Saturday 0800-1300
Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act 1997 (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 available on the Council's website for this purpose.

Notice of Completion of Development

Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) 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**

There are a number of risks created by built over gas mains and services; these are:

- Pipework loading – pipes are at risk from loads applied by the new structure and are more susceptible to interference damage.
- Gas entry into buildings – pipework proximity increases risk of gas entry in buildings. Leaks arising from previous external pipework able to track directly into main building from unsealed entry.
- Occupier safety – lack or no fire resistance of pipework, fittings, or meter installation. Means of escape could be impeded by an enclosed meter.

Please note therefore, if you plan to dig, or carry out building work to a property, site, or public highway within our gas network, you must:

1. Check your proposals against the information held at https://www.linesearchbeforeudig.co.uk/ to assess any risk associated with your development **and**
2. Contact our Plant Protection team to let them know. Plant location enquiries must be made via email, but you can phone us with general plant protection queries. See our contact details below:

Phone 0800 912 1722 / Email plantlocation@sgn.co.uk

In the event of an overbuild on our gas network, the pipework must be altered, you may be temporarily disconnected, and your insurance may be invalidated.

Further information on safe digging practices can be found here:

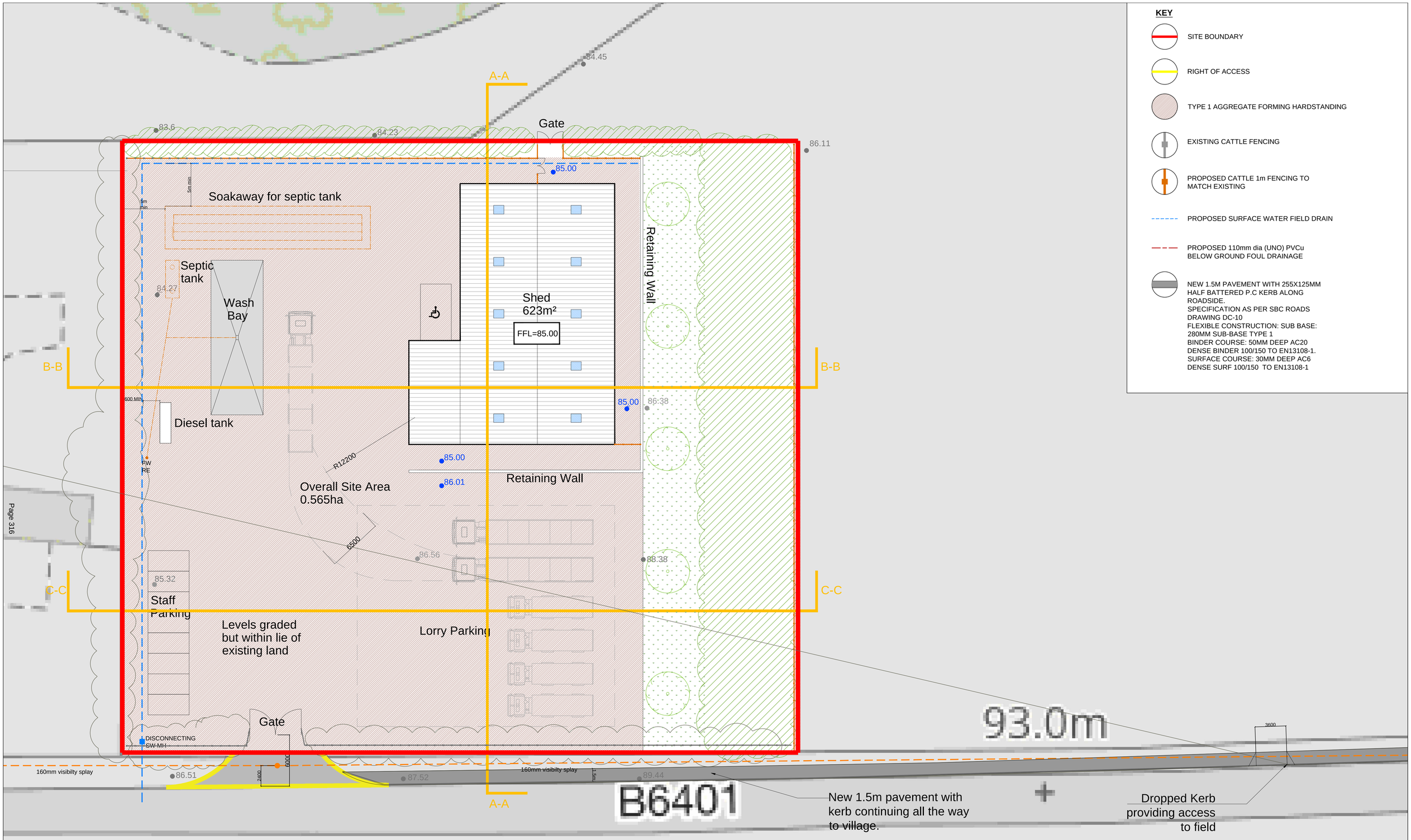
- Our free Damage Prevention e-Learning only takes 10-15 minutes to complete and highlights the importance of working safely near gas pipelines, giving clear guidance on what to do and who to contact before starting any work https://www.sgn.co.uk/damage-prevention

Further information can also be found here https://www.sgn.co.uk/help-and-advice/digging-safely

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 (as amended) within three months from the date of this notice. To seek a review of the decision, please complete a request for local review form and return it to the Clerk of the Local Review Body, Democratic Services, 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 (as amended).



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Drawings to be read & fully understood before work commences. **IF IN DOUBT ASK.** Use figured dimensions only.

All dimensions, spot levels and drainage positions to be checked on site by Contractor prior to construction. Any discrepancies to be reported back to FBR Seed Ltd.

N

0 5 10 20

Scale in metres - 1:200 scale bar

Project	Lorry Storage Yard Morebattle, Kelso James Y Burns Haulage
Title	Proposed Site Plan .

Rev	Description	Date	By	Chk'd
A	Updated to planner comments	19.07	SB	JD
B	Pavement added along roadside	01.08	SB	JD
X	X	x	x	x

Status	PLANNING
Scale	1:200 @ A1
Date	06.23
Drawn	SB
Chk'd	NB
Project Reference	
Dwg No.	102
Rev.	B

fbrseed
48 High Street | Haddington | East Lothian | EH41 3EF
t: 01620 824000 e: architecture@fbrseed.com w: fbrseed.com/architecture

DEVELOPMENT AND SAFEGUARDING PROPOSALS

HOUSING

SITE REFERENCE	SITE NAME	SITE SIZE (HA)	INDICATIVE SITE CAPACITY
RMO6B	Renwick Gardens	0.4	9
Site Requirements			
• Refer to approved Planning Brief.			
AMORE001	West Renwick Gardens	1.3	20
Site Requirements			
• Refer to approved Planning Brief.			

BUSINESS AND INDUSTRIAL

SITE REFERENCE	SITE NAME	SITE SIZE (HA)	INDICATIVE SITE CAPACITY
BMORE001	Extension to Croft Industrial Park	0.6	N/A
Site Requirements			
• This is a business and industrial site as defined in Policy ED1 • Structure planting required on the northern and eastern boundaries to provide setting for development. A management scheme for planting is also required • Existing hedgerow to the west should be retained • Retain separation between employment sites and settlement by not developing in the slope towards the Primary School • Access is possible from/to the existing employment land site to the west and direct access is possible from/to the B6401 • Mitigation measures are required to prevent any impact on the River Tweed Special Area of Conservation.			

BUSINESS AND INDUSTRIAL SAFEGUARDING

SITE REFERENCE	SITE NAME	SITE SIZE (HA)	INDICATIVE SITE CAPACITY
BMORE002	Croft Industrial Park	0.6	N/A
Site Requirements			
• This is a business and industrial safeguarded site as defined in Policy ED1.			

KEY GREENSPACE

SITE REFERENCE	SITE NAME	SITE SIZE (HA)
GSMORE001	Morebattle School Playing Field	0.4

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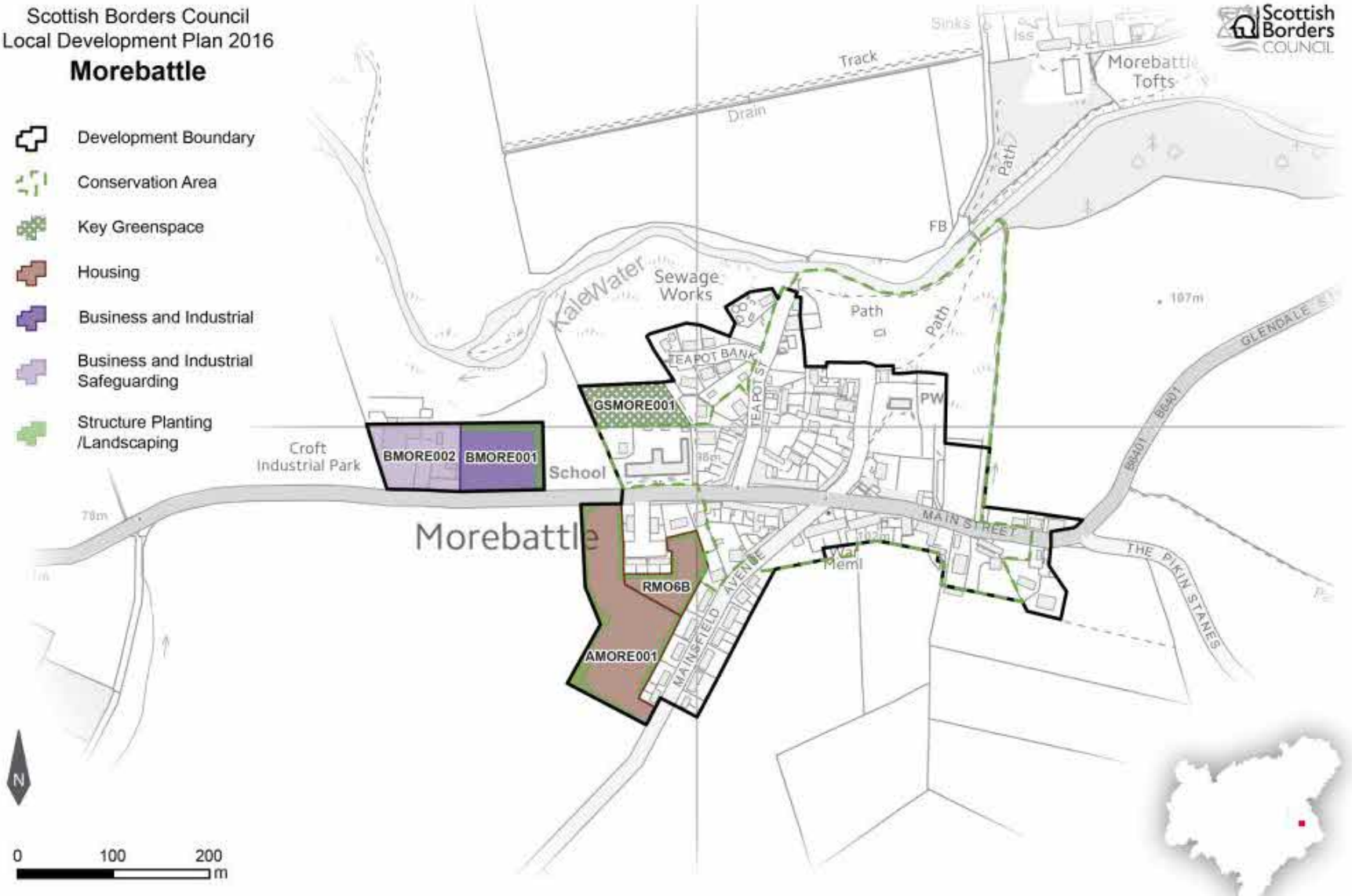
For further information, including help reading this document, please contact: Forward Planning, Environment and Infrastructure, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel: 01835 826511. Email: localplan@scotborders.gov.uk
Disclaimer: Scottish Borders Council uses spatial information 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.

Scottish Borders Council
Local Development Plan 2016

Morebattle



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CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION

Comments provided by	**Roads Planning Service**	
Officer Name, Post and Contact Details	**Mark Payne** **Roads Planning Officer**	**mark.payne@scotborders.gov.uk** **01835 825018**
Date of reply	12th May 2023	**Consultee reference:**
Planning Application Reference	23/00553/FUL	**Case Officer:** Euan Calvert
Applicant	James Y Burn Haulage	
Agent	FBR Seed Ltd	
Proposed Development	Change of use from agricultural land to lorry storage yard	
Site Location	Land East Of Unit 3 Croft Park Industrial Estate Morebattle Kelso Scottish Borders	
The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.		
Background and Site description	LDP allocated site BMORE001 Extension to Croft Industrial Park (Business and Industrial)	
Key Issues (Bullet points)	• Access • Traffic	
Assessment	Whilst I have no concerns regarding the extension of the industrial estate, I have some concern with the proposal as submitted. Approval of the layout indicated is likely to prejudice the extension of the industrial estate as laid out in the Council's current Local Development Plan (LDP). Site BMORE001 allows for the extension of the industrial estate but I would have expected any extension to have utilised the roads within the existing industrial estate site to serve the additional ground. The supporting information within the LDP states access is available to/from the B Class road, however this would be to serve the extension and not a single plot. We have a presumption against new accesses on to a B Class road outwith the settlement boundary and whilst there is an existing access, this application proposes a new access for a single plot, or larger junction to serve a larger area, rather than utilising the existing road infrastructure. As part of any extension to the estate we would also expect the pedestrian route and street lighting to be extended from their existing location to the site access. In order to fully consider this application, I require further details as indicated below: • Confirmation as to why the site cannot be accessed via the existing industrial estate road. • Provide visibility splays showing what is achievable in both directions from the proposed access. • It is assumed that staff will be travelling to/from site in cars in order to Pick-up/leave their lorries. Please indicate the location and number of proposed parking spaces, with provision for manoeuvring for all vehicles within the site so that they can exit onto the public road in a forward gear.	

	• Provide a transport statement showing the anticipated impact of heavy vehicle movements, particularly through Morebattle. • Details of the extension of the existing pedestrian route and street lighting from their existing termination to the access to the site.			
Recommendation	☐ Object	☐ Do not object	☐ Do not object, subject to conditions	☒ **Further information required**
Recommended Conditions				
Recommended Informatives				

Signed: AJS

23/00553/FUL – Response to Roads & Community Council

Response to Roads:

We met with the Roads department this morning, 16th May 2023 to discuss our application. There were several issues raised, many of which were noted in their consultation response. We have therefore chosen to respond to all comments made, including those in their response dated 15th May 2023;

Q: Confirmation as to why the site cannot be accessed via the existing industrial estate road

A: The existing industrial estate road is owned by a third party, not an adopted road as far as we are aware, therefore we would need to negotiate a right of access across their land, and then the access comes in to the middle of the proposed plot meaning any potential development further west all needs to come through the centre of the site making it an unworkable space for turning lorries etc.

Q: Provide visibility splays showing what is achievable in both directions from the proposed access

A: Having met on site, we have discussed and agreed that visibility is clear in both directions more than the minimum distance for a 60mph speed limit (min 160m in either direction). Photographs and a plan of the visibility splay is attached.

Q: It is assumed that staff will be travelling to/from site in cars to pick-up/leave their lorries. Please indicate the location and number of proposed parking spaces, with provision for manoeuvring for all vehicles

A: As assumed, and as confirmed at our site meeting, staff travel to and from the site by car to collect/leave lorries, therefore as discussed there is no requirement for pedestrians to walk to the proposed site. Furthermore, the proposed use means the site would not be open to the general public therefore again, we do not agree that there is any requirement for the applicant to be required to install a footpath and lighting outwith the settlement boundary down past the site to the existing industrial site.

To set this as a condition of the planning consent for such a business would be an unfair condition, and we do at this early-stage object to this.

The adjacent commercial business, which *is* open to the public, whom drop and collect vehicles, did not have to comply with such a condition therefore it is not reasonable to ask a lorry yard to do so, in what could be seen as a retrospective condition for an existing business.

For clarity, we have amended the site plan to show the area designated for staff parking. Plan attached.

Q: Approval of the layout indicated is likely to prejudice the extension of the industrial estate as laid out in the Council's current Local Development Plan (LDP).

A: As discussed at our site meeting, the proposed site is the full extent of BMORE001, which totals 0.60 Ha, leaving an area of agricultural land between Morebattle Primary School and the Industrial Park, essentially keeping it away from the village. We are therefore applying for consent across the whole of the newly zoned business/industrial area. (Copy of LDP Map attached)

As a result, this proposal would not be blocking access to any future industrial uses on the land between the site and the school, which was a concern of the roads department. The new access is to the whole of the zoned extension of the existing industrial site, not a single plot within the larger zoned area as the Roads department had mistakenly feared.

The LDP statement therefore does support a new access from the main B Class Road outwith the settlement boundary for such a purpose.

Design & Construction

The entranceway would be of similar scale to that into Croft Industrial Park, enabling lorries sufficient width to turn and access the site. The centrelines of the two roads would be approx. 50m apart, meeting the roads preference to be at least 40m apart. The first 6m from the existing road would be laid to a tarmac surface with a kerbed edge, before moving to a type-1 surface within the development site.

The site would be bound on the west by a livestock fence – standard 5 plain and 1 barb, with a livestock gate into the adjacent field. This fence line could have a length of hedging established within the development site to screen the site from the village should the planners request it, as per the roadside and western boundaries which would remain with livestock fences and established hedgerows. The northern boundary would continue the livestock fence that currently bounds the site to square the site off with the new eastern boundary.

The site entrance would have a set of two livestock gates across it which will be locked, fully enclosing the site but keeping the boundary materials in keeping with its agricultural surroundings.

Comments made by the Kalewater Community Council:

Q: The disturbance to the peace and tranquillity of the village, which could be at unsociable hours

A: The business carries a fleet of 6 livestock lorries, a combination of larger articulated lorries and smaller lorries. Most of the business's contracts require lorries to travel long distances so are often away from Monday morning and returning on the Friday. Smaller, more local jobs would mean that a couple of smaller lorries return daily, however the majority of the work is further afield therefore there will not be 6 lorries leaving and returning daily. Furthermore, the entrance is located adjacent to a farm entrance and existing industrial estate entrance, as far away from the village within the zoned site as possible, significantly reducing any potential impact to village tranquillity.

Q: The close proximity to the Primary School, and possible disruption from noise during the school day

A: This area has been zoned for business/industrial use by SBC's Local Development Plan, and we believe compared with many industrial uses, such as the existing garage adjacent where a business is open to the public, a lorry storage yard for 6 lorries would have minimal impact on the local community by comparison.

Furthermore by siting the main infrastructure as far to the West, the natural topography along with a boundary fence will screen the majority of the site from the village.

Q: The dangers associated with the increase in heavy traffic, with special concern for the school traffic, cyclists and walkers (of which there are many as we are on the national route of St. Cuthbert's Way)

A: Unless there was a requirement to collect livestock from the farms to the south of the village, (which are few and far between) vehicles will not be travelling within the village boundary. Their main area of work requires them to travel to the main trunk roads and would therefore travel north away from the site to begin their commute to collect livestock further afield. This would mean the number of vehicles used through the village would be no more frequent than if parked else where and still accessing the valley to the south.

The St Cuthbert's Way travels along many rural roads that have no footpath, and are accessed by large agricultural machinery, for which access takers are aware of the potential risk and take caution on such routes. We do not anticipate storing 6 lorries next to a commercial garage will have any additional negative impact on pedestrians and cyclists who choose to travel along this pathway, which in places such as Morebattle, utilising road verges as a core path connecting road.

Furthermore, as vehicles are often away all week, or certainly all day, we do not anticipate this having any more of an impact on school traffic and would in fact have less of an impact than the current farm traffic in the area which is wider and often can be towing trailers of feedstock close to or through the village to feed livestock on surrounding farms.

Q: The proximity of the proposed entrance so close to the new entrance that has been created for farm traffic to Whitton has been raised by a councillor from the farming community.

A: When speaking with the roads department onsite, it was agreed that there is a benefit to keeping all construction traffic within the same vicinity, so long as an entranceway is at least 40m away from an existing entranceway. We were unable to source the planning documents for the Whitton entrance to understand the roads commentary with regards to creating a new entrance directly opposite an existing commercial entrance, however we have consulted using the permitted entrance into Cessford Motors and the proposed new entranceway would be more than the preferred 40m distance, on the same side as the existing industrial unit, avoiding any confusion of large traffic coming from both sides of the road.

The alternative would be to access the site from the field entrance within the existing village boundary, significantly closer to the school and residential properties, therefore all parties agreed the proposed siting was the preferred option.

Appendix 5

Jenni Douglas

From: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Sent: 27 July 2023 14:27
To: Jenni Douglas
Cc: Sean Borthwick
Subject: RE: [OFFICIAL] RE: 23/00553/FUL James Y Burn Haulage

Hi Jenni,

Some type of kerb would be required at the edge of the carriageway in order to protect the pedestrians using the footway.
I would have no objections to a footway being on the opposite side of the road.

Kind regards,
Mark

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Sent: Thursday, July 20, 2023 11:50 AM
To: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Cc: Sean Borthwick <sean.borthwick@fbrseed.com>
Subject: RE: [OFFICIAL] RE: 23/00553/FUL James Y Burn Haulage

CAUTION: External Email

Hi Mark

Just clarifying does the footpath need kerbed? There's a nice wide margin up the side of that road so I'd be tempted to keep the footpath in towards the hedge, therefore the kerb would be in the middle of the verge.... But nobody would want to use the whole width of verge as a path.

Another suggestion that was given was, since the business adjacent has made an entranceway into their farm, why can't a footpath go down that side?

Thanks

Jenni

Jenni Douglas, MRICS FAAV
Director
Direct Dial: 01361 310 286
Office: 01573 224 381
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From: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Sent: Tuesday, July 18, 2023 3:23 PM
To: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Cc: Calvert, Euan <ECalvert@scotborders.gov.uk>
Subject: RE: [OFFICIAL] RE: 23/00553/FUL James Y Burn Haulage

Hi Jenni,

Please see attached standard detail for footway specification.
It is my understanding that as the works are to be carried out within the public road boundary, then consent would be given as part of the approval. All work within the public road boundary must be undertaken by a contractor first approved by the Council.

Please note that construction of a footway will require some consideration into how any surface water will then be disposed.

Kind regards,
Mark

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Sent: Tuesday, July 18, 2023 2:51 PM
To: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Cc: Calvert, Euan <ECalvert@scotborders.gov.uk>
Subject: Re: [OFFICIAL] RE: 23/00553/FUL James Y Burn Haulage

CAUTION: External Email

Hi Mark

Can you confirm is there a mandatory surface, depth, bound, kerbed etc.

Obviously, the minimal the better but I need to know what the minimum is to have it drawn.

I presume the verge is owned by the council and we would have all the necessary consents from them?

Regards

Jenni

From: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Sent: Tuesday, July 18, 2023 2:46:40 PM
To: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Cc: Calvert, Euan <ECalvert@scotborders.gov.uk>
Subject: [OFFICIAL] RE: 23/00553/FUL James Y Burn Haulage

Hi Jenni,

Thanks for your email and I understand your concerns. However, the Roads Planning team have discussed this internally and it would remain our recommendation to the Planning Officer that a public footway adjacent to the road is required as part of developing this site. This would generally be between 1.5-2m in width and run from the proposed site entrance, linking into the existing public pedestrian network at Morebattle. I am still awaiting advice from the Street Lighting team as to whether this would need to be lit and will let you know in due course.

Kind regards,
Mark

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Sent: Monday, July 17, 2023 2:33 PM
To: Payne, Mark <Mark.Payne@scotborders.gov.uk>
Cc: Calvert, Euan <ECalvert@scotborders.gov.uk>
Subject: 23/00553/FUL James Y Burn Haulage

CAUTION: External Email

Response to comments 11 July 2023

Good afternoon Mark,

I am writing to you further to your comments made to Euan Calvert on 11th July 2023 in regard to our client's application to develop a lorry yard to the east of Croft Park Industrial Estate, Morebattle.

Firstly thank you for agreeing that the entrance is in the best location and spec etc for the proposed use, we agree this is the best location for visibility etc and keeps traffic away from the village.

Our area of concern is the requirement for a footpath. When we met on site the morning after your initial consultation was published, we explained to yourself and your colleague the nature and small scale of the business, up to 6 lorries leaving a Monday often not returning until a Friday night moving livestock around the country, and in between the site is locked up securely. If they can afford in the future, they may erect a livestock shed to offer 'bed and breakfast' to meet animal welfare standards enabling them to transfer livestock longer distances, stopping over briefly. As stated in my response and reiterated today, none of the members of staff reside in Morebattle, with the current site near Kelso on a remote farm, all staff travel by car and will continue to travel by car. The business used to be located in the centre of the village with staff commuting in and lorries leaving, and locals didn't like it hence they left the village to their current location. When we discussed all of this on site, it was agreed, albeit verbally, that a footpath from the village would therefore be 'overkill'. I understand the rational of encouraging active travel however in such a remote location, with no staff living locally, this cannot be achieved here.

Furthermore, the business must make sure its vehicles are stored securely, and livestock if ever housed there, are also secure, so do not want members of the public walking down unnecessarily.

Surely if connectivity was the vision for this proposed industrial site, there wouldn't be a gap proposed by SBC to keep the area separate from the village. To keep it outwith the village but then ask for us to connect it, when it has no requirement for public, simply is a contradiction and a requirement that we must strongly challenge.

The landowner who owns our site, as I stated in my response in May, owns the entire field between the village and the site, and we can ask if they would agree to an area being fenced from the village on the inner side of the hedge as a footpath down to the site if deemed essential, however a formal footpath, I presume on the roadside, cannot be justified. Similarly if it were to be street-lit, then the whole project is unviable and will likely not be developed as there is no need for the applicant, and the cost involved compared to the type and scale of business simply trying to store its lorries, is uneconomical.

Just to clarify also you mentioned the shed and portacabin strengthened the case for connectivity, however the portacabin was just to provide a toilet facility for workers which the planner will not permit, and the shed is to occasionally house livestock, again no requirement to connect to the village for this.

I would be very grateful if you can reconsider this requirement, by all means give me a all to discuss. I am on annual leave from this Thursday evening for 2.5 weeks however. I therefore haven't yet asked for a footpath to be drawn up, so would be grateful for a quick response. We do plan to challenge it regardless, but if you are to insist for now, I need to know the spec of footpath you require, and where you wish it to run to and from, and which side of the fence, so that we can instruct these drawings.

Yours sincerely

Jenni Douglas

Jenni Douglas, MRICS FAAV
Director
Direct Dial: 01361 310 286
Office: 01573 224 381
Mob: 07920 479 094

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From: Calvert, Euan <ECalvert@scotborders.gov.uk>
Sent: Friday, July 14, 2023 9:32 AM
To: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Subject: RE: [OFFICIAL] RE: Morebattle site

Good morning Jenny
23/00553/FUL
I attach the Roads Planning response which requires item 6. Below.
Please make all those changes identified. We have publicly consulted on the proposals now that the Roads Authority have tentatively accepted the location and principle of a new access, subject to visibility splays of 2.4x160. I refer to their previous response 12 May and your site meeting 16 May.
The public consultation runs until 10 Aug and, subject to the changes being made and no objections being raised, we will proceed to determination.

Please call this morning if you would like to discuss any of those points below.

Euan Calvert
Assistant Planning Officer (Development Management)

Appendix 5

Planning, Housing & Related Services
Scottish Borders Council, Council Headquarters, Newtown St Boswells, MELROSE, TD6 0SA
Tel: 01835 826513 | ecalvert@scotborders.gov.uk

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Sent: Friday, July 14, 2023 7:54 AM
To: Calvert, Euan <ECalvert@scotborders.gov.uk> [redacted]
Subject: Re: [OFFICIAL] RE: Morebattle site

CAUTION: External Email

Hi euan,

I'm due to go on annual leave next Thursday and need to make sure you're not needing anything more from me by then, however I could do with a response to my email of Tuesday.

If we can get a decision quicker we will remove the shed from the plan, but before I ask the architect to make the other cha fee requested I need to know this so as not to incur two lots of charges for changes?

Furthermore we need to know if SBC although unfair, will insist on the footpath and street lights to a private car park for non residents as this may result in us not proceeding any further. Alternatively, it will be challenged in due course.

I hope to hear from you on these matters today so we have time next week if necessary to get the other information to you and amended etc.

I would also like to know what SBC would like for lighting , all detailed in my previous email.

Regards

Jenni

From: Calvert, Euan <ECalvert@scotborders.gov.uk>
Sent: Tuesday, July 11, 2023 5:54:55 PM
To: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Subject: [OFFICIAL] RE: Morebattle site

Good afternoon Jenni
23/00553/FUL
I have adjusted the title of the proposal to include "erection of building" and we will re-advertise/ re neighbour notify now. This must be undertaken to allow public consultation on the amended plans on file 12 June. This is a 15-day period. Both Forward Plans and the Roads Planning Service have now considered the proposals and I am awaiting a formal response from the Roads Authority but, in principle, the proposed choice of access and site layout/ land use change can now be accepted.

In planning policy terms, the proposals are to be considered by Local Development Plan 2016 Policy PMD3 and (as an allocated employment site) Policy ED1. NPF4 identifies Policy 26; "Development proposals for business and industry uses on sites allocated for those uses in the LDP will be supported. " The determining issue is therefore whether the application complies with the following criteria of ED1;

1. respect the character and amenity of the surrounding area, and be landscaped accordingly, and
2. be compatible with neighbouring business and industrial uses

The secondary polices of NPF4 regarding Sustainable Transport (Policy 13) and Design quality and place (Policy 14) are to be considered in parallel. These themes are articulated by Polices PMD1 and PMD2 of the LDP 2016.

I have assessed the proposals and considered the representation from the Community Council. I identify the following changes to be made;

1. Please provide a landscaping detail to the northern boundary in accordance with the requirements identified in the Local Development Plan.
2. Please remove the proposals for a cabin/ office. If you require welfare facilities these should be in a permanent building on-site. A portacabin would not be supported on design grounds as this temporary building would not comply with either LDP 2016 or NPF4 polices.
3. Please remove the flood light proposals. Flood lighting will not be supported in this rural location. Any requirement for lighting will need to be in accordance with a designed lighting scheme.
4. Please alter the gate location to ensure these are set back 6m from the edge of the carriageway.
5. Please provide proposed details of boundary treatments enclosing the site from the road – I suggest this fence line is set behind the hedge by 1-2m to ensure protection of the hedge boles during any construction period..
6. Please provide a pavement detail between the site and the village.

The Roads Planning Officer will provide a recommendation in the coming days on the precise details of bellmouth/ visibility and gradients and these requirements would be conditions of any future approval, in the interests of road safety. There remain a requirement for a pavement to be provided (linking back to the settlement) and this arises due to NPF4, Policy 13 b.) below.

In the meantime I must ask that you make the changes identified above and allow time for public re-consultation. Please get in touch if you have any questions.
Many thanks

14	**Design, quality and place**	a) Development proposals will be designed to improve the quality of an area whether scale. b) Development proposals will be supported where they are consistent with the six qu **Healthy:** Supporting the prioritisation of women's safety and improving physical and r **Pleasant:** Supporting attractive natural and built spaces. **Connected:** Supporting well connected networks that make moving around easy and r **Distinctive:** Supporting attention to detail of local architectural styles and natural land into designs to reinforce identity. **Sustainable:** Supporting the efficient use of resources that will allow people to live, pl resilience, and integrating nature positive, biodiversity solutions. **Adaptable:** Supporting commitment to investing in the long-term value of buildings, s that they can be changed quickly to accommodate different uses as well as maintaine Further details on delivering the six qualities of successful places are set out in Annex c) Development proposals that are poorly designed, detrimental to the amenity of the qualities of successful places, will not be supported.

13	**Sustainable transport**	a) Proposals to improve, enhance or provide active travel infrastructure, public transp supported. This includes proposals: i. for electric vehicle charging infrastructure and electric vehicle forecourts, especially ii. which support a mode shift of freight from road to more sustainable modes, includi

		iii. that build in resilience to the effects of climate change and where appropriate inco nature rich habitats (such as natural planting or water systems). b) Development proposals will be supported where it can be demonstrated that the tr considered in line with the sustainable travel and investment hierarchies and where a i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling ii. Will be accessible by public transport, ideally supporting the use of existing services iii. Integrate transport modes; iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenie standards; v. Supply safe, secure and convenient cycle parking to meet the needs of users and wh parking; vi. Are designed to incorporate safety measures including safe crossings for walking ar of vehicles; vii. Have taken into account, at the earliest stage of design, the transport needs of div characteristics to ensure the safety, ease and needs of all users; and viii. Adequately mitigate any impact on local public access routes. c) Where a development proposal will generate a significant increase in the number o required to be undertaken in accordance with the relevant guidance. d) Development proposals for significant travel generating uses will not be supported the private car, taking into account the specific characteristics of the area. e) Development proposals which are ambitious in terms of low/no car parking will be are well-served by sustainable transport modes and where they do not create barriers f) Development proposals for significant travel generating uses, or smaller-scale devel patterns resulting from the development, will only be supported if they are accompan conditions/obligations. Travel plans should set out clear arrangements for delivering a evaluation. g) Development proposals that have the potential to affect the operation and safety o assessed to determine their impact. Where it has been demonstrated that existing inf accommodate a development without adverse impacts on safety or unacceptable imp mitigation measures required to ensure the continued safe and effective operation of While new junctions on trunk roads are not normally acceptable, the case for a new ju where significant economic or regeneration benefits can be demonstrated. New junct in accordance with relevant guidance and where there will be no adverse impact on rc

Policy PMD3: Land Use Allocations
Development will be approved in principle for the land uses allocated on the Land Use Proposals tables and accompanying Proposals Maps. Development will be in accordance with any Council approved planning or development brief provided it meets the requirements for the site and its acceptability has been confirmed in writing by the Council. Sites proposed for redevelopment or mixed use may be developed for a variety of uses subject to other local plan policies. Where there is evidence of demand for specific uses or a specific mix of uses, these may be identified in a Planning Brief and the site requirements detailed within the Local Plan.

Within new housing allocations other subsidiary uses may be appropriate provided these can be accommodated in accord with policy and without adversely affecting the character of the housing area. Planning Briefs and site requirements detailed within the Local Plan may set out the range of uses that are appropriate or that will require to be accommodated in specific allocations.

Any other use on allocated sites will be refused unless the developer can demonstrate that:

a) it is ancillary to the proposed use and in the case of proposed housing development, it still enables the site to be developed in accordance with the indicative capacity shown in the Land Use Proposals table and/or associated planning briefs, or
b) there is a constraint on the site and no reasonable prospect of its becoming available for the development of the proposed use within the Local Plan period, or
c) the alternative use offers significant community benefits that are considered to outweigh the need to maintain the original proposed use, and
d) the proposal is otherwise acceptable under the criteria for infill development.

Policy ED1: Protection of Business and Industrial Land

The Council aims to maintain a supply of business and industrial land allocations in the Scottish Borders (see Table 1). There is a presumption in favour of the retention of industrial and business use on strategic and district sites, including new land use proposals for business and industrial land.

1. Strategic Sites

The Council rigorously protects strategic business and industrial sites for employment uses.

a) Strategic
High Amenity Sites

Development on Strategic High Amenity Sites will be predominantly for Class 4 use. Other complementary commercial activity e.g. offices, call centres and high technology uses may be acceptable if it enhances the quality of the business park as an employment location.

b) Strategic Business and Industrial Sites

Development for uses other than Classes 4, 5 and 6 on strategic business and industrial sites in the locations identified in Table 1 will generally be refused. Uses other than Class 4, 5 or 6 can be considered if clearly demonstrated as contributing to the efficient functioning of the allocated site.

2. District Sites

Although District sites do not merit the same level of stringent protection as Strategic sites there remains a preference to retain these within employment uses.

However, development other than Classes 4, 5 and 6 may be accepted on district business and industrial sites identified in Table 1 in order to, where appropriate, allow a more mixed use area.

Proposals for development outwith Class 4, 5 and 6 will be considered against the following criteria:

a) the loss of business and industrial land does not prejudice the existing and predicted long term requirements for industrial and business land in the locality, and

b) the alternative land use is considered to offer significant benefits to the surrounding area and community that outweigh the need to retain the site in business and industrial use, and
c) there is a constraint on the site whereby there is no reasonable prospect of its becoming marketable for business and industrial development in the future, or
d) the predominant land uses have changed owing to previous exceptions to policy such that a more mixed use land use pattern is now considered acceptable by the Council.

3. Local Sites

Although Local sites are allocated for business and industrial use, these are considered to have a lower priority and need for retention in the hierarchy of all business and industrial sites. Consequently alternative uses are likely to be supported.

Development other than Classes 4, 5 and 6 are likely to be supported on local business and industrial sites identified in Table 1. Retail may be acceptable on local sites where they are located within or adjacent to town centres.

In all business and industrial land site categories development must:

a) respect the character and amenity of the surrounding area, and be landscaped accordingly, and
b) be compatible with neighbouring business and industrial uses

Shops and outright retail activities will not be allowed on Strategic or District sites. The only retailing permissible on these sites will be that which is considered to be ancillary to some other acceptable activity (e.g. manufacture; wholesale). For the purposes of this policy, ancillary is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area.

Euan Calvert
Assistant Planning Officer (Development Management)
Planning, Housing & Related Services
Scottish Borders Council, Council Headquarters, Newtown St Boswells, MELROSE, TD6 0SA
Tel: 01835 826513 | ecalvert@scotborders.gov.uk

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Sent: 11 July 2023 14:54
To: Calvert, Euan <ECalvert@scotborders.gov.uk>
Subject: Morebattle site

CAUTION: External Email

Hi Euan

Any update on our Morebattle lorry park application?

Kind regards

Jenni

Jenni Douglas, MRICS FAAV
Director
Direct Dial: 01361 310 286
Office: 01573 224 381
Mob: 07920 479 094

fbrseed
LAND AGENTS & CHARTERED SURVEYORS

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48 HIGH ST, HADDINGTON, EH41 3EF
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AMC RICS LAS LANDLORD ACCREDITATION SCOTLAND ACCREDITED LETTING AGENT

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From:	Jenni Douglas
To:	Payne, Mark
Cc:	ecalvert@scotborders.gov.uk
Subject:	23/00553/FUL James Y Burn Haulage
Date:	17 July 2023 14:32:00
Attachments:	3805070.pdf

Response to comments 11 July 2023

Good afternoon Mark,

I am writing to you further to your comments made to Euan Calvert on 11th July 2023 in regard to our client's application to develop a lorry yard to the east of Croft Park Industrial Estate, Morebattle.

Firstly thank you for agreeing that the entrance is in the best location and spec etc for the proposed use, we agree this is the best location for visibility etc and keeps traffic away from the village.

Our area of concern is the requirement for a footpath. When we met on site the morning after your initial consultation was published, we explained to yourself and your colleague the nature and small scale of the business, up to 6 lorries leaving a Monday often not returning until a Friday night moving livestock around the country, and in between the site is locked up securely. If they can afford in the future, they may erect a livestock shed to offer 'bed and breakfast' to meet animal welfare standards enabling them to transfer livestock longer distances, stopping over briefly. As stated in my response and reiterated today, none of the members of staff reside in Morebattle, with the current site near Kelso on a remote farm, all staff travel by car and will continue to travel by car. The business used to be located in the centre of the village with staff commuting in and lorries leaving, and locals didn't like it hence they left the village to their current location. When we discussed all of this on site, it was agreed, albeit verbally, that a footpath from the village would therefore be 'overkill'. I understand the rational of encouraging active travel however in such a remote location, with no staff living locally, this cannot be achieved here.

Furthermore, the business must make sure its vehicles are stored securely, and livestock if ever housed there, are also secure, so do not want members of the public walking down unnecessarily.

Surely if connectivity was the vision for this proposed industrial site, there wouldn't be a gap proposed by SBC to keep the area separate from the village. To keep it outwith the village but then ask for us to connect it, when it has no requirement for public, simply is a contradiction and a requirement that we must strongly challenge.

The landowner who owns our site, as I stated in my response in May, owns the entire field between the village and the site, and we can ask if they would agree to an area being fenced from the village on the inner side of the hedge as a footpath down to the site if deemed essential, however a formal footpath, I presume on the roadside, cannot be justified. Similarly if it were to be street-lit, then the whole project is unviable and will likely not be developed as there is no need for the applicant, and the cost involved compared to the type and scale of business simply trying to store its lorries, is uneconomical.

Just to clarify also you mentioned the shed and portacabin strengthened the case for connectivity, however the portacabin was just to provide a toilet facility for workers which the planner will not permit, and the shed is to occasionally house livestock, again no requirement to connect to the village for this.

I would be very grateful if you can reconsider this requirement, by all means give me a all to discuss. I am on annual leave from this Thursday evening for 2.5 weeks however. I therefore haven't yet asked for a footpath to be drawn up, so would be grateful for a quick response. We do plan to challenge it regardless, but if you are to insist for now, I need to know the spec of footpath you require, and where you wish it to run to and from, and which side of the fence, so that we can instruct these drawings.

Yours sincerely

Jenni Douglas

Jenni Douglas, MRICS FAAV
Director
Direct Dial: 01361 310 286
Office: 01573 224 381
Mob: 07920 479 094

Registered Office: Academy House, Shedden Park Road, Kelso TD5 7AL.
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From: Calvert, Euan <ECalvert@scotborders.gov.uk>
Sent: Friday, July 14, 2023 9:32 AM
To: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Subject: RE: [OFFICIAL] RE: Morebattle site

Good morning Jenny
23/00553/FUL
I attach the Roads Planning response which requires item 6. Below.
Please make all those changes identified. We have publicly consulted on the proposals now that the Roads Authority have tentatively accepted the location and principle of a new access, subject to visibility splays of 2.4x160. I refer to their previous response 12 May and your site meeting 16 May.
The public consultation runs until 10 Aug and, subject to the changes being made and no objections being raised, we will proceed to determination.

Please call this morning if you would like to discuss any of those points below.

Euan Calvert
Assistant Planning Officer (Development Management)
Planning, Housing & Related Services
Scottish Borders Council, Council Headquarters, Newtown St Boswells, MELROSE, TD6 0SA
Tel: 01835 826513 | ecalvert@scotborders.gov.uk

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Sent: Friday, July 14, 2023 7:54 AM
To: Calvert, Euan <ECalvert@scotborders.gov.uk>[redacted]
Subject: Re: [OFFICIAL] RE: Morebattle site

CAUTION: External Email

Hi euan,

I'm due to go on annual leave next Thursday and need to make sure you're not needing anything more from me by then, however I could do with a response to my email of Tuesday.

If we can get a decision quicker we will remove the shed from the plan, but before I ask the architect to make the other cha fee requested I need to know this so as not to incur two lots of charges for changes?

Furthermore we need to know if SBC although unfair, will insist on the footpath and street lights to a private car park for non residents as this may result in us not proceeding any further. Alternatively, it will be challenged in due course.

I hope to hear from you on these matters today so we have time next week if necessary to get the other information to you and amended etc.

I would also like to know what SBC would like for lighting , all detailed in my previous email.

Regards

Jenni

From: Calvert, Euan <ECalvert@scotborders.gov.uk>
Sent: Tuesday, July 11, 2023 5:54:55 PM
To: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Subject: [OFFICIAL] RE: Morebattle site

Good afternoon Jenni
23/00553/FUL
I have adjusted the title of the proposal to include "erection of building" and we will re-advertise/ re neighbour notify now. This must be undertaken to allow public consultation on the amended plans on file 12 June. This is a 15-day period. Both Forward Plans and the Roads Planning Service have now considered the proposals and I am awaiting a formal response from the Roads Authority but, in principle, the proposed choice of access and site layout/ land use change can now be accepted.

In planning policy terms, the proposals are to be considered by Local Development Plan 2016 Policy PMD3 and (as an allocated employment site) Policy ED1. NPF4 identifies Policy 26; "Development proposals for business and industry uses on sites allocated for those uses in the LDP will be supported. " The determining issue is therefore whether the application complies with the following criteria of ED1;

1. respect the character and amenity of the surrounding area, and be landscaped accordingly, and
2. be compatible with neighbouring business and industrial uses

The secondary polices of NPF4 regarding Sustainable Transport (Policy 13) and Design quality and place (Policy 14) are to be considered in parallel. These themes are articulated by Polices PMD1 and PMD2 of the LDP 2016.

I have assessed the proposals and considered the representation from the Community Council. I identify the following changes to be made;

1. Please provide a landscaping detail to the northern boundary in accordance with the requirements identified in the Local Development Plan.
2. Please remove the proposals for a cabin/ office. If you require welfare facilities these should be in a permanent building on-site. A portacabin would not be supported on design grounds as this temporary building would not comply with either LDP 2016 or NPF4 polices.
3. Please remove the flood light proposals. Flood lighting will not be supported in this rural location. Any requirement for lighting will need to be in accordance with a designed lighting scheme.
4. Please alter the gate location to ensure these are set back 6m from the edge of the carriageway.
5. Please provide proposed details of boundary treatments enclosing the site from the road – I suggest this fence line is set behind the hedge by 1-2m to ensure protection of the hedge boles during any construction period..
6. Please provide a pavement detail between the site and the village.

The Roads Planning Officer will provide a recommendation in the coming days on the precise details of bellmouth/ visibility and gradients and these requirements would be conditions of any future approval, in the interests of road safety. There remain a requirement for a pavement to be provided (linking back to the settlement) and this arises due to NPF4, Policy 13 b.) below.

In the meantime I must ask that you make the changes identified above and allow time for public re-consultation.
Please get in touch if you have any questions.
Many thanks

14	**Design, quality and place**	a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. b) Development proposals will be supported where they are consistent with the six qualities of successful places: **Healthy:** Supporting the prioritisation of women's safety and improving physical and mental health. **Pleasant:** Supporting attractive natural and built spaces. **Connected:** Supporting well connected networks that make moving around easy and reduce car dependency **Distinctive:** Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.

		Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions. Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time. Further details on delivering the six qualities of successful places are set out in Annex D. c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

13	Sustainable transport	a) Proposals to improve, enhance or provide active travel infrastructure, public transport infrastructure or multi-modal hubs will be supported. This includes proposals: i. for electric vehicle charging infrastructure and electric vehicle forecourts, especially where fuelled by renewable energy. ii. which support a mode shift of freight from road to more sustainable modes, including last-mile delivery. iii. that build in resilience to the effects of climate change and where appropriate incorporate blue and green infrastructure and nature rich habitats (such as natural planting or water systems). b) Development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they: i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation; ii. Will be accessible by public transport, ideally supporting the use of existing services; iii. Integrate transport modes; iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards; v. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking; vi. Are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles; vii. Have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and viii. Adequately mitigate any impact on local public access routes. c) Where a development proposal will generate a significant increase in the number of person trips, a transport assessment will be required to be undertaken in accordance with the relevant guidance. d) Development proposals for significant travel generating uses will not be supported in locations which would increase reliance on the private car, taking into account the specific characteristics of the area. e) Development proposals which are ambitious in terms of low/no car parking will be supported, particularly in urban locations that are well-served by sustainable transport modes and where they do not create barriers to access by disabled people. f) Development proposals for significant travel generating uses, or smaller-scale developments where it is important to monitor travel patterns resulting from the development, will only be supported if they are accompanied by a Travel Plan with supporting planning conditions/obligations. Travel plans should set out clear arrangements for delivering against targets, as well as monitoring and evaluation. g) Development proposals that have the potential to affect the operation and safety of the Strategic Transport Network will be fully assessed to determine their impact. Where it has been demonstrated that existing infrastructure does not have the capacity to accommodate a development without adverse impacts on safety or unacceptable impacts on operational performance, the cost of the mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer. While new junctions on trunk roads are not normally acceptable, the case for a new junction will be considered by Transport Scotland where significant economic or regeneration benefits can be demonstrated. New junctions will only be considered if they are designed in accordance with relevant guidance and where there will be no adverse impact on road safety or operational performance.

Policy PMD3: Land Use Allocations
Development will be approved in principle for the land uses allocated on the Land Use Proposals tables and accompanying Proposals Maps. Development will be in accordance with any Council approved planning or development brief provided it meets the requirements for the site and its acceptability has been confirmed in writing by the Council. Sites proposed for redevelopment or mixed use may be developed for a variety of uses subject to other local plan policies. Where there is evidence of demand for specific uses or a specific mix of uses, these may be identified in a Planning Brief and the site requirements detailed within the Local Plan. Within new housing allocations other subsidiary uses may be appropriate provided these can be accommodated in accord with policy and without adversely affecting the character of the housing area. Planning Briefs and site requirements detailed within the Local Plan may set out the range of uses that are appropriate or that will require to be accommodated in specific allocations. Any other use on allocated sites will be refused unless the developer can demonstrate that: a) it is ancillary to the proposed use and in the case of proposed housing development, it still enables the site to be developed in accordance with the indicative capacity shown in the Land Use Proposals table and/or associated planning briefs, or

b) there is a constraint on the site and no reasonable prospect of its becoming available for the development of the proposed use within the Local Plan period, or
c) the alternative use offers significant community benefits that are considered to outweigh the need to maintain the original proposed use, and
d) the proposal is otherwise acceptable under the criteria for infill development.

Policy ED1: Protection of Business and Industrial Land

The Council aims to maintain a supply of business and industrial land allocations in the Scottish Borders (see Table 1). There is a presumption in favour of the retention of industrial and business use on strategic and district sites, including new land use proposals for business and industrial land.

1. Strategic Sites

The Council rigorously protects strategic business and industrial sites for employment uses.

a) Strategic
High Amenity Sites
Development on Strategic High Amenity Sites will be predominantly for Class 4 use. Other complementary commercial activity e.g. offices, call centres and high technology uses may be acceptable if it enhances the quality of the business park as an employment location.

b) Strategic Business and Industrial Sites
Development for uses other than Classes 4, 5 and 6 on strategic business and industrial sites in the locations identified in Table 1 will generally be refused. Uses other than Class 4, 5 or 6 can be considered if clearly demonstrated as contributing to the efficient functioning of the allocated site.

2. District Sites

Although District sites do not merit the same level of stringent protection as Strategic sites there remains a preference to retain these within employment uses.

However, development other than Classes 4, 5 and 6 may be accepted on district business and industrial sites identified in Table 1 in order to, where appropriate, allow a more mixed use area.

Proposals for development outwith Class 4, 5 and 6 will be considered against the following criteria:

a) the loss of business and industrial land does not prejudice the existing and predicted long term requirements for industrial and business land in the locality, and
b) the alternative land use is considered to offer significant benefits to the surrounding area and community that outweigh the need to retain the site in business and industrial use, and
c) there is a constraint on the site whereby there is no reasonable prospect of its becoming marketable for business and industrial development in the future, or
d) the predominant land uses have changed owing to previous exceptions to policy such that a more mixed use land use pattern is now considered acceptable by the Council.

3. Local Sites

Although Local sites are allocated for business and industrial use, these are considered to have a lower priority and need for retention in the hierarchy of all business and industrial sites. Consequently alternative uses are likely to be supported.

Development other than Classes 4, 5 and 6 are likely to be supported on local business and industrial sites identified in Table 1. Retail may be acceptable on local sites where they are located within or adjacent to town centres.

In all business and industrial land site categories development must:

a) respect the character and amenity of the surrounding area, and be landscaped accordingly, and
b) be compatible with neighbouring business and industrial uses

Shops and outright retail activities will not be allowed on Strategic or District sites. The only retailing permissible on these sites will be that which is considered to be ancillary to some other acceptable activity (e.g. manufacture; wholesale). For the purposes of this policy, ancillary is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area.

Euan Calvert
Assistant Planning Officer (Development Management)
Planning, Housing & Related Services
Scottish Borders Council, Council Headquarters, Newtown St Boswells, MELROSE, TD6 0SA
Tel: 01835 826513 | ecalvert@scotborders.gov.uk

From: Jenni Douglas <Jenni.Douglas@fbrseed.com>
Sent: 11 July 2023 14:54
To: Calvert, Euan <ECalvert@scotborders.gov.uk>
Subject: Morebattle site

CAUTION: External Email

Hi Euan

Any update on our Morebattle lorry park application?

Kind regards

Jenni

Jenni Douglas, MRICS FAAV
Director
Direct Dial: 01361 310 286
Office: 01573 224 381
Mob: 07920 479 094

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CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION

Comments provided by	**Roads Planning Service**		
Officer Name, Post and Contact Details	**Mark Payne** **Roads Planning Officer**	**mark.payne@scotborders.gov.uk** **01835 825018**	
Date of reply	11th July 2023	**Consultee reference:**	
Planning Application Reference	23/00553/FUL	**Case Officer:** Euan Calvert	
Applicant	James Y Burn Haulage		
Agent	FBR Seed Ltd		
Proposed Development	Change of use from agricultural land to lorry storage yard		
Site Location	Land East of Unit 3 Croft Park Industrial Estate Morebattle Kelso Scottish Borders		
The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.			
Background and Site description	This is a re consultation based on amended drawings		
Key Issues (Bullet points)	Access Traffic Pedestrian links		
Assessment	Further to my previous comments, I accept that this site cannot be reasonably accessed via the existing industrial estate, therefore a new access onto the B class road would be permitted. Visibility at the proposed new access should be sufficient to provide 2.4m x 160m in both directions, as supported by the supplied visibility splays. However, it is my belief that an extension of the pedestrian route from Morebattle will be required. Policy has changed since the construction of the original industrial estate, with Designing Streets and NPF4 placing greater emphasis on active travel and connectivity. I also note that the scope of the proposal has changed to incorporate sheds and a portacabin / office and it is no longer solely a hard standing and parking area. As such, there should be a method for staff to safely walk into Morebattle should they wish it and further information should be provided in this regard. It should be noted that there may also be a requirement for street lighting over this section of proposed footway.		
Recommendation	☐ Object	☐ Do not object	☐ Do not object, subject to conditions	☒ **Further information required**
Recommended Conditions				

Recommended Informatives	

Signed: DJI

[redacted]

From: deborah garner [redacted]
Sent: 05 May 2023 10:07
To: DCConsultees <dcconsultees@scotborders.gov.uk>
Subject: Re: Planning application 23/00553/FUL Lorry park in Morebattle

CAUTION: External Email

To Whom it may concern,

"With reference to the above, at the recent meeting of the Kalewater Community Council there was a deal of concern about the proposal.

Our issues are:-

- The close proximity to the Primary School, and possible disruption from noise during the school day
- The dangers associated with the increase in heavy traffic, with special concern for the school traffic, cyclists and walkers (of which there are many as we are on the national route of St. Cuthbert's Way)
- The disturbance to the peace and tranquillity of the village, which could be at unsociable hours
- The proximity of the proposed entrance so close to the new entrance that has been created for farm traffic to Whitton has been raised by a councillor from the farming community.

These are concerns that we would like to be noted and hopefully addressed."

With Regards

Debbie Garner and Steve Murphy (secretaries)

On behalf of the Kalewater Community Council.

Sent from Mail for Windows

From: Bell, Laura (Planning HQ)
Sent: 10 July 2023 16:44
To: Calvert, Euan
Subject: 23/00553/FUL - Land East Of Unit 3 Croft Park Industrial Estate, Morebattle

Hi Euan,

Thank you for consulting the Forward Planning Team on planning application 23/00553/FUL for the change of use from agricultural land to lorry storage yard.

The site is allocated for Business and Industrial use within the Local Development Plan 2016 and the site has been carried forward into the Proposed Local Development Plan 2020. The Proposed Plan has recently been at Examination and the Reporter did not propose any changes therefore the principle of a lorry yard at this location is considered acceptable.

It should be noted that the site requirements within the LDP state that structure planting is required to the northern and eastern site boundaries however the applicant's proposed site plan only shows planting to the eastern site boundary.

If you would like to discuss this further please let me know.

Kind regards

Laura

Laura Bell
Planning Officer
Planning Policy & GIS
Scottish Borders Council
t: 01835 825064
e: Laura.Bell@scotborders.gov.uk

My working days are Monday, Tuesday and Wednesday.

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CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION

Comments provided by	**Roads Planning Service**	
Officer Name, Post and Contact Details	**Mark Payne** **Roads Planning Officer**	**mark.payne@scotborders.gov.uk** **01835 825018**
Date of reply	12th May 2023	**Consultee reference:**
Planning Application Reference	23/00553/FUL	**Case Officer:** Euan Calvert
Applicant	James Y Burn Haulage	
Agent	FBR Seed Ltd	
Proposed Development	Change of use from agricultural land to lorry storage yard	
Site Location	Land East Of Unit 3 Croft Park Industrial Estate Morebattle Kelso Scottish Borders	
The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.		
Background and Site description	LDP allocated site BMORE001 Extension to Croft Industrial Park (Business and Industrial)	
Key Issues (Bullet points)	• Access • Traffic	
Assessment	Whilst I have no concerns regarding the extension of the industrial estate, I have some concern with the proposal as submitted. Approval of the layout indicated is likely to prejudice the extension of the industrial estate as laid out in the Council's current Local Development Plan (LDP). Site BMORE001 allows for the extension of the industrial estate but I would have expected any extension to have utilised the roads within the existing industrial estate site to serve the additional ground. The supporting information within the LDP states access is available to/from the B Class road, however this would be to serve the extension and not a single plot. We have a presumption against new accesses on to a B Class road outwith the settlement boundary and whilst there is an existing access, this application proposes a new access for a single plot, or larger junction to serve a larger area, rather than utilising the existing road infrastructure. As part of any extension to the estate we would also expect the pedestrian route and street lighting to be extended from their existing location to the site access. In order to fully consider this application, I require further details as indicated below: • Confirmation as to why the site cannot be accessed via the existing industrial estate road. • Provide visibility splays showing what is achievable in both directions from the proposed access. • It is assumed that staff will be travelling to/from site in cars in order to Pick-up/leave their lorries. Please indicate the location and number of proposed parking spaces, with provision for manoeuvring for all vehicles within the site so that they can exit onto the public road in a forward gear.	

	• Provide a transport statement showing the anticipated impact of heavy vehicle movements, particularly through Morebattle. • Details of the extension of the existing pedestrian route and street lighting from their existing termination to the access to the site.			
Recommendation	☐ Object	☐ Do not object	☐ Do not object, subject to conditions	☒ **Further information required**
Recommended Conditions				
Recommended Informatives				

Signed: ***AJS***

CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION

Comments provided by	**Roads Planning Service**		
Officer Name, Post and Contact Details	**Mark Payne** **Roads Planning Officer**	**mark.payne@scotborders.gov.uk** **01835 825018**	
Date of reply	11th July 2023	**Consultee reference:**	
Planning Application Reference	23/00553/FUL	**Case Officer:** Euan Calvert	
Applicant	James Y Burn Haulage		
Agent	FBR Seed Ltd		
Proposed Development	Change of use from agricultural land to lorry storage yard		
Site Location	Land East of Unit 3 Croft Park Industrial Estate Morebattle Kelso Scottish Borders		
The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.			
Background and Site description	This is a re consultation based on amended drawings		
Key Issues (Bullet points)	• Access • Traffic • Pedestrian links		
Assessment	Further to my previous comments, I accept that this site cannot be reasonably accessed via the existing industrial estate, therefore a new access onto the B class road would be permitted. Visibility at the proposed new access should be sufficient to provide 2.4m x 160m in both directions, as supported by the supplied visibility splays. However, it is my belief that an extension of the pedestrian route from Morebattle will be required. Policy has changed since the construction of the original industrial estate, with Designing Streets and NPF4 placing greater emphasis on active travel and connectivity. I also note that the scope of the proposal has changed to incorporate sheds and a portacabin / office and it is no longer solely a hard standing and parking area. As such, there should be a method for staff to safely walk into Morebattle should they wish it and further information should be provided in this regard. It should be noted that there may also be a requirement for street lighting over this section of proposed footway.		
Recommendation	☐ Object	☐ Do not object	☐ Do not object, subject to conditions	☒ **Further information required**
Recommended Conditions				

Recommended Informatives	

Signed: DJI

Local Review Body – List of Policies
20rd November 2023

Local Review Reference: 23/00044/RREF
Planning Application Reference: 23/00716/FUL
Development Proposal: Erection of dwellinghouse
Location: Garden Ground Of Cheviot View Eden Road Gordon
Applicant: Mr Nigel Carey

National Planning Framework 4

Policy 1: Tackling the Climate and Nature Crises
Policy 2: Climate Mitigation and Adaptation
Policy 5: Soils
Policy 7: Historic assets and places
Policy 14: Design, Quality and Place
Policy 16: Quality Homes

Scottish Borders Local Development Plan 2016 (LDP)

PMD1: Sustainability
PMD2: Quality Standards
PMD5: Infill Development
ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils
HD3: Protection of Residential Amenity
EP8: Archaeology
IS2: Developer Contributions
IS7: Parking Provisions and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage
IS13: Contaminated Land

Other Material Considerations:

SBC Supplementary Planning Guidance on

- Placemaking and Design 2010
- Sustainable Urban Drainage Systems August 2020
- Development Contributions 2023
- Householder Development (incorporating Privacy and Sunlight Guide) 2006

Local Review Reference: 23/00043/RCOND
Planning Application Reference: 23/00553/FUL
Development Proposal: Change of use from agricultural land to lorry storage yard and erection of building
Location: Land East Of Unit 3 Croft Park Industrial Estate Morebattle Kelso
Applicant: James Y Burn Haulage

National Planning Framework 4 (NPF4)

Policy 1: Tackling the climate and nature crises
Policy 2: Climate mitigation and adaptation
Policy 13: Sustainable Transport
Policy 14: Design, Quality and Place
Policy 15: Local Living and 20 Minute Neighbourhoods
Policy 26: Business and Industry

Scottish Borders Local Development Plan 2016 (LDP)

Policy PMD1 Sustainability
Policy PMD2 Quality Standards
Policy PMD3 Land Use Allocations
Policy HD3 Protection of Residential Amenity
Policy ED1 Protection of Business and Industrial Land
Policy IS6 Road Adoption Standards
Policy IS7 Parking Provision and Standards
Policy IS9: Waste Water Treatment Standards and SUDS

Other Material Considerations

Supplementary Planning Guidance on:

- Placemaking and Design, 2010

Scottish Borders COUNCIL

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 2013

IMPORTANT: Failure to supply all the relevant information could invalidate your notice of review.

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

Name Nigel Carey

Address 7 Over Roxburgh Farm Cottages, Kelso.

Postcode TD58LY

Contact Telephone 1 [redacted]
Contact Telephone 2
E-mail*

Agent *(if any)*

Name

Address

Postcode

Contact Telephone 1
Contact Telephone 2
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

Planning authority's application reference number 23/00716/FUL

Site address Cheviot View, Eden Road, Gordon, TD36JT

Description of proposed development: Erection of small bungalow

Date of application 09/05/2023 Date of decision (if any) 06/09/2023

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 (tick one box)

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?	☑	☐
2 Is it possible for the site to be accessed safely, and without barriers to entry?	☑	☐

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 of 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.

Two reasons have been cited for refusal:

1: "in that the small size of the site and cramped layout would constitute overdevelopment that fails to respect or respond to the character or density of the surrounding area resulting in adverse impacts on the character and amenity of the surrounding area".

2: "in that the small size of the site would result in the proposed dwellinghouse being positioned in close proximity to the new house being built to the east, harming the residential amenities of future occupants of the new house in terms of light, privacy and outlook".

"the small size of the site": the site is not small, it is approximately 450 square meters, which is substantial by modern standards.

"cramped layout would constitute overdevelopment": the layout is not cramped, the footprint to area ratio is 0.155, or 15.5%, very much more generous than many hundreds of modern developments around the borders, as well as more generous than a newly permitted local development in Station Road, Gordon, which varies from 0.245, 24.5%, to 0.315, 31.5%.

"Amenity:"
The proposed dwelling house will not harm the residential amenities of occupants of neighbouring houses in terms of light, privacy and outlook. It will not result in an unacceptable loss of daylight or sunlight to neighbouring properties. The proposed development is a minimum of 4 meters from the closest point of the neighbouring cottage, to the east, and mostly much more. The subject proposal is sited to ensure the south/westerly aspect of the neighbouring cottage will not experience any loss of light or overshadowing whatsoever.

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. Note: there will be no opportunity to submit further documents to accompany this notice of review.

Supplementary information - 3 PAGES TEXT
Diagrams - 4 PAGES.
Photos / ILLUSTRATIONS - 6 PAGES.

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 OCTOBER 5TH 2023

The completed form should be returned to the Clerk of the Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA or sent by email to localreview@scotborders.gov.uk

" Small size of the site":

The site is not small. At 450 square meters, is substantial by modern standards. Five sites close by, in station road, for which planning permission has recently been approved, are approximately 370, 275, 340, 310 and 220 square meters respectively. (site plans attached)

"Character"

The character of the village of Gordon is not homogeneous. The main street has a mix of terraced, semi-detached as well as detached dwellings which represent different styles and eras. The colour patina varies greatly as does the mix of rendered and stone finishes. The area continues to change and develop. There is a mix of different architectural styles, as evidenced by the attached photos. The design and colours of the newly approved development on Station Road introduces yet another element to the pallette of styles in Gordon. (see attached illustrations)

A previous application for the subject proposal, (21/01905/FUL, Decided 01/06/2022), although declined for unrelated reasons, was reported by the planner, Mr Cameron Kirk, thus:

" Policy PMD5 advises that the development must not conflict with the established land use of the area. The application site is located within a residential area it would therefore be in keeping with the established use and character of the area."

and

"The proposed dwellinghouse would be of an appropriate scale, character and appearance. The materials to
be used for the external finish for the proposed dwellinghouse would be acceptable."

This was for a slightly larger, but generally similar design.

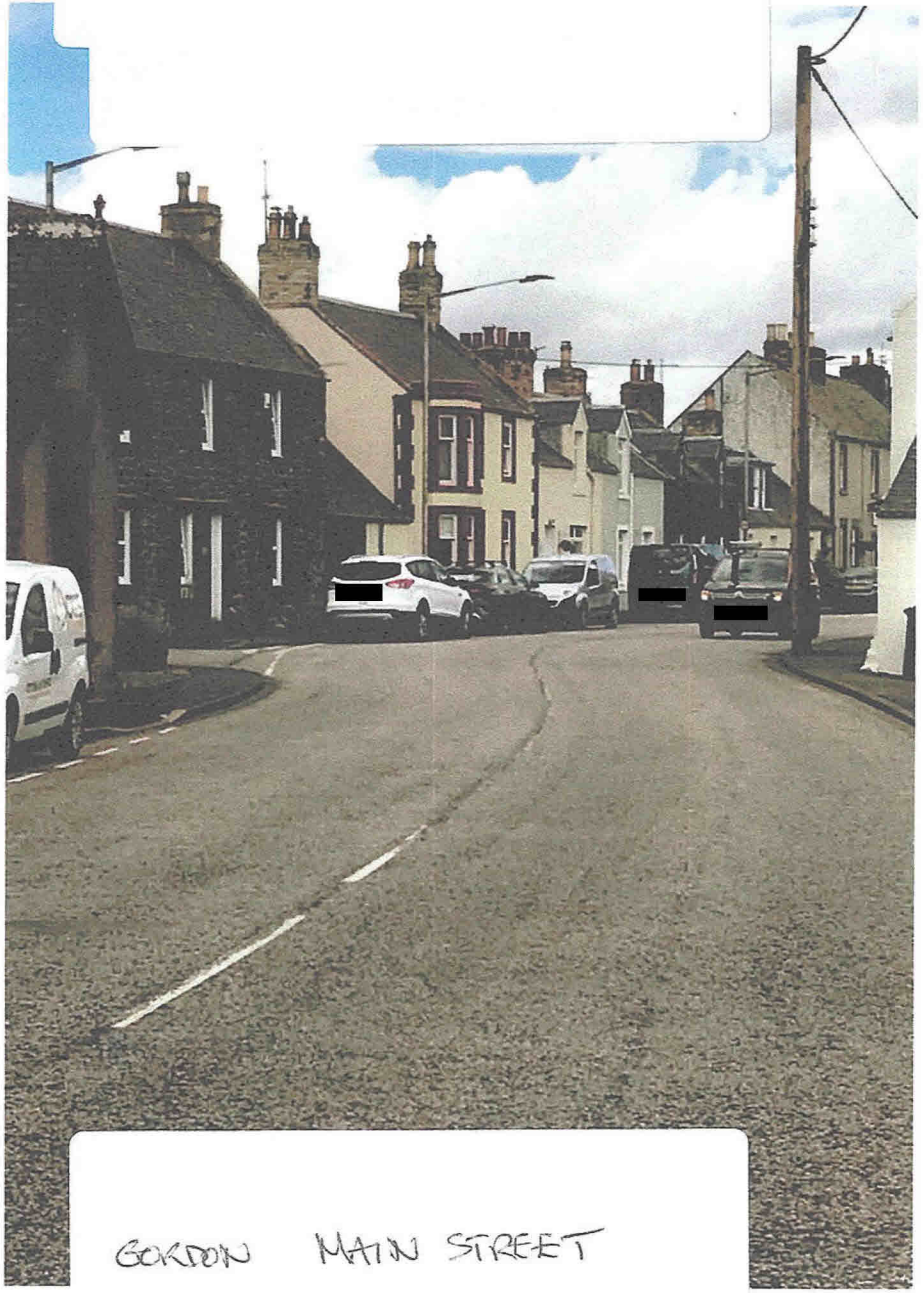
Furthermore, the newly approved development close by introduces an even more eclectic flavour to the character of the area.

Therefore how can the subject proposal be labelled "out of character"! (see attached illustrations)

100 METERS WEST OF SUBJECT PROPOSAL

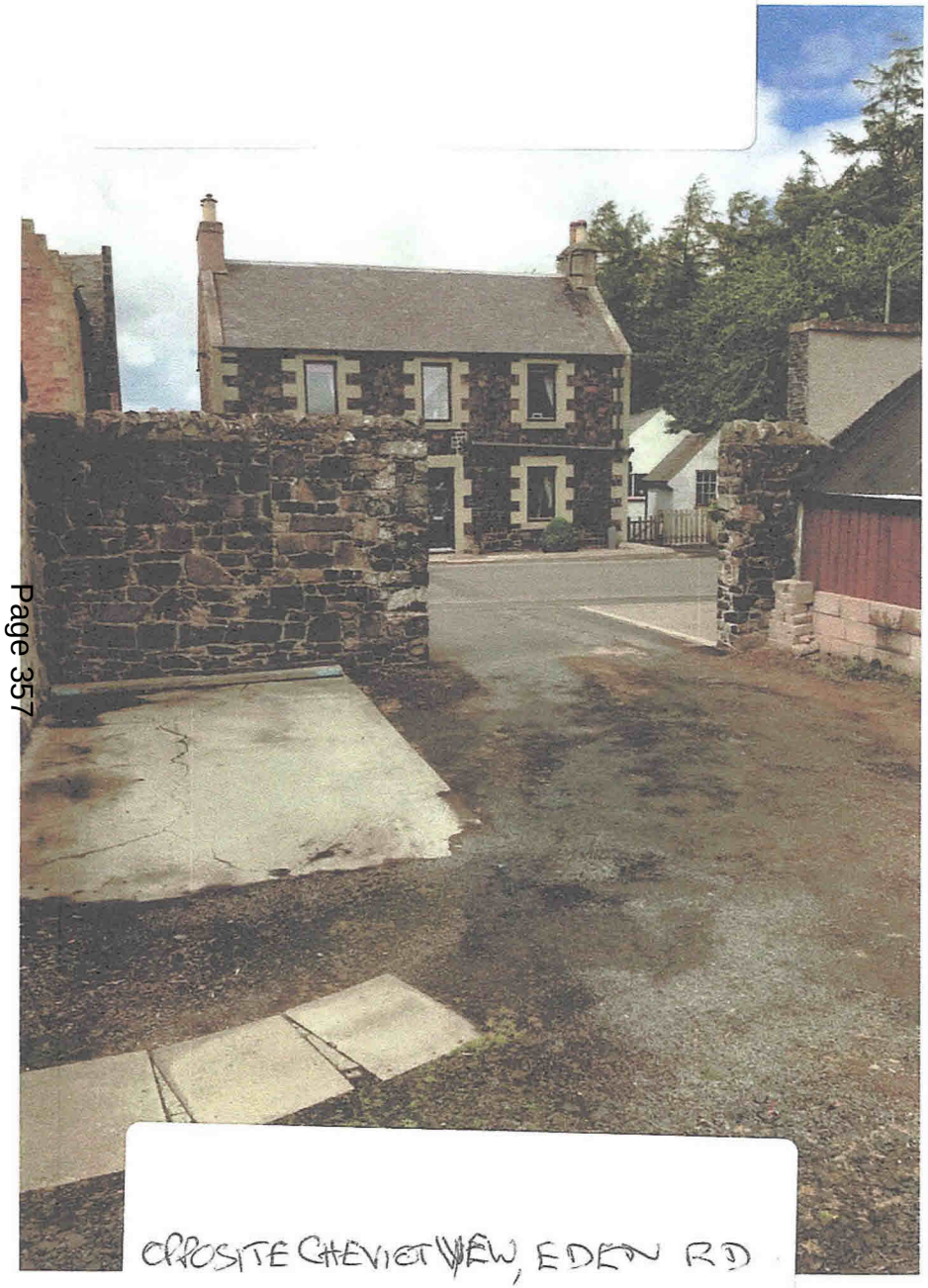
GORDON MAIN STREET

200 METERS WEST OF SUBJECT PROPOSAL



GORDON MAIN STREET

LOOKING OUT FROM SUBJECT PROPERTY



OPPOSITE CHEVIOT VIEW, EDEN RD

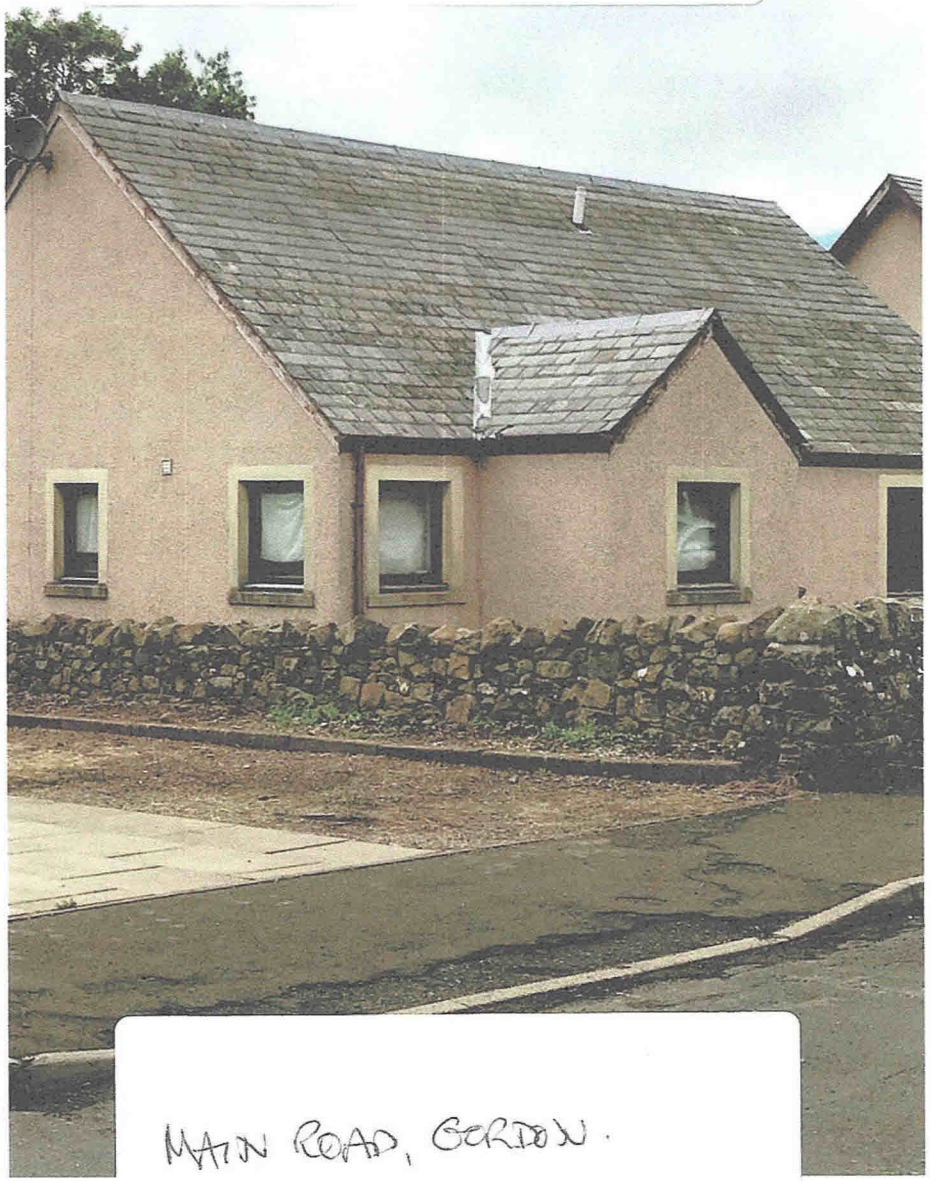
100 YDS EAST OF SUBJECT PROPERTY

[redacted] EDEN RD, GORDON.

400 YDS WEST of SUBJECT PROPERTY

MAIN ROAD, GORDON.

400 YDS WEST of SUBJECT PROPERTY



MAIN ROAD, GORDON.

"CHARACTER" NEW HOUSES (22/00342/FUL: APPROVED)

PATERSON ARCHITECTS

Hunter's Yard, Station Road, Gordon, Scottish Borders | Adobe Land (Scotland) Ltd | **Design Statement**

Image: **Sketch View of Houses**

www.patersonarchitects.com | Three Seton Mains Longniddry EH320PG | 01875852211 | jane@patersonarchitects.com

Note: All Images are illustrative only (NTS)

"Density" (cramped layout, overdevelopment):

The subject proposal is for a small cottage of around 70 square meters. The area of the site is some 450 square meters. That equates to a footprint ratio of .155 or 15.5%. Compared to many recent developments around the borders a 15.5% ratio is a very low ratio. The newly approved development around the corner in Station Road, has footprint ratios of 24.5% for a 370 meter site, 31% for a 275 meter site, 25% for a 340 meter site, 27.4% for a 310 meter site and 31.35% for a 220 meter site, all significantly "denser" than the subject proposal.

Furthermore, the distance between three of the dwellings is little more than 2 meters whereas the minimum distance between the subject proposal and the nearest dwelling, the cottage to the east, is at least 4 meters, and mostly more. (see attachment)

"Amenity"

Careful consideration was given to the design of the subject proposal so as not to intrude or overwhelm neighbouring properties. The roof angle slopes up from the southern elevation to the apex which is opposite the northern end of the neighbouring cottage (to the east) therefore eliminating possible shadowing. Furthermore the proposed dwelling is sited to enable the neighbouring cottage, under construction, to benefit from good light and sun for its' entire southerly and westerly outlook/aspect.

Mr Kirk reported in the application 21/01905/FUL (a slightly larger dwelling):

"Policy HD3 aims to protect neighbouring residential properties against inappropriate development that would result in the loss of amenity or privacy. The proposed dwellinghouse would not result in an unacceptable loss of daylight or sunlight to neighbouring properties. The proposed development would create a degree of overshadowing to adjacent properties garden ground, although it would not be significant enough to justify refusal"

and

"The windows to the north elevation of the proposed dwellinghouse would overlook the parking and turning
area, while the windows to the south elevation of the proposed dwellinghouse would overlook the rear
garden ground for the proposal. The windows to the north and south elevations of the dwellinghouse would
not unduly impact upon the amenity or privacy of neighbouring properties.
The windows to the east and west elevations of the dwellinghouse would overlook the neighbouring
properties as they are close to the mutual boundaries. They are however to secondary rooms within the
proposed dwellinghouse, one of which is the bathroom. It is expected that the bathroom would have obscure
glazing for privacy. The window to the east elevation is located at the entrance to the proposed
dwellinghouse. In light of this, it is not expected that the aforementioned windows would adversely impact

elmhurstenergy APPROVED

CIOB Chartered Building Consultancy
Professionalism and Integrity in Construction

CIOB Chartered Building Company
Professionalism and Integrity in Construction

RICS

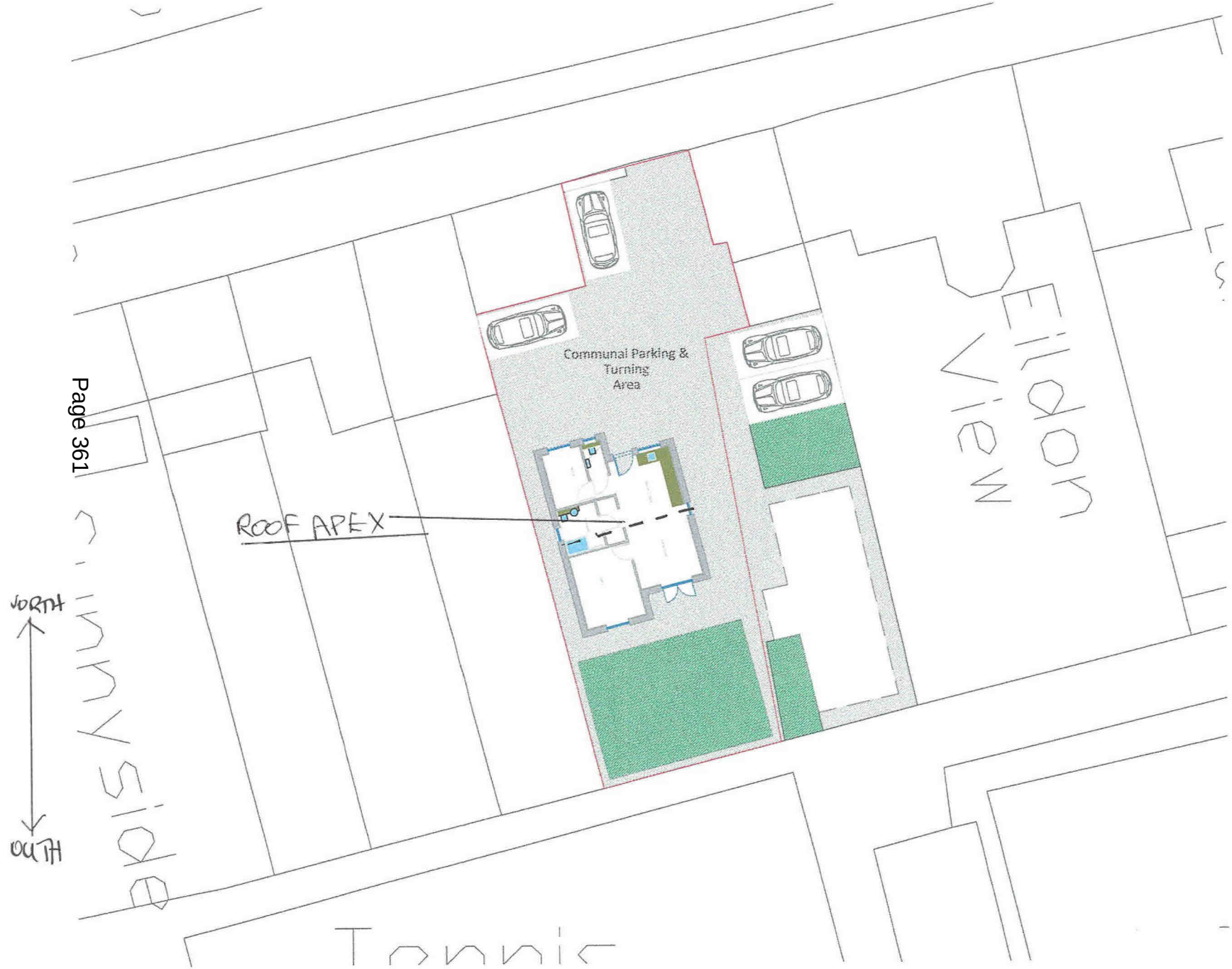
chartered association of building engineers

23/00716/FUL
06/09/2023

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

REFUSED

subject to the requirements of the associated Decision Notice



Rev	Date	Details	Drawn By
A	18.04.23	Client Amends	JOR

Pro-found
consult-manage-deliver
Chartered Building Consultancy & Contracting

205 Berwick Workspace
Boarding School Yard
Berwick-upon-Tweed
TD15 1BN

Tel: 01289 309752
e-mail: info@profounddevelopment.com
web: www.profounddevelopment.com

Client:
Nigel Carey

Project:
Cheviot View, Gordon

Drawing Title:
Proposed Site / Block Plan

Drawing Status:
Planning | ~~Building Control~~
~~Tender~~ | ~~Construction~~

All dimensions checked on site with any discrepancies reported to Pro-found - do not scale from drawing.

Drawing №:	C662-PP-2-002
Scale:	1:200 @ A3
Drawn by:	JOR
Revision:	A
Date:	27.03.23

This drawing is copyright of Pro-found.

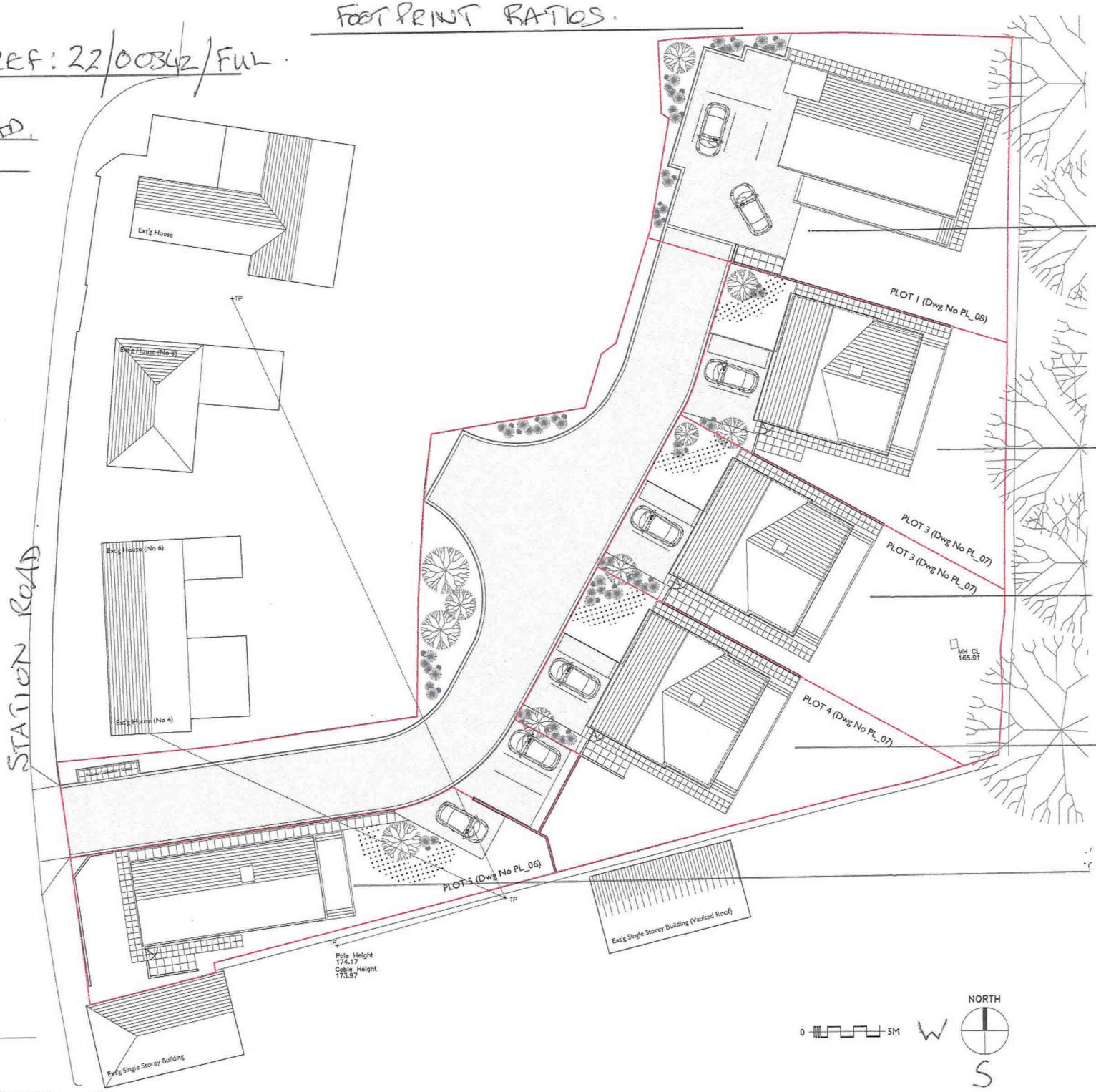
FOOT PRINT RATIOS.

PLANNING REF: 22/00342/FUL.

STATION ROAD, GORDON.

DO NOT SCALE THIS DRAWING

10



	AREA (sqm)	FOOTPRINT RATIO (%)
	370	24.5
	275	31.0
	340	25.0
	310	27.4
	220	31.5

01 Roof Plan
1:200

PLANNING

PATERSON ARCHITECTS
3 SETON MAINS, LONGNIDDRY, EAST LOTHIAN, EH32 0PG
TEL / FAX 01875 852211
studio@patersonarchitects.com www.patersonarchitects.com

DATE	JAN 22	SCALE	1:200@A3	JOB	148	DWG
Hunters Yard, Station Road, Gordon						PL_05
Proposed Roof Plans						

24/02/2022 20:43:46. DRAFT ISSUE for REVIEW +SC

GORDON "CHARACTER" NEW HOMES (22/00342/FUL.

DO NOT SCALE THIS DRAWING

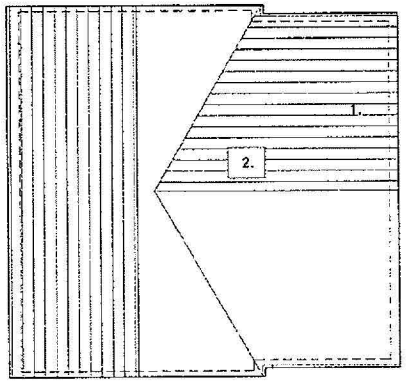
011

KEY

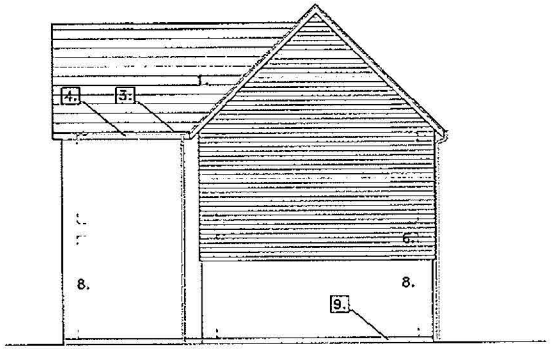
1. Slate roof.
2. Velux roof light
3. Plastic rain water goods.
4. Painted timber eaves and soffit.
5. Stained timber board on board panel.
6. Stained timber cladding.
7. Timber windows and doors, colour factory finished to match cladding.
8. Render: 1.5mm Grain. Colour, cream.
9. 150mm Dark grey facing brick.
10. Stained timber deck (shown overlaid) to accommodate finished ground levels.

NOTE

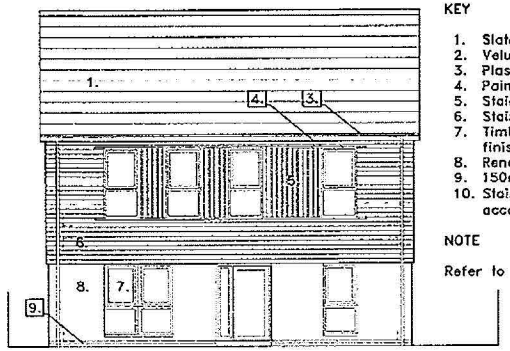
Refer to Design Statement for further detail.



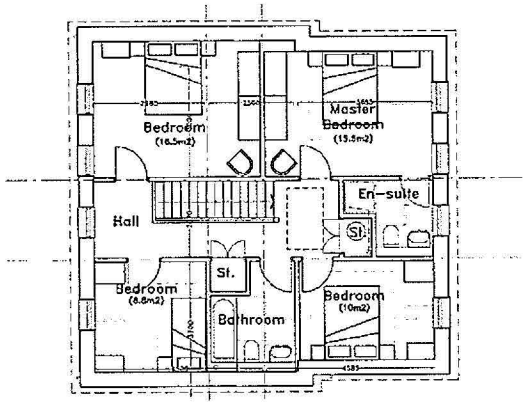
01 Roof Plan
1:100



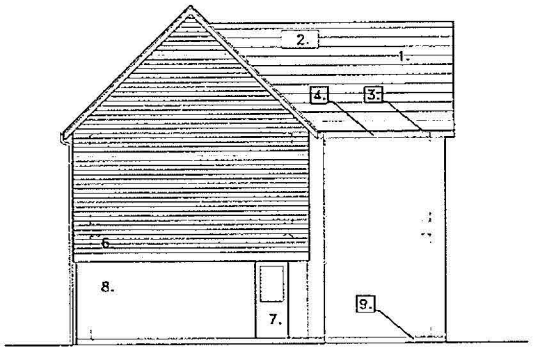
04 North Elevation
1:100



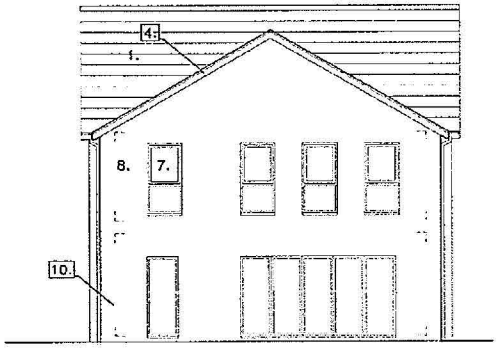
07 West Elevation
1:100



02 First Floor Plan
1:100



05 South Elevation
1:100



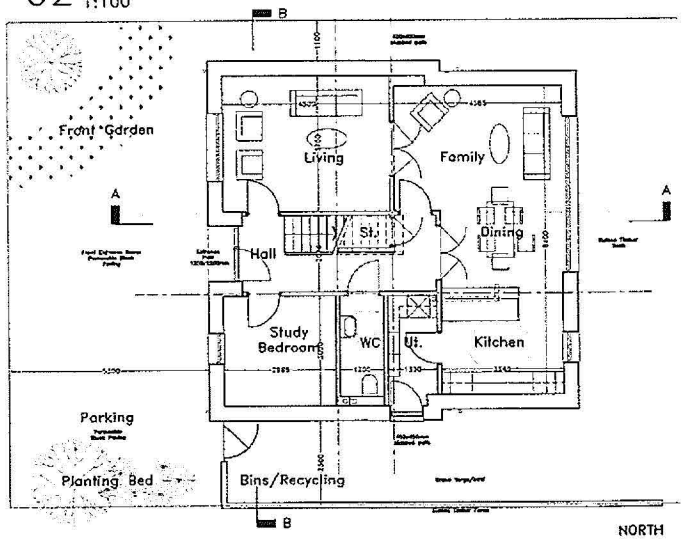
08 East Elevation
1:100

22/00342/FUL
08.02.2023

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

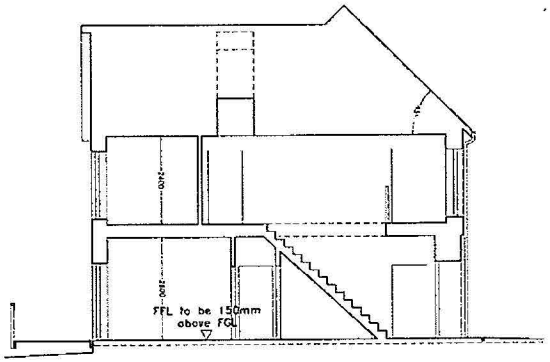
APPROVED

subject to the
requirements of the
associated Decision
Notice

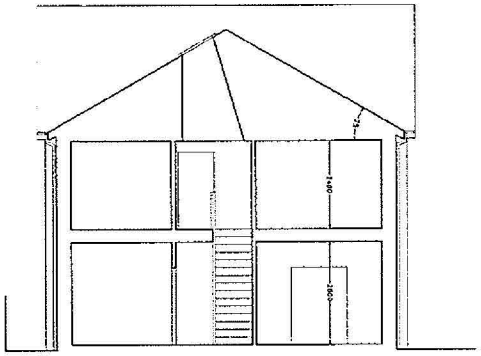


03 Ground Floor Plan
1:100

NORTH



06 Section AA
1:100



09 Section BB
1:100

0 5M

PLANNING

PATERSON ARCHITECTS
3 SETON MAINS, LONGNIDDRY, EAST LOTHIAN, EH32 0PG
TEL / FAX 01875 852211

DATE JAN 23	SCALE 1:200@A2	JOB 148	DWG
Hunters Yard, Station Road, Gordon			PL_07
Plot 2,3,4: Plans, Sections, Elevations			

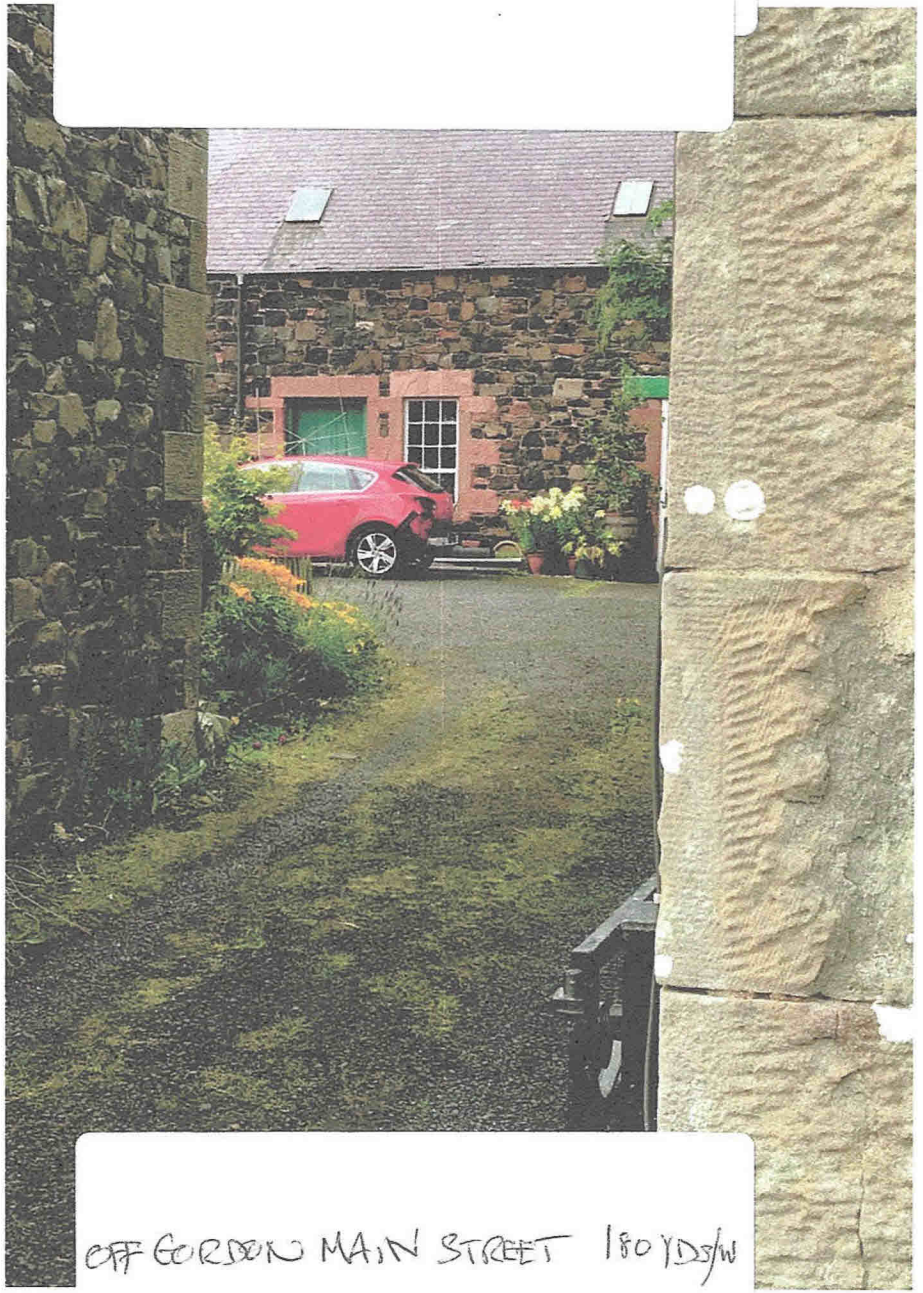
Page 363

24/02/2022 14:21:56. DRAFT ISSUE for REVIEW

WHITE END COTAGE (ALONG ALLEY).

OFF GORDON MAIN STREET 200 YDS W

BANK HOUSE COMMUNAL COURTYARD.



OFF GORDON MAIN STREET 180 YDS W

upon the privacy of the neighbouring properties".

It is planned that the small window on the eastern elevation will be opaque, for light only.

The newly approved development close by does not seem to respect amenity as sensitively as the subject proposal. Two storey properties directly overlook the private rear gardens of homes opposite and are spaced such that they will create significant overshadowing to each other especially when the sun shines from a south and westerly direction.
Seeming planning contradictions feels like uneven application of policies.

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Scottish Borders COUNCIL

Newtown St Boswells Melrose TD6 0SA Tel: Payments/General Enquiries 01835 825586 Email: regadmin@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 100626423-001

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: *

T 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)

Erection of 2 bed single storey cottage

Is this a temporary permission? * ≤ Yes T 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 T No

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

T 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) T Applicant ≤ Agent

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Nigel	Building Number:	7
Last Name: *	Carey	Address 1 (Street): *	Over Roxburgh Farm Cottages
Company/Organisation		Address 2:	
Telephone Number:	[redacted]	Town/City: *	Kelso
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	TD58LY
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

Cheviot View Eden Road Gordon TD36JT

Northing	643093	Easting	364797

Pre-Application Discussion

Have you discussed your proposal with the planning authority? * T Yes ≤ No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

T 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)

Original plan was subject to review committee which decided that a 'Backland' objection by planners was rejected but raised an issue about spacing of the site. New plan addresses spacing and parking issues.

Title:	Other	Other title:	Local Review
First Name:		Last Name:	
Correspondence Reference Number:	22/00028/RREF	Date (dd/mm/yyyy):	

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: 450.00

Please state the measurement type used: ≤ Hectares (ha) T Square Metres (sq.m)

Existing Use

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

Single storey timber building erected in 1940's and used as store until late 1970'. Abandoned and unused since. Building destroyed dur to fire and removed.

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? * ≤ Yes T 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 T 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.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site? 6

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? * 2

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * T Yes ≤ No

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

T Yes – connecting to public drainage network

≤ No – proposing to make private drainage arrangements

≤ Not Applicable – only arrangements for water supply required

Do your proposals make provision for sustainable drainage of surface water?? * T Yes ≤ No
(e.g. SUDS arrangements) *

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? *

T 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 T 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 T No ≤ Don't Know

Trees

Are there any trees on or adjacent to the application site? * ≤ Yes T 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.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * T Yes ≤ No

If Yes or No, please provide further details: * (Max 500 characters)

There is space at the side of the proposed dwelling for the storage of re-cycling wheely bins out of site of the road.

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? * T Yes ≤ No

How many units do you propose in total? * 1

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? * ≤ Yes T 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 T 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 T 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? * T Yes ≤ No

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

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Mr Nigel Carey

On behalf of:

Date: 09/05/2023

T 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 T Not applicable to this application

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

≤ Yes ≤ No T 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 T 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 T 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 T 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 T 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:

T Site Layout Plan or Block plan.
T Elevations.
T Floor plans.
T Cross sections.
T Roof plan.
≤ Master Plan/Framework Plan.
T 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	T N/A
A Design Statement or Design and Access Statement. *	≤ Yes	T N/A
A Flood Risk Assessment. *	≤ Yes	T N/A
A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *	≤ Yes	T N/A
Drainage/SUDS layout. *	≤ Yes	T N/A
A Transport Assessment or Travel Plan	≤ Yes	T N/A
Contaminated Land Assessment. *	≤ Yes	T N/A
Habitat Survey. *	≤ Yes	T N/A
A Processing Agreement. *	≤ Yes	T N/A

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

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: Mr Nigel Carey

Declaration Date: 09/05/2023

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Mr Nigel Carey
7 Over Roxburgh Farm Cottages
Kelso
TD58LY

Please ask for: Julie Hayward
☎ 01835 825585
Our Ref: 23/00716/FUL
Your Ref:
E-Mail: jhayward2@scotborders.gov.uk
Date: 8th September 2023

Dear Sir/Madam

PLANNING APPLICATION AT Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders

PROPOSED DEVELOPMENT: Erection of dwellinghouse

APPLICANT: **Mr Nigel Carey**

Please find attached the formal notice of refusal for the above application.

Drawings can be found on the Planning pages of the Council website at https://eplanning.scotborders.gov.uk/online-applications/ .

Your right of appeal is set out within the decision notice.

Yours faithfully

John Hayward

Planning & Development Standards Manager

Scottish Borders COUNCIL

Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

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

Application for Planning Permission **Reference : 23/00716/FUL**

To : Mr Nigel Carey 7 Over Roxburgh Farm Cottages Kelso TD5 8LY

With reference to your application validated on **16th May 2023** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

Proposal : Erection of dwellinghouse

at : Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders

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

Dated 6th September 2023
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

John Hayward
Planning & Development Standards Manager

APPLICATION REFERENCE : 23/00716/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
CC662-PP-2-001	Location Plan	Refused
CC662-PP-2-002 A	Proposed Site Plan	Refused
CC662-PP-2-003 A	Proposed Plans	Refused
CC662-PP-2-004 A	Existing Site Plan	Refused

REASON FOR REFUSAL

1 The proposed development is contrary to policies PMD2 and PMD5 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance on Placemaking and Design 2010, in that the small size of the site and cramped layout would constitute overdevelopment that fails to respect or respond to the character or density of the surrounding area resulting in adverse impacts on the character and amenity of the surrounding area.

In addition, the proposal is contrary to policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance on Householder Development in that the small size of the site would result in the proposed dwellinghouse being positioned in close proximity to the new house being built to the east, harming the residential amenities of future occupants of the new house in terms of light, privacy and outlook.

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 (as amended) within three months from the date of this notice. To seek a review of the decision, please complete a request for local review form and return it to the Clerk of the Local Review Body, Democratic Services, 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 (as amended).

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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 : 23/00716/FUL

APPLICANT : Mr Nigel Carey

AGENT :

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Garden Ground Of Cheviot View
Eden Road
Gordon
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
CC662-PP-2-001	Location Plan	Refused
CC662-PP-2-002 A	Proposed Site Plan	Refused
CC662-PP-2-003 A	Proposed Plans	Refused
CC662-PP-2-004 A	Existing Site Plan	Refused

NUMBER OF REPRESENTATIONS: 7
SUMMARY OF REPRESENTATIONS:

Four representations have been received objecting to the application and raising the following issues:

o The height of the proposed house will overshadow neighbouring properties.

o Loss of light and privacy to neighbouring properties.

o Overdevelopment of the site out of keeping with the character of the village.

o Backland development.

o Poor design.

o The dwellinghouse is too small for permanent living and will be used as holiday accommodation.

o There was an agricultural/ commercial garage on the site with inspection pit, petrol pump and storage tank and waste disposal pit on the site. The ground may be contaminated and no ground investigation has taken place.

o The size of the plot is not large enough to accommodate the proposed dwellinghouse and communal parking and turning, which will be required for 6 vehicles. The two parking spaces shown

on the plans are already allocated and used by neighbouring properties. This could cause a safety issue for all parties that have access to the communal parking and turning area.

o Construction vehicles associated with the development of the adjacent plot parked their vans without permission on land owned by neighbours on the pavement. Eden Road, being the main A68 to Berwick link, is a busy road and there is little room for extra cars on the pavements or on the road.

o There is currently one house being built adjacent to this site granted under 22/00716/FUL, which almost covers the entire plot except for 2 parking spaces. This new application concerns the right hand side of the plot, and has been previously refused under application 21/01905/FUL.

o Scottish Water is not guaranteeing that this new house will be able to be connected to the current services. Previously, there was concerns regarding the extra water and sewage disposal demands that new builds were making and the capacity was close to its limit. Since then another house is currently being built in Eden Road and 6 more have been granted permission off Edinburgh Road.

o The representation submitted in support of the application is by a person with an interest in the application and not a neighbour. The address shown on the representations is the house currently under construction. Neighbours have kept the site tidy and clear of rubbish and weeds in the past.

One representation has been received in support of the proposal:

o Previously the site had been abandoned and abused for decades. It became an unsafe and unsanitary, weed and vermin infested dumping ground. This new proposal will return a prime piece of land to the community and be cared for.

o There is evidence of the site being overgrown and the dumping of rubbish and no evidence of anyone looking after the site.

CONSULTATIONS:

Environmental Health: No response.

Community Council: No response.

Education and Lifelong Learning: No response.

Roads Planning Service: We were consulted about the previous applications on this site and offered no objections to the principle of development at this site. Concern was however noted about the operation of the parking and turning at the adjacent plot, subject to application 21/00913/FUL.

The amended plans provided for the new application address this issue and allow for parking and turning for two vehicles and provision for the same at the adjacent plot.

As such, I shall have no objection to this proposal subject to a condition securing parking and turning for 2 vehicles within the site being included in any subsequent approval.

Scottish Water: No objections. There is currently sufficient capacity in the Howden Water Treatment Works, though further investigations may be required.

This proposed development will be serviced by Gordon Waste Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow them to fully appraise the proposals a Pre-Development Enquiry should be submitted to them.

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

Archaeology Officer: The site is shown free of buildings by the various 19th and early 20th century editions of the Ordnance Survey mapping. No archaeological finds, features and/or deposits have been previously recorded from this area of Gordon.

The submitted details include mention of a 1940s to 1970s buildings being on site prior to its removal; some disturbance of the site will have already taken place in the erection of the building. The proposed footprint of the new building appears to be largely over the area of the previous buildings. These appear in the first post-Second World War mapping to have had a narrow space between them and it is there that fresh groundworks may encounter archaeological materials, but to either side of this gap the previous buildings may have led to some disturbance already.

It is possible that there may be some evidence of backland activities identified during these groundworks for the house's foundations and service trenches. These are not likely to be any more than locally significant. There will be no impact from this application to the church building located on the opposite (northern) side of Eden Road.

An informative is recommended in case of any major concentrations of finds, features and/or deposits.

Contaminated Land Officer: The application appears to be proposing the redevelopment of land which was previously operated as a garage. This is understood to have included licensed petroleum storage which was subsequently converted to diesel.

This land 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.

PLANNING CONSIDERATIONS AND POLICIES:

National Planning Framework 4

Policy 1: Tackling the Climate and Nature Crises
Policy 2: Climate Mitigation and Adaptation
Policy 5: Soils
Policy 14: Design, Quality and Place
Policy 16: Quality Homes

Local Development Plan 2016

PMD1: Sustainability
PMD2: Quality Standards
PMD5: Infill Development
ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils
HD3: Protection of Residential Amenity
EP8: Archaeology
IS2: Developer Contributions
IS7: Parking Provisions and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage
IS13: Contaminated Land

Supplementary Planning Guidance

Sustainable Urban Drainage Systems August 2020
Development Contributions (2023)
Householder Development (incorporating Privacy and Sunlight Guide) (2006)
Placemaking and Design (2010)

Recommendation by - Julie Hayward (Lead Planning Officer) on 5th September 2023

Site and Proposal

The application relates to an area of garden ground that was associated with the former dwellinghouse, Cheviot View, which has since been demolished. The site is fairly flat and there is an existing vehicular access from Eden Road (A6105) to the north. There are neighbouring residential properties to the north, east and west, while the tennis court and bowling green lie to the south. The application site is identified as being an area of prime quality agricultural land.

Planning permission is sought for the erection of a single storey dwellinghouse, which would have a gabled pitched roof. The proposed dwellinghouse would have a footprint of approximately 72 square meters and would have two bedrooms. It would be located fairly centrally within the plot with an area of garden ground to the rear. No details of external materials have been provided.

A communal parking and turning area that is shown to accommodate two parking spaces would be accessed from the existing vehicular access from Eden Road

The proposed dwellinghouse would be connected to the public water supply network and public drainage network.

Planning History

21/01111/FUL: Erection of dwellinghouse. Withdrawn 6th September 2021.
21/01905/FUL: Erection of a dwellinghouse. Refused 2nd June 2022 for the following reason:

The proposed development would fail to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the proposed dwellinghouse would be far removed from the road frontage, as it would be situated behind an existing dwellinghouse, it would be in a position set apart and not integrated with the established character or pattern of the street scene and it would have no clear relationship to neighbouring properties, their established building lines or the general street pattern. It would not respect or respond to the established character of the surrounding area and it would not positively contribute to the overall sense of place. It is therefore considered that the proposed development would be inappropriate in this context as it would result in backland development.

An appeal to the Local Review Body was dismissed but the reason for refusal was varied:

The proposed development would fail to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the small size of the site resulted in the proposal leading to a form of overdevelopment which does not respect the density of its surroundings and adversely impacts on the character and amenity of the surrounding area.

Planning History for the Site to the East (Garden Ground of Cheviot View Eden Road Gordon)

17/01491/FUL: Demolition of derelict cottage and erection of dwellinghouse. Approved 23rd October 2018.

21/00913/FUL: Erection of a dwellinghouse (change of house type previously approved under permission 17/01491/FUL). Approved 29th July 2021.

22/00968/FUL: Erection of a dwellinghouse (change of house type previously approved under permission 21/00913/FUL). Approved 1st September 2022. The application was submitted by the same applicant as this current planning application and is currently under construction.

Assessment

Policy Principle

Policy 16 of National Planning Framework 4 encourages the delivery of high quality, affordable and sustainable homes in the right locations.

The application site lies within the Development Boundary for the settlement of Gordon. It is not designated or allocated for a particular use. In order to establish the principle of development, the proposal must be assessed against Policy PMD5 of the Local Development Plan 2016.

Policy PMD5 states that within development boundaries development on non-allocated, infill or windfall sites will be approved if certain criteria are met.

One criterion is that the development should not conflict with the established land use of the area.

The application site is located within a residential area and so the proposal would be in keeping with the established use and character of the area.

The general principle of exploring residential development is acceptable subject to other site specific considerations as explored below.

Layout, Siting and Design

Policy 14 of NPF 4 requires development proposals to be designed to improve the quality of an area, whether urban or rural locations and regardless of scale. The policy encourages, promotes and facilitates well designed development that makes successful places by a design-led approach. Proposals will be supported where they are consistent with the 6 qualities of successful places: healthy, pleasant, connected, distinctive, sustainable and adaptable.

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development.

Policy PMD5 requires that the development respects the scale, form, design, materials and density of its surroundings; the individual and cumulative effects of the development should not lead to over-development or town cramming; the proposal should not detract from the character and amenity of the surrounding area.

The Council's Supplementary Planning Guidance Placemaking and Design 2010 emphasises that new development must integrate well with the existing pattern of development, build upon the established character of an area and contribute positively to a sense of place.

Eden Road is characterised predominantly by traditional, terraced residential properties, of varying heights and design. Most properties flank the public road or at least have a presence from the public road.

There was a derelict cottage to the east of the application site (Cheviot View), which was an exception to this as it was located behind the row of cottages fronting Eden Road. Planning permission was originally granted in 2018 (17/01491/FUL) to demolish this cottage and erect a replacement dwellinghouse; this was subsequently revised and the development that is now being constructed was approved in 2022 (22/00968/FUL). It was considered that this approval did not set a precedent for backland development in this area.

The dwellinghouse now proposed would have no road frontage or direct public outlook as it would be situated behind an existing dwellinghouse. When the previous application on this site was assessed (21/01905/FUL) it was considered that the proposed dwellinghouse would be set apart from and not integrated with the established character or pattern of the street scene and would have no clear relationship to neighbouring properties, their established building lines or the general street pattern. It was concluded that the proposed development would be inappropriate in this context as it would result in backland development contrary to policies PMD2 and PMD5.

The Local Review Body determined that the principle of backland development on this particular site would conform to the building pattern within the surrounding streetscape and that this was influenced by planning

permission to build a house on another part of garden ground associated with the former dwelling of Cheviot View immediately adjacent to this proposal.

This current application has been submitted to address the previous reasons for refusal. The site areas has increased slightly from 231 square metres to 450 square metres, as the red line boundary now includes the access and communal car parking and turning area at northern part of the site. The floor area of the house has also been reduced from approximately 78 square metres to 72 square metres, though the dwellinghouse is positioned in the same location within the site.

Despite the changes to the site area, this is still considered to be a small site when compared to house and plot ratios elsewhere in this part of Gordon, out of keeping with the character of the area. The size of the site means that the proposed dwellinghouse would be positioned close to the boundary with the existing house to the west and also to the boundary with the house being erected to the east under planning permission 22/00968/FUL. This current proposal would result in an uncomfortable relationship with the new house.

In addition, the large surfaced area required for parking and turning would result in a very small area of usable garden ground and a large area of hardstanding.

It is considered, that due to the size of the site and despite the reduction in the house footprint, the proposal would still constitute overdevelopment that does not respect the character of the area or existing pattern of development. The proposal therefore fails to comply with policies PMD2 and PMD5 and Supplementary Planning Guidance Placemaking and Design 2010.

In respect of the design of the proposed dwellinghouse, this is lacking in architectural interest and features and is not the high quality of design required by policy PMD2 and the Supplementary Planning Guidance Placemaking and Design 2010. The need to avoid overlooking of neighbouring properties was resulted in large areas of wall with no windows or features of interest and the wide gable on the east elevation is particularly unattractive. No details of the external materials have been provided.

However, the proposal would be seen in conjunction with the new house being built to the east and would be well screened from the main road by existing buildings so that the proposal would not be prominent in the streetscene. The poor design, therefore, is not considered to be a reason for refusal of the application. Had the principle been acceptable, discussions could have taken place to improve the design and secure details of the external materials.

Impact on Residential amenity

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new household developments to ensure that proposals do not adversely affect the residential amenities of occupants of neighbouring properties.

The proposed dwellinghouse would not result in an unacceptable loss of daylight or sunlight to neighbouring properties, though the proposed development would create a degree of overshadowing to Sherwood Cottage's garden ground to the west; this would not be significant enough to justify refusal.

The windows to the north elevation of the proposed dwellinghouse would overlook the parking and turning area, while the windows to the south elevation would overlook the proposed rear garden ground and the tennis courts beyond. The windows to the north and south elevations of the proposed dwellinghouse would not unduly impact upon the amenity or privacy of neighbouring properties.

The windows to the west elevation of the proposed dwellinghouse would overlook the neighbouring property as it would be close to the mutual boundary. However, the window would be to a secondary room (bathroom) and it is expected that the bathroom would have obscure glazing for privacy.

The window in the east elevation would serve the kitchen/dining/living room. There would be no direct window-to-window overlooking with the new house being built but this window would overlook the garden ground of the new property.

The relationship between the dwelling under construction and the proposed dwellinghouse is also a concern. The proposed dwellinghouse would be 4m from the front elevation of the house being constructed, impacting on the light and outlook of the house to the east. This emphasises the cramped layout of the site and the uncomfortable relationship between the two houses. The proposal therefore fails to comply with policy HD2 and the guidance within the Supplementary Planning Guidance on Householder Developments.

Access, Parking and Road Safety

Policy PMD2 aims to ensure that there is no adverse impact on road safety, including but not limited to the site access. In addition, Policy IS7 states that development proposals should provide car parking in accordance with the approved standards.

Vehicular access to the site would be taken from the public road to the north (A6105). There would be a communal parking and turning area and two on-site parking spaces are shown on the site plan.

The Roads Planning Service has no objections as the site plan allows for parking and turning for two vehicles for the proposed house and provision for the same at the adjacent plot.

A condition would secure parking and turning for 2 vehicles within the site.

Services

Policy IS9 states that the preferred method of dealing with waste water associated with new developments would be the direct connection to the public sewerage system and for development in the countryside the use of private sewerage may be acceptable provided that it can be provided without negative impacts to public health, the environment, watercourses or ground water. A SUDS is required for surface water drainage.

The proposed dwellinghouse would be connected to the public water supply network and public drainage network. The proposed servicing for the development would be acceptable in principle and the precise details for drainage would be agreed at the Building Warrant stage. Conditions would be required to ensure that the proposed development is serviced as specified, unless otherwise agreed in writing by the Planning Authority.

There would be space within the application site to store refuse bins.

Contaminated Land

Policy IS13 advises that where development is proposed on land that is contaminated or suspected of contamination, appropriate site investigation and mitigation will be required.

The application appears to be proposing the redevelopment of land which was previously operated as a garage. This is understood to have included licensed petroleum storage, which was subsequently converted to diesel.

The Contaminated Land Officer advises that land 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 should planning permission be granted a condition be attached 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.

Archaeology

Policy EP8 states that development proposals which will adversely affect local archaeological assets will only be permitted if it can be demonstrated that the benefits of the proposal outweigh the heritage value of the asset. All proposals that adversely affect such an asset must include an acceptable mitigation strategy.

The Archaeology Officer has set out the history of the site and advises that no archaeological investigation is required, though recommends an informative.

Prime Quality Agricultural Land

Policy 5 of NPF 4seeks to minimise disturbance to soils from development. The policy states that proposals on prime agricultural land, as identified by the Local Development Plan, will only be supported where it is for essential infrastructure and there is a specific locational need and no other suitable site is available; where it is for small scale development directly linked to a rural business, farm or for essential workers for the rural business to live on-site; where it is for the development of production and processing facilities associated with the land and where no other local site is suitable; and for the generation of renewable energy.

Policy ED10 states that development that results in the permanent loss of prime quality agricultural land will not be permitted unless this site is allocated within the Local Development Plan; the development meets an established need and no other site is available and the development is small scale and directly related to a rural business.

The application site is identified as being an area of prime quality agricultural land. The site is regarded as domestic garden ground. Therefore, the proposal would not result in the loss of prime quality agricultural land.

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. This is set out in policy IS2.

Developer contributions are required towards education (Earlston High School: £4,709) and would be secured by way of a legal agreement.

Conclusion

It is considered that the proposed development would fail to comply with policies PMD2 and PMD5 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance Placemaking and Design 2010, in that the small size of the site and cramped layout would constitute overdevelopment that fails to respect or respond to the character or density of the surrounding area resulting in adverse impacts on the character and amenity of the surrounding area.

In addition, the proposal fails to comply with policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance on Householder Development as, due to the small size of the site, the proposal would harm the residential amenities of future occupants of the new house being constructed to the east as a result of the proximity of the proposed house.

There are no material planning considerations which suggest that housing development in this location would be acceptable and there are no known extenuating circumstances of other material considerations which indicate that the application should be supported as an acceptable departure from the Scottish Borders Local Development Plan 2016.

REASON FOR DECISION :

The proposed development is contrary to policies PMD2 and PMD5 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance on Placemaking and Design 2010, in that the small size of the site and cramped layout would constitute overdevelopment that fails to respect or respond to the

character or density of the surrounding area resulting in adverse impacts on the character and amenity of the surrounding area.

In addition, the proposal is contrary to policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance on Householder Development in that the small size of the site would result in the proposed dwellinghouse being positioned in close proximity to the new house being built to the east, harming the residential amenities of future occupants of the new house in terms of light, privacy and outlook.

Recommendation: Refused

1 The proposed development is contrary to policies PMD2 and PMD5 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance on Placemaking and Design 2010, in that the small size of the site and cramped layout would constitute overdevelopment that fails to respect or respond to the character or density of the surrounding area resulting in adverse impacts on the character and amenity of the surrounding area.

The proposed development is contrary to policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance on Householder Development in that the small size of the site would result in the proposed dwellinghouse being positioned in close proximity to the new house being built to the east, harming the residential amenities of future occupants of the new house in terms of light, privacy and outlook.

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

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23/00716/FUL
06/09/2023

N

Produced on 02 June 2021 from the Ordnance Survey National Geographic Database and incorporating surveyed revision available at this date.
This map shows the area bounded by 364697 642990,364897 642990,364897 643190,364697 643190,364697 642990
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Data licence expires 02 June 2022. Unique plan reference: v4d/640185/867588

10 0 10 20 30 40 50

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

REFUSED

subject to the requirements of the associated Decision Notice

Rev	Date	Details	Drawn By

Pro-found
consult-manage-deliver
Chartered Building Consultancy & Contracting

205 Berwick Workspace
Boarding School Yard
Berwick-upon-Tweed
TD15 1BN

Tel: 01289 309752
e-mail: info@profounddevelopment.com
web: www.profounddevelopment.com

Client:
Nigel Carey

Project:
Cheviot View, Gordon

Drawing Title:
Location Plan

Drawing Status:
Planning | ~~Building Control~~
~~Tender | Construction~~

All dimensions checked on site with any discrepancies reported to Pro-found - do not scale from drawing.

Drawing №:	C662-PP-2-001
Scale:	1:1250 @ A3
Drawn by:	JOR
Revision:	-
Date:	18.04.23

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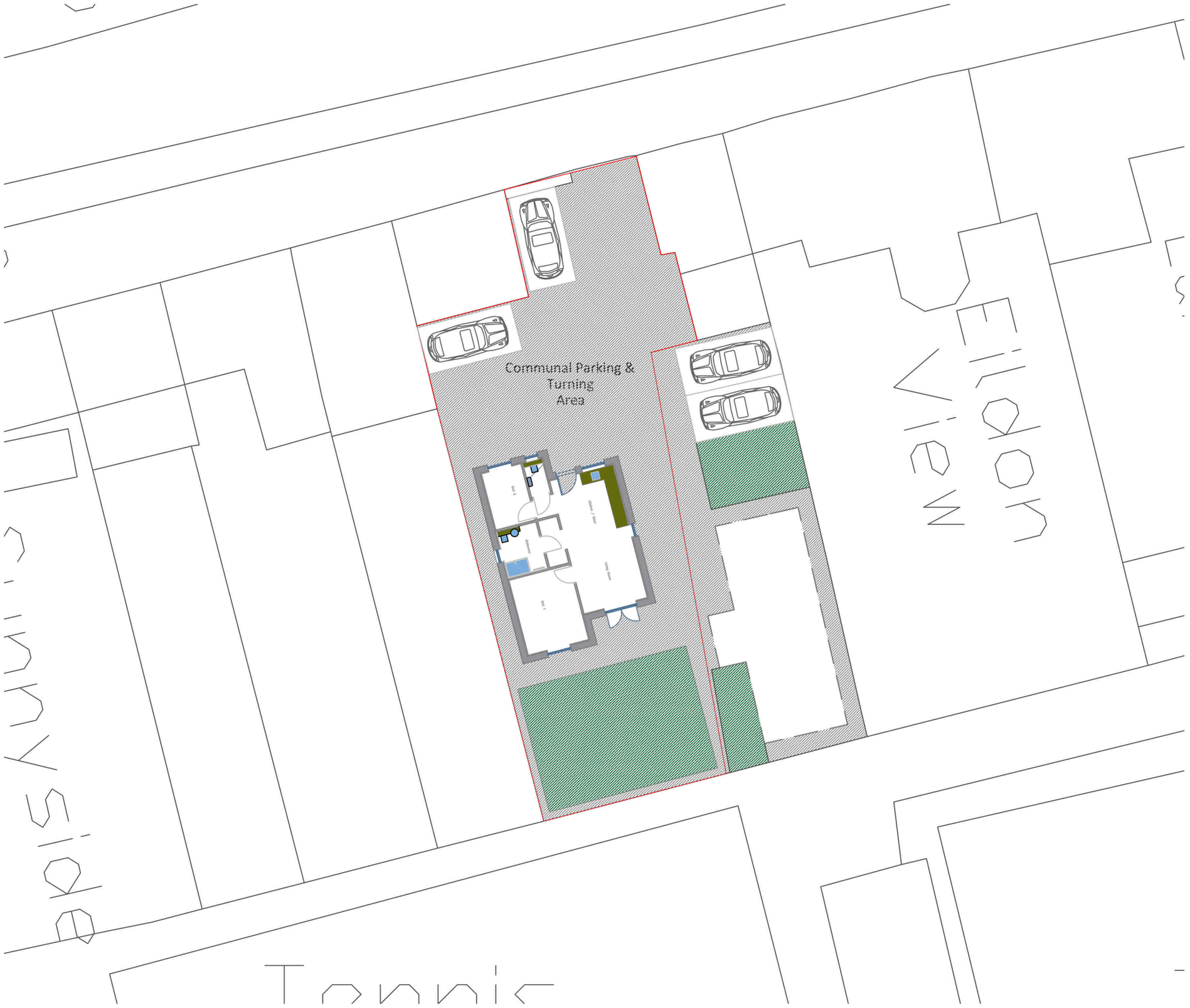
23/00716/FUL
06/09/2023

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

REFUSED

subject to the requirements of the associated Decision Notice



Rev	Date	Details	Drawn By
A	18.04.23	Client Amends	JOR

Pro-found
consult-manage-deliver
Chartered Building Consultancy & Contracting

205 Berwick Workspace
Boarding School Yard
Berwick-upon-Tweed
TD15 1BN

Tel: 01289 309752
e-mail: info@profounddevelopment.com
web: www.profounddevelopment.com

Client:
Nigel Carey

Project:
Cheviot View, Gordon

Drawing Title:
Proposed Site / Block Plan

Drawing Status:
Planning | ~~Building Control~~
~~Tender | Construction~~

All dimensions checked on site with any discrepancies reported to Pro-found - do not scale from drawing.

Drawing №:	C662-PP-2-002
Scale:	1:200 @ A3
Drawn by:	JOR
Revision:	A
Date:	27.03.23

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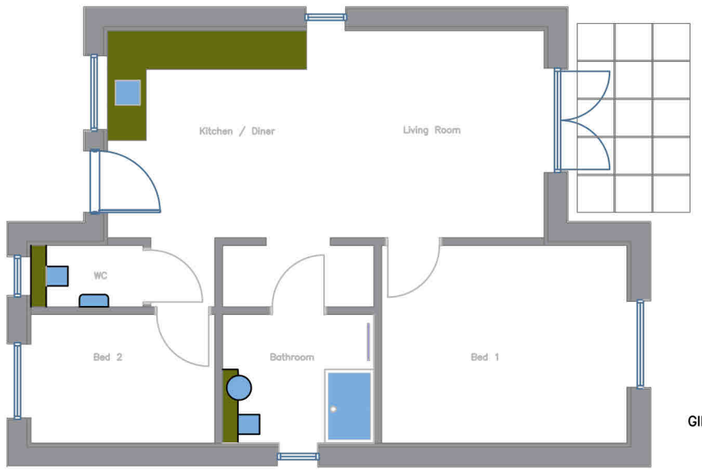
0 5 10

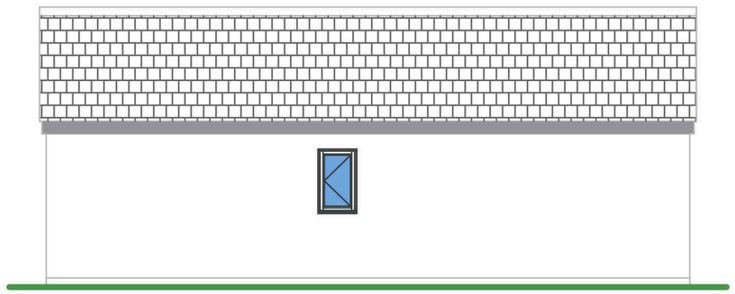
SCALE BAR 1:100



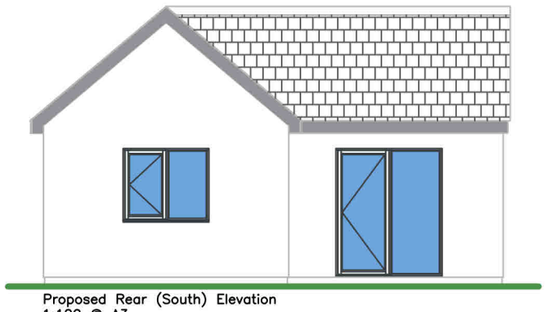
GIFA – 56.23M2

Proposed Floor Layout
1:100 @ A3

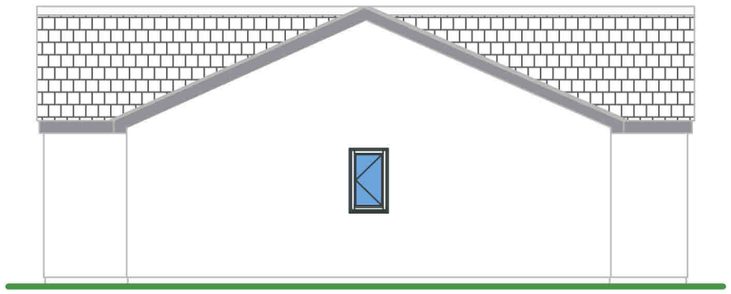
Proposed Front (North) Elevation
1:100 @ A3



Proposed Side (West) Elevation
1:100 @ A3



Proposed Rear (South) Elevation
1:100 @ A3



Proposed Side (East) Elevation
1:100 @ A3

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06/09/2023

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

REFUSED

subject to the requirements of the associated Decision Notice

Rev	Date	Details	Drawn By
A	19.04.23	Client amends	JOR

Pro-found
consult-manage-deliver
Chartered Building Consultancy & Contracting
205 Berwick Workspace
Boarding School Yard
Berwick-upon-Tweed
TD15 1BN

Tel: 01289 309752
e-mail: info@profounddevelopment.com
web: www.profounddevelopment.com

Client:
Nigel Carey

Project:
Cheviot View, Gordon

Drawing Title:
Proposed Layouts & Elevations

Drawing Status:
Planning | ~~Building Control~~
~~Tender | Construction~~

All dimensions checked on site with any discrepancies reported to Pro-found - do not scale from drawing.

Drawing №:	C662-PP-2-003
Scale:	1:100 @ A3
Drawn by:	JOR
Revision:	A
Date:	27.03.23

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23/00716/FUL
06/09/2023

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

REFUSED

subject to the requirements of the associated Decision Notice

Rev	Date	Details	Drawn By

Pro-found
consult-manage-deliver
Chartered Building Consultancy & Contracting

205 Berwick Workspace
Boarding School Yard
Berwick-upon-Tweed
TD15 1BN

Tel: 01289 309752
e-mail: info@profounddevelopment.com
web: www.profounddevelopment.com

Client:
Nigel Carey

Project:
Cheviot View, Gordon

Drawing Title:
Existing Site / Block Plan

Drawing Status:
Planning | ~~Building Control~~
~~Tender | Construction~~

All dimensions checked on site with any discrepancies reported to Pro-found - do not scale from drawing.

Drawing №:	C662-PP-2-004
Scale:	1:200 @ A3
Drawn by:	JOR
Revision:	A
Date:	27.03.23

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[redacted]

From: localreview <localreview@scotborders.gov.uk>
Sent: Monday, November 13, 2023 10:19 AM
To: Planning Appeals <PlanningAppeals@scotborders.gov.uk>
Subject: FW: [OFFICIAL] Erection of Small Bungalow, Cheviot View, Eden Road, Gordon TD3 6JT - 23/00716/FUL

Good Morning

I would be obliged if this e-mail could be placed on the Portal under reference No. 23/00044/RREF as a matter of urgency in order that it may be included in the Agenda Pack.

Best Wishes Fiona

Fiona Henderson
Democratic Services Officer
Democratic Services
Corporate Governance
Council Headquarters
NEWTOWN ST BOSWELLS TD6 0SA
DDI : 01835 826502
fhenderson@scotborders.gov.uk

From: [redacted]
Sent: Tuesday, November 7, 2023 2:58 PM
To: localreview <localreview@scotborders.gov.uk>
Subject: Fwd: [OFFICIAL] Erection of Small Bungalow, Cheviot View, Eden Road, Gordon TD3 6JT - 23/00716/FUL

CAUTION: External Email

In response to the commentary provide by Mr and Mrs Waite, Proprietors of the adjoining property to the West of Cheviot View, known as Sherwood Cottage, the following should be known:
" ourselves at Sherwood Cottage next to plot and our neighbour have parked in same areas next to plot this being for over 40 years with permission"
No such permission exists. Those utilising the space to leave their vehicles are permitted as a gesture of good neighbourliness by the owner of Cheviot view. Previously utilised the space due to the site appearing abandoned. Notwithstanding the period of use there is no precedent in law to maintain a right to continue. The owners of Sherwood Cottage have a right of access from the road, Eden Road, around the store marked in brown, on the Registers of Scotland Cadastral map, to a gate at the rear of their property. This right is registered under Section "D", 'Burdens Section', on Land Registry of Scotland Title Document BER 9773:
"..to the proprietors of the adjoining properties on the west a right of access from the street entrance of the subjects hereby disponed round the east and south sides of the office and store tinted brown on the cadastral map to the gate leading to the said adjoining properties"
This is a right of access only, and no right, permission, or otherwise implied, to leave property of any description on the ground of Cheviot View, merely access only. Furthemore, the Cadastral map clearly defines the east boundary of Sherwood Cottage and identifies the current fence to be trespassing approximately 3 feet into the land of Cheviot View and should be moved to the correct position.

On Fri, Nov 3, 2023 at 11:01 AM localreview <localreview@scotborders.gov.uk> wrote:

Good Morning

PLANNING APPLICATION Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders

PROPOSED DEVELOPMENT: Erection of dwellinghouse

APPLICANT: **Mr Nigel Carey**

Further to previous correspondence, with regard to the review of the above application, please find attached further representations from interested parties.

Should you have comments to submit regarding these representations please do so before the close of **Wednesday, 15 November 2023**

Regards

Fiona Henderson

Democratic Services Officer

Democratic Services

Resources

Council Headquarters

NEWTOWN ST BOSWELLS TD6 0SA

☎ DDI : 01835 826502

fhenderson@scotborders.gov.uk

[redacted]

-----Original Message-----
From: localreview <localreview@scotborders.gov.uk>
Sent: Friday, November 3, 2023 8:32 AM
To: Planning Appeals <PlanningAppeals@scotborders.gov.uk>
Subject: FW: Ref 23/00716/FUL. Appeal 23/00044/RREF
Importance: High

Good Morning

Please could the e-mail below be placed on the portal for Review Application 23/00044/RREF as further representations.

Thanks

Fiona Henderson
Democratic Services Officer
Democratic Services
Resources
Council Headquarters
NEWTOWN ST BOSWELLS TD6 0SA
DDI : 01835 826502
fhenderson@scotborders.gov.uk

-----Original Message-----
From: Marion Waite[redacted]
Sent: Tuesday, October 17, 2023 8:29 PM
To: localreview <localreview@scotborders.gov.uk>
Subject: Ref 23/00716/FUL. Appeal 23/00044/RREF

CAUTION: External Email

Concerns on congestion of parking and access, at present ourselves at Sherwoodcottage next to plot and our neighbour have parked in same areas next to plot this being for over 40 years with permission and no problems.However since start of first house on several occasions our access has been blocked and we have had to go ask workmen to move vans which includes pavement area at times, therefore should another house be permitted we feel it will be further congested taking into consideration less room for deliveries in an already confined parking area now. Another point we wish to add is that no mention of night lighting as no street lights!! nothing on plans we most certainly do not want to have bright lighting shining into our windows of an evening. Mr Mrs I Waite.

Sent from my iPad

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Scottish Borders COUNCIL

Mr Nigel Carey
7 Over Roxburgh Farm Cottages
Kelso
TD58LY

Please ask for: Cameron Kirk
☎ 01835 825253
Our Ref: 22/00968/FUL
Your Ref:
E-Mail: cameron.kirk@scotborders.gov.uk
Date: 2nd September 2022

Dear Sir/Madam

PLANNING APPLICATION AT **Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders**

PROPOSED DEVELOPMENT: **Erection of a dwellinghouse (change of house type previously approved under permission 21/00913/FUL)**

APPLICANT: **Mr Nigel Carey**

Please find attached the decision notice for the above application.

Please read the schedule of conditions and any informative notes carefully.

Drawings can be found on the Planning pages of the Council website at https://eplanning.scotborders.gov.uk/online-applications/ . Please see the requirement for notification of initiation and completion of development as well as for Street naming and numbering as appropriate.

It should be noted that before works commence, where applicable, all necessary consents should be obtained under the Building (Scotland) Act 2003. If you require any further information in this respect, please contact the relevant Building Standards Surveyor.

Yours faithfully

John Hayward

Planning & Development Standards Manager

Scottish Borders COUNCIL

Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

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

Application for Planning Permission **Reference : 22/00968/FUL**

To : Mr Nigel Carey 7 Over Roxburgh Farm Cottages Kelso TD58LY

With reference to your application validated on **22nd June 2022** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

Proposal : Erection of a dwellinghouse (change of house type previously approved under permission 21/00913/FUL)

at : Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders

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 (as amended), 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 1st September 2022
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

John Hayward
Planning & Development Standards Manager

APPLICATION REFERENCE : 22/00968/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
C671-PP-001	Location Plan	Approved
C671-PP-003	Proposed Plans & Elevations	Approved

REASON FOR DECISION

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

SCHEDULE OF CONDITIONS

1 Prior to commencement of development, full details of all external materials for the approved dwellinghouse and full details of the surfacing of all shared surfaces are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.
Reason: To maintain effective control over the development.

2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or amendments or re-enactment or re-enactment thereof) no extension, enlargement; or other alteration of the dwelling shall be carried out without the prior written consent of the Planning Authority, to whom a planning application must be made.
Reason: The Planning Authority considers that the development hereby permitted is the maximum that can be reasonably allowed without causing detriment to the amenities of adjoining properties, and for this reason would wish to control any future proposals or alterations or extensions.

3 Prior to the commencement of development, a scheme of details setting out arrangements and locations for domestic waste and recycling storage and collection are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure suitable provisions are made for the provision and storage of domestic waste and recycling within the site.

4 Turning and parking for a minimum of two vehicles, excluding garages, to be provided within the site before the dwellinghouse is occupied and retained thereafter in perpetuity.
Reason: To ensure on-site car parking is provided, in the interests of road safety on the public road.

5 No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

i. Existing and finished ground levels in relation to a fixed datum, preferably ordnance;
ii. Existing landscaping features and vegetation to be retained and, in the case of damage, restored;
iii. Location and design, including materials, of walls, fences and gates;
iv. Soft and hard landscaping works;
v. Existing and proposed services, such as cables, pipelines;
vi. A programme for completion and subsequent maintenance of planting.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

1 The applicant/developer is reminded that the developer contributions sought pursuant to the Section 75 Legal Agreement under planning application 17/01491/FUL would continue to be applicable and payable for the current planning application.

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.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:
Monday-Friday 0700-1900
Saturday 0800-1300
Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 “Code of Practice for Noise and Vibration Control on Construction and Open Sites”.

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act 1997 (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 available on the Council’s website for this purpose.

Notice of Completion of Development

Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) 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**

There are a number of risks created by built over gas mains and services; these are:

- Pipework loading – pipes are at risk from loads applied by the new structure and are more susceptible to interference damage.
- Gas entry into buildings – pipework proximity increases risk of gas entry in buildings. Leaks arising from previous external pipework able to track directly into main building from unsealed entry.
- Occupier safety – lack or no fire resistance of pipework, fittings, or meter installation. Means of escape could be impeded by an enclosed meter.

Please note therefore, if you plan to dig, or carry out building work to a property, site, or public highway within our gas network, you must:

1. Check your proposals against the information held at https://www.linesearchbeforeudig.co.uk/ to assess any risk associated with your development **and**
2. Contact our Plant Protection team to let them know. Plant location enquiries must be made via email, but you can phone us with general plant protection queries. See our contact details below:

Phone 0800 912 1722 / Email plantlocation@sgn.co.uk

In the event of an overbuild on our gas network, the pipework must be altered, you may be temporarily disconnected, and your insurance may be invalidated.

Further information on safe digging practices can be found here:

- Our free Damage Prevention e-Learning only takes 10-15 minutes to complete and highlights the importance of working safely near gas pipelines, giving clear guidance on what to do and who to contact before starting any work https://www.sgn.co.uk/damage-prevention

Further information can also be found here https://www.sgn.co.uk/help-and-advice/digging-safely

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 (as amended) within three months from the date of this notice.

The notice of review must be submitted on the standard form and addressed to the Clerk of The Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St Boswells. TD6 0SA or sent by email to localreview@scotborders.gov.uk. The standard form and guidance notes can be found online at Appeal a Planning Decision. Appeals to the Local Review Body can also be made via the Scottish Government Planning and Environmental Appeals Division by clicking on the following link PEAD

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 (as amended).

SCOTTISH BORDERS COUNCIL

APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO CHIEF PLANNING OFFICER

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF: 22/00968/FUL

APPLICANT: Mr Nigel Carey

AGENT:

DEVELOPMENT: Erection of a dwellinghouse (change of house type previously approved under permission 21/00913/FUL)

LOCATION: Garden Ground Of Cheviot View
Eden Road
Gordon
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
C671-PP-001	Location Plan	Approved
C671-PP-003	Proposed Plans & Elevations	Approved

NUMBER OF REPRESENTATIONS: 2
SUMMARY OF REPRESENTATIONS:

2 letters of representation, 2 general comments, have been received by the Planning Authority. All issues raised have been considered. The letters raise the following material planning considerations:

- Scale, design and levels of the proposed dwellinghouse;
- Impact on amenity and privacy;
- Parking and turning.

Consultations

Community Council: No response received at the time of writing this report.

Roads Planning Service: They are unable to comment on the application until such time as a site layout plan has been submitted. Any plan should show how parking is to be provided for both the proposed and the existing dwelling.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

PMD1: Sustainability
PMD2: Quality Standards
PMD5: Infill Development

ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils
HD3: Protection of Residential Amenity
IS2: Development Contributions
IS7: Parking Provision and Standards
IS9: Waste Water Treatment and Sustainable Urban Drainage

Supplementary Planning Guidance

Developer Contributions 2022
Householder Development (Privacy and Sunlight) 2006
Placemaking and Design 2010
Waste Management 2015

Recommendation by - Cameron Kirk (Assistant Planning Officer) on 1st September 2022

Site description

The application site relates to an area of ground that was associated with the former dwellinghouse, Cheviot View, which has since been demolished. The application site is located within the development boundary for the settlement of Gordon. Vehicle access to the site is made via an existing access from Eden Road to the north. There are neighbouring residential properties to the north, while the tennis court and bowling green lie to the south. The application site is identified as being an area of prime quality agricultural land.

Proposed development

Permission was granted under planning application 17/01491/FUL for the erection of a single storey, one bedroom cottage. A further planning application 21/00913/FUL was submitted to vary the design of the dwellinghouse granted under planning application 17/01491/FUL, which was granted in 2021.

This application seeks to amend the fenestration for the proposed dwellinghouse granted under planning application 21/00913/FUL.

The proposed access would not be altered under this application and parking for two vehicles would be provided within the curtilage of the proposed dwellinghouse. The proposed dwellinghouse would be served by the public water supply network and public drainage network.

Relevant planning history

17/01491/FUL Demolition of derelict cottage and erection of dwellinghouse. Granted 23 October 2018.

21/00056/FUL Erection of dwellinghouse (change of house type previously approved under permission 17/01491/FUL). Withdrawn 08 April 2021.

21/00913/FUL Erection of a dwellinghouse (change of house type previously approved under permission 17/01491/FUL). Granted 29 July 2021.

Assessment

Principle of development

The principle of development is considered to be acceptable by virtue of the consent granted under application 17/01491/FUL and 21/00913/FUL. This application merely seeks to change the design for the proposed dwellinghouse. The principle of development is considered to be acceptable.

Layout, design and materials

Policy PMD2 aims to ensure that any development is of the highest quality and it respects the environment in which it is contained. The proposed dwelling would be built in the same position as to the dwellinghouse granted under the previous application 21/00913/FUL. The scale of the dwellinghouse would not change and the changes to the external appearance of the proposed dwellinghouse would not drastically alter its visual

appearance. The materials to be used for the external finish for the proposed development would be acceptable in principle. The precise details will be sought by way of condition. Overall, the proposed dwellinghouse would be of an appropriate scale, character and appearance.

In line with the original planning application 17/01491/FUL, permitted development rights will be removed which precludes the proposed dwellinghouse from being extended, enlarged or altered without the express grant of planning permission from the Planning Authority.

Concerns have been raised in a letter of representation regarding ground levels. The landscaping condition, to be attached to any consent granted, will require existing and proposed ground levels to be provided prior to any works commencing. This will allow the Planning Authority to consider existing and proposed ground levels fully.

Residential amenity

Policy HD3 aims to protect neighbouring residential properties against inappropriate development that would result in the loss of amenity or privacy. The proposed dwellinghouse would not result in an unacceptable loss of daylight, sunlight or increased overshadowing to neighbouring properties once the development is completed.

The changes to the fenestration of the proposed dwellinghouse would result in some additional windows and amendments to their position on the elevations. The additional windows would be to elevations that were to have windows. The proposed amendments to the fenestration would not have a significant adverse impact to neighbouring properties in terms of overlooking or loss of privacy. Overall, the proposed development would not have a significant adverse impact to neighbouring properties.

Access and parking

Roads Planning Service was consulted as part of the application process. They advise that they are unable to comment on the application until such time as a site layout plan has been submitted. Any plan should show how parking is to be provided for both the proposed and the existing dwelling.

This application would not result in any changes to the access or parking. In light of this, Roads Planning Service do not have any objections to the application. A condition will be attached to ensure that sufficient parking is provided for the dwellinghouse.

Services

The proposed dwellinghouse would be connected to the public water supply network and public drainage network. This would be acceptable to the Planning Authority.

Waste

Details for waste bin storage have not be provided at this stage. It is anticipated that there is sufficient room within the curtilage of the proposed dwellinghouse for waste bin storage. This information will be sought by way of condition.

Developer contributions

Policy IS2 aims to ensure that the cost of new or additional infrastructure required for new development is met by the developer. Under application 17/01491/FUL developer contributions were secured through a Section 75 Legal Agreement should the proposed dwellinghouse have two or more bedrooms. The proposed dwellinghouse would have two bedrooms and it will engage developer contributions for Education and Lifelong Learning, specifically Earlston High School.

An informative note will be added to inform the applicant/developer that the developer contributions sought pursuant to the Section 75 Legal Agreement under planning application 17/01491/FUL would continue to be applicable for the current planning application.

Prime quality agricultural land

The application site is identified as being an area of prime quality agricultural land. The proposed development would result in the replacement of an existing derelict cottage that can be found on the application site. Therefore, the proposal would not result in the loss of prime quality agricultural land.

Conclusion

In consideration of the above, the proposed development is considered to comply with the relevant policies contained within the Scottish Borders Local Development Plan 2016. It is recommended that the application be granted.

REASON FOR DECISION:

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

Recommendation: Approved - conditions & informatives

1 Prior to commencement of development, full details of all external materials for the approved dwellinghouse and full details of the surfacing of all shared surfaces are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.
Reason: To maintain effective control over the development.

2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or amendments or re-enactment or re-enactment thereof) no extension, enlargement; or other alteration of the dwelling shall be carried out without the prior written consent of the Planning Authority, to whom a planning application must be made.
Reason: The Planning Authority considers that the development hereby permitted is the maximum that can be reasonably allowed without causing detriment to the amenities of adjoining properties, and for this reason would wish to control any future proposals or alterations or extensions.

3 Prior to the commencement of development, a scheme of details setting out arrangements and locations for domestic waste and recycling storage and collection are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure suitable provisions are made for the provision and storage of domestic waste and recycling within the site.

4 Turning and parking for a minimum of two vehicles, excluding garages, to be provided within the site before the dwellinghouse is occupied and retained thereafter in perpetuity.
Reason: To ensure on-site car parking is provided, in the interests of road safety on the public road.

5 No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

i. Existing and finished ground levels in relation to a fixed datum, preferably ordnance;
ii. Existing landscaping features and vegetation to be retained and, in the case of damage, restored;
iii. Location and design, including materials, of walls, fences and gates;
iv. Soft and hard landscaping works;
v. Existing and proposed services, such as cables, pipelines;
vi. A programme for completion and subsequent maintenance of planting.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

Informatives

It should be noted that:

1 The applicant/developer is reminded that the developer contributions sought pursuant to the Section 75 Legal Agreement under planning application 17/01491/FUL would continue to be applicable and payable for the current planning application.

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

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Mr Phil Davies
per Paterson Architects
3 Seton Mains
Longniddry
Scotland
EH32 0PG

Please ask for: Cameron Kirk
☎ 01835 825253

Our Ref: 22/00342/FUL

Your Ref:

E-Mail: cameron.kirk@scotborders.gov.uk

Date: 8th February 2023

Dear Sir/Madam

PLANNING APPLICATION AT Workshop Hunters Yard Station Road Gordon Scottish Borders TD3 6LR

PROPOSED DEVELOPMENT: Demolition of former industrial shed, erection of Class 4 unit and four dwellinghouses

APPLICANT: **Mr Phil Davies**

Please find attached the decision notice for the above application.

Please read the schedule of conditions and any informative notes carefully.

Drawings can be found on the Planning pages of the Council website at https://eplanning.scotborders.gov.uk/online-applications/ . Please see the requirement for notification of initiation and completion of development as well as for Street naming and numbering as appropriate.

It should be noted that before works commence, where applicable, all necessary consents should be obtained under the Building (Scotland) Act 2003. If you require any further information in this respect, please contact the relevant Building Standards Surveyor.

Yours faithfully

John Hayward

Planning & Development Standards Manager

Scottish Borders COUNCIL

Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

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

Application for Planning Permission **Reference : 22/00342/FUL**

To : Mr Phil Davies per Paterson Architects 3 Seton Mains Longniddry Scotland EH32 0PG

With reference to your application validated on **7th March 2022** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

Proposal : Demolition of former industrial shed, erection of Class 4 unit and four dwellinghouses

at : Workshop Hunters Yard Station Road Gordon Scottish Borders TD3 6LR

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 (as amended), subject to the conditions attached to the following schedule for the reasons stated.

Dated 8th February 2023
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

John Hayward
Planning & Development Standards Manager

APPLICATION REFERENCE : 22/00342/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
PL_01	Location Plan	Approved
PL_03	Proposed Plans	Approved
PL_04	Proposed Plans	Approved
PL_05 A	Proposed Roof Plan	Approved
PL_06	Proposed Plans, Sections & Elevations	Approved
PL_07	Proposed Plans, Sections & Elevations	Approved
PL_08	Proposed Plans, Sections & Elevations	Approved

REASON FOR DECISION

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

SCHEDULE OF CONDITIONS

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.

2 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.

3 No works in connection with the development hereby approved shall commence until detailed engineering drawings for the alterations of the junction with the public road have been submitted to and agreed in writing by the Planning Authority. Thereafter, the junction with the public road shall be altered and completed in strict accordance with the approved drawings prior to the occupation of the first dwellinghouse or business unit, whichever is first, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure the junction is constructed to the correct standard to allow for vehicular and pedestrian movements in the interests of road safety.

4 No works in connection with the development hereby approved shall commence until detailed engineering drawings for the construction of the internal access road have been submitted to and agreed in writing by the Planning Authority. Thereafter, the access road shall be formed and completed in strict accordance with the approved drawings prior to the occupation of the first dwellinghouse or business unit, whichever is first, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure the access road is formed to a suitable standard to serve the development.

5 Two parking spaces, not including any garages, shall be provided within the curtilage of each plot prior to the dwellinghouse being occupied. Thereafter the parking spaces must be retained in perpetuity.
Reason: To ensure parking and turning are made available within the site.

6 No works in connection with the development hereby approved shall be undertaken during the breeding bird season (March to August inclusive), unless in strict compliance with a Species Protection Plan for breeding birds, including provision for pre-development supplementary survey, that shall be submitted to and agreed in writing by the Planning Authority. Thereafter, the development shall be carried out in complete accordance with the approved Species Protection Plan.
Reason: To protect the ecological interest of the site in accordance with Local Development Plan policies EP2 and EP3.

7 No works in connection with the development here by approved shall commence until a scheme for compensatory nest boxes for birds has been submitted to and agreed in writing by the Planning Authority. Thereafter, the development shall be carried out in complete accordance with the approved details.
Reason: To ensure the development accords with the requirements of Local Development policy EP3.

8 No works in connection with the development hereby approved shall commence until a details have been submitted to and agreed in writing by the Planning Authority for the protection of trees, within and adjacent to the application site. The approved protection measures shall be implemented prior to any works commencing on site and they shall be removed only when the development has been completed.
Reason: In the interests of preserving the health and vitality of existing trees on the development site, the loss of which would have an adverse effect on the visual amenity of the area.

9 Waste water from the proposed development shall be disposed of via the public sewer as indicated in the submitted application and shall not be disposed of via private means, unless otherwise agreed in writhing by the Planning Authority. The development shall be connected to the public sewer prior to the occupation of the first dwellinghouse or business unit, whichever is first.
Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

10 The proposed development shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply, unless otherwise agreed in writing by the Planning Authority. The development shall be connected to the public water supply prior to the occupation of the first dwellinghouse or business unit, whichever is first.
Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) or the Town and Country Planning (Use Classes) (Scotland) Order 1997 or any order amending, revoking or re-enacting these Orders, the business unit hereby approved (identified as plot 5 of the approved drawing PL_03) shall be used only for a purpose within Use Class 4 and shall not be used for any other purpose without the express grant of planning permission from the Planning Authority.
Reason: To enable the planning authority to consider the implications of any subsequent change of use on the amenities of the area.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

1 If any finds of archaeological interest are identified during the groundworks to progress this application, these should be recovered, reported and, if necessary, recorded with the Treasure Trove Unit in line with the law of the land in Scotland. If finds are made, then contacts with the Archaeology Officer can be made in case to advise whether Treasure Trove Unit recording will be required. Pictures can be sent with any email to archaeology@scotborders.gov.uk, though a general rule of post-1850 finds are not considered to be of special interest.

2 In the event that bats are discovered following the commencement of works, works should stop immediately and the developer must contact NatureScot for further guidance. Works can only recommence by following any guidance given by NatureScot. The developer and all contractors to be made aware of accepted standard procedures of working with bats at www.bats.org.uk.

3 It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

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.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:
Monday-Friday 0700-1900
Saturday 0800-1300
Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act 1997 (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 available on the Council's website for this purpose.

Notice of Completion of Development

Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) 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**

There are a number of risks created by built over gas mains and services; these are:

- Pipework loading – pipes are at risk from loads applied by the new structure and are more susceptible to interference damage.
- Gas entry into buildings – pipework proximity increases risk of gas entry in buildings. Leaks arising from previous external pipework able to track directly into main building from unsealed entry.
- Occupier safety – lack or no fire resistance of pipework, fittings, or meter installation. Means of escape could be impeded by an enclosed meter.

Please note therefore, if you plan to dig, or carry out building work to a property, site, or public highway within our gas network, you must:

1. Check your proposals against the information held at https://www.linesearchbeforeudig.co.uk/ to assess any risk associated with your development **and**
2. Contact our Plant Protection team to let them know. Plant location enquiries must be made via email, but you can phone us with general plant protection queries. See our contact details below:

Phone 0800 912 1722 / Email plantlocation@sgn.co.uk

In the event of an overbuild on our gas network, the pipework must be altered, you may be temporarily disconnected, and your insurance may be invalidated.

Further information on safe digging practices can be found here:

- Our free Damage Prevention e-Learning only takes 10-15 minutes to complete and highlights the importance of working safely near gas pipelines, giving clear guidance on what to do and who to contact before starting any work https://www.sgn.co.uk/damage-prevention

Further information can also be found here https://www.sgn.co.uk/help-and-advice/digging-safely

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 (as amended) within three months from the date of this notice.

The notice of review must be submitted on the standard form and addressed to the Clerk of The Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St Boswells. TD6 0SA or sent by email to localreview@scotborders.gov.uk. The standard form and guidance notes can be found online at Appeal a Planning Decision. Appeals to the Local Review Body can also be made via the Scottish Government Planning and Environmental Appeals Division by clicking on the following link PEAD

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 (as amended).

SCOTTISH BORDERS COUNCIL

APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO CHIEF PLANNING OFFICER

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 22/00342/FUL

APPLICANT : Mr Phil Davies

AGENT : Paterson Architects

DEVELOPMENT : Demolition of former industrial shed, erection of Class 4 unit and four dwellinghouses

LOCATION: Workshop Hunters Yard
Station Road
Gordon
Scottish Borders
TD3 6LR

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
PL_01	Location Plan	Approved
PL_03	Proposed Plans	Approved
PL_04	Proposed Plans	Approved
PL_05 A	Proposed Roof Plan	Approved
PL_06	Proposed Plans, Sections & Elevations	Approved
PL_07	Proposed Plans, Sections & Elevations	Approved
PL_08	Proposed Plans, Sections & Elevations	Approved

NUMBER OF REPRESENTATIONS: 3
SUMMARY OF REPRESENTATIONS:

A total of three objections have been received by the Planning Authority. All issues raised have been considered as part of the assessment of the application. The key material planning considerations have been summarised below:

- The layout of the proposed development;
- The scale and height of the proposed buildings;
- Potential contamination associated with asbestos removal;
- Insufficient foul drainage capacity to support the proposed development;
- Impact upon amenity and privacy;
- Access to the application site from the public road and road safety;
- Impact on protected species, specifically bats;
- Developer contributions.

Consultations

Archaeology Officer: No objection. An informative is recommended in case of any remains of the later 19th century buildings being found. It is unclear how much may remain of any of these buildings, but

these would be expected to be only local in their significance. The same significance would also be applied to any features, such as rubbish or cess pits, associated with such buildings, and these too would also not require any archaeological conditions.

Community Council: Concerns regarding the demolition/removal of the workshop (with asbestos roof) and applicant needs to submit method statement and risk assessment for this work.

The Community Council favourably regard the application for this long-vacant site but it was suggested any developer contribution should maybe be directed to improving and maintaining the Gordon Primary School. Gordon would welcome more business units. Since the last application, the sewage facilities in Gordon have been upgraded so no issues about over capacity is foreseen.

Contaminated Land: No objection. The application site previously operated as an industrial yard. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

Petroleum licensing records indicate petroleum storage occurred within the application site.

A limited factual site investigation report has been submitted to support the planning application (prepared by Green Cat Renewables Ltd, dated 24 November 2021). Trial pit logs report the presence of strong kerosene and diesel odours within the two trial pits advanced.

The Contaminated Land Officer recommends that a condition should be attached to ensure that the development does not commence until a full site investigation and risk assessment has been carried out. Any requirement arising from this assessment for a remediation strategy and verification plan should be included, as deemed necessary.

Ecology Officer: No objection. The Preliminary Bat Roost Assessment (prepared by Practecology, dated 18 April 2021) found no current or historic signs of bats using the application site. The buildings suitability to support bats is negligible.

Some birds, mainly wood pigeon and starlings are using the buildings for nesting. Therefore, compensatory bird boxes will be required as part of the development. The report does not specify the number of nests recorded in the building; considering the conservation status of wood pigeons (green) and starlings (red) the nests should be compensated at 2:1.

Economic Development: No response received at the time of writing this report.

Education and Lifelong Learning: No response received at the time of writing this report.

Roads Planning Service: No objection. The level of development is such that the access to the application may remain private and it will not be considered for adoption. They recommend that conditions and an informative are attached.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

PMD1: Sustainability
PMD2: Quality Standards
PMD5: Infill Development
HD3: Protection of Residential Amenity
EP1: International Nature Conservation Sites and Protected Species
EP2: National Nature Conservation Sites and Protected Species
EP3: Local Biodiversity
EP8: Archaeology
EP13: Trees, Woodlands and Hedgerows
IS2: Developer Contributions
IS7: Parking Provision and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

IS13: Contaminated Land

Supplementary Planning Guidance

Biodiversity 2005
Contaminated Land Inspection Strategy 2001
Development Contributions 2011 (updated 2022)
Householder Development (incorporating Privacy and Sunlight Guide) 2006
Placemaking and Design 2010
Trees and Development 2008 (updated 2020)

Recommendation by - Cameron Kirk (Assistant Planning Officer) on 6th February 2023

Site description

The application site relates to a former business premises and its associated yard that is now derelict. The site lies within the development boundary for the settlement of Gordon. Vehicular access is taken from Station Road to the western boundary.

The surrounding locality mainly consists of residential properties. There are dwellinghouses to the north and west boundaries of the application site. There are outbuildings to the south boundary, which relate to the dwellinghouses that lie further to the south. A mature tree belt lies to the east boundary.

The application site is identified as being an area of prime quality agricultural land.

Proposed development

It is proposed to demolish the existing building and erect four detached, two storey dwellinghouses and a two storey business unit that would have a Class 4 use. The proposed buildings would be fairly traditional in form, having gable roofs.

The proposed development would be accessed via the existing vehicular access from the public road which would be altered slightly to accommodate the business unit to the south boundary of the site. Each dwellinghouse would have a front garden that would provide parking for two vehicles. They dwellinghouses would also benefit from private rear gardens. The business unit would provide parking for one vehicle within its curtilage.

The proposed development would be connected to the public water supply network and public drainage network. Surface water would be dealt with in a sustainable manner.

Relevant planning history

15/00189/PPP Residential development. Granted 02 August 2017.

19/00427/FUL Demolition of workshop and erection of twelve dwellinghouses. Withdrawn 04 July 2019.

21/00530/PREAPP - Pre-application enquiry.

Assessment

Principle

The application site lies within the development boundary for the settlement of Gordon. In order to establish the principle of development it must be assessed against Policy PMD5. Policy PMD5 states development on non-allocated, infill and windfall sites, including the re-use of buildings within development boundaries as shown on the proposal maps will be approved where the criteria outlined in Policy PMD5 is satisfied.

The application site relates to a former business premises and its associated yard that has lay vacant for a number of years. The existing building and grounds have fallen into a state of disrepair. The proposed

development would result in four detached dwellinghouses and a business unit being constructed on the site. The immediate area is characterised predominantly by residential properties. The proposed development would not conflict with the established land use of the area. The proposal is not considered to lead to over-evelopment or "town and village cramming" and would make good use of a redundant brownfield site that would positively contribute to the overall amenity of the locality.

In light of the above, it is considered that the proposed development complies with the relevant criteria outlined in Policy PMD5, subject to further policy considerations below.

Layout, design and materials

Policy PMD2 aims to ensure that all new development is of a high quality and respects the environment in which it is contained. While Policy ED5 requires that the development respects the scale, form, design, materials and density of its surroundings; the individual and cumulative effects of the development should not lead to over-development or town cramming; the proposal should not detract from the character and amenity of the surrounding area.

The layout and the design of the proposals were altered following advice given in the pre-application enquiry stage. The application site is large enough to accommodate four detached dwellinghouses and a business unit, which would not constitute overdevelopment of the site. The proposal would work with the existing topography of the application site and it would form a small cul-de-sac. The proposed dwellinghouses and business unit would be appropriately positioned and set away from the boundaries of neighbouring properties, where possible.

This part of Gordon is characterised by a mixture of houses styles and building types, including single and two storey houses, with a varied palette of materials. The spatial pattern of this part of the settlement is also irregular and the proposed development would not be at odds with the immediate locality.

The proposed dwellinghouses and business unit would be of an appropriate scale, character and appearance, which would site comfortably within the site and relate well to the surrounding context. The proposed buildings would be fairly traditional in form as they would have gable roofs. They would be greater in height than the existing building but this is to be expected given that they are two storeys in height. They would not appear at odds with the built form found within the locality of the application site. The proposed fenestration would be acceptable in this location. A modern palette of materials would be used for the external finish for the proposed buildings and they would relate well with the materials found to nearby properties.

Some details have also been provided for hard and soft landscaping. The landscaping scheme proposed would be acceptable in this context.

Overall, the layout, design and materials for the proposed development would be acceptable.

Residential amenity

Policy HD3 aims to protect neighbouring residential properties against inappropriate development that would result in the loss of amenity and privacy. The proposed buildings would be greater in height than the existing building. Concerns have been raised regarding the impact this would have on the amenity of neighbouring properties. Considering the position of the proposed buildings, relative to neighbouring properties, they would not unduly impact upon the daylight or sunlight of those properties and the proposal would not create undue overshadowing.

The proposed development would result in a degree of overlooking to neighbouring properties from the first floor windows of the proposed buildings. The proposed buildings have been positioned and orientation in such a way as to minimise the impact they would have on nearby properties. The level of overlooking would not be significant enough to justify refusal in this instance.

The business use to the proposed building on plot 5 is not expected to conflict with existing or proposed neighbouring residential properties. A condition will be attached to limit to the use to use Class 4 only. This will enable the Planning Authority to consider the implications of any subsequent change of use on the amenities of the area.

Overall, it is not considered that the proposed development would have a significant adverse impact upon the amenity or privacy of neighbouring properties.

Access and parking

The proposed development would be accessed via the existing vehicular access from the public road, which would be altered slightly to accommodate the business unit to the southern boundary of the site. Each dwellinghouse would have a front garden that would provide parking for two vehicles. The dwellinghouses would also benefit from private rear gardens. The business unit would provide parking for one vehicle within its curtilage. Three visitor parking spaces would be provided within the site.

Concerns have been raised regarding the access arrangements onto the public road and the impact this would have on road safety. Roads Planning Service was consulted as part of the application process. They do not raise any concern regarding the proposed access to the site or the parking arrangements within it.

Conditions will be attached to ensure that further details are provided for the alterations of the junction with the public road and the construction of the access road, as well as parking.

Services

The proposed development would be connected to the public water supply and public drainage network which is appropriate as the application site lies within the settlement of Gordon.

Concerns have been raised regarding foul drainage capacity to support the proposed development at the local waste water treatment works. Scottish Water is the statutory corporation that provides waste infrastructure for Scotland. Any permission granted would not in itself guarantee that the development could be connected to the public drainage network as this would be subject to a separate application to Scottish Water to provide the foul drainage infrastructure required for the proposed development.

A letter from Scottish Water has been submitted to support the application. It states that there is sufficient capacity at Gordon Waste Water Treatment Works to service the proposed development. It is understood that Gordon Waste Water Treatment Works has recently been upgraded with an increased capacity. It is expected that the proposed development could be adequately serviced by appropriate foul drainage infrastructure. A condition will be attached to ensure that the proposed development is connected to the public drainage network prior to the occupancy of any units.

A Surface Water Drainage Strategy report has been submitted to support the application. Surface water would be managed within the application site via type C permeable paved area and a soakaway located beneath the access road, with a minimum distance of 5 metres from any existing or proposed building footprints. This approach accords with the general aims of Policy IS9.

Contaminated land

They Council's Contaminated Land Officer was consulted as part of the application process. They advise that the application site previously operated as an industrial yard. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.

Petroleum licensing records indicate petroleum storage occurred within the application site.

A limited factual site investigation report has been submitted to support the planning application (prepared by Green Cat Renewables Ltd, dated 24 November 2021). Trial pit logs report the presence of strong kerosene and diesel odours within the two trial pits advanced.

The Contaminated Land Officer recommends that a condition should be attached to ensure that the development does not commence until a full site investigation and risk assessment has been carried out. Any requirement arising from this assessment for a remediation strategy and verification plan should be included, as deemed necessary.

Concerns have been raised regarding the presence of asbestos within the existing building and the implications for its removal from the application site. It is the applicant's responsibility to remove and dispose of any asbestos found within the existing building against prevailing legislation and guidance.

Trees

A mature tree belt lies to the east boundary of the application site. A report has been submitted to support the application that includes a ground level assessment of potential tree constraints. The report concludes that it is unlikely that the proposed development would adversely impact upon the health or vitality of existing trees provided they are properly protected during the construction phase of the development.

A condition will be attached to ensure that the precise details for tree protection are provided prior to any works commencing on site. This information should include a tree protection plan which accurately plots the root protection areas and the position of any physical barriers to protect the trees.

Ecology

The existing building may offer opportunities for nesting birds and roosting bats. There may be potential for the proposed development, through the demolition of the existing building to impact on bat or bird species, if they are present on site. In light of this, the applicant's agent submitted a Preliminary Roost Assessment to support the application. The Council's Ecology Officer has reviewed the report that has been submitted.

The Preliminary Bat Roost Assessment (prepared by Practecology, dated 18 April 2021) found no current or historic signs of bats using the application site. The buildings suitability to support bats is negligible.

Some birds, mainly wood pigeon and starlings are using the buildings for nesting. Therefore, compensatory bird boxes will be required as part of the development. The report does not specify the number of nests recorded in the building; considering the conservation status of wood pigeons (green) and starlings (red) the nests should be compensated at 2:1.

Conditions will be attached to ensure that a species protection plan for breeding birds is submitted if any works commence during the months of March to August inclusive, and to ensure that a scheme is submitted for compensatory nest boxes.

Prime quality agricultural land

The application site is identified as being an area of prime quality agricultural land. The application site relates to a brownfield site which is vacant. Therefore, the proposed development would not result in the loss of prime quality agricultural land.

Developer contributions

Policy IS2 aims to ensure that the cost of new or additional infrastructure required for new development is met by the developer. Developer contributions are sought towards education and lifelong learning, specifically Earlston High School, and affordable housing. The applicant has agreed to enter into a Section 75 Legal Agreement to settle the developer contributions sought by the Council.

Waste

There would be sufficient storage within the application site to store the appropriate refuse bins.

Archaeology

The Council's Archaeology Officer was consulted as part of the application process. They do not raise any concerns regarding the proposed development. They advise that an informative is recommended in case of any remains of the later 19th century buildings being found. It is unclear how much may remain of any of these buildings, but these would be expected to be only local in their significance. The same significance would also be applied to any features, such as rubbish or cess pits, associated with such buildings, and these too would also not require any archaeological conditions.

Conclusion

In consideration of the above, the proposed development is considered to comply with the relevant policies contained within the Scottish Borders Local Development Plan 2016. It is recommended that the application be granted.

REASON FOR DECISION :

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

Recommendation: Approved - conditions, inform & LA

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.

2 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.

3 No works in connection with the development hereby approved shall commence until detailed engineering drawings for the alterations of the junction with the public road have been submitted to and agreed in writing by the Planning Authority. Thereafter, the junction with the public road shall be altered and completed in strict accordance with the approved drawings prior to the occupation of the first dwellinghouse or business unit, whichever is first, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the junction is constructed to the correct standard to allow for vehicular and pedestrian movements in the interests of road safety.

4 No works in connection with the development hereby approved shall commence until detailed engineering drawings for the construction of the internal access road have been submitted to and agreed in writing by the Planning Authority. Thereafter, the access road shall be formed and completed in strict accordance with the approved drawings prior to the occupation of the first dwellinghouse or business unit, whichever is first, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure the access road is formed to a suitable standard to serve the development.

5 Two parking spaces, not including any garages, shall be provided within the curtilage of each plot prior to the dwellinghouse being occupied. Thereafter the parking spaces must be retained in perpetuity.
Reason: To ensure parking and turning are made available within the site.

6 No works in connection with the development hereby approved shall be undertaken during the breeding bird season (March to August inclusive), unless in strict compliance with a Species Protection Plan for breeding birds, including provision for pre-development supplementary survey, that shall be submitted to and agreed in writing by the Planning Authority. Thereafter, the development shall be carried out in complete accordance with the approved Species Protection Plan.
Reason: To protect the ecological interest of the site in accordance with Local Development Plan policies EP2 and EP3.

7 No works in connection with the development here by approved shall commence until a scheme for compensatory nest boxes for birds has been submitted to and agreed in writing by the Planning Authority. Thereafter, the development shall be carried out in complete accordance with the approved details.
Reason: To ensure the development accords with the requirements of Local Development policy EP3.

8 No works in connection with the development hereby approved shall commence until a details have been submitted to and agreed in writing by the Planning Authority for the protection of trees, within and adjacent to the application site. The approved protection measures shall be implemented prior to any works commencing on site and they shall be removed only when the development has been completed.
Reason: In the interests of preserving the health and vitality of existing trees on the development site, the loss of which would have an adverse effect on the visual amenity of the area.

9 Waste water from the proposed development shall be disposed of via the public sewer as indicated in the submitted application and shall not be disposed of via private means, unless otherwise agreed in writhing by the Planning Authority. The development shall be connected to the public sewer prior to the occupation of the first dwellinghouse or business unit, whichever is first.
Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

10 The proposed development shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply, unless otherwise agreed in writing by the Planning Authority. The development shall be connected to the public water supply prior to the occupation of the first dwellinghouse or business unit, whichever is first.
Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) or the Town and Country Planning (Use Classes) (Scotland) Order 1997 or any order amending, revoking or re-enacting these Orders, the business unit hereby approved (identified as plot 5 of the approved drawing PL_03) shall be used only for a purpose within Use Class 4 and shall not be used for any other purpose without the express grant of planning permission from the Planning Authority.

Reason: To enable the planning authority to consider the implications of any subsequent change of use on the amenities of the area.

Informatives

It should be noted that:

1 If any finds of archaeological interest are identified during the groundworks to progress this application, these should be recovered, reported and, if necessary, recorded with the Treasure Trove Unit in line with the law of the land in Scotland. If finds are made, then contacts with the Archaeology Officer can be made in case to advise whether Treasure Trove Unit recording will be required. Pictures can be sent with any email to archaeology@scotborders.gov.uk, though a general rule of post-1850 finds are not considered to be of special interest.

2 In the event that bats are discovered following the commencement of works, works should stop immediately and the developer must contact NatureScot for further guidance. Works can only recommence by following any guidance given by NatureScot. The developer and all contractors to be made aware of accepted standard procedures of working with bats at www.bats.org.uk.

3 It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

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

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SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY DECISION NOTICE

APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013

Local Review Reference: 22/00028/RREF

Planning Application Reference: 21/01905/FUL

Development Proposal: Erection of dwellinghouse

Location: Garden Ground Of Cheviot View Eden Road Gordon

Applicant: Mr Nigel Carey

DECISION

The Local Review Body varies the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

The proposed development would fail to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the small size of the site resulted in the proposal leading to a form of overdevelopment which does not respect the density of its surroundings and adversely impacts on the character and amenity of the surrounding area.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse with attached garage. The application drawings and documentation consisted of the following:

Plan Type	**Plan Reference No.**
Location Plan	C662-PP-001A
Proposed Site Plan	C662-PP-002B
Proposed Elevations	C662-PP-003A

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 21st November 2022. The review had previously been considered at the 17th October 2022 Local Review Body meeting where it was agreed that the appeal should be continued until a unaccompanied site visit had been carried out.

After examining the review documentation at that meeting, which included a) Notice of Review (including the Decision Notice, Officer's Report, consultations and appeal stament and supporting photograph's); b) Papers referred to in Officer's Report; and c) List of Policies. And having carried out further procedure in the form of an unaccompanied site visit, the Review Body proceeded to determine the case.

REASONING

The determining issues in this Review were:

(1) whether the proposal would be in keeping with the Development Plan, and
(2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, PMD5, HD3, ED10, IS2, IS7, IS9,

Other Material Considerations

- SBC Supplementary Planning Guidance on Developer Contributions 2021
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010

The Review Body noted that the proposal was for planning permission to erect a new dwellinghouse within an area of garden ground that was associated with the former dwellinghouse know as Cheviot View which has been demolished. Members noted that there was an extant planning consent for the erection of a single house directly to the west of this site, under planning reference 21/00913/FUL.

The Local Review Body noted that the site visit was of benefit as it allowed Members to view the site in its context and also consider the pattern of development within Gordon and particularly around Eden Road and Main Street. Members determined that the principle of backland development on this particular site would conform to the building pattern within the surrounding streetscape and that this was influenced by planning permission to build a house on another part of garden ground associated with the former dwelling of Cheviot View immediately adjacent to this proposal.

Members then moved on to consider the suitability of the proposal in terms of its siting and design. Members judged the size of the site to be small. Members observed that the small scale of the site resulted in the proposal being close to the position of the new house being developed under consent 21/00913/FUL. This would create a tight layout where two houses and their associated parking and turning areas would be located very close to one another and would have an uncomfortable relationship. The size of the plot would only offer limited

garden ground with its small scale minimising its function. The Local Review Body noted that Roads Planning had accepted the proposed access, parking and turning arrangements however Members noted that the small size of the site may struggle to accommodate future parking demands.

The Review Body concluded that the size of the site was the key determining issue. Overall, Members considered that the small scale nature of the site gave rise to a cramped layout, which represented overdevelopment of the site and failed to respect the character, amenity and pattern of development within the surrounding area. The proposal was judged to fail to comply with Policy PMD5 covering Infill Development, PMD2 covering Quality Standards and the Councils Placemaking and Design SPG.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was refused for the reasons stated above.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

1. If the applicant is aggrieved by the decision of the planning authority to refuse 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 question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions 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 of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed.....
Councillor Simon Mountford
Chairman of the Local Review Body

Date……

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Mr Nigel Carey
per Pro-found
Berwick Workspace
Boarding School Yard
Berwick Upon Tweed
TD15 1BN

Please ask for:	Cameron Kirk
☎	01835 825253
Our Ref:	21/01905/FUL
Your Ref:	
E-Mail:	cameron.kirk@scotborders.gov.uk
Date:	7th June 2022

Dear Sir/Madam

PLANNING APPLICATION AT Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders

PROPOSED DEVELOPMENT: Erection of a dwellinghouse

APPLICANT: **Mr Nigel Carey**

Please find attached the formal notice of refusal for the above application.

Drawings can be found on the Planning pages of the Council website at https://eplanning.scotborders.gov.uk/online-applications/.

Your right of appeal is set out within the decision notice.

Yours faithfully

John Hayward

Planning & Development Standards Manager

Scottish Borders COUNCIL

Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

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

Application for Planning Permission **Reference : 21/01905/FUL**

To : Mr Nigel Carey per Pro-found Berwick Workspace Boarding School Yard Berwick Upon Tweed TD15 1BN

With reference to your application validated on **8th December 2021** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

Proposal : Erection of a dwellinghouse

at : Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders

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

Dated 2nd June 2022
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

John Hayward
Planning & Development Standards Manager

APPLICATION REFERENCE : 21/01905/FUL

Schedule of Plans and Drawings Refused:

Plan Ref	Plan Type	Plan Status
C662-PP-001A	Location Plan	Refused
C662-PP-002B	Proposed Site Plan	Refused
C662-PP-003A	Proposed Plans & Elevations	Refused

REASON FOR REFUSAL

1 The proposed development would fail to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the proposed dwellinghouse would be far removed from the road frontage, as it would be situated behind an existing dwellinghouse, it would be in a position set apart and not integrated with the established character or pattern of the street scene and it would have no clear relationship to neighbouring properties, their established building lines or the general street pattern. It would not respect or respond to the established character of the surrounding area and it would not positively contribute to the overall sense of place. It is therefore considered that the proposed development would be inappropriate in this context as it would result in backland development.

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 (as amended) within three months from the date of this notice.

The notice of review must be submitted on the standard form and addressed to the Clerk of The Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St Boswells. TD6 0SA or sent by email to localreview@scotborders.gov.uk. The standard form and guidance notes can be found online at Appeal a Planning Decision. Appeals to the Local Review Body can also be made via the Scottish Government Planning and Environmental Appeals Division by clicking on the following link PEAD

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 (as amended).

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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 : 21/01905/FUL

APPLICANT : Mr Nigel Carey

AGENT : Pro-found

DEVELOPMENT : Erection of a dwellinghouse

LOCATION: Garden Ground Of Cheviot View
Eden Road
Gordon
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
C662-PP-001A	Location Plan	Approved
C662-PP-002B	Proposed Site Plan	Approved
C662-PP-003A	Proposed Plans & Elevations	Approved

NUMBER OF REPRESENTATIONS: 3
SUMMARY OF REPRESENTATIONS:

Three letters of representation (1 objection and 2 general comments) have been received by the Planning Authority. All issues raised have been considered. The letters raise the following material planning considerations:

o Access and parking.

Consultations

Community Council: They have not responded at the time of writing this report.

Roads Planning Service: They have no objections in principle to this proposal. However, they are a little concerned that the proposal would interfere with the operation of the parking and turning for the adjacent plot, the subjects of application 21/00913/FUL. They require an amended drawing to be submitted to demonstrate that both plots are able to park, and enter and exit the site in a forward gear, independent of each other.

The applicant e-mailed the Roads Planning Service directly to confirm that most of the fencing detailed on the site plan is to be removed to facilitate the majority of the foreground of the site to be used as parking/manoeuvring space.

The Roads Planning Service requires an amended drawing to be submitted demonstrating this before they are able to fully support the proposal.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

PMD1: Sustainability
PMD2: Quality Standards
PMD5: Infill Development
ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils
HD3: Protection of Residential Amenity
IS2: Developer Contributions
IS7: Parking Provision and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Supplementary Planning Guidance

Developer Contributions 2022
Householder Development (Privacy and Sunlight) 2006
Placemaking and Design 2010

Recommendation by - Cameron Kirk (Assistant Planning Officer) on 1st June 2022

Site description

The application site relates to an area of garden ground that was associated with the former dwellinghouse, Cheviot View, which has since been demolished. The application site is located within the development boundary for the settlement of Gordon. The application site is fairly flat and it is delineated by low level fences to the north, east and west boundaries, and a low level stone wall to the south boundary. Vehicular access to the site is made via an existing access from Eden Road to the north. There are neighbouring residential properties to the north, east and west, while the tennis court and bowling green lie to the south. The application site is identified as being an area of prime quality agricultural land.

Proposed development

Planning permission is sought for the erection of a bungalow, which would have a gable roof. The proposed dwellinghouse would have a footprint of approximately 80 square meters and it would be located fairly centrally within the plot.

Some of the materials to be used for the external finish for the proposed dwellinghouse include white render and larch cladding to the walls, natural slate to the roof, white uPVC windows and composite doors.

A communal parking and turning area that would serve the proposed dwellinghouse and the neighbouring property, Sherwood Cottage, as well as providing vehicular access to the adjacent plot to the east.

The proposed dwellinghouse would be connected to the public water supply network and public drainage network.

Relevant planning history

21/01111/FUL Erection of dwellinghouse. Withdrawn 06 September 2021.

Assessment

Principle

The application site lies within the development boundary for the settlement of Gordon. It is not designated or allocated for a particular use. In order to establish the principle of development it must be assessed against Policy PMD5.

Policy PMD5 advises that the development must not conflict with the established land use of the area. The application site is located within a residential area it would therefore be in keeping with the established use and character of the area.

Other issues required to be considered under Policy PMD5 are whether the proposed development would detract from the character and amenity of the surrounding area; lead to over-development or 'town and village cramming'; would respect the scale form, design, materials and density in context of its surroundings; can be adequately accessed and serviced; and it does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking. The aforementioned issues will be considered in greater detail in subsequent sections of this report as a number also have supporting/complementary policies in the Local Development Plan, particularly Policy PMD2, which must also be considered.

The general principle of exploring residential development is acceptable subject to other site specific considerations as explored below.

Layout, siting and design

Policy PMD2 aims to ensure that all new development is of a high quality and respects the environment in which it is contained. As previously mentioned, Policy PMD5 aims to ensure that any development is in keeping with the pattern of development found within the surrounding area.

Eden Road is characterised predominantly by terraced residential properties, of varying heights and design. Most of them flank the public road or at least have a presence from the public road. There was a derelict cottage to the east of the application site, which was an exception to this as it was located behind the row of cottages flanking Eden Road. Planning application 21/00913/FUL was granted to replace the dwellinghouse so it did not set a precedent for backland development.

The proposed dwellinghouse would be far removed from the road frontage as it would be situated behind an existing dwellinghouse. Without a road frontage, the location of the proposed dwellinghouse affords no direct public outlook. It would be in a position set apart and not integrated with the established character or pattern of the street scene. It would have no clear relationship to neighbouring properties, their established building lines or the general street pattern.

The Council's Supplementary Planning Guidance 'Placemaking and Design 2010' emphasises that new development must integrate well with the existing pattern of development, build upon the established character of an area and contribute positively to a sense of place. The proposed development is not considered to respect or respond to the character of the surrounding area, set apart from the other houses on Eden Road and it does not positively contribute to the overall sense of place. It is therefore considered that the proposed development would be inappropriate in this context as it would result in backland development. Therefore, it fails to comply with Policy PMD2 and Policy PMD5 for the aforementioned reasons.

The proposed dwellinghouse would be of an appropriate scale, character and appearance. The materials to be used for the external finish for the proposed dwellinghouse would be acceptable.

Residential amenity

Policy HD3 aims to protect neighbouring residential properties against inappropriate development that would result in the loss of amenity or privacy. The proposed dwellinghouse would not result in an unacceptable loss of daylight or sunlight to neighbouring properties. The proposed development would create a degree of overshadowing to adjacent properties garden ground, although it would not be significant enough to justify refusal.

The windows to the north elevation of the proposed dwellinghouse would overlook the parking and turning area, while the windows to the south elevation of the proposed dwellinghouse would overlook the rear garden ground for the proposal. The windows to the north and south elevations of the dwellinghouse would not unduly impact upon the amenity or privacy of neighbouring properties.

The windows to the east and west elevations of the dwellinghouse would overlook the neighbouring properties as they are close to the mutual boundaries. They are however to secondary rooms within the proposed dwellinghouse, one of which is the bathroom. It is expected that the bathroom would have obscure glazing for privacy. The window to the east elevation is located at the entrance to the proposed dwellinghouse. In light of this, it is not expected that the aforementioned windows would adversely impact upon the privacy of the neighbouring properties.

Access and parking

Policy PMD2 aims to ensure that there is no adverse impact on road safety, including but not limited to the site access. In addition, Policy IS7 states that development proposals should provide car parking in accordance with the approved standards. Vehicular access to the site would be taken from the public road to the north (A6105). There would be a communal parking and turning area that would serve the proposed dwellinghouse and the neighbouring property, Sherwood Cottage.

The Roads Planning Service was consulted on the application. They have no objections in principle to this proposal. However, they are a little concerned that the proposal would interfere with the operation of the parking and turning for the adjacent plot, the subjects of application 21/00913/FUL. They require an amended drawing to be submitted to demonstrate that both plots are able to park, and enter and exit the site in a forward gear, independent of each other.

The applicant's agent has submitted an amended drawing to show a communal parking and turning area that would serve the proposed dwellinghouse and the neighbouring property, Sherwood Cottage, as well as providing vehicular access to the adjacent plot to the east. The existing fence and gates that delineates the north boundary of the application site would be removed to facilitate this.

Roads Planning Service has reviewed the amended drawing and they confirm that it is acceptable. Parking would need to be secured by condition.

Services

The proposed dwellinghouse would be connected to the public water supply network and public drainage network. The proposed servicing for the development would be acceptable in principle and the precise details for drainage would be agreed at the Building Warrant stage. Conditions would be required to ensure that the proposed development is serviced as specified, unless otherwise agreed in writing by the Planning Authority.

Waste

There would be ample space within the application site to store refuse bins.

Developer contributions

Policy IS2 aims to ensure that the quality of services and facilities is not compromised by new development. The cost of new or additional infrastructure required for new development must be met by the developer. Developer contributions are sought towards education and lifelong learning, specifically Earlston High School. This would be dealt with by way of a legal agreement, should the application be approved.

Prime quality agricultural land

The application site is identified as being an area of prime quality agricultural land. The application site is regarded as domestic garden ground. Therefore, the proposal would not result in the loss of prime quality agricultural land.

Conclusion

The proposed development would fail to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the proposed dwellinghouse would be far removed from the road frontage as it would be situated behind an existing dwellinghouse, it would be in a position set apart and not integrated with the established character or pattern of the street

scene and it would have no clear relationship to neighbouring properties, their established building lines or the general street pattern.

The proposed development is not considered to respect or respond to the character of the surrounding area, set apart from the other houses on Eden Road and it does not positively contribute to the sense of place. It is therefore considered that the proposed development would be inappropriate in this context as it would result in backland development.

There are no material planning considerations which suggest that housing development in this location would be acceptable and there are no known extenuating circumstances of other material considerations which indicate that the application should be supported as an acceptable departure from the Scottish Borders Local Development Plan 2016.

REASON FOR DECISION :

The proposed development would fail to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the proposed dwellinghouse would be far removed from the road frontage, as it would be situated behind an existing dwellinghouse, it would be in a position set apart and not integrated with the established character or pattern of the street scene and it would have no clear relationship to neighbouring properties, their established building lines or the general street pattern. It would not respect or respond to the established character of the surrounding area and it would not positively contribute to the overall sense of place. It is therefore considered that the proposed development would be inappropriate in this context as it would result in backland development.

Recommendation: Refused

1 The proposed development would fail to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the proposed dwellinghouse would be far removed from the road frontage, as it would be situated behind an existing dwellinghouse, it would be in a position set apart and not integrated with the established character or pattern of the street scene and it would have no clear relationship to neighbouring properties, their established building lines or the general street pattern. It would not respect or respond to the established character of the surrounding area and it would not positively contribute to the overall sense of place. It is therefore considered that the proposed development would be inappropriate in this context as it would result in backland development.

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

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Mr Ryan McCue
per Tony Kartec
46(1F4) Albion Road
Edinburgh
EH7 5QU

Please ask for: Cameron Kirk
☎ 01835 825253

Our Ref: 21/00913/FUL

Your Ref:

E-Mail: cameron.kirk@scotborders.gov.uk

Date: 2nd August 2021

Dear Sir/Madam

PLANNING APPLICATION AT Garden Ground of Cheviot View Eden Road Gordon Scottish Borders

PROPOSED DEVELOPMENT: Erection of a dwellinghouse (change of house type previously approved under permission 17/01491/FUL)

APPLICANT: **Mr Ryan McCue**

Please find attached the decision notice for the above application.

Please read the schedule of conditions and any informative notes carefully.

Drawings can be found on the Planning pages of the Council website at https://eplanning.scotborders.gov.uk/online-applications/ . Please see the requirement for notification of initiation and completion of development as well as for Street naming and numbering as appropriate.

It should be noted that before works commence, where applicable, all necessary consents should be obtained under the Building (Scotland) Act 2003. If you require any further information in this respect, please contact the relevant Building Standards Surveyor.

Yours faithfully

John Hayward

Planning & Development Standards Manager

Scottish Borders COUNCIL

Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

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

Application for Planning Permission **Reference : 21/00913/FUL**

To : Mr Ryan McCue per Tony Kartec 46(1F4) Albion Road Edinburgh EH7 5QU

With reference to your application validated on **2nd June 2021** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

Proposal : Erection of a dwellinghouse (change of house type previously approved under permission 17/01491/FUL)

at : Garden Ground of Cheviot View Eden Road Gordon Scottish Borders

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 (as amended), 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 29th July 2021
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

John Hayward
Planning & Development Standards Manager

APPLICATION REFERENCE : 21/00913/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
PP(250)01	Location Plan	Approved
PA(250)02	Proposed Plans & Elevations	Approved

REASON FOR DECISION

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

SCHEDULE OF CONDITIONS

1 Prior to commencement of development, full details of all external materials for the approved dwellinghouse and full details of the surfacing of all shared surfaces are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.
Reason: To maintain effective control over the development.

2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or amendments or re-enactment or re-enactment thereof) no extension, enlargement; or other alteration of the dwelling shall be carried out without the prior written consent of the Council, to whom a planning application must be made.
Reason: The Planning Authority considers that the development hereby permitted is the maximum that can be reasonably allowed without causing detriment to the amenities of adjoining properties, and for this reason would wish to control any future proposals or alterations or extensions.

3 Prior to the commencement of development, a scheme of details setting out arrangements and locations for domestic waste and recycling storage and collection are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure suitable provisions are made for the provision and storage of domestic waste and recycling within the site.

4 Turning and parking for a minimum of two vehicles, excluding garages, to be provided within the site before the dwellinghouse is occupied and retained thereafter in perpetuity.
Reason: To ensure on-site car parking is provided, in the interests of road safety on the public road.

5 No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

i. existing and finished ground levels in relation to a fixed datum preferably ordnance
ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
iii. location and design, including materials, of walls, fences and gates
iv. soft and hard landscaping works
v. existing and proposed services such as cables, pipelines
vi. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

1 The applicant/developer is reminded that the developer contributions sought pursuant to the Section 75 Legal Agreement under planning application 17/01491/FUL would continue to be applicable for the current planning application.

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.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:
Monday-Friday 0700-1900
Saturday 0800-1300
Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 “Code of Practice for Noise and Vibration Control on Construction and Open Sites”.

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act 1997 (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 available on the Council’s website for this purpose.

Notice of Completion of Development

Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) 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 (as amended) within three months from the date of this notice.

The notice of review must be submitted on the standard form and addressed to the Clerk of The Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St Boswells. TD6 0SA or sent by email to localreview@scotborders.gov.uk. The standard form and guidance notes can be found online at Appeal a Planning Decision. Appeals to the Local Review Body can also be made via the Scottish Government Planning and Environmental Appeals Division by clicking on the following link PEAD

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 (as amended).

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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 : 21/00913/FUL

APPLICANT : Mr Ryan McCue

AGENT : Tony Kartec

DEVELOPMENT : Erection of a dwellinghouse (change of house type previously approved under permission 17/01491/FUL)

LOCATION: Garden Ground Of Cheviot View
Eden Road
Gordon
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
PP(250)01	Location Plan	Approved
PA(250)02	Proposed Plans & Elevations	Approved

NUMBER OF REPRESENTATIONS: 1
SUMMARY OF REPRESENTATIONS:

One general comment was received by the Planning Authority. The letter raises matters relating to land ownership. As this is not a material planning consideration it will not form part of the assessment of the application.

Consultations

Community Council has not responded at the time of writing this report.

Roads Planning Service note that the application is effectively the same as the previous permission with some revisions to the proposed house type and, as such, they shall have no objections provided a standard condition is attached in relation to parking.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

PMD1: Sustainability
PMD2: Quality Standards
PMD5: Infill Development
ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils
HD3: Protection of Residential Amenity
IS2: Development Contributions

IS7: Parking Provision and Standards
IS9: Waste Water Treatment and Sustainable Urban Drainage

Supplementary Planning Guidance

Developer Contributions 2021
Householder Development (Privacy and Sunlight) 2006
Placemaking and Design 2010
Waste Management 2015

Recommendation by - Cameron Kirk (Assistant Planning Officer) on 28th July 2021

Site description

The application site relates to a derelict cottage that is located within the garden ground of the dwellinghouse, Cheviot View, which is located within the settlement of Gordon. It is understood that the derelict cottage stands to wallhead height. Vehicle access to the site is made via an existing access from Eden Road to the north. There are neighbouring residential properties to the north, while the tennis court and bowling green lie to the south. The application site is identified as being an area of prime quality agricultural land.

Proposed development

Permission was granted under application 17/01491/FUL for the erection of a single storey, one bedroom cottage. It is proposed to change the house design slightly to accommodate a second bedroom.

The proposed access would not be altered under this application and parking for two vehicles would be provided within the curtilage of the proposed dwellinghouse. The proposed dwellinghouse would be served by the public water supply network and public drainage network.

Relevant planning history

17/01491/FUL Demolition of derelict cottage and erection of dwellinghouse. Granted 23 October 2018.

21/00056/FUL Erection of dwellinghouse (change of house type previously approved under permission 17/01491/FUL). Withdrawn 08 April 2021.

Assessment

Principle of development

The principle of development is considered to be acceptable by virtue of the consent granted under application 17/01491/FUL which is yet to expire and could be implemented. This application merely seeks to change the design for the proposed dwellinghouse. The principle of development is considered to be acceptable.

Layout, design and materials

Policy PMD2 aims to ensure that any development is of the highest quality and it respects the environment in which it is contained. The proposed dwelling would be built in the same position as to the dwellinghouse granted under the previous application 17/01491/FUL. The changes to the proposed dwellinghouse would not drastically alter its visual appearance. The materials to be used for the external finish for the proposed development would be acceptable in principle. The precise details will be sought by way of condition. Overall, the proposed dwellinghouse would be of an appropriate scale, character and appearance.

In line with the previous application 17/01491/FUL, permitted development rights will be removed which precludes the proposed dwellinghouse from being extended, enlarged or altered without the express grant of planning permission from the Planning Authority.

Residential amenity

Policy HD3 aims to protect neighbouring residential properties against inappropriate development that would result in the loss of amenity or privacy. The proposed dwellinghouse would not result in an unacceptable loss of daylight, sunlight or increased overshadowing to neighbouring properties once the development is completed. Furthermore, it would not unduly impact the neighbouring properties in terms of overlooking or loss of privacy. Overall, the proposed development would not have a significant adverse impact to neighbouring properties.

Access and parking

The application site would be access from an existing access from the Eden Road to the north. Parking for two vehicles would be provided to the north of the application site. Roads Planning Service was consulted as part of the application process. They do not object to the application subject to a standard condition being attached in relation to parking.

Services

The proposed dwellinghouse would be connected to the public water supply network and public drainage network. This would be acceptable to the Planning Authority.

Waste

Details for waste bin storage have not be provided at this stage. It is anticipated that there is sufficient room within the curtilage of the proposed dwellinghouse for waste bin storage. This information will be sought by way of condition.

Developer contributions

Policy IS2 aims to ensure that the cost of new or additional infrastructure required for new development is met by the developer. Under application 17/01491/FUL developer contributions were secured through a Section 75 Legal Agreement should the proposed dwellinghouse have two or more bedrooms. The proposed dwellinghouse would have two bedrooms and it will engage developer contributions for Education and Lifelong Learning, specifically Earlston High School.

An informative note will be added to inform the applicant/developer that the developer contributions sought pursuant to the Section 75 Legal Agreement under planning application 17/01491/FUL would continue to be applicable for the current planning application.

Prime quality agricultural land

The application site is identified as being an area of prime quality agricultural land. The proposed development would result in the replacement of an existing derelict cottage that can be found on the application site. Therefore, the proposal would not result in the loss of prime quality agricultural land.

Conclusion

In consideration of the above, the proposed development is considered to comply with the relevant policies contained within the Scottish Borders Local Development Plan 2016. It is recommended that the application be granted.

REASON FOR DECISION :

Subject to compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

Recommendation: Approved - conditions & informatives

1 Prior to commencement of development, full details of all external materials for the approved dwellinghouse and full details of the surfacing of all shared surfaces are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.
Reason: To maintain effective control over the development.

2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or amendments or re-enactment or re-enactment thereof) no extension, enlargement; or other alteration of the dwelling shall be carried out without the prior written consent of the Council, to whom a planning application must be made.
Reason: The Planning Authority considers that the development hereby permitted is the maximum that can be reasonably allowed without causing detriment to the amenities of adjoining properties, and for this reason would wish to control any future proposals or alterations or extensions.

3 Prior to the commencement of development, a scheme of details setting out arrangements and locations for domestic waste and recycling storage and collection are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure suitable provisions are made for the provision and storage of domestic waste and recycling within the site.

4 Turning and parking for a minimum of two vehicles, excluding garages, to be provided within the site before the dwellinghouse is occupied and retained thereafter in perpetuity.
Reason: To ensure on-site car parking is provided, in the interests of road safety on the public road.

5 No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
i. existing and finished ground levels in relation to a fixed datum preferably ordnance
ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
iii. location and design, including materials, of walls, fences and gates
iv. soft and hard landscaping works
v. existing and proposed services such as cables, pipelines
vi. A programme for completion and subsequent maintenance.
Reason: To ensure the satisfactory form, layout and assimilation of the development.

Informatives

It should be noted that:

1 The applicant/developer is reminded that the developer contributions sought pursuant to the Section 75 Legal Agreement under planning application 17/01491/FUL would continue to be applicable for the current planning application.

"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

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

Application for Planning Permission **Reference : 17/01491/FUL**

To : Sheena Inwood per Hunter Architecture 231 Galashiels Road Stow Scottish Borders TD1 2RE

With reference to your application validated on **6th November 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Demolition of derelict cottage and erection of dwellinghouse

At : Garden Ground of Cheviot View Eden Road Gordon Scottish Borders

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 23rd October 2018
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

Signed .....
Depute Chief Planning Officer

Scottish Borders COUNCIL

Regulatory Services

APPLICATION REFERENCE : 17/01491/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
1305.PL.1	Location Plan	Approved
1305.PL.3	Block Plans	Approved
1305.PL.2	Elevations	Approved

REASON FOR DECISION

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the Local Development Plan 2016 and there are no material considerations that would justify a departure from these provisions.

SCHEDULE OF CONDITIONS

1 Prior to commencement of development, full details of all external materials for the approved dwellinghouse and full details of the surfacing of all shared surfaces are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.
Reason: To maintain effective control over the development.

2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or amendments or re-enactment or re-enactment thereof) no extension, enlargement; or other alteration of the dwelling shall be carried out without the prior written consent of the Council, to whom a planning application must be made.
Reason: The Planning Authority considers that the development hereby permitted is the maximum that can be reasonably allowed without causing detriment to the amenities of adjoining properties, and for this reason would wish to control any future proposals or alterations or extensions.

3 Prior to the commencement of development, a scheme of details setting out arrangements and locations for domestic waste and recycling storage and collection are to be submitted to and approved in writing by the Planning Authority. Thereafter the development is to be completed in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority.
Reason: To ensure suitable provisions are made for the provision and storage of domestic waste and recycling within the site.

4 Turning and parking for a minimum of two vehicles, excluding garages, to be provided within the site before the dwellinghouse is occupied and retained thereafter in perpetuity.
Reason: To ensure on-site car parking is provided, in the interests of road safety on the public road.

5 No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

i. existing and finished ground levels in relation to a fixed datum preferably ordnance
ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
iii. location and design, including materials, of walls, fences and gates
iv. soft and hard landscaping works
v. existing and proposed services such as cables, pipelines
vi. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

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.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:
Monday-Friday 0700-1900
Saturday 0800-1300
Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

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 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.

Tuesday, 23 May 2023

Local Planner
Development Management
Scottish Borders Council
Newtown St. Boswells
TD6 0SA

Development Operations
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow
G33 6FB

Development Operations
Freephone Number - 0800 3890379
E-Mail - DevelopmentOperations@scottishwater.co.uk
www.scottishwater.co.uk
Follow Us

Dear Customer,

Garden Ground, Cheviot View Eden Road, Gordon, TD3 6JT
Planning Ref: 23/00716/FUL
Our Ref: DSCAS-0087161-5CC
Proposal: Erection of dwellinghouse

Please quote our reference in all future correspondence

Audit of Proposal

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced. Please read the following carefully as there may be further action required. Scottish Water would advise the following:

Water Capacity Assessment

Scottish Water has carried out a Capacity review and we can confirm the following:

- There is currently sufficient capacity in the Howden Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

Waste Water Capacity Assessment

- This proposed development will be serviced by Gordon Waste Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow us to fully appraise the proposals we suggest that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via our Customer Portal or contact Development Operations.

SW Public
General

Please Note

- The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- Scottish Water asset plans can be obtained from our appointed asset plan providers:
    - Site Investigation Services (UK) Ltd
    - Tel: 0333 123 1223
    - Email: sw@sisplan.co.uk
    - www.sisplan.co.uk

- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.

- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.

- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

SW Public
General

- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.

- Please find information on how to submit application to Scottish Water at our Customer Portal.

Next Steps:

All Proposed Developments

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via our Customer Portal prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

Non Domestic/Commercial Property:

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

Trade Effluent Discharge from Non-Domestic Property:

- Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.
- If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject “Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found here.
- Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.

SW Public
General

- For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.
- The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 5kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at planningconsultations@scottishwater.co.uk.

Yours sincerely,

Angela Allison
Development Services Analyst
PlanningConsultations@scottishwater.co.uk

Scottish Water Disclaimer:

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."

SW Public
General

CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION

Comments provided by	**Officer Name and Post:** Keith Elliott Archaeology Officer	**Contact e-mail/number:** Keith.Elliott@scotborders.gov.uk 01835 824 000 ext 8886
Date of reply	26.05.2023	**Consultee reference:**
Planning Application Reference	23/00716/FUL	**Case Officer:** Cameron Kirk
Applicant	Mr Nigel Carey	
Agent	N/A	
Proposed Development	Erection of dwellinghouse	
Site Location	Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders	
The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.		
Background and Site description	This application proposes the construction of a new house in the garden ground of Cheviot View, off the main street of Eden Road which runs more or less east to west through the village of Gordon, in the central parts of the Scottish Borders. The proposed location is in the surroundings of one the mapped entries in the Scottish Borders Historic Environment Record (HER) lying as it does within a historic village of the area. Previous planning applications have been made for the area, but no previous Archaeology Officer comments have been made.	
Key Issues (Bullet points)	• Currently garden or open ground previously occupied by buildings • Limited potential for any archaeological material • Previous planning applications for the site and the lack of Archaeology Officer comment upon them	
Assessment	The proposed site of the house is in existing garden or at the very least open ground off the southern side of Eden Road. The site is shown free of buildings by the various 19th and early 20th century editions of the Ordnance Survey mapping. No archaeological finds, features and/or deposits have been previously recorded from this area of Gordon. The submitted details include mention of a 1940s to 1970s buildings being on site prior to its removal. No further details of these are known and they have not appeared to have received archaeological comments, such as for a historic building recording condition. No previous archaeological comments were made for this area during the previous planning applications for the site; some disturbance of the site will have already taken place in the erection of the building. The proposed footprint of the new building appears to be largely over the area of the previous buildings. These appear in the first post-Second World War mapping to have had a narrow space between them and it is there that fresh groundworks	

	may encounter archaeological materials, but to either side of this gap the previous buildings may have led to some disturbance already. It is possible that there may be some evidence of backland activities identified during these groundworks for the house's foundations and service trenches should this application be progressed and consented. These are not likely to be any more than locally significant as none of the adjacent buildings are labelled as to a function in the old Ordnance Survey map editions and may be present as a scatter of material from middens or in discrete rubbish pits. There will be no impact from this application to the church building located on the opposite (northern) side of Eden Road. **An informative in case of any major concentrations of finds, features and/or deposits would be a useful addition to any granted planning permission in line with the *Planning Advice Note 2/2011: Planning and Archaeology* paragraphs 31 and 32. The suggested wording for such an informative are given below.**			
Recommendation	☐ **Object**	☐ **Do not object**	☒ **Do not object, subject to conditions**	☐ **Further information required**
Recommended Conditions	No archaeological conditions are recommended for this application.			
Recommended Informatives	If any finds of archaeological interest are identified during the groundworks to progress this application, these should be recovered, reported and, if necessary, recorded with the Treasure Trove Unit in line with the law of the land in Scotland. If finds are made, then contacts with the Archaeology Officer can be made in case to advise whether Treasure Trove Unit recording will be required. Pictures can be sent with any email to archaeology@scotborders.gov.uk. The *Planning Advice Note 2/2011: Planning and Archaeology* notes that; *32. Planning Authorities and developers should be aware of the legal requirement to report the discovery of human remains and archaeological artefacts whether recovered in planned investigation or by chance. Human remains should be reported to the police. Archaeological artefacts should be reported for identification and assessment as possible "Treasure Trove", or as "wreck" if found under water. Human remains and artefacts must if possible be left in situ while the archaeologist is summoned, rather than being lifted and taken off site.*			

CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION

Comments provided by	**Officer Name and Post:**	**Contact e-mail/number:**
	EVH - Contaminated Land Officer	
Date of reply	13th June 2023	**Consultee reference:** 23/01397/PLANCO
Planning Application Reference	23/00716/FUL	**Case Officer:** Cameron Kirk
Applicant	Mr Nigel Carey	
Agent	N/A	
Proposed Development	Erection of dwellinghouse	
Site Location	Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders	

The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.

Background and Site description	The above application appears to be proposing the redevelopment of land which was previously operated as a garage. This is understood to have included licensed petroleum storage which was subsequently converted to diesel. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.
Key Issues (Bullet points)	
Assessment	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.

Recommendation	☐ **Object**	☐ **Do not object**	☒ **Do not object, subject to conditions**	☐ **Further information required**

Recommended 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.
Recommended Informatives	

CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION

Comments provided by	**Roads Planning Service**	
Officer Name, Post and Contact Details	**Mark Payne** **Roads Planning Officer**	**mark.payne@scotborders.gov.uk** **01835 825018**
Date of reply	5th June 2023	**Consultee reference:**
Planning Application Reference	23/00716/FUL	**Case Officer:** Cameron Kirk
Applicant	Mr Nigel Carey	
Agent	N/A	
Proposed Development	Erection of dwellinghouse	
Site Location	Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders	

The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.

Background and Site description	• Adjacent site 21/00913/FUL Erection of dwellinghouse (Approved) • 21/01111/FUL Erection of dwellinghouse (Withdrawn) • 21/01905/FUL Erection of dwellinghouse (Refused at LRB)			
Key Issues	• Parking and turning			
Assessment	Roads Planning Service were consulted about the previous applications on this site and offered no objections to the principle of development at this site. Concern was however noted about the operation of the parking and turning at the adjacent plot, subject to application 21/00913/FUL. The amended plans provided for the new application address this issue and allow for parking and turning for two vehicles and provision for the same at the adjacent plot. As such, I shall have no objection to this proposal subject to the condition below being included in any subsequent approval.			
Recommendation	☐ Object	☐ Do not object	☒ **Do not object, subject to conditions**	☐ Further information required
Recommended Conditions	Parking and turning for two vehicles, excluding garages, for both dwellings must be provided within the curtilage of the plot before the dwellinghouse is occupied and retained thereafter in perpetuity. Reason: To ensure the property is served by adequate parking at all times.			
Recommended Informatives				

Signed: *AJS*

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Comments for Planning Application 23/00716/FUL

Application Summary

Application Number: 23/00716/FUL
Address: Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders
Proposal: Erection of dwellinghouse
Case Officer: Cameron Kirk

Customer Details

Name: Mrs Anna Maria Potamiti
Address: Cheviot Cottage, Eden Road, Gordon, Scottish Borders TD3 6JT

Comment Details

Commenter Type: Neighbour
Stance: Customer made comments in support of the Planning Application
Comment Reasons:
- Density of site
- Health Issues
- Land affected
- Legal issues
- Litter
- Value of property

Comment:I fully support this application. I look forward to having a cute, well tended property next door. Previously the site had been abandoned and abused for decades. It became unsanitary weed and vermin infested dumping ground and danger to anyone who might wander in. This new proposal will return a prime piece of land to the community and be cared for.

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Comments for Planning Application 23/00716/FUL

Application Summary

Application Number: 23/00716/FUL
Address: Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders
Proposal: Erection of dwellinghouse
Case Officer: Cameron Kirk

Customer Details

Name: Mrs Anna Maria Potamiti
Address: 7 Over Roxburgh Farm Cottages, Kelso, Scottish Borders TD5 8LY

Comment Details

Commenter Type: Member of Public
Stance: Customer made comments neither objecting to or supporting the Planning Application
Comment Reasons:
Comment:It seems that an unusual amount of commentary has arisen about this application. The small cottage now under construction on the adjacent plot received no comments at all when the application for demolition and rebuilding was submitted in 2017. Subsequent applications for this site generated comments related only to the height of the original proposal and a subsequent application which addressed the height issue received tacit support, apart from some concerns about parking which were irrelevant. It seems strange now that there should be such and outpouring of negativity whereas there was none previously.
With regard to the condition of this site when it was taken over, there is a photographic record on the application for the small cottage now known as Cheviot Cottage, in which the site can partially be viewed. The overgrown state seen in the photos does not suggest any remedial action or care was ever taken to control weeds, etc. There is evidence of dumping in the photos and further evidence was seen in subsequent photos taken in early 2021 which clearly illustrates dumping of assorted builders rubble, sheets of corrugated material, old wheels, tyres, bicycles, et al, including a dangerously rusted old car. Not evidence of anyone looking after the site. Evidence only of abandonment and abuse. Furthermore one would then raise the question of the necessity of having to use baited vermin traps?

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Comments for Planning Application 23/00716/FUL

Application Summary

Application Number: 23/00716/FUL
Address: Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders
Proposal: Erection of dwellinghouse
Case Officer: Cameron Kirk

Customer Details

Name: Mr Grant Neilson
Address: Old Free Church, Eden Road, Gordon, Scottish Borders TD3 6JT

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Height of .....
- Inadequate access
- Inadequate drainage
- Increased traffic
- Land affected
- Legal issues
- No sufficient parking space
- Overlooking
- Poor design
- Privacy of neighbouring properties affec
- Road safety
- Water Supply

Comment:Application number: 23/00716/FUL
Proposed development: Erection of dwelling house
Officer: Cameron Kirk
We are objecting on the grounds that this small area of land is actually one of two linked plots and is being over built. The other side already has one house taking up most of the allocated area and this application is doing the same - the house applied for is far too big for this small area of ground. Like the other house Mr Carey has had built, it is almost abutting the neighbours walls on both sides of the plot and leaves very little garden ground and no land for the required 2 parking spaces. Also, although too big for the plot, the actual house is so small it will surely only ever be used as holiday accommodation (most likely the house Mr Carey is building on the other side of this plot will be the same as although overpowering the site it too is far too tiny for permanent living). This will lead to more issues as obviously holiday makers are less interested in maintaining the amenity of an area for the residents.

Looking at the history of this site:
It is being referred to as "garden ground" however the land on this side of the plots has never been the garden of any cottage. The land was an agricultural and commercial garage since before to the 1950s then unused for some years latterly; the physical ground of course being subjected to the conditions one would expect from working garage premises with oil deposits etc and working fuel reserves. The sliver of land on the left hand side of the plots, which uses the same access from Eden Road had been a tiny cottage, which had been abandoned and fallen into ruins many years ago. This sliver is currently being built on by Mr Carey.

The 2 sites are now owned by the same person and you will note that in each of Mr Carey's (and others') applications - previous application history 17/01491/FUL, 121/00056/FUL, 21/00913/FUL, 21/01111/FUL, 21/01905/FUL, 21/00913/FUL and now this application - they are careful to not note the other building and always suggest there is only one house being built. There is currently one property not far from being finished on the left hand side sliver of land (as you look from Eden road - granted under 22/00716/FUL) which pretty much covers the entire plot bar the spaces for 2 cars. This new application concerns the right hand side of the plot, and has been previously refused under application 21/01905/FUL - reasons noted below from your refusal letter - and nothing on the ground in real life has changed since that refusal.
"21/01905/FUL REASON FOR REFUSAL 1 The proposed development would fail to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the proposed dwellinghouse would be far removed from the road frontage, as it would be situated behind an existing dwellinghouse, it would be in a position set apart and not integrated with the established character or pattern of the street scene and it would have no clear relationship to neighbouring properties, their established building lines or the general street pattern. It would not respect or respond to the established character of the surrounding area and it would not positively contribute to the overall sense of place. It is therefore considered that the proposed development would be inappropriate in this context as it would result in backland development."

Parking
You will see from all the applications (noted above) that the area in front of the applied for second house on this side of the plot has always been noted as "communal turning and parking". The reason for this is because two neighbours own and have used parking areas on part of the land that Mr Carey is applying for permission in this application. They go in and out the narrow opening, turn their cars and park there. It has been drawn out on the location plan that the new owners of this new house will use these. The new owners will not be able to use these two parking spaces as my 2 neighbours own and use these and have done for many many years. You will note in the refused application Mr Carey had noted the car parking for the applied for house was to be directly in front of the applied for house as he is aware of this since they park there every day when he comes to site to inspect the other house he is having built.

When there are my neighbours' 2 cars, the two car parking areas for the house already being constructed and somewhere on this tiny bit of land 2 more car parking spaces for this new application, that will mean 6 cars coming and going through this narrow opening into a very small area. If you look at the application 17/01491/FUL you will see my neighbour's car in his space and if we could have attached current photos you would see the area with the new build nearing completion and the small area on the right currently housing a skip which is to be potentially well over-built with a second house if you allow this application.

As it is, with the current house under construction, Mr Carey's workforce has from time to time parked their vans without permission on land owned by us in front of our house up on the pavement. Eden Road, being the main A68 to Berwick upon Tweed link, is a very busy road with farm traffic, large lorries and emergency vehicles passing all the time, there is little room for extra cars up on the pavements and certainly no room for them to park on the road.

Water
I note that Scottish Water are not guaranteeing that this new house will be able to be connected to the current services. I understand that a year or two ago there was concerns regarding the extra water and sewage disposal demands that new builds were making and the capacity was close to its limit. Since then another house is currently being built along Eden Road and 6 more have been granted permission off Edinburgh Road.

Yours
Mr and Mrs Neilson

[redacted]

From: Kirk, Cameron
Sent: 05 July 2023 16:32
To: Planning & Regulatory Services
Subject: FW: 23/00716/FUL
Attachments: 2 second note to planning.docx

Categories: Awaiting Response

From: Janis Neilson
Sent: 05 July 2023 11:40
To: Kirk, Cameron <Cameron.Kirk@scotborders.gov.uk>
Subject: 23/00716/FUL

CAUTION: External Email

Dear Mr Kirk

We note a new comment has gone on supporting the above application which has been added well after the deadline. It has been sent in by a party invested in the planning application although couched in terms of a physical neighbour of the intended property. Please see our attached further comment as it does not stand up to scrutiny at all

Yours sincerely

J&G Neilson

Background

Area of land within Gordon was owned separately in 2 parts, now both parts are owned by the same husband and wife developer team. Various applications have come into the planning department to put a house on each of these two adjoining areas of land, each carefully omitting any reference to the other property they have been trying to get planning permission for. The one that has so far been successful is for the smaller area is under 22/00968/FUL. This cottage has been started and is nowhere near finished. Photo of it at today's date - 5 July 2023.

I assume it's going to be called Cheviot Cottage as it is on land previously called Cheviot View which held a small cottage many many years ago.

Now there is another planning application under 23/00716/FUL for the bigger side of the two plots, this side was previously a garage (the bit with the skip in the above photo).

Please see copy below of Support Comment published 30 June 2023 on your website.

Comments for Planning Application 23/00716/FUL

Application Summary Application Number: 23/00716/FUL

Address: Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders

Proposal: Erection of dwellinghouse

Case Officer: Cameron Kirk

Customer Details Name: Mrs Anna Maria Potamiti

Address: Cheviot Cottage, Eden Road, Gordon, Scottish Borders TD3 6JT

Comment Details Commenter Type: Neighbour Stance: Customer made comments in support of the Planning Application Comment

Reasons: - Density of site - Health Issues - Land affected - Legal issues - Litter - Value of property

Comment :I fully support this application. I look forward to having a cute, well tended property next door. Previously the site had been abandoned and abused for decades. It became unsanitary weed and vermin infested dumping ground and danger to anyone who might wander in. This new proposal will return a prime piece of land to the community and be cared for.

Point 1 Comments had to be in by 07/06/2023 and yet this seems to be have been added well beyond

Point 2 "I fully support this application" - of course they do, she is one of the ones trying to get planning permission.

Point 3 This commenter appears by their address to suggest they are already living at Cheviot Cottage and want this application to succeed as they want "a cute well tended property next door" (which, if granted, actually will be squashed almost right up against their boundary and blocking most of the sun to their minuscule garden) and it is written in the manner of a happy member of the community of Gordon. This is in fact the person noted as owning the land in the various applications and it appears the partner in the development and, according to social media at least, the wife of the applicant. As you will see from the many applications for these two sites they both live at Over Roxburgh and not in Gordon at all.

Point 4 the suggestion that this is her address is untenable considering the place has no doors and is still a building site as per photo above.

Point 5 The suggestion that a building on this land will return it to the community is ridiculous as it will be privately owned and not available to the community in any way, shape or form.

Point 6 The suggestion that previously the land was unsanitary, weed and vermin infested and a dumping ground is also ridiculous. It was kept clear of weeds by surrounding neighbours, nothing extra had been dumped on it in the 30 years it sat there in that condition and even any wind blown litter was disposed of by the neighbours.

We don't have any problem with people trying to enhance their own position. This couple, we assume, are merely trying to put the best spin on it to ensure their application is seen favourably by the planning department. Unfortunately the above comment was so out of touch with the real situation we felt we had to add our comments. We therefore stand by our original objection that the site should have been one small house with a nice garden, not shoehorning 2 over-large-for-the-plots houses and multiple parking spaces into too small a space.

[redacted]

From: Marion Waite [redacted]
Sent: 31 May 2023 14:12
To: Planning & Regulatory Services
Subject: 23/00716/FUL

CAUTION: External Email

Objections to Garden Ground of Cheviot View. Our objections are to hight of bungalow which will overshadow our property also size of bungalow will overdevelop the area taking into account the turning area for all vehicles. Living next door we also have concerns there has been no ground testing as previously owned by Mr W Kirk who ran it as a fully working agricultural garage also having petrol pump and storage tank which was very quickly taken out and covered over living next door concerned we got no notification of this taking place again no ground testing!!
Yours Marion Waite
Sent from my iPad

Comments for Planning Application 23/00716/FUL

Application Summary

Application Number: 23/00716/FUL
Address: Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders
Proposal: Erection of dwellinghouse
Case Officer: Cameron Kirk

Customer Details

Name: Mr Norman Utterson
Address: Rose Cottage, Eden Road, Gordon, Scottish Borders TD3 6JT

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Detrimental to environment
- Height of .....
- Inadequate access
- Increased traffic
- No sufficient parking space
- Poor design
- Privacy of neighbouring properties affec

Comment:We been residents of Gordon for over 70 years and would never have dreamed of the proposed plans for the Garden Ground of Cheviot View, we have had parking access to the area for over 50years as it provides us with safe parking off the main street next to our Lockup. There will be safety issues with the moving of up to 6 vehicles in the proposed area.
The proposed site was agricultural and a commercial garage over the years so we would be expecting the land to be tested for any contamination as it had an underground fuel tank and pump located on site.
The plans for both plots in the area are of poor design not in keeping the rest of the Main Street of Gordon.

Regards
Norman

Comments for Planning Application 23/00716/FUL

Application Summary

Application Number: 23/00716/FUL
Address: Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders
Proposal: Erection of dwellinghouse
Case Officer: Cameron Kirk

Customer Details

Name: Mrs Samantha Robson
Address: Eildon View, Eden Road, Gordon, Scottish Borders TD3 6JT

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Detrimental to environment
- Height of .....
- Inadequate access
- Increased traffic
- Loss of light
- Loss of view
- No sufficient parking space
- Overlooking
- Poor design
- Privacy of neighbouring properties affec

Comment:We would like to express our concerns of the following points on the proposed new plans for the Gardens of Cheviot View.

The plot has been used over numerous years as a commercial garage by Mr W Kirk and then used by Hunters Garage Services who also had other garage permises within the village, the plot consisted of a wooden shed, a metal Nissan Hut with inspection pit and there was also a fuel tank and pump situated to the front of the plot. The Nissan Hut was removed several years ago, and Mr Carey has since removed the wooden shed and had the fuel tank removed from the ground and taken off site. There was a waste disposal dumping area to the top right hand side of the plot where used oil, gaskets, filters etc was disposed of. So we have concerns that the ground may be contaminated and could pose envirolmental issues when the ground is disturbed and moved for construction or used as a recreational area by the occupants.
With the size of the plot we feel that it is not big enough to withstand the proposed dwelling along with communal parking and turning which will be required for 6 vehicles, The two parking spaces shown on the plans are already allocated and used by neighbouring properties. We feel this could

cause a safety issue for all parties that have access to the communal parking and turning area.
The overshaddowing will bear an impact on Cheviot View which is in the construction phase and also to the grounds of Sherwood Cottage.
There will be loss of light and privacy to both Cheviot View and Sherwood Cottage due to the positioning of the properties sitting on different ground levels and orientations of loctaion.
The visual impact is of overcrowding and cluttered design which is not in keeping of the main street of the village of Gordon and certinally not in keeping of the traditional sized village cottage.
Both Cheviot View and Gardens of Cheviot View stand approximately 5 metres high as stated by the planning officer in an e-mail when we questioned the height of Cheviot View when the plans state 4.75 metres.
We feel that this and Cheviot View are of backland develpment and no consideration has been given to both neighbouring properties which has caused negitive health issues to residents and has raised concerns from other neighbours what has been approved especially due to the heights allowing to be developed.

Regards
Mr & Mrs Robson

Comments for Planning Application 23/00716/FUL

Application Summary

Application Number: 23/00716/FUL
Address: Garden Ground Of Cheviot View Eden Road Gordon Scottish Borders
Proposal: Erection of dwellinghouse
Case Officer: Cameron Kirk

Customer Details

Name: Mrs Samantha Robson
Address: Eildon View, Eden Road, Gordon, Scottish Borders TD3 6JT

Comment Details

Commenter Type: Neighbour
Stance: Customer objects to the Planning Application
Comment Reasons:
- Detrimental to environment
- Detrimental to Residential Amenity
- Health Issues
- Height of .....
- Increased traffic
- Land affected
- Loss of light
- Loss of view
- No sufficient parking space
- Over Provision of facility in area
- Overlooking
- Poor design
- Privacy of neighbouring properties affec
- Road safety

Comment:We would like to address the comments made by Mrs Anna Marie Potamiti since she has invested interest in the application being approved as the applicant is her property developer husband.
The address supplied as her residence is in the construction phase and we dont believe that this will be her abode on completion of build.
The proposed building plot has always been maintained by neighbours with yearly spraying of weed killer and vermin boxes baited should there have ever been a problem which has never been the case.
The comments are completely unjustified and ourselves and neighbours are bewildered by the comments made.

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Local Review Body – List of Policies
20rd November 2023

Local Review Reference: 23/00044/RREF
Planning Application Reference: 23/00716/FUL
Development Proposal: Erection of dwellinghouse
Location: Garden Ground Of Cheviot View Eden Road Gordon
Applicant: Mr Nigel Carey

National Planning Framework 4

Policy 1: Tackling the Climate and Nature Crises
Policy 2: Climate Mitigation and Adaptation
Policy 5: Soils
Policy 7: Historic assets and places
Policy 14: Design, Quality and Place
Policy 16: Quality Homes

Scottish Borders Local Development Plan 2016 (LDP)

PMD1: Sustainability
PMD2: Quality Standards
PMD5: Infill Development
ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils
HD3: Protection of Residential Amenity
EP8: Archaeology
IS2: Developer Contributions
IS7: Parking Provisions and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage
IS13: Contaminated Land

Other Material Considerations:

SBC Supplementary Planning Guidance on

- Placemaking and Design 2010
- Sustainable Urban Drainage Systems August 2020
- Development Contributions 2023
- Householder Development (incorporating Privacy and Sunlight Guide) 2006

Local Review Reference: 23/00043/RCOND
Planning Application Reference: 23/00553/FUL
Development Proposal: Change of use from agricultural land to lorry storage yard and erection of building
Location: Land East Of Unit 3 Croft Park Industrial Estate Morebattle Kelso
Applicant: James Y Burn Haulage

National Planning Framework 4 (NPF4)

Policy 1: Tackling the climate and nature crises
Policy 2: Climate mitigation and adaptation
Policy 13: Sustainable Transport
Policy 14: Design, Quality and Place
Policy 15: Local Living and 20 Minute Neighbourhoods
Policy 26: Business and Industry

Scottish Borders Local Development Plan 2016 (LDP)

Policy PMD1 Sustainability
Policy PMD2 Quality Standards
Policy PMD3 Land Use Allocations
Policy HD3 Protection of Residential Amenity
Policy ED1 Protection of Business and Industrial Land
Policy IS6 Road Adoption Standards
Policy IS7 Parking Provision and Standards
Policy IS9: Waste Water Treatment Standards and SUDS

Other Material Considerations

Supplementary Planning Guidance on:

- Placemaking and Design, 2010