

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/00380/FUL

APPLICANT : Susan And Chris Edge

AGENT :

DEVELOPMENT : Variation of Condition No 3 of planning consent 10/00156/FUL to allow short term letting

LOCATION: Jordonlaw Granary
Jordonlaw Road
Westruther
Gordon
Scottish Borders
TD3 6NF

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 5
SUMMARY OF REPRESENTATIONS:

One objection has been received which objects on the following grounds: (i) increased traffic on the access road; (ii) road safety concerns relating to poor visibility at the junction of the access road onto the B4656, potential for parked vehicles to disrupt traffic entering the building group, and potential for children to play on the road; and (iii) detrimental to residential amenity (although the detailed advice suggests that the amenity of the occupiers of the Granary itself, is intended, or at least is included within these amenity concerns). Concerns are also expressed that parking would take place on the verge of the access road, which it is advised is not land within the Applicant's own ownership.

Five comments have been received in support of the application. These include three from individuals with the same surname as the Applicant, and some making reference to having stayed in the outbuilding as private guests of the Applicant. These support the application on the grounds that: the property is well-situated for, and able to accommodate a holiday-letting use; has ample space for parking; and can contribute to the local tourist economy.

Roads Planning Section: re-states the view previously expressed in relation to Planning Consent 10/00156/FUL, that there is ample parking and turning available at the site, but objects to the proposal on the grounds that any separate occupation of the property would result in extra traffic using the substandard junction from Jordonlaw Farm onto the public road. It is reiterated from previous consultation responses that without causing major devastation to the mature hedge, very little else can be done to improve this situation. It is observed that the private track is in need of some repair, and that a passing place would be very beneficial to all users; although both points appear intended as advice and are not expressed as objections. In response to further advice from

the Applicant, Roads responded on a second occasion to advise that a senior Roads officer had inspected the site and confirmed the original consultation response's advice that the existing access is unsuitable for serving any additional traffic. It is advised that the main fault with the access is the vastly substandard visibility splay onto a fast stretch of B class road, and the lack of width in the junction area to allow two vehicles to pass. The objection raised by a neighbour is also highlighted as being a very useful lead in terms of how the junction operates on a day to day basis; and it is considered that this also has to be taken into consideration. During the site visit various options were explored in order to try and see if there are any worthwhile improvements which might be carried out to the existing access that would allow a removal of Roads' objection. However, the only option which would deliver any benefit, it is advised, would be the removal of the existing access and drive to the west to the inside of the slight bend on the B class road. This location would offer excellent visibility splay in both directions.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Council Local Development Plan 2016:

Policy PMD1: Sustainability

Policy PMD2: Quality Standards

Policy ED7: Business, Tourism and Leisure Development in the Countryside

Policy HD3: Residential Amenity

Policy IS7: Parking Provision and Standards

Recommendation by - Stuart Herkes (Planning Officer) on 2nd June 2017

SITE DESCRIPTION AND PLANNING PROPOSAL

This application relates to a converted outbuilding ('The Granary'), which lies within the curtilage of the Applicant's residential property ('Jordonlaw Farmhouse') at Jordonlaw, to the west of Westruther. The Applicant seeks consent to vary a planning condition that restricts the use of the aforementioned outbuilding to residential use that is ancillary to the residential use of 'Jordonlaw Farmhouse', and specifically to allow this same outbuilding to be used for short-term letting use. The Applicant does not propose any specific re-wording to the existing condition or indeed, any alternative condition, but the intention of the proposal is clearly stated and, if the application were supported, would be capable of being translated by the Planning Authority into a revised condition to achieve the objective identified by the Applicant.

PLANNING HISTORY

Although the principle of the conversion to residential annex had previously been approved in 2006, the actual works that were carried out to realise this conversion were ultimately those approved under Planning Consent 10/00156/FUL. (A subsequent extension was approved under Planning Consent 11/00691/FUL).

Given that it was a replacement (if also detailed) permission, Planning Consent 10/00156/FUL essentially updated the conditions that had been attached to the original 2006 planning consent, including the requirement that the Granary building should only be used for residential use ancillary to the residential use of the main dwellinghouse at Jordonlaw Farmhouse. This is the requirement of Planning Condition No 3 attached to Planning Consent 10/00156/FUL, which states:

"Unless otherwise approved by the Planning Authority, the building at Jordonlaw Granary shall be used solely as ancillary accommodation in connection with the use of the main dwellinghouse at Jordonlaw Farm, and shall at no time be converted to a self-contained residential unit or serve as a business premises. Reason: Consent is for residential use ancillary to that of the existing dwellinghouse, and is explicitly not for the use of the outbuilding as either a separate dwellinghouse or as a business premises. A separate dwelling unit for normal residential occupation would be contrary to the Council's policy on housing in the countryside".

In addition to reflecting the Applicant's identification of the building as a residential annex (as opposed to as a separate dwellinghouse), the above condition also responded to the concerns of the Roads Planning Authority that the building should not be used as a separate dwellinghouse owing to the substandard nature

of the road junction between the building group at Jordonlaw and the B6456. It is a requirement of the Council's Housing in the Countryside Policy in both its current (HD2) and previous (D2) versions that any new house should be safely accessible.

In this regard, it was explicitly noted within the Report of Handling on Planning Application 10/00156/FUL that: "The Director of Technical Services (Roads and Fleet Management) has advised that the existing road access to Jordonlaw Farm raises road safety concerns because of severely restricted visibility at the public road junction to the west due to the roadside hedge and slight bend in the road. Also, the private road is in need of some repair and the provision of a passing place would be beneficial to all users. Although the Director of Technical Services (Roads and Fleet Management) has objected to the proposed development on the grounds that it would not address existing road safety issues, the proposal is for a residential annexe to an existing property and does not relate to a new dwelling. In the event of planning approval, it would be appropriate to let the developer know about the road safety issues through the inclusion of an informative, and it would be appropriate to maintain a planning condition requiring that the granary building should not be converted to use as a dwelling separate from 'Jordonlaw Farmhouse'".

PLANNING PRINCIPLE

As the supporters of the application advise, the outbuilding itself does appear capable of accommodating a short-term letting use. I would share some concerns with the objector though about the appropriate accommodation of parking in relation to it, but the Roads Planning Authority appears content to maintain its assessment that there is ample parking available to accommodate parking at the site. I would reason that in the event of any third party land owner(s) having concerns with respect to vehicles parking upon their land, any visitors' car(s) might be accommodated within the curtilage of the Applicant's home at 'Jordonlaw Farmhouse', which lies on the opposite side of the access road from the property, and therefore that appropriate parking arrangements would be capable of operation one way or the other, without necessarily involving any need to park on the road verge or land out with the Applicant's control.

ROAD SAFETY

Essentially the same vehicular access concerns that prevailed at the time of previous planning applications relating to this outbuilding persist, in that the Roads Planning Authority maintains its objections with respect to the substandard nature of the existing vehicular access arrangements at the junction between the Jordonlaw Farm access road and the B6456. This is despite the second opinion of a senior officer being sought. It is observed that the junction would need to be upgraded - largely involving works out with the control of the Applicant - before Roads would be supportive of any additional traffic use of the junction. Roads is also persuaded by the objector's report of one serious accident at the junction, that no additional traffic should be added to the traffic requiring to use the junction.

The Applicant has responded to advise that he does not anticipate any increase in the number of vehicles liable to access 'Jordonlaw Farmhouse' and 'The Granary'. His assessment on this matter appears to rely on the fact that the property of which both the Farmhouse and Granary are components, has four bedrooms. Further, he advises that the serious accident cited by the objector occurred 300m from the junction such that the latter was not reasonably a contributory factor. He cites his neighbours (who were involved in the accident) as his source for this advice. In the original supporting statement, he also advises that 'The Granary' has been made available to private guests, and its use and occupation up to this point, has had "no detrimental effects".

The Applicant within his additional supporting statement appears to consider that since he could theoretically operate the outbuilding as private guest accommodation all year round (or perhaps within a bed and breakfast arrangement) there would theoretically at least, be no increase in the level of traffic that could access Jordonlaw Farm within his present operation of the private residential use of Jordonlaw Farmhouse and his proposed operation of 'The Granary' as a unit for short-term letting use. However, and notwithstanding whether or not 'The Granary' has been occupied by private (as opposed to paying) guests, it is not clear whether or not the Applicant's present use of the outbuilding would be consistent with the operation of a single residential unit at 'Jordonlaw Farmhouse'. Moreover, in planning terms, the short-term/holiday let use is only reasonably considered to be in addition to the operation of the Applicant's private residential use. This is, firstly, because further to any approval to allow a short-term letting use of 'The Granary', the Applicant's private residence would then be capable of accommodating bed and breakfast guests in line with what is allowed within a residential use of the property without any account having to be

taken of any accommodation within 'The Granary'. This therefore has potential to increase the accommodation that the Applicant is able to offer to paying guests, and by extension, the number of vehicles liable to access 'Jordonlaw Farmhouse'. Secondly (and while it may be that the Applicant has no intention of offering bed and breakfast accommodation within the remainder of his property), it is still the case that any approval of the current application which would allow for 'The Granary' to be used for short-term letting/holiday let use, would in itself promote the use of this outbuilding as a separate residence, and therefore by extension, it would promote an increase in the number of vehicles liable to use the Jordonlaw Farm access road and junction.

While there may reasonably be guest accommodation operating within a private residential property, it is reasonably assumed that such accommodation in its nature, would be both ancillary to the main residential use of the property and only in occasional use (rather than permanent use) by the householder's guests. If the outbuilding at 'The Granary' were at present effectively in permanent occupation by a different household or households (if being occupied consecutively) unrelated to the Applicant's own household, then a view might be required as to whether or not the outbuilding is at present being operated in a way that is compatible with the single private residential use of 'Jordonlaw Farmhouse' as opposed to any use of it as a 'de facto' second dwellinghouse by a party or parties other than the Applicant's household. In short, it is not reasonably maintained that 'The Granary' as a private residential annexe is already liable to be in any equivalent use or occupation to what would be liable to occur within its operation as short-term/holiday letting accommodation unit. On the contrary, approval of the current proposal, where this would allow a short-term/holiday letting use, would only reasonably be seen as promoting an increase in traffic on the access road and junction.

On the basis that the Planning Authority can only reasonably understand the proposal as being liable to promote an increase in traffic on the Jordonlaw Farm access road and junction, albeit by one vehicle in addition to the current traffic load, and given Roads' objection to, and significant reservations with respect to, any increase in traffic liable to use this road junction and access road, I consider that the application is only reasonably refused. It could be added that the operation of a tourist accommodation use at the site (as opposed to use by the Applicant's private guests) might be liable to bring a higher number of visitors to Jordonlaw who are unfamiliar with the area; and with the road junction in particular.

I have considered the potential to regulate matters through the imposition of a suspensively-worded planning condition, which may have required that the proposed short-term-letting use should not become operational until the road junction of the main access to Jordonlaw Farm, had first been upgraded in accordance with a scheme of details meeting the Roads Planning Section's requirements. Notwithstanding that the creation of a new junction (and any stopping up of the existing junction) are in fact all matters that are beyond the direct control of the Applicant, it is theoretically possible that works could be carried out to the junction (as Roads acknowledges) which would address their concerns. Therefore a suspensively-worded condition might have been applied on this basis. However, it is not at all clear that the Applicant would thereafter have been able to maintain the visibility splays required to ensure that even this new junction would remain safely accessible, principally because of the involvement of land within a third party ownership. Given uncertainty on this point, it would not therefore have been appropriate to support the current application on the basis of such a suspensively-worded condition. (At least, even if the Applicant had have been able to arrange, or otherwise benefit from, an upgrade to the road junction in line with Roads' specification, there would have been no reasonable way to require them to maintain this junction to the required standard thereafter where the land required to do so remains within a third party ownership). In short, the planning application was not reasonably supported on the basis of a suspensively-worded condition being imposed to regulate the upgrade of the road junction.

OTHER CONCERNS

I note supporters' consideration that the outbuilding would be a good quality tourist accommodation facility, and given that this includes the advice of the Applicant's guests who have stayed in it, these do go some way to address the objector's concern that the annexe lacks sufficient amenity to serve as a short-term residential unit. Notwithstanding that the outbuilding itself might appropriately accommodate the operation of a holiday let use, I do not consider that this in itself addresses, let alone outweighs, the road safety concern noted above.

It is unfortunate that at the time of preapplication discussions, the Applicant was advised that the Roads Planning Authority was not anticipated to be liable to have any objections to the proposal. This

preapplication advice (which was subject to the disclaimer that the determination of the planning application was not pre-judged) took account of the verbal advice of a Roads Officer who has subsequently been succeeded in his role as the roads officer for the Westruther area by the current Roads Officer. The latter made a full assessment of the proposal at the time of the planning application, and ultimately did not share the informal view of his predecessor with respect to this proposal. While preapplication advice is intended to direct Applicants positively, time pressures are such that a reduced level of assessment is only ever possible at preapplication, and therefore Applicants are advised that it does not pre-judge the outcome of the Planning Authority's full assessment of the proposal.

In the event of approval, any consent issued ulterior to this planning application would have to include not only any revised version of Planning Condition No 3 required to address the Applicant's concern to allow short-term/holiday letting, but the other condition imposed upon the original consent (10/00156/FUL) which has not otherwise been met through the implementation and completion of the development. This is specifically Planning Condition No 6, which removes householder permitted development rights from 'The Granary'. This would therefore require to be re-imposed upon any replacement planning consent issued ulterior to this planning application.

CONCLUSION

While it is unfortunate that the Applicant in this case was not given advice to the effect that Planning or Roads anticipated concerns in principle with respect to his proposal, after my full review of the proposals, and taking account of the advice of the Roads Planning Section, I ultimately cannot recommend this application for approval on the basis of its potential to generate increased road safety concerns; principally because the proposed variation to Planning Condition No 3 attached to Planning Consent 10/00156/FUL would allow the outbuilding to be operated as short-term or holiday let accommodation unit, which would promote an increase in the volume of traffic requiring to use the sub-standard junction between the public road and access road at Jordonlaw Farm.

REASON FOR DECISION :

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

The proposal does not comply with Adopted Local Development Plan Policies PMD2 and ED7 in that it has potential to generate increased road safety concerns principally because the proposed variation to Planning Condition No 3 attached to Planning Consent 10/00156/FUL would allow the existing residential annexe ('The Granary') to be operated as a short-term or holiday let accommodation unit, which would be a new separate residential use over and above (that is, in addition to) the operation of the existing residential use of 'Jordonlaw Farmhouse'. This would promote an increase in the volume of traffic requiring to use the sub-standard junction between the public road (B6456) and access road at Jordonlaw Farm, with potential to increase road safety concerns for road users at and around the same road junction.

Recommendation: Refused

- 1 The proposal does not comply with Adopted Local Development Plan Policies PMD2 and ED7 in that it has potential to generate increased road safety concerns principally because the proposed variation to Planning Condition No 3 attached to Planning Consent 10/00156/FUL would allow the existing residential annexe ('The Granary') to be operated as a short-term or holiday let accommodation unit, which would be a new separate residential use over and above (that is, in addition to) the operation of the existing residential use of 'Jordonlaw Farmhouse'. This would promote an increase in the volume of traffic requiring to use the sub-standard junction between the public road (B6456) and access road at Jordonlaw Farm, with potential to increase road safety concerns for road users at and around the same road junction.

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