

REFUSAL OF OUTLINE PLANNING CONSENT

REF B236/90

BORDERS REGIONAL COUNCIL

Town and Country Planning (Scotland) Act 1972

To Mr W Nimmo Castlemaids Farm Duns

With reference to your application registered on 23rd July 1990 for outline planning permission under the above-mentioned Act for the following development, viz:-

Residential development

at

Winton Castle Barns Hutton Northwickshire

the Borders Regional Council in exercise of their powers under the above-mentioned Act hereby refuse outline planning permission for the said development.

The reasons for the Council's decision are on the attached Schedule.

Dated 12th November 1990

Regional Headquarters
Newtown St Boswells
MELROSE TD5 0SA

 Director of Planning and Development

REFUSAL OF OUTLINE PLANNING CONSENT

REF B236/90

SCHEDULE

01

Whilst the proposed development would conform to the Council's policy on housing in the countryside, its proximity to ongoing farmyard operations could result in an unacceptable level of conflict between residential and agricultural activities.



THE SCOTTISH OFFICE

Inquiry Reporters

2 Greenside Lane
EDINBURGH
EH1 3AG

Telephone 031-244
Fax 031-244 5680

Messrs William Nimmo & Partners
Architects and Planning Consultants
7 Fitzroy Place
GLASGOW
G2 7RH

Your ref: DRN/as

Our ref: P/PPA/B/281

7 November 1991

Dear Sirs

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972: SECTION 33 AND SCHEDULE 7
APPEAL BY W NIMMO: RESIDENTIAL DEVELOPMENT AT HUTTON CASTLE BARNES, HUTTON.

1. I refer to your client's appeal, which I have been appointed to determine, against the decision of the Borders Regional Council to refuse outline planning permission for residential development at the above address. I made an accompanied inspection of the site and surrounding area on 25 September 1991 and have considered the written submissions of the parties on the matter.

2. The appeal site is the former stackyard and sheep dip at Hutton Castle Barnes steading which is situated to the north of a minor road from Hutton to Chirnside, a mile east of Hutton. The site is approximately rectangular in shape, is some 60m deep, and has a 35m road frontage defined by a stone wall set behind a mown grass verge. To the west is an extensive traditional steading in separate ownership. At the rear of the steading is a modern agricultural building in another, third, ownership. An access to all 3 properties runs along the western boundary of the appeal site. The main steading appears unused. There is woodland to the rear of the site and a track separating it from a house and farm cottages to the east.

3. The reason for refusal was:-

Whilst the proposed development would conform to the council's policy on housing in the countryside, its proximity to ongoing farmyard operations could result in an unacceptable level of conflict between residential and agricultural activities.

4. In support of your client's appeal you describe the proposal as infill development which would consolidate the existing hamlet at Hutton Castle Barnes and comply with the council's policy. You consider that allegations of conflict with agricultural activities are based upon conjecture and supposition. As there is a presumption in favour of development, the council could have imposed appropriate conditions, if necessary in negotiation with your client, to secure a satisfactory standard of development. The refusal is also inconsistent with approval of a similar proposal elsewhere in the locality. Only the modern agricultural building at the rear of the steading remains in use and a new farmhouse and steading have been erected to the south-east on the opposite side of the

minor road. The new houses would be far enough from the modern building to avoid any serious conflict or risk and would be in no worse a position than many dwellings. Planting and fencing could provide screening and insulation and your client is currently negotiating a right of access direct from the public road across the existing roadside verge. The houses would generate only light traffic, which would not conflict with farming operations. You argue that a planning decision should not be based upon a hypothetical increase in use of adjacent property, and you point out that there was no suggestion of that prior to the submission of your client's planning application. If intensification did arise, any environmental problems could be resolved by appropriate conditions or undertakings. Drainage would be by a septic tank either to a soakaway within your client's property or, alternatively, to an outfall to the existing field drainage system, which your client is entitled to use. The field drains may require to be maintained or renewed, irrespective of the proposed development, but the local water table is unlikely to cause a problem as the nearby River Whiteadder is at a much lower level than the appeal site.

5. Although the regional council questions your description of Hutton Castle Barns as a hamlet, it agrees that the location and visual implications of the proposal would be consistent with its Housing in the Countryside Policy, which is incorporated in the Berwickshire (Part) Local Plan. It points out, however, that the policy is subject to a rider that development should not affect the viability of a farm unit. Even where consistent with policy, automatic approval cannot be presumed and adjacent agricultural activities could have a significantly detrimental effect on the new dwellings. The views of the Scottish Office Agriculture and Fisheries Department (SOAFD), which drew attention to potential problems of noise, dust, smell, unsociable hours, traffic, and possible danger to children, had a significant bearing on the decision to refuse permission. SOAFD saw these considerations as likely to be particularly unacceptable to residents unconnected with the farm. The planning permission to which you refer is not comparable with your client's proposal as that other site did not adjoin a steading and replaced 2 existing cottages.

6. The Scottish Office Agricultural and Fisheries Department, although not formally objecting to the proposal, regards the development as unwise and confirms the regional council's report of its views. In the light of the current uncertainties in agriculture, it is considered to be undesirable for agricultural enterprises to be restricted because of an adjacent development. Both adjoining owners are said to be concerned that new housing at the appeal site could prevent any future livestock use of the existing buildings. Although the modern building, which is equipped for grain storage, would be the main potential source of conflict management could change in response to market conditions, and the original steading is partly equipped for housing cattle. The grain store could be filled and emptied more than once a year, and drying equipment could operate at any time in a 24-hour period. The greatest nuisance is likely during harvest, which could last up to 6 weeks, when more than 100 trailer loads could be expected, with 30 lorry loads involved in emptying. Traffic would be considerably higher if the shed was to be let to a grain merchant. A separate access would avoid traffic conflict, but safety considerations would make it critical to have a secure boundary between the site and the steading.

7. The owner of the grain store regards your client's proposal as incompatible with either the present use of his building, or with any

intensive livestock enterprise which could be established there, and produces correspondence with the Scottish Agricultural College Advisory Service regarding the latter. The adjacent farm dump is also regarded as an unsuitable neighbour for houses and the view is expressed that there could be potential drainage difficulties. That last concern is shared by the owner of the original steading, who does not object to a single dwelling, but is anxious that the development should not obstruct views from the house to the east.

CONCLUSIONS

8. The council's Housing in the Countryside Policy encourages new housing within and adjacent to existing building groups provided that it would not be detrimental to rural amenity, could be satisfactorily serviced, and would not affect the viability of the farming unit. I find the location of the appeal site to be consistent with the policy and that a suitably designed development would not detract from the appearance of the area. Although objectors are concerned regarding drainage, the Tweed River Purification Board does not object, and I find no sound basis to conclude that satisfactory arrangements could not be secured. There is no specific claim that farm viability would be affected. Accordingly, from the submissions, and my inspection of the site and its surroundings, I consider the determining issue in this case to be whether the appeal site would be unsuitable for housing because of its proximity to agricultural buildings and activity.

9. Although your client intends access to the new houses to be separate from that to the steading, the appeal site would still adjoin the existing access and lie adjacent to the steading and grain store. I find the latter likely to generate considerable, albeit seasonal, traffic and activity. It would also be possible for mechanical drying equipment to operate at any time.

10. I find the proximity of the appeal site to the grain store and access likely to result in a poor quality residential environment, even if planting and other protective measures were to be introduced. I conclude that the appeal site would be unsuitable for a housing development. I also find housing on the appeal site to be undesirable while the future of the original steading, which could return to agricultural use without planning permission, remains unresolved.

11. I have considered all the other matters raised, including your reference to the planning permission granted elsewhere in the area, but that site did not adjoin a farm steading. None of these matters therefore outweigh the considerations upon which my conclusions are based. Accordingly, in exercise of the authority delegated to me, I hereby dismiss your client's appeal.

12. The foregoing decision is final, subject to the right of any aggrieved person to apply to the Court of Session within six weeks from the date hereof conferred by Sections 231 and 233 of the Town and Country Planning (Scotland) Act 1972; on any such application, the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act, or of the Tribunals and Inquiries Act 1971, or of any orders regulations or rules made under

Messrs William Nimmo & Partners

F/PPA/B/281

7 November 1991

these Acts.

13. A copy of this letter has been sent to the Borders Regional Council, to SOAFD and to those who made representations regarding the appeal.

Yours faithfully

MISS J M McNAIR
Reporter

B236/90

RECEIVED
23 JUL 1990

4261
5838ha
4.43

BORDERS REGIONAL COUNCIL
Town & Country Planning (Scotland) Act
REFUSED
12 NOV 1990
Planning & Development Dept:
Newtown St. Boswells

Hutton Hall Barns

BORDERS REGIONAL COUNCIL
WATER AND DRAINAGE SERVICES

This plan is supplied on the condition that the Council is not to be held liable for the consequences of any inaccuracies therein or omissions therefrom.

0919
1400ha
16.23

EXISTING WATER MAIN:-

CDH

B236/90

3300
704ha
1.74

9861
4-219ha
10.43

0966
732ha
1.81

1359
510ha
1.26

2459
1-988ha
4.91

1845
4-761ha
11.77

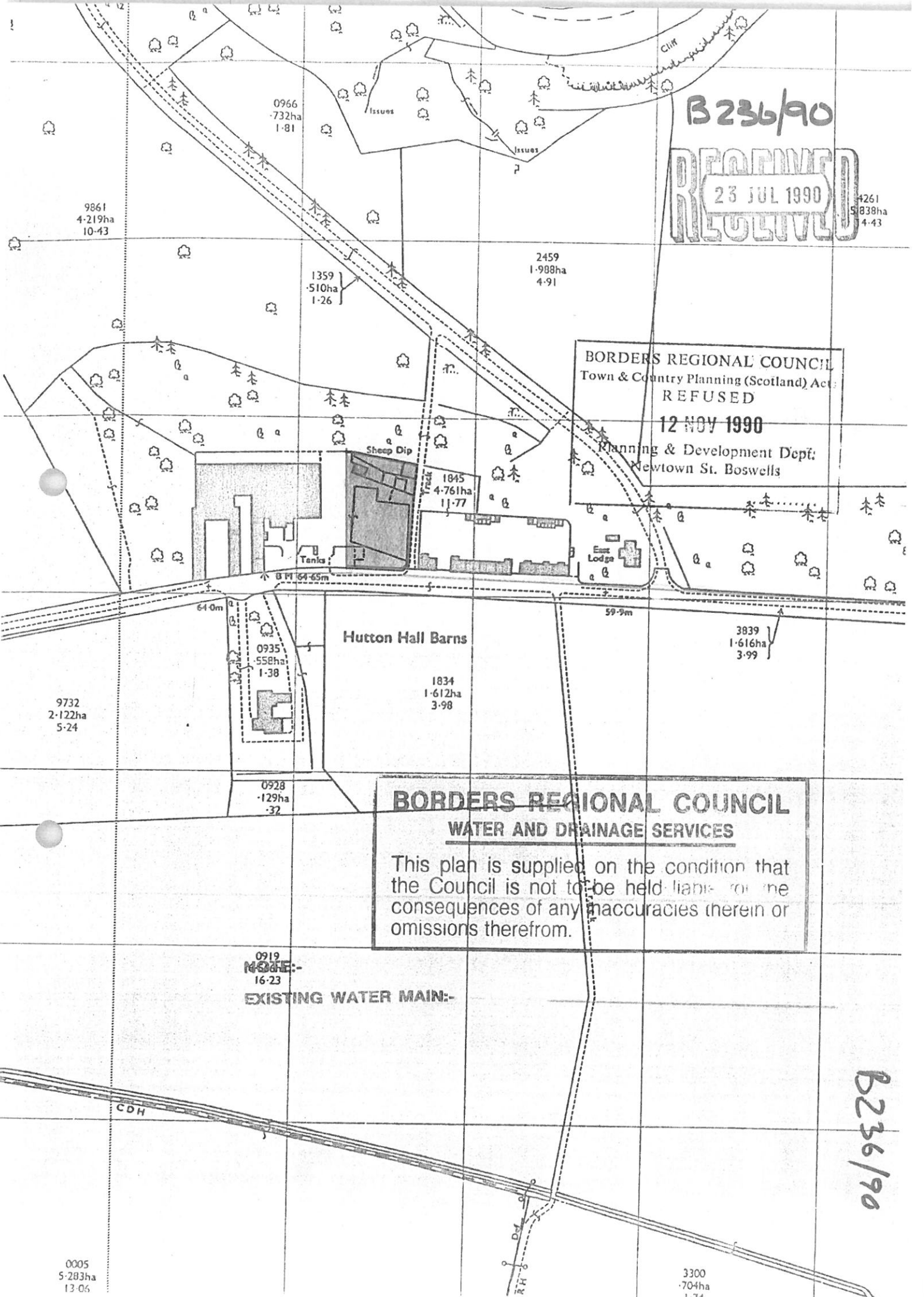
3839
1-616ha
3.99

9732
2-122ha
5.24

0928
129ha
.32

1834
1-612ha
3.98

0005
5-283ha
13.06



SCOTTISH BORDERS COUNCIL

BERWICKSHIRE AREA COMMITTEE

28 MAY 2002

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 02/00552/FUL
OFFICER:	Mr A Maclean
LOCAL MEMBER:	Councillor C J Home Robertson
PROPOSAL:	Erection of dwellinghouse and garage
SITE:	Land adjacent Farm Steading Hutton Castle Barns Hutton
APPLICANT:	Mr & Mrs G Davidson
AGENT:	Fleming Homes Ltd

SITE AND APPLICATION DESCRIPTION:

This is a full planning application for the erection of a dwellinghouse on land adjacent to the former farm steading of Hutton Castle Barns farm. The proposed site, which extends to some 0.4ha, occupies an unused paddock to the west of the farm steading group. Its western boundary is marked by a few remaining mature trees which appear to have formed the edge of a former access to Hutton Castle. The north side of the site is well defined and contained by woodland. To the east lies a building retained by the current farmer of Hutton Castle Barns farm as a grain store: buildings which have been leased to the applicant for use in conjunction with his agricultural contracting business and a courtyard range retained by the former farmer of Hutton Castle Barns.

The proposed dwelling would be sited to the rear of the paddock, the land to the road frontage being retained by the owner with a view to its eventual incorporation with a re-development of the adjacent courtyard building. Access to the proposed site would be along the western edge. The proposal is for a 'T' shaped cottage using relatively narrow plan base and 45 degree roof pitches. The main aspect of the house looks westwards. The plan shows a 3 bedroom dwelling with 2 main public rooms and kitchen, utility and study areas.

PLANNING HISTORY:

As members will be aware there is a lengthy history to the applicant's interest in obtaining consent for a dwelling at Hutton Castle Barns. An agricultural contracting background was submitted with previous applications seeking consent for a dwelling down Hutton Castle Drive. The following is the application history at that location.

- 1994 - Outline – refusal of application for house – contrary to Policy 8.
- 1997 - Outline – refusal of house on similar grounds. Unsuccessful on appeal.
- April 1999 Outline – refused by Berwickshire Area Committee. This was the first application lodged by Mr Davidson and claimed employment need justification.
- April 2001 a further full planning application was refused.
- July 2001 – full planning application for a house and workshop refused. Appeal dismissed.

In 1990 an application was sought for the erection of a dwelling on the former steading hardstanding to the east of the main range of traditional buildings. That application was refused because of potential conflict with farm traffic to the grain store building at the rear of the steading.

DEVELOPMENT PLAN POLICIES:

Finalised Structure Plan 2001-2011

POLICY H5 - New Housing in the Countryside - Building Groups

Proposals for new housing in the countryside outwith defined settlements¹ but associated with existing building groups will normally be supported where they are in accordance with the provisions of the policy guidance 'New Housing in the Borders Countryside'. Favourable consideration is more likely where development proposals:

- (i) are readily accessible to the strategic public transport network,
- (ii) employ energy efficient and/or innovative design principles,
- (iii) incorporate employment-generating uses appropriate to a countryside setting.

Berwickshire Local Plan 1994

Policy 7, 63 & 81 of the Berwickshire Local Plan apply which state:

Policy 7

Outwith the settlements identified in policies 2, 3 and 6, new housing development will be encouraged within or adjacent to the preferred building groups listed below. In addition, limited development may also be permitted within or adjacent to other building groups. All development should meet the following criteria:

1. No adverse effect on the viability of a farming unit or conflict with the operations of a working farm;
2. Satisfactory access and other road requirements;
3. Satisfactory public or private water supply and drainage facilities;
4. No adverse effect on countryside amenity, landscape or nature conservation;
5. No adverse impact on ancient monuments, archaeological sites or on gardens or designed landscapes in the Inventory of Gardens and Designed Landscapes in Scotland;
6. Appropriate siting, design and materials in accordance with Policies 63 and 64.
7. The safeguarding of known mineral resources from sterilisation unless this is acceptable following an assessment of the environmental implications.

Preferred Building Groups

Abbey St Bathans; Auchencrow; Chirnside Station; Cove; Cranshaws; Cumledge Mill, Preston; Edrom; Fogo; Hoprig, Cockburnspath; Horndean; Houndslow; Houndwood; Hume; Ladykirk; Polwarth; Spottiswoode.

¹ Defined settlements are those identified in Local Plans and Village Plans

Policy 63

The Regional Council will ensure that any new building in the countryside is of sympathetic design and materials. Particular attention will also be paid to the location and landscape setting of any development. Skyline locations and ribbon development will not normally be permitted.

Policy 81

Within Areas of Great Landscape Value, and within Heritage Areas in the longer term, the Regional Council, in considering development proposals, will seek to safeguard the heritage significance of the area concerned. The heritage significance may relate to landscape quality or amenity, nature conservation, archaeology or cultural issues, or to a combination of these. The Regional Council proposes that:

1. Where conflict arises between development and conservation, precedence will generally be given to the protection of the particular aspect of heritage significance;
2. Landowners and farmers will be encouraged to balance the need for efficient land management with the need to conserve the essential elements of the landscape;
3. Large scale developments, including mineral workings, overhead power lines and industrial buildings, will not normally be permitted unless such development can be shown to be acceptable following an assessment of the environmental implications;
4. Any developments which are acceptable will be required to meet appropriate standards of siting, design, materials and landscape treatment.

N.B. The particular case of development by telecommunications operators is subject to Policy 103A.

OTHER PLANNING CONSIDERATIONS:

New Housing in the Borders Countryside Policy and Guidance Note 1993 as Amended April 2000.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Director of Technical & Environmental Standards: Reply awaited.

Landscape Architect: Reply awaited.

Other Consultees

Scottish Water: A water supply is available but there is no public drainage.

Scottish Environmental Protection Agency: Water and drainage options have been highlighted.

Scottish Natural Heritage: Reply awaited.

Hutton & Paxton Community Council: No objection, but queried the accuracy of the plans. There has been a previous refusal because of the relationship to agricultural buildings. A neighbour had objected.

OTHER RESPONSES:

One representation has been received together with additional information provided by the landowner.

Mr C MacLean: He is concerned about the accuracy of the submitted drawings and the relationship of the proposed site to his farm building. He has emphasised that that building might have potential as a building for cattle and has also highlighted the 1990 refusal for a dwelling to the east of the steading where proximity of the agricultural buildings, potential problems of noise, dust, smell and unsociable hours and the possible restriction of agricultural activity by residential development were highlighted as grounds for dismissing the appeal.

The landowner has disputed the objectors claim to own part of the application site but would be retaining a 4 metre strip adjacent to the working farm building to provide access for its maintenance.

PLANNING ISSUES:

There are four main determining issues relating to this application:

- The adequacy of the servicing arrangements
- The siting and design of the proposed dwelling.
- The relationship of a non farm dwelling to agricultural property.
- The relationship of the site to housing in the countryside policy.

ASSESSMENT OF APPLICATION:

A response from the Director of Transport & Environmental Standards is still awaited on this application. Any comments regarding access to the site will be reported at the meeting of the Area Committee. Water supply is available and drainage options have been identified by Scottish Environmental Protection Agency.

The proposed dwelling is sited to the rear of the paddock area. It has a backdrop of established woodland and farm buildings. Existing trees along the western edge of the site also provide some screening and in consequence the site will not have a significant impact in the landscape. The site is well related to the existing farm sheds leased by the applicant for his contracting business. The general building layout respects the existing building orientation of the former steading while the narrow plan form and steep pitched roof provide a development compatible with Council Guidance on the New Housing in the Countryside.

In 1990 an application for housing development on the east side of the steading range was refused and an appeal was subsequently dismissed. A primary concern with that application was the potential conflict with agricultural activity and in particular traffic going in and out of the adjacent grain store. Possible resumption of agricultural use of the former steading buildings too was an additional consideration as was future use of the grain store building for housing livestock. Although adjacent to the grain store building, the site now proposed has no direct

linkage with that building and would not be affected by traffic movement. The applicant is a former farmer is also well aware of the nature of farming activities. In terms of future intensive livestock activity there are already non farm dwellings within the prescribed distance of the grain store building.

As regards the Housing in the Countryside Policy, there is clearly a building group at Hutton Castle Barns. This was recognised in the previous applications of which the Committee are well aware. The group comprises of existing cottages, the two farm houses, the redundant farm buildings which have obvious potential for conversion to residential use. The proposed site is well related to these being adjacent to the old steading buildings. It is a contained site being a small paddock with a few remaining boundary trees on the western edge of the plot and with the woodland to the north. This would fall within the terms of the amended policy on extended building groups.

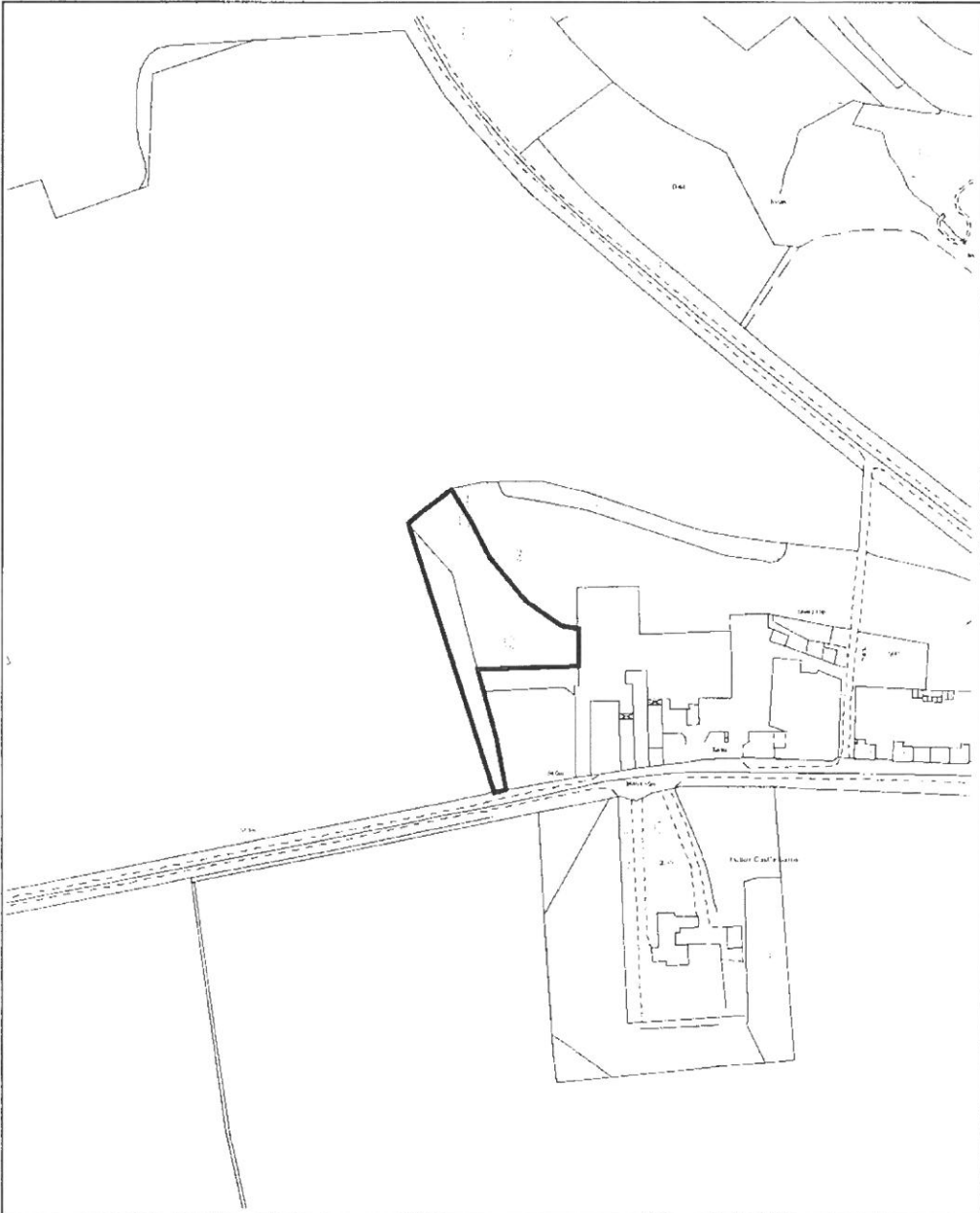
RECOMMENDATION BY HEAD OF DEVELOPMENT CONTROL:

Subject to a satisfactory response from the Director of Transport and Environmental Standards, I would recommend that this application is approved subject to the following conditions.

1. The roofing materials to be agreed by the Planning Authority before the development is commenced.
Reason: To safeguard the visual amenity of the area.
2. Sample panels of the external wall finish to be prepared on site for prior approval by the Planning Authority.
Reason: To safeguard the visual amenity of the area.
3. A vehicle turning area and either a garage space and a parking space or two parking spaces to be provided within the site.
Reason: In the interest of road safety
4. The vehicular access to the site and the service lay-by to be completed to the specification of the Planning Authority before the dwellinghouse is occupied.
Reason: In the interests of road safety.
5. A landscape scheme to be submitted for the approval of the Planning Authority before the development is commenced.
Reason: To enhance the visual amenities of the area.

02/00552/FUL

Land Adjacent Farm Steading Hutton Castle Barns Berwick-Upon-Tweed



1:2500

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Scottish
Borders
COUNCIL



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (General Development Procedure) (Scotland) Order 1992

Application for Planning Permission

Reference : 0200552FUL

To : Mr & Mrs G Davidson per Fleming Homes Ltd Station Road Duns Berwickshire TD11 3HS

With reference to your application validated on **16th April 2002** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse and garage

at : Land Adjacent Farm Steading Hutton Castle Barns Berwick-Upon-Tweed TD15 1TT

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 condition:-**

that the development to which this permission relates must be begun within five years from the date of this consent.

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

**Dated 28th May 2002
Economic Development and Environmental Planning
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed
Head of Development Control

Application reference : 02/00552/FUL

SCHEDULE OF CONDITIONS

1. The roofing materials to be agreed by the Planning Authority before the development is commenced.
Reason: To safeguard the visual amenity of the area.
2. Sample panels of the external wall finish to be prepared on site for prior approval by the Planning Authority.
Reason: To safeguard the visual amenity of the area.
3. A vehicle turning area and either a garage space and a parking space or two parking spaces to be provided within the site.
Reason: In the interest of road safety
4. The vehicular access to the site and the service lay-by to be completed to the specification of the Planning Authority before the dwellinghouse is occupied.
Reason: In the interests of road safety.
5. A tree/shrub planting scheme to be submitted before the development commences for approval by the Planning Authority, the planting to be carried out concurrently with the development or during the next planting season thereto and to be maintained thereafter.
Reason: To maintain and enhance the amenities of the 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

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, Drawing Office, 10 Fishwives Causeway, Portobello, Edinburgh, EH5 1EP
East of Scotland Water (Borders Division), West Grove, Waverley Road, Melrose, TD6 9SJ
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 the applicant is aggrieved by the decision of the Planning Authority, an appeal may be made to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997, within six months from the date of this notice. The appeal should be addressed to the Chief Reporter, Scottish Executive Inquiry Reporter's Unit, 2 Greenside Lane, Edinburgh, EH1 3AG.

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 V of the Town and Country Planning (Scotland) Act, 1997.