

# **Comments for Planning Application 16/01371/FUL**

## **Application Summary**

Application Number: 16/01371/FUL

Address: Agricultural Buildings South East Of Merlewood Hutton Castle Barns Hutton Scottish Borders

Proposal: Change of use of agricultural buildings and alterations to form 12 No dwellinghouses

Case Officer: Lucy Hoad

## **Customer Details**

Name: Ms Karla Baker

Address: 7 Fishwick Farm Cottage, Scottish Borders TD15 1XQ

## **Comment Details**

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

- Inadequate access
- Increased traffic
- Road safety

Comment: Dear Sir/Madam,

I am objecting to this planning application as a local resident with a concern regarding road safety.

I live in Fishwick and I cycle to work 5 days a week (Saturday-Wednesday) through Hutton to work at Maclean Eggs, which is located just beyond this proposed development site at Hutton Castle Barns.

I am particularly worried about the significant increase in vehicle movements on this stretch of road as I note that 26 car parking spaces are proposed in the development.

I cycle along this single-track road at peak times of the day, at 7:00am at the start of the morning rush-hour and at 15:30, during the school run. I often pass other cyclists as well as local residents who use this stretch of road to walk their dogs. The road can be tricky in places with sharp bends that follow the field boundaries. I am concerned about the impact this proposal will bring in terms of road safety between Hutton and Hutton Castle Barns on this single-track road.

In addition, the numerous access and exit points joining this small road would create a conflict with existing traffic.

Yours sincerely,

Ms K Baker

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## **Customer Details**

Name: Mr Robert Gaston

Address: Ravelaw Brae, Duns, Scottish Borders TD11 3NQ

## **Comment Details**

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

- Density of site
- Inadequate access
- No sufficient parking space

Comment: We are objecting to planning application 16/01371/FUL on the grounds of conflict with operations of a working farm

We have been consulting with James and Angela Maclean as an adviser to help them establish their company Border Pigs

In May this year a report to the House of Lords in London noted that "Price volatility is an inherent feature of agricultural commodities markets. We found that adverse effects at farm level are caused more by unanticipated periods of sustained low prices than by an increase in level of volatility. Farmers can manage both by taking measures to increase levels of resilience "

In order to increase their levels of resilience the Maclean Family intend to house pigs on a bed and breakfast basis in their general purpose building in their north yard at Hutton Castle Barns.

I feel I have to object to this planning application as there will no doubt be a conflict between the day to day work on the farm which is adapting its agricultural activities to help manage its future and the proposed development of the site



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Case Officer: Lucy Hoad

## **Customer Details**

Name: Mrs Judith MacLean

Address: Hutton Hall Barns Farmhouse, Scottish Borders TD15 1TT

## **Comment Details**

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I am writing to object to planning applications 16/01371/FUL and 16/01372/LBC both, as a partner of Maclean and Company and as a concerned local resident.

My late husband and I purchased Hutton Hall Barns farm including the north yard and its steel portal framed building in 1987. This north yard and building adjoin the planning application site. For the avoidance of any doubt I will email on a site map showing the area immediately adjacent to the proposed development which is in my family's ownership and control.

I am surprised to see this planning application for the change of use of agricultural buildings and alterations to form 12 dwelling houses given both the proximity to our active farm yard and the fact that planning permission for housing has already been refused adjacent to this yard in the past.

## **Conflict with the Operations of a Working Farm**

The north yard and building are an integral part of our farming business and are used year round. We have used it for a wide range of agricultural activities for almost 30 years and we will not be restricted in the use of our yard or building in perpetuity.

The new development proposes 12 conversions with windows and doors opening onto our busy yard. Surely there are serious health and safety issues for potential new residents in this area?

My son is responsible for ensuring the family farm continues and over the years he has built up a successful poultry business. He always has an eye on the next business opportunity and has latterly decided to set up a haulage business to take control of our farm supplies such as fertiliser

and produce including grain and straw.

One of the objections he has received against his proposed use of the north yard as a base for his haulage vehicles was from Mr Wilson Nimmo, owner of the block of land to the east of our yard.

Mr Nimmo mentions in his letter dated 19th February 2016 that "My site, together with the steading buildings belonging to Mr Houston, is currently being considered for housing development by Scottish Borders Council Planning Department who are enthusiastic to progress. The plan is to create a hamlet of affordable housing". Can I therefore assume that Mr Nimmo is going to reapply for planning on his site and challenge the decisions made in the early 1990's?

Mr Nimmo's site to the east of the north yard was refused planning for a dwelling house in 1990 by Borders Regional Council and this decision was upheld at appeal in 1991 by The Scottish Office reporter. The planning for a dwelling to the east of our yard was refused on the grounds of "proximity to ongoing farmyard operations which could result in an unacceptable level of conflict between residential and agricultural activities".

## Access

The applicant of this proposed steading development seeks to create two more access points onto the public road rather than share the existing entrance to the north yard. This can only be seen as a devious attempt to allay any fears of conflict between farming activities and the proposed development.

These 2 new entrance would be in addition to the existing accesses to our fields, to Merlewood, the various openings into the steading development, the main entrance into the north yard and agricultural buildings owned by ourselves, the 2 entrances to Hutton Castle Barns farmhouse, a further field access and finally a track just before number 1 Hutton Castle Barns. This would mean a grand total of 12 openings onto the short stretch of the public road before you reach the cottages.

This planning proposal envisages 26 car parking spaces, some of which have no turning spaces/facility for manoeuvring. This would therefore necessitate reversing out onto the public road, the potential for accidents is huge.

## Drainage and Sewerage

What the applicant has not mentioned in their proposal is any detailed plans for drainage and sewerage.

The lowest point of the development site is the north east corner which then discharges under our yard through the wood to a drain in one of our fields. Both the drain under our yard and the field

drains are under our control. These drains need repaired, upgraded or replaced and access to these will not be permitted for improvement works required for developing this site.

As part of SEPAs work on the Whiteadder and Lower Tweed catchment project our farm was recently subject to a full day inspection and they identified that the field to the north of the proposed development site was very wet due to insufficient drainage.

I question the applicant's proposal that a septic tank will discharge to soakaway. By definition a soakaway has to discharge somewhere, I can confirm any new septic tank will not be allowed to discharge to our land.

To make my points very clear this proposed development:

- Will have serious conflict with the day to day workings of our farm,
- Is proposing to add 2 new access points on a public road bringing the total to 11 within a very short distance
- Will not be able to dig up our yard, to replace or add any drains or to discharge into our field where again no access will be granted to allow drainage and sewerage soakaway.

Therefore I object to planning applications 16/01371/FUL and 16/01372/LBC based on the conflict with agricultural activities, the conflict with existing road traffic due to additional access points and lack of drainage and sewerage facilities.





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Address: Agricultural Buildings South East Of Merlewood Hutton Castle Barns Hutton Scottish Borders

Proposal: Change of use of agricultural buildings and alterations to form 12 No dwellinghouses

Case Officer: Lucy Hoad

## **Customer Details**

Name: Mr Iain Thomson

Address: East Mains, Samuelston, Haddington EH41 4HG

## **Comment Details**

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

- Contrary to Local Plan

Comment: I am objecting to planning application 16/01371/FUL on the grounds of conflict with the operations of a working farm and the adverse effect on the viability of a farming unit in my capacity as a financial partner of Maclean and Company.

Maclean and Company is responsible for farming 440 acres of arable land in the immediate area to where the proposed development of 12 dwelling houses is located.

Diversification is key to ensuring that family farms survive in a time of widely fluctuating commodity prices and uncertain financial returns within farming. As such we are exploring how we can better utilise the north yard and shed (owned by James Maclean) which is directly adjacent to this proposed development site to support the arable farm in the years ahead.

This north yard is currently used for a wide range of agricultural activities including the movement of grain, machinery and as a storage area. This yard is an area of hard standing and it is felt that this would be a suitable base for lorries and trailers.

We are exploring our options which included establishing Maclean Haulage (incorporated on 27th January 2016) to look at how we could take control of the farms grain, straw and fertiliser movements on Hutton Hall Barns. In addition, our haulage plans are considering how we could best utilise these vehicles to assist with egg collections and feed deliveries for local businesses such as Border Eggs.

I object to this planning application as I feel that there will no doubt be a serious conflict between residential and agricultural activities. In turn, by preventing the Maclean's to diversify in whichever direction they feel is appropriate for them will undoubtedly have an adverse effect on the viability of a farming unit which would be contradictory to Scottish Borders Council (SBC) policy on "New Housing in the Countryside".

Yours sincerely

Iain Thomson

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Address: Agricultural Buildings South East Of Merlewood Hutton Castle Barns Hutton Scottish Borders

Proposal: Change of use of agricultural buildings and alterations to form 12 No dwellinghouses

Case Officer: Lucy Hoad

## Customer Details

Name: Mrs SHARON KING

Address: Crossrigg Farmhouse, Hutton, Scottish Borders TD15 1XG

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

- Density of site
- Detrimental to Residential Amenity
- Health Issues
- Increased traffic
- Road safety

Comment: We are objecting to planning application 16/01371/FUL on the following grounds: Our farming business has recently purchased farmland just to the west of the village of Hutton which we access from the single track public road between Hutton and Hutton Castle Barns, increased traffic on a minor road will cause disruption and have a negative impact on our farming operations.

At the moment we are accessing the land from the west via Hutton Castle Barns rather than travelling through the village of Hutton to minimise disturbing residents. We also have Agricultural vehicles that travel every day to look after livestock on a connecting minor road which we anticipate would be much busier with traffic accessing the development from the Allanton direction. This proposed development of 12 dwellings at Hutton Castle Barns (and the creation of 26 car parking spaces) will mean that whichever road we choose to use there will inevitably be an increased volume of people and traffic.

Hutton at least benefits from a double track road leaving the village to the south whereas the roads leading to this proposed new development are single track in both directions with few passing places. There is also an issue with the provision of communication services including broadband necessary for our business. When the demand increases this can lead to a reduced service for existing consumers. Providers such as BT are not always prepared to invest in areas such as the one covered by the proposed development.

Whilst rural properties may be a desirable addition to community development certainly when be

existing buildings are deteriorating. But this does not necessarily fall into the bracket of providing affordable housing and as in this case a distinct lack of public transport makes driving a necessity. Indeed as we have found, letting existing farm cottages can be extremely difficult if households do not have access to a vehicle. Public services are already stretched including that of providing healthcare in the community and this isolated type of housing only exacerbates the issue. The state of the roads at present with potholes and rundown verges cost public money to fix and extra traffic would only cause further wear and tear.

While we do not wish to discriminate against those who live near farming businesses engaged in making a living, the reality of life in the country can cause conflict between those who see this as a home and those whose work is in the countryside. We feel this housing development in an agricultural area where not even the two closest villages have facilities to shop would cause difficulties for existing businesses such as ours and also put further strain on Council resources.

T&S King.

Beef/Arable farmers.

James and Angela MacLean  
Ardross  
Hutton Hall Barns  
Hutton  
Berwick Upon Tweed  
TD15 1TT  
22<sup>nd</sup> November 2016

Planning and Regulatory Services Department,  
Scottish Borders Council,  
Council Headquarters,  
Newtown St Boswells,  
Roxburghshire,  
TD6 0SA

**Reference: 16/01371/FUL - Change of use of agricultural buildings to 12 No dwelling houses, Agricultural Buildings South East of Merlewood, Hutton Castle Barns, Hutton, Scottish Borders**

**Reference: 16/01372/LBC - Internal and external alterations to form 12 No dwelling houses, Agricultural Buildings South East of Merlewood, Hutton Castle Barns, Hutton, Scottish Borders**

We wish to object to the above planning applications as an adjoining neighbour to the proposed development and the fact that a previous planning application was refused due to its proximity to our North Yard operations and the potential conflict between residential and agricultural activities at Hutton Castle Barns. Our operations have increased substantially since then and the potential for conflict is even greater now.

The submitted drawings for this new application are confusing. Fourteen plots are on the proposed ground floor plan, yet the application has been submitted for twelve dwellings.

The key suggests that Plots 13 and 14 will be both be three bedroom, 200 square meter dwellings. Perhaps the intention is to create the final two dwellings on the other side of our farmyard at a later date? This second site and its planning history is discussed later in this objection letter.

Overall there is a general lack of information provided within this application and we cannot see how in its current state can be determined without the applicant and agent providing further details and clarity.

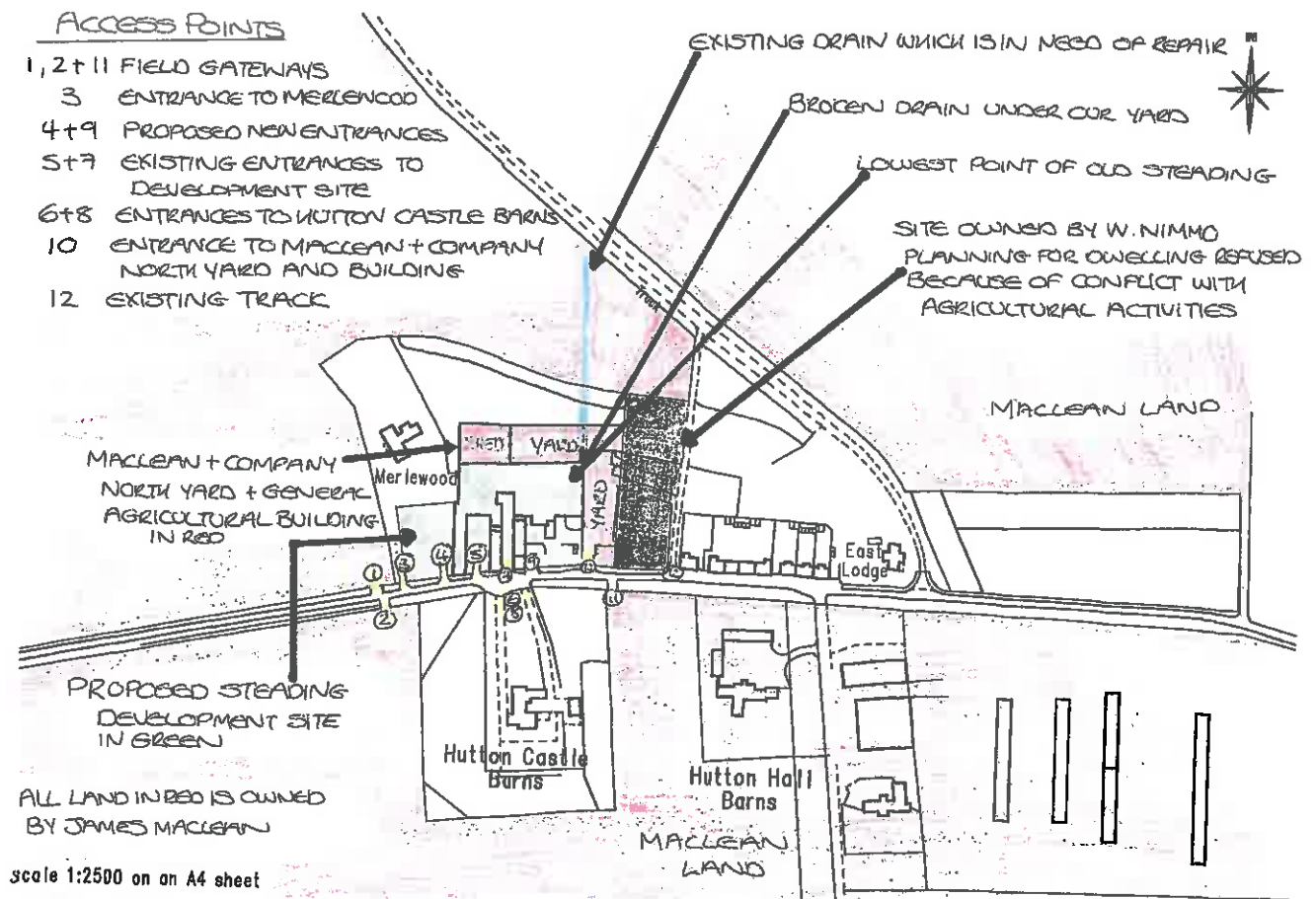
We feel that this lack of detailed information means that our objection may be require to be updated in the future when (and if) additional information is presented.

Our objection is made on the following grounds:

1. the adverse effect on the viability of a farming unit and the conflict with the operations of a working farm;
2. traffic, parking and access issues;
3. drainage and infrastructure issues;
4. impact on the countryside amenity and ecology;
5. impact on archaeological sites; and
6. the appearance of the proposal in terms of design siting and materials

In addition to the grounds outlined above there are also significant challenges which will face the potential developer of these buildings should planning be granted in terms of private legal and access matters. Although these are not deemed to be of direct concern with regards to obtaining planning consent, these will undoubtedly affect the ability to create suitable access and drainage for this site.

In order to understand the context of our objection we will provide a brief summary of our ownership of the land which is immediately adjacent to the proposed development site, below is an annotated drawing of our land ownership within the stead complex, also included in a larger size as *Appendix 1*.



## **Background and Current Use**

We seek not to cause confusion however a number of historic planning applications are discussed within this document.

Although the current planning applications state that Mr G Bain is the sole owner of all of the steading development site, this must have been a recent change as the previous owner Mr J Houston stated in correspondence dated February this year that he was the owner of the proposed development site. Mr Houston still lives in Hutton Castle Barns farmhouse to the south of the proposed development site.

Mr Houston owned the whole of Hutton Castle Estate including the farm. He sold the farmland and north yard including building to Mr J B Forrest who subsequently sold this to my late father.

My late father C D MacLean purchased Hutton Hall Barns in 1987 which included a general purpose steel portal frame 100ft by 70ft agricultural building (which we believe was originally built as a horse riding school/arena by Mr G Houston (uncle of Mr J Houston)) and the L shaped yard which sits to the north of the unclassified road. This is directly adjacent to the proposed development site on the north side. It is barely visible from the public road however once you drive into our yard it is clear to see.

This general purpose agricultural building and associated yard is used to store approximately 75% of the farm's dried grain each year. It is also used to store fertiliser, fuel, farm machines and materials to repair fences, etc. In the past, our mobile grain drier has been based within this yard area, it is used throughout the day and into the evening during harvest.

To give an idea of scale, during harvest 2016, 500 tonnes of winter barley, 300 tonnes of spring barley and 150 tonnes of oil seed rape were stored in the back yard. The crop is harvested and carted back from the fields into the south yard where the mobile grain drier is usually based. The "wet crop" is dried in 10 ton batches and then moved when dry to the north yard by tractors pulling trailers. Between August and October 2016 this meant that there were 95 grain trailer loads taken from the south to the north yard for storage at all times of the day and night.

Until the crop is sold, air is circulated through it using large fans. Daily checks are made to ensure that the environment is maintained to optimum conditions. This means each day at least one vehicle movement is made to check on the grain.

At the point of sale, haulier's articulated lorries arrive, these are loaded outside the shed and then the grain is hauled out through the North Yard. For this year's harvest (2016) this will equate to approximately 35 articulated lorries to empty the store.

In addition to the arable/grain storage, the north yard area has been used in recent years as a base for cutting and selling firewood, used as a hard standing area for the stockpiling of stone for tracks and poultry shed bases (all under the appropriate SEPA licence).

This year alone, under the active SEPA Paragraph 19 licence in excess of 4,000 tonnes of stone has been moved in and out of the north yard. An agreement with a local skip hire

business sees our business receive stone on frequent basis with 20 ton loads continuing to arrive in the north yard.

#### **Our Future Plans for Our North Yard and General Purpose Building**

Over the years alternative uses of the general purpose agricultural building have been considered.

It is our plan to continue to use the building for grain storage every year at harvest and then once the grain is sold, we will use it for housing livestock to generate an additional income stream for the farm.

We have attached as *Appendix 2* a letter from The Scottish Agricultural College (SAC) considered how the general purpose building could be adapted for livestock enterprises such as pigs in 1991. This highlights that as a family we have for some time looked at how we could diversify and expand the farming business to ensure its continued viability.

Earlier this year we established "Border Pigs" (company number SC 528082) and submitted an enquiry on 17<sup>th</sup> March 2016 to Scottish Borders Council planners regarding the use of the general purpose building, the email correspondence regarding this is included in *Appendix 3*.

This enquiry focused on exploring how we would keep either cattle or pigs in the general purpose shed. The idea being that non-intensive cattle or pigs would be here on a "bed and breakfast" basis to allow the farm to earn money whilst the shed is empty.

Excerpt from Appendix 3

**"Having discussed with colleagues I would re-confirm my earlier verbal communication that the use of the barn for agricultural purposes is accepted.**

**The Town and Country Planning (Scotland) Act 1997 defines agriculture as; "horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes.**

**Thus no change of use is required."**

At the same time we asked Scottish Borders Council planners to clarify the appropriate process to follow if we wished to run a haulage business from the north yard.

We explained that amongst the diversification options we are considering was bringing haulage under our control. We are looking at how we could take control of the farm's grain, straw and fertiliser movements on Hutton Hall Barns. In addition, our haulage plans are considering how we could best utilise these vehicles to assist with egg collections and feed



deliveries for local businesses such as Border Eggs. Planners confirmed that a proposal for a haulage yard would require planning consent, this is being actively pursued.

However as things stand, all vehicular movements related to agricultural activities do not require planning consent. We will continue to access and manoeuvre around our north yard and building including articulated lorry movements daily as and when we wish.

### **Reasons for Our Objection**

After reviewing Scottish Borders Council (SBC) policy on “New Housing in the Countryside” we object to planning applications 16/01371/FUL and 16/01372/LBC for a number of reasons. This policy outlines that any development that takes place should meet the following standard 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 the relevant Local Plan policies;*

We will consider each bullet point in turn.

- 1. No adverse effect on the viability of a farming unit or conflict with the operations of a working farm;***

Based on our existing everyday use of the north yard and general purpose building, we are very concerned that there will be a significant and negative effect on our farming activities and business should planning consent be granted for the proposed development.

We will continue to access the yard on a very regular basis with our tractors with trailers, forklift, farm vans, tipper lorries bringing in stone and large articulated lorries to move grain, fertiliser and stone. These operations will not cease regardless of this planning decision.

**Given that we will be continuing to use the yard and shed for various purposes, these applications would be responsible for bringing conflict to the operations of the yard although in time, any future residents will no doubt blame the working farm for any conflict.**

In the current economic and political landscape it is becoming more challenging for family farms to stay in business. As custodians of the farm we need to ensure that it remains a viable farming unit and our plans for our north yard and building are continually evolving and will undoubtedly see additional movements of farm machinery and vans in and around the

proposed development site. The north yard and building area has been and will continue to be an essential part of our farm infrastructure and we plan to utilise our assets even more so now with the planned introduction of pigs and haulage to our business.

The proposed introduction of twelve additional dwellings, the people and vehicles associated with this all located directly adjacent to our active working farm yard is at the very least a health and safety minefield.

There have been numerous attempts in the past to obtaining planning consent for dwelling houses in and around Hutton Castle Barns and this proposed development site.

### **1990**

In 1990, Mr W Nimmo applied for a dwelling house on the site immediately to the east (or right) of our north yard i.e. directly opposite the proposed development site, with our north yard sandwiched in the middle, correspondence relating to this planning application is contained in *Appendix 4*. My parents objected to this application on the grounds of:

- The impact of running an active farming enterprise immediately adjacent to a potential development site
- The General Purpose shed owned by MacLean and Company (farming partnership) was used for grain drying and storage – the environs can therefore be both dusty and noisy
- The General Purpose shed may be used for livestock which would not be compatible with residential developments
- Drainage concerns – existing field drains will not cope with increased water
- Sewerage concerns – proposed use of septic tank but no details in how outfall water will be managed – linked to the point above regarding drainage
- Health and Safety concerns re accidents in farm/farmyards

My parents' reasons for objection stand the test of time and are equally applicable to any development site around our north yard and building to this day.

The application in 1990 was considered and refused that year by Borders Regional Council on the grounds of **“its proximity to ongoing farmyard operations could result in an unacceptable level of conflict between residential and agricultural activities”**.

An appeal was lodged with The Scottish Office Inquiry Reporters Unit in 1991, the appeal was dismissed and the reporter upheld Borders Regional Councils decision to refuse planning consent.

The report is attached in *Appendix 4* and in its conclusions noted that **“the appeal site would still adjoin the existing access (an alternative access point was proposed) and lie adjacent to the steading and grain store. I find that 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. “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 measures were to be introduced.”**

During 2016, Mr W Nimmo whilst making representations against our proposed use of the north yard as a haulage base, stated that he was in discussions with Scottish Borders Council to develop this plot once again.

Is Mr Nimmo's site, as suggested in our introduction, the possible location for Plots 13 and 14??

**Is it therefore the intention to try and obtain planning permission on either side of an existing farm business' yard? This could be perceived as an attempt to try to constrain and restrict our farming activities and introduce conflict to all concerned.**

#### **1994 - 2001**

A total of five planning applications for a dwelling house on various plots around Hutton Castle drive were refused between 1994 and 2001.

#### **1997**

Within one of these failed planning applications, correspondence dated June 1997 between Bain Swan Architects, the agent of Mr J Houston (the owner of Hutton Castle Barns steading and the plot which was seeking planning permission) and Scottish Borders Council, a very pertinent point is made regarding the development of the steading. A copy of this letter is attached in *Appendix 5* along with pertinent correspondence relating to this planning application.

Bain Swan Architects dismissed alternative house sites which had been suggested by Mr and Mrs G Shillinglaw (a neighbour and an objector to the plot located down Hutton Castle Drive). Bain Swan stated that sites such as to the west of Hutton Castle Barns steading were not suitable. In addition to the "loss of amenity" they explained that "The development of the farm steading and the ground to the west is hampered by the existence of a farm shed within 400 metres which has cattle unit potential".

**The importance of this point is that at the time, the owner of Hutton Castle Barns steading, Mr Houston actually admitted, through his agent, that this site was "hampered by the existence of a farm shed within 400 metres which has cattle unit potential".**

There is clearly no consistency. On one hand, when it suits, this development site is "hampered by the existence of a farm shed within 400 metres which has cattle unit potential" yet in 2016, there is no mention made of our existence directly adjacent to the proposed development site, and I am sure they will seek to say that our building is "a grain store and can only be used for this purpose" yet again.

With our experience in obtaining planning for agricultural buildings gained over the past ten years, and as set out in the Town and Country Planning (Scotland) Act 1997; unless a planning condition is attached to a planning consent stating that the use is restricted to a specific purpose then any agricultural building can be used for any agricultural purpose.

Whilst on this subject, please refer again to *Appendix 3* which highlights our future plans for the north yard and building. We have already clarified with Scottish Borders Council planners

that in line with the Town and Country Planning (Scotland) Act 1997 that the use of any farm building for farming activities is not considered to be a "development".

**This means that because our shed is an existing building which is being used for agricultural purposes along with agricultural land, we can and will use it for any agricultural purpose either now or in the future.**

## **2002**

A sixth attempt to secure planning was submitted in 2002, documents relating to this are contained in *Appendix 6*, my parents' objected on grounds of:

- Proximity of proposed house to agricultural buildings.
- Highlighting that within one of the previous (refused) planning applications the applicant's agent, Bain Swan Architects, acknowledged that "The development of the farm steading and the ground to the west is hampered by the existence of a farm shed within 400 metres which has cattle unit potential".
- The potential problems of noise, dust, smell and unsociable working hours of current agricultural workings in the General Purpose store and yard area immediately adjacent to the proposed site

The planners report, attached in *Appendix 6*, to the Berwickshire Area Committee highlighted that although the site was adjacent to the grain store building, the site had no direct linkage with the building and would not be affected by traffic movements. It was however interesting to note that the planning officer explicitly highlighted that "the applicant is a former farmer" and "well aware of the nature of farming activities" at this point in time.

The planning was granted and the house known as Merlewood was built, this is now the closest dwelling to our north yard and building.

## **2003**

In 2003, my father was approached by a developer (Kestros Investments Ltd) wishing to purchase the steading at Hutton Castle Barns from Mr J Houston along with access road, stack yard and general purpose building from C D MacLean.

Of relevance to the current planning application was correspondence between Strutt and Parker and my father dated February 2004, attached in *Appendix 7*. This highlighted that it is **"Understood from the local planning authority that development would only be possible if all the buildings are converted to residential properties or demolished so they are no longer used for agriculture. As a result this would require the removal of the general purpose shed which you currently use as a grain store. It also means that the development will only be possible if Mr Houston and yourself both agree to a sale"**.

This project did not proceed. I am sure that Mr Houston was given similar advice by his agent at the time, that there was a need to eliminate the conflict between agricultural activities and residential to allow the development of both sites, which leads to the question why are things any different in 2016 regardless of site ownership?

## 2008

In 2008 my father tried to obtain planning for four dwelling houses at Hutton Hall Barns, on the south side of the road opposite the cottages, diagonally south east of the proposed development site.

A number of objections were received from our neighbours and the local Community Council to my father's planning application and these are attached in *Appendix 8 alongside* correspondence relating to this planning application. The objections highlighted the high risk of conflict between residential development and how our farm operates. Some extracts from those objectors are as follows:

- An introduction of residential traffic movements to and from the proposed plots will lead to increased conflict with operational and agricultural vehicles to the detriment of road users and pedestrian safety in the vicinity
- The site lies close to the working farm steading at Hutton Hall Barns and it is proposed to "share the same access" and as such "conflict between the various existing agricultural uses and the proposed residential development will impact upon the operation of the farm and affect the amenities of the new dwellings".
- During harvest time grain is lead into the steading for drying (from fields), once it is dried it is transported from the steading (Hutton Hall Barns) up the road to another shed on the right hand side of the road (General Purpose store in the north yard).
- All articulated lorries to pick up grain go into the steading to find out where to get loaded. Lorries with trailers for straw bales also other delivery wagons use this entrance.
- During harvest time, the grain drier "goes from early morning to last thing at night with considerable noise".
- "We feel this development would give rise to a huge conflict between agricultural, retail and residential traffic in a very busy farm steading entrance"

## 2011

In 2011, when we applied for Planning Permission in Principle for our own home we faced similar objections, correspondence is attached in *Appendix 9*. One of our neighbours objected as they were concerned with:

- Noise at harvest time, with the grain drier running from 5am til 10pm impacting the existing cottages

Over the past twenty five years the conflict between agriculture and residential development has been discussed and well documented on many occasions. This has led to numerous failed attempts to secure planning consent and on appeal Scottish Borders Council's view has been upheld by the Scottish Office reporters.

Notwithstanding the "history" of the site, our plans to utilise the north yard and general purpose building differently in the future will only further exacerbate this situation.

***It is difficult to understand how the proposed development would NOT have an adverse effect on the viability of our farming unit or conflict with the operations of our working farm hence our objection on these grounds.***

## **2. Satisfactory access and other road requirements;**

On inspection of our title deeds, mention is made of right of pedestrian and vehicular access by the owner of the old farm buildings over part of our north yard. This is for access to existing doors in the buildings current form (agriculture). We will strongly contest that this right of access was not intended for residential development and use of the old farm buildings.

Therefore quite how the applicant intends to develop and convert these buildings is of great interest to us. For example, how would a builder construct scaffolding on our land as no permission will be given for this, the land ownership starts and finishes at the footprint of the old farm steading buildings i.e. all the north yard is under our control and no unauthorised vehicles will be allowed to park in our backyard restricting our use of our property.

No reference has been made by the applicant with regard to these access constraints. It looks like they intend to try and gain planning consent by adding two new entrances to avoid this issue, then subsequently believe that they can access the buildings from our yard for construction and then ongoing maintenance and deliveries? And let's be honest the Asda/Tesco home delivery driver, removal men and visiting nurses/GP will not be aware of the busy farmyard that they had just driven into in error resulting in conflict with our ongoing agricultural activities.

As previously discussed in 2008 my father tried to obtain planning for four dwelling houses at Hutton Hall Barns.

Planning permission was refused on the grounds of that the proposed development was contrary to policy and that "the construction of the vehicular access for domestic traffic onto a roadway serving the adjacent working farm would give rise to a road safety hazard due to the conflict between its users".

The current steading application is proposing an additional two access points on to the same roadway. Surely this will be a greater road hazard to all road users?

The objection were received from the local Community Council stated that it was "A matter of some concern is the potential for added traffic at the access point to the proposed development and thereby associated road safety. "Already there is considerable traffic activity at this point, much of it involving large vehicles entering and leaving the farm" A further four houses would exacerbate an already problematic situation".

In 2011, when we applied for Planning Permission in Principle for our own home we faced similar objections, included within *Appendix 9*. Our neighbours and the local Community Council objected as they were concerned with:

- Road safety issues and access points given the volume of associated farm traffic in the vicinity
- Another building will increase traffic and affect the access to the farm with area already busy with heavy lorries and existing traffic
- Concerns around introducing another entrance / exit into an extremely busy farm steading and general road safety issues



We have illustrated that the north yard and building is constantly used and this practice given the business is increasing, will not cease.

When we progress with Border Pigs as planned, non-intensive pigs will be housed in the building in our north yard on a “bed and breakfast” basis.

This will increase traffic to and from the yard as the pigs will need routine checks, fed and bedding refreshed on a daily basis. This will mean tractors, forklifts and farm vans will be moving between our north and south yards 3/4 times per day Monday to Sunday. In addition, the pigs will arrive and leave on livestock lorries and feed will be delivered on a weekly basis.

The other diversification project that is at an advanced stage is haulage.

We are looking at how we could take control of the farm’s grain, straw and fertiliser movements and in addition, our haulage plans are considering how we could best utilise these vehicles to assist with egg collections and feed deliveries to bring this “in-house”.

In February this year, MacLean Haulage started the process to apply for a Goods Vehicle Operator’s Licence. As part of this process an advert is placed in the local newspaper, The Berwickshire News. The advert states that owners or occupiers of land near the operating centre who believed that their use or enjoyment of that land would be affected should make written representations to the Traffic Commissioner and the applicant within 21 days.

A number of representations, included as *Appendix 10*, were made to us by neighbours, some of their points are valid to the current planning application.

1. Mr J Houston

At this time (February 2016) Mr J Houston, the owner of the old farm steading made representations regarding our proposal for a haulage operating centre.

Mr Houston objected to the application stating that “it can be seen that at the entry point to the yard there are already problems with vehicles causing ruts in the verge where they turn to gain entry”. And that “lorries entering the applicant’s site are encroaching on the verges at the point of entry”.

As we have already mentioned, we do not need planning permission for other business’s lorries, in conjunction with our agricultural use, to enter, exit and turn in our north yard as they do daily. Our business will be continuing to use the north yard even if planning consent is obtained.

He further goes on to state that “I own the buildings to the south of the proposed haulage yard and have right of access to the buildings through the yard to the doors shown in the attached photograph. I am concerned there will be a Health and Safety with our use of this access and the proposed vehicles”.

Mr Houston's point is very valid. *How indeed* will we manage the Health and Safety issues this proposed development would bring, as Mr Houston has already identified the conflict with the operations of our business in the north yard?

He also states "I am in the final stages of negotiating the development of my buildings into housing and am receiving considerable encouragement from Scottish Borders Council planning department. I feel there would be a conflict between residential housing in the existing buildings and the haulage yard."

**Really? So the owner of the old steading who was in negotiation with Scottish Borders Council planning department, thinks there would be a conflict between housing and our yard. As we are pointing out, heavy goods vehicle movements like this happen daily without a change of use or operator's licence.**

## **2. Mr W Nimmo**

It is of interest to note that Mr W Nimmo stated that within his representation that "My Site, together with the steading buildings belonging to Mr Houston, is currently being considered for housing development by Scottish Border Council Planning Department who are enthusiastic to progress. The plan is to create a hamlet of affordable housing".

**This is the site where planning was refused in 1990.**

So, can we therefore assume that the proposed steading development application only shows part of the planned creation of "a hamlet of affordable housing" that Mr Nimmo refers to and that we will see a further application on Mr Nimmos' site on the other side of our north yard??

It could be seen that this creation of "a hamlet of affordable housing" has been reduced in size and will be presented in phases as a series of planning applications.

His representation also states that "Further traffic with articulated vehicles will make this an even more hazardous road" reaffirming our concerns around the potential for conflict between our farm and any proposed development of dwelling houses.

## **3. Mrs S Davidson**

Mrs Davidson highlighted that the approaching "C roads" to the yard are woefully inadequate, they are narrow, and at the time of writing full of pot holes.

## **4. Mr and Mrs Richards**

Mr and Mrs Richards highlighted their concerns regarding noise, dust and fumes.

They were concerned that vehicles entering and leaving the site would be intolerable, that in dry conditions the vehicles would kick up dust and could prevent them being able to leave windows open and due to prevailing wind travel towards their garden. They were also concerned about the levels of fumes especially in the garden and in their home (if windows were open).

It is of our opinion that each of the points highlighted above are equally applicable to this proposed development and the vast increase in traffic that this will bring to the area.



The current planning application proposes the creation of two new openings onto the existing public road to the south of the site in addition to the existing accesses to our fields, to Merlewood, the steading, the yard/agricultural buildings owned by ourselves, the two entrances to Hutton Castle Barns farmhouse, another field access and finally a track just before number 1 Hutton Castle Barns. This would mean **twelve openings on to the public road within a very short distance before you reach the cottages.**

In order to better understand just how close to each other these entrances are we have included them on the annotated site plan enclosed as *Appendix 1*. This would seem excessive and create further dangers over and above the marked increase in traffic movements.

The proposals show parking provision for twenty six cars, two per dwelling and two visitor spaces. This would seem to be too few visitor spaces considering the number of houses being proposed. Where would any additional visitors park should there be no availability of on-site parking? Not in our north yard, so more than likely the verge which would create further issues with visibility out of the many access points mentioned above.

The proposed parking itself is also problematic. Plot 1 appears to have no way of turning the vehicles within the confines of the site, the scheme as shown would involve the cars reversing out on to the public road which would be dangerous to pedestrians, cyclists, the home owners and passing motorists.

Furthermore, there seems to be an area shown adjacent to the main car park assumingly for bin storage. If this is the case there would be no room on site for the refuse wagon to park or turn when collecting the refuse. This would therefore mean either the refuse wagon parking on the public road and causing a short term blockage or having to reverse out on to the public road, neither of which are suitable options.

In our objection, we have only considered the roads immediately beside the proposed development site and have not looked at the wider issue of the single track road that leads to the village of Hutton nor any other road in the area, we feel this is for the Roads department at Scottish Borders Council to consider.

***We do not feel that the proposed development shows satisfactory access nor does it appear to fully consider other road requirements you would expect for such a major development, leading to our objection against these criteria.***

### ***3. Satisfactory public or private water supply and drainage facilities;***

We are surprised to see no evidence that the applicant has made enquiries to Scottish Water to find out if there sufficient local supply, pressure and capacity within the mains water supply to provide services to the proposed additional twelve dwelling houses. All of the existing properties will all be affected if this is not the case.

There is insufficient information in the planning application to understand the applicant's plans for foul system drainage. We understand that the waste drainage would have to go to a sewage treatment plant and not a septic tank and the plant would have to have a minimum

capacity for a population of forty four. For this application the foul system drainage system should all have been designed out and a proven system that complies with SEPAs regulations should have been provided.

The applicant talks of providing a soakaway system beyond the septic tank. For this capacity of population this would be impossible. A mounded soakaway would not work either, as in both cases there is insufficient land available for these options and as the site is completely land locked with no access to field tiles. A connection into a soakaway system or to a watercourse off site would not be feasible without the agreement of a third party (ourselves) and this will not be forthcoming.

The ground conditions themselves in and around this steading are not conducive to forming a soakaway as the ground has a high water table and becomes easily saturated after heavy rain.

As per foul water drainage, insufficient information provided regarding surface water drainage. Stating on an application you are providing SUDs solutions and then not showing a workable scheme in this type of situation is quite frankly not acceptable.

Again the ground conditions are not suitable for soakaways. There is an existing drain taking surface water away from the site into the trees to the north but this drain is broken underneath our yard and to the north of the wood our field drainage is in need of repair. Access to either of these sites will not be permitted to the applicant or a developer.

The use of gravel to the driveway surfaces does provide a natural way of allowing the water from the roads to disperse but the roof water will have to be connected into a SUDs system and have an outfall thereafter. In this instance this should all have been designed out, using a proven system that complies with SEPA's regulations.

Although electricity, telephone and broadband supply and heating systems do not fall under the criteria set out in the "New Housing in the Countryside" we think it's important to outline our thoughts regarding general infrastructure.

It would be reassuring to know if the applicant has taken the time to find out whether there was sufficient capacity within the local grid for another twelve houses. This could impact upon the other existing residences and our businesses as a further 5-8KW per property will be drawn off of the existing infrastructure. If this is not considered the impact on the electricity supply could be detrimental to the owners and occupiers of the neighbouring properties.

Yet again there is no mention of how the applicant plans on heating the new properties. Will it be LPG, oil, electric (including air source), biomass or other? Will it be individual systems or a district heating system? How will these tanks be filled, our concerns made regarding lack of parking, turning space, etc for refuse collections are equally true for heating tanker lorries.

In either case there will be external equipment (tanks or similar) all within the proximity of the listed buildings. This should all be clarified prior to any approval being forthcoming and positions of equipment should have been shown on the proposal drawings.

***We do not feel that the proposed development shows satisfactory water supply and drainage facilities resulting in our objection on these grounds.***

***4. No adverse effect on countryside amenity, landscape or nature conservation;***

We feel that this application will have an adverse effect on the countryside amenity.

With the exception of parking for plots (plots 2 and 11) discussed under the section on access, the remaining parking provision is all provided together in one large car park with twenty spaces.

This is a very suburban answer to the problem of parking and is not becoming of a very rural setting and not in keeping the established character of the surrounding area. There is no proposed soft landscaping either to screen or soften the appearance of all of these cars. This parking approach is generally not welcomed in rural areas and not encouraged within the Placemaking & Design Supplementary Guidance document. This seems to have been poorly conceived and will in no doubt have an adverse effect on the countryside amenity and landscape.

We were surprised that no bat or ecology survey report provided within the application material. Perhaps the report has not been submitted as an oversight however, it is our opinion that this application cannot be determined until late summer 2017 at the earliest if this work has not been carried out already.

There are bats present within these buildings which are proposed to be redeveloped and within our agricultural building to the north of the site. Good sources for feeding are available for the bats within the adjacent trees and hedgerows, there are nearby water sources and the open old steading buildings are ideal for both feeding and roosting.

Bats are a protected species and should be treated as such and so a full summer bat survey should have been carried out to determine exactly what lives on site and visits the area. We understand that this should have been provided with the application. These surveys should have been carried out during the summer months i.e. April to early October (a period of time when the bats are not hibernating) to determine the bat types and put suitable mitigation measures in place, prior to future licensing with Scottish Natural Heritage (SNH).

***We feel that the proposed development has been designed in a way that will no doubt affect the countryside amenity, landscape and nature in a negative way and therefore we feel the need to voice our concerns on these issues.***

***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;***

The proposed development site is set to the north of Hutton Castle Barns Farmhouse and to the west of the farm cottages. The steading buildings are listed by Historic Scotland and are

noted as being "A large, essentially intact courtyard steading, prominently sited fronting the main road into Hutton".

The plans suggest that certain areas of the existing building range are to be demolished we would expect that a full archaeological survey will be carried out on the buildings prior to determination of the proposed scheme to ensure any items of cultural importance are protected during any build works should planning be granted.

We also know that there is a background of prehistoric archaeology in the area and that this means that there may be potential for encountering buried features, finds or deposits on the site. In fact fossils dating from between 360 and 345 million years ago, found on our farm were displayed in the National Museum for Scotland over the summer. Scientists have said that the find was pivotal to solving how vertebrate life came to move from water to land.

Notwithstanding the issues around work on listed buildings and protecting archaeology, there is no report provided within the application package relating to whether or not the buildings are actually structurally sound and capable of being converted into dwelling houses.

The "New Housing in the Countryside" policy discusses how the rehabilitation of any existing buildings requires the building to be "structurally sound, in a reasonable state of repair, and capable of conversion without substantial rebuilding". It continues to go on to outline that "significant alterations will only be permitted where it can be demonstrated that these provide environmental benefits such as a more sustainable and energy efficient design".

A report carried out by a qualified structural engineer or firm of engineers should have been provided as part of the application submission and the application should not be determined until this has been carried out. The buildings have been allowed by the previous owner to deteriorate to their current poor condition and so it is imperative that a structural survey is carried out to determine suitability to be converted into housing.

***No plans have been submitted to suggest that the site will be protected and as a result we object as we feel that there will be an impact on a potential archaeological site.***

#### ***6. Appropriate siting, design and materials in accordance with the relevant Local Plan policies;***

It would be our opinion that the proposals for the site would be an over development of the land and buildings. Twelve new properties over and above the existing eleven houses in the locality would be an increase of over 100%.

All the plots are very close to our working farm however in particular plots 1, 6 and 8 are adjacent to our fully operational farmyard and agricultural building. This would not doubt cause any future occupants (should planning be granted) many future issues including noise at unsocial hours as highlighted earlier in this objection letter.

The wall that separates the old farm buildings and our General Purpose store is intended to be the back wall of the living room/kitchen in the dwelling planned for Plot 1.

The windows shown for plots 6 and 8 (on the east of the proposed development) have most of their windows (seven openings) shown on the site boundary overlooking our working farmyard. We enclose photographs in a *supplementary document* which shows that we are currently using that area (immediate in front of the proposed windows) to store straw for bedding prior to pigs arriving.

**As we have stated on numerous times we have a very active farm yard next to old farm buildings which have not been granted change of use. It is not our farm business which is requesting a change of use for the north yard nor will be forced into changing its farming operations to accommodate this proposed development.**

To continue on the windows for Plots 6 and 8, as these openings are onto "land owned by others" they would not be able to have opening windows, the glass would have to have a minimum one hour fire rating and the glass would have to be obscure type so that the occupants could not overlook land owned by others. These points would all be raised by building control but we feel that they are of relevance at this stage in the process.

It is worth considering that there have been several steading conversions carried out locally over the last 10-12 years and most of them struggled to find buyers once converted. Do we really need more empty steading conversions in poor locations? Who exactly is going to buy these properties, they are more than likely to be too expensive for young locals who actually need housing. This application does not seem to address any of these issues even though the application suggests this is for affordable housing.

Overall the application as submitted (notwithstanding the points raised above already) lacks a huge amount of information. It does not appear to fulfil the design and information brief laid out in the Placemaking and Design guide which states that an application of this type would require a design statement, energy statement, context studies, site photographs and 3D visual materials. There is no soft landscaping scheme to soften the proposals and the guidance appears to have been ignored by the applicant and agent.

Beyond this, the planning and related Supplementary Planning Guidance (SPG) policies relating to this type of scheme have also either been overlooked or ignored i.e. SPG: renewable energy, SPG: use of timber in sustainable construction, SPG: Placemaking & Design, SPG: Designing out crime in the SBC, SPG: affordable housing and SPG: trees & development.

There is no reference to any of these within the drawings provided and no other documentation appears to have been supplied. Overall it seems that the applicant had thrown it in to see what happens! A serious application would have considered all of these and the all the previously raised points.

***We do not feel that the proposed development shows any regard to appropriate siting, design and materials and it look like the applicant and agent have failed to refer to any of Scottish Borders Councils Local Plan, leaving us no option other than to object.***

We make no apology for the length of this objection letter, we feel it is important that we back up our objections with evidence and we hope that this is helpful in the decision making process. We have included some photographs taken throughout the year to show how we use our north yard and building, these are included in a supplementary document.

To reiterate we feel that the lack of detailed information in the planning applications means that our objection may require to be updated in the future when (and if) additional information is presented.

In addition to the grounds discussed in detail in our letter there are also significant challenges which will face the potential developer of these buildings should planning be granted in terms of private legal and access matters. These will undoubtedly affect the ability to create suitable access and drainage for this site.

**To summarise, we wish to object to both of the planning applications on the grounds of:**

- 1. the adverse effect on the viability of a farming unit and the conflict with the operations of a working farm**
- 2. the appearance of the proposal in terms of design siting and materials**
- 3. traffic parking or access problems**
- 4. residential amenity (noise, overshadowing)**
- 5. drainage and infrastructure**
- 6. impact on the natural or built environment**

Yours Sincerely

James and Angela MacLean

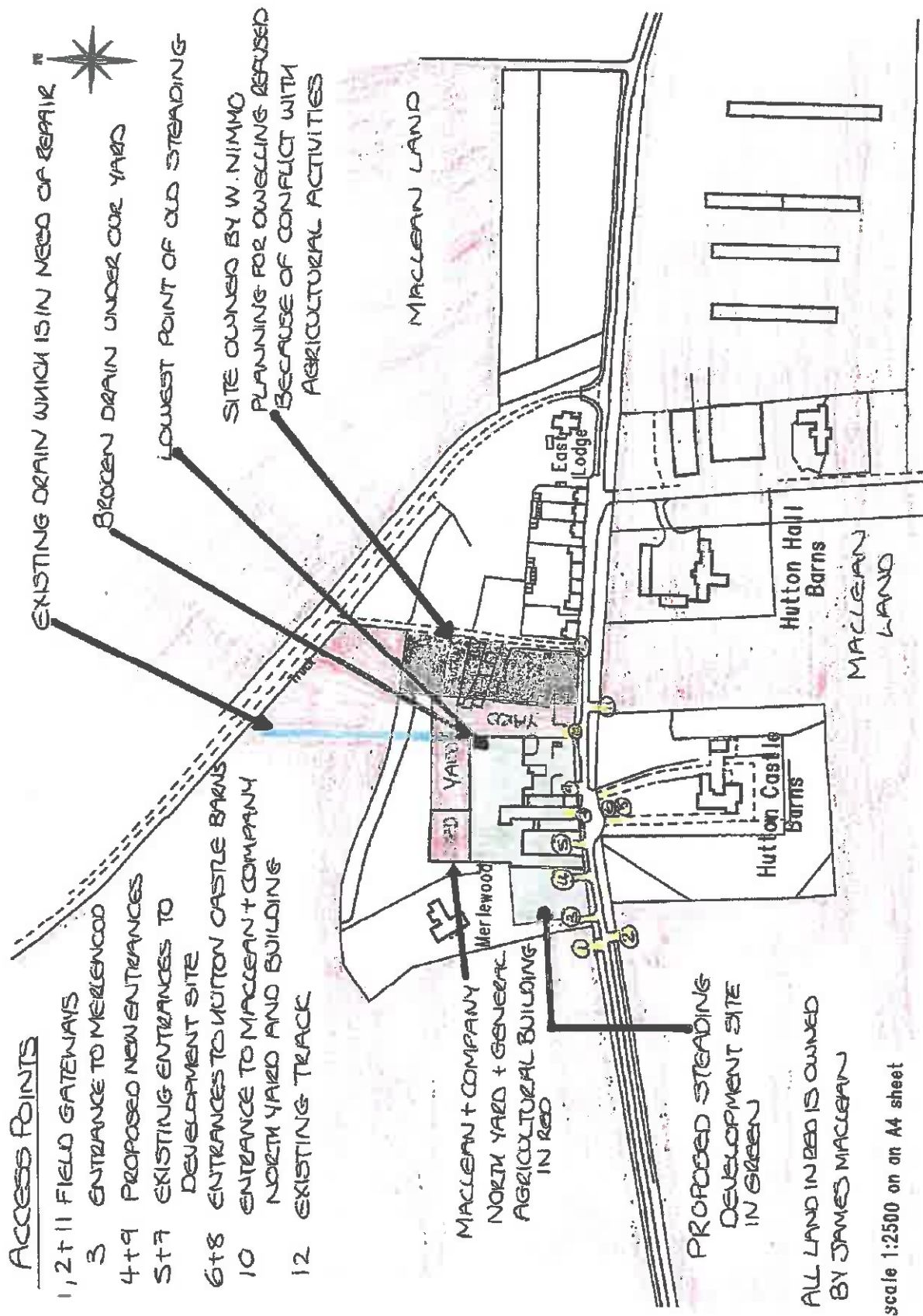
## **Attachments**

Appendix 1	Annotated Site Plan
Appendix 2	letter from The Scottish Agricultural College (SAC)
Appendix 3	Email correspondence with Scottish Borders Council planners regarding the use of the General Purpose building in our North Yard
Appendix 4	History of Planning Within the area – Mr W Nimmo, 1990/91
Appendix 5	History of Planning Within the area – Mr J Houston, 1997/98
Appendix 6	History of Planning Within the area – Mr & Mrs G Davidson, 2002
Appendix 7	History of Planning Within the area – Kestros Investments Ltd, 2003/04
Appendix 8	History of Planning Within the area – Mr C D MacLean, 2007/08
Appendix 9	History of Planning Within the area – Mr & Mrs C J MacLean, 2011/13
Appendix 10	Representations made regarding the application for a Goods Vehicle Operator's licence for our north yard
Supplementary Document	Photographs





## Appendix 1 – Annotated Site Plan



## Appendix 2 – Letter from The Scottish Agricultural College Advisory Service 1991



### THE SCOTTISH AGRICULTURAL COLLEGE ADVISORY SERVICE

Graycrook  
ST BOSWELLS  
Roxburghshire  
TD6 0EU

Senior Area Agricultural Adviser:  
T Johnston, BSc

Tel: 0835 23322

PGJ/SB

27th June, 1991

Mr C D McLean  
Hutton Hall Barns  
Hutton  
Berwick on Tweed  
TD15 1TT

Dear Mr McLean

Further to our recent meetings I write to cover a number of points regarding future expansion of your farm business to include an intensive livestock enterprise. Such a move would hopefully increase the output and income generated from the farm in line with your long term aim to provide employment for your son when he leaves school.

The general purpose building at Hutton Castle Barns, which is currently used for grain storage, could easily be adapted for an intensive livestock enterprise. This building would be the most suitable of your buildings since the buildings at Hutton Hall Barns are used for grain drying and workshop facilities. Pigs could be housed in this building with little structural alterations. However, it would be wise to inform the planning authority, if you intend to use the building for pigs.

My initial findings indicate that the building would be suitable for housing in the region of 350 finishing pigs. This would utilise excess straw which is currently available on the farm. The dung produced from the pigs would be of considerable value to your soils at Hutton Hall which are in need of improved organic matter/nutrition, after years of intensive arable cropping.

The pig finishing/

OVER/

Mr McLean

27th June, 1991

The pig finishing enterprise would be based on the use of weaner pigs 6-8 weeks old. These would be finished over a 12-14 week period. At least three batches of weaners could be finished each year, although the building would need thoroughly mucking out between batches.

I am currently in touch with a number of firms who are looking for farms to contract finishing weaners. This would be most suitable for you since you would not tie up capital in the pigs while they are being finished. This is the disadvantage of other intensive livestock enterprises, such as barley beef finishing of cattle.

Once I have collated further information on the financial returns possible from contracting finishing weaners I shall be in touch. In the meantime, if you have any further queries, please get in touch.

Yours sincerely



PADDY GRAHAM-JONES  
Agricultural Adviser

### Appendix 3 – Email Correspondence with Scottish Borders Council 2016

From: [REDACTED]  
To: [lhead@scotborders.gov.uk](mailto:lhead@scotborders.gov.uk)  
Subject: Hutton Hall Barns - Future use of North Yard and General Purpose Agricultural Building  
Date: Thu, 17 Mar 2016 10:52:59 +0000

Lucy,

Further to our conversation regarding the use of our north yard at Hutton Hall Barns, TD15 1TT; we are currently considering a number of options to diversify the farming business to help ensure the farm's future viability. I have attached a site plan for reference.

Diversification is key to ensuring the family farms survival in a time of widely fluctuating commodity prices and uncertain financial returns within farming and as such we are exploring how we can use the yard and shed to earn additional income.

The north yard is currently used as general storage. We also use the hard standing areas to store rubble under a Paragraph 19 SEPA licence; this rubble will be used to make poultry shed bases.

The shed in our north yard and was erected initially as a horse riding arena in the 1970's, a concrete floor was laid in the 1980's to allow it to be used as a general purpose agricultural building. We primarily use it as a grain storage facility for part of the year, at other times we use it to store fertiliser, fuel and our combine harvester and other farm implements.

We have started to explore haulage and have recently set up a new company "Maclean Haulage". We are in the early stages of looking at how we could take control of the egg collections and feed deliveries for the egg companies as well as our grain, straw and fertiliser movements on the farm.

Another area we are exploring is to put either cattle or pigs in the general purpose shed. The cattle or pigs would be here on a "bed and breakfast" basis to allow the farm to earn money whilst the shed is empty.

We have had a look at the Town & Country Planning (Scotland) Act 1997 and in particular Section 26 which defines those operations and works that are considered to be "development". Section 26(e) states that "the use of any land for the purposes of agriculture or forestry (including a forestation) and the use for any of those purposes of any building occupied together with land so used" shall not be considered to be development. I understand that this means that because the shed is an existing building which is being used for agricultural purposes along with agricultural land, we should be able to use it for any agricultural purpose.

We also believe that change of use is not required as we are not starting an intensive livestock business and understand that provided that any works that have to be carried out to the building to accommodate livestock relate to the internal parts of the building only and do not materially affect the external appearance of the building then planning permission would not be required.

It would be helpful if you could clarify this for us please?

We are of course mindful of our neighbours and the potential for statutory nuisance from noise and odour. In particular we have looked into planning permission that was granted for the closest residential property "Merlewood"(02/00552/FUL) as I recalled that my late father-in-law had highlighted that the building may be used for livestock during the planning process.

In the planners report to SBCs Berwickshire Area Committee on 28th May 2002 (attached for your ease of reference) it was noted that our shed "might have potential as a building for cattle". This report notes that the applicant for Merlewood was a former farmer and aware of the nature of farming activities and that in "terms of future intensive livestock activity there are already non-farm dwellings within the prescribed distance of the grain store".

Please feel free to contact me if you have any questions/queries about our plans and I do hope that email is helpful in letting you know early of our next steps at Hutton Hall Barns.

Kind regards

Angela MacLean  
Hutton Hall Barns  
Hutton  
Berwick Upon Tweed  
TD15 1TT

[REDACTED]

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**From:** Angela MacLean [REDACTED]  
**Sent:** 11 July 2016 17:21  
**To:** Hoad, Lucy  
**Subject:** FW: Hutton Hall Barns - Future use of North Yard and General Purpose Agricultural Building

Hello Lucy,

We have been revisiting our plans for the farm and our thoughts are that we will use the General Purpose store to hold grain for a couple of months after this years harvest with the aim of housing our first "crop" of pigs before the end of this calendar year.

As discussed earlier this year, we believe that change of use is not required (see email below for my thoughts re that) and it would be helpful if you could clarify this for us please?

Many thanks

Angela MacLean  
Border Pigs  
Hutton Hall Barns  
Hutton  
Berwick Upon Tweed  
TD15 1TT

[REDACTED]

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**RE: Hutton Hall Barns - Future use of North Yard and General Purpose Agricultural Building**

Hoad, Lucy

Mon 08/08/2016 10:48

To [REDACTED]

Good Morning

Having discussed with colleagues I would re-confirm my earlier verbal communication that the use of the barn for agricultural purposes is accepted. The Town and Country Planning (Scotland) Act 1997 defines agriculture as; "horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes. Thus no change of use is required.

Kind regards  
Lucy

## Appendix 4 – History of Planning Within the Area

### Planning Application Details - Application Number B236 / 90 for Residential Development at Hutton Castle Barns by W. Nimmo

#### Brief Overview - 0.2ha site lying to the east side of the farm buildings at Hutton Castle Barns

Month / Year	Summary of Key Points
July 1990	<p>Outline consent for a residential development submitted to Borders Regional Council.</p> <p>Objection submitted by C D Maclean (my late father) on grounds of:</p> <ul style="list-style-type: none"> <li>• The impact of running an active farming enterprise immediately adjacent to a potential development site</li> <li>• The General Purpose shed owned by Maclean and Company (farming partnership) was used for grain drying and storage – the environs can therefore be both dusty and noisy</li> <li>• The General Purpose shed may be used for livestock which would not be compatible with residential developments</li> <li>• Drainage concerns – existing field drains will not cope with increased water</li> <li>• Sewerage concerns – proposed use of septic tank but no details in how outfall water will be managed – linked to the point above regarding drainage</li> <li>• Health and Safety concerns re accidents in farm/farmyards</li> </ul>
November 1990	<b>Application considered and refused by Borders Regional Council on the grounds of “it’s proximity to ongoing farmyard operations could result in an unacceptable level of conflict between residential and agricultural activities”.</b>
June 1991	<p>Appeal lodged to the Secretary of State against Borders Regional Council decision.</p> <p>Letter from J A Maclean (my mother) to The Scottish Office Inquiry Reporters Unit to advise all points in the objection letter dated 23 July 1990 still stand and to provide a copy of a letter from The Scottish Agricultural College (SAC) Advisory Service to the reporter.</p> <p>The letter from SAC outlined the findings of discussions regarding the future expansion of the farm business and in particular focussed on intensive livestock enterprises - pigs.</p>
July 1991	Letter received from The Scottish Office Inquiry Reporters Unit confirming receipt of letter dated 30 June 1991.
September 1991	Letter received from The Scottish Office Inquiry Reporters Unit advising of the reporter’s site inspection on 25 September 1991.
November 1991	<b>Letter received from The Scottish Office Inquiry Reporters Unit advising of that the appeal was dismissed and upheld Borders Regional Councils decision to refuse planning consent.</b>

	<p>The report (copy below) in its conclusions noted that “the appeal site would still adjoin the existing access (an alternative access point was proposed) and lie adjacent to the steading and grain store. I find that 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. “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 measures were to be introduced.”</p>
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Scan Copy of The Scottish Office Inquiry Reporters Decision Letter



THE SCOTTISH OFFICE

Inquiry Reporters

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MacLean and Co  
Hutton Hall Barns  
Hutton  
Berwick-upon-Tweed

Our ref: P/PPA/B/281

7 November 1991

Dear Sirs

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972  
APPEAL: HUTTON CASTLE BARNS, HUTTON

I enclose for your information a copy of the decision letter on this appeal.

Yours faithfully



MRS F PHAUF

ENC

A0502603.111







## THE SCOTTISH OFFICE

### Inquiry Reporters

2 Greenside Lane  
EDINBURGH  
EH1 3AG

Telephone 031-244  
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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

PPAB281

1.



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


P/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

  
WILLIAM NIMMO  
Reporter

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## Appendix 5 – History of Planning Within the Area

### Planning Application Details - Application Number 97 / 0330 / D for New Dwelling House at The Paddock, Hutton Castle by Bain Swan on behalf of J. Houston

#### Brief Overview - 0.35ha site lying to the north side of the drive to Hutton Castle

Month / Year	Summary of Key Points
May 1997	<p>Correspondence between Scottish Borders Council and Bain Swan Architects (acting on behalf of the land owner) discussed various issues (see below).</p> <p>Of those which are relevant to the 2016 planning applications this includes the need for SEPA to comment on drainage issues.</p>
June 1997	<p>Correspondence between Bain Swan Architects and Scottish Borders Council again a number of issues are discussed.</p> <p>Those with relevance to the 2016 planning applications is the recognition that <b>“the development of the farm steading and the ground to the west is hampered by the existence of a farm shed within 400 metres which has cattle unit potential”</b>.</p>
February 1998	<p>Following Scottish Borders Council refusal to grant planning on the grounds of the site being outwith any recognised building group an appeal was lodged.</p> <p>The Scottish Office Inquiry Reporters Unit site inspection was held on 17 February 1998.</p>
April 1998	<p>Letter received (see below) from The Scottish Office Inquiry Reporters Unit advising of that the appeal was dismissed and upheld Borders Regional Councils decision to refuse planning consent.</p>

Scan Copy of Correspondence between Scottish Borders Council and Bain Swan



Paul Gregory  
Director of Planning and Development

Bain Swan Architects  
28 Harbour Road  
Eyemouth  
Berwickshire  
TD14 5HY

Please ask for: Mr A Maclean

Ref: AM/FP/97/330/D

Your Ref:

Date: 21 May, 1997

Dear Sirs

ERECTION OF DWELLING, HUTTON CASTLE BARN

I refer to your planning application in respect of the above and to the supporting information provided.

As you are aware this is a proposal which has aroused some interest and discussion previously and I would take this opportunity to advise you of comments received. Firstly, I believe SEPA have contacted you direct with their comments on drainage. Continuing on the technical side, East of Scotland Water have confirmed that a gravity water supply is available. As to access, the Director of Technical Services has indicated no objection in principle to the application. He has though recommended that the private road be surfaced in a bituminous material if any further development is planned within the site.

Hutton and Paxton Community Council have commented that the plot is situated within the setting of the Castle, a historic area, and that any building would detract from this. They also note that the plot itself would be visible both from the road and neighbouring properties and that building on the site would detract from these. They have therefore indicated their opposition to consent for any development within the grounds of Hutton Castle. The local member, while not objecting to the proposal did raise queries about servicing aspects and about the possibility of this application being the start of further development proposals in the area. Would approval set a precedent.

Additionally, neighbour comment has also been received, one querying the agricultural restriction on their own property should approval be granted on this site. A question has also been raised about the fields to the south and east being classed as amenity parkland which they once were but which are now classed as being in fully arable production. A very detailed objection has also been received which has emphasised the previous planning history on the site, notably the refusal in 1994. Reference has also been made to the current policies against which decision have to be based and accordingly has argued that there is no existing building group at the location and no substantiated need for the house. The division of the plot into a house site and paddock too is seen as setting the possibility for a future house application should approval now be granted. It has also been argued that the curtilage of Hutton Castle should be treated as a whole under a planned manner to retain character rather than by ad hoc development. It is also considered that alternatives are available for housing in this location.

Planning and Development



Council Offices, 8 Newtown Street, DUNS, Scottish Borders, TD11 3DT  
Tel: Duns (01361) 882600 Fax: Duns (01361) 882080. DX 1208 Duns.

As you will appreciate this application will have to be taken in due course before the Planning and Development Committee. If you wish to provide any additional information on the application I would be pleased to receive this in due course.

Yours faithfully

A black rectangular box redacting the signature of Alasdair Maclean.

Alasdair Maclean  
Area Development Control Officer

Scottish Borders Council  
Director of Planning and Development  
8 Newtown Street  
DUNS  
Berwickshire TD11 3DT

Our Ref: AS/MF

Date: 03/06/97

For the attention of Mr A McLean

Dear Sir

Application for Outline Planning Consent  
Ref. 97/0330/D  
Mr J A Houston  
Hutton Castle Barns

COPY

We refer to your letter of 21 May 1997 in which you paraphrase the various responses to the above application.

1. Technical services

Your first paragraph deals with various technical matters. It is our understanding that, while the disposal of sewage must ultimately be addressed in consultation with SEPA, the matter can be made a condition of outline planning permission. Secondly, it is assumed that the requirement for the road to be surfaced in bituminous material will only apply if further development is planned, that is, in addition to the present application.

2. Community Council

In your second paragraph, you say the Community Council note that the plot will be visible both from the road and neighbouring properties. We do not believe the proposed house would be visible from the road. Neither would it be visible from the castle or the lodge. The views from the stable block to the proposed house would be filtered through the existing wood and by future planting on the proposed house plot. This latter view is over a distance of approximately 200 metres. The Community Council also say the any building within the setting of the Castle would detract from the (historic) area. This seems too draconian a view to us. It implies that nothing nowadays can be built of sufficient quality and overlooks the fact that historic architectural environments rarely remain fixed in time and are usually subject to constant change. We and our client take the contrary view: that it is possible to build sympathetically in this situation and that the change can be beneficial to the area.

contd..



### 3. Neighbour objections

We take it that the first part of your third paragraph concerning the agricultural restriction on farm property and amenity parkland classification are not directly relevant to this application.

We note the detailed objection from Mr and Mrs G M Shillinglaw and would draw your attention to item no. 3 in our letter of 23 April 1997 concerning the additional dwelling unit formed at the stable block since the previous application. We have previously argued that the buildings at Hutton Castle do form a building group and the extra dwelling unit can only strengthen this case. The local member's concern regarding setting a precedent need not be a problem if this argument is accepted, since the application would be acceptable under Policy 7 of the Local Plan.

If, as we believe, there exists a building group as defined by Local Plan Policy and, as we advocate a further house can satisfactorily be added, the question of "substantiated need" in relation to a "single house in the countryside" (reference Policy 8) is not relevant. Nonetheless, we would wish to emphasise Mr Houston's purpose in seeking to obtain planning consent. This is to produce funds to renovate the existing farm cottages to a good lettable standard, something which would undoubtedly be of benefit to the area, and which would be supported by Local Plan policy. Mr Houston has frequently been approached by prospective tenants but never by anyone wishing to purchase the cottages in their present condition. On the other hand he has had several approaches in relation to the purchase of the plot in question. One of these was, as you know, from a retired farmer. Another possibility is that Mrs Houston's mother and father, who live in the south, may soon require to live nearer at hand.

Mr and Mrs Shillinglaw's concerns regarding the future development of the paddock need not be a problem in the context of a Section 50 Agreement preventing further building.

Various development alternatives are indicated by Mr and Mrs Shillinglaw. We have explained how the renovation of the cottages can be financed by the sale of the plot. The development of the farm steading (currently being maintained in a wind and weathertight state by our client) and the ground to the west is hampered by the existence of a farm shed within 400 metres which has cattle unit potential. The ground to the east of the lodge is currently wooded and Mr Houston, understandably, does not wish to fell this wood. In addition to the loss of amenity, building on this site might constitute ribbon development.

4. Finally, it is noteworthy that Mr Anthony Gray of Hutton Castle, who might be considered the principle neighbour, has not objected. Mr Houston has indicated that Mr Gray is content to let the design and choice of external materials be controlled by the Council in relation to a future application for Full Planning Permission.

Yours faithfully

BAIN, SWAN ARCHITECTS

Scan Copy of The Scottish Office Inquiry Reporters Decision Letter



THE SCOTTISH OFFICE

Inquiry Reporters

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Bain, Swan  
Architects  
28 Harbour Road  
EYEMOUTH  
TD14 5HY

Your ref: AS/MF

Our ref: P/PPA/140/52

15 April 1998

Dear Sirs

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 47 AND SCHEDULE 4**

**PLANNING APPEAL BY MR J A HOUSTON: OUTLINE PLANNING PERMISSION FOR ERECTION OF DWELLINGHOUSE AT HUTTON CASTLE BARN, HUTTON, BERWICK ON Tweed**

1. I refer to your client's appeal, which I have been appointed to determine, against the refusal of planning permission by the Scottish Borders Council for the above development. I have considered the written submissions and I carried out an accompanied site inspection on 17 February 1998. The exchange of submissions in this case concluded with your client's letter of 1 March 1998.

2. The appeal site, extending to 0.35 hectare, lies on the north side of the driveway to Hutton Castle, a category B listed building, approximately halfway between the East Lodge and the castle itself. The driveway connects to the unclassified road leading from the village of Hutton to the farmhouse, cottages and farm buildings at Hutton Castle Barns. The site is broadly rectangular, with metal fencing and appears to have been last used as a paddock. The north boundary runs along a public footpath known as Lady's Walk, the ground falling steeply on the other side of the footpath towards the Whiteadder river. The south boundary is the driveway, the west boundary is a small plantation of trees, while the east boundary is a field between the site and the East Lodge at the entrance to the driveway.

3. The application, which is in outline only, is for permission to erect a single house on the site, with a paddock. No drawings have been submitted, only a statement in support of the proposal. A similar application in 1994 was refused on grounds that it was contrary to local plan policy, the site being outwith any recognised settlement or building group. Permission was granted for the conversion of the former stable block to the north of the site for residential use and also for the conversion to residential use of an annexe there.

PPA140/52

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4. The appeal site is covered by the Scottish Borders Structure Plan, approved in 1993 and by the Berwickshire Local Plan, adopted in 1996. Policies 7 and 8 of the local plan, in particular, relate to this appeal.

5. In response to consultation and notification, the Hutton and Paxton Community Council objected on grounds of the adverse impact on the setting of the castle and nearby properties. There were 2 objections from local residents, highlighting the reasons for refusal of the earlier application.

6. Planning permission was refused for the following reason:-

"The proposal would be contrary to policy 8 of the Berwickshire Local Plan, in that the site is outwith any recognised settlement or building group, and an overriding need for the house has not been substantiated."

7. In support of the appeal, it is submitted that the appropriate policy is policy 7 of the local plan which covers additions to building groups. The various criteria in that policy are met by the proposal, as are the criteria in the Guidance Note entitled "New Housing in the Borders Countryside". The case for the development depends on policy 7 being the relevant policy. On this basis, there is no need to substantiate need for the house, which policy 8 requires.

8. The basis for the claim that there is a recognised building group is predicated on the site being at one time part of the castle policies and the proposal should be judged against the estate context. Although the castle, the lodges, the coach house and farm buildings are now in separate ownership, they nonetheless form a building group with a subtle hierarchical order to which any new house should conform. Irrespective of whether there is a building group, the grounds are capable of absorbing a single storey cottage, sensitively designed, without adverse impact to the landscape.

9. It is submitted that the definition of a building group set out in the guidance note on new housing in the countryside is sufficiently broad to encompass sites such as the appeal site. There are several examples of such groups across Berwickshire of what you regard as a planned landscape, with a variety of buildings close to access driveways. It is a matter of regret that the guidance note does not expressly deal with this particular type of building group. The grant of permission for conversion of the stable block to residential use effectively brings the number of units within the area of the castle to 3, which is the minimum number stipulated in the definition.

10. The recent grant of planning permission for a house at Anton's Hill, within a walled garden, is cited as a precedent for the proposal, the same issue of a building group having arisen and having been satisfactorily addressed. Your client proposes a sensitive design, the house to occupy the south east portion of the site, with the balance being used as a paddock. He is willing to enter into an agreement with the council under section 75 of the Act, regulating the development, with a view to retaining the dispersed character of the building group. A number of suggestions are made as to how the design would maintain the rural character of its setting.

11. Your client also owns a row of dilapidated cottages at Hutton Castle Barns, the rehabilitation of which he would hope to fund in part from the sale of the appeal site. This would bring a positive benefit to the area.

12. For the council, it is submitted that policy 7 of the local plan encourages new housing development outwith settlements within or adjacent to a list of preferred building groups. In addition, limited development may also be permitted within or adjacent to other building groups. In both cases, development is subject to 7 criteria, all of which must be met. Economic need does not feature within the criteria.

13. Policy 8 presumes against single houses in the countryside unrelated to an existing building group. Development may be permitted if an economic need can be substantiated and subject to the same criteria as policy 7.

14. The pivotal issue is seen as whether there is a recognised building group to which the proposal would make an acceptable addition. While conceding that a building group exists at Hutton Castle Barns, it is submitted that this is some distance away from the appeal site. The appeal site is seen in an estate policy context along with the castle, the 2 lodges and the stable block and annexe. While, historically, these buildings may have been linked, in physical terms they are widely dispersed and the appeal site bears little relationship to these buildings.

#### CONCLUSIONS

15. Section 25 of the Act requires that applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. Section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard be had to the desirability of preserving the building or any features of special architectural or historic interest which it possesses. On the basis of the written submissions and the site inspection, I consider that the determining issues in this appeal are (1) whether the proposal would be in accordance with the terms of the development plan and, if not, whether there are material considerations justifying a departure from the policies in the plan and (2) whether the proposal preserves the setting of the castle.

16. The development plan comprises the approved structure plan and the adopted local plan. As regards the structure plan, no issues have been brought to my attention by the parties. In terms of the local plan, the pivotal issue is the existence, or not, of an existing building group which in turn will determine whether policy 7 or 8 applies. The Guidance Note forms a material consideration.

17. For policy 7 to apply, the appeal site must be within or adjacent to a building group. It is not within or adjacent to any of the preferred building groups specified in the policy. The Guidance Note, rather than the local plan, defines a building group as at least 3 dwelling units. The fact of the matter is that there is no building, let alone a group of buildings, adjacent to the appeal site. I note the arguments regarding the estate context but consider that the estate context argues in favour of the site remaining undeveloped as part of the former castle policies. To take the opposing view would be carte blanche for the residential development of all the undeveloped former policies.

18. Policy 8 applies to the proposal and presumes against development, except for proposals based on substantiated economic need. In this case, beyond the suggestion that the proceeds of sale would assist in the rehabilitation of cottages at Hutton Castle Barns, no attempt has been made to justify the proposal on grounds of economic need, the whole case being predicated on the basis of policy 7 applying. Policy 8 reflects the guidance in paragraphs 48 to 56 of National Planning Policy Guideline 3 - Land for Housing on new housing in the countryside, which presumes against new housing in the countryside except where it is essential for a countryside related activity.

19. Accordingly, I find that the proposal does not comply with the development plan and that there are no material considerations to justify an exceptional grant of permission. In respect of the development at Anton's Hill, I have insufficient information to judge how relevant that may be but, in any event, each case must be determined on individual merit. The suggested section 75 agreement to retain the dispersed character of the area highlights rather than overcomes the fundamental non-conformity with the development plan.

20. While the council did not require the development to be advertised in terms of section 60 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997, a number of objectors have referred to the adverse impact of the proposal on the castle. I share this concern which is reflected in paragraph 8.1.0 of Appendix 1 to the Memorandum of Guidance on Listed Buildings and Conservation Areas 1993, dealing with development affecting the main approaches to listed buildings. The proposal has to be viewed in the estate context and, in my opinion, the proposal would be incongruous, would detract from that context and would not preserve the setting of the castle.

21. I have considered the other matters raised but none outweighs the considerations leading to my conclusions. Accordingly, and in exercise of the powers delegated to me, I hereby dismiss the appeal.

22. The foregoing decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks from the date hereof as conferred by sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997; 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 1992 or of any orders, regulations or rules made under these Acts.

23. Copies of this letter have been sent to the Scottish Borders Council and the objectors.

Yours faithfully



DONALD A WATT  
Reporter

## Appendix 6 – History of Planning Within the Area

**Planning Application Details - Application Number 02 / 00552 / FUL for Erection of Dwelling and Garage on land adjacent to the farm steading at Hutton Castle Barns, Hutton by Mr and Mrs G Davidson**

**Brief Overview – Site now known as Merlewood**

Month / Year	Summary of Key Points
April 2002	<p>Following the refusal of a dwelling on another site (planning reference 0100651/FUL) which was deemed to be out with the building group; a new application for a dwelling house at Hutton Castle Barns was submitted 02 / 00552 / FUL.</p> <p>Objection submitted by C D Maclean (see below) on grounds of:</p> <ul style="list-style-type: none"><li>• <b>Proximity of proposed house to agricultural buildings</b></li><li>• <b>Reaffirming the information presented by Bain Swan in June 1997 that “the development of the farm steading and the ground to the west is hampered by the existence of a farm shed within 400 metres which has cattle unit potential”.</b></li><li>• <b>The potential problems of noise, dust, smell and unsociable working hours of current agricultural workings in the GP store and yard area immediately adjacent to the proposed site</b></li></ul>
May 2002	<p>Report by the planning officer to the Berwickshire Area Committee (see below) set out the planning history of the site – 5 refusals in total between 1994 and 2001.</p> <p><b>The report noted that Hutton and Paxton Community Council had highlighted that previous refusal had been due to the relationship to agricultural buildings.</b></p> <p>It continued to highlight that although the site was adjacent to the grain store building, the site had no direct linkage with the building and would not be affected by traffic movements. <b>It was interesting to note that the planning officer explicitly highlighted that “the applicant is a former farmer” and “well aware of the nature of farming activities” at this point in time.</b></p> <p>The planning was granted and the house known as Merlewood was built.</p>

**Scan Copy of Objection letter submitted by C D MacLean**

Colin MacLean  
Hutton Hall Barns  
Hutton, Berwickshire, TD15 1TT  
15<sup>th</sup> April 2002

The Director of  
Planning and Development  
Scottish Borders Council  
Newtown St Boswells  
Melrose TD6 0SA

Dear Sir,

Re:

**ERECTION OF A NEW DWELLING HOUSE  
AT LAND ADJOINING HUTTON CASTLE BARNS**  
by  
Mr and Mrs G Davidson  
The Keepers House  
Kellos  
Duns TD11 3PT

The nearest farm building to the proposed development, a general purpose agricultural building with livestock potential, is in my ownership. Re letter to Director of Planning 21/05/1997 from Bain Swan Architects, acting on behalf of Mr J A Houston, I quote paragraph 3 : "The development of the farm steading and the ground to the West is hampered by the existence of a farm shed within 400m, which has cattle unit potential."

The above quote is from an appeal against refusal of planning consent, applicant Mr J A Houston.

I note that on drawing No 9632 LP the West boundary of the application site appears to be in my field. An old map has been used on which a fence line is shown. The old fence line is now well within my field boundary. Consequently, this has the effect of moving the application site much closer to the building than would first appear. The width East-West of the site is approximately 45m, from the farm building to the field which is also in my ownership.

Because the site plan is inaccurate, the proposed house site is much narrower than would appear, and although it is not clear where the exact location of the dwelling would be, it would most certainly breach any guide lines regarding new housing developments in proximity to agricultural buildings.

A previous planning application, July 1990, by another party, on an area of ground to the East of the farm buildings at Hutton Castle Barns (at an even greater distance than the current proposed application site to my agricultural building) was refused and went to appeal. The Scottish Office Reporter in a letter to Borders Regional Council from 7<sup>th</sup> November 1991 dismissed the applicants appeal on the grounds of:

- a) proximity of the agricultural buildings
- b) the views of SOAFD, which drew attention to potential problems of noise, dust, smell and unsociable hours.
- c) SOAFD considered it to be undesirable for agricultural enterprises to be restricted because of an adjacent development.

In light of information supplied in this letter and previous application/refusal/appeal/dismissal, I object to Mr Davidson's proposal.

Yours faithfully



## Planners Report to Berwickshire Area Committee

Item No 5(d)

### SCOTTISH BORDERS COUNCIL

### BERWICKSHIRE AREA COMMITTEE

26 MAY 2002

### APPLICATION FOR PLANNING PERMISSION

<b>ITEM</b>	<b>REFERENCE NUMBER.</b>	02/00552/FUL
<b>OFFICER:</b>	Mr A Maclean	
<b>LOCAL MEMBER:</b>	Councillor C J Horne Robertson	
<b>PROPOSAL:</b>	Erection of dwellinghouse and garage	
<b>SITE:</b>	Land adjacent Farm Steading Hutton Castle Barns Hutton	
<b>APPLICANT:</b>	Mr & Mrs G Davidson	
<b>AGENT:</b>	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 settlements<sup>1</sup> 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 & 61 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**

St Bathans; Auchencrow; Christside Station, Cove; Cranshaws; Cumledge Mill, Preston Eburn; Fogo; Hoprig; Cockburnspath; Hordean; Houndslow; Houndwood; Humie, Ladykirk, Polwarth, Spottiswoode.

<sup>1</sup> 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 61**

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 Bams Berwick-Upon-Tweed



1:2500

Registered in the Scottish Land Register  
Scale 1:2500  
Map of the land adjacent to the farm steading  
Hutton Castle Bams Berwick-Upon-Tweed

Map of the  
land adjacent to the  
farm steading  
Hutton Castle Bams

Scottish  
Borders  
COUNCIL



## Appendix 7 – History of Planning Within the Area

### Planning Details – Pre-application discussions for Erection of 9 Residential Units at Hutton Castle Barns, Hutton by Kestros Investments Limited

**Brief Overview - Site of 1.73ha to create a development of 9 residential units – 6 within the traditional buildings and 3 new builds on brownfield site**

Month / Year	Summary of Key Points
2003	C D Maclean was approached by a developer (Kestros Investments Ltd) wishing to purchase the steading at Hutton Castle Barns from Mr J Houston along with access road, stack yard and general purpose building from C D Maclean.
February 2004	<p>Correspondence from Strutt and Parker (see below) regarding the possible development at Hutton Hall Barns.</p> <p><b>Strutt and Parker highlighted that they understood “from the local planning authority that development would only be possible if all buildings are converted to residential properties or demolished so they are no longer used for agriculture”.</b></p> <p>Recognises that both parties need to agree to a sale to progress this potential development.</p>

## Scan Copy of Letter from Strutt and Parker

### Edinburgh

28 Walker Street Edinburgh EH3 7HR  
Telephone +44 (0)131 226 2500 Facsimile +44 (0)131 226 2508  
E-Mail [edinburgh@struttandparker.co.uk](mailto:edinburgh@struttandparker.co.uk) [www.struttandparker.com](http://www.struttandparker.com)



International Property Consultants

C MacLean Esq  
Hutton Hall Barns  
Hutton  
Berwick-upon-Tweed  
TD15 1TT

Direct line: +44 (0) 131 718 4595  
E-mail: [andrew.smith@struttandparker.co.uk](mailto:andrew.smith@struttandparker.co.uk)

Our Ref: AGS/CVM

25 February 2004

Dear Mr MacLean

### Possible development at Hutton Hall Barns

I enjoyed meeting you again at Hutton Hall Barns on Monday and thank you for showing me the land and buildings at Hutton Hall Barns which have been identified by a developer as a potential opportunity if combined with the traditional buildings owned by your neighbour, Mr Houston.

I write to summarise our discussions and my recommendations to you as to how you should approach the negotiations with the interested party.

### Background

You explained that you have been approached by a developer who wishes to purchase (subject to detailed planning permission) the traditional steading at Hutton Castle Farm along with the surrounding land. The site is currently in the ownership of yourself and your neighbour Mr J Houston. Mr Houston owns the traditional steading buildings and courtyard while you own the access road, a stack yard and a portal frame general purpose shed. A map showing the location of the property and plan showing the layout is attached as Appendix I.

It is understood from the local planning authority that the development will only be possible if all the buildings are converted to residential properties or demolished so they are no longer used for agriculture. As a result this would require the removal of the general purpose shed which you currently use as a grain store. It also means that the development will only be possible if Mr Houston and yourself both agree to a sale.

### Property

The site identified extends to about 1.73 acres and is split into 1.01 acres owned by Mr Houston and 0.72 acres owned by you. In addition Mr Houston owns a paddock of 0.33 acres to the western boundary of the site which may be included in a sale.

The property owned by you comprises the access road, over which Mr Houston has a right of access, the general purpose buildings which measures 100ft x 72ft and a small stack yard.

The development proposed comprises 9 residential units of which 6 would be created from the traditional buildings with a further 3 houses being built on the Brownfield site. A copy of a plan showing the proposed development is attached at Appendix I.

Names of Partners are available on request from Head Office: 13 Hill Street London W1J 5LQ Telephone +44 (0)20 7629 7282

Offices in London - West End, City, Belgrave; Banbury, Brighton, Canterbury, Chelmsford, Chester, Edinburgh, Exeter, Glasgow, Grantham, Guildford, Harrogate, Ipswich, Lewes, Market Harborough, Merton-in-Marsh, Morpeth, Nantwich, Northampton, Norwich, Salisbury, St Albans, Winchester and overseas representation throughout the world.



### Considerations

There are various points that need to be taken into consideration in deciding whether or not you wish to sell the property to the developer that has approached you.

1. **Loss of building**  
In selling the land you would be losing the general purpose shed/grain store and as we discussed you require a building of this size to efficiently run your farming operation. It will therefore be necessary for you to erect a new building at a cost of circa £70,000 to £100,000 on a Greenfield site. This will require planning permission and will also result in you losing a small area of productive land from whichever field you decide is a suitable site for the new building.
2. **Cost of build**  
The build cost for new houses on Brownfield sites is likely to be less than for the conversion of the traditional steading. It can therefore be argued that there is a greater profit margin for the developer in the new build properties rather than the conversion of the traditional buildings.
3. **Access**  
As we discussed it is possible that planning permission may be granted for the land to the east of the access road which may become suitable for residential development if the proposed scheme goes ahead. We discussed the possibility that the only suitable access is over your access track. I recommend you examine how you can gain from the development of the adjoining land if this was to be the case. I recommend you consult with a solicitor to check your title deeds to establish the situation before committing to a sale.

### Value

On the assumption that the scheme goes ahead as proposed and planning permission is granted in my opinion you should be looking for a sale price of £60,000 to £70,000 per house for those to be sited on the land you own. As we discussed rather than agreeing a flat figure for this land I would suggest that there is a clause included in any sale relating to the possible provision of access for the development of the land lying to the east and also a clause to cover the possibility of more than 3 houses being built on the land you propose selling.

I trust the above points accurately reflect our discussion and if I can be of any further assistance please telephone me.

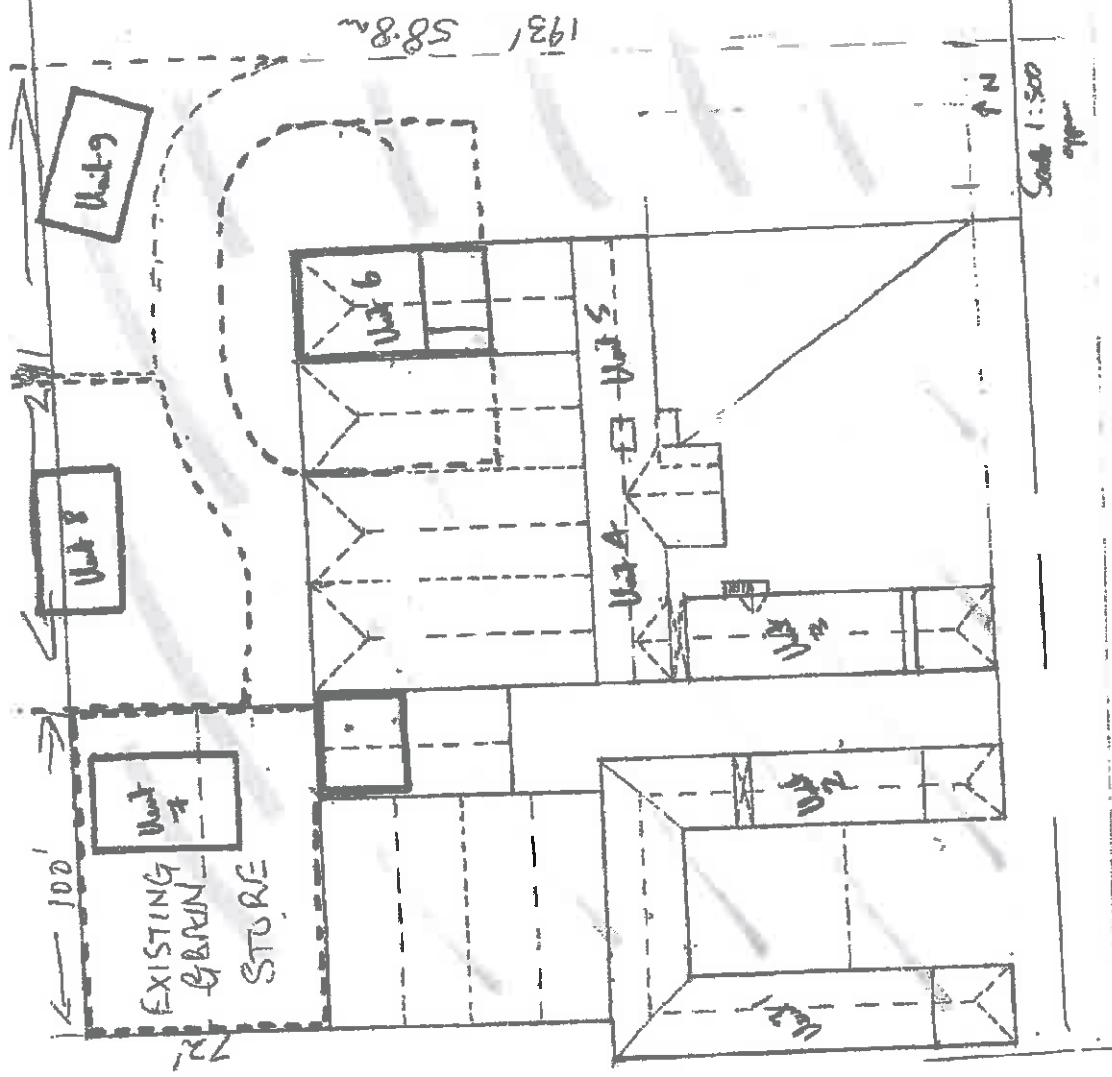
Yours sincerely



**A G Smith MRICS**  
**Partner**

Enc.





© Kostas Investments Ltd  
Dec 03



## Appendix 8 – History of Planning Within the Area

**Planning Application Details - Application Numbers 08 / 01257 / OUT, 08 / 01258 / OUT, 08 / 01259 / OUT and 08 / 01260 / OUT for 4 Dwelling Houses at Hutton Hall Barns, Hutton by Mr C D MacLean**

**Brief Overview – Site to south of existing farm cottages for 4 dwelling houses**

Month / Year	Summary of Key Points
2007	Planning permission was refused for 4 dwelling houses on land at Hutton Hall Barns
July 2008	Planning permission submitted for 4 dwelling houses on land at Hutton Hall Barns
August 2008	<p>Objections (see below) to the 4 dwelling houses were made by neighbours and the local Community Council on the following grounds:</p> <ul style="list-style-type: none"> <li>• If 4 houses are to be built that could mean an increase of up to 8 cars using the road resulting in a fear of potential for accidents with increased flow of traffic</li> <li>• An introduction of residential traffic movements to and from the proposed plots will lead to <b>Increased conflict with operational and agricultural vehicles</b> to the detriment of road users and pedestrian safety in the vicinity</li> <li>• The site lies close to the working farm steading at Hutton Hall Barns and it is proposed to “share the same access” and as such <b>“conflict between the various existing agricultural uses and the proposed residential development will impact upon the operation of the farm and affect the amenities of the new dwellings”</b>.</li> <li>• The outcome of such a development would <b>“only serve to add to commuter traffic on minor roads in and around the community”</b></li> <li>• A matter of some concern is the potential for added traffic at the access point to the proposed development and thereby associated road safety. <b>“Already there is considerable traffic activity at this point, much of it involving large vehicles entering and leaving the farm”</b> A further four houses would exacerbate an already problematic situation”.</li> <li>• During harvest time grain is lead into the steading for drying (from fields), once it is dried it is transported from the steading (Hutton Hall Barns) up the road to another shed on the right hand side of the road (General Purpose store in the north yard).</li> <li>• All articulated lorries to pick up grain go into the steading to find out where to get loaded. Lorries with trailers for straw bales also other delivery wagons use this entrance.</li> <li>• During harvest time, the grain drier <b>“goes from early morning to last thing at night with considerable noise”</b>.</li> <li>• <b>“We feel this development would give rise to a huge conflict between agricultural, retail and residential traffic in a very busy farm steading entrance”</b></li> </ul>

	<p>Planning permission was refused on the grounds of that the proposed development was contrary to policy and that <b>“the construction of the vehicular access for domestic traffic onto a roadway serving the adjacent working farm would give rise to a road safety hazard due to the conflict between its users”</b>.</p>
--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Scan Copy of Objections Letters

Consent Development  
& Planning  
Rec - 5 AUG 2008  
To AM/bj  
28/07/2008 12:40:12

7 Hutton Castle Barns  
Hutton  
Beirick-upon-Tweed  
Berwickshire  
TD15 1TT

Dear Sir

Re: Proposed formation of 4 No. building plots + access road  
At: Land adjacent to Hutton Hall Barns, Hutton, Beirick-upon-Tweed, Berwickshire TD15 1TT

I write to express concern about the access road to these proposed properties. I live in the middle of the 3 properties on the other side of the road from the access point and I am wary of the increase in traffic using the road if 4 houses are to be built, that could mean an increase of up to 8 cars using the road and my car is parked outside the house as I do not have a garage and my fear is that there could be an accident with the increased flow of traffic. It is bad enough now with big lorries + tractors so any increase I would look upon unfavourably.

Yours sincerely

[Redacted Signature]

SCANNED

BOX 22

Economic Development & Environmental Planning	
Rec'd - 5 AUG 2008	
To	AM/6
Appl	See below x 4
Comments	to be submitted <input type="checkbox"/>

Box 22 Limited  
First Floor 23 Castlegate  
Berwick-upon-Tweed  
Northumberland TD15 1LF  
T/F 01288 330350  
W www.box22.co.uk

1<sup>st</sup> August 2008

The Head of Development Control  
Scottish Borders Council  
Council Headquarters  
Newtown St. Boswells  
TD6 0SA

Dear Sir

Planning Application References 08/01257 - 01260/OUT  
Proposed formation of 4 No. building plots including access road  
Plots 1 - 4, Land South of Cottages at Hutton Castle Bams, Hutton, Scottish Borders

I refer to the above planning applications, and I would be grateful if you would note that these representations relate to all four applications - 08/01257/OUT, 07/01258/OUT, 07/01259/OUT and 07/01260/OUT.

My clients, Mr and Mrs J Houston, are the owner occupiers of Hutton Castle Bams (adjoining the application site) and are also the owners of No. 6 Hutton Castle Bams, which lies directly opposite the application site. It is in this capacity that they wish to raise objection to the above-mentioned planning application.

I note that these applications are effectively resubmissions of the earlier withdrawn applications (references 07/01412 - 01415/OUT) and that there are no significant alterations to the proposals that would address the concerns raised by clients in the context of these original proposals. Accordingly, my clients would restate their strong objection to these resubmitted applications on the same grounds as previously. I attach a copy of my letter of 27<sup>th</sup> July 2007 which summarises the principal objections to these proposals, and I would be grateful if you would take these representations into account in determining the new applications.

Planning Regeneration Project Management  
Directors: Andy Jamell BA (Hons) TP MRTPI Chris White BSc (Hons) DipTP MRTPI  
Offices at Berwick-upon-Tweed and Canterbury  
Company Number: 06104862 Registered Office: 1/3 Sandgate Berwick-upon-Tweed TD15 1EW



RTPI

imagination of space making of place

SCANNED

Given that there are no material changes to the resubmitted applications, my clients' original objections remain valid. Indeed, you should be aware that a recent vehicular incident occurred at the junction of the main farm access with the public highway resulting in an injury. Under the circumstances, and as stated in my clients' earlier representations, there can be no doubt that the introduction of residential traffic movements to and from the proposed plots will lead to increased conflict with operational and agricultural vehicles to the detriment of road user and pedestrian safety in the vicinity.

In view of the above, and in recognition that the resubmitted applications raise the same planning issues as the previously-withdrawn applications, my clients maintain their objection to the proposed development and I share their belief that these applications conflict with the provisions and intentions of adopted and emerging planning policy – as set out in my attached letter.

Yours faithfully

CHRYSTIE

Director

cc Mr and Mrs J Houston, Hutton Castle Barns

enc.

SCANNED

**BOX 22 LIMITED**

**Chartered Town Planners**

**First Floor 23 Castlegate  
Berwick-upon-Tweed  
Northumberland  
TD15 1LF**

**T/F (01289) 330350  
E [chris@box22.co.uk](mailto:chris@box22.co.uk)  
W [www.box22.co.uk](http://www.box22.co.uk)**

**27<sup>th</sup> July 2007**

**The Head of Development Control  
Scottish Borders Council  
Council Headquarters  
Newtown St. Boswells  
TD6 0SA**



**Dear Sir**

**Planning Application References 07/01412 – 01415/OUT  
Proposed formation of 4 No. building plots including access road  
Plots 1 – 4, Land South of Cottages at Hutton Castle Barns, Hutton, Scottish Borders**

I refer to the above planning applications, and I would be grateful if you would note that these representations relate to all four applications – 07/01412/OUT, 07/01413/OUT, 07/01414/OUT and 07/01415/OUT.

My clients, Mr and Mrs J Houston, are the owner occupiers of Hutton Castle Barns (adjoining the application site) and are also the owners of No. 6 Hutton Castle Barns, which lies directly opposite the application site. It is in this capacity that they wish to raise objection to the above-mentioned planning application.

It is both my client's assertion and my professional opinion that the proposal conflicts with the provisions of both adopted and emerging planning policy, and should be refused accordingly. The principal policy grounds for objection are as follows:

- Policy H5 of the adopted Scottish Borders Structure Plan requires that new residential development within building groups in the countryside (i.e. outwith defined settlements) should

**Offices at Berwick-upon-Tweed and Carterbury**



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comply with the updated Supplementary Planning Guidance 'New Housing in the Borders Countryside'. This proposal is considered to conflict with this adopted guidance for the following reasons:

- a. The application site is a 'previously undeveloped field' (incorporating Grade 2 agricultural land) and is still in active use.
  - b. The site lies close to the working farm steading of Hutton Hall Barns (indeed, is proposed to share the same access road) and, as such, conflict will arise between the established agricultural use and the proposed residential use. The main farm access serves an egg laying unit as well as the main steading, and a small shop (for the sale of eggs) is located at the junction. The inevitable conflict between the various existing agricultural uses and the proposed residential development will impact upon the operation of the farm and affect the amenities of the new dwellings.
  - c. The scale of new development will not respect the character of the existing group which, in the immediate vicinity, is characterised by traditional farm cottages and other buildings associated with former and current agricultural operations. It is clear from the indicative size of the proposed building plots that substantial detached dwellings are envisaged which would represent a visually-intrusive form of development at this location.
  - d. Although the application site is bounded by development on two sides and, as such, lies within an existing building group the current nature of the application site itself contributes positively to the 'sense of place' of the group. The field represents a characteristic 'green break' within the existing group and its loss (and subsequent redevelopment) would fundamentally impact upon the wider landscape setting of the group.
- Policy D2 (Housing in the Countryside) of the Finalised Scottish Borders Local Plan – December 2005, reaffirms the need for new housing development in the countryside to comply with the provisions of adopted Structure Plan policy and the guidance contained within 'New Housing in the Borders Countryside'. Policy D2 does not offer any encouragement for the development of this site, and states that the "...cumulative impact of new development on the landscape and amenity of the surrounding area will be taken into account when determining new applications". In this regard it is considered that the proposed residential development of the application site will erode the 'sense of place' of the building group and introduce a visually intrusive form of development that would harm the wider landscape setting. In addition, the rising nature of the land (opposite the traditional farm cottages of the building group) dictates that any development here would have an adverse impact on the outlook from existing properties.
  - In addition to the above, the circumstances under which positive consideration of the proposal might be given by virtue of the exceptional grounds listed under Policy G8 (Development outside Development Boundaries) do not apply to this case or this site. It is clear from the indicative layout that the proposal is not for affordable housing and the release of this land.

Offices at Berwick-upon-Tweed and Canterbury

SCANNED

contrary to policy, to meet any shortfall in the five year housing land supply cannot be justified when other preferable sites for residential development exist in the area.

- Policy R1 (Protection of Prime Quality Agricultural Land) of the Finalised Scottish Borders Local Plan – December 2005 strongly presumes against the irreversible loss of prime quality agricultural land (as at this site) unless the development is essential to "the implementation of the development strategy". As demonstrated above, the proposal is at clear variance with the provisions of adopted and emerging policy and therefore cannot under any circumstances be considered as essential to the implementation of the development strategy.

In view of the above, it is clear that the principle of residential development at this site is contrary to the provisions of relevant adopted and emerging planning policy and the application should be refused accordingly. In the circumstances where there is any perceived need for the provision of new residential properties in the vicinity, there are other sites which may be more sensitively developed in full compliance with the requirements of planning policy.

I trust that these representations are of assistance to you and I trust that you will have regard to the above in determining the applications.

Yours sincerely

Chris White BSc (Hons) DipTP MRTPI  
Director

Offices at Berwick-upon-Tweed and Canterbury

Mr Brian Frater  
Head of Planning and Building Standards  
Scottish Borders Council  
Council Headquarters  
Newtown St Boswells  
Melrose

Chesterfield Farmhouse  
Paxton  
Berwickshire

August 5 2008

Dear Sir

Your Reference Numbers 08/01257/OUT to 08/01280/OUT

Application for Building Plots – Numbered 1 to 4 – on Land South of Cottages at Hutton  
Castle Barns, Hutton.

Our Community Council has considered the above application and would comment as follows:

1. The application would appear to be in contradiction of Scottish Borders Council Planning Policy Guidelines Policy D2 (b) in that the site, being in Berwickshire, is not within a preferred area of the Borders experiencing depopulation.
2. It would equally appear that the site does not qualify as a "dispersed community" defined as an "anchor point" as set down in the Planning Policy guidelines. The proposed development would instead merely add to an existing farm and neighbouring former agricultural workers houses.
3. Housing in this location would apparently not be a local economic requirement. There is no other economic activity in this community except the farm itself. It is most unlikely that the proposed development be intended for local farm workers. The outcome of such a development would only serve to add to commuter traffic on minor roads in and around the community. Such a situation sits very ill-at-ease with the section of the Planning Policy Guidelines covering this issue.
4. The proposal would appear to be in contravention of Policy R1 which states that development will not be permitted which results in the permanent loss of prime agricultural quality land. The development lies within a field currently in use and is described itself by the applicant as "arable land".
5. A matter of some concern is the potential for added traffic at the access point to the proposed development and thereby associated road safety. The latter is an issue constantly brought to the CC's attention. Already there is considerable traffic activity at this point, much of it involving large vehicles entering and leaving the farm. A further four houses would exacerbate an already problematic situation.

Taking account of the above comments, our Community Council raises an objection to the proposal.

Yours sincerely

Alex McGregor, Planning Representative/Community Enhancement

Economic Development & Environmental Planning	
Rec'd - 7 AUG 2008	
To	JH1
Ackn	0
File	08/00257/OUT + 1264/pu
Comment/Complaint	<input type="checkbox"/>

RECEIVED 06 AUG 2008

ENTERED 06 AUG 2008

6 Hutton Castle Barns  
Hutton  
Berwick upon Tweed  
TD15 1TT

2nd August 2008.

Head of Development Control  
Scottish Borders Council  
Newtown Street  
Duns  
TD11 3DT

*Application for Outline planning permission of Building plots at  
Hutton Hall Barns Farm, Hutton.*

*Ref 07/01412/out, 07/01413/out, 07/01414/out, 07/01415/out*

*Dear Sir,*

*I am writing to object to the possibility of building plots which are directly in front of our house.*

*No 1 Building houses directly across the road from the south facing cottages will block day light and winter sun and cause shadow over our cottage also this would generate more traffic on a narrow country lane which can be very busy.*

*No 2. As there are 9000 hens on the farm, a shed at the entrance to the farm has been set up as a retail outlet with the volume of traffic increasing on a narrow country road and some cars not particular how they park.*

*No 3 During harvest time grain is lead into the steading for drying, once dried it is transported from the steading up the road to another shed on the right hand side of the road.*

*No 4 All articulated lorries to pick up grain go into steading to find out where to be loaded. Lorries with trailers for straw bales also other delivery wagons use this entrance.*

*No 5. The cottages have to park their cars in front of their houses, and some times there is concern as some times lorries have difficulty gaining access to the steading.*

---

*No 6 An accident has already occurred three weeks ago at entrance into farm.*

*No 7. The cottages we live in were built around 1900 and have nothing to do with the farm in question.*

*I note there is no mention of the poultry unit on the plan received or road laid into this for delivery of feeding and uplifting of eggs.*

*I do hope you will consider our objections in your decision.*

*I also enclose copies of previous letters sent for first outline planning permission.*

*Yours faithfully*



*Joan Purves.*

6, Hutton Castle Barns,  
Hutton,  
Berwick upon Tweed.  
TD15 1TT

9th October 2007.

Head of Development Control,  
Scottish Borders Council  
Newtown Street  
Duns  
TD11

Dear Sirs,

**Re. application for 4 no. building plots & access road at Hutton Hall Barns, Hutton  
Ref's 07/01412-01414/eut**

I stand by the comments I made in my previous letter to you, 22nd July 2007 that this is a very busy entrance. During harvest grain is led into the steading, dried then led by tractors and trailers to other shed further up road. Even though grain is stored in other shed, lorries still go into steading to find out where to be loaded.

One shed is full of straw bales with articulated lorries and trailers coming in to be loaded.

Comments regarding grain drier noise, I have lived on this farm most of my married life and I am aware of noise etc.

I do hope you will take into account my comments.

Yours faithfully.

Joan Purves.

COPY

6, Hutton Castle Barns  
Hutton  
Berwick upon Tweed  
TD15 1TT

22nd July 2007

Head of Planning Control  
Scottish Borders Council  
Newtown Street  
Duns

APPLICATION FOR OUTLINE PLANNING PERMISSION OF BUILDING PLOTS AT HUTTON HALL  
BARNES FARM, HUTTON

Ref 07/01412/out, 07/01413/out, 07/01414/out, 07/01415/out.

Dear Sir,

I am writing to object to the possibility of building plots which are directly in front of our house.

No 1. My husband has worked on this farm in the past for many years and knows this is prime agricultural land.

No 2 Building houses directly across the road will block day light and winter sun and cause shadow over our cottage

No 3. During harvest time, the grain drier goes from early morning to last thing at night with considerable noise. we have to close windows because of this, the proposed house on plot no. 4 would be affected by this. There is a small wood and if trees are felled to make an entrance into plots it will make noise from drier even worse for us.

No 4 All the heavy farm machinery, articulated lorries to pick up grain, lorries with trailers for straw plus other delivery wagons also cars stopping to buy eggs at the shed at entrance to farm will be using the same entrance as the proposed houses, this is waiting for an accident to happen.

No 5. My husband has lived on this farm for nearly 50 years and is very disappointed at this proposal.

This proposal is not included in the local plan, I do hope you will consider our objections in your decision.

Yours faithfully

Mrs Joan Purves.

copy

RECEIVED 05 AUG 2008  
ENTERED 05 AUG 2008

**Mr S P & Mrs H Richards  
2-5 Hutton Castle Barns  
Hutton  
Berwickshire TD15 1TT**

1 August 2008

Director of Planning & Development  
Scottish Borders Council  
Newtown Street  
Duns  
Berwickshire

Dear Sir

**Planning References 08/01257/OUT, 08/01268/OUT, 08/01259/OUT, 08/01260/OUT**

We are writing in connection with the above applications for building plots at Hutton Hall Barns. We have attached our previous correspondence against the same application from last year and we still stand by the comments we made then. We still oppose the application as it the same application that was withdrawn and would like to make the following additional comments.

We believe that the development would have an extremely adverse impact on the amenity of the existing dwellings in respect to Policy H2 as follows:

**The scale, form and type of development in terms of its fit within the residential area**

The proposed positioning of the development has the dwellings to the north of the plots, just over the road to the existing traditional farm cottages. Four large detached houses in such close proximity to the existing traditional terraced farm cottages would have an adverse impact on the character and appearance of the locality and the landscape setting.

**The generation of traffic or noise**

We stand by our previous concerns and objections regarding the proposed entrance. We are concerned by the Agent's comments that "the Roads Officer continues to support the proposals". We feel this development would give rise to a huge conflict between agricultural, retail and residential traffic in a very busy farm steading entrance and are surprised that the Roads Department don't also, but are they looking at the development solely from the submitted plans? If this is the case then the following should also be taken into consideration:



1. The plans do not show the organic free range poultry unit to the east of the farm buildings. Which has been expanded since the previous application.
2. The plans do not show the roadside shed at the entrance to the farm steading used for egg sales.
3. The plans do not show the new access road to the new poultry unit which exits in between the two farm buildings.

**The level of visual impact**

All the cottages at Hurton Castle Barns (some of which are listed) are south facing. The proposed dwellings would seriously impact on our right to sunlight and daylight. We have enclosed some photographs showing the shadowing on the cottages from the hedge and telegraph poles opposite in the winter sun. The proposed development is located on rising ground on the south side of the hedge. As you can see from the photographs the 4-5ft (approx) high hedge casts a shadow right over to the cobbles of the cottages. The telegraph pole's shadow is cast onto the roof. Any dwellings built this close to the south of the cottages would stop daylight and sunlight to the south facing cottages, certainly to the ground floor, through winter months.

The rising ground also raises privacy concerns with the proposed dwellings being able to look into the rooms of the cottages. Any landscaping and screening to prevent this would add to the overshadowing problems.

In the current housing market climate, with developers sitting on land banks, not developing, laying men off we are surprised that this application, at a time when cereal crop prices are at a premium and the Government are promoting bio-fuels, has been submitted sacrificing good arable land.

We hope you take our comments on opposing this application into consideration when making your decision.

Yours faithfully



Mr S & Mrs H Richards

RECEIVED 13 AUG 2008

ENTERED 13 AUG 2008

6 Hutton Castle Barns  
Hutton  
Berwick upon Tweed  
TD15 1TT

2nd August 2008.

Head of Development Control  
Scottish Borders Council  
Newtown Street  
Duns  
TD11 3DT

Application for Outline planning permission of Building plots at  
Hutton Hall Barns Farm, Hutton.

Ref 08/01257/ont, 08/01258/ont, 08/01259/ont, 08/01260/ont

Dear Sir,

I am writing to object to the possibility of building plots which are directly in front of our house.

No 1 Building houses directly across the road from the south facing cottages will block day light and winter sun and cause shadow over our cottage also this would generate more traffic on a narrow country lane which can be very busy.

No 2. As there are 9000 hens on the farm, a shed at the entrance to the farm has been set up as a retail outlet with the volume of traffic increasing on a narrow country road and some cars not particular how they park.

No 3 During harvest time grain is lead into the steading for drying, once dried it is transported from the steading up the road to another shed on the right hand side of the road.

No 4 All articulated lorries to pick up grain go into steading to find out where to be loaded. Lorries with trailers for straw bales also other delivery wagons use this entrance.

No 5. The conages have to park their cars in front of their houses, and some times there is concern as some times lorries have difficulty gaining access to the steading.

*No 6 An accident has already occurred three weeks ago at entrance into farm.*

*No 7. The cottages we live in were built around 1900 and have nothing to do with the farm in question.*

*I note there is no mention of the poultry unit on the plan received or road laid into this for delivery of feeding and uplifting of eggs.*

*This application is not in keeping with the traditional farm cottages and would have a detrimental effect on the locality because they will be detached houses, they will be overbearing and will intrude on the privacy of the cottages.*

*I do hope you will consider our objections in your decision.*

*I also enclose copies of previous letters sent for first outline planning permission.*

*Yours faithfully*



*Juan Curves.*



*Planning and  
Economic Development*

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

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

**Application for Outline Planning Permission**

**Reference :08/01260/OUT**

**To : C D Maclean Esq per 44/48 Hide Hill Berwick Upon Tweed TD15 1AB**

With reference to your application received on 16th July 2008 for outline planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Erection of dwellinghouse**

**at : Land South Of Cottages At Hutton Castle Barns Hutton Scottish Borders**

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

**Dated 26th August 2008  
Planning and Economic Development  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

Signed

  
Head of Planning & Building Standards

Visit <http://eplanning.scotborders.gov.uk/publicaccess/> to view Planning information online

**CONTENTS**

- 1 The proposed development is contrary to Policy H5 of the Scottish Borders Structure Plan 2001-2011, Policies 7 of the Berwickshire Local Plan 1994 and Policies G1 and D2 of the Scottish Borders Local Plan: Finalised December 2005 in that the construction of the vehicular access for domestic traffic onto a roadway serving the adjacent working farm would give rise to a road safety hazard due to the conflict between its users.

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, 4 The Courtyard, Callender Business Park, Callender Road, Falkirk, FK1 1XR.

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.

## Appendix 9 – History of Planning Within the Area

### Planning Application Details - Application Numbers 11 / 01381 / PPP for 1 Dwelling Houses at Hutton Hall Barns, Hutton by Mr and Mrs C J MacLean

#### Brief Overview – Site to south of cottages for new farmhouse

Month / Year	Summary of Key Points
October 2011	Planning Permission in Principle applied for single dwelling house at Hutton Hall Barns
November 2011	Objections (see below) were made by neighbours and the local Community Council on the following grounds: <ul style="list-style-type: none"><li>• <b>Road safety issues and access points given the volume of associated farm traffic in the vicinity</b></li><li>• <b>Another building will increase traffic and affect the access to the farm with area already busy with heavy lorries and existing traffic</b></li><li>• <b>Noise at harvest time, with the grain drier running from 5am til 10pm impacting the existing cottages</b></li><li>• <b>Concerns around introducing another entrance / exit into an extremely busy farm steading and general road safety issues</b></li></ul>
February 2013	Planning in Principle was granted as a robust business case and economic justification had been made for the house to support existing businesses at this location.

## Scan Copy of Objections Letters

Chesterfield Farmhouse  
Paxton  
Berwickshire  
TD15 1TJ

Mr Brian Frater  
Head of Planning and Regulatory Services  
Environment & Infrastructure  
Scottish Borders Council  
Newtown St Boswells  
Melrose

November 11<sup>th</sup>, 2011

Planning Application Reference 11/01381/PPP – Erection of Dwelling House, Hutton  
Hall Barns

Dear Mr Frater

With regard to the above application, our Community Council, on behalf of residents at  
Hutton Castle Barns, would comment as follows.

Whilst bearing in mind that any application of this nature, as described in the  
accompanying documents, would require to comply with Planning Policy D2B thereby  
tying it to the associated farm business itself and for no other purpose, there remains two  
significant areas which do not appear to comply with current Planning Policy.

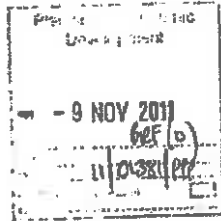
1. The area of ground shown for the plot on the accompanying map is within a field in  
active use. The scale of the plot is also significant being over one and a half acres, larger  
than that in the previously submitted application. This would certainly appear to be  
contrary to Policy R1 where developments are not permitted where it would result in the  
permanent loss of prime agricultural land.

2. It would also appear that the access road, identified in the previous application as a  
cause for some concern in terms of road safety for all users given the volume of  
associated farm traffic in the vicinity, has been moved around 50 metres to the north. It is  
clear that traffic using the new access point must still enter on to the same road as before  
so it would appear that the problem identified previously by SBC officials would remain  
regardless of where the access point may be.

We should add that there is some concern locally of the longer term and wider potential  
consequences of using this field for housing.

Yours faithfully

June McGregor  
Secretary, Hutton & Paxton Community Council



6, Hutton Castle Barns,

Hutton.

Berwick upon Tweed.

TD15 1TT

5<sup>th</sup> November 2011

Scottish Borders Council

Newtown St Boswells.

Application 11/01381/PPP Proposed Development Erection of dwelling house , land south of cottages at Hutton Castle Barns.

Dear Sirs,

I wish to object to the above proposal. Access to the farm with all heavy lorries with feeding and collection of eggs, lorries with trailers for straw also for grain, cars stop for eggs and some are not particular how they park; with another building there will be further traffic using this entrance. We are lucky we can park our car off road as some of the lorries must have problems getting access into the farm.

Trees will have to be felled to make the entrance to site. The trees are acting as a noise barrier they keep the sound of the dryer down at harvest time as the dryer can be going from 5 a.m. to 10 p.m. this will have an impact on all of the cottages.

This is prime farm land, I do think you should consider that, if planning goes ahead for one house, in no time there will be an application for more.

Yours faithfully

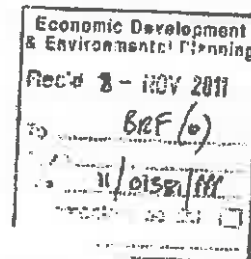
Joan Purves.



Mr S P & Mrs H Richards  
2 Hutton Castle Barns  
Hutton  
Berwickshire TD15 1TT

4 November 2011

Mr B Fotheringham  
Planning Officer  
Scottish Borders Council  
Council Headquarters  
Newtown St Boswells  
Melrose TD6 0SA



Dear Mr Fotheringham

11/01381/PPP - Erection of dwelling house land south of cottages at Hutton Castle Barns

We wish to object to the above planning application. As this differs only very slightly from the previous withdrawn application (11/01024/PPP) our original objections stand.

We do not believe the site is part of an identifiable group as it is separated from the three other areas of buildings by natural boundaries on all three sides, ie mature hedgerows and woodland on two sides with mature hedgerow and a drying green on the third side, as well as the man-made boundary of the road. This is particularly pertinent as it is proposing to break into a previously undeveloped field of good agricultural land. Both of the existing farmhouses are invisible from the road.

The application is using the cottages as the existing building group, but the cottages are one and a half storey traditional stone and slate build terraces, whereas a standalone substantial 2 storey house would be totally out of character and keeping. Council policy it states that 'The scale and siting of new development should reflect and respect the character and amenity of the existing group, and the individual houses within the group.' Given that some of the cottages are listed this application goes against the policy. Also 'Sites should not normally break into a previously undeveloped field, particularly where there exists a definable natural boundary between the existing group and the field, or require the removal of mature trees in good condition'. The site goes against Council policy again, especially given the fact that mature trees in good condition plus hedging would have to be removed to gain access to the site.

We also argue against the need for a second farmhouse as this would mean the existing farmhouse and annexe being empty for 6 months of the year as the applicant's parents live abroad from October to April. Given this plus the fact that the application goes against Council policy how can a second large farmhouse be justified.

The Design Statement still mentions a removal of housing from the countryside, but 2-5 Hutton Castle Barns have been three cottages for over 40 years, so perhaps after such a timescale this is irrelevant to the application. Especially given there has been the farmhouse and annexe plus a bungalow built in the intervening years.

The site has altered to leave a rectangular agricultural block of land rather than the L-shape in the previous application. Our argument still stands that we are greatly concerned as to how many other houses planning permission will be applied for on this site using the argument that the space left is not viable to continue farming. Especially given that there is no access to the site in this undeveloped field and the farmhouse would be setting a precedent. It would be a building in the middle of an arable field with no relationship at all to any of the other existing buildings.

At the moment the hedge and tree belt act as a buffer against smells and noise from the poultry units sited within 400 metres of the cottages. Removal of these is likely to cause an increase in nuisance for both, as well as increase of noise from the farm steading itself, eg. from lorries and farm machinery and the outdoor dryer during the harvest. Given the units can house up to 21,000 birds and all within 400 metres of the cottages, surely as much protection as possible should be given to neighbouring properties.

Why has there been a complete turnaround in the response from the Roads Department, given the only change is to the site of the house and not to the access? Surely the Road Department work on policy and not the thoughts of the individual responding? This is introducing another entrance/exit into an extremely busy farm steading. The applicant was asked to withdraw the previous application as you were unable to support it due to the siting of the house "as well as road safety and the potential for a conflict of traffic." This has not altered in the current application.

In summary we object to this application because it goes against Council policy, there is no justification for a second farmhouse and on the road safety implications.

Yours sincerely

A rectangular area where the signature has been redacted with a solid black box.

Mr & Mrs S P Richards

## Appendix 10 – Representation Letters regarding Maclean Haulage

Hutton Castle Barns  
Hutton  
Berwick-upon-Tweed  
TD15 1TT

Traffic Commissioner  
Hillcrest House  
386 Harehills Lane  
Leeds  
LS9 6NF

19<sup>th</sup> February 2016

Dear Sir

**OBJECTION TO AN APPLICATION FOR A GOODS VEHICLE OPERATOR'S LICENCE BY JAMES MACLEAN T/A MACLEAN HAULAGE LTD RELATING TO AN OPERATING CENTRE AT NORTH GRAIN STORE YARD, HUTTON CASTLE BARNS**

I am the owner of buildings and land adjacent to the proposed operating centre for 3 goods vehicles and 5 trailers. I wish to object to the application for the following reasons:

The road access to the site is along single track unclassified roads which require passing places. The tarmac surface of the road is only 10ft wide meaning that a lorry occupies the width of the road with little margin. We are a community of 13 households and 2 holiday cottages which generates a reasonable level of motor vehicle activity from our own vehicles, post van, deliveries and school bus. The current egg and arable enterprises generate further vehicular problems. Two photographs are enclosed showing the views east and west along the access road. It can be seen that at the entry point to the yard there are already problems with vehicles causing ruts in the verge where they turn to gain entry. It has also been necessary to erect a concrete bollard to protect the water meter and two stopcocks which relate to the domestic water supply to adjacent homes as lorries entering the applicant's site are encroaching on the verges at the point of entry.

I own the buildings to the south of the proposed haulage yard and have right of access to the buildings through the yard to the doors shown in the attached photograph. I am concerned there will be a Health & Safety issue with our use of this access and the proposed vehicles. Is there sufficient space for 3 lorries and 5 trailers to manoeuvre in a relatively small area? Not only do I own the buildings to the south of the proposed yard but I also own the land to the north, with the yard being 21.34 metres wide.

I am in the final stages of negotiating the development of my buildings into housing and am receiving considerable encouragement from Scottish Borders Council planning department. I feel there would be a conflict between residential housing in the existing buildings and the haulage yard. It is not as if Mr Maclean does not own other suitable sites.

Yours faithfully

A black rectangular box redacting the signature of J A Houston.

J A Houston

Enclosures:

- OS sitemap
- Aerial view of site
- Photograph of south side of yard
- Photograph of approach road from east
- Photograph of approach road from west

Copy of letter and enclosures sent to:

James Maclean trading as Maclean Haulage Ltd, Hutton Hall Barns, TD15 1TT



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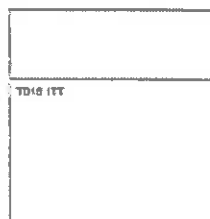
The representation of a road, track or path is no evidence of a right of way.

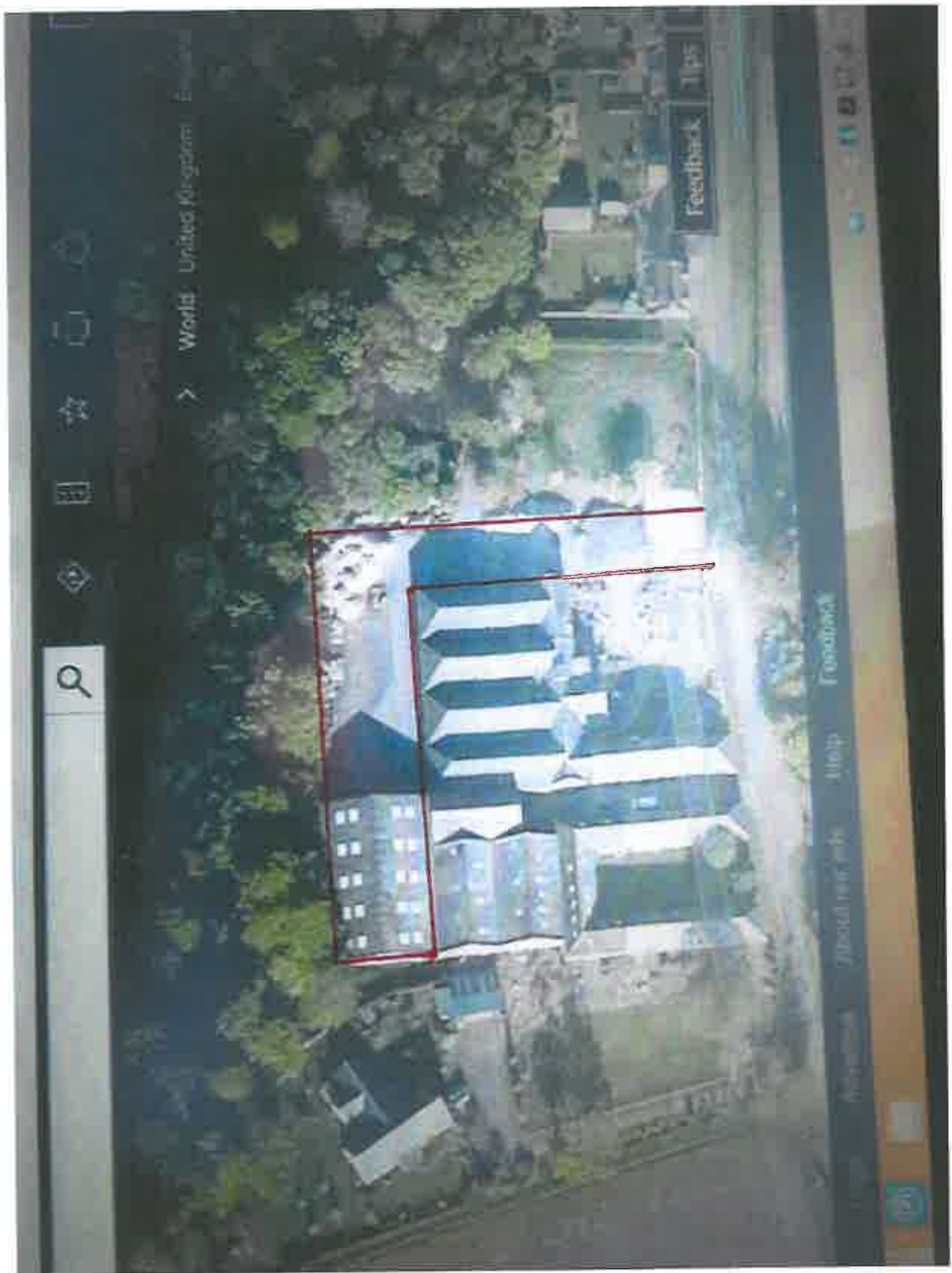
The representation of features as being is no evidence of a property boundary.



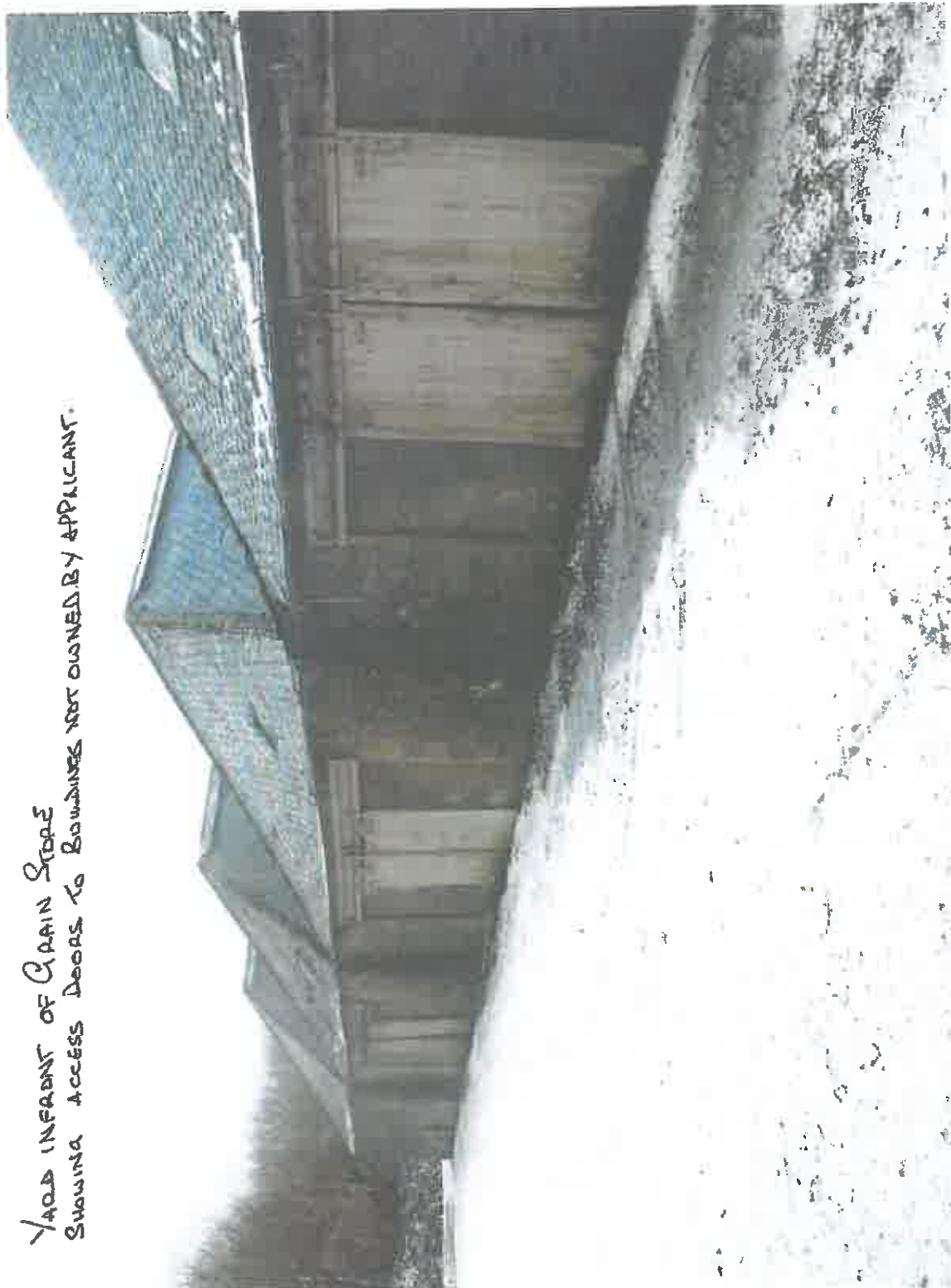
Supplied by: Browns Messengers  
Serial number: 00131200  
Centre coordinates: 388189.8 654499.8

Further information can be found on the OS Sitemap Information leaflet or the Ordnance Survey web site  
[www.ordnancesurvey.co.uk](http://www.ordnancesurvey.co.uk)





YARD IN FRONT OF GRAIN STORE  
SHOWING ACCESS DOORS TO BUILDINGS NOT OWNED BY APPLICANT.





Public Road Woonona West





Public Road Looking East.



## **WILLIAM NIMMO FARMS**

**CASTLEMAINS  
DUNS**

**BERWICKSHIRE**

**TD11 3TP**

Tel 01361 882809

Mobile 07860 222400

Email [wilson@nimmocm.com](mailto:wilson@nimmocm.com)

19 February 2016

Traffic Commissioner  
Hillcrest House  
386 Harehill Lane  
LEEDS  
LS9 6NF

Dear Sir

### **Objection to;**

An application for a goods vehicle operators licence by Mr James Maclean trading as,

**MacLean Haulage Ltd  
Hutton Hall Barns  
Hutton  
BERWICK UPON TWEED  
TD15 1TT**

I wish to object to the above application as the owner of adjacent land to the east of the proposed operating centre for 3 goods vehicles and 5 trailers. My objections are as follows:

1. The access to this site is jointly shared between Mr J Houston, Mr MacLean and me. Mr Houston is the owner of the land north and south of the proposed yard. Throughout the years Mr Maclean has used the access, he has failed to maintain the area in any way. This previously tidy concreted yard has now become a dump for ex-building rubble and scrap materials.
2. My site, together with the steading buildings belonging to Mr Houston, is currently being considered for housing development by Scottish Borders Council Planning Department who are enthusiastic to progress. The plan is to create a hamlet of affordable housing. Mr MacLean's agricultural building is a designated grain store only, which causes minimal disturbance, as the majority of work takes place at his main premise across the road.
3. The area Mr Maclean is proposing to use to park 3 units and 5 trailers would leave insufficient area for the unrestricted turning circle of a vehicle and trailer.

Cont'd

Currently 13 households use this unclassified road. Further traffic with articulated vehicles will make this an even more hazardous road. Mrs MacLean has just received permission for a 32,000 hen unit to be housed approximately 400 metres travelling to the west of this site which will bring additional traffic to this road.

Please find enclosed plan showing the area which I own and the area of unrestricted access.

Yours faithfully



W H Wilson Nimmo

Enc

Cc Mr J MacLean

**GOODS VEHICLE OPERATOR'S LICENCE**  
 James Maclean trading as MacLean Haulage Ltd of  
 Mutch Hill Barns, Hutton, Berwick upon Tweed  
 TD15 1TT is applying for a licence to use North  
 Grain Store Yard, Hutton Castle Barns, Hutton,  
 Berwick upon Tweed TD15 1TT as an operating  
 centre for 3 goods vehicles and 5 trailers. Owners or  
 occupiers of land (including buildings) near the  
 operating centre(s) who believe that their use or  
 enjoyment of that land would be affected, should  
 make written representations to the Traffic  
 Commissioner at Harewell House, 386 Harewell  
 Lane, Leoda, LS9 6NF stating their reasons within  
 21 days of this notice. Representations must at the  
 same time send a copy of their representations to  
 the applicant at the address given at the top of this  
 notice. A Guide to Making Representations is  
 available from the Traffic Commissioner's office.

Commissioner,  
 use,  
 as have,  
 6NF

Mr. & Mrs. S.A. Watson  
 Four Seasons  
 Broomdykes  
 Nr. Duns TD11 3LZ  
 Berwickshire  
 18<sup>th</sup> February 2016

To Whom it may concern

Dear Sir or Madam,

Re: Operator's Licence for North  
 Grain Store Yard, Hutton Castle Barns, Hutton, for  
 3 Units and 5 Trailers.

We are concerned with the granting of this  
 licence, as the road to and from Hutton Barns is a  
 single track road, with no passing bays even for cars  
 let alone units and trailers.

As you can see from the maps we have  
 sent you with this letter, you will be able to judge this.

The two photos shows you the road  
 outside our house.

We strongly recommend that you have an  
 onsite visit so you can see for yourselves.

We do not want this application to go through.

Thanking you  
 Yours sincerely,  
 S.A. + A.P. Watson

P.S. Copy sent to Mr. James Maclean

## City:

Allanton maps | Allanton road map | Allanton satellite view | Photos from Allanton



Yellow Highlighter  
is the single track  
road

Merlewood  
Hutton Castle Barns  
Berwick upon Tweed  
TD15 1TT

17 February 2016-02-16

The Traffic Commissioner  
Hilcrest House  
386 Harehills Lane  
Leeds  
LS9 6NF

Dear Sirs

**GOODS VEHICLE OPERATOR'S LICENCE**  
**MacLean Haulage Ltd**  
**Hutton Hall Barns**  
**Berwick upon Tweed**  
**TD15 1TT**

With reference to the above application we wish to make the following comments which we feel are relevant and pertinent to our quality of life as we are geographically the nearest neighbours to the intended yard.

1. The approaching "C" roads to the yard are woefully inadequate, they are narrow, and at time of writing full of pot holes which heavy articulated trucks will only exacerbate. The Borders Regional Council struggle to maintain the lesser roads in the county.
2. The Grain Store Yard is only metres from our house, we will most definitely be affected by noise, pollution, and security. It is possible that this proposed business could operate 24hrs a day. We have young grandchildren who visit us often from the cities where they live, their freedom will be compromised.(i.e. cycling on the country roads close to us)
3. We asked an Estate Agent to come and look at the situation and he said it was very likely that the value of our property would reduce if there was to be a haulage business so close to us. This is a great disappointment to us.

Your consideration would be appreciated

Yours sincerely (Mrs Susan Davidson)



APPLICANT'S COPY

17/2/2016.

1 Hutton Castle Barns  
Hutton  
Berwick upon Tweed  
TD15 1TT

Dear Sir/Madam

REQUEST FOR GOOD VEHICLE OPERATORS'S LICENCE TO USE NORTH GRAIN  
STORE YARD, HUTTON HALL BARNs, HUTTON, BERWICK UPON TWEED TD15 1TT  
BY JAMES MACLEAN T/A MACLEAN HAULAGE LTD

I am writing to you in connection with the above licence application.

I use a range of farm buildings (under separate ownership) whose four access doors open directly onto the North Grain Store Yard, Hutton Hall Barns. They are used to store tractors, motor vehicles and equipment.

These buildings have legal rights of access. If the yard immediately outside were to be used as a haulage yard, access would be obstructed by HGV's loading and unloading. The vehicles and trailers would also be in the way when not being used. This is because the yard is very small and badly shaped for the number of items to be used (3 goods vehicles and 5 trailers). There is also no turning circle space in the yard for articulated vehicles.

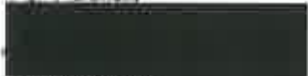
Articulated vehicles would therefore have to reverse in or reverse out of the yard from the single track local council maintained road which leads past Hutton Hall Barns. This is not a safe situation for road users.

I do however wish James Maclean best wishes with his new venture. It's just that this is the wrong site for an operators's yard of this type, with the number of vehicles and trailers being proposed.

There must be numerous other sites on his farm for a yard or compound that would have the space and turning circle to operate efficiently as an operator and not be in the way of others who have interests in the immediate area too.

Please consider these comments when making your decision.

Yours faithfully



Douglas Nimmo

**Your details**

**1 Your full name**

STEPHEN & HELEN RICHARDS

**2 Your address**

2-5 HUTTON CASTLE BARN  
HUTTON  
BERWICK UPON TWEE  
BERWICKSHIRE Postcode TD15 1TT

**3 Your daytime telephone number**

**4 Your email address**

**Your representations**

**5 Address of the operating centre / proposed operating centre**

HUTTON HALL BARN  
HUTTON  
BERWICK UPON TWEE  
BERWICKSHIRE Postcode TD15 1TT

**6 Name of operator(s) and licence number(s) (if known)**

JAMES MACLEAN TRADING AS MACLEAN HAULAGE LTD

**7 Do you own or occupy land or property within the vicinity of the operating centre?**

Yes



No



GVen03



8 If you answered 'Yes' to question 7, approximately how far (in metres) is your land or property from the operating centre?

58.3 METRES

9 Please draw a sketch in the space below showing the location of your land or property (with distances in metres) in relation to the operating centre. Alternatively please enclose a map, plan or aerial photograph with the relevant properties clearly marked.

PLEASE SEE ATTACHED PHOTOGRAPHS

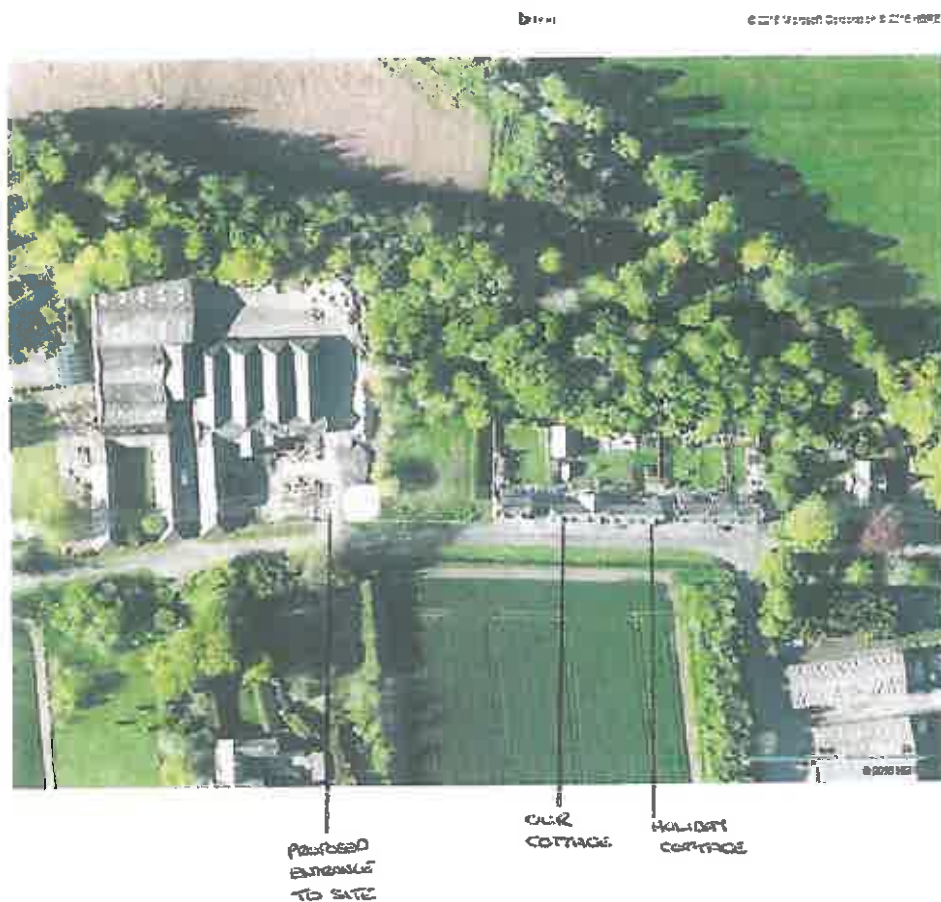
GVenv03

Maps

bing maps

Notes

Type your notes here



We feel we will be affected if this licence is granted by noise pollution, dust pollution, fumes pollution and vibration. We also have a major concern of how this will affect our well established and successful holiday cottage business.

**Noise** – Due to the close proximity of the proposed site to our properties and gardens we will be affected when vehicles are moving about within the site and when entering and leaving the site. The noise will be exacerbated when going past our cottages as the vehicles brake and accelerate and will be intolerable.

**Dust** – Because the road is a narrow single track country lane, in dry conditions the vehicles will kick up dust when driving past our cottages and could prevent windows being able to be left open. There could also be dust when movement takes place on the site due to the prevailing wind and would travel towards our gardens.

**Fumes** – As with the dust, due to how close our cottages are to the road and the proposed site, we will be affected by the fumes, especially in our gardens and if windows are open.

**Vibration** – Our cottages are old 19<sup>th</sup> century stone built and the vibration travels through the bedrock than they are built on as they do not have modern foundations.

Our cottages are listed and whilst we appreciate it was our decision to live in property next to a road, this is a single track quiet country road not intended to take modern heavy good vehicles.

As mentioned, we run an established successful holiday cottages business from one of these cottages and this licence would have an adverse effect on our business for all of the above reasons.

Although these would not fully address our concerns, if you were to approve this licence we would ask that you consider:

- Restricting movement within the site and to and from the site strictly to the hours -  
Monday to Friday 07:00 to 19:00 only  
Saturdays to 08:00 and 12:00 midday only  
Sundays and Bank Holidays no movement at all



### Supplementary Information – Photographs

**Photo 1 - Inside our General Purpose building looking north-west - Grain and Farm Implements.**



**Photo 2 - Inside our General Purpose building looking west - Grain and Bags of Fertiliser.**



**Photo 3 – General Purpose Building. This photo also shows the wall that will be the kitchen/living room wall for the dwelling house in Plot 1 in the proposed development.**



**Photo 4 – Loading Grain into a large articulated lorry from our General Purpose building, lorry is standing on our north yard. The proposed development would be directly behind the forklift (see red arrow)**





**Photo 5 – General Purpose Building and our north yard storage area and shows proximity to the proposed development site. The red line shows the boundary of our land relative to the proposed development site to the left.**



**Photo 6 – Stone being stored prior to use for poultry sheds.**



**Photo 7 – Stone being reloaded for chicken shed base. The red line shows the boundary of our land relative to the proposed development site to the left and Mr Nimmo's site to the right.**



**Photo 8 - Stone being reloaded for chicken shed base.**





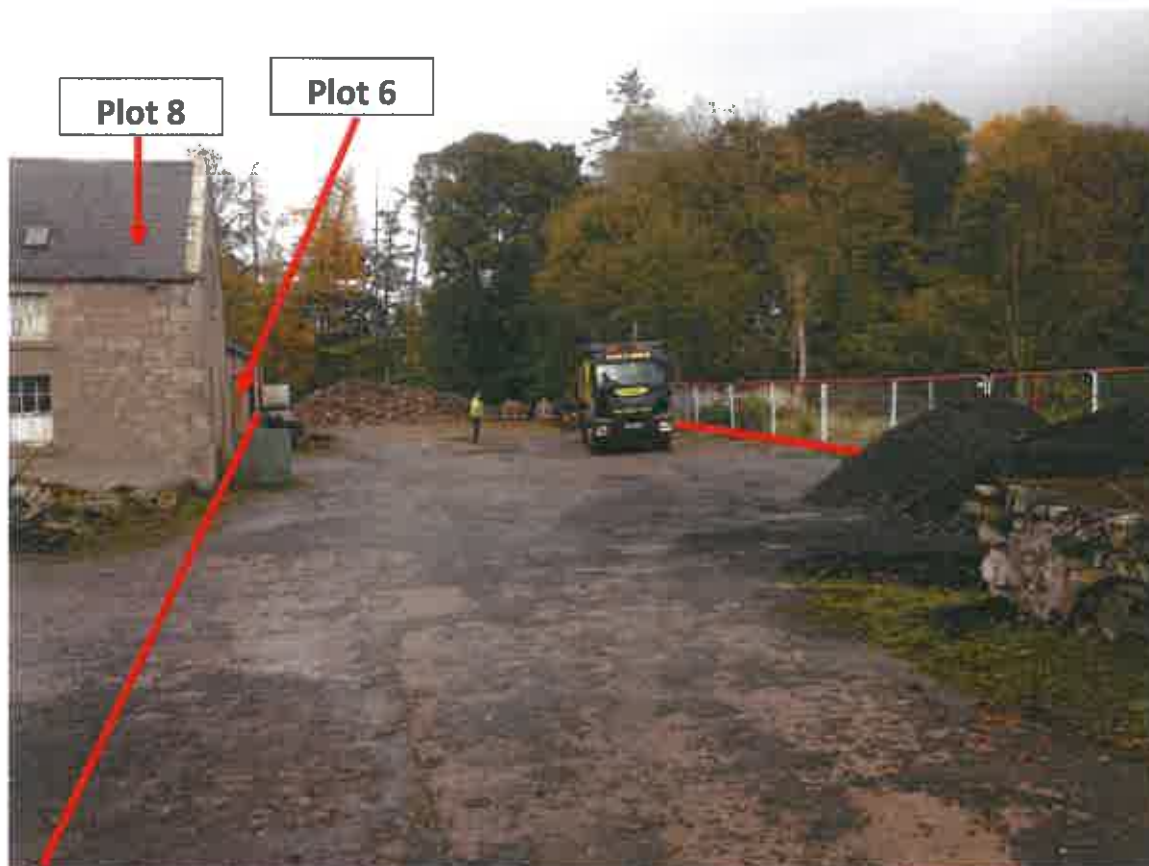
**Photo 9 – Reddem lorries passing in the entrance to our north yard, bringing stone into north yard.**



**Photo 10 – D Renton & Son truck tipping rubble. The hard standing area in the north yard is used for the stockpiling of stone and rubble for tracks and poultry shed bases all under the appropriate SEPA licence.**



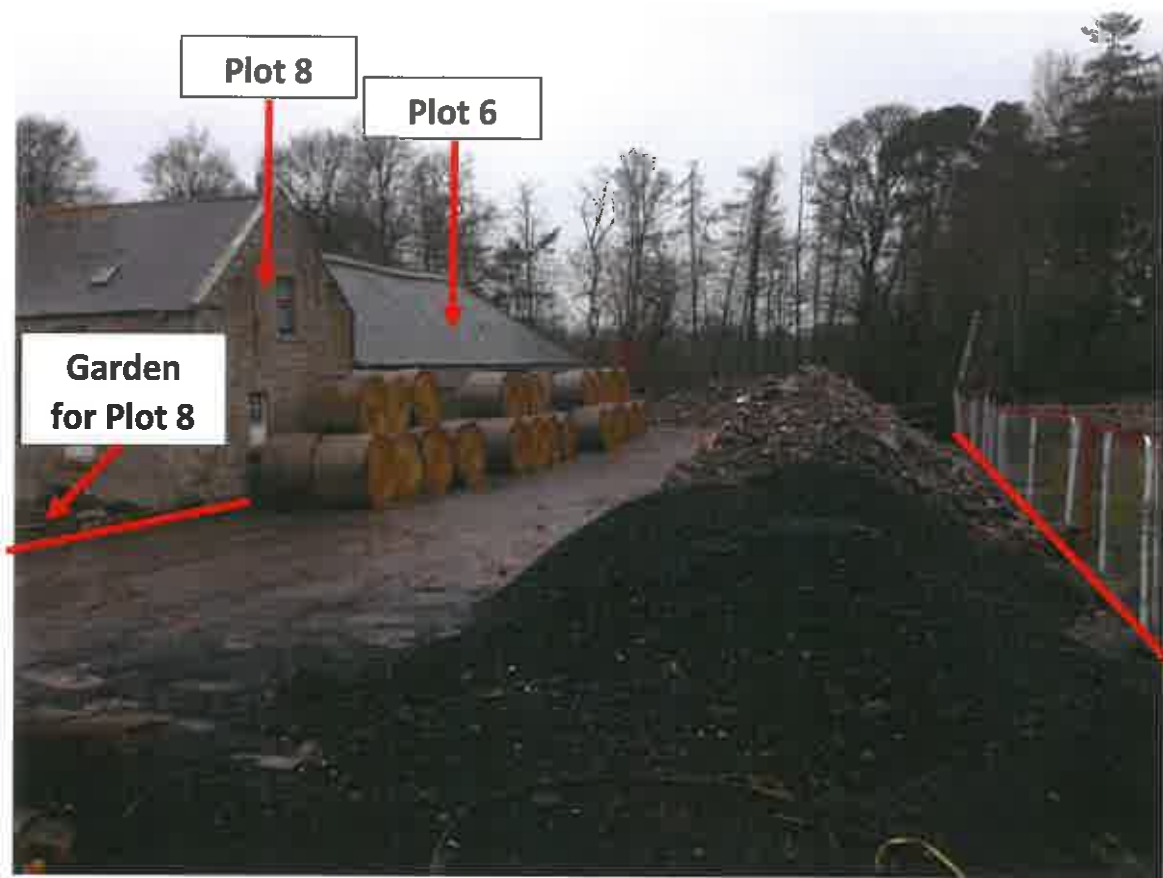
**Photo 11 – Frank Flannigan tipping skip rubble. The red line shows the boundary of our land relative to the proposed development site to the left and Mr Nimmo's site to the right.**



**Photo 12 – Moving Stone from North Yard to make poultry shed base.**



**Photo 13 – East Elevation of the Old Farm Buildings - Straw and rubble for future use.**





James and Angela MacLean  
Ardross  
Hutton Hall Barns  
Hutton  
Berwick Upon Tweed  
TD15 1TT  
8<sup>th</sup> December 2016

Planning and Regulatory Services Department,  
Scottish Borders Council,  
Council Headquarters,  
Newtown St Boswells,  
Roxburghshire,  
TD6 0SA

**Reference: 16/01371/FUL - Change of use of agricultural buildings to 12 No dwelling houses, Agricultural Buildings South East of Merlewood, Hutton Castle Barns, Hutton, Scottish Borders**

**Reference: 16/01372/LBC - Internal and external alterations to form 12 No dwelling houses, Agricultural Buildings South East of Merlewood, Hutton Castle Barns, Hutton, Scottish Borders**

We note with interest Mr Houston's recent comments on the planning portal.

Our objection is totally relevant to the current applications. Throughout the document we submitted on 23<sup>rd</sup> November 2016 we illustrated the conflict that will occur between our existing farm business and residential properties should planning be granted. We have also highlighted the planning applications which have repeatedly tried and failed in this vicinity for these reasons.

In Mr Houston's comments dated 3<sup>rd</sup> December 2016, he discusses the 2002 planning application when a dwelling house was approved to the east of the current planning application site. It was interesting to read that Mr Houston gave the planners assertion that he was retired from farming, kept no animals and that change of use would be required if the situation changed.

Mr Houston was not in a position to give assurances on land and buildings that were not in his ownership or control next to the house site. Therefore this is not (and was not) the case for our building; it has been in our ownership since 1987.

No change of use is required for the keeping of non-intensive livestock (refer to our objection letter) and as early as 1991 the MacLean family has continually pointed out the fact that our General Purpose Shed could be used for this purpose. Indeed my father wrote to the planners both in 1991 and again in 2002 objecting to those planning applications highlighting this fact (as fully documented in our letter of 23<sup>rd</sup> November 2016).

To clarify Mr Houston's concerns re our pig enterprise and specifically the mucking out and disposal of effluent. We have already discussed our plans with SEPA who have confirmed our proposal of a covered tank in our yard complies with the Standard Farming Installation Rules, thus no drainage is required, see email below.

Our business is not the site going through the planning process for change of use, our yard and building will continue to be used as we choose.

Any developer that believes that a satisfactory harmonisation can be achieved is naive. One only has to look at the awful situation at Ravelaw a few miles away to see that the creation of a hamlet in the middle of a working farm is a nightmare for all concerned.

Yours Sincerely

James and Angela MacLean



**Emails between Border Pigs and SEPA**

**From:** Angela MacLean <amaclean55@hotmail.co.uk>  
**To:** Forsyth, Nick; Grimsditch, Kate  
**Cc:** James MacLean  
**Subject:** Query - Use of Agricultural Building for Pigs

Nick/Kate,

James and I are continuing to look at how we continue to diversify the farm to ensure its sustainability.

I have attached a copy of correspondence with SBC planners which has confirmed that our proposed use of the building doesn't require change of use so we are now pushing on to identify what else is required to get this project off the ground.

From a SEPA perspective, we are looking at bedding our non-intensive "B and B" pigs on straw and for wash down we are planning to install a tank to capture washings. This would then be emptied by slurry tanker. Just wondering if this is acceptable or if we need to be thinking of anything else.

Many thanks in anticipation of your continued support and advice.

Kind regards

Angela MacLean  
Border Pigs  
Hutton Hall Barns  
Hutton  
Berwick Upon Tweed  
TD15 1TT

---

**From:** Angela MacLean <amaclean55@hotmail.co.uk>  
**To:** Forsyth, Nick; Grimsditch, Kate  
**Cc:** James MacLean  
**Subject:** Re: Query - Use of Agricultural Building for Pigs

Many thanks for phoning me this afternoon Nick and for the advice from a SEPA perspective; it was reassuring to know that our proposal is compliant with the rules.

Just to summarise, our plan will be to store the straw bedding after muck out either in our existing slurry store or in field heaps. If we use field heap we will ensure that they are positioned over 10m from watercourses and field drains and we will make sure that we move the positions of the field heap each year.

The wash tank option is best for us so we are glad to know that this is satisfactory. The washings will be handled, as per poultry muck and spread on land in line with NVZ guidelines. No PPC permit will be required as we will not exceed 2,000 production pigs and their weight will not be over 30kgs when they leave farm.

It's good to know that our proposal is acceptable to both SBC planners and SEPA and as discussed we will be very mindful in making every attempt to avoid an environmental nuisance.

Many thanks once again for your help in understanding the SFI rules, it's very much appreciated.

Kind regards

Angela MacLean





James and Angela MacLean  
Ardross  
Hutton Hall Barns  
Hutton  
Berwick Upon Tweed  
TD15 1TT  
5<sup>th</sup> October 2017

Planning and Regulatory Services Department,  
Scottish Borders Council,  
Council Headquarters,  
Newtown St Boswells,  
Roxburghshire,  
TD6 0SA

**Reference: 16/01371/FUL - Change of use of agricultural buildings to 12 No dwelling houses, Agricultural Buildings South East of Merlewood, Hutton Castle Barns, Hutton, Scottish Borders**

**Reference: 16/01372/LBC - Internal and external alterations to form 12 No dwelling houses, Agricultural Buildings South East of Merlewood, Hutton Castle Barns, Hutton, Scottish Borders**

We note with interest Mr Gardiner's recent email to Mr Paul Duncan dated 11<sup>th</sup> September 2017 on the planning portal.

We stand by all the points made in previous correspondence however, we would like to take this opportunity to reiterate that ***no change of use is required for the keeping of non-intensive livestock in the general purpose building in our north yard at Hutton Hall Barns.***

Correspondence from SBCs planning department was presented in our initial objection letter confirming this position. In addition, Environmental Health officers have endorsed our position in that **"this building can potentially be used for a number of agricultural activities without the need for planning permission"**.

It seems that there is some confusion with regards to the type of building located in our north yard. This was helpfully clarified by Karen Jones in her letter of support for these planning applications. Mrs Jones states that "When I was a young child this area was a riding arena" and that "My father, Mr James Houston, then converted it by adding a concrete floor and steel grain walling to form a grain store".

Therefore it was erected as a general purpose building, as is every farm building, and as such can be used for a number of agricultural activities, including non-intensive livestock, unless its use/function is constrained by planning conditions.

Since owning the farm including this building, we have used this shed for many purposes including storing grain, fertiliser and fuel and as a store for machinery and farm implements.

This building has always been a general purpose building and its use is not limited to being only a "grain store" as is suggested by the applicant. Its future use is not restricted by our historic or current practices.

We have recently entered into a contract farming arrangement with a local farmer who has a significant livestock enterprise. The farmer has our permission to use this building for whatever purpose he chooses on the condition that it complies with relevant rules and regulations. This includes SBCs planning pre-app response regarding housing of livestock (as discussed above) and feedback from Environmental Health and SEPA.

We would like to take this opportunity to clarify Mr Gardiner's concerns re drainage infrastructure.

In the future, if we chose to house non-intensive pigs in this building, we have already discussed and agreed drainage plans with SEPA. SEPA have confirmed that the proposal of a covered, sealed tank to deal with wastes from washing based in our yard complies fully with the Standard Farming Installation Rules, thus no onward drainage is required. Therefore no agreement or approval is required from Mr Houston for us to progress our diversification plans, contrary to what is suggested in Mr Gardiner's email.

With regard to the questions raised by Mr Gardiner in his email about planning application number 02/00552/FUL and the compatibility of residential and farming activities, the committee report did not say there would be "no conflict".

The planners report, attached in *Appendix 6* of our original objection letter, to the Berwickshire Area Committee highlighted that although the site was adjacent to the grain store building, **the site had no direct linkage with the building and would not be affected by traffic movements.**

It is however interesting to note that the planning officer explicitly highlighted that "the applicant is a former farmer" and "well aware of the nature of farming activities" at this point in time.

Please refer to page 8 of our original objection letter which stated that "A sixth attempt to secure planning was submitted in 2002, documents relating to this are contained in *Appendix 6*, my parents' objected on grounds of:

- Proximity of proposed house to agricultural buildings.
- Highlighting that within one of the previous (refused) planning applications the applicant's agent, Bain Swan Architects, acknowledged that "The development of the farm steading and the ground to the west is hampered by the existence of a farm shed within 400 metres which has cattle unit potential".
- The potential problems of noise, dust, smell and unsociable working hours of current agricultural workings in the General Purpose store and yard area immediately adjacent to the proposed site.

Planning permission was granted and despite the applicants being aware that they were building their house on a site next to an agricultural shed which did not require any change of use to house livestock, the dwelling known as Merlewood was built.

In simple terms, a dwelling house was built next to a general purpose building which had and continues to have possible multiple uses including the housing of livestock.

Mr Gardiner appears to have not understood Environmental Health's recent position regarding these current applications **"Whilst legislation exists in terms of section 79 of the Environmental Protection Act 1990 to protect the public from the impacts of statutory nuisance, I am of the opinion that from loss of amenity should the neighbouring building be used for an agricultural activity that involves the rearing of livestock, the existing legislation will not protect residents. I am therefore unable to support this application and would recommend its refusal."**

The aims of national and local policy to restore listed buildings is cited, it seems that the applicant is suggesting that the restoration will only happen if there is a future use for the buildings can be found. Custodians of such buildings have a duty to care to maintain the buildings in good condition as far as possible. If the applicant chose to, he could restore the buildings and retain their existing function i.e. agricultural buildings or perhaps, some might say they could have been better maintained in the first instance.

Mr Gardiner then mentions various planning policies but perhaps if he took the time to read Scottish Borders Council (SBC) policy on "New Housing in the Countryside" and in particular bullet points 1 and 3, which we comprehensively covered in our original objection letter, he would have found that any development that takes place should meet the following standard 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 the relevant Local Plan policies;*

I re-affirm my previous statement, our business is not the site going through the planning process for change of use, our yard and building will continue to be used as we choose.

I hope the above clarifies some of Mr Gardiner's misinterpretation of the current and future situation on our working farm.

Yours Sincerely  
James and Angela MacLean



James and Angela MacLean  
Ardross  
Hutton Hall Barns  
Hutton  
Berwick Upon Tweed  
TD15 1TT  
16<sup>th</sup> November 2017

Planning and Regulatory Services Department,  
Scottish Borders Council,  
Council Headquarters,  
Newtown St Boswells,  
Roxburghshire,  
TD6 0SA

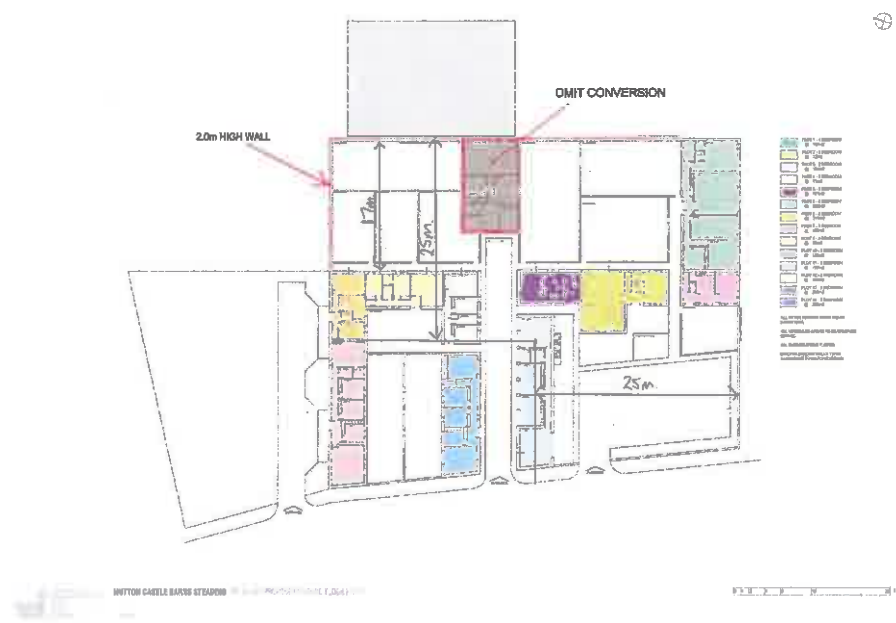
**Reference: 16/01371/FUL - Change of use of agricultural buildings to 12 No dwelling houses, Agricultural Buildings South East of Merlewood, Hutton Castle Barns, Hutton, Scottish Borders**

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We note Mr Gardiner's recent emails and amended drawing sent to Paul Duncan dated 10<sup>th</sup> October 2017 on the planning portal and object to the revised proposal.

The "possible revision to the scheme, showing the exclusion of one of the units" is purported to increase the distance between our agricultural shed and the closest plot to 25m.

However based on the scale on Mr Gardiner's drawing, the closest plot now appears to be 17m away from our agricultural shed? Regardless of whether this distance is 17m or 25m, we do not believe that there are any current guidelines that suggest that 25m is an acceptable distance between agricultural activities and residential properties?



The key on the developers drawing suggests that Plots 13 and 14 will be three bedroom, 200 square meter dwellings. As they are not shown on the steading conversion drawing, perhaps the intention is to create the final two dwellings on the east side of our farmyard at a later date, to the right of the pink highlighted area?? Should this be the case then these plots are also **directly adjacent** to our busy, working yard and our points made above are equally applicable to these proposed dwellings.

An appeal was lodged with The Scottish Office Inquiry Reporters Unit in 1991, the appeal was dismissed and the reporter upheld Borders Regional Councils decision to refuse planning consent its conclusions noted that **“the appeal site would still adjoin the existing access (an alternative access point was proposed) and lie adjacent to the steading and grain store. I find that 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. “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 measures were to be introduced.”**

MACLEANN GENERAL PURPOSE BUILDING

MACLEANN NORTHYARD

OMIT CONVERSION

2.0m HIGH WALL

YARD ENTRANCE

PHOTO 1

Legend:

- Light blue: concrete
- Dark blue: concrete
- Light green: grass
- Dark green: grass
- Light yellow: concrete
- Dark yellow: concrete
- Light orange: concrete
- Dark orange: concrete
- Light red: concrete
- Dark red: concrete
- Light purple: concrete
- Dark purple: concrete
- Light pink: concrete
- Dark pink: concrete
- Light brown: concrete
- Dark brown: concrete
- Light grey: concrete
- Dark grey: concrete
- Light black: concrete
- Dark black: concrete

With regard to the claim that “the revised proposal is a greater distance than that seen between the previously approved neighbouring property”, our previous correspondence covers in detail the planning application for that dwelling.

We shall not repeat the detail here, however to summarise, the planning officer explicitly highlighted in his report to committee in 2002 that “**the applicant is a former farmer**” and “**well aware of the nature of farming activities**”. The planning was granted and the house known as Merlewood was built in the full knowledge that our building could be used for housing livestock in the future.

Our previous correspondence has covered the present uses and the possibility of future uses of our north yard and building. Our business is not the site going through the planning process for change of use, our north yard and building will continue to be used as we choose.

It seems that one plot has been sacrificed to try and change the Environmental Health’s recommendation for refusal. This does not change the fact that any new residents would still be living directly adjacent to a working farmyard which has no planning constraints placed upon it.

Farming by its nature is not a Monday to Friday 9am – 5pm job, it can be any day of the week including Christmas and bank holidays and we often use this area early in the morning and well into the evening. Our activities in this yard and building are not restricted in any way, there are no set operating hours and vehicle type and movements are not limited in any way.

Indeed whilst objecting to a recent planning application, residents in 2–5 Hutton Castle Barns made the following statement with regard to noise and vehicle movements in this very same yard.

“ 11 May 2017 06:15 – skip lorry tipping “rubble” in the farm steading adjacent to the cottages”.

Mr and Mrs Richards live more than 60m from where this rubble was tipped so it takes little imagination to work out how any new residents might feel when these activities occur. This position was supported by SBCs Environmental Health team in their consultation response dated 10th March 2017 when they stated that

*“Whilst legislation exists in terms of section 79 of the Environmental Protection Act 1990 to protect the public from the impacts of statutory nuisance, I am of the opinion that from loss of amenity should the neighbouring building be used for an agricultural activity that involves the rearing of livestock, the existing legislation will not protect residents.*

I am therefore unable to support this application and would recommend its refusal.”

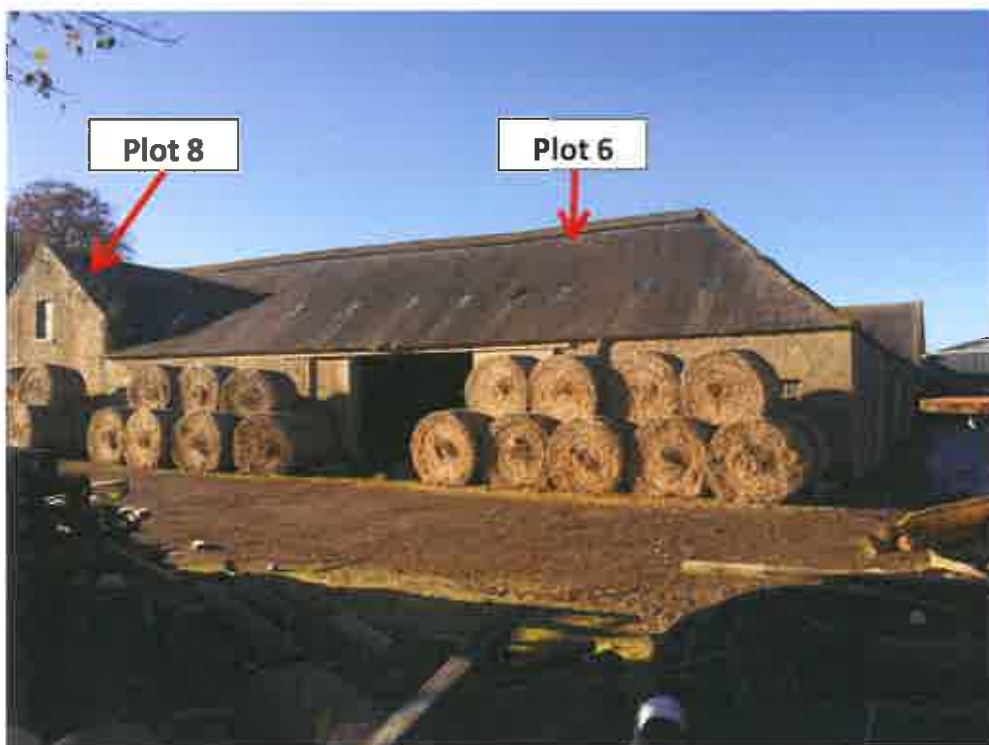
Moving on, we attach photos taken this week to show the reality of our farmyard; these photos are current images of those submitted in the supplementary document in December 2016.

**Photo 1 - November 2017** Looking in from Site Entrance.

The red line shows the boundary of our land relative to the proposed development site to the left.



**Photo 2 - November 2017** Looking across MacLean North Yard towards Plots 6 and 8.





**Photo 3 - November 2017** Looking across MacLean North Yard towards Plot 6 and Agricultural Shed.



**Photo 4 - 2016** General Purpose Building and our north yard storage area and shows proximity to the proposed development site.

The red line shows the boundary of our land relative to the proposed development site to the left.



We re-affirm our previous statement, our business is not the site going through the planning process for change of use, our yard and building will continue to be used as we choose whilst complying with all relevant legislation.

Our initial objection still stands on the grounds of:

1. the adverse effect on the viability of a farming unit and the conflict with the operations of a working farm
2. the appearance of the proposal in terms of design siting and materials
3. traffic parking or access problems
4. residential amenity (noise, overshadowing)
5. drainage and infrastructure
6. impact on the natural or built environment

We hope the above clarifies the situation on our working farm.

Yours Sincerely

James and Angela MacLean