



**APPEAL STATEMENT IN RELATION TO SCOTTISH
BORDERS COUNCIL'S REFUSAL OF:
PLANNING PERMISSION FOR THE ERECTION OF
A DWELLINGHOUSE**

**ON LAND NORTH EAST OF LADYWOOD, LOWER
GREENHILL, SELKIRK TD7 4NP**

PLANNING APPLICATION REF: 18/00929/PPP

ON BEHALF OF: MR & MRS ERIC FORSTER

10 SEPTEMBER 2018

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CONTENTS

	EXECUTIVE SUMMARY	2
1.0	INTRODUCTION	3
2.0	REFUSAL OF APPLICATION BY SCOTTISH BORDERS COUNCIL AND PLANNING POLICY CONTEXT	6
3.0	GROUND S OF APPEAL AND CASE FOR THE APPELLANT	9
4.0	CONCLUSIONS	14

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EXECUTIVE SUMMARY

This Appeal Statement is submitted on behalf of Mr and Mrs Eric Forster against the decision of Scottish Borders Council to refuse Planning Permission for the erection of a single dwelling on land to the north east of Ladywood, Lower Greenhill on 27th August 2018 (application reference 18/00929/PPP).

The reason for the refusal was the Council's view that the dwelling would not be sympathetic to the character of the building group and would not contribute positively to the sense of place of the existing building group.

The application was clearly made on the basis that the Applicant strongly believes the proposed site to be well related to the building group. The Applicant therefore had no requirement, or intention, to assert that the dwelling was required for "operational reasons" in connection with a rural business. The Council, however, chose to refuse the application on a second ground, namely that the Applicant had not demonstrated a need for the new house as a direct operational requirement in connection with an existing agricultural or other enterprise. This reason for refusal is not addressed in the Appeal Grounds as the submission was made on the basis of there being a suitable site on which to expand the building group.

The Council has accepted the presence of the building group and the capacity, in principle, of that building group to expand in the current Local Development Plan period.

Under two Grounds of Appeal, this Statement will demonstrate that the proposal:

- is well-related to the existing 5-unit building group;
- would contribute positively to the sense of place created by the building group;
- is sympathetic to the character of the existing building group;
- would not result in a detrimental impact upon residential amenity.

The Local Review Body, having considered the detail contained within the refused Planning Application, together with the information set out herein, will be respectfully requested to allow the Appeal to provide for the one dwelling to be added to the existing building group at Lower Greenhill on a site which relates well to the existing group.

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1.0 INTRODUCTION AND PROPOSAL

- 1.1 The site comprises poor quality agricultural land which is currently used to keep hens within a small enclosure. The land is enclosed on two sides by a young but established beech hedge and birch tree planting and directly abuts existing residential properties, one of which ('Ladywood') is owned by the Applicant and another ('Fauldsrig') is owned by the Applicants' daughter.
- 1.2 The area of land on which the house is proposed is not steeply sloping, as has been asserted; indeed, it is fairly level.

Fig 1: Aerial Image of the Building Group and Site



- 1.3 The dwelling would be positioned within the area which is well contained by **enclosing landform**, hedge and tree planting and its positioning would avoid the higher ground, comprising rocky outcrops, towards the northern perimeter of the site.
- 1.4 Access can be achieved via a new driveway, directly from the public road within the area



of ground with road frontage, as shown on the Location Plan. Visibility is good in both directions and will be improved by trimming the existing hedges within the Applicant's ownership. The Roads Officer has no objections to the access.

Fig 2: View across site to Fauldsrig



Fig 3: View across site to Stainie Brae





- 1.5 The Planning Officer's Report and the Decision Notice relating to the refused application are included within this submission.

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2.0 REFUSAL OF APPLICATION BY SCOTTISH BORDERS COUNCIL AND PLANNING POLICY CONTEXT

2.1 The planning application was refused on 27th August on the basis set out below.

*The proposed development is contrary to Adopted Local Development Plan policy HD2 and the advice of Supplementary Planning Guidance – New Housing in the Borders Countryside (December 2008), in that (i) **the development is not sympathetic to the character of the building group and would not contribute positively to the sense of place of the existing building group**; and (ii) the applicant has not demonstrated that there is any operational need for new dwellinghouses to be located at the site as a direct operational requirement of any agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside.*

2.2 Relevant policy is contained within the Scottish Borders Local Development Plan 2016, with the key policy being HD2 Housing in the Countryside. This policy permits **expansions of existing building groups**, which comprise 3 or more dwellings, by a further 2 dwellings or 30% (whichever is the greater), in the LDP period.

Fig 4: Policy HD2 Housing in the Countryside – Section (A)

(A) BUILDING GROUPS

Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such conversion has been implemented,
- b) the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts,
- c) any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.

In addition, where a proposal for new development is to be supported, the proposal should be appropriate in scale, siting, design, access, and materials, and should be sympathetic to the character of the group.

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- 2.3 It is not relevant, herein, to set out Housing in the Countryside policy which relates to ‘operational requirement’ as the new single dwelling was not sought on that basis. It is wholly sought on the basis that the proposal is an **appropriate addition to an existing and acknowledged building group**.
- 2.4 The Supplementary Guidance ‘**New Housing in the Borders Countryside**’ includes the following criteria for any new housing in the countryside:
- No adverse effect on the viability of a farming unit or conflict with the operations of a working farm;
 - Satisfactory access and other road requirements;
 - Satisfactory public or private water supply and drainage facilities;
 - No adverse effect on countryside amenity, landscape or nature conservation;
 - No adverse impact on ancient monuments, archaeological sites, or on gardens or designed landscapes;
 - Appropriate siting, design and materials in accordance with relevant Local Plan policies.
- 2.5 The section of the Guidance, which covers the expansion of existing Building Groups, states that all applications for new houses at existing building groups will be tested against an analysis of:
- a) the presence or, otherwise of a group; and
 - b) the suitability of that group to absorb new development.
- 2.6 The Guidance sets out that Building Groups will be defined by natural features such as enclosing landform and trees and also by man-made features such as existing buildings or means of enclosure.
- 2.7 When expanding an existing building group, the Guidance includes the following points:
- The scale and siting of new development should reflect and respect the character and amenity of the existing group;
 - New development should be limited to the area contained by that sense of place;
 - A new house should be located within a reasonable distance of the existing properties within the building group with spacing guided by that between the



- existing properties;
- Ribbon development along public roads will not normally be permitted.

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3.0 GROUNDS FOR APPEAL AND CASE FOR THE APPELLANT

- 3.1 The Local Authority's decision to refuse the application is challenged on the basis of the two Grounds set out below. It is asserted that the Proposal accords with the relevant policies and intentions of the Local Development Plan and Planning Guidance and there are no material considerations which indicate that the Council's refusal of the application should be upheld.

GROUND 1: The proposed development is sympathetic to the character of the building group and contributes to the sense of place of Lower Greenhill.

GROUND 2: There will be no detrimental impact upon residential amenity.

GROUND 1: THE PROPOSED DEVELOPMENT IS SYMPATHETIC TO THE CHARACTER OF THE BUILDING GROUP AND CONTRIBUTES TO THE SENSE OF PLACE OF LOWER GREENHILL.

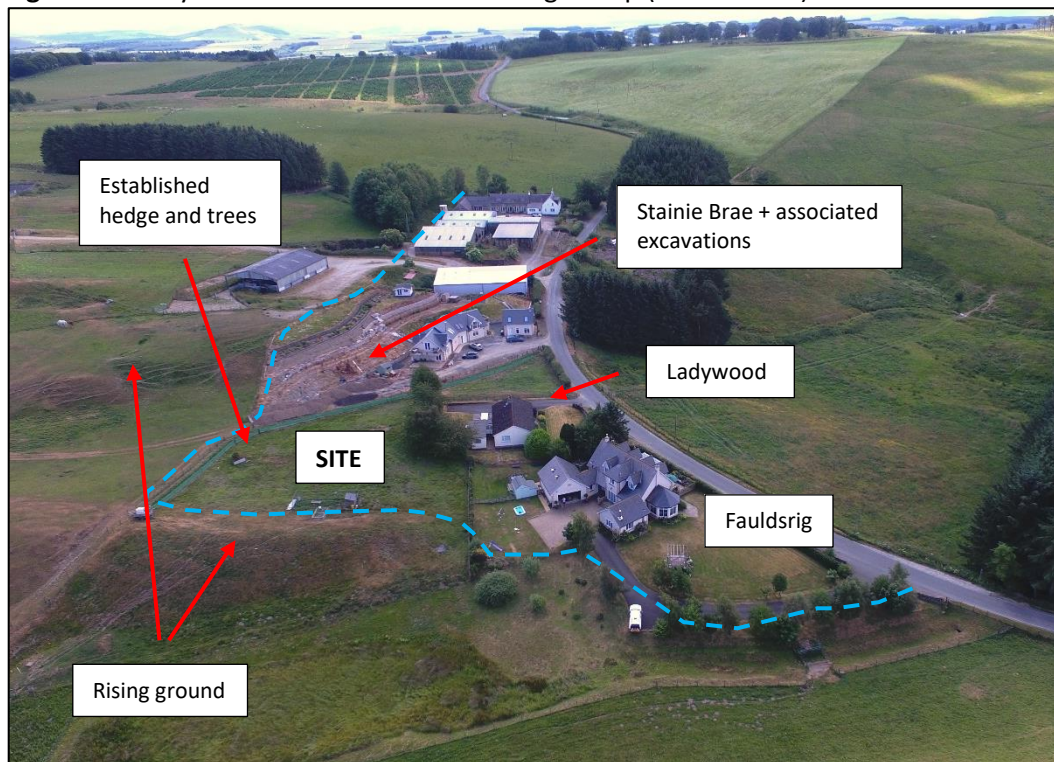
- 3.2 The Officer's assessment of the application, together with planning history relating to previous applications (particularly 10/01715/FUL and 13/00393/PPP) confirm the Council's acceptance of the existing building group at Lower Greenhill, comprising 5 dwellings to the east of the C17 public road.
- 3.3 Further, the Officer, in his report states that ***"It is accepted that there is potential, in principle, for the existing building group at Lower Greenhill to be augmented by up to two additional new-build properties during the current Local Development Plan period.."***
- 3.4 It is thus clear, in terms of LDP **policy HD2** that a building group does exist and that it is capable, in principle, of expanding by up to 2 units in the current Plan period. Positively, these points are accepted by the Planning Authority.
- 3.5 The Officer is of the view that the proposed site for the new house does not share a sense of place with the building group. The Appellant, however, remains clear that the proposed site does share a clear 'sense of place' with the existing building group, being particularly well related to the dwellings 'Fauldsrig', 'Ladywood' and 'Stainie Brae'.



Further, the part of the site on which the house would be located is relatively level (as shown in the photographs in section 1 of this report), and positioning the house away from the higher ground will minimise any landscape impact.

- 3.6 The Appellant wishes to highlight that the surrounding landform is ‘enclosing’ in nature with rising ground around the site. The Officer disputes the Appellant’s assertion that the proposed site benefits from ‘enclosing landform’, (a factual situation which exists due to surrounding topography), yet states *“There is a cincture of surrounding land of notably higher relief to the north and east”* which appears to be contradictory, particularly as the report then proceeds to state *“... the land climbs perceptibly from the building group...”*.

Fig 5: Boundary of “Sense of Place” of Building Group (dashed blue)



- 3.7 In terms of landscaping, a significant length of beech hedging, together with established birch trees, enclose the site boundaries to the south east and north east. Notwithstanding this, the Officer has stated that *“there are no existing shelterbelts or other features that might properly or conclusively provide any sharp sense of enclosure”*.



Naturally, detailed landscaping proposals would form part of a further application at the next stage of the planning process and will further contain the site and assist the assimilation of a new dwelling into the landscape setting.

- 3.8 The Officer asserts that the proposed new house would not align with existing housing development and would be positioned where there are no equivalent dwellings. With reference to the aerial image on the previous page, it is clear that the orientation of Stainie Brae and the extensive engineering works on steep ground to create the garden extends the sense of place and developed area associated with the building group significantly back from the public road. The sense of place created by the group is contributed to, not only by the buildings themselves but by their curtilage, including garden ground, and particularly where such includes significant engineering works.
- 3.9 The Officer's perceived impact upon the character of the building group has not been satisfactorily explained. He states that the proposal is "*highly unsympathetic to the form and sense of place of the building group*" without further explanation. How this conclusion has been reached on the basis of an "in principle" (PPP) application is unclear as the scale, exact siting and design of the dwelling will be proposed at the next stage of the planning process and can be controlled by the Planning Authority. The Applicant seeks a house of modest scale and has already indicated that, for example, traditional roofing materials (slate) are to be used.
- 3.10 Access can be achieved directly from the public road (contrary to the Officer's assertion) by way of a short driveway to the plot. The Roads Officer had no objections to the proposed access. The driveway is neither "*elongated*", "*contrived*" nor "*winding*" as the Officer suggests, rather it is fairly straightforward and unremarkable driveway. Visibility is good in both directions and will be improved by trimming the existing hedges within the Appellant's ownership.
- 3.11 In terms of servicing, the site benefits from proximity to mains electricity and an existing private water supply (borehole), the latter which serves Fauldsrig. Private drainage arrangements will be made, potentially utilising the ground to the north west which is within the Applicants' ownership. Alternatively, the site is considered to be of sufficient size to achieve a soakaway foul drainage solution within.

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- 3.12 Turning to compliance with adopted Guidance ‘**New Housing in the Borders Countryside**’, the following points are made:
- 3.13 As already asserted, the proposed house lies within the area contained by the sense of place attributable to the existing building group. Standing upon the site one very much feels closely associated with the existing building group, particularly Fauldsrig, Stainie Brae and Ladywood. The proposed house can be located at comparable, and thus appropriate, spacing between adjacent properties within the building group and there would be no detrimental impact upon residential amenity - a point accepted by the Planning Officer.
- 3.14 The proposal does not comprise ribbon development, rather it would be development closely associated with the Building Group’s ‘sense of place’.
- 3.15 The exact scale, siting, design and use of materials will be put forward at the next stage of the planning process in a way which accords with relevant Local Plan policies. The Applicants have confirmed that they would be willing to use traditional materials including natural slate.
- 3.16 Satisfactory access arrangements are proposed – and accepted by the Roads Officer;
- 3.17 There would be no detrimental impact upon the surrounding landscape; the site is surrounded by enclosing landform and some landscaping has already been provided in the form of a hedgerow and tree planting.
- 3.18 On other points noted within the Guidance:
- The proposal would have no adverse effect on the viability of a farming unit or conflict with the operations of a working farm;
 - Satisfactory water supply and drainage facilities will be demonstrated at the next stage of the planning process;
 - There is no adverse impact on ancient monuments, archaeological sites, or on gardens or designed landscapes.
- 3.19 Lastly, each case must be assessed on its own merits and be determined in accordance with adopted planning policy unless material considerations indicate otherwise. It would therefore appear to be inappropriate for the Officer to include, in his



considerations against the proposal, the *“risk that this might promote further applications for dwellings in similar situations”*.

GROUND 2: THERE WILL BE NO DETRIMENTAL IMPACT UPON RESIDENTIAL AMENITY.

- 3.20 The proposed development of the single dwellinghouse would not give rise to any issues of overlooking. There would be no significant impact upon residential amenity, particularly given the separation distance between the proposed dwelling and the house known as ‘Stainie Brae’. This has been accepted by the Planning Officer. The bungalow, ‘Ladywood’ and the dwelling ‘Fauldsrig’ are within the ownership of the Applicant and their immediate family. The site is of sufficient size to ensure that the Council’s standard separation distances, to protect residential amenity, can be achieved.
- 3.21 As an aside, the Applicant wishes to confirm that the proposed dwelling is for their own occupation and will enable them to be close to family at Fauldsrig.

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4.0 CONCLUSIONS

- 4.1 The submitted Appeal, supported by this Statement, seeks the Council's decision to refuse Planning Permission for the erection of a single dwellinghouse on land north east of Ladywood, Lower Greenhill to be overturned and consent be granted for the proposal.

- 4.2 There is an existing building group at Lower Greenhill and it has the capacity, in principle, to expand within the current LDP period. Both points are accepted by the Planning Authority and have been established within previous planning decisions at Lower Greenhill.

- 4.3 The site on which the new house is proposed relates well to the existing building group and in particular to the three existing houses at the northern end of the group. The land on which the house is proposed is relatively level and the site is contained by enclosing landform, including the steep ground on which the engineering works are located at Stainie Brae to create garden ground. Aerial photographs of the site demonstrate the boundary of the sense of place created by the building group.

- 4.4 Established hedge and tree planting on the boundary of the proposed site also helps to contain the site within the building group.

- 4.5 Access can be achieved by a new driveway linking to the public road. The Roads Officer has no objections to the proposed access arrangements.

- 4.6 There will be no detrimental impact upon residential amenity – a point accepted by the Planning Authority. Further there is no ribbon development proposed.

- 4.7 The Applicant will be coming forward, at the next stage of the planning process with a proposal for a sensitively designed house of modest scale which utilises traditional materials including a slated roof. The exact siting and design of the house, together with boundary treatment and landscaping can be controlled by the planning Authority.

- 4.8 The LRB is, therefore, respectfully requested to allow the appeal to provide for the expansion of the existing building group at Lower Greenhill by one dwelling.