



LRB APPEAL STATEMENT

APPEAL AGAINST REFUSAL OF PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF A SINGLE DWELLINGHOUSE AND GARAGE/STABLES

LINTHILL, BY. LILLIESLEAF

APPLICATION REF: 18/01332/PPP

**ON BEHALF OF:
MR&MRS FERGUSON**

DECEMBER 2018

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EXECUTIVE SUMMARY

This Notice of Local Review is submitted on behalf of Mr and Mrs Ferguson against the decision of Scottish Borders Council Planning Department to refuse Planning Permission in Principle (PPP), on 27th November 2018, for the erection of a single dwellinghouse on land adjacent to a recognised building group at Linthill near Lilleasleaf. The application reference was **18/01331/PPP**.

The Scottish Borders Council and Scottish Government rightly supports growth in the rural economy and seeks to support those wishing to reside in rural areas. Self-Build homes are one of the main sectors in housing growth within the Scottish Borders and which has many knock-on benefits from employing local trades people to supporting local rural services (eg. shops/cafes).

National and Local Planning Policy supports this and the delivery of new homes that form part of rural building groups, be that within or adjacent to them. The Applicant's, when searching for suitable plots for their proposed family home together with stable/land (to follow their equestrian interests), seen a clear building group opportunity at Linthill.

They then went about pulling together the associated plans as well as researching areas ranging from flooding to habitats. All the necessary documentation was lodged with the application and concluded that building a home on the lands in question was possible.

The Applicant's family live within the local community and run their own business in the Scottish Borders. They wish to stay within the local area and to continue to support the local rural businesses and services as part of this.

There was only one reason given to why this application was refused and that will be responded to in detail within the 'Grounds of Appeal'. The reasoning why we consider the decision made should be overturned and subsequently approved are:

REASON 1:

There were **no objections by any consultee** (any conditions suggested are agreed) and the **immediate neighbour** to the proposal kindly wrote in and **supported** the application.

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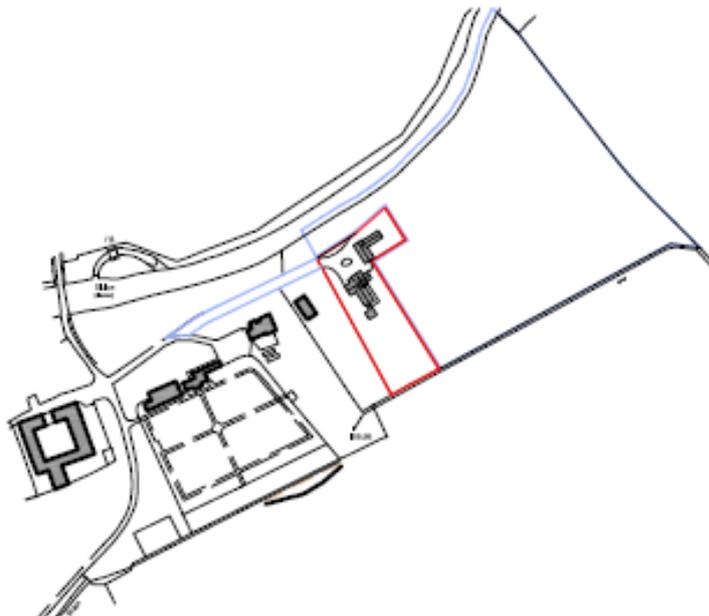
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REASON 2:

The Landscape Officer and indeed the Planning Case Officer acknowledges that there is a confirmed 'Building Group' at Linthill and the subject site relates well to it. We agree with this conclusion and is clearly shown on lodged drawings and shown below:



The Landscape Officer's consultation states:

The proposed dwellinghouse sits towards the north end of a large site and this does make sense in terms of keeping the integrity of the built form of the group (underlined our emphasis).

For this reason I do not think there will be a detrimental impact on the Designed Landscape, Listed buildings or wider building group from this proposal.

The Landscape Officer has raised no concerns of landscape or visual impact. The proposal is a significant distance from the main road and will largely go unnoticed with glimpsing views at most and **can in no way be considered "significant" in planning / landscape impact terms.**

**REASON 3:**

The Planning Officer, in our opinion, deviates from an agreement that a building group does exist to then considering somehow that it centres around the stables and walled garden house which we would consider as being in the middle not at the end of the building group.

While makes note it largely ignores or softens the fact that there is a long standing residential house (due to be extended) beyond the walled garden to the East and immediately adjacent to the subject site.

It again largely ignores the SPG guidance on allowing adjacent building plots to existing building groups. One is at a loss as to where the Case Officer thinks the plot would go within the confirmed Linthill building group? Each plot has substantial gardens to the rear with access road and limited front garden areas to the north.

The proposed plot seeks to relate and follow on the “sense of place” that neighbours it. Any alternative proposal would be backland and with no to limited access opportunity. One is at a loss as to what plots could be deemed appropriate in the eyes of the Case Officer and it certainly does not reflect the hierarchy of promoting the allowance of people to build their own homes in rural areas in or adjacent to an existing building group. There will always be a need for a degree of “flexibility” and pro-activeness within the planning process to support that principle.

It also does not fully reflect that the neighbouring plot has now been further extended beyond the hedgerow referred by the case officer and which is now removed.

The Planning Department granted planning permission for a 3 bay Residential Garage (now built) within the field in question and which goes beyond the now removed hedge line. In addition, the mature tree is no longer in situ due to it falling during winter storms.

The local context is shown on the plans lodged and marked up in the extract below and photos contained within this appeal:

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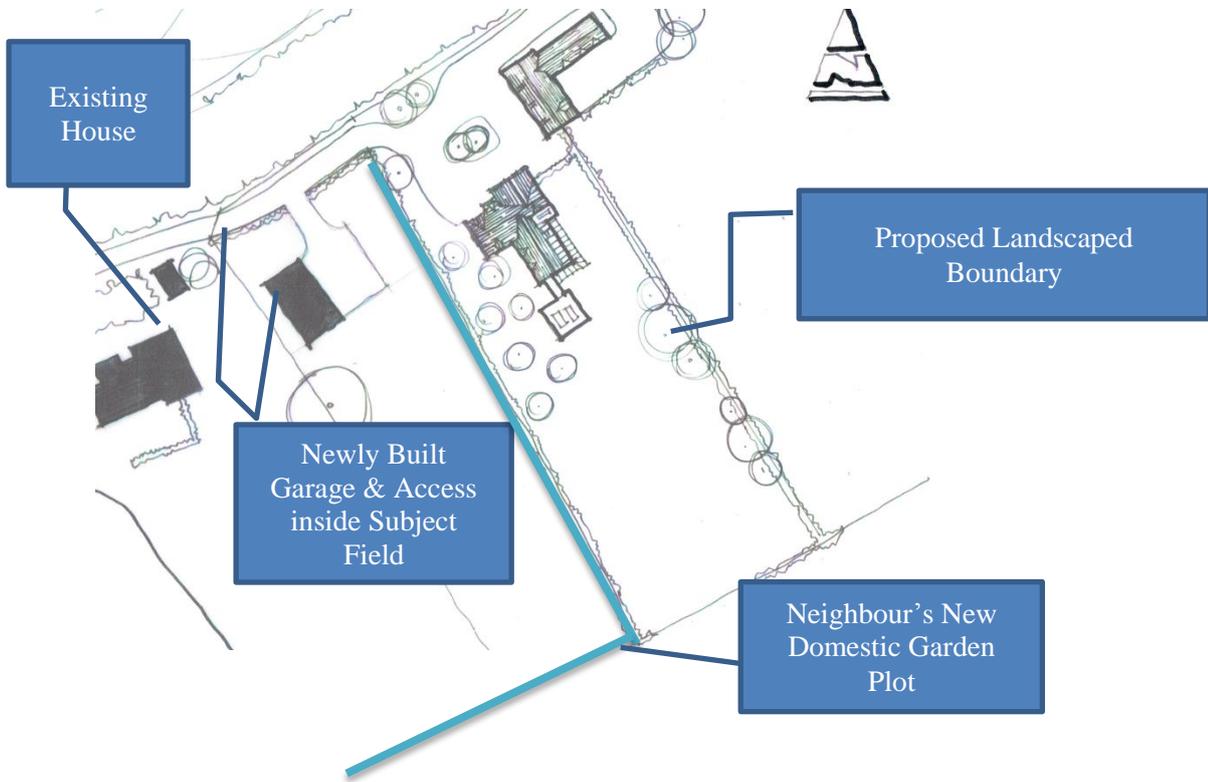
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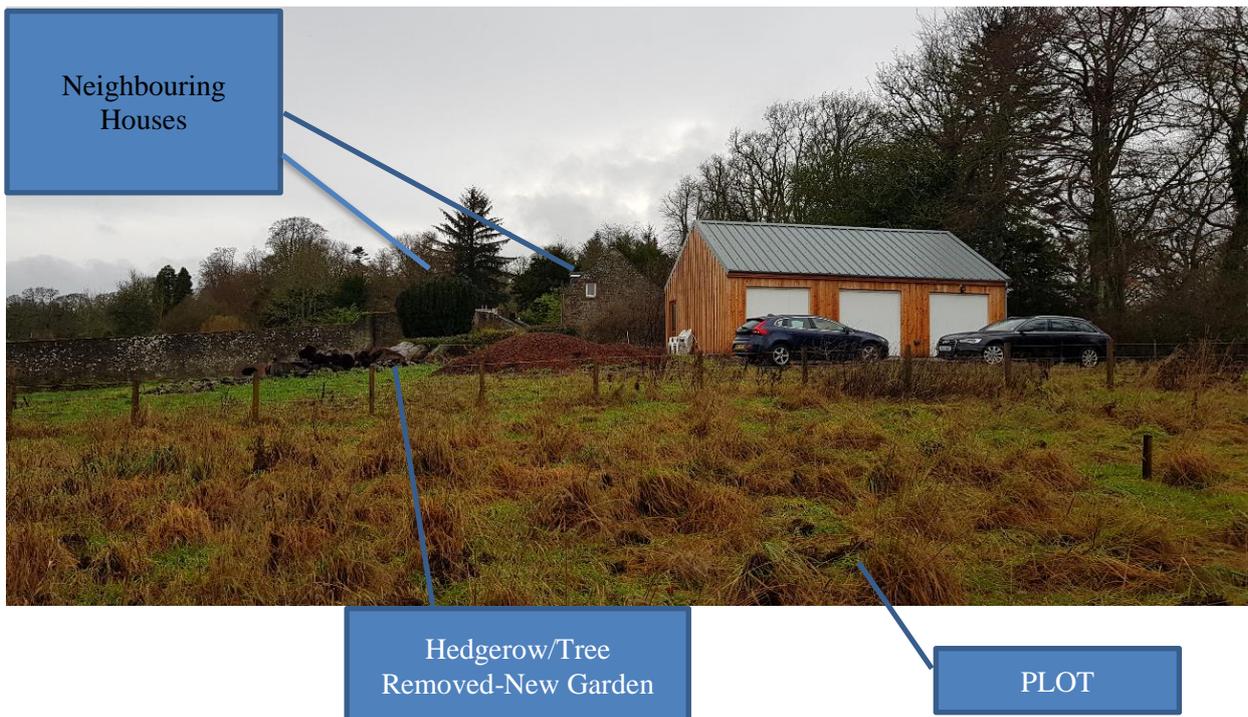
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Standing on House Plot Looking West Toward Garage and Neighbouring Properties





An access road, parking area and residential garage has been formed within the subject field and immediately next to the carefully located plot in question. **Refer to photos below.**

Formed Access / Gate / Hard Standing





It has a residential building group to the west, a retained mature woodland to the North and high level hedgerow both to the South and East. The Case Officer appears most concerned with the boundary to the East. There is an existing eastern hedgerow boundary that is owned by the applicant but to contain the plot further the Applicant has indicated the willingness to provide a further landscape eastern boundary to contain the single plot in question.

The extent of the boundary treatment can be formed by a suitable worded condition and something the Appellant is content with.

REASON 4:

The subject site is self-contained by natural landscape treatment and set against the backdrop of mature woodland which is advocated within the SPG. It has been deliberately located to the north west of the land and as close to the neighbouring building group as is possible without raising residential amenity issues and allowing adequate spacing between properties.

Section 2.b.1. of the 'New Housing in the Borders Countryside' details that building groups can be contributed to by "man made boundaries such as existing buildings, roads, plantations or means of enclosure".

The provision of this has been accepted in the past by the LRB and can be enforced by a suitable worded condition. Moreover, the field in question has been "developed" within by way of a domestic garage and large area of hardstanding. It therefore cannot be considered as being an "undeveloped field".

The Council's Supplementary Planning Guidance (SPG) entitled 'New Housing in the Borders Countryside' notes preference for existing landscaping but it does not prohibit new landscaping to be put in place to reach the same goals.

The subject site is contained to the north, east and south by existing landscaping. The Applicant seeks to provide a further eastern (native) landscaped boundary treatment to contain the one dwelling proposed.

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**REASON 5:**

While each application requires to be considered on its own merits the Case Officer appears to concern himself with the potential for further houses to the East.

To be clear the proposal includes the desire to have a stable and for the remainder of the lands (which do not form part of this application) to remain as a small holding for horses and possible a small number of livestock nothing more.

There is no intention to build more homes on the subject site and which the applicant's see as being their "forever home". **It is again worth highlighting that, in addition to this, there is a legal title restriction on the land that only allows a single dwelling to be developed on the lands.**

REASON 6:

Access to the site can be achieved. Upgrade of the main access to improve the visibility is imminent and the internal access is already in place and within the control of the applicant. No objection was raised by the Council's Road Officers.

A technical drawing regarding the main access has been lodged with the application/appeal. The internal access and hardstanding to the plot is already in place.

REASON 7:

The Applicant's seek to build a family home that is of the highest quality in design (using a local and award winning Architect) and in materials used that respects the rural environment in which it would be placed. It also seeks to support renewable energy techniques wherever possible (eg. solar/battery storage/ground source heating).

Appropriate utility connections from power to sewerage can be put in pace and acceptance by the providers has been given to the Appellant (eg. Scottish Power / Water).

Having considered the detail contained within the Appellant's submission we respectfully request planning permission be granted.

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1.0 INTRODUCTION – DOCUMENTATION

1.1 The Application for Planning Permission in Principle (PPP) for the erection of a dwelling included the following drawings which are supplied with this Local Review.

- Location Plan
- Indicative Site Plan
- Indicative Elevation Plan

1.2 An indicative elevation drawing was lodged at the outset but appears not to have been received. We have included that within this submission for general context.

1.3 The application also included a detailed Supporting Planning Statement and Habitat Survey resubmitted with this appeal submission. The Planning Officer's Report and Decision Notice are also included.

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2.0 BACKGROUND AND APPLICATION PLANNING HISTORY

- 2.1 The Appellant's are seeking to build their family home on a proposed/contained plot that they and we consider to be a clear building group opportunity at Linthill.
- 2.2 Any previous withdrawn application has no relationship with the Appellant nor did it include as much supporting evidence/documentation as lodged with this submission. It appeared on one map search to include the entire lands while this application has carefully only included a plot immediately adjacent to the existing building group and to which new landscaping will tightly contain. It also did not take into consideration the domestic garage which now sits within the subject field/plot adjacent to where the proposed house would go.
- 2.3 The submission package before the LRB has been undertaken during the course of 2018. Any previous application on the site is not related and has not also taken into changes since then (ie. garage within the subject site / felled hedge line and tree etc)
- 2.4 The Building Group is clear and formed from the west by the Linthill Stable block (now converted into a number of cottages), a house built into the walled garden followed by Garden Cottage (soon to be extended) and which also incorporates a newly formed domestic garage that falls within the subject field/plot.
- 2.5 Planning Permission for the garage was granted in 2015 (ref. 15/00199/FUL). The extension to the neighbouring Garden Cottage was passed via permitted development rights and due to be built early in 2019.
- 2.6 There is a clear group of existing dwellings and which meets the LDP's requirement of at least 3 existing dwellings. There again is the main Linthill House to the north of the Ale Water which arguable has a relationship with the Linthill grouping (albeit not being relied upon in this submission).
- 2.7 While it is not considered part of the grouping it is again worth highlighting that the LRB recently approved the replacement Gatehouse at 'Linthill' near the main access road. The subject site is the final plot of the Estate's sale lotting to be developed.

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3.0 REFUSAL OF APPLICATION BY SCOTTISH BORDERS COUNCIL

3.1 The application was refused by Scottish Borders Council on 27th November 2018 on the basis set out below.

1) The proposed development is contrary to Adopted Local 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 a new dwellinghouse 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.

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4.0 PLANNING POLICY CONTEXT

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN (2016)

4.1 The key policies relevant to the determination of this Local Review are Local Development Plan (LDP) Policy HD2 **Housing in the Countryside** and Policy HD3 **Protection of Residential Amenity**.

4.2 The key adopted Supplementary Guidance to be treated as a material consideration in the determination of this Local Review is **'New Housing in the Borders Countryside'** (2008).

4.3 LDP Housing in the Countryside policy **HD2**, section [A] 'Building Groups' states that housing of up to 2 additional dwellings, or a 30% increase in the building group, (whichever is the greater), associated with existing building groups, may be supported where:

- The site is well related to an existing building group of 3 or more houses;
- There is acceptable cumulative impact of the proposal on the character of the building group, and on the landscape and amenity of the surrounding area;
- The proposal is appropriate in terms of scale, siting, design, access and materials, and should be sympathetic to the character of the group.

SUPPLEMENTARY GUIDANCE – NEW HOUSING IN THE BORDERS COUNTRYSIDE

4.4 "New Housing in the Borders Countryside" provides clear guidance on development which is proposed as an addition to an existing building group.

4.5 The Guidance states that development must meet certain standard criteria, including:

- a) No adverse effect on the viability of a farming unit or conflict with the operations of a working farm;
- b) Satisfactory access and other road requirements;
- c) Satisfactory public or private water supply and drainage facilities;
- d) No adverse effect on countryside amenity, landscape or nature conservation;
- e) No adverse impact on designed landscapes;
- f) Appropriate siting, design and materials in accordance with the relevant Local Plan policies.



- 4.6 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.
- 4.7 The existence of a group will be identifiable by a sense of place which will be contributed to by: **(a)** natural boundaries such as water courses, trees or enclosing landform, or **(b)** man-made boundaries such as existing buildings, roads, plantations or means of enclosure.
- 4.8 Natural boundaries where possible should take precedence over man-made boundaries when defining the extent of a building group. Man made boundaries are, in our opinion, still deemed to be acceptable in containing any confirmed building group.
- 4.9 The suitability of any particular group to accommodate new houses will depend upon:
- a) The scale and siting of new development reflecting and respecting the character and amenity of the existing group, and the individual houses within the group;
 - b) New development being limited to the area contained by the sense of place;
 - c) New build being located within a reasonable distance of existing properties within the building group; the distance between existing properties and proposed new build being guided by the spacing between the existing properties within the group;
 - d) Sites not normally breaking into a previously undeveloped field or requiring the removal of mature trees in good condition;
 - e) Houses not being located within 400m of existing intensive livestock units unless the new house is required in connection with the farm or business itself;
 - f) Careful consideration being given to sites close to working farm buildings or other rural industries to ensure no potential conflict;
 - g) The proposal not being an extension of ribbon development along a public road.
- 4.10 Policy **HD3** 'Protection of Residential Amenity' requires that any new house does not have a detrimental impact upon the residential amenity of existing houses and has a good level of residential amenity itself.

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5.0 GROUNDS FOR LOCAL REVIEW AND CASE FOR THE APPELLANT

- 5.1 The Case Officer's single reason to refuse (outlined in Section 3) the application is challenged on the 'Grounds of Appeal' set out below. It is asserted that the Proposal accords with the relevant planning policies and intentions of the Local Development Plan and Supplementary Planning Guidance as well as Strategic and National planning guidance.
- 5.2 The Appellant sets out the following Grounds of Appeal (GOA):

GOA 1

There were **no objections by any consultee** (any conditions suggested are agreed) and the **immediate neighbour** to the proposal kindly wrote in and **supported** the application.

GOA 2

The development would **not** be contrary to policy HD2 of the Local Development Plan 2016 and New Housing in The Borders Countryside' Guidance 2008 in that :

- (a) the location is directly adjacent to an existing building group of more than three dwellings,
- (b) the proposal respects the character of the building group and the scale and siting of other houses. This has been confirmed by the Council's Landscape Officer who concluded:

The proposed dwellinghouse sits towards the north end of a large site and this does make sense in terms of keeping the integrity of the built form of the group (underlined our emphasis).

For this reason I do not think there will be a detrimental impact on the Designed Landscape, Listed buildings or wider building group from this proposal.

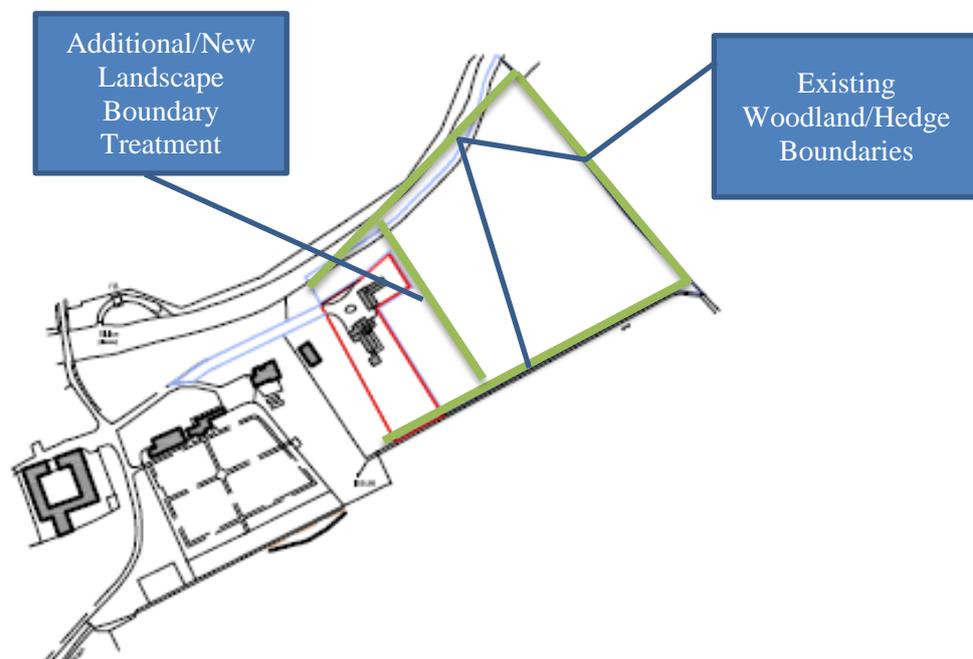


- (c) The subject plot is contained by the existing building group to the west, mature woodland to the north and high hedgerows to the south and east. It is proposed to plant a secondary and further native landscaped boundary along the east and as shown indicatively within the drawings lodged. This then providing a tighter defined edge to the building group. The remainder of the field would be used for grazing and equine purposes (ie. Agri. small holding) by the owners.

The policy or SPG does not prohibit the use of new landscape boundaries as part of containing an extended building group.

- (d) there are no other suitable sites available within the building group;
- (e) the proposal would not cause ribbon development.

The Landscape Officer acknowledges that there is a confirmed 'Building Group' at Linthill and the subject site relates well to it. We agree with this conclusion and is clearly shown on lodged drawings and shown below:





The Landscape Officer has raised no concerns of landscape or visual impact. The proposal is a significant distance from the main road and will largely go unnoticed with glimpsing views at most and can in no way be considered “significant” in planning or landscape impact terms.

GOA 3

The Planning Officer, in our opinion, deviates from an agreement that a building group does exist but then appears to dilute what that may or may not contain. It again does not highlight strongly enough that plots adjacent to building groups should be deemed acceptable.

It lightly touches upon the fact that there is a long standing residential house (due to be extended) beyond the walled garden to the East and immediately adjacent to the subject site.

It also does not fully reflect that the neighbouring plot has now been further extended beyond the hedgerow and now includes part of the subject field in question.

The Planning Department granted planning permission for a 3 bay Residential Garage (now built) within the field in question and which goes beyond the hedge line referred to by the Planning Officer. In addition, the mature tree and the hedgeline in question is no longer in situ.

This is shown on the plans lodged and extract below:

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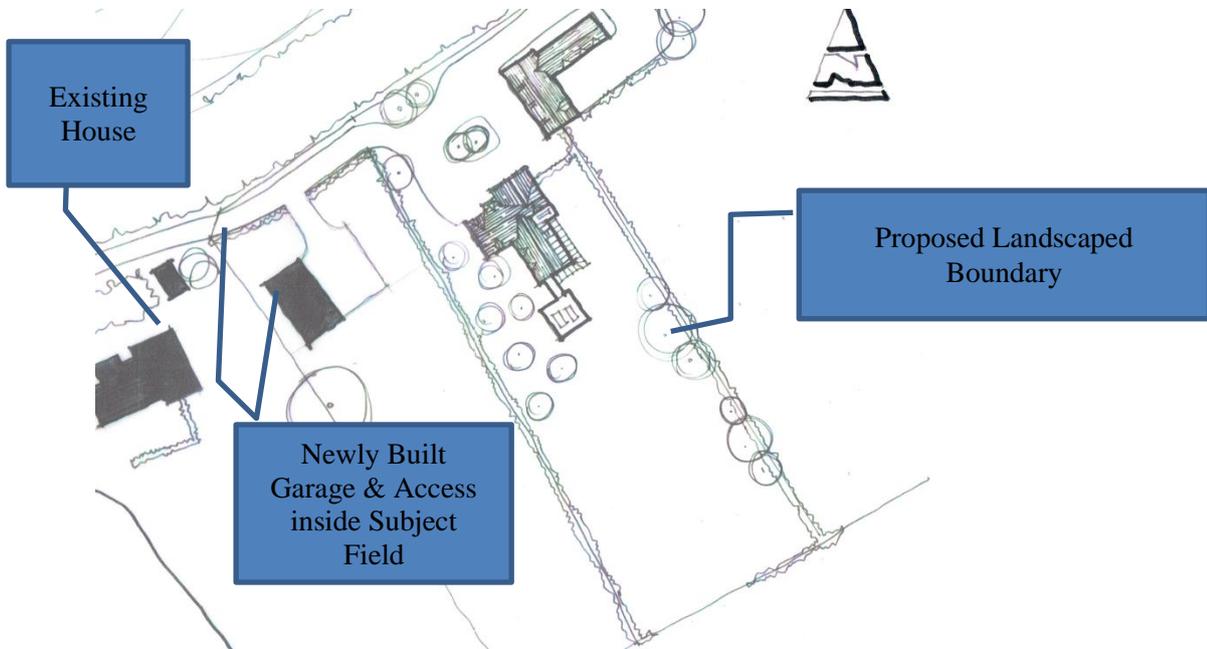
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Standing on House Plot Looking West Toward Garage Built in Subject Field





An access road, parking area and residential garage has been formed within the subject field and immediately next to the carefully located plot in question. Refer to previous photos in Executive Summary.

It has a residential building group to the west, a retained mature woodland to the North and high level hedgerow both to the South and East. The Case Officer appears most concerned with the boundary to the East. There is an existing eastern hedgerow boundary that is owned by the applicant but to contain the plot further the Applicant has indicated the willingness to provide a further landscape eastern boundary to contain the single plot in question.

GOA 4:

The subject site is self-contained by natural landscape treatment and set against the backdrop of mature woodland which is advocated within the SPG. It has been deliberately located to the north west of the land and as close to the neighbouring building group as is possible without raising residential amenity issues and allowing adequate spacing between properties.

Section 2.b.1. of the ‘New Housing in the Borders Countryside’ details that building groups can be contributed to by “man made boundaries such as existing buildings, roads, plantations or means of enclosure”.

The provision of this has been accepted in the past by the LRB and can be enforced by a suitable worded condition. Moreover, the field in question has been “developed” within by way of a domestic garage and large area of hardstanding. It therefore cannot be considered as being an “undeveloped field”.

The Council’s Supplementary Planning Guidance (SPG) entitled ‘New Housing in the Borders Countryside’ notes preference for existing landscaping but it does not prohibit new landscaping to be put in place to reach the same goals.

The subject site is contained to the north, east and south by existing landscaping. The Applicant seeks to provide a further eastern (native) landscaped boundary treatment to contain the one dwelling proposed.

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GOA 5:

While each application requires to be considered on its own merits the Case Officer appears to be concerned with the potential for further houses to the East.

To be clear the proposal includes the desire to have a stable and for the remainder of the field to remain as a small holding for horses and possible a small number of livestock nothing more.

There is no intention to build more homes on the subject site and which the applicant's see as being their "forever home". **It is again worth highlighting that, in addition to this, there is a legal title restriction on the land that only allows a single dwelling to be developed.**

GOA 6:

Access to the site can be achieved. Upgrade of the main access to improve the visibility is imminent and the internal access is already in place and within the control of the applicant. No objection was raised by the Council's Road Officers.

A technical drawing with regard to the main access upgrade has been provided with the internal access/hardstanding to the plot already in place.

GOA 7:

The Applicant's seek to build a family home that is of the highest quality in design (using a local and award winning Architect) and in materials used that respects the rural environment in which it would be placed. It also seeks to support renewable energy techniques wherever possible (eg. solar/battery storage/ground source heating).

Appropriate utility connections from power to sewerage can be put in pace and acceptance by the providers has been given to the Appellant (eg. Scottish Power / Water).

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Developer Contributions

The requirement for an education contribution is noted and is accepted by the Appellant.

Drainage Arrangements

Private drainage is proposed. The application was in principle only – details will be provided at the next stage of the planning process, as required by the Environmental Health Officer.

Having considered the detail contained within the Appellant's submission we respectfully request planning permission to be granted for the dwellinghouse at Linthill.

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6.0 **CONCLUSION**

- 6.1 This Local Review Appeal requests that the Officer’s decision to refuse planning permission in principle for the erection of a house at Linthill be overturned and consent be granted given it is well related to the existing 3+ house building group. This Statement has clearly demonstrated that the proposal is not contrary to Local Development Plan policies HD2 or HD3 or to Supplementary Planning Guidance “*New Housing in the Borders Countryside*”.
- 6.2 The Planning Authority has recognised the presence of the building group and its capacity to expansion by a further dwelling.
- 6.6 The appeal site is well related to the building group in terms of distance from it, relative to the existing distances between the group’s elements. There is no meaningful natural or manmade boundary between the appeal site and the building group.
- 6.8 The Council’s Roads Officer and Landscape Officer raised no objections. The Landscape Officer will require a detailed landscaping plan at reserved matters stage – this is acceptable to the appellant. The proposal does not result in any loss of woodland and has no impact on trees’ root protection areas. It again will have no significant impact on local habitats.
- 6.10 The proposal complies with adopted policy and guidance and respects and reflects the character of the existing building group. There are no other suitable sites at Linthill. Given the acceptance that this building group has the capacity for a further dwelling together with the ‘Grounds of Appeal’ outlined in this statement, the Local Review Body is respectfully requested to allow the Appeal.