



## **APPEAL STATEMENT**

**SITE ADDRESS: PADDOCK SOUTH OF AND  
INCORPORATING PART GARDEN GROUND OF 1  
COWDENBURN COTTAGES WEST LINTON  
SCOTTISH BORDERS**

**PLANNING APPEAL AGAINST THE REFUSAL OF:  
ERECTION OF TWO DWELLINGHOUSES**

**APPLICANT: MR A ANDERSON**

**APRIL 2019**

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**RTPI**

Chartered Town Planner



## 1. INTRODUCTION

- 1.1 This Appeal Statement, prepared by Ferguson Planning, is submitted to Scottish Borders Local Review Body regarding the refusal of application 18/01469/PPP for the “Erection of two dwellinghouses at paddock south of and incorporating part garden ground of 1 Cowdenburn Cottages West Linton Scottish Borders”. The application was submitted on 22nd October and refused by Scottish Borders Council on 6th February 2019.
- 1.2 Two reasons for refusal were stated on the application decision notice, as follows:
1. *The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would not relate sympathetically to the character of the existing building group or surrounding landscape.*
  2. *The development would be contrary to policy EP13 of the Local Development Plan 2016 and Trees and Development Guidance 2008 in that it would cause the loss or serious damage to high amenity value trees which would not be outweighed by an overriding public benefit.*

### The Appellant

- 1.3 The Appellant is Mr A. Anderson, the subject site is land adjoining/adjacent to the applicant’s house. These grounds are presently used as a paddock and a timber field shelter exists along the adjoining boundary with the appellant’s property.

### Proposed Development

- 1.4 The development proposal is to create two building plots from the appellants paddock ground adjacent to the existing building group and which would go some way in delivering much needed housing in the West Linton area.
- 1.5 The application relates to what is effectively a corner section ‘infill’ site between 1 Cowdenburn Cottage and A701 public road. Existing timber post and rail define the boundary fence with 1 Cowdenburn Cottages and partly forms the north-east boundary of the application site. This continues to the rear boundary of the applicant’s garden and is then undefined as it crosses an area of ground owned by the applicant to the rear of their garden.
- 1.6 This then changes to a post & wire fence which adjoins the extensive garden ground of 5 Cowdenburn Cottages before reaching the former Dolphinton railway branch line. The former railway line forms the southern boundary of the application site and is defined by a post and wire fence.

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- 1.7 The north-western boundary lies alongside the A701 public road and is defined by a post and wire fence along which there are a belt of mature trees screening the application site from view
- 1.8 The proposal has been carefully thought out and drawn together by the Appellant and their Architect. The development design of both dwellings are of modest scale and height and have been positioned to replicate existing properties. Significant landscaping proposals are included to assimilate the proposals into the setting and provide defined site boundaries, as shown on the Site Plan.
- 1.9 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 Review to enable planning permission to be granted for the proposals at Cowdenburn.
- 1.10 All core documents and drawings have been resubmitted with this appeal.
- 1.11 The remainder of the Appeal Statement is structured as follows:
  - Section 2: Site Context
  - Section 3: The Proposal
  - Section 4: Planning Policy Context
  - Section 5: Proposal Compliance
  - Section 6: Grounds of Appeal
  - Section 7: Conclusions

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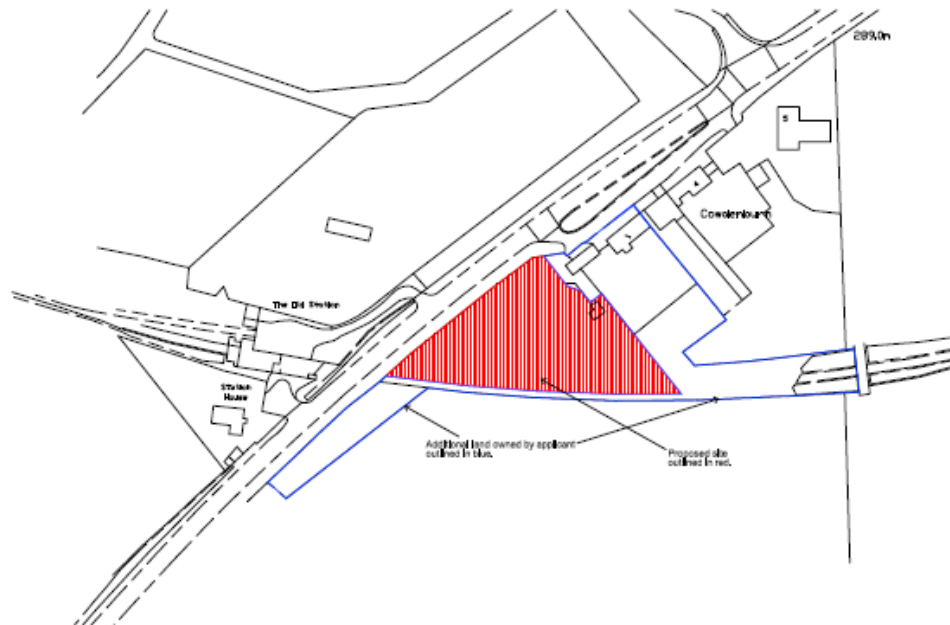
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## 2. SITE CONTEXT

- 2.1 The appeal site is located on the south western edge of the existing Cowdenburn building group. The application site lies adjacent to 1 Cowdenburn Cottage and is predominantly garden ground and paddock. Access is off the A701 public road through an existing field gate from the minor access road serving the existing adjacent cottages. The site location is demonstrated in Figure 1.

Figure 1. Site location



- 2.2 A post and wire fence, which follows the line of the former railway, forms a boundary to the field beyond the application site. The north western boundary is formed by a stand of mature trees and a mature tree is located in the northern corner of the site, adjacent to the site access. A photograph of the site is shown in Figure 2.

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Figure 2. Photograph of site with view to the north western boundary.



2.3 An indicative layout of the positioning and scale of the two dwellings is shown below in Figure 3. One can see how the proposal endeavours to “bookend” the existing building group.

Figure 3. Indicative layout plan



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## Proposed Development

- 2.4 The Planning Application for the erection of two residential dwellings in principle (PPP) included drawings and documents noted below and which are re-supplied with this Appeal.
- Location Plan
  - Site Plan
  - Planning Statement
- 2.5 During the course of the application statutory consultees responded to the application and included:
- Roads Planning
  - Landscape Architect
  - Contaminated Land Officer
- 2.6 **No objections** subject to conditions were received from both the Roads Officer and Contaminated Land Officer.
- 2.7 The Landscape Officer objected on the basis of the impact the proposal would have on the mature tree line and mature sycamore tree. We consider the related matter can be addressed via a suitable worded condition and will return to this matter later in this statement.

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### 3. PLANNING POLICY CONTEXT

3.1 This section provides an overview of key planning policies relevant to the proposed development. Scottish Planning Policy (SPP) sets out national planning policies and is a key material consideration in the determination of this application. The Development Plan is made up of the Strategic Development Plan for South East Scotland (SESPlan) and the Scottish Borders Local Development Plan (2016).

#### SCOTTISH PLANNING POLICY (SPP) 2014

- 3.2 SPP encourages rural development that supports prosperous and sustainable communities and businesses, whilst protecting and enhancing environmental quality. SPP provides that, where appropriate, the construction of single houses outwith settlements should be supported provided such are well sited and designed to fit with local landscape character, taking account of landscape protection and other plan policies.
- 3.3 A key focus for SPP is the creation of well-designed, sustainable places and supporting sustainable economic growth and regeneration. SPP also seeks to ensure that there is an effective five year land supply in place at all times.
- 3.4 SPP creates a presumption in favour of development that contributes to sustainable development. Policies and decisions will be guided by key principles, including:
- supporting good design and the six qualities of successful places;
  - making efficient use of existing capacities of land, buildings and infrastructure;
  - supporting climate change mitigation and adaptation;
  - having regard to the principles of sustainable land use;
  - protecting, enhancing and promoting access to cultural and natural heritage;
  - reducing waste, facilitating its management and promoting resource recovery; and
  - avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality

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### Policy PMD 2 Quality Standards

3.5 This policy sets out a range of sustainability, placemaking and design, accessibility and open space/ biodiversity requirements, whereby the proposal must:

- Take appropriate measures to maximise the efficient use of energy and resources, in terms of layout, orientation, construction and energy supply;
- Make provision for sustainable drainage;
- Incorporate appropriate measures for separate storage of waste and recycling;
- Incorporate appropriate landscaping to help integration with the surroundings;
- Create a sense of place, based on a clear understanding of context;
- Be of a scale, massing and height appropriate to the surroundings;
- Be finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality;
- Be compatible with, and respect, the character of the surrounding area, neighbouring uses and neighbouring built form;
- Be able to be satisfactorily accommodated within the site;
- Provide for appropriate boundary treatments to ensure attractive edges, and to help integration with the surroundings;
- Incorporate access for those with mobility difficulties;
- Not have an adverse impact on road safety in terms of the site access;
- Incorporate adequate access and turning space for vehicles including those used for waste collection purposes.
- Retain physical or natural features which are important to the amenity or biodiversity of the area.

### Policy HD3 protection of residential Amenity

3.6 Development must not have an adverse impact upon the residential amenity of existing or proposed areas. The scale, form and type of development will be taken into account in terms of its fit with an area, as will any impact in terms of loss of privacy, overlooking or loss of sunlight. The visual impact of the proposed development will also be taken into account.

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#### **Policy HD4 Meeting Housing Land Requirement**

- 3.7 This Policy outlines the requirement to have an effective housing land supply and, in this instance, there was a requirement to undertake Supplementary Guidance to try and address a noted and agreed shortfall.
- 3.8 The matter of housing shortfall and in particular within the West Linton area will be returned to in the Grounds of Appeal section to follow.

#### **Policy PMD5 infill Development**

- 3.9 This policy provides that development on non-allocated, infill or windfall sites will be supported where development:
- Does not conflict with the established land use of the area;
  - Does not detract from the character or amenity of the area;
  - The cumulative and individual effects of the development can be sustained by the social and economic infrastructure;
  - Does not lead to over-development;
  - Respects the scale, form, design, materials and density in the context of its surroundings;
  - Can be served by adequate access, and servicing can be achieved (including water, drainage and schools capacity);
  - Does not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

#### **Policy HD2 Housing in the Countryside**

- 3.10 This policy provides a range of scenarios in which housing in the countryside will be supported including where there is an existing building group of 3 or more houses which share a sense of place. In such situations the grouping can be added to by up to 30% or 2 units (whichever is the greater) subject to there being suitable sites.

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## 4. GROUNDS FOR APPEAL (GOA)

### GOA 1

- 4.1 One reason given for refusing planning application 18/01469/PPP, was that:

*The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would not relate sympathetically to the character of the existing building group or surrounding landscape.*

- 4.2 The proposed development adjoins an existing building group of more than three dwellings. It intends to create or enhance the defined boundary through the implementation of tree and hedge planting. The proposal would create a 'book end' to the existing building group, preventing any further development towards the south and west of the building group and a completion of the building group on all boundaries.
- 4.3 The positioning of the properties largely mirror the existing property at 5 Cowdenburn Cottage, the most recent addition to the building group. 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. We do not agree with such a conclusion.
- 4.4 5 Cowdenburn is situated towards the north east and is a single storey modern bungalow which was constructed at the turn of the century (references 00/00251/OUT and 01/01495/REM). The introduction of this house into the building group was substantially different to what already exists, it sits on individual plot, with a large residential footprint and does not follow the building line of the traditional houses but sits at approximately 45 degrees to them. The site is visible from the A701 road and has only a small wooden fence between the property and the road as the north western boundary.
- 4.5 The principle of development at 5 Cowdenburn Cottages is relevant in this proposal. As the positioning, scale and mass of the property was a new addition to the existing properties in the building group. It has a similar concept but on the other side of the building group.
- 4.6 The proposal uses the outer boundary of the former railway line and intends to incorporate structural planting and infill screen planting on the southern boundary to create a defined edge to the building group ensuring no further development can extend beyond this proposal. The subject site is already heavily screened by existing mature tree line cover reducing visual impact from the main public road, as shown in Figure 4.
- 4.7 A detailed landscaping proposal would be provided by way of condition and ultimately will assist the setting of the new dwellings into the landscape

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Figure 4. Existing mature tree line concealing proposed site



- 4.8 The Officer suggested the development. “would amount to sporadic residential development in a countryside location”. This is not considered to be the case as the development is proposed on a site that sits directly adjacent and shares the same access to an existing build group. The development is not sporadic in nature. It is adjacent to an existing building group as per the recommended guidance and uses part of an unused paddock and part garden ground from 1 Cowdenburn Cottage. The subject site also has existing defined post and wire fence boundaries on all other sides which will be further strengthened.
- 4.9 We consider that the proposal represents a natural infill plot and one that will align itself with neighbouring properties situated within the corner section of unused paddock and garden ground. It will provide a natural ending to the existing building group. It is contained by the route of the old railway line.
- 4.10 The proposal would be visible from the A701 road travelling north from Lamancha Village. However, impacts will not be significant within the wider context and visibility will be drastically reduced with the implementation of appropriate landscaping as indicated on the submitted drawings. Traveling from the other direction towards Lamancha Village the dwellings are completely concealed by the existing mature tree line.

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4.11 As the application is ‘in principle’ (PPP) the exact scale, siting and design of the dwellings will be proposed at the next stage of the planning process and can be controlled by way of suitable worded planning condition.

#### **Precedent**

4.12 It appears there is a level of flexibility when building into undeveloped land, as demonstrated by the approval of a number of planning applications within the immediate vicinity of the site and other successful appeals to the LRB.

4.13 Whilst every planning application should be determined on its merits, it is important to have consistency in planning decisions to provide confidence in the development management system and previous planning decisions are therefore capable of being material considerations. We believe flexibility in approach is correct when the principle of development is accepted against policy and often is needed in housing delivery.

4.14 It is valid to point out the development of dwellings that have encroached into open fields in the Lamancha area.

#### **Application 10/00235/FUL**

4.15 Application 10/00235/FUL Whim Farm for the demolition of existing farm house and erection of two dwellings.

4.16 Whilst it is accepted here there was a previous farm house on part of this land, the size area of each individual proposed dwellings was larger than the farm house itself. Therefore, the erection of a second dwelling encroached onto agricultural land to the south western boundary.

4.17 A further application 10/01540/FUL was then submitted and approved on this site for one of the dwellings to change the use of agricultural land to the rear of the property to garden grounds.

4.18 In this instance it was deemed acceptable to build on an open field and change its use from agricultural use to garden grounds for residential purposes.

#### **Application 16/00250/FUL**

4.19 A more recent example is drawn from the approval of application 16/00250/FUL for the erection of a single dwelling at Madrissa Farm.

4.20 The boundaries that defined the site in this case were acknowledged as only being a post and wire fence on three boundaries before extending out into agricultural field. The site had two distinct parts, one area had been used previously as part of an old farm steading and the other was open grass to the south. The open grass was adjacent to an agricultural field.

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- 4.21 Therefore, the encroachment of previous applications into open fields has been deemed acceptable in these instances. Building plots, similar to that proposed, have again been tested at LRB numerous times and shown where there is proposed landscape containment and where the plots are adjacent to a defined building group they were deemed to be acceptable.
- 4.22 In those instances the correct level of flexibility and interpretation were used in ensuring a rural housing within the Scottish Borders can come forward and assist in meeting housing delivery requirements set down by SESPlan.

## **GOA 2**

- 4.23 The second reason for Scottish Borders Council to refuse planning application 18/01469/PPP, was that:

*The development would be contrary to policy EP13 of the Local Development Plan 2016 and Trees and Development Guidance 2008 in that it would cause the loss or serious damage to high amenity value trees which would not be outweighed by an overriding public benefit.*

- 4.24 The Landscape Officer objected to the proposal on the basis of it possible having a detrimental impact on the mature sycamore and existing trees along the north west boundary. The issues concerned here could be met through the provision of detailed landscape drawings as part of the discharging of an appropriately worded pre-start condition, as agreed by the Local Authority.
- 4.25 As the application was in principle, it was deemed that tree protection measures are a matter of detail to be controlled at the next stage in the planning process.
- 4.26 The Appellant is supportive of protecting the appropriate trees and is willing to implement measures such as 'no-dig' Terram Geocell as a tree root protection system.
- 4.27 Using Terram Geocell for tree root protection ensures the roots beneath are protected from vehicle loads by confining the sub-base and stabilising the ground. When the permeable Terram Geocell is filled with a porous, no fines, free-flowing aggregate the system allows essential passage of air and water providing essential nutrients to the roots. A visual description of how Terram Geocell can be implemented is outlined in Figure 5.

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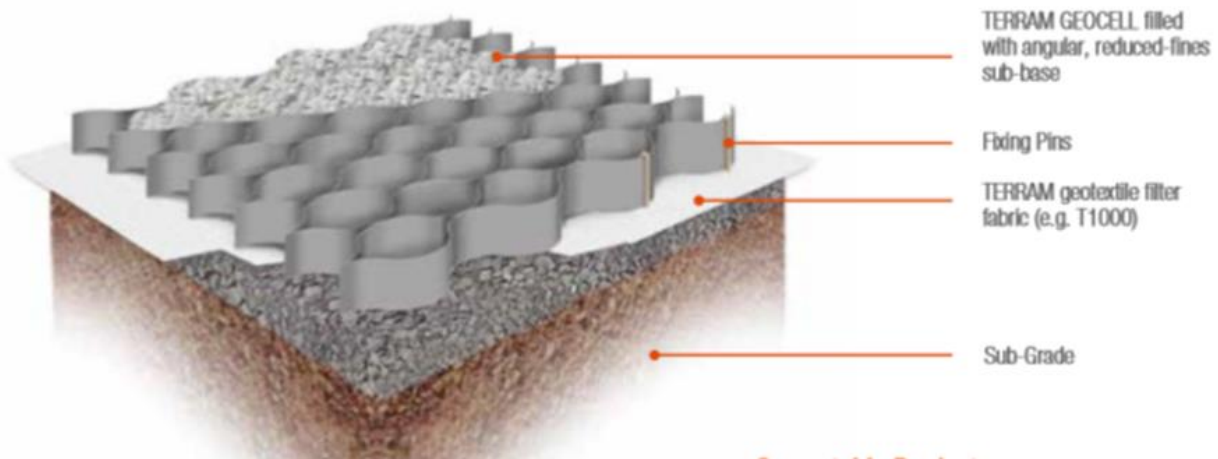
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Figure 5. Terram Geocell visual description



- 4.28 Detailed drawings and input of a suitably qualified arboriculturalist, would be provided in discharging the relevant pre-start planning condition.
- 4.29 In relation to the development having an impact on the mature tree line and the requirement to improve the visibility from the access by some minor canopy raising of the trees on the north western boundary, the Officer agreed that this could again be conditioned as recommended by Roads in the event that the appeal is allowed.

### **GOA 3**

- 4.30 The third ground of appeal relates to Policy HD4 of the LDP and ensuring we meet housing needs within the Scottish Borders. It requires that a five year land supply is proven to be effective at all times.
- 4.31 While it is appreciated that the proposal is modest in terms of the number of dwellings it is clear that self build homes in the Scottish Borders plays a major part in trying to meet housing land requirements.
- 4.32 Ferguson Planning have commented further in relation to housing land supply as part of the LDP2 consultation. It is considered that the area in and around West Linton is under supplied against demand and both in relation to new housing and business units.
- 4.33 The current LDP touches upon the related HNDA and a yearly delivery target of 492 homes per annum. The SESplan Supplementary Guidance (SSG) target is almost twice that.
- 4.34 The Table below 'Housing Land Requirement' outlines the Scottish Borders Supplementary Guidance (SG) and which was based on the SESplan Supplementary Guidance (SSG).

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**Scottish Borders Housing Land Requirement**

Housing Requirement	2009-2025
2009-2019	9,650
2019-2024	3,280
2025	492
<b>TOTAL</b>	<b>13,422</b>

- 4.35 The above requirement seeks the delivery of c. 839 homes per annum and a target that is not currently being achieved.
- 4.36 Our housing analysis has raised significant questions over whether there is an effective five year land supply at present. It also denoted that when reviewing the LDP and additional SPG housing allocations up to 3,000 homes are considered constrained. Greater flexibility is needed to bring forward further deliverable sites and in areas where people wish to live. Housing under rural building groups plays its part in housing delivery and a further reasoning as to why the proposal should be supported.
- 4.37 In simplistic terms, when one acknowledges the annual housing requirement and then reviews, for example, Appendix 2 - Table 9 and 10 of the adopted LDP it gives rise to significant concern regarding an effective five year land supply.
- 4.38 It shows that over the five years between 2010 and 2014/15 there was an average annual completion trend rate of some 367 dwellings per annum.
- 4.39 Further completion trends are outlined within the LDP2 MIR (Table 4) and Scottish Borders Housing Audit 2018 (Table 8) for the years 2012/13 to 2016/17 showing an annual (average) housing delivery of only 298 dwellings. This indicates a fairly significant drop in housing delivery and again cause for concern.
- 4.40 It would therefore suggest that, in annual terms, housing delivery is running at c. 65% below the required target and gives rise to significant questions as to how the current land supply can indeed be considered “effective” now or into the future. This is further confirmed with the fact that historic trends show that, on average, 43% of completions are from windfall (non allocated) sites.

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4.41 This leads to two general conclusions:

- There is considered not to be a five year effective land supply
- There is a significant need to bring forward further sustainable and suitable housing sites. A great deal of current delivery in the Scottish Borders is from rural building group houses like that proposed.

4.42 The proposal seeks to assist in going toward trying to meet the five year effective housing land supply target, help deliver housing in the West Linton area which is considered to be under catered for and thus seeks to deliver upon the general principles of LDP Policy HD4.

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## 5. CONCLUSION

- 5.1 The submitted Appeal supported by this Statement and associated documents seeks the Council's decision to refuse Planning Permission to be overturned and consent be granted for the proposal.
- 5.2 The attached indicative layout would see the "infill" corner section plot aligned with the existing adjacent roadside cottages and would form the end plot creating a "bookend" to the building group and thus the completion of the building group at Cowdenburn.
- 5.3 Additional landscape planting will be placed along the direction boundaries, this will confine the dwellings and prevent further development beyond what we consider the defined building group (inc. subject site).
- 5.4 Consideration of the proposed development on the character and amenity of the existing area has been provided in this statement and concluded that the proposed development could be assimilated into its landscape setting with ease. The proposal would not, therefore, be viewed as an inappropriate addition to the existing Cowdenburn building group.
- 5.5 The associated proposal for the creation of two dwellings can be adequately screened to the satisfaction of the LRB, with planting (as indicated on drawings) secured by way of a suitably worded planning condition. Indeed, all of the drawings and supporting information that would be required by the Landscape Architect can be secured by way of an appropriately worded planning condition (including the identification of trees' root protection areas and tree protection systems).
- 5.6 A 'no dig' construction technique would be utilised for the creation of the access and parking area and any part of the driveway which falls within the root protection areas of any trees.
- 5.7 A lack of housing delivery has been identified in demand areas such as the West Linton area. The proposal seeks to go toward meeting the housing land supply requirement sought by SESPlan and the LDP.
- 5.8 The proposal is therefore considered to be a sustainable form of development that accords with both the aims and objectives of local planning policy and we respectfully request that this appeal is allowed.

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