

APPEAL STATEMENT



SITE ADDRESS:

**LAND WEST OF 1 HALLRULE FARM COTTAGE, BONCHESTER BRIDGE, SCOTTISH
BORDERS**

PLANNING APPEAL AGAINST THE REFUSAL OF:

ERECTION OF THREE HOLIDAY COTTAGES, ACCESS AND ASSOCIATED INFRASTRUCTURE

APPELLANT:

MRS C MACTAGGART

MAY 2019

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1. Introduction

- 1.1 This statement of appeal has been prepared by Ferguson Planning on behalf of our client and who seeks to erect three high quality holiday cottages on their lands at Hallrule Farm some seven miles to the south west of Jedburgh.
- 1.2 The proposal (18/01680/FUL) for the holiday cottages was lodged on 3rd January 2019 with a decision, via delegated powers, to refuse the application received on 10th April 2019. As such, we now seek to appeal the decision via the Local Review Body (LRB).
- 1.3 This statement responds to the reasons for refusal and, where appropriate, cross referencing to the delegated officer's report, Development Plan and material considerations. The relevant core documents are listed within Appendix 1.

Reason for Refusal

- 1.4 Within the 'Decision Notice' the following reasons for refusal were:
 1. *"The development would be contrary to Policy ED7 of the Adopted Local Development Plan 2016 in that the Applicant has failed to provide adequate business justification to demonstrate that the proposal is capable of being developed and operated viably as a holiday accommodation business in this location, potentially resulting in unsustainable development in an undeveloped rural landscape."*
 2. *"The development would be contrary to Policies ED7, PMD2 and EP5 of the Adopted Local Development Plan 2016 in that its siting and design will not respect and be compatible with the amenity and character of the surrounding area, and will result in a significantly adverse impact upon existing landscape character and rural visual amenity, including that of the Teviot Valleys Special Landscape Area and that of the setting of the building group at Hallrule."*

Representations

- 1.5 There was a total of 8 statutory consultee representations to the proposal. All of whom had no objection to the proposal. These are outlined below:
- 1.6 **Economic Development: No objection. Supports** the application as it fits with the Scottish Borders Tourism Strategy 2013-2020 strategic target by:
 - Increasing the volume of overnight visitors
 - Increasing overnight visitor spend
 - Ensure the regions accommodation offerings meet consumer demands and where opportunities are available can act as an attractor of demand in themselves.
 - Ensures a relevant range of types of accommodation is available across the region to meet evolving market demand and expectations.



- Identifies opportunities where better quality and new products can lead and generate new demand and continue

1.7 **Roads Planning: No objections** in principle but have required that approval be met with the following conditions:

- A maximum of one passing place per lodge to be constructed at agreed locations on the public road.
- The private access track would require to be constructed to a standard suitable of accommodating a fire tender, along with appropriate turning provision at the end of the track.
- The new bridge structure, would be covered under any building warrant associated with the proposal.
- The details of the private bellmouth and the precise specification for the construction of the private access track are to be submitted and approved before construction.

1.8 **Environmental Health: No objections** subject to conditions to regulate the details and provision of the water supply and drainage arrangements.

1.9 **Flood Prevention: No objections.** Satisfied that the Finished Floor Levels are raised above surrounding floor levels and the proposed access.

1.10 The Flood Department are satisfied that the construction of the bridge and access road would suffice to maintain access to and from the lodges during time of flood. It notes that emergency bypass culverts would be constructed to allow overland flow to pass under the road and maintain dry access; and it has advised that responsibility for inspecting and maintaining the culverts would lie with the landowner.

1.11 **Archaeology: No objections.** Supports the archaeological assessment submitted with the proposal and does not object to the application provided the following condition is secured:

- The site is evaluated through trial trenching in advance of prior commencement of the development.

1.12 **Ecology: No objection.** Satisfied with the Extended Phase 1 Habitat Survey submitted with the Appellants application. Subject to the following conditions prior construction:

- A Construction Method Statement is required for protection of the water body.
- A Species Protection Plan for bats, otters and breeding birds is submitted.

1.13 **SEPA: No objection** on flood risk grounds and makes recommendations to the Applicant with respect to drainage. Waste water drainage would require authorisation from SPEA under the Controlled Activities Regulations.

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1.14 **Community Council:** No observations to make on the proposal.

Third Parties

1.15 Six objections were received by five households, a summary of the main concerns are outlined below:

- road safety on local roads; inadequate access;
- design and landscape and visual impacts
- impacts on the environment and natural heritage;
- residential amenity; noise impacts; loss of privacy; overlooking;
- any business need, including farming justification, does not outweigh the impacts of the proposal; which is seen as non-essential; income would be erratic; no substantive economic or employment benefits beyond initial construction period;
- no need for permanent structures for holiday-maker accommodation; structures appear domestic;
- water supply; inadequate drainage arrangements;
- pollution of natural environment (spillage of heating oil); fire safety; health issues; smell
- flood risk;
- contrary to local plan in that proposal does not appear viable or sustainable;
- contrary to Policy PMD4 in that it is not reasonably characterised as any of the development types allowed as exceptions under that same policy.

These concerns/comments were responded to throughout the planning process, refer to core document in Appendix 1 CD31. It was felt that many objections were broad statements and lacked evidence in the main, some of which also included false/incorrect claims.

As noted previously all statutory consultees have no objections to the matters raised by the third parties and where elements of control are needed we agree to the suggested conditions raised.

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2. Site Context and Proposal

- 2.1 Hallrule Farm is located approximately seven miles south west of Jedburgh. The subject site extends to approximately 1.23 ha accessed via the Jedburgh Road (B6358) and then via a rural road that leads onto Bonchester Bridge.
- 2.2 The core part of the proposal lies within a valley which has limited agricultural purpose and grade. It is used largely as an access track between fields and not visible from the main road.
- 2.3 The photograph below provides the context of the track / low land grand purpose and how it will go unnoticed sitting hidden in the valley.



- 2.4 A new rural access track would be formed opposite the farm steading and run along the boundary of the field to the east. There will be new fencing and hedgerow planted along the access track to soften the overall appearance of the track leading then up to the proposed lodges. It will visual be like any other farm type track in the local area.
- 2.5 We would like to emphasise the concept of this unique proposal. Whilst there is undoubtedly good quality holiday accommodation in the Borders, there is a distinct lack of 5-star self-catering accommodation like this. The proposal has been designed with exactly this market

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in mind and has the aspiration to be amongst the very best in the whole country let alone the Scottish Borders. One would refer to the positive impact the Blue Reef Cottages have done for Harris, for example, they themselves located in a prominent coastal landscape (<http://www.stay-hebrides.com/>).

- 2.6 The proposal will offer guests an uninterrupted sanctuary within a private landscape offering complete seclusion for couples and families seeking the ultimate rural escape. The client's vision is to create a feeling of serenity and space for their guests where they can completely unwind and escape from the pressures of modern life in an oasis of calm.
- 2.7 The location of the proposal is unique given its position low in the valley, offering a secluded space for those wanting to escape, yet only 30 minutes to Galashiels Train Station and little over an hour from Edinburgh and Newcastle by car.
- 2.8 The location and setting is central to the wow factor of the overall development, but it is also vital that the building is in complete harmony with its natural surroundings too. This approach again was clear from the tourism and marketing advisors appointed on this project and whom have produced the related tourism business plan.
- 2.9 A Location Plan is contained within Appendix 1 (CD3) which demonstrates the site in context with the wider Hallrule Farm operation.

The Proposal

- 2.10 The proposal is to erect three high end holiday lodges that are guided by sustainable development principles and which seeks to address deficiency in the provision of bespoke holiday accommodation in the southern area of the Scottish Borders.
- 2.11 Prior to lodging the proposal significant background research was undertaken and local firm Bright Light Marketing were appointed to undertake a tourism business plan and related analysis.
- 2.12 The findings have been outlined within the Business Plan lodged under private cover and to which Members should have access to. It outlined the clear demand for higher end and bespoke holiday destinations. It again reviewed the likely level of occupancy of the proposal and concluded that the proposal was much needed and a sound tourist business proposition.
- 2.13 The site location of the lodges is within a long, deep, winding river valley at Hallrule Farm. The design of the proposed lodges takes its main identifying elements from the wooded facing slopes of the valley.
- 2.14 The cottages will be environmentally friendly with renewable technologies used at every opportunity. All of these elements will combine to ensure a minimum visual impact of the development into this unique piece of secret landscape in the Borders and provide holiday

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makers with a unique experience in lodges with privacy, spectacular aspects and a design which respects to local area and the elements which have influenced their form and materials.

- 2.15 The use of quality natural local materials both in the construction and furnishing of the lodges is key. This will include natural stone, timber together with sedum grass/wild flower roofing. The purposes is to allow the lodges to sit into rather than on the landscape to reduce their visual impact but still retain a strong identity.
- 2.16 Should it be felt that the final materials used on the building require to be amended in any way the Appellant would be happy for this aspect to be conditioned.
- 2.17 Each lodge is designed with angled cross walls to allow different aspects from each room and staggered floor levels which follow the natural slope of each site. This will again reduce the amount of earthmoving required and take advantage of the natural ground levels.
- 2.18 The spaces between the cross walls will be infilled with insulated glass panels which will slide to allow access to the covered balconies accessible to each room on the first floor and providing external cover space to the bedrooms and bathrooms on the ground floor.
- 2.19 The spaces outside each bedroom and en-suite are intended to be used as private spaces protected by the extended cross walls and provided with paved sitting areas and a winding watercourse and ponds fed from the natural artesian well water and excess rainwater from the grassed roof.
- 2.20 The roof is intended to reflect the local landscape by being covered with grasses taken from the surroundings and terminates in a glazed rooflight to allow daylight into the depth of the lodge and light the staircase and entrance hall on the ground floor.
- 2.21 All of these elements will combine to ensure a minimum visual impact of the development into this secret landscape in the Borders and provide holiday makers with a unique experience in lodges with privacy, spectacular aspects and a design which respects the local area.
- 2.22 Further details on the design are contained within the site and elevational drawings package lodged with this Appeal.

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Layout

- 2.23 The layout of the access road and positioning of the lodges take their cue from the natural way the river valley creates distinct locations allowing each lodge to sit into a natural slope with a unique identified setting. The identified “platforms” pre-exist and are naturally the best position points in which to set the lodges.
- 2.24 A newly created rainwater harvested stream feature will run along the front of the lodges again taking influence from the neighbouring burn.
- 2.25 The access road has been located generally along natural contours to ensure that its impact is reduced and earth moving kept to a minimum. Meandering down to the new bridge crossing has again been designed to have minimal impact in the landscape and again will go unnoticed from key public receptor points.
- 2.26 Existing and new screen planting will reduce the visual impact of the access road to and from the lodges and will be finished with a natural gravel finish and visually soft edges.

Access and Parking

- 2.27 The existing access will be upgraded and a new access junction created. This will be made up of, at the junction with the main, self-draining paving leading onto a built up gravel surface road to the lodges. This will enable appropriate visibility and ensure a safer environment for users of the access and drivers onto the main road.
- 2.28 The access road will incorporate two inter visible passing places and which will then meander down the embankment and across a newly formed bridge sympathetically designed to fit into the surroundings. The bridge retaining structures will be constructed out with the watercourse.
- 2.29 Each lodge will have dedicated car parking with capacity for two vehicles. The access will also allow for emergency vehicles. It is intended that refuse collection will be undertaken at the main access.

Landscape and Visual Impact Assessment

- 2.30 As detailed previously the proposal will largely go unnoticed from public receptor or viewpoints due to it sitting low into the valley. Any landscape impact would be extremely localised and would not be significant. The proposal will only come into view on approach from the valley ridge above and which is private farmland.

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- 2.31 The lodges will be built into and against the lower valley background with existing landscaping retained and with new planting proposed in and around the lodges to soften their appearance further. From the valley ridge above looking down the cottages will further blend with the landscape as a result of grass/sedum roofs.
- 2.32 The subject site appears to have fallen out with a recent local landscape review but does lie within a wider Special Landscape Area (SLA) associated with the Teviot Valleys. For reasons mentioned previously, the proposal is not considered to significantly impact on this designation. Moreover, the proposal will assist in bringing walkers and tourism to the benefit of the local area and to enjoy walks and visitor attractions within the wider Borders countryside.

Habitat

- 2.33 Ellendale Environmental were instructed to undertake a Habitat Survey of the subject site and any associated lands. The Habitat report forms part of the submission and has shown that that lands are poor semi grasslands with limited vegetation and poor botanical value. Sporadic woodland has been recorded and may be used for bats but would go largely untouched by that proposed. The area is noted for pheasants and potential resting places within the burn for Otter. Neither are considered to be significantly impacted upon. There were no recording or sightings of badger, water vole or squirrels during the survey.
- 2.34 The report has outlined a number of conclusions and recommendations which would be accepted as part of any associated planning conditions.

Flooding

- 2.35 A Flood Risk Assessment (FRA) was undertaken by Kaya Flood Consultants. Their investigations have shown that the proposed development is not at significant flood risk and have outlined general mitigation measures where relevant. These would normally be expected by way of a suitable worded planning condition. The exact detail on matters, such as drainage, would also come forward in a similar fashion.

Archaeology

- 2.36 An Archaeological Assessment of the subject site was undertaken by consultants CFA. There are no listed buildings, scheduled monuments or conservation area or designed landscapes of note. There are some recordings within the wider Hallrule area but not specifically to the subject site itself.

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- 2.37 The appraisal found that the proposal will have moderate potential to directly or indirectly impact on non-designated assets within the surrounding area. Therefore, an agreement on the specific mitigation during any construction process is to be agreed and conditioned where necessary.

Economic Benefit

- 2.38 Bright Light Marketing together with the Appellant have put together a strong tourism business report for the proposal and finds that there is significant market demand for this proposal. The analysis shows that the proposal will quickly turn to a profitable enterprise.
- 2.39 High end holiday rentals are popular in Northern Scotland, Western Isles and Skye, and despite their inaccessibility from major markets, have high levels of occupancy all year round. However, currently there is little provision of 5* holiday lodges/cottages in the southern areas of the Scottish Borders and it is this gap in the market the proposal seeks to address.
- 2.40 The proposed cottages have a major advantage that the Western Isles and Skye do not have. That being easily accessible to major cities such as Edinburgh and Newcastle. While being rural in nature the site is still in close proximity of Jedburgh and the A68 which links the two cities. It also provides connection to Tweedbank train station which is a modest 30 minute drive.
- 2.41 The Borders Railway has the potential to provide significant opportunities for local businesses in the Scottish Borders and due to the close proximity to the railway our client hopes to make the most of these opportunities. As a result, they will offer their guests a pick-up and drop-off service at the station.
- 2.42 A key selling point of the proposed development will be the incredible setting within the valley together with holiday accommodation at the very highest level. Ancillary facilities such as steam room and outdoor balcony/fire pit areas all add to the level of offering.
- 2.43 This proposal will promote the use of local services and shops. Our client will showcase the best of local arts and crafts within the properties and inform their guests where they can buy these products for themselves. They will also offer food hampers upon arrival which will showcase the best of local food produce from local suppliers and encourage the use of local shops and restaurants. They will also seek to use local trades as part of the construction process.

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2.44 Beyond the tourism business case the applicant has also provided (under private cover) further economic appraisal showing the financial justification of that proposed. The proposal fully aligns itself with the Scottish and Scottish Borders Tourism Strategy.

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3. Planning Considerations and Policies

- 3.1 The development plan is made up of the SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. Further material considerations being Scottish Planning Policy and related Supplementary Planning Guidance.

Scottish Borders Local Development Plan (2016)

- 3.2 The following policies are considered in the determination of this application:
- ED7 – Business, Tourism and Leisure Development in the Countryside
 - HD2 – Housing in the Countryside
 - HD3 – Protection of Residential Amenity
 - PMD4 – Development outwith Development Boundaries
 - PMD2 – Quality Standards
 - EP5 – Special Landscape Areas
 - EP 8 – Archaeology
 - IS4 – Transport Development and Infrastructure
 - IS6 – Road Adoption Standards
 - IS7 – Parking Provision and Standards
 - EP13 – Trees, Woodlands and Hedgerows
 - EP 15 – Development Affecting the Water Environment
- 3.3 Within the 'Report of Handling' the Planning Officer has focussed the determination of the application on **Policy ED7 Business, Tourism and Leisure Development in the Countryside**, **Policy EP5 Special Landscape Areas** and **Policy PMD2 Quality Standards**.
- 3.4 Policy **ED7** states: Proposals for business, tourism and leisure development in the countryside **will be approved** (our emphasis) and rural diversification initiatives will be **encouraged** (our emphasis) provided that:
- a) The development is to be used directly for agriculture, horticulture or forestry operations, or for uses which by their nature are appropriate to the rural character of the area; or
 - b) The development is to be used directly for leisure, recreation or tourism appropriate to a countryside location and, where relevant, it is in accordance with the Scottish Borders Tourism Strategy and Action Plan.

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- c) The development is to be used for other business or employment generating uses, provided that the Council is satisfied that there is an economic and/or operational need for the particular countryside location, and that it cannot be reasonably be accommodated with the Development Boundary of a settlement.

3.5 In addition the following criteria will also be considered:

- a) The development must respect the amenity and character of the surrounding area,
- b) The development must have no significant adverse impact on nearby uses, particularly housing,
- c) Where a new build is proposed, the developer will be required to provide evidence that no appropriate existing building or brownfield site is available, and where conversion of an existing building of architectural merit is proposed, evidence that the building is capable of conversion without substantial demolition and rebuilding,
- d) The impact of the expansion or intensification of uses, where the use and scale of development are appropriate to the rural character of the area,
- e) The development meets all other siting, and design criteria in accordance with Policy PMD2, and
- f) The development must take account of accessibility considerations in accordance with Policy IS4.

3.6 Where a proposal comes forward for the creation of a new business including that of a tourism proposal, a business case that supports the proposal will be required to be submitted as part of the application process.

3.7 Policy **EP5** states: In assessing proposals for development that may affect Special Landscape Areas, the Council will seek to safeguard landscape quality and will have particular regard to the landscape impact of the proposed development, including the visual impact. Proposals that have a significant adverse impact will only be permitted where the landscape impact is clearly outweighed by social or economic benefits of national or local importance.

3.8 **Policy PMD2** ensures that all new development is of a high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings.

Material Considerations

3.9 A key material consideration is **Scottish Planning Policy (SPP)**. Paragraph 77 states that in rural areas the emphasis should be on *“maintaining and growing communities by encouraging development that provides suitable sustainable economic activity, while*

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preserving important environmental assets such as landscape and wildlife habitats that underpin continuing tourism visits and quality of place”.

3.10 Paragraph 93 states the planning system should:

- *“promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets;*
- *allocate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities; and*
- *give due weight to net economic benefit of proposed development”.*

3.11 The **Tourism Development Framework for Scotland 2016** has been prepared to assist and promote growth in Scotland’s visitor economy to 2020.

3.12 The primary purpose of this Framework is to:

- Provide guidance to planning authorities to help secure growth in the visitor economy
- Highlight future opportunities for investment and development to all councils and other stakeholders
- Promote actions needed to support growth in a structured and consistent manner to the Scottish planning system.

3.13 Paragraph 2.53 states that *“self-catering tourist accommodation in the countryside is by and large well provided for throughout Scotland with some gaps at the higher quality end of the market.”*

3.14 The Framework also identifies/encourages particular recommendations for local authorities to take into account when producing policies, this included, *“Setting policy to encourage investment in other forms of holiday accommodation in rural areas such as new self-catering accommodation (where deficiencies are identified), bunkhouse provision, holiday parks and novel low carbon development.”*

3.15 Another strong material consideration is the **Scottish Borders Tourism and Strategy Action Plan** whose vision is:

3.16 *“To grow tourism visits and spend in The Scottish Borders, through positioning and promotion as, a sustainable, year-round destination, which capitalises on its unique geography, heritage, natural environment and people”*

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- 3.17 **“The Borders Railway Maximising the Impact: A Blueprint for the Future”** (2014) aims to realise fully the economic benefits of the Borders Railway and outlines the Borders as a great destination to visit.
- 3.18 It states that The Borders Railway *“is a fundamental part of delivering our Tourism Scotland 2020 strategy and promoting growth in Scotland’s visitor economy to 2020”*. *“It will inspire more visitors to spend time in the Scottish Borders”*.
- 3.19 The Planning Statement and supporting documentation provided the clear evidence as to how it complied with planning policies and related material considerations. It has been relodged as core document CD35.
- 3.20 Moving specifically to the reasons for refusal we have outlined within Chapter 4 our clear Grounds of Appeal (GOA) as to why we consider the reasons given to be wrong and why the related evidence provided shows that the proposal merits approval.

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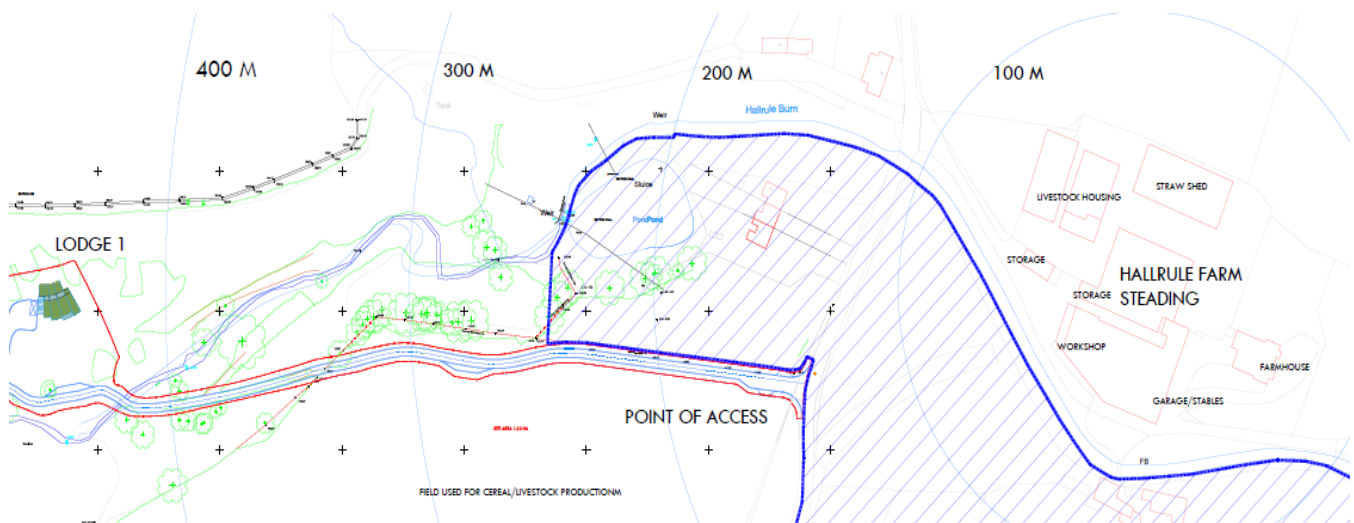
4. Grounds of Appeal (GOA)

Reasons for refusal

- 4.1 The reasons for refusing the application is outlined in Chapter 1. It centres on the belief that the application fails to comply with Policies **PMD2**, **ED7** and **EP5** of the Scottish Borders Local Development Plan 2016. It states that there is no business justification for development in an undeveloped rural landscape and that it would have unacceptable landscape and visual impact.
- 4.2 It is taken that the proposal complies with all other related planning policy matters.
- 4.3 Having read the Officer's report and reasoning for refusal we now outline below our Grounds of Appeal.

GOA 1

- 4.4 We cannot stress strongly enough that if this development is not located in this unique location the business case or ethos is lost. As it will lose pivotal aspects such as the serene location and related privacy that this target market is looking for (and which is not being catered for currently in the Scottish Borders). Contrary to the Officer's report we have undertaken a sequential review of the farm buildings and adjoining lands.
- 4.5 The Sequential Plan (CD1) demonstrates that no suitable brownfield site or existing building exists within or near Hallrule Farm. It shows within the central steading what each of the existing buildings are being used for. An extract of the plan is shown below.



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- 4.6 There are no vacant properties within the farm steading. All are used for farm operations. Lands to the south are shown as falling out with the applicant's ownership. Immediate fields to the north are then required for livestock during and post lambing and calving season. Fields to the south west are used for cereal/livestock production.
- 4.7 Moreover, those fields are considered to be more exposed or open in landscape terms. Therefore, alternative locations had been fully assed within the land ownership of the Appellant and no other locations were found to be acceptable. The location selected for the proposal was the only appropriate land available for the purposes intended.
- 4.8 As already stated, a sequential site analysis was undertaken as part of the application which found that no suitable brownfield site exists within or near Hallrule Farm where available or viable. Locations beyond this are seen to be no more superior than the subject site.
- 4.9 We consider that there is not a full understanding of the proposal development and the need for holiday lodges to be located away from the farm operations. The report of handling states that "*The Applicant has failed to rule out other potentially more suitable alternatives to accommodation of the development in the proposed site*". It also states, "*The introduction of development into this specific beauty spot, is itself a deliberate and integral part of the proposal*".
- 4.10 We stress that it is not only desirable, but paramount to be located away from noise and odour generating uses not only for residential amenity reasons but for provided the necessary relaxation for the occupants. To locate within the farm steading is likely to conflict with the LDP residential amenity policies.
- 4.11 One of the major selling points of this proposal are the sceneries and tranquil setting that are on offer. Placing holiday cottages next to farm operations, existing buildings and/or closer to the road would significantly diminish the value of the proposition.
- 4.12 It would be wholly unreasonable to expect holiday let accommodation to be located within or close to such operational farm buildings, regardless of any form of holiday let whether it would be high end or not as it would contravene Residential Amenity issues. The following images demonstrate the active/operational use of the farm buildings at Hallrule.

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GOA 2

- 4.13 We strongly refute the case officers' assertions that the business case, '*failed to provide adequate business justification to demonstrate the proposal is capable of being developed and operated*'. The Appellant has gone to great expense and took advice from leading tourism and marketing consultant Bright Light Marketing.
- 4.14 The Economic Development Service of the Council **supports** the application as "*it fits with the Scottish Borders Tourism Strategy 2013-2020 strategic target*".
- 4.15 This strategy is to increase the volume of overnight visitors in the Scottish Borders from a 50% room occupancy in 2011 to circa 62% by 2020. This aims to increase visitor overnight expenditure by 10-15% by 2020.
- 4.16 **A business plan has been lodged and is supported by a feasibility study outlining significant economic benefits that this proposal would bring.** It again showed the appellant's willingness to significantly invest in the rural Scottish Borders and that the business would turn profitable within a very short space of time.
- 4.17 The Report of Handling acknowledges that the proposal is supported by a business plan, and by the Economic Development Service of the Council. The Case Officer, in our opinion, has gone well beyond the remit required and provided numerous unsubstantiated and contradicting statements regarding the economic viability that should never have been used in the reasoning to refuse the proposal.
- 4.18 The business case has been provided and supported by business and tourism experts in the Council's Economic Development team. They should be regarded the experts in this field. The reasoning for refusal has fallen well short in evidence and thus should be set aside on this occasion.

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GOA 3

- 4.19 Concerns regarding the potential use of the lodges for residential occupation is again unjustified and a non-material matter to the determination of this application. The Case Officer again has strayed beyond the remit of determining this individual application.
- 4.20 One comment detailed by the case officer stated, *“An application to propose the permanent residential use of the site; if not the residential use of the actual structures themselves, which appear capable of permanent residential occupation (or of being readily adapted to such a use)”*.
- 4.21 Another comment not related to the current application states *“It could also be advanced in the context of a subsequent application to change the use of the units”*. It is not for the case officer to cynically assert that the business is unlikely to be viable or assert that the appellant is thinking it a two step strategy to mainstream residential accommodation.
- 4.22 Our Client is extremely frustrated by such assertions following the extensive work they have undertaken and which clearly shows a viable, profitable and leading tourist development that seeks to attract new tourism and visitors to the region.
- 4.23 The comments made are utterly irrelevant and inappropriate in regard to this application as the proposal is for the erection of three holiday cottages with no intentions of changing their use to residential.
- 4.24 The proposal clearly outlines it is for holiday cottages alone and would be expected to be controlled by the Council through a suitably worded planning condition. This was further clarified and again where contradiction occurs when the report then goes on to outline that, *“Technically, planning conditions might be imposed to require that any structures consented, should only be used for short-term holiday let use only.”*
- 4.25 The positioning of the cottages does not lend itself to mainstream residential accommodation. There are ample better locations on the farm, had that been the proposed intention of the appellant. One would seek to position themselves with open views of the countryside not be hidden in the valley.
- 4.26 The comments have no relevance in the determination of this application and should not have been used as context in the reasoning to refuse.

GOA 4

- 4.27 We appreciate the sites sensitivity and its location with the Teviot Valley Special Landscape Area. However, the determination of this application should not be upon whether it is within a SLA designation but whether it will have a **significant impact** on the local or wider landscape.

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- 4.28 It is vitally important to note in this case that **the case officer has failed to gain an expert opinion from the Council's own Landscape Officer and their opinion on landscape impact.**
- 4.29 The reason to refuse on landscape impact grounds is wholly without evidence and should be set aside. The reasoning to refuse again has not been backed with any expert evidence. The Landscape Officer who would provide a technical understanding and greater clarity surrounding the impacts has not provided any comment. One would therefore conclude that the Council's landscape officer has no significant concerns regarding that proposed.
- 2.45 The site is located on the outer edges of the SLA designation. Beyond this it is hidden in the valley on rough grazing land used as a connection track between fields. The subject site has fallen out with a recent local landscape associated with the Teviot Valleys. For reasons mentioned previously, the **proposal is not considered to significantly impact on this designation.** Moreover, the proposal will assist in bringing walkers and tourism to the benefit of the local area and to enjoy walks and visitor attractions within the wider Borders countryside.
- 4.1 The case officer for the third time contradicts his position from early preamble in the report of handling by stating, *"The matures trees on the south bank, does I acknowledge, provide effective screening of the lodges."* and, *"Ultimately the extent of the tree cover generally in and around the valley, particularly in the lower lying areas, would mean that these impacts, although inadequately accounted for- would not be unacceptable in landscape amenity terms."*
- 4.2 Therefore, we strongly believe that, given the proposal will not be seen from any key or public receptor point, it can in no way have a significant landscape impact. The proposal complies with Policy EP5 – Special Landscape Areas as it has been respectfully located within an area that is heavily covered by existing mature trees which is not visible. Moreover, an ecological appraisal has been undertaken as has an archaeology and flood assessment all of which have given rise to **no objection from key statutory consultees.**

GOA 5

- 4.3 Regarding the siting and design of the three lodges within the landscape, the proposal is intended to reflect high quality design and therefore consideration has been given to external materials to ensure the integration of the development into the valley. It has been acknowledged by the case officer that, *"the materials and finishes for the external surfaces of the building would also be capable of being regulated by planning conditions."* The Appellant is happy to be conditioned in this regard should Members of the LRB seek any related amendments.

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- 4.4 A great deal of time and expense has been spent on the design to create a truly unique high-end holiday destination. The use of quality natural local materials both in the construction and furnishing of the lodges is key. This will include natural stone, timber together with sedum grass/wild flower roofing. The purpose is to allow the cottages to sit into rather than on the landscape to reduce their visual impact but still retain a strong identity.
- 4.5 Each lodge is designed with angled cross walls to allow different aspects from each room and staggered floor levels which follow the natural slope of each site. This will again reduce the amount of earthmoving required and take advantage of the natural ground levels.
- 4.6 The roof is intended to reflect the local landscape by being covered with grasses taken from the surroundings and terminates in a glazed rooflight to allow daylight into the depth of the lodge and light the staircase and entrance hall on the ground floor.
- 4.7 All of these elements will combine to ensure a minimum visual impact of the development into this unique piece of secret landscape in the Borders and provide holiday makers with a unique experience in lodges with privacy, spectacular aspects and a design which respects to local area and the elements which have influenced their form and materials.
- 4.8 Therefore, concerns regarding the integration of the development into the landscape can be controlled by the local authority and are compliant with policy PMD2 Quality Standards.
- 4.9 The proposal will not cause any privacy, visual impact or noise issues on residential areas and therefore complies with Policy HD3 of the Scottish Borders LDP.
- 4.10 The officer's report acknowledges this and states; ***"the removal in distance of the proposed lodges from existing development, means that these would not reasonably raise any residential amenity concerns in terms of privacy or outlook for any existing dwellings."***

GOA 6

- 4.11 Regarding the access track the case officer states, *"The exaggerated length of access road, which would itself, be a highly visible landscape feature and critically one that would have a significant impact upon the setting of the building group at Hallrule."*
- 4.12 The image below demonstrates the gate and makeup of a farm track are largely already in existence. As noted previously it is intended that the track will replicate a typical farm track and will be further softened by new hedgerow. It can in no way be deemed to have a significant landscape impact. There are numerous points along the local road that it will largely replicate.

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- 4.13 The visual impact from public receptor points will be nominal and will have little to low landscape impact. The subject site is not readily used by the public/walkers towards Ruberslaw as the location is largely out of sight and people are generally not aware the track exists as it does not lead anywhere.
- 4.14 There has been no comment from the Council's Landscape Officer and thus leads one to conclude that a modest farm type track is going to have little impact on the landscape beyond that which already exists.

GOA 7

- 4.15 It is highly likely that a proposal of this nature would bring substantive employment and tourism related economic benefits to the Scottish Borders. After the initial construction phase the general upkeep of the cottages and surrounding area and any farm diversification activities would provide employment opportunities to the Appellant and others.
- 4.16 Therefore, the proposal is complainant with policy ED7 Criterion c. in its economic justification. Again, the overall viability has been supported by the Council's Economic Development Department.
- 4.17 Aspects of the Report of Handling are found to be unjustified or irrelevant in the determination of this application. The repeated nature of the Case Officer's comments towards the Appellants ability to run a high-end holiday let accommodation are extremely disappointing and have no relevance to this application.
- 4.18 Comments made by the Case Officer included: *"It is at least reasonable to ask why the Applicant might not have sought to protect her investment by starting more modestly in terms of the type and number of units being proposed."... "The proposal is only reasonably characterised as being highly speculative and a high risk in terms of both the Applicant's investment..."*

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- 4.19 To begin with had the Case Officer asked the question raised in the first place the appellant could have quite easily provided a response. Such a query was not forthcoming during the processing of the application.
- 4.20 The reporting appears to have yet again missed the whole purpose of that proposed. It is not there to provide more of the same or lesser quality tourism accommodation. It is aiming and setting that bar higher and seeking to deliver that. A great deal of market research was undertaken and proven that the proposal is a solid one. Something the Case Officer fails to grasp or ignore the business case presented. The tourism business plan lodged has shown the economic viability and profitability of that proposed.
- 4.21 The Appellant should be supported not discouraged in taking on such a unique proposition and one that will make the Scottish Borders stronger in terms of attracting new visitors to the area and whom demand the highest level of accommodation. The Economic Development team have review and supported the proposal on those grounds.
- 4.22 Like on landscape matters we are again at a loss as to why the reporting and reasoning for refusal has gone against the Council's own expert advice on such matters? Commentary and reasoning made are not material planning considerations (given the lack of evidence provided to support the assertions) and again should not have been used in the reasoning to refuse the proposal.

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5. Conclusion

- 5.1 We believe that the proposed site offers a unique opportunity for high-quality 5-star self-catering holiday lodge accommodation in the Scottish Borders.
- 5.2 The application is supported by a business plan, and the Council's Economic Development. It will improve tourism in the Borders and offer high quality accommodation in the region and as a result play an important role in the future of the Borders tourism economy and in the vision of the Borders Railway as set out in 'Borders Railway, Maximising the Impact: A Blueprint for the Future'.
- 5.3 One of the major selling points of holiday getaways are the views and tranquil locations that are on offer. The location was carefully chosen to offer visitors a tranquil escape, that can be appreciated and enjoyed for its serene atmosphere and surroundings. Existing land form and trees effectively screen the cottages and will therefore generally not have any impacts on visual amenity in the Teviot Valleys Special Landscape Area. The lodges will not be seen from any public receptor point (e.g. road) and therefore has a low landscape impact as a result.
- 5.4 Appropriate design measures have been taken into consideration for this location. External materials reflecting the existing landscape have been proposed to ensure the integration of the cottages into the valley.
- 5.5 Concerns regarding the potential impending use of the three lodges as residential accommodation have no relevance in this application and should therefore not have been taken into consideration in its determination. This can be controlled by the local authority through a suitably worded condition, ensuring the use of the lodges remain as holiday accommodation. Again matters such as material used can again be conditioned.
- 5.6 A stress free and tranquil environment is paramount, and which is why the proposal is located away from the farm operations. In saying this, the sequential plan has shown that there is no existing building or brownfield site available for the proposed development as all buildings on the farm are currently being used for various operations. As is the land that neighbours them which is either not under the ownership of the client or is lands associated with lambing/livestock or cereal planting with a higher agricultural grading that the subject site.
- 5.7 Taking the 'Grounds of Appeal' noted above we respectfully request that this appeal be allowed.

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Appendix 1: Core Documents (CD)

Drawings

CD 1.	MACPL01	SEQUENTIAL PLAN
CD 2.	MACPL02	TOPOGRAPHICAL SURVEY
CD 3.	MACPL03	LOCATION PLAN
CD 4.	MACPL04	SITE PLAN LODGES
CD 5.	MACPL05	SITE PLAN ACCESS ROAD
CD 6.	MACPL06	SITE PLAN LODGE 1
CD 7.	MACPL07	SITE PLAN LODGE 2
CD 8.	MACPL08	SITE PLAN LODGE 3
CD 9.	MACPL09	LODGE 1 GROUND FLOOR PLAN
CD 10.	MACPL10	LODGE 1 FIRST FLOOR PLAN
CD 11.	MACPL11	LODGE 1 ROOF PLAN
CD 12.	MACPL12	LODGES 1,2 & 3 CROSS SECTION
CD 13.	MACPL13	LODGE 1 SOUTH ELEVATION
CD 14.	MACPL14	LODGE 1 WEST ELEVATION
CD 15.	MACPL15	OUTLINE SPECIFICATION
CD 16.	MACPL16	LODGES 2 & 3 GROUND FLOOR PLAN
CD 17.	MACPL17	LODGES 2 & 3 FIRST FLOOR PLAN
CD 18.	MACPL18	LODGES 2 & 3 SOUTH ELEVATION
CD 19.	MACPL19	LODGES 2 & 3 ROOF PLAN
CD 20.	MACPL20	LODGES 2 & 3 EAST ELEVATION
CD 21.	MACPL21	LODGES 2 & 3 WEST ELEVATION
CD 22.	MACPL22	BRIDGE GENERAL ARRANGEMENT
CD 23.	MACPL23	DETAILS OF ROAD JUNCTION AND LAYBY
CD 24.	CGI001	VISUALISATIONS
CD 25.	CGI002	VISUALISATIONS
CD 26.	CGI003	VISUALISATIONS

Reports

CD 27.	Extended Ecology Phase 1 Survey Report (inc. 2x Maps)
CD 28.	Flood Risk Assessment
CD 29.	Archaeological survey
CD 30.	Ferguson Planning Statement
CD 31.	Ferguson Planning Objections Response
CD 32.	Report of Handling
CD 33.	Decision Notice
CD 34.	Feasibility Study and Business Plan (under private cover)

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