

**SCOTTISH BORDERS COUNCIL**

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO  
CHIEF PLANNING OFFICER**

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 18/01680/FUL

**APPLICANT :** Mrs Claire MacTaggart

**AGENT :** Ferguson Planning

**DEVELOPMENT :** Erection of three holiday lodges, access and associated infrastructure

**LOCATION:** Land West Of 1 Hallrule Farm Cottage  
Bonchester Bridge  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
01	Location Plan	Refused
02	Topographical Plan	Refused
03	Proposed Site Plan	Refused
09	Proposed Plans	Refused
10	Proposed Plans	Refused
11	Proposed Roof Plan	Refused
12	Proposed Sections	Refused
13	Proposed Elevations	Refused
14	Proposed Elevations	Refused
15	Specifications	Refused
16	Proposed Plans	Refused
17	Proposed Plans	Refused
18	Proposed Elevations	Refused
19	Proposed Roof Plan	Refused
20	Proposed Elevations	Refused
21	Proposed Elevations	Refused
22	Proposed Plans & Sections	Refused
23	Proposed Plans & Sections	Refused

**NUMBER OF REPRESENTATIONS: 6**

**SUMMARY OF REPRESENTATIONS:**

Six objections have been received from five households to the planning application, on the following grounds, and raising the following concerns:

- (i) traffic movement and road safety on local roads; inadequate access;
- (ii) design and landscape and visual impacts; the development is out-of-keeping and scale (including density) with its surroundings; inadequate screening; poor design;
- (iii) impacts on the environment and natural heritage; trees; would impact an area of natural beauty, and an unimproved area of land in the local area; land which has ecological value; site is within a Special Landscape Area;

- (iv) residential amenity; noise impacts; loss of privacy; overlooking;
- (v) 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;
- (vi) no need for permanent structures for holiday-maker accommodation; structures appear domestic; 'housing development by the back door'; proposal does not meet any of the criteria that would allow support for the principle of new housing on the site under Policy D2;
- (vii) other options were available; over-supply of facility in area; Applicant previously had consent for holiday lets within Hallrule Farm Steading; potential for development to end up in different ownership in time;
- (viii) water supply;
- (ix) pollution of natural environment (spillage of heating oil); fire safety; health issues; smell
- (x) concerns raised with respect to notification;
- (xi) inadequate drainage arrangements;
- (xii) flood risk;
- (xiii) contrary to local plan in that proposal does not appear viable or sustainable; few amenities or visitor attractions in the immediate area; transport links are poor;
- (xiv) development would not accord with Strategic Aims of the Tourism Strategy and Action Plan in that the development would contradict the concern that landowners be responsible custodians of the Region's built and natural environments, scenic and wildlife assets; development does not respect the character and amenity of the surrounding area;
- (xv) contrary to Policy PMD4 in that it is not reasonably characterised as any of the development types allowed as exceptions under that same policy.

COMMUNITY COUNCIL: has written to advise that it has no observations to make.

ROADS PLANNING SECTION: has no objections in principle, but a road safety concern is identified with respect to the operation of the single track public road leading to the site from the B6357. This lacks sufficient passing provision to accommodate the operation of the proposed development. While traffic movements associated with the operation of this proposal are likely to be seasonal in nature and outwith peak hours, there would be an increased likelihood of vehicles meeting on this section of road as a consequence of it. As such, Roads seeks a maximum of one passing place per lodge to be constructed at agreed locations on the public road, and recommends a planning condition to secure this provision. Further, 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 to allow access over the burn, would be covered under any building warrant associated with this proposal should it be granted consent. Again, conditions to require the submission and agreement of the details of the private bellmouth and the precise specification for the construction of the private access track, are recommended. A standard informative is recommended.

ENVIRONMENTAL HEALTH SECTION: does not object subject to conditions to regulate the details and provision of the water supply and drainage arrangements.

FLOOD PREVENTION SECTION: advises that the site is at risk from a flood event with a return period of 1 in 200 years (that is, the 0.5% annual risk of a flood occurring in any one year). However, account is taken of a Flood Risk Assessment document, which shows that the plots are sited suitably above the Hallrule Burn, and out with the 1:200 year + climate change floodplain. However, due to the steep topography there is a risk of surface water runoff affecting the site; and it is noted that the FRA recommends that Finished Floor Levels should be raised above surrounding ground levels to encourage flows away from the proposed residential developments. The Flood Prevention Section advises that it is satisfied with the proposed construction of the bridge in that Drawing 'Bridge General Arrangement' shows the soffit level of the bridge to be 142.3mOAD which, as recommended in the FRA, is 1m above the 1:200 year + climate change flood level at cross section 6. Taking account of this, Flood Prevention advises that it is satisfied that the bridge and recommended improvements to the access road, would suffice to maintain access and egress from the lodges during times of flood. It is noted that emergency bypass culverts would be constructed to allow overland flow to pass under the road and maintain dry access; and advised that the responsibility for inspecting and maintaining the culverts would lie with the landowner.

ARCHAEOLOGY SECTION: agrees with the archaeological assessment as set out in the application and Planning Statement; does not object to the application and recommends that the site be evaluated through trial trenching in advance of development. A condition to secure this, is recommended.

ECOLOGY SECTION: notes that the site is located in a narrow valley containing the Hallrule Burn which drains directly into the Rule water (River Tweed SAC) approximately 800m downstream. It is further noted that the land within the site appears to consist of areas of mature, broad-leaved woodland (upland mixed ashwood), dense scrub and scattered scrub (hawthorn scrub), bracken and grassland. Ecology has reviewed the Applicant's Extended Phase 1 Habitat Survey, and is satisfied with its conclusions, which inform Ecology's recommendations that any approval of the application should be subject to conditions (a) to secure a Construction Method Statement for the protection of the water body from construction works; and (b) to require the provision of a Species Protection Plan for bats, otter and breeding birds.

ECONOMIC DEVELOPMENT SECTION: advises that the proposal fits with the Scottish Borders Tourism Strategy 2013-2020 strategic target by - (i) increasing volume of overnight visitors; (ii) increasing overnight visitor spend; (iii) ensuring the Region's accommodation offerings meet consumer demands and where opportunities are available can act as an attractor of demand in themselves; (iv) ensuring a relevant range of types of accommodation is available across the Region to meet evolving market demand and expectations; and (v) identifying opportunities where better quality and new products can 'lead' and generate new demand and continue to raise average quality quotient across all forms of accommodation.

SEPA: notwithstanding that it disputes some of the conclusions of the Flood Risk Assessment, SEPA has no objection on flood risk grounds, and makes recommendations to the Applicant with respect to how the drainage at the site should be managed. It is noted that waste water drainage would require authorisation from SEPA under the Controlled Activities Regulations (CAR).

Visit Scotland: has been consulted but has not responded to the public consultation.

#### **PLANNING CONSIDERATIONS AND POLICIES:**

Scottish Borders Council Local Development Plan (Adopted 2016)  
PMD1 Sustainability  
PMD2 Quality Standards  
ED7 Business, Tourism and Leisure Development in the Countryside  
HD2 Housing in the Countryside  
HD3 Protection of Residential Amenity  
EP1 International Nature Conservation Sites and Protected Species  
EP2 National Nature Conservation Sites and Protected Species  
EP3 Local Biodiversity  
EP5 Special Landscape Areas  
EP8 Archaeology  
EP13 Trees Woodlands and Hedgerows  
EP15 Development Affecting the Water Environment  
EP16 Air Quality  
IS7 Parking Provision and Standards  
IS8 Flooding  
IS9 Water Supply

Other  
SPG - Householder Development  
SPG - Placemaking and Design  
SPG - Landscape and Development  
SPG - New Housing in the Borders Countryside

SPP  
Scottish Borders Tourism Strategy 2013-2020

**Recommendation by** - Stuart Herkes (Planning Officer) on 8th April 2019

This application proposes the erection of three lodges for holiday-let use on a remote, greenfield site in the countryside; specifically three natural terraces within the otherwise steeply sloping valley of the Hallrule Burn; along with a new access road, via an intervening field and crossing of the burn.

**SITE DESCRIPTION**

The site of the lodges lies roughly half a kilometre to the west of the building group at Hallrule, to the north of Bonchester Bridge; and is an elongated site, defined by, and adhering to, the floors and sides of fluvial terraces within the valley of the Hallrule Burn. The burn flows west-to-east.

The fluvial terraces are encountered sequentially, along and above the north bank of the burn. They are orientated broadly west-to-east, and are sheltered within the enveloping valley's slopes to the north and south. They are also not readily visible from the surrounding landscape, other than in views down from the slopes above, into the valley, which in this section, has the character of a ravine. Each terrace has its own discrete curvilinear tread, defined by the steep sides of the valley to the north; and its own scarp, defined by an equally pronounced fall in levels down to the watercourse below, to the south. The oval-shaped interiors are substantially open, naturally undulating areas, predominantly in molehill-impacted grass. Each terrace is accessible from its neighbour in the sequence via an intervening 'isthmus' of narrower land, rising up or falling down to the adjacent terrace. This sequential alternation of narrow isthmus with wide terrace, coupled with the frequent and pronounced rises and falls in ground level across a strip of land enclosed within a small, steep-sided valley, gives this part of the site, a sinuous, even cavernous, quality. It is a greenfield site, but critically, it is also one in which natural processes still predominate over anthropogenic activities.

The burn below the terraces, is only a few metres in its width within this section of its valley. It is not in this area subject to any national natural heritage designations. The site and wider area is within the Teviot Valleys Special Landscape Area.

Although steep, the terrain on the north side of the valley is still notably less precipitous than the terrain to the south, on the opposite bank, whose descent from the crest to the burn, is both sheer, and uninterrupted by any equivalent intervening shelf or terraces. Moreover, while the south side of the valley includes mature tree-cover, the trees on the northern slopes above and below the terraces, are notably smaller and more stunted. In places, these give way to shrubs, particularly on the higher and steeper land on the slopes above the site.

In addition to the terraces, the site includes the route of a proposed new access road. This links all three terraces before crossing the burn to the south bank, and then ramping up the steeper terrain on the opposite side of the valley, to an existing field access. From there, it crosses a field to reach the public road, which lies around 300m to the east. Besides a section of compacted running surface which has been formed on part the southern side of the valley, there is otherwise only two agricultural accesses at either side of the aforementioned field. There is no existing road access to the site, nor any existing vehicular or pedestrian crossing for the burn.

**PROPOSED DEVELOPMENT**

The three proposed lodges are substantial buildings which would provide accommodation over two storeys, and appear readily capable of long-term, permanent residential occupation. Each would be sited within one of the three fluvial terraces, but would also be partially excavated into the treads of these same terraces, such that the terraces' lower slopes - as well as their floors - would be directly impacted by the structures. The truncated slopes behind, would then be retained by rock filled gabions. The shallow roof pitches would be finished in a 'sedum type' surface of grass and wildflowers. It is advised that the external walls which are shown to be extensively glazed, would be clad in natural stone and timber.

Two of the lodges have the same design and are described by the same three elevation drawings; one has a different design and is described by two elevation drawings and a section. (In the event of approval the missing elevation drawing would need to be required by condition).

Including the accesses to and between the three lodges on the terraces, the proposed new access road would extend a distance of around 650m into the countryside. A simple vehicular crossing is included amongst the proposals; passing provision on this new access road, is included.

## SUPPORTING BUSINESS CASE

In support of the planning application, the Applicant has provided a Business Plan; a Feasibility Study (prepared by Brightlight Marketing); and a Projected Profit and Loss Accounts (or Cash Flow Projection) covering the years from 2019 to 2023 inclusive. More recently, the Applicant's agent has provided a follow up letter addressing directly certain points raised in representations and by consultees.

The Business Plan advises that the Applicant is seeking to diversify the income of her family-owned and run farming business (Hallrule Farms), particularly in light of the increased potential for economic uncertainty within the wider British and farming economies. It goes on to advise that the Applicant has consulted Visit Scotland and other local tourist operators, and considers that there is a growing and strengthening market for cottage-lets within the local area for tourist letting. The particular units proposed, it is advised, are at the quality end of the scale. They are aimed at a perceived 'gap in the market' for a type and quality of holiday let accommodation unit. This is reflected in the prices quoted.

The Applicant expresses an intention to work with an established local self-catering holiday letting agent in the marketing and rental of the proposed properties. The Business Plan considers that there may be an opportunity for the Applicant to offer guests opportunities to use existing equestrian facilities at their farm, with potential to cater to customers specifically interested in horse-riding.

The Applicant's Planning Statement notes her concern to offer five-star self-catering accommodation, of a type which it is advised are popular in the context of the tourist accommodation sector in the Highlands and Islands. It is advised in the same document that the specific location and setting of the site is integral to the achievement of the Applicant's stated concern to provide a quiet and natural setting for the development, to create a feeling of serenity and space for guests. Allowing for the achievement of the latter, the Applicant advises that the site meets their Sequential Plan in that existing buildings at the farm are in use by the farming business, while there are no central or edge of farm buildings that are suitable or available to provide the type of environment that the Applicant is concerned to offer as an integral part of the tourist accommodation units. It is observed that locations within or near operational farm buildings would not be appropriate or suitable to address this concern, and may experience significant residential amenity impacts as a consequence of such proximity.

It is advised in the Planning Statement that the proposal would help sustain the Applicant's family's farming business and would generate employment opportunities as well as contribute to the local economy through guests using local shops and services, and visiting local visitor attractions and using local leisure facilities. In these ways, the proposal is seen to key into, and strengthen, the local tourist economy in the wider area.

The Cash Flow Projection shows an initial loss associated with the actual delivery of the proposed units followed by increasing profit with time. There is no indication though as to what these costs are specifically informed by. In short, as far as can be established, they have not been extrapolated from, or otherwise informed by, the operation of any existing tourist or leisure business.

The Feasibility Study anticipates a holiday let business able to operate 12 months of the year.

## PLANNING PRINCIPLE

The principle of tourism and leisure development in the countryside is supported under Policy ED7, where the proposal is in accordance with the Scottish Borders Tourism Strategy and Action Plan; something which the Council's Economic Development Section considers to be the case.

Policy ED7 however, also requires that any specific proposal should respect the amenity and character of the surrounding area and have no significant adverse impacts upon nearby uses, particularly housing. Further, where a new building is proposed, the Applicant is required to provide evidence that no appropriate existing building or brownfield site is otherwise available to accommodate the proposal. Account for the environmental and amenity considerations set out under Policy PMD2, is also explicitly required under Policy ED7.

While the principle of the proposal benefits from generic support under Policy ED7, as the Applicant notes, the specific proposal still requires justification, particularly in terms of its location, and its impacts upon the amenity and environment of the site and surrounding area. Accordingly, it needs to be demonstrated that it would be in the most appropriate location to accommodate it, and that it would otherwise have no unacceptable impacts upon the environment and amenity of the site and surrounding area. It is an ulterior requirement of Policy ED7 that the Applicant provide a business case in support of their tourist business proposal.

#### SITE SELECTION - RELATIVE TERMS

It is a direct requirement of Policy ED7 that any tourist or leisure proposal that is appropriate for a countryside location, should only be supported where it is first demonstrated that there are no more appropriate sites within the Applicant's control. This should take account of any existing buildings as well as any opportunities to reuse brownfield land.

The site is greenfield land, in an isolated rural location, with no existing development in the immediate vicinity. As such, it is hierarchically at least, not a site that should be preferred over any opportunity to reuse any existing building, brownfield site and/or to locate the proposal adjacent to any existing development; either at the farm or at the building group at Hallrule Farm. The Applicant however, has not sought to justify the location in the context of any particularly detailed site selection process. Instead the Planning Statement relies on general statements to the effect that all such alternatives have been appropriately considered and ruled out by the Applicant and her family's farming business. These statements are not shown to be informed by any detailed assessment (either of the potential alternative options for the accommodation of holiday let units within existing buildings at the farm or in the building group; or of any opportunities to accommodate the proposal at, or even in closer proximity to, the farm or building group at Hallrule Farm). Reasonably, the Applicant expresses a general concern to separate the proposal from operational farm buildings in the interests of ensuring that there would be no conflicts between farming operations and the operation of the holiday let use. It is also advised - albeit not demonstrated - that there are simply no existing buildings at or around the farm that would be suitable for conversion to the proposed use. Had the absence of a more detailed consideration of these points been the only concern, then it would have been appropriate to have sought further clarification on these specific matters. However, the proposal is objectionable per se, and in part, because it is readily apparent that the choice of site has not been informed by any concern to minimise impacts upon the countryside. On the contrary, the site has been chosen primarily because of its perceived suitability to constitute an attractive setting for the development.

The Applicant's main justification for the proposed siting, is given in terms of what she presents as the positive attributes of the site. These are specifically related to the concern to provide a quiet, serene 'get-away', set back from existing buildings and development. The location - or at least a secluded, greenfield location - is seen as integral to the character and success of the proposal; whereby these characteristics would not pertain to any siting at or in closer proximity to the farm. As such, there are no substantive or particular reasons for the Applicant to seek to remove the proposal this far from the farmyard or near vicinity, to this precise location. Rather, this specific site has been selected because it fulfils the Applicant's unilaterally identified need for the development to be secluded and set back from all surrounding existing development, in attractive, natural surroundings. The introduction of development into this specific beauty spot, is itself a deliberate and integral part of the proposal.

Even setting aside the point that the three lodges would not be particularly isolated from one another, it has to be observed that the perceived need for an isolated site is not in itself reasonably a justification for the particular site selected in planning terms; nor is it any basis for setting aside the requirements of planning policy. (Any land owner in the area seeking to establish an isolated development for holiday let purposes, could theoretically make exactly the same argument in exactly the same terms, in favour of an equivalent development on any isolated greenfield land within their own control). The identified concern that the development should be isolated for the development's own reasons simply does not justify this Authority setting aside the strict requirements of planning policy that the character and quality of the open countryside should be protected from development that does not have any demonstrable requirement to be sited in the specific location identified.

Ultimately nothing remarkable or specific is being said, or can be said, about this particular location relative to any other locations that might have been selected, which would justify its promotion for development, or

allow its identification to be viewed favourably within any such comparison. In land use planning terms, the specific site selected, appears at best, arbitrary; and at worst - in its exaggerated distance from the public road and from existing development - unnecessarily detached and isolated. It would spread development far into the open countryside; and up to 700m from the public road and closer to 1km from the centre of the farm and building group at Hallrule, more specifically. Something might also be said about the fact that it would also impact natural, unimproved land within a riparian environment with high ecological value; and which has its own aesthetic quality and amenity. This then, is land that would - in relative terms at least - reasonably be afforded a higher degree of protection from development than surrounding areas and any justification presented by the Applicant should reasonably account for this, and address directly the concern to minimise impacts upon the amenity and environment of the site and surrounding area, by reflecting this concern within her site selection considerations.

Hierarchically speaking, it would be difficult to find a more inappropriate site in planning terms within the surrounding area and local landscape. The Applicant has failed to rule out other potentially more suitable alternatives to accommodation of the development on the proposed site. On this basis, I would observe that the proposal does not accord with Criterion c. of Policy ED7; and is objectionable.

#### SITE SELECTION - ABSOLUTE TERMS

Theoretically, were it considered appropriate to make the proposal the subject of an exceptional approval, the Planning Authority could consider whether or not the proposal sited in this location, would in itself have any unacceptable impacts upon the site or surrounding area; that is, in terms beyond the site selection process required by Policy ED7. These impacts are considered below on their own merits, but I would still consider that the site in this specific case, is simply too far removed from anything that might be considered an acceptable accommodation of this proposal. In technical terms alone, it is an isolated greenfield site in the open countryside at a notable distance from surrounding existing development. Beyond this, it is a local natural beauty spot.

In absolute terms then, I find the site to be highly inappropriate for any development that does not find an immediate justification for its siting within the existing circumstances of this valuable site itself. It is land that is more naturally and reasonably protected from unsympathetic development by the planning system. The application however, explicitly relies on the fact that the site is a natural beauty spot, and presents this as an integral part of its own justification. This though runs directly contrary to planning policy which seeks to protect the most valuable and unique features and places within the local landscape, and not actively to direct development towards them.

Notwithstanding that it may be possible to establish and service a development at this distance from the farm and building group, I do not consider that all concerns relating to the lack of any justification for the use of the specific identified site, would be reasonably set aside. On the contrary, with no detailed and informed justification first having been given for the selection of this specific site in relative or absolute terms, this proposal is only reasonably considered to be highly objectionable in its proposed siting, and in the resultant form and character of development that would be precipitated. It would be highly detrimental to the amenity and character of the site and surrounding area, and should be refused on this basis.

#### ACCOMMODATION TYPE

Beyond the identified location, the Applicant's Business Plan primarily focusses on the perceived opportunity to provide a particular type of holiday accommodation unit experience to tourists and visitors. The particular units proposed, are large and commodious by holiday let accommodation standards. The Applicant is clear that this size and type of 'high end' holiday lodge accommodation is integral to the proposal; and something that would be a strength relative to other types of holiday units operated in the surrounding area. However, the Applicant's Business Plan does not identify any existing holiday accommodation letting business at the site; nor does it evidence that the proposal would be well-related to any other existing business operated by the Applicant which primarily caters to tourists or visitors either on site, or otherwise operated by the Applicant on their land. (There is, I note, a statement to the effect that the Applicant might consider offering the use of existing riding facilities to guests, but this is understood to be a potential 'side-line' or possible ulterior business direction, which itself would rely upon the proposed tourist accommodation let business first having become established at the site, before its own initiation).

The proposal - including in the type and number of units the Applicant is concerned to offer - is not informed by any actual experience of operating a holiday letting business at the site. General and generic points are made within the supporting statements, but again, it is difficult to see how these are not points that could be made by any land owner in the area with equivalent resources and in equivalent circumstances. These do not reasonably substantiate the particular type and number of accommodation unit that the Applicant is concerned to offer.

Without any holiday-letting business actually being in operation at the site, it is reasonable to ask what reassurance any party - including both the Applicant and the Planning Authority - would have that the proposal is viable, both in terms of the assumption about the attractiveness of Hallrule Farm as a holiday location, and about the proposed number and type of holiday let accommodation unit to be offered to holiday-makers. 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. Actual experience of operating such a business from her land would have allowed the Applicant the opportunity to demonstrate empirically that Hallrule Farm was an attractive holiday location to visitors, and also gather information about the type of accommodation units that were being sought by, and were most attractive to, visitors. The selection of the proposed accommodation-type itself then, might have been justified by the accommodation preferences of visitors, gleaned from their actual enquiries and feedback.

In this sense, the current proposal is 'back-to-front' in that it is not based on any logical scaling up or diversification from an actual existing business looking to make the next step. On the contrary, it expects to have 'hit-the-nail-on-the-head' at the first time of asking, in terms of its proposed location and proposed accommodation unit, when it is perhaps more tenable that the experience of operating a holiday let business, may in fact have identified different opportunities - potentially even quite removed in 'direction of travel' from what is currently being proposed on a purely speculative basis. Such information as might be generated by the actual experience of the type and number of visitors interested in holidaying in the area, and their expressed accommodation needs and identified interests, would reasonably inform any ulterior proposal. The Planning Authority might at least ask why any proposed holiday let business at Hallrule is not in the first instance, based on a more modest type and scale of holiday let accommodation, as might be expected to agree with the context of a new business venture starting up at Hallrule. More modestly-sized and constructed units (most likely smaller; non-permanent structures) and/or also a smaller number of units than is proposed, would be more in line with a business seeking to test the market for interest in the location and type of accommodation/holiday experience on offer, and thereby minimise its own risk. Yet here we have at the outset, three substantial units apparently capable of permanent occupation, which are moreover intended for all-year round operation and which require an extensive access road - all without the viability of any aspect of this business operation first having been tested or demonstrated in practice. Ultimately then, the proposal is only reasonably characterised as being highly speculative, and a high risk in terms of both the Applicant's investment and the Planning Authority's support.

A critical question then is what would happen if the proposal were to prove through its actual operation, to be unviable? In the case of more modest, easily transported holiday accommodation units (such as pods or static caravans), the business might have had the opportunity to have sold these on easily to other operators. Consequently these might be expected not to have been retained on site, in the long-term beyond the point that they ceased to be of use. However, where permanent structures were in place, and where such investment had been sunk into the units and the long access road, the likelihood is that the site, if existing, would then be proposed for retention and reuse to justify the investment. All in all, there is a significant risk not only to the Applicant in terms of the scale and extent of their investment, but also to the Planning Authority were three such potentially permanent units to be sited, without it first having been established that they were capable of being operated viably as holiday units in the first place. There would then be a very high risk of a new use having to be found for these structures, which - given their residential nature - might result in proposals to change them to permanent residential use.

It is material then to the assessment of this proposal that the Applicant has not provided any specific or empirical evidence within the Business Case that provides any reassurance that any buildings established on the site, would be likely to be operated viably as holiday accommodation units, and therefore reasonably expected to be used for holiday let use in the long-term. On the contrary, the subsequent operation of a holiday let business based on the letting of these proposed lodges, could in fact, end up demonstrating through its operation, that it were not in fact viable at all. This is something which the Applicant, or a successor in their operation or ownership of the site, might then be able to evidence empirically in support of any subsequent proposal to change the use of the site. As noted above, the latter could include an

application to propose the permanent residential use of the site; if not the residential use of the actual structures themselves, which appear readily capable of permanent residential occupation (or of being readily adapted to such a use).

Any such subsequent proposal would require to be considered on its own planning merits, but the existence of the buildings in these circumstances, would certainly be a significant material consideration. (There would at least reasonably be a concern in these circumstances to prevent the buildings deteriorating and becoming an eyesore). It could also be advanced in the context of a subsequent application to change the use of the units, that the Planning Authority had already weighed up and assessed the risk of the holiday let use proposal proving unviable, and therefore that the Planning Authority had effectively 'factored in' any such risk within its decision on the current application. While this would not reasonably be taken as any approval, tacit or otherwise, for the reuse of the units as houses, it would be pertinent to the assessment of a future application how the Planning Authority had anticipated that these units would be disposed of, in the event that they were not capable of being operated as holiday let units; or at least, that it had assessed the risk that this might be the case, and nonetheless accepted that risk. I would be concerned then that an approval of the current application based on such an insubstantial business case, would be liable to promote the establishment of permanent residential units in an isolated rural location, and in circumstances that would be contrary to the Council's Housing in the Countryside Policy.

A related, additional point is that were all three units to be constructed, and then subsequently allowed - via the approval of a subsequent planning application - to become houses, they would be liable to constitute a new rural building group of three houses (the minimum number of houses required under current planning policy, to constitute a building group that would itself be capable of further future expansion).

It is material that at present, no new residential development would be supported at the site without an economic or operational justification for it first having been demonstrated in terms of an actual business need for such development to be accommodated in precisely this specific location under requirements that would satisfy Policy HD2, with regard to new housing on isolated rural sites. As such, were these units to become established, and then subsequently shown - through the actual operation of the holiday let business - to be unviable for their intended holiday let use, then this proposal has the potential to promote residential development in a location where this could simply not occur at present under planning policy. Accordingly, and without any substantial evidence first having been given as to the likely viability of the current holiday let proposal, the Planning Authority would be taking a very significant risk, were it to consent the operation of such large, permanent units in this isolated rural location. I consider that this risk is unacceptable.

## VIABILITY

It is an explicit requirement of Planning Policy ED7 that a business plan be provided in support of the application. This is met within the application, which is supported by a planning statement and a business plan. (The latter is sensitive and marked as such on the Council back office system to prevent publication on the Public Access website). There is ultimately though no explicit requirement under Policy ED7 for the Applicant to demonstrate the viability of the business proposal. Technically, planning conditions might be imposed to require that any structures consented, should only be used for short-term holiday let use only. However, even allowing for this, it is reasonable to consider the long-term implications of the proposal in the event that any tourist or leisure business were subsequently demonstrated through its actual operation, not in fact, to be viable at all. As such, the Applicant does reasonably require to substantiate her assessment of the proposal's likely viability.

The Applicant might have tested a tourist or visitor accommodation use of the site through the operation over the period of a few years, of a camp site under a Camping and Caravan Club Licence. While this would not have been an equivalent type of accommodation to what is proposed here, it would at least have provided some data with respect to actual tourist and visitor interest in the site as a holiday accommodation destination, while surveys of guests might also have helped establish if there was any actual interest in the type of chalet/lodge accommodation that the Applicant is keen to provide. It is appreciable that the Applicant may wish to 'jump' to a high-end chalet accommodation operation rather than establish and progressively scale up an existing holiday-maker accommodation business within the more modest provisions allowed under the Camping and Caravan Club Licence. However, given the potential implications of allowing what might be capable of operating as permanent residential units on this isolated rural site - without any reassurance first having been given to this Authority as to the potential viability of such units as holiday let accommodation in the first place - it is also reasonable to consider that progress to and from an operation

under a Camping and Caravan Club Licence, would have been a more proportionate and reasonable way for the Applicant to have sought to advance a holiday let business proposal in circumstances (such as these) where there is otherwise no ability for her to demonstrate any relationship to any existing and expanding holiday accommodation business, or other tourist or leisure business with any demonstrable need for the type of accommodation that is being proposed.

Ultimately it is reasonable with the Applicant as to what she is prepared to risk in terms of investment in the project, but the proposed units in themselves, do not reasonably provide any reassurance in planning terms that any failure of this development would not result in the promotion of the re-use of these units for housing in the longer-term (please see above). I note that the Applicant reasonably anticipates an initial loss in terms of investment, but there is no detailed breakdown of these costs. It would have to be considered whether the need for such a long access road, over such difficult terrain, including a bridge, would all in fact, be conducive to the overall viability of the project. It is reasonable at any rate, to note quite simply that accommodation in closer proximity to the public road, would have avoided the need for such an exaggerated length and complexity of access. In terms of viability then, the need for such considerable investment in infrastructure alone, in relation to the delivery of something which appears capable of delivery more simply, does raise concerns that the project might not in fact be inherently viable to begin with; and the Applicant's supporting information does not reasonably provide any reassurance in this respect.

I am aware that the Applicant intends the development to support and help diversify the income of the farming business, but farm diversification is not in itself an overriding concern, and does not reasonably allow or justify the setting aside of all or any of the planning considerations noted above with respect to the particular site and particular development proposed, and the lack of any evidence of any specific demonstrable requirement for the development to be sited and constituted as proposed. Similarly, while it is reasonably maintained that the proposal would generate employment (even if only for the Applicant and her family) and have benefits for the wider services and tourist economy, this is not reasonably contingent upon the development being realised on the specific site and in the specific form proposed, particularly where this has not been demonstrated empirically. Again, even allowing that the business might be viable, this potential to support the farm and wider economy does not reasonably justify the specific proposal or outweigh the fact that it would have unacceptable impacts upon the amenity and environment of the site and surrounding area.

All in all, and without appropriate reassurance to the contrary in the form of a credible business case demonstrating a reasonable expectation that the proposal and business would be viable, the proposals would appear liable to result in significant harm to the amenity and environment of this countryside location both with respect to the potential for the delivery of unused or unusable buildings that would then be left to clutter up the landscape; and in terms of the potential promotion of the redevelopment of the site, by allowing it to be developed in the first place in such an insecure context.

Without any specific experience of any actual operation to draw on, the context of these current proposals is unsubstantiated and appears entirely arbitrary; informed more by subjective views, expectations and preferences than by any detailed assessment or empirical evidence of what might realistically be expected to be operationally viable in this location. There is ultimately no reassurance from the business plan that the Applicant would be able to operate in the long-term as she proposes, let alone to justify the exaggerated size, dispersed form and permanent nature of the proposal.

## LANDSCAPE AND VISUAL IMPACTS

Locally, within the context of this relatively pristine, undeveloped and narrow section of the valley of the Hallrule Burn, I would be concerned that the proposed lodges would, both singularly and cumulatively, be liable to appear, and be experienced, as significantly out-of-scale with their environs; even as 'shoehorned' or 'folded' into such a confined space. I would also note concerns with respect to the need and extent to truncate, reduce and make up natural ground levels to accommodate what is proposed. These works in their scale and extent also appear exaggerated beyond that which would be necessary or reasonable. What is proposed, appears - and would likely look - highly contrived; with a natural section of valley being highly disrupted to accommodate the development. Given the quality of this landscape, which is after all, within a designated Special Landscape Area - and notwithstanding this section of valley's relative seclusion from the surrounding landscape, I consider that the impacts of what is proposed are objectionable per se, in terms of the effect on this natural landscape, which - despite its relatively good visual containment in views from the

surrounding area - I consider is still nonetheless, reasonably protected from unsympathetic development because of its own visual amenity, which is a valuable landscape resource in itself.

Out with the valley, and the more immediate views looking down into it, the topography, reinforced by the mature trees on the south bank, does, I acknowledge, provide effective screening of the interior of the site in views from the surrounding area. Within the wider landscape then, it would have to be acknowledged that the envelopment of the valley would provide effective screening of the lodges. Technically, the materials and finishes for the external surfaces of the buildings would also be capable of being regulated by planning conditions - such that the use of organic, matt and dark, recessive coloured materials and finishes, could be required to help mitigate the lodges' appearance. However, while ordinarily the potential for discreet visual containment of the main development might have been looked on positively in itself, I am for the reasons noted above, ultimately not inclined to any view that the lodges' proposed situation within a hitherto undeveloped section of valley, is in itself reasonably considered to be a significant material consideration; or viewed positively as an effective mitigating factor. On the contrary, neither the situation within a steep-sided valley nor the potential to regulate the lodges' finished appearance, are sufficient to mitigate - let alone outweigh - the adverse impacts that would result to the landscape, including the Special Landscape Area, were the development to be progressed in the form proposed, and in the circumstances proposed.

More to the point, the development proposal also includes 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. This new road would be an incongruous imposition within this part of the landscape - which here, is also part of the Special Landscape Area - and within the landscape setting of the building group. It is, I consider, objectionable in terms of its impacts upon the character and setting of the building group at Hallrule, primarily in detracting from the keen sense of this as a group of farm cottages and buildings orientated around the farm and public road, which runs north to south. The proposal would undermine this, with the sense of some ulterior satellite, or outlying area, to the west, while the access occurring at the southern approach to the building group, would in itself create some sense of a new southern, and somewhat arbitrary, boundary for the group, at this point, with no logical necessity or relationship to the built environment of the building group itself. This is not in keeping with the existing sense of place of the building group; and without any overriding justification for the section of the valley to the west to be developed at all, the impacts that would result from the new access road, are not reasonably outweighed by the benefits to the building group and wider area, of the development.

#### OTHER CONCERNS

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. Roads'; Environmental Health's; Ecology's and Archaeology's concerns are all relatively onerous and would all entail additional costs that the Applicant would need to meet going forward, but are all capable of being met by appropriately worded planning conditions and informatives. The advice of the Flood Prevention Authorities could be included in informatives.

With respect to trees, the most intrusive section of the access road within the southern side of the valley, appears to have been largely formed. It is apparent that more trees and vegetation would be impacted on both sides of the valley, but ultimately the extent of 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, although conditions would be reasonably imposed to conserve trees that would otherwise be capable of retention.

The proposal is not reasonably assessed under Policy PMD4 which applies to the assessment of developments within the near vicinity of the Development Boundary.

I note neighbours' concerns with regard to neighbour notification, but these accord with statutory requirements. (The point appears to have been confused somewhat by the indeterminate character of an area of paddock land adjacent to the nearest house to the access track, which is certainly land within 20m of the site, but it is not within the curtilage of the cottage; and therefore notification was reasonably covered by the advert placed in the local press).

I note an objector's advice that the Applicants have previously been granted consent for holiday let cottages at Hallrule Farm but I can find no record of any structure that was explicitly consented as a holiday let

property. The Applicant has also explicitly advised that no such application was ever made or granted for any such proposal.

## CONCLUSION

The proposal does not in its siting, layout and design respect the landscape and visual amenities of the site and surrounding area, and would lead to a form of development that in all of the above noted respects, would be incongruous in this isolated rural location.

Further, and without the need for the particular site, layout and design of the proposal having been demonstrated within the Applicant's supporting case, the proposal would be liable to promote residential development on a site with respect to which no justification has been given to substantiate any operational or economic requirement of any business requiring itself, to operate from this specific countryside location.

As such, it is considered that the proposal would be contrary to Adopted Local Development Plan Policies ED7 and PMD2, and should be refused.

## REASON FOR DECISION :

The proposal is contrary to the policies of the Adopted Local Development Plan, specifically in that:

It 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; and

It 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.

## **Recommendation:** Refused

- 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.

**“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.**