

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

4 NOVEMBER 2019

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 19/01142/FUL

OFFICER: Cameron Kirk
WARD: Mid Berwickshire
PROPOSAL: Erection of general purpose agricultural/equestrian building (retrospective)
SITE: Land West of Old Greenlaw Farmhouse, Greenlaw
APPLICANT: Mr and Mrs Lindsay
AGENT: Jamie Renton Rural Design Consultant

PLANNING PROCESSING AGREEMENT: Monday 11 November 2019.

CONSIDERATION BY PLANNING AND BUILDING STANDARDS COMMITTEE: The application was continued from the October meeting of the Planning and Building Standards Committee to allow the applicant's time to provide additional information on the following matters:

1. A drawing to demonstrate the location of the building as erected in relation to its position as agreed under the Prior Notification application 17/01375/AGN;
2. To consider screening along the boundary of the applicant's land and the neighbouring property to the north, Silver Grange, to afford the occupants of said property further privacy.

The applicant's agent has provided a drawing to demonstrate the location of the building as erected in relation to its position as agreed under the Prior Notification application 17/01375/AGN. From the information provided and now accurately plotted by the Council's GIS Team, it would appear that the building has been erected on the same footprint as the building agreed under application 17/01375/AGN.

The applicants, along with their agent, considered the possibility of providing screening along the boundary to the north east of the application site. Due to the topography of adjoining land and as the neighbouring dwelling, Silver Grange, sits on ground above the application site, it was felt that a hedge or screen fence would not have the desired effect.

Having considered the additional information and amended site plan it is not considered necessary to provide screening along the boundary to the north east of the application site. The shed has been erected in the location approved under prior notification 17/01375/AGN and screening along the north east boundary will not provide the desired level of screening. It is recommended that Members uphold the original recommendation and approve the application subject to the listed conditions and applicant informatives.

SITE DESCRIPTION

The application site lies approximately 1.5 miles south of the settlement of Greenlaw. The site is located within a field to the west of a group of four dwellings, Silver Grange, Old Greenlaw Farmhouse, Jacob's Edge and Horseshoe Cottage.

The land on which the building sits has been raised a little to create a level base. The building sits slightly higher than the ground level of the field to the south, while it sits slightly lower than the ground level of the field to the north.

Vehicular access to the site is taken from the public road (C93) to the north east, between the dwellings of Silver Grange and Old Greenlaw Farmhouse. An area of hardstanding has been formed to the north east of the building which provides parking for multiple vehicles. The area surrounding the application site is characterised as undulating open countryside.

PROPOSED DEVELOPMENT

The application seeks retrospective planning permission for the erection a rectangular shaped building with apex roof which is currently used for agricultural and equestrian purposes. The building measures approximately 18.3 metres by 9.5 metres and has an eaves and ridge height of approximately 3.7 metres and 4.9 metres, respectively, when measured from finished ground level. The building has been constructed using a steel portal frame. The elevations of the building are finished using concrete panels to the lower section with dark green steel profiled sheeting above. The roof has also been finished with dark green steel profiled sheeting, incorporating translucent rooflights within it. A single opening has been formed to the north east elevation of the building.

PLANNING HISTORY

19/00627/FUL – Change of use of agricultural building to include general and equestrian use in addition to agricultural. Withdrawn 24 July 2019.

18/00170/COND – Non-compliance with condition regarding access and the use of the building for equestrian purposes. Enforcement case remains open.

17/01727/FUL – Extension to existing access and formation of parking area. Approved 13 February 2018.

17/01375/AGN – Erection of general purpose agricultural building. No objection 1 November 2017.

17/00120/UNDEV – Enforcement compliant in relation to formation of new field access, formation of field track and erection of stable block. Case closed.

17/01098/AGN – Erection of agricultural building. Objection 25 August 2017.

REPRESENTATION SUMMARY

A total of 5 objections have been received. The representations are available for Members to view in full on Public Access but the key planning matters have been summarised below as follows:

- The location of the building;
- The use of the building for equestrian purposes;

- Impact on the visual amenities of the area;
- Loss of amenity and privacy to neighbouring residential properties;
- Light pollution;
- Noise and disturbance caused by the use of the building;
- Increase to traffic.

APPLICANT'S SUPPORTING INFORMATION

- Supporting Statement prepared by the applicant, received 12 August 2019.
- Supporting Statement prepared by the applicant in response to representations received, dated 1 September 2019.

DEVELOPMENT PLAN POLICIES:

Scottish Borders Council Local Development Plan 2016

PMD2 – Quality Standards

HD3 – Protection of Residential Amenity

ED7 – Business, Tourism and Leisure Development in the Countryside

ED10 – Protection of Prime Quality Agricultural Land and Carbon Rich Soils

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Environmental Health: No objections. Recommend that conditions are attached if permission is granted in relation to noise emitted by plant and machinery, the maintenance of said plant and machinery and the disposal of waste. Also recommend informatives are attached pertaining to stable waste and the use of the building as a riding establishment.

Roads Planning Service: No objections. There will be minimal change to vehicular movements as a result of the development.

KEY PLANNING ISSUES:

The key planning issues under consideration for the assessment of the application are:

- The principle of development;
- The layout, siting and design of the development;
- Its impact on the amenity and privacy of neighbouring residential properties.

ASSESSMENT OF APPLICATION:

Principle

This application seeks retrospective planning permission in order to regularise an earlier breach of planning control. Members will be aware from the planning history associated with this site that the existing building was erected under agricultural permitted development rights (17/01375/AGN) in November 2017. However, through subsequent enforcement investigations following a third party complaint, the planning authority concluded that the existing building had been erected in the wrong location and was being used for equestrian uses as well as the approved agricultural use. This application seeks consent to regularise the aforementioned breach.

In principle, Local Development Plan policy ED7 (Business, Tourism and Leisure in the Countryside) is supportive of development which will be used directly for agricultural purposes as well as leisure purposes appropriate to a countryside location. This is subject to assessment against criteria relating to local character and amenity; scale; and impacts on neighbouring uses. These considerations are assessed later in this report. In principle however, there is clear policy support for the proposals given the agricultural and leisure uses currently taking place within the existing building.

The principle of carrying out agricultural operations as well as the erection of the building have been established in this location by virtue of the earlier Prior Notification application 17/01375/AGN. The applicants have kept livestock in the past and they have provided photographic evidence to demonstrate storage of agricultural materials and equipment within the building. The use of the building for the purposes of agriculture is not in question and its continued use for agricultural activity is acceptable and in accordance with the aims of policy ED7.

In addition, development that is to be used directly for leisure purposes appropriate to a countryside location is also considered by policy ED7. In their supporting statement, the applicants advise that the building is used, on occasion, for equestrian purposes. The use of the building for equestrian use is inherently appropriate for rural location such as this, although the original application for this building was submitted on the basis of agricultural use only. Members will be aware that equine activities are not considered to be agricultural and therefore cannot be deemed an appropriate use within building previously approved under prior notification, hence the need for the current application.

It is noted that the neighbouring property, Silver Grange, has erected a stable block to the rear of the property under application reference 17/01254/FUL. The development under consideration is not at odds with the established character of this rural area and the development is considered to meet the general aims of Policy ED7 particularly in relation to agricultural and leisure use.

Prime Quality Agricultural Land

The application site is identified as an area of prime quality agricultural land. Therefore, the principle of development must also be assessed against Policy ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils. Policy ED10 states development, except proposals for renewable energy development, which results in the permanent loss of prime quality agricultural land or significant carbon rich soil reserves, particularly peat, will not be permitted unless:

- a) the site is otherwise allocated within this local plan
- b) the development meets an established need and no other site is available
- c) the development is small in scale and directly related to a rural business.

The development is small in scale and results in a minor loss of prime quality agricultural land. The building is directly related to the applicant's hobby farming and leisure activities. Whilst their agricultural activities are not on a commercial scale, it is likely that such activities will generate additional income, albeit nominal. As mentioned, the building is also used for equestrian purposes which are commonplace in a rural location. The development does not hinder the use of the remaining portion of field from being utilised for agricultural activities or farming and it is likely that the development would be reversible once no longer required. The development accords with the general objectives of Policy ED10.

The principle of development is considered to be acceptable in this location subject to further policy consideration below.

Layout, siting and design

Policy PMD2 aims to ensure that all development is of a high quality and respects the environment in which it is contained. The building is of an appropriate scale, character and appearance which is typical of modern agricultural/equestrian buildings found throughout the Scottish Borders.

As mentioned earlier in this report, the building is of a standard design and construction and is finished externally using materials that are appropriate for an agricultural building of this type and size. The materials are appropriate for this rural location.

Guidance contained within Planning Advice Note 39 (Farm and Forestry Buildings) recommends that visual impact is reduced by siting new farm buildings close to existing farm buildings. The guidance notes the potential impact of new farm buildings both on local and wider landscape settings. Whilst there are no farm buildings immediately adjacent to the application site, the building is situated adjacent to small cluster of houses and outbuildings (including a field shelter in the adjoining field) and is considered acceptable. The proposed development is clearly related to the existing buildings and does not have a significant adverse impact on the visual amenities of the existing group of residential properties to the east or the surrounding countryside. The building does not appear overly conspicuous in the wider landscape and is not considered to have a detrimental impact on the composition or quality of the landscape character.

Residential amenity

Policy HD3 aims to protect neighbouring residential properties against inappropriate development that would result in the loss of amenity and privacy.

The Planning Authority considered the impact the agricultural building would have on the residential amenity of neighbouring properties under the Prior Notification application 17/01375/AGN and concluded the location of the agricultural building to have an acceptable impact on neighbouring outlook and amenity.

Members will note that 5 letters of representation have been received, all objecting to the development. The issues raised relate mainly to the impact the development has on residential amenity of neighbouring properties.

Some of the objectors question the location of the building and whether it has been erected as per the drawing submitted to support the Prior Notification application 17/01375/AGN. It was identified by the Planning Authority under the previous planning application 19/00627/FUL that the drawing submitted to support the application was not a true representation of what had been erected. The drawing used to support planning application 19/00627/FUL was also used to support Prior Notification application 17/01375/AGN. In light of this, application 19/00627/FUL was withdrawn and a new planning application submitted along with a drawing that truly reflects the development undertaken. However, when comparing the drawing submitted to support this application against the drawings submitted to support previous applications 17/01375/AGN & 19/00627/FUL, the building lies on much the same footprint as the previous applications. Nonetheless, full planning permission is sought which would regularise this issue.

As previously mentioned, a complaint was received from a member of the public over the alleged use of the agricultural building for equestrian purposes. By virtue of the Prior Notification application 19/01375/AGN, the use of the building for agricultural purposes is acceptable in this location. The Planning Authority must therefore consider the impact the

use of the building for equestrian activities has on the amenity and privacy of neighbouring properties.

The objectors feel that the privacy of neighbouring residential properties is compromised by the use of the building for equestrian activities. The building has no windows, although it has single opening to the north elevation. There is a degree of overlooking due to the large opening to the north elevation, although this is not to the detriment of the amenity of neighbouring properties. It is doubtful that the use of the building for equestrian activities results in any greater loss of privacy to neighbouring residential properties than if the building were to be used solely for agricultural activities.

Another issue which has been raised by objectors is light pollution. They state that the applicants use the headlights of their vehicles to illuminate the interior and exterior of the building. The Planning Authority cannot exercise control over the way the applicant's park or use their vehicles. Planning permission was granted under application 17/01727/FUL to form an area of hardstanding, retrospectively, to the north east of the building. The Planning Authority considered, at the time, the impact this development would have on the amenity of neighbouring residential properties, including light pollution, and this was considered to be acceptable.

The building does not have any lighting installed internally or externally. Whilst it is acknowledged that there may be a degree of light pollution from movement of vehicles during dark hours, the building does not create any light pollution in its own right. The area of hardstanding formed to the east cannot be taken into account when assessing this application. This application relates solely to the agricultural building. Therefore, as no lighting has been installed on or within the building then the development is not considered to unduly impact on neighbouring residential properties in respect of light pollution.

Furthermore, objectors also raised concerns over noise generated by equestrian activities. Presently, the building could be used to house all manner of livestock which may result in a degree of noise. Providing stables within the building is unlikely to cause a greater degree of noise than keeping livestock.

Objectors also make reference to the loading and unloading of horses from vehicles. Such activities take place on the area of hardstanding to the north east of the building which does not fall within the application site. The applicant mentions in their Supporting Statement that the loading and unloading of horses needs to be undertaken on the area of hardstanding regardless of whether the horses have been in the building or have come straight from the field. The Planning Authority has no remit to control this and the applicants could continue to do so without the benefit of planning permission. Whilst it is acknowledged that there will be a degree of noise generated from loading and unloading horses, this is unlikely to be to the detriment of neighbouring properties. Livestock would be dealt with in much the same manner as horses. Using the building as stables is unlikely to create greater unwarranted levels of noise to the detriment of nearby properties than agricultural operations would.

The use of the building for agricultural and equestrian purposes is not considered to have a greater impact on the residential amenity of neighbouring properties than if it were to be used solely for agricultural purposes.

Environmental Health

Environmental Health was consulted as part of the application process. They do not object to the development and recommend conditions are attached in relation to noise emitted by plant and machinery, the maintenance of said plant and machinery and the disposal of waste.

In addition, they also recommend that informatives are attached in relation to stable waste and the use of the building as a riding establishment.

No plant and machinery is installed within the building and no plant and machinery is proposed to be installed under the cover of this application. However it would be reasonable to assume that plant and machinery, such as a generator, might be used in the building. It would not be normal practice to add such a condition to a standalone agricultural building but given the proximity of neighbouring dwellings to the shed, and the objections raised by third parties, it would be reasonable in this case to add the suggested condition. The condition does not require the applicant to carry out any additional work or surveys, it simply applies noise limits to any plant and machinery that might be used in building.

The use of the building for stabling will likely cause refuse/waste to be produced on site. The EHO advises that all such waste is not stored on site or disposed of in any manner which would give rise to a statutory nuisance. These matters are not for planning to address and issues that may arise from waste can be dealt with under Environmental Health's statutory powers. Environmental Health's recommended informatives will be attached to remind the applicants to dispose of stable waste in an appropriate manner.

Whilst the building will not be used for commercial equestrian purposes, the applicant will be reminded that should they choose to do so at a future time, they require such activities to be licensed by the Local Authority. A condition will be attached to ensure that no commercial equestrian enterprise operates from the building without the express grant of planning permission from the Planning Authority.

Roads

Roads Planning Service was also consulted on the application. They have not raised any concerns in relation to increased traffic or road safety. They state that there will be minimal change to vehicular movements as a result of the development. Accordingly, they do not object.

CONCLUSION

In consideration of the above, the development accords with the relevant policies contained within the Scottish Borders Local Development Plan 2016 and there are no material considerations which indicated that permission should be refused. Therefore, it is recommended that the application be approved.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved subject to the following conditions and informatives:

Conditions:

- 1 The equestrian use hereby approved shall be used only for private (domestic) use for purposes incidental to the enjoyment of Old Greenlaw Farmhouse, Greenlaw, Duns, TD10 6UP as a dwellinghouse and the building shall not at any time, be operated in whole or in part, as (or within) the premises of an equestrian business without the express grant of planning permission from the Planning Authority.
Reason: To enable the Planning Authority to consider the implications of any subsequent commercial equestrian enterprise on the amenities of the area.

- 2 Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2
Reason: To protect the residential amenity of nearby properties.
- 3 All plant and machinery shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.
Reason: To protect the residential amenity of nearby properties.

Informatives:

1 Stable Waste

During the use of the stable block, it is likely that refuse/waste materials (i.e. manure/soiled hay) will be produced on the site as a consequence. Therefore, it must be ensured that all such waste materials are not stored on site or disposed of in any manner (for example, burning) which would give rise to Statutory Nuisance conditions developing at neighbouring properties to the site.

2 Riding establishment

The Riding Establishments Act 1964 defines a Riding Establishment as “the carrying on of a business of keeping horses to let them out on hire for riding, or for use in providing instruction in riding for payment, or both, “ and requires such businesses to be licensed by the Local Authority.

If the applicant intends the stables to operate as a riding establishment in the future, the premises will need to be licensed. Current conditions of licence are discussed alongside health and safety issues applicable to the trade, within the CIEH publication Health and safety guidance for inspections of horse riding establishments and livery yards. A free copy may be downloaded from www.cieh.org/policy/inspections_horse_livery.html. Hardcopies may be purchased from CIEH Tel. 020 7827 5821.

Further information about the required standards is available from SBC's Regulatory Services, Environmental Health Team

Riding Establishment application forms are available from SBC's, Licensing Team.

DRAWING NUMBERS

019/27/PA01 Location Plan, Site Plan, Floor Plan and Elevations

Approved by

| Name | Designation | Signature |
|------------|------------------------------------|-----------|
| Ian Aikman | Chief Planning and Housing Officer | |

The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

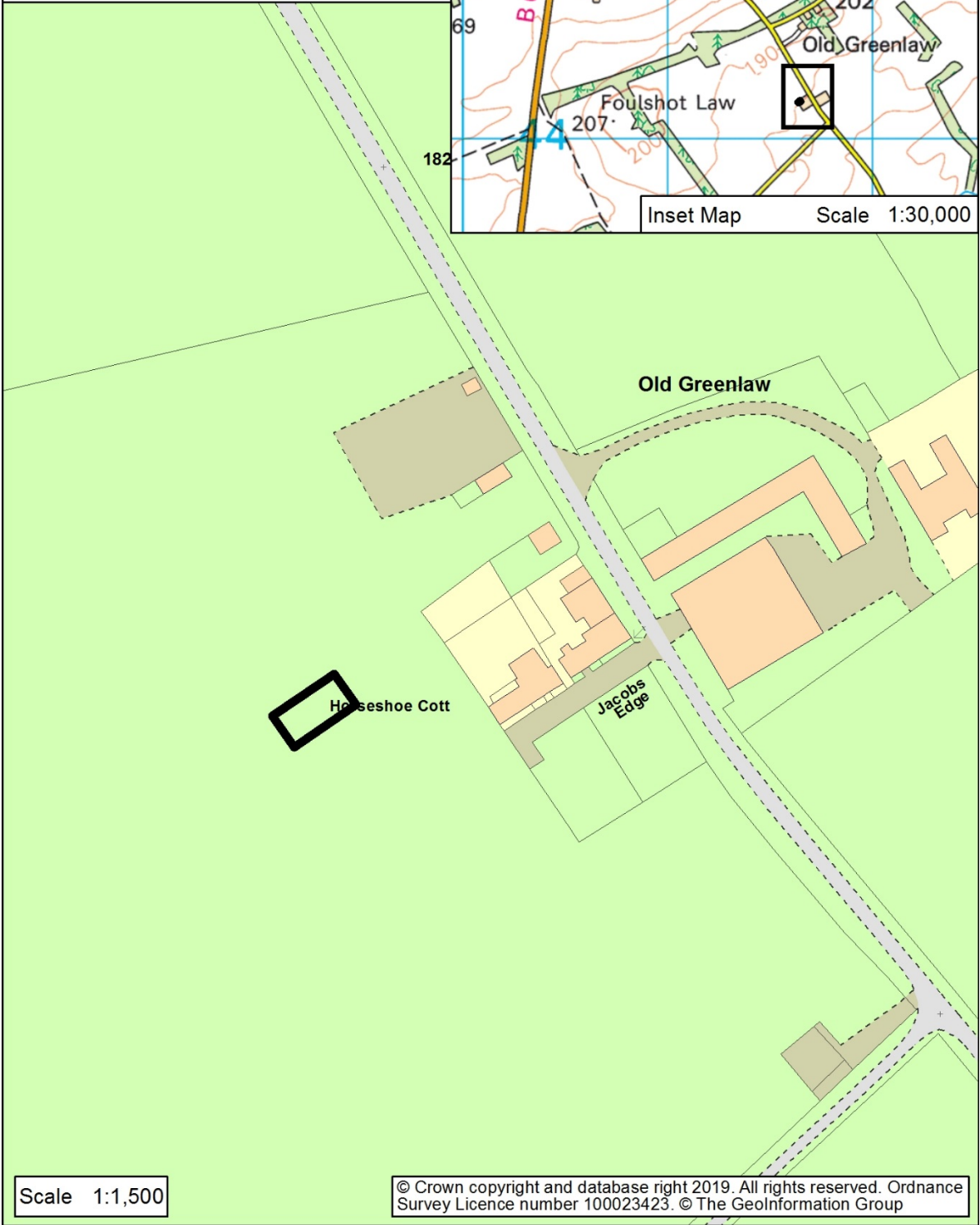
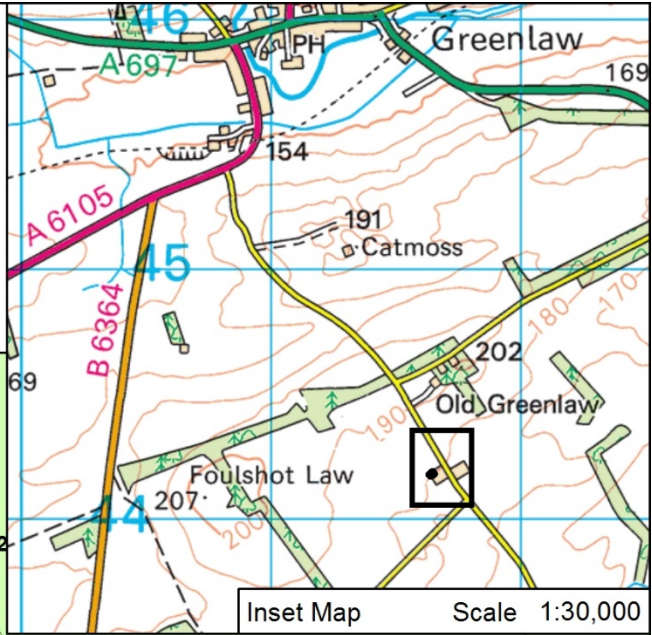
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19/01142/FUL

Land West Of
Old Greenlaw Farmhouse
Greenlaw



Scale 1:1,500