

RA/CMB

If calling please ask for: Richard Amos

26<sup>th</sup> September 2019

Local Review Body  
Democratic Services  
Scottish Borders Council  
Council Headquarters  
Newtown, St Boswells  
Melrose  
TD9 0SA

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Chief Executive  
30 Sep 2019  
Democratic Services

Dear Sir

**Appeal to the Local Review Body  
Proposed New House on Land at Hoprigshiels, Grantshouse  
Planning / Refusal Ref: 19/00590/FUL**

With reference to the above Planning refusal for the construction of a new dwelling, we have been instructed by the applicants, Mr & Mrs S Phaup to submit the enclosed Appeal.

The following documents are enclosed:

- The completed Notice of Review
- The Appeal Statement
- The formal Notice of Refusal
- The original Supporting Statement, submitted with the application.
- Copies of the drawings, submitted with the application

Please confirm receipt and confirmation that the information provided is adequate.

Yours sincerely

Richard Amos FRICS  
For Richard Amos Ltd



**NOTICE OF REVIEW**

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013

**IMPORTANT:** Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

**Applicant(s)**

Name Mr & Mrs S Phaup  
 Address Hoprigshiel Farm, Cockburnspath  
  
 Postcode TD13 5YN  
 Contact Telephone 1  
 Contact Telephone 2  
 E-mail\*

**Agent (if any)**

Name Richard Amos Ltd  
 Address 2 Golden Square, Duns  
  
 Postcode TD11 3AW  
 Contact Telephone 1 01361 882599  
 Contact Telephone 2  
 E-mail\* ra@richardamosltd.co.uk

Mark this box to confirm all contact should be through this representative:

Yes No

\* Do you agree to correspondence regarding your review being sent by e-mail?

Planning authority Scottish Borders Council

Planning authority's application reference number 19/00590/FUL

Site address Land North East of Hoprigshiel Farmhouse, Cockburnspath, Scottish Borders

Description of proposed development

Erection of Dwellinghouse and Agricultural Building

Date of application 26th April 2019

Date of decision (if any) 10th July 2019

Note: this notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

**Nature of application**

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

**Reasons for seeking review** (tick one box)

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

**Review procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions; and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

**Site inspection**

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- |  | Yes                                 | No                                  |
|--|-------------------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land?                                 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

**Statement**

You must state, in full, why you are seeking a review of your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

See attached Appeal Statement and supporting information.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes  No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

**List of documents and evidence**

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. Note: there will be no opportunity to submit further documents to accompany this notice of review.

A copy of the following:

The formal notice of Refusal.  
 The Plans submitted with the application.  
 The Supporting Statement, submitted with the application.  
 The Appeal Statement.

Note: the planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

**Checklist**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

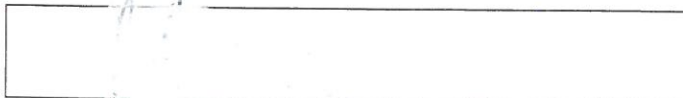
- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note: where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

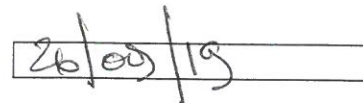
**Declaration**

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date



**The completed form should be returned to the Clerk of the Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA or sent by email to [localreview@scotborders.gov.uk](mailto:localreview@scotborders.gov.uk)**

## PLANNING APPEAL

**SITE ADDRESS:**  
Hoprigshiels  
Cockburnspath  
TD13 5YN

**PROJECT:**  
Proposed New Dwellinghouse

**APPLICANT:**  
Mr & Mrs S Phaup

**PLANNING REFERENCE:**  
19/00590/FUL

**DATE:**  
September 2019

## Contents

	Page
<b>1.0 – Introduction</b>	
1.1	3
1.2	3
1.3	3
1.4	3
1.5	4
1.6	4
<b>2.0 – Grounds of the Appeal</b>	
2.1	4
2.2	4
2.3	4
2.4	5
2.5	5
2.6	5
2.7	6
2.8	6 – 7
2.9	7
2.10	7
2.11	7
<b>3.0 – Conclusion</b>	
3.1	7
3.2	7
3.3	7
3.4	7
<b>Appendix A – Location of Approved Farmhouses Showing Relationship to the Original Farm</b>	

## 1.0 INTRODUCTION

- 1.1 Richard Amos Ltd, have been instructed Mr & Mrs S Phaup to submit an appeal to the Local Review Body, under Section 43A of the Town and Country Scotland Act 1997, against the Scottish Borders Councils delegated decision to refuse planning permission to erect a single dwelling house and farm building, on the farm access road at Hoprigshiels, Cockburnspath.
- 1.2 The ‘Supporting Statement’ submitted with the planning application confirms that the Phaup family have run the Farm for nearly 80 years and the applicants wish to move towards retirement, releasing the only dwelling on the Farm for a Farm Worker / Manager.
- 1.3 To avoid the potential refusal of the application, a pre-application enquiry was submitted:
  - a meeting was requested, *inter alia*, to ensure that an appropriate site could be identified.
  - this process took 2 weeks to register and over 19 weeks before an initial response was received from the Planning Department
  - the Planning Department did not visit the site and refused to have a meeting, which they deemed was not necessary and part of the pre-application fee was later refunded.
- 1.4 During the pre-application process, the Planning Department suggested that an addition to the ‘Hoprig Building Group’ may be appropriate, this was later discounted for the reasons, fully detailed in the ‘Planning Statement’ submitted with the application. A new dwellinghouse in this location would destroy the privacy and amenity of the adjacent dwellinghouse, would result in the removal of trees to form a new access, would be within close proximity of overhead powerlines and would be difficult to service.

Having accepted the above, during the application process, the Planning Officer concluded as follows:

- *“Further to our recent email exchange, I have now concluded my assessment of the proposals for a dwellinghouse at Hoprigshiels.*

*As per the advice provided at pre-app stage, the proposals do not satisfy Local Development Plan policy HD2 (Housing in the Countryside). The proposed site sits in isolation without any relationship to existing buildings. Whilst the principle of a new house at the farm can be accepted in line with the justification provided, the proposed site is not considered suitable. Other sites closer to the farm steading would be more appropriate locations for a new dwellinghouse. The proposals do not satisfy Local Development Plan policy HD2 (Housing in the Countryside), and this application cannot be supported.*

*I now anticipate that the application will now go forward for refusal in the coming days. If you client would prefer to withdraw the application, please advise before the end of this week.”*

At this juncture, the Planning Officer declined to identify any of the other sites, suggested as being more appropriate locations. Due to this and for the reasons identified and detailed in the ‘Planning Statement’ submitted with the application, the applicants considered the proposed site to be the most appropriate available location to build their retirement house, which is essential to the future operational needs of the Farm.



1.5 Representations:

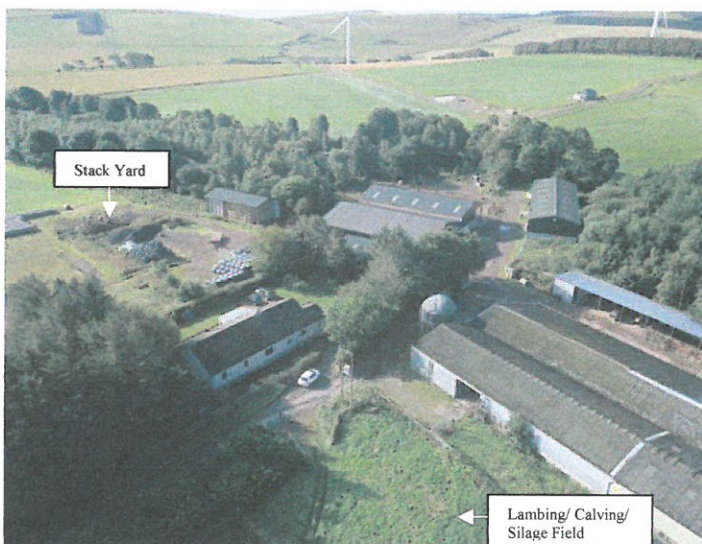
- During the application process, no objections were received from neighbours or the statutory consultees, which included the Community Council who have significant respect for the surrounding landscape and countryside. It is expected that the Community Council would have objected if they considered the site to be incongruous or inappropriately located.

1.6 The reasons for refusal:

- *“The proposed development would be contrary to Policy HD2 of the Local Development Plan 2016 and the New Housing in the Borders Countryside Guidance 2008 in that the proposed dwellinghouse and agricultural storage building would not have a visually sympathetic relationship with either the existing farm steading or the nearby building group; would result in sporadic rural development that would not relate sympathetically to the character of the surrounding landscape; and insufficient justification has been submitted demonstrating that a site more sympathetically related to the steading or building group is not available.”*

**2.0 GROUNDS OF THE APPEAL**

- 2.1 Hoprigshiels Farm Steading is not a ‘building group’ and is a very confined site and group of agricultural buildings, none of which are suitable for conversion to a dwellinghouse.
- 2.2 Expansion of the Farm Steading is logically to the East and as detailed in the ‘Planning Statement’, submitted with the application, there are no suitable areas for the construction of a dwellinghouse, which are not already in valuable agricultural use or will be required in the future, to expand the working area of the farming enterprise.
- 2.3 There is established woodland to the rear South, South East and West of the Farm Steading, which restricts further development, both on financial and ecological grounds.



View of Farm showing modern farm buildings and farmhouse, which is already enveloped due to natural expansion of the steading complex.

To the rear of the Farm there are wind turbines and an isolated control housing.

- 2.4 Open land to the South East is the main stack / farm yard and to the North East is a field used primarily for lambing and calving. Both areas are used for fodder storage to feed cattle during winter months.

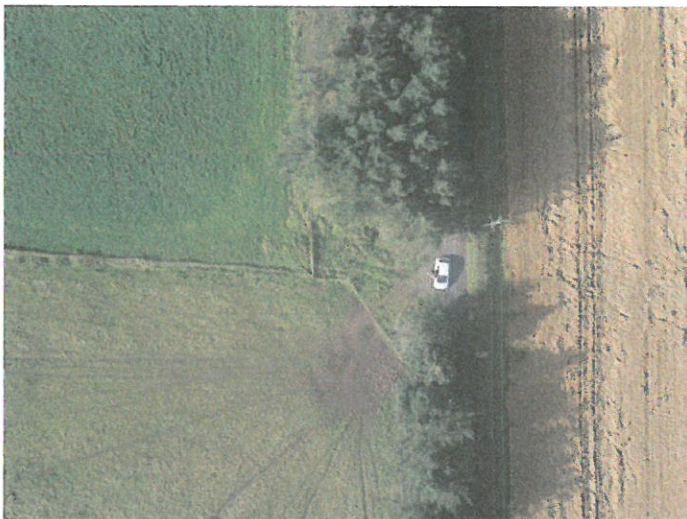


Land to South East used for fodder and implement storage. Mature shelter belt adjacent to existing Farmhouse.



Land to North West used for silage storage.

- 2.5 Land adjacent to the existing dwellinghouse is a mature sheltered belt of trees. It is at the first available gap in this shelter belt, at an existing field access from the private Farm road, that the proposed site is located.



Proposed site showing break in the shelter belt and location of proposed dwelling.

- 2.6 The site is not visible from any public access point and has no discernible impact on the landscape and can only be viewed from a very short section of the public roadway leading to Oldhamstocks. At this vantage point, the 'Planning Statement', submitted with the application, clearly shows that the dwellinghouse will have a backstop of mature trees, which will be higher than the proposed dwellinghouse. The application includes details of landscaping on the site which ensures that, within a short period of time, the new dwellinghouse will be barely visible. The proposed site, as planned, will be a visually sympathetic addition to the surrounding landscape. Unlike the wind turbines to the south, the site is in no way a prominent or skyline development, as the ground rises naturally to the West, which in conjunction with the shelter belt, provides a natural setting within the landscape.

- 2.7 The requirement for the dwellinghouse and farm building to be sympathetically related to the farm steading suggests that the house should be built nearer to the wind turbines, which undoubtedly can be a noise nuisance.

Policy HD2 restricts isolated new housing in the countryside, and specifically refers to ‘building groups’ and buildings capable of conversion. The proposed site cannot be seen from any discernible vantage point and as such will not appear as an isolated house in the countryside.

Regardless of this fact, Policy HD2 states that isolated new housing in the countryside can be accepted if “*it can be satisfactorily substantiated by an economic justification*”. It is the case and it has been substantiated and agreed that there is an economic justification for this dwellinghouse.

- 2.8 There are many instances of farmhouses approved, which understandably are not built particularly near to the farm steading and indeed some intensive farming uses require that the dwellinghouse be at least 300m from the steading.

The following are examples, brought to the attention of the case Officer at pre-application stage, of ‘new’ farmhouses / retiring farmers houses, some of which are erected in very prominent locations’, not relating to a building group or adjacent to an existing farm steading:

- **North Byres Park, Duns (07/00382/FUL):** Retiring Farmers house (not related to any Farm Steading or any ‘Building Group’ in an isolated location). Located over 7 miles from Farm.
- **Land South West of Langton Edge, Raecleughhead, Duns (07/02193/FUL):** Retiring Farmers house (approximately 1000m from Farm approved on Appeal). *See Appendix A (1).*
- **Rulesmains, Duns (04/00083/FUL):** Retiring Farmers house (over 700m from Farm Steading in isolated location). *See Appendix A (2).*
- **Scotston Park, Duns (98/01160/FUL):** Retiring Farmers house (over 220m from the public roadway and not related to any ‘Building Group’ or Farm Steading). Located over 4 miles from Farm.
- **The Maines Farmhouse, Chirnside (05/02070/FUL):** (Approximately 80m from a new Farm Building, not related to any ‘Building Group’ and is in a very prominent, isolated location). *See Appendix A (3)*
- **Fieldview Townhead Farm, Old Cambus (04/01762/FUL):** (Approximately 90m from the original Farm Steading). *See Appendix A (4).*
- **Land South of Fieldview, Townhead Farm, Old Cambus (11/01081/PPP):** (Over 300m from the original Steading and 210m from the retiring Farmers house, in a very prominent location). *See Appendix A (5).*
- **Glencairn, Hume, Greenlaw (06/01185/REM):** (over 250m from the Farm Steading in an isolated location). *See Appendix A (6).*

More recent and similar approvals include:

- **Thorneydykes, Westruther (17/01053/FUL):** New Farmhouse built away from the original steading and building group (over 350m), in the vicinity of recently constructed farm buildings. *See Appendix A (7).*
- **Greenlawdean, Greenlaw (11/01527/FUL):** Retiring farmers house, over 220m from the Farm Steading, approved under Appeal in 2012. *See Appendix A (8)*

More recent and similar approvals include: cont../

- **East Preston Farmhouse, Preston (11/01222/FUL):** New Farmhouse built approximately 550m from the public roadway in a prominent isolated location and approximately 150m from the nearest new farm building. *See Appendix A (9)*
- **Hunters Cairn Field, Burnhouses (04/02449/REM):** Retirement farmhouse built well away from the farm complex in an isolated location on the access road to the neighbouring farm. *See Appendix A (10)*

2.9 Planning Advice Note 72 (PAN72) – Housing in the Countryside:

- Whilst the design of the dwellinghouse is not in dispute, it should be appreciated that particular attention has been paid to the design and setting of the dwellinghouse to embrace the purpose of PAN72 to provide good quality rural housing.

2.10 The Design, Setting and Landscape:

- As detailed in the ‘Planning Statement’ submitted with the application, the design is appropriate to the locality, taking account of the local vernacular architecture, using natural stone, pantiles for the roof and reflecting good quality local building traditions, with a touch of innovative design.
- The design and setting contributes to the quality of the landscape, is not prominent or skyline, the house is designed and positioned to fit the site with minimal groundworks.
- The dwellinghouse is highly energy efficient with a very low carbon footprint.

2.11 PAN72 also recognises that housing out-with rural settings have a greater part to play in the regeneration of the rural economy. This house is essential to the future economic needs of the farm.

### 3.0 CONCLUSION

3.1 In conclusion the proposal complies with Policy PMD2 (Quality Standards) and HD2 (Housing in the Countryside).

3.2 Although the site is not visible from any vantage point, other than a small section of public roadway, approximately 500m away, the dwelling and the site have been designed specifically to respect the scale, mass and materials of the local vernacular architecture and with an agreed scheme of landscaping will relate sympathetically to the character of the surrounding landscape. The ‘Planning Statement’, submitted with the application details how and why the site was chosen and the sound reasoning behind the design and proposed landscaping.

3.3 The chosen site is the most appropriate, available location for the applicant’s retirement home. The dwellinghouse is essential to the future economic and operational needs of the Farm, allowing the applicant to monitor the access and be within short walking distance of the steading.

3.4 The policy regarding the siting of individual houses in the countryside has not changed significantly over the years and is currently under review to potentially allow more appropriately designed, individual houses within the countryside. To be consistent with previous approvals (some of which are attached), including decisions of support from the Review Body and Scottish Government, we submit that the delegated decision to refuse the application should be overturned.