



**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)	Agent (if any)
Name Walter Douglas	Name Smith & Garratt
Address Carlenrig Farm	Address The Guildhall, Ladykirk
Postcode TD9 0LH	Postcode TD15 1XL
Contact Telephone 1	Contact Telephone 1 [REDACTED]
Contact Telephone 2	Contact Telephone 2 [REDACTED]
E-mail*	E-mail* [REDACTED]
	Mark this box to confirm all contact should be through this representative: <input checked="" type="checkbox"/>
	Yes No
* Do you agree to correspondence regarding your review being sent by e-mail?	<input checked="" type="checkbox"/> <input type="checkbox"/>

Planning authority Scottish Borders Council  
 Planning authority's application reference number 19/00514/FUL  
 Site address Land south west of Carlenrig Farm, Teviothead, Hawick

Description of proposed development Erection of one dwelling for agricultural purposes within a commercial agricultural unit.

Date of application 5/4/19 Date of decision (if any) 9/9/19

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 checked="" type="checkbox"/> | <input 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 separate document.

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

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

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.

Reasons for Notice of Review  
 Appendix I - Decision Notice  
 Appendix II - Officer's Part III Report  
 Appendix III - Details of Proposal  
 Appendix IV - Photomontages  
 Appendix V - Budget from Business Case  
 Appendix VI - Details of Application 19/01648/FUL

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



A. H. GARRATT  
 113 FRICS F&AV

Date

7/12/19.

**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)**

**Appeal to Local Review Body**

**On Behalf of Walter Douglas, in Respect of Scottish Borders Council Decision 19/00514/FUL**

**Erection of Dwellinghouse, Land South West of Carlenrig Farm, Teviothead, Hawick**

**Reasons for Notice of Review**

I, Alexander Hugh Garratt LL.B FRICS F.A.A.V., senior surveyor at Smith & Garratt – a surveying firm based in Ladykirk, near Berwick-upon-Tweed – acting on behalf of Walter Douglas (hereinafter referred to as ‘the Appellant’), wish to provide the following statement of the reasons for submitting a Notice of Review. I hold a Bachelor of Laws with Honours, am a Fellow of the Royal Institution of Chartered Surveyors (‘RICS’), an RICS-registered valuer of real property, and a Fellow of the Central Association of Agricultural Valuers. I qualified as a rural practice surveyor in the mid-1980s, spent 20 years as the resident agent or resident factor on rural estates, and have been working with Smith & Garratt in the North of England and Southern Scotland for about sixteen years. The firm specialises in planning and development work, historic buildings and heritage work, and the provision of private-client surveying services.

**FACTS**

This review is in respect of an application for a single dwelling for an agricultural worker, refused by the Planning Department on 9<sup>th</sup> September 2019 for the reasons given in the decision notice exhibited at Appendix I. The Case Officer’s Report of Handling is exhibited at Appendix II. Drawings of the proposal are exhibited at Appendix III; photomontages are exhibited at Appendix IV; the Business Case is exhibited at Appendix V; farm maps are exhibited at Appendix VI. Materials relating to application 19/01648/FUL are exhibited at Appendix VII.

The need for a dwelling arose in unusual circumstances. The Appellant was for many years a secure agricultural tenant farming 1,300 acres, mainly for sheep. He is a renowned breeder of South Country Cheviots and has achieved some astounding results at pedigree sales. Until recently, he and his family lived in the farmhouse at Carlenrig, which has a range of farm buildings. A couple of years ago the landlord, Buccleuch Estates, intimated its wish to resume the holding for forestry. During negotiations concerning this resumption, landlord and tenant agreed that:

1. The whole farm would be resumed.
2. The outgoing tenant, not being ready to retire, would buy the best 136 acres – being the low ground or ‘in-byce’, which is both the least suited to forestry and the best ground for farming, notably for the pedigree flock.
3. The farmhouse and steading would be sold to provide a source of cash to enable the deal to go ahead (i.e. partly to fund tenant’s compensation for quitting, which would be used to buy and equip the 136-acre farm).
4. The outgoing tenant would continue to farm the balance of the land to be planted with trees, under a modern agreement without security of tenure, until it could be planted – which would take ten years commencing in the winter 2020/21 ... whereupon he would either reduce his commercial flock or take new ground elsewhere.

These plans have been put into effect. The map at Appendix V shows the 136 acres now owned by the Appellant. It will be noted that the farm’s sheep bank (handling facility) is within the Appellant’s land. The Appellant and his wife

have a caravan in the adjacent field and have the use of temporary rented accommodation in a nearby village; their children have left the farm for now. The adjacent field is known as Pump Park because it contains Carlenrig's old spring water supply – now redundant other than for supplying water troughs for livestock. Pump Park was selected as the site for development of a new farm building and a farm worker's dwelling because it already contains the fank; it is central to the 136-acre block; it is beside the only road and has good access, including access to the fank and to fields to the south and the only access suitable for feed lorries and livestock hauliers; supplies of water and electricity are nearby; and it is south-facing, so is a warmer, healthier place to house livestock. No other location has these advantages.

In April 2019 the Appellant gave notice of his intention to erect a livestock/general purpose agricultural building near to the fank by exercise of his permitted development rights. At the same time, he applied for full planning permission to erect a simple dwelling as a replacement for the farmhouse, sited beside the access to the fank and building. It was hoped these two structures would be erected in time for the 2019/20 winter, but the Planning Department blocked the use of permitted development rights and refused permission for the dwelling. The reasons for the refusal are examined below. The Planning Department took more than six months to determine that pair of proposals, which has left a fully stocked 1,300-acre farm without accommodation for an on-site attendant and without anywhere to store winter fodder. The only building on the farm – the small tin shed at the fank, an isolation unit for sick sheep – makes an inadequate centre of operations. The resultant reduction in stock care and reliance on bought-in feed are having a devastating effect on the business.

The appeal route following refusal of a full application for a single dwelling is to the LRB. The appeal route following the blocking of an agricultural notice is to DPEA. The Appellant decided to seek review in respect of the dwelling and, having made that decision, it became expedient to make a full application in respect of the barn so that, if refused, both could be sent for local review. This Notice of Review was held back, and on 21<sup>st</sup> November 2019 the Appellant's application for full planning permission for the same agricultural building in a different location in Pump Park was validated; its reference is 19/01648/A/UL. If application 19/01648/A/UL is not determined by 17<sup>th</sup> January 2020 or is refused, it will become the subject of another notice of review. The Appellant would like to make it clear that the purpose of this current Notice of Review – in respect of the agricultural worker's dwelling – is to get the proposal for the dwelling before the Local Review Body ('LRB') just after approval of the second barn proposal, so it can be reviewed in the knowledge that farm operations are to be centred in Pump Park; or alternatively to bring a review of refusal or non-determination of the proposal for the barn together with this review, so the LRB can review and determine the whole scheme at one sitting.

#### **THE PLANNING OFFICER'S PART III REPORT, INCLUDING REPORT OF HANDLING**

The Planning Officer's report is exhibited at Appendix II. It will be noted that the report covers both the dwelling and the agricultural building.

The report confirms that there is no problem with the principle of an agricultural building on agricultural land; and it raises no concerns with the design or materials.

The report confirms that there is no problem with the scale, design and materials of the proposed dwelling; and, taking account of the council's Economic Development Department's analysis of the business case submitted with the application (Appendix V), there is no problem with the principle of an agricultural worker's dwelling on the Appellant's 136-acre unit ... and no problem at all on a unit of 1,300 acres. The report states that the 136-acre unit is viable; will provide a living for an agricultural worker; needs the input of sufficient labour-hours to justify the employment of an agricultural worker; and, being a stock farm, justifies the erection of an agricultural worker's dwelling to house a livestock attendant on the farm ... and all parties agree that a s.75 Agreement would be used to tie the agricultural worker's dwelling to the 136 acres. But having made this declaration, the Planning Officer proceeds to wrestle with the principle on grounds that (i) the 1,300-acre farm did have a suitable dwelling until the holding was broken up; and (ii) when the forestry planting is complete – in 2030 – the Appellant might retire, and his children may choose not to succeed him; or the economics of pedigree sheep farming may change with the effect that the 136-acre unit would fail the viability test it passes today. The Planning Officer attempts to reconcile his doubts, postulating (i) that the loss of Carlenrig House was not the Appellant's fault and, as the break-up of the holding produced a 'new' viable unit, and as the new unit is without a dwelling / a building to convert / or a plot within a building group, the principle allows the operation of Policy HD2(1) and thus the erection of a dwelling; and (ii) there is always a risk of any farmer retiring without a successor, and a risk that economics might change ... although these risks could be balanced by the fact that the Appellant does have children, and one shouldn't assume the economics of pedigree sheep farming will always change for the worse ... so this is no reason to refuse an application for the erection of a farm worker's dwelling. In the end, the report clearly indicates that the Planning Officer is uncomfortable applying the accepted principle in this case. A key passage says:

*"The two applications - farmhouse and farm building - were made at the same time, but the AGN application requires to be processed within a period of 28 days unless permitted development rights (PD rights) are removed, as indeed they now have been in this particular case.*

*Given that both applications relate to the same larger proposal to establish a new farm steading at, and within the wider area of the two sites, they are, I consider, reasonably considered and determined at the same time as each other, to allow for appropriate scrutiny to be given by the Planning Authority to this overarching proposal - the need for, and the particular proposed siting of, a new farm steading in this particular location. Otherwise a new farm steading could be precipitated by the operation of the AGN process, were a new farm building to become established in an isolated location without any scrutiny of the need for this isolation first having been considered directly by the Planning Authority (that is, were the AGN application not to have been stopped within 28 days of the AGN application first having been made). The presence of this permitted farm building would then be a material consideration within the assessment of any application for a proposed new dwellinghouse for a farm worker, at least in terms of site selection. In essence, the Planning Authority would be at risk of having to respond 'after the fact' to the physical establishment of a completely new farm steading within its consideration of the application for the proposed new farmhouse, if agricultural permitted development rights had not been removed.*

*There is however a reasonable concern in planning terms, to scrutinise the need for, and siting of, a completely new farm steading, rather than this being something that might be allowed to form almost incidentally, through the operation of Agricultural Permitted Development Rights. Otherwise a new base of farming operations might become sufficiently well-established around the operation of one or more farm buildings, without the reasoning informing the concern to establish a new steading in the first place having been subjected to any direct scrutiny by the Planning Authority.*

*Accordingly, and to allow for this wider consideration, I have seen fit to require the removal of Agricultural Permitted Development Rights in the case of the AGN proposal. This enables the two proposals - new farmhouse and new farm building - in a location isolated from the traditional farm steading at Carlenrig Farm, Teviothead, to be considered in tandem."*

In short, whilst the Planning Officer cannot fault the proposals on policy grounds, he criticises them because they were submitted after the break-up event and included giving notice of an intention to use permitted development rights, which he construes as an attempt to avoid the proper scrutiny of the planning system. He explains that this is the reason he chose to block the use of permitted development which, of course, provided him with the opportunity to scrutinise the proposals. The Appellant is affronted by the insinuation that he attempted to by-pass the planning system. He asks, firstly, what are his permitted development rights for, if not to permit the erection of an agricultural building on agricultural land; and secondly, is it not common knowledge that the notification procedure allows a planning authority to intervene if it wants to scrutinise a proposal?

The obvious inference is that, had the Planning Department been comfortable with proposals for the dwelling, it would not have objected to the use of permitted development rights and the farm building would have been erected, which would have helped to quell any opposition to the grant of permission for the dwelling. Thus any planning officer who felt this was an attempt to obtain planning permission for the erection of a dwelling by the back door would have found it necessary to block the farmer's permitted development rights – which is what happened. The question is, was this Planning Officer right to block the farmer's permitted development rights in order to make it easier for him to recommend refusal of the dwelling? The Appellant says not. Farmers enjoy permitted development rights for a reason ... which is partly to avoid the situation currently faced by the Appellant and his sheep, i.e. being without shelter and feed storage at the onset of winter. The planning authority had the ability to scrutinise the planning application in respect of the dwelling whether or not it allowed the farmer to exercise his permitted development rights in respect of the barn.

The key policy in the Local Plan relating to housing in the countryside for use by those who need to live in the countryside is Policy HD2(1<sup>a</sup>) – set out below:



#### (F) ECONOMIC REQUIREMENT

Housing with a location essential for business needs may be acceptable if the Council is satisfied that:

- a) the housing development is a direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and it is for a worker predominantly employed in the enterprise and the presence of that worker on-site is essential to the efficient operation of the enterprise. Such development could include businesses that would cause disturbance or loss of amenity if located within an existing settlement, or
- b) it is for use of a person last employed in an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and also employed on the unit that is the subject of the application, and the development will release another house for continued use by an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and
- c) the housing development would help support a business that results in a clear social or environmental benefit to the area, including the retention or provision of employment or the provision of affordable or local needs housing, and
- d) no appropriate site exists within a building group, and
- e) there is no suitable existing house or other building capable of conversion for the required residential use.

In **ALL** instances in considering proposals relative to each of the policy sections above, there shall be compliance with the Council's Supplementary Planning Guidance where it meets the terms of this policy and development must not negatively impact on landscape and existing communities. The cumulative effect of applications under this policy will be taken into account when determining impact.

The policy supports the erection of an agricultural worker's dwelling on the 136-acre farm at Carlenrig because:

- a) It *is* a direct operational requirement of an agricultural enterprise that *is* appropriate to the countryside and *is* for a worker predominantly employed there and the presence of that worker *is* essential to efficient operation.
- b) It *could be* for a retired agricultural worker when the Appellant retires.
- c) The development *does* help support a business, resulting in a clear social and environmental benefit to the area, including the retention of employment.
- d) No appropriate site exists in a building group.
- e) There is no existing house or other building capable of conversion for the required residential use.

The Planning Officer's opportunity for mischief arises from the rider, which states *inter alia* that the proposal must not impact negatively on the landscape. We note that the reasons for refusal are:

- (i) *the development would not in its siting, respect the amenity and character of the site and surrounding area, principally by resulting in new development that would be unnecessarily and unacceptably over-dominant within the landscape by interrupting the skyline in views from the public realm; and*

*(ii) it has not been demonstrated within the supporting details that the proposal would not be accommodated in an overly-contrived and artificial way, relative to the existing natural ground levels, and/or that any such visual impacts resulting from any extensive and significant alterations to ground works would be acceptably mitigated within views from the public realm; and*

*(iii) it would in combination with the development proposed by Prior Notification 19/00515/AGN, also contribute to a highly visible spread of development across the skyline, which would in its randomly-spaced and dispersed form, register as an unusually prominent and incongruous form of development, which would be notably out-of-keeping with the rural character of the surrounding landscape; an effect that would be exaggerated by any overly-contrived and artificial accommodation of the building.*

These reasons relate entirely to landscape. The council has a Landscape Officer whose job it is to assist planning officers in cases where impact on landscape may be an issue. The Planning Officer's ability to recommend refusal of the application turned on landscape issues alone; and it is surprising that he was permitted to do so without any consultation with the Landscape Officer. That was not through lack of time – it took the Planning Department more than six months to determine the application. The Appellant believes the Planning Officer took matters into his own hands and recommended refusal, using impact on landscape as a foil, because he was piqued at the idea that the Appellant had tried to force the planners' hands by exercise of a farmer's permitted development rights. This was not the case. The Appellant's needs are genuine, and the most common way for a farmer to build a barn is by using permitted development rights.

The photomontages at Appendix IV show the reality – the development will be barely visible at a distance of not less than 536 metres from the un-screened parts of a 210-metre stretch of the A7. The stretch of road in question is an overtaking straight, so drivers may not be using their peripheral vision to appraise the landscape. The development will not be seen at night or in poor weather. The A7 corridor is characterised by dispersed farms and communities. The Appellant submits that his proposals do not impact negatively on the landscape, so the proposals comply with policy HD2(1<sup>i</sup>) and should be supported.

#### **CASE ON BEHALF OF THE APPELLANT**

There is no doubt that the Appellant needs both an agricultural building and a dwelling on his 136-acre farm ... even more so as he is still farming 1,300 acres. The Part III report clearly states that there is no problem with the principle of erecting an agricultural worker's dwelling; and the scale, design and materials of this one are acceptable. It also states that there is no problem with the principle of erecting an agricultural building on agricultural land, and there are no issues with the design and materials of the barn in question ... but the farmer's ability to erect the building was blocked to lessen the justification for the dwelling, and permission for the dwelling was refused on landscape grounds, being the only grounds available to an unwilling planning authority in the face of a fully justified need for an agricultural worker's dwelling. Yet the landscape issues were not contentious enough to require the attention of the council's Landscape Officer.

The Appellant continues to suffer considerable economic loss and inconvenience. By the time the LRB considers the merits of this Notice of Review all parties will know whether application 19/01648/FUL has been approved or is also subject to review, and thence whether members are being asked to consider the merits of the proposal to build an agricultural worker's dwelling in Pump Park or the merits of building both the dwelling and a barn. Whichever it is, the key points will be:

- (i) whether the proposed development really is unnecessarily and unacceptably over-dominant within the landscape by interrupting the skyline in views from the public realm;
- (ii) whether the proposal would be accommodated in an overly contrived and artificial way, relative to the existing natural ground levels, and that any visual impact resulting from ground works would be acceptably mitigated within views from the public realm; and
- (iii) whether the buildings would, in combination, also contribute to a highly visible spread of development across the skyline, which would, in its randomly-spaced and dispersed form, register as an unusually prominent and incongruous form of development, notably out-of-keeping with the rural character of the surrounding landscape.

#### **PLANNING CONDITIONS/ AGREEMENTS**

No conditions have been proposed. The Appellant agrees that the agricultural dwelling should be tied to his 136-acre farm using a s.75 Agreement, the effect of which would be to bind the whole as a single planning unit, its ownership to be transferred only as a single Title.

#### **PLEA**

The Appellant craves that this appeal is allowed and planning consent for application reference 19/00514/FUL is granted subject to entry into a suitable s.75 Agreement.

Prepared 7<sup>th</sup> December 2019 by:

**A H Garratt LL.B FRICS FAAV**



**The Guildhall, Ladykirk, Berwickshire, TD15 1XL.  
Tel: 01289 382209 / 07702 091626.  
E-mail: ahg@smithandgarratt.com**



Mr Walter Douglas  
per Smith & Garratt Rural Asset Management  
The Guildhall  
Ladykirk  
Scottish Borders  
TD15 1XL

**Please ask for:** Stuart Herkes  
01835 825039  
**Our Ref:** 19/00514/FUL  
**Your Ref:**  
**E-Mail:** sherkes@scotborders.gov.uk  
**Date:** 11th September 2019

Dear Sir/Madam

**PLANNING APPLICATION AT Land South West of Carlenrig Farm Teviothead Hawick  
Scottish Borders**

**PROPOSED DEVELOPMENT: Erection of dwellinghouse**

**APPLICANT: Mr Walter Douglas**

Please find attached the formal notice of refusal for the above application.

Drawings can be found on the Planning pages of the Council website at  
<https://eplanning.scotborders.gov.uk/online-applications/>.

Your right of appeal is set out within the decision notice.

Yours faithfully

John Hayward

Planning & Development Standards Manager



*Regulatory Services*

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)**

**Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013**

**Application for Planning Permission**

**Reference : 19/00514/FUL**

**To : Mr Walter Douglas per Smith & Garratt Rural Asset Management The Guildhall Ladykirk  
Scottish Borders TD15 1XL**

With reference to your application validated on **10th April 2019** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

**Proposal : Erection of dwellinghouse**

**At : Land South West of Carlenrig Farm Teviothead Hawick Scottish Borders**

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s) stated on the attached schedule**.

**Dated 9th September 2019  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**John Hayward  
Planning & Development Standards Manager**

Visit <http://eplanning.scotborders.gov.uk/online-applications/>

**APPLICATION REFERENCE : 19/00514/FUL**

**Schedule of Plans and Drawings Refused:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
201	Proposed Plans	Refused
202	Proposed Plans	Refused
401	Proposed Elevations	Refused
402	Proposed Elevations	Refused
403	Proposed Elevations	Refused
404	Proposed Elevations	Refused
001B	Location Plan	Refused

**REASON FOR REFUSAL**

- 1 The proposal is contrary to Adopted Local Development Plan Policies HD2 and PMD2, in that:
  - (i) the development would not in its siting, respect the amenity and character of the site and surrounding area, principally by resulting in new development that would be unnecessarily and unacceptably over-dominant within the landscape by interrupting the skyline in views from the public realm; and
  - (ii) it has not been demonstrated within the supporting details that the proposal would not be accommodated in an overly-contrived and artificial way, relative to the existing natural ground levels, and/or that any such visual impacts resulting from any extensive and significant alterations to ground works would be acceptably mitigated within views from the public realm; and
  - (iii) it would in combination with the development proposed by Prior Notification 19/00515/AGN, also contribute to a highly visible spread of development across the skyline, which would in its randomly-spaced and dispersed form, register as an unusually prominent and incongruous form of development, which would be notably out-of-keeping with the rural character of the surrounding landscape; an effect that would be exaggerated by any overly-contrived and artificial accommodation of the building.

**FOR THE INFORMATION OF THE APPLICANT**

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice.

The notice of review must be submitted on the standard form and addressed 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). The standard form and guidance notes can be found online at [Appeal a Planning Decision](#). Appeals to the Local Review Body can also be made via the Scottish Government Planning and Environmental Appeals Division by clicking on the following link [PEAD](#)

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Visit <http://eplanning.scotborders.gov.uk/online-applications/>

**SCOTTISH BORDERS COUNCIL**

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

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

**REF :** 19/00514/FUL  
**APPLICANT :** Mr Walter Douglas  
**AGENT :** Smith And Garratt Rural Asset Management  
**DEVELOPMENT :** Erection of dwellinghouse  
**LOCATION:** Land South West Of  
Carlenrig Farm  
Teviothead  
Hawick  
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>
201	Proposed Plans	Refused
202	Proposed Plans	Refused
401	Proposed Elevations	Refused
402	Proposed Elevations	Refused
403	Proposed Elevations	Refused
404	Proposed Elevations	Refused
001B	Location Plan	Refused

**NUMBER OF REPRESENTATIONS: 0**  
**SUMMARY OF REPRESENTATIONS:**

No representations.

Economic Development Section: has reviewed the business supporting case, and has advised - further to a point of clarification being addressed with respect to the amount of farmland owned by the Applicant - that the Economic Development Section does not have any objection, on the basis of its opinion that the proposal complies with Housing in the Countryside Policy HD2(F) Economic Requirement, given the information supplied with the application. In an earlier email, Economic Development explicitly advised that the Applicant's figures are realistic and should be achievable on the acreage identified in the schedule of 136 acres owned.

Roads Planning Section: advises that provided the Planning Department consider that there is sufficient economic justification to support a dwelling in this rural location, Roads Planning does not object subject to a condition being imposed to require that parking and turning for a minimum of two vehicles, excluding garages, be provided within the curtilage of the plot, prior to occupation and then be retained thereafter, and in perpetuity, unless otherwise agreed. This is to ensure that satisfactory off-street parking, is provided for the dwellinghouse.

Archaeology Section: recommends that the sites of both the proposed farm building and the farm house be stripped in advance of development, under archaeological supervision, and a condition requiring the prior agreement of a Written Scheme of Investigation (WSI) be imposed, to require, guide and regulate the archaeological investigations.

Upper Teviotdale & Borthwick Water Community Council: advises that he supports the application.

Education and Lifelong Learning: has been consulted, but has not responded to the public consultation.

**PLANNING CONSIDERATIONS AND POLICIES:**

LOCAL DEVELOPMENT PLAN - Adopted Scottish Borders Local Development Plan (2016)

PMD1: Sustainability  
PMD2: Quality Standards  
HD2: Housing in the Countryside  
HD3: Protection of Residential Amenities  
EP8: Archaeology  
IS2: Developer Contributions  
IS7: Parking Provision and Standards  
IS9: Waste Water Treatment and Sustainable Urban Drainage

SBC Supplementary Planning Guidance: New Housing in the Borders Countryside (approved December 2008)  
SBC Supplementary Planning Guidance: Development Contributions (approved April 2015)  
SBC Supplementary Planning Guidance: Householder Developments (approved July 2006)  
SBC Supplementary Planning Guidance: Place-Making and Design (approved January 2010)  
SBC Supplementary Planning Guidance: Waste Management (approved 2015)

**Recommendation by** - Stuart Herkes (Planning Officer) on 9th September 2019

This is a joint Report of Handling on Planning Application 19/00514/FUL for a new dwellinghouse, and Application for Prior Notification 19/00515/AGN for a new farm building. Both applications relate to an overarching proposal to establish a new farm steading, around 200m to the southwest of the existing steading at Carlenrig Farm near Teviothead, for the purpose of managing a holding which is itself to be substantially based on land that was previously managed from Carlenrig Farm.

**SITE DESCRIPTION**

The sites are themselves about 100m apart, and are both areas of open but sloping land within the same field. The site of the proposed farm building (19/00515/AGN) is the more southerly and westerly of the two; conversely that of the proposed farmhouse (19/00514/FUL), is the more northerly and easterly.

The field which contains both sites, predominantly slopes downwards from southwest to northeast. The highest part of the field is its westernmost corner. This accommodates a sheepfold, including a shed. A single track public road (D28/3) delimits the field's northwestern boundary, and provides direct access to the aforementioned sheepfold.

The site of the proposed farm building (19/00515/AGN) lies higher in the landscape than the site of the proposed house. It lies more specifically, at the top end of the aforementioned field, below the public road, and immediately adjacent to (downslope of, and to the northeast of) the sheepfold, such that it could be accessed directly from the public road, were a section of dry stone wall to be removed to facilitate this access. Since the public road is not classified, the proposed farm building is appropriately progressed under an AGN (that is, despite being within 25m or less of the road).

The site of the proposed farmhouse (19/00514/FUL) lies downslope from, and to the northeast of, the site of the proposed farm building. Unlike the latter, it is not directly adjacent to the public road, but instead, lies completely within the field and is only accessible via a farm track, which is itself accessible from the public



road, via a field access which lies at the northernmost corner of the field. This site, the proposed site of the dwellinghouse, is larger than that of the proposed farm building; and contains more steeply sloping land.

Both sites lie roughly 200 to 250m from, and to the southwest of, the existing farmhouse and steading at Carlenrig Farm. The latter lies on the opposite side of both the public road and a mature stand of trees from the field, and is the historic and established farm from which Carlenrig Farm, including the field, has been managed. However, the Applicant's concern is that the proposals should establish a new farm steading which would take over the operation of many areas that were previously farmed from Carlenrig Farm, and which along with the site, are now within the Applicant's own ownership.

#### PROPOSED DEVELOPMENT

Planning Application 19/00514/FUL ('the FUL application') proposes a new dwellinghouse in an isolated rural location, specifically to allow an existing farm operator to be accommodated on site, for the purpose of overseeing the operation of a new agricultural holding, which is substantially based upon that which was previously operated from the existing buildings at Carlenrig Farm. In point of fact, excepting the aforementioned farmhouse and farm buildings, the Applicant is at this point in time, still operating the entire former holding that was operated from Carlenrig Farm; which is to say, 1,300 acres. However, the majority of this land is now being worked under lease.

The proposed new house is of a relatively simple design, more reminiscent of a farm cottage than a farmhouse in its form, but which utilises more contemporary materials in housebuilding terms - specifically timber-cladding and profiled metal sheeting - notwithstanding that these materials also recall agricultural building designs and finishes. It would be orientated, in alignment with the general slope of the land, downwards from southwest to northeast; albeit that the predominant slope within the site, and in the general vicinity, is more strongly from northwest to southeast at this point. As a greenfield site, surrounded by field, it would register as an isolated structure, at least until such time as any new farmyard were to develop around or adjacent to it.

Application for Prior Notification 19/00515/AGN ('the AGN application') proposes a new farm building next to the aforementioned existing sheepfold, and about 100m to the southwest of, and upslope of, the site of the proposed farmhouse. The proposed building is a typical farm shed in its design and finished appearance, with spacer board walls and slate grey fibre cement sheeting roof.

Both site plans for these proposals appear to describe new access tracks within the intervening space, one of which would run from an existing site access to the northeast of, and downslope of, the site of the proposed farm building; the other from the existing northern agricultural access to join up with this other track. However, no other farmyard areas or uses are identified within the area between the two sites.

#### TECHNICAL CONSIDERATION

The two applications - farmhouse and farm building - were made at the same time, but the AGN application requires to be processed within a period of 28 days unless permitted development rights (PD rights) are removed, as indeed they now have been in this particular case.

Given that both applications relate to the same larger proposal to establish a new farm steading at, and within the wider area of the two sites, they are, I consider, reasonably considered and determined at the same time as each other, to allow for appropriate scrutiny to be given by the Planning Authority to this overarching proposal - the need for, and the particular proposed siting of, a new farm steading in this particular location. Otherwise a new farm steading could be precipitated by the operation of the AGN process, were a new farm building to become established in an isolated location without any scrutiny of the need for this isolation first having been considered directly by the Planning Authority (that is, were the AGN application not to have been stopped within 28 days of the AGN application first having been made). The presence of this permitted farm building would then be a material consideration within the assessment of any application for a proposed new dwellinghouse for a farm worker, at least in terms of site selection. In essence, the Planning Authority would be at risk of having to respond 'after the fact' to the physical establishment of a completely new farm steading within its consideration of the application for the proposed new farmhouse, if agricultural permitted development rights had not been removed.

There is however a reasonable concern in planning terms, to scrutinise the need for, and siting of, a completely new farm steading, rather than this being something that might be allowed to form almost incidentally, through the operation of Agricultural Permitted Development Rights. Otherwise a new base of farming operations might become sufficiently well-established around the operation of one or more farm buildings, without the reasoning informing the concern to establish a new steading in the first place having been subjected to any direct scrutiny by the Planning Authority.

Accordingly, and to allow for this wider consideration, I have seen fit to require the removal of Agricultural Permitted Development Rights in the case of the AGN proposal. This enables the two proposals - new farmhouse and new farm building - in a location isolated from the traditional farm steading at Carlenrig Farm, Teviothead, to be considered in tandem.

#### AGRICULTURAL BUILDING

Given that Application for Prior Notification 19/00515/AGN proposes an agricultural building on agricultural land, there are no concerns in principle. Assessment of this proposal is instead confined to whether or not its siting, design and external appearance, are otherwise appropriate.

A practical consideration is whether or not a new farm steading should be established at this site at all, given that the land is understood to belong within a holding that has traditionally been farmed from Carlenrig Farm, which lies around 200m to the northeast. Putting to one side the distance between the proposed farm building and proposed farmhouse, (which requires, and is given, direct consideration below, as an ulterior concern), I am content in the first instance, that the assessment of the need for a new farm building - away from the traditional centre of farm operations at Carlenrig Farm - is now reasonably related directly to the Applicant's overall case for proposing to site a new farmhouse away from Carlenrig Farm in the first place.

If it is ultimately accepted that the Applicant has a justification for siting a new farmhouse at the site (away from Carlenrig Farm), then it might reasonably follow that he would then have a reasonable ulterior need to construct and operate new farm sheds in relation to this new farmhouse. As such, I am content that the assessment of the principle of a new farm being established at the site, now reasonably follows from an assessment of the Applicant's need for a new farmhouse.

However, beyond this principle though, there is a need for an assessment of the specific site and whether or not the proposed specific farm building would otherwise be acceptably accommodated on the specific site identified. Given that there are similar and cumulative considerations relating to the landscape and visual impacts of the two proposals, I will return to these below, further to a consideration of the principle of the need for a new farmhouse - essentially a replacement farmhouse - being established at Carlenrig Farm.

#### PLANNING PRINCIPLE

Planning Policy HD2 only provides support for new isolated dwellinghouses in the countryside where there is a demonstrated business need for a worker in that business, to be accommodated on a permanent basis on the site, to meet a direct operational requirement of that same business, and only where that business itself has a need to be sited and operating in the rural location concerned. Agriculture is directly identified as being a business that is liable to be in this position.

The Applicant was asked, and has ultimately provided, a business case which is intended to address the Planning Authority's concern to establish if the proposed house would allow for the accommodation on site of a full-time agricultural worker, who is required on site on a full-time basis to oversee the operation of that same agricultural business. This aspect of the Applicant's supporting case is considered below, under the heading 'Business Justification'.

It is also an explicitly stated requirement of Policy HD2, that there should be no more suitable existing buildings on site to accommodate this need, and no opportunities to accommodate the need within an existing building group. As such, and ahead of considering the Applicant's business justification, there is first a need to consider whether or not what is proposed here, could not have been more reasonably and readily met elsewhere within the surrounding area, and in this specific context, at Carlenrig Farm itself, until relatively recently, the farm's base of operations.

Ultimately, and in order for the principle of a new farmhouse to be supported at the site, it would need to be established not only (a) that there is a need for a new farmhouse to accommodate a viable agricultural business with a need for a full-time agricultural worker to be accommodated on site, but also (b) that this accommodation need could not be met more acceptably in planning terms, at Carlenrig Farm (if not within the existing farmhouse or within another - potentially converted - farm building at that same steading, then on adjacent land), such as to allow the Applicant to continue to operate from the established base of agricultural operations at Carlenrig Farm; and allow any new-builds to be accommodated within, or in relation to, an existing group of buildings, thereby mitigating against any unnecessary spread of development into the open countryside.

As such, and in addition to (and within) the concerns to establish if the proposal is supported by an appropriate business justification, and whether or not appropriate consideration has been given to the proposed site relative to other alternative sites for the proposal, regard is necessarily had in the first instance, to the disposal of the existing farm at Carlenrig Farm itself.

#### LOSS OF EXISTING FARMHOUSE AND STEADING BUILDINGS

There is already an existing farmhouse, as well as a farmyard at Carlenrig Farm, around 200m to the northeast of the application site. These are understood to have been, and until very recently, respectively, the former home and former base of operations of the Applicant and his farming business. However, the Applicant's agent has advised that the previous land owner, Buccleuch Estates, has now sold off the existing farmhouse and farm steading to a third party, while allowing the Applicant, their former agricultural tenant, to buy some of the land he had previously been operating under his tenancy at Carlenrig Farm. It is advised however, that he was himself, unable to acquire the existing farmhouse or farm buildings as well, and consequently - having bought the farmland - now finds himself in a position whereby he now has no existing base of operations on the site; besides that is, the aforementioned sheepfold already noted above; the only farm building in the field where he now proposes to site both the new farmhouse and farm shed.

An Applicant in these circumstances, is reasonably required to account for how it is that an existing and serviceable farmhouse and steading which have been the traditional and long-term base of operations of the farm, are now no longer available for occupancy and use.

In this case, the answer to this, appears to be that the land owner - who is a different party to the Applicant - has seen fit to sell off the existing farm and steading separately from the holding. As such, there is now no existing farmhouse or farmyard associated with the land.

It would be clear that a land owner's concern to sell off such buildings for financial reasons, is not in itself an acceptable justification in planning terms, for supporting the formation of a new steading. In point of fact, there was a clear and reasonable need in this instance, for someone (the land owner and/or the Applicant) to establish, first of all - and in advance of any breaking up of the existing agricultural holding, and sale or purchase of any constituent parts of it - whether or not it was (or was not) in fact, possible to secure planning consent for a new farmhouse and new farm steading before the unit was broken up. The Planning Authority takes a dim view of having to respond 'after the fact' as in this case, to the loss of an existing and potentially serviceable farmhouse and steading.

This having been noted, certain circumstances do have to be taken into account. First and foremost, is the fact that because the farmhouse and farm at Carlenrig Farm are older buildings they are not subject to any planning conditions or agreements with the Planning Authority that would otherwise have required the previous land owner to retain them as part of the agricultural holding. As such, and notwithstanding the risk to the land owner and Applicant in terms of the outcome of the current planning applications, there was no formal legal requirement for the sale of the existing steading and farmhouse to have been referred to the Planning Authority in advance, in this instance. Secondly, the agent explains that the Applicant was not given the option to purchase the farmhouse and steading by the previous land owners. While this does not justify the loss of the existing farm and steading, it would be material, were the Applicant not to have had any ability to acquire the existing farmhouse and steading. Thirdly, and in the event that the Applicant's supporting business case justifies the need for a new farmhouse and steading (a point considered in the next section) then the Planning Authority would have to allow that the farm business had a reasonable and justifiable operational requirement for a new farmhouse and steading to replace the one that has now been sold off.

It is not in fact a point the Applicant or his agent makes with respect to the existing buildings at Carlenrig Farm, but I would note also that the existing buildings at the farm steading are older traditional steading buildings which are potentially difficult to adapt for modern farming, and do appear to be quite dilapidated in parts. Moreover, surrounding topography and trees, and the prehistoric fort site to the northwest, are all potential constraints upon developing a modern base for farming operations adjacent to the traditional steading site itself. (A recent application from the new owners struggled to accommodate a relatively modest equestrian arena due to the level of constraint prevailing at and around the existing farm). As such, while it has not been put forward as a reason for the need for a new steading, and has not been fully investigated or explored, I would acknowledge that the existing farm site is constrained, and would have been liable to pose some challenges were there any concern to accommodate any new larger modern farm buildings. However, while this might be so, and while this might ultimately have been a significant consideration in terms of any concern to accommodate new buildings at a new site, it is not an explanation as to why the existing farmhouse at least, could not have been retained as the farm operator's accommodation.

In summary, the Planning Authority now finds itself in the position of having to respond after the fact, to the circumstances of the break-up of the farm, and sale of the farmhouse and farm buildings to an unrelated third party, who is now no longer the owner of the remainder of the agricultural unit. As such, there is now no farmhouse or farm steading in the area, which is available for the Applicant to occupy and operate from. While this is regrettable, the Applicant (who is neither the previous owner, nor the new owner of the farmhouse and steading) is not reasonably held directly to account for the loss of the farmhouse and steading. Equally well though, an acceptance on the part of the Planning Authority of the loss of the existing farmhouse and steading, is not in itself tantamount to acceptance of the Applicant's need for a replacement farmhouse and steading. In point of fact, the Applicant is still reasonably required to demonstrate that his farming business as it now is, is still of a scale that would justify one full-time farm worker being accommodated on site to oversee its operation, and is still sufficiently large and viable as to be deemed capable of supporting at least one full-time farm worker, and in the long-term. These matters are considered below in the 'Business Justification' Section.

#### BUSINESS JUSTIFICATION

The Applicant has provided a business case which is underpinned by the advice that the Applicant owns 136 acres, the precise configuration of which is described on a farm plan provided on 25 July. It has been established that the Applicant owns the land, but the title is still currently being registered with Land Registry. The Applicant has more recently (02 August) now provided documentary evidence of Land Registry's acknowledgement of his lodging of the title with Land Registry. It is understood at the time of writing that confirmation of the title's registration, is still to be provided to the Applicant. However, I have discussed the position with the Council's Legal Section and understand that this is reasonably all that the Applicant can do, in the current circumstances to demonstrate their ownership and control over the 136 acres.

Economic Development has reviewed the Applicant's business case, and - further to the Applicant's confirmation that he owns 136 acres - has advised that the business case is realistic, and should be achievable on the acreage identified in the schedule.

I have reviewed the Applicant's supporting statements and business case and consider that the salient details are:

Firstly, the Applicant owns (rather than leases) an area of land that is sufficiently large in itself, as to be capable of supporting a viable agricultural unit; specifically 136 acres.

Secondly, the Applicant has also demonstrated with reference to Scottish Agricultural College calculations and methodology that the operation is now of a size that it requires the labour input of at least one full time farm worker. The operation currently maintains 408 sheep. I am advised verbally by Economic Development that the Applicant's identified labour requirement of 2040 hours of labour is for a year (52 weeks), and is above the 1900 hours, which is usually taken as being the minimum number of hours of labour required, on an annual basis. As such, the operation of the unit in the circumstances described, would certainly substantiate the need for an agricultural worker to live on site, to service this labour requirement, provided at least, that it is maintained at that level.

Thirdly, the Applicant has demonstrated that the unit's operation would be capable of generating work and a full-time income for a farm worker.

The above considerations are based upon the operation of the current land ownership and stock numbers of the Applicant. However, I would acknowledge my consideration of the advice of the Applicant's Agent's email of 12 June, with respect to the next ten years, and two specific points with regard to the description of the farm's operation over that period; firstly, with respect to an existing arrangement between the Applicant and the former landowner, which relates to the incremental release from lease of the majority of land within the former Carlenrig Farm, back from farming to the land owner; and secondly, the Applicant's stated concern to retire from farming within the next ten years.

On the first point, with regard to a gradual reduction in the amount of land being farmed by the Applicant under lease from Buccleuch Estate (in response to the latter's concern to re-deploy some of that same land in other enterprises), I am content that this does not reasonably affect in any fundamental way the assessment of the size of the holding (since the Applicant owns 136 acres) or the calculation of labour requirements pertaining to that operation, where the concern is to maintain the same size of holding. Further, the Applicant might reasonably lease land from elsewhere in the surrounding area to maintain the same or an equivalent level of operation, were this to be his concern. I would add that the basic assessment noted above, is not outwith any reasonable expectation of how this type and size of farm, might be expected to operate in that a sheep farm would likely have a need to give up and pick up leases for land, within an equivalent period of time. The critical point is that the farm even if it were confined to the operation of land within its own ownership, would justify the accommodation of a full-time farm worker on-site; and a dynamic situation with respect to the amount of land that might be leased to supplement the operation of the agricultural unit described, is tolerable.

The second point with regard to the Applicant's likely retirement within ten years, is more problematic in so far as the Applicant's agent lists three possible scenarios as to where the business might be within ten-years, one of which appears to admit the possibility that the business might at that point in time, or shortly thereafter, only be run on a part-time basis (that is, if it is not being run on a full-time basis by one of the Applicant's children as a hill sheep farm, or a more specialist pedigree sheep farm in line with other scenarios). Where there is a concern to maintain or grow the current level of farming business activity, the inevitability of the current farmer's retirement in ten years is not reasonably held against the business, since this could continue viably beyond the time of the current operator. However, were there any intention from this period in time, to wind up the farming business within ten years, then this would undermine the case for a new farmhouse.

The Applicant's acknowledgement that the business could be, or could have been, reduced in the scale of its operations at, or towards, the time of his own retirement from the business, is at one level, a reasonable consideration of where a hill sheep farm business might find itself within a period of ten years amid some economic uncertainty. Reasonably, the Applicant may also not wish to commit his offspring to the management of the farm in the longer-term. However, there would be a concern in planning terms, were there any actual firm and foreseeable intention on the Applicant's part at this stage in time, to seek to gradually scale down the farm business from its current operational size, to a part-time venture.

I have discussed with the Applicant's agent, and am satisfied that the Applicant's concern is to continue the business as a full-time venture with the intention that it should be handed on as such, and ideally to the next generation within his own family. The various scenarios sketched by the agent are intended only to highlight the level of uncertainty confronting a farm business within a ten-year period, going forward, in which both economic and personal circumstances are liable to determine where the business in fact ends up at, or ahead of, his retirement. As such, I am content that this is not reasonably taken as being indicative of any preference or direct concern on the part of the Applicant to wind up or scale down the business from this point going forward - notwithstanding even the leasing arrangements noted above - and that most hill sheep farming enterprises 'taking the long view', would be liable to contemplate the next ten years of their operation in the same or similar terms. As such, while the direct acknowledgement of the potential for the business to be reduced over time is certainly unhelpful in the context of the current assessment, I am content that it is not reasonably taken as, or understood to be, any clear or preferred strategy on the part of the Applicant or his farm business going forward. On the contrary, the Applicant appears to be fairly acknowledging the practical need (if nothing else) to 'keep options open' within any longer-term view of the future operation of the farming enterprise.

Ultimately support and approval for any isolated house in the countryside under Policy HD2, requires the Planning Authority to take a risk that the related business is, and would continue to be, viable. The concern that viability should be demonstrated has reasonably been met in this particular case within the Applicant's own supporting business case, and Economic Development's review of the same. The salient facts are that the farm has no existing farmhouse and no buildings suitable for conversion to such a use, AND is presently of a size, both spatially (in terms of land actually owned) and operationally (size of flock), that it does require the permanent accommodation on site of a full-time farm worker, to oversee the farm's operation. There is, it must be acknowledged, potential for this or any farm business to be reduced in size over time in response to changing circumstances. In that sense, this sort of risk, is reasonably 'factored in' to the decision before the Planning Authority at this time. Further, and in the event of approval, the Applicant would not, and could not, reasonably be held to maintain his business at, or to grow it to, any certain size or level to justify the presence of a house on site. Such matters are entirely beyond the scope of the planning system, and it is only possible to examine a 'snap-shot' of the business in its present circumstances, and come to a view as to whether or not it is in its present circumstances and/or on its present trajectory, credibly able to continue in the long-term, as a viable business operation with a justifiable need for a farm worker to be accommodated on site on a full-time basis. I am ultimately content that this concern has been met within the Applicant's supporting business case.

As an additional point of reassurance with regard to the Applicant's intentions for the business going forward, I would add that the Applicant has unilaterally indicated his willingness to enter into a Section 75 Legal Agreement, and for the operation of the development to be subject to planning conditions, as would normally be imposed to require that such a house be tied to the farming operation, and only be used for the accommodation of a farm worker. As such, I am content that there is no reasonable basis for anticipating that this business is any more likely to be down-scaled than any other farming business in the fullness of time, while the actual potential for a future generation to take over its running in this particular case, might also provide some comfort that this is at least the Applicant's aspiration for the business and his family. The need for regulation by legal agreement and conditions in the event of approval, is considered in the next section, below.

As a point of note only within this Report of Handling (and not, I consider, appropriately included even as the subject of an informative), I would observe that regardless of the Applicant's explicitly stated acknowledgement of the potential for there to be circumstances in which the business might be reduced in operation at, or by, the time of his own retirement, any subsequent proposal to site a new house at the site - even for the purpose of accommodating a new or retiring farmer - would need to be determined on its own planning merits at that point in time. Any such decision would also likely have to have regard to the size and type of business operation, as it in fact existed at that future point in time. Accordingly, there is no acceptance in principle of the Applicant's need, future or otherwise, to accommodate a second home at the site, either for himself in his retirement, or for any new farmer taking over the business from him. Any such case would only be appropriately considered at that future point in time, and on its own planning merits, and without having regard to any indicated statement of possible intent that has been made in support of the current planning application. In short, while the Applicant has sought to acknowledge what could happen within the next ten years, the fact of this acknowledgement does not, and will not, negate the Planning Authority's requirement to assess any future proposals for the site on their own planning merits.

#### LEGAL AGREEMENT AND AGRICULTURAL WORKER CONDITION

The Applicant is correct in anticipating that in the event of approval, a legal agreement, specifically a Section 75 legal agreement, would be required to tie the dwellinghouse to the farm.

In addition to the legal tie of the house to the farm, it would also be appropriate in the event of approval, to require that this isolated house should only be occupied by a farm operator, retired farm operator, or the surviving spouse or partner of such a person, and any dependents in all cases. This reflects the fact that this house would not be supported in any other context, other than in relation to an operational justification having been provided and demonstrated for it, to serve the agricultural holding. Accordingly there is a reasonable expectation that it would, and should, only be used to accommodate those who are actively involved, or have been actively involved, in the subject farm's operation. Without such restrictions being in operation, the property would otherwise be at risk of being developed and occupied in ways that would be directly contrary to Policy HD2.

As noted above, a short-term difficulty is that the Applicant's title while lodged with Land Registry, has yet to be confirmed, despite being lodged in October last year. While it is reasonable for the Planning Authority to recognise the Applicant's ownership of the land in question in terms of its consideration of the applications being presented for determination here, I would anticipate that any consent that might now be issued for the farmhouse, would need to await the completion of the land registration process in order for the above noted burdens to be put into the deeds. However, in the circumstances - which are beyond the Applicant's control - it is reasonable that the application having been determined, be put on one side until the title has been registered and the burdens can be attached in the requisite ulterior Section 75 agreement. In short, I consider that this is reasonable in the circumstances, and that allowing for the need for a Planning Processing Agreement, the application once determined, might be maintained for as long as necessary to allow for the completion of the registration process and subsequent conclusion of the S75 agreement.

#### SITE SELECTION

Beyond the position with regard to the disposal of the existing farm and farmhouse at Carlenrig Farm, the Applicant has not provided any detailed assessment of the proposal relative to other options, largely on the basis that the concern was to locate the house in the vicinity of the existing sheepfold and sheep shed, as the only existing agricultural building within the Applicant's ownership. While this is logical and reasonable in its principle, a point of note is that the proposed house would be around 100m away from the aforementioned sheep shed. Moreover, there is a more general concern to consider whether or not both the new house and farm building would be most appropriately accommodated in this particular locality, or whether they would be more appropriately accommodated elsewhere. The landscape and visual impacts of the proposals are considered below.

With respect to the specific concern about the set back of the proposed house from the existing sheep shed, the Applicant's agent has been asked to account for this, but only advises that the site was selected by his client, and he understands that there was a concern within this selection to protect the residential amenity of the house, by ensuring some set back from the sheep management facility. I accept that this is a reasonable concern in terms of accommodating the farmhouse vis-à-vis an existing sheep management facility, but I am not persuaded that the Applicant's need to protect the residential amenity of his proposed home from the operation of his own farm, is reasonably an overriding consideration within the assessment of the proposed siting of the house. (It might be added that the extent to which this consideration would justify the particular siting proposed, is in any case undermined to some extent, by the fact that the sheepfold would be to the southwest of the site, which, taking account of the direction of the prevailing winds, would in fact put it downwind of the sheepfold). Ultimately, I am not persuaded that there is any unassailable logic in operational terms as to why the proposed farmhouse should be located precisely where it is being proposed.

#### HOUSE DESIGN

I am content that the proposed design of house is acceptable in that it recalls sufficiently well the traditional form and design of a traditional rural farm cottage. It would be a residential property which would present a relatively traditional profile, albeit otherwise realised in a contemporary design approach, and which would be in scale and in character with its site and surroundings.

In so far as these have been described within the supporting details, there are no concerns with respect to the proposed materials. The critical concern is that the finished appearance when viewed from the surrounding landscape, should be sufficiently recessive, principally by avoiding light or bright, including highly reflective, materials and finishes. I am content that it would be sufficient to require that the flue and metal skews should be matt dark grey or matt black in finished colour, unless otherwise agreed, while the proposed zinc cladding and grey coloured window frames raise no concerns in themselves. It would however be appropriate to regulate the roof and timber cladding colours, so that these are sufficiently dark and/or organic, as to be capable of receding into the landscape, and are not any overly light or bright such that these might register in their contrast against a darker backdrop.

Had the proposal been of a traditional design, then I would certainly have sought that traditional materials and finishes (e.g. slate and wet dash render) should be maintained in perpetuity, but in the context of a contemporary design, such a requirement is not logically or reasonably maintained, and the design can only be assessed on its own merits. As advised, I consider that the design - subject to the operation of the above noted conditions - raises no concerns per se. There is a risk that alternative materials and finishes might

subsequently be adopted, but I consider that regulating these in the long-term, is not in the circumstances reasonably or necessarily required.

#### LANDSCAPE AND VISUAL IMPACTS

As demonstrated by photomontages presented by the Applicant, both the proposed farmhouse and farm building, would impact the skyline in views from the A7. Further given their distance of set back from one another, they would also contribute to a cumulative landscape and visual impact, whereby they would register as an extended scatter of buildings along the skyline, which would be particularly incongruous and out-of-keeping with any form of development that might be expected in a rural area.

Moreover, while the Applicant has acknowledged that both developments would 'skyline' in particular views from the A7, he has not provided any detailed information on the groundworks required on site to accommodate these buildings, and in such an open area, there is potential for the overly dominant siting of these developments to be even more visually detrimental where they were accommodated on significant and obviously contrived platforms of level ground, contrary to the natural levels which are generally steeply sloping at this point. While it may have been possible for the Applicant to demonstrate that these could be minimised or mitigated acceptably with appropriate attention to the levels, and their treatment, there has been no concern to present any detailed survey information, let alone how it would be proposed the proposals might be accommodated relative to the actual levels on site. As such, and given the visibility of both sites, it does need to be anticipated that extensive ground works would be required and that these would only contribute to the exaggeratedly contrived and over-dominant appearance of both proposed structures.

The landscape and visual impacts have been referred back to the Applicant but the details provided (largely photomontages) have only confirmed the concern that both buildings would be prominently located within the landscape and would be visible above the skyline; while no reassurance has been provided with respect to the extent of ground works required to accommodate the proposed buildings.

The Applicant has unilaterally offered to plant new tree belts to help screen these impacts, but where there is no existing tree belt, for any new planting to key into, and reinforce, it remains the case that any and all landscape and visual impacts would be immediate and entirely unmitigated within the currently open landscape setting of both sites.

I am aware of the Applicant's concern to be sited in the vicinity of the existing sheep management facility but the extent of set back that he himself is seeking indicates that there is no overwhelming operational requirement for the house to be located immediately adjacent to the existing site. In point of fact, the Applicant has actively sought to remove the house from the near vicinity of the shed for residential amenity reasons. Accordingly, I am not persuaded that there is any strong operational reason for the house to be located close to the shed, and that the new farmhouse and farm shed might be located elsewhere within the farm holding. Given this context, it is reasonable that there is no requirement for either building to be located so prominently within the landscape and that other more sensitive locations for both buildings could be identified, and indeed should have been considered ahead of the sites that were eventually identified. In short, I find that the proposals would both, individually and cumulatively, have unacceptably adverse landscape and visual impacts, and that these are not outweighed in either case by any other considerations - including the farm's operational requirements. As such, I find the proposed siting of both structures, unacceptable and consider that both applications should be refused on these bases.

#### ACCESS AND PARKING

The upgrade of the access road which is included within the site boundary, is capable of being regulated along the lines anticipated by Roads. A point of note however, is the lack of advice with respect to the accommodation of bin storage, and arrangements for this would need to be provided for prior approval, principally to avoid any overly dominant bin store area at the head of the upgraded access track.

There would be concerns similar to those relating to the accommodation of the two buildings, with respect to the need to establish the precise levels and identify any and all requirements for the make up or reduction of levels to accommodate the access track; and the need for any and all new grass seeding to treat areas that might otherwise be left as bare earth. Such matters are capable of being regulated by condition in the event of approval. However, were a more sympathetic site for the house to be found, then this would also address any concerns with respect to any overly contrived accommodation of the access track itself.



## OTHER CONCERNS

There are no residential amenity concerns owing to the set back of this property from surrounding dwellings. The tying of the house to the farm and a farm worker occupancy restriction, would ensure that the house would remain tied to the farm, and therefore that there would be no unacceptable impacts upon its residential amenity, from farm operations, particularly the operation of the sheepfold.

Arrangements for drainage and water supply; and indeed, parking; are reasonably capable of being regulated under appropriately worded planning conditions in the event of approval; and in the latter case, along the lines sought by Roads Planning in its proposed condition. The site's drainage (foul and surface water) arrangements would be private, and given that the wider field would be within the Applicant's control, this appears viable subject to appropriately worded planning conditions. It is advised that the water supply would be from the public mains. Given the isolation from the public road, I would be concerned that a public water connection may not be possible in this situation, and while it might be allowed that the Applicant is able to achieve this under a suspensively-worded planning condition, it might also be reasonably allowed under the same condition, that a private water source might be considered as an acceptable alternative, if a public connection is shown not to be viable. Again however, it would be with the Applicant to demonstrate that an appropriate supply, public or private, is achievable.

The Archaeology Officer's concern that the site be subject to an archaeological investigation, is capable of being addressed by condition, along the lines anticipated by the Archaeology Officer. I note the concern that this includes the farm building too, which does lie in closer proximity to the archaeological site. In the circumstances of this being part of a new farm steading, I am content that this requirement would be reasonably imposed relative to the proposed farm building too.

Given the presence of what appears to be a mobile home on site, an informative might note the requirement for the static caravan, to be made the subject of a planning application if it is to be retained on-site on a long-term or permanent basis (e.g. for use as accommodation during the lambing period).

## CONCLUSION

While I am content that the Applicant has demonstrated the need for a new farmhouse at the site in terms of a business case, I am ultimately unable to support either of these proposals on account of their landscape and visual impacts, primarily because these would be buildings that would sit high in the landscape, jutting above and into the skyline in views from the A7; and would require extensive ground works to accommodate them on open, highly visible sites. Moreover, and in addition to their individual landscape and visual impacts, they would also together, contribute to an incongruous form of development, in that along with the existing sheep shed, they would result in notable clumps of development being spread across the horizon in these views, in a way that is not consistent with, or reminiscent of any traditional rural building form. This would make them even more unsympathetic in their character to the surrounding area. All in all, the Applicant has not demonstrated that opportunities to accommodate both buildings more sympathetically and appropriately in landscape terms, have been explored and discounted for any good planning or operational reasons, and as such I am unable to support either or both of these applications, and recommend that they are refused on these bases.

## REASON FOR DECISION :

The proposal is contrary to Adopted Local Development Plan Policies HD2 and PMD2, in that:

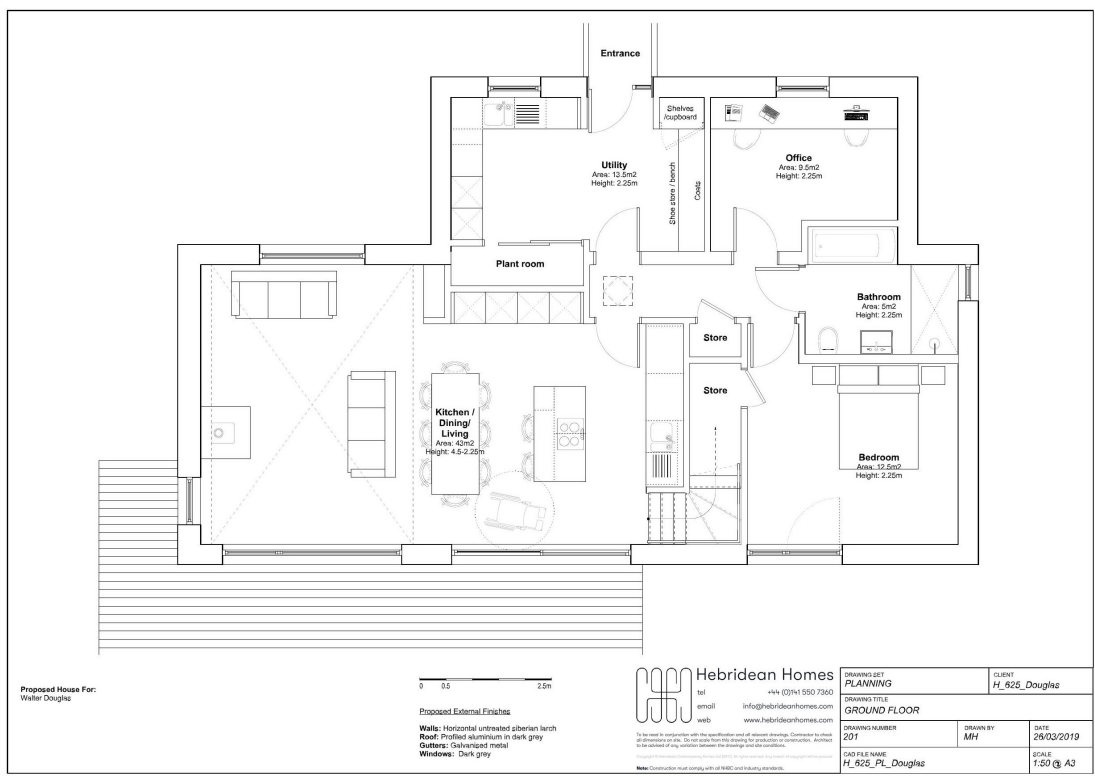
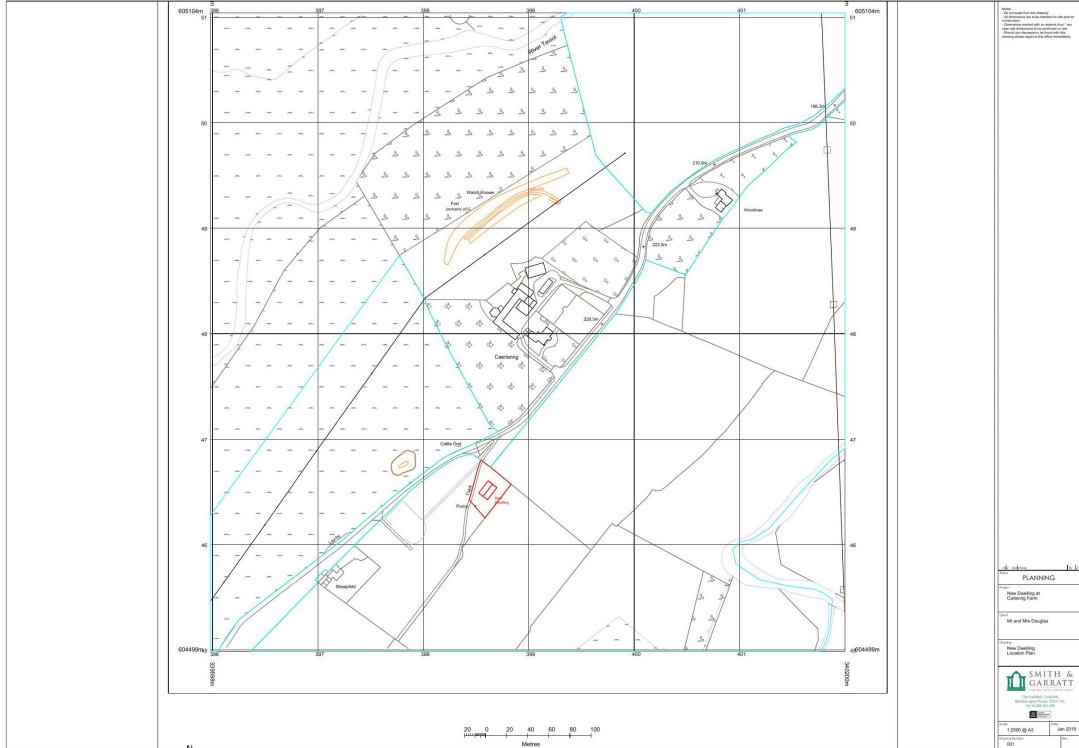
- (i) the development would not in its siting, respect the amenity and character of the site and surrounding area, principally by resulting in new development that would be unnecessarily and unacceptably over-dominant within the landscape by interrupting the skyline in views from the public realm; and
- (ii) it has not been demonstrated within the supporting details that the proposal would not be accommodated in an overly-contrived and artificial way, relative to the existing natural ground levels, and/or that any such visual impacts resulting from any extensive and significant alterations to ground works would be acceptably mitigated within views from the public realm; and

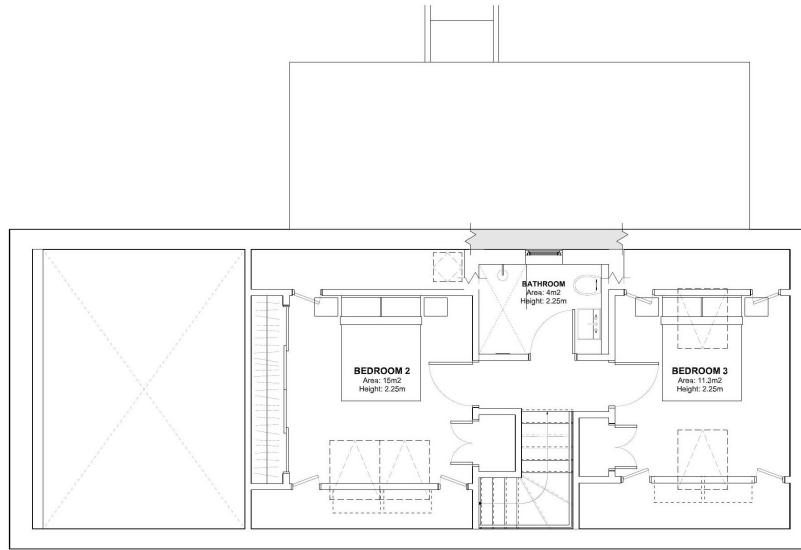
(iii) it would in combination with the development proposed by Prior Notification 19/00515/AGN, also contribute to a highly visible spread of development across the skyline, which would in its randomly-spaced and dispersed form, register as an unusually prominent and incongruous form of development, which would be notably out-of-keeping with the rural character of the surrounding landscape; an effect that would be exaggerated by any overly-contrived and artificial accommodation of the building.

**Recommendation:** Refused

- 1 The proposal is contrary to Adopted Local Development Plan Policies HD2 and PMD2, in that:
  - (i) the development would not in its siting, respect the amenity and character of the site and surrounding area, principally by resulting in new development that would be unnecessarily and unacceptably over-dominant within the landscape by interrupting the skyline in views from the public realm; and
  - (ii) it has not been demonstrated within the supporting details that the proposal would not be accommodated in an overly-contrived and artificial way, relative to the existing natural ground levels, and/or that any such visual impacts resulting from any extensive and significant alterations to ground works would be acceptably mitigated within views from the public realm; and
  - (iii) it would in combination with the development proposed by Prior Notification 19/00515/AGN, also contribute to a highly visible spread of development across the skyline, which would in its randomly-spaced and dispersed form, register as an unusually prominent and incongruous form of development, which would be notably out-of-keeping with the rural character of the surrounding landscape; an effect that would be exaggerated by any overly-contrived and artificial accommodation of the building.

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





Proposed House For:  
Weller Douglas



Proposed External Finishes

Walls: Horizontal untreated siberian larch  
Roof: Profiled aluminium in dark grey  
Gutters: Galvanneal metal  
Windows: Dark grey

**Hebridean Homes**  
tel +44 (0)141 550 7360  
email info@hebrideanhomes.com  
web www.hebrideanhomes.com

To be used in conjunction with the specification and all relevant drawings. Customer to check all dimensions on site. Do not rely on this drawing for construction or installation. Intended to be used as a guide only. Intended to be used as a guide only. Intended to be used as a guide only.

DRAWING SET PLANNING	CLIENT H_625_Douglas
DRAWING TITLE FIRST FLOOR	
DRAWING NUMBER 202	DRAWN BY MH
	DATE 28/03/2019
DAO FILE NAME H_625_PL_Douglas	SCALE 1:50 @ A3



Proposed House For:  
Weller Douglas



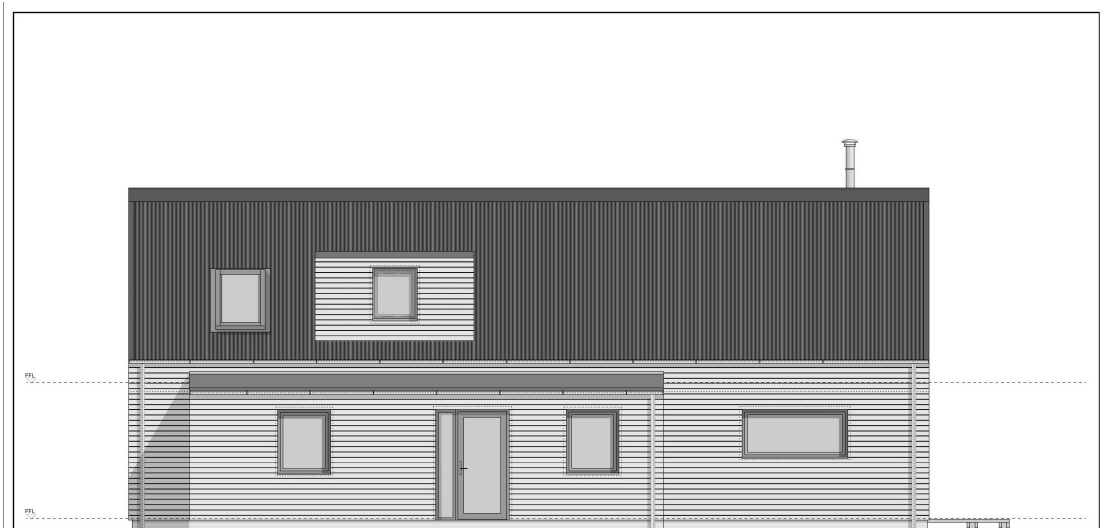
Proposed External Finishes

Walls: Horizontal untreated siberian larch  
Roof: Profiled aluminium in dark grey  
Gutters: Galvanneal metal  
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DRAWING SET PLANNING	CLIENT H_625_Douglas
DRAWING TITLE FRONT ELEVATION	
DRAWING NUMBER 401	DRAWN BY MH
	DATE 28/03/2019
DAO FILE NAME H_625_PL_Douglas	SCALE 1:50 @ A3



Proposed House For:  
Weller Douglas



0 0.5 2.5m

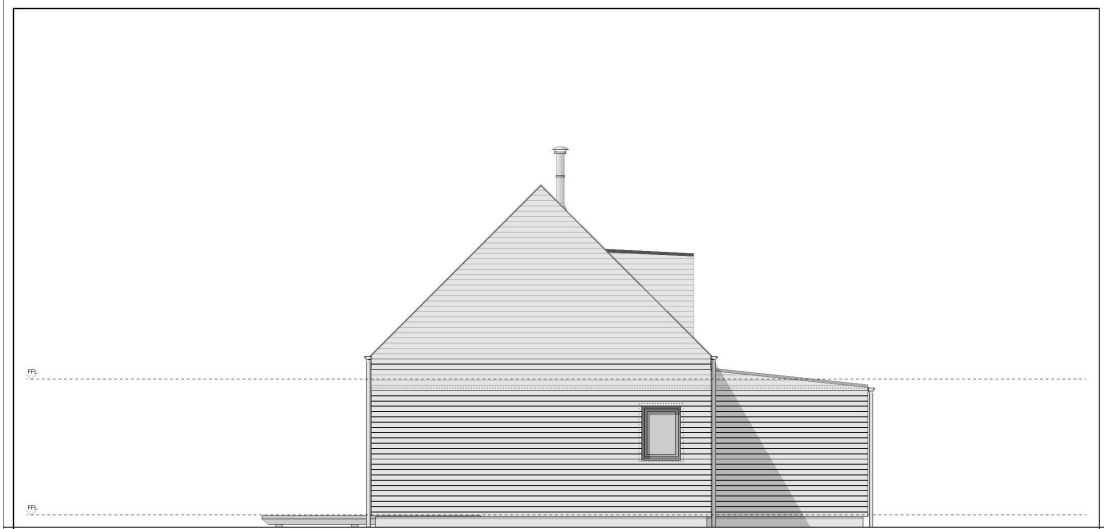
**Proposed External Finishes**  
 Walls: Horizontal untreated siberian larch  
 Roof: Profiled aluminium in dark grey  
 Gutters: Galvanneal metal  
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DRAWING SET PLANNING	CLIENT H_625_Douglas
DRAWING TITLE BACK ELEVATION	
DRAWING NUMBER 402	DRAWN BY MH
DATE 28/03/2019	SCALE 1:50 @ A3
DAO FILE NAME H_625_PL_Douglas	

Note: Construction must comply with all NEMC and industry standards.



Proposed House For:  
Weller Douglas



0 0.5 2.5m

**Proposed External Finishes**  
 Walls: Horizontal untreated siberian larch  
 Roof: Profiled aluminium in dark grey  
 Gutters: Galvanneal metal  
 Windows: Dark grey

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DRAWING SET PLANNING	CLIENT H_625_Douglas
DRAWING TITLE SIDE ELEVATION 1	
DRAWING NUMBER 403	DRAWN BY MH
DATE 28/03/2019	SCALE 1:50 @ A3
DAO FILE NAME H_625_PL_Douglas	

Note: Construction must comply with all NEMC and industry standards.



Proposed House For:  
Weller Douglas



0 0.5 2.5m

**Proposed External Finishes**  
 Walls: Horizontal untreated Siberian larch  
 Roof: Profiled aluminium in dark grey  
 Gutters: Galvanneal metal  
 Windows: Dark grey

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 tel: +44 (0)1453 7360  
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To be read in conjunction with the specification and all relevant drawings. Customer to check all dimensions on site. All work shall be done in accordance with the specification. Architect to be advised of any variation between the drawing and the construction.  
 Note: Contractor must comply with all BSAC and industry standards.

DRAWING SET <b>PLANNING</b>	CLIENT <b>H_625_Douglas</b>
DRAWING TITLE <b>SIDE ELEVATION 2</b>	
DRAWING NUMBER <b>404</b>	DRAWN BY <b>MH</b>
	DATE <b>28/03/2019</b>
DAO FILE NAME <b>H_625_Pt_Douglas</b>	SCALE <b>1:50 @ A3</b>



Note: This drawing is for planning purposes only and does not constitute a contract. It is subject to change without notice. The client is responsible for ensuring that the drawing is in accordance with the planning application. The architect is not responsible for any errors or omissions in the drawing.

**PLANNING**

The Planning Officer  
 Council of the Isles of Orkney

Weller Douglas

Edward Price and  
 Paul Paul Park

**SMITH & GARRATT**  
 ARCHITECTS

1:50 @ A3 Jun 2019  
 Drawing Code: 503







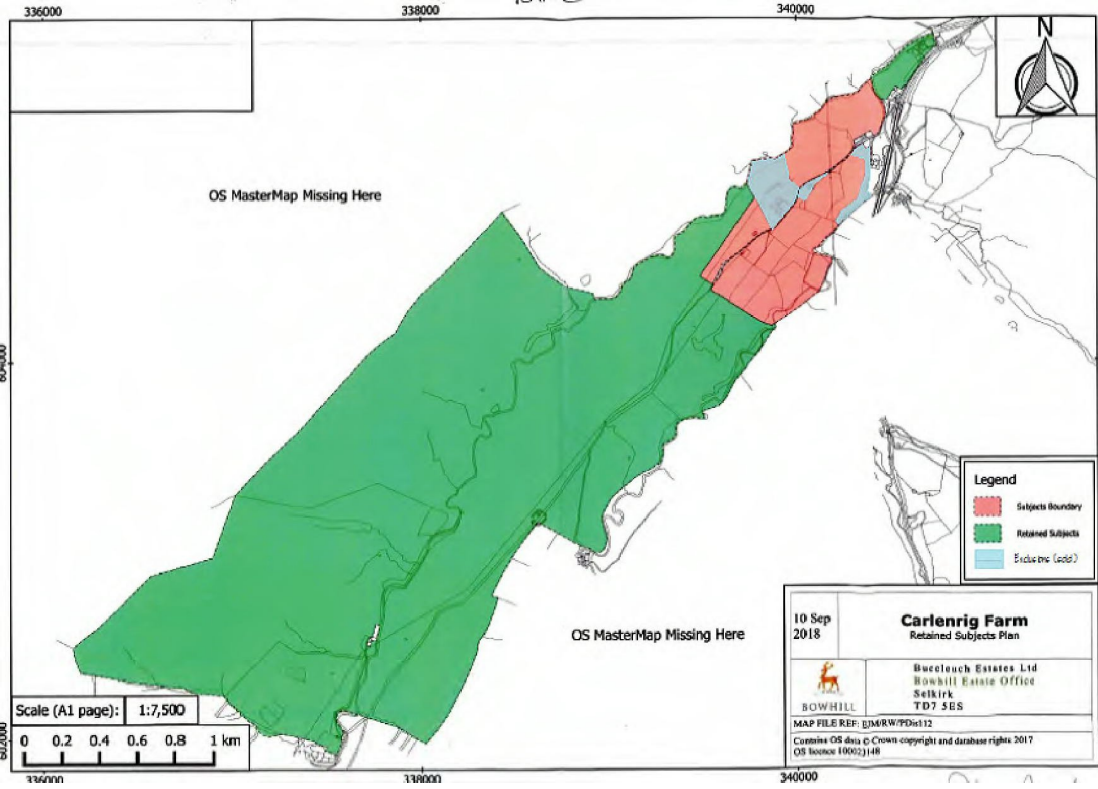


**Carlenrig - Budget Post-Resumption for Forestry**

Agricultural Holding Number 92773/0003

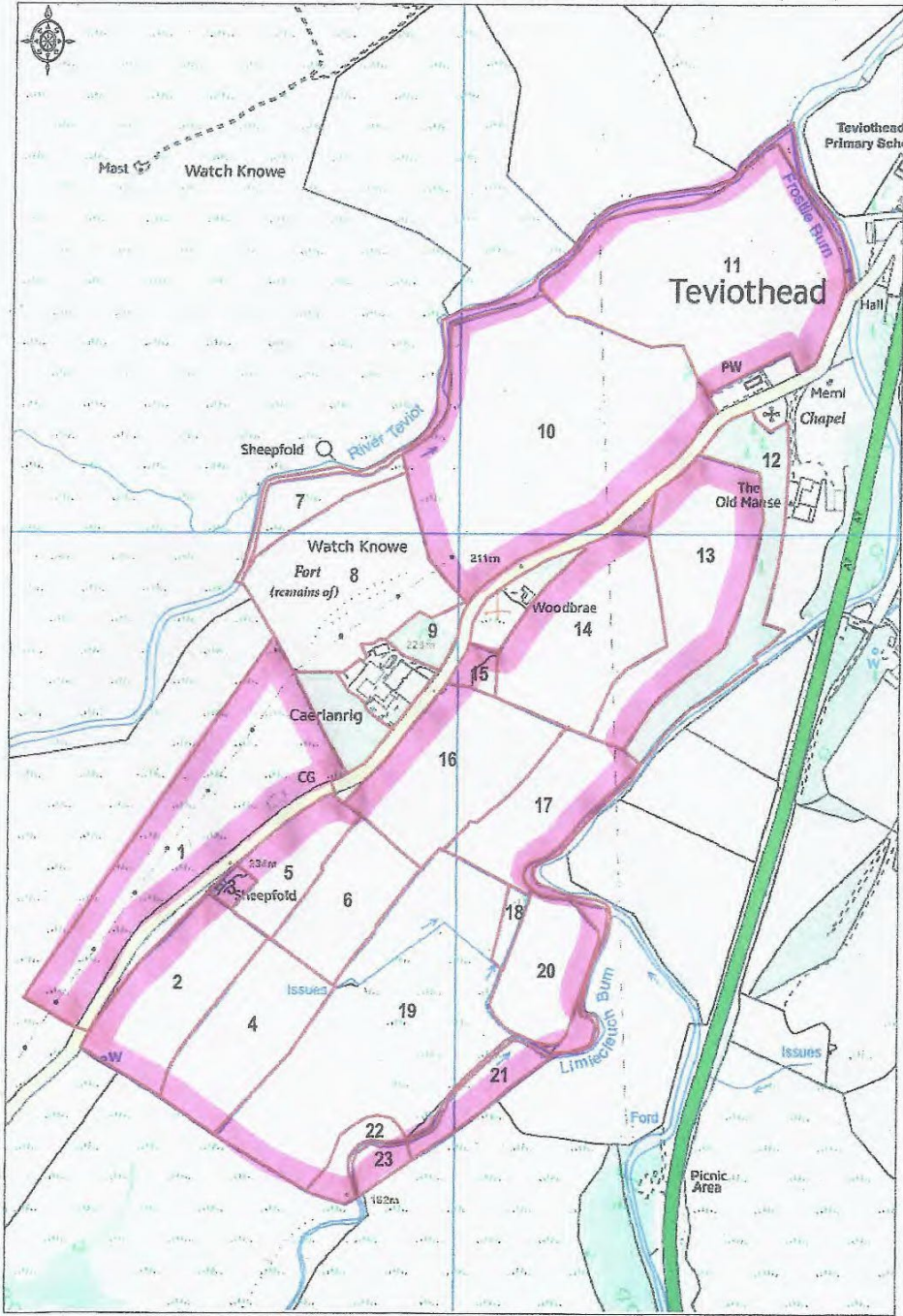
<b>Physical Parameters</b>	Currently still farming 1,300 acres with 800 ewes and summer cattle grazing, so a very full-time unit			
<b>Now</b>	Breeder of pedigree South Country Cheviot sheep			
	Farming acres owned	136		
	Farming acres rented - pending afforestation in tranches, blocks or compartments - forecast to begin winter 2019/20 and to be fully-planted winter 2029/30 (ten years)	1,165		
	<b>Total Acres</b>	<b>1,301</b>		
<b>Physical Parameters</b>	Farming acres owned - all low ground	136		
<b>Post-Resumption</b>	Farming acres rented	0		
	<b>Total Acres</b>	<b>136</b>		
	Stocking rate (pedigree ewes/acre)	3		
	Number of ewes	408		
	Lambing percentage	140%		
	Number of live lambs	571		
	Lambs retained for breeding	-137		
		434		
<b>Livestock Sales</b>	Ewe lambs for sale	228	£60.00	£13,709
	Male lambs for sale	259	£60.00	£15,551
	Draft ewes for sale	65	£80.00	£5,222
	Pedigree tupps for sale	15	£900.00	£13,500
<b>Total Livestock Sales</b>				<b>£47,982</b>
<b>Other income</b>	Wool	408	£2.50	£1,020
	Basic Payment Scheme			£9,000
	LFASS			£3,000
<b>Total Other Income</b>				<b>£13,020</b>
<b>Total Income</b>				<b>£61,002</b>
<b>Variable Costs</b>	Feed	408	£12.35	-£5,039
	Meds	408	£4.50	-£1,836
	Commission/expenses relating to livestock sales	4%		-£1,919
	Misc. livestock expenses	408	£3.00	-£1,224
	Grassland expenses	408	£6.00	-£2,448
<b>Total Variable Costs</b>				<b>-£12,466</b>
<b>Fixed Costs</b>	Vehicle Exps/ Haulage / Depreciation			-£4,000
	Casual labour / contracting			-£800
	Property Expenses			-£1,000
	Insurance			-£600
<b>Total Fixed Costs</b>				<b>-£6,400</b>
<b>Total Costs</b>				<b>-£18,866</b>
	<b>Surplus before Labour and Profit</b>			<b>£42,136</b>

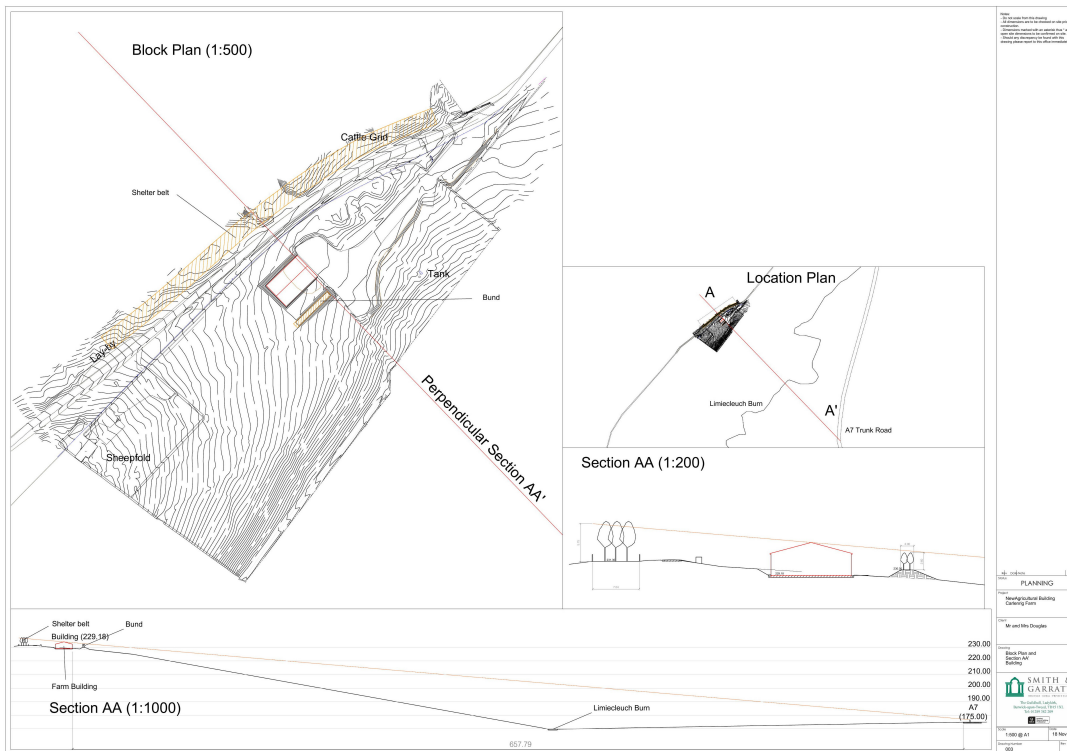
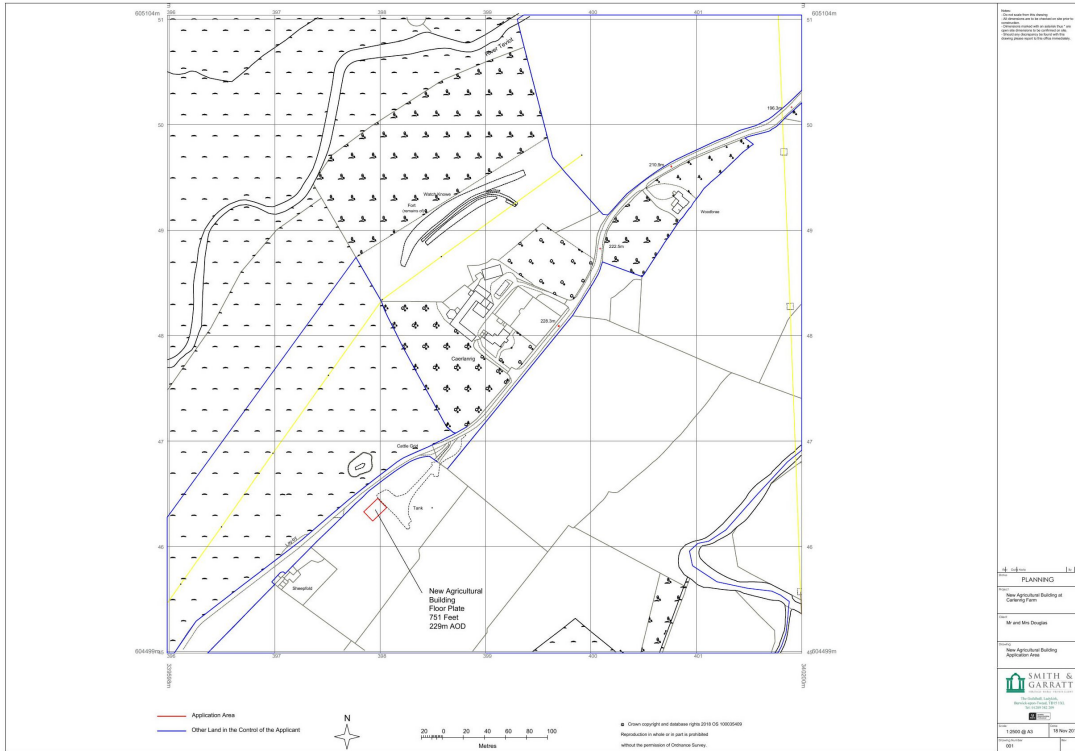
<b>Labour Requirement</b>	Flock size	408		
	Man-hours per animal - pedigree flock LFA	5.0		
		<b>2040</b>	=	One full time person

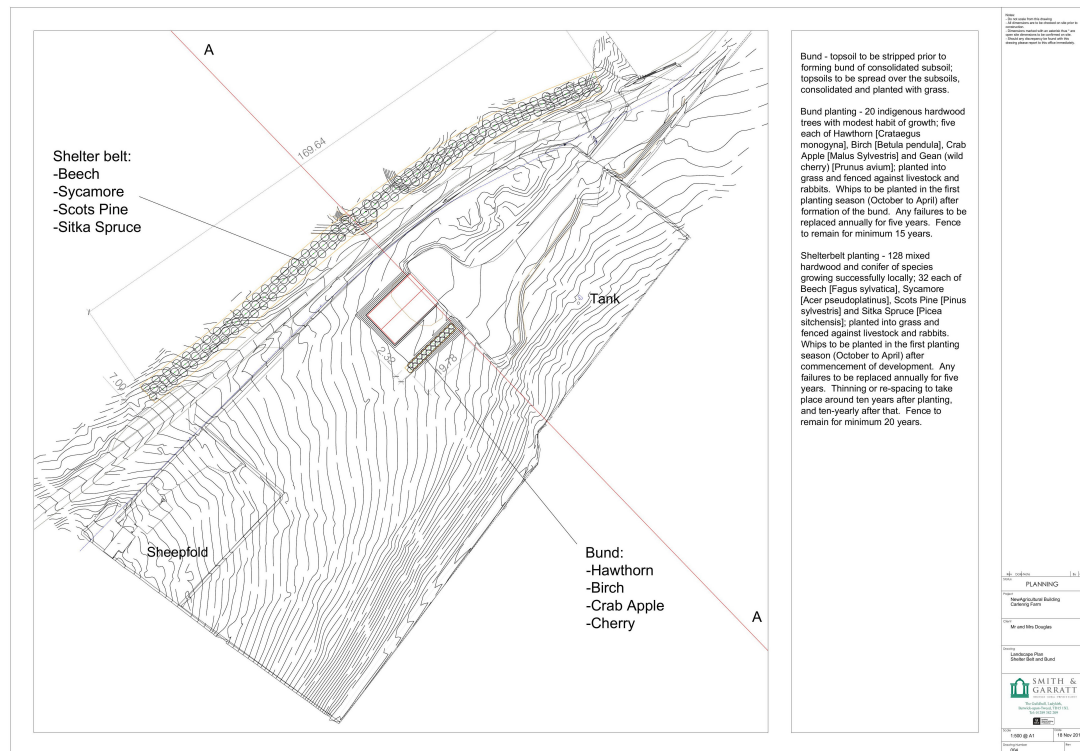
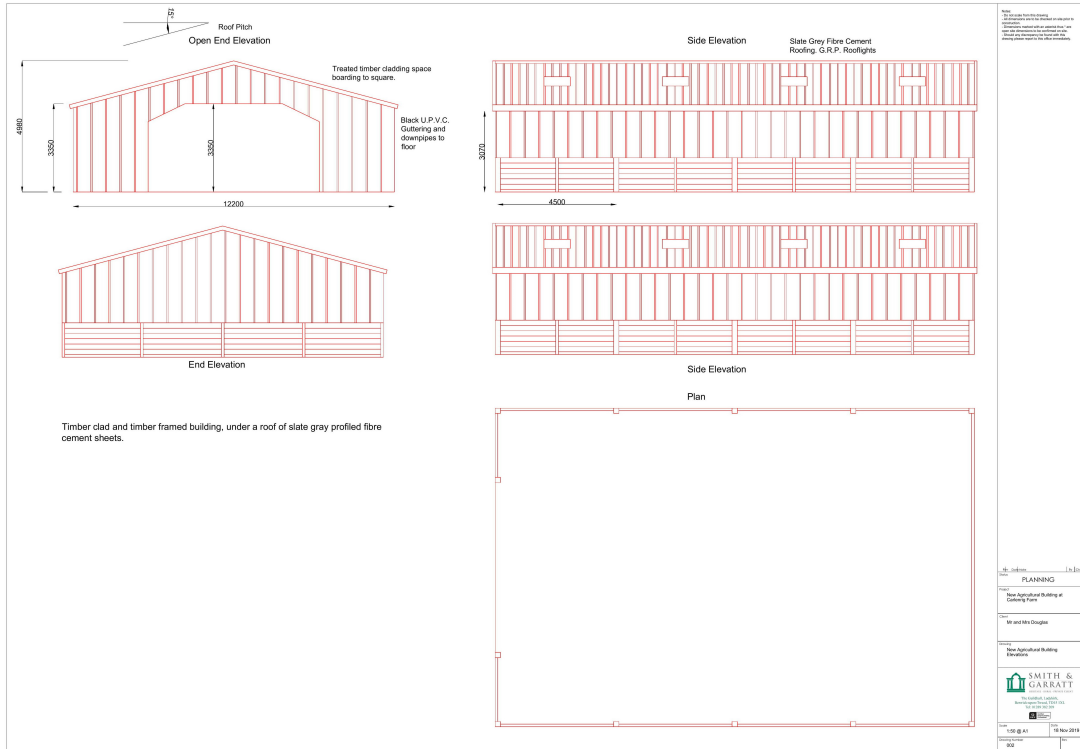


APPENDIX 3

FARM PLAN  
Carlenrig Farm, Hawick, Scottish Borders, TD9 0LH







**Carlenrig – Application to Erect Livestock/General Purpose Agricultural Building**

**Photomontages**



Key to Four Viewpoints

**Notes:**

1. The Google streetview image for each viewpoint gives a guide to scale ... the base photographs for the photomontages are zoomed in.
2. The proposed building is 54 metres above and 536 metres distant from the Viewpoint 2.
3. At the time of the original agricultural building notification, only Viewpoint 2 was considered contentious.

1. From A7 at Binks, east-north-east of site, looking west-south-west



Streetview



Before



After



2. From A7 east-south-east of site, looking west-north-west



Streetview



Before



After

3. From A7 below Castleweary, south-east of site, looking north-west



Streetview



Before



After

4. From minor road south-west of site, looking north-east.



Streetview



Before



After