



**AF1 APPEAL STATEMENT IN RELATION TO SCOTTISH
BORDERS COUNCIL'S REFUSAL OF:
PLANNING PERMISSION FOR THE ERECTION OF A
SINGLE DWELLINGHOUSE, GARAGE, AND
ASSOCIATED WORKS**

**ON LAND EAST OF AUBURN COTTAGE, ASHKIRK,
SELKIRK TD7 4DP**

PLANNING APPLICATION REF: 19/01000/PPP

ON BEHALF OF: MR & MRS CHRIS & WENDY DAVIES

16 DECEMBER 2019

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EXECUTIVE SUMMARY

This Appeal Statement is submitted on behalf of Mr and Mrs Chris and Wendy Davies (the Appellants) against the decision of Scottish Borders Council to refuse Planning Permission for the erection of a single dwelling and garage together with associated works on land to the east of Auburn Cottage, Ashkirk, Selkirk on 9th October 2019 (application reference 19/01000/PPP).

It is the Appellants' intention to retire to the proposed dwelling and sell the nearby Synton Mains Farm. The Appellants' wish to remain in the area, close to their friends and family in the local community and the other businesses they operate – a Golf Driving Range and Horse Livery.

The reason for the refusal rested on Officers conclusion that the proposed dwelling “is not in keeping with the character, sense of place and setting of the building group, or with the landscape and amenity of the surrounding area, principally through the unsympathetic extension of the building group beyond its defined sense of place”.

The design of the proposal has been heavily informed by Policy HD2 which addresses new housing in the countryside. Specifically the Appellants believe that a) the appeal site is well related to an existing Building Group of 5 dwellings; b) the proposed dwelling would modestly enhance local character and offer minor benefits to the landscape quality; c) the existing Building Group has not been enlarged within the period of the current Local Development Plan. As the proposal satisfies the criteria of Policy HD2, it is in accordance with the Policy.

Officers have accepted the presence of the Building Group, that the location of the site is well related to the Building Group, and that the Building Group has not been expanded in the current Local Development Plan period. Despite accepting that the site is well related to the Building Group, in citing the reason for refusal Officers have adopted the contradictory position that the site “is not in keeping with the character, sense of place and setting of the building group”. The Report of Handling clarifies that the proposal has been considered unsympathetic to character as it represents an extension of the Building Group – the Appellants disagree with both this conclusion and the process by which it has been reached.

The profile of the proposed development in the landscape has not been satisfactorily assessed. The Appellants' position is that the impact of the proposal on the landscape would be minor and acceptable in any case, particularly when the proposed tree planting is considered.

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The Local Review Body, having considered the detail contained within the refused Planning Application, together with the information set out herein, are respectfully requested to allow the Appeal and grant consent for the erection of a single dwelling on the appeal site.

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1. INTRODUCTION AND PROPOSAL DESCRIPTION

- 1.1 The appeal site comprises a small portion of agricultural grazing land which is in seasonal use. The site is enclosed on two sides by a dry stone wall and on a third by a post and wire fence. The site directly abuts Auburn Cottage which historically formed part of the same field as the application site. It is enclosed by a stone wall which would act as the site's west boundary. The remainder of the plot would be demarked by a post and wire fence and substantial woodland planting. The proposal relates and speaks to the existing Building Group adjacent to the west.
- 1.2 The dwelling is to be positioned centrally within the site upon generally flat ground, avoiding the need for duntaking to level the plot. The proposed dwelling is to be enclosed by deciduous tree planting to the north-east (shown on P607-PL-001 Conceptual Site Plan) as well as Scots Pine (*Pinus sylvestris*) to the north as part of a planting plan for this part of the farm more widely.
- 1.3 Access is proposed directly from the public highway and is illustrated on the submitted Conceptual Site Plan. The proposed arrangements have been supported by the Roads Planning Officer.

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Fig 1: Extract from P607-PL-001 Conceptual Site Plan (Source: Stuart Davidson Architecture)



1.5 The Decision Notice and Report of Handling relating to the refused application are included with the submission.



2. ASSESSMENT OF DEVELOPMENT PROPOSAL REFUSAL OF APPLICATION BY SCOTTISH BORDERS COUNCIL AND PLANNING POLICY CONTEXT

2.1 Planning Application 19/01000/PPP was refused on 9th October. The one reason given in justification is copied below.

“The proposed development is contrary in principle to Adopted Local Development Plan Policy HD2 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Place-Making and Design (January 2010) in that it is not in keeping with the character, sense of place and setting of the building group, or with the landscape and amenity of the surrounding area, principally through the unsympathetic extension of the building group beyond its defined sense of place, which would also constitute and promote a 'ribbon' form of development, extending along the public road, northeastwards, into the open countryside, with no immediate or obvious containment of development in this direction. The provision of a tree belt, as proposed, will not provide acceptable mitigation against the landscape and visual impact of the development.”

2.2 Policy HD2 permits the expansion of existing Building Groups, which comprise at least three houses, by an additional 2 dwellings or a 30% increase of the building group, whichever is the greater over the LDP period.

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Fig 4: Policy HD2 Housing in the Countryside – Section (A)

(A) BUILDING GROUPS

Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such conversion has been implemented,
- b) the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts,
- c) any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.

In addition, where a proposal for new development is to be supported, the proposal should be appropriate in scale, siting, design, access, and materials, and should be sympathetic to the character of the group.

The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point.

- 2.3 The Appellants' submission is that the application was made in accordance with section (A) of the Policy in that the appeal proposal represents the enlargement of an existing Building Group in the countryside by 1 no. dwelling. Therefore sections (B) to (E) are not considered to be relevant.
- 2.4 The Supplementary Guidance '**New Housing in the Borders Countryside**' includes the following criteria for any new housing in the countryside:
 - No adverse effect on the viability of a farming unit or conflict with the operations of a working farm;
 - Satisfactory access and other road requirements;
 - Satisfactory public or private water supply and drainage facilities;
 - No adverse effect on countryside amenity, landscape or nature conservation;



- No adverse impact on ancient monuments, archaeological sites, or on gardens or designed landscapes;
- Appropriate siting, design and materials in accordance with relevant Local Plan policies.
- The safeguarding of known mineral resources from sterilisation unless this is acceptable following an assessment of the environmental implications.

2.5 The section of the Guidance, which covers the expansion of existing Building Groups, states that all applications for new houses at existing building groups will be tested against an analysis of:

- a) the presence or, otherwise of a group; and
- b) the suitability of that group to absorb new development.

2.6 The Guidance sets out that Building Groups will be defined by natural features such as enclosing landform and trees and also by man-made features such as existing buildings or means of enclosure.

2.7 When expanding an existing building group, the Guidance includes the following points:

- The scale and siting of new development should reflect and respect the character and amenity of the existing group;
- New development should be limited to the area contained by that sense of place;
- A new house should be located within a reasonable distance of the existing properties within the building group with spacing guided by that between the existing properties;
- Ribbon development along public roads will not normally be permitted.

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3. GROUNDS FOR APPEAL AND CASE FOR THE APPELLANT

3.1 The decision of the Planning Authority to refuse the application is challenged on the basis of the two Grounds set out below. It is the submission of the Appellant that the Proposal accords with the relevant adopted policy of the Local Development Plan and Supplementary Guidance and that there are no material considerations which justify the refusal of the application.

GROUND 1: The proposal is complementary to the character of the Building Group and contributes to the local sense of place and setting.

GROUND 2: The proposal will not have a material detrimental impact upon the local landscape or visual aesthetic.

3.2 During the course of the application’s determination, the following consultee responses were received from Council Officers and partners:

- Roads Planning Officer – No objection, recommended conditions;
- Transport Scotland – No objections; and
- Community Council – No comment.

GROUND 1: THE PROPOSAL IS COMPLEMENTARY TO THE CHARACTER OF THE BUILDING GROUP AND CONTRIBUTES TO THE LOCAL SENSE OF PLACE AND SETTING.

3.3 As a starting point it is material to note that Report of Handling 19/01000/PPP establishes that “the site is certainly adjacent to a building group which is comprised of more than three houses, and which has not been augmented during the current Local Development Plan period”. The Appellant is in agreement with this assessment.

3.4 Further it is the stated position of Officers that “in terms of its location, the specific site identified is certainly well-related to the building group in its siting; lying as it does, adjacent to an existing residential property, 'Auburn Cottage'.” While the Appellant accepts this position, it appears to contradict the stated reason for the refusal of the application that the proposal “is not in keeping with the character, **sense of place and**



setting of the building group". It would appear to follow that a site which is "well-related to the building group in its siting" does contribute to the local "sense of place" and development thereon would have the potential to contribute to the "setting" of a building group.

- 3.5 It is the position of the Appellant that the proposed tree planting forms an effective means of enclosure to the north and north-east of the site as allowed by the guidance contained within New Housing in the Borders Countryside SPG. Officers contend that "there are no strong natural or constructed boundaries at or around the site" and that "any expansion of the building group into this field then, would therefore not only see the existing boundaries of the building group breached at this point (that is, essentially those around Auburn Cottage); but would also see no natural successor to them".
- 3.6 It is considered that the planting of trees to the north and north-east of the site would create a functional and distinct boundary to both the curtilage of the proposed dwelling and the Building Group as a whole. Therefore the proposal would serve to preclude further built development to the north-east of the site as any potential plot beyond the land planted with trees would, demonstrably, not form part of the Building Group and any development proposal thereon would not be supported by Policy HD2. Indeed not only does the proposed tree planting represent an appropriate means of enclosure to the enlarged Building Group, it would also enhance the existing sense of place within the Building Group by defining a set boundary.
- 3.7 Therefore, the stated opinion of Officers that the appeal proposal would "constitute and promote ... development, extending along the public road ... into the open countryside, with no immediate or obvious containment of development" is misplaced.
- 3.8 It is not accepted that the proposal would have a detrimental impact on the character of the Building Group. Officers appear to have reached this conclusion upon the premise that "the proposal would itself extend the building group northeastwards ... towards no obvious or immediate point of visual containment thereafter, and which would otherwise arrest and delimit any further expansion of the building group northwards from this point. This in itself would not be sympathetic to the existing character and setting of the building group."
- 3.9 It is the Appellant's position that the erection of a single dwelling to enlarge an existing Building Group is not inherently unsympathetic to local character. This position is in accordance with Policy HD2 and recognises that the demand for land and buildings change and evolve over time. The local Building Group specific to this case is notable for



the broad diversity in design over relatively few existing dwellings. Within the Building Group houses are: aligned to both front onto the C18 road (adopted highway) and set into backland, orientated both parallel and perpendicular to the highway, make use of both L-plan and linear design, are served by both detached and integral garages, and comprise both render on block and fashioned stone construction. Therefore, without exaggeration or embellishment, the local character is of bespoke building informed by diverse design in a fairly compact layout.

- 3.10 As established by Report of Handling 19/01000/PPP, the site is “well-related to the building group in its siting” and so would retain the fairly compact layout of the Building Group. The proposed dwelling is aligned to front onto the highway in a parallel fashion making use of L-plan design and a detached garage. Elevations are conceptually envisaged to comprise render on block and timber weatherboard construction together with a front porch of marziale brick. Therefore it is considered that the appeal proposal would not cause significant harm to local character.

GROUND 2: THE PROPOSAL WILL NOT HAVE A MATERIAL DETRIMENTAL IMPACT UPON THE LOCAL LANDSCAPE OR VISUAL AESTHETIC.

- 3.11 In considering the Officer’s opinion that “no immediate or obvious containment of development [exists] in this direction”, it is material to note Planning Permission 18/01712/PPP. The Report of Handling prepared for the application states:
- 3.12 “It is accepted that the approved SPG on new housing in the countryside states that sites should not normally break into undeveloped fields particularly where there exists a definable natural boundary between the building group and the field. The use of the words ‘not normally’ are particularly relevant in this case as this suggests that there may be situations where it is acceptable for sites to break into previously undeveloped fields, as is the case here.”
- 3.13 Therefore it should be noted that Officers have previously accepted that neither development ostensibly ‘breaking into’ an undeveloped field or making use of man-made or planted means of enclosure are categorically excluded from the scope of Policy HD2.
- 3.14 The landscape impacts of the development are considered to be very minor. Due to land topography and a small group of trees and shrubs planted on the breast of a hill, the



site and the adjacent ‘Auburn Cottage’ are not visible from either Synton Mains Farm House (the Appellant’s present address) or the carriageway of the A7 which lie north of the site. The terrestrial screening shall be reinforced by proposed tree planting running north from the boundary of the site.

- 3.15 To the east, both the site and ‘Auburn Cottage’ are visible at present from the carriageway of the C18 and surrounding land, which lie higher than the application site. While the aspect from this viewpoint is of a small rural settlement (which the proposed dwelling would preserve) the proposed tree planting would comprehensively screen both the proposed dwelling and ‘Auburn Cottage’. It should be noted at this stage that the planting of trees will benefit the local environment more than any alternative and does not require planning permission.
- 3.16 To the west of the site, the A7 is heavily landscaped with embankments obscuring views towards the site. Beyond the embanked section of highway, views of the site are wholly screened by land topography and mature vegetation sitting opposite ‘The Pines’.
- 3.17 The proposed dwelling would clearly be visible from the C18 (the stretch of adopted highway from which vehicle access to the site is taken) to the south. Further to the south, the proposed dwelling would be visible at the east of the row of dwellings. As all other dwellings in the Building Group are existing and together set the visual context from the viewpoint it is considered that the appeal proposal would have a minor impact on the landscape character and in no way can be considered to be significant.

Summary of Appellants’ Position

- 3.18 The Appellants’ position is that the single reason for refusal of the application is unjustified as the conclusion that the proposal represents an “unsympathetic extension of the building group beyond its defined sense of place” has been reached without a sound planning assessment of the proposal’s impact on local character, sense of place, or the setting of the local Building Group and that the landscape impacts of the appeal proposal have not been robustly assessed.
- 3.19 The Report of Handling has identified that the site is well related to the Building Group and so it is a contradiction to argue that that the appeal proposal does not respect the local sense of place. The design of the appeal proposal is considered to enhance both the local character and setting of the Building Group. The appeal proposal would only alter views of the site from the south and the would not harm the local landscape character.



4.0 CONCLUSION

- 4.1 The Appeal, supported by this Statement, requests that the Council overturns its decision to refuse planning permission in principle for Application 19/01000/PPP and grants consent for the erection of a single dwellinghouse, garage, and associated works on the land east of Auburn Cottage, Ashkirk.
- 4.2 The appeal site forms part of an existing Building Group, as defined in Policy HD2, which has capacity to expand within the current LDP period. Both points have been formally accepted by Officers, on the Council's behalf, in the Report of Handling.
- 4.3 The appeal site is well related to the existing Building Group and even shares a boundary with an existing dwelling. The proposed dwelling lies north-east of the Building Group and will be enclosed by proposed tree planting extending from its own north and north-east boundaries. The proposed tree planting will set a new functional and distinct boundary to the Building Group, preventing further elongation of the development ribbon and does not require planning permission.
- 4.4 The site's boundaries with the adopted highway and neighbouring dwelling will be planted with hedging for amenity purposes, which reflects the boundary treatment of the nearby dwelling 'Barbachlaw'.
- 4.5 A new vehicle access is proposed directly to the adopted highway. The Roads Planning Officer has not objected to the application.
- 4.6 The Appellants' recognise that a grant of planning permission in principle places a requirement upon them to prepare a detailed design in accordance with adopted policy and supplementary guidance at the next stage of the planning process. Therefore the scale, layout, appearance of elevations, and landscaping can be controlled by the Planning Authority.
- 4.7 The Local Review Body is respectfully requested to allow the appeal for the erection a single dwellinghouse, garage, and associated works.

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APPENDIX 1

The following drawings, documents, and plans have been submitted to support the appeal:

- Appeal Form;
- AF1 Appeal Statement;
- Application Form;
- AF2 (Application) Planning Statement;
- AF3 P607-PL-001(A) Conceptual Site Plan;
- AF4 P607-PL-002 Conceptual Elevations;
- AF5 P607-PL-003(A) Location Plan;
- AF6 Planting Plan;
- AF7 Report of Handling 19/01000/PPP; and
- AF8 Decision Notice 19/01000/PPP.

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