

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 19/01000/PPP
APPLICANT : Mr & Mrs C W Davies
AGENT : Ferguson Planning
DEVELOPMENT : Erection of dwellinghouse and garage
LOCATION: Land East Of Auburn Cottage
Ashkirk
Scottish Borders

TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
003	Location Plan	Refused
001	Proposed Site Plan	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations.

Roads Planning Section: no objections subject to conditions to require that access to the plot form part of a service lay-by, and acceptable parking and turning within the plot be provided. An informative is sought to advise with respect to works within the public road boundary.

Transport Scotland: does not propose to advise against the proposal.

The Community Council has not responded (a comment was uploaded in error from the CC, but related to another site entirely, as was apparent from the comments themselves).

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 Amenity
IS2: Developer Contributions
IS7: Parking Provision and Standards
IS9: Waste Water Treatment and Sustainable Urban Drainage

SUPPLEMENTARY PLANNING GUIDANCE

- Placemaking and Design (2010)
- Development Contributions (2019)
- New Housing in the Borders Countryside (2008)
- Householder Development (incorporating Privacy and Sunlight Guide) (2006)
- Waste Management (2015)

Recommendation by - Stuart Herkes (Planning Officer) on 7th October 2019

BACKGROUND

This application proposes Planning Permission in Principle for a new house on land within a field that has already been the subject of two previous refused planning applications for residential development. The current application (19/01000/PPP) essentially revives a previous but refused application for a single dwellinghouse on the site (06/00190/OUT). However, the same site was also, before that, part of a larger proposal involving land to the east, which was the subject of an application for three new houses (05/01209/OUT). This was also refused. Both of these previous refusals were made in relation to the plans and policies of a previous and now long since superseded statutory development plan (one in fact based on the Ettrick and Lauderdale Local Plan 1995), and specifically on the basis that: "the site lies outwith any settlement or building group and the need for the house(s) has not been adequately substantiated". Notwithstanding these previous refusals and notwithstanding the fact that circumstances on site have not changed in any essential way, the current proposal nonetheless requires to be assessed against the plans and policies of the current statutory development plan; namely, the Scottish Borders Council Local Development Plan 2016.

PLANNING POLICY AND PRINCIPLE

Since the application site lies out with the Development Boundary, the proposed development must be assessed against the policies and guidance of the current statutory development plan (Scottish Borders Council Local Development Plan 2016) which relates to housing development in the countryside. The present rural housing policy principally comprises Policy HD2 of the adopted Local Development Plan, with reference to the guidance of the Council's adopted SPGs on new Housing in the Borders Countryside (2008) and Placemaking and Design (2010). These then constitute the planning policy context within which the proposal requires to be assessed unless any material considerations dictate otherwise.

The proposed dwellinghouse would be new-build and is not justified by any economic need - which is to say that no supporting business case has been provided to justify any business' need for a new dwellinghouse in this specific location (I note and consider below, some advice that the Applicants have given, which does relate to a stated but not demonstrated business need). Support for the principle of the development would therefore be dependent upon it being accepted that the application site is well-related to an existing building group that is capable of augmentation to include a new dwellinghouse.

Addressing this latter point directly, 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 - albeit that there is a new-build house now at this present time, nearing completion but which was approved prior to the start of the current Local Development Plan period (08/01607/OUT and 12/00016/AMC). There is then, capacity in theory at least, for the principle of this proposal, which is to say, the addition of one new dwellinghouse to a building group that is capable of being augmented by a new house during the current Local Development Plan Period.

Planning policy however, also requires that the specific site should be well-related to the building group it is proposed to augment, and requires that account should be taken of the cumulative impact of any new development upon the character of the building group, and upon the amenity of the surrounding area. Further, and in addition to the requirements of the Council's rural housing policy itself, it is also necessary that the proposal should have no unacceptable impacts upon the environment and/or amenity of the site and surrounding area in accordance with the requirements of the other policies within the Local Development Plan. The acceptability of the specific site is therefore considered in more detail below.

ASSESSMENT OF SPECIFIC SITE

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'. However, what is proposed, is development within a previously developed field, something which the SPG on Housing in the Countryside advises is not normally acceptable. It is the case that there is no strongly defined edge to the existing building group where it borders the site, being confined only to the property boundary of 'Auburn Cottage'. However, that point being observed, there are no strong natural or constructed boundaries at or around the site either, beyond the access road and the aforementioned property boundary to the southwest. As such, were development to be accommodated as proposed, there would be no obvious, let alone existing, containment of any development within the wider field. 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, meaning that any new boundary or edge to the group would be established in an entirely arbitrary way. The nearest existing boundaries would be the field boundaries of the larger field in which the site is located.

With no more obvious or immediate boundaries to delimit or contain the building group more closely, especially to the northeast, there would in the event of approval, be potential for the building group to be subsequently augmented again with the addition of new houses to the 'open-sided' northeastern extremity of the building group. There is a risk at any rate, that in the long-term, approval of the current proposal would be liable to promote further housing proposals to the northeast of 'Auburn Cottage'. In the long-term, this might result in a more extensive linear, even 'ribbon' development running out from, and to the northeast of, 'Auburn Cottage' into the open countryside, along the route of the access road to some arbitrary point - if not in fact ultimately to the northern field boundary itself, which lies at some considerable distance from the site (which itself lies at the same field's southern extremity).

In summary, the proposal would itself extend the building group northeastwards along the western side of the access road, 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. Moreover, approval of the current proposal would be liable to concede the principle that it was appropriate within the prevailing policy context, for this building group to be expanded to the northeast of 'Auburn Cottage' into the remainder of the field. This then would be liable to promote a greater linear, 'ribbon development' would not be in keeping with the existing building group. The building group still has a sense of being a relatively compact group of houses and buildings based around a traditional farm, and a linear development continuing out into the countryside would not be in character with this form of development. It would see development spread into the setting of the building group which is surrounding fields, without any obvious arrest within any pre-existing confines that would allow for any sense of a natural or logical edge, let alone any sense of immediate containment beyond the site.

There is, I consider, no basis within the existing landscape setting and form of the building group, to seek to promote any development at all to the northeast of 'Auburn Cottage'. This would only be liable to have in itself, an unacceptably detrimental impact upon the character and setting - and therefore sense of place - of the existing houses; principally in being liable to promote an even greater exaggeration of that same unacceptable landscape and visual impact (specifically in its potential contribution in the long-term, to a greater cumulative impact in association with further proposals on land to the northeast again). On this basis, I consider that the proposal would be contrary to Policy HD2 of the Adopted Local Development Plan, and should be refused on that basis, unless material considerations require that any different view should be taken.

The Applicants have themselves identified certain considerations which they consider should be taken into account within the assessment of their proposal. However, they do not, I appreciate, consider that the proposals would depart from Planning Policy in so far as this applies to the augmentation of rural building groups. Therefore I am clear that they do not identify these additional considerations in support of any exceptional approval per se. However, notwithstanding, these considerations do require to be addressed, and their implications for the assessment I have set out above, given due consideration.

MATERIAL CONSIDERATION - PROPOSED NEW TREE BELT

It is possible that new and substantial tree planting as indicated indicatively on the Applicants' Proposal Drawings, could be sought to create a new landscaped edge within or to the northeast of the site to provide appropriate visual containment along this boundary, and allow the site to be included within a newly-defined northeastern edge to the building group. This could be required and delivered under an appropriately-worded planning condition attached to any consent issued, and this is indeed anticipated within the Applicants' own supporting case. However, any acceptance that the building group might be appropriately augmented in this way, would thereafter still be liable to result in future proposals for new houses to the northeast of it; albeit that each in turn, might then have to factor in proposals for the formation of a new northeastern tree belt in place of the one that it would have had to overrun in order to accommodate itself within the building group. Or perhaps in this specific case - at least where such a large tree belt as that indicated on the Proposals Drawings were to be maintained - future planning applications might be as (if not more) likely simply to seek to 'hollow out' the extensive tree belt indicated, on the basis that any future approvals would not in fact result in any change to any accepted overall extent and edge of the tree belt in the form in which it is currently being indicated.

In light of this, a new single dwellinghouse such as is proposed, even with the delivery of new tree-planting proposals, is not in fact any more defensible than any other subsequent proposals that might otherwise follow from it, notwithstanding any potential to plant trees to the east to create a new edge to the building group.

The potential to form a new tree-belt at an arbitrary point does not outweigh the concern that the building group would not be appropriately expanded to the northeast. I would additionally clarify that the potential to form a new tree-belt is not reasonably characterised as a benefit of any great significance to the building group or wider landscape. No planning approval is in fact required in the first place, to plant trees, such that the formation of a new finished edge is something that could be accomplished without the addition of a new house to the building group were this a concern of the land owner. Accordingly, while a new tree-belt would be reasonably sought in the event of any approval of the current application to ensure an acceptable finished appearance of the northeastern edge of the building group, I am clear that approval is not required in itself to secure tree-planting to the northeast of the building group as any form of planning benefit that would otherwise justify an exceptional approval (or at least the benefit of such planting does not reasonably outweigh the need to determine this application in strict accordance with the policies and guidance of the statutory development plan).

In short, I can find no strong support for the current proposal with respect to any potential to deliver a new tree-belt, and find that even with such provision, this would not outweigh the significantly adverse landscape and visual impacts that would result from this proposal being accommodated at the site. It might be questioned also whether the Applicants would reasonably be required and able to deliver and maintain such a large area of tree planting as indicated, in association with a single house, but were it concluded that that was appropriate, the precise form and extent of tree belt could reasonably be regulated by planning condition. This potential however in itself, is not I consider, any overriding material consideration.

MATERIAL CONSIDERATION - PLANNING APPLICATION 18/01712/PPP

As a material consideration, the Applicants identify the Council's support for what they consider to be an analogous proposal to theirs, specifically one at Carfraemill (Planning Application 18/01712/PPP), where the Planning Department in its recommendation to Members of the June 2019 Planning Committee, both acknowledged that that proposal would see the development of new houses in an undeveloped field, but also considered that indicative new tree planting there, would provide sufficient mitigation in terms that the Planning Department could recommend approval of the aforementioned application in these terms.

As the Applicants emphasis, the Report of Handling on Planning Application 18/01712/PPP does indeed highlight the use of the word 'normally' when assessing proposals involving land in undeveloped fields, specifically in terms of the specific advice that new housing proposals should "not normally" break into undeveloped fields as is given in the SPG on New Housing in the Borders Countryside. In the case of the assessment of Planning Application 18/01712/PPP, it is also the Planning Authority which uses this phrasing as justification of its concern that - in that specific case - it should be able to set aside the advice of the New Housing in the Countryside SPG with respect to development not normally being accommodated in undeveloped fields adjacent to building groups.

At face value, both proposals are certainly very similar in terms of the considerations involved in seeking to accommodate new houses in fields to the immediate north of existing building groups in the absence of any ulterior existing strong natural or logical boundaries to provide any immediate containment of the proposed development. However, within the section of text that the Applicants have omitted to reproduce within their supporting statement taken from the Report of Handling on Planning Application 18/01712/PPP, a consideration for the Planning Department within its assessment of these other proposals - those considered under Planning Application 18/01712/PPP - is advised to be the sense of natural landscape containment at this other site, as articulated through the natural topography of the surrounding area.

I find that no equivalent sense of natural containment exists at the current application site, and therefore that the topography of the current application site does not reasonably allow me to set aside the guidance of the SPG on New Housing in the Borders Countryside in any equivalent way to the approach adopted within the assessment of Planning Application 18/01712/PPP, when considering proposals that would see land within undeveloped fields developed for housing. I note, and acknowledge the use of the word 'normally' and that some judgement is reasonably involved in the interpretation of the SPG when applied to the assessment of specific sites and their circumstances. However, where the circumstances on site are judged to be unexceptional ('normal' for want of a better word) as in this case, I am content that there is no basis for setting aside this advice of the SPG.

Conversely, a basis for setting aside the advice of the SPG was identified in the case of the assessment of Planning Application 18/01712/PPP and the two proposals are reasonably determined on their own planning merits relative to the policies of the statutory development plan, and advice and guidance informing the application and interpretation of the latter. In summary, despite some superficial similarities, the proposal that is the subject of Planning Application 18/01712/PPP is reasonably considered on its own planning merits, and the view taken by the Planning Authority in that specific context has not set any precedent, or otherwise set out any course of action in any general sense, which the Planning Authority is now obliged to follow or adhere to, and the policy and guidance are still reasonably considered relative to the assessment of the specific proposal.

MATERIAL CONSIDERATION - BUSINESS NEED

I am aware that the Applicants have indicated a concern that the house might allow them to be accommodated in their semi-retirement in such a way that they could continue to manage their golf driving range business, even further to their upcoming retirement from, and onward sale of, their farm at Synton Farm.

The Applicants set out perfectly reasonable personal reasons why they would wish to be relocated, and how this might support them in the lifestyle choices that they would wish to pursue with respect to their concern to continue to operate the golf driving range business out with the operation of the parent farm business. However, this is not informed by any actual business case in support of any operational need for a new house in relation to their business.

Certainly where there had been a business case for a new house in association with a business with an operational requirement for an operator to live on site, the Applicant would be encouraged to consider accommodation of any new house adjacent to an existing building group; and therefore very much in character with what they are proposing here. However, that would only be where there were also accepted to be a case for a new house that was itself substantiated in terms of the associated business' own requirements (that is, where a business case were made for a new house in relation to that business' premises, and it had been established that there was no existing house or building already extant that was suitable for conversion to residential use within their ownership). (In this case, there would also be some concern to establish whether or not the farm business being sold on, still had a requirement for a farmhouse and all other buildings in or capable of residential use, such that the otherwise perfectly reasonable concern to sell on the farmhouse with the farmyard and farm business, could be accepted as removing the farmhouse itself from the Applicants' own search for a potential candidate for their new accommodation arrangements, were these based on a business need).

The Applicants have not however provided any business case or any justification of their site selection for any new house with a business requirement. Moreover, the Applicants have been clear that they do not wish the proposed house to be subject to any agricultural worker burdens or regulations, which would indeed

otherwise reasonably restrict the use of the house and/or require the house to be kept with the farm, or otherwise set aside for occupation by a current or retiring farm worker. In short, their own concern is not to have a house tied to a business operation, and they have therefore not made an application in terms of establishing an economic need for the proposed house either for a worker or retired worker in association with a new or existing business, farm or golf driving range, with a requirement to operate from this specific locality. Accordingly, I have considered it appropriate to consider this proposal only as a proposed addition to a building group; which is, I understand, the position set out by the Applicants themselves, notwithstanding their stated concern to continue to operate at least one of their businesses. In support of that understanding, I would additionally note that there is no advice to the effect that the golf range business needs accommodation for any full-time worker within that business (on the contrary, it is advised that the Applicants would be "semi-retired" when in residence at the proposed house). As such, I am content that there has been no requirement to seek a business case from the Applicant, and that the proposal is reasonably considered on the terms made by the Applicants themselves; that is, as a proposed addition to an existing building group.

MATERIAL CONSIDERATIONS

I have considered the Applicants' supporting case, including their identified material considerations, and am content that these considerations do not in isolation, or otherwise cumulatively, provide any basis that would allow me to support the current proposal as the subject of any exceptional approval to the Council's Housing in the Countryside Policy.

In summary, the proposal is only reasonably understood as being proposed as an addition to a building group, but falls out with the established boundaries, and established sense of place, of that building group. Its situation is if anything, unexceptional, and having considered the material considerations identified by the Applicants, I am also ultimately not persuaded that it merits any exceptional consideration, let alone that it should be made the subject of an exceptional approval.

I therefore find that the proposal is contrary to the Council's Housing in the Countryside Policy and material considerations do not allow me to set aside any concern that the proposals should be determined in strict accordance with the requirements of planning policy.

OTHER CONCERNS

In the event of approval, most other concerns such as parking provision, bin storage, drainage, site levels and such, would all be appropriately regulated by standard planning conditions requiring details to be provided for approval at the time of any ulterior AMC application(s).

Account would need to be taken of the specific impacts relating to any detailed design in the event of an AMC application being made further to any approval, however there is potential for a house to be located on the site without having any unacceptable impacts upon the amenity of any neighbouring properties including 'Auburn Cottage'. Some attention to finished levels within the site would reasonably be required in connection with ensuring an acceptable appearance and impacts upon the neighbours' amenity. Again, a standard condition would reasonably serve to regulate this particular matter.

I note the Applicants' concern that the property would be served by the public water supply but any condition regulating this matter, might allow that private arrangements may be possible. I note that private arrangements are not detailed, but anticipated for foul drainage. Again, standard and suspensively worded conditions could be imposed to require the prior agreement of any proposed private foul drainage system at the AMC stage.

In the event of approval, a legal agreement (S69 or S75) would be appropriately required to collect the requisite development contribution towards the Waverley Rail Link upgrade.

I note the inclusion of indicative or conceptual drawings but these would not appropriately be approved under any approval of a Planning Permission in Principle.

CONCLUSION

The proposal 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 to the east beyond its defined sense of place, while simultaneously promoting a 'ribbon' form of development along the access road, towards Syntonmill. For the reasons set out above, it is not considered that the potential to provide a tree belt would not mitigate the impacts of this proposal.

REASON FOR DECISION :

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.

Recommendation: Refused

- 1 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.

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