



**APPEAL STATEMENT IN RELATION TO SCOTTISH
BORDERS COUNCIL'S REFUSAL OF:**

**PLANNING PERMISSION IN PRINCIPLE FOR THE
ERECTION OF A DWELLINGHOUSE,
WORKSHOP/GARAGE AND ASSOCIATED WORKS**

**LAND SOUTH EAST OF WEST TARF HOUSE, WEST
LINTON, EH46 7AA**

PLANNING APPLICATION REF: 19/01646/PPP

ON BEHALF OF: MR ERLEND MILNE

19 FEBRUARY 2020

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EXECUTIVE SUMMARY

This Appeal Statement is submitted on behalf of Mr Erlend Milne “The Appellant” against the decision of Scottish Borders Council to refuse Planning Permission for the erection of a single dwelling, workshop, and associated works on land to the south east of West Tarf House on 22nd January 2020 (reference 19/01646/PPP). All Core Documents (CD) are referenced with Appendix 1.

It is the Appellant’s intention to relocate his two existing businesses from Midlothian into the proposed workshop unit. The proposal shall also allow for the Appellant to consolidate his places of work and residence on a single site. The Appellant has consistently sought to relocate his businesses from Midlothian Innovation Campus to West Linton over the last ten years but has been hindered by the absence of suitable light industrial units in the village.

A third part of the Appellant’s business is the nearby equestrian riding track located on the west bank of the stream to the south-west of the site. The running and management of the equestrian riding track is location specific and requires a nearby residential presence.

Reasons for Refusal

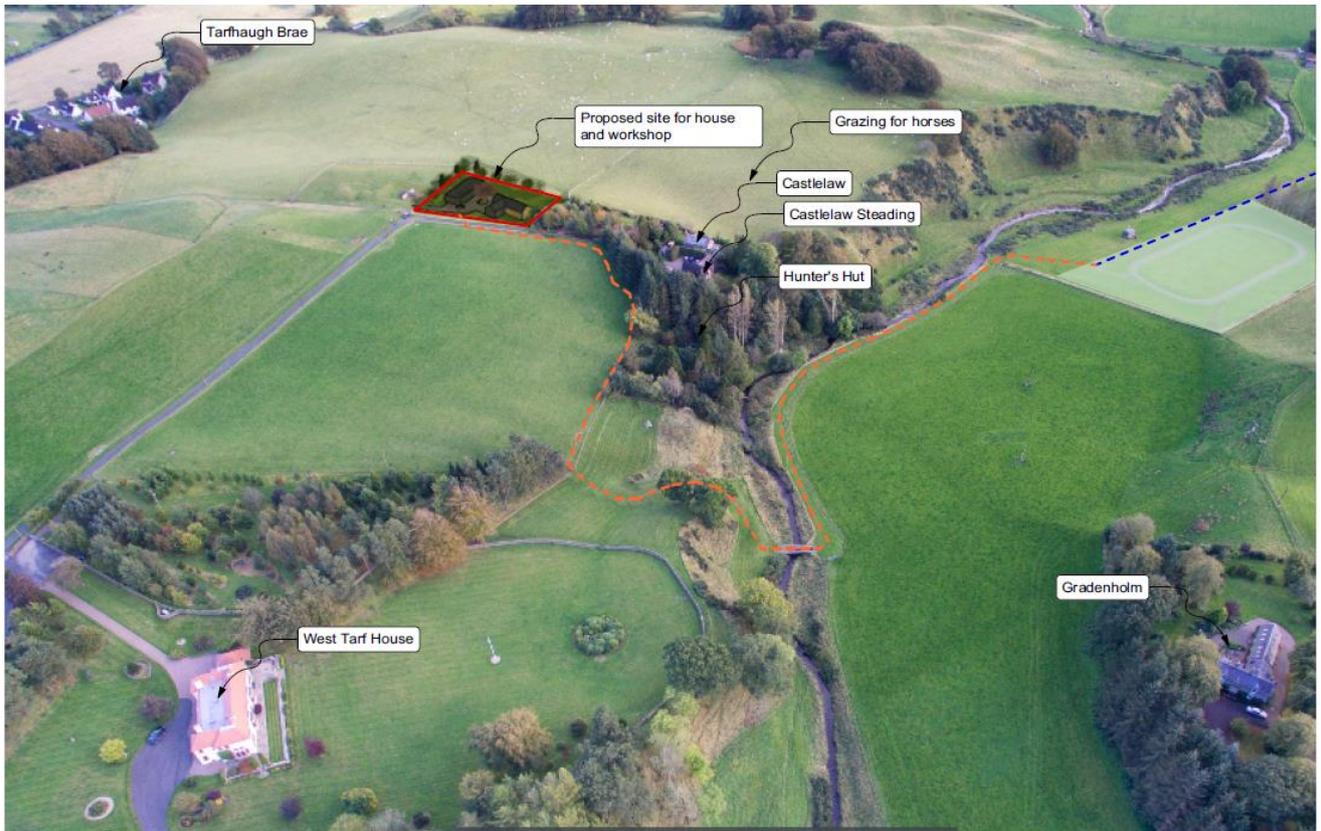
There were two reasons for the refusal of the Application.

Reason 1

The first reason claims contradiction between the proposed development and Policy HD2 of the LDP. Specifically Officers did not accept the economic justification for the proposed dwelling.

Despite the reason for refusal, the proposed development was supported by both a detailed Business Plan (CD6) and the response of the Economic Development Officer which advised that there was an economic justification for the proposed dwelling.

Fig 1: Aerial image indicatively illustrating the proposed development upon the application site and the relationship with the equestrian riding track to the south-west.



Reason 2

The second reason rests on the alleged lack of economic requirement for the proposed workshop which was considered not to sit well with the rural character of the area.

The second reason for refusal appears to ignore both the business case and the response of the Economic Development Officer which supported the workshop element of the proposed development.

The Appellant is mindful of the requirement for development in this location to be sensitive to the semi-rural character of the area. To this end, tree and hedge planting has been illustrated on the conceptually Proposed Site Layout. Moreover, the application site sits within a cluster of existing dwellings and other outbuildings which lie adjacent.

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Finally during the course of the application's determination a total of 13 public responses were received in support of the application, including from existing owner-occupiers at West Tarf. No public responses objecting to the proposal were received by the planning authority. The response of West Linton Community Council also supported the proposal.

The Local Review Body, having considered the detail contained within the Planning Application package, together with the information set out herein, will be respectfully requested to allow the Appeal and grant Planning Permission in Principle.

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1.0 PROPOSAL SUMMARY

- 1.1 This Statement in support of Local Review is submitted to Scottish Borders Council on behalf of the Appellant, Mr Erlend Milne, against the delegated decision of Officers to refuse to grant Planning Permission in Principle for the erection of a single dwellinghouse and a workshop/garage together with associated works on land to the south east of West Tarf House.
- 1.2 The immediate local area is known as 'West Tarf'. The two dwellings – 'Castlelaw' and 'Castlelaw Steading' – lie close to the west boundary of the application site. Two other existing dwellings – 'West Tarf House' and 'Westlands Lodge' – sit approximately 270 metres to the north. The relationship of the properties can be seen in Fig. 1 & 2.
- 1.3 The appeal site comprises the corner of a field close to existing dwellings which extends to 2,115 sqm (0.52 acre) of fairly level land. A Location Plan and conceptual Site Layout Plan, showing the proposed house and garage positions and the relationship of the plot with nearby dwellings were included with the application.
- 1.4 The conceptually proposed site layout includes the proposed dwelling and workshop located relatively centrally within the site with tree and hedge planting included to strengthen the site's boundaries. The dwelling and workshop have been proposed in a careful orientation which would create a semi-enclosed courtyard while orientating the dwelling towards the primary vehicle access route. The Appellant is mindful of the Public Right of Way entering the site from the south and running north along the west boundary and is willing to work with Officers to prepare a detailed landscaping plan to improve walker experience.
- 1.5 Vehicle access to the site from the highway is gained via an existing private road surfaced in tarmac concrete running southwards from the A702. The existing private road provides access to both 'Castlelaw' and 'Castlelaw Steading' as well as the equestrian sheds to the west. It is understood that vehicle access to 'West Tarf House' and 'Westlands Lodge' is achieved from the A702 via the 'T junction' to the south-west.
- 1.6 It is proposed that the new house would be served by private foul and surface water drainage arrangements and mains water supply. The Appellant is content to secure servicing details via condition.

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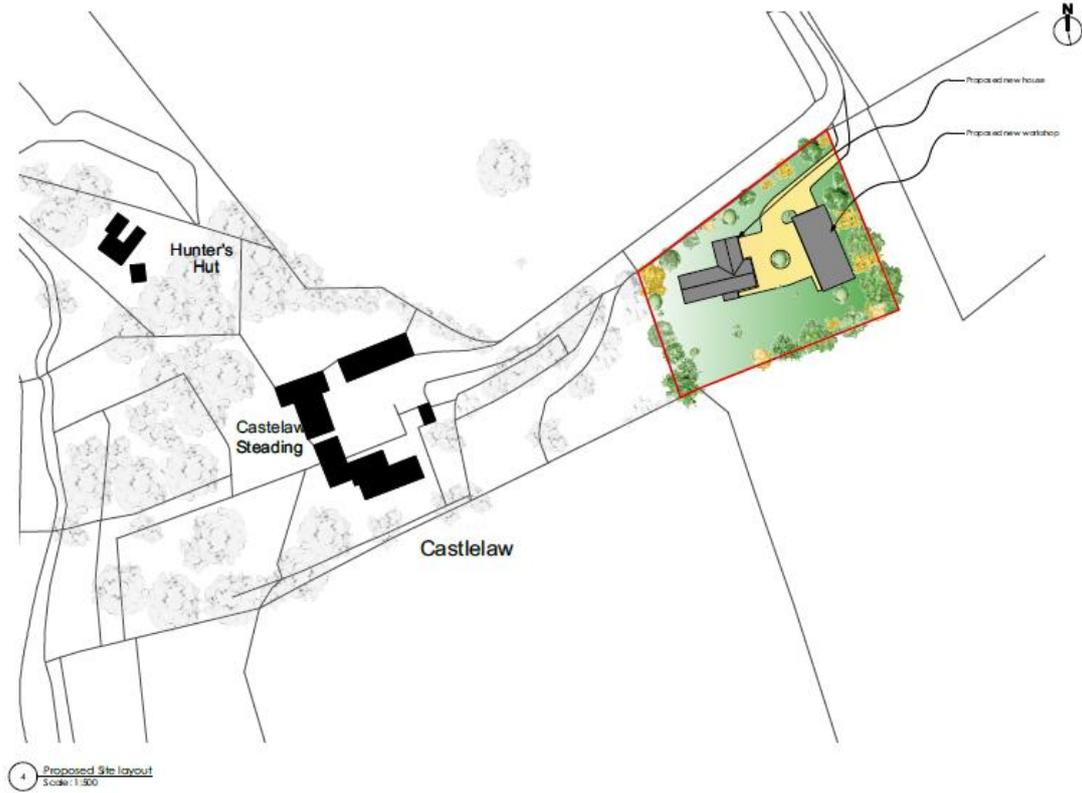
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Fig 2: Extract MILN01 PL002 conceptually Proposed Site





2.0 REFUSAL OF APPLICATION BY SCOTTISH BORDERS COUNCIL AND PLANNING POLICY CONTEXT

2.1 Planning Application 19/01646/PPP was refused on 22nd January 2020. The Decision Notice cited two reasons for refusal, set out below:

“1. The development would be contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would amount to sporadic residential development in a countryside location unrelated to a building group and an overriding economic case for a dwellinghouse has not been substantiated.

2. The development would be contrary to policy ED7 of the Local Development Plan 2016 in that it has not been demonstrated that there is an overriding need for the saddlery/leather goods business to be located within this particular countryside location and its resulting development would adversely affect the rural character of the surrounding area.”

2.2 Policy HD2(F) permits the erection of dwellings in the countryside for which an economic justification exists and Policy ED7 supports economic development appropriate to a rural area.

2.3 The Appellants’ submission is that the application was made in accordance with section (F) of Policy HD2 and Policy ED7 in that the appeal proposal represents the erection of a single dwelling in the countryside which is essential for the needs of three rural-related businesses and that the proposed development would be for the use of and beneficial for those existing businesses, while promoting and securing rural economic development within the Borders.

2.4 An extract of Policy HD2(F) is copied below.

Fig 3: Policy HD2 Housing in the Countryside – Section (E) (Source: Adopted LDP 2016)

(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.

- 2.5 The Supplementary Guidance ‘**New Housing in the Borders Countryside**’, related to Policy HD2, 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.



- 2.6 Despite the specific identification in policy, the Supplementary Guidance addresses housing for which a legitimate economic justification exists in only one paragraph. The paragraph in question establishes that “where permission is sought for a house relating to a business, a Business Plan, supported by referees or independent business adjudication, will be required.”
- 2.7 Policy ED7 which addresses business and employment development in the countryside is copied below.

Fig 4: Policy ED7 Business, Tourism and Leisure in the Countryside (Source: Adopted LDP 2016)

POLICY ED7: BUSINESS, TOURISM AND LEISURE IN THE COUNTRYSIDE

BUSINESS, TOURISM AND LEISURE
Proposals for business, tourism or leisure development in the countryside will be approved and rural diversification initiatives will be encouraged provided that:

- a) the development is to be used directly for agricultural, horticultural or forestry operations, or for uses which by their nature are appropriate to the rural character of the area; or
- b) the development is to be used directly for leisure, recreation or tourism appropriate to a countryside location and, where relevant, it is in accordance with the Scottish Borders Tourism Strategy and Action Plan;
- c) the development is to be used for other business or employment generating uses, provided that the Council is satisfied that there is an economic and/or operational need for the particular countryside location, and that it cannot be reasonably be accommodated within the Development Boundary of a settlement.

In addition the following criteria will also be considered:

- a) the development must respect the amenity and character of the surrounding area,
- b) the development must have no significant adverse impact on nearby uses, particularly housing,
- c) where a new building is proposed, the developer will be required to provide evidence that no appropriate existing building or brownfield site is available, and where conversion of an existing building of architectural merit is proposed, evidence that the building is capable of conversion without substantial demolition and rebuilding,
- d) the impact of the expansion or intensification of uses, where the use and scale of development are appropriate to the rural character of the area,
- e) the development meets all other siting, and design criteria in accordance with Policy PMD2, and
- f) the development must take account of accessibility considerations in accordance with Policy IS4.

Where a proposal comes forward for the creation of a new business including that of a tourism proposal, a business case that supports the proposal will be required to be submitted as part of the application process.

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- 2.8 Paragraph 1.2 of the supporting text to Policy ED7 establishes that *“the aim of the policy is to allow for appropriate employment generating development in the countryside whilst protecting the environment and to ensure that business, tourism, and leisure related developments are appropriate to their location.”*
- 2.9 The supporting text also states in paragraph 1.3 that *“development [proposals] that involve both business/industrial and housing uses will be assessed against the policy and Policy HD2: Housing in the Countryside.”*
- 2.10 The application is submitted pursuant to criteria b) and c) and following that the wider set of criteria contained further within Policy ED7.

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3.0 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. All supporting evidence is documented within the Core Documents (refer to Appendix 1).

GROUND 1: The proposed development includes the erection of a dwelling in the countryside which supports and enables business development – including the management of an existing equestrian riding track – is appropriate to the countryside location and is justified by an economic requirement. The dwelling is proposed in a location which appends an existing cluster of houses and is screened by boundary landscaping. It would not have a significant impact on the local environment.

GROUND 2: The proposed development includes the erection of a detached workshop which is suitable to host existing businesses which have a requirement for a countryside location and are appropriate to the rural character of the area, as evidenced by a robust business plan.

GROUND 1: THE PROPOSED DEVELOPMENT INCLUDES THE ERECTION OF A DWELLING IN THE COUNTRYSIDE WHICH SUPPORTS AND ENABLES BUSINESS DEVELOPMENT – INCLUDING THE MANAGEMENT OF AN EXISTING EQUESTRIAN RIDING TRACK – IS APPROPRIATE TO THE COUNTRYSIDE LOCATION AND IS JUSTIFIED BY AN ECONOMIC REQUIREMENT. THE DWELLING IS PROPOSED IN A LOCATION WHICH APPENDS AN EXISTING CLUSTER OF HOUSES AND IS SCREENED BY BOUNDARY LANDSCAPING. IT WOULD NOT HAVE A SIGNIFICANT IMPACT ON THE LOCAL ENVIRONMENT.

3.2 As a starting point it is material to note that Report of Handling 19/01646/PPP addresses the principle of development for the erection of a dwelling, in planning policy terms, in a single paragraph, totaling less than 200 words.

3.3 In his Assessment the Officer considers that section (F) of Policy HD2, “requires the house be essential to the efficient operation of a business”. Section (F) of Policy HD2



does not “require the house be essential to the efficient operation of a business” and the statement represents a factual error on the part of the Officer. The text of section (F) has been copied from the LDP above. The adopted text does state its intention to support only “housing with a location essential for business needs” and requires a proposed dwelling to be “a direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside”. The appeal proposal is considered to represent an “*other enterprise*” appropriate to the countryside.

- 3.4 The ‘summary’ of the Economic Development Officer’s advice contained with the Report of Handling is copied below:

“the ... space required is not extensive and a double garage-sized space is sufficient for the purpose required” [ellipsis copied from Handling Report]

- 3.5 The extract attributed to the Economic Development Officer in the Handling Report is simply incorrect, as a matter of fact. The extract is not included in the consultation response and misrepresents the support for the proposal offered by the Economic Development Officer.

- 3.6 The Appellants’ three businesses have a synergy and are considered to be appropriate to the countryside. The Saddle Specialist manufactures, repairs, adjusts, and maintains saddles and other equestrian equipment. The application site offers profound benefits to the business in its proximity to the nearby all-weather riding track, allowing for in-situ fitting of saddles to ridden horses and elimination of travel between each and every visit. Making Good Products is one of the country’s leading designers and developers of innovative leather products, leatherwork is considered to be a traditional rural skill. The management and running of the riding track is the third aspect of the Appellant’s business and requires the direct locational justification for the proposed site.

- 3.7 The paragraph of the Economic Development Officer’s consultation response which addresses the business need and operational requirement, specific to the proposed dwelling, is copied verbatim below:

“The need for the dwelling house is more difficult to determine based on the information provided. However, on the basis that the workshop would be integral to the house providing potential for expansion to incorporate horse care and stabling then this makes some economic sense.”



- 3.8 The Appellant agrees with the assessment of the Economic Development Officer. In practical terms, the proposed development has been prepared to enable a local resident of West Linton to move his existing businesses to the local area; while creating the conditions for future expansion (in safeguarding the future of the existing riding track) and consolidating the family home on a single site. It is therefore natural that the mainstay of the economic justification is for the business unit element and the Economic Development Officer is correct to identify this in addition to the economic requirement also extending to the proposed dwelling.
- 3.9 The Officer's Assessment "it has not been demonstrated that a permanent dwellinghouse is required in order to support the business" and that "in operational terms alone there appears to be little, if any, justification for requiring a permanent residential presence."
- 3.10 The requirement for the proposed dwelling to support the existing businesses within the Appellant's ownership has been fully set out within the Planning Statement (CD2) and Business Plan (CD6). The proposed dwelling is also required to support the Icelandic riding track to the south-west of the application site, over which the Appellant has negotiated a conditional lease and future purchase. The proposed dwelling will enable the management of the equestrian riding track operations, maintenance, and provide a necessary overnight presence to assist with animal care and security.
- 3.11 The Appellant's current rented property sits on the east approach to West Linton approximately 2.5 kilometres away and is of no use in operating the three existing rural businesses. Operating the riding track business from the Appellant's existing home would not offer the necessary security to the facility, or deliver the productivity improvements required in the existing businesses. Again space does not exist within West Linton to develop business units and even when making significant compromises, the Appellant has been unable to source any suitable premises in the village particularly when the requirement for an all-weather riding area is considered. The Appellant's intention to take on the proprietorship of the riding track is only possible if consent for a new dwelling is obtained due to the need for an on-site presence to fully utilise and manage the facility.

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GROUND 2: THE PROPOSED DEVELOPMENT INCLUDES THE ERECTION OF A DETACHED WORKSHOP WHICH IS SUITABLE TO HOST EXISTING BUSINESSES WHICH HAVE A REQUIREMENT FOR A COUNTRYSIDE LOCATION AND ARE APPROPRIATE TO THE RURAL CHARACTER OF THE AREA, AS EVIDENCED BY A ROBUST BUSINESS PLAN.

- 3.12 In determining the application, the Officer considered the principle of development for the erection of the workshop to be unacceptable as “there is no overriding need for the business as a whole to be carried out in a rural setting” and that “the business [-es] comprise manufacturing activity which could reasonably be accommodated within a settlement boundary.”
- 3.13 In our opinion, the Officer has misinterpreted adopted policy in seeking that an “overriding need” for business development be proven. Policy ED7 has been copied from the LDP in paragraph 2.5 of this Statement. The adopted text supports both “*development to be used directly for agricultural, horticultural, or forestry operations, or for uses which by their nature are appropriate to the rural character of the area*” and “*development to be used for other business or employment generating uses, provided that the Council is satisfied that there is an economic and/or operational need for the particular countryside location, and that it cannot be reasonably accommodated within the Development Boundary of a settlement.*”
- 3.14 It is the Appellant’s position that the appeal proposal accords with both criteria a) and c) of Policy ED7. A detailed supporting business case has been submitted demonstrating productivity increases and costs rationalisations, delivered directly by the consolidation of the Appellant’s home and business on a single site – within walking distance of an all-weather riding facility which can reasonably be used for the fitting of saddles on horses whilst being ridden and/or jumped which will deliver significant efficiencies. The fitting and adjustment of saddles to horses is a significant and core part of the business sitting alongside the manufacturing activities carried out in the workshop.
- 3.15 All three existing businesses are considered to be appropriate to a countryside location and the rural character of the area, largely as both saddle fitting and leatherwork are traditional rural skills. The character of the local area is defined by four large agricultural barns which sit to the west of the private track, providing access from the highway. Given the active agricultural local character, it is considered that the site is the type of location where the manufacture of traditional rural goods would expect to be found. The application site sits a short distance north of two existing dwellings and a third



outbuilding/chalet. The proposed development has been sited to relate to a built cluster and is not located in a remote location in the countryside.

- 3.16 The Icelandic riding track is in equestrian use and will remain so. The track and the activities related to it have a direct requirement for a countryside location and serve to enhance the rural character of the area by making active use of the facility and the surrounding area for equestrian activity, which is an inalienably countryside pursuit. The proposed dwelling and workshop will serve to strengthen the relationship between West Tarf and the riding track by establishing a new functional dynamic and securing the long term future of both.
- 3.17 Notwithstanding the above, it must be borne in mind that the Economic Development Officer unequivocally supported the business aspect of the proposal. The extract of the consultation response relating to the proposed workshop is copied below:

“A review of the business plan for West Tarf Workshop and Track shows this is a trading and profitable business. The request for the workshop makes clear business sense. The workshop will be sited next to an Oval Track which is one of only 2 tracks of its type in the UK. This is likely to have a positive effect on the business both in terms of being able to offer a more comprehensive service to clients and also in the amount of time spent in travelling between clients, workshop and facilities. There is a clear business benefit demonstrated.”

- 3.18 It is considered that the response of the Economic Development Officer alone is sufficient to demonstrate accordance with criteria c) given that *“other business or employment generating uses”* are permitted by the Policy *“provided that the Council is satisfied that there is an economic and/or operational need for the particular countryside location”*. We consider in applying Policies HD2(F) and ED7, the consultation response of the Economic Development Officer should carry the utmost weight. The Case Officer appears to have set the advice contained in the response aside and not fully provided evidence for the position taken considering this and the detailed business and financial case provided in the Appellant’s Business Plan.
- 3.19 The Appellant is disappointed that the Officer alludes to locating the proposal within a settlement but has not acknowledged that no suitable sites exist in West Linton. As members are aware (and instructed Officers to acknowledge in Decision Notice 18/0037/RREF) the Appellant has repeatedly attempted to identify a suitable unit in the



village to relocate his businesses to – those attempts have failed due to the complete absence of suitable business units in West Linton.

- 3.20 In citing the second reason for refusal, the Officer has claimed that “development would adversely affect the rural character of the surrounding area.” It is considered curious that Officers would cite an “adverse affect” on rural character. The application, subject of this appeal, was for Planning Permission in Principle with matters of detailed design deferred for future consideration. Details of appearance, landscaping, and layout – which inform the relationship of any development with the character of its surroundings – are all included in the detailed design. Should Officers be referring to the compatibility of the business aspect of the proposed development with the surrounding area; it is considered that the proposed business activities are compatible with the rural character of the local area by virtue of the intrinsic nature and cultural heritage of saddle fitting, leather production, and equestrian activity established at the Icelandic riding track close to the site. The application site lies adjacent to existing dwellings and seeks to be contained by a landscape boundary. As CD5 shows the proposal will sit sensitively into the local landscape.

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4.0 CONCLUSIONS

- 4.1 The Appeal, supported by this Statement, requests that the Council overturns its decision to refuse Planning Permission in Principle for Application 19/01646/PPP and grant consent for the erection of a single dwellinghouse, workshop/garage, and associated works on land south-east of West Tarf House, West Linton to support a rural business and in regard to the management of the nearby Icelandic riding track.
- 4.2 The appeal proposal has been designed to facilitate the consolidation of existing businesses upon a single site with the home of the proprietor. As required by adopted policy, a business case has been submitted in support of the business and the dwelling, and which has been endorsed by the Economic Development Officer.
- 4.3 The proposed dwelling is considered to be acceptable in accordance with section (F) of Policy HD2 which addresses development proposals for housing in the countryside benefitting from the support of an economic requirement. The economic requirement for the house is essentially the demonstrated need of the Appellant to consolidate his places of residence and work on a single site and manage the equestrian riding track.
- 4.4 The proposed workshop unit is considered to be acceptable in accordance with Policy ED7. The existing businesses which the Appellant intends to relocate to the site are viably established and generating sufficient sums to provide the livelihood of the Appellant and his family. The submitted business case substantiates the above and confirms that the consolidation of the existing businesses on a single site, integral with the Appellant's home, and in close proximity to the equestrian riding track will deliver an improvement in both productivity and profitability. It will also secure equine services at the riding track facility which are both popular locally and support employment. We will again refer to the large number of support letters from local residents, customers, and businesses, which are included for Members' reference in CD8.
- 4.5 Construction and occupation of the dwelling will also assist the Appellant and his family in taking ownership of and beginning to manage the Icelandic riding track on the west bank of the stream. The equestrian riding track will be leased to the Appellant, conditional upon securing a house located close-by. The Appellant needs to relocate his home to be close to the riding track in order to provide appropriate management and an overnight presence for animal care and security purposes. The proposed dwelling is absolutely essential and will enable the Appellant to assume proprietorship of the riding track.

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- 4.6 The Appellant acknowledges that a detailed design will have to be submitted in the subsequent stage of the planning process in order to secure the consent. Importantly this will include a definitive landscaping design which enables the development to be assimilated into the wider landscape and to ensure the final design of the proposed buildings are of high quality.
- 4.7 Access is provided by an existing track in private ownership over which the Appellant has secured access rights. The appeal proposal has been assessed by both Transport Scotland and the Roads Planning Officer, neither of who have objected.
- 4.8 Should Planning Permission in Principle be granted, approval of further details will be required at the next stage of the planning process. Therefore the scale, layout, appearance of elevations, and landscaping can be controlled by the Planning Authority.
- 4.9 The Local Review Body is respectfully requested to allow the appeal for the erection a single dwellinghouse, garage/workshop, and associated works.

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APPENDIX 1

Core Documents

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

- Appeal Form;
- CD1 Appeal Statement;
- Application Form;
- CD2 (Application) Planning Statement;
- CD3 MILN01 PL001 Location Plan;
- CD4 MILN01 PL002 conceptually Proposed Site Layout;
- CD5 Aerial Images;
- CD6 Business Plan [Private Cover];
- CD7 Consultation Response of Economic Development Officer;
- CD8 Public representations submitted to planning authority advising support for application (consolidated)
- CD9 Report of Handling 19/01646/PPP; and
- CD10 Decision Notice 19/01646/PPP.

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