

**APPEAL STATEMENT**

**REF: 19/01701/PPP**

**ERECTION OF DWELLINGHOUSE**

**LAND NORTH EAST OF WEST MAINS FARMHOUSE,  
CARLOPS, SCOTTISH BORDERS**

**ON BEHALF OF: MR ALASDAIR MACKENZIE**

**MAY 2020**



**Main Office:**

Shiel House | 54 Island Street | Galashiels | TD1 1NU

**NI Office:**

61 Moyle Road | Ballycastle | Co. Antrim | BT54 6LG

**T** 01896 668 744

**M** 07586 807 973

**E** [Ruaraidh@fergusonplanning.co.uk](mailto:Ruaraidh@fergusonplanning.co.uk)

**W** [www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)



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**Main Office:**

Shiel House | 54 Island Street | Galashiels | TD1 1NU

**NI Office:**

61 Moyle Road | Ballycastle | Co. Antrim | BT54 6LG

T 01896 668 744

M 07586 807 973

E [Ruaraidh@fergusonplanning.co.uk](mailto:Ruaraidh@fergusonplanning.co.uk)

W [www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)



## **EXECUTIVE SUMMARY**

This Statement is submitted on behalf of Mr Alasdair Mackenzie “the Appellant” against the decision of Scottish Borders Council to refuse Planning Permission in Principle for the erection of a dwellinghouse on land to the north-east of West Mains Farmhouse, Carlops on 2nd March 2020 (reference 19/01701/PPP). All Core Documents (CD) are referenced in Appendix 1.

The Appellant proposes to build a new dwelling on land within his family landholding and adjacent to his parent’s home a former farmhouse/steading. The existing use of the appeal site is brownfield having operated as c. 5 no. caravan/motorhome pitches which comprise distinct portions of made ground surrounded by grass which is kept mown. Utilities then again provided to each pitch. The site is currently in a form of rural business use at present and can in no way be classified as prime agricultural land or in open countryside per se.

The appeal site is visually and functionally contiguous with the existing West Mains Farm House and Steading and which is inter-visible with a number of existing residential properties located to the west of the A702. Again, visible from the subject site to the east of the A702 is Rutherford House and grouping of approximately 10 large residential units.

### **Reasons for Refusal**

There were two reasons for the refusal of the Application.

#### **Reason 1**

The first reason cited contradiction with Policy HD2 on the basis that the appeal site “is unrelated to a building group” and would constitute “sporadic residential development” in the countryside.

The Appellant’s case is that the appeal site is well related to the existing West Mains Farm Building Group, including lying adjacent to the north-east of West Mains Farmhouse and used outbuildings. As a parcel, West Mains Farm sits visibly distinct from the surrounding countryside as it is enclosed by prominent landscape features. Both the north and south-west boundaries of the site are defined by established belts of mature trees. The site’s west boundary is defined by a spring which runs through a large gully or small valley. Finally, the south-east boundary is defined by a stream running from a small pond, which is surrounded by trees, down to a culvert which runs under the A702.



The building group is to be taken in the context of the historic farm and relationship with the neighbouring house that those additional dwellings that are clearly intervisible to the north, east and west as shown in Figure 1 of this statement.

No dwellings have been approved or constructed within the current LDP period, so there is existing capacity for expansion.

**Reason 2**

The second reason cited contradiction with Policy EP13 on the basis that “the applicant has failed to demonstrate that the development would not result in serious damage to trees” which were considered to have intrinsic landscape value.

It is considered unlikely that the proposed development will have a negative impact on the established tree belt given existing physical separation and built form can set off from the tree canopy easily. The application is in outline and the Appellant is more than happy to be conditioned to ensure that the built form has no impact on those trees considered to have any value.

As detailed design of the proposed development is deferred to the subsequent stage of the planning process, this provides the opportunity for advice obtained to inform the layout presented for detailed approval.

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

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**NI Office:**

61 Moyle Road | Ballycastle | Co. Antrim | BT54 6LG

T 01896 668 744

M 07586 807 973

E [Ruaraidh@fergusonplanning.co.uk](mailto:Ruaraidh@fergusonplanning.co.uk)

W [www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)



## 1.0 SITE HISTORY & APPELLANT CONTEXT

### Site History

- 1.1 West Mains Farm has stood on the current site since 1814, in 1990 the owners of West Mains split the land into 3 parcels. 1<sup>st</sup> was the site of West Mains, 2<sup>nd</sup> Parcel ; Planning permission was applied for, by the then owners of West Mains and permission granted to build a second house which is now Windy Gowl Ref No 91/00113/FUL, making two house within the West Mains site, 3<sup>rd</sup> Parcel; was sold and the new owner applied for and received planning permission for a house on the basis they were going to breed rare animals (Sheep and Cows), known as Mossdale Farm Ref No 97/05071/REM, meaning two other house are directly linked from the Principle/Primary site of West Mains.
- 1.2 Although the houses may be slightly further apart than the standard in a town or village setting it can still be said that the 3 houses form a building group as they are historically linked to the original and primary site of West Mains. There is no distance set in the legislation stating how close the distance has to be between 3 houses / buildings to form a group
- 1.3 In 2000 the owners of Windy Gowl applied for and were granted permission for a house which is known as Schiehallion Ref No 00/01094/REM, in 2017 Windy Gowl applied for and received planning permission for change of use of a holiday home used as an office on site to a residential property Ref No 17/01437/FUL.
- 1.4 Again, each of these houses are approximately within 200m of each other and when taken into account with the other existing houses, West Mains, Windy Gowl and Mossdale Farm, it makes a grouping of 5 houses in a very localised area which have come from, and can be directly linked to, the principal or primary house West Mains Farm thus forming a building group of at least 5 houses.
- 1.5 Houses at Bogs Bank Road West Linton; only one existing house stood on this site, Westwater Cottage, with a derelict barn some 200m away owned by a separate individual permission was granted in 2014 to re develop the derelict barn Ref No 15/00674/FUL, making two houses then a third house was applied for in-between the existing house and the derelict barn in 2016 Ref No 16/00459/PPP with permission being granted, although there were only 2 buildings not enough for a building group as stated in the policy thus setting a form of precedence worthy of reference.
- 1.6 The diagram and pictures below provide some context and inter visibility between the residential dwellings in the area.

**Main Office:**

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**NI Office:**

61 Moyle Road | Ballycastle | Co. Antrim | BT54 6LG

T 01896 668 744

M 07586 807 973

E [Ruaraidh@fergusonplanning.co.uk](mailto:Ruaraidh@fergusonplanning.co.uk)

W [www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)

Figure 1: West Mains Residential Dwellings Cluster



# FERGUSON PLANNING



**Main Office:**  
Shiel House | 54 Island Street | Galashiels | TD1 1NU  
**NI Office:**  
61 Moyle Road | Ballycastle | Co. Antrim | BT54 6LG

**T** 01896 668 744  
**M** 07586 807 973  
**E** [Ruaraidh@fergusonplanning.co.uk](mailto:Ruaraidh@fergusonplanning.co.uk)  
**W** [www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)



# F E R G U S O N P L A N N I N G



- 1.7 Coming back to the subject site. The site at West Mains is not prime agricultural land and was granted permission for commercial use as a Caravan Club Certificated Location for up to 5 touring caravans in 1998 and was used as such up until 5 years ago. The site in question has hard standing areas, mains water, electricity and waste facilities into a septic tank so the site is fully serviced and already has ample access from the A 702.
- 1.8 This would identify the site as a brownfield site as it was previously used commercially. All Planning Policies promote the use of brownfield in advance of greenfield regarding development. The Farmhouse and outbuildings are in active use thus making the subject site the next best location sequentially and which sits side by side with the former farmhouse.
- 1.9 The trees on the site are non-native species such as Pinus mugo, Picea abies, Pinus resinosa and Betula pendula. They have as much landscape value as that of any tree or shrub in any private garden. They are not ancient woodland and have limited arboricultural quality.
- 1.10 That being said, they do assist, as sought by general building group guidance, to contain the subject site within the wider landscape. Any tree root protection can easily be dealt with by way of an associated condition and come the submission of the detailed design and siting of the house. If any trees were needed to be removed or were damaged during construction, they can and would be easily replaced like for like.
- 1.11 The new 2019 Planning Act seeks a stronger focus on delivery of new housing and business in rural areas and support for self build projects. The SPP outlines that where appropriate, the construction of single houses out with settlements maybe supported provided they are well sited and designed to fit with local landscape character, taking account of landscape protection and other plan policies.
- 1.12 Sottish National Planning Framework again outlines that they will continue to work with the housing sector to identify innovative approaches to rural housing, including assisting rural enablers to support individual house building and, as in all of Scotland, to ensure a sufficient supply of new and affordable housing for both rent and ownership. This legislation can be seen to link well to what is trying to be achieved at the site at West Mains.
- 1.13 The local village of Carlops has no gap plots which could be used and is at capacity for sewage treatment making it unfeasible to build a house within the village even if a plot was available. Currently there is only one house for sale in the village which is priced at over £450,000 and not affordable to the Appellant as a first time buyer.
- 1.14 The Appellant seeks to design the dwelling to fit sympathetically into the landscape in a linier position similar to the existing West Mains Farm house and topography of the land, construction materials would be the same as that of West Mains Farm house, faced in sandstone with black / dark blue slate or appropriate roofing tiles.

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Shiel House | 54 Island Street | Galashiels | TD1 1NU

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61 Moyle Road | Ballycastle | Co. Antrim | BT54 6LG

T 01896 668 744

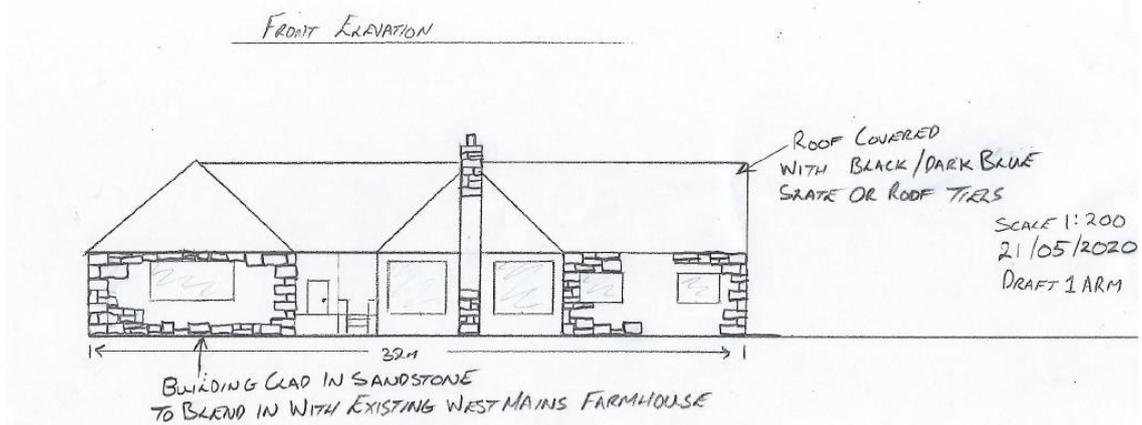
M 07586 807 973

E [Ruaraidh@fergusonplanning.co.uk](mailto:Ruaraidh@fergusonplanning.co.uk)

W [www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)



- 1.15 A sketch plan has been appended of the type of house to aid the context. An extract replicated below.



- 1.16 Again, it would be the Appellant's intention to avail of renewable technologies such as solar and air source heat pumps.
- 1.17 In accordance with the guidance set out in New Housing in the Borders Countryside 2008 the site and proposed house would have no adverse effect on the viability of a farming unit, has satisfactory access and other road requirements, has satisfactory public or private water supply and drainage facilities, it will have no adverse effect on countryside amenity, no adverse impact on ancient monuments or archaeological sites, will be in an appropriate siting, design and use materials in accordance with the relevant Local Plan policies.
- 1.18 It is clear from the history of the wider farm lands and new homes nearby and taking due regard of the wider local, strategic and national planning policy guidance lends much support to the ethos of that proposed. If all of the relevant information, history and legislation was taken into account it is felt there is a very valid case for the development at West Mains to be approved.



## Appellant's Personal Statement

- 1.19 I am a single 40 year old working man who is a lodger at West Mains, most houses which come up for sale in the local area are unaffordable to me and due to the current legislation in place, which makes it very difficult to obtain planning permission for a house, any land parcel which has come on the market in the local area in recent years with planning permission is very over inflated in price, this is a problem which has been created by the LDP and specifically Policy HD2.
- 1.20 This means I could afford to buy the land but not have the finances to build a house or vice versa. The only way I feel I will be able to obtain a forever home for myself is to proceed as I have in seeking Planning Permission for the site at West Mains.
- 1.21 Although West Mains Farm is not run as a commercial farm it still takes a lot of time and effort to maintain the land and look after the animals, a task which I have always shared with my parents.
- 1.22 As they are now both getting older, (they are both over seventy) it is getting harder for them to carry out these tasks which they have done for over 27 years and it is falling on me to take up the slack and do more. To be able to do this efficiently and sustainably I need to be extremely close to, or live on the farm.
- 1.23 Also, in light of the current events with the Covid 19 pandemic and my parents being in the vulnerable category of over seventies with underlying health issues I have had to move out of the house and into rented accommodation at Loanhead. As I am still working in a critical industry suppling bio mass fuel to a national grid power station I now have to do a day's work then when I finish I have to travel the 25 mile round trip to West Mains feed animals, cut grass and do maintenance as well as being the carer for my parents taking shopping in and getting prescriptions etc.
- 1.24 The current situation with Covid 19 crisis has underlined the benefits of my being able to build a house at West Mains site to be close to my parents to provide care for them in their future years and the farm in the most efficient and sustainable way possible.

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Shiel House | 54 Island Street | Galashiels | TD1 1NU

**NI Office:**

61 Moyle Road | Ballycastle | Co. Antrim | BT54 6LG

**T** 01896 668 744

**M** 07586 807 973

**E** Ruaraidh@fergusonplanning.co.uk

**W** www.fergusonplanning.co.uk

## 2.0 PROPOSAL SUMMARY

- 2.1 This Statement in support of Local Review is submitted to Scottish Borders Council on behalf of the Appellant, Mr A Mackenzie, against the delegated decision to refuse to grant Planning Permission in Principle for the erection of a dwellinghouse on land to the north east of West Mains Farmhouse, Carlops.
- 2.2 The appeal site lies adjacent to the north-east boundary of the existing dwelling 'West Mains Farmhouse', which was the principle farmhouse associated with the wider area and includes lands, while no longer in the applicant's control, did relate and allow for new dwellings on the original farm holding. Four agricultural barns/sheds are actively used within the current landholding and are located in the hardstanding yard to the south-west of the existing farmhouse. There are therefore a number of large physical structures set within this landscape and to which the proposed plot would relate when viewed at distance from the public receptor (ie. A702).
- 2.3 The site comprises five existing caravan/motorhome pitches together with an area of adjacent grass which is mown for the benefit of caravan occupiers. The private tarmac concrete track which provides access to West Mains Farm runs adjacent to the south-east of the site. A hardstanding parking area is sited to the north-west of the appeal site, access to which is provided by a tarmac concrete track adjacent to the north of the site.



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**NI Office:**

61 Moyle Road | Ballycastle | Co. Antrim | BT54 6LG

T 01896 668 744

M 07586 807 973

E [Ruaraidh@fergusonplanning.co.uk](mailto:Ruaraidh@fergusonplanning.co.uk)

W [www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)



- 2.4 West Mains Farm is enclosed from the surrounding countryside by a distinct belt of trees which lies slightly beyond the north of the site. Similarly land topography changes beyond the west boundary of the appeal site falling away fairly steeply into a large gulley – small river valley through which a minor watercourse (marked as ‘spring’ on OS) runs. The gulley/valley runs along the full length of the Farm’s west boundary and land rises fairly steeply into the ridge/shoulder of a small hill beyond the spring. The south-west boundary of the Building Group is defined by a second tree belt similar to that which defines the north boundary. The south-east boundary is defined by a small copse of trees which surrounds a pond together with the stream which feeds and drains the pond and runs to a culvert under the A702.
- 2.5 It is proposed that private arrangements for water supply as well as for foul and surface water drainage will be made for the new house. The Appellant is content to secure servicing details via condition.
- 2.6 The remainder of this Statement considers the site context and relevant planning policy, before evaluating the accordance of the appeal proposal with the Local Development Plan and other material considerations.

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Shiel House | 54 Island Street | Galashiels | TD1 1NU

**NI Office:**

61 Moyle Road | Ballycastle | Co. Antrim | BT54 6LG

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**M** 07586 807 973

**E** [Ruaraidh@fergusonplanning.co.uk](mailto:Ruaraidh@fergusonplanning.co.uk)

**W** [www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)



### 3.0 REASONING FOR REFUSAL

3.1 Planning Application 19/01701/PPP was refused on 2nd March 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 EP13 of the Local Development Plan 2016 and Trees and Development Guidance 2008 in that the applicant has failed to demonstrate that the development would not result in serious damage to trees which are of landscape value and there are no public benefits which would clearly outweigh their loss.”**

3.2 Policy HD2 permits the expansion of existing Building Groups by an additional 2 dwellings or a 30% increase of the building group, whichever is the greater over the LDP period.

3.3 The Appellant’s 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 a single dwelling. Therefore section (F) – “economic or operational need” – is not considered to be relevant.

3.4 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.



- 3.5 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.
- 3.6 The Guidance sets out that the existence of a Building Group “will be identifiable by a sense of place which will be contributed to by:
- natural boundaries such as water courses, trees or enclosing landform, or
  - man-made boundaries such as existing buildings, roads, plantations or means of enclosure.
- 3.7 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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**M** 07586 807 973

**E** [Ruaraidh@fergusonplanning.co.uk](mailto:Ruaraidh@fergusonplanning.co.uk)

**W** [www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)



## 4.0 GROUNDS FOR APPEAL

4.1 The decision of the Planning Authority to refuse the Application is challenged on the basis of the Grounds of Appeal set out below. It is the submission of the Appellant that the proposal accords with the relevant adopted national and strategic planning policies and policy of the Local Development Plan and Supplementary Guidance.

**GROUND 1:** The proposed development represents the erection of a dwelling on a site which is well related to the existing West Mains Farm Land(s) Building Group and would contribute positively to the local sense of place and setting.

**GROUND 2:** The proposed development does not represent a serious risk of damage to the distinct tree belt which encloses West Mains Farm as the tree belt is outside the application site and an existing tarmac concrete track separates the trees from the site.

**GROUND 1: THE PROPOSED DEVELOPMENT REPRESENTS THE ERECTION OF A DWELLING ON A SITE WHICH IS WELL RELATED TO THE EXISTING WEST MAINS FARM BUILDING GROUP AND WOULD CONTRIBUTE POSITIVELY TO THE LOCAL SENSE OF PLACE AND SETTING.**

4.2 It is the Appellant's position that the appeal site lies within the setting and forms part of the West Mains Farm Building Group and that the proposed dwelling would be contained and enhance the defined sense of place at local level given the landscaping and brownfield nature of the site.

4.3 West Mains Farm sits visibly distinct from the surrounding countryside as it is enclosed by prominent landscape features. Both the north and south-west boundaries of the site are defined by established belts of mature trees. The site's west boundary is defined by a spring which runs through a large gully or small valley. Finally, the south-east boundary is defined by a stream running from a small pond which is surrounded by trees down to a culvert which runs under the A702.

4.4 The above is illustrated on Fig.2. below.

**Figure 2: Landscape Containment**



**Fig 1:** Aerial image of appeal site (in red) within West Mains Farm enclosed by natural boundaries outlined in orange; existing caravan pitches proposed for redevelopment can be seen in north-west corner of the area enclosed by distinct boundaries.

- 4.5 The plot is contained by existing landscaping with an inter-visible relationship with a group of houses on the historic West Mains Farm land as indicated in Figures 1 and 2. It is considered that the appeal site forms part of the West Mains Farm Building Group which is distinctly enclosed by existing natural boundaries while having synergy with the dwellings nearby. The appeal site also sits directly next to West Mains Farmhouse.
- 4.6 No dwellings have been approved or built in the Building Group since adoption of the current LDP. Therefore, the proposal is considered to accord with section (A) of Policy HD2 and the principle of development is considered to be acceptable in planning terms.



**GROUND 2: THE PROPOSED DEVELOPMENT DOES NOT REPRESENT A SERIOUS RISK OF DAMAGE TO THE DISTINCT TREE BELT WHICH ENCLOSES WEST MAINS FARM AS THE TREE BELT IS OUTSIDE THE APPLICATION SITE AND AN EXISTING TARMAC CONCRETE TRACK SEPARATES THE TREES FROM THE SITE.**

4.7 It is noted that Report of Handling 19/01701/PPP states:

“The trees which are present on the northern edge of the site are semi-mature pine trees which add to the amenity of the area, especially when the site is viewed from the south. No arboricultural assessment was submitted with the application. As the site is rather narrow, the construction of a house may have a negative impact on those trees and that would be detrimental to the appearance of the local area. The lack of information (required by our guidance and BS5837:12) means that the applicant has not demonstrated that the site is capable of being developed without having a negative impact on trees adjacent to the site which are considered to be high value in terms of amenity. While this may be capable of being addressed, there is no information to confirm it will be at this stage. The proposal would therefore be contrary to policy EP13.”

4.8 It is acknowledged that the refused application was submitted without an arboricultural assessment, which is regrettable. However, the Appellant is prepared to accept such an assessment being conditioned in the granting of Planning Permission in Principle. It would have required further related conditions appended even if the assessment was provided at this PPP application stage.

4.9 It is noted that the Planning Officer considers that “while this [development proceeding on-site while retaining existing trees in good health] may be capable of being addressed, there is no information to confirm it will be at this stage. The proposal would therefore be contrary to policy”.

4.10 The Appellant agrees that retaining existing trees on-site and nearby in good health is an important aspect of the development. Therefore, it is agreed that professional advice on tree retention from a suitably qualified person should be obtained and submitted to the Council before initiation of development. It does not prohibit the permitting of a PPP planning application however. It is the principle of the development that is under review not the associated design details at this stage. The intention is to retain all trees present.

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- 4.11 A suitable worded condition will allow the Planning Authority to retain the ability to manage development on-site and ensure the health of mature trees. This reality is assisted by the fact that the full detailed design – including the scale of the proposed dwelling, appearance of elevations, and proposed layout of the development site – is to be agreed at the subsequent stage of the planning process.
- 4.12 Given that professional advice on tree retention can be included in the subsequent stage of the planning process and drawn on to inform the layout presented for detailed approval, it is considered likely that the proposed development can be carried out without causing “*the loss of or serious damage to*” the established tree belt to the north of the site in accordance with Policy EP13.

**Main Office:**

Shiel House | 54 Island Street | Galashiels | TD1 1NU

**NI Office:**

61 Moyle Road | Ballycastle | Co. Antrim | BT54 6LG

**T** 01896 668 744

**M** 07586 807 973

**E** [Ruaraidh@fergusonplanning.co.uk](mailto:Ruaraidh@fergusonplanning.co.uk)

**W** [www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)





## 5.0 CONCLUSIONS

- 5.1 The Appeal, supported by this Statement, requests that the Council overturns the decision to refuse Planning Permission in Principle for Application 19/01701/PPP and grant consent for the erection of a dwellinghouse on land to the north east of West Mains Farmhouse, Carlops.
- 5.2 The proposal is for the erection of a new dwelling on a site which is well related to and within the setting of the existing Building Group. The proposed dwelling lies adjacent to the north-east of West Mains Farmhouse and unmistakably within the existing enclosing natural boundaries of West Mains Farm. No new dwellings have been approved or built in the current LDP period and so existing capacity exists for expansion in line with adopted policy. Therefore, the proposed development is considered to accord with section (A) of Policy HD2.
- 5.3 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 professional advice on tree retention from a suitably qualified person which will inform the layout presented for detailed approval. It is considered that the proposed development will retain nearby trees in good health, in accordance with Policy EP13.
- 5.4 Vehicle access to the adopted highway is proposed via the existing paved access track. Consultation responses were received from the Roads Planning Officer and Transport Scotland and **no objection** was included within either response.
- 5.5 Should Planning Permission in Principle be granted, approval of the deferred 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.
- 5.6 The Local Review Body is respectfully requested to allow the appeal for the erection of a dwellinghouse at West Mains Farm.

**Main Office:**

Shiel House | 54 Island Street | Galashiels | TD1 1NU

**NI Office:**

61 Moyle Road | Ballycastle | Co. Antrim | BT54 6LG

T 01896 668 744

M 07586 807 973

E [Ruaraidh@fergusonplanning.co.uk](mailto:Ruaraidh@fergusonplanning.co.uk)

W [www.fergusonplanning.co.uk](http://www.fergusonplanning.co.uk)



## 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) Design Statement;
- CD3 9417 (2-)001 (A) Location Plan;
- CD4 Report of Handling 19/01701/PPP; and
- CD5 Decision Notice 19/01701/PPP.
- CD6 Appellant Indicative Elevation Sketch

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