

**SCOTTISH BORDERS COUNCIL**

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

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

**REF :** 20/00028/PPP

**APPLICANT :** Mr & Mrs G & M Walker

**AGENT :** Ferguson Planning

**DEVELOPMENT :** Erection of dwellinghouse together with access, landscaping, associated works

**LOCATION:** Land North East Of East Neuk  
Morebattle  
Scottish Borders

**TYPE :** PPP Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
9420.0.01	Location Plan	Refused
9420.0.02	Proposed Site Plan	Refused

**NUMBER OF REPRESENTATIONS: 1**  
**SUMMARY OF REPRESENTATIONS:**

Six neighbours were notified and an advert placed in the Southern Reporter for neighbours not known.

One Local Member offered support, latterly:

- o The positives outweigh any negatives on this proposal.
- o The Community Council had no objections.
- o There is a requirement for on-site security for stock, plant and machinery.
- o They have a thriving and growing business and is a major employer in the area.

Consultations:

Forward Planning: Object. With reference the Scottish Office Agricultural and Fisheries Department 'Standard labour data for agricultural and horticultural activities', given the small number of livestock and relatively small size of the holding it is not considered the agricultural operation from the site can justify a house in terms of labour hours. Forestry business operations occur from the site but there is little notable evidence of this on-site. There appears evidence that the groundwork business, which is a well-known and established business by the applicant, is the predominant use.

Community Council: No objection.

Roads Planning: No objection but conditions are required to provide a direct access to the site from the track to the east in future as this is a business justification and this would negate certain business travel on the public road.

Education: Contributions are required in the sum of £2,978 for Kelso High School.

Rural Business Adviser: Object. This application does not provide sufficient business activity to justify the provision of a dwelling at the moment. The applicant is expected to establish a mobile home and to live in it for the duration, in order to prove the commitment and economic viability of the enterprise.

No responses were received from Scottish Water or the Council's Access Officer.

#### APPLICANT'S SUPPORTING INFORMATION:

- o Business Plan and Accounts
- o Planning Statement
- o Supporting Information

#### PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

Policy PMD1: Sustainability  
Policy PMD2: Quality Standards  
Policy PMD4: Development Outwith Development Boundaries  
Policy HD2: Housing in the countryside  
Policy HD3: Residential Amenity  
Policy IS2: Developer contributions  
Policy IS7: Parking Provision and Standards  
Policy IS9: Waste Water Treatment Standards and SUDS

Supplementary Planning Guidance:

Placemaking and Design 2010  
New Housing in the Borders Countryside, 2008

**Recommendation by** - Euan Calvert (Assistant Planning Officer) on 8th October 2020

This report of handling considers Planning Permission in Principle for erection of a dwellinghouse on agricultural grazing land immediately adjacent to Morebattle Village.

#### Site and Proposal

Morebattle Main Street is a linear feature running east - west through the centre of the village of some 500 residents, 8 miles south of Kelso. The site is a sloping (rising) grass field immediately adjacent eastern extent of the village. The field fronts a well mown grass verge and entrance sign on the southern boundary of the road. This small field is adjacent to the telephone exchange and East Neuk (dwellinghouse). The Old Police House (dwellinghouse) is located on the opposite side of the road from this field. There is a junction at this location where a minor road leads east to Hownam and the Yetholm road bears north east around a sharp bend.

The applicant formed a new access to the east of this site in 2012 (12/00586/FUL). This track forms the eastern extent of the 0.2ha site in this submission. The track features a concrete apron and tight cutting which takes access from the Hownam minor road and leads due south to an agricultural building erected under the same permission, now referred to in the submission as Templehall Farm. The south western extent of the application site would be a 25m boundary to marry with the adjacent East Neuk property boundary. There are fields beyond the track to the east and to the south.

#### Proposal

The application seeks to establish the principle of erecting a dwellinghouse on the site but helpfully an indicative site plan has been provided to lead discussions. It's an artist's impression of a two storey piended

roofed house cut in to the hillside, located forward but central to the plot with vehicular access being taken from the existing telephone exchange access. The building would be aligned a few degrees east of the north-south axis and would be rectilinear in plan featuring narrow gables (6.5m wide) and 15m length. The section/ elevation demonstrates up-side-down living with heavy use of glazing (suggesting open plan) on the first floor and subdivision of rooms t ground floor. The roadside frontage would appear with a narrow gable with the principal elevation facing east away from the village.

### Supporting Statement

A Business Statement accompanies the application to provide validity and justification to the applicant's businesses, both of which are said to relate to the land on which the proposal is to be located. The choice has been directed by location, containment and overall strong relationship with the settlement of Morebattle.

There is a locational need for a dwellinghouse related to an existing rural business. The agent raises a case for infill development policy PMD5 and highlights opportunities given by policy HD2 part A and part F. The agent notes that this "represents a modest and suitable extension of Morebattle" and that policy flexibility should be afforded when logical extensions to settlements present themselves. There are no adverse amenity impacts identified to neighbours and negligible visual impact owing to the visually contained site. Nearby foul and surface drainage is available in the village.

Three years of accounts have been provided with a Business Plan/ Summary supporting the family business: Walker Groundworks Ltd. The summary explains a turnover from groundwork, forestry and agricultural contracting and a view to providing accommodation for one of the family on this site. The justification is to expand the farming enterprise for welfare/ emergency/ security and operational efficiency reasons. The vision is growth through investment and further diversification.

### Templehall Farm

The unit comprises 60 -70 acres of land for agricultural purposes and features a farm shed and cattle handling facilities. These are currently used for storing feed/silage and other agricultural needs.

For the agricultural business to continue to expand there is a genuine need for someone to live on the holding seven days per week. The directors currently travel to Morebattle twice a day to attend to livestock but are not on hand to deal with animal welfare and emergencies.

The agent was asked to provide further details of the agricultural case presented. An agricultural business case has now been submitted. It demonstrates a 3 year forecast to expand the cattle enterprise from 25 suckler cows to 50 by 2023. The labour unit is acknowledged to currently be part time and going to full time by 2023 with a proposal to rear pigs on bed and breakfast basis (with no capital outlay) from the sheds during the summer. There is sufficient grassland on site along with some rented ground to grow silage and summer the herd proposed. Longer term viability of the agricultural division is said to require expansion in line with this projection. Cattle contained within the agricultural unit of Templehall Farm are currently wintered at Graden (photos demonstrate) where there is an overnight presence on-site. Overnight welfare provision is necessary to winter them here at Templehall, Morebattle.

The Supporting Statement has been augmented with discussion that Walker Groundworks has expanded substantially in the previous few years. Graden, which remains the hub of the business, was only able to establish as a successfully trading business due to the dwelling on-site from where commercial administration was conducted and overnight security was provided. That depot is at capacity and there is the need for a second, here at Templehall.

### Policy Considerations

Proposals for a dwellinghouse on the periphery of Morebattle village settlement boundary must be considered by Local Development Plan Policy PMD4, which specifically identifies that development should be contained within the Development Boundary and proposals for development outwith this boundary will normally be refused; exceptions will only be considered in three circumstances. Exceptional approvals must be demonstrated to outweigh the need to protect the Development Boundary.

Policy HD2 sets criteria for siting and locating housing in the countryside. The policy identifies preference for housing within villages/ settlements and clustering with existing building groups in order to manage services and infrastructure and to protect the surrounding landscapes.

I will consider whether or not this is an acceptable component within this rural setting with regard to landscape and visual impacts. Thereafter material considerations of this application are given due regard.

#### Planning History

11/00430/FUL: Erection of dwellinghouse and storage building and formation of access. Land South East of 37 Mainsfield Avenue Morebattle. Refused.

#### Conclusion:

"The proposed dwelling would be contrary to Policy H8 of the Structure Plan 2001-2018, Policy D2 of the Adopted Scottish Borders Local Plan (2011) and the adopted Supplementary Planning Guidance on New Housing in the Borders Countryside (2008). The site is divorced from the settlement at Morebattle, and not associated with a building group. The proposed re-locating/expanding business element of the proposal does not directly require a countryside location, being suitable development to take place on an industrial estate or zoned employment land, and no suitable justification has been advanced with the application. Consideration has been given as to whether any planning condition can render the proposals acceptable. It is not considered appropriate to remove any unacceptable elements of the application via planning condition; as such a condition would not meet the tests for use of planning conditions prescribed in Planning Circular 4 of 1998, and in any event, both the housing and business elements of the application are unacceptable in planning policy terms."

11/00022/RREF, LRB Refused.

#### Conclusion:

"After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan."

12/00586/FUL, Erection of agricultural building. Land South East of 37 Mainsfield Avenue Morebattle. Approved.

#### Conclusion:

"The proposal complies with policies G1 and H2 of the Scottish Borders Consolidated Local Plan Adopted 2011 as the proposed agricultural building would not harm the residential amenities of occupants of neighbouring properties or the visual amenities of the area and the proposed new access can be satisfactorily accommodated within the site and would not interfere with the safety and traffic flow in the immediate locality."

Informative note: The applicant is reminded that the permission for the building is for agricultural use only and any proposal for a change of use may require planning permission.

14/00007/UNUSE, Enforcement enquiry regarding buildings being used for non-agricultural purposes. No action taken. Case closed.

#### Assessment

##### Policy Principle

The Planning Authority have previously considered and refused proposals for siting a new house (11/00430/FUL) adjacent to the location of the agricultural building (12/00586/FUL), now constructed. This previous discussion confirms that the groundworks elements do; "not directly require a countryside location, being suitable development to take place on an industrial estate or zoned employment land, and no suitable justification has been advanced with the application."

The argument of locating the groundworks business to this site is raised by the agent, but does not form part of this application. My observation is that this has already been considered and refused and upheld at appeal. The agent has requested that weight is attributed to the fact that the groundworks business should expand to this location as the site at the family home at Graden is said to be burgeoning.

This current application does not seek a change of use of the agricultural building (or surrounding land) for the groundworks business and so the use of land is agricultural. There are secondary uses being undertaken at the site currently (photographs demonstrate storage of logs and groundworks machinery) but first and foremost, the substantive use is agriculture, as permitted.

Local Plan policy has not changed significantly since the previous refusal for a dwellinghouse on this land. Local Development Plan Policy 2016 continues to zone sites for business and industry (policy ED1) within defined Development Boundaries. There are allocated employment sites (policy ED1 in both Morebattle and Kelso currently). The Planning Authority would require consideration of these locations for a groundworks business in the first instance.

I am required to consider this application against policy PMD4 (the site is beyond the Development Boundary identified in the Local Development Plan) and also Policy HD2: Housing in the Countryside.

The agent makes a case under Part A of policy HD2 (concerning building groups) but I find this incorrect. Morebattle is a settlement defined and enclosed by a settlement boundary (policy PMD4) and therefore may not be considered a "building group" under HD2 Part A.

The material consideration in this application is whether the farming element of the enterprise has developed sufficiently since the 2011 application to support a justification for the "presence of that worker on-site for essential operation of the agricultural enterprise (policy HD2).

#### Policy HD2 Part F: Economic Requirement

- 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 a development would include businesses that would cause disturbance or loss of amenity if located within a settlement.
- 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 is employed on that unit.
- 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.
- d. No appropriate site exists within a building group.
- e. There is no suitable existing house or other building capable of conversion for the required residential use.

This policy allows for development of a dwellinghouse where the location is essential for business needs. In this instance, I can only consider the agricultural use to be the direct operational requirement: agricultural is the current substantive (and authorised) use of the building and landholding. I acknowledge the forestry enterprise argument and I have discussed the groundworks business case above. Neither forest harvesting or groundworks enterprises specifically require this location or are appropriate to this countryside location. They are industrial businesses best suited to allocated employment sites (policy ED1).

The Business Case demonstrates that the worker is not currently predominantly employed in the farming enterprise. The Planning Statement notes that presence of a worker on this site is essential for efficient implementation of the Business Case but the Rural Business Advisor has commented below.

I find no merit in the argument that a dwellinghouse at this location avoids potential disturbance or loss of amenity to neighbours, there is no permission for this holding to be a groundworks or forestry depot.

## Farm Business Case

The farm is not currently commensurate in size to support a full time agricultural worker and it has been demonstrated that there is insufficient agricultural business being undertaken currently to support a farm worker full-time on-site. The Business Plans have now been considered by the Rural Business Adviser. All the supporting information has been considered against the recognised man-hour calculations. He notes that family labour is used free of charge in the calculations until such time as the enterprise becomes more economically sustainable. In the business adviser's experience such a Business Plan can take a "handful of years" to implement. The recommendation to the applicant is that they may wish to consider establishing a mobile (temporary) home and to live in it for the duration of the plan. This would be beneficial to the applicant. It is a standard and commensurate approach which can prove (or otherwise) the commitment and economic viability of any fledging agricultural enterprise. The Rural Business Adviser notes that the Business Plan has not demonstrated a level of financial return to theoretically provide for a mortgage of the dwelling proposed in the application (the accountant has in-effect omitted the cost of the proposed build from the Business Plan). The final observation is that a dwelling should be commensurate in size and level of business activity that the enterprise could provide. This is not apparent from the indicative plans and again supports the temporary home recommendation.

## Policy PMD4: Development Outwith Development Boundaries

This policy allows for exceptional approvals provided that:

- a. It is a job generating development in the countryside that has an economic justification under policy ED7.
- b. It is affordable housing that can be justified under policy HD1.
- c. There is an identified shortfall of housing land.
- d. The development would offer significant community benefits that outweigh the need to protect the Development Boundary

I cannot consider this an exceptional approval as no strong defensible reason has been given that provision of this house is a job-generating development in the countryside that has an economic justification under Policy ED7 or policy HD2 (as set out above). Such an approval would set an undesirable precedent throughout Borders for undermining Development Boundaries and the house could, without legal restriction and planning condition, become an open market house. Legal restrictions and/or planning conditions on the future use of this house would not address the overarching conflict with Policy PMD4 in this instance.

It is accepted that the site could represent a logical extension of Morebattle, but this would have to be pursued through the local plan preparation and adoption procedure to avoid incremental breaches of Development Boundaries.

## Siting and Design

The proposals would be a good balance of proportions and roof design which would be appropriate for the site and a design which would be very modern but a reflection of surrounding form. The roof design and gable width, for example, would relate well to neighbouring vernacular.

The artist's impression demonstrates a large scale dwelling but one of appropriate scale in relation to the size of the settlement, and this would not prejudice the character, visual cohesion or natural built up edge of the settlement or cause a significant adverse effect on the landscape setting of the settlement or the natural heritage of the surrounding area.

Although the proposals theoretically satisfy Policy PMD2 I can place no weight on the designs as this is a Planning Permission in Principle application and all drawings are indicative; all I may consider is the choice of site and location. I find the proposed building would not be harmful to the visual amenities of the area and would comply with Placemaking and Design Supplementary Planning Guidance, 2010 and Policy PMD2.

## Water Supply and Drainage

The site, on the edge of the settlement, would have readily available connection to public waste water mains water therefore would accord with Policy IS9

#### Impact on Residential Amenities

Adverse impact on the amenity of neighbouring residents will not be permitted. I do not identify any harmful amenity impacts arising from the choice of location. The exact position and design of any dwellinghouse would need further scrutiny in accordance with Policy HD3.

#### Developer Contributions

Contributions would be required for Kelso High School in the sub of £2978 (policy IS2).

#### Access and Parking

The Roads Planning Officer has confirmed that the access and parking arrangements would be satisfactory. However, in this business justification scenario they would require a different layout whereby access to the dwelling must be taken from the track to the east of the plot, negating the use of the public road for business travel. This would require to be a condition along with the requisite two spaces and turning being provided in-curtilage.

The access to the site has not been demonstrated in accordance with this guidance. Owing to the hillside location full design details of the access and proposed and existing site levels would be required for further consideration, in order to consider the visual impact of any proposal further (policy PMD2).

#### Other Issues

There have been no objections and no representations from neighbours. One local member has supported the application noting a strong local business justification. Kalewater Community Council offer no objection.

#### Conclusion

This is a difficult conclusion owing to the certain merits of the application. The groundworks and forestry businesses are significant contributors to the local economy and are a large local employer. This is clearly demonstrated in submitted accounts. It is well known that groundworks and forestry businesses can be complementary uses or businesses on farm complexes. However, no Planning Permission exists to operate this business from the land holding adjacent to this site.

Only the authorised agricultural use of the land can be considered in respect of this application. In this instance the size of agricultural holding is not commensurate to support a full-time labour requirement. The justification of the proposal fails to comply with policy HD2. It appears that the use of the holding in the immediate future would be predominantly for the groundworks business and secondary for agriculture.

Therefore, the proposal is contrary to policy PMD4 and does not constitute an exception, as outlined in the policy. This proposal for a dwellinghouse does not then outweigh the need to protect the Development Boundary. Colleagues in Forward Planning object on this basis.

My conclusion is that the application is premature. The Local Development Plan 2 is currently out for public consultation (winter 2020) and the applicant is able to promote this specific site for inclusion within the Morebattle Development Boundary through this process, if they so wish.

#### **REASON FOR DECISION :**

The development is contrary to policies PMD4 and HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside, 2008 as the site is outwith the Morebattle Development Boundary and no exceptional reason for breaching the Development Boundary has

been justified. The Business Case does not demonstrate an agricultural justification for a dwellinghouse on this site.

**Recommendation:** Refused

- 1 The proposed development is contrary to Policies PMD4 and HD2 of the Local Development Plan 2016 and the adopted Supplementary Planning Guidance on New Housing in the Borders Countryside (2008), in that the site is out with any recognised settlement or building group and the need for the house has not been adequately substantiated, and that, accordingly, the proposed development would represent a sporadic and unjustified form of development in the countryside and would undermine the Development Boundary, setting an undesirable precedent for similar proposals that would further erode the Development Boundary.

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