

SUPPORTING STATEMENT TO NOTICE OF APPEAL (LOCAL REVIEW)**In relation to Scottish Borders Council's Refusal to Grant Planning****Permission for****Erection of dwellinghouse, Land north west of Whinnybrae, Skirling****20th January 2021**

On behalf of R.E. Wood & Sons (The Appellant)

Scottish Borders Council Application ref: 20/00923/PPP

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1.0 INTRODUCTION

The Refused Planning Application

- 1.1 This Statement is submitted on behalf of R.E. Wood against the decision of Scottish Borders Council to refuse to grant planning permission for the development, as referred to below. Grounds of appeal are provided in section 3.0.
- 1.2 The application sought planning permission in principle for the erection of a dwellinghouse for a farm worker at Firknowe, a 38.30 acre farm at Broughton. There is no house on, or associated with, the holding at Firknowe at present.
- 1.3 The house is required at Firknowe to allow the business to expand its current active farming operations by employing and housing an additional member of staff on site.
- 1.4 The location identified for the new house lies immediately to the north east of the track between the public road and the two dwellings at Whinnybrae. The application site extends to 2,504 sqm (0.62 acre). The south eastern boundary of the site lies c. 90m from the nearest dwelling.
- 1.5 Access to the site will be obtained from the existing track which leads south eastwards from Skirling to the two semi-detached houses at Whinnybrae. The track is a core path between Skirling and Broughton. An indicative site plan is provided overleaf.

Fig 1: Indicative Site Plan**Fig 2:** Site Location

Fig 3: Site Photograph

Background

- 1.6 R.E Wood & Sons farm over 3 farms totalling 1,745 hectares (4,312 acres) in the Scottish Borders. The business is a cattle and sheep enterprise producing high quality livestock for the fat and breeding markets. Full details of the farming enterprise, its structure, labour requirement and relevant financial information was provided within Laurence Gould Partnership's (LGP) comprehensive "Agricultural Justification" report. The financial information has been provided strictly for the review of the Planning Authority and the Local Review Body and is otherwise confidential.
- 1.7 The business, R.E Wood & Sons, wishes to protect and grow the high value pedigree business by relocating the flock to Firknowe for fully justified health and welfare reasons, as advised within LGP's report. The business cannot relocate the pedigree flock without a dwelling house and (future) agricultural shed being available due to reasons of operational efficiency, animal welfare and security. The agricultural shed, as shown in the Indicative Site Plan, will be the subject of a Prior Notification in due course. The Planning Authority advised it was not possible to include it in the planning application as its size means that Prior Notification is the procedure which must be followed.

2.0 REFUSAL TO GRANT PLANNING PERMISSION

- 2.1 Scottish Borders Council refused planning permission for the erection of a dwellinghouse on land to the north west of Whinnybrae on 26th October 2020.
- 2.2 The Council's stated reason was:

"The proposed development is contrary to policy HD2 of the Local Development Plan 2016 and the adopted supplementary guidance on New Housing in the Borders Countryside, in that the site is out with any recognised settlement or building group and the need for the house has not been adequately substantiated. Accordingly, the proposed development would represent a sporadic and unjustified form of development in the countryside which would set an undesirable precedent for similar unjustified proposals."

3.0 GROUNDS OF APPEAL

GROUND 1

THE PROPOSED DEVELOPMENT IS NOT CONTRARY TO POLICY HD2 IN THAT THE NEED FOR THE HOUSE HAS BEEN ADEQUATELY SUBSTANTIATED.

- 3.1 The key points asserted within the application are reiterated below in support of this Ground.
- 3.2 Laurence Gould Partnership (LGP) provided a comprehensive Agricultural Justification Report for the proposed dwellinghouse. This Report is again provided with this Local Review and Members are requested to review its contents as key supporting information. The Agricultural Justification report methodically addresses:
 - The carrying capacity of the land at Firknowe;
 - The labour requirement associated with the pedigree flock once it is located at Firknowe;
 - The financial viability of the pedigree business; and
 - The requirement for the on-site farm house.
- 3.3 LGP has demonstrated that the business outlined is profitable and the author, a

qualified member of the Central Association of Agricultural Valuers (CAAV), confirms that the size of a unit is absolutely not an indication of the viability of a business.

- 3.4 In terms of policy HD2 "Economic Requirement", the dwelling is a direct operational requirement of an agricultural enterprise and is for a worker to be employed in that enterprise. In accordance with the LGP report, the presence of a worker on site is essential to the efficient operation of the enterprise and there is no building group within which to position the house within the holding at Firknowe or other building capable of conversion at Firknowe.
- 3.5 Further, the farming business has very limited access to housing. There are no houses within the ownership or control of the farm business which would be suitable or available for occupation by the additional worker. There are no existing houses or buildings capable of conversion at Firknowe or agricultural sheds available for use.
- 3.6 A record of houses within the ownership or control of the Applicant is set out below to demonstrate the lack of available housing for the required farm worker.

Holding	Miles from Firknowe	Dwelling	Occupation
Kingledores	11 miles	Benshaw Cottage	Farm shepherd
Kingledores	11 miles	Kingledores Farmhouse	Richard Wood + family
Bamflatt	6 miles	Bamflatt Farmhouse (the only dwelling within the ownership of the business at Bamflatt)	Mr & Mrs J. Wood
Firknowe	N/A	No accommodation	Additional worker (proposed)

- 3.7 For completeness it should be noted that Kingledores Cottage at Kingledores is not part of Kingledores Farm and is held in unrelated third party ownership. Quiltburn at Kingledores is also not part of Kingledores Farm and is likewise in third party ownership. The Bungalow at Kingledores is owned privately and is not available to the farming business.

- 3.8 The new dwelling is specifically for occupation by an agricultural worker. The new dwelling, together with the proposed future shed, will enable the established farming business to expand and restructure its current active farming operations by employing and housing an additional member of staff on site and providing necessary sheep handling accommodation.
- 3.9 The business wishes to protect and grow the high value pedigree business by relocating the pedigree flock to Firknowe for justified health and welfare reasons as advised within the Agricultural Justification report. The health of the flock is stated to be at risk whilst it is being run with the commercial Blackface flock. The LGP report demonstrates that the business cannot relocate the pedigree flock without a dwelling being in place due to reasons of operational efficiency, animal welfare and security.
- 3.10 The labour requirement against the existing resource is clearly set out within the report and the calculation indicates the farm business has a clear requirement for over 10 labour units, demonstrating the level of commitment and resource required for the business to function effectively, particularly given the three geographically separate sites. This confirms the need for the business to employ an additional worker to allow the business to expand whilst maintaining a high standard of animal health and welfare. The current labour force is at full capacity with a demonstrated need of 10 labour units being covered by only 4 full time workers within the business. There is currently no opportunity to expand or restructure the business without employing an additional worker.
- 3.11 In summary, and specifically in terms of Housing in the Countryside policy's section **[F] Economic Requirement:**
- 1) The dwelling is a direct operational requirement of an existing agricultural enterprise – labour requirement and financial viability have been demonstrated;
 - 2) The worker for whom the dwelling is required will be employed full-time in the business;
 - 3) The presence of that worker on site is essential for the efficient operation of the enterprise and for animal welfare reasons;
 - 4) The dwelling, together with the proposed future shed, will allow an existing agricultural business to grow and expand;

- 5) There is no other suitable existing house or other building capable of conversion at Firknowe for the required residential use within the ownership or control of the Applicant;
- 6) The selected site is reasonably related to the existing two dwellings whilst a house could be developed with no material impact upon residential amenity, being c. 90 m distant from the nearest dwelling.
- 7) The site has been selected to minimise the agricultural land take and to be able to be readily accessed from the existing track.

GROUND 2: THERE ARE NO OTHER MATERIAL CONSIDERATIONS WHICH INDICATE THAT THE APPLICATION SHOULD NOT BE APPROVED

3.12 The Roads Planning Officer did not object to the application, stating “*the volume of traffic on this track and the low speed of traffic is unlikely to have a negative impact upon road safety with the introduction of an agricultural dwelling*”. The Officer requested a passing place.

3.13 The Appellant has acknowledged that certain representations have been made regarding legal rights of access. Notwithstanding that servitude rights of access are out with the remit of planning consideration, being a civil legal matter, the Appellant has instructed her solicitor to provide advice. Harper Macleod has confirmed the following:

“Your title sheet confirms that you have a right of pedestrian and vehicular access over:

- (1) The track and verge shown pink on the title plan*
- (2) Part of the old Drove Road described in entry 2 burden – area mauve and yellow*
- (3) The track tinted brown”*

3.14 The Appellant’s solicitor will engage in discussion, as required, to confirm the extent of these rights in terms of the proposed new dwelling at the appropriate point in time after the grant of planning permission. The Appellant is of the understanding, following legal advice, that the existing rights are suitable to serve the development of a farmhouse.

3.15 The Appellant would provide a Tree Survey/ Arboricultural Impact Assessment at

the next stage of the application process once the exact siting of the proposed house is known. The line of mature trees on the north-west boundary is acknowledged.

- 3.16 There are considered to be no other material considerations which indicate that planning permission should not be granted for the proposed development.