

LOCAL REVIEW STATEMENT

REF: 21/00030/PPP

**ERECTION OF DWELLINGHOUSE WITH
OUTBUILDINGS AND ASSOCIATED WORK
INCLUDING NEW ACCESS**

**LAND SOUTH WEST OF RACHAN
WOODLANDS, BROUGHTON,
SCOTTISH BORDERS**

ON BEHALF OF: MR J WARNOCK

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

W www.fergusonplanning.co.uk

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



CONTENTS

EXECUTIVE SUMMARY

- 1.0 INTRODUCTION AND PROPOSAL SUMMARY
- 2.0 REFUSAL OF APPLICATION BY SCOTTISH BORDERS
COUNCIL AND PLANNING POLICY CONTEXT
- 3.0 GROUNDS OF APPEAL AND CASE FOR THE APPELLANT
- 4.0 CONCLUSIONS

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 Ruairaidh@fergusonplanning.co.uk

W www.fergusonplanning.co.uk





EXECUTIVE SUMMARY

This Statement is submitted on behalf of Mr Jim Warnock “the Appellant” against the decision of Scottish Borders Council to refuse Planning Permission in Principle for the erection of a dwellinghouse with outbuildings and associated work including new access on land south-west of Rachan Woodlands, Broughton on 5th March 2021 (reference 21/00030/PPP). All Core Documents (CD) are referenced in Appendix 1.

The Appellant proposes to build a new dwelling on land within his ownership within the agricultural holding of Rachan Home Farm. It is agreed between the Planning Authority and the Appellant that there is a Building Group comprising four existing dwellings in this part of Rachan. Disagreement centres on whether the appeal site is well related to the existing Building Group.

The Appellant is now 63 years old and has farmed at Rachan Home Farm with his wife since their marriage 35 years ago. Both Mr. & Mrs. Warnock want to continue living in the Rachan area for the foreseeable future. The Appellant is currently in the process of retiring and requires a new dwelling on his land in order to vacate the principal farmhouse and farmyard, allowing his nephew to move in and assume leadership of the farm.

The appeal site sits opposite an existing dwelling ‘The Norlands’ across an existing access track to the south of three existing dwellings contained within a courtyard. The Building Group is enclosed by an established, mature forest which defines its character and setting. The appeal site, ‘The Norlands’, and the three existing dwellings sitting within converted stables (courtyard) all lie within a single clearing in the forest.

During the course of the Application’s determination, the following consultee responses were received from Council Officers and partners:

- Roads Planning team – No objection.
- Landscape Architect – Objection.
- Scottish Water – No objection.

Reasons for Refusal

Three reasons were cited for the refusal of the Application.

The first stated reason claimed that the proposed development contradicts Policy HD2 of the LDP as the appeal site “is not considered to be part of or even well related to the group of 4 houses”. The appointed Planning Officer considered that “structure planting around the site



would assist with the development’s integration” into the setting of the Building Group and local landscape but that it “would take many years to achieve the desired effect”.

It is the position of the Appellant that the appeal site lies in a single clearing in the forest which is shared with the other four existing dwellings. The appeal site is already partly enclosed by the forest and it is considered that tree and hedge planting along the south boundary of the site would provide a distinct landscape feature enclosing the Building Group along this axis, in line with the guidance provided in 2.b.1 of the New Housing in the Borders Countryside Supplementary Guidance.

The proposed development has been minorly revised to enable on-site connectivity along the access track adjacent to the west. This revision to the proposed layout of the site has been organised to strengthen the already strong relationship that the proposed dwelling enjoys with the other existing dwellings comprising the existing Building Group by helping visitors arriving along the access track to read all built form as a single cluster within the same clearing in the forest.

The impact of the proposal on landscape character would be limited due to the single storey nature of the proposed dwelling and the local prominence of the established, mature forest. No dwellings have been approved or constructed within the current LDP period and so capacity exists for the expansion of the Building Group. Therefore the proposed dwelling benefits from a strong spatial relationship with existing dwellings within the Building Group and would serve to ‘square off’ further expansion to the south and east.

The second reason for refusal rests on the consultation response of the Landscape Architect, which objected to the proposed development. Unfortunately the consultation response focussed on matters of detailed design and planning assessment, which are not within the lawful scope of any consultation response prepared by a Landscape Architect. Both detailed design and planning assessment are matters reserved for the decision taker, not consultees.

The only valid advice given in the consultation response of the Landscape Architect identified need for a “more robust structure planting scheme encompassing the development site to the south”. Despite the misunderstanding of the consultee; lawful scope does exist within an Application for Planning Permission in Principle to control matters like these (as well as all other landscaping detail) using conditions. The Appellant is prepared to accept a condition(s) to this effect and work with the Planning Authority to prepare an acceptable detailed design in the subsequent stage of the planning process.

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

W www.fergusonplanning.co.uk

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



It is considered that there are no viewpoints from which an “unacceptable adverse impact” would be created and that the proposed development is acceptable in landscape terms. The assessment of the appointed Planning Officer – that “the proposal would not be detrimental to the overall integrity of the NSA” [National Scenic Area] – should also be noted.

The third reason for refusal also relates to landscape matters and cites conflict with the Borders Designed Landscapes Survey 2008. However, this assessment is almost wholly based on the invalid advice contained within the consultation response of the Landscape Architect. As the proposed development is acceptable in landscape terms, the final reason for refusal falls away with the second reason.

It is considered that the proposed development is well related to the existing Building Group lying within the local setting and defined sense of place enclosed within the established, mature forest. The proposed dwelling is modest in scale and is conceptually envisaged as extending over a single storey only. There have been no new dwellings consented within the current LDP period and it is considered that there are no significant cumulative impacts associated with the proposed development. Therefore the appeal proposal is considered to accord adopted policy and to be acceptable in planning terms.

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 Notice of Review and grant Planning Permission in Principle.

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

W www.fergusonplanning.co.uk





1.0 INTRODUCTION AND PROPOSAL SUMMARY

- 1.1 This Statement supports a Notice of Review of the delegated decision of Scottish Borders Council to refuse to grant Planning Permission in Principle for the erection of a dwellinghouse with outbuildings and associated work including new access on land south-west of Rachan Woodlands, Broughton.
- 1.2 The appeal site sits to the east of an existing private way running north-west from the B712, which itself runs eastward from the A701 providing connectivity with the A72. The D54-1 adopted highway encloses the field within which the application site sits to the south-east. In total 12 no. existing dwellings lie in the 'in step' between the B712 and the D54-1. Each existing dwelling is enclosed by the "Tomb Plantation" (coniferous forest) and the smaller bodies of tree cover which have coalesced around it.
- 1.3 'The Norlands', an existing dwelling, sits opposite the site to the north-west of the private way. Another three existing dwellings are contained within a courtyard lying north of 'The Norlands'.
- 1.4 The site comprises part of a grazing field which fits between forest to the north, north-east, and south-west and the minor public road to the south-east. The site is dominated by pasture grass with little in the way of other vegetation or landscaping. An existing field access exists in the south-west of the larger grazing field containing the site.
- 1.5 The Appellant requires a new dwelling on his land in order to retire from the nearby Rachan Home Farm, allowing the next generation to lead the farm into the future. The Appellant is now 63 years old and has farmed at Rachan Home Farm with his wife since their marriage 35 years ago. They both want to remain in the local area which has been their home now for more than three decades.
- 1.6 The Appellant is the second generation of his family to farm the land after his parents took possession of the agricultural enterprise in 1948. In that time no new dwellings have been erected within the agricultural holding of Rachan Home Farm.
- 1.7 It is proposed that the new house would be served by connection to the public water supply network. Drainage of both foul and surface water would be managed in sustainably designed private arrangements. The Appellant is content to secure servicing details via condition.

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

W www.fergusonplanning.co.uk

- 1.8 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.

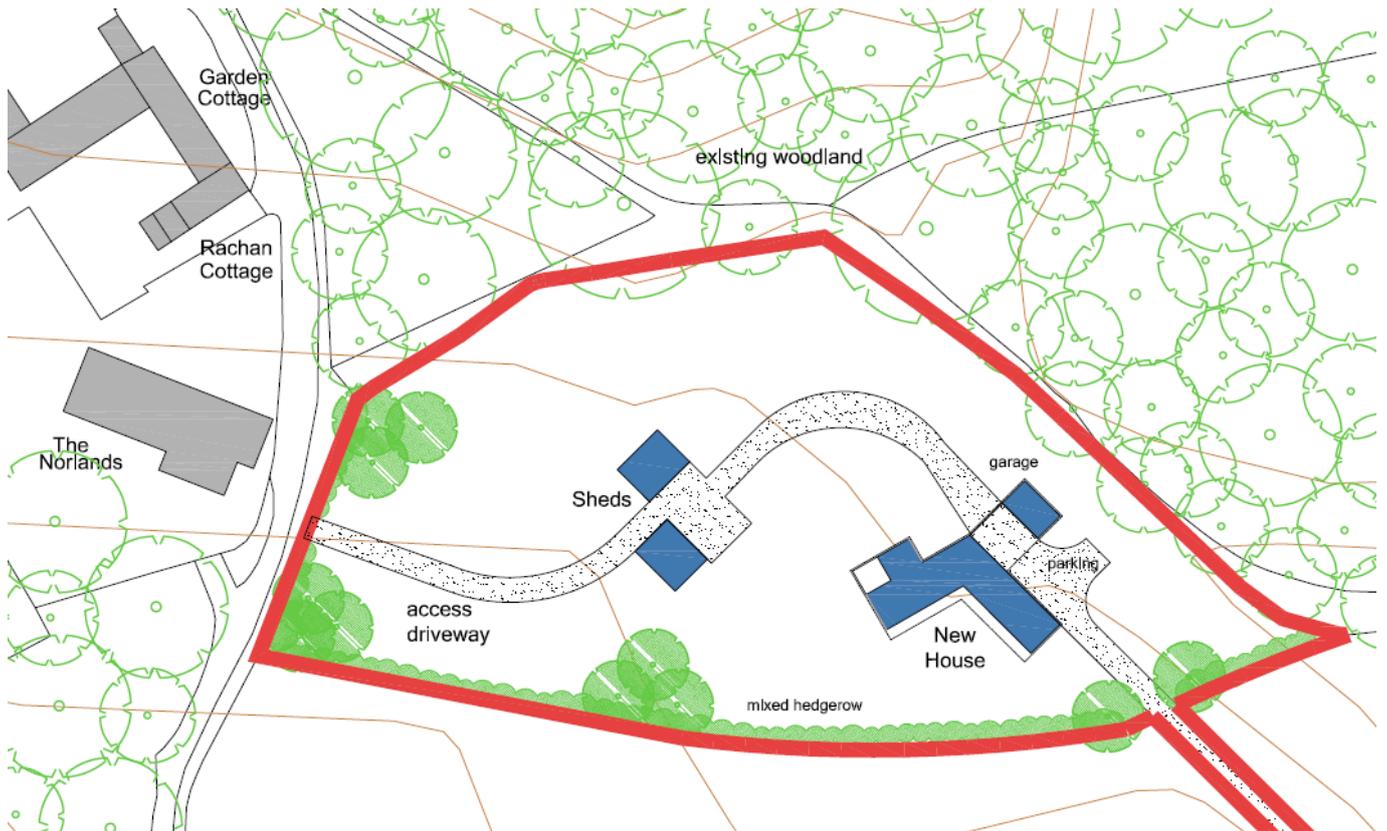


Fig 1: Extract from 20038-PPP-002-D Indicative Site Plan (Source: David Jane Architects).



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

2.1 Planning Application 21/00030/PPP was refused on 5th March 2021. The Decision Notice cited three 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 not relate sympathetically to an existing building group and no overriding case for a dwellinghouse on the site has been substantiated. The Appellant has failed to demonstrate that there exists no appropriate site within a building group and there is no suitable existing house or other building capable of conversion for the required residential use and no overriding case for a dwellinghouse on the site has been substantiated. This conflict with the Development Plan is not overridden by other material considerations.

2. The development would be contrary to Policy EP4 of the Local Development Plan 2016 in that it is likely to have a significant adverse effect on the qualities for which the site and its surroundings have been designated and no overriding case for a dwellinghouse on this site within the Upper Tweeddale National Scenic Area has been substantiated. This conflict with the Development Plan is not overridden by other material considerations.

3. The development would be contrary to Policy EP10 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that proposed house is not carefully sited and is not informed by and respectful of the historic landscape structure. No overriding case for a dwellinghouse on this site within the locally designated Rachan designed landscape has been substantiated. This conflict with the Development Plan is not overridden by other material considerations.”

Local Development Plan

2.2 Policy HD2 contains six sections, each of which details circumstances in which new houses will be considered acceptable. Two of those sections are considered to represent material considerations in the determination of the appeal proposal – (A) Building Groups and (B) Dispersed Building Groups.

2.3 Section (A) of Policy is replicated below:

“(A) Building Groups

Housing of up to a total of 2 additional dwellings or a 30% increase of the building group,



whichever is the greater, associated with existing building groups may be approved provided that:

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such a conversion has been implemented,*
- b) the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts,*
- c) any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.*

In addition, where a proposal for new development is to be supported, the proposal should be appropriate in scale, siting, design, access, and materials, and should be sympathetic to the character of the group.”

- 2.4 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. However, section (B) of the Policy is also considered to be relevant.
- 2.5 Section (A) of the Policy sets out circumstances in which the erection of new dwellings within the setting of existing Building Groups (small hamlets) are considered acceptable. This representation is convinced of the appeal proposal’s accordance with section (A). This is partly illustrated by the fact that Rachan is a named settlement which is significant in the local area.
- 2.6 However, the name Rachan does not refer solely to the existing Building Group comprising four dwellings which shares the site’s setting – rather it refers to all 12 no. existing dwellings in the local area. The existing dwellings are largely enclosed and defined by the established and mature woodland which has left noticeable separation distances between most dwellings. These characteristics are considered to be almost entirely consistent with those of a Dispersed Building Group, as set out in section (B) of



Policy HD2 which is a **material consideration** in the determination of this Notice of Review.

2.7 Section (B) of Policy HD2 is copied below:

“(B) Dispersed Building Groups

In the Southern Housing Market Area there are few building groups comprising 3 houses or more, and a more dispersed pattern is the norm. In this area a lower threshold may be appropriate, particularly where this would result in tangible community, economic, or environmental benefits. In these cases the existence of a sense of place will be the primary consideration.

Housing of up to 2 additional dwellings associated with dispersed building groups that meet the above criteria may be approved provided that:

- a) the Council is satisfied that the site lies within a recognised dispersed community in the Southern Borders Housing Market Area,*
- b) any consents for new build granted under this part of this policy should not exceed two housing dwellings in addition to the group during the Plan period. No further development above this threshold will be permitted,*
- c) the design of housing will be subject to the same considerations as other types of housing in the countryside proposals.”*

2.8 Policy EP4 addresses development proposed in the two National Scenic Areas that have been designated in the Borders. The Policy requires that, *“development that may affect National Scenic Areas will only be permitted where:*

- a) the objectives of designation and the overall landscape value of the site and its surrounds will not be compromised, or*
- b) any significant adverse effects on the qualities for which the site or its surrounds have been designated are clearly outweighed by social or economic benefits of national importance”.*

2.9 The proposal has been designed to deliver a net gain in biodiversity and make provision for green networks (including wildlife corridors). The ecological importance of these considerations is established in Policy EP3.

POLICY EP3: LOCAL BIODIVERSITY

Development that would have an unacceptable adverse effect on Borders Notable Species and Habitats of Conservation Concern will be refused unless it can be demonstrated that the public benefits of the development clearly outweigh the value of the habitat for biodiversity conservation.

Any development that could impact on local biodiversity through impacts on habitats and species should:

- a) aim to avoid fragmentation or isolation of habitats; and
- b) be sited and designed to minimise adverse impacts on the biodiversity of the site, including its environmental quality, ecological status and viability; and
- c) compensate to ensure no net loss of biodiversity through use of biodiversity offsets as appropriate; and
- d) aim to enhance the biodiversity value of the site, through use of an ecosystems approach, with the aim of creation or restoration of habitats and wildlife corridors and provision for their long-term management and maintenance.

Fig 2: Policy EP3: Local Biodiversity.

- 2.10 The supporting text to Policy EP10 establishes that “the aim of the policy is to protect the character of Gardens and Designed Landscapes”. The adopted text, itself, reads –

“Policy EP10: Gardens and Designed Landscapes

The Council will support development that safeguards or enhances the landscape features, character or setting of:

- a) sites listed in the Inventory of Gardens and Designed Landscapes, or*
- b) sites included in historic gardens and designed landscapes records.*

All development should be carefully sited, be of the highest standards of design using appropriate finishing materials and planting, and be informed by and respectful of the historic landscape structure. Proposals that will result in an unacceptable adverse impact will be refused.”

- 2.11 Policy EP12 address the Planning Authority’s holistic approach to green networks and draws on all aspects of the concept. The supporting text to the Policy sets out many of the numerous functions of green networks. The adopted text provides that the Council “will support proposals that protect, promote, and enhance the Greenspace Network.”

Supplementary Guidance

- 2.12 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.
- 2.13 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.
- 2.14 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.”
- 2.15 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.



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 Grounds of Appeal 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.

GROUND 1: The proposed development represents the erection of a dwelling on a site which is well related to an existing Building Group at Rachan and would contribute positively to the local sense of place and setting.

GROUND 2: The proposed development is acceptable in landscape terms and would not be detrimental to the overall integrity of the National Scenic Area as it represents development consistent with the objectives of the Upper Tweeddale National Scenic Area.

3.2 During the course of the Application's determination, the following consultee responses were received from Council Officers and partners:

- Roads Planning team – No objection.
- Landscape Architect – Objection.
- Scottish Water – No objection.

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

3.3 It is the Appellant's position that the appeal site lies within the setting and forms part of an existing Building Group in this part of Rachan and that the proposed dwelling would enhance the defined sense of place.

3.4 It is common ground between the Appellant and the Planning Authority that a Building Group exists in this part of Rachan and that capacity does exist for expansion by another 2 no. dwellings. However, Report of Handling 21/00030/PPP states that the appeal site "is not considered to be part of or even well related to the group of 4 houses". The appointed Planning Officer acknowledges that "structure planting around the site

would assist with the development’s integration” into the setting of the Building Group and local landscape but that it “would take many years to achieve the desired effect”.

- 3.5 It is agreed between the Appellant and the Planning Authority that the established, mature forest which partly encloses the site also forms the character and setting of the existing Building Group. Disagreement centres on whether the proposed dwelling represents a second detached dwelling discreetly sited in the surroundings of the three existing dwellings contained within the converted stables to the north.
- 3.6 The Appellant’s position is that the proposed dwelling lies in a single clearing in the forest which is shared with the other four existing dwellings. The appeal site is already partly enclosed by the forest and it is considered that tree and hedge planting along the south boundary of the site would provide a distinct landscape feature enclosing the Building Group along this axis, in line with the guidance provided in 2.b.1 of the New Housing in the Borders Countryside Supplementary Guidance.



Fig 3: Extract from online map of Historic Environment Scotland showing the appeal site (boundary sketched in red) sitting opposite The Norlands and enclosed by forest to the



north and north-east. The site is easily identifiable a short distance south of the converted stables.

- 3.7 It is acknowledged that the appointed Planning Officer has concerns about the time new planting of native tree and hedge species would take to establish. However, it is considered that this view places too much weight on the Borders Designed Landscapes Survey 2008 and far too little weight on the requirement to deliver net gain in biodiversity and natural habitat including green networks, established in Policies EP3 and EP12 of the Local Development Plan 2016. It should be noted that the basis supporting these policies have since been incorporated into Scottish Planning Policy (SPP) 2020 and are strongly evident in paragraphs 219, 220, & 221.
- 3.8 We are mindful that three of the four existing dwellings are contained within the converted stables (courtyard) are therefore share an indisputable historical link. However, it has to be acknowledged that a bungalow – ‘The Norlands’ – was built in the late 20th Century, standing a short distance to the south of the courtyard. It is considered unreasonable to resist a new dwelling which sits within the forest clearing and enjoys a relationship with the courtyard which shares the same essential characteristics as ‘The Norlands’.
- 3.9 Revision of the proposal to allow connectivity along the access track adjacent to the west has been proposed to strengthen an already strong relationship. Although carrying little weight in spatial planning terms, access from the west would help visitors arriving along the access track to read all five dwellings as a single Building Group.
- 3.10 It is noted that Report of Handling 21/00030/PPP identifies a number of other “strong features” defining the boundary of the existing Building Group, namely “an existing access track, beech hedging, and stockproof fencing”. It is considered that this assessment is mistaken. Stockproof fencing (post and wire fence) is demonstrably not a distinct landscape feature or any other form of “strong” feature. The beech hedging referred to is understood to relate to garden hedge of ‘The Norlands’. It is considered that garden hedges which are not heavily set with significant tree planting do not represent distinct landscape features. It is accepted that the access track adjacent to the west of the site forms part of the Building Group’s setting. However, it is considered incorrect to attach equivalent significance to the access track as the established, mature forest.



- 3.11 Given the position of the site in relation to ‘The Norlands’ and the other nearby existing dwellings comprising the Building Group contained within the established, mature forest, the site is considered to be well related to the existing Building Group in this part of Rachan and to accord with criteria a) of section (A).
- 3.12 The appeal proposal is for the erection of a single detached dwelling and modestly sized agricultural barns in a relatively large plot – 0.669ha (1.65ac). The density of proposed development is considered to be broadly representative of the existing pattern of development at Rachan and commensurate with a ‘rounding-off’ opportunity which sets an outer limit to the Building Group.
- 3.13 In this context views of and into the site are defined by the established, mature forest in the backdrop. Established trees are of sufficient height to retain visual dominance over almost any height of new dwelling; however the difference in height over the proposed single storey dwelling will be plain and unmistakable.
- 3.14 Therefore, any landscape impact created would be negligible. Given the limited landscape impacts associated with the proposed development, it is considered that an “unacceptable adverse impact” would not be created and that the proposal accords with criteria b) of section (A).
- 3.15 The Building Group at Rachan comprises four existing dwellings, extension by two additional dwellings is allowed for by the Policy. The proposal is considered to accord with criteria c) of section (A) as no new dwellings have been consented within the current LDP period and one new dwelling is proposed.
- 3.16 The Planning Authority and Appellant agree that there is an existing Building Group in this part of Rachan as defined in section (A) of Policy HD2. It is considered that the proposed development is well related to the existing Building Group lying within the local setting and defined sense of place enclosed within the established, mature forest. There have been no new dwellings consented within the current LDP period and it is considered that there are no significant cumulative impacts associated with the proposed development. Therefore the appeal proposal is considered to accord with section (A) of Policy HD2.
- 3.17 Finally, it is noted that Report of Handling 21/00030/PPP includes commentary on failure “to demonstrate that there exists no appropriate site within a building group” etc. The Local Review Body should understand that this relates solely to the appointed

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

W www.fergusonplanning.co.uk

Planning Officer's belief that: "the application should be considered in terms of criterion [sic] F economic requirement" and strong preference not to consider section (A) of Policy HD2.

- 3.18 It is the Appellant's position that the appeal proposal accords with section (A) of Policy HD2 and therefore that section (F) is not material to determination of this Notice of Review. Indeed it is considered that section (B) represents a material consideration far stronger than section (F) as Rachan sits within 200 metres of the Southern Housing Market Area (SHMA) and fully embodies the characteristics of a Dispersed Building Group, as visible on Fig.4. A total of 12 no. existing dwelling lie in the Dispersed Building Group at Rachan, satisfying the minimum requirement for 3 no. existing dwellings. This context does not originate in the current proposal. It is noted that the Tweeddale Area Committee approved Planning Permission 04/02222/FUL on 28th March 2005 in embrace of the dispersed community/hamlet profile of the local area. Both Planning Permission 04/02222/FUL and 06/01368/OUT (Tighnacaille) were approved in the first decade of the 21st Century long before adoption of the current Local Development Plan in 2016.



Fig 4: Aerial image of Rachan with natural boundary (in orange) established by woodland.

GROUND 2: THE PROPOSED DEVELOPMENT IS ACCEPTABLE IN LANDSCAPE TERMS AND WOULD NOT BE DETRIMENTAL TO THE OVERALL INTEGRITY OF THE NATIONAL SCENIC AREA AS IT REPRESENTS DEVELOPMENT CONSISTENT WITH THE OBJECTIVES OF THE UPPER TWEEDDALE NATIONAL SCENIC AREA.

3.19 It is the position of the Appellant that the proposed development is acceptable in landscape terms. We believe this characteristic has been formed both by the context and surroundings of the site as well as the conceptual design of the proposed development, presented in the Application for Planning Permission in Principle.

3.20 This position has not been arrived at in ignorance of the consultation response of the Landscape Architect representing the Council, which is replicated below –

“My concerns about this proposed development are as follows:

1. I acknowledge the application is for Planning Permission in Principle and were permission to be granted, there will be opportunity to discuss a house design that would make a positive contribution to the setting of the building group and the NSA. The indicative house plans and elevations do not complement the existing houses in the immediate area.
2. I have concerns about the access to the site across the field – this is not as sustainable as bringing an access off the existing shared access drive to the building group to the north. A drive of circa 150m across an agricultural field would, in my opinion, have an unacceptable visual impact.
3. If a development were to be considered in this location, it would have to appear as part of the building group which has a woodland character. A much more robust structure planting scheme encompassing the development site to the south (not so much to hide it as assimilate it into the immediate area) would be necessary.

In summary, in my opinion the proposal does not enhance the scenic qualities of the immediate area and so I could not support this application in its current form.”

3.21 Unfortunately the consultation response contains a number of errors of judgement, which require to be understood. These are detailed below in the same numeric order as made in the consultation response:

1. Notwithstanding the ‘acknowledgement’ of the Landscape Architect, 20038-PPP-201-A Indicative Plan and Elevations (submitted with the Application) is an indicative drawing. Therefore, there is no scope within the



Application for Planning Permission in Principle to approve the plan (as approval of the proposed dwelling's external appearance is not sought). Objecting to the proposal on the basis of an indicative plan is a **procedural error** and **should be unreservedly set aside**.

2. Assessment of sustainability is not within the remit of a Landscape Architect.
 - a) Assessments of sustainability almost never draw on the axis/approach of access – the very few exceptions to this rule tend to centre on cases where access can be achieved from one approach without disturbing a site which is environmentally designated and cannot be achieved from the other without disturbing an environmentally designated site. A small number of other exceptions can be found but none are applicable to this case.
 - b) It has not been substantiated how “an unacceptable visual impact” would be created by the proposed access. This assessment appears to have been reached without due regard to the established, mature forest which provides the visual backdrop to the site as well as extensive (although not exhaustive) screening.
3. While it is welcomed that the Landscape Architect has corroborated the appointed Planning Officer's assessment that the proposed development could be integrated/assimilated into the local landscape – this **does not represent a reason for objection and still less a reason for refusal**. The Planning Authority – appointed Planning Officers, the Planning and Building Standards Committee, and the Local Review Body – both regularly and frequently issue consents which condition the submission of further landscape details, including those necessary for the coalescence of tree belts and other distinct landscape features.

3.22 Lastly, it is noted that the consultation response asserts that “the proposal does not enhance the scenic qualities of the immediate area”. This represents another error of judgement.

3.23 There is no requirement in adopted policy for a development proposal to enhance a National Scenic Area. Development is permitted by Policy EP4 where:

“the objectives of designation and the overall landscape value of the site and its surrounds will not be compromised”¹.

¹ Underline represents the emphasis of this author for members' specific attention.



3.24 Despite identifying a reason for refusal (which we consider to be ill founded) Report of Handling 21/00030/PPP states the appointed Planning Officer's assessment that:

“the proposal would not be detrimental to the overall integrity of the NSA”².

3.25 The landscape impact of the proposed development is considered to be negligible. Views of the site from both the south and east, including the D54-1 adopted highway, are defined by the established, mature forest in the backdrop. Established trees are of sufficient height to retain visual dominance over almost any height of new dwelling; however the difference in height over the proposed single storey dwelling will be plain and unmistakable. The proposed development would benefit from additional screening in the form of new tree and hedge planting along the site's south boundary which would almost wholly obscure views of the proposed dwelling from the south-east.

3.26 Views of the site from the north and west are largely obscured by mature trees within the established forest. It is probable that views of the new dwelling would be visible from the private way outside 'The Norlands' however multiple existing dwellings are already visible from this viewpoint, which sits within the setting of the existing Building Group.

3.27 It is the position of the Appellant that there are no viewpoints from which an “unacceptable adverse impact” would be created, as substantiated in paragraphs 3.25-3.26. It is accepted that the consultation response of the Landscape Architect has asserted the presence of an unacceptable visual impact however no evidence to substantiate that assessment was provided in the consultation response and it is considered to be unjustified. Therefore, the proposed development is considered to be acceptable in landscape terms and to respect the overall integrity of the Upper Tweeddale National Scenic Area.

3.28 As established above, it is considered that the proposal is acceptable in landscape terms. Therefore, the third reason for refusal citing impact on the designed landscape under Policy EP10 is considered to have been misapplied and unsustainable. It is accepted that if the proposed development was **not** acceptable in landscape terms then a reason for refusal under Policy EP10 would be justified. However, no valid landscape

² National Scenic Area (NSA)

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



criticism of the proposal has been substantiated and it is considered that the proposed development has been demonstrated to be acceptable in landscape terms.

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

W www.fergusonplanning.co.uk





4.0 CONCLUSIONS

- 4.1 The Notice of Review, supported by this Statement, requests that the Council overturns the decision to refuse Planning Permission in Principle for Application 21/00030/PPP and grant consent for the erection of a dwellinghouse with outbuildings and associated work including new access on land south-west of Rachan Woodlands, Broughton.
- 4.2 The proposed development 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 both reflects the existing pattern of development and respects the local character of Rachan. The proposed dwelling would have minimal impact on the amenity of surrounding properties and local landscape. Lastly as the Building Group has capacity to expand by two dwellings over the LDP period and no new development has been approved to date – the Building Group has capacity to expand in line with adopted policy. Therefore the proposal is considered to accord with section (A) of Policy HD2.
- 4.3 It is considered that the consultation response of the Landscape Architect has erred in both fact and judgement and therefore, for the reasons set out herein, does not represent a competent landscape assessment. There are no viewpoints from which an “unacceptable adverse impact” would be created and the proposed development is considered to be acceptable in landscape terms.
- 4.4 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.
- 4.5 The Local Review Body is respectfully requested to allow the appeal for the erection of a dwellinghouse with outbuildings and associated work including new access.

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

W www.fergusonplanning.co.uk



APPENDIX 1

Core Documents

The following drawings, documents, and plans have been submitted to support the Notice of Review:

- Notice of Review Form;
- CD1 Local Review Statement;
- Application Form;
- CD2 (Application) Planning Statement;
- CD3 20038-PPP-001-C Location Plan, prepared by David Jane Architects;
- CD4 20038-PPP-002-C Indicative Site Plan, prepared by David Jane Architects;
- CD5 20038-PPP-201-A Indicative Plan and Elevations, prepared by David Jane Architects.
- CD6 20038-PPP-001-D Location Plan, prepared by David Jane Architects;
- CD7 20038-PPP-002-D Indicative Site Plan, prepared by David Jane Architects;
- CD8 Report of Handling 21/00030/PPP; and
- CD9 Decision Notice 21/00030/PPP.

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

W www.fergusonplanning.co.uk