



**APPEAL STATEMENT IN RELATION TO SCOTTISH  
BORDERS COUNCIL'S REFUSAL OF: PLANNING  
APPLICATION IN PRINCIPLE FOR RESIDENTIAL  
DWELLINGS WITH ASSOCIATED AMENITY, PARKING,  
INFRASTRUCTURE AND ACCESS.  
LAND AT WEST END CHARLESFIELD, ST BOSWELLS**

**APPLICANT: MR TREVOR JACKSON**

**SEPTEMBER 2021**

## CONTENTS

1.	Introduction	1
2.	Site Context and Key Planning History	4
3.	The Appeal Proposal	8
4.	Planning Policy Context	11
5.	Grounds of Appeal	15
6.	Conclusions	23

### Appendices:

Appendix 1: Core Documents

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Approved	Date
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# 1. Introduction

1.1 This statement is submitted on behalf of Mr Trevor Jackson ('the appellant') and sets out the grounds of appeal against the decision of Scottish Borders Council (SBC) to refuse planning application 21/00840/PPP and 21/00839/PPP by delegated decision on 17<sup>th</sup> August 2021.

1.2 The two Planning Permission in Principle (PPiP) applications sought consent for the **'erection of two dwelling houses, formation of new access and associated works'** on plots 1 and 2 Land South of The Bungalow Charlesfield at Boswells, Scottish Borders.

1.3 SBC's single reason for the refusal of the PPiP applications LPA ref 21/00840/PPP and LPA ref 21/00839/PPP as set out in the decision notices was:

*"The development is contrary to Policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside in that it would constitute new housing in the countryside that would be poorly related to an established building group, which is deemed to be complete and not suitable for further additions. The erection of a dwellinghouse on this site would constitute backland development out of keeping with the linear character of the building group and would have an inappropriate impact on the setting of the group and sense of place. In addition, the proposal would bring a residential use closer to the industrial uses within Charlesfield Industrial Estate resulting in a conflict of uses, potentially detrimental to residential amenities, contrary to policy HD3"*

1.4 Other than the reason for refusal above, the other technical consultees have raised no objection to the proposed development, as summarised in the table below:

**Table 1: Summary of Technical Consultee Comments**

Consultee	Comment
Roads Planning	No Objection
Contaminated Land Officer	No Objection
Archaeology Officer	No Objection
Scottish Water	No Comment
Ecology Officer	No Comment
Flood Officer	No Comment
Forward Planning	No Comment
Housing Strategy	No Comment

1.5 For the purposes of this appeal statement and to aid clarity in our response to the key points raised by SBC, the above reason for refusal has been broken down into three parts and each will be addressed in turn in this statement:

1. The development is contrary to Policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside in that it would constitute new housing in the countryside that would be poorly related to an established building group, which is deemed to be complete and not suitable for further additions.
2. The erection of a dwellinghouse on this site would constitute backland development out of keeping with the linear character of the building group and would have an inappropriate impact on the setting of the group and sense of place.
3. The proposal would bring a residential use closer to the industrial uses within Charlesfield Industrial Estate resulting in a conflict of uses, potentially detrimental to residential amenities, contrary to policy HD3.

1.6 The remaining sections in this appeal statement comprise:

- A description of the appeal site and surrounding context (Section 2).
- A summary of the appeal proposals (Section 3).
- A summary of relevant development plan policy and other material considerations (Section 4).
- Response to the Council's reasons for refusal and our grounds for appeal (Section 5).
- Summary of the appellant's case and conclusion in respect of the appeal proposal (Section 6).

## Supporting Documents

1.7 This appeal statement should be read in conjunction with all the supporting documents and drawings submitted as part of the original planning application listed below.

**Table 2: Original Planning Submission Documents**

Document	Consultant
Planning Statement	Ferguson Planning Ltd
Noise Impact Assessment	KSG Acoustics Ltd
Transport Technical Note	Cundalls
Consultee Response Letter (29 <sup>th</sup> July 2021)	Ferguson Planning Ltd

**Table 3: Architectural Drawings**

Document	Consultant
Site Location Plan	CSY Architects
Proposed Site Plan	CSY Architects
Concept Cross Section	CSY Architects

The planning officer's report and decision notices relating to the refused applications are also included.

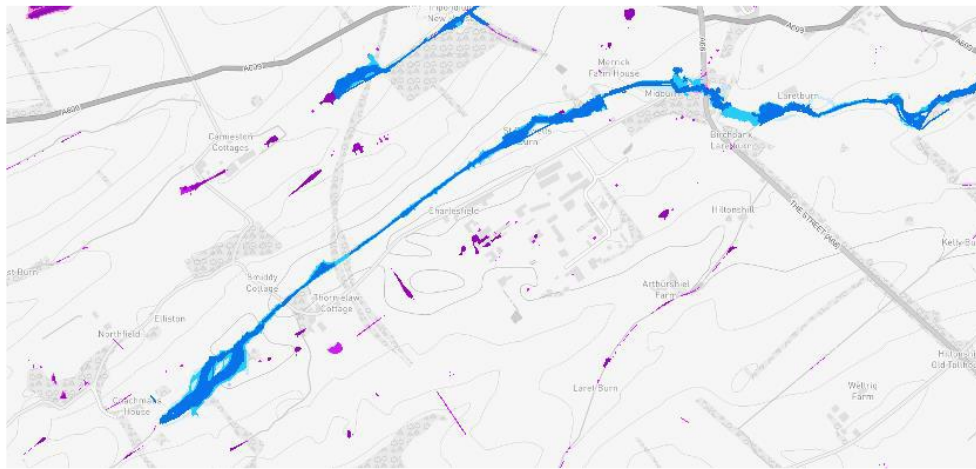
### **Application process**

- 1.8 This appeal is made to the Local Review Body on the basis it was a local application, which was determined by delegated powers. For the reasons outlined in this statement, we conclude that the development is in accordance with relevant development plan policies and supported by significant material considerations.
- 1.9 This statement demonstrates that SBC does have a shortfall in their effective five-year housing land supply, the proposed development would represent a logical location for the extension of the existing building group in an infill location and will provide much needed housing within a sustainable location that would have no adverse impact on the character of the surrounding area.
- 1.10 On that basis, we respectfully request that this appeal is allowed to enable planning permission in principle to be granted for the proposed development at Plots 1 and 2, Land at West End, Chelsfield, St Boswells.

## **2. Site Context and Key Planning History**

- 2.1 The site is 0.65ha in size currently rough pasture and is positioned between the Charlesfield Industrial Estate to the south and residential units to the north and west. Adjoining the site to the east are agricultural fields laid to grass, beyond lies St Boswells. Access is to be obtained to the northwest of the site off the existing access road to the north towards the A68.
- 2.2 In terms of topography, the site itself is relatively flat without any significant landscape variations. There is a slight gradient from the northeast corner to the southeast corner.
- 2.3 With regards to the Local Development Plan adopted proposals map, the site holds no specific allocations or designations. Immediately adjoining the site to the east is allocated woodlands, within the applicant's ownership. Beyond lies an allocated business and industrial site at ZEL19. To the south is a Business and Industrial Land Safeguarding site at ZEL3.
- 2.4 The proposed dwellings are shown indicatively on two individual plots, illustrated within Section 3 of this report. The intention being that they would be set within the infill plot and not extend beyond the existing building line to the east of the adjoining properties, whilst being contained by existing and proposed new planting/woodland. Again, existing buildings sit further south, further identifying the sites infill location.
- 2.5 In terms of accessibility, the site is approximately 1.4 miles south of St Boswells town centre offering a range of services and facilities, along with onward public transport with the local bus stops to Melrose, Galashiels and Tweedbank for rail services to Edinburgh City Centre.
- 2.6 In terms of Heritage, there are no listed buildings on or within close proximity to the Site.
- 2.7 The Scottish Environment Protection Agency (SEPA) are the statutory body for flood management in Scotland and maintain flood risk maps for public and development purposes. The site does not fall in an area at risk of flooding which is identified in figure 1 below.

**Figure 1: Extract from The Scottish Environment Protection Agency (SEPA) highlighting the areas at risk of flooding in blue.**



2.8 Please refer to the location plan in Figure 2, and aerial view in Figure 3 below, with the site outlined in red, and the appellant's wider land ownership outlined in blue (Figure 2).

**Figure 2: Site Location Plan**

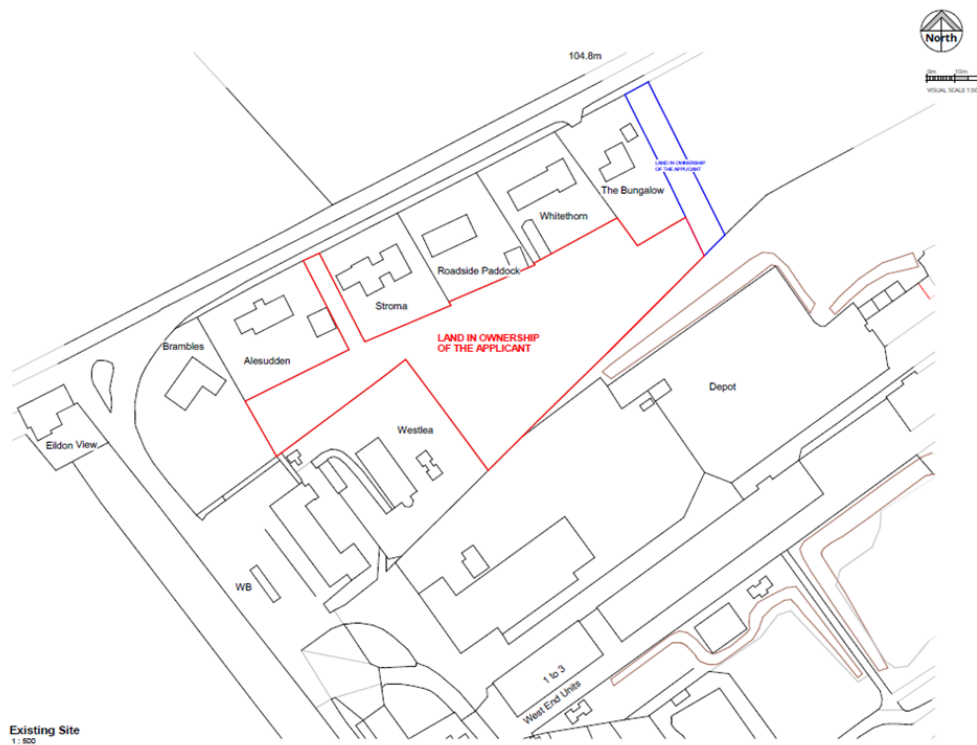


Figure 3: Aerial View of the Site (Google Maps)



## Planning History

- 2.9 Referring to the Scottish Borders planning application search, there have been two planning applications associated with the site which have been withdrawn.

Table 4: Summary of Planning History

LPA Ref	Address	Proposal	Status
17/01344/PPP	Plot 1 Land South and West of The Bungalow Charlesfield St Boswells Scottish Borders	Erection of dwelling house	Withdrawn December 2017
17/01343/PPP	Plot 2 Land South of The Bungalow Charlesfield St Boswells Scottish Borders	Erection of dwelling house	Withdrawn December 2017



- 2.10 The above applications sought pre-application advice from Council in December 2017. Julie Hayward, the Case Officer expressed concerns with the proposed access to the south as this was situated on land allocated in the Local Development Plan 2016 for structure planting and landscaping associated with the extension to Charlesfield Industrial Estate. The screen planning is required to help protect the amenity of the neighbouring properties to the west.
- 2.11 The proposed development in which this application relates to has shifted the site boundary further to the west, retaining the allocated land to the east for further landscaping. Access to both plots is to be from the northwest, so again taking on board previous concerns.
- 2.12 The Case Officer has acknowledged that there was a building group in the area, albeit, has some concerns relating to backland development. We will comment on such matters in the following chapters.

### 3. The Appeal Proposal

3.1 This section sets out details of the appeal proposal. The description of which is as follows:

***“Planning Application in Principle for Two Residential Dwellings with associated Amenity, Parking, Infrastructure and Access at West End Charlesfield St Boswells”.***

3.2 The proposed development involves the provision two detached residential dwellings with associated infrastructure at West End, Charlesfield, St Boswells which is identified on the site location plan in Appendix 1 and proposed layout plan in Figure 4 below:

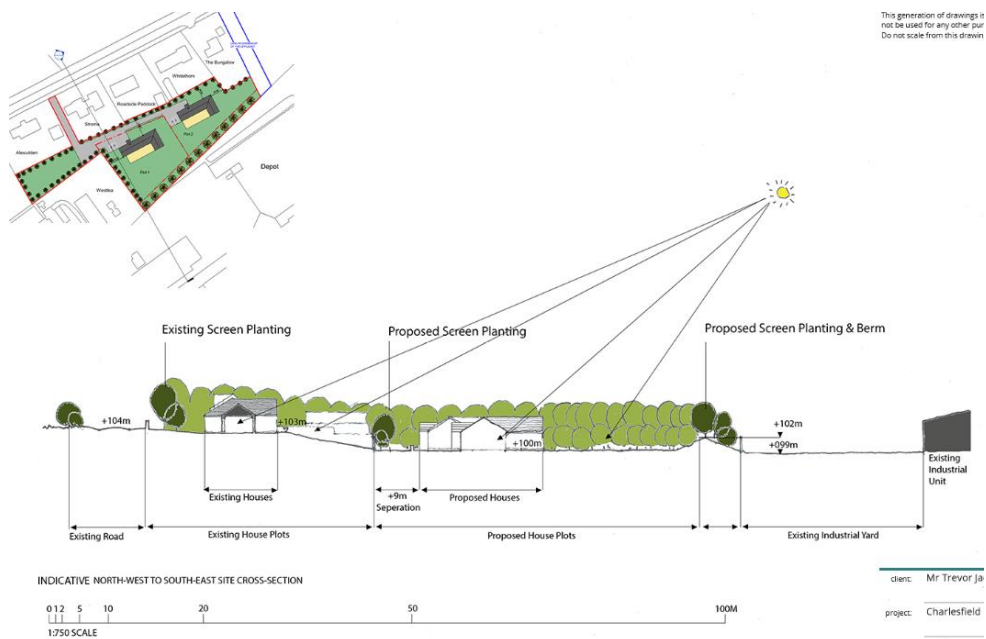
**Figure 4: Proposed Scheme**



3.3 In terms of layout, it is proposed the body of the site will be split in half, with the dwellings situated on individual plots to the south of the existing properties.

3.4 Careful consideration has been taken in the position of the proposed dwellings within the site, ensuring there is reasonable separation distances to the existing dwellings adjoining the northern and western boundary, safeguarding the daylight and sunlight provision and privacy of residents. The woodland screening to the south of the site provides a substantial buffer between the Charlesfield Industrial Site to the south again safeguarding the residential amenity of future residents.

Figure 5: Proposed Cross Section



- 3.5 The Noise Impact Assessment prepared by KSG Acoustics Ltd which concluded that through the provision of suitable mitigation measures such as the proposed vegetation buffer, it is considered that appropriate levels of environmental noise ingress can be achieved throughout the development.
- 3.6 The intention already exists for those dwellings to the north and west which have commercial buildings to the south. The residential property to the west is within closer proximity to the commercial buildings to the south than the proposed site.
- 3.7 There is a single access point to the northwest off the road to the north leading to the A68 towards St Boswells. The access adjoins the existing residential properties at Stroma to the east and Alesudden to the west. Each plot with then have their own individual access leading off the primary access.
- 3.8 The proposed built form does not extend beyond the building line of the neighbouring properties to the east, ensuring they do not impinge upon the open landscape. This is further supported by the height of the proposal, forming 1.5 storey dwellings, not exceeding beyond the height of the neighbouring dwellings.
- 3.9 There will be private outdoor amenity provision for each proposed dwelling. The site benefits from being bordered by existing trees and vegetation which will be retained where possible, enhancing the natural environment in which it surrounds.
- 3.10 It is noted that the case officer for the former planning application at the site deemed the proposal to be back-land development. It is considered that due to the positioning of the residential properties to the north and west, along with the residential and

commercial buildings to the south, the site represents a logical infill location which is considered to be preferable in comparison to ribbon development which is generally discouraged.

- 3.11 As this appeal relates to an application for Planning Permission in Principle, the requirement to submit detailed drawings to secure the outstanding elements of the design in the next stage of the Planning process is acknowledged.

## **4. Planning Policy Context**

- 4.1 This section outlines the principal planning policy and material considerations which provide the context for the consideration of this appeal.
- 4.2 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.
- 4.3 The Development Plan in this case, comprises the Southeast Scotland Strategic Development Plan, SESplan, (2013) and the Scottish Borders Local Development Plan (2016).
- 4.4 The emerging Local Development Plan 2 for the Scottish Borders is at an advanced stage and was presented to the full council on 25th September 2020. The formal consultation period on the Proposed Plan ended on 25<sup>th</sup> January 2021.
- 4.5 Other documents relevant to the planning policy context and consideration of this appeal, forming 'material considerations' comprise:
- Scottish Planning Policy (2014)

### **Development Plan**

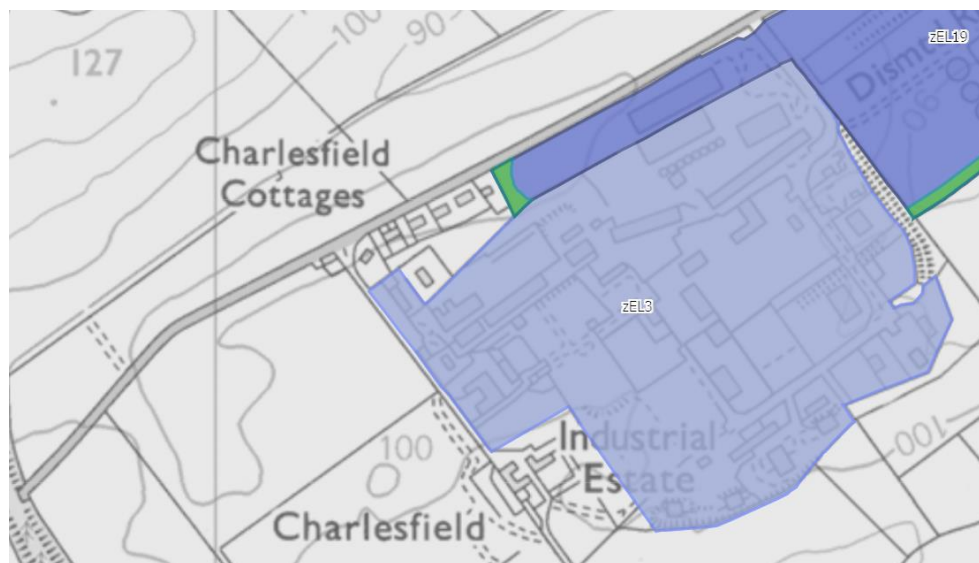
#### **SESplan Strategic Development Plan (2013)**

- 4.6 The SESplan seeks to prepare and maintain an up-to-date Strategic Development Plan for the Southeast Scotland Area. The vision for the Scottish Borders in the Strategic Development Plan (SDP) is that development will be focussed on the Borders Rail and A701 corridor with up to 5,900 new homes and new economic development proposed in this area.

#### **Scottish Borders Local Development Plan (2016)**

- 4.7 The Scottish Borders Local Development Plan (LDP) was adopted on 12<sup>th</sup> May 2016 and sets out the policies on development and land use within the Scottish Borders.
- 4.8 With reference to the adopted LDP Proposals Map (2016), the site is classed as White Land, holding no specific allocations or designations. Immediately adjoining the site to the east is allocated woodlands, within the applicant's ownership. Beyond lies an allocated business and industrial site at ZEL19. To the south is a Business and Industrial Land Safeguarding site at ZEL3.
- 4.9 An extract of the proposals map can be found below at Figure 6.

Figure 6: Extract of Scottish Borders Proposals Map



- 4.10 The key policies under which the development will be assessed were fully appraised within the Planning Statement submitted with the application and this document should be read in conjunction with this appeal statement (**Core Document 4**).
- 4.11 This appeal statement therefore only focuses upon the key policies upon which the Council based their refusal of the planning permission. In this case, LDP Policy HD2 and HD3, as set out below.
- 4.12 The Council's reasons for refusal focused upon the 'Building Groups' section Policy HD2, in refusing the application for its perceived impact on the character of the area. We have therefore focussed our assessment on these criteria only.
- 4.13 **Policy HD2: Housing in the Countryside:** Section A of Policy HD2 addresses development proposals for housing related to existing Building Groups. The adopted text of section A has been copied 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.”

**4.14 Policy HD3: Protection of Residential Amenity:** The Policy states that “development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
  - i. the scale, form, and type of development in terms of its fit within a residential area,
  - ii. the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlight provisions. These considerations apply especially in relation to garden ground or ‘backland’ development,
  - iii. the generation of traffic or noise,
  - iv. the level of visual impact.”

Policy HD3 will be applicable for development on garden ground or ‘backland’ proposals to safeguard the amenity of residential areas. It applies to all forms of development and is also applicable in rural situations.

## **Material Considerations**

### **Scottish Planning Policy (2014)**

4.15 Scottish Planning Policy (SPP) was adopted in 2014 and is a statement of the Scottish Government’s policy on how nationally important land use planning matters should be addressed across the country. A revised SPP was published in December 2020 which superseded the 2014 SPP. In July 2021, the Court of Session, however, decided the consultation on revising the SPP was unlawful and has quashed the

changes made to the SPP and the associated Planning Advice Note 1/2020. We therefore rely upon the 2014 publication for the purposes of this appeal statement.

- 4.16 The content of SPP is a material consideration that carries significant weight, though it is for the decision-maker to determine the appropriate weight in each case. Where development plans and proposal accord with this SPP, their progress through the planning system should be smoother.
- 4.17 With regards to specific housing policy, Paragraph 110 of SPP establishes that “a *generous supply of land for each housing market area within the plan area*” should be identified in order to “*support the achievement of the housing land requirement across all tenures, maintaining at least a 5-year supply of effective housing land at all times*”.
- 4.18 Paragraph 123 of SPP states that, “*Planning Authorities should actively manage the housing land supply*”. Further it is established that “*a site is only considered effective where it can be demonstrated that within five years it will be free of constraints and can be developed for housing*”.
- 4.19 Paragraph 125 of SPP requires that: “*Planning Authorities, developers, service providers and other partners in housing provision should work together to ensure a continuing supply of effective land and to deliver housing, taking a flexible and realistic approach. Where there is a shortfall in the 5-year land supply, development plan policies for the supply of housing will not be considered up-to-date and paragraphs 32-35 will be relevant*”.
- 4.20 Paragraph 33 of SPP states that, “*where relevant policies in a development plan are out of date...then the presumption in favour of development that contributes to sustainable development will be a significant material consideration*”.

#### **Recent Case Law**

- 4.21 Significantly, the shortfall in the Council’s five-year land supply, has been confirmed by an important recent appeal decision with reference PPA-140-2088 published 18th May 2021. The Reporter concluded that there is a “significant five-year effective land shortfall” with a c.631 housing shortfall in terms of 5-year housing land supply. This is the latest government opinion on this case and therefore a significant material consideration in this appeal.



## 5. Grounds of Appeal

- 5.1 SBC refused the application for one reason, as outlined in Section 1, and re-stated below.
- 5.2 To aid clarity in our response to the issues raised in the reason for refusal, we have split it into four parts **[as noted in bold]**, along with our responses to them.
- 5.3 *“The development is contrary to Policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside in that it would constitute new housing in the countryside that would be poorly related to an established building group, which is deemed to be complete and not suitable for further additions **[Part 1]**. The erection of a dwellinghouse on this site would constitute backland development out of keeping with the linear character of the building group and would have an inappropriate impact on the setting of the group and sense of place **[Part 2]**. In addition, the proposal would bring a residential use closer to the industrial uses within Charlesfield Industrial Estate resulting in a conflict of uses, potentially detrimental to residential amenities, contrary to policy HD3 **[Part 3]**.”*

### Reason for Refusal - Part 1

- 5.4 *The development is contrary to Policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside in that it would constitute new housing in the countryside that would be poorly related to an established building group, which is deemed to be complete and not suitable for further additions.*

### Appellant's Response

- 5.5 This site is considered to be within the building group of Charlesfield. Policy HD2 allows for development of up to 2 additional dwellings or a 30% increase of the building group, whichever is greater.
- 5.6 We set out below the circumstances for why this development should proceed in line with the policy. We first demonstrate that the existing building group occupies more than three dwellings and that there are no other buildings capable for conversion into residential use- part A a) of this policy.
- 5.7 We then provide justification for the proposed development of the site in line with criteria b) and c) of this policy, as is necessary to justify development within a building group.

#### **Policy HD2 A Part a)**

***Criteria 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.***

- 5.8 The building group at Charlesfield comprises a total of ten residential dwellings with seven cottages to the north of the site, one dwelling adjoining the western boundary to the rear of the café and an additional two residential properties to the south, beyond the industrial estate. There are no vacant properties or buildings that could be capable of conversion within the building group.
- 5.9 It is considered the proposed site relates well to the existing building group, positioned in a logical infill location, adjacent to residential properties to the north, south and west as illustrated on the site plan in figure 4 above. The officers' findings appear to not fully acknowledge the existence of the residential and commercial properties and thus what we consider a logical infill location, rather than back land development. Overall, it is considered the site proposal is compliant with Policy HD2 A Part a).

#### **Policy HD2 Part 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.***

- 5.10 The proposed landscape boundary bordering the site further ensures the proposal does not impinge upon the local character of the area, sitting well within the setting of the building group whilst reducing the visual impact of the dwellings and safeguarding the amenity of residents from the Industrial Estate to the south.
- 5.11 The proposed built form does not extend beyond the building line of the neighbouring properties to the east, ensuring they do not impinge upon the open landscape as illustrated in figure 5 above. This is further supported by the height of the proposal, forming 1.5 storey dwellings, not exceeding beyond the height of the neighbouring dwellings.
- 5.12 In addition to this, there have been no residential developments approved within the building group within this plan period since 2016, resulting in no cumulative impact of new development on the character of the building group.

- 5.13 The proposal will go largely unnoticed in landscape impact terms and from public receptor points (i.e., public roads and footpaths).
- 5.14 Overall, it is considered the site proposal is compliant with Policy HD2 A Part b).

***Policy HD2 Part 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.***

- 5.15 Having reviewed the online planning portal, there have been no new or existing dwellings that have been consented since 2016 (within the currently Local Development Plan period), we therefore consider there is scope for an additional 2 dwellings within the plan period taking the 30% ruling approach in accordance with section (A) of Policy HD2 Par c).
- 5.16 As such, we consider the site to be a logical infill location and a sustainable form of development relating well to the existing building group which can accommodate two new dwellings in accordance with Policy HD2 Part c).
- 5.17 It is again worth highlighting that the proposal will assist in the identified housing land supply shortfall as referred to previously in paragraph 4.21 of this appeal statement.

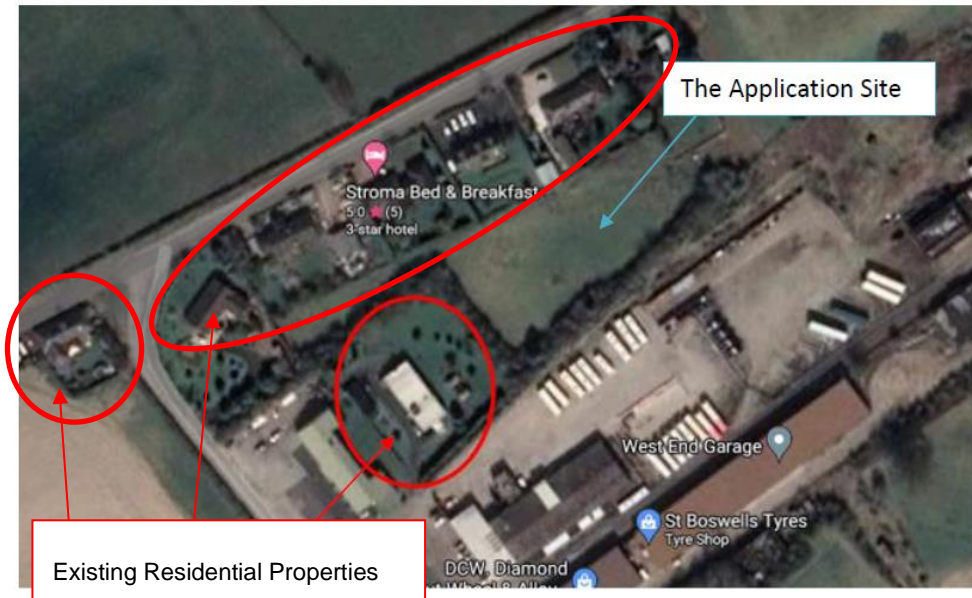
**Reason for Refusal – Part 2**

- 5.18 *The erection of a dwellinghouse on this site would constitute backland development out of keeping with the linear character of the building group and would have an inappropriate impact on the setting of the group and sense of place.*

**Appellant's Response**

- 5.19 In response to the above reason for refusal that the proposal would constitute backland development and would be out of keeping with the linear character of the building group which is thought to have an inappropriate impact on the setting of the group and sense of place, we would disagree as residential properties clearly exist and are highlighted in figure 7 below and as such setting a precedent for this form of development within the Charlesfield Building Group, to which the subject site simply infills. Having a rounded compact building group is considered preferable to ribbon development along the main road to the north.

Figure 7 Residential properties outlined in Red (Annotated Google Maps)



### Reason for Refusal – Part 3

- 5.20 *The proposal would bring a residential use closer to the industrial uses within Charlesfield Industrial Estate resulting in a conflict of uses, potentially detrimental to residential amenities, contrary to policy HD3*

### Appellant's Response

- 5.21 We set out below why this development should proceed in line with Policy HD3 Protection of Residential Amenity a) and b), demonstrating the proposal does not conflict with the protection of the amenity in the local area.

***The Policy states that development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:***

- a) the principle of the development, including where relevant, any open space that would be lost***

- 5.22 Appropriate boundary treatments will be provided as illustrated in figure 4 above, to ensure attractive edges to the development that will help integration with its surroundings, and the proposals are therefore considered compliant with criteria a).

5.23 As this is a PPiP application, further consideration can also be given to the proposed design at the detailed planning stage, as necessary.

**b) the details of the development itself particularly in terms of:**

**v. the scale, form, and type of development in terms of its fit within a residential area.**

5.24 While the details of the appearance, layout, and scale are deferred for future consideration, the type and form of development proposed are considered to be acceptable on the site. The indicative sections (Figure 5 above) indicate a similar height to the existing neighbouring properties to the north and west, whilst not extending beyond the building line to the east, respecting the setting of the surroundings. In addition to this, the proposed landscape boundary bordering the site further ensures the proposal does not impinge upon the local character of the area, sitting well within the setting of the building group whilst reducing the visual impact of the dwellings whilst safeguarding the amenity of residents from the Industrial Estate to the south.

5.25 As noted above, whilst this is a Planning Permission in Principle application, it is intended to use high quality materials that relates well to the sites rural setting, such as timber, stone and natural slate.

5.26 The proposal is therefore considered to be compliant with criteria b) v.

**vi. the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlight provisions. These considerations apply especially in relation to garden ground or 'backland' development.**

5.27 Although the detail of the proposal is deferred for future consideration, the indicative layout and location of the properties within the site has ensured adequate separation distances between properties can be reached, meaning there will be no adverse impacts on overshadowing and daylight/ sunlight provision whilst protecting privacy of neighbouring residents which is further enhance by the proposed landscaping across the northern and western boundary. In addition, the proposed landscaping buffer to the south of the site is considered to be a substantial separation distance from the Industrial Estate, again safeguarding the residential amenity of future residents.

5.28 The proposal is therefore considered to be compliant with criteria b) vi.

**vii. the generation of traffic or noise.**

- 5.29 The planning application was accompanied by a Noise Impact Assessment prepared by KSG Acoustics Ltd and can be found in Core Document 5 of this appeal submission. The assessment has given consideration to both noise generated from the biomass development to the east, as well as noise from Perryman's Bus Depot to the south and the impact this could have on residential development.
- 5.30 The noise assessment concluded that provided suitable mitigation measures are incorporated into the design that can be agreed via a condition and during the detailed planning application stage, it is considered that appropriate levels of environmental noise ingress can be achieved throughout the development. The proposed mitigation measures would include a suitably specified acoustic treatment along the boundary of the Bus Depot to the south of the site, with consideration given to the orientation of habitable room windows relative to the Industrial Estate.
- 5.31 The proposal includes one access point from the adopted road to the north which will then split off into the individual plots in the body of the site. It addressed previous concerns raised by the case officer with regards to the second, eastern access formerly proposed.
- 5.32 The proposed dwellings include a private driveway and car parking space deemed adequate for a proposal of this nature and is deemed to not give significant rise to the generation of traffic or noise.
- 5.33 Roads Planning raised no objection to both planning applications and the Noise Assessment indicated that the environmental noise will not constitute a significant adverse impact, nor should it be considered a constraint to the proposed development and as such the proposal is considered to be compliant with criteria b) vii.

**viii. the level of visual impact.**

- 5.34 Views of the site from public receptor points are minimal due to the infill location between the residential properties to the north and west, with the Charlesfield Industrial Estate to the South. The existing bund to the east of the site, further restricts views upon approach from the adopted road to the north due to the rise in topography as illustrated in figure 8 below. Existing and proposed hedgerow bordering the site further enhances the aesthetics, screening views from the east and south as shown in figures 9 and 10 below. Overall, the visual impact of the proposal on the local area is considered to be minimal and, on this basis, we are therefore compliant with criteria b) viii.

**Figure 8: Photo taken from the eastern border of the site towards the adopted road to the north, noting the rise in topography.**



**Figure 9:** Photo taken from the eastern border looking to the west of the site noting the existing landscaping bordering the southern and western part of the site.



**Figure 10:** Photo taken within the centre of the site directed to the northwest, noting the existing landscaping bordering the northern boundary of the site.





## 6. Conclusions

- 6.1 The submitted appeal, supported by this statement, seeks the Council's decision to refuse planning permission for the '**residential dwellings with associated amenity, parking, infrastructure and access**' at Land at West End Charlesfield, St Boswells to be overturned and for this appeal to be allowed, for the reasons outlined in this statement and summarised below.
- 6.2 In summary:
- The proposal represents a logical extension of the Building Group adjoining the existing built-up area, which has the capacity to accommodate two additional dwellings this this local plan period, in accordance with Policy HD2.
  - The proposal is sympathetic to the character of the building groups, positioned in a logical infill location and will have no detrimental impact upon the amenity as demonstrated in the accompanying Noise Impact Assessment.
  - The proposal will provide two high quality family sized dwellings within this desirable and sustainable location, being within walking distance to St Boswells. It will assist in meeting the strong demand for new rural homes in the Scottish Borders.
  - There has been no road safety concerns or objections from the Roads Officer.
  - The site is free from constraint and would assist with the Council's identified (and recently confirmed by a Scottish Government Reporter) housing shortfall in providing residential homes within a sustainable location.
- 6.3 As we have demonstrated through this statement, we consider that the proposal complies with the development plan, and LDP Policies HD2 and HD3 against which the original application was refused.
- 6.4 There is a presumption in favour of applications that accord with the development plan unless there are significant material considerations that indicate the development plan should not be followed.
- 6.5 There are no material considerations that outweigh this decision, in fact there are significant material considerations that support this appeal. In this case, as we have outlined, due to the housing shortage, the SPP presumption in favour of development is a significant material consideration. The proposed development is

consistent with the guiding principles of SPP, and we do not consider that there are any impacts which significant and demonstrably outweigh the presumption in favour of development. A 'tilted balance' therefore exists in favour of this development and the LRB is therefore respectfully requested to allow this appeal.

## **Appendix 1: Core Document List**

Core Doc 1: 21/00840/PPP and LPA ref 21/00839/PPP Decision Notice and Officers Report

Core Doc 2: Location Plan

Core Doc 3: Proposed Plans

Core Doc 4: Planning Statement

Core Doc 5: Noise Impact Assessment

Core Doc 6: Preliminary Ecology Report

Core Doc 7: Consultee Response Letter

Core Doc 8: Transport Statement