

**APPEAL STATEMENT IN RELATION TO SCOTTISH
BORDERS COUNCIL'S REFUSAL OF: DETAILED
PLANNING APPLICATION FOR CONVERSION OF
EXISTING BARN TO A RESIDENTIAL DWELLING WITH
ASSOCIATED AMENITY, PARKING, INFRASTRUCTURE
AND ACCESS**

BLACK BARN, ECKFORD, KELSO, TD5 8LF

APPLICANT: BUCCLEUCH ESTATES LTD

NOVEMBER 2021



CONTENTS

| | | |
|----|---------------------------------------|----|
| 1. | Introduction | 1 |
| 2. | Site Context and Key Planning History | 5 |
| 3. | The Appeal Proposal | 9 |
| 4. | Planning Policy Context | 12 |
| 5. | Grounds of Appeal | 19 |
| 6. | Conclusions | 34 |

Appendices:

Appendix 1: Core Documents

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| Author | Date |
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| Approved | Date |
| Tim Ferguson | 25/11/2021 |

1. Introduction

- 1.1 This statement is submitted on behalf of Buccleuch Estates Ltd ('the appellant') and sets out the grounds of appeal against the decision of Scottish Borders Council (SBC) to refuse planning application 21/00734/FUL by delegated decision on 26th August 2021.
- 1.2 The Full Planning Permission application sought consent for the '**Conversion of the existing barn to a residential dwelling with associated amenity, parking, infrastructure and access**' at the Black Barn, Eckford, Kelso, Scottish Borders, TD5 8LF.
- 1.3 SBC's reasons for the refusal of the application LPA ref 21/00734/FUL as set out in the decision notices are:
- **Reason for Refusal 1:** *The proposal is contrary to policy PMD4 of the Local Development Plan 2016 as the site is outwith the development boundary for Eckford and the proposal does not satisfy the criteria within the policy for exceptional circumstances. No material considerations have been identified which would outweigh the need to consider this proposal in accordance with policies of the Local Development Plan 2016.*
 - **Reason for Refusal 2:** *The proposal is contrary to Part C of policy HD2 of the Local Development Plan 2016 in that the building has no architectural or historic merit and is not physically suited for residential use. The structural survey has not demonstrated that the building is capable of conversion without significant changes to the structure. The conversion would not be in keeping with current scale of the building. The development would be tantamount to rebuilding or replacement.*
 - **Reason for Refusal 3:** *The proposal is contrary to policy PMD2 of the Local Development Plan 2016 as this pattern of development would not be compatible with or respectful to the neighbouring built form or settlement pattern. The scale, massing and height would result in an appearance which is not designed in sympathy with Scottish Borders architectural styles.*
 - **Reason for Refusal 4:** *The proposal is contrary to policy ED10 of the Local Development Plan 2016 in that the change of use of prime quality agricultural land to garden ground would result in the permanent loss of prime agricultural land.*
- 1.4 Other than the reasons 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 |
|---------------------------|---|
| Archaeology Officer | No Objection |
| Community Council | No Objection towards development on the site but would prefer new build homes. |
| Roads Planning | No Objection |
| Contaminated Land Officer | No Objection |
| Landscape Officer | No Objection |
| Ecology Officer | No Objection |

1.5 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

1.6 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 |
| Habitat Survey | Ellendale Environmental |
| Structural Conditions Survey | Goodsons Associates |
| Design Statement | CSY Architects |
| Consultee Response Letter (28 th July 2021) | Ferguson Planning Ltd |

Table 3: Architectural Drawings

| Document | Consultant |
|--------------------------------|----------------|
| Ground Floor Plan- As Existing | CSY Architects |
| Elevations N&S- As Existing | CSY Architects |

| | |
|---|----------------|
| Elevations E&W- As Existing | CSY Architects |
| Sections- As Existing | CSY Architects |
| Site Plan- As Existing | CSY Architects |
| Site Location Plan- As Proposed | CSY Architects |
| Ground Floor Plan- As Proposed | CSY Architects |
| First Floor Plan- As Proposed | CSY Architects |
| Roof Plan- As Proposed | CSY Architects |
| Sections- As Proposed | CSY Architects |
| Elevations North and South- As Proposed | CSY Architects |
| Elevations East and West- As Proposed | CSY Architects |
| 3D Views | CSY Architects |

The planning officer's report and decision notice relating to the refused application are also included in Core Document 1.

Application process

- 1.7 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.
- 1.8 This statement demonstrates it will assist in addressing a shortfall in their effective five-year housing land supply, the proposed development would represent a sustainable form of development utilising a brown field site and redundant agricultural barn for residential development, relating well to the existing settlement at Eckford Village. The proposal will provide much needed family sized housing within a sustainable location that would have no adverse impact on the character of the surrounding area.
- 1.9 The proposal, while larger than the set criteria, adheres to the principle allowance of conversion principal as set out within the permitted development rights (General Permitted Development and Use Classes) (Scotland) Amendment Order 2020).
- 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 Black Barn, Eckford, Kelso, TD5 8LF.

2. Site Context and Key Planning History

- 2.1 This Appeal related to the refusal of a Full Planning Application for the conversion of the existing agricultural barn into a single residential dwelling at Black Barn, Eckford, Kelso.

Figure 1: Site Location (Google Maps)



- 2.2 The site is 0.35ha in size and occupies a one and a half storey agricultural barn which is currently vacant as illustrated in Figures 2 and 3 below:

Figure 2: Image of Black Barn.



Figure 3: Image of the interior of the barn

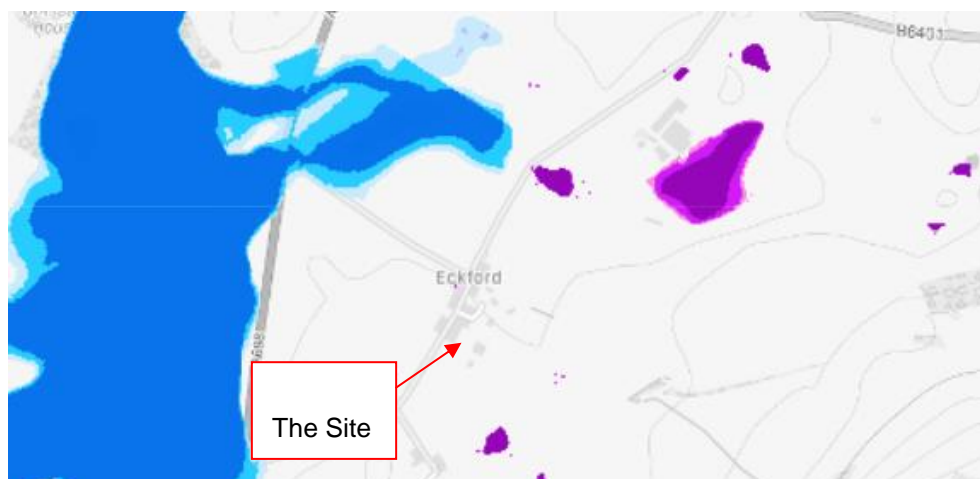


- 2.3 The barn dates back to the 1950s and was originally part of a small holding which incorporated Eckford Village Cottage. The barn was used for general agricultural purposes, before being used as a grain store in more recent years. From 2009-2011 the barn was let as a general storage unit before it ceased operation and became vacant.
- 2.4 The building is formed of a timber frame structure of perimeter posts along the northern and southern elevations with a central line of posts following the ridge line of the roof connected by a series of complex braces timber trusses and tied by lateral beams and roof purlins. Beneath this timber structure, towards the western and northern site of the building lie a collection of masonry walls of stonework and concrete block, remnants from different eras of the buildings prior to occupancy.
- 2.5 Externally the barn structure has historically been clad, in a mixture of dark coloured profiled sheet to the roof and walls combined with rendered masonry walls to part height on the West elevation and South elevation. There are a range of timber shutters, doors and windows distributed around the various elevations of the building.
- 2.6 All of the external materials are now showing their age visually through the effects of weathering but the structure beneath, while in need of some localised repairs, is considered sound.
- 2.7 The site can be accessed from the west from the existing access track which is within the applicant's ownership. Adjoining the site to the south is an existing residential

property one storey in height which also uses the access track. Immediately adjoining the site to the west and north is pastureland laid to grass with residential dwellings forming part of Eckford Village beyond. To the east is agricultural land.

- 2.8 In terms of topography, the site itself is relatively flat, with the topography falling beyond the site boundary to the east.
- 2.9 With regards to the Local Development Plan adopted proposals map, the site holds no specific allocations or designations.
- 2.10 The proposed dwelling utilises this vacant site enhancing the existing built form making it more aesthetically pleasing, which if left, would continue to fall into a dilapidated state. The intention of the proposal is to retrain the building profile with the proposed dwelling sheltered beneath the structure of the existing barn illustrated within Section 3 of this report.
- 2.11 In terms of accessibility, the site is approximately 6.5 miles south of Kelso (35 minutes cycle or 12 minutes' drive) 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.
- 2.12 In terms of Heritage, there are no listed buildings on or within close proximity to the Site.
- 2.13 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 4 below.

Figure 4: Extract from The Scottish Environment Protection Agency (SEPA) highlighting the areas at risk of flooding in blue.



Planning History

- 2.14 Referring to the Scottish Borders planning application search, there have been no historic planning applications to date on the site or in the neighbouring area.

3. The Appeal Proposal

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

“Full Planning Application for the conversion of the existing Agricultural Barn for a single Residential Dwelling with associated Amenity, Parking, Infrastructure and Access at Black Barn, Eckford, Kelso”.

3.2 The proposed development involves the conversion of the existing vacant agricultural shed to provide a substantial single family sized residential dwelling with associated infrastructure at Black Barn, Eckford, Kelso, identified on the site location plan in Core Document 2 and proposed layout plan in Figure 5 below:

Figure 5: Proposed Layout Plan



3.3 The proposal adheres to the general principle contained within the new Permitted Development Rights ((General Permitted Development and Use Classes) (Scotland) Amendment Order 2020 which came into force on the 1st April 2021) by due to the size being over 150 sqm in scale has triggered the requirement for a full planning application to be made. The amendment is set down by Government who wishes to promote the reuse of vacant buildings and to accommodate rural housing across Scotland.

3.4 The proposal seeks to convert the existing Black Barn into residential use, maintaining the overall footprint and sheltering silhouette of the building in its context

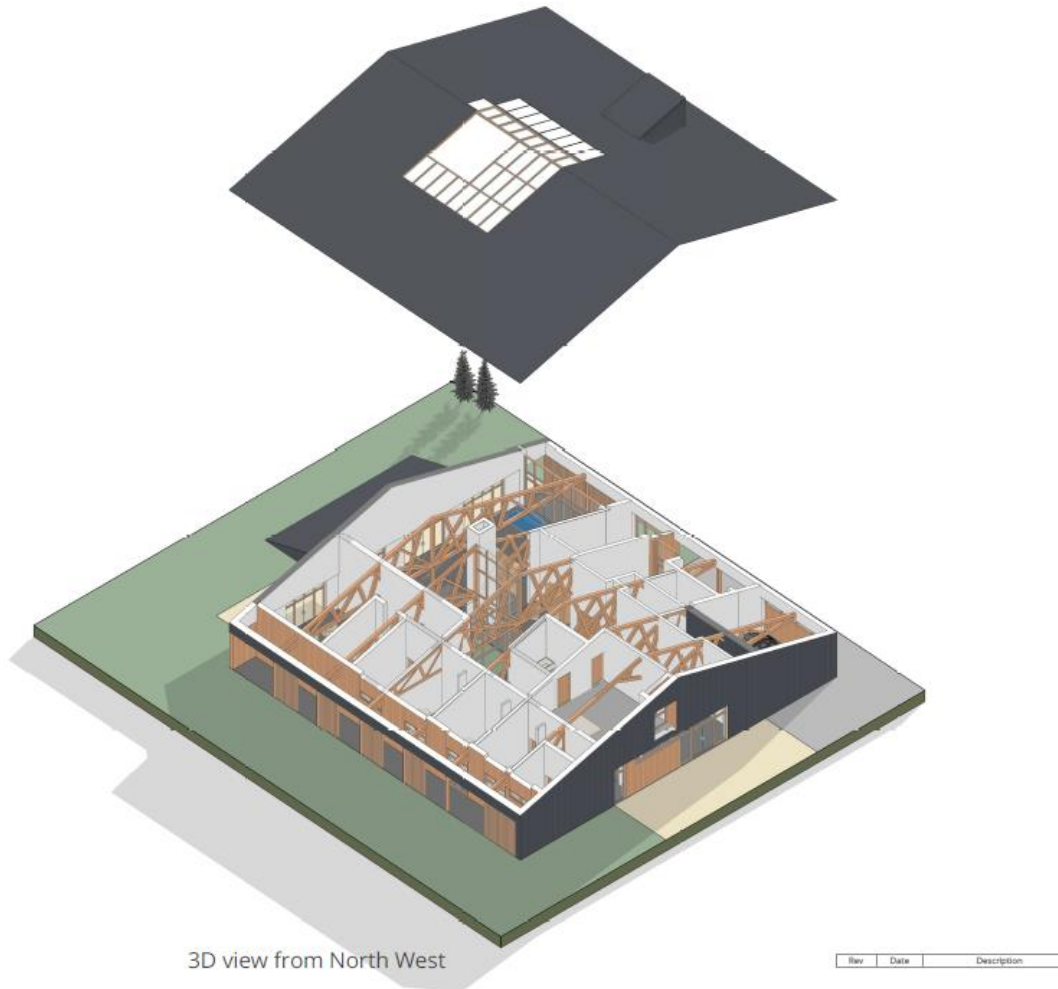
whilst utilising the space for residential purposes, maintaining the character of the agricultural structure.

- 3.5 Careful consideration has been taken in the internal layout of the barn, optimising the natural light through a glazed central courtyard and surrounding roof glazing, whilst incorporating the character of the barn with retaining the existing timber structure which will carry a new, highly insulated roof. The internal layout has been configured to create a range of open plan spaces running full width from West to East across the plan, optimising the landscaping views to the east.
- 3.6 The voluminous spaces will contrast with a sequence of more private rooms, bathrooms and service spaces to the north and south of the barn which are screened by boundary landscaping giving visual protection to and from the neighbouring properties.
- 3.7 There will be one vehicular access point to the west of the site from the existing access lane onto the main road running through Eckford Village towards the A698 leading to Kelso and Bonjedward.
- 3.8 In terms of the chosen materiality, the proposed dark coloured metal wall and roof cladding is considered to maintain the simple profile, colour and texture of the existing Black Barn with its original agricultural purpose when views from a distance within its context.
- 3.9 The proposed Scotch Larch timber cladding, slats and glazing screens and doors provide a softer, more tactile, perimeter 'skirt' which becomes more evident upon approach creating the appearance of the domestic transformation into residential accommodation as illustrated in figures 6 and 7 below.

Figure 6: Contextual Image of the Proposed Views from the Southwest



Figure 7: 3D View from Northwest



3.10 The private outdoor amenity provision for the proposed dwelling would be substantial, complimenting the natural rural environment in which it surrounds. The site benefits from be bordered by existing trees and vegetation which will be retained where possible.

3.11 Further information can be found in the accompanying design statement prepared by CSY Architecture submitted in Core Document 5 of this Appeal.

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 25th 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

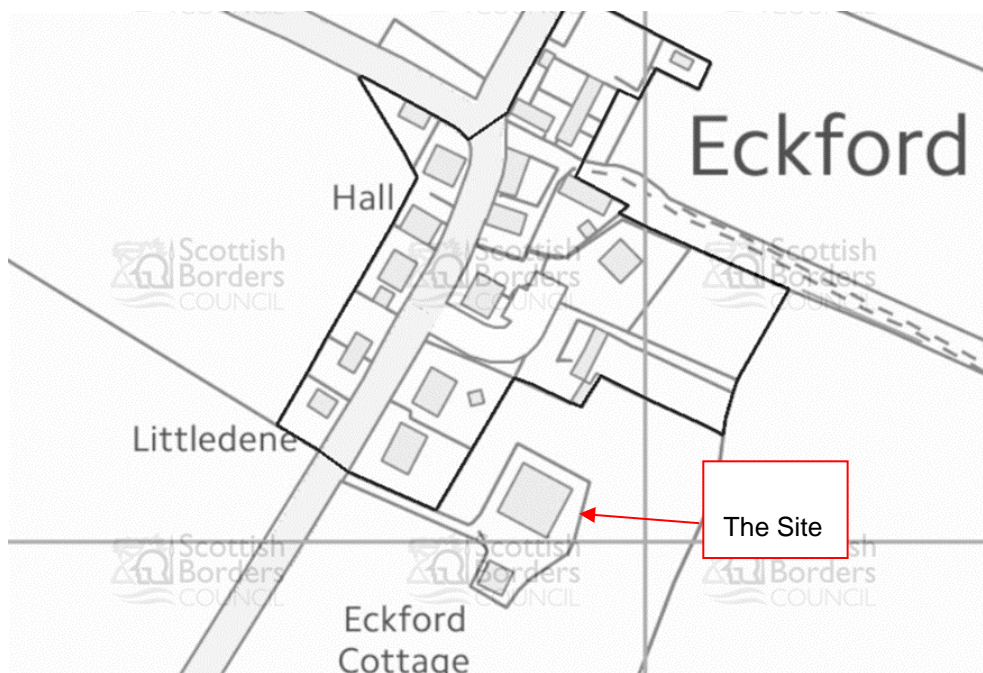
SESplan Strategic Development Plan (2013)

- 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 12th May 2016 and sets out the policies on development and land use within the Scottish Borders.
- 4.8 With reference to the adopted Scottish Borders Proposals Map (2016), the site is classed as 'White Land' with no allocations or designations and falls just outside the settlement boundary of Eckford. An extract of the proposals map can be found below:
- 4.9 An extract of the proposals map can be found below at Figure 8.

Figure 8: 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 PMD4, HD2, PMD2 and ED10, as set out below.
- 4.12 **Policy PMD4: Development Outwith Development Boundaries:** states that development should be contained within the development boundary and proposals for new development out with this boundary, and not on allocated sites identified on the proposals map, will normally be refused. Exceptional approvals may be granted provided strong reasons can be given that:
- It is a job generating development in the countryside that has an economic justification under Policy ED7 or HD2, OR
 - It is an affordable housing development that can be justified under in terms of Policy HD1, OR
 - There is a shortfall identified by Scottish Borders Council through the housing land audit regarding the provision of an effective 5-year housing land supply, OR

- d) It is a development that it is considered would offer significant community benefits that outweigh the need to protect the development boundary.

AND the development of the site:

- a) Represents a logical extension of the built-up area.
- b) Is of an appropriate scale in relation to the size of the settlement.
- c) Does not prejudice the character, visual cohesion or natural built-up edge of the settlement; and
- d) Does not cause a significant adverse effect on the landscape setting of the settlement or the natural heritage of the surrounding area.

The decision on whether to grant exceptional approvals will take account of:

- a) Any indicators regarding restrictions on, or encouragement of, development in the longer term that may be set out in the settlement profile.
- b) The cumulative effect of any other developments out with the development boundary within the current Local Plan period.
- c) The infrastructure and service capacity of the settlement.

4.13 The Council's reasons for refusal focused upon the 'Conversion of Buildings to a House' section C Policy HD2, in refusing the application for its perceived the architectural and historic merit of building. We have therefore focussed our assessment on these criteria only.

4.14 **Policy HD2: Housing in the Countryside:** Policy HD2 addresses development proposals for housing related to existing Building Groups or in rural areas in general. The relevant text to this quotation has been copied below:

“(C) Conversion of Buildings to a House

Development that is a change of use of a building to a house may be acceptable provided that:

- a) The Council is satisfied that the building has architectural or historic merit, is capable of conversion and is physically suited for residential use,
- b) The building stands substantially intact (normally at least to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion, and

- c) The conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.

4.15 **Policy PMD2: Quality Standards:** The Policy sets out a range of sustainability, placemaking and design, accessibility and open space/ biodiversity requirements, whereby the proposal must:

- Take appropriate measures to maximise the efficient use of energy and resources, in terms of layout, orientation, construction and energy supply;
- Make provision for sustainable drainage;
- Incorporate appropriate measures for separate storage of waste and recycling;
- Incorporate appropriate landscaping to help integration with the surroundings;
- Create a sense of place, based on a clear understanding of context;
- Be of a scale, massing and height appropriate to the surroundings;
- Be finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality;
- Be compatible with, and respect, the character of the surrounding area, neighbouring uses and neighbouring built form;
- Be able to be satisfactorily accommodated within the site;
- Provide for appropriate boundary treatments to ensure attractive edges, and to help integration with the surroundings;
- Incorporate access for those with mobility difficulties;
- Not have an adverse impact on road safety in terms of the site access;
- Incorporate adequate access and turning space for vehicles including those used for waste collection purposes.
- Retain physical or natural features which are important to the amenity or biodiversity of the area.

4.16 **Policy ED10: Protection of Prime Quality Agricultural Land and Carbon Rich Soils:** Development, except proposals for renewable energy development, which results in the permanent loss of prime quality agricultural land or significant carbon rich soil reserves, particularly peat, will not be permitted unless:

- a) The site is otherwise allocated within the local plan
- b) The development meets an established need and no other site is available
- c) The development is small scale and directly related to a rural business

Material Considerations

Scottish Planning Policy (2014)

4.17 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.

- 4.18 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.
- 4.19 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*”.
- 4.20 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*”.
- 4.21 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*”.
- 4.22 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*”.

New Housing in the Borders Countryside Supplementary Planning Guidance (SPG)

- 4.23 The Supplementary Planning Guidance provides “advice and assistance with the siting and design of new housing in the Borders countryside”. Pertinent sections of the Guidance have been identified below.
- 4.24 The Guidance accepts that “the Borders area is not uniform in its landscape character” and that for “new housing to be absorbed successfully into a particular landscape it is important that the setting is selected by respecting the local landform, the field patterns and the tree and hedgerow cover”.

- 4.25 The Guidance continues to establish that the development of “new housing in harmony with its immediate and wider surroundings” is possible by “respecting the local landform, the pattern of fields and the distribution of tree and hedgerow cover”.
- 4.26 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.”
- 4.27 The Council’s expectations for elements of the proposed design which relate to access are also included in the Guidance, “in the interests of public safety it is therefore important that any new houses in the countryside are served by a vehicular access of a safe standard and provided with adequate on-site facilities for vehicle movement and parking.”
- 4.28 Conversion or Rebuilding aims to support the conversion of existing buildings in the countryside outwith defined settlements. Rehabilitation of any available existing buildings should be considered as an alternative to new development and the Scottish Borders Council will look sympathetically at proposals for the sensitive reuse, conversion or rehabilitation of traditional buildings.
- 4.29 In assessing proposals for the conversion of agricultural and other nonresidential buildings to residential use, and in addition to policy D2 in the Local Plan, the following criteria will be applied:
- 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;
 - The building is structurally sound, in a reasonable state of repair, and capable of conversion without substantial rebuilding.
 - Structural Survey will be required where it appears that a building may not be capable of conversion. If it is incapable of conversion, any replacement building should reflect the form and character of the original structure. Significant alterations will only be permitted where it can be demonstrated that these provide environmental benefits such as a more sustainable and energy efficient design;

- 5. The building can be converted without alterations to its external appearance which would detract from its character and attractiveness;
- 6. The building makes a positive contribution to the landscape and has no adverse effect on countryside amenity or nature conservation;
- 7. No adverse impact on ancient monuments or archaeological sites;
- 8. Appropriate siting, design and materials in accordance with the relevant Local Plan policies.

Recent Case Law

4.30 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.

Permitted Development Rights (General Permitted Development and Use Classes) (Scotland) Amendment Order 2020)

4.31 The new permitted development rights which came into force on the 1st April 2021 permits the conversion of agricultural buildings to residential and commercial use for units that do not exceed 150sqm in size. As the Black Barn is larger than 150sqm, the proposed conversion would not fall under permitted development, however, it is evident the principle of agricultural to residential conversions is acceptable and something that the Scottish Government wish to support

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.

Reason for Refusal - Part 1

- 5.3 *The proposal is contrary to policy PMD4 of the Local Development Plan 2016 as the site is outwith the development boundary for Eckford and the proposal does not satisfy the criteria within the policy for exceptional circumstances. No material considerations have been identified which would outweigh the need to consider this proposal in accordance with policies of the Local Development Plan 2016.*

Appellant's Response

- 5.4 The site is on the edge, but outwith the defined settlement boundary of Eckford Village. Given we are seeking a conversion and on existing building in the countryside the core policy in HD2 Part C. we consider that Policy PMD4 is not applicable and should not have formed a reason for refusal. The proposal is for conversion of an existing building and not the construction of the new building or dwelling.
- 5.5 Even if we were to apply, we set out below the circumstances for why this development should proceed in line with the policy. We first demonstrate that there is a shortfall identified by Scottish Borders Council through the housing land audit regarding the provision of an effective five-year land supply – Part 1 c) of this policy.
- 5.6 We then provide justification for the proposed development of the site in line with criteria a) to c) in Part 2 of this policy and criteria a) to c) of Part 3 of this policy, as is necessary to justify development outwith the settlement boundary.

Policy PMD4 – Part 1

Criteria c) There is a shortfall identified by Scottish Borders Council through the housing land audit with regard to the provision of an effective five-year housing land supply.

- 5.7 There is a significant shortfall in the five-year housing land supply, which this appeal proposal can contribute to. This is confirmed both through our own assessment and perhaps more importantly by a Scottish Government Reporter through a recent appeal decision (ref PPA-140-2088), as we go on to explain below.

- 5.8 The scale of housing required for the Scottish Borders area is set out within SESPlan and the most recent Housing Land Audit 2019 (published April 2020). The Housing Land Audit 2019 identifies no sites within Eckford Village. Eckford is considered to be a sustainable location, 6.5 miles south of Kelso (35 minutes cycle or 22 minutes via the K12 bus, a 2-mutes walk from the site), 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. It is therefore considered that Eckford is a desirable place to live and a logical location for residential development.
- 5.9 Although SBC's Housing Land Audit 2019 identifies a Housing Land Supply, it is evident that many allocated sites are yet to come forward for development and dating back as far as 2016. For example, it is noted that the Housing Land Audit identifies long term delivery of 300 new dwellings on the Lowood site and of this, 80 new dwellings are included within the effective housing land supply. The delivery of 80 new dwellings in the next 5 years is considered to be undeliverable because no planning permission has been granted at the present time, and no evidence of developer/housebuilder involvement has been published. This then leading to the housing and land supply not being fully built out and posing significant questions on the deliverability of the allocated sites within both the existing and proposed Local Development Plan.
- 5.10 Our position is not that the allocated sites should be ignored but that they should be identified as being constrained with their delivery times extended. They should not be used to prohibit other sustainable windfall sites adjacent to existing settlements, such as that proposed by this appeal, from coming forward when they will be needed to meet the identified housing shortfall within the Scottish Borders.
- 5.11 Whilst the proposal is for a single dwelling, analysis shows that that a significant proportion of houses built in the Scottish Borders range between 1-4 units and that many are non-allocated / windfall sites. The importance of smaller sites in delivering housing in the Scottish Borders should therefore not be overlooked.
- 5.12 The appeal site is free from constraints and represents a logical and sustainable windfall opportunity to help address the current shortfall. The existing barn on the site has been vacant for a number of years and falling into a state of disrepair. Utilising this site for much needed housing will bring the site back to life, whilst creating a more visually pleasing environment for neighbouring residents.
- 5.13 Significantly, the shortfall in the Council's five-year land supply, has also 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.

- 5.14 A shortfall has therefore been identified in the Council's five-year housing land supply, and this appeal proposal satisfies the expectations of Policy PMD4 Part 1 (a).

Policy PMD4 Part 2

Criteria a) The development of the site represents a logical extension of the built-up area.

- 5.15 The site is a logical extension of the village, being located directly adjacent to the edge of the existing built-up area of Eckford Village. The site is within a two-minute walk to the Eckford Village Hall, along with the bus stop which offers a direct 22-minute direct service to Kelso, 8-minute service to Jedburgh and a 49-minute Hawick.
- 5.16 It is considered the plot is situated within an infill and sustainable location, sitting adjacent to the existing residential dwellings to the north, south and west, relating well to the neighbouring built form at Eckford Village. The type and form of development proposed is considered to be acceptable on the site.
- 5.17 The site is a brownfield plot which as previously noted is falling into a state of disrepair. If left to dilapidate further, it is considered the site will provide an opportunity of anti-social behaviour within and around the vacant building. The proposals seek to utilise this redundant site through the conversion of the existing built form into a residential dwelling which would be in keeping with the neighbouring residential properties. The conversion of the vacant shed in a sustainable location which will enhance the aesthetics of this site and enable the barn to not fall into a state of disrepair.
- 5.18 Other opportunities within the existing settlement boundary are extremely limited due to its rural location and linear nature of the village. It is considered brownfield sites should be a priority when considering development, and this proposal is deemed to utilize this site for much needed housing within a desirable, sustainable location. The market and desire to locate and live within the village is strong and becoming increasingly popular.
- 5.19 The site is also visually well-contained within the existing field boundary, along with its infill location. The proposal is considered to be a considerable improvement in terms of the visual impact in comparison to the existing redundant barn on site which is an eye sore for residents and visitors to the village. Proposed planting adjoining

the borders will soften the approach whilst forming a sympathetic extension to the existing residential properties to the north and west of the site.

- 5.20 On the above basis, we consider that the proposed residential development is a logical and sustainable extension of the built-up area and is therefore considered to be compliant with criteria a).

Criteria b) The development of the site is of an appropriate scale in relation to the site of size of the settlement.

- 5.21 Policy HD2 promotes appropriate rural housing development associated with existing rural building groups subject to not adversely affecting the character of the site or surrounding area. The policy states housing of up to 2 dwellings or a 30% increase associated with the existing building group may be approved if it is a logical extension to the built form.

- 5.22 In terms of policy, we understand Eckford is not considered a large building group, however, we consider the site to be a logical location for residential development. The site is in a sustainable brownfield location, relating well to the rural village of Eckford and adjoins the settlement boundary. So, the principal or thrust of the rural building group policy should apply.

- 5.23 The proposed plans illustrated in Figure 6 and within Core Documents 3 and 5 demonstrate how the proposed site could accommodate an additional bespoke detached family sized dwelling. Eckford, as a large rural building grouping or settlement is considered to be able to accommodate one additional dwelling, given it would fall within the 30% ruling of an existing building group whilst being an conversion of an agricultural barn.

- 5.24 The appeal proposals are therefore considered to be of an appropriate scale in relation to the size of the settlement and criteria b) is therefore considered to be satisfied.

Criteria c) The development of the site does not prejudice the character, visual cohesion or natural built-up edge of the settlement.

- 5.25 It is considered the scale of the proposed dwelling through the conversion of the barn is appropriate to the site and the local area, despite being substantial in size.

- 5.26 It is deemed the views of the built form from public receptor points from the main road to the west and the neighbouring properties will be enhanced with the aesthetics of the vacant building improving through bringing life back into the site. The existing hedgerow to the south will be maintained and enhanced where possible, creating a natural screening from the adjoining residential property. Overall, the visual impact

of the proposal on the local area is considered to be improved, making it more aesthetically pleasing.

- 5.27 The development on the site would have negligible effects on the local landscape character and townscape character of the settlement. *The appeal proposals are therefore considered to satisfy criteria c).*

Criteria d) the development does not cause a significant adverse effect on the landscape setting of the settlement or natural heritage of the surrounding area.

- 5.28 The proposal seeks to maintain the distinct character of its former use whilst utilising the generous amount of internal space to create a modern, open plan living arrangement. The retention of the existing timber structure will carry a new 'overcoat' which will be highly insulated supported by policy PMD1.
- 5.29 The boundary landscaping bordering the site further ensures the proposal does not impinge upon the local character of the area whilst protecting the privacy of future occupants and neighbouring residents, sitting well within the setting of the rural village whilst reducing the visual impact of the proposed inhabitable use.
- 5.30 Regarding the natural environment, an Extended Phase 1 Habitat Survey was prepared by Ellendale Environmental. There was no evidence of protected species during the survey, and there are no ecological reasons that would limit the development of the site. The accompanying survey (Core Document 6) from Ellendale Environmental showed no material impact which was accepted by SBC Ecology Department.
- 5.31 The proposal will also be committed to green and sustainable building standards and in the promotion of renewable energy, such as, solar and air source heat pumps. The applicant is more than willing to be conditioned on such matters.
- 5.32 As set out above, the development will not cause a significant adverse effect on the landscape setting of the settlement or natural heritage of the surrounding area and criteria d) is therefore considered to be satisfied.

5.33 ***Policy PMD4 – Part 3***

Criteria a) Any indicators regarding restrictions on, or encouragement of, development in the longer term that may be set out in the settlement profile.

- 5.34 The development of the proposed site will not impact upon the delivery or development of any neighbouring sites within the settlement of Eckford. As described above, the site is a logical extension to the existing settlement, within a brownfield site with defensible boundaries to the wider countryside and thereby will not promote further development outwith the settlement in this location.

Criteria b) The cumulative effect of any other developments outwith the Development Boundary within the current Local Plan period.

- 5.35 As noted above, there are limited opportunities for future development within Eckford with no allocated sites for housing development within the settlement. The regeneration of the appeal site will complement the organic growth of the village, on a site that is falling into a state of disrepair and an eye sore for residents. The proposal is thought to be in keeping with the existing settlement and have no adverse impact on its existing character.

Criteria c) The infrastructure and service capacity of the settlement.

- 5.36 No objections were received from any of the technical consultees during the original planning determination, as summarised in Section 1. It is considered that there are no infrastructure or service capacity constraints which would prevent development of this site.

Reason for Refusal- Part 2

- 5.37 *The proposal is contrary to Part C of policy HD2 of the Local Development Plan 2016 in that the building has no architectural or historic merit and is not physically suited for residential use. The structural survey has not demonstrated that the building is capable of conversion without significant changes to the structure. The conversion would not be in keeping with current scale of the building. The development would be tantamount to rebuilding or replacement.*

Appellant's Response

- 5.38 We set out below why we strongly disagree with the above reasoning and why this development should proceed in line with Part C of Policy HD2 of Housing in the Countryside, demonstrating the proposal does comply with the conversion of a building to a house.

Policy HD2 part (C) Conversion of Buildings to a House. Development that is a change of use of a building to a house may be acceptable provided that:

Criteria a) The Council is satisfied that the building has architectural or historic merit, is capable of conversion and is physically suited for residential use.

- 5.39 The accompanying Design and Access Statement within Core Document 5 demonstrates the existing barn is capable of conversion and is physically suited for residential use, created a unique and attractive living arrangement as illustrated in Figures 9, 10 and 11 below.

Figure 9: Proposed Sections

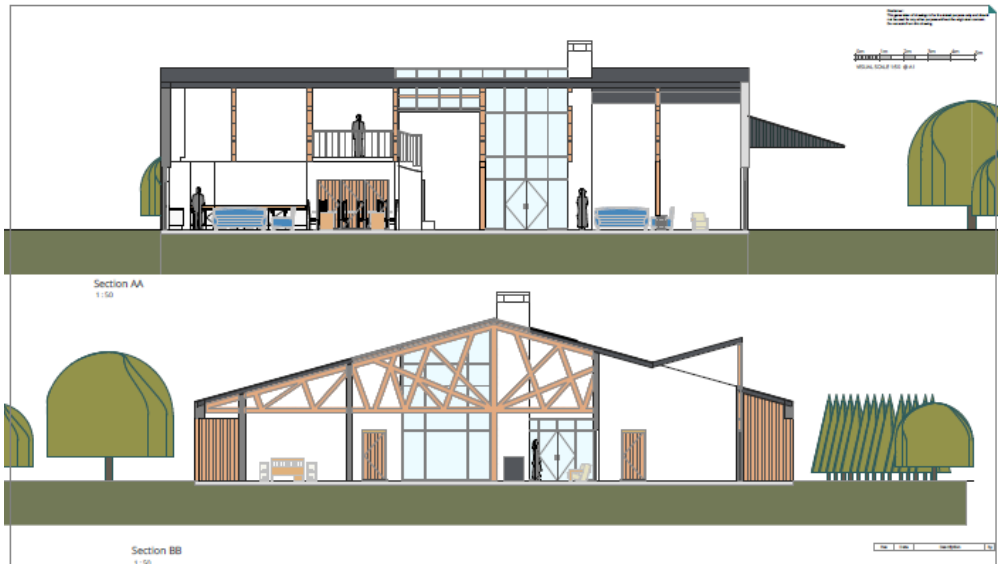
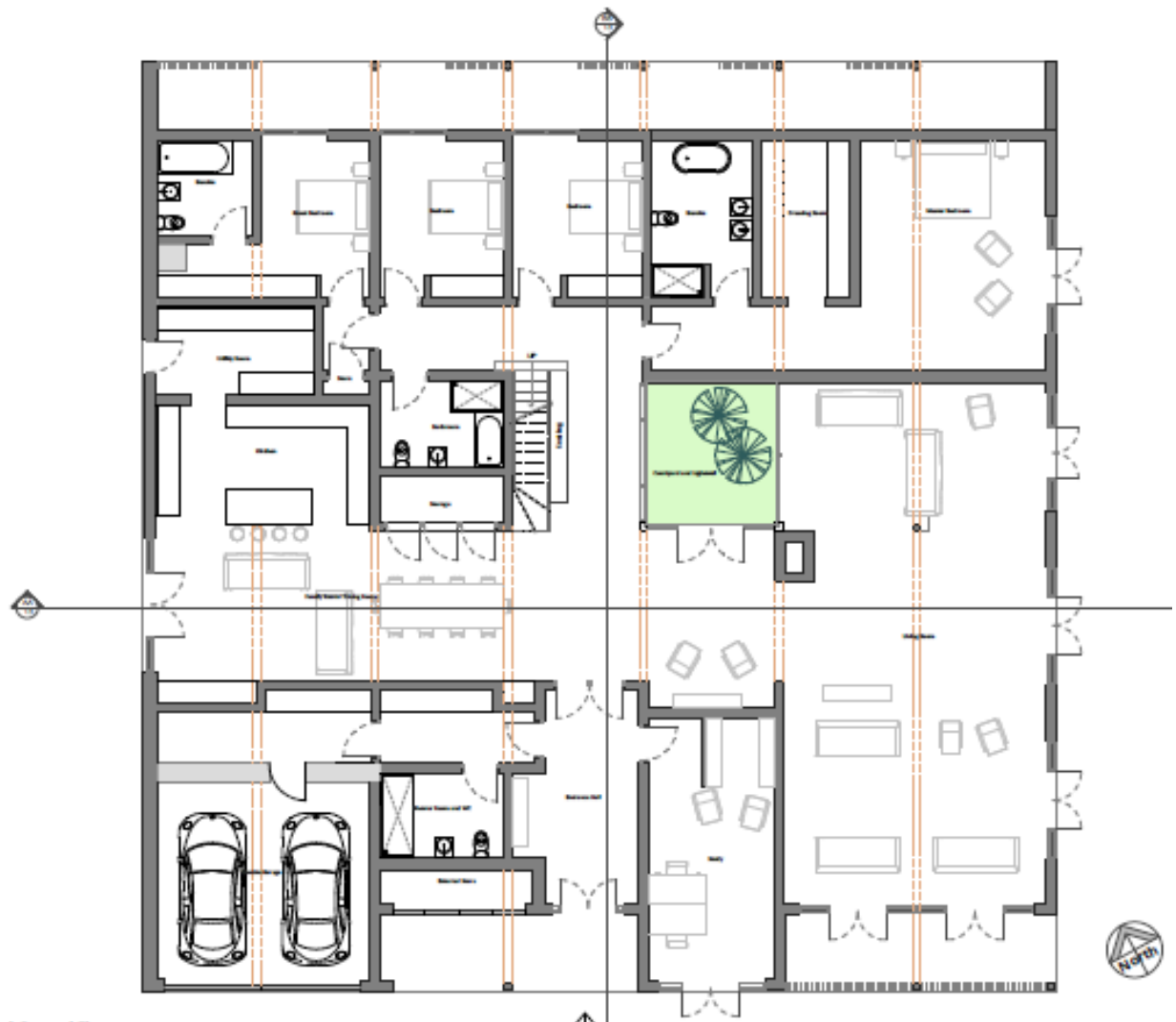


Figure 10: Proposed Elevations North and South



Figure 11: Proposed Ground Floor Plan



- 5.40 The proposed conversion of the agricultural barn seeks to maintain the distinct character of its former use whilst utilising the generous amount of internal space to create a modern, open plan living arrangement. The retention of the existing timber structure will carry a new 'overcoat' which will be highly insulated.
- 5.41 A glazed central courtyard and surrounding roof glazing bring plentiful natural light, solar gains, ventilation and privacy into the centre of the plan and highlight the dramatic existing timber structure.
- 5.42 It is also important to note the recent changes to the Permitted Development Rights (General Permitted Development and Use Classes) (Scotland) Amendment Order 2020 which came into force on the 1st April 2021 permits the conversion of agricultural buildings to residential and commercial use for units that do not exceed 150sqm in size. As the Black Barn is larger than 150sqm, the proposed conversion

would not fall under permitted development. However, it is evident the principle of agricultural to residential conversions is acceptable and supported by the Scottish Government.

Criteria b) The building stands substantially intact (normally at least to wallhead high) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion.

- 5.43 A structural Conditions Statement was prepared by Goodsons Associates submitted as part of the planning application package demonstrates (found within Core Document 8) the existing agricultural building is structurally sound and capable of conversion. It is therefore considered the proposal complies with Criteria B of Policy HD2 and why the officers opinion has gone beyond policy requirements in this regard.

Criteria c) The conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.

- 5.44 As noted above under criteria a) for policy HD2, the submitted proposed drawings and Design and Access Statement (Core Documents 3 and 5) demonstrates the proposed scale of the dwelling through the conversion of the barn is appropriate to the site and the local area, despite being substantial in size.
- 5.45 The proposal offers a generous open plan living area with views out onto the open landscape to the east. A home office is proposed creating a live/ workspace arrangement which has become increasingly necessary with the recent Covid-19 restrictions and the sudden requirement of homeworking which is likely to become the new normal. The home office has been carefully positioned to enable visitors to be directed to the workspace area without entering the core living space, creating an attractive separation from work/ life living.
- 5.46 Again, the principle of converting a barn has already been established through the recent case to the permitted development rights as noted in point 5.46 above. Figures 12-14 below illustrate a similar scheme that has been constructed in Norfolk to help visualise the proposal.

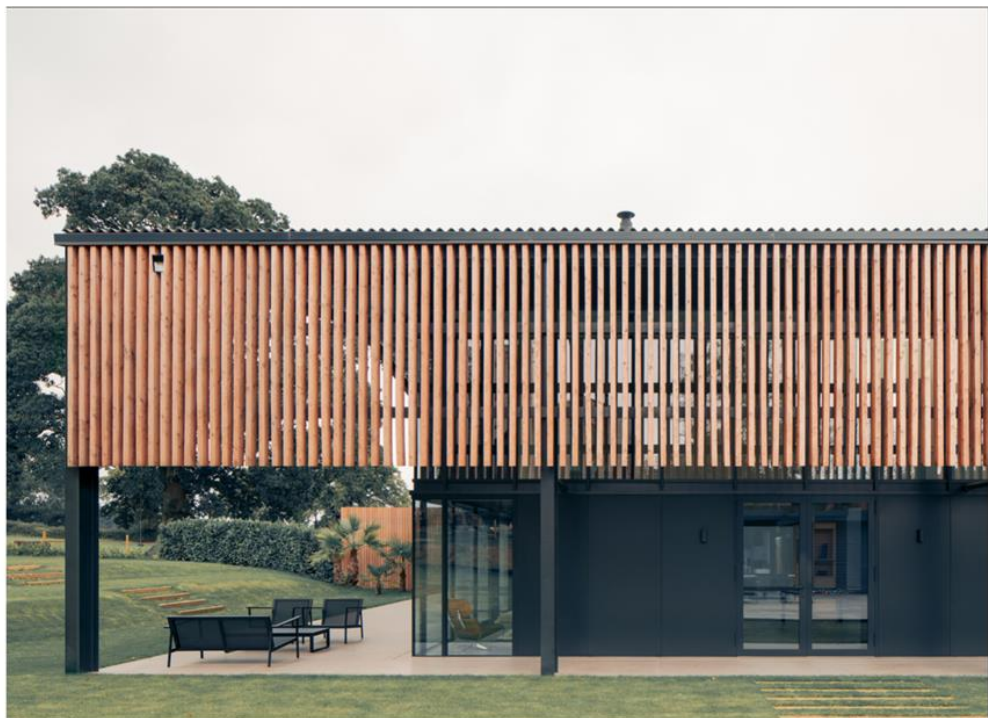
Figure 12: Precedent Scheme Image 1



Figure 13: Precedent Scheme Image 2



Figure 14: Precedent Scheme Image 3



5.47 The proposal seeks to maintaining the overall footprint and sheltering silhouette of the building in its context whilst utilising the space for residential purposes, maintaining the character of the agricultural structure. Overall, it is considered the site proposal is compliant with policy HD2 C Part c). the Scottish Government are clearly wanting to see redundant rural buildings to address rural housing needs to assist in the rural housing land supply and support the local economy.

Reason for Refusal – Part 3

- 5.48 *The proposal is contrary to policy PMD2 of the Local Development Plan 2016 as this pattern of development would not be compatible with or respectful to the neighbouring built form or settlement pattern. The scale, massing and height would result in an appearance which is not designed in sympathy with Scottish Borders architectural styles.*

Appellant's Response

- 5.49 Again, we fail going to see how this policy applies. Firstly, because it is not a 'new' development on greenfield land it is a conversion of an existing building. The structure already exists, and the proposal is considered better than what exists. There is largely no change in regard to scale, massing and height.

Policy PMD2: Quality Standards

The policy sets out a range of sustainability, placemaking and design, accessibility and open space/ biodiversity requirements, whereby the proposal must:

| Policy PMD2 Requirements | Appellants Response |
|--|--|
| Take appropriate measures to maximise the efficient use of energy and resources, in terms of layout, orientation, construction and energy supply | The retention of the existing timber structure will carry a new 'overcoat' which will be highly insulated. The proposal intends to support a sustainable form of development through renewables such as solar panels, air source heat pumps and electrical charging points. |
| Make provision for sustainable drainage | Can be agreed via condition |
| Incorporate appropriate measures for separate storage of waste and recycling; | The proposed plans within core document 3 illustrate an external store for separate storage of waste and recycling (Drawing number 10093/0-10) |

| | |
|---|---|
| <p>Incorporate appropriate landscaping to help integration with the surroundings;</p> | <p>The boundary landscaping bordering the site further ensures the proposal does not impinge upon the local character of the area whilst protecting the privacy of future occupants and neighbouring residents, sitting well within the setting of the rural village whilst reducing the visual impact of the proposed inhabitable use</p> |
| <p>Create a sense of place, based on a clear understanding of context;</p> | <p>The site currently occupied a vacant agricultural barn which is falling into a state of disrepair. The proposed renovation of the barn will bring this site back to life, creating a sense of place and natural surveillance of the neighbourhood.</p> |
| <p>Be of a scale, massing and height appropriate to the surroundings;</p> | <p>It is considered the scale of the proposed dwelling through the conversion of the barn is appropriate to the site and the local area, despite being substantial in size. The proposal offers a generous open plan living area with views out onto the open landscape to the east.</p> |
| <p>Be finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality;</p> | <p>The chosen materiality is illustrated within the Design and Assess Statement within Core Document 5. The materiality can also be secured via condition.</p> |
| <p>Be compatible with, and respect, the character of the surrounding area, neighbouring uses and neighbouring built form;</p> | <p>As already mentioned above, proposed conversion of the agricultural barn seeks to maintain the distinct character of its former use whilst utilising the generous amount of internal space to create a modern, open plan living arrangement. Residential properties border the north and west of the site, meaning there are no conflicting uses within close proximity.</p> |

| | |
|---|---|
| <p>Be able to be satisfactorily accommodated within the site;</p> | <p>The Design and Access Statement within Core Document 5, along with the Structural Conditions Statement within Core Document 8 demonstrate the barn is capable of conversion into a unique and usable residential property.</p> |
| <p>Provide for appropriate boundary treatments to ensure attractive edges, and to help integration with the surroundings;</p> | <p>The existing hedgerow to the south will be maintained and enhanced where possible, creating a natural screening from the adjoining residential property.</p> |
| <p>Incorporate access for those with mobility difficulties;</p> | <p>The majority of the living space and bed rooms are on the ground floor. Drawing number 10093/0-10 within Core Document 3 illustrate there are wider doorways and corridors, along with the open plan living space making it more than suitable for those with mobility difficulties.</p> |
| <p>Not have an adverse impact on road safety in terms of the site access;</p> | <p>No objection from roads planning during the original application</p> |
| <p>Incorporate adequate access and turning space for vehicles including those used for waste collection purposes.</p> | <p>Servicing arrangements will be as existing as the end of the driveway on the main road.</p> |
| <p>Retain physical or natural features which are important to the amenity or biodiversity of the area.</p> | <p>The existing hedgerow to the south will be maintained and enhanced where possible, creating a natural screening from the adjoining residential property.</p> |

Reason for Refusal Part 4

- 5.50 *The proposal is contrary to policy ED10 of the Local Development Plan 2016 in that the change of use of prime quality agricultural land to garden ground would result in the permanent loss of prime agricultural land.*

Appellant's Response

- 5.51 It is acknowledged the garden land of the proposed development falls within a small section of the agricultural land. It is to provide residents some amenity space and is largely in line with the plot to the north. should this be considered an issue to members the area of garden land can be revised.
- 5.52 As set out above, the development is focused on the footprint of the agricultural shed and no development extends into the agricultural land to the east. It is therefore considered the proposal is compliant to Policy ED10 and will not see development upon agricultural land.

6. Conclusions

6.1 The submitted appeal, supported by this statement, seeks the Council's decision to refuse planning permission for the '**Conversion of existing barn to a residential dwelling with associated amenity, parking, infrastructure and access**' at Black barn, Eckford, Kelso, TD5 8LF 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 sustainable form of development utilising a brown field site and the conversion of a redundant agricultural barn for residential development and one which relates well to the existing built form at Eckford Village.
- It is considered that the conversion of this structurally sound agricultural barn into a dwelling upon the site is to be acceptable and in accordance with Policy HD2. Whilst the proposal utilises this sustainable infill site, it will also contribute to the housing land supply with the borders as supported by Policy HD4.
- It is considered Policy PMD4 should not have formed a reason for refusal as it is not new development in the countryside, it is a conversion of an existing building and thus Policy HD2 (C) applies to the core policy.
- The proposed barn has been carefully designed to create an attractive and usable residential dwelling with good levels of amenity for future occupiers whilst safeguarding the privacy of the neighbouring dwellings and providing good quality standards using sustainable methods and renewable technologies will be supported in accordance with Policies PMD1, PMD2 and HD3.
- The proposal adheres to the general principle contained within the new Permitted Development Rights ((General Permitted Development and Use Classes) (Scotland) Amendment Order 2020 which came into force on the 1st April 2021) by due to the size being over 150 sqm in scale has triggered the requirement for a full planning application to be made.
- The proposal is focused on the conversion and footprint of the existing agricultural shed and will not develop upon the prime agricultural land and is therefore considered to be compliant with policy ED10.
- There has been no road safety concerns or objections from the Roads Officer or any other consultees.

- 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 PMD4, HD2, PMD2 and ED10 against which the original application was refused.

6.4 There are no material considerations that outweigh this decision. 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. The LRB is therefore respectfully requested to allow this appeal.

Appendix 1: Core Document List

Core Doc 1: 21/00734/FUL Decision Notice and Officers Report

Core Doc 2: Location Plan

Core Doc 3: Proposed Plans

Core Doc 4: Planning Statement

Core Doc 5: Design Statement

Core Doc 6: Preliminary Ecology Report

Core Doc 7: Consultee Response Letter

Core Doc 8: Structural Conditions Statement

Core Doc 9: Existing Plans