

Directorate for Planning and Environmental Appeals

## Appeal Decision Notice

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Decision by Dan Jackman, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-140-2041
- Site address: land North East of Newburgh Farm Steading, Ettrick Valley, Scottish Borders
- Appeal by Mr Nicholas Weeks against the decision by Scottish Borders Council
- Application for planning permission 12/00967/FUL dated 31 July 2012 refused by notice dated 4 February 2013
- The development proposed: change of use of agricultural land to incorporate the siting of 6 yurt tents, shop and associated parking
- Application drawings: location plan and camp site landscape proposals (rev A – NW Topo 180906A1)
- Date of site visit by Reporter: 15 April 2013

Date of appeal decision: 22 May 2013

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### Decision

I allow the appeal and grant planning permission subject to the eight conditions listed in schedule 1 at the end of the decision notice. Attention is drawn to the three advisory notes in schedule 2 at the end of the notice.

### Preliminary matter

The appellant also made a claim for expenses against the council. The claim for expenses is dealt with in a separate decision notice.

### Reasoning

1. The determining issues in this appeal are whether the proposal would be harmful to the landscape and visual character of the area and the amenities of nearby residential properties, bearing in mind the provisions of the development plan.
2. The development plan consists of the Scottish Borders Structure Plan 2001 - 2018 and the Scottish Borders Consolidated Local Plan 2011. As is usually the case, the development plan has a number of general policies, which would apply to any development and specific policies that apply to tourism development in a countryside location.

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to reach the extent that it would be sufficiently harmful to justify the refusal of planning permission. I consider the council's comment that campers would be noisy because they would have to make their own entertainment as speculation. In any event, there are other controls if any campers were irresponsible and created so much noise as to cause a nuisance.

10. A private water supply and foul water disposal system is proposed. I note that after consultation with the appropriate organisations there were no outstanding objections. In the committee report it is stated that, "...SEPA have confirmed that the system in place is adequate to deal with the extra volume. A report has been submitted which demonstrates that adequate water can be provided without affecting any other properties." The council's reasons for refusal do not refer to water supply or disposal matters and the council does not consider any planning conditions necessary. In any event, there are separate and continuing controls regarding the adequacy of water supply and proper disposal of foul water under other legislation. I conclude that there is no basis in planning terms to preclude the development due to water supply or foul water drainage matters.

11. I accept that dogs that are not properly controlled can have a detrimental impact on the operation of a sheep farm. I note that the appellant states that dogs will not be allowed in the yurt area. In any event, there are other measures to address irresponsible control of dogs. It is unreasonable to assume that the appeal proposal would inevitably result in irresponsible behaviour.

12. Bearing in mind the remote location, I consider that the proposed small shop is of a benefit to the area. I note that the proposal is supported by Business Gateway's Tourism Business Advisor. Overall, I conclude that the proposal would not be unacceptably harmful to the amenities of nearby residents or to the scenic qualities of the area. I therefore consider that the proposal would comply with the objectives of the development plan. I do not consider that there are any material considerations that are of sufficient weight to set aside the provisions of the development plan in this instance.

13. I generally agree with the conditions specified by the council. However, condition 1 is not necessary as this requirement can be addressed by an advisory note. I have also reworded suggested condition 6 as I consider that, "*A proportionate ecological impact assessment*" is a term that lacks precision.

*Dan Jackman*

Reporter

3. In the council's appeal statement it refers only to policies used in the reasons for refusal. I would describe these two policies as general policies. Policy H2 is primarily directed at development within existing residential areas. Policy Inf 11 is primarily directed at significant travel generating development.

4. I note that in the committee report, Policy D1 – Business, tourism and leisure development in the countryside is considered relevant. I agree, and also consider that Policy BE 8 – Caravan and camping sites to be relevant. Taken together, I conclude that the objective of the development plan is to encourage appropriate tourism related proposals provided there are no unacceptable environmental impacts, including impacts upon residential amenity.

5. There is no dispute that a campsite can be an acceptable countryside use. I accept that the site is in an isolated location where most, if not all visitors, would travel by car. The reason for refusal's reference to Policy Inf 11 is in the context of the need for a car exacerbating noise disturbance. I do not consider a proposal for 6 yurts to be a significant traffic generator. Policy D1 only requires that accessibility considerations need to be taken into account. I note that paragraph 96 of Scottish Planning Policy advises that councils should be realistic about public transport provision in rural areas. I conclude, that when read as a whole, the development plan does not preclude the principle of a tourism development because of the site's isolated location.

6. I accept that the development would be visible from the road and this would be where most people would see the proposal. However, it is a small scale development which is also easily reversible. The choice of colour of the material for the yurts could be controlled by planning condition. Although any landscaping would take several years to mature, when mature, I consider that the development would be compatible with an open landscape inter-dispersed with groups of trees. I agree with the author of the committee report that the proposal, subject to appropriate landscaping conditions, would be a positive outcome for the site.

7. I accept that the proposal, in combination with the three steading conversions (apparently in use as holiday lets), would increase the general activity and hence noise compared to the situation previously. In the context of a generally quiet rural area this might upon occasions be noticeable.

8. However, I do not consider that any assessment based on 100% occupancy of all the yurts and the three steading conversions to be realistic. The occupancy assumptions set out in the business plan seem more likely. I have been provided with no information to suggest that the traffic generated by the proposal (even when combined with the three steading conversions) would be significant compared to the existing use of the road. I note that neither the council's transport officer nor environmental health officer, subject to planning conditions, had any objections.

9. The houses unrelated to the holiday business are over 50 metres from the site and access. I therefore agree with the author of the committee report, that any noise is unlikely

