



**LOCAL REVIEW STATEMENT**  
**REF: 21/00002/FUL**

**ERECTION OF DWELLINGHOUSE**

**PLOT 1 LAND SOUTH-EAST OF STEADING  
BUILDINGS, GREYSTONELEES FARM,  
BURNMOUTH**

**ON BEHALF OF: MR RICHARD WOOD**

**DECEMBER 2021**

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Ref: B-MWD-0224

Council Ref: 21/00002/PPP

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Date of Issue: December 2021

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## EXECUTIVE SUMMARY

This Statement is submitted on behalf of Mr Wood “the Appellant” against the decision of Scottish Borders Council to refuse Planning Permission for the erection of a dwellinghouse at Plot 1, Greystonelees Farm, Burnmouth on 12th November 2021 (reference 21/00002/FUL). All Core Documents (CD) are referenced in Appendix 1.

The Appellant proposes to build a new dwelling on land within his ownership on land sitting within the sense of place of the existing Building Group at Greystonelees. It is agreed between the Planning Authority and the Appellant that there is a Building Group comprising seven existing dwellings at Greystonelees and that the appeal site forms part of that Building Group. Disagreement centres on the significance of the proposed dwelling as the final addition completing the existing Building Group.

A new dwelling has previously been approved on the appeal site in 2008 (Planning Permission 07/01207/FUL). Whether the development approved at that time was lawfully initiated or not remains an unresolved dispute between the Appellant and Planning Authority – the Appellant adamantly insists that lawful initiated did occur. What is not disputed is that the site was cleared in the years following 2008 and the site represents brownfield land. The Appellant is a local builder who has bought all three previously approved but unconstructed dwellings at Greystonelees and has secured funding to undertake the project in full. The proposed development represents a premium opportunity to secure jobs, investment, and new housing locally which is commercially ready to be committed immediately, on a brownfield site.

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

- **Archaeology – No objection.**
- **Contaminated Land – No objection.**
- **Roads Planning team – No objection.**
- **Scottish Water – No objection.**
- **Transport Scotland – No objection.**

### Reason for Refusal

One reason was cited for the refusal of the Application.

The stated reason claimed that the proposed development contradicts Policy HD2 of the LDP as “there is therefore no remaining capacity for new build housing development at the building

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



group within the current plan period” despite the appointed Planning Officer concluding that “there is an established building group at this location”.

It is the position of the Appellant that Planning Permission 07/01207/FUL was lawfully initiated in the years following 2008 by construction of the layby/turning-head on-site. The Appellant does not accept that any argument to the contrary is well made or factually accurate. The site is both within the sense of place of an existing Building Group and brownfield land – development supported by both national and local planning policy. The Appellant and Planning Authority are agreed that the site represents the final building plot within the sense of place of Greystonelees. Any further development would lie beyond the setting of the Building Group, would demonstrably and significantly contradict Policy HD2, and would be unacceptable in planning terms.

The funding package to deliver the proposed development is already in place and ready to be called on. The package covers all three new dwellings at Greystonelees and relies on each new dwelling coming forward.

It is considered that the proposed development is well related to the existing Building Group lying within the local setting and defined sense of place enclosed by the surrounding agricultural fields, common ground shared between the Appellant and the Planning Authority. The impact of the proposal on the landscape character would be limited and a detailed design which reflects and respects the local built character has been agreed with the Planning Authority. The appeal site represents the final site at the Greystonelees Building Group and the proposed dwelling would complete the local built environment. The appeal site is also brownfield land and development comes with significant economic benefits for the local rural area. Therefore, the appeal proposal is considered to accord adopted policy and to be acceptable in planning terms.

The Local Review Body, having considered the detail contained within the Planning Application package, together with the information set out herein, will be respectfully requested to allow the Notice of Review and grant Planning Permission.

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## 1.0 INTRODUCTION AND PROPOSAL SUMMARY

- 1.1 This Statement supports a Notice of Review of the delegated decision of Scottish Borders Council to refuse to grant Planning Permission for the erection of a dwellinghouse at Plot 1, Greystonelees Farm, Burnmouth.
- 1.2 The site lies to the south-east of Greystonelees Farm House and south of the A1. The site is surrounded to the south and east by agricultural fields which are used for livestock rearing. While existing dwellings of the Greystonelees Farm Steading and Greystonelees Farm Cottage lie west and north of the site respectively. An existing access to the A1 lies approximately 120 metres north of the site. Minor roads from that access lead both east and west, with the former providing vehicle access to the site.
- 1.3 The site itself comprises rough grass and has been kept as a building plot since at least September 2007, pursuant to the grant of Planning Permission 07/01207/FUL. The site faces onto a minor public road which provides access to three existing dwellings.
- 1.4 Two existing dwellings sit on the opposite side of the minor public road, while four dwellings face onto a hard surfaced apron to the north-west. The hard surfaced apron is enclosed on two sides by existing dwellings together with the two dwellings approved under Planning Applications 20/01206/FUL and 20/01389/FUL.
- 1.5 The proposed dwelling comprises a two storey detached house, which has been sensitively designed to marry traditional and contemporary styles. The new dwelling is proposed relatively centrally within the site forming a south frontage facing onto the minor public road to the north but sitting distinctly closer to the dwellings enclosing the hard surface apron. The proposed dwelling would form a frontage, together with the two approved dwellings adjacent to the west which were been approved in the March 2021.
- 1.6 The new dwelling is proposed in linear plan, this layout has been agreed between the Applicant and appointed Planning Officer in order to deliver a parallel relationship with the existing road to the north-east. Proposed elevations will comprise coursed stone in traditional form. A single storey garage protrudes from the north-east elevation, the roof of which is used to provide balcony space enclosed by a glass balustrade. The roof is proposed in natural slate at a moderate pitch with three dormers set into the south-west elevation and two dormers set into the north-east elevation.

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- 1.7 The north-east elevation shall face towards the public realm and contain the principal entrance to the proposed dwelling. Proposed fenestration comprises composite timber and aluminium goods. The north-west elevation shall continue the full extent of the course and preclude overlooking from the proposed balcony of the proposed dwelling adjacent to the west.
- 1.8 Solar panels (PV) are proposed on the south-west facing roof pitch. The proposed panels shall not be visible from the other nearby dwellings or the hard surfaced apron nearby. The Applicant proposes to connect to the existing mains water supply network.
- 1.9 Erection of a new dwelling on-site was previously approved by Planning Permission 07/01207/FUL. It is considered that the consent was initiated by the construction of a layby prior to the implementation period lapsing.
- 1.10 The remainder of this Statement considers the site context and relevant planning policy, before evaluating the accordance of the appeal proposal with the Local Development Plan and other material considerations.



**Fig 1:** Aerial image of Greystonelees with the core of the Building Group (circled in red) including the appeal site distinctly visible between the large agricultural fields to the south, east, and west.



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

2.1 Planning Application 21/00002/FUL was refused on 26th November 2021. The Decision Notice cited one reason for refusal, set out below:

**“1. The proposed erection of a further dwellinghouse at this location would be contrary to Local Development Plan 2016 Policy HD2 (Housing in the Countryside) as there is no remaining capacity for the expansion of the building group within the current plan period. The building group's capacity for expansion within the current Local Development Plan 2016 period was two units. This capacity was taken up by two consents for new build dwellinghouses granted under this part of the policy on neighbouring plots. Policy HD2 states that no further development above this threshold will be permitted, and there are no material considerations which would outweigh this.”**

### Local Development Plan

2.2 Policy HD2 contains six sections, each of which details circumstances in which new houses will be considered acceptable. Section (A) which addresses development relating to Building Groups is considered to represent the pertinent material consideration in the determination of the appeal proposal.

2.3 Section (A) of Policy is replicated below:

#### *“(A) Building Groups*

*Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:*

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such a conversion has been implemented,*
- b) the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts,*



- c) *any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.*

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

#### Proposed Local Development

- 2.4 Draft Policy HD2 is similar in character to adopted Policy HD2 – although not identical. The text of the draft policy, as currently proposed, is replicated below:

##### *“(A) Building Groups*

*Housing of up to a total of two additional dwellings or a 30% increase of the existing building group, whichever is the greater, 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 currently in residential use, provided that the group has scope for expansion and is not already considered complete<sup>1</sup>,*
- 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 dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.*

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

- 2.5 The most significant distinction between the draft policy and adopted policy is the addition of the caveat tying expansion of an existing Building Group to the settlement not already being complete and, further, having scope for expansion. This is considered to represent a substantial revision which would safeguard desirable (in market terms)

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<sup>1</sup> Underline represents the emphasis of this author for members’ specific attention.





and sought after hamlets (Building Groups) which have already hosted new homes in most recent decades.

- 2.6 It must be noted that as the Proposed Local Development Plan (PLDP) has been published it is a **material consideration** in the determination of a planning application as of now (December 2021). It should also be borne in mind that the draft text is intended for adoption by the Planning Authority in the period from late-2022 to early-2023. Therefore, the draft policy could represent adopted planning policy in less than 12 months from the issue of a Decision in relation to this Notice of Review.

#### Supplementary Guidance

- 2.7 The Supplementary Guidance '**New Housing in the Borders Countryside**' includes the following criteria for any new housing in the countryside:
- No adverse effect on the viability of a farming unit or conflict with the operations of a working farm;
  - Satisfactory access and other road requirements;
  - Satisfactory public or private water supply and drainage facilities;
  - No adverse effect on countryside amenity, landscape or nature conservation;
  - No adverse impact on ancient monuments, archaeological sites, or on gardens or designed landscapes;
  - Appropriate siting, design and materials in accordance with relevant Local Plan policies.
  - The safeguarding of known mineral resources from sterilisation unless this is acceptable following an assessment of the environmental implications.
- 2.8 The section of the Guidance, which covers the expansion of existing Building Groups, states that all applications for new houses at existing Building Groups will be tested against an analysis of:
- a) the presence or, otherwise of a group; and
  - b) the suitability of that group to absorb new development.
- 2.9 The Guidance sets out that the existence of a Building Group “will be identifiable by a sense of place which will be contributed to by:
- natural boundaries such as water courses, trees or enclosing landform, or
  - man-made boundaries such as existing buildings, roads, plantations or means of enclosure.”



- 2.10 When expanding an existing building group, the Guidance includes the following points:
- The scale and siting of new development should reflect and respect the character and amenity of the existing group;
  - New development should be limited to the area contained by that sense of place;
  - A new house should be located within a reasonable distance of the existing properties within the building group with spacing guided by that between the existing properties;
  - Ribbon development along public roads will not normally be permitted.

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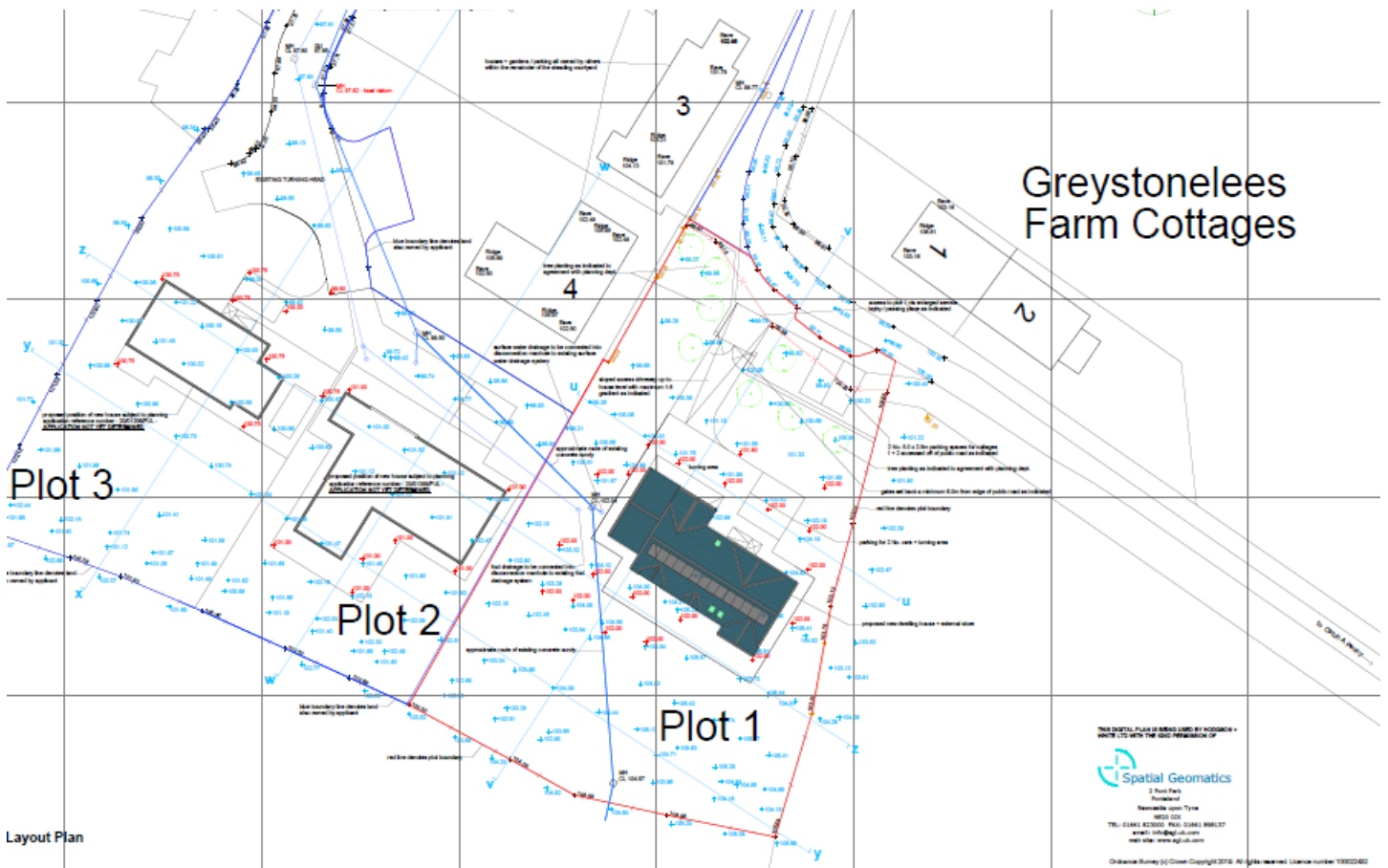
### 3.0 GROUNDS FOR APPEAL AND CASE FOR THE APPELLANT

- 3.1 The decision of the Planning Authority to refuse the Application is challenged on the basis of the Ground of Appeal set out below. It is the submission of the Appellant that the proposal accords with the relevant adopted policy of the Local Development Plan and Supplementary Guidance and that all other material considerations support approval of the Application.
- 3.2 During the course of the Application's determination, the following consultee responses were received from Council Officers and partners:
- **Archaeology – No objection.**
  - **Contaminated Land – No objection.**
  - **Roads Planning team – No objection.**
  - **Scottish Water – No objection.**
  - **Transport Scotland – No objection.**

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

- 3.3 It is the Appellant's position that the appeal site lies within the setting and forms part of an existing Building Group at Greystonelees and that the proposed dwelling would enhance the defined sense of place by completing the local built environment.
- 3.4 It is common ground between the Appellant and the Planning Authority that a Building Group exists at Greystonelees and that the appeal site sits within its sense of place, sharing a strong relationship with existing dwellings locally. However, Report of Handling 21/00002/FUL asserts contradiction with adopted policy on the basis that "there is therefore no remaining capacity for new build housing development at the building group within the current plan period".
- 3.5 Disagreement centres on the significance of recently approved additions to the Building Group and scope for approval of the proposed dwelling on the final site which sits within the setting of the existing Building Group. The Appellant does not agree with the appointed Planning Officer that any departure from the adopted text of Policy HD2 would be significant or likely to in any way prejudice future interpretation of the Policy.

3.6 The Appellant’s position is that the appeal site lies on an existing brownfield building plot within the sense of place and setting of the Building Group and development simultaneously with the two recently approved dwellings offers significant commercial advantages which would help to ensure the timeous independent delivery of all three houses directly by the Appellant. It is considered that the appeal site is the only infill plot left at Greystonelees and represents completion of the local built environment. The agricultural fields to the south, east, and west represent a distinct landscape feature enclosing the Building Group, consistent with the guidance set out in 2.b.1 of the New Housing in the Borders Countryside Supplementary Guidance.



**Fig 2:** Extract from HWAD-209-MWD-101-B Site Layout Plan – as Proposed (Source: Hodgson White Architecture + Design).



- 3.7 The position of the site within the Building Group at Greystonelees is agreed by the Appellant and the Planning Authority and therefore this representation shall focus on the single area of disagreement – the significance of the proposed dwelling as the final addition to the existing Building Group.
- 3.8 First, it is important to note that the Appellant and Planning Authority agree that the site represents the final plot available for a new dwelling in the Building Group at Greystonelees. Report of Handling 21/00002/FUL does not attempt to withstand or revisit the spatial context of the site within the Building Group established by Planning Permission 07/01207/FUL, stating that “it has been established by previous decisions that the site is sufficiently well related to the building group to accommodate a dwellinghouse”. Instead it is stated that while “there is an established building group at this location” the appointed Planning Officer gives cognisance to Policy HD2 being “different to that which the 2008 application would have been assessed against”.
- 3.9 The wording of draft Policy HD2 is considered to be very significant to determination of this case. It is considered that Greystonelees is a perfect example of a Building Group which, allowing for approval and construction of the proposed dwelling, will be demonstrably completed with no scope for further expansion. This is a material consideration applicable to the Notice of Review at-hand as it is strongly substantiated by the spatial planning context.
- 3.10 While the assertion contained in Report of Handling 21/00002/FUL that Policy HD2 may be prejudiced is acknowledged, it is considered that the assessment made is mistaken. Granting planning permission on exceptional basis necessarily requires to be justified in the planning context of the application site at-hand. By definition exceptional circumstances are only existent in a tiny proportion of the Planning Authority’s workload and are not ordinarily present.
- 3.11 It is considered that approval of this application would create **no basis** for any applicant proposing development on another site to argue that Policy HD2 is not applicable. Any assertion to this effect would be factually incorrect and could be attached no weight in the determination of any planning application.
- 3.12 It should be noted that Planning Permission 07/01207/FUL granted consent for a dwelling on the appeal site. A layby/turning-head adjacent to the road across the north boundary was constructed on-site in the final years of the first decade of this Century. The construction of this access forms the basis of an unresolved dispute between the

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Appellant and the Planning Authority. However, it has been agreed that the site is appropriate for a new house and has been historically consented, only the basis on which lawful initiation has taken place.

- 3.13 The Appellant is a local builder (based in Berwick) who has involved his firm Mattwood Developments Ltd in the building plots at Greystonelees with the strong intention of developing all three plots. The commercial business case supporting the project (which has secured the funding required) relies on development and sale of all three previously consented dwellings in the Building Group. This is considered to be the best path to delivering local jobs, investment, and new houses. These arrangements reflect the granting of consent for all new dwellings in question in 2008 (approving applications made in 2007) as well that the site is brownfield land and has been for more than a decade as of December 2021.
- 3.14 Given the location of the site in the parcel of land between the large agricultural fields at Greystonelees and strong relationship with existing dwellings to the north-west and opposite the road to the north-east as well as approved dwellings to the south-west it is considered that the site lies within the sense of place of the existing Building Group at Greystonelees. As this represents common ground between the Appellant and Planning Authority, the proposed development is therefore considered to accord with criteria a) of section (A) of Policy HD2.
- 3.15 Views of the site from the surrounding area are defined by the existing Building Group at Greystonelees, which has the quality of a small hamlet. Indeed, the appeal site is the most untidy portion of land at the present time which detracts from the character of Greystonelees more than any other feature. Development of the site would benefit local character and improve the quality of views into the site by removing its existing unsightly qualities. Development of the other two approved dwellings adjacent to the south-west would tidy-up and improve the visual aspect of those sites, although neither is as unsightly as the appeal site. Given the limited impacts on visual aspects and local character associated with the proposed development, it is considered that an “*unacceptable adverse impact*” would not be created and that the proposal accords with criteria b) of section (A).
- 3.16 The Building Group at Greystonelees comprises seven existing dwellings, extension by two additional dwellings is allowed for by the Policy. However, the proposed development is considered to represent a unique opportunity to complete the local

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built environment at Greystonelees and deliver new investment and housing locally. Moreover, the proposed dwelling has previously been approved (which the Appellant does not accept has lapsed without lawful initiation) and the site is brownfield land. Therefore, the proposal is considered to consistent with the ethos of criteria c) of section (A) as it respects the fundamental character of the Building Group at Greystonelees and represents an opportunity to preclude further development in the local area.

- 3.17 The Planning Authority and Appellant agree that there is an existing Building Group at Greystonelees as defined in section (A) of Policy HD2. It is considered that the proposed development is well related to the existing Building Group lying within the local setting and defined sense of place, fully beyond the surrounding large agricultural fields. The proposed dwelling would complete the local built environment at Greystonelees by developing brownfield land and squaring off the east portion of the Building Group. Therefore, the appeal proposal is considered to accord with section (A) of Policy HD2.
- 3.18 The Appellant, his agents (primarily Hodgson White), and the appointed Planning Officer have undertaken significant due diligence and engagement in the determination of the planning application to ensure that detailed design is acceptable and supportable. Therefore, no aspect of the detailed design represents a reason for refusal.

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## 4.0 CONCLUSIONS

- 4.1 The Notice of Review, supported by this Statement, requests that the Council overturns the decision to refuse Planning Permission for Application 21/00002/FUL and grant consent for the erection of a dwellinghouse at Plot 1, Greystonelees Farm, Burnmouth.
- 4.2 The proposed development is for the erection of a new dwelling on a site which is well related to and within the setting of the existing Building Group. The Appellant and the Planning Authority agree that the appeal site is located appropriately and that the proposed dwelling is well suited to the site. The proposed dwelling would complete the local built environment at Greystonelees by developing brownfield land, squaring off the east portion of the Building Group, and delivering new housing as well as investment and jobs in east Berwickshire in fiscal year 2022-23. Therefore the proposal is considered to accord with section (A) of Policy HD2.
- 4.3 The detailed design of the proposed dwelling has been agreed between the Appellant and the appointed Planning Officer. The Appellant is committed to honouring the changes agreed therein. Vehicle access to the public road network is proposed via the existing paved road and a proposed on-site driveway. A consultation response was received from the Roads Planning Officer who did not object to the proposal.
- 4.4 The Local Review Body is respectfully requested to allow the appeal for the erection of a dwellinghouse at Plot 1, Greystonelees.

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## APPENDIX 1

### Core Documents

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

- Notice of Review Form;
- CD1 Local Review Statement;
- Application Form;
- CD2 (Application) Planning Statement;
- CD3 HWAD-209-MWD-103 Location Plan, prepared by Hodgson White Architecture + Design;
- CD4 HWAD-209-MWD-101-B Site Layout Plan – as Proposed, prepared by Hodgson White Architecture + Design;
- CD5 HWAD-209-MWD-100-E Floor Plans + Elevations + Sections, prepared by Hodgson White Architecture + Design;
- CD6 HWAD-209-MWD-102-B Site Sections, prepared by Hodgson White Architecture + Design;
- CD7 HWAD-209-MWD-010 Site Layout and Location Plans – as Existing, prepared by Hodgson White Architecture + Design;
- CD8 HWAD-209-MWD-011 Site Sections, prepared by Hodgson White Architecture + Design;
- CD9 Material Palette prepared by Hodgson White Architecture + Design;
- CD10 Photograph Sheet prepared by Hodgson White Architecture + Design;
- CD11 Design Statement prepared by Hodgson White Architecture + Design;
- CD12 Aerial image of Greystonelees, extract from Historic Environment Scotland Map;
- CD13 Annotated aerial image of Greystonelees, extract from Historic Environment Scotland Map;
- CD15 Report of Handling 21/00002/FUL; and
- CD16 Decision Notice 21/00002/ FUL.

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