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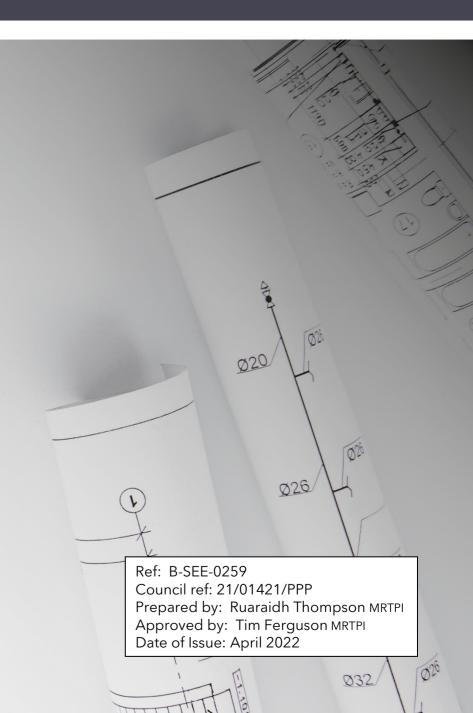
NEW DWELLING AT WOODEND FARM

MR & MRS SEED

APRIL 2022

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F E R G U S O N PLANNING

NEW DWELLING AT WOODEND FARM

EXECUTIVE SUMMARY

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This Statement is submitted on behalf of John & Louise Seed "the Appellants" against the decision of Scottish Borders Council to refuse Planning Permission in Principle for the erection of a dwellinghouse on land north-east of Woodend Farmhouse, Gavinton, Duns on 24th February 2022 (reference 21/01421/PPP). All Core Documents (CD) are referenced in Appendix 1.

The Appellants propose to build a new dwelling on land in their ownership within the agricultural unit of Woodend Farm. It is agreed between the Planning Authority and the Appellants that there is a Building Group comprising three existing dwellings in this part of Woodend. Disagreement centres on whether the appeal site is well related to the existing Building Group.

Mr & Mrs Seed are 64 & 62, respectively. John grew up at Woodend and has worked there since 1976. He is the third generation of this family to do so. Louise has also worked in the agricultural enterprise since their marriage in 1982 (40 years ago). They have lived together at Woodend for 32 years having moved into the farmhouse when John's father started to retire from the business. The Appellants will continue to work in the Family Partnership but will withdraw from the day-to-day management of the business and wish to continue living at Woodend for the rest of their lives. A new dwelling is required in the agricultural unit to allow the principal farmhouse and farm office to be vacated and allow the Appellants' son to move in with his family and assume leadership of the farm.

The appeal site sits adjacent to 'Woodend Farmhouse' (existing dwelling). Two farm cottages, the other existing dwellings comprising the Building Group, lie opposite the private way; in an approximately linear relationship with the appeal site and principal farmhouse. The Building Group is not enclosed by a distinct landscape feature but is generally orientated around the private way which provides access from the public road network to Woodend Farm.

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

- Roads Planning team No objection.
- Scottish Water No objection.

Reasons for Refusal

Three reasons were cited for the refusal of the Application.

The first stated reason claimed that the proposed development contradicts Policy HD2 of the LDP as the appeal site "would break into previously undeveloped agricultural field, beyond the defined boundaries of the building group and outwith the sense of place". The appointed Planning Officer considered that the sense of place "is characterised by the detached farmhouse within a large garden and smaller semi-detached and terraced farm cottages in much smaller plots."

It is the position of the Appellants that the appeal site shares a strong relationship with all three existing dwellings and particularly the principal farmhouse. The appeal site has a direct access to the private way and sits in close proximity to the other existing dwellings. The existing Building Group is arranged around the private way and the proposed dwelling shares as intimate a relationship as each of the existing dwellings. A new hedgerow boundary lined with native species of tree is proposed on the north-east, north-west, and south-east boundaries of the site providing a distinct landscape feature enclosing the Building Group along its east edge and precluding further development, in line with the guidance provided in 2.b.1 of the New Housing in the Borders Countryside Supplementary Guidance.

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, orientated around the private way which provides access to Woodend Farm from the A6105. There have been no new dwellings consented within the current LDP period and it is considered that there are no significant cumulative impacts associated with the proposed development. Therefore, the appeal proposal is considered to accord with section (A) of Policy HD2.

The second reason for refusal rests on the proposed dwelling not being justified as a tied agricultural dwelling. However, the proposed dwelling has been presented as an untied (market tenure) addition to the existing Building Group under section (A) of Policy HD2 and justified in policy provisions therewith. Therefore, section (F) of Policy HD2 is not relevant and the second reason for refusal should be set aside.

The third reason for refusal relates to the designation of the site as "Prime Quality Agricultural Land". Unfortunately, the quality of soil onsite is not premium. The professional advice of the Appellants' agriculture consultant and chemical analysis results (CD2) have been submitted to substantiate this fact.

In any case, Policy ED10 permits development on "Prime Quality Agricultural Land" where:

"the development is small and directly related to a rural business".

The Appellants require the proposed dwelling to vacate the principal farmhouse and pass leadership of Woodend Farm to their son. Therefore, the development is directly related to a rural business.

The site is small (0.3ha) and would not be entirely or even mainly developed. Although detailed design is deferred, the new house would be unlikely to extend beyond a footprint of $250m^2$. Therefore, the development is indisputably small in scale.

As the site is essentially poorer quality field margin, is small in scale, and directly related to securing the sustainability of Woodend Farm, the proposed development accords with Policy ED10 and the third reason for refusal falls away.

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

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INTRODUCTION

INTRODUCTION

- 1.1 This Statement supports a Notice of Review of the delegated decision of Scottish Borders Council to refuse to grant Planning Permission in Principle for the erection of a dwellinghouse on land north-east of Woodend Farmhouse, Gavinton, Duns.
- 1.2 The site sits adjacent to the north-east of the Woodend Farmhouse. Woodend Farm sits as an identifiable and distinct land parcel lying to the south of the A6105 along a private way which forms part of the agricultural unit. The principal farmhouse and farm cottages are located in the east and northeast portion of the parcel, while the agricultural sheds, barns, and yard occupy the west and south-west portion.
- 1.3 There are 3 no. existing dwellings which comprise the existing Building Group at Woodend Farm. While the principal farmhouse lies to the east of the private way, 1 & 2 Woodend Farm Cottages both lie to the west of the road (as seen in Fig.1.).
- 1.4 The site currently comprises a mixture of temporary grass and spring oats. The west boundary of the site is shared with the residential curtilage of Woodend Farmhouse, with access forking off the private way to the north. The site lies broadly flat, however there is a notable fall of land a short distance beyond the east boundary.
- 1.5 The Appellants require a new dwelling on their land in order to retire from Woodend Farm, allowing their son to lead the farm into the future. Mr Seed is now 64 years old and is the third generation of his family to have farmed at Woodend succeeding from his grandfather and father. Both Mr & Mrs Seed want to remain in the local area which has been their home for all their lives.

- 1.6 In addition to the spatial planning justification for the proposed dwelling, the Applicants intend to connect to the district heating and electricity systems which have been installed at Woodend Farm. Connections to both the heating system (biomass) and electricity system (wind turbine and PV panels) run to the southwest boundary of the site and could readily be plugged into.
- 1.7 It is proposed that the new house would be served by private foul and surface water drainage arrangements and mains water supply. The Appellant is content to secure servicing details via condition.
- 1.8 The remainder of this Statement considers the site context and relevant planning policy, before evaluating the accordance of the appeal proposal with the Local Development Plan and other material considerations.



Fig 1: Extract from A103 Site Plan, showing the proposed hedgerow lined with trees enclosing the north-east, north-west, and south-east boundaries of the site (Source: Fleming Homes).

NEW DWELLING AT WOODEND FARM

REFUSAL OF APPLICATION BY SCOTTISH BORDERS COUNCIL AND PLANNING POLICY CONTEXT

REFUSAL OF APPLICATION BY COUNCIL AND PLANNING POLICY

- 2.1 Planning Application 21/01421/PPP was refused on 24th February 2022. The Decision Notice (CD10) cited three reasons for refusal, set out below:
 - "1. The development is contrary to Policy HD2 (A) of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside 2008 in that it would constitute piecemeal, sporadic new housing development in the countryside that would be poorly related to an established building group, outwith the sense of place within a previously undeveloped field and beyond the defined boundaries of the building group. The proposal would be out of keeping with the character of the building group, resulting in an unacceptable adverse impact on the landscape and visual amenities of the surrounding area.
 - 2. The development is contrary to Policy HD2 (F) of the Local Development Plan 2016 in that the need for a house for a retiring farmer has not been adequately substantiated and it has not been adequately demonstrated that no other sites exist within the building group and that no suitable existing house or buildings capable of conversion are available for the intended use. This conflict with the development plan is not overridden by other material considerations.
 - 3. The development is contrary to Policy ED10 of the Local Development Plan 2016 as the site is within a cultivated agricultural field and the development would result in the permanent loss of prime quality agricultural land, which is a valuable and finite resource."

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."

- 2.4 Policy ED10 states that "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 this local plan
 - b) the development meets an established need and no other site is available
 - c) the development is small and directly related to a rural business.

Supplementary Guidance

- 2.5 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.
- 2.6 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.
- 2.7 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."

- 2.8 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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GROUNDS OF APPEAL AND CASE FOR APPELLANT

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- 3.1 The decision of the Planning Authority to refuse the Application is challenged on the basis of the Grounds of Appeal set out below. It is the submission of the Appellants that the proposal accords with the relevant adopted policy of the Local Development Plan and Supplementary Guidance and that there are no material considerations which justify the refusal of the Application.
 - **GROUND 1:** The proposed development represents the erection of a dwelling on a site which is well related to an existing Building Group at Woodend Farm and would contribute positively to the local sense of place and setting.
 - **GROUND 2:** The proposed development represents the expansion of an existing Building Group by a single dwelling and accords with section (A) of Policy HD2. Section (F) of Policy HD2, including all of its provisions are not relevant to the proposed development.
 - **GROUND 3:** The proposed development does not contradict Policy ED10 as it is small scale, required to support the established agricultural enterprise at Woodend Farm, soil onsite is not high quality and does not achieve a high crop yield.
- 3.2 During the course of the Application's determination, the following consultee responses were received from Council Officers and partners:
 - Roads Planning team No objection.
 - Scottish Water No objection.

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

- 3.3 It is the Appellants' position that the appeal site lies within the setting and forms part of an existing Building Group in this part of Woodend (clearly visible in Fig.2.) and that the proposed dwelling would enhance the defined sense of place.
- 3.4 It is common ground between the Appellants and the Planning Authority that a Building Group exists in this part of Woodend and that capacity does exist for expansion by another 2 no. dwellings. However, Report of Handling 21/01421/PPP (CD9) states that the appeal site "would break into this previously undeveloped agricultural field, beyond the defined boundaries of the building group and outwith the sense of place". The appointed Planning Officer considers that the sense of place "is characterised by the detached farmhouse within a large garden and smaller semi-detached and terraced farm cottages in much smaller plots."
- 3.5 It is agreed between the Appellant and the Planning Authority that the private way is the key access corridor which the existing dwellings centred around. Disagreement centres on whether the proposed dwelling represents a second detached dwelling discreetly sited in the setting of the three existing dwellings facing onto the private way in the core of the agricultural unit.



Fig 2: Annotated aerial image of Building Group at Woodend.

- The Appellants' position is that the proposed dwelling lies together with the other existing dwellings in this part of the Woodend Farm arranged around the private way. There is no existing distinct landscape feature dividing the appeal site from the rest of the Building Group and a single land level extends throughout. The new tree lined hedgerow proposed would enclose the site and represent a distinct landscape feature defining the easterly extent of the Building Group, in line with the guidance provided in 2.b.1 of the New Housing in the Borders Countryside Supplementary Guidance.
- 3.6 It is acknowledged that the appointed Planning Officer has concerns about the site lying beyond the "mature planting" located in the boundary of the curtilage of the principal farmhouse. However, it is considered that this view relies too heavily on aerial imagery and fails to acknowledge the visual dominance of the principal farmhouse (the foremost dwelling in the Building Group) over the site, clearly visible in Fig.3.
- 3.7 The proposed tree lined hedgerow represents a significant distinct landscape feature enclosing the east boundary of the existing Building Group. The boundary will represent a more distinct and significant one that the existing east boundary of Woodend Farmhouse as visible in Fig.4. Native species will be planted in order to create a natural feel which forms a mature feature in time, which would not be possible if non-native conifers (e.g. cypress, cedar, spruce) were planted. It is considered that the tree lined hedgerow proposed would stand more distinct than any other landscape feature and represents the best opportunity to establish a natural and logical edge to the east extent of the Building Group.

- 3.8 Given the location of the site adjacent to Woodend Farmhouse and partially mirroring the relationship of the farm cottages with the principal farmhouse the site is considered to be well related to the existing Building Group in this part of Woodend Farm and to accord with criteria a) of section (A). The tree lined hedgerow proposed is considered to strengthen this relationship and delineate the sense of place within the existing Building Group from the large arable field beyond to the east.
- 3.9 The appeal proposal is for the erection of a single detached dwelling in a relatively large plot 0.33ha (0.82ac). The density of proposed development is considered to be broadly representative of the existing pattern of development at Woodend and this part of Berwickshire generally. It is important to note that the plot and curtilage of the proposed dwelling is significantly smaller than that of the principal farmhouse. Furthermore, the residential curtilage has been further reduced (to portion A) as visible on the updated Site Plan, replicated in Fig.1. The balance of the site (portion B) will remain in agricultural use and outside the residential curtilage of the new dwelling. The layout of the site and relationship with the rest of the Building Group would 'round off' the east portion and preclude further residential development.
- 3.10 Views of the site from the west are screened by the established trees which line the drive within the curtilage of Woodend Farmhouse. Views of the site from the north, east, and south would all be screened by the new tree lined hedgerow. This would represent a landscape, as well as ecological, improvement as the boundary hedge of the principal farmhouse is fractured and sporadic and does not distinctly enclose the Building Group from the north or east. The tree lined hedgerow would significantly improve long views of the site by providing a wooded backdrop to agricultural fields.



Fig 3: Photograph looking south-west across the site, with Woodend Farmhouse clearly visible in close proximity.



Fig 4: Photograph showing the sporadic and separated boundary hedging of Woodend Farmhouse with clear intervisibility with the existing dwelling.



Fig 5: Illustrative visualisation of proposed dwelling viewed from the private way. Illustration serves comparison purpose with existing hedging removed to allow comparison of proposed dwelling with Woodend Farmhouse, visible at the end of the residential drive (right).

- 3.11 It is considered that the proposed development represents a negligible landscape impact, at very worst. Given the absence of landscape impacts associated with the proposed development, it is considered that an "unacceptable adverse impact" would not be created and that the proposal accords with criteria b) of section (A).
- 3.12 The Building Group in this part of Woodend comprises three existing dwellings, extension by two additional dwellings is allowed for by the Policy. The proposal is considered to accord with criteria c) of section (A) as no new dwellings have been consented within the current LDP period and one new dwelling is proposed.
- 3.13 The Planning Authority and Appellants agree that there is an existing Building Group in this part of Woodend 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, orientated around the private way which provides access to Woodend Farm from the A6105. There have been no new dwellings consented within the current LDP period and it is considered that there are no significant cumulative impacts associated with the proposed development. Therefore, the appeal proposal is considered to accord with section (A) of Policy HD2.

GROUND 2: THE PROPOSED DEVELOPMENT REPRESENTS THE EXPANSION OF AN EXISTING BUILDING GROUP BY A SINGLE DWELLING AND ACCORDS WITH SECTION (A) OF POLICY HD2. SECTION (F) OF POLICY HD2, INCLUDING ALL OF ITS PROVISIONS ARE NOT RELEVANT TO THE PROPOSED DEVELOPMENT.

- 3.14 The second reason for refusal asserts that the proposed development does not accord with section (F) of Policy HD2. However, this assessment has no valid relevance to the application.
- 3.15 Section (F) of Policy HD2 addresses and is relevant only to "housing with a location essential for business needs" agriculture, horticulture, and forestry are identified as typical examples in criterion a). Although the Applicants are the proprietors of Woodend Farm, the proposed dwelling is not an agricultural tied dwelling. Therefore, section (F) has no relevance to the application.
- 3.16 Report of Handling 21/01421/PPP has opined:
 - "It is felt that there may be alternative, more appropriate sites within the building group for the proposed dwellinghouse".
- 3.17 This assessment relates to criterion d) of section (F) "no [other] appropriate site exists within a Building Group". While this is relevant to applications made under section (F); it has no pertinence to this application or any made under section (A).
- 3.18 Given the irrelevance of section (F) and all its criteria (including criterion d) the second reason for refusal and all consideration of section (F) should be set aside.

GROUND 3: THE PROPOSED DEVELOPMENT DOES NOT CONTRADICT POLICY ED10 AS IT IS SMALL SCALE, REQUIRED TO SUPPORT THE ESTABLISHED AGRICULTURAL ENTERPRISE AT WOODEND FARM, SOIL ON-SITE IS NOT HIGH QUALITY AND DOES NOT ACHIEVE A HIGH CROP YIELD.

- 3.19 The third reason for refusal is anchored on the extract of Report of Handling 21/01421/PPP (CD9) replicated below:
 - "The site is within a cultivated agricultural field (as shown in the agent's site photos and on Google Maps, July 2021) and the proposal would result in the permanent loss of 3,330 square metres/0.3 hectares of prime quality agricultural land. The proposal does not meet the exception criteria listed in policy ED10 and so the permanent loss of this prime quality agricultural land would be contrary to policy ED10."
- 3.20 It is important to note that Policy ED10 permits development on land designated as "Prime Quality Agricultural Land" in cases in which criterion c) is satisfied:
 - "c) the development is small and directly related to a rural business."
- 3.21 Firstly, it is considered that 0.3 hectares is a small parcel of land. The larger agricultural field in which the application site nominally lies extends to approximately 14.9 hectares. Therefore the application site represents only 2% of the field. The field represents a very small portion less than 0.5% of (i) the agricultural unit of Woodend Farm and (ii) the belt of Prime Quality Agricultural Land which extends across this part of the Borders.

- 3.22 Furthermore, the footprint of the house itself (while deferred to the next stage of the planning process) is unlikely to extend larger than 250m². Garden space and retained field would occupy the rest of the site and could hypothetically return to agriculture.
- 3.23 The proposed dwelling is required to enable the Applicants to retire from leadership of the farm and to be succeeded by their son. It is therefore indisputable that the proposed development is required by and directly related to an established agricultural enterprise. Inability to secure a new house within the agricultural unit would threaten the sustainability of Woodend Farm.
- 3.24 The Local Review Body should also be aware that soil on-site is not premium quality. The Appellants' agriculture consultant (Agri intelligence) have collected soil samples and organised chemical analysis by Lancrop Laboratories (BS and ISO/IEC accredited). This analysis (CD2) identifies that the soil is deficient in levels of sulphur, boron, molybdenum, and sodium. The professional advice of Agri intelligence is that these nutrient deficiencies impede plant/crop use of Nitrogen (N).
- 3.25 The chemical analysis of Lancrop represent empirical results which have been prepared by qualified and accredited scientists. While it is accepted that Soil Classifications are a useful tool they are not specific to every farm or field and cannot replace empirical analysis conducted under strict scientific conditions.
- 3.26 The proposed development is considered to be small scale, located on the field margin, and directly related to a rural business, while the quality of soil on-site is not representative of "Prime Quality Agricultural Land". Therefore, the proposed development is considered to accord with Policy ED10 and to support the sustainability of Woodend Farm as an agricultural enterprise.

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CONCLUSION

CONCLUSION

- 4.1 The Notice of Review, supported by this Statement, requests that the Council overturns the decision to refuse Planning Permission in Principle for Application 21/01421/PPP and grant consent for the erection of a dwellinghouse on land northeast of Woodend Farmhouse, Gavinton, Duns.
- 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 in this part of Woodend. The proposed dwelling both reflects the existing pattern of development and respects the local character of Woodend. The proposed dwelling would be enclosed with the Building Group by a new tree lined hedgerow defining the north-east, north-west, and south-east boundaries of the site. The proposed tree lined hedgerow represents a distinct landscape feature precluding further development beyond the boundary it creates. The proposed dwelling would have minimal impact on the amenity of surrounding properties and local landscape. Lastly the Building Group has capacity to expand by two dwellings over the LDP period and no new development has been approved to date. Therefore, the proposed development is considered to accord with section (A) of Policy HD2.
- 4.3 The proposed development achieves full accordance with section (A) of Policy HD2. Therefore, section (F) of the Policy, including all its criteria, are irrelevant to determination of this Notice of Review.

- 4.4 The application site is considered to be both small scale (0.3ha) and not representative of "Prime Quality Agricultural Land". The poor quality of soil on-site has been substantiated by empirical scientific analysis. As the proposed dwelling is required by the Applicants to retire into and enable delivery of the succession plan for Woodend Farm it is directly related to a rural business. Therefore, the proposed development is considered to accord with Policy ED10 and represent sustainable development.
- 4.5 Should Planning Permission in Principle be granted, approval of the deferred details will be required at the next stage of the planning process. Therefore the scale, layout, appearance of elevations, and landscaping can be controlled by the Planning Authority.
- 4.6 The Local Review Body is respectfully requested to allow the appeal for the erection of a dwellinghouse at Woodend Farm.

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CORE DOCUMENTS

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;
- CD2 Soil Assessment, prepared by Agri intelligence;
- CD3 Illustrative Visualisations, prepared by Fleming Homes;
- Application Form;
- CD4 865-PPP-1 Location Plan, prepared by Keith Renton Architect;
- CD5 865-PPP-2 Site Plan, prepared by Keith Renton Architect;
- CD6 Design Statement, prepared by Keith Renton Architect;
- CD7 A103 Site and Landscaping Plan, prepared by Fleming Homes;
- CD8 A103 Site Plan, prepared by Fleming Homes
- CD9 Report of Handling 21/01421/PPP; and
- CD10 Decision Notice 21/01421/PPP.

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