
Local Review Body – Review Statement

21/00739/PPP – Erection of 2no dwellinghouses

Land East of Delgany, Old Cambus,
Cockburnspath, TD13 5YS

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1. Introduction and Overview of Proposal

Introduction

- 1.1. This Review Statement is submitted in support of an appeal to Scottish Borders Council (the Council) Local Review Body (LRB) against the decision of the Council to refuse planning permission in respect of application 21/00739/PPP.
- 1.2. The application for planning permission was submitted to the Council by F J Usher Children's Trust on the 6th May 2021 seeking planning permission for the development of two dwellings at land east of Delgany, Old Cambus, Cockburnspath. The application was registered on the 15th May 2021 by the Council.

Site Context and Planning History

- 1.3. The land in question is greenfield land currently in agricultural use immediately adjacent to Old Cambus farmhouse and steading. It is located just under 4km to the east of Cockburnspath and 400m to the west of R&K Drysdale manufacturing warehouse. The image below shows the proposal site in relation to Cockburnspath and the warehouse.



Figure 1 - Wider Context

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- 1.4. Neighbouring uses include a residential property to the west known as Delgany along with Old Cambus Farmhouse, 2 cottages, a farm steading and various outbuildings to the east. A business called “T D Tree and Land Services” is located in areas around Old Cambus steading. Agricultural land extends to the north and the A1107 road runs along the southern edge of the site with further agricultural land spreading south.
- 1.5. The land itself is not subject to any formal planning history but a pre-application enquiry was submitted to the Council by F J Usher Children’s Trust in relation to the prospective release of two residential plots on the land in question and one residential plot on land to the west of Delgany. The Pre-application Enquiry response advised that the land to the west of Delgany would not be suitable for development due it being unrelated to the building group. However, it commented that the land west of the steading may be acceptable under the relevant Scottish Borders Council Local Development Plan policy, if sensitive layout, siting, design and landscaping was demonstrated.
- 1.6. The steading area to the east of the proposal site previously had consent for redevelopment to residential uses, however the consent was never implemented. The steading area is currently used for low intensity timber storage purposes and we are not aware of any future plans to use the steading buildings for any other uses. Retrospective planning permission was granted for a timber business to operate from the steading in 2015. At this time, the business was described as a temporary storage yard where timber was being cut into logs from time to time. Further information was then submitted throughout the course of the application regarding equipment used, the noise it generated, and the duration of processing activities.
- 1.7. The adjacent landowner at Old Cambus Steading submitted a planning application in June 2021 for the development of a dwelling to the east of the steading complex (shown below). The application states that the prospective house is required to support a business operational use. This planning application is still awaiting determination.



Figure 2 - adjacent application 21/00997/PPP

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The Proposal

- 1.8. The proposal is to gain Planning Permission in Principle (PPP) for two dwellings at land east of Delgany, Old Cambus. This is considered an attractive and desirable area for self-builders. The Indicative Site Layout (DOC07) shows two units at 1 ½ storey in height and 95m² in area, plus a garage of 29m². As only PPP is sought, the proposed house design is for indicative purposes only and it is expected that the plot purchaser would design their own house within the parameters set by the Council through conditions attached to a planning consent.

Accompanying Documents

- 1.9. The Review Statement is accompanied by the following submitted documents:
- DOC01 – Decision Notice
 - DOC02 – Officers Report
 - DOC03 – Agreement of Recommendation
 - DOC04 – Application forms
 - DOC05 – Drawing 5311/01/F Location Plan
 - DOC06 – Drawing 5311/02/F Existing Site Plan
 - DOC07 – Drawing 5311/03/G Amended Indicative Site Layout
 - DOC08 – Drawing 5311/04/F Amended Visibility Splay Drawing
 - DOC09 – Visualisations
 - DOC10 – Planning Supporting Statement
 - DOC11 – Agent photo of viewpoint
 - DOC12 – Correspondence between Case Officer and Agent
 - DOC13 – Noise Impact Assessment
 - DOC14 – Correspondence between Environmental Health Officer and Agent
 - DOC15 – Phase 1 Habitat Survey
- 1.10. The Statement is set out as follows:
- Section 2 Reasons for Refusal and Review
 - Section 3 Review of Decision
 - Section 5 Conclusion

2. Reasons for Refusal and Review

Reasons for Review of Decision

- 2.1. The decision to refuse planning permission for the proposal was taken for one reason, reproduced below for ease of reference (see also DOC01).

“1.The development would be contrary to Policy HD2 of the Scottish Borders Local Development Plan 2016 and the New Housing in the Borders Countryside Supplementary Planning Guidance 2008 in that it would not relate sympathetically to the character of the existing building group. The proposal would not respect the scale, siting and hierarchy of buildings within the existing group and would degrade its strong sense of place. This conflict with the Local Development Plan is not overridden by any other material considerations.”

- 2.2. While we agree that the reasons for refusal correctly identify the relevant parts of the Development Plan and Supplementary Guidance (SG) which are of particular relevance to this proposal, we do not agree that the proposed development conflicts with the requirements of Policy HD2 and the New Housing in the Borders Countryside SG . In simple terms, we consider that the reasons for refusal fail to take account of the local characteristics of the area and building group, and do not take proper account of the nature of the proposal and other relevant material considerations.
- 2.3. When all of these factors are taken into account, it is considered that the proposal can be positively assessed against the relevant Development Plan policies. We believe that our alternative assessment of the above policies and guidance demonstrates compliance with the Development Plan and the additional material considerations presented warrant the overturning of the refusal.
- 2.4. The Council’s concerns with this proposal relate to the impact that two dwellings would have on the existing building group, which had previously been identified as having scope for growth. For the reasons detailed in Sections 3 and 4, we consider that the Council’s objections on this ground are unreasonable.

3. Review of Decision and Grounds of Appeal

Planning Policy Context

- 3.1. The Scottish Borders Local Development Plan (LDP) was adopted in 2016. Within the context of the LDP, the site is situated within the Scottish Borders countryside area and the proposals are therefore assessed against Policy HD2 “Housing in the Countryside” and the new Housing in the Borders Countryside Supplementary Guidance 2010 as the primary planning policy considerations.

Review of Reason for Refusal

- 3.2. The Decision Notice (DOC01) concludes that the proposal was not considered to be in accordance with the Development Plan with regards to Policy HD2 and the New Housing in the Borders Countryside SG in particular, and that there were no material considerations that would outweigh the proposal’s departure from the Development Plan.
- 3.3. The specific reasoning for the proposal being viewed as contrary to the Development Plan was explained further in an email sent to the agent from Mr Paul Duncan (Case Officer) on 1 November 2021. The email notes the following (DOC12):
- 3.4. *“There is a recognisable building group of 3 units or more at Old Cambus West Mains. This comprises of 1, 3 and 4 Old Cambus West Mains Cottages and Old Cambus West Mains Farmhouse. There is numerical capacity for the expansion of the group.*

To satisfy Policy HD2(A), any development coming forward must be well related to an existing building group. The guidance within our Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 document is relevant in this regard. As stated at the time of my pre-application enquiry response, to satisfy HD2(A), a suitable relationship would need to be secured to both the farmhouse and the building group, and it was not possible to comment further on siting or principle without further information. Thank you for the further information you have provided since the initial submission of the application.

Following consideration of this information, and discussions within the Department, I would advise that the proposed development would be considered harmful to the character of the building group and that of the surrounding area. The proposed development is not considered to be in keeping with the building group’s sense of place or sufficiently well related to the farmhouse and the existing building group.

Furthermore, whilst not the primary issue of concern, it has not been adequately demonstrated that noise impacts would not harm the amenity of future residents to some extent.

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- 3.5. We consider that the proposal sympathetically extends the building group, which has been identified as having scope to grow and we are therefore appealing on behalf of our clients for the following two main reasons:
- 1) We have shown that the housing can be added to the building group sensitively and without causing harm. We consider that the visualisations submitted by Thomas Robinson Architects (DOC09) show two well-sited units at an appropriate design and scale.
 - 2) It is unreasonable to refer to noise as a potential issue with regards to the application. It is our understanding that Scottish Borders Council have not visited the site to assess the noise levels. If they had done so, they would be aware that there are no noises arising from timber processing activities.
- 3.6. Allied to this, there are clear additional material considerations which should be given appropriate weight in this decision. These centre around the current need for rural housing in Scotland to create vibrant rural areas across the Scottish Borders countryside.

Grounds of Appeal

Building Group Pattern

- 3.7. Policy HD2 Part (A) 'Building Groups' sets out the below criteria:
- a) *the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such 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 areas 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 the 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.*

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3.8. The site as it lies, is rectangular in-shape and is located between the steading and farmhouse to the east and Delgany to the west. The case officer accepts, in principle, that the land is a logical site to accommodate a future extension of the building group. The proposed dwellings are located to the south-east corner of the field, at the area closest to the steading and farmhouse. It is not known how else the houses could be positioned to relate better to the building group. The dwellings positioning mirrors the cottages adjacent to the road beyond the steading to the east creating a symmetrical building pattern. If the dwellings were to be positioned further north or west, this would then spread unacceptably into an open field and have no relation to Old Cambus steading and the farmhouse. We consider that the proposals follow a typical “farmhouse, steading and cottages” arrangement which is typical and traditional across the Scottish Borders. The plan at figure 3 shows the well-related proposal site to the south-east.

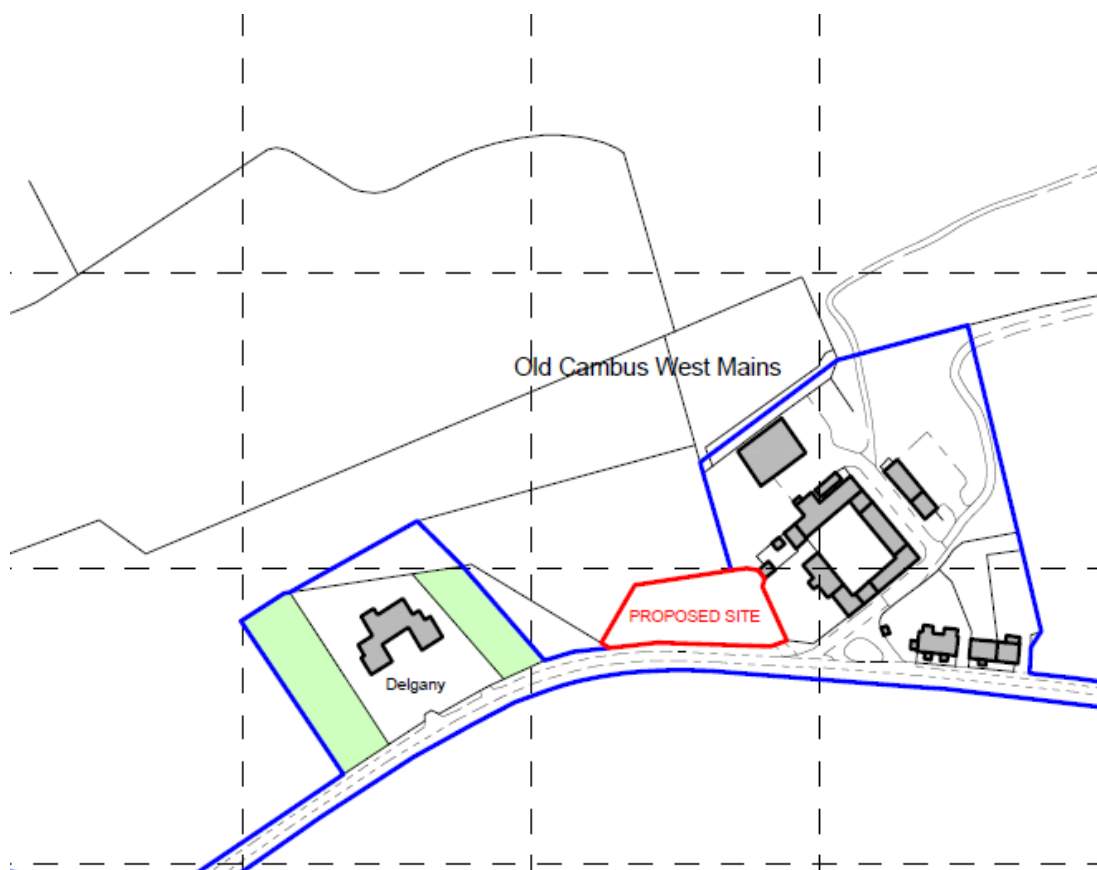


Figure 3 - Plan showing proposal site in relation to building group

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House Design

3.9. The officers report (DOC02) notes:

“It is agreed that the two large 1.5 storey detached dwellinghouses envisaged would challenge the status of the Farmhouse and would not relate well to the character or sense of place of the group. The set-backs proposed would reduce this impact, but may in turn give prominence to large suburban style driveways and parking areas. It is also agreed that the scale, form and massing envisaged would not be suitable at this site, and whilst only indicative, it has not been demonstrated that any alternative arrangements would achieve a suitable form of development.”

- 3.10. The key point to note in respect of this officer’s comment is that the plans provided are purely indicative and as this application is seeking PPP only, the Council could dictate the design parameters via conditions attached to a consent. Visualisations were submitted upon request, however the Council did not provide any detailed feedback on these. It is entirely within the Planning Officer’s control at AMSC stage to require building designs which they consider to be more appropriate. Our client is only seeking permission in principle at this stage and it would appear from officer’s comments that they do not oppose the principle of housing in this location. It is therefore entirely within the officer’s control to state that the visualisations are not approved and to place conditions requiring the design of the houses to be submitted as an Application for Matters Specified in Conditions (AMSC). For example, the roof heights and massing could be controlled by conditions requiring them to be visually subsidiary to the farmhouse.
- 3.11. We consider that the references to the design of the houses are irrelevant to the officer’s considerations at this point, The Council requested that visualisations from certain viewpoints in the surrounding area were submitted. The applicant instructed Thomas Robinsons Architect to produce these and three visualisations were submitted to demonstrate the potential relationship of the new dwellings with the building group. Please see DOC09.
- 3.12. The units proposed have similar frontage to the farmhouse and cottages and are of similar scale. The comment on the units being set-back from the road are noted, however if they were situated any closer to the road, they would potentially block views from the farmhouse. The dedicated parking areas that are required to meet Scottish Borders Council’s parking standards could be located to the side or rear of the houses and this is something that could be discussed further at a formal planning application stage.
- 3.13. It is acknowledged that the house designs currently provided are of a more modern design than the neighbouring farmhouse and cottages. Notwithstanding the points made earlier about the designs being irrelevant to the current considerations, we would state that any new houses are inevitably going to look more modern than buildings constructed in the 19th century. The visualisations show two houses at 1 ½ storey, which respect the surrounding building heights. The indicative footprint of 95m² is also fairly modest in relation to other large properties that are built throughout the countryside.

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Noise

While noise has not been cited as a reason for refusal, it is referred to by the officer in email correspondence to the agent (DOC12), as follows:

“Furthermore, whilst not the primary issue of concern, it has not been adequately demonstrated that noise impacts would not harm the amenity of future residents to some extent.”

- 3.14. We consider that noise is not an issue at the site and will not harm the residential amenity of the new houses.
- 3.15. An objection was received from the neighbour who owns the Business ‘T D Tree and Land Services’ stating that the timber processing operations that take place at the steading may negatively impact the residential amenity of the prospective houses. The Council’s Environmental Health Officer (Mr Fraser Smith) therefore requested a Noise Impact Assessment (NIA).
- 3.16. The applicant and their land manager were surprised at this objection as they were not aware of any timber processing activities taking place at the site. The applicant’s land manager has been at, or close to, the T D Tree and Land Services site a number of times over the past year (at least half a dozen times) and has not heard or seen any timber processing machinery. Furthermore, in their management of the Estate over the past 6 years, they have not heard any processing taking place on the site. This view was written in an email from the agent to the Council’s EHO on the 27th August 2021.
- 3.17. An NIA (DOC13) was undertaken by Bureau Veritas, a specialist noise consultant, and was submitted to the Council as requested. The NIA was undertaken mid-morning on a weekday over a period of 3 hours. It did not record any noise generated from any timber processing activity. This was because no operations were taking place and indeed no such operations do take place at the site in our view.
- 3.18. After reviewing the NIA, the EHO’s opinion (DOC14) was that there was inadequate information relating to the noise generating activities at the timber business for them to adequately assess whether amenity will be secured at the proposed development. In response to this, the agent requested that a spot-check visit was undertaken at the steading to confirm that there are no timber processing activities taking place. As far as the agent knows, this request was not undertaken.
- 3.19. It is considered that the applicant has acted reasonably and in line with the accepted noise assessment methodology and that it is unreasonable that noise is still being referred to as an issue with regards to this application as the Council have not investigated further.
- 3.20. In addition, it should be noted that the timber business was given retrospective consent in 2014 and at that time, the adjacent farmhouse was not considered to be detrimentally impacted by the noise. The Officer’s Report supporting the approval for the retrospective application 14/0046/FUL stated that:

“The additional information provided to the EHO was sufficient to provide satisfaction that the development would not give rise to an unacceptable adverse impact upon neighbourhood amenity.”

3.21.

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- 3.22. The proposed houses which are the subject of this appeal are further away from the timber business and the existing farmhouse acts as a barrier to the proposed new houses in any case. The plan at Figure 4 shows our client's site in red, the farmhouse in green and the buildings used for the timber business in blue. Since the retrospective application was deemed acceptable in amenity terms and the site is separated from the timber business by the farmhouse and steading, it is considered that noise should not be a reason for refusing this proposal.

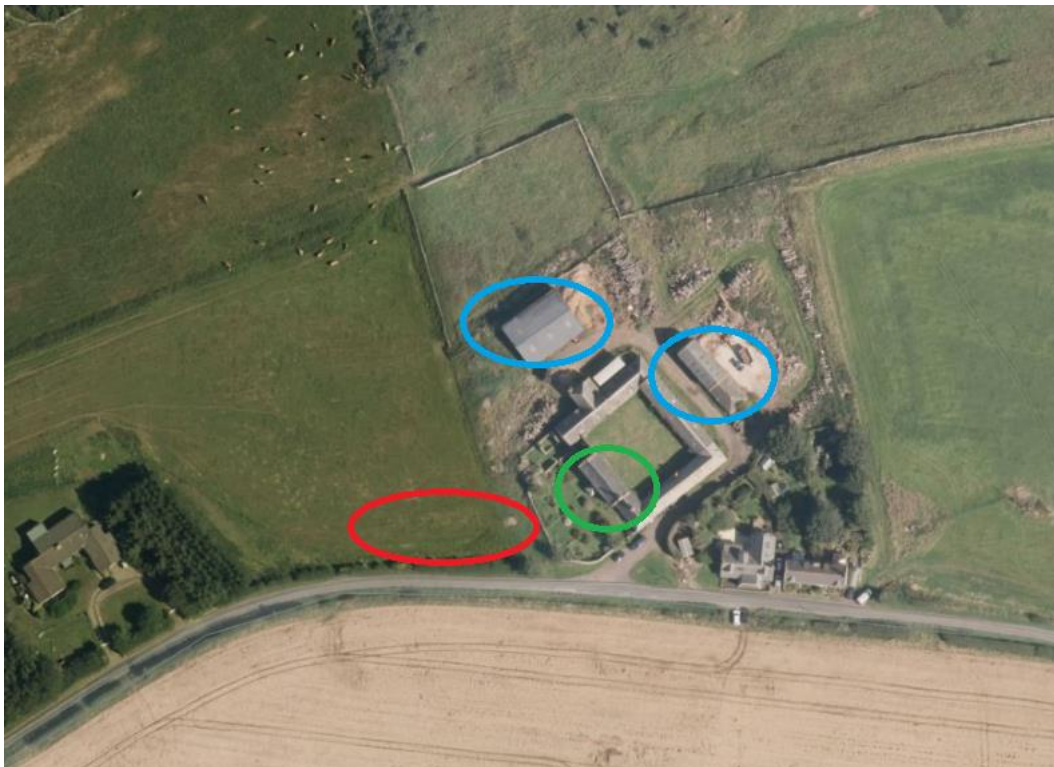


Figure 4 - Site in relation to farmhouse and timber business

- 3.23. To confirm, in the applicant's view, adverse impacts on prospective amenity of properties consented at the proposal site due to noise generation are not a material consideration in the determination of this application.

Summary of Grounds of Appeal

- 3.24. As confirmed by the Council various times, the principle of residential development at the site is established as it is an area that has been identified as having numerical capacity for additional dwellings under Policy HD2's Building Group criteria. It is for this reason that the applicant has submitted an application for two new dwellings, which is an appropriate number that meets the policy criteria.
- 3.25. The south-east corner of the site is the area closest to the existing building group and presents an appropriate addition based on the current pattern of the building group with the cottages on the east side of the steading.

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- 3.26. As the application is for Planning Permission in Principle, the Council are within their powers to place appropriate conditions on detailed house design and siting. In due course, detailed applications will then take cognisance of these conditions. As a result, the local planning authority has control on the appearance of the additions to the building group.
- 3.27. It is unreasonable for noise to be used as a basis for refusal when, during the retrospective approval of the timber business, it was concluded that this business was not considered detrimental to the existing adjacent farmhouse. In addition, the Council has not investigated the full extent of the neighbouring timber business to establish the applicant's assertion that the business is purely timber-storage based.

4. Conclusions

- 4.1. The proposal under consideration seeks planning permission to develop two dwellings on land adjacent to Old Cambus farmhouse and steading to provide two houses for self-builders.
- 4.2. Refusal of the planning application was based upon the delegated assessment that the proposal did not comply with adopted Policy HD2 of the Scottish Borders LDP and the conclusion that there were no material considerations which outweighed this policy. We consider the material considerations relevant to the proposals are as follows:
- the proposed housing will develop land associated with an established building group that has been identified as having numerical capacity to accommodate future expansion of two units, and therefore will meet the key requirements of the adopted Scottish Borders LDP Policy HD2.
 - the Scottish Borders LDP aims to encourage housing development in appropriate locations in the countryside hence the policy support for new housing in established building groups.
 - since adoption of the Scottish Borders LDP, there has been a national level review of planning policy for rural areas and the draft National Planning Framework 4 “encourages development that helps to support, sustain and grow rural areas”. The new housing will attract families creating a more prosperous, vibrant and attractive rural area. Local building materials and labour can also be used to construct the housing.
- 4.3. The units are proposed in a sympathetic place within the field, to the south-east corner, in a location that relates well to the existing building group.
- 4.4. The drawings and plans provided are for indicative purposes only and detailed design matters can be conditioned at this PPP stage and confirmed at a later detailed planning application stage.
- 4.5. The neighbouring business is a low intensity timber storage business and does not operate any processing activities.. Additionally, the approval of the retrospective application for the business concluded that there were no detrimental effects on neighbouring amenity. It is for this reason that raising noise as a reason for refusal is incorrect.
- 4.6. Given the above assessment, it is respectfully requested that the Council’s LRB grants planning permission for the proposal.

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