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Land North of Springhall Farm, Kelso, Scottish Borders

Mr Kevin Stewart Senior

August 2022

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INTRODUCTION

INTRODUCTION

- 1.1 This Appeal Statement is submitted on behalf of Mr Kevin Stewart Senior ('the appellant') and sets out the grounds of appeal against the decision of Scottish Borders Council (SBC) to refuse planning application LPA ref: 22/00188/PPP by delegated decision on 22/06/2022.
- 1.2 The applicant farms at Springhall and wishes to retire. Mr. Stewart owns the land in question, but not the farm to which he farms. The proposal would enable him to remain local and work on the farm whilst facilitating himself to own a property as he heads towards retirement.
- 1.3 The Planning Permission in Principle Application sought consent for the *"planning Application in Principle for a single Residential Dwelling with associated Amenity, Parking, infrastructure and Access located at a site within Land North of Springhall Farm, Kelso."*
- 1.4 The reasons for the refusal of the application as set out below.
- The proposal is contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016, in that the principle of a new vehicular access onto this derestricted 'A' class road (A698) in this rural area would be detrimental to the safety of users of the road. The economic case presented does not outweigh these road safety concerns.
 - The proposal is contrary to Policy EP13 of the Scottish Borders Local Development Plan 2016 and the Supplementary Planning Guidance: Trees and Development 2020 as the development would result in a loss and harm to the woodland resource to the detriment of the visual amenity of the area and it not been demonstrated that the public benefits of the development outweigh the loss of this landscape asset.
 - The proposal is contrary to Policy EP10 of the Scottish Borders Local Development Plan 2016, in that it would result in further loss and damage to the quality and integrity of the Designed Landscape and it has not been demonstrated that development would safeguard or enhance the landscape features, character or setting of Hendersyde Park.

1.5 The table below provides a summary of the technical consultee responses:

Consultee	Comment
Flood and Coastal Management	No Objection
Scottish Water	No Objection
Community Council	No Objection
Archaeology Officer	No Objection
Heritage and Design Officer	No Objection
Ecology Officer	No Objection, further assessment can be agreed via a suitably worded condition.
Landscape Officer	Requests further investigation which can be prepared at Detailed Planning Application Stage.
Roads Planning	Requests additional information. An alternative access route was provided in response. Further assessment can be given at Detailed Planning Application Stage.

1.6 The remaining sections in this appeal statement comprise:

- A description of the appeal site and surrounding context (Section 2)
- A summary of the appeal proposals (Section 3)
- Ground of Appeal (Section 4)
- Summary of the appellant's case and conclusion (Section 5).

Supporting Documents

1.7 This appeal statement should be read in conjunction with all the supporting documents and drawings submitted as part of the original planning application.

Application Process

- 1.8 This appeal is made to the Local Review Body on the basis it was a local application, and which was determined under delegated powers. For the reasons outlined in this statement, we conclude that the development is in accordance with relevant development plan policies and supported by significant material considerations.

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APPLICATION SITE AND CONTEXT

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2.1 The site is located approximately 230m to the north of Springhall Farm, two miles from the centre of Kelso, along the A698 towards the settlement of Birgham. At present, the site is within a clearing with no trees proposed to be felled. There is an existing stone wall adjoining the southern eastern and western border, with an access adjoining the A698. There are mature trees to the north and south which seek to be retained.

Figure 1: Site Location (Google Maps)



2.2 In terms of topography, the site rises slightly to the west, from the A698 and then appears to be relatively flat beyond the site boundary.

2.3 With regards to the Local Development Plan adopted proposals map, the site holds no specific allocations or designations and is considered to be 'white land'.

2.4 The proposed dwelling is shown indicatively within the plot, towards the west of the site. The intention being that they would be set within the contained landscape, set back from the road, minimising the potential landscape visual impact whilst enhancing the amenity of future residents.

2.5 In terms of accessibility, the site is approximately 2 miles (11-minute cycle/ 40- minute walk/ 4- minute drive) to the town centre of Kelso, offering a range of services and facilities, along with ongoing public transport with the local bus stops to Melrose, Galashiels and Tweedbank for rail services to Edinburgh City Centre.

2.6 In terms of Heritage, there are no listed buildings on or within proximity to the site however the site does fall within Hendersyde Park which is a listed gardens and designated landscape as illustrated on Figure 2 below.

Figure 2: Environmental Scotland (Designated landscape highlighted in the dashed area)



2.7 The Scottish Environment Protection Agency (SEPA) are the statutory body for flood management in Scotland and maintain flood risk maps for public and development purposes. The site does not fall within an area at risk of river flooding.

Planning History

2.8 Referring to the Scottish Borders City Council planning application search, there has been one planning application related to this site for a proposed dwelling house (LPA Ref: 20/01434/PPP), submitted by FBR Seed LTD, on behalf of the applicant Mr Kevin Stewart. The planning application was validated in December 2020 and withdrawn on the 28th March 2021 following the recommendation for refusal on the grounds a significant economic case was not provided to support a new dwelling on the farm.

2.9 In terms of the consultee responses received, a summary can be found below.

Consultee	Comment
Archaeology officer	No Objection
Historic Environment Scotland	No Objection- the proposal is considered to not raise historic environment issues of national significance.
Scottish Water	No Objection
Roads Planning	Objection, further supporting evidence required.
Economic Development	No Comment

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THE PROPOSAL

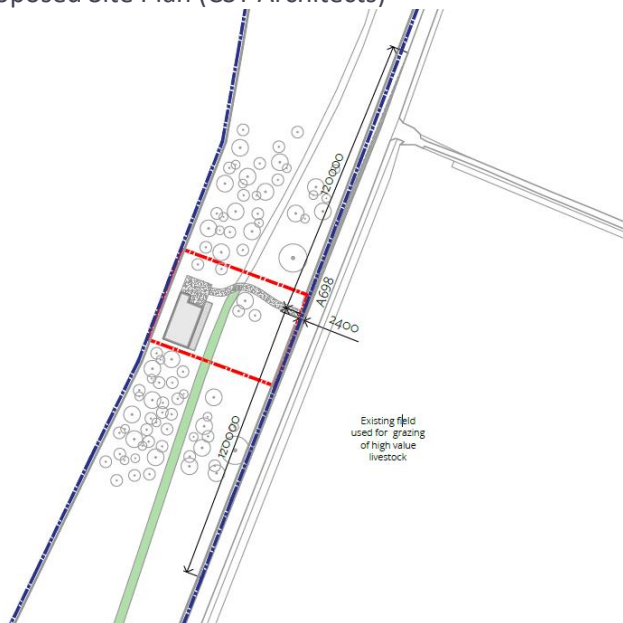
THE PROPOSAL

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

“Planning Application in Principle for a single Residential Dwelling with associated Amenity, Parking, Infrastructure and Access at located at a site within Land North of Springhall Farm, Kelso”.

3.2 The proposed development involves the provision of a single detached residential property with associated infrastructure, located within a Woodland Strip North of Springhall Farm, Kelso. The site location is identified within Appendix 1 of this report and proposed Site Plan in Figure 3 below.

Figure 3: Proposed Site Plan (CSY Architects)



3.4 In terms of layout, the dwelling is proposed to be positioned to the west of the site. Careful consideration has been taken in the positioning of the proposed dwelling within the site to ensure the dwelling is set back from the A698 and within the existing landscape containment, reducing the visual impact from the public receptor points to the east. The proposal has also considered the orientation of the property, maximising the daylight and sunlight provision and privacy of residents.

3.5 The historic access will be reinstated off the A698, forming an access track which meanders through the site, ensuring the retainment of the existing trees on site.

3.6 The proposal is sited between the existing mature trees, set back from the roadside, ensure it does not impinge upon the streetscape of the area within its Countryside Setting. As the proposal is within a clearing, no trees are proposed to be felled and additional planting forms part of the development, enhancing the natural surrounding environment. This is further supported by the height of the proposal, forming a single storey dwelling, further mitigating its landscape impact as illustrated in Figure 4 below.

Figure 4: Indicative Visualisation



- 3.7 The private outdoor amenity provision will be substantial, complimenting the natural rural environment in which it surrounds. The site benefits from being bordered by existing trees and vegetation which will be retained where possible.
- 3.8 There is an existing off-road pedestrian/ cycle path, owned by the applicant, running from north to south as illustrated in Figures 1 and 3 above, providing safe on foot access to Springhall Farm.
- 3.9 The applicants would be willing to enter into a suitably worded legal agreement to restrict the occupation of the house to persons solely, mainly or last employed within the Springhall Farm Business.
- 3.10 As the application is for Planning Permission in Principle, the requirement to submit detailed drawings to secure the outstanding elements of the design in the next stage of the Planning process is acknowledged.
- 3.11 It is proposed that the dwelling would support renewable energy technology at every opportunity, along with using a high-quality material such as timber cladding.
- 3.12 The supporting Business Plan prepared by FBR Seed provides further justification for the economic benefits the proposal will bring to the farm and wider community. The Business Plan demonstrates there is a clear need for an agricultural retirement dwelling to enable the existing farmhouse to be released for occupation by the next generation.
- 3.13 The applicants Family have farmed at Springhall Farm for 58 years, demonstrating long-term commitment to providing a high- quality sheep enterprise, contributing to the rural economy within the Borders.

- 3.14 The labour requirement for all the land farmed amount to a significant scale of enterprise and the need for the principle personnel to be living on site is considered imperative for the farms continued success for generations to come.

Chosen Location and Sequential Approach

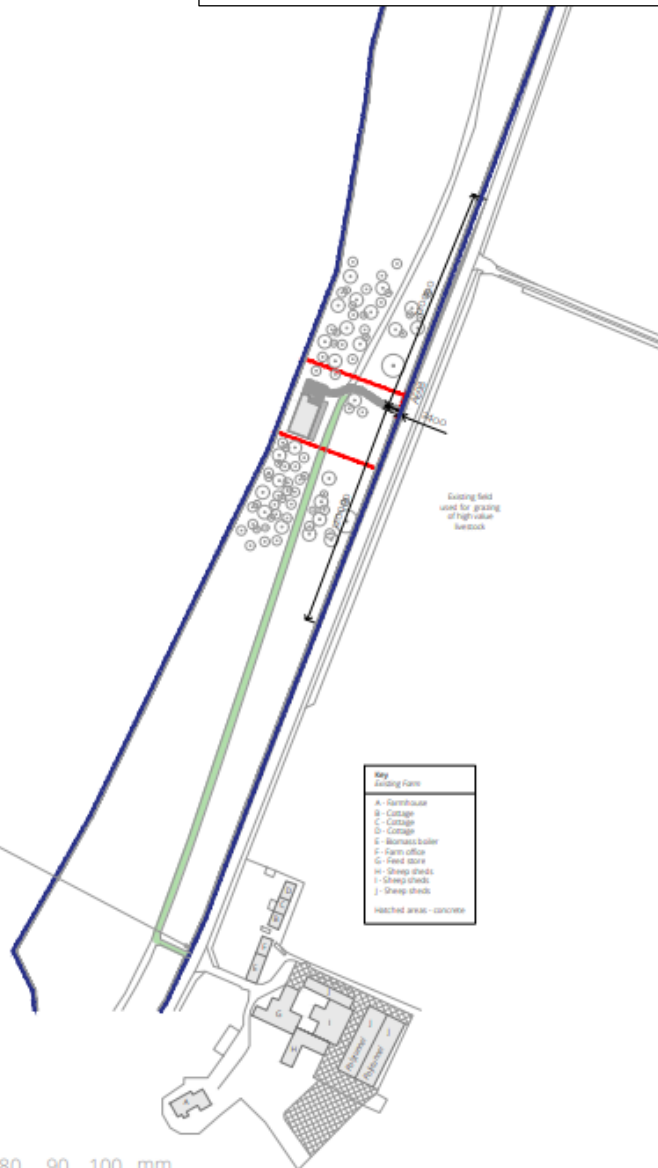
- 3.15 As previously discussed, the proposal seeks to provide a retirement dwelling associated with Springhall Farm, Kelso. The appellant is the current farmer at Springhall Farm who is now approaching retirement age. The appellant's parents remain in residence in the farmhouse at Springhall and are of an age and health status that mean they are no longer able to participate in or monitor any kind of farming activity. In due course, it is proposed that the applicant's son will succeed the tenancy from the applicant and inhabit Springhall Farmhouse when no longer occupied by his grandparents.
- 3.16 The site is situated a short distance from the farm (circa 230m) which is easily accessible from the existing footpath. The location provides a convenient distance to the farm if assistance is needed, whilst still obtaining a rural location away from the noisy operations of the farm.
- 3.17 It is acknowledged planning policy encourages dwellings tied to a farm to be immediately adjacent to the existing built form. The applicant has reviewed alternative sites however it is considered the proposed location is to be the best suited for the following reasons and as illustrated in Figure 5 below.
- All buildings at Springhall Farm are currently fully utilised by the farm business,
 - The proposed site does not encroach on any of the prime, grade 2 farmland (of which there is only 2.2% in Scotland).
 - The proposed site is in a clearing and requires no trees to be felled,
 - The proximity of the site to the fields allows the monitoring and security of high value stock to be maintained.

Figure 5: Sequential Plan



Pedestrian pathway continues between site and nearby farm. Picture above shows existing wall opening, adjacent nearby farm, with pathway continuing to farm.

Green hatch indicates route between farm and plot, on existing pathway



Disclaimer:
This generation of drawings is for the stated purpose only and should not be used for any other purpose without the originators consent. Do not scale from this drawing.

Key

- Boundary of site
- Boundary of land owned by applicant



client:	Ferguson Planning		
project:	Springhall, Kelso 10167		
title:	Location Plan		
status:	Planning in Principle	drawn:	JP
scale:	1:2500	@ A3	date: 24/11/2021
number:	3.01	rev:	a

DALKEITH	11 South Street	EH22 1AH	0131 663 9735
EDINBURGH	46 The Shore	EH6 6QU	0131 553 7959
EYEMOUTH	28 Harbour Rd	TD14 5HY	01890 750429
GALASHIELS	1 Wilderhaugh	TD1 1QJ	01896 753077

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Land North of Springhall Farm, Kelso Appeal

Grounds of Appeal

Grounds of Appeal

- 4.1 The Local Authority's decision to refuse the application is challenged on the basis of three reasons for refusal and to which a response has been split into four grounds set out below. It is asserted that the Proposal accords with the relevant policies and intentions of the Local Development Plan and Supplementary Planning Guidance why we consider the application should be approved.
- 4.2 The Appellant sets out the following four Grounds of Appeal (GOA).
- **GOA 1:** The proposal complies with Policy PMD2 of the Scottish Borders Local Development Plan 2016, in that there is a suitable vehicular access solution to the site which would not be detrimental to the safety of users of the road.
 - **GOA 2:** The proposal complies with Policy EP13 of the Scottish Borders Local Development Plan 2016 and the Supplementary Planning Guidance: Trees and Development 2020 as the development would not result in the loss or harm to the woodland resource and would not impact the visual amenity of the area.
 - **GOA 3:** The proposal is not contrary to Policy EP10 of the Scottish Borders Local Development Plan 2016, in that it would not result in the loss and damage to the quality and integrity of the Designed Landscape. The proposal will safeguard the landscape features, character or setting of Hendersyde Park.
 - **GOA 4:** There are no other material considerations which warrant refusal of the application. Wider material considerations have not fully been taken into account. The SPP and NPF4 both support and promote further rural housing and investment in the communities.

4.3 **GOA 1:** The proposal complies with Policy PMD2 of the Scottish Borders Local Development Plan 2016, in that there is a suitable vehicular access solution to the site which would not be detrimental to the safety of users of the road.

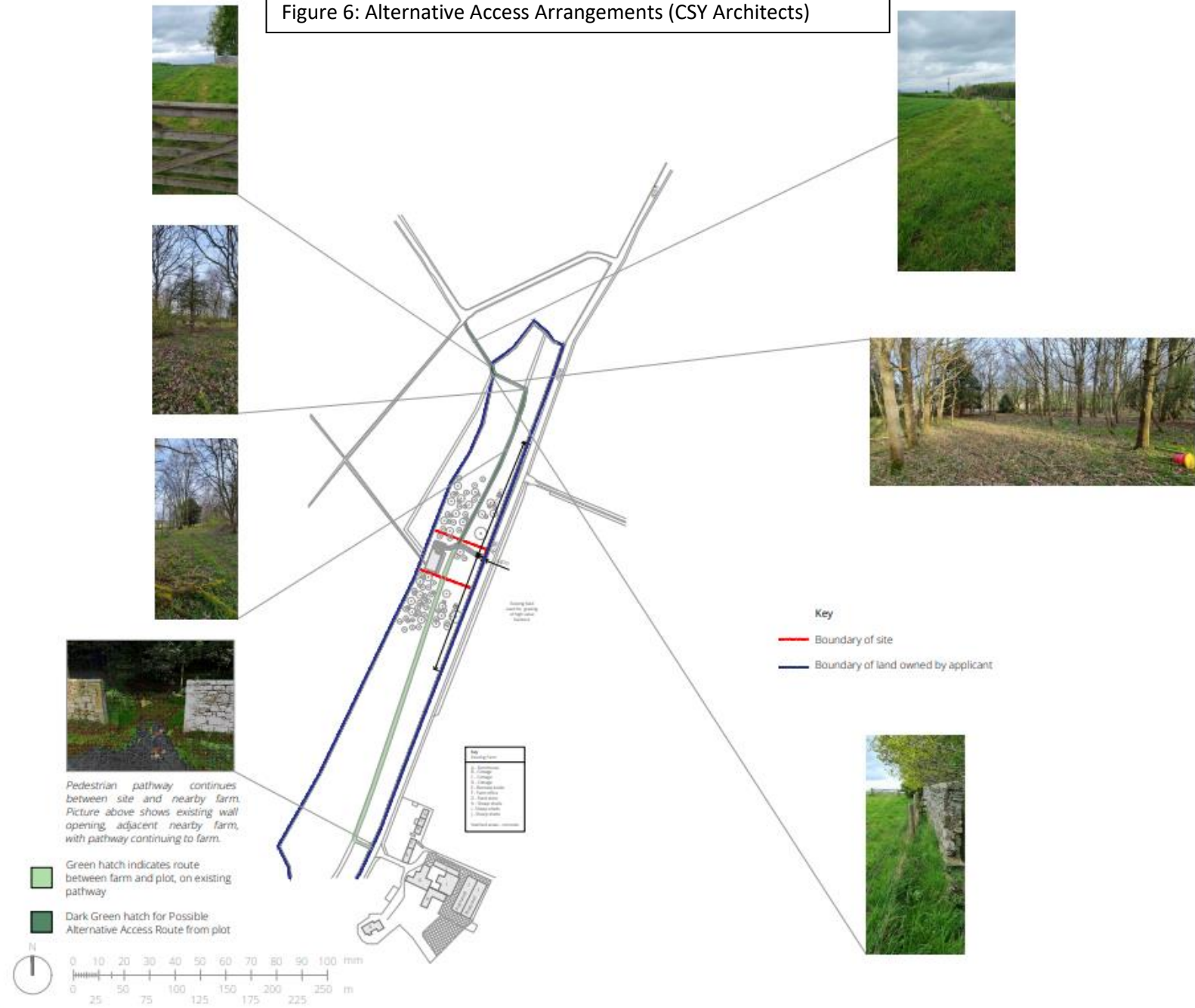
4.4 *LDP Policy PMD2: Quality Standards sets out a range of sustainability, placement and design, accessibility and open space/ biodiversity requirements, whereby the proposal must:*

- *Incorporate access for those with mobility difficulties;*
- *Not have an adverse impact on road safety in terms of the site access; and*
- *Incorporate adequate access and turning space for vehicles includes those used for waste collection purposes.*

Appellant's Case

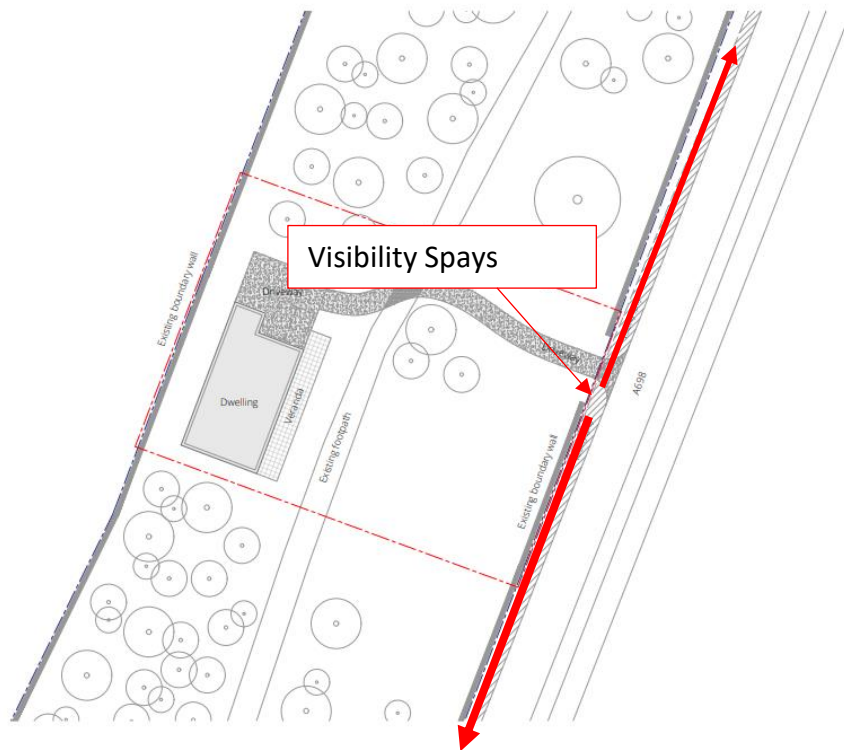
- 4.5 We have set out below the circumstances for why this development should proceed in line with policy, setting out the proposed access arrangements for the scheme.
- 4.6 The original proposal includes an access of an existing track directly onto the A698, onto a private driveway and car parking space deemed adequate for a proposal of this nature.
- 4.7 We acknowledge the Transport Officers concerns and have provided an alternative access route to the north, leading to an adopted road, which can an existing junction onto the A698. The alternative access arrangements are shown in Figure 6 below.

Figure 6: Alternative Access Arrangements (CSY Architects)



4.8 It is important to note similar access arrangements are evident for lands at Springhall Farm to the south and at Springhall Farm cottages, steading and farmhouse at Springhall, setting a precedent for the acceptability of a direct access onto the A road. With that said, additional visibility splays accompanied the original submission and are found within Figure 7 below.

Figure 7: Visibility Spaces (CSY Architects)



4.9 The proposal is therefore considered to provide an access that that will not have an adverse impact on the road safety which can be further demonstrated at detailed planning application stage. The proposal is therefore considered to satisfy criteria a) of Section (A) of Policy HD2.

4.10 **GOA 2:** The proposal complies with Policy EP13 of the Scottish Borders Local Development Plan 2016 and the Supplementary Planning Guidance: Trees and Development 2020 as the development would not result in the significant loss or harm to the woodland resource and would not impact the visual amenity of the area.

Appellants Case

4.11 We set out below why this development should proceed in line with Policy EP13, demonstrating the proposal will not result in the significant loss or harm to the woodland resource and would not impact the visual amenity of the area.

4.12 *LDP Policy EP13: Trees, Woodlands and Hedgegrows states any development that may impact on the woodland resource should:*

- *Aim to minimize adverse impacts on the biodiversity value of the woodland and recourse, including its environmental quality, ecology status and viability; and*
- *Where there is an unavoidable loss of the woodland resource, ensure appropriate replacement planting, where possible, within the area of the Scottish Borders; and*
- *adhere to any planning agreement sought to enhance the woodland resource.*

4.13 The application was supported by an Extended Phase 1 on site Habitat Survey, prepared by Ellendale Environmental. The survey found no evidence of protected species on-site. Further details of the Survey can be found in the supporting statement forming part of the Core Documents.

4.14 The proposal is sited between the existing mature trees, set back from the roadside, ensuring it does not impinge upon the streetscape of the area within its Countryside Setting.

4.15 At present, the site is within a clearing where no trees are proposed to be felled and additional planting forms part of the development, enhancing the natural surrounding environment.

4.16 As discussed above, as an option, the historic access is proposed to be reinstated off the A698, forming an access track which meanders through the site, ensuring the retainment of the existing trees on site.

4.17 The alternative access route is again proposed to meander between a clearing of trees to the north of the site, using cellular construction, and protecting the adjoining tree roots. Further assessment can be agreed at the detailed planning application stage and via a suitably worded condition.

4.18 Overall, it is considered the site proposal is compliant with Policy EP13, as not significant harm to trees will be had and visually the dwelling would largely go unnotice given the dwelling is set back from the road and screened by existing woodland.

4.19 GOA 3: The proposal is not contrary to Policy EP10 of the Scottish Borders Local Development Plan 2016, in that it would not result in the loss and damage to the quality and integrity of the Designed Landscape. The proposal will safeguard the landscape features, character and setting of Hendersyde Park.

Appellant's Case

4.20 We set out below why this development should proceed in line with Policy EP10, demonstrating the proposal will not result in the loss and damage to the quality and integrity of the Designated Landscape.

4.21 *Policy ED10 states development which results in the permanent loss of prime quality agricultural land or significant carbon rich soil reserves, will not be permitted unless:*

a) The site is otherwise allocated within the local plan

b) The development meets and established need and no other site is available

c) The development is small scale and directly related to a rural business.

4.22 The proposal is set back from the road, considered to minimise the potential landscape and visual impacts, by only being visible upon immediate approach, reducing the visual impact from the public receptor points to the east. The indicative visualisation within Figure 4 above further demonstrates the landscape containment of the proposal.

4.23 It is acknowledged the site forms part of Hendersyde Park, which is a listed garden and designated landscaped area as illustrated within Figure 2 above. However, the wall that surrounds it and the woodland that screen it mean that the dwelling would not impinge upon this landscape asset.

4.24 The site is situated within a contained landscape, within a clearing, sited between the existing mature trees. While the wider area is deemed to be within prime agricultural land, the site is within scrub land, holding no agricultural purpose, not within agricultural use for either arable or pastoral farming. As the site is not used for agricultural purposes, it is therefore considered the proposal will not result in the loss of prime agricultural land.

4.25 It is however important to note the proposed development is small scale and directly related to the adjoining rural business at Springhall farm, supported by Policy ED10 section c).

GOA 4: *There are no other material considerations which warrant refusal of the application. The material considerations have not fully been taken into account. The SPP and NPF4 both support and promote further rural housing and investment.*

4.26 Whilst it is a modest development site, analysis shows that that a significant proportion of houses built in the Scottish Borders range between 1-4 units and that many are non-allocated / windfall sites. The importance of smaller sites in delivering housing in the Scottish Borders should therefore not be overlooked and this site in question can help meet the housing land targets.

4.27 Our clients' aspirations are for this site to provide one new property, representing an opportunity to invest in the rural community to help address the current housing shortfall. The proposal would be built by the applicant who is committed to deliver the development as soon as possible and is therefore effective and deliverable.

4.28 It is also important to note it is there to enable a person employed in agriculture to retire and to enable farm succession planning with the existing farmhouse.

4.29 The proposed development supports the ethos of the Draft NPF4 through the provision of rural housing. The draft NPF4 seeks to encourage rural investment, encouraging development to contribute to the viability, sustainability and diversity of rural economies and communities.

4.30 SPP advises that the planning system should support economically, environmentally, and socially sustainable places by enabling development that balances the cost and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place it is not to allow development at any cost. This means that policies and decisions should be guided by the following principles in Paragraph 29 which we address in turn within the table below.

Table 1: SSP Principles

Policy Principle	How the Proposal Complies
Giving due weight to net economic benefit;	The proposal will deliver much needed investment and delivery of retirement housing within the rural area within close proximity to the rural town of Kelso. The applicant will also seek to appoint local tradesmen during the construction process, contributing to the local economy.
Responding to economic issues, challenges and opportunities, as outlined in local economic strategies;	The proposal supports the growth of the rural community, whilst enabling ensuring there is a generous supply of housing land to cater for the increase in people and families living in the Scottish Borders.
Supporting good design and the six qualities of successful places;	The proposal will deliver one high quality a new retirement home, utilising sustainable technologies such as PV panels and air source heat pumps.
Making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;	The proposal will capitalise on the existing investment made in Kelso. The additional residents the proposed dwelling will bring to the area will contribute to local services and facilities through having a higher footfall in the local area.
Supporting delivery of accessible housing, business, retailing and leisure development.	The proposal will deliver a much needed retirement sized dwelling. The applicant also farms at the adjoining Springhall Farm where the next generation is looking for move into the farmhouse.
Supporting delivery of infrastructure, for example transport, education, energy, digital and water.	The proposal will make a financial contribution through a s.69 or s.75 agreement, as deemed necessary by SBC.
Supporting climate change mitigation and adaptation including taking account of flood risk.	The future proofing of homes for climate change will be agreed during the detailed planning application stage and will include renewable technologies.

SPP Table Continued...

Policy Principle	How the Proposal Complies
Improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation.	The proposed garden within the site offers an opportunity for an array of activities as well as nearby walks and cycle routes, with a direct walking route from the proposed dwelling to the farm in which the application farms at. The site is also well located for the existing amenities provided by Kelso.
Having regard to the principles for sustainable land use set out in the Land Use Strategy;	The proposed site is in a sustainable rural location, within cycling distance to Kelso, offering sustainable access to a shops, services and leisure facilities.
Protecting, enhancing and promoting access to cultural heritage, including the historic environment.	The sensitive approach to the design seeks to safeguard the character of dwellings within its Countryside setting.
Protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment.	The additional landscaping proposed will provide a level of beneficial effects, such as enhanced biodiversity and additional screening through the introduction of locally appropriate hedgerow and trees within the proposed development.
Reducing waste, facilitating its management and promoting resource recovery; and	Suitable provision for waste collection can be demonstrated.
Avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.	The low-density scale of development is considered appropriate for a site of this nature.

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CONCLUSION

CONCLUSION

5.1 The submitted appeal, supported by this statement, seeks to overturn the Council's decision to refuse planning permission for the Planning Permission in Principle Application relating to the residential dwelling at Land North of Springhall Farm, Kelso, Scottish Borders.

5.2 In summary:

- The proposal represents a logical location for a retirement farmhouse, entitling the current farmer to semi-retire on land within their full control, enabling future generations to continue with farming the lands at Springhall Farm.
 - The proposed dwelling utilises an underutilised site, enclosed within the landscape, offering much-needed retirement living, it will also contribute to the housing land supply within the borders supported by Policy HD4.
 - The proposed development is considered to be acceptable in transport terms, taking a similar approach to the access arrangements for the neighbouring dwellings. It is proposed to create one improved access point off the S698 to the east to serve the new dwelling. An alternative access arrangement has also been proposed to the north of the site. Further assessment can be achieved at detailed planning application stage.
 - The proposal has been carefully positioned and designed ensuring there is a good level of amenity for future occupiers and providing good quality standards using sustainable methods in accordance with Policy PMD1, PMD2 and HD3. It again will be a high-quality building material and supported by renewable technology.
 - The proposal will provide a high-quality retirement dwelling within this desirable and sustainable location, within cycling distance to Kelso which benefits from a healthcare facilities, shops, cafes, and other local services, supported by the Draft NPF.
 - The proposed site is within a clearing and required minimal trees to be felled in accordance with Policy EP13
 - The site is not used for agricultural purposes and will therefore no result in the loss of Prime Agricultural Land in accordance with EP10.
- 5.3 As we have demonstrated through this statement, we consider that the proposal complies with the development plan, and LDP Policies PMD2, EP13 and EP10 against which the original application was refused.
- 5.4 There is a presumption in favour of applications that accord with the development plan unless there are significant material considerations that indicate the development plan should not be followed.
- 5.5 In addition to the above, the proposal will deliver local investment in trade employment, whilst expanding purchasing power in the local economy and supporting existing rural services.
- 5.6 The proposal is considered to fall within the guiding principles of the SPP, and we do not consider that there are any impacts which are significant and demonstrably outweigh the presumption in favour of development. We therefore respectfully request that the appeal be allowed.

APPENDICES: Core Documents

Core Doc 1: Decision Notice and Officer Report

Core Doc 2: Location Plan

Core Doc 3: Proposed and Existing Plan

Core Doc 4: Planning Statement

Core Doc 5: Business Plan- CONFIDENTIAL

Core Doc 6: Ecology Survey

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

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