

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF: 22/00188/PPP

APPLICANT: Mr Kevin Stewart

AGENT: Ferguson Planning

DEVELOPMENT: Erection of dwellinghouse

LOCATION: Woodland Strip
North Of Springhall Farm
Kelso
Scottish Borders

TYPE: PPP Application

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
3.01	Location Plan	Refused
3.02	Proposed Site Plan	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

Adverts were placed in the Southern Reporter and on tellmescotland.gov.uk. There were no representations received.

Consultations:

Landscape Architect: Removal of trees has already weakened the integrity of this Designed Landscape woodland feature. It is likely that this proposal would risk further damage to the woodland resource as trees grow and shade the development or block views. This proposal is contrary to policies EP10 and EP13 and Scottish Governments policy on Control of Woodland Removal. It risks further loss and damage to the quality and integrity of the Hendersyde Park Designed Landscape and the contribution it makes to the scenic quality of the local landscape.

Ecology Officer: No objection. Species Protection Plans (SPP) for bats, badgers and breeding birds are required.

Roads Planning: Objection. Change from previous submission 20/01434/PPP is the inclusion of a pedestrian route through the existing woodland. This does not remove the concern with pedestrian having the cross the A class road and as such my previous comments still apply.

The primary function of derestricted 'A' class principal roads is to provide for the safe and expeditious movement of traffic. That means strictly limiting the number of direct accesses to such roads. Therefore, I am opposed to the principle of new accesses onto derestricted 'A' class roads in rural areas unless there is strong economic or road safety justification. The location of this site is of particular concern being on an over-taking stretch of the A698. The apparent justification for this proposal is that it is for a retiring farmer from the nearby Springhall Farm, however this also raises

concern in that the proposed house is approximately 300m away on the opposite side of the A698 from the existing farm, raising the likelihood of cross traffic and pedestrian movement along this section or road to the detriment of road safety.

Scottish Water: There is a water supply 400m from site. No public waste water infrastructure is available to serve the site.

HES: The proposals do not raise historic environment issues of national significance. The site would be within the Hendersyde Park Designed Landscape, which is included in the Inventory of Gardens and Designed Landscapes (GDL) in recognition of its national importance. Hendersyde Park is a compact, early 19th-century parkland landscape. Despite the later replacement of the original mansion house, there remain many original architectural and design features, including the perimeter woodlands, estate buildings and large-scale structure of the walled flower-gardens, orchard and woodland shrub gardens. It has outstanding nature conservation interest, high historical, architectural and scenic interest.

The proposed development site is located within a woodland strip on the north east side of the GDL. This woodland strip flanks the former East Drive, which runs from Easter Hendersyde Lodge (of which the 19th century gate piers are listed at Category C) to the north through the woodland towards the site of the mansion house to the south. The development site is situated on ground that rises to the west and the woodland is bounded by a substantial rubble boundary wall of the estate. Despite the fact that this drive no longer provides access to the Inventory site, it is still possible to understand the original arrangement of entrance lodge and gates, wooded drive and boundary wall. We consider that a new house built on rising ground half-way along this historic drive would affect this understanding. The development may require considerable tree felling, land forming and a new entrance access through the boundary wall.

While we consider that a development in this location would have a detrimental impact on this part of the Hendersyde Park Inventory site, it would affect a relatively small area on its north east side. A development in this location would not have a significant adverse impact on the wider designated area at Hendersyde Park of historic parklands and estate buildings enclosed by mature woodland. Finally, in our view, it might be possible to mitigate some of these negative impacts by careful siting, scale, design and materials of a new house, keeping landforming and tree felling to a minimum and avoiding breaching the boundary wall. The submitted visualisation shows a new building flanked by woodland but open to the front (east side). We would expect more woodland to be retained around this side of the proposed building, screening it from view from both the boundary wall and main road to the east.

Economic Development: No response.

Heritage and Design Officer: No objection to the small impact to the setting of a Listed Building.

Archaeology Officer: Do not object. No comments.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

PMD1 - Sustainability
PMD2 - Quality Standards
HD2 - Housing in the Countryside
HD3 - Protection of Residential Amenity
EP7 - Listed Buildings
EP10- Gardens and Designed Landscapes
EP13 - Trees, Woodlands and Hedgerows
IS2 - Developer Contributions
IS7 - Parking Provision and Standards
IS9 - Waste Water Treatment and Sustainable Urban Drainage

Supplementary Planning Guidance:

New Housing in the Borders Countryside 2008
Placemaking and Design 2010
Privacy and Sunlight Guide 2006
Trees and Development updated October 2020
Landscape and Development 2008

Recommendation by - Euan Calvert (Assistant Planning Officer) on 21st June 2022

This is an application for planning permission in principle for erection of a farmhouse for Springhall Farm, proposed to be located in woodland 1 mile north east of Kelso. A previous application has been considered and withdrawn, 20/01434/PPP.

Site and Proposal

This chosen site is within a woodland, which is located adjacent to the west of the A698 and approximately 300m north of Springhall Farm. The woodland strip is separated from the adopted road by a substantial rubble bound wall. The wall is in disrepair; holes have emerged where the wall has collapsed and these have been formalised as vehicular accesses in three locations locally to the farm and this site. This wall signifies the extent of Hendersyde Park Designed Landscape (part of the Inventory of Gardens and Designed Landscapes). This woodland encloses the former East Drive. It continues north for 300m to the category C-listed East Lodge and 19th century gate piers. The drive continues south for 800m through woodland before emerging within Hendersyde Park. Historic walls completely enclose this woodland and the wider policies of the Estate. There is a claimed right of way in the locality, which uses the subway or underpass under this East Drive immediately opposite Springhall Farm entrance. This is the historic "Ferry Road" to Ednam. The underpass avoided the public entering the east drive or the private policies of Hendersyde Park.

This proposed dwellinghouse would be situated west of the east drive on rising-ground, halfway between Springhall Farm (to the south) and East lodge (to the north).

The surrounding land to the west, beyond the wall, is a new woodland plantation. The land to the east, opposite A698 is grass field enclosures. The chosen site has been thinned and cleared of trees.

Applicant's Supporting Information

Business Plan, FBR Seed Ltd, Kelso, Nov 2020.

Messrs Stewart farms land at Springhall (52 hectares) under a tenancy with a right to succession. The farm comprises a detached farmhouse, three cottages and a range of farm buildings. A further 194ha of land are rented at Linton Morebattle: 8ha at the Glebe and 47ha at Hendersyde Park. All the land is down to grass.

The existing farmhouse is essential for: security; health and safety; welfare; labour efficiency. To allow transition of the business to the son (who would become Livestock Manager) with oversight of the father, both are said to require to be living on the farm. There are three farm cottages which are all let to third parties and provide income for the business. No buildings on the farm are said to be capable of conversion. Any proposal must be at the Springhall enterprise as there are no buildings under control of the applicant on any of the other locations.

The family are leaders in the genetic development of Highlander/Abermax and Aberblack sheep production. Numbers: 1400 breeding ewes, 800 hogs with a further 400 pedigree rams. 85 hectares of silage and fodder crops are grown each year. The farm produces highly sought-after breeding stock. Lambing occurs at Springhall requiring 24hr monitoring. The farm also employs one fulltime shepherd and part time casual staff for key times such as lambing. On-site accommodation will allow for; maintaining sheep numbers; leasing of additional land in the locality; on-farm diversification through renewables; reduce costs and would provide additional labour hours for increased income. The house is close to the business but separate enough to afford privacy for eventual full retirement. The applicant would enter a legal agreement to restrict occupancy to the business therefore securing it for future generations. The current functional requirement for the business is estimated to be 6.97 standard man units.

Policy

Policy HD2 identifies the Council's approach to rural housing. The preference will be for settlement locations as opposed to the open countryside. The policy directs new housing development within the countryside to existing building groups of three or more houses.

In this instance, a case is presented and will be considered against criterion of HD2 Part F: housing with a location essential for business needs.

There are various criteria to consider and development will not be permitted where it negatively impacts on landscape and existing communities.

The Council's Supplementary Planning Guidance on New Housing in the Borders Countryside 2008 is a material consideration.

Policy PMD2 and Placemaking and Design Supplementary Planning Guidance are material considerations,. The Supplementary Planning Guidance seeks new dwellings to create; "a sense of place, designed in sympathy with Scottish Borders architectural styles; ...this need not exclude appropriate contemporary and/or innovative design."

Appropriate boundary treatments and landscaping are required to ensure proper effective assimilation of the development into its wider surroundings.

EP10: Gardens and Designed Landscapes states the Council will support development that safeguards or enhances the landscape features, character or setting.

EP13: Trees, Woodlands and Hedgerows states the Council will refuse development that would cause the loss of or serious damage to the woodland resource unless the public benefits clearly outweigh the loss of landscape, ecological recreational historical or shelter value.

IS7: Parking: the Roads Planning Officer has been invited to comment on parking, access and road safety.

ASSESSMENT

Planning Policy

A Business Plan and Planning Statement have been submitted which make a business critical case under policy HD2 Part F. An agricultural retirement dwelling is proposed to enable the farmhouse to be released for the occupation by the new Livestock Manager, who will take over the business. The labour requirement demonstrates the need for a further dwellinghouse for the farm business. The Business Plan states that the next generation needs to be living on the farm to enable effective farm management and to become eligible to succeed the farm tenancy.

There is little doubt that the applicant runs a successful farm business and policy HD2 Part F states that housing with a location essential for business needs may be acceptable, subject to a number of further qualifying criteria.

One of the major concerns with the application is that only 52ha of agricultural land relates to this specific site, Springhall, out of the total 300ha of land farmed by the business. A further issue is that this land is tenanted land not owned by the applicant.

Criterion b) supports development of a retirement farmhouse on-site to release a farmhouse to another family member who is an additional labour requirement of the business. The applicant owns this 6.7ha woodland site but not the 52ha of agricultural land to which the farm business is dependent on.

The proposals cannot be supported in this instance as there would be no planning or legal mechanism of tying the house, business and farmland together as an indivisible unit. Without such controls the proposed house could be sold off on the open market. The Planning Authority would have little control over the future occupation of this house as occupancy conditions are no longer acceptable to the Scottish Government.

The Business Plan demonstrates that third parties own the farmland and predominantly the farmland is not located at Springhall. It would not be possible to use a Section 75 legal agreement in this instance, as the Titles to these different areas of farmland are not within the gift of this applicant. Section 75 legal agreements are used in business justification cases to ensure the farmhouse and land are held as an indivisible unit and to tie the whole farm area to the business. Without this Section 75 tie, the proposal could simply become open market housing, which would not be appropriate in this location and unrelated to the business case presented.

It is contended that criterion c) is not satisfied in this instance (in that the housing development would help support a business that results in a clear social or environmental benefit to the area, including the retention of employment).

The Business Plan demonstrates that the proposal will provide employment but no financial evidence is presented. No environmental benefits are identified either. The Business Plan does not demonstrate a level of financial return to provide for a mortgage on (or the projected costs arising from) this proposed dwelling. The cost of the proposed dwellinghouse has not been identified in the Business Plan, therefore the continued efficient operation of the enterprise cannot be predicted or guaranteed.

Criterion d) requires consideration that no appropriate site exists within a building group, and criterion e) requires that there are no suitable existing house or other building capable of conversion for the required residential use.

I do not agree with the conclusion of the sequential assessment and criteria d) and e) are not satisfied in this instance. No potential green field sites immediately adjacent to the farm have been presented. The Farm Cottages and conversion of the farm buildings have both been discounted by the agent. The buildings are said to be fully utilised by the farm business and loss of prime farmland is not considered appropriate.

The sequential test specifically notes that the chosen site will allow monitoring and security of high value stock. However, on the contrary, the main driver for the site selection is predominantly due to ownership of this woodland. Significant weight has been placed on avoiding the loss of grazing and operational efficiencies of the farm over and above requirements of criteria d) and e) of Policy HD2. These are not material planning considerations.

Policy HD2 specifically requires development not to negatively impact on landscape and the Landscape Architect has objected on this basis. Removal of trees has already weakened the integrity of the woodland and reduced the quality of the Designed Landscape (policies EP10 and EP13).

The chosen site will be out of keeping with the pattern of development in the surroundings. This application presents itself as an opportunity to site a house in a former woodland, 300m distant from the farm operation. The house would have a high level of personal residential amenity however it would be visually prominent in this isolated location.

The Planning Authority require any proposal to be close to the farm complex. The choice of site presents itself as an isolated, sporadic and arbitrary location in rural countryside that will not appear anchored or well related to existing built features of the farm.

Siting and Design

This development will not meet requirements of the Supplementary Planning Guidance on New Housing in the Borders Countryside 2008 and will not have sense of place required by the Supplementary Planning Guidance: Placemaking and Design 2010.

Health and safety, security, efficiency and animal welfare arguments all support an area of search closer to the farm complex, on the same side of the A698, not on the opposite side of an A-class road some distance away.

Designed Landscape

Historic Environment Scotland identify that the development would have detrimental but not significant adverse impact on the wider Hendersyde Park Designed Landscape. They do not object but make

recommendations for mitigation; "...careful siting, scale, design and materials of a new house, keeping landforming and tree felling to a minimum and avoiding breaching the boundary wall." None of this could be controlled in this application and breaching the boundary wall is integral to the scheme. The development is not considered to enhance or safeguard the landscape, character or setting of Hendersyde Park (Policy EP13).

Road Safety, Access and Parking Provision and Standards

The Roads Planning Officer objects in the strongest possible terms and I support this objection in that I identify adverse impacts on road safety (Policy PMD2)

Inclusion of a pedestrian route through the woodland to the farm does not alleviate safety concerns. Use of the site by the retiring farmer would result in cross traffic and pedestrian movement along this section of road to the detriment of road safety.

The primary function of this derestricted 'A' class principal road is to provide for the safe and expeditious movement of traffic. That means strictly limiting the number of direct accesses to such roads. The principle of new vehicular accesses onto derestricted 'A' class roads in rural areas is unacceptable unless there is strong economic or road safety justification. The location of this site is of particular concern being on an over-taking stretch of the A698. The economic case presented does not outweigh these safety concerns.

Trees, Woodlands and Hedgerows

I have not requested detailed assessment of the impact on trees in this instance (BS5837:2012), given the overarching concerns regarding the principle of the proposal.

This is a woodland plantation, which provides landscape, ecological, recreational, historical, and shelter value. The Landscape Architect objects to the principle of development in this woodland noting that it will risk further damage to the woodland resource. No level of landscape planting or design mitigation would make this site acceptable. There are no public benefits identified that would outweigh the loss and damage to the woodland which would arise from this proposal (Policy EP10).

Services

Policy IS9: requires a site to be adequately serviced in terms of foul drainage. The application indicates that water supply would be public and foul drainage would be by means of a septic tank and soakaway.

Developer Contribution

Developer contributions, in accordance with Policy IS9, are required towards Kelso High School in this location, in the sum of £3240. This would be secured by a legal agreement.

Ecology

A Preliminary Ecological Assessment (Ellendale Environmental) confirmed no evidence of protected species (bats, badgers, breeding birds) using the site for breeding/roosting.

Species protection plans for bats, badgers and breeding birds would be required. These would need to include proposals for a sensitive lighting scheme for the development. The installation of bat and bird boxes as part of the design should be considered. Policies EP1, EP2 and EP3 can be satisfied.

Conclusion

The proposal is contrary to Local Development Plan 2016 policy HD2 and the Council's Supplementary Planning Guidance on New Housing in the Borders Countryside in that the site is outwith any recognised settlement or building group and would appear divorced from the operation of Springhall Farm and within previously undeveloped woodland and the need to site the dwelling here has not been adequately justified.

The presence of an isolated house, with no obvious relationship to Springhall Farm, would undermine the rural character of the landscape.

Accordingly, the proposed development would represent a sporadic and unjustified form of development in the countryside, which would set an undesirable precedent for similar unjustified proposals.

REASON FOR DECISION:

The proposed development is contrary to Policy HD2 of the Local Development Plan 2016 and the adopted Supplementary Planning Guidance on New Housing in the Borders Countryside 2008, in that the site is outwith any recognised settlement or building group and would appear divorced from the operation of Springhall Farm and within previously undeveloped former woodland and the need to site the development on this site has not been adequately justified.

The presence of an isolated house, with no obvious relationship to Springhall Farm would undermine the rural character of the landscape and the aims of Policies EP10 and EP13, protecting trees, woodland and Designed Landscapes.

The development is contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016, in that the principle of new vehicular accesses onto derestricted 'A' class roads in rural areas is unacceptable in this instance.

Accordingly, the proposed development would represent a sporadic and unjustified form of development in the countryside which would set an undesirable precedent for similar unjustified proposals.

Recommendation: Refused

- 1 The proposal is contrary to Policy HD2 of the Scottish Borders Local Development Plan 2016 and the Council's Supplementary Planning Guidance on New Housing in the Borders Countryside 2008, in that the site is outwith any recognised settlement or building group and would appear divorced from the operation of Springhall Farm and within previously undeveloped woodland and the need to site the dwellinghouse in this location has not been adequately justified. The proposed development would represent a sporadic and unjustified form of development in the countryside, which would set an undesirable precedent for similar unjustified proposals.
- 2 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.
- 3 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.
- 4 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.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.