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26th September 2022

FAO Local Review Body
Scottish Borders Council
Council Headquarters
Newtown St. Boswells
Melrose
TD6 0SA

Our Ref: GY/10101/A4/220926

Application 22/00297/FUL - APPEAL STATEMENT

Erection of 3 no holiday pods and associated parking – Land West of Burnmouth Church Stonefalls Burnmouth Eyemouth Scottish Borders

As the agent for the above application, we have been asked by our client and the applicant, **Stonefalls Development Partnership**, to submit an appeal against the Scottish Borders Council's non determination of the above application. Based on correspondence to date the application was likely to be refused, and the applicants appeal statement below sets out their response as follows:

APPLICANTS APPEAL STATEMENT:

This is the appeal of the applicants very small tourist development of three camping/holiday pods, "camping pods", for tourism on a gorgeous and otherwise brownfield site at Burnmouth.

The appeal is on the basis of non-determination (and no indication of when determination may take place) of the application.

The application was made on 24 February 2022. It was well supported having regard to previous contact with the planning department over several years. The site is in its entirety of previously developed land part within the settlement/development area of the village and part on adjoining countryside but between two roads to north and south and the Burnmouth parish church to the adjacent east and other residential development to the west.

Previous development is demonstrable for at least 150 years.

The application excited requests for additional information and that has all been provided – the last date of provision (and then a statement rather than pure information), being on June 20th 2022. The process of agreed programs of providing information with officers was undertaken which terminated with supply of all evidence and answers by 20 June 2022.

By the time of this appeal, it is 11 weeks since June 20th 2022. It is standard for applications to be considered and granted or refused within eight weeks or two months and this application will not be determined within eight months. Or within three months of the provision of all possible information.

The Appellants have been the subject of what appears to be a concerted and coordinated campaign of opposition including by the Burnmouth Community Council having regard to notices the appellants have observed on that council's noticeboard at or opposite the harbour at Burnmouth. They have been the subject of adverse comment by local people in the press with names that they do not recognise but suggesting that they have "marched" into the



village to carry out an unwelcome tourist development. In fact, the appellants family from the 1880s until and continuing today have and continue to have occupation of feu cottages, succeeding council houses at Cowdrait Burnmouth and also Upper Burnmouth and now and continuing apart from the site private residential accommodation in all but 12 years since the 1880s. They have chosen not to answer the criticisms made but to concentrate on the planning issues.

They do however wish the application to be determined and have a long-term commitment to Burnmouth.

THE PLANNING ISSUES

Local Plan Considerations.

The application site has been previously developed for three cottages, an access roadway, and the gardens of the cottages for 150 years. See the photograph below derived from the same source as that used by the council's environmental consultee.



It has also been in use by the Council highways department at one time for occasional storage, by the church for car parking from the 1960s at least and by trespass by parking by some local residents and businesses for up to 4 vehicles

The present local plan designation is: -

1. As to part within the settlement of the village and therefore, and subject to normal considerations, considered appropriate for development. Within this area the modest car parking area is situate and one and part of another of the pods; and



2. As to part in countryside adjoining the settlement. Within this area one and part of another of the pods are situate.

The pods are tourist development completely. They do not provide and could not provide permanent accommodation. In either of the local plan designations tourist development should, in principle, be supported by planning decision makers in accordance with local plan criteria.

There are many letters of objection. Almost each one, incoming from local residents, suggests that tourist development is unwelcome and takes away from the housing stock of the village which already suffers loss of housing stock due to holiday cottages and second homes. Even going so far in the case of one objector, Mrs Dorothy Aitchison, to suggest that affordable homes were more required. And on the part of the community council that tourist development did nothing for the area and economy.

These objections are misplaced. The policy of the Council is for tourist development provided other amenity or established interests of importance is/are not adversely affected.

Factually the development of a specialist tourist facility providing accommodation is likely to prevent, some at least and not exacerbate, the loss of further housing stock to tourist use.

The local plan issues are dealt with in detail by the submissions of the architects/agents and by Ferguson Planning in their documents dated May 2022 which are with the submitted papers.

OTHER ISSUES

Wildlife Considerations

A very expert report by an independent specialist who has visited and considered the site has been prepared and is with the councils papers for consideration of this application. It is not on the council website as officer's considered it should remain confidential to protect wildlife. Councillors are asked to have regard to it. The application is supported.

Some of the consultees/objectors make the factually correct point that on the clifftops each side of the valley in which the application site is situated there is/are areas of special scientific interest due to wildlife interest. The point is made that the application site may be (but is not said to be) a transit route for wildlife between the two.

The special scientific interest designations were made in the 1980s 30 years after the demolition of the cottages on this site. The site is immediately to the west of and has a boundary with the parish church. It lies between two roads. There is housing development very close to the west. The site itself: -

1. Is adjacent to a substantial electricity pylon which has been renewed recently and the land disturbed
2. Has had the village's new main sewer constructed through the land in the recent past
3. Is and has always been accessed by a road within its boundaries which serves the land itself and served the cottages and subsequent tipping and parking
4. Has been in constant use for parking and continues in such use. See below



5. Had been in domestic use for 150 years

6. Was used by the Council until 2004 for occasional highway tipping

Not surprisingly given those background facts the expert wildlife evidence on actual inspection of the site found no evidence to suggest that there was any reasoned objection and having had 40 years since the original special scientific interest designations no designation of this site has been considered. Any such designation would be at odds not only with the previous development and the continuing use but also with the findings of the expert employed.

Access

The council's road officer originally raised two objections. First it was said that the access track to the parking area was not wide enough for two cars to pass.

At all but the mouth of the junction this is demonstrably not accurate when the true boundary is set out. At the mouth of the junction there is one concrete slab/casting within the highway to be removed to make good the width and that will necessitate the simple replacement of support for the crash barrier. His second objection was that all but the smallest cars would not be able to turn into the site coming down the hill.

Modus Transports report clearly demonstrated that this can be safely achieved. The report also clearly demonstrates that sightlines which meet the usual criteria adopted are achieved.

The council's roads officer has further commented. He does not persist in saying that the access will be single track. He does say that, as is the case, vehicles coming down the hill will have to go onto the wrong side of the road to turn in.

Whilst this is accepted this is no different to tens of thousands of driveways all over the UK and at this juncture takes place at a wide section of the road which is two-way with good visibility to oncoming traffic and for oncoming traffic and where the speed of vehicles is demonstrated to be around 12 mph at most

Letters of objection suggest the road is singletrack. It is not singletrack at this point and it is of considerable width.

The appellants do not and never did adopt the stance that because cottages were historically served by the access road within the site that was, in and of itself, justification for the development access.

There are however two points: -

1. First and as the letters of objection particularly that of the harbourmaster, Mr John Aitchison, demonstrate the site has never been out of use for parking for up to 4 vehicles for other properties apart from the church though of course it could be gated at any moment. Also, it has provided parking for the church as another objector accepts. That said the recent use of parking may have been restricted by the church congregation size but historically that is not so. This site is currently in use for parking on a trespassing basis only by residents of Bay View and Seaview cottages and by the adjoining Coastguard Cottages holiday cottage. This is unregulated and trespassing parking, long-standing though it may be, ignored by the Council Roads Officer and all the objections. Currently that use has to be on the basis of either reversing into the site or reversing out of the site. In either case causing danger and disruption.

2. The second point which results from the first is that the development when completed would provide within the parking environment turning space under which vehicles would both enter and leave the site in



a forward gear with improvements to visibility traffic flow and safety. This improves safety at this point. This is also contrary to the council's roads officer's recommendation for the development of the adjoining parish church as a four double bedroom holiday letting development much nearer the bend in the road supporting parking on the basis that vehicles coming down the hill will have the same problem about turning into that site and will have to leave that site in reverse gear completely unsighted.

The council's roads officer has been inconsistent between the two sites.

In actuality the Modus Transport report prepared by the appellants with the benefit of radar traffic counting and speed assessment deals with access independently comprehensively and favourably to the development.

Danger To the Berwickshire Coastal Scenic Area

The fears of Nature Scott are apparently that the development might give rise to land slippage which would tumble down the braes and reach the beach – thus prejudicing the area protected.

To do so such slippage would have to tumble 80 meters down the hill but also in some manner overtop and traverse the flat area around the old lifeboat house (which still stands) and presumably demolish the old lifeboat house. Then traverse the new Road built between Burnmouth Harbour and Partenhall village area and having done all of that surmount the new seawall of considerable height built to protect the new Road.

This scenario is untenable. The site does not consist of rocky cliffs but of the soiled valley created by the "Burn".

Whilst it is appreciated that the officers concerned cannot, for small applications, visit the site (and it is understood that the commenting officers of the Council and of Nature Scott have not done so) the failure to appreciate this reality is unfortunate.

This aspect is more comprehensively dealt with by the architectural commentary by the appellants agents on the June 2022 statement. There is also in making such observations a failure to appreciate the design of the development.

In summary, and the fu terms are found in the architect submissions too: -

- 1.the temptation to excavate and cut and fill on the site to create siting for the pods has been completely resisted so that any ground disturbance will be purely landscaping.
- 2.To achieve this the pods are set on the existing ground at one end and supported by stilts with, if necessary, screw piles which will not result in ground movement otherwise.
- 3.The access road exists already.
- 4.The new parking area is created adjacent to the access road but behind and immediately to the west of the existing parish church boundary and site so that no landslip down the hill is likely at all.

The architects have completely demonstrated this in their submissions. The matter has been raised and dealt with and the concern is and always was appreciated, anticipated in the design, and complete safety in this respect achieved. The expert design evidence establishes this.



Overburdening Sewage Disposal Facilities

Objectors seem to consider that this is a proper planning objection to this application.

The water authority has been consulted and raises no objection. Indeed, confirms capacity is available for the development. The development is very small in any case. Mains drainage is preferable and the new sewer for the village was laid in the last 10 years through and is accessible from and within the site. It is impossible to have a better situation. If, at the end of the day, this really was an objection then private modern septic tank/digester facilities could be provided.

Surface Water Drainage

In so far as hard surface run-off is concerned it is understood the council officers are now satisfied that provision can be made for permeable paving. The site is bounded on one side by the Burnmouth "Burn". It is not understood in the circumstances that surface water disposal is problematic

Berwickshire Coastal Path

The site was purchased from Scottish Borders Council. Its development was contemplated by the purchase. Including by the Council. Its existing use for parking was also contemplated by the Council at that time. On purchase the boundary was drawn by the Council to the immediate west of the Berwickshire Coastal Path. The concerns of the Access Officer are noted, and the appellants will either fence the boundary with the path (but would like to gate onto it) or would leave the boundary open.

The appellants would contend that: -

1. The coastal path is a tourist attraction giving access to a wonderful coastal scenery for walkers; and
2. The accommodation provided would readily attract for tourism use based on this facility; and
3. The appellants would very much wish to respect this path and ensure that it is available by way of access for others and for holiday occupiers of their development.

Other Considerations: Economic Matters

A business plan was submitted for the operating company with the application, and which is commercially confidential.

The figures were based upon commercial sounding taken with professional cottage/glamping providers.

The appellants have been regularly contacted by these providers after the figures were provided and this is continuing wishing to take the development on their books due to anticipated demand.

The development is a high-quality one as anticipated, and it should provide a permanent facility of enhancement to the community. And without detracting from the housing provision in or the character or amenity of the village of Burnmouth.



APPLICANTS SUMMARY

The appellants believe that this is a simple, modest, appropriate development with economic potential and benefit both to them and the community and fulfilling tourist policy objectives which the Council is committed to support.

If, and when developed it will plug into and not detract from the important scientific and other protected areas and the amenities of the village and Berwickshire coast.

There is no question of it being unsightly. As the architects have demonstrated it will hardly be seen. The buildings are of high quality.

The development could not be more respectful of the area and the vested interests including the natural environment and the scenic environment.

An appeal has been made because one season of use has been completely lost by non-determination. A second season is in prospect of being lost if the application is not soon determined.

Conclusion

Based on the quality of the design, along with all the supporting information submitted, including the above statement from the applicant; we believe that the application should be approved.

Yours faithfully,



Gavin Yuill
Managing Director / Senior Architect

(On behalf of Camerons Strachan Yuill Architects)

