

Mrs Nancy Margaret Hunter  
per Ferguson Planning  
54 Island Street  
Galashiels  
Scottish Borders  
TD1 1NU

**Please ask for:** Alla Hassan  
☎ 01835 824000 Ext 5931  
**Our Ref:** 22/01947/FUL  
**Your Ref:**  
**E-Mail:** alla.hassan@scotborders.gov.uk  
**Date:** 28th March 2023

Dear Sir/Madam

**PLANNING APPLICATION AT Land South Of Headshaw Farmhouse Ashkirk Selkirk  
Scottish Borders**

**PROPOSED DEVELOPMENT: Erection of dwellinghouse with detached garage**

**APPLICANT: Mrs Nancy Margaret Hunter**

Please find attached the formal notice of refusal for the above application.

Drawings can be found on the Planning pages of the Council website at  
<https://eplanning.scotborders.gov.uk/online-applications/>.

Your right of appeal is set out within the decision notice.

Yours faithfully

John Hayward

Planning & Development Standards Manager

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)**

**Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013**

**Application for Planning Permission**

**Reference : 22/01947/FUL**

**To : Mrs Nancy Margaret Hunter per Ferguson Planning 54 Island Street Galashiels Scottish Borders TD1 1NU**

With reference to your application validated on **15th December 2022** for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) for the following development :-

**Proposal : Erection of dwellinghouse with detached garage**

**at : Land South Of Headshaw Farmhouse Ashkirk Selkirk Scottish Borders**

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s) stated on the attached schedule**.

**Dated 24th March 2023  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**John Hayward  
Planning & Development Standards Manager**

**APPLICATION REFERENCE : 22/01947/FUL**

**Schedule of Plans and Drawings Refused:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
873P-01	Location Plan	Refused
873P-02	Proposed Site Plan	Refused
873P-03	Proposed Plans	Refused
873P-04	Proposed Elevations	Refused
873P-05	Proposed Elevations	Refused
873P-06	3D View	Refused
873P-07	Proposed Plans & Elevations	Refused
Sequential Plan	Other	Refused

**REASON FOR REFUSAL**

- 1 The development is contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008, and Policies 9 and 17 of the National Planning Framework 4 because it would constitute housing in the countryside that would be unrelated to a building group and would lead to an unjustified sporadic expansion of development into a previously undeveloped field. Furthermore, there is no overriding economic justification to support the development. The resulting visual impact of the development would be adverse and, therefore, also conflict with policy PMD2. This conflict with the development plan is not overridden by any other material considerations.

**FOR THE INFORMATION OF THE APPLICANT**

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. To seek a review of the decision, please complete a [request for local review](#) form and return it to the Clerk of the Local Review Body, Democratic Services, Council Headquarters, Newtown St Boswells, Melrose TD6 OSA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

**SCOTTISH BORDERS COUNCIL**

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

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 22/01947/FUL

**APPLICANT :** Mrs Nancy Margaret Hunter

**AGENT :** Ferguson Planning

**DEVELOPMENT :** Erection of dwellinghouse with detached garage

**LOCATION:** Land South Of  
Headshaw Farmhouse Ashkirk  
Selkirk  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
873P-01	Location Plan	Refused
873P-02	Proposed Site Plan	Refused
873P-03	Proposed Plans	Refused
873P-04	Proposed Elevations	Refused
873P-05	Proposed Elevations	Refused
873P-06	3D View	Refused
873P-07	Proposed Plans & Elevations	Refused
Sequential Plan	Other	Refused

**NUMBER OF REPRESENTATIONS: 0**

**SUMMARY OF REPRESENTATIONS:**

Community Council: No objection (full response published online).

Roads Officer: No objection subject to condition (full response published online).

Ecology Officer: No objection subject to condition and informative (full response published online).

Education and Lifelong Learning: No reply at time of writing this report.

Scottish Water: No objections (full response published online).

No representations received.

**PLANNING CONSIDERATIONS AND POLICIES:**

National Planning Framework (NPF4)  
Policy 3 - Biodiversity  
Policy 4- Natural places

Policy 6 - Forestry, woodland and trees  
Policy 9 - Brownfield, vacant and derelict land and empty buildings  
Policy 14 - Design, quality and place  
Policy 17 - Rural homes

Scottish Borders Local Development Plan (2016)

PMD2 - Quality Standards

HD2 - Housing in the Countryside

HD3- Protection of Residential Amenity

EP1- International Nature Conservation and Protected Species

EP2- National Nature Conservation Sites and Protected Species

EP3 - Local Biodiversity

EP13 - Trees, Woodlands and Hedgerows

IS2 - Developer Contributions

IS3 - Developer Contributions Related to the Border Railway

IS7 - Parking Provision and Standards

IS9 - Waste Water and Treatment Standards and Sustainable Urban Drainage

Supplementary Planning Guidance

Developer Contributions 2021

Householder Development (Privacy and Sunlight) 2006

Landscape and Development 2008

New Housing in the Borders Countryside 2008

Placemaking and Design 2010

Trees and Development 2008

Waste Management 2015

Sustainable Urban Drainage Systems 2020

**Recommendation by** - Alla Hassan (Assistant Planning Officer) on 23rd March 2023

This application relates to land to the south of Headshaw Farmhouse, in Ashkirk, Selkirk. It seeks permission for the erection of a dwelling and detached garage, which would provide accommodation for the applicant's daughter and partner to reside in the farm, and assist in its day-to-day operations.

The site comprises of an undeveloped agricultural field, located outside of any defined settlement boundary, and therefore for the purposes of planning policy, is considered to be located in the open countryside; where rural restraint policies apply.

Principle

Policy 9 of NPF discourages greenfield development, however, Policy 17(v) accepts the principle of rural dwellings in connection with a viable rural business. Compliance with Policy 17 would override any conflict with Policy 9. This is further reflected by Policy HD2(F) of the Local Development Plan which states that a dwelling essential for a business need would be acceptable provided that:

- a) The housing development is a direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and is for a worker predominately employed in the enterprise and that the presence of that worker on site is essential to the efficient operation of the business. Such development could include businesses that would cause disturbance or loss of amenity if located within an existing settlement, or;
- b) It is for use of a person last employed in an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and also employed on the unit that is subject of the application, and the development will release another house for continued use by an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and
- c) The housing development would help support a business that results in a clear social or environmental benefit to the area, including the retention or provision of employment or the provision of affordable or local needs housing, and
- d) No appropriate site exists within a building group, and

- e) There is no suitable existing house or other building capable of conversion for the required residential use.

The supporting planning statement states that the site is situated within an existing building group which consists of the main farmhouse, three cottages and a bungalow. Those are within the applicant's ownership, and are let out to long-term tenants so cannot be used to accommodate the applicants' daughter. However, the applicant has not provided a business plan to support the development. As such, an assessment cannot be made as to whether there is an economic and operational case for the development, so the proposal, therefore, is not supported by Policy 17(v) of the NPF4 and HD2(F) of the LDP.

Criteria A of HD2 also allows new housing in the countryside provided that it complies with three further tests: a) the application site must relate well to an existing group of three houses; b) the cumulative impact of new development on the character of the building group and on the landscape and amenity of the surrounding area will be taken into account and; c) any consents should not exceed two dwellings or a 30% increase to the group during the Plan period.

The Council's supplementary planning guidance 'Housing in the Countryside' emphasises that new development must integrate well with the existing pattern of development, build upon the established character of the area and contribute positively to a sense of place. Sites should not normally break into undeveloped fields particularly where there exists a definable natural boundary between the building group and field, and the new development shall be limited to the area contained by that sense of place. Furthermore, natural boundaries take precedence over man-made boundaries when defining the extent of a building group.

It is accepted that there is a building group to the north of the application site within the farmstead itself. Notwithstanding this, the existing mature hedging and planting forms a defined natural boundary and a dwelling in this location would clearly disrupt this, and break into an undeveloped field. This is reinforced by the intervening road. It would therefore be detached and not sympathetically integrated within the established building group, conflicting with criteria a and b.

With respect to criteria c, dwellings have been permitted in the locality however not within the Plan period and therefore there is no conflict with this criteria.

In light on the above, the principle of the proposal is considered to be unacceptable, as it conflicts with NPF Policy 9 (as greenfield development without justification under Policy 17); Policy 17; and LDP Policy HD2 and NHIBC SPG. The resulting visual and landscape harm would be adverse.

#### Siting and Design

The proposed dwelling would be sited on an undeveloped field and is considered to be poorly related to the existing built area and therefore harmful to the rural character and appearance of the locality, conflicting with PMD2.

The dwelling itself is considered to be acceptable in terms of size, form and overall design. Whilst it is noted that it would be preferable to have a slate roof than the proposed standing seam metal roof; due to the proposal's modest height and proportions, it would not appear as incongruous addition to an extent that it would warrant it's refusal.

With regard to residential amenity, the proposal would be sited on an ample plot whereby it is feasible for a dwelling to be situated without harming adjoining residential amenities. It is therefore considered that the proposed development of a dwelling on this site could comply with policy HD3 of the Local Development Plan, and the Householder Development SPG.

#### Parking and road safety

Policy PMD2 requires that development incorporates adequate access and turning space for vehicles, and ensures that there is no adverse impact on road safety. Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards.

With respect to parking, the roads officer has been consulted on the proposal and no objections were raised subject to a condition requesting further details of adequate parking and turning area within the curtilage of the dwelling.

In regards to road safety, the site is accessed via a private road which comes off the A7 trunk road. I note the RPS's suggestion that Transport Scotland be consulted however, in this context, there is no statutory requirement to do so. The addition of one dwelling is not considered to have a material increase in the volume of traffic and will have no significant adverse impacts to road safety complying with PMD2 and IS7 of the LDP.

#### Ecology

The application site is considered to be of low ecological value, as confirmed by the supporting Preliminary Ecological Assessment which states that no signs of protected species or breeding birds were found. The ecology officer has also raised no objections subject to a condition requesting further details on the proposed landscape planting. On that basis, there are considered to be no adverse impacts to ecology as a result of the proposal.

#### Drainage

With respect to drainage, the application form states that the development would involve private drainage arrangements via a septic tank, discharged via a soakaway. Surface water drainage will be via SUDS

Scottish Water have raised no objections, and have confirmed that there is currently sufficient capacity at Robertson Water Treatment Works to service the development. However there is no waste water infrastructure within the immediate vicinity. Consequently, it is considered that the exact details of the water supply and overall drainage could be secured by conditions, should the application be approved.

#### Trees

The application site is grassland with several scattered mature trees. There is considered to be a sufficient developable area to accommodate the proposal without harming any trees. In any event, the protection of trees and further planting/ landscaping can be secured via appropriately worded conditions.

#### Other matters

It is important to note that pre-application advice has been previously sought for the proposal. It was concluded that the proposal conflicts with the aforementioned policies within the Local Development Plan and would be detrimental to the overall character and appearance of the area. As such, this decision is entirely consistent with the previous advice given, and there are no changes of circumstances or material considerations to indicate a departure from this position.

Whilst it is acknowledged that a sequential plan justifying the location of the dwelling has been provided, this does not overcome conflict with the aforementioned policies and therefore any proposal will need to be located within the farmyard building group in accordance with HD2 criteria A, or have robust economic justification as per the requirements of HD2 criteria F to be looked upon favourably.

The supporting statement also states that a precedent for breaking into an undeveloped field exists under 18/01712/PPP granted consent at the Local Review Body. The approved scheme involved breaking into an undeveloped field bounded by a road. The Housing in the Countryside guidance makes specific reference to natural boundaries taking over man-made boundaries when defining the extent of a building group. In any event, each application is assessed on its own merits, and in this instance, a dwelling in this location would be an uncharacteristic incursion into the countryside, rather than a logical addition to the existing building group.

#### Developer contributions

Contributions towards the Borders railway would be secured by way of a legal agreement.

#### **REASON FOR DECISION:**

The development is contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008, and Policies 9 and 17 of the National Planning Framework 4 because it would constitute housing in the countryside that would be unrelated to a building group and would lead to an unjustified sporadic expansion of development into a previously undeveloped field. Furthermore, there is

no overriding economic justification to support the development. The resulting visual impact of the development would be adverse and, therefore, also conflict with policy PMD2. This conflict with the development plan is not overridden by any other material considerations.

**Recommendation:** Refused

- 1 The development is contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008, and Policies 9 and 17 of the National Planning Framework 4 because it would constitute housing in the countryside that would be unrelated to a building group and would lead to an unjustified sporadic expansion of development into a previously undeveloped field. Furthermore, there is no overriding economic justification to support the development. The resulting visual impact of the development would be adverse and, therefore, also conflict with policy PMD2. This conflict with the development plan is not overridden by any other material considerations.

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