

**PROPOSED ERECTION  
OF A DWELLINGHOUSE  
NOTICE OF REVIEW  
APPEAL STATEMENT**

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## Table of Contents

1.0	Introduction	1
2.0	Background	1
3.0	Grounds for Appeal	1
4.0	Conclusions	3

**Appendix 1** Site Photograph

## 1.0 Introduction

- 1.1 This statement should be read in conjunction with the Notice of Review submitted on behalf of Aver Chartered Accountants for the proposed erection of a dwelling, land northeast of Alba Cottage, Fishwick (23/00509/PPP) which was refused planning permission in principle by Scottish Borders Council on the 21<sup>st</sup> of June 2023.
- 1.2 The application was refused on the grounds that:  
*“The development is contrary to polices 1, 2 and 17 of the National Planning Framework and HD2 of the Local Development Plan 2016.”*

## 2.0 Background

- 2.1 It has been proposed to erect a dwelling on this site in order to reuse rural brownfield land which, without significant intervention, would remain out of active use, blighting the surrounding landscape.
- 2.2 A brownfield site is characterised in NPF4 as *land that has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused buildings.*
- 2.3 The site is encompassed under this definition as land that has previously been developed. Hardstanding material was put in place on this site prior to the submission of retrospective application (18/00519/FUL) for the erection of a polystructure cattle shed and hydroponics unit and associated groundworks; this application was refused, however the installed hardstanding remains on site and shows no signs of naturalisation. Furthermore, as the proposal was not refused under NPF4 Policy 9 Brownfield, Vacant and Derelict Land, and Empty Buildings this demonstrates that Scottish Borders Council agree the site is considered a brownfield site.
- 2.4 The application received no public representations; nor were any objections received from the relevant consultees: Roads Planning Service, or Scottish Water.

## 3.0 Grounds for Appeal

- 3.1 The Decision Notice states that the application was refused as the development is contrary to policies 1, 2 & 17 of NPF4, and policy HD2 of the Scottish Borders Local Development Plan 2016.
- 3.2 Both NPF4 Policy 1 Tackling the Climate and Nature Crises and Policy 2 Climate change Mitigation and Adaptation require LDPs to address the global climate and nature crises by ensuring the spatial strategy reduces emissions and adapts to current and future risks of climate change; LDP Policy ED5 Regeneration promotes opportunities for sustainable regeneration on allocated and non-allocated brownfield sites. The hardstanding on this site is constantly absorbing heat from the sun and consequently warms the surrounding area. However, a dwelling on this site, with potential solar gain on the roof and increased landscaping (matters to be addressed in a subsequent detailed application) would stop the detrimental impacts cause by the undeveloped hardstanding and act in favour of climate change mitigation and adaptation, and thus the proposal is in line with NPF4 Policies 1 and 2.

- 3.3 NPF4 Policy 9 Brownfield, Vacant and Derelict Land, and Empty Buildings encourages and promotes the reuse of brownfield land to help reduce the need for greenfield development. Under NPF4 Policy 17 Rural Homes, development proposals for new homes in rural areas will be supported where development is suitably scaled, sited, and designed to be in keeping with the character of the area, and where the development reuses brownfield land where a return to a natural state has not or will not happen without intervention.
- 3.4 The Report of Handling states that the site is showing signs of gradual naturalisation, as per a site visit 5 years ago. However, the site photo attached at Appendix 1 of this statement, taken in by Bidwells in 2022, shows that the site has by no means naturalised. Due to the unauthorised development on this site and the materials that have been laid, and the thickness of the hardstanding, there is no possibility of naturalisation for decades without significant intervention.
- 3.5 This application was not refused under NPF4 Policy 9 Brownfield, Vacant and Derelict Land, and Empty Buildings which demonstrates that Scottish Borders Council have accepted that the site is indeed brownfield land. Therefore, in accordance with this policy, opportunities for the sustainable reuse of brownfield land should be supported by the local authority.
- 3.6 NPF4 supports rural development on brownfield sites under Policy 17 Rural Homes, and therefore this proposal is further supported by NPF4; The Scottish Borders LDP Policy HD2 Housing in the Countryside conflicts with NPF4 Policy 17 in its lack of housing in the countryside development provision on rural brownfield sites, however: NPF4 takes precedence here, being the latter document. Therefore, the proposal adheres to both NPF4 Policy 9 and 17, and subsequently LDP HD2 has a lesser significance.
- 3.7 The Report of Handling indicates that NPF4 states LDPs should set out a tailored approach to rural housing, where LDP Policy HD2 Housing in the Countryside is referenced, however, The Scottish Borders LDP is not taking a tailored approach to rural housing in line with NPF4 as the 2016 LDP has not been informed by the 2023 framework.
- 3.8 LDP Policy ED5 Regeneration promotes the redevelopment of brownfield sites where there is an opportunity to bring land back into a productive use. The proposed development adheres to each of the parameters set out in policy ED5:

a)	The hardstanding on site has already been laid subsequently the loss of agricultural land has already occurred.  Therefore, developing this site in line with this proposal would bring the rural brownfield land back into active use.
b)	The Report of Handling claims that this type of development is not in keeping with the character of the area however, the surrounding area is very clearly characterised by sporadic housing development and therefore, this proposed development would reflect the surrounding landscape.
c)	The proposal for a single dwelling would not result in over-development.
d)	The proposed dwelling would be of a scale, form, and design suitable to its location and would not detract from the surrounding context.

e)	<p>Scottish Water has confirmed in their consultee response that there is sufficient capacity in the Rawburn Water Treatment Works to service the site and have indicated that private waste treatment options should be explored.</p> <p>Therefore, the proposal can be adequately serviced.</p>
f)	<p>There are no adjoining properties this proposed dwelling could detrimentally impact.</p>

3.9 The proposal is in accordance with Policy ED5 Regeneration and would bring back the land into productive use which the LDP supports; the proposal is also in accordance with the relevant NPF4 policies, and there are no material considerations that would suggest this application should not be approved.

3.10 It is requested that the LRB undertake a site visit to fully understand the spatial context of the site as well as its brownfield status.

## 4.0 Conclusions

4.1 For the reasons set out in Section 3 above, it is considered that the proposed dwelling would sustainably reuse rural brownfield land which has no possibility of naturalisation without significant intervention. NPF4 supports the reuse of rural brownfield land where a return to a natural state is not possible. Therefore, this proposal is supported by NPF4.

4.2 This statement, and the original application provide photographic evidence that the site has not, and is not, showing signs of naturalisation as implied in the Report of Handling. This site cannot naturalise without significant intervention.

4.3 The proposal conforms with the relevant policies of the Scottish Borders LDP in regards to regeneration, and where there is inconsistency between the LDP and NPF4, the proposal conforms with NPF4 policies, which take precedence.

4.4 The proposed dwelling reflects the context of the local area in its sporadic rural housing, and the use of brownfield land allows the proposal to maximise an existing opportunity, with climate change mitigation and adaptation benefits, as opposed to proposing to erect a dwelling in a random countryside location.

4.5 The unauthorised works on this site did not undergo enforcement action during the designated period, which has now lapsed. As such the site must now be defined as a brownfield site and not an unauthorised development site. The only pragmatic solution here is to grant PPIP and allow the opportunity for an exciting proposal to come forward that brings economic and ecological benefits to the site and surrounding area.

4.6 For the reasons set out in this Notice of Review Appeal statement, and the lack of objections from any consultees or members of the public, it is considered that the proposal can be considered to apply with the relevant policies and would constitute a sustainable reuse of a brownfield site which otherwise would not be able to return to a usable state.

# APPENDIX 1

## SITE PHOTOGRAPH

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BIDWELLS