

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 22/01905/FUL

APPLICANT : Ms Elaine McKinney

AGENT : Ferguson Planning

DEVELOPMENT : Demolition of stable and erection of dwellinghouse

LOCATION: Site Adjacent The Steading Whiteburn Farm
Lauder
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
2126-L01	Location Plan	Refused
2126-L05B	Proposed Site Plan	Refused
2126-L07A	Proposed Plans	Refused
2126-L08C	Proposed Plans	Refused
2126-L09C	Proposed Elevations	Refused

NUMBER OF REPRESENTATIONS: 12

SUMMARY OF REPRESENTATIONS:

Representations have been received from 8 households objecting to the proposal, raising the following planning issues:

o There are currently 8 dwellings in the Whiteburn group, the maximum allowed. As such, no further dwelling should be permitted as there is no further land available within accepted boundaries and this will degrade the amenity and seclusion of the group.

o The western boundary of the Whiteburn building group is the Whiteburn stream and trees which line the burn. There are no dwellinghouses west of this and building a dwelling on a site that is agricultural land and currently has only has a barn and stables would breach that clear boundary.

o Planning permission was refused for the erection of 2 dwellinghouses in 2011 as the proposal were contrary to policy HD2. Members were of the view that group had a tight, linear and compact appearance and that there were strong boundaries that enclosed the building group. To the east and west this was formed by existing tree belts and to the south by the A697 road. The access track to the north edge of the group and southern boundaries of the plots was a relatively recent construction but constituted a distinct and defensible edge to the building group that should not be breached. The site is outwith these boundaries on agricultural land to the west. Whitburn is at maximum capacity.

o The proposal would constitute ribbon development into undeveloped farmland beyond the natural boundary of the building group.

- o The design and construction materials of the dwelling are completely different from any of the properties at Whiteburn and are not in keeping, especially the black steel cladding.
- o The stable block is approximately 10 feet high whereas the planned residential building is at least 20 feet high, so although the footprint may be similar the height of the proposed building is twice the height of the existing stables.
- o The Council has stated that commercial accommodation is not appropriate at Whiteburn, specifically as there are no transport links or infrastructure in place to service such accommodation.
- o The primary access proposed is via the existing private road. While there may already be access to the stable using the private road and a weak, historic bridge over the Whiteburn, the access, via the bridge, would be unsuitable for constant vehicular use, construction traffic or emergency vehicles, which would damage the bridge.
- o The deeds for Whiteburn Farmhouse state that the access track to the agricultural land 'is not to be used for heavy vehicles' and do not specify 3.5 tonnes is acceptable to travel over the bridge.
- o Additional traffic would result in a hazard to road users turning off the A697 onto the private road.
- o The application proposes a secondary access via a gate to the south west. This is unsuitable for access being on a blind corner of the A697 and very close to the junction of the A697/A6089. Use of this access point would constitute a danger to road users and it needs to be closed at all times due to livestock.
- o Additional use of the private road is likely to result in additional wear of the non-tarmac surface resulting in additional maintenance costs and would cause noise and visual intrusion.
- o The plans for the development suggest the dwelling will be used as a summer or holiday home. A short term holiday let would result in additional traffic/footfall and nuisance within a quiet residential group.
- o The proposal would apply more pressure on infrastructure such as water, foul drainage and electricity supplies.
- o The applicant has undertaken planting of approximately 1800 trees to attempt to support the planning application. A dwellinghouse on the site is not needed to allow maintained of the trees. There are no overriding economic benefits for this application to be approved. The extensive planting of trees does not contribute to its containment within the building group and will not provide screening to lessen the visual impact for existing residents.
- o The Section 50 planning obligation was specifically designed to retain the rural aspect of the area, limiting the number and type of developments. This protects existing residents and the environment. Modifying the legal agreement would set a precedent for future development. The application contravenes this agreement.
- o The aerial image of site in red is inaccurate and encompasses a portion of land belonging to The Steading.
- o Concern about the treatment of greywater in a landscaped soakaway and disposal of the composting toilet waste. The grey water reed beds are adjacent to the boundary and water would run into the burn, which regularly floods during heavy rain or snow, or onto neighbouring land.
- o The reed bed would be next to the wood where children play; this area floods with heavy rain and sewage (treated or otherwise) may run into this area.
- o There are several large, mature trees overhanging the site.

o All the comments submitted are legitimate, material planning considerations and should not be viewed as irrelevant or the result of historic personal conflicts.

CONSULTATIONS:

Roads Planning Service: Whilst the site itself has no major planning history, nearby there have been two applications for the erection of a dwelling which were both refused (11/00157/PPP & 11/00156/PPP), although the Roads Planning Service did not object to either application at the time.

Whilst I have no objection to the principle of a new dwelling at this location, and previous correspondence from the Roads Planning Service has indicated that there is capacity for the existing private junction with the A697 for an increased number of vehicles, I have concerns over the proposed use of the western access.

As the primary function of derestricted 'A' class principle roads is to provide for the safe and expeditious movement of traffic, the number of direct accesses onto such roads should be strictly limited. Therefore, I am opposed to the principle of new accesses onto derestricted 'A' class roads unless there is a strong road safety justification, and I must then object to this application in its current form. If the use of the western access is removed from the submission, I will likely look upon the application more favourably.

I object to this proposal as it does not comply with the Council's Local Development Plan Policy PMD2 which ensures that a development has no adverse impact on road safety.

Education and Lifelong Learning: No response.

Scottish Water: No objection. There is currently sufficient capacity in the Howden Water Treatment Works to service the development. However, further investigations may be required once a formal application has been submitted to Scottish Water. There is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.

Environmental Health: No response.

Community Council: Note the significant number of local objections. Concerned about the access on a busy road near a corner and junction.

APPLICANT'S SUPPORTING INFORMATION:

- o Planning Statement
- o Further Supporting Information

PLANNING CONSIDERATIONS AND POLICIES:

National Planning Framework 4

Policy 1: Tackling the Climate and Nature Crises
Policy 2: Climate Mitigation and Adaptation
Policy 6: Forestry, Woodland and Trees
Policy 14: Design, Quality and Place
Policy 16: Quality Homes
Policy 17: Rural Homes

Local Development Plan 2016

PMD1: Sustainability
PMD2: Quality Standards
HD2: Housing in the Countryside
HD3: Protection of Residential Amenity
EP13: Trees, Woodland and Hedgerows

IS2: Developer Contributions
IS7: Parking Provisions and Standards
IS9: Waste Water Treatment Standards and Sustainable Urban Drainage

Supplementary Planning Guidance

Sustainable Urban Drainage Systems August 2020
Development Contributions 2022
Householder Development (incorporating Privacy and Sunlight Guide) 2006
Landscape and Development 2008
New Housing in the Borders Countryside 2008
Placemaking and Design 2010
Trees and Development 2020

Recommendation by - Julie Hayward (Lead Planning Officer) on 18th April 2023

Site and Proposal

Whiteburn is situated to the east of Lauder and comprises of 8 houses in a linear form to the north/north east of the A697, consisting of traditional houses, converted buildings and newer dwellinghouses. The junction of the A697 with the A6089 is to the south.

The site is situated to the north of the White burn and comprises of a paddock with a stable block and timber shed, enclosed by a post and rail fence. There is an area of woodland to the south west adjacent to the A697 and fields to the north and east. The site is served by a private access road that also serves the existing houses from an access onto the A697 to the east. There is also a field access onto the main road to the west.

The proposal is to demolish the stables and erect a dwellinghouse on the site. This would have an open plan living room, kitchen and dining room at ground floor level and 2 bedrooms and a balcony at first floor level. The dwelling would have a sun room and covered decking on the south eastern elevation. The proposal is for a contemporary design with mono-pitched roofs. The walls and main roof would be black corrugated steel sheeting and the sun room would have a sedum roof. The windows and doors would be alu-clad timber. Solar panels and a wood burning stove are included in the design.

The timber shed in the south west corner of the site would be retained.

Access would be from the access road that serves the building group via the bridge over the White burn. An alternative access is shown onto the A697 via the field access. A hardcore driveway and parking area for 2 cars are proposed.

Planning History

99/00028/AGN: Erection of agricultural store. No objections 18th January 1999.

22/01937/MOD75: Modification of planning obligation pursuant to planning permission B290/91 and E389/91. Approved 21st February 2023.

Within the building group:

11/00156/PPP: Erection of dwellinghouse. Plot 2 Land North Of Boonraw Whiteburn.

11/00157/PPP: Erection of dwellinghouse. Plot 2 Land North Of Boonraw Whiteburn.

These applications were refused 8th April 2011 for the following reason:

The proposal would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies HD2 (A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that the erection of a dwellinghouse on this site would not reflect or

respect the character and amenity of the existing building group and would not relate to the established built form and pattern of development within the building group. Furthermore the proposal would not be contained within the identified sense of place created by the existing buildings and means of enclosure.

The Local Review Body upheld the appointed officer's decision and refused the applications on the same grounds.

There have been a series of consents for change of use of agricultural/steading buildings to dwellinghouses since the early 1990s.

Planning Policy

Housing in the Countryside

Policy 17 of National Planning Framework 4 seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations. Proposals will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area. The policy contains a number of criteria by which to assess proposals.

Development proposals for new housing will consider how the development will contribute to towards local living, take account of local housing needs (including affordable housing), economic considerations and the transport needs of the development as appropriate for the rural area.

In respect of the criteria within policy 17 part a), the site is not allocated for housing in the Local Development Plan; the proposal will not use brownfield land (this is discussed below); the proposal does not relate to the use of a historic environment asset; the proposal does not support the sustainable management of a viable rural business and there is no essential need for a worker to live permanently at or near their place of work; the proposal is not a single home for the retirement succession of a viable farm holding; and the proposal is not for the subdivision of an existing dwelling and does not reinstate a former dwelling or replace an existing dwelling.

The proposal does not meet any of the above criteria.

The site is outwith the Development Boundary for Lauder and so the proposal has to be assessed against the Council's housing in the countryside policies.

Policy HD2 (A) of the Local Development Plan 2016 allows new housing in the countryside provided that the site is well related to an existing building group of at least three houses or buildings capable of conversion to residential use. Any consents for new build granted under the building group part of the policy should not exceed two houses or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted. Calculations on building group size are based on the existing number of housing units within the group at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point. The cumulative impact of the new development on the character of the building group, landscape and amenity of the surrounding area will be taken into account in determining applications.

The Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 states that the existence of a group will be identifiable by a sense of place which will be contributed to by natural and man-made boundaries. Sites should not normally break into undeveloped fields particularly where there exists a definable natural boundary between the building group and the field and the new development should be limited to the area contained by that sense of place. Any new development should be within a reasonable distance of the existing properties within the building group and this distance should be guided by the spacing between the existing properties in the building group. The scale and siting of new development should reflect and respect the character and amenity of the existing building group. Existing groups may be complete and may not be suitable for further additions.

It is accepted that a building group exists at Whiteburn, as there are 8 existing houses. The main issues with this application is whether the site is considered to be within the natural and man-made boundaries of the building group and whether the proposal is well related to of houses within the building group in terms of spacing.

The Planning Statement argues that the access track to the west forms the boundary of the building group, there is no defined building line and that the development fits within existing spacing in the building group.

The building group is characterised by linear layout, with compact spacing and distinct boundaries. The access road forms the man-made boundary to the north and east, further emphasised by woodland to the east of the access and open fields to the north. The sense of place is contributed to by the farmhouse, converted farm steading buildings and new dwellings contained within a strip of land between the A697 to the south and the private access road to the north and east.

To the west, it is contended that the burn, trees, woodland and a mature hedge form the boundary of the building group and not the access track, which continues over 100m to the north west to the field boundary and then loops back within the next field beyond. The private access road that serves the existing houses from the east is hard surfaced and the character changes to a less formal farm track on the western side of the bridge over the burn. This track wraps around the north western boundary of the application site to the access onto the public road and is not substantial enough to form a strongly defined boundary to the building group. Granting planning permission for a new dwellinghouse on this site would set a precedent for further housing development to the north west, as there is no clear boundary to the building group beyond the site.

The proposed dwellinghouse would be 45m from the nearest property within the building group, the Roost. This would not respect the spacing within the building group or its character, which is compact and well contained within the natural and man-made boundaries. The application site reads as being divorced from what is essentially, a complete building group, and would be outwith the sense of place.

The stables on the site were built in 1992 and the shed in 1997 and so these are modern structures that have no historic relationship with the properties within the building group. The land to the west of the burn is rural, characterised by farm land, farm sheds and woodland.

The aerial photo within Planning Statement demonstrates how the mature trees and burn provide a distinct natural boundary to the building group.

It is considered that the site is outwith the defined boundaries of the building group and sense of place and does not relate well to the existing houses within the building group in terms of spacing. The development would read as isolated and divorced from the building group, to the detriment of the character and setting of the building group.

There have been no planning approvals within the current Local Development Plan 2016 and so there is capacity within the building group for an additional house. However, the application cannot be supported for the reasons outlined above.

Part (F) of policy HD2 states that housing with a location essential for business needs may be acceptable if the Council is satisfied that the housing development is a direct operational requirement of an agricultural enterprise which is itself appropriate to a countryside location and it is for a worker predominantly employed in the enterprise and the presence of that worker on-site is essential to the efficient operation of the enterprise. The housing development would help support a business that results in clear social or environmental benefit to the area or the provision of affordable or local needs housing and no appropriate site exists within a building group and there is no suitable existing house or other building capable of conversion to the required residential use.

The Planning Statement advises that the applicant has planted 1800 trees throughout 2021 and 2022 and the provision of a dwellinghouse on the land would allow these trees to be maintained.

This is not a sufficient justification for a new dwellinghouse on the site as trees and woodlands are low maintenance and do not require a worker to be on-site 24/7. The proposal does not comply with Part (F) of policy HD2.

Brownfield, Vacant and Derelict Land

Policy 9 of NPF 4 encourages, promotes and facilitates the reuse of brownfield land, vacant and derelict land and empty buildings and to help reduce the need for greenfield development. The policy encourages

Local Development Plans to set out opportunities for the sustainable reuse of brownfield land. Developments that will result in the sustainable reuse of brownfield land, including derelict and vacant land, will be supported.

The site is a paddock with a stable block and barn within it and so it is accepted that this is a partially developed site. However, the buildings are not derelict and can be reused (the proposal seeks to retain the barn) and take up a small proportion of the paddock, which is laid to grass. It is contended that this is not brownfield land targeted by policy 9. It can also be argued that a house built in this rural location that would be dependent on the private car is not wholly sustainable.

Siting and Design and Impact on Visual Amenities

Policy 14 of NPF 4 requires development proposals to be designed to improve the quality of an area, whether urban or rural locations and regardless of scale. Proposals will be supported where they are consistent with the 6 qualities of successful places: healthy, pleasant, connected, distinctive, sustainable and adaptable.

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings.

The Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 states that the scale and siting of new development should reflect and respect the character and amenity of the existing building group

The building group is characterised by the traditional farmhouse, steading conversions and more modern houses, constructed of render, stone, tile and slate.

The proposal is for small scale dwellinghouse of a contemporary design with mono-pitched roofs, a balcony along the north west elevation, decking with a hot tub, black corrugated steel sheeting for the walls and roof, larch for the porch and a small area of sedum roof over the sun room.

The Planning Statement advises that the dwellinghouse would be constructed on piles over the stable foundations. The design and materials intend to reflect agricultural buildings in the surrounding area and to ensure the building recedes into the landscape.

The design and materials do not reflect the character of existing houses within the building group. No other houses within the building group have black corrugated steel sheeting or mono-pitched roofs.

However, as the development would be divorced from the building group such an approach can, on balance, be accepted.

The site would be well screened by existing trees and woodland and so the visual impact would not be significant, provided the trees are retained.

Impact on Residential Amenities

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The Council's Supplementary Planning Guidance: Guidance on Householder Developments July 2006 contains guidance on privacy, overlooking and access to light that can be applied when considering planning applications for new household developments to ensure that proposals do not adversely affect the residential amenities of occupants of neighbouring properties.

The closest dwelling is the Roost, 45m from the proposed dwellinghouse. There is screening from the high hedge and trees in between the site and this property. Whilst it is accepted that there would be no impact on the light or privacy of existing houses within the building group, this distance is out of keeping with spacing between other properties within the building group, further demonstrating the divorced and separate nature of the site.

Access, Parking and Road Safety

Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards.

The site can be served by the existing access road from the eastern access off the A697. An alternative access (western access) is shown on the site plan utilising the farm access from the A697, with an extended access road constructed to serve the plot.

The Roads Planning Service has no objections to the principle of a new dwelling at this location, but has expressed concerns over the proposed use of the western access. As the primary function of derestricted 'A' class principle roads is to provide for the safe and expeditious movement of traffic, the number of direct accesses onto such roads should be strictly limited. Therefore, the Roads Planning Service is opposed to the principle of new accesses onto derestricted 'A' class roads unless there is a strong road safety justification and object to the application unless the use of the western access is removed from the submission, as it does not comply with the Council's Local Development Plan Policy PMD2, which ensures that a development has no adverse impact on road safety.

A revised site plan has been submitted that removes the reference to the western access as an alternative access to the site. A condition could prevent use of this access by vehicles associated with the development.

Concern has been expressed within representations about the ability of the bridge over the White burn to cater for additional traffic, especially heavy construction vehicles and emergency vehicles due to its age and construction, and the damaging impact such additional traffic movements would have.

A note on the revised site plan states that during the construction works only light vehicles would be allowed to cross the bridge. The agent advises that the strength/stability of the bridge is considered a building warrant matter and is the responsibility of the owner to maintain it to the standard specified in their title deed (able to withstand up to 3.5 tonnes). This matter has not been pursued as the principle of the proposal is not acceptable but could be investigated further by way of a structural report secured by condition.

It is accepted that there is sufficient space within the site for parking and turning.

Trees and Woodlands

Policy EP13 seeks to protect trees from development. There are trees within and overhanging the site to the north and along the western boundary.

There are trees to the south west and south of the site that potentially overhang the site and route of the track to the western access but no tree survey or arboricultural impact assessment have been provided.

The revised site plan indicates that there are 2 trees of note within the site (those with a stem diameter greater than 75mm at 1.5m above ground level), though the canopy spread or root protection areas (RPA) are not accurately shown. It should be possible to locate the house, access, parking and services outwith the RPA of these trees (now that no upgrading works are required for the western access) and a condition would secure an accurate tree survey and tree protection measures for the construction phase.

Water and Drainage

Policy IS9 states that the preferred method of dealing with waste water associated with new developments would be the direct connection to the public sewerage system and for development in the countryside the use of private sewerage may be acceptable provided that it can be provided without negative impacts to public health, the environment, watercourses or ground water. A SUDS is required for surface water drainage.

The Planning Statement advises that there is already an electricity and water supply to the site. Rainwater collection tanks would supply water for the development. Grey water would be collected in a tank to the south west of the dwelling and discharged in a controlled manner to a landscaped bed to be treated and detained before draining into the soil through the use of a soakaway.

Foul sewage waste from the composting toilets will be used to fertilise the trees recently planted by the applicant.

The exact details would be agreed via the Building Warrant process.

Developer Contributions

Where a site is otherwise acceptable in terms of planning policy, but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or partial contribution towards the cost of addressing such deficiencies. This is set out in policy IS2.

Developer contributions are required towards education (Earlston High School and Lauder Primary School). These would be secured by a legal agreement, should the application be approved.

Section 50 Agreement

Planning Permissions (91/01023/OUT and 91/01624/OUT) were granted for three houses on the combined farms of Whiteburn, Dods and Pyatshaw in 1992 subject to a Section 50 Agreement, which contains a clause that restricts any further residential development on the land except for any dwellinghouse granted approval by the Planning Authority subject to an occupancy condition.

Consent (19/00047/MOD75) was granted in March 2019 to modify this legal agreement to remove to remove 9.06 hectares of land at Whiteburn Farm from the legal agreement in relation to this clause.

An application (22/01937/MOD75) was submitted by the applicant of this current planning application seeking to further modify the Section 50 to remove 1,000 square metres from the legal agreement (the land required for this current proposal). This application was approved, as the clause of the Section 50 Agreement preventing any new dwellinghouses from being erected on the land is now inconsistent with recent national guidance.

Concern has been expressed within the representations received that the Section 50 was specifically designed to retain and protect the rural nature of the area, the environment and modifying the legal agreement would set a precedent for future development. However, this can adequately be controlled through the planning application process and each application would be assessed against the relevant development plan policies and on its own merits.

The agent has clarified that the building would be a dwellinghouse and would not be used for short term lets or holiday accommodation use; this could be controlled by condition, if considered necessary.

REASON FOR DECISION :

It is considered that the proposal is contrary to policy 17 of National Planning Framework 4 and policy HD2 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 as the site is outwith the defined boundaries of the building group and sense of place and does not relate well to the existing houses within the building group in terms of spacing. The development would read as isolated and divorced from the building group, to the detriment of the character, amenity and setting of the building group.

Recommendation: Refused

- 0 The proposal is contrary to policy 17 of National Planning Framework 4 and policy HD2 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance: New Housing in the Borders Countryside December 2008 as the site is outwith the defined boundaries of the building group and sense of place and does not relate well to the existing houses within the building group in terms of their spacing. The development would read as isolated and divorced from the group, to the detriment of the character, amenity and setting of the building group.

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