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Scottish Borders Council Planning Ref: 22/01905/FUL

DEMOLITION OF STABLE AND ERECTION OF DWELLINGHOUSE AT SITE ADJACENT THE STEADING WHITEBURN FARM LAUDER

The application for full planning permission above was validated by Scottish Borders Council on 13 December 2022. Neighbour consultation expired on 5 January 2023, notification of the development to neighbour unknown via advertisement was made and expired on 19 January 2023. Internal consultations were also made.

We have reviewed the representations made by the neighbours and consultees and the aim of this letter is to adequately address the concerns raised therein. It is noted that many of the objections from the neighbours contain reasons that are not material planning considerations and may instead be reflective of difficult interpersonal relationships. Past conflict between the applicant and neighbours, due to the applicant declining to sell their land, may also have a bearing on the number of objections received. The matters raised that are not planning considerations will not be addressed in this statement as they are deemed irrelevant.

The concerns can be grouped into the areas as below. This letter will address these in turn and make reference to the planning statement submitted with the application which it is to be read in conjunction with.

- Modification to Planning Obligation
- Maximum Number of Dwellings in Building Group
- Boundary of Building Group

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- Use of Building
- Design of Building
- Servicing, Infrastructure and Flood Risk
- Transport and Access
- Light and Noise Pollution

1. Modification of Planning Obligation

As set out in the planning statement submitted in favour of application reference 22/01937/MOD75, the FOURTH clause of Minute of Agreement between Scottish Borders Council (stated as the former Borders Regional Council) and Philip Neville Grindell, Julian Mark Grindell and Christopher Philip Grindell (and their successors) dated April 18 1992 and April 27 1992, recorded in the General Register of Sasines on May 7 1992 is considered, in the present day, to be unreasonable, unnecessary and not well related to the development which was permitted in 1992.

The restriction on occupancy contained within this clause is contrary to the 2011 directive from the Scottish Government Chief Planner, Paragraph 83 of the Scottish Planning Policy (2014) and Circular 3/2012 (as revised November 2020): Planning Obligations and Good Neighbour Agreements.

A plan led system allows for decision to be made on the individual merit of cases. Policy HD2 of the LDP provides the mechanism for this to occur. As such, although related, the presence of the planning obligation does not prevent the granting of planning permission for the current proposal.

The modification of the obligation in itself does not set a precedent or allow a free for all on residential development. Any such applications will still require planning permission and to be in accordance with the development plan policies in order to be approved.

2. Maximum Number of Dwellings in Building Group

We accept an error was made in the planning statement submitted in support of 22/01905/FUL in that the number of existing dwellings within the Whiteburn group is 8, rather than 6.

The applicable policy, Policy HD2 of the LDP, does not set a total limit of houses within a group, but rather allows for either 2 additional houses to be added to a group, or an increase of 30%. The existing number of dwellings in the housing group is based on the LDP period, which, in this case, is 2016. No record of unimplemented or expired consents for approved additional dwellings has been found. Therefore, based on an existing building group of 8 houses, 2 additional dwellings can be added, therefore bringing the total in the group to 10.

The proposal is within this limit.

3. Boundary of Building Group and Design

There seems to be agreement in the response from neighbours as to the northern, southern and eastern boundaries of the building group at Whiteburn, these being the private access road and the A697. The proposed dwelling at Whiteburn Stables will sit within these.

Where opinions differ is to where the western extent of the building group should be. The planning statement submitted in support of the application sets out our argument as to where the western boundary of the building group lies.

The planning statement also provides robust reasoning as to the detail, siting, scale, materiality and overall design of the proposed dwelling.

4. Use of/Reason for Building

The proposal is for the construction of a standard residential dwellinghouse. The application is not for use as a short term let or holiday accommodation. The current living situation of the applicant is not a material planning consideration in this regard.

The use of the building for any other purposes would require additional consent, the merits of which would be assessed at that time. It is unreasonable for this to form a material planning consideration in the present case.

Similarly, a condition removing permitted development rights for the building in terms of extensions could be imposed, requiring any further such proposals to seek planning permission at which stage they too could be assessed on their own merits.

Neighbours have stated that a justification for the dwelling based on the need for the applicant to maintain the on-site planting is not well founded. It is acknowledged that LDP Policy HD2(F) may allow for housing that is essential for agriculture horticulture, forestry or other enterprises appropriate to a countryside location to be located in the countryside, however, the current proposal is not reliant on this.

Our reference to the significant planting that the applicant has undertaken is to demonstrate the level of investment and commitment of the applicant to creating an environmentally sustainable site with biodiversity benefits. This was not intended to show an economic requirement for the applicant to reside on site, merely to illustrate that a benefit in terms of ease of maintenance would occur. The planting also provides a suitable natural setting for the proposed development.

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5. Servicing and Infrastructure

The proposed development has been designed to manage as much of the servicing and infrastructure requirement on-site, for example, through the use of a grey-water treatment system and solar panels. This will ensure minimal impact on the services at the adjacent sites.

The grey water treatment system will be designed and maintained so that untreated grey water is not discharged to any water ways and a condition of consent to ensure this may be imposed.

The use of a composting toilet will also ensure effluent does not enter adjacent properties or water ways.

However, the applicant is open to discussion about providing specialist input to demonstrate that there will be no detrimental impact on the environment from the proposed servicing.

6. Transport and Access

The applicant enjoys full, legal access rights to the subject site via the existing private access road. The access rights permit vehicles of up to 3.5 tonnes to travel over the bridge across the White Burn. There is no clause in the access rights agreement that restricts the purpose or in what circumstances, vehicles can use the road.

There is no restriction on the volume of traffic that the applicant can create in accessing their site. The applicant has rights to use the track as they wish, be it for residential or non-residential purposes. As such, concerns from neighbours related to the disturbance from vehicles associated with residential use of the site should hold little weight.

As the access road is not owned by the Council. the standard of formation and maintenance is a private matter and not a material planning consideration. In the past, requests for payments to be made to contribute to the upkeep of the access track have been made.

Council's Roads Planning Officer provided a consultation response which noted that '*... previous correspondence from the Roads Planning Service have indicated that there is capacity for the existing private junction with the A697 for an increased number of vehicles..*'.

The western access, as stated in the planning statement, is an existing point of entry to the subject site from the A697. It is not intended for this to be used for ordinary residential access to the site. There may be potential use of this access during construction, where the use of vehicles to transport material exceeding the 3.5 tonne weight limit imposed on the bridge over the White Burn are necessary. A condition of consent may be imposed stipulating that the private access to the east of the site be used as the primary access.

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Yours faithfully,



Ferguson Planning