

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 15/00193/PPP
APPLICANT : Mr David Megahy
AGENT : Suzanne McIntosh Planning Limited
DEVELOPMENT : Erection of dwellinghouse
LOCATION: Land South East Of Applecross
Pyatshaw
Lauder
TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Site Plan	Approved

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

No representations.

Roads Planning Section: has no objections in principle to this proposal. The existing access onto the A697 main road is the only access that would be supported at this location. The existing junction also needs to be upgraded and improved (properly leveled and tarred) over its initial 6.0m length with the public road. If approved, further details of the junction improvement will be provided.

Economic Development: requested further information following its initial review of the supporting business case. Following its review of the additional documents, in conjunction with those previous supplied, it has advised that it has no issue with this application. There is evidence of a sustained and continuing business and the level of farming activity reflects the standard man day requirement of more than one SMD on the unit.

Environmental Health (Contaminated Land): has identified potential land contamination issue and requests imposition of planning condition to regulate this matter.

Education and Lifelong Learning: contributions are required towards the upgrade of local education provision.

Community Council: has not responded to the public consultation.

Landscape Section: has not responded to the public consultation.

PLANNING CONSIDERATIONS AND POLICIES:

Adopted Scottish Borders Local Plan Policy D2 - Housing in the Countryside
Adopted Scottish Borders Local Plan Policy G1 - Quality Standards For New Development

Adopted Scottish Borders Local Plan Policy G5 - Developer Contributions
Adopted Scottish Borders Local Plan Policy H2 - Protection of Residential Amenity
Adopted Scottish Borders Local Plan Policy Inf4 - Parking Provisions and Standards
Adopted Scottish Borders Local Plan Policy Inf5 - Waste Water Treatment Standards
Adopted Scottish Borders Local Plan Policy Inf6 - Sustainable Urban Drainage
Adopted Scottish Borders Local Plan Policy NE4 - Trees, Woodlands and Hedgerows

Supplementary Planning Guidance on New Housing in the Scottish Borders Countryside (December 2008)

Supplementary Planning Guidance on Placemaking and Design (January 2010)

SPP (2014)

Circular 3/2012

Director and Chief Planner's Letter of 04 November 2011

Recommendation by - Stuart Herkes (Planning Officer) on 27th April 2015

SITE DESCRIPTION AND PROPOSED DEVELOPMENT

This application seeks Planning Permission in Principle for a new dwellinghouse to oversee the operations of an existing farmyard on a site near Pyatshaw and immediately adjacent to the A697. There is no existing residential unit associated with the farmyard. The Applicant has instead for some years operated the unit from a property ('Applecross') within the nearby building group at Pyatshaw, but is concerned to live on the site in the vicinity of his established farmyard, which is the centre of his agricultural business operations.

PLANNING PRINCIPLE

Given the displacement in distance of the Applicant's existing home from his farmyard, it is understandable that he would be concerned in the long-term to be accommodated on site for supervisory reasons. However, notwithstanding the clear logic in this, it still requires to be demonstrated that the specific agricultural business itself, has a justifiable need for a new dwellinghouse in terms of the business' size and activities. In order for the application to be supported, the business must be capable of supporting at least one full-time worker, and the business' management should require the input of the labour of at least one full-time worker. Without this justification, there would be no reason to support a new dwellinghouse in connection with the existing operation.

The Applicant has provided a business case which has been reviewed by Economic Development. The latter has advised that there is evidence of a sustained and continuing business and the level of farming activity reflects the standard man day requirement of more than one on the unit.

Taking account of Economic Development's review, and given that there is also evidence within the planning system of the Applicant's efforts in recent years to build up a farming business based at this site, there are no concerns in principle about the accommodation of an isolated dwellinghouse at the farm for the purposes of accommodating a farm worker.

The proposal therefore complies in principle with Adopted Local Plan Policy D2, Section E: Economic Requirement. However, in order to ensure compliance, there would need to be a requirement by planning condition that the property only be occupied by a farm worker, or retired farm worker, which can be achieved appropriately by the imposition of a planning condition. Additionally, a legal obligation should be imposed to require that the house be tied to the agricultural holding described in the business case; that is, the 123 acres that the Applicant currently owns and farms. The additional 50 acres of rented land cannot reasonably be involved in any legal agreement.

It is acknowledged that national policy and guidance seek to discourage the use of legal obligations in relation to planning approvals for new houses in the countryside. In this case however, it is considered that the dispersed nature of the agricultural holding concerned, would make this holding more vulnerable to break up than an established holding, where the existence of a contiguous block of land sufficient to support a full time farm business, provides greater reassurance that the holding would be more likely to be held within a common ownership in the long-term. In order to avoid any concern that the farm business might

become unviable as a consequence of land being sold off in parcels in the long-term, incrementally or otherwise, it would be appropriate to impose a planning obligation to require (a) that the Applicant's holding of 123 acres be retained in tact, to ensure the maintenance in the long-term of the agricultural unit which the farmhouse is required to serve; and (b) that the farmhouse should be tied to this holding.

ASSESSMENT OF SPECIFIC SITE

With regard to the specific site indicated, the Applicant has identified the entire existing farm steading within his site boundary, along with areas of land lying either side of this, to both the northwest and southeast.

Given that the site takes in the existing farmyard, it is supposed that the Applicant has identified a general area in which he would look to locate the dwellinghouse rather than the precise boundaries of a specific proposal. On the one hand, the proposed site boundary can be viewed favourably because it allows for the farmhouse to be accommodated immediately adjacent to the existing farm steading and in at least one of two situations that are in principle perfectly acceptable: either to the immediate northwest or southeast of the existing farm steading.

On the other hand, the "over-large" site identified, does raise its own technical considerations. Firstly, some protection would need to be afforded to the existing farm buildings and farmyard to have these excluded from the developable site, principally by requiring that the existing farmyard and buildings should be retained, and that the dwellinghouse should be sited only on one or other side of the farm steading rather than replace the steading. Secondly, there would be a concern to see the farmhouse located as close to the farmyard as practical, which would be liable to exclude the northwest and certainly, the southeast extremities of the identified site. (Even allowing that the latter might accommodate garden ground, it is anticipated that there would be a concern for some justification were this amount of set back to be proposed at the detailed planning application stage).

However, notwithstanding these concerns, the site would nonetheless allow for a farmhouse to be located adjacent to the farm steading it would serve and is considered acceptable in principle subject to conditions and informatives to address the above noted concerns with regard to the most acceptable siting of the farmhouse.

OTHER CONCERNS

In terms of considerations for the detailed application stage, a traditional design approach would be encouraged. This is due to the high visibility of this site from the adjacent public road and within the wider landscape, including from within, and within the vicinity of, the nearby building group at Pyatshaw. (A highly visible non-traditional design of house would be liable to detract from any immediate reading of this as a farmhouse).

The landscaping treatment should seek to conserve the existing roadside hedge on the boundary nearest the road, but otherwise the concern would be for an appropriate landscape treatment along all boundaries that would be open field. Otherwise it is considered that standard planning conditions and informatives would serve to guide the development through the detailed application stage and beyond.

The existing access onto the the A697 main road is the only access that would be supported at this location. Roads requires that the existing junction be upgraded and improved (properly leveled and tarred) over its initial 6.0m length with the public road. Again, this matter is capable of being appropriately regulated by planning condition. The need to have the farmhouse served by the existing access is another reason why the extremities of the site would be less preferable than a siting in close proximity to the farmyard.

It is advised that foul drainage and the water supply would be served from the public mains. This raises no concerns in principle but as with any isolated site it would still be reasonable to regulate this matter appropriately in case the potential to achieve a public mains connection has not been established. Surface water drainage would be to a SUDS system but no details are given. Again, prior approval would be a reasonable requirement.

Given the relative isolation of the site, there would be no residential amenity concerns.

A legal agreement would be required to secure the collection of development contributions towards local education provision within the surrounding area.

CONCLUSION

A legal agreement is required to: (a) secure the development contribution; (b) tie the dwellinghouse to the agricultural unit; and (c) tie the owned land holding to ensure that the dwelling would serve what has been assessed as being a viable agricultural unit.

Subject to a legal agreement and the imposition of planning conditions and informatives to address the above highlighted concerns, the proposal is permissible.

REASON FOR DECISION :

Subject to the conclusion of a legal agreement to tie the dwellinghouse to the owned land holding and to compliance with the schedule of conditions, the proposed development will accord with Adopted Scottish Borders Consolidated Local Plan Policies D2, G1, G5, H2, Inf4, Inf5, Inf6 and NE4; and will accord with the advice and guidance of the Supplementary Planning Guidance on New Housing in the Scottish Borders Countryside (December 2008) and Supplementary Planning Guidance on Placemaking and Design (January 2010).

Recommendation: Approved - conditions, inform & LA

- 1 No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto, and the landscaping of the site, have all been submitted to, and approved in writing by, the Planning Authority. These details shall include:
 - (i) provision for on-site parking and turning appropriate to accommodate the parking and movement of at least two vehicles;
 - (ii) provision for the upgrading of the existing site access onto the public road in accordance with the advice of Informative Note 2;
 - (iii) provision for the maintenance or, if impacts are proposed, recreation, of the roadside boundary hedge and trees;Information provided to describe the layout, siting, design and external appearance of the dwellinghouse shall take full account of the advice and guidance of Informative Note 3.
Information provided to describe the landscaping proposals, including the concerns identified under items iii. above, shall take full account of the advice and guidance of Informative Note 4.
Thereafter, the development shall be implemented in accordance with the approved details.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006; and in the interests of road safety, to ensure that appropriate provision is made within the design and layout of the residential property hereby approved, for the access of vehicles to and from the site, while ensuring that the finished appearance of the residential property is sympathetic to the rural and agricultural character of the site and the surrounding area.
- 2 No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
- 3 The occupation of the dwellinghouse hereby approved, shall be limited to either:
 - (i) a person solely or mainly employed, or last employed, in the locality in agriculture as defined in section 277 of the Town and Country Planning (Scotland) Act 1997, along with any dependent(s) of such a person residing with him or her; or otherwise, only to
 - (ii) a widow or widower of a person described in item i. above, along with any dependent(s) residing with that widow or widower.

Reason: The site is in a rural area where it is not the Council's policy to permit unrestricted residential development, and permission has therefore only been granted on account of the demonstrated agricultural need for the dwellinghouse hereby approved. Further, there is a need to protect the amenity of the occupiers of the dwellinghouse hereby consented due to its proximity to the working farm, which would result in unacceptable impacts upon the amenity of the dwellinghouse were this to be occupied independently of the farm.

- 4 The dwellinghouse hereby consented shall not be occupied until:
(a) the site access from the public road to the residential property hereby approved, and
(b) the provision of parking and turning for the accommodation of two vehicles within the curtilage of the residential property hereby approved,
have all first been completed in accordance with the details approved at the AMC stage to address the relevant information requirements of Planning Condition No 1 attached to this same planning consent.
Reason: In the interests of road safety to ensure that provision for the appropriate and safe access, parking and turning of occupants' vehicles is complete and available for use prior to the occupation of the residential property hereby approved.
- 5 Notwithstanding the details submitted in support of the planning application, the development shall not be commenced until precise details of:
(a) the arrangements for surface water drainage treatment;
(b) the arrangements for foul drainage treatment; and
(c) the arrangements for water supply,
have all first been submitted to, and approved in writing by, the Planning Authority. (Please see Informative Note 5 with regard to the information required to address this planning condition). Thereafter, the surface water drainage treatment, foul drainage treatment, and water supply shall all be implemented in accordance with the approved details. Further, surface water drainage, foul drainage and the water supply shall all be functional prior to the occupation of the dwellinghouse hereby approved.
Reason: To ensure that the site is adequately serviced and fit for habitation prior to its occupation.
- 6 The finished floor level(s) of the dwellinghouse and any associated outbuilding(s), and the finished ground level(s) within the curtilage of the residential property hereby consented, shall all be consistent with levels indicated on a scheme of details that shall first have been submitted to, and approved in writing by, the Planning Authority prior to the commencement of development. Such details shall include:
(i) the proposed finished floor level(s) of the consented dwellinghouse and any associated outbuilding(s);
(ii) the existing and proposed ground levels within the curtilage of the consented residential property; and
(iii) a clearly identifiable datum point, or clearly identifiable datum points, located outwith the site and sufficient for the purpose of establishing the heights of the existing and proposed levels detailed in (i) and (ii) above, relative to the level(s) of the existing public road.
Reason: To ensure that the consented development does not have any detrimental impact upon the appearance, environment and amenity of the site and surrounding area, or upon the amenity of neighbouring properties as a consequence of the levels within the site being raised to an inappropriate height.

Informatives

It should be noted that:

1 **INFORMATIVE NOTE 1:**

It should be noted that ALL information requirements identified in the planning conditions attached to this planning consent require to be made the subject of a subsequent application, or subsequent applications, for Approval of Matters specified in Conditions (AMC).

When making an AMC application to address the information requirements of the planning conditions attached to this planning consent, the Applicant should explicitly state the reference numbers of the relevant planning conditions in the appropriate place (currently Section 5b) on the Planning Application Form.

In the event that the Applicant would seek to address the information requirements of ALL planning conditions attached to this planning consent within one AMC application, they must ensure that they supply information that fully and properly addresses ALL information requirements identified within ALL planning conditions.

2 INFORMATIVE NOTE 2:

The details provided to address the information requirements of Planning Condition No 1, item ii., should address in full the following:

(i) the existing vehicular access between the site and the main road (A697) should be maintained; and no new separate road access should be created between the A697 and the residential property hereby approved. The latter should instead only be accessible via the existing farm access;

(ii) arrangements for the achievement and maintenance of appropriate visibility splays from the site access junction onto the public road; and

(iii) the surface of the existing junction between the site and the A697 needs to be upgraded and improved (properly leveled and tarred) over its initial 6.0m length with the public road.

3 INFORMATIVE NOTE 3:

The details provided to address the information requirements of Planning Condition No 1, with regard to the layout, siting, design and external appearance of the dwellinghouse, should address in full the following matters:

(i) the site described by the approved location plan is over-sized relative to the identified proposal (a single dwellinghouse). However, there are no concerns in principle that the latter would be acceptably accommodated within a smaller area of this same site. The detailed proposal must however describe a considerably reduced area for the accommodation of the residential property at the AMC stage. This reduced site should be proportionate in its size to the existing farmyard and should describe the curtilage of a residential property that is capable of being accommodated within a shared landscape setting alongside the existing farmyard;

(ii) although the site described by the approved location plan includes the existing farmyard, the existing farmyard should nonetheless be excluded from the site boundary of the residential property. If this cannot be achieved, appropriate provision for the relocation of farm buildings, or reconfiguration, of the farmyard would need to be incorporated into the proposal. Given that the dwellinghouse is being approved to serve the existing farmyard, there would be a concern if the associated farmyard were to be removed, reduced, or its operations otherwise compromised, by the siting of the dwellinghouse and/or by the layout of the residential property hereby approved. For clarity, and without any appropriate alternative arrangements, it is not anticipated that the detailed proposal would be supported in any of these circumstances;

(iii) given that the dwellinghouse hereby approved is being supported to serve the established agricultural business, the dwellinghouse and associated residential property should be located adjacent to the existing farmyard area. In the event that it were proposed that the dwellinghouse were set back any notable distance from the existing farmyard, justification would be sought to explain the necessity for this amount of set back.

(iv) the dwellinghouse is liable to be extremely visible from the public road as well as within the wider landscape, including from within the building group at Pyatshaw and surrounding area. It is anticipated that only a traditional rural architectural design approach, including use of traditional materials (natural slate; wet dash render; stone; and/or timber), would be liable to be supported in

this location. Again, a justification would be sought for any non-traditional design approach and materials were these to feature in any detailed proposal at the AMC stage.

4 INFORMATIVE NOTE 4:

The details provided to address the information requirements of Planning Condition No 1, with regard to the landscaping proposals, including the concerns identified under item iii of the same Planning Condition, should include:

- (a) a landscaping plan;
- (b) a planting schedule; and
- (c) a maintenance schedule.

The proposals so described, should address in full the following matters (1 to 4):

(1) a description of how the existing roadside hedgerow and trees would be conserved. These details should also include the location of any new planting required to re-align the hedgerow such that this can be retained as a boundary feature (albeit a boundary feature that does not compromise the creation or maintenance of the visibility splays at the site access); and

(2) a description of how an appropriate residential boundary would be established to differentiate garden ground from the adjacent fields.

(3) Planting plans must provide sufficient information to be enforceable, by detailing the following:

- i.) Plan is to an identified true scale (e.g. 1:200).
 - ii.) Boundary of the application site is clearly marked.
 - iii.) Site orientation is indicated by a North point or OS grid lines.
 - iv.) All existing trees, shrubs and hedges to be retained are clearly marked.
 - v.) Take account of site factors such as slope, aspect, soil conditions, proximity of buildings and minimum distances from pipe and cable runs, when choosing planting positions. Where necessary, seek professional landscape advice.
 - vi.) Planting positions are clearly marked showing individual trees and shrubs and / or planting area boundaries using dimensions as necessary.
 - vii.) All species of plants identified using their full botanical name (e.g. oak - *Quercus robur*)
 - viii.) All plant numbers to be identified individually or by group or area as appropriate. Species mixes can be identified by percentages and an overall number or a specified area and a planting density (e.g. *Betula pendula* 30%, *Quercus robur* 70%, 120 square metres @ 1 plant per 4 square metres = 9 *B. pendula* & 21 *Q. robur*)
 - ix.) A planting schedule identifies all the proposed planting by species and specification indicating size and nature of plants to be used (e.g.: Extra heavy standard tree 14-16cms girth or shrub 60-75cms high in 2 litre pot.)
 - x.) Notes on the plan describe how the planting is to be carried out and maintained to ensure successful establishment.
 - xi.) The plan indicates when the work will be completed and ready for inspection taking account of planting seasons (e.g. November to end March each year for bare rooted plants.)
- N.B. Planting conditions are only discharged following an inspection of the completed work

(4) Please also note that the programme for completion and subsequent maintenance must include action points describing actions that will definitely be taken by the Applicant, and must also note precisely when these are to be carried out (i.e. definite actions to be carried out at clearly identifiable times). Use of ambiguous, vague or otherwise non-committal words or phrases (including "should", "could" or "may") must be avoided in favour of words and phrases that are clear and definite (such as "will" and "shall") when detailing these actions that the Applicant will carry out. A critical concern is that the detail and timing of the measures are capable of being checked if necessary by a third party, rather than left as discretionary or optional.

5 INFORMATIVE NOTE 5:

If proposals to service the site from the public network are to be maintained within the detailed proposal, then the information provided to address the requirements of Planning Condition No 5 should include correspondence from Scottish Water clarifying the position with regard to the potential capacity for achieving public mains connections.

However, and in any event, full details of the SUDS proposals are required for review at the detailed application stage.

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