

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO THE HEAD OF PLANNING
AND REGULATORY SERVICES**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 11/00156/PPP
APPLICANT : Lauder Farms Ltd
AGENT : Edwin Thompson & Co (Galashiels)
DEVELOPMENT : Erection of dwellinghouse
LOCATION: Plot 1 Land North Of Boonraw
Whiteburn
Lauder
Scottish Borders

TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
GC1058	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 7
SUMMARY OF REPRESENTATIONS:

This is a joint report on Planning Applications 11/00156/PPP and 11/00157/PPP.

REPRESENTATIONS

Eight objections (two of which are identical but submitted at different times) have been received from seven different households. While some of these only cite planning reference 11/00156/PPP, they demonstrate an awareness of two dwellings being proposed, and accordingly, the points raised are considered to be as valid for 11/00157/PPP as for 11/00156/PPP. These representations object to the proposed developments on the following grounds:

- 1) Whiteburn is not within the Development Boundary as defined within the Adopted Local Plan;
- 2) the access road clearly demarcates the boundary of the building group, forming a natural permanent boundary;
- 3) the site is the subject of a legal agreement that requires that no further dwellings should be built on agricultural land at Whiteburn Farm;
- 4) access to the field is for agricultural purposes only and not for residential use;
- 5) additional traffic using the access road would be detrimental to the existing road surface and raise road safety concerns for current residents at Whiteburn and users of the A697;
- 6) there would be a loss of open space;
- 7) there would be an unacceptable noise impact contrary to Adopted Local Plan Policy H2;
- 8) the proposal would be detrimental to the character, setting and amenity of Whiteburn and the surrounding area, and therefore contrary to Adopted Local Plan Policy D2;
- 9) no agricultural access is maintained from the building group to the agricultural land behind the plots when there is a legal requirement that access should be maintained for owners of Whiteburn Farm;

- 10) the proposed development would have an adverse impact upon the setting of a site that will be the last resting place of a member of the Whitburn community;
- 11) one objector has advised that he is the owner of the private access road and that access to the sites would be restricted to the existing field accesses;
- 12) although previous land has been taken from the field in which the sites are located, it was used to accommodate an appropriate new access to the building group and the Section 50 agreement was required to prevent further residential development. This should be seen as a natural progression and not as a precedent for further encroachment into useful agricultural land;
- 13) development to the north of the access road should be considered to constitute a new building group, which would make the proposals contrary to the Adopted Local Plan;
- 14) development of the sites would involve breaking into undeveloped agricultural land;
- 15) existing drainage and electricity works on the site;
- 16) legal agreement would require housing to be limited to a person employed or last employed in agriculture;
- 17) site incorporates a reentrant opposite Merrick Cottage and Leaside Cottage, which belongs to the owner of the track; and
- 18) the houses that were built in the early 1990s, had agricultural restrictions placed on them;

STATUTORY CONSULTTEES

The Road User Manager has advised that over the years there has been significant residential development around this site, and arguably the current situation seems to cope quite well. The access onto the main road has good sightlines in either direction, though the surfacing of the junction is showing some deterioration, and some improvement would be welcomed. It should also be noted that the proposed number of new build dwellings may require the need for a public road to be provided, to meet with the current policy for housing in the countryside (4 new build from 1984) and this particular point needs to be checked.

The Director of Education and Lifelong Learning has not responded to the public consultation.

Gordon and Westruther Community Council has responded to advise that it objects on the following grounds:

- 1) Site access would be from a dangerous corner of the A697;
- 2) Proposal would result in the development of an agricultural field, contrary to the Council's Housing in the Countryside Policy;
- 3) Neighbouring residents understand that there is a legal requirement that the land should not be developed for housing; and
- 4) There is an excess of plots within the CC boundary that have not yet been developed.

PLANNING CONSIDERATIONS AND POLICIES:

Consolidated Structure Plan 2001-2018

H7: Housing in the Countryside: Building Groups

Scottish Borders Local Plan Adopted 2008

G1: Quality Standards for New Development

D2: Housing in the Countryside

D2(A): Building Groups

G5: Developer Contributions

H2: Protection of Residential Amenity

SPG: New Housing in the Borders Countryside December 2008

Recommendation by - Stuart Herkes (Assistant Planning Officer) on 7th April 2011

This is a joint report on Planning Applications 11/00156/PPP and 11/00157/PPP, Plots 1 and 2, Land North of Booraw, Whiteburn, Lauder.

SITE DESCRIPTION

The sites lie immediately adjacent to one another and are agricultural land. They lie to the immediate north of an existing access road which serves the building group at Whiteburn. In accordance with the requirements of the New Housing in the Countryside Policy, the latter is an extant building group, which is capable of augmentation by two new dwellings.

PROPOSED DEVELOPMENTS

The planning applications seek Planning Permission in Principle for two new dwellings. In a covering letter, the applicants advise that the site is not a previously undeveloped field since part of the field has already been developed in order to build dwellings at 'Woodville' and 'Boonraw' and to create the access road.

It is proposed that a new wooded shelter belt should be created to the north of the proposed residential plots to provide an attractive feature and define the longer term natural boundary to the building group "as opposed to the current man-made boundary which is a recent feature".

PLANNING HISTORY

Prior to the issuing of planning consent (B290/91) for two new dwellings ('Woodville' and 'Boonraw'), a legal agreement (Section 50) was concluded for the purposes of preventing the development of any further new build housing on land within the agricultural holding at Whiteburn.

PLANNING PRINCIPLE

It is considered that in their locations, the sites are well-related to a building group that is in principle capable of augmentation by two new dwellings. However, Supplementary Planning Policy Guidance 'New Housing in the Scottish Borders Countryside' (December 2008), Section 2.b.1. page 10, advises that the existence of a building group will be identifiable by a sense of place which will be contributed to by natural boundaries or man-made boundaries such as existing buildings, roads, plantations or means of enclosure. It is further advised that sites should not normally break into previously undeveloped fields, particularly where there exists a definable natural boundary between the existing group and the field. It is clarified that natural boundaries should take precedence over man-made boundaries when defining the extent of a building group.

It is considered that both the access road and the field boundary to the north of the existing building group are features, albeit recent (1990s) and man-made, that define appropriate limits to the building group at Whiteburn. The existing building group consists of converted farm steading buildings and new dwellings, and is contained within a strip of land between the A697 (to the south) and the access road (to the north and east). At present, it can clearly be 'read' as a building group based upon the pre-existing farm steading. The introduction of housing to the north of the building group would significantly change the character and setting of the building group from its existing linear form to one that is essentially centred on the access road. Further, and given that the access road is a recent rather than a traditional feature, it is not considered appropriate that the latter should become the new 'spine' of an established building group.

The proposals would involve the development of undeveloped agricultural land. It is acknowledged that historically land from within the fields has been used to accommodate housing for farm workers and the access road, and that there is not a natural boundary between the field and the building group (only the road and field boundary) but it is considered that in this specific case, the road and field boundary do collectively constitute a clearly defined and defensible boundary, which are the logical limit to development within the building group. Given the open nature of the agricultural landscape to the north of the building group, if breached, any new northern and northeastern boundary to the building group could only be constituted by the fenceline of the rear gardens of the proposed dwellings, reinforced by landscaping. In short, a completely new boundary that does not presently exist within the landscape, would have to be created. As proposed, the position of this boundary appears completely arbitrary, since it is patently not informed in its position or orientation by any existing natural or man-made features.

The proposed tree planting to the north of the proposed plots could create a defensible boundary and 're-complete' the building group, but it would also significantly change the character of the setting of the existing building group from its current open agricultural outlook to one of greater visual containment, spatially

divorced from the agricultural setting that is currently so immediately apparent, and integral to the character of the group.

The applicant has advised that the access road was constructed in the 1990s on land that was previously part of the field which contains the sites. It is not considered that this history negates the essential point noted above, which is that the sites are undeveloped agricultural land which does not represent a logical or natural extension of the existing building group.

It is considered that the proposed developments would not respect the character and setting of the existing building group, altering it from a linear and essentially complete and contained building group centred on the farmstead at Whiteburn Farm, to a larger building group centred on the access road with (and notwithstanding the applicants' proposed shelter belt) no obvious limit to further augmentation to the immediate northwest. Accordingly, it is considered that the proposals would be contrary to Adopted Local Plan Policies D2 (A) and G1 in that the proposals are not compatible with, and do not respect, the sense of place of the building group, the character of the surrounding area and the character and setting of the neighbouring built form.

OTHER CONCERNS

It is considered that the plots as proposed are notably out-of-proportion to those of existing residential properties, and that in the event that the principle of the proposals were ever to be supported, a reduction in the size of the plots should be sought, to bring these into proportion with the rest of the building group.

It is not considered that the development of the plots would in principle raise any concerns of any unacceptable impacts upon the amenity of existing properties, although this would ultimately need to be demonstrated within detailed designs.

The Road User Manager has indicated that the access road would need to be upgraded to an adoptable standard if the proposed developments were to result in more than four new builds (specifically, four new dwellings constructed after 31 October 1984) being served off the existing access road. However, there are only two existing new builds that fall into this category (the rest being either longer established dwellings or converted farm buildings). Accordingly, approval of two new build dwellings to be served off the existing private access to Whiteburn would not require the private access road to be upgraded to an adoptable standard.

The Director of Education and Lifelong Learning has not responded to the public consultation but it is understood that development contributions would be required towards the upgrading of local education provision; specifically provision of the new Lauder Primary School and provision of the new Earlston High School. Additionally, since the applicants are proposing two new dwellings, there would be an additional requirement for one affordable housing contribution if both were consented. Whiteburn falls out with the area in which a contribution towards the Waverley rail link would be required. In the event of planning approval, a legal agreement would be required to secure two development contributions towards education provision and one towards affordable housing.

Objectors have advised of a number of legal impediments to the proposed developments including the legal agreement preventing the development of any further dwellings on agricultural land within the holding and potential rights of access over the site, while one objector has advised that the private access road, which would be used to access the plots, is within his ownership. These are essentially legal rather than planning matters. However, in the event of planning approval, the applicants should be advised of the need for them to apply to the Planning Authority to vary the legal agreement restricting/preventing the development of housing on the site. Although noted as desirable, the Road User Manager has not identified any requirement for the access to be upgraded to serve the proposed developments, so provided the applicants had a legal right of access over the road, it is not considered that the ownership of the road itself would be an impediment to the proposed developments, although it would have to be established whether the sites could be appropriately accessed from the private road, particularly if there were to be legal constraints with regard to the positioning/form of the access. However, in the event of approval, this issue might be appropriately dealt with by planning condition, and ultimately in the detailed design of the proposed dwellings at the AMC stage. Any other legal matters would need to be pursued by the objectors through the legal rather than planning process.

Objectors cite the refusal of a previous planning application, 05/01627/OUT, as raising similar concerns to the proposed developments, but this application relates to a site that is unrelated to the building group at Whiteburn, and accordingly is not considered to have any relevance to the determination of the current applications.

CONCLUSION

It is considered that the proposed developments, both individually and collectively, would be contrary to Approved Structure Plan Policy H7, Adopted Local Plan Policies D2 (A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that the proposals are not compatible with, and do not respect, the sense of place of the building group, the character of the surrounding area and the character and setting of the neighbouring built form. Accordingly, it is recommended that both applications should be refused.

REASON FOR DECISION :

It is considered that the proposed developments, both individually and collectively, would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies D2 (A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that they are not compatible with, and do not respect, the sense of place of the building group, the character of the surrounding area, and the character and setting of the neighbouring built form.

Recommendation: Refused

- 1 The proposal would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies D2(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.

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