

F E R G U S O N
P L A N N I N G

NEW DWELLING NORTH OF MOS EISLEY, TEVIOOTHEAD

BUCCLEUCH ESTATES

NOVEMBER 2023

CONTENTS

EXECUTIVE SUMMARY	3
INTRODUCTION.....	5
REFUSAL OF APPLICATION BY SCOTTISH BORDERS COUNCIL AND PLANNING POLICY CONTEXT	9
GROUNDS OF APPEAL AND CASE FOR APPELLANT	13
CONCLUSION	19
CORE DOCUMENTS	21

Ref: B-BST-0305
Council ref: 23/01007/PPP
Prepared by: Kieran McFarlane MRTPI
and Ruairaidh Thompson MRTPI
Approved by: Tim Ferguson MRTPI
Date of Issue: November 2023

F E R G U S O N
P L A N N I N G

NEW DWELLING AT TEVIOHEAD

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

This Statement is submitted on behalf of Buccleuch Estates (the Appellant) against the decision by Scottish Borders Council to refuse Planning Permission in Principle for the erection of a dwellinghouse at Land north of Mos Eisley, Teviothead on 6th September 2023 (reference 23/01007/PPP). All Core Documents (CD) are referenced in Appendix 1.

The proposed development is considered to accord with adopted policy and represent sustainable development. The case for the Appellant is summarised below:

- The application site lies within the **Southern Housing Market Area**.
- The application site sits within the sense of place and setting of the Dispersed Building Group at Teviothead. The Dispersed Building Group comprises five existing dwellings (Mos Eisley, Old School House, Beadles Cottage, Bowanhill Farm House, and the Old Manse) in addition to Teviothead Village Hall and Teviothead Church, enclosed between the A7 to the east and River Teviot to the west.
- The proposed dwelling stands adjacent to Mos Eisley in the core of the Dispersed Building Group. Bowanhill Farm House and other agricultural buildings stand further to the north-east of the application site. Therefore, the proposed dwelling stands within the parcel of the Dispersed Building Group.

- By comparison, the Old Manse and Teviothead Church stand south of the core of the Dispersed Building Group but still form part of the cluster
- The proposed development accords with section (B) of Policy HD2 which addresses Dispersed Building Groups. Despite this the Report of Handling considers section (A) only, which it uses to justify a refusal.
- The consultation response of the **Community Council** outlines no objection to the proposed development and expresses more general support for more new housing in the Teviothead area. The reasons for supporting new housing centre on supporting the rural population and delivering improvements for the local community.
- Consultation responses have been received from **Roads Planning, Environmental Health, Scottish Water. No objection** is contained within the response of any.
- The proposed dwelling would be delivered on a self-build basis by a successor in title offering an opportunity to establish a new family home in the local area. Therefore, the proposed development is in accordance with Policy 16 of NPF4.
- The Southern Housing Market Area is considered to be the only part of the Borders that represents a “*remote rural area*”. As the application site forms part of a Dispersed Building Group and the Community Council has outlined support for new housing in the local area, the proposed development accords with Policy 17 of NPF4.
- The proposed development is squarely supported by the Rural Revitalisation principle established as one of the “*six spatial principles*” in NPF4.

F E R G U S O N
P L A N N I N G

NEW DWELLING AT TEVIOHEAD

INTRODUCTION

INTRODUCTION

- 1.1 This Statement supports a Notice of Review of the delegated decision of Scottish Borders Council to refuse to grant Planning Permission in Principle for the erection of a dwellinghouse on land north of Mos Eisley.
- 1.2 The application site extends to 1765m² and comprises rough grazing land bounded by a low stone wall on its south-west boundary. The site sits in a row of existing dwellings that extends from south-west towards the site, clearly visible in **Fig.1**.
- 1.3 The application site sits adjacent to the north-east of the existing dwelling 'Mos Eisley'. Mos Eisley sits adjacent to another existing dwelling 'The Old School House', which in turn stands adjacent to 'Beadles Cottage'. All three existing dwellings are detached houses which are bound together by a direct, linear relationship without setoff or separation. All three existing dwelling are orientated to the east.
- 1.4 Mos Eisley and Old School House are accessed from the D170 minor public road while Beadles Cottage is accessed from the D28/3. Teviothead Village Hall stands opposite Beadles Cottage, across the D28/3. Direct access to the site is already provided by the D170 fully contiguous with access to the nearby existing dwellings. Both minor public roads extend from a junction with the A7 circa 75 metres south of the site.
- 1.5 The application site also shares a relationship with Bowanhill Farm (to the north-east) and the Old Manse of Teviothead Church (to the south-west). Bowanhill Farm shares the fundamental location of the site enclosed between the River Teviot to the west and the shallow embankment of the A7 to the east. Teviothead Church and its Manse share an intrinsic link with the local community as their purpose is to serve the ecclesiastical and pastoral needs of local people. As they would not exist without the presence of the local population, the link to the local built environment is essential and inflexible.
- 1.6 It is proposed to erect a new detached dwelling centrally within the site. The new dwelling is proposed in roughly 'L-plan' form and will be placed in a garden extending from three elevation of the proposed dwelling (incorporated as **Fig.2**). It is conceptually proposed to organise new residential accommodation over two levels.
- 1.7 The application site and its surroundings are considered to comprise a Dispersed Building Group of 5 no. existing dwellings, Teviothead Village Hall, and Teviothead Church. The Dispersed Building Group comprises a core of three existing dwellings – Mos Eisley, Old School House, and Beadles Cottage (illustrated in **Fig.3**) – and the further associated buildings - Bowanhill Farm, Teviothead Church, and the Old Manse.
- 1.8 The remainder of this Statement considers the site context and relevant planning policy, before evaluating the accordence of the proposed development with the National Planning Framework 4, the Local Development Plan and other material considerations.

NEW DWELLING NORTH OF MOS EISLEY, TEVIOHEAD



Fig 1: Extract from 10000-CSY-XX-XX-D-A-1201(B) Site Location Plan (Source: CSY Architects).



Fig 2: Extract from 10000-CSY-XX-XX-D-A-1202(D) Proposed Site Plan (Source: CSY Architects).

F E R G U S O N
P L A N N I N G

NEW DWELLING AT TEVIOOTHEAD

REFUSAL OF APPLICATION BY SCOTTISH BORDERS
COUNCIL AND PLANNING POLICY CONTEXT

REFUSAL OF APPLICATION BY COUNCIL AND PLANNING POLICY CONTEXT

2.1 Planning Application 23/01007/PPP was refused on 6th September 2023. The Decision Notice (CD8) cited one reason for refusal, as set out below:

“1. The development would be contrary to Policy HD2 of the Scottish Borders Local Development Plan (2016), Policies 9 and 17 of NPF4 (2023) and the New Housing in the Borders Countryside Guidance (2008) because it would constitute housing in the countryside that would lead to an unjustified sporadic expansion of development into a previously undeveloped field likely leading to extension of the group that would adversely affect its character. These policy conflicts are not sufficiently overridden by other material considerations.”

National Planning Framework 4

2.2 National Planning Framework 4 was adopted in February 2023. The document addresses national planning policy and the Government’s approach to achieving a net zero sustainable Scotland by 2045.

2.3 One of the six overarching spatial principles of NPF4 is to support rural revitalisation. This takes the form of encouraging sustainable development in rural areas, recognising the need to grow and support urban and rural communities together. The adopted text confirms that the strategy and policies *“support development that helps to retain and increase the population of rural areas of Scotland”*.

2.4 **Policy 16: Quality Homes** sets out that development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and which addresses identified gaps in provision, will be supported. This includes self-provided homes. In addition, it states that proposals for new homes on land not allocated for housing in the LDP will be supported where it is consistent with policy on rural homes.

2.5 The intent of **Policy 17: Rural Homes** is to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations.

2.6 Branch a) of the Policy sets out that *“development proposals for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area and the development.”*

2.7 Branch c) of the Policy makes provision that *“new homes in remote rural areas will be supported where the proposal:*

- i. supports and sustains existing fragile communities;*
- ii. supports identified local housing outcomes; and*
- iii. is suitable in terms of location, access, and environmental impact.”*

Local Development Plan

2.8 Policy HD2 of the Scottish Borders Local Development Plan (LDP) details the circumstances in which new houses will be considered acceptable. This sets out details on support for development relating

NEW DWELLING NORTH OF MOS EISLEY, TEVIOHEAD

to dispersed housing groups and is considered to represent the pertinent material consideration in the determination of the appeal proposal.

- 2.9 Section B of Policy HD2 addresses development proposals for housing related to dispersed building groups. The adopted text of section B has been copied below:

“(B) Dispersed Building Groups

In the Southern Housing Market area there are few building groups comprising 3 houses or more, and a more dispersed pattern is the norm. In this area a lower threshold may be appropriate, particularly where this would result in tangible community, economic or environmental benefits. In these cases the existence of a sense of place will be the primary consideration.

Housing of up to 2 additional dwellings associated with dispersed building groups that meet the above criteria may be approved provided that:

- a) the Council is satisfied that the site lies within a recognised dispersed community in the Southern Borders housing market area,*
- b) any consents for new build granted under this part of this policy should not exceed two housing dwellings in addition to the group during the Plan period. No further development above this threshold will be permitted,*

c) the design of housing will be subject to the same considerations as other types of housing in the countryside proposals.”

Supplementary Guidance

- 2.10 The Supplementary Guidance ‘New Housing in the Borders Countryside’ includes the following criteria and guidance for new dwellings within countryside:

- Recognises locations where a more dispersed building pattern in the norm, these are referred to as “anchor points” and found within the Southern Housing Market Area. A lower threshold may be accepted in instances where the development would bring tangible environmental benefits.
- No adverse effect on the viability of a farming unit or conflict with the operations of a working farm;
- Satisfactory access and other road requirements;
- Satisfactory public or private water supply and drainage facilities;
- No adverse effect on countryside amenity, landscape or nature conservation;
- No adverse impact on ancient monuments, archaeological sites, or on gardens or designed landscapes;
- Appropriate siting, design and materials in accordance with relevant Local Plan Policies;
- The safeguarding of known mineral resources from sterilisation unless this is acceptable following an assessment of the environmental implications.



Fig 3: Annotated aerial image of existing Building Group at Teviothead.

NEW DWELLING AT TEVIOOTHEAD

GROUNDS OF APPEAL AND CASE FOR
APPELLANT

GROUNDS OF APPEAL AND CASE FOR APPELLANT

3.1 The decision of the Planning Authority to refuse the Application is challenged on the basis of the Grounds of Appeal set out below. It is the submission of the Appellants that the proposed development accords with the relevant adopted policy of National Planning Framework 4, the Local Development Plan and Supplementary Guidance and that there are no material considerations which justify the refusal of the application.

GROUND 1: THE PROPOSED DEVELOPMENT REPRESENTS THE ERECTION OF A DWELLING ON A SITE WHICH IS WELL RELATED TO THE DISPERSED BUILDING GROUP AT TEVIOHEAD AND WOULD CONTRIBUTE POSITIVELY BY DELIVERING NEW HOUSING AND SUPPORTING THE SUSTAINABILITY OF THE LOCAL COMMUNITY.

3.2 During the course of application determination, the following consultee responses were received from Council Officers and external consultees:

- **Roads Planning – No objection.**
- **Environmental Health – No objection.**
- **Community Council – No objection.**
- **Scottish Water – No objection.**

3.3 The Report of Handling (**CD7**) explains that the Planning Officer considers the proposed development to be contrary to criteria a) & b) of section (A) of Policy HD2. However, no consideration is given to the accordancy of the proposed development with

section (B) of the Policy – which is necessary as the site lies within the Southern Housing Market Area.

3.4 In addition, while it is acknowledged within the Report of Handling that there is an existing Building Group at this location, this assessment failed to define what the Planning Authority considered to be the defined Building Group, its boundaries, and which buildings this comprises.

3.5 It is the Appellant’s position that the application site lies within the setting and forms part of the Dispersed Building Group at Teviothead (shown in **Fig.4**). Teviothead is situated within the Southern Housing Market Area where a more dispersed residential pattern is the norm. This is confirmed within the Scottish Borders LDP Policy Maps (visible in **Fig.5**).

3.6 The application site sits in the core of the Dispersed Building Group, facing onto a minor public road that extends west from the A7. Teviothead Village Hall stands opposite Beadles Cottage in the core of the group. All existing dwellings and other buildings within the Dispersed Building Group lie between the adopted surface of the A7 to the east and the channel of the River Teviot to the west – including Bowanhill Farm, Teviothead Church, and the Old Manse which are associated with the Group but with less spatial proximity.

NEW DWELLING NORTH OF MOS EISLEY, TEVIOHEAD



Fig 4: Aerial image of Dispersed Building Group at Teviothead with approximate boundaries (in orange) between the A7 and River Teviot.

NEW DWELLING NORTH OF MOS EISLEY, TEVIOHEAD

- 3.7 It should be noted that the Frostlie Burn flows under the A7 and lies between Teviothead Church and the Old Manse to the west and the rest of the Dispersed Building Group to the east. However, Frostlie Burn is a tributary stream of the River Teviot and neither the banks nor channel of the river itself. The Frostlie Burn does not delineate the group as Teviothead Church and the Village Hall share a tandem and dual-pole relationship at the heart of the local community.
- 3.8 The new dwelling is proposed in a row of existing dwellings at the core of the Dispersed Building Group at Teviothead. The application site sits directly adjacent to the existing dwelling Mos Eisley. Bowanhill Farm and its principal farmhouse lie further to the north-east and further from the core of the Group than the proposed dwelling. It is considered that the site stands in the core of the Dispersed Building Group at Teviothead in the South Borders Housing Market Area and satisfies criterion a) of section (B).
- 3.9 No consents for new dwellings have been granted at Teviothead in the period of the current Local Development Plan. This was accepted in the Report of Handling. Therefore, the proposed development is considered to satisfy criterion b) of section (B).
- 3.10 As the proposed development is an Application for Planning Permission in Principle, the detailed design is deferred to the next stage of the planning process. However, a conceptually Proposed Site Plan (copied in **Fig.2**) has been submitted that gives the proposed dwelling 'L-plan' form and a footprint which leaves a modest setback distance from the existing dwelling Mos Eisley adjacent. This is considered to represent replication of the

existing development pattern in the core of the Dispersed Building Group (a row of houses) to satisfy criterion c) of section (B).

- 3.11 The proposed development comprises the erection of a new dwelling upon a site in the core of the Dispersed Building Group at Teviothead. The site sits in a row of existing dwellings and directly adjacent to Mos Eisley. No new dwellings have been approved at Teviothead within the current LDP period. The proposed layout is considered to replicate the local pattern of development at Teviothead. Therefore, the principle of development is considered to be acceptable as the proposed development accords with section (B) of Policy HD2.

Other Material Considerations

- 3.12 It is considered that the proposed development clearly accords with section (B) of Policy HD2 – therefore there is no requirement to accord with any other section of the Policy.
- 3.13 However, it is considered that the proposed development does accord with section (A). The Report of Handling asserts that development would extend the Building Group into an undeveloped field. However, the adjacent field is not undeveloped as the residential curtilages for Mos Eisley and the Old School House have previously been bitten out of it.
- 3.14 The appointed Planning Officer commits a further error by asserting that approving development would make it “extremely difficult” to refuse further planning applications. This consideration is factually inaccurate as each planning application is determined upon its own merits, existence of precedent is not a material consideration.

NEW DWELLING NORTH OF MOS EISLEY, TEVIOHEAD

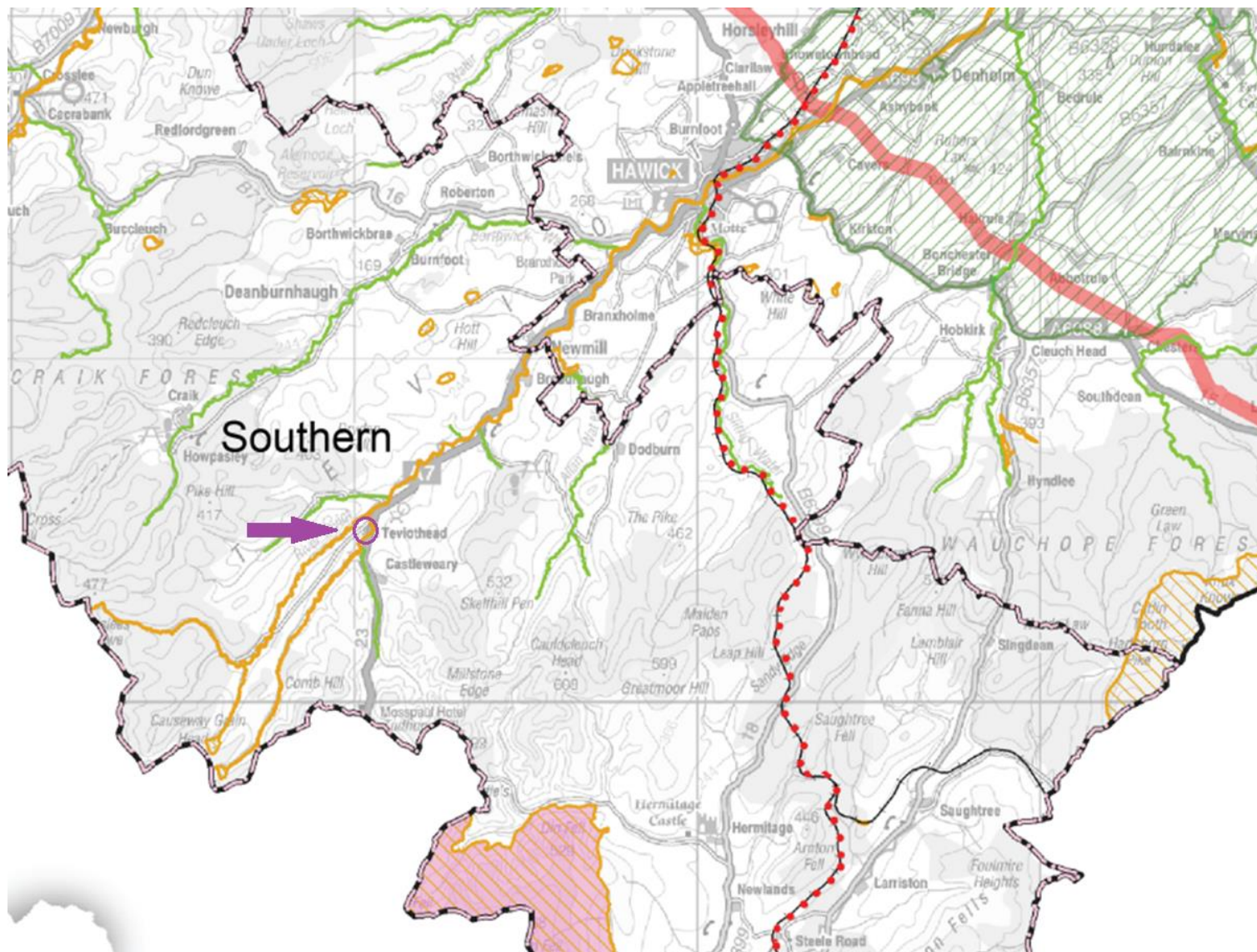


Fig 5: Extract from Policy Map of Scottish Borders Local Development Plan showing Teviohead (circled in purple) at the heart of the Southern Housing Market Area (Source: Scottish Borders Local Development Plan 2016).

NEW DWELLING NORTH OF MOS EISLEY, TEVIOHEAD

- 3.15 It is considered that there is no prospect of the proposed dwelling being delivered by a housebuilder or other corporate developer. Development of the proposed dwelling would be delivered on a self-build basis - either by the Appellant or a successor in title. Therefore, the proposed dwelling is considered to satisfy criterion i. under branch c) of Policy 16 as it represents a self-provided home. On this basis, the proposed development accords with Policy 16 of NPF4.
- 3.16 It is considered that the Southern Housing Market Area represents a "remote rural area" in planning policy terms. This contrasts with the rest of the Borders which, while mostly rural, is not remote to the same extent.
- 3.17 The consultation response of the Community Council makes clear that there is a need for housing locally. The Community Council explain this as "we are keen to see more good quality homes to improve the housing stock for residents and more houses help to maintain the rural population".
- 3.18 As the proposed development represents a new house in a remote rural area where new housing is required to support an existing fragile community, it is considered to satisfy criterion i. under branch c) of Policy 17.
- 3.19 As addressed above, the application site lies within and forms part of a Dispersed Building Group. The site shares a boundary with the adopted public road, beyond the extent of the A7. The Report of Handling concurs with the conclusions of the Preliminary Ecological Appraisal that the environmental impact of

the proposed development would not be significant. As the location of the proposed dwelling, access thereto, and environmental impact are acceptable in planning terms, the proposed dwelling is considered to satisfy criterion iii. under branch c) of Policy 17.

- 3.20 To achieve accordance with branch c) of Policy 17, a development proposal must satisfy criterion iii. as well as either criterion i. or ii. It is considered that the proposed development has been demonstrated to satisfy criteria i. & iii. and therefore is made in accordance with branch c) of Policy 17, accordance with which is sufficient to establish the principle of development in planning policy terms.

NEW DWELLING AT TEVIOOTHEAD

CONCLUSION

CONCLUSION

- 4.1 The Notice of Review, supported by this Statement, respectfully requests that the Council overturns the decision to refuse Planning Permission in Principle for Application 23/01007/PPP and grant consent for the erection of a dwelling together with access, garden, and associated works on land north of Mos Eisley, Teviothead.
- 4.2 The proposed development represents the enlargement of the Dispersed Building Group at Teviothead by one new dwelling upon a site within the sense of place and setting of the cluster. The application site is abutted to the south-west by the existing dwelling Mos Eisley which sits in a row of three existing dwellings in the core of the Dispersed Building Group. The site sits contained within the bookend created by Bowanhill Farm to the north-east. No new dwellings have been consented within the current LDP period and there are no significant cumulative impacts associated with the proposal. Therefore, the principle of development is considered to be acceptable as the proposed development accords with section (B) of Policy HD2.
- 4.3 It is the position of the Appellant that the proposed development has been incorrectly assessed. LDP policy was inaccurately applied when the Planning Authority issued their delegated decision. It has been demonstrated that the site sits within a Dispersed Building Group and therefore section (B) of Policy HD2 is the relevant policy consideration to the Application.
- 4.4 The proposed development supports the sustainable growth of an existing rural community and will improve housing choice in the local area. Teviothead is a small existing community which comprises of five existing dwellings, a church, and a village hall. It is considered that the Rural Revitalisation principle applies strongly to Teviothead, especially the direction to support rural population growth. The proposed development is considered to accord with Policies 16 and 17 of NPF4.
- 4.5 Vehicle and pedestrian access to the site is proposed from the D170 minor public road across the south-east boundary. Two parking spaces are included within the proposal. The proposed development is considered to be acceptable in transport terms.
- 4.6 The site has been assessed as having relatively low ecological value, with no habitat suitable for protected species on-site and relatively little habitat close to the site. A series of measures include bird nesting and bat boxes as well as planting of native shrubs to improve habitats on site will ensure there is a biodiversity net gain.
- 4.7 The Local Review Body is respectfully requested to allow the appeal and grant Planning Permission in Principle for the erection of a dwellinghouse at land north of Mos Eisley, Teviothead.

F E R G U S O N
P L A N N I N G

NEW DWELLING AT TEVIOOTHEAD

CORE DOCUMENTS

CORE DOCUMENTS

The following drawings, documents, and plans have been submitted to support the Notice of Review:

- Notice of Review Form;
- CD1 Local Review Statement;
- Application Form
- CD2 (Application) Planning Statement;
- CD3 10000-CSY-XX-XX-D-A-1201(B) Site Location Plan;
- CD4 10000-CSY-XX-XX-D-A-1202(D) Existing and Proposed Site Plans;
- CD5 10270-CSY-02-XX-D-A-6201 Existing and Proposed Perspectives;
- CD6 Preliminary Ecological Assessment;
- CD7 Report of Handling 23/01007/PPP; and
- CD8 Decision Notice 23/01007/PPP.

F E R G U S O N P L A N N I N G

GALASHIELS

Shiel House
54 Island Steet
Galashiels
TD1 1NU

T: 01896 668 744
M: 07960 003 357

EDINBURGH

1st Floor, 38 Thistle Street
Edinburgh
EH2 1EN

T: 0131 385 8801
M: 07960 003 358

NORTHERN IRELAND

61 Moyle Road
Ballycastle, Co. Antrim
Northern Ireland
BT54 6LG

M: 07960 003 358

E: tim@fergusonplanning.co.uk

WWW.FERGUSONPLANNING.CO.UK

