

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

NEW DWELLINGS EAST OF BUCKLETONS, STICHILL

MR & MRS SHANKS

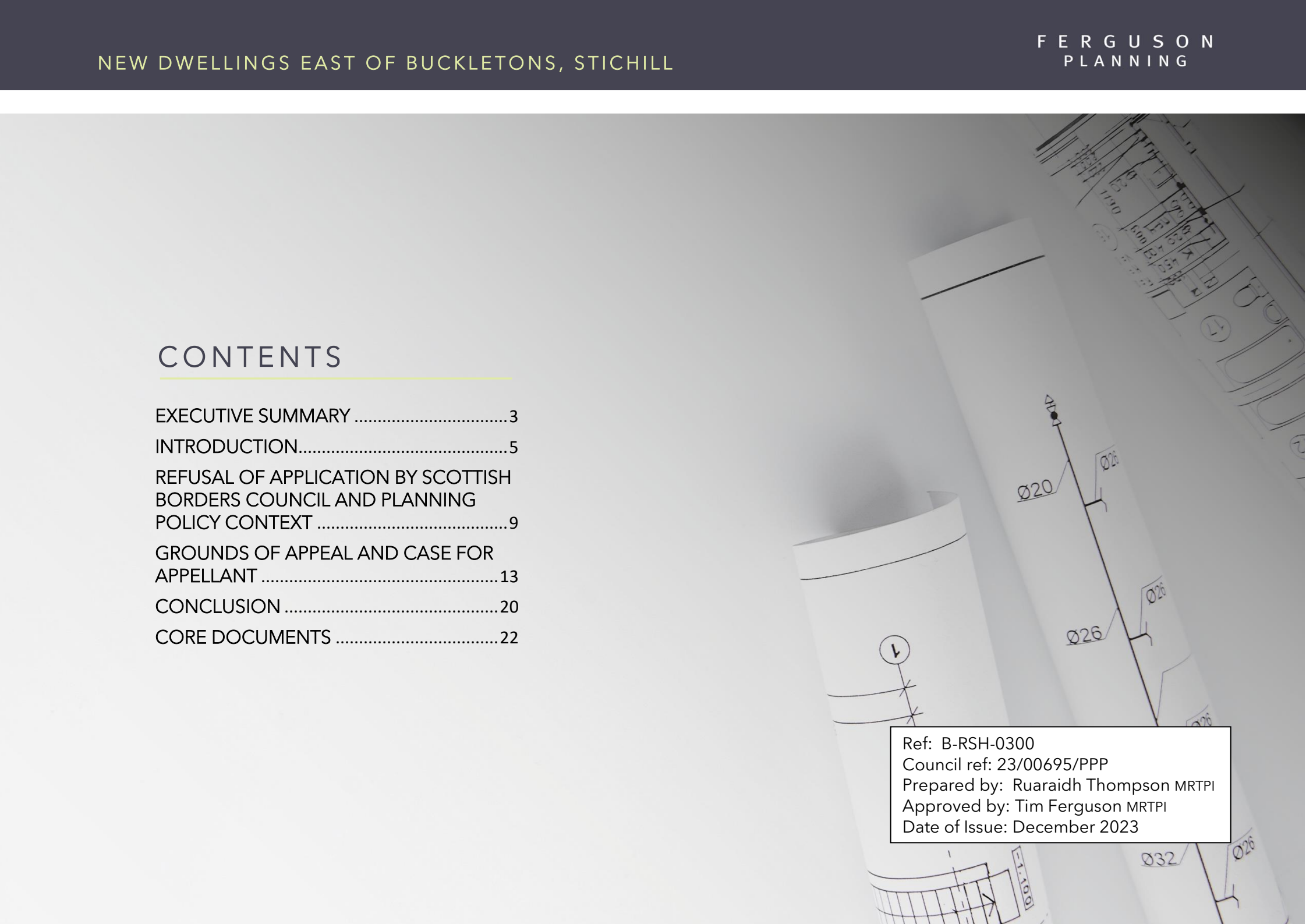
---

DECEMBER 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 .....	20
CORE DOCUMENTS .....	22



Ref: B-RSH-0300  
Council ref: 23/00695/PPP  
Prepared by: Ruaraidh Thompson MRTPI  
Approved by: Tim Ferguson MRTPI  
Date of Issue: December 2023

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

NEW DWELLINGS EAST OF BUCKLETONS, STICHILL

---

EXECUTIVE SUMMARY

## EXECUTIVE SUMMARY

This Statement is submitted on behalf of Robert and Andrena Shanks (the Appellants) against the decision by Scottish Borders Council to refuse Planning Permission in Principle for the erection of two new dwellings with access and associated works on land east of Buckletons, Stichill on 25th September 2023 (reference 23/00695/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 Appellants and Planning Authority agree that the application site lies within the sense of place and setting of the existing Building Group at the former Stichill House. It is further agreed that no new consents have been granted in the period of the current LDP and capacity exists for the Building Group to expand by two new dwellings.
- The reason for refusal addresses road access to the application site only.
- The proposed development intends to use an existing access track that serves other existing dwellings surrounding. The access track benefits from significant visibility sightlines onto the B6364 – 130 metres to the north (left) and 150 metres south (right). The scaled plan 10434-CSY-XX-XX-D-A-2200 (**CD7**) shows the sightlines in context.
- It is accepted that the access track needs to be upgraded and resurfaced. The Appellants are happy to accept a condition requiring completion of the upgrade work before construction of the proposed dwellings start. This approach has been used by the Council on similar sites, notably Planning Permission 20/00140/FUL which secured upgrade of 6km of track by comparison the proposed development requires upgrade of 1km of track only.
- Policy IS6 requires **new roads** that are included in any development to be built to adoptable standards, regardless of whether they are proposed for adoption. This requirement is not applicable to the proposed development as use of an existing access track is proposed not use of a new road or track. Therefore, adopted policy does not require the track upgrade to meet the standards of an adopted road.
- The consultation response of Roads Planning raises no issue with visibility from the north access onto the B6364, which is proposed.
- The Report of Handling agrees that the application site lies in a sensitive rural area which requires new housing to support rural population and prevent terminal population decline. This direction is supported by NPF4 Policy 17.
- The proposed dwellings would be delivered on self-build basis by successors in title offering an opportunity to establish new family homes in the local area. Therefore, the proposed development is in accordance with Policy 16 of NPF4.
- The proposed development lies 18 minutes walk of Stichill village and is consistent with 20 minute neighbourhoods principle (NPF Policy 15) and supported by Rural Revitalisation principle, established in NPF4.

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

NEW DWELLINGS EAST OF BUCKLETONS, STICHILL

---

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 two new dwellings with access and associated works on land east of Buckletons, Stichill.
- 1.2 The application site is located around 1.2km to the north-west of Stichill in a small cluster of existing dwellings. The three existing dwellings Buckletons, Garden Cottage, and Butler’s Chase lie to the west of the site, while a further two Lairdshill and Highfield sit to the north – shown in **Fig.1**. The site lies approximately 140 metres east of a junction between two private ways, the private way extending north-east connects to Humley Knowes, a separate but nearby existing Building Group.
- 1.3 The application site currently comprises a grazing field with a very shallow slope falling away from north to south and bounded by post and wire fence. The north boundary is defined by hedgerow while the west boundary is reinforced by an adjacent tree belt. The private way which provides vehicle and pedestrian access to the site sits adjacent across the north boundary.
- 1.4 The application site lies in the grounds of the former Stichill House. The existing dwelling Butler’s Chase is understood to sit partly on the footprint of the east wing of the country house, which was demolished in the mid 20th Century. No masonry or built fabric remain extant but earthworks are still visible adjacent to the west of Butler’s Chase (north of the access track).
- Stichill House is not formally designated but is recorded in the Canmore archive (ID: 97477).
- 1.5 The site lies beside but beyond the route of a possible former estate road connecting the country house to Stichill. Similarly, the route is not formally designated but is recorded in the Canmore archive (ID: 353627). It appears that two possible alignments have been identified for the road – neither of which extend close to the heart of the site, although one starts to approach the east boundary.
- 1.6 The application site and its surroundings are considered to comprise an existing Building Group of 5 no. existing dwellings. All existing dwellings within the Building Group are accessed directly from the two private ways which interconnect to the east of the site. Lairdshill is the oldest house in the Building Group and visibly dates from before 1914.
- 1.7 The application site is not an environmentally designated site or part of an environmentally designated site. The nearest environmental designation is understood to be the Hareheugh Craigs Site of Special Scientific Interest (SSSI) which lies circa 1.55 kilometres north-west of the site.
- 1.8 The site lies in a pocket of agricultural land classified at 4.1 and therefore is not Prime Quality Agricultural Land (PQAL). It is acknowledged that the pocket is enveloped by PQAL (mainly classified at 3.1) but it does not extend into the exclave which contains the site.

NEW DWELLINGS EAST OF BUCKLETONS, STICHILL



**Fig 1:** Extract from 10325-1201 Site Location Plan (Source: CSY Architects).



**Fig 2:** Extract from 10325-1202 Proposed Site Plan (Source: CSY Architects).



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

NEW DWELLINGS EAST OF BUCKLETONS, STICHILL

---

REFUSAL OF APPLICATION BY SCOTTISH BORDERS  
COUNCIL AND PLANNING POLICY CONTEXT

## REFUSAL OF APPLICATION BY COUNCIL AND PLANNING POLICY CONTEXT

2.1 Planning Application 23/00695/PPP was refused on 25th September 2023. The Decision Notice (**CD9**) cited one reason for refusal, as set out below:

**“1. The It is considered that the proposals are contrary to National Planning Framework 4 Policy 17 and Policies HD2 and IS6 of the Local Development Plan 2016 and Supplementary Planning Guidance New Housing in Borders Countryside (2008) in that the development would not be served by suitable road access, contrary to road safety and design standards. In addition, the proposal would be contrary to Policy PMD2 of the Local Development Plan 2016 in that the proposed vehicular access would have an adverse impact on road safety, both on users of the private road and on users of the B6364 public road.”**

### 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 15** Local Living and 20 minute neighbourhoods requires that:
- “a) Development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to:*
- sustainable modes of transport including local public transport and safe, high quality walking, wheeling and cycling networks;*
  - employment;*
  - shopping;*
  - health and social care facilities;*
  - childcare, schools and lifelong learning opportunities;*
  - playgrounds and informal play opportunities, parks, green streets and spaces, community gardens, opportunities for food growth and allotments, sport and recreation facilities;*
  - publicly accessible toilets;*
  - affordable and accessible housing options, ability to age in place and housing diversity.”*

2.5 **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

NEW DWELLINGS EAST OF BUCKLETONS, STICHILL

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.

- 2.6 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.
- 2.7 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."*
- 2.8 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

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

- 2.10 Section (A) of Policy HD2 is replicated copied below:

*"(A) Building Groups*

*Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:*

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such a conversion has been implemented,*
- b) the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts,*
- c) any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted."*

## NEW DWELLINGS EAST OF BUCKLETONS, STICHILL

2.11 Policy IS6 requires that *"on non trunk roads new roads<sup>1</sup>, footpaths and cycleways within developments must be provided and constructed in accordance with the Council's adopted standards to secure Road Construction Consent, with the exception of development which can be served by a private access."*

### Supplementary Guidance

2.12 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.

<sup>1</sup> Underline represents the emphasis of this author.

NEW DWELLINGS EAST OF BUCKLETONS, STICHILL

---

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: IT IS PROPOSED TO USE AN EXISTING ACCESS TO THE PUBLIC ROAD NETWORK IN ACCORDANCE WITH POLICIES HD2 & IS6. THE EXISTING ACCESS ALREADY ACCOMMODATES TRAFFIC FOR EXISTING DWELLINGS AND OPERATES SAFELY. THE EXISTING ACCESS BENEFITS FROM SUFFICIENT VISIBILITY SIGHTLINES ONTO THE PUBLIC ROAD AT THE PONT WHERE THE TWO MEET. IMPROVEMENTS TO THE ACCESS TRACK CAN BE SECURED BY CONDITION – AN APPROACH WHICH HAS BEEN OPERATED BY THE COUNCIL ON SIMILAR SITES RECENTLY.**

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

- **Waste and Recycling – No objection.**
- **Roads Planning – Objection.**
- **Community Council – Objection.**
- **Scottish Water – No objection.**

3.3 The Appellant and appointed Planning Officer agree that section (A) of Policy HD2 is the most pertinent adopted policy to the proposed development. Further, it is common ground that the proposed development is largely consistent with the thrust of section (A) of Policy HD2 as the proposed development represents the erection of new dwellings on a site which is well related to an existing Building Group. Disagreement opens between the two parties on the question of the suitability of vehicle access.

3.4 Report of Handling 23/00695/PPP (**CD8**) summarises as:

“the submission is considered against other criteria of Local Development Plan Policy HD2 (Part A). This site would be well related to an existing building group of at least three houses [criterion a)]. No other permissions have been issued in the plan period [criterion c)]. The choice of site would appear cohesive but, because of the requirement for an adopted road, the development will result in adverse cumulative impact to the character of the building group”.

3.5 In short, despite concluding that the proposed development satisfies criteria a) & c) the appointed Planning Officer concludes that accordance has not been achieved with section (A) due to the conflict he has identified with criterion b). This conflict rises out of (and is dependent on) the assessment that the proposed development does not accord with Policy IS6.

3.6 The Appellants’ position is that this interpretation of Policy IS6 is mistaken. The adopted text of Policy IS6 is clear that its provisions extend to “*new roads, footpaths and cycleways*” and requires that they

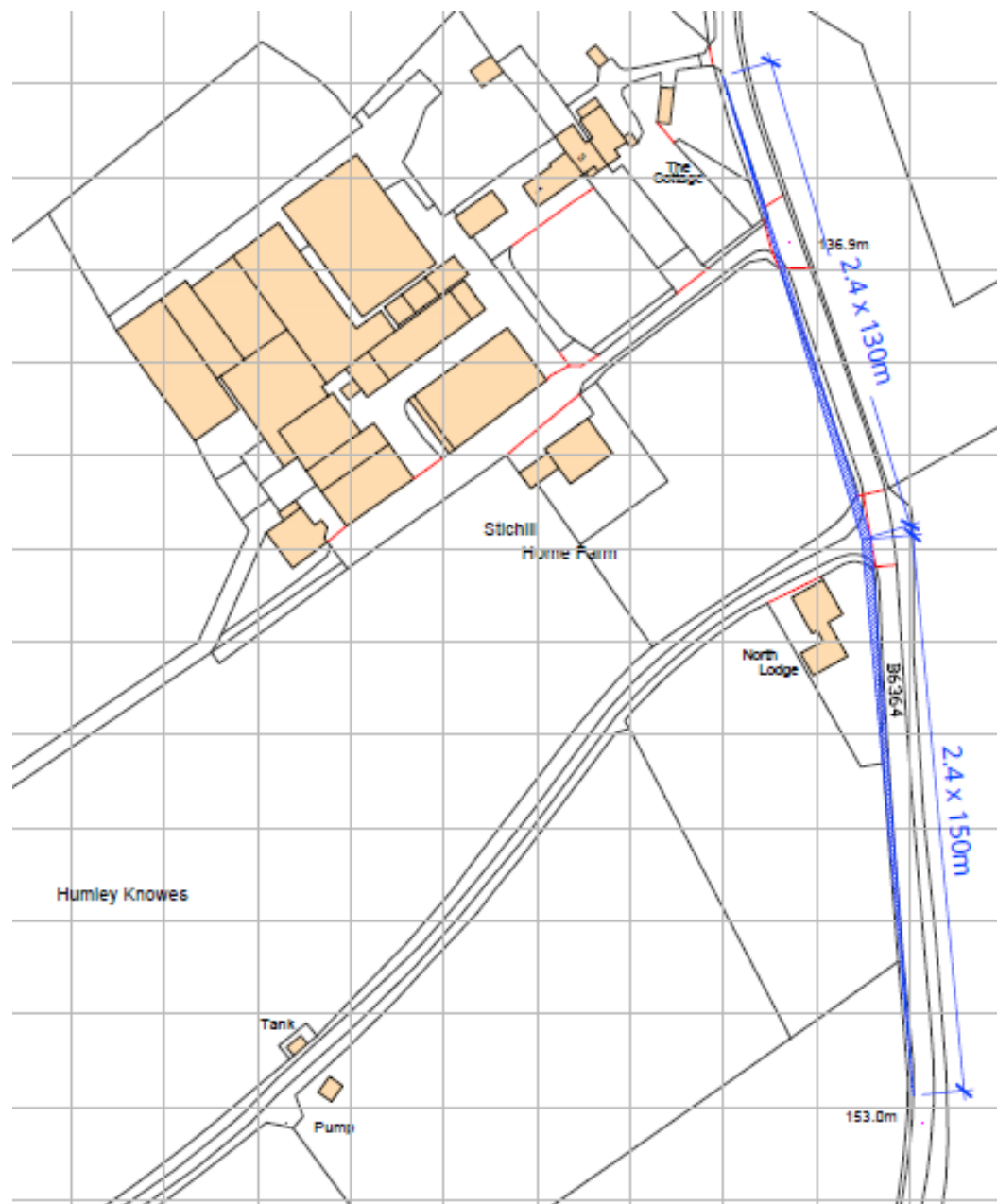
NEW DWELLINGS EAST OF BUCKLETONS, STICHILL

*“be designed and constructed in accordance with the Council’s adopted standards”* even when they are not intended to be adopted.

- 3.7 The crucial context in this case is that the proposed development intends to use existing private accesses – it does not propose to construct a new road. Therefore, **Policy IS6 does not require the existing private way that serves the proposed development to be upgraded to adoptable standards.**
- 3.8 It is accepted that the surface of the access track requires upgrade to be suitable for residential traffic. It has long been the practice of the Planning Authority to condition these works.
- 3.9 Planning Permission 20/00140/FUL was approved on 5th October 2020, pursuant to officer recommendation. Condition 2 attached to Permission 20/00140/FUL requires improvements to the access track (6km in that case), including sections that the beneficiary of Permission 20/00140/FUL held full rights to use but didn’t own. These arrangements are identical to those of the proposed development, other than the access track serving the application site only extends to 1km.
- 3.10 It is essential to note that adopted planning policy is materially identical between October 2020 and the present day. The Local Development Plan (2016) was adopted in May 2016 and Planning Permission 20/00140/FUL was granted in the context of its adopted policy. While National Planning Framework 4 has subsequently been adopted, it contains nothing which alters the policy approach to conditioning improvements to access tracks.

- 3.11 The consultation response of the Roads Planning team has raised the issue of poor visibility, which is also incorporated in the Report of Handling. However, it is essential to note that this criticism relates to the east access track, which is an agricultural track which has never been approved for residential use, clarified in the consultation response itself (copied below):  
*“Whilst on site, I witnessed occupants within the mentioned building group utilising the more easterly private road leading to the access with the B6364 at the telephone exchange, as the road surface was marginally better along this route. This road suffers from poor junction visibility where it meets the B6364.”*
- 3.12 For the purpose of clarity, the proposed development intends to use the north access track along which all existing dwellings take access. As discussed, the upgrade and resurfacing of the north access track shall address the problems with the existing surface of the track, raised by the Roads Planning consultation response.
- 3.13 The north access track benefits from significant visibility sightlines onto the B6364, part of the reason it has been approved for residential use. Visibility sightlines extend to 130 metres northward (left) and 150 metres southward (right). The existence of these sightlines are clearly demonstrated on the scaled plan 10434-CSY-XX-XX-D-A-2200 (**CD7**) visible in **Fig.3**.
- 3.14 It should be noted that the consultation response of Roads Planning raises no issue with visibility sightlines achievable from the north access track onto the B6364. Indeed, it raises no road safety issues with use of the north access track whatsoever. Practical concerns about using the track will be resolved by the track upgrades which the Appellants agree to accept via condition.

NEW DWELLINGS EAST OF BUCKLETONS, STICHILL



**Fig 3:** Extract from 10434-CSY-XX-XX-D-A-2200 Visibility Splays  
(Source: Cameron Strachan Yuill Architects).



NEW DWELLINGS EAST OF BUCKLETONS, STICHILL

- 3.15 The proposed development provides for safe and acceptable access to the application site. An existing access to the public road which benefits from significant visibility sightlines will be reused, an existing access track shall be upgraded and resurfaced to satisfy standards expected for residential use, the Appellants are prepared to accept a condition requiring this work to be completed before construction of either proposed dwellings starts. This approach has been used successfully by the Council elsewhere including the approval of Planning Permission 20/00140/FUL. Therefore, the proposed development is considered to be acceptable in transport terms and accord with Policy IS6.
- 3.16 It is also material to note that the application site can be accessed from the existing village at Stichill in a walk of 18 minutes. Therefore, the proposed development accords with Policy 15 of NPF4 and is consistent with the principle of 20 minute neighbourhoods.
- 3.17 The Appellants agree with the Planning Authority that the proposed development satisfies criteria a) and c) of section (A) of Policy HD2.
- 3.18 The proposed development is considered to satisfy criterion a) as the application site sits within the sense of place and setting of the existing Building Group at the former Stichill House, which comprises five existing dwellings – Buckletons, Garden Cottage, Butler’s Chase, Lairdshill, and Highfield, as seen in **Fig.4**. The proposed dwellings would sit together with and represent a logical extension of the existing Building Group and therefore satisfies criterion a) of section (A).
- 3.19 No consents for new dwellings have been granted within the Building Group in the period of the current Local Development Plan. Therefore, the Building Group has capacity to expand by two new dwellings and the proposed development is considered to satisfy criterion c) of section (A).
- 3.20 The Report of Handling takes the position that the proposed development does not satisfy criterion b) on the basis that it contradicts Policy IS6.
- 3.21 However, it is considered that the Planning Officer has misinterpreted Policy IS6 as it makes no requirement for existing private ways to be upgraded to adoptable standards, as addressed in paragraphs 3.6 & 3.7. On the contrary, it has been demonstrated that the proposed development can be provided with adequate access and accords with Policy IS6.
- 3.22 Therefore, there is no cumulative impact on the character of the Building Group owing to issues of transport. In landscape terms, the site appears as part of a cluster of houses in the countryside; although it should be noted that Laird’s Hill 187 metres (AOD) obscures most views from the west and only glanced views can be obtained from the B6364, circa 700 metres to the east (point-to-point distance). The proposed development would represent minimal change to this vista as the site and its surroundings would still appear as a cluster of houses in the countryside, preserving the essential visual quality and satisfying criterion b) of section (A).
- 3.23 The proposed development is considered to be acceptable as it accords with section (A) of Policy HD2. All relevant criteria are satisfied as the proposed dwellings would extend the existing Building Group

## NEW DWELLINGS EAST OF BUCKLETONS, STICHILL

on a site within its sense of place and setting, the proposed development is acceptable in transport and landscape terms and does not give rise to any cumulative impact, and the Building Group has remaining capacity to expand by two houses.

NEW DWELLINGS EAST OF BUCKLETONS, STICHILL



**Fig 4:** Annotated aerial image of existing Building Group at the former Stichill House with application site in red wash and natural boundaries illustrated (in orange).

NEW DWELLINGS EAST OF BUCKLTONS, STICHILL

---

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 23/00695/PPP and grant consent for the erection of two new dwellings with access and associated works on land east of Buckletons, Stichill.
- 4.2 The proposed development represents the enlargement of the existing Building Group at the former Stichill House by two new dwellings upon a site within the sense of place and setting of the cluster. It has been demonstrated that the proposed development is acceptable in transport and landscape terms and there are no associated significant cumulative impacts. No new dwellings have been consented within the current LDP period. Therefore, the principle of development is considered to be acceptable as the proposed development accords with section (A) of Policy HD2.
- 4.3 It is the position of the Appellants that the proposed development does not raise conflict with Policy IS6. Policy IS6 relates to *"new roads, footpaths and cycleways"* only and therefore does not restrict the use of an existing private way by the proposed development. As the existing access to the B6364 benefits from significant visibility and the Appellants are prepared to accept a condition requiring upgrade of the access track, the proposed development is consistent with Policy IS6.
- 4.4 The proposed development supports the sustainable growth of an existing rural community and will improve housing choice in the local area. Stichill is a small existing community which the existing Building Groups at both Stichill Stables and the former Stichill House stand close to. The application site can be reached from Stichill in an 18 minute walk. It is considered that the Rural Revitalisation principle applies strongly to Stichill and its environs, especially the direction to support rural population growth. The proposed development is considered to accord with Policies 15, 16 & 17 of NPF4.
- 4.5 The Local Review Body is respectfully requested to allow the appeal and grant Planning Permission in Principle for the erection of two new dwellings on land east of Buckletons, Stichill.

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

NEW DWELLINGS EAST OF BUCKLETONS, STICHILL  

---

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 Photosheet;
- CD4 10325-1201 Site Location Plan;
- CD5 10325-1202 Existing and Proposed Site Plans;
- CD6 10325-1203 Existing and Proposed Perspectives;
- CD7 10434-CSY-XX-XX-D-A-2200 Visibility Splays;
- CD8 Report of Handling 23/00695/PPP; and
- CD9 Decision Notice 23/00695/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

38 Thistle Street  
1st Floor  
Edinburgh  
EH2 1EN

T: 0131 385 8801

## NORTHERN IRELAND

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

M: 07960 003 358

E: [tim@fergusonplanning.co.uk](mailto:tim@fergusonplanning.co.uk)

[WWW.FERGUSONPLANNING.CO.UK](http://WWW.FERGUSONPLANNING.CO.UK)

