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APPEAL STATEMENT:
ERECTION OF DWELLINGHOUSE, FORMATION
OF ACCESS AND ASSOCIATED WORKS ON
LAND EAST OF BLINKBONNY FARMHOUSE, KELSO

JIMMY SHANKS

DECEMBER 2023

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EXECUTIVE SUMMARY

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This Statement is submitted on behalf of Mr Jimmy Shanks (the Appellant/Applicant) against the decision by Scottish Borders Council to refuse planning permission for the erection of a dwellinghouse on land east of Blinkbonny Farmhouse, Kelso on 3rd November 2023 (reference 23/00625/FUL).

The Appellant would like to draw members of the Local Review Body attention to the following information that forms the grounds of this appeal:

- The applicant currently resides in Blinkbonny Farmhouse and it is their intention to retire and pass on the running of the substantial farming operations to their family. However, they would like to retire on the land that has been in their family for a significant period of time and retain these links to the land.
- The applicant undertook Pre-application with the Planning Authority and made significant changes to the proposal as a result, including removal of a shed and moving the dwelling closer to the existing building group.
- During the course of the application's determination, the following consultee responses were received from Council Officers and other external consultees:
 - Roads Planning - **No objection**
 - Ecology - **No objection**
 - Contaminated Land - **No objection**
 - Scottish Water - **No objection**

- The proposed development is for the erection of a new dwelling on a site which is well related to and within the sense of place of the existing building group. The proposed dwelling reflects the existing pattern of development and respects the local character of Blinkbonny and would have a minimal impact on the amenity of surrounding properties and the local landscape.
- The proposals would be set against a backdrop of the woodland to the north of the application site while the design of the dwelling would mimic the gentle contours of the hillside; further landscaping would ensure that the visibility of the proposals was limited and appropriate for its setting.
- The visibility of the proposed access track is considered to be limited due to its location on the southernmost boundary of the site and as a result of the presence of existing and proposed landscaping. The applicant is willing to discuss further mitigation, such as finishing material and further landscaping, with the Planning Authority.
- The proposals comply with Policy 9 - Brownfield, vacant and derelict land and empty buildings. This is because NPF4 should be read as a whole and, criteria b) of this policy supports greenfield development if explicitly supported in the LDP which it is under LDP Policy HD2: Housing in the Countryside.

Having considered the detail contained within this appeal statement and associated documentary evidence, members of the Local Review Body are respectfully requested to allow the Notice of Review and grant planning permission.

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Figure 1: Location Plan

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INTRODUCTION

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- 1.1 This Statement supports a Notice of Review of the delegated decision of Scottish Borders Council to refuse to grant Planning Permission (23/00625/FUL) for the erection of a dwellinghouse, formation of access and associated works on land east of Blinkbonny Farmhouse, Kelso (**Fig.1**).
- 1.2 Located approximately 1km north west of Nenthorn and 6km north west of Kelso, the application site forms part of the wider 600-acre Blinkbonny Farm. The application site has been used in the past as rough grazing pasture and forms part of a larger field that was once part of the grounds belonging to the farmhouse. The site is approximately 0.49ha, roughly rectangular in shape and orientated in a southwest - northeast direction. The site has a sloping topography that runs downhill from north to south, with the existing building group all located on the crest of the hill; the proposed dwelling would be located in a similar position to form part of the established existing building group and reflects the pattern of residential development at this location.
- 1.3 To the west of the site are Blinkbonny Cottages and Blinkbonny Farmhouse and steading, to the south and east are agricultural fields and to the north, a shelter belt of woodland behind which is the operational Blinkbonny Quarry. Access to the application site is via an unclassified access road off the A6089 then along an existing farm track that runs southwards past the cottages. (**Fig.1**)
- 1.4 The farmhouse and cottages have been at Blinkbonny since the mid-19th century. There was a quarry located on land south of the cottages, however this ceased operating late 19th century. The current, much larger quarry to the north of the site opened in 2000. Historical mapping (**Fig.2-3**) demonstrates the evolution of Blinkbonny and the pattern of development.



Figure 2: 1862 Map (Design & Access Statement, Range Studio)



Figure 3: 1958 Map (Design & Access Statement, Range Studio)

- 1.5 The applicant currently resides in the farmhouse however it is their intention to retire and pass on the running of the substantial farming operations to their family, but they wish to retire on the land that has been in their family for a significant period of time.
- 1.6 Pre-application consultation has been undertaken by the applicant with the Planning Authority on 10th December 2021 (21/00242/PREAPP) and has informed the design of the proposed development, specifically with regards to its location within the site boundary and the addition of further landscaping. The proposed shed was removed, and the dwelling was moved 25m to the west to enhance integration into the existing building group at Blinkbonny, following submission of the planning application
- 1.7 The proposed development (**Fig.4**) is for a 1.5 storey house with an undulating pitched roof, including four bedrooms and an integral double garage. The dwelling would be finished in natural stone, timber and a standing seam metal roof. Materials have been specifically selected to be sensitive to the site context. Soft landscaping works will include new meadow planting and native species hedging to provide a complementary boundary definition reflective of its rural setting.
- 1.8 The existing farm track that currently runs to the south of the cottages then to the east, along southernmost boundary of the field, would be upgraded to provide access to the proposed dwelling; a turning area and parking for two vehicles would be provided on the eastern elevation of the dwelling.
- 1.9 The proposed dwelling would be connected to the existing water mains but use a private system for sewage. A small array of solar PV panels would be located to the southwest of the dwelling providing a source of clean, low carbon energy.

- 1.10 The planning application was supported by a Design and Access Statement and a Sequential Assessment which both demonstrate the evolution of the proposed development and how it has taken into account the key influences of the existing building group, the quarry blast zone and the topography of the site. The visualisations and plans clearly show that visibility would be very limited and moreover that the proposed development would form a natural, cohesive extension to the building group.

- 1.11 Despite this, the application for planning permission for the proposed development was refused by the Planning Authority on the following grounds:

"It is considered that the proposals are contrary to National Planning Framework 4 policy 17 and policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance New Housing in the Borders Countryside (2008) in that the proposed development would be sited within a previously undeveloped field, beyond the natural and man-made boundaries of the Blinkbonny building group, outwith the sense of place of the building group and out of keeping with the character of the building group, resulting in an unacceptable adverse impact on the landscape and amenity of the surrounding area. Accordingly, the proposed development would represent a sporadic and unjustified form of development in the countryside, which would set an undesirable precedent for similar unjustified proposals.

In addition, the proposal would be contrary to policy PMD2 in that it would result in access tracks leading to the site resulting in significantly adverse impacts upon existing landscape character and rural visual amenity."

- 1.12 The remainder of this statement will therefore set out the case for why the Local Review Body should allow the appeal as, on balance, it is considered to be in accordance with the Statutory Development Plan which comprises National Planning Framework 4 and the adopted Local Development Plan (2016) and also any other material considerations.



Figure 4: Proposed Site Plan (Studio Range)

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REASONS FOR REFUSAL AND
PLANNING POLICY CONTEXT

REASONS FOR REFUSAL AND PLANNING POLICY CONTEXT

2.1 Planning Application 23/00625/FUL was refused on 3rd November 2023. The Decision Notice cited the reasons for refusal, as set out below:

“It is considered that the proposals are contrary to National Planning Framework 4 policy 17 and policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance New Housing in the Borders Countryside (2008) in that the proposed development would be sited within a previously undeveloped field, beyond the natural and man-made boundaries of the Blinkbonny building group, outwith the sense of place of the building group and out of keeping with the character of the building group, resulting in an unacceptable adverse impact on the landscape and amenity of the surrounding area.

Accordingly, the proposed development would represent a sporadic and unjustified form of development in the countryside, which would set an undesirable precedent for similar unjustified proposals.

In addition, the proposal would be contrary to policy PMD2 in that it would result in access tracks leading to the site resulting in significantly adverse impacts upon existing landscape character and rural visual amenity.”

The rest of this section provides a brief overview of the relevant planning policy that the proposed development was assessed against and subsequently refused on.

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN (ADOPTED 2016)

2.2 Policy PMD2: Quality Standards sets out a range of sustainability, placemaking and design, accessibility and open space / biodiversity requirements, whereby the proposal must:

- Take appropriate measures to maximise the efficient use of energy and resources, in terms of layout, orientation, construction and energy supply.
- Make provision for sustainable drainage.
- Incorporate appropriate measures for separate storage of waste and recycling.
- Incorporate appropriate landscaping to help integration with the surroundings.
- Create a sense of place, based on a clear understanding of context.
- Be of a scale, massing and height appropriate to the surroundings.
- Be finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality.
- Be compatible with, and respect, the character of the surrounding area, neighbouring uses & neighbouring built form.
- Be able to be satisfactorily accommodated within the site.
- Provide for appropriate boundary treatments to ensure attractive edges, and to help integration with the surroundings.
- Incorporate access for those with mobility difficulties.
- Not have an adverse impact on road safety in terms of the site access.
- Incorporate adequate access and turning space for vehicles including those used for waste collection purposes.

- 2.3 Policy HD2: Housing in the Countryside - Section A of Policy HD2 addresses development proposals for housing related to existing 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.*

In addition, where a proposal for new development is to be supported, the proposal should be appropriate in scale, siting, design, access, and materials, and should be sympathetic to the character of the group."

- 2.4 Supplementary Guidance 'New Housing in the Borders Countryside' (SG) includes the following criteria for any new housing in the countryside:
- *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.*
- 2.5 Section 2b) of the SG covers development of new dwellings within an existing building group, noting that any application shall be tested against an analysis of:
- a) *the presence or, otherwise of a group; and*
 - b) *the suitability of that group to absorb new development.*
- 2.6 Furthermore, that the existence of a Building Group "will be identifiable by a sense of place which will be contributed to by:
- *natural boundaries such as water courses, trees or enclosing landform, or*
 - *man-made boundaries such as existing buildings, roads, plantations or means of enclosure."*

- 2.7 When expanding an existing building group, the SG refers to other assessment criteria that will also be considered:
- *The scale and siting of new development should reflect and respect the character and amenity of the existing group;*
 - *New development should be limited to the area contained by that sense of place;*
 - *A new house should be located within a reasonable distance of the existing properties within the building group with spacing guided by that between the existing properties;*

NATIONAL PLANNING FRAMEWORK 4 (2023)

- 2.8 NPF4 was adopted in February 2023 and is part of the statutory development plan in the Scottish Borders for the purpose of sections 25 and 37 of the Act. The document provides and overarching national planning policy framework and outlines the Scottish Government’s approach to achieving a net zero, sustainable Scotland by 2045.
- 2.9 NPF4 establishes “six overarching spatial principles”, one of which is Rural Revitalisation, the principle which is most pertinent to the proposed development. Rural Revitalisation is defined as encouragement of “*sustainable development in rural areas, recognising the need to grow and support urban and rural communities*”. Furthermore, NPF4 confirms that the associated strategy and policies “*support development that helps to retain and increase the population of rural areas of Scotland.*”
- 2.10 Policy 9: Brownfield, vacant and derelict land and empty buildings aims to ensure that development is directed to the right locations. Criteria b) supports greenfield development only if explicitly supported by policies within the LDP.

- 2.11 Policy 17: Rural Homes seeks to “encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations.” Section a) of the policy states 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.*”

OTHER MATERIAL CONSIDERATIONS

- 2.12 It is pertinent to note that the Report of Handling assessed the planning application on several other planning policies from the statutory development plan, and found that the proposed development to be in accordance with the following:
- LDP Policy PD1: Sustainability
 - LDP Policy HD3: Protection of Residential Amenity
 - LDP Policy EP13: Trees, Woodland and Hedgerows
 - LDP Policy IS2: Developer Contributions
 - LDP Policy IS7: Parking Provision & Standards
 - LDP Policy IS9: Waste Water Treatment Standards and Sustainable Urban Drainage
 - LDP Policy IS12: Development within Exclusion Zones
 - LDP Policy IS13: Contaminated Land
 - NPF4 Policy 1: Tackling the climate and nature Crises
 - NPF4 Policy 2: Climate mitigation and adaptation
 - NPF4 Policy 6: Forestry, woodland and trees
 - NPF4 Policy 9: Brownfield, vacant and derelict land and empty buildings
 - NPF4 Policy 14: Design, quality and place

This demonstrates that **there are no other constraints** to the proposed development over and above those contained in the reasons for refusal.

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GROUNDS OF APPEAL

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3.1 The decision of the Planning Authority to refuse planning permission for the proposed development is challenged on the basis of the grounds of appeal set out below. Based on the assessment of the application by the Planning Authority in the report of handling, the Applicant believes that there are three relevant grounds of appeal to consider as detailed below:

- 1. The proposed development has been located and designed to integrate positively with the existing building group and landscape and therefore meets the criteria of Policy HD2.**
- 2. Access to the proposed development upgrades an existing track that has limited visibility and therefore meets the requirements of Policy PMD2.**
- 3. The proposals comply with NPF4 Policy 17: Rural Homes & Policy 9: Brownfield, vacant and derelict land and empty buildings.**

Each ground for appeal will be discussed in further detail below to demonstrate that the proposed development is acceptable, as it complies with the relevant planning policies, and should therefore be approved on appeal by the Local Review Body.

Ground 1 - Well related to the existing building group, landscape and sense of place

3.2 The proposed development is not considered to be sited in a previously undeveloped field. Historical mapping and aerial imagery of the application site (**Fig.2-3**) clearly show that it was and still is part of a larger, single field that already includes development of the farmhouse and the cottages.

3.3 While there is evidence of man-made boundaries in the form of post and wire fencing, there are no definable natural boundaries between the existing dwellings and that of the proposed dwelling. Based on this, it is considered that the proposed development meets the criteria from the SG in terms of siting.

3.4 The existing building group at Blinkbonny takes the form of a linear style development, that follows the contours of the landscape; both the farmhouse and cottages are located on the crest of the hill to avoid the steep, often craggy slopes to the south. The proposed development has therefore been specifically sited to reflect the character and sense of place of the existing group as demonstrated on **Fig.5** below.

3.5 This contextual elevation of the existing group and the proposed new dwelling, demonstrates the continuing linear pattern of development, siting and orientation of the buildings with reasonable spacing between the dwellings; all of which contribute to the sense of place of the building group. Following removal of the shed, the proposed dwelling has moved 25m closer to the cottages, further increasing integration of the proposed development with the existing building group at what is a reasonable distance. This has also resulted in there no longer being a requirement for a retaining wall, thus avoiding intrusive engineering works.

3.6 The roof of the proposed dwelling mimics the gentle undulating form of the hillside so that it integrates within the surrounding landform. Set against the backdrop of the landscape and woodland to the north, along with new landscaping of native hedging and wildflowers would all contribute to the softening and integration of the proposals into the landscape as shown below in **Fig.5**

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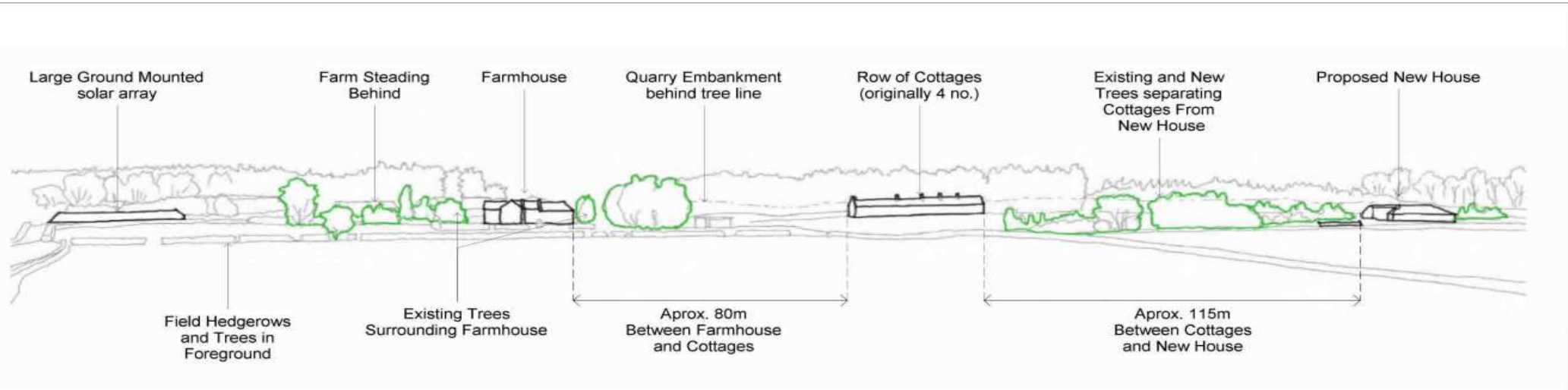


Figure 5: Views of Proposed Development from the south (Range Studio)

3.7 The siting of the proposed dwelling was also informed by a sequential assessment based on the blast zone boundary of the operational quarry to the north (**Fig.6**). The Report of Handling asserts that "Site 3 or site 6 (or a combination of both) would appear well related to the group whilst being outwith the "Blast Zone" despite the assessment clearly showing why these sites were unsuitable as set out in the adjacent tables. Accordingly, the application site still remains the most suitable location for the proposed dwelling.



Figure 6: Sequential Assessment

A	Existing Farmhouse
B	Farm Buildings (Fully Occupied)
C	Solar Panels
D	Quarry
E	Pond
F	Farm Cottages (Fully Occupied)
G	Quarry Access Track
H	Quarry/Farm Hardstanding

Table 1: Sequential Assessment - Existing Features

SITE	COMMENTS
1	Site falls within Quarry Blast Zone and situated too close to quarry operation which would give rise to residential amenity impacts. It again is too close to the quarry access road which runs adjacent.
2	Site falls within Quarry Blast Zone and situated too close to quarry operation which would give rise to residential amenity impacts. It again is too close to the quarry access road which runs adjacent.
3	Site falls mostly within Quarry Blast Zone and is an area used by the farm for storage and feeding Cattle. It is situated adjacent to the farm access road and would impact on its operations. It would also be with sight line and impact on the daylight/privacy of the existing row of cottages. It again would be on a more flat part of the field and more productive part of current agricultural operations than the subject site.
4	Falls within the Quarry Blast Zone and is adjacent to the access route into the quarry giving rise to residential amenity/noise constraints. It again forms a more productive field / part of current farm operations.
5	Falls within the Quarry Blast Zone and is adjacent to the access route into the quarry giving rise to residential amenity/noise constraints. It again forms a more productive field / part of current farm operations as well as garden area to the main farmhouse.
6	The eastern part of this zone is part of the end cottages garden area and not available. The Southern part forms part of the access into fields as well as sitting at differing levels and thus not possible to build a home on.

Table 2: Sequential Assessment - Site Assessment

Ground 2 - Access tracks with minimal visibility

3.8 The proposals seek to upgrade the existing farm access track that runs to the south of the cottages then branches east, along the southern boundary of the field; a small spur would then lead up to the dwelling. An established line of native hedging runs along the southern boundary, adjacent to the track, and also along the eastern boundary of the field; as this hedging would be retained as part of the proposals, visibility of the proposed access would therefore be extremely limited as shown in **Fig.5** above.

3.9 Further landscaping is also proposed along the upper sections of the access track, as shown on the proposed site plan below (**Fig.6**), which will help to soften visibility. However, the applicant is willing to discuss further landscaping and finishing materials in order to further minimise the already limited visibility of the access track.

Ground 3 - Compliance with NPF4 Policy 17: Rural Homes & Policy 9: Brownfield, vacant and derelict land and empty buildings

3.10 As the Applicant will be retiring and the farm would be run by their family, it is our contention that the proposed development would comply with NPF4 Policy 17 with respect to criteria vi) *a single home for the retirement succession of a viable farm holding*. As the Planning Authority disagrees with this and as NPF4 should be read as a whole, the proposals can therefore be considered under Policy 9 criteria b) *"Proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policies in the LDP"*; it is noted this has not been done in the Report of Handling. Rural residential developments on greenfield sites are explicitly supported under LDP Policy HD2: Housing in the Countryside therefore the proposed development complies with the above relevant NPF4 policies.

3.11 Based on the above assessment of the grounds of appeal, it is considered that the proposed development meets the criteria of LDP Policy PMD2, LDP Policy HD2, LDP SG New Housing in the Borders Countryside, NPF4 Policy 17 and NPF4 Policy 9.



Figure 6: Proposed Site Plan with Landscaping (Studio Range)

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CONCLUSION

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- 4.1 The Notice of Review, supported by this Statement, respectfully requests that the Local Review Body overturns the decision to refuse Planning Permission for application 23/00625/FUL and grant permission for the erection of a dwellinghouse on land east of Blinkbonny Farmhouse, Kelso.
- 4.2 Members are reminded that there are **no objections** to the proposed development following the period of statutory consultation.
- 4.3 The proposed development is for the erection of a new dwelling on a site which is well related to and within the sense of place of the existing building group. The proposed dwelling reflects the existing pattern of development and respects the local character of Blinkbonny and would have a minimal impact on the amenity of surrounding properties and the local landscape. The proposals would be set against a backdrop of the woodland to the north of the application site while the design of the dwelling would mimic the gentle contours of the hillside; further landscaping would ensure that the visibility of the proposals was limited and appropriate for its setting. Therefore, the proposal is considered to accord with section (A) of LDP Policy HD2: Housing in the Countryside
- 4.4 The visibility of the proposed access track is considered to be limited due to its location on the southernmost boundary of the site and the presence of existing hedging all along this boundary, which would be retained. Along with further proposed landscaping along the upper level of the track, visibility would be very limited and would have a minimal impact on the landscape and visual amenity of the wider area. However, the applicant is willing to discuss further mitigation, such as finishing material and further landscaping, with the Planning Authority. The proposal is therefore considered to comply with LDP Policy PMD2: Quality Standards.
- 4.5 While the applicant disagrees with the view of the Planning Authority regarding compliance with NPF4 Policy 17 - Rural Homes, it is submitted that the proposals accord with NPF4 Policy 9 - Brownfield, vacant and derelict land and empty buildings. This is because NPF4 should be read as a whole and, criteria b) of this policy supports greenfield development if explicitly supported in the LDP which it is under LDP Policy HD2: Housing in the Countryside.
- 4.6 Based on the evidence and arguments outlined in this statement that addresses and counters the reasons for refusal by the Planning Authority, we submit to the Local Review Body that the proposed development is therefore compliant with the relevant planning policy of the statutory development plan.
- 4.7 On this basis, Members of the Local Review Body are therefore respectfully requested to allow the appeal and grant planning permission for the proposed development.

APPENDIX - CORE DOCUMENTS

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

- Appeal Statement
- 23/00625/FUL:
 - Application Form
 - Design & Access Statement
 - Planning Drawings
 - Consultation Responses
 - Sequential Assessment
 - Report of Handling
 - Decision Notice

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