

Application Comments for 15/01323/FUL

Application Summary

Application Number: 15/01323/FUL

Address: Land North East Of The Cottage Lauder Barns Lauder Scottish Borders

Proposal: Erection of dwellinghouse

Case Officer: Stuart Herkes

Customer Details

Name: Mrs Nina Kunkel

Address: The Cottage 1 Lauder Barns A68t A68t At Lauder Road In Earlston To A68t At East High Street In Lauder, Scottish Borders, Lauder, Scottish Borders TD2 6RX

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Contrary to Local Plan
- Detrimental to environment
- Detrimental to Residential Amenity
- Health Issues
- Inadequate access
- Land affected
- Legal issues
- Loss of view
- No sufficient parking space
- Noise nuisance
- Over Provision of facility in area
- Overlooking
- Poor design
- Privacy of neighbouring properties affected
- Value of property
- Water Supply

Comment: Application Reference: 15/01323/FUL

Address: Land North East Of The Cottage

Lauder Barns Lauder Scottish Borders

Proposal: Erection of dwellinghouse

Case Officer: Stuart Herkes

We, Nina & Toby Kunkel, would like to object to this planning application on several grounds. Our

objections are as follows;

- Contrary to Local Plan
- Legal issues

We would like to note our objection to this planning permission on the basis of the following observations pertaining to the application. The applicant states that:

3.2 Policy D2 HOUSING IN THE COUNTRYSIDE seeks to promote appropriate rural housing development and sets out five categories when new housing may be appropriate. Building Groups are category A (out of 5) and the policy states:

[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:

1. 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 conversion has been implemented,
2. 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.

As plans for two houses in Lauderbarns Farm has been granted, and the applicant Mr. John Damerel has until 11th November 2018 before his planning permission expires, during which to complete his build, any further Planning Permission for another dwelling house will breach the 2 houses or 30% increase as per the Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011) Policy D2 HOUSING IN THE COUNTRYSIDE.

3. 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.

I would like to draw attention to the fact that this policy states:

The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Plan period. This will include those units under construction or nearing completion at that point.

There are no houses under construction or nearing completion currently at Lauderbarns and therefore the building group size can only be calculated at three existing dwelling houses. This allows, under the Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011) Policy D2 HOUSING IN THE COUNTRYSIDE, planning permission for two further dwelling houses, which has been granted to Mr. John Damerell and remains current for another three years for him to commence his building.

Scottish Planning Policy, June 2014

4.1 National planning policy seeks to promote rural development and there are two policy principles at paragraph 75 which are relevant to this proposal. The planning system should:

_ In all rural and island areas promote a pattern of development that is appropriate to the character of the particular area and the challenges that it faces;

_ Encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality;

4.2 Paragraph 109 of SPP encourages provision for new homes to be made to support population retention in rural areas.

The applicant uses the above statements to support her application, however, having read the Scottish Planning Policy, June 2014, it does not state at any point that these considerations are reason to build houses outwith local policy such as, Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011) Policy D2 HOUSING IN THE COUNTRYSIDE. As the applicants are a local professional couple as stated in their application, then this development does not contribute to population retention in rural areas as the applicants already reside in the Scottish Borders.

Planning history of the application site and building group

4.3 Outline planning permission (ref. 04/02254/OUT) for a dwelling on the application site was granted in 2004. Reserved matters approval for a dwelling and detached garage (ref. 06/01641/REM) on the site was granted on 4 April 2007. Appendix 2 contains copies of the application forms, location plan and reserved matters approval decision notice. The approval lapsed in April 2009.

I believe that this previous planning permissions is irrelevant. It is my understanding that all planning applications to Scottish Borders Council must be granted on their own merit. However, if the applicant would like to include record of previous planning permissions, I feel it should be

noted to the planning committee that previous planning permissions were never acted upon, and a house was never constructed due to problems with the site having no water access and being contaminated ground, issues which have not yet been resolved.

4.4 Planning permission for erection of two dwellinghouses (07/02397/OUT) was granted on 11 November 2013 on land north west of Lauder Barns Farmhouse, Lauder. This site lies on the east side of the application site and is shown on the planning history context plan in Appendix 3. Appendix 4 contains copies of the location plan, sketch layout, plan of accesses to be closed off, report to Committee (20 December 2013) and decision notice.

4.5 The building group identified by the Council when the consent for two dwellings was approved in October 2008 comprises:

- _ The Cottage
- _ Lauder Barns Farmhouse
- _ 1 Lauder Barns Cottage

4.6 Approval was given for the two dwellings adjacent to the farmhouse on the basis that the 100% threshold for increasing the group (based on there being three dwellings in the group) had not been exceeded and accepting a commitment of one approved but not yet built dwelling on the application site. The second paragraph of the recommendation in the report to Committee (See Appendix 4) states:

There is an existing building group here comprising three dwellinghouses while not previously accepted by this department, the area committee approved one house in the site alongside this on the basis that a third house located further to the north formed part of the group. This house has not yet been built, but given that the decision was made, it is considered that this establishes the authority's interpretation of the existing cluster of buildings. Since the group has so far expanded in consent terms only by one, and that preceded the adoption of the Local Plan 2008, there is no risk to the 100% threshold.

Although the previous planning permission for the house to be built on this site was taken into account during Mr. Damerrells application to build two dwelling houses, this is now an irrelevant observation, rather than an opportunity to act outwith the policies and guidelines of the planning department. This expansion by one never took place as the build was never commenced and the planning permission has subsequently lapsed therefore it should bear no consideration to this application. A timeline of all the relevant planning applications associated with this application shows that indeed this plot of land had planning permission granted when Lauderbarns farm applied to build two dwelling houses. However, the planning permission for the two houses in Lauderbarns farm was only granted AFTER the planning permission on this site had expired, therefore never, was there planning permission granted for three houses to be developed at the same time, in keeping with local policy. When the planning permission for the two dwelling houses at Lauderbarns farm were approved on 11th November 2013, the planning permission for this site

in question was already expired by two years.

This land was purchased by the applicant after its planning permission had lapsed and also after Mr. Damerrel had submitted his application to build two dwelling houses. The applicant purchased the land despite this information and indeed the Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011) Policy D2 HOUSING IN THE COUNTRYSIDE in which the threshold for development is clearly stated as 2 houses or 30%, whichever is the greater being available in the public domain.

4.7 The approval in November 2013 of the application for two houses accorded with Policy D2 in the adopted 2011 Consolidated Local Plan because by 2013, Policy D2 allowed only two dwellings to be added to a building group and the consent for one house on the application site had lapsed.

4.8 To what extent have the owners of the land with planning permission in principle (ref. 07/02397/OUT) made efforts to purify conditions on this consent or applied for approval of matters specified by condition? There have been no requests by the owners of the site to purify conditions on the consent and no application made for matters specified by condition. There has been no application to renew the 2013 permission and this permission is not capable of implementation without taking further positive steps to purify conditions and/or obtain approval of matters specified by condition on consent 07/02397/OUT. This planning permission in principle is, in effect, blocking any other planning applications for a dwelling from being granted within the building group.

The approval in principle as referred to above, for the two dwelling houses in Lauderbarns farm, state that the Scottish Borders Council grant planning permission in accordance with the application and the particulars given in the application and in accordance with Section 58 of the Country Planning (Scotland) Act 1997. This act states clearly that the permission expires 5 years after the date that it is granted giving Mr. Damerell permission to purify conditions on this consent or apply for approval of matters specified by condition for his development until 11th November 2018, almost three years. There is no clause specifying at what point he must have achieved any part or part thereof that process.

The applicant states that In the two years Mr. Damerell has had planning in principle, there has been no further effort to purify conditions on this consent or apply for approval of matters specified by condition thereby blocking any further developments. I dont believe that this is relevant but if the planning committee wish to take that fact into account then it should also be taken into account that during that time since Mr. Damerell had planning in princeple granted he has endured significant bereavement with the death of both his parents Mr. Regenald and Mrs. Rosemary Damerell, not to mention the illnesses leading to their deaths.

5.5 The only issue in this case is the conflict with the provision in Policy D2 restricting more than two housing dwellings or a 30% increase to the group during the Plan period. The planning permission in principle for two units on the adjacent site has not progressed further since approval in 2013 and cannot be implemented without matters specified by condition approval. The consent for two units also notes that planning permission for the relocation of the farm steading must be obtained before detailed proposals for the two units are progressed or the plots sold. None of this has been done. In effect, the extant PPP is preventing provision of one dwelling for a local professional couple on the application site who have demonstrated their commitment by undertaking an intrusive ground investigations study and submitting a detailed planning application.

5.6 The site is brownfield and there is strong national planning policy support for use of such sites for development. The Proposed LDP is heading for adoption in the next six months or so and a new plan period will then begin. In all the circumstances and bearing in mind that planning permission was previously granted for a dwelling on this site, planning permission should be granted for the current application. The planning history is a material consideration and the application should be determined on its merits. Approval of this application would not affect the fundamental strategy or basis of the proposed LDP and the material considerations set out in this statement outweigh the minor conflict with Policy D2.

The minor conflict with Policy D2 as stated by the applicant in their application is of great concern to us.

This application challenges the Consolidated Local Plan 2010 (adopted 2011) 3.2 Policy D2 HOUSING IN THE COUNTRYSIDE. These policies are developed and in place to protect our rural areas and small housing groups from overdevelopment. I appreciate why someone would want to build a house here in Lauderbarns. However, if this planning permission is granted, that will be development of 100% which is outwith the Consolidated Local Plan 2010 (adopted 2011) 3.2 Policy D2 HOUSING IN THE COUNTRYSIDE. I do not believe it appropriate to be permitting planning permission out with these policies, primarily because an applicant failed to investigate how local planning policies may impact on a potential development.

Our home is in a small group of rural houses. I am concerned that if the Scottish Borders Council grant planning permission to proceed with this development, clearly out with their guidelines and policies, that their failure to act within this policy Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011), will set precedent for allowing development, not just in Lauderbarns but also in every small rural group of houses in the Scottish Borders out with the specific guidelines.

Overdevelopment will destroy the very nature of our small rural groups of residences.

Our elected representatives and their colleagues in the the Scottish Borders Council and indeed at government level have spent much time and resources devising and legislating specific policies, at a great cost to the public purse, in order to protect our rural communities. Only strict adherence to these planning policies can ensure small housing groups, such as that at Lauderbarns, are not subject to overdevelopment.

I wish to trust that these policies and legislation will be upheld by the Scottish Borders Council with regard to planning applications.

- Land Affected
- Health Issues
- Detrimental to environment

We have significant concerns regarding the required excavation of the site in order to proceed with this development. As started in the Phase 1 Desk Study Report (Page 8) The main potential source of contamination on site is the material of unknown origin used to backfill the former mill pond; the historic maps indicate backfilling to be complete prior to 2002.

Further investigations on this site have supported our concerns regarding contamination of this site. reveals that lead is present in the site and is a contaminant of concern for the proposed development, with mean values of 268ppm. 68ppm above the Category 4 Screening Level (C4SL) of 20mg/kg, and as high as 1600ppm in one sample.

It also reveals that four of the seven samples taken shown potentially carcinogenic substance Benzo(a)Pyrene reaching maximum values of 10ppm and mean values of 2.36ppm. Both mean and maximum values exceed the soil guideline value (SGV) applied of 0.94ppm.

The interpretative ground investigation report details that several of the sampling sites revealed (ACM) asbestos containing material which was later confirmed in laboratory testing as crysotile asbestos. This is stated as a significant environmental risk.

Further potentially dangerous contaminants were discovered at the 7 test sites, though in lesser quantities which do not cause significant concern. However, the report does state that there was a wide variety of detritus on the site and further detritus of concern not encountered during the investigation, may also therefore be present.

Our concern is that there is potential public health risk to ourselves and particularly to our children,

arising from disturbing these contaminants. We remain concerned that allowing development and thus disrupting the contaminants prevents Scottish Borders Council from guaranteeing that this development will not cause significant harm such as ill effects on health, to us and other local residents. The Phase 1 Desk Study Report (page 15) states that children are the most sensitive human receptors to potential contaminants. Our children are aged 4 and 7 years old and play in the garden just feet away from this site, on a daily basis.

The site investigations have revealed hand sized chunks of asbestos beneath the ground, in the few areas investigated for samples. The report suggests that a 3 meter deep foundation trench is required to proceed with this development. I feel it would be irresponsible to dig the site just meters from my garden where my children play with the scientific knowledge that the soil to be excavated contains asbestos, potentially carcinogenic substances and high deposits of lead amongst other contaminants.

- Water Supply

There is currently no water supply for this site. No arrangements for a water supply, to our knowledge, have yet been agreed. We are considerably concerned that upon planning being granted, development to the site will commence. Should the issue of a lack of water supply not be resolved, we are fearful that we may be left with a semi-developed site outside our property, which will pose a significant safety risk for our children and will have a negative impact on our residential area. We respectfully request that any development permission granted, contains the condition that should the development not be carried out to completion, that the site will be put back to its original state and any excavations will be in filled.

- Increased traffic

- Road safety

This development will increase the use of private small roads with access onto and from the trunk road carriageway, thus interrupting the flow of traffic on the A68. Significant increases in traffic at peak times on the A68 regularly result in long waits at this access road to wait for a safe break in traffic to pull out onto the A68. Further traffic to and from this private access road will increase this problem, which has a negative impact on road safety within the Scottish Borders.

- Inadequate access

- Legal issues

We have not received any documentation from the applicants to support their right of access to our private access road. However, they have outlined in their plans that to gain access to their driveway, they will share use of our private access road. We are concerned about possible damage by, the heavy machinery required to complete this development, on our private access road. We would like a condition of any planning permission to include the applicants having

responsibility (both organizational and financial) for any resurfacing required to the access road, as a result of any damage caused by the traffic of heavy machinery, used in their development.

We would like evidence that the applicants deeds for their land, include a burden clause stating they will share equal responsibility including any expenses incurring, with ourselves, the owners of The Cottage and also the owners of Riverside, for maintaining the access road from the road edge up until the final northern boundary of their land.

- Over Provision of facility in area

Over the last 9 years since we moved to our property in Lauderbarns, there has been a constant list of private residential properties for sale within Lauder and its surrounding areas. These properties for sale are and have been a wide range of prices and sizes and include many 5 bedroom homes, such as the property the applicant is applying for permission to build. The local primary school and nursery is already at capacity with some children within Lauder attending Channelkirk primary school in Oxtou. As there is no shortage of this size property for sale in the area, we feel it would be irresponsible of Scottish Borders Council to grant permission for further residential development without first outlining its plans of how it will increase facilities such as schooling in the area to meet the demands further residential development will bring.

- Density of Site

- Poor design

- No sufficient parking space

We do not believe that the site is adequate in size to facilitate a dwelling of the size as outlined in the proposed plans along with two parking spaces. There is no other places to park other than directly outside our gate (preventing us from entering or exiting our property) and on the A68, posing significant safety risk to road users. We are concerned the development will be completed with no parking spaces so as to ensure the scale of dwelling, however, we request a clause to be added to any permissions granted for development that parking must be provided within the site.

- Privacy of neighbouring properties affected

- Overlooking

The proposed plans of a two storey house is not in keeping with the neighbouring houses which are visible from the site, which are single storey and 1.5 storey homes. The farmhouse at Lauderbarns farm is indeed two storey but is not visible from the other dwellings due to the farm buildings.

We are concerned that if the proposed plans are permitted, the applicants upstairs window will be overlooking us and intruding on our privacy. Bedroom 3 (as per the submitted plans) will be overlooking our garden and looking directly into our living room window and its situation will prevent us from having any privacy in our garden and indeed in our living room.

- Noise nuisance

We share the concerns of Environmental Health regarding lengthy noisy excavations and building works at this site. Environmental Health have made provisions that and excavations and building works generating noise only happen between 07:00 and 23:00 hours. We appreciate this attempt at a resolution to the concerns of noise nuisance. However, both of us resident at The Cottage are primarily night shift workers. On-going noise nuisance will have a negative impact on our health and on our ability to conduct our work and continue our current NHS employment. As we have already endured noisy site investigations with short notice, we request that any planning permission may carry conditions to ensure we receive adequate notice of any work being carried out on this site, in order for us to make alternative daytime sleeping arrangements. Due to the significant disruption any noisy development works will have on our daily lives, such as needing to make provisions for alternative sleeping arrangements, we request that there be a condition of a time limit placed on the development works, to include any further site investigation and excavation works, in order to prevent noisy development works on going over a lengthy period of time.

- Loss of view

- Value of property

The development if completed as per the submitted plans, will significantly obscure our views from our property. Our properties layout both internally and externally focuses on utilizing the views to the North-East, towards Lauder Burn, the B6362 road and towards the hills south of the A697. This development will significantly obscure this line of sight leaving us in our garden, our patio area and our downstairs living area, with views of a 1.8meter fence and the southwest aspect of this development. We believe this to have a devaluing effect on our property and a negative impact on our daily lives as we spend much time in our garden.

- Further Comments

This site has had planning permission granted several times before. However, development has never proceeded due to ongoing issues regarding the site being contaminated with unknown contaminants, lack of drainage to the site and no water supply to the site. We urge the planning board not to grant planning permission until these ongoing issues have been resolved and the site is fit for the proposed development.

We would like the panel to be aware that we were very open and forthcoming with the applicants regarding these ongoing issues with the site, prior to them purchasing the site, as were other local residents. We informed them on multiple occasions, of the previous failed developments and the reasons for the developments not proceeding, namely ongoing issues regarding the site being contaminated with unknown contaminants, lack of drainage to the site and no water supply to the site.

Many thanks for considering our concerns with regard to this planning application.

Application Comments for 15/01323/FUL

Application Summary

Application Number: 15/01323/FUL

Address: Land North East Of The Cottage Lauder Barns Lauder Scottish Borders

Proposal: Erection of dwellinghouse

Case Officer: Stuart Herkes

Customer Details

Name: Ms carol denovan

Address: 1 Bowerhouse Farm Cottages U2-5 C83 North Of Midburn To Pilmuir, Lauder, Lauder, Scottish Borders TD2 6PQ

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

- Contrary to Local Plan
- Detrimental to environment

Comment: Application Reference: 15/01323/FUL

Address: Land North East Of The Cottage

Lauder Barns Lauder Scottish Borders

Proposal: Erection of dwellinghouse

Case Officer: Stuart Herkes

I, Carol Denovan would like to put in an objection to the application above on two main grounds. Firstly I feel it is of the utmost importance that any rural developments adhere to the exact legal rules of our local housing policy(as written below) and secondly, in this particular case, the health issues involved because of contaminants already found on the proposed site suggest that it wouldn't be wise at all for this ground to be disturbed neither for building work nor for further testing. While some of issues are obviously only relevant to the people living closer to the proposed site, as a resident of Lauderdale for many years who cares very much about how this area is developed, I urge you to consider that permission should not be granted in this case

yours sincerely C. Denovan

-Contrary to Local Plan

-Legal issues

I would like to note our objection to this planning permission on the basis of the following observations pertaining to the application. The applicant states that:

3.2 Policy D2 HOUSING IN THE COUNTRYSIDE seeks to promote appropriate rural housing development and sets out five categories when new housing may be appropriate. Building Groups are category A (out of 5) and the policy states:

[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:

1. 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 conversion has been implemented,
2. 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.

As plans for two houses in Lauderbarns Farm has been granted, and the applicant Mr. John Damerel has until 11th November 2018 before his planning permission expires, during which to complete his build, any further Planning Permission for another dwelling house will breach the 2 houses or 30% increase as per the Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011) Policy D2 HOUSING IN THE COUNTRYSIDE.

3. 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.

I would like to draw attention to the fact that this policy states:

The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Plan period. This will include those units under construction or nearing completion at that point.

There are no houses under construction or nearing completion currently at Lauderbarns and therefore the building group size can only be calculated at three existing dwelling houses. This allows, under the Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011) Policy

D2 HOUSING IN THE COUNTRYSIDE, planning permission for two further dwelling houses, which has been granted to Mr. John Damerell and remains current for another three years for him to commence his building.

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- In all rural and island areas promote a pattern of development that is appropriate to the character of the particular area and the challenges that it faces;
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4.5 The building group identified by the Council when the consent for two dwellings was approved in October 2008 comprises:

 The Cottage

 Lauder Barns Farmhouse

 1 Lauder Barns Cottage

4.6 Approval was given for the two dwellings adjacent to the farmhouse on the basis that the 100% threshold for increasing the group (based on there being three dwellings in the group) had not been exceeded and accepting a commitment of one approved but not yet built dwelling on the application site. The second paragraph of the recommendation in the report to Committee (See Appendix 4) states:

There is an existing building group here comprising three dwellinghouses while not previously accepted by this department, the area committee approved one house in the site alongside this on the basis that a third house located further to the north formed part of the group. This house has not yet been built, but given that the decision was made, it is considered that this establishes the authority's interpretation of the existing cluster of buildings. Since the group has so far expanded in consent terms only by one, and that preceded the adoption of the Local Plan 2008, there is no risk to the 100% threshold.

Although the previous planning permission for the house to be built on this site was taken into account during Mr. Damerrells application to build two dwelling houses, this is now an irrelevant observation, rather than an opportunity to act outwith the policies and guidelines of the planning department. This expansion by one never took place as the build was never commenced and the planning permission has subsequently lapsed therefore it should bear no consideration to this application. A timeline of all the relevant planning applications associated with this application shows that indeed this plot of land had planning permission granted when Lauderbarns farm applied to build two dwelling houses. However, the planning permission for the two houses in Lauderbarns farm was only granted AFTER the planning permission on this site had expired, therefore never, was there planning permission granted for three houses to be developed at the same time, in keeping with local policy. When the planning permission for the two dwelling houses at Lauderbarns farm were approved on 11th November 2013, the planning permission for this site in question was already expired by two years.

This land was purchased by the applicant after its planning permission had lapsed and also after Mr. Damerrel had submitted his application to build two dwelling houses. The applicant purchased the land despite this information and indeed the Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011) Policy D2 HOUSING IN THE COUNTRYSIDE in which the threshold for development is clearly stated as 2 houses or 30%, whichever is the greater being available in the public domain.

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the two units are progressed or the plots sold. None of this has been done. In effect, the extant PPP is preventing provision of one dwelling for a local professional couple on the application site who have demonstrated their commitment by undertaking an intrusive ground investigations study and submitting a detailed planning application.

5.6 The site is brownfield and there is strong national planning policy support for use of such sites for development. The Proposed LDP is heading for adoption in the next six months or so and a new plan period will then begin. In all the circumstances and bearing in mind that planning permission was previously granted for a dwelling on this site, planning permission should be granted for the current application. The planning history is a material consideration and the application should be determined on its merits. Approval of this application would not affect the fundamental strategy or basis of the proposed LDP and the material considerations set out in this statement outweigh the minor conflict with Policy D2.

The minor conflict with Policy D2 as stated by the applicant in their application is of great concern to us.

This application challenges the Consolidated Local Plan 2010 (adopted 2011) 3.2 Policy D2 HOUSING IN THE COUNTRYSIDE. These policies are developed and in place to protect our rural areas and small housing groups from overdevelopment. I appreciate why someone would want to build a house here in Lauderbarns. However, if this planning permission is granted, that will be development of 100% which is outwith the Consolidated Local Plan 2010 (adopted 2011) 3.2 Policy D2 HOUSING IN THE COUNTRYSIDE. I do not believe it appropriate to be permitting planning permission out with these policies, primarily because an applicant failed to investigate how local planning policies may impact on a potential development.

I am concerned that if the Scottish Borders Council grant planning permission to proceed with this development, clearly out with their guidelines and policies, that their failure to act within this policy Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011), will set precedent for allowing development, not just in Lauderbarns but also in every small rural group of houses in the Scottish Borders out with the specific guidelines. Overdevelopment will destroy the very nature of our small rural groups of residences.

Our elected representatives and their colleagues in the the Scottish Borders Council and indeed at government level have spent much time and resources devising and legislating specific policies, at a great cost to the public purse, in order to protect our rural communities. Only strict adherence to these planning policies can ensure small housing groups, such as that at Lauderbarns, are not subject to overdevelopment.

I wish to trust that these policies and legislation will be upheld by the Scottish Borders Council with regard to planning application

Application Comments for 15/01323/FUL

Application Summary

Application Number: 15/01323/FUL

Address: Land North East Of The Cottage Lauder Barns Lauder Scottish Borders

Proposal: Erection of dwellinghouse

Case Officer: Stuart Herkes

Customer Details

Name: Mr James Macdonald

Address: Riverside Lauder Barns A68t A68t At Lauder Road In Earlston To A68t At East High Street In Lauder, Scottish Borders, Lauder, Scottish Borders TD2 6RX

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Contrary to Local Plan
- Detrimental to environment
- Health Issues
- Increased traffic
- Land affected
- Legal issues
- Water Supply

Comment: I Mr. James Macdonald of Riverside, Lauderbarns would like to object to this planning application on several grounds.

I have concerns to planning permission being sought outwith the bylaws and current planning policies. Such permissions being granted are contrary to the current legislation. I agree with the arguments laid out in objection by Mrs. Nina Kunkel with regard to this matter, as detailed below.

We would like to note our objection to this planning permission on the basis of the following observations pertaining to the application. The applicant states that:

3.2 Policy D2 HOUSING IN THE COUNTRYSIDE seeks to promote appropriate rural housing development and sets out five categories when new housing may be appropriate. Building Groups are category A (out of 5) and the policy states:

[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:

1. 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 conversion has been implemented,
2. 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.

As plans for two houses in Lauderbarns Farm has been granted, and the applicant Mr. John Damerel has until 11th November 2018 before his planning permission expires, during which to complete his build, any further Planning Permission for another dwelling house will breach the 2 houses or 30% increase as per the Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011) Policy D2 HOUSING IN THE COUNTRYSIDE.

3. 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.

I would like to draw attention to the fact that this policy states:

The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Plan period. This will include those units under construction or nearing completion at that point.

There are no houses under construction or nearing completion currently at Lauderbarns and therefore the building group size can only be calculated at three existing dwelling houses. This allows, under the Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011) Policy D2 HOUSING IN THE COUNTRYSIDE, planning permission for two further dwelling houses, which has been granted to Mr. John Damerell and remains current for another three years for him to commence his building.

Scottish Planning Policy, June 2014

4.1 National planning policy seeks to promote rural development and there are two policy principles at paragraph 75 which are relevant to this proposal. The planning system should:

In all rural and island areas promote a pattern of development that is appropriate to the character of the particular area and the challenges that it faces;

Encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality;

4.2 Paragraph 109 of SPP encourages provision for new homes to be made to support population retention in rural areas.

The applicant uses the above statements to support her application, however, having read the Scottish Planning Policy, June 2014, it does not state at any point that these considerations are reason to build houses outwith local policy such as, Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011) Policy D2 HOUSING IN THE COUNTRYSIDE. As the applicants are a local professional couple as stated in their application, then this development does not contribute to population retention in rural areas as the applicants already reside in the Scottish Borders.

Planning history of the application site and building group

4.3 Outline planning permission (ref. 04/02254/OUT) for a dwelling on the application site was granted in 2004. Reserved matters approval for a dwelling and detached garage (ref. 06/01641/REM) on the site was granted on 4 April 2007. Appendix 2 contains copies of the application forms, location plan and reserved matters approval decision notice. The approval lapsed in April 2009.

I believe that this previous planning permissions is irrelevant. It is my understanding that all planning applications to Scottish Borders Council must be granted on their own merit. However, if the applicant would like to include record of previous planning permissions, I feel it should be noted to the planning committee that previous planning permissions were never acted upon, and a house was never constructed due to problems with the site having no water access and being contaminated ground, issues which have not yet been resolved.

4.4 Planning permission for erection of two dwellinghouses (07/02397/OUT) was granted on 11 November 2013 on land north west of Lauder Barns Farmhouse, Lauder. This site lies on the east side of the application site and is shown on the planning history context plan in Appendix 3. Appendix 4 contains copies of the location plan, sketch layout, plan of accesses to be closed off, report to Committee (20 December 2013) and decision notice.

4.5 The building group identified by the Council when the consent for two dwellings was approved in October 2008 comprises:

The Cottage

Lauder Barns Farmhouse

1 Lauder Barns Cottage

4.6 Approval was given for the two dwellings adjacent to the farmhouse on the basis that the 100% threshold for increasing the group (based on there being three dwellings in the group) had not been exceeded and accepting a commitment of one approved but not yet built dwelling on the application site. The second paragraph of the recommendation in the report to Committee (See Appendix 4) states:

There is an existing building group here comprising three dwellinghouses while not previously accepted by this department, the area committee approved one house in the site alongside this on the basis that a third house located further to the north formed part of the group. This house has not yet been built, but given that the decision was made, it is considered that this establishes the authority's interpretation of the existing cluster of buildings. Since the group has so far expanded in consent terms only by one, and that preceded the adoption of the Local Plan 2008, there is no risk to the 100% threshold.

Although the previous planning permission for the house to be built on this site was taken into account during Mr. Damerrells application to build two dwelling houses, this is now an irrelevant observation, rather than an opportunity to act outwith the policies and guidelines of the planning department. This expansion by one never took place as the build was never commenced and the planning permission has subsequently lapsed therefore it should bear no consideration to this application. A timeline of all the relevant planning applications associated with this application shows that indeed this plot of land had planning permission granted when Lauderbarns farm applied to build two dwelling houses. However, the planning permission for the two houses in Lauderbarns farm was only granted AFTER the planning permission on this site had expired, therefore never, was there planning permission granted for three houses to be developed at the same time, in keeping with local policy. When the planning permission for the two dwelling houses at Lauderbarns farm were approved on 11th November 2013, the planning permission for this site in question was already expired by two years.

This land was purchased by the applicant after its planning permission had lapsed and also after Mr. Damerrel had submitted his application to build two dwelling houses. The applicant purchased the land despite this information and indeed the Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011) Policy D2 HOUSING IN THE COUNTRYSIDE in which the threshold for development is clearly stated as 2 houses or 30%, whichever is the greater being available in the public domain.

4.7 The approval in November 2013 of the application for two houses accorded with Policy D2 in the adopted 2011 Consolidated Local Plan because by 2013, Policy D2 allowed only two dwellings to be added to a building group and the consent for one house on the application site had lapsed.

4.8 To what extent have the owners of the land with planning permission in principle (ref.

07/02397/OUT) made efforts to purify conditions on this consent or applied for approval of matters specified by condition? There have been no requests by the owners of the site to purify conditions on the consent and no application made for matters specified by condition. There has been no application to renew the 2013 permission and this permission is not capable of implementation without taking further positive steps to purify conditions and/or obtain approval of matters specified by condition on consent 07/02397/OUT. This planning permission in principle is, in effect, blocking any other planning applications for a dwelling from being granted within the building group.

The approval in principle as referred to above, for the two dwelling houses in Lauderbarns farm, state that the Scottish Borders Council grant planning permission in accordance with the application and the particulars given in the application and in accordance with Section 58 of the Country Planning (Scotland) Act 1997. This act states clearly that the permission expires 5 years after the date that it is granted giving Mr. Damerell permission to purify conditions on this consent or apply for approval of matters specified by condition for his development until 11th November 2018, almost three years. There is no clause specifying at what point he must have achieved any part or part thereof that process.

The applicant states that In the two years Mr. Damerell has had planning in principle, there has been no further effort to purify conditions on this consent or apply for approval of matters specified by condition thereby blocking any further developments. I dont believe that this is relevant but if the planning committee wish to take that fact into account then it should also be taken into account that during that time since Mr. Damerell had planning in principle granted he has endured significant bereavement with the death of both his parents Mr. Regenal and Mrs. Rosemary Damerell, not to mention the illnesses leading to their deaths.

5.5 The only issue in this case is the conflict with the provision in Policy D2 restricting more than two housing dwellings or a 30% increase to the group during the Plan period. The planning permission in principle for two units on the adjacent site has not progressed further since approval in 2013 and cannot be implemented without matters specified by condition approval. The consent for two units also notes that planning permission for the relocation of the farm stading must be obtained before detailed proposals for the two units are progressed or the plots sold. None of this has been done. In effect, the extant PPP is preventing provision of one dwelling for a local professional couple on the application site who have demonstrated their commitment by undertaking an intrusive ground investigations study and submitting a detailed planning application.

5.6 The site is brownfield and there is strong national planning policy support for use of such sites

for development. The Proposed LDP is heading for adoption in the next six months or so and a new plan period will then begin. In all the circumstances and bearing in mind that planning permission was previously granted for a dwelling on this site, planning permission should be granted for the current application. The planning history is a material consideration and the application should be determined on its merits. Approval of this application would not affect the fundamental strategy or basis of the proposed LDP and the material considerations set out in this statement outweigh the minor conflict with Policy D2.

The minor conflict with Policy D2 as stated by the applicant in their application is of great concern to us.

This application challenges the Consolidated Local Plan 2010 (adopted 2011) 3.2 Policy D2 HOUSING IN THE COUNTRYSIDE. These policies are developed and in place to protect our rural areas and small housing groups from overdevelopment. I appreciate why someone would want to build a house here in Lauderbarns. However, if this planning permission is granted, that will be development of 100% which is outwith the Consolidated Local Plan 2010 (adopted 2011) 3.2 Policy D2 HOUSING IN THE COUNTRYSIDE. I do not believe it appropriate to be permitting planning permission out with these policies, primarily because an applicant failed to investigate how local planning policies may impact on a potential development.

Our home is in a small group of rural houses. I am concerned that if the Scottish Borders Council grant planning permission to proceed with this development, clearly out with their guidelines and policies, that their failure to act within this policy Scottish Borders Council Consolidated Local Plan 2010 (adopted 2011), will set precedent for allowing development, not just in Lauderbarns but also in every small rural group of houses in the Scottish Borders out with the specific guidelines. Overdevelopment will destroy the very nature of our small rural groups of residences.

Our elected representatives and their colleagues in the the Scottish Borders Council and indeed at government level have spent much time and resources devising and legislating specific policies, at a great cost to the public purse, in order to protect our rural communities. Only strict adherence to these planning policies can ensure small housing groups, such as that at Lauderbarns, are not subject to overdevelopment.

I wish to trust that these policies and legislation will be upheld by the Scottish Borders Council with regard to planning applications.

My main concern is of the excavation and the disposal of the contaminants discovered in the soil. It would seem that disturbing these contaminants pose a serious health risk and environmental risk. The site investigation reports that it is likely that further dangerous substances are also

present.

I do not believe there is a provision of water supply to this site and urge the Scottish borders council not to grant planning permission for this development until this is resolved.

We would like evidence that the applicants deeds for their land, include a burden clause stating they will share equal responsibility including any expenses incurring, with ourselves, the owners of Riverside and also the owners of The Cottage, for maintaining the access road from the road edge up until the final northern boundary of their land.

We respectfully request that any planning permission carry the clause that the access road must be kept clear at all times during both site excavations and developments to ensure we have access to our property. Further to that, the development must include provision for parking on the site and the access road to remain clear after development is complete.

Many thanks.

23 DEC 2015

SH
Comments: *Advers been
turn can not
we pte
for*
Ref No:

YOUR REF:
OUR REF:
DIRECT TEL:



EMAIL:



21 December 2015

Planning and Regulatory Services
Scottish Borders Council Headquarters
Newtown St Boswells
Melrose
TD6 0SA

For the attention of Mr Stuart Herkes

Dear Sir/Madam

Private and Confidential
Erection of dwellinghouse
Land North East Of The Cottage Lauder Barns Lauder Scottish Borders
Ref. No: 15/01323/FUL

We write in connection with the above planning application. Whilst we have no issue in principle, we are concerned with a number of matters of procedure and content as set out below. We wish to bring these to your attention urgently and would value your considered response:

1. Despite being a next door neighbour we have received no formal notification of this planning application received, by the Council, on 30th October 2015. We note that the neighbour consultation expired on 24th November 2015 so are concerned at this apparent lack of proper procedure. We would be grateful if the Council could confirm to us why we have not been notified and whether proper procedure has been followed.
2. Having had the application drawn to our attention by local residents, we are concerned at statements made in the application which go beyond the relevant planning history. In particular, a number of assertions are made in 4.8 and 4.10 of the planning statement about our 'lack of intention' to bring forward the two plots which have outline planning permission. **Statements are made which have not been checked with us or validated in any way beyond the public list of planning applications.** These statements do not reflect the true facts of the situation and in our view, are simply an attempt to gain planning by circumventing policy and the views of neighbours.
3. We wish to make it clear that our plans for development of the two plots and redevelopment of the farm steading have had to be put on hold over the past 18 months due to family illness and bereavements which have taken their toll. My mother sadly passed away on 4th December 2014 and my father on 26th August 2015, and I

myself also suffered near fatal illness in January 2015. This has understandably meant we have not progressed matters as we would have intended.

4. We wish to explore with you the possibility of extending the outline planning permission for the two plots 07/02397/OUT which is due to expire in November 2016. This will give us time to reformulate our strategy for development of and investment in the future of the farm business.

Yours faithfully



Jonathan and Joanne Damerell