

LOWLAND PLANNING ASSOCIATES Ltd.

APPELLANT: Mr. JOE TREE and Family

PROPOSAL : ERECTION of a HUT at WYND WOOD, BOLTON MUIR, nr GIFFORD.

APPEAL to EAST LOTHIAN COUNCIL, LOCAL REVIEW BODY on the GROUNDS of NON-DETERMINATION.

## INTRODUCTION

As Local Members will find out in the processing of this appeal that there is a relatively new category of development planning in Scotland. This initiative began back in 2014 when the environmental community and woodland charity Reforesting Scotland, launched the concept of bringing back affordable hutting and active outdoor recreation to our countryside. Many of you will be familiar with the original, interwar, hutting and fishing bothies in rural areas of Scotland. At the beach in Dunbar and those dotted around the Lothian landscape; huts have been prized by their owners for many generations. One large scheme in Stirlingshire, at Carbeth, is now a Conservation Area such it is prized as a wonderful heritage feature.

We are all wary of inappropriate development in the countryside. Planning policies are stringent in rural areas to ensure we protect and enhance our valuable rural assets. However, huts are considered, and have been considered for a long-time, to be benign structures. New huts in areas of Scotland which do not previously have much of a hutting culture are now opening-up to the value to rural life and activity of recreation, fairly close to home, by the use of huts.

A steering group was formed (which included the writer here) and in liaison with the Scottish Government at a cross-party level, sought to formulate an additional planning policy to ensure huts took their place again in the Scottish Countryside. This new policy is contained in the Scottish Planning Policy 3 (SPP3) document and it will through time become a feature of Local Development Plans at Council level.

It is still, as needs must, be a well and tightly defined policy. The definition of a hut is described in full in SPP3. Our steering group also prepared a Guide for Planners which was launched to much aplomb at Holyrood.

As explained above, the writer here (who is also the Planning Consultant for this case at application and appeal stages) has been advising on the new concept of hutting, along with Andy Wightman MSP, author and journalist Dr. Lesley Riddoch, forester Donald McPhillimy and Keeper of Falkland Palace and head of the Countryside Stewardship at Falkland, Ninian Stuart, along with other rural development specialists. We are, collectively, extremely fastidious in ensuring all the new hutting sites in Scotland fulfil all the requirements of the hutting policy in terms of siting, design, size, off-grid credentials, tree planting and nature conservation.

The planning file for this case contains the Hutting Guidance for Planners, a Supporting Statement to explain the concept and the hut specifics at Wynd Wood, and, importantly, a detailed Habitat and

Protected Species Survey carried out by Leonie Alexander, who is one of Scotland's leading wildlife and environmental consultants. We, respectfully, really could not get a better team here than this.

## THE ISSUES

It is rather a pity that my clients, the Tree family, feel the need to appeal on the grounds of Deemed Refusal. The case officers are supportive of the proposal, but feel the need to sort out some 3rd party problems before making a decision on their hut at Wynd Wood. Their plans are totally in line with the SPP3 definition of a hut and are frustrated that, through no fault of their own, are caught up with enforcement action directed at the forestry company who sold them the woodland.

Woodlands.co.uk are a firm of foresters who purchase large areas of forestry that are not generally being well-managed and sub-dividing them into various woodlots of about 4-6 acres or thereby. Bolton Muir was once part of Lennoxlove Estate and over the years sections of woodland were removed of native broadleaved trees and our own Scots Pine. and replanted with commercial species such as Sitka Spruce. The intention here now is to gradually remove the non-native trees, when at their best for putting to good use, and replanting with native trees which are far superior for habitat creation. Thankfully, Bolton Muir still has a large element of broadleaves and clutches of Scots Pine to give the impression of a beautiful, natural woodland.

The idea of selling off large patches of woodland is that it will encourage people interested in forestry and the environment to learn how to manage woodlands for amenity, habitat and as a timber resource. This model works really well and many areas of mature trees are getting the attention they deserve after years of neglect.

These individual woodlots are perfect for incorporating individual huts into their fabric. Bolton Muir is also close to areas of population making it readily available for the new owners to stay in at holidays and weekends and enjoy learning about off-grid living and of course learn how to manage their trees.

Woodlands.co.uk are experienced foresters and they manage the woods properly regardless of whether a hut will be applied for or not. This is where the problems between the company, ELC Planning, and the local community have arisen. Bolton Muir has been an established woodland for hundreds of years. The tracks that criss-cross the land are of similar age as the original trees here. These forestry-spec. wayleaves are essential for woodland management and they work as firebreaks too. Additionally, they allow access on foot for walkers who wish to enjoy the private land that is Bolton Muir. Of course the ethos of people walking the paths, often with dogs, is fine. That will not change despite the changes in ownership as the woodlots get sold off to individuals.

All the existing tracks must be maintained to ensure they function well as forest roads. This means a process of fixing damage as required. This is conventional and all forestry operators, including the Forestry Commission, have to carry out these works. As stated above the tracks are very old and there is no intention of creating new forestry tracks nor to enhance their width. There is a misunderstanding on the part of some local people who somehow think that, because of the hutting applications, that there is going to be large changes made to Bolton Muir and perhaps in due course they will be prevented from enjoying the private woodland as if they were public or were rights of way. This is not the case.

Additionally, the Woodlands Company are trying to place new owners of the woodlots in a position to actively manage their trees. This means felling and replanting as required. To this end, at the entrance to each woodlot, the company have formed hardcore timber-stacking areas to allow a tractor/trailer and loading crane into the edge of the sites to collect the stacked wood. When not required for timber-stacking these hardcore zones make perfectly suitable hardstanding to park the owners vehicles.

#### PRIOR NOTIFICATION for FORESTRY DEVELOPMENT

The planning system allows for a range of Permitted Development for agricultural, forestry and landscaping businesses to build essential facilities to support those rural enterprises to operate efficiently. This can range from buildings, new accesses, etc. to be created without the need for a full planning application. Instead there is a simplified system where prior to works taking place a Prior Notification (PN) system allows for some modest input on siting and design, for example, but not the function of those works. In the case of Bolton Muir the maintenance of the existing tracks does not need any local authority permissions. The creation of functional areas of NEW hardstanding for the stacking of timber requires Prior Notification for Agricultural and Forestry Developments. but not a full planning application.

Since these areas of hardstanding at Bolton Muir are at the entrances to the individual woodlots, ELC Planning ( and the objectors) are making the assumption that they are parking areas for the hut owners cars. In fact they have this dual use. They were also put in prior to the sale of any of the woodlots like Wynd Wood.

The landowners here feel that as the Woodlands Company are taking issue, with objectors and the planning authority, over both the track maintenance and the formation of the hardstandings, that this debate should not prejudice the applicants wishing to do everything right in terms of the SPP3 hutting policy. The applicants (now appellants), are on tenterhooks waiting on the row over the PN works to be concluded one way or another. This matter could take many months to sort and the family who own Wynd Wood really want to build their hut and start enjoying their woods in all the ways hutting allows.

#### OTHER OBJECTIONS TO THE HUTS

There are no formalised objections to the Wynd Wood hut, by virtue of the objections being lodged after the statutory time period for comments. However, it is very clear that the local community and other walkers do not fully understand exactly what the hutting applications at Bolton Muir are all about. There is a clear suspicion that the huts will provide a foothold to applying for a house in the future. The hutting policy has been very carefully scrutinised by SG Planning and Environment and the huts are narrowly defined to be clearly NOT for mainstream housing but for part-time recreation only. The other papers on the case file enlarge on what is and isn't a hut. At Wynd Wood there will be a 30sqm timber building and a tiny free-standing composting toilet. The structures have been sited carefully and they do not create visual disharmony in any respect.

Damage to habitat is another recurring theme proffered by the objectors. Each planning application that this planning consultancy, Lowland Planning, is, or will be, dealing with has a Phase 1 Habitat and a Protected Species survey conducted to ensure all the fauna and flora on the sites are

protected and opportunities to enhance biodiversity taken. At Wynd Wood there are active badger sets present and the landowners have for some time been monitoring the welfare of the badgers by the placing of CCTV cameras at the entrance to the setts. Rather than hurting wildlife there is a strong wish to ensure the safety of protected species into the future.

The appellants have a concern about dogs being let loose within the woods. There is no intention of stopping dog walkers going into the woods, despite there being no right of access for them, but it would be welcome if the local walkers could keep their dogs under tight supervision as there is evidence via the CCTV of the members of the public's dogs taking a great interest in the badger setts.

#### CONCLUSION

The proposal for a hut at Wynd Wood should be approved by Members as it is wholly in line with extant planning policy. The Planning Officers agree with this statement, but are being side-tracked by the debate over the Woodlands Company enforcement matters and by the objectors believing that huts should not be built at Bolton Muir, despite them being of great benefit to the health and welfare of the woods and to the people who use and enjoy them-owners and local people alike.

Anne Cunningham MRTPI

Lowland Planning Associates

December 2020