
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

4th September 2017

1 PURPOSE

- 1.1 The purpose of this briefing note is to give details of **Appeals** and **Local Reviews** which have been received and determined during the last month.

2 APPEALS RECEIVED

- 2.1 Planning Applications

Nil

- 2.2 Enforcements

Nil

3 APPEAL DECISIONS RECEIVED

- 3.1 Planning Applications

- 3.1.1 Reference: 14/00848/PPP
Proposal: Erection of 19 holiday lodges with proposed access and land treatment
Site: Land North West of Whitmuir Hall, Selkirk
Appellant: Mr Alan Williams

Reason for Refusal: The proposed development is contrary to Policy D1 of the Scottish Borders Consolidated Local Plan 2011 in that it has not been established that there is sufficient economic justification to establish a case for the development that would outweigh concerns over the harm to the amenity and the character of the scenic landscape and surrounding Whitmuirhall Loch, which is sensitive to change and which contributes to the attractiveness of the area.

Grounds of Appeal: 1. The reference to economic justification in Policy D1 applies to "Other Business or Employment generating Uses" and it is contended that the Council acted unreasonably in using economic justification as the reason for refusal of this proposed tourism and leisure development. 2. The Appellant maintains their stance and the assessment

arrived at by the previous Reporter and appraisal of the amended proposals by Council officers more than adequately prove that there is sufficient economic justification to establish a case for the development. 3. The current proposals have been substantially scaled down from 28 to 19 lodges, and the layout has respected concerns about landscape context and has significantly reduced the proposed development footprint and has increased areas for screen planting and landscaping. 4. SBC have not given due consideration to their own adopted Local Plan policy, and have seen fit to ignore it and the recommendations of their officers. They have wrongly concluded that this proposed development is contrary to Local Plan policy when it is clearly not.

Method of Appeal: Written Representations & Site Visits

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Karen Heywood, concluded that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusing to grant planning permission in principle. The Reporter considered all the other matters raised, but there were none which would lead her to alter her conclusions.

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 24th August 2017. This relates to sites at:

• Land North of Howpark Farmhouse, Grantshouse	• Poultry Farm, Marchmont Road, Greenlaw
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5 REVIEW REQUESTS RECEIVED

5.1 Reference: 17/00323/FUL
 Proposal: Erection of dwellinghouse and retaining wall (part retrospective)
 Site: Land West of Craigerne Coachhouse, Edderston Road, Peebles
 Appellant: Mrs Patricia Crippin

Reason for Refusal: The application is contrary to Policies PMD2, PMD5 and EP13 of the Scottish Borders Local Development Plan 2016 in that the proposed development will represent overdevelopment, and significant reduction, of an area of ground which is required for landscaped and wooded setting for the Craigerne Coach House development, resulting in an inappropriate congested appearance between the development and Edderston Road and providing insufficient space from existing preserved trees which would undermine their protection.

5.2 Reference: 17/00384/FUL

Proposal: Alterations to existing bellmouth and formation of new access
Site: Land North West of Kirkburn Parish Church, Cardrona
Appellant: Cleek Poultry Ltd

Reason for Refusal: The application is contrary to Policies PMD2, ED7, EP5 and HD3 of the Scottish Borders Local Development Plan and Supplementary Planning Policies relating to Special Landscape Area 2- Tweed Valley in that the proposed access road will be locally prominent in the landscape and will create significant earthworks, loss of mature trees and reduction of proposed planting areas intended to screen the consented holiday developments, having a significant adverse effect on the character and quality of the designated landscape and the amenity of adjoining residents. Furthermore, the application has failed to demonstrate that the development can be achieved in terms of levels, geometry, drainage and that there is any ability to secure stopping up of the existing roadway.

5.3 Reference: 17/00647/FUL
Proposal: Formation of hardstanding, steps, retaining wall and new foot path
Site: Land North West of Kirkburn Parish Church, Cardrona
Appellant: Cleek Poultry Ltd

Reasons for Refusal: 1. The application is contrary to Policies PMD2, HD3, EP7 and ED7 of the Scottish Borders Local Development Plan 2016 in that the proposal would create adverse effects on the setting of a Category B Statutorily Listed Building adjoining the site and on the amenity of nearby residential amenity properties. 2. The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that any traffic generated by the proposal can access the site without detriment to road safety.

5.4 Reference: 17/00806/FUL
Proposal: Erection of agricultural building and formation of new access track
Site: Land South of 3 Kirkburn Cottages, Cardrona, Peebles
Appellant: Cleek Poultry Ltd

Reasons for Refusal: 1. The application is contrary to Policies PMD2 and ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building and that would justify an exceptional permission for it in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building is not of a scale that appears suited to the size of the holding on which it would be situated, which further undermines the case for justification in this location. 2. The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that any traffic generated by the proposal can access the site without detriment to road safety.

6 REVIEWS DETERMINED

- 6.1 Reference: 16/01174/PPP
Proposal: Erection of vehicle body repair workshop and associated parking
Site: Land North West of Dunrig Spylaw Farm, Lamancha, West Linton
Appellant: GS Chapman Vehicle Body Repairs

Reasons for Refusal: 1. The proposal does not comply in principle with Adopted Local Development Plan Policy ED7 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location. 2. Taking account of the greenfield nature of the site and lack of existing screening available within the surrounding area, the proposal does not comply with Adopted Local Development Plan Policies ED7 and PMD2 in that the operation of the business, including the storage of general vehicles at the site, would be unsympathetic to the rural character of the site and surrounding area, and would have an unacceptably detrimental landscape and visual impact upon the appearance of the site and its environs.

Method of Review: Review of Papers, Site Visit and Further Written Submissions

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions)

- 6.2 Reference: 17/00005/PPP
Proposal: Erection dwellinghouse
Site: Land South of Balmerino, Ashkirk
Appellant: Ms Gillian MacKay

Reason for Refusal: The proposed development would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016, in that the proposed development would be located outwith the Ashkirk Development Boundary, and insufficient reason and justification for an exceptional approval has been advanced. Other material considerations do not justify a departure from the Development Plan in this case.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.3 Reference: 17/00118/FUL
Proposal: Change of use of redundant steading and alterations to form dwellinghouse with associated parking and infrastructure works
Site: Redundant Steading North West of Pots Close Cottage, Kelso
Appellant: Roxburghe Estates

Reasons for Refusal: 1. The proposal is contrary to Policy HD2 of the Local Development Plan 2016 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008), in that: i. the proposal does not appropriately constitute a conversion in that it is not physically capable of conversion; ii. the building is not worthy of conversion in terms of its architectural or historic merit; iii.) the site lies outwith any recognised settlement or building group and the need for a

new dwellinghouse on this site has not been adequately substantiated. 2. The proposal is contrary to PMD2 of the Local Development Plan 2016 and the advice contained within Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Placemaking and Design (January 2010), in that the resulting building would not be in keeping with the design and character of the existing building. 3. The proposal is contrary to policies EP2 and EP3 of the Local Development Plan 2016 in that the potential impact on local biodiversity and protected species is unknown as surveys of the surrounding buildings and trees have not been carried out, informed by a Preliminary Roost Assessment.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.4 Reference: 17/00530/FUL
 Proposal: Erection of dwellinghouse with attached garage and workshop
 Site: Land North West of Alderbank, Macbiehill, West Linton
 Appellant: Mr and Mrs D Gold

Reason for Refusal: The proposals do not comply with Local Development Plan Policy HD2 and the Supplementary Planning Guidance on New Housing in the Borders Countryside as the site is located outwith, and not well related to, the recognised boundary of the existing building group at Macbiehill which is the natural slope between the site and "Alderbank", breaking into an undeveloped field at a higher level. The proposals do not comply with Local Development Plan Policy HD3 and the Supplementary Planning Guidance on Privacy and Sunlight in that the proximity and change in levels in relation to "Alderbank" would result in significant adverse effects on the residential amenity enjoyed by that property, creating an overbearing impression.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld (Terms of Refusal Varied)

7 REVIEWS OUTSTANDING

7.1 There remained 2 reviews previously reported on which decisions were still awaited when this report was prepared on 24th August 2017. This relates to sites at:

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| <ul style="list-style-type: none"> Land North East of The Old Church, Lamberton | <ul style="list-style-type: none"> 5 High Street, Innerleithen |
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8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained 4 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 24th August 2017. This relates to sites at:

• (Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir	• Fallago Rig 1, Longformacus
• Fallago Rig 2, Longformacus	• Birneyknowe Wind Farm, Land North, South, East & West of Birnieknowe Cottage, Hawick

Approved by

Ian Aikman
Chief Planning Officer

Signature

Author(s)

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Background Papers: None.

Previous Minute Reference: None.

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

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