

**SCOTTISH BORDERS COUNCIL**

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO  
CHIEF PLANNING OFFICER**

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 16/01507/FUL  
**APPLICANT :** Cleek Poultry Ltd  
**AGENT :**  
**DEVELOPMENT :** Erection of machinery storage building  
**LOCATION:** Field No 0328 Kirkburn  
Cardrona  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
196 80	Elevations	Refused
196 81	Site Plan	Refused

**NUMBER OF REPRESENTATIONS: 0**

**SUMMARY OF REPRESENTATIONS:**

Roads Planning:

The previous application for this proposal (15/01254/FUL) raised no objection due to it being a small extension to the existing building, therefore I have no objections in principle to this proposal.

Environmental Health:

Amenity and Pollution

Assessment of Application

Air quality

Noise

Nuisance

Private Water Supply

Recommendation

Delete as appropriate - Agree with application in principle, subject to Conditions

Conditions

Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 - 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any

plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2  
Reason To protect the residential amenity of nearby properties.

All plant and machinery shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.

Reason To protect the residential amenity of nearby properties.

Landscape Architect:

Nature of the Proposal

The proposal is for the erection of a machinery storage building onto the end of the existing shed.

Implications of the Proposal for the Landscape including any Mitigation

I am concerned that the shed will be visible to receptors using the B7062 travelling eastwards from Peebles the building is higher than the existing shed and will be overly dominant in this small scale setting. I suggest that the existing trees along the north boundary may not provide adequate screening to the shed when seen from this direction, especially during the winter months.

The roof height will be approximately 2.5m above the roof height of the existing shed and as such has potential to be visible above the existing tree belt from sensitive locations across the valley e.g. from the A72.

Conclusion

I have a concern that the proposal will have a negative visual impact on this part of the Tweed valley and impact on receptors using the minor road immediately to the north.

If the building height could be kept to the height of the existing, adjacent building, I wouldn't have the same concerns about the visibility of the building from outwith the site.

On landscape and visual grounds, I cannot support this application.

Archaeology Officer:

There are no implications for this proposal. This application area was subject to a watching brief in 2005 which failed to identify archaeological deposits or objects.

Economic Development: No comments.

Peebles and District Community Council: Response awaited.

#### **PLANNING CONSIDERATIONS AND POLICIES:**

Scottish Borders Local Development Plan 2016

Policy PMD2 Quality Standards for New Development

Policy EP5 Special Landscape Areas

Policy EP8 Archaeology

Policy ED7 Business Tourism and Leisure Development in the Countryside

"Special Landscape Area 2 - Tweed Valley" - Supplementary Planning Policies

**Recommendation by** - Craig Miller (Lead Planning Officer) on 30th January 2017

There have been three previous applications to add a higher extension on to this western end of the existing building, all having been refused. The most recent application for an agricultural machinery building (15/01254/FUL) proposed an identical extension to that previously refused under 15/00600/FUL. The assessment of the history, landscape impacts and need for the proposals are contained within the previous reports on the timber processing building and agricultural storage buildings. Sections are repeated below as follows:

"The timber processing building exhibits the same issues of height, albeit being one metre lower than the Flotation Tank building. It nevertheless has a ridge line 2.75m above the current building ridge lines. Given the fact that the existing buildings are close to the top line of the trees when viewed from across the river, a further 2.75m height extension will cause the same problems of prominence and landscape impact as the other proposals which have been rejected, albeit of slightly lesser degree.

Of particular impact will be the building when viewed from the B-road, especially on the approach from the west. An application was refused in 2011 for a building of similar scale and dimensions in the same location. At that time, the building was described for hay storage purposes and it was the same floor area and eaves height of 6m but with a flat roof. That application was refused for the following reason:

"...the proposals are of inappropriate form, scale and materials and are unsympathetic to both the existing building and the amenity of the surrounding rural area".

In the report on that application, it was stated :

"The proposals fail to comply with these requirements in that none of these elements are in sympathy with the existing building. The abrupt change from pitched to flat roof form is exacerbated by the 1.5m height increase and the lack of any fenestration, together with the high steel doors which are higher than the eaves of the existing building. As the extension will also be flush with the front and back of the existing building, the lack of any step back also increases the unsympathetic relationship with the existing building.

These concerns have been raised with the agent who has offered to alter the proposal to clad it in metal sheeting rather than the proposed blockwork. The shape, form and bulk of the extension would only be slightly reduced in impact by the use of matching material and it is concluded that the design would still be inappropriate as an extension to the existing building especially within the attractive and historic rural environment that it is located. The building will be visible from the public roads to the front and rear of the site and a better design of extension is warranted in the location proposed."

The new application still exhibits many of the incongruous elements of the previous design, albeit dropping the flat roof in favour of a pitch. This, however, increases the height by a further 1.3m, causing a visual jump up in ridge lines and the eaves line being dramatically different. Again, the roller shutter door will be above the eaves of the existing buildings and the impact from the western direction on the public road will be dominant, faced with a 7.3m high blank gable on already elevated land.

It is concluded that the impacts from the A72, compounded by those from the B-road in relation to the dominance of the building and its incongruous relationship with the existing buildings, determine that the proposal would have a significant visual impact on the designated landscape."

Repeating the application , albeit with a different intended use, has not addressed these concerns in any way, the building remaining prominent to the B road, especially from the western approach, and from the A72. The Landscape Architect continues to object for these reasons. There have been several opportunities to address the excessive height of the building but none have been taken. I would have to conclude that re-submitting the application has still not addressed the landscape reasons for refusal."

All these concerns still apply to the current application which presents a lean-to face to the public road at least 2.5m above the existing buildings ridge lines. Although it is narrower in width and does not follow the asymmetrical shape of the remaining ground, the building will still exhibit all the landscape impact problems of the previous three buildings proposed. The fact that the front face is open to the inside makes no particular difference to the visual impacts. References to previous tree top lines on applications behind the existing buildings have not been repeated on this application and there is no demonstration of how effective that would be in reducing landscape or visual impacts here. It remains a proposal which is contrary to relevant LDP Policy and Supplementary Planning Guidance on visual and landscape impact.

In terms of the intended use of the building, extracts from previous reports on lack of justification for additional buildings are as relevant with this application. The following extract was from 15/01254/FUL:

"In terms of the intended use of the building, the proposed use is for storage for agricultural machinery and, in particular, a telehandler which is stated as requiring height for maintenance. A previous application at the

other end of the steading (15/00563/FUL) rehearsed the issue of additional storage in relation to Policy D1 as follows:

"Policy D1 looks for uses which are related to the ground on which they are located, for purposes which are generated by the land and any particular activity carried out on the land. It is known that the landholding is only 8 acres, of which 3 have been earmarked for the consented chalet development and some of the remainder are occupied already by buildings and the yard area. The stated purpose of the buildings and their scale raise issues over need and justification, as with the other proposals and in the absence of a co-ordinated Business Plan. .... It is also questioned whether such a modest holding, already with a range of buildings (including a consented cold storage building and tractor shed) can justify such large additional accommodation which appears duplication. In the absence of a Business Plan, there is no demonstration of the required need for such buildings on this small holding.

It is concluded that the application is contrary to Policies G1 and D1 of the Scottish Borders Consolidated Local Plan 2011 in that it has not been adequately demonstrated that there is an overriding justification for the proposed buildings that would justify an exceptional permission in this rural location and therefore the development would appear as unwarranted development in the open countryside. The proposed buildings are not of a design or scale that appear suited either to the proposed use for which they are intended or the size of the holding on which they would be situated, which further undermines the case for justification in this location."

As there has not been any Business Plan or justification submitted to address the previous reason for refusal in relation to lack of compliance with Policy D1 or respond to the aforementioned concerns, I would have to consider that the current application still fails to comply with Policy D1. There has been no demonstration of how the current modest farmholding justifies further storage buildings nor how housing for a telehandler can be required for the farmholding. Clearly, even if it was demonstrated that the farmholding justifies such machinery, a lower building would allow garaging whilst maintenance of the telescopic elements would need to be carried out outwith the building.

I would have to conclude that this new application proposing similar agricultural machinery storage use as previously proposed, without a Business Plan, has still not addressed the business justification reasons for refusal."

All of this still applies, subject to reference to updated LDP Policies.

The environmental health concerns can be addressed by a condition on any approval. There are no archaeological implications as there had been a previous watching brief at this western end of the steading.

Roads Planning consider the proposal is essentially an extension to the existing building and are not opposed to the proposal.

#### **REASON FOR DECISION :**

The application is contrary to Policies PMD2, ED7 and EP5 of Scottish Borders Local Development Plan 2016 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building will be prominent in height, elevation and visibility within the landscape, will be poorly visually related to the existing buildings adjoining and will have a significant detrimental impact on the character and quality of the designated landscape.

The application is contrary to Policies PMD2 and ED7 of Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building 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 and use are not of a scale or purpose that appear related to the nature or size of the holding on which the building would be situated, which further undermines the case for justification in this location.

**Recommendation:** Refused

- 1 The application is contrary to Policies PMD2, ED7 and EP5 of Scottish Borders Local Development Plan 2016 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building will be prominent in height, elevation and visibility within the landscape, will be poorly visually related to the existing buildings adjoining and will have a significant detrimental impact on the character and quality of the designated landscape.
  
- 2 The application is contrary to Policies PMD2 and ED7 of Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building 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 and use are not of a scale or purpose that appear related to the nature or size of the holding on which the building would be situated, which further undermines the case for justification in this location.

**“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.**



**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING  
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND  
LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

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**Local Review Reference:** 17/00009/RREF

**Planning Application Reference:** 16/01507/FUL

**Development Proposal:** Erection of machinery storage building

**Location:** Field No 0328 Kirkburn, Cardrona

**Applicant:** Cleek Poultry Ltd

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**DECISION**

The Local Review Body (LRB) varies the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice and on the following grounds:

- 1 The application is contrary to Policies PMD2, ED7 and EP5 of Scottish Borders Local Development Plan 2016 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building will be prominent in height, elevation and visibility within the landscape, will be poorly visually related to the existing buildings adjoining and will have a significant detrimental impact on the character and quality of the designated landscape.
- 2 The application is contrary to Policies PMD2 and ED7 of Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building 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 and use are not of a scale or purpose that appear related to the nature or size of the holding on which the building would be situated, which further undermines the case for justification in this location.
- 3 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.

## **DEVELOPMENT PROPOSAL**

The application relates to the erection of a machinery storage building at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Site Plan	19681
General Arrangement	19680

## **PRELIMINARY MATTERS**

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 17<sup>th</sup> April 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Officer's Report; c) Papers referred to in Report; d) Consultations and e) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case.

## **REASONING**

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the most relevant of the listed policies were:

- Local Development Plan policies: PMD2, EP5, EP8 and ED7.

Other Material Considerations

- Scottish Planning Policy
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal was to erect a machinery storage building to the west of the existing buildings in the yard at the applicant's land holding at Kirkburn. The building, which has a footprint of 7m x 10m, would be placed on the lower yard and at 7m in height it would project 2.5m above the ridgeline of the existing buildings which it was to be attached to.

The Review Body noted that the applicant sought to contain his activities within the existing nucleus of buildings at the holding. However, Members did not agree with the applicant that the building was of "limited height" and that he had demonstrated that "... the building would be hidden from view for the A72". They were concerned that, due to the height of the building, it would be prominent from more distant views across the valley and would extend above the tree cover to the northern boundary of the landholding. Members agreed with the view of the landscape architect that this



was harmful on visual and landscape grounds and therefore unacceptable. They concluded that it would constitute a prominent feature on an elevated site, which would detract from the intrinsic qualities of the Tweed Valley Special Landscape Area.

The Review Body accepted that, if the building was required for the storage and maintenance of tipping trailers and telescopic handlers, the internal height proposed would be necessary. However, the application was not supported by a business plan or any statement that set out the development strategy for the landholding for the activities carried out at the site. In the circumstances, they had no evidence before them as why the new building was needed for this small holding. In the absence of a credible or sustainable economic justification for the building on this size of landholding they had no reason to set aside the strong landscape objections to the development and overturn the decision.

The Review Body reiterated their request that the applicant submit a business case/masterplan for the landholding that would set out clearly the objectives for the landholding with any subsequent planning applications lodged with the planning authority.

Members were concerned that the application was deficient in term of the traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) and, in their view, it had not been possible to undertake a full assessment of the road safety implications of the development. In the circumstances, the Review Body varied the terms of the decision and added an additional reason for refusal on road safety grounds.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was refused.

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### **Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.**

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

**Signed.....**Councillor R Smith  
Chairman of the Local Review Body

**Date.....**24 April 2017

**SCOTTISH BORDERS COUNCIL**

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO THE HEAD OF PLANNING  
AND REGULATORY SERVICES**

**PART III REPORT (INCORPORATING REPORT OF HANDLING)**

**REF :** 11/01451/FUL

**APPLICANT :** Mr A Cleghorn

**AGENT :** Fouin & Bell Architects Ltd

**DEVELOPMENT :** Erection of hay store

**LOCATION:** Field No 0328 Kirkburn  
Cardrona  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
(PL)09.2	Site Plan	Refused
(PL)09.3	Location Plan	Refused
(PL)09.4	Location Plan	Refused

**NUMBER OF REPRESENTATIONS: 0**

**SUMMARY OF REPRESENTATIONS:**

NUMBER OF REPRESENTATIONS: 0  
SUMMARY OF REPRESENTATIONS: N/A

**CONSULTATIONS CARRIED OUT AND SUMMARY OF CONSULTATION RESPONSES:**

Peebles and District Community Council: Object: Previous Enforcement orders have not been complied with and no further development should be permitted until site is compliant.

**PLANNING CONSIDERATIONS AND POLICIES:**

**RELEVANT PLANNING POLICIES:**

Scottish Borders Structure Plan 2018

Policy N20 – Design  
Policy E16 – Rural Economic Development

Scottish Borders Consolidated Local Plan 2011

Policy G1 – Quality Standards for New Development  
Policy D1 – Business, Tourism and Leisure Development in the Countryside

“Placemaking and Design” Scottish Borders Council SPG

**Recommendation by** - Craig Miller (Principal Planning Officer) on 30th January 2012

This proposal is to provide an addition to the western end of an existing agricultural building at Kirkburn between Peebles and Cardrona. A recent approval was granted for a small lean-to addition to the eastern end which has been constructed. The difference with this application is that the proposed extension is 1.5m higher than the pitched roof existing building, clad in blockwork (not sheeting) and has a bulky square form and flat roof out of context with the existing building.

Policies G1, D1 and the Design SPG require extensions to existing buildings to be of a scale, height and massing appropriate to the existing building. The proposals fail to comply with these requirements in that none of these elements are in sympathy with the existing building. The abrupt change from pitched to flat roof form is exacerbated by the 1.5m height increase and the lack of any fenestration, together with the high steel doors which are higher than the eaves of the existing building. As the extension will also be flush with the front and back of the existing building, the lack of any step back also increases the unsympathetic relationship with the existing building.

These concerns have been raised with the agent who has offered to alter the proposal to clad it in metal sheeting rather than the proposed blockwork. The shape, form and bulk of the extension would only be slightly reduced in impact by the use of matching material and it is concluded that the design would still be inappropriate as an extension to the existing building especially within the attractive and historic rural environment that it is located. The building will be visible from the public roads to the front and rear of the site and a better design of extension is warranted in the location proposed.

REPORT BY – Craig Miller (Principal Planning Officer) on 30 January 2012.

**RECOMMENDATION:**

The application is recommended for refusal for the listed reason.

**REASON FOR DECISION :**

The application is contrary to Policies N20 of the Scottish Borders Structure Plan 2018, Policies G1 and D1 of the Scottish Borders Consolidated Local Plan 2011 and the advice contained within the “Placemaking and Design” SPG in that the proposals are of inappropriate form, scale and materials and are unsympathetic to both the existing building and the amenity of the surrounding rural area.

**Recommendation:** Refused

- 1 The application is contrary to Policies N20 of the Scottish Borders Structure Plan 2018, Policies G1 and D1 of the Scottish Borders Consolidated Local Plan 2011 and the advice contained within the “Placemaking and Design” SPG in that the proposals are of inappropriate form, scale and materials and are unsympathetic to both the existing building and the amenity of the surrounding rural area.

**“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**Town and Country Planning (Development Management Procedure) (Scotland) Regulations  
2008**

**Application for Planning Permission**

**Reference : 11/01451/FUL**

**To : Mr A Cleghorn per Fouin & Bell Architects Ltd 1 Johns Place Edinburgh EH6 7EL**

With reference to your application validated on **7th November 2011** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Erection of hay store**

**at : Field No 0328 Kirkburn Cardrona Scottish Borders**

The Scottish Borders Council hereby refuse planning permission for the reason(s) stated on the attached schedule.

**Dated 30th January 2012  
Planning and Economic Development  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed**

  
.....  
**Head of Planning and Regulatory Services**

**APPLICATION REFERENCE : 11/01451/FUL****Schedule of Plans and Drawings Refused:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
(PL)09.2	Site Plan	Refused
(PL)09.3	Location Plan	Refused
(PL)09.4	Location Plan	Refused

**REASON FOR REFUSAL**

- 1 The application is contrary to Policies N20 of the Scottish Borders Structure Plan 2018, Policies G1 and D1 of the Scottish Borders Consolidated Local Plan 2011 and the advice contained within the "Placemaking and Design" SPG in that the proposals are of inappropriate form, scale and materials and are unsympathetic to both the existing building and the amenity of the surrounding rural area.

**FOR THE INFORMATION OF THE APPLICANT**

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose, TD6 OSA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.