

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 16/01506/FUL

APPLICANT : Cleek Poultry Ltd

AGENT :

DEVELOPMENT : Erection of straw storage building

LOCATION: Field No 0328 Kirkburn
Cardrona
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
196 85	Site Plan	Refused
196 86	Elevations	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

Roads Planning:

Similar proposals for agricultural storage buildings in this area which are served by the same access have requested additional information regarding traffic movements, in order to assess the impact these proposals would have on the junction with the public road.

The current submission does not include any information on the number, type and frequency of vehicular movements associated with this proposal. As a result, I am unable to make an informed decision of the impact this proposal will have on the junction with the public road and the section of private road leading to the site.

Until I receive this additional information, I must recommend refusal of this application.

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

The building shall not be used for any other purpose other than the storage of straw, without the written consent of the Planning Authority.

Reason: To protect the amenity of other occupiers.

Landscape Architect:

I refer to landscape response to application 16/01114/FUL for a cold shed and hay store on land immediate to the east. My comments on that application apply to this current application for a straw storage building.

I have concerns that that the proposal will have a negative impact on the quality of the Special Landscape Area and especially on views driving along the minor road immediately to the north and the immediate area.

No landscape mitigation been proposed to help reduce the visual impact on sensitive receptors.

I therefore, on landscape and visual grounds, would not support this application.

Archaeology Officer:

There are no known archaeological implications for this proposal. There was an archaeological watching brief in 2005 immediately adjacent to the application area that failed to locate archaeological deposits or materials.

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 31st January 2017

There have been several previous applications to add a building up behind the existing buildings at upper yard level, all having been refused. The most recent application for an animal flotation unit (16/00495/FUL) proposed a very similar building in scale and form, the current proposal being slightly shorter but deeper. This was rejected at Local Review Body. The fact that this application is the first to propose an infill position between the top of the existing cold store and the back of the existing buildings makes no difference to the assessment of landscape impact. The assessment of the history, landscape impacts and need for the proposals are contained within the previous report on that building and the comments are equally applicable to this proposal, as follows:

"The application for the storage building and animal flotation tank building cause the same issues of landscape impact. Whilst it is accepted that at least they would have the appearance of being more visually related to the existing buildings in terms of location to the rear of existing buildings, the level of projection above the ridge of the existing buildings would still be excessive, ranging from 3.7m for the flotation tank building to 5.6m for the storage shed building. It is acknowledged that the line of tree cover north of the

public road is a little higher at this end of the land holding and the existing buildings are screened by those trees - but only just. It is considered that there is not a further 3.7-5.6m vertical height screening above the tree tops to enable such large buildings set at higher level to be effectively screened, either from the A72 or from the public road adjoining the site. Whilst there may be a second topographical survey plan which could have covered this end of the site, this has not been submitted with the application and it would be highly unlikely, in any case, that there would be any demonstration of adequate existing screening given the height differentials between the existing building ridges and those proposed - especially the storage building ridge. It certainly appears that the existing contours would be similar to those being proposed for the rabbit/mushroom sheds. without the cutting into ground levels as proposed for those buildings. Excavation in this location would also cause difficulties with the upper yard, access and impacts on the rear of the existing buildings. It is concluded that the impacts on the landscape would be significant with this proposal, affecting the character and quality of the designated landscape and particularly noticeable from the A72. This is the conclusion of the Landscape Officer."

Although there have been several other decisions on planning applications since the above was written, none have changed the position in relation to landscape impact. Nor have the new LDP Policies altered the Council's position on landscape impact in a Special Landscape area. Whilst the previous associated storage building would have been the most prominent which has now been dropped from the proposals, the previous application was still refused on the basis of the landscape impact of the animal flotation building too, it being considered that 3.7m of height extension above the current building ridge lines was not acceptable and would lead to unacceptable landscape prominence. The switch in ridge position would not be sufficient to reduce the impacts to acceptable levels. The Council Landscape Architect continues to oppose the application for these reasons.

The previous application was also refused on road safety grounds due to lack of information . The previous Handling Report stated the following:

"Roads Planning also consider there to be a lack of information in terms of the number of vehicle movements this proposal (and the others) will bring. They have requested a Transport Statement to be submitted which details the type, number and size of vehicle trips which will be generated by this proposal along with the frequency of trips. The statement must also include anticipated traffic movements for all other proposed development served by this access.

Given the uncertainty over the scale of the buildings and their suitability for the purposes intended, it is understandable that there are Roads concerns over the ability of the access to accommodate the development without further information being submitted. In the absence of such information, it has not been adequately demonstrated that the access is capable of safely accommodating the traffic generated by the proposed development. This would be contrary to Policy D1 of the Consolidated Local Plan."

These concerns still exist, even with the fact that the application is only for the flotation unit.

Economic Development have commented on the lack of a Business Plan again with this application, despite the application only being for the flotation unit. The comments in the previous Handling Report remain pertinent to the resubmitted application, albeit Policies PMD2 and ED7 have replaced Policies G1 and 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."

All of this still applies, subject to reference to updated LDP Policies. The proposed building is a little lower than that proposed by 16/00495/FUL (rejected by the LRB) but will still be more than 2.5m above the ridge line of the existing buildings, a projection not considered acceptable by the Landscape Architect nor demonstrated to be adequately screened by the riverside tree belt. Similarly, the justification for the building, for straw storage, has not been provided on the smallholding where buildings already exist.

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.

REASON FOR DECISION :

The application is contrary to Policies PMD2, EP5 and ED7 of the 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 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 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 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 design or scale that appears justified by the size of the holding on which it would be situated, which further undermines the case for justification in this location.

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.

Recommendation: Refused

- 1 The application is contrary to Policies PMD2, EP5 and ED7 of the 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 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 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 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 design or scale that appears justified by the size of the holding on which it 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.

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

**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**

Local Review Reference: 17/00008/RREF

Planning Application Reference: 16/01506/FUL

Development Proposal: Erection of straw storage building

Location: Field No 0328 Kirkburn, Cardrona

Applicant: Cleek Poultry Ltd

DECISION

The Local Review Body (LRB) upholds 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, EP5 and ED7 of the 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 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 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 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 design or scale that appears justified by the size of the holding on which it 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 straw storage building at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Site Plan	19685
General Arrangement	19686

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 17th 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 straw storage building to the south of the existing buildings in the yard at the applicant's land holding at Kirkburn. The building, which had a footprint of 8m x 18m, would be placed on the upper yard on elevated ground and would project by a minimum of 2.5m above the ridgeline of the existing buildings in the main yard.

The Review Body noted that the applicant sought to contain his activities within the existing nucleus of buildings at the holding. However, whilst Members accepted that this was a building of a modest scale, they were still concerned that, due to its elevation, the building 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 a small holding may need to store straw. However, the application was not supported by a business plan or any statement that set out the development strategy for the landholding or the activities carried out at the site. In the circumstances, they had no evidence before them as why the new straw 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 or 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 Council.

Members noted the comments of the Roads Planning officer and agreed that the application was deficient in term of the required traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) to enable a full assessment of the road safety implications of the development to be undertaken.

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.

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 : 11/01437/FUL
APPLICANT : Mr A Cleghorn
AGENT : Fouin & Bell Architects
DEVELOPMENT : Extension to form agricultural storage shed
LOCATION: Field No 0328 Kirkburn
Cardrona
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
(PL)08.3	Location Plan	Approved
(PL)08.4	Location Plan	Approved
(PL)08.2	Site Plan	Approved

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

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

CONSULTATIONS CARRIED OUT AND SUMMARY OF CONSULTATION RESPONSES:

Roads Planning: No objections.

Peebles 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

Recommendation by - Craig Miller (Principal Planning Officer) on 21st December 2011

This application is for an extension of the existing agricultural building to form a tractor shed. The application was initially submitted as a Prior Notification until it was detected that the building would lie within 25m of the tarmac of the public road. It is understood that the main building was erected under Prior Notification procedures initially.

The extension is a blockwork enclosure with sheeting roof, 8m x 5m and has already been erected in advance of this decision. It is described as a tractor shed yet the main doors are only 2.4m high and it is doubtful that it could be effectively used for this purpose. Nevertheless, as an agricultural extension to an existing building within a holding that appears to be in operation, there can be no opposition to the principle of the addition. The application description wording should, however, be changed to reflect agricultural storage use of the building rather than the more specific tractor storage.

The Community Council do not believe any further development can be allowed until the existing enforcement procedures are completed regarding the owner's unauthorised occupation of the on-site caravan. There are also concerns regarding the potential future use of the existing shed and newly constructed extension.

However, the application can only be dealt with on its own merits and against current Policies and guidance. It is a small extension to a large shed that was accepted as part of an agricultural enterprise initially – and there is no information to suggest that the holding does not continue to be operated for agricultural purposes. More specifically, the use of the main shed has not been challenged and it is noted that additional agricultural land has been leased by the applicant, enlarging the holding significantly. Whilst the use of the extension may be limited in terms of height and use for tractors, there is no reason to oppose a small addition to the main building for other agricultural storage purposes.

The building itself will be constructed of blockwork as is the main shed. A flat roof and uPVC windows are also proposed. In terms of relationship with the main building, it is lower and narrower, appearing naturally as an ancilliary addition. It is also located within the yard and whilst it will be visible from the public road alongside the site and partly from the road to Laverlaw to the rear, there are no reasons to oppose the application on grounds of amenity impacts on the surrounding rural area or the private dwellinghouses some distance to the east at Kirkburn.

As Development Plan Policies encourage rural economic development, there are no justifiable reasons to oppose the application for extension to an existing agricultural building.

REPORT BY – Craig Miller (Principal Planning Officer) on 21 December 2011.

RECOMMENDATION:

The application is recommended for approval subject to the listed condition.

REASON FOR DECISION :

The application complies with Development Plan Policies on rural agricultural development in that the proposals are for a small addition to an existing agricultural building within an existing agricultural holding without any wider impacts on the visual amenity of the area or nearby residential property.

Recommendation: Approved subject to conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

Application for Planning Permission

Reference : 11/01437/FUL

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

With reference to your application validated on **21st October 2011** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Extension to form agricultural storage shed

at : Field No 0328 Kirkburn Cardrona Scottish Borders

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

subject to the conditions on the attached schedule imposed by the Council for the reasons stated

**Dated 21st December 2011
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed

.....
Head of Planning and Regulatory Services

APPLICATION REFERENCE : 11/01437/FUL**Schedule of Plans and Drawings Approved:**

Plan Ref	Plan Type	Plan Status
(PL)08.3	Location Plan	Approved
(PL)08.4	Location Plan	Approved
(PL)08.2	Site Plan	Approved

REASON FOR DECISION

The application complies with Development Plan Policies on rural agricultural development in that the proposals are for a small addition to an existing agricultural building within an existing agricultural holding without any wider impacts on the visual amenity of the area or nearby residential property.

SCHEDULE OF CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

FOR THE INFORMATION OF THE APPLICANT

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable. A form is enclosed with this decision notice for this purpose.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include: