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## PLANNING APPEALS & REVIEWS

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### Briefing Note by Chief Planning Officer

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## PLANNING AND BUILDING STANDARDS COMMITTEE

4<sup>th</sup> December 2017

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### 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

- 2.1.1 Reference: 16/01377/FUL  
Proposal: Erection of poultry building  
Site: Land South West of Easter Happrew Farmhouse,  
Peebles  
Appellant: Glenrath Farms Ltd

Reason for Refusal: The proposed development would be contrary to Policy ED7 - Business, Tourism and Leisure Development in the Countryside and Policy EP4 - National Scenic Areas of the Scottish Borders Local Development Plan 2016 in that the poultry building would have an unacceptable adverse impact on and does not respect the amenity and character of the surrounding area and would have an unacceptable adverse effect on the scenic qualities of the National Scenic Area. The scale, siting and design of the development would set an undesirable precedent and would result in an unacceptable form of development in this nationally important landscape.

Grounds of Appeal: This proposed shed is costing over £1M will provide an extra 2 fulltime and 2 part time jobs. The applicant is happy to plant more trees to screen the new shed from the minimal traffic on the John Buchan Way as they did for the present shed. Manure will be spread weekly, as at present, so no storage is required. Vehicle traffic will only be increased by 1 hired workers car and 1 lorry load of feed per week. There is plenty of space for the eggs leaving the farm to be transported in the exiting lorry. SEPA have confirmed they have no objections to this planning application. The applicant will continue to work with SEPA to secure a Pollution and Control Permit in order to regulate all environmental issues relating to the egg production on an ongoing basis. Scottish Borders Council officials recommended approval for this application.

Method of Appeal: Written Representations

2.1.2 Reference: 17/00623/FUL  
Proposal: Erection of poultry building and associated works  
Site: Hutton Hall Barns, Hutton  
Appellant: Mrs Angela Maclean

Reasons for Refusal: 1. The development would be contrary to Policy ED7 - Business, Tourism and Leisure Development in the Countryside of the adopted Scottish Borders Local Development Plan in that the proposed poultry unit would not respect the amenity and character of the surrounding area. In addition impact of the expansion and intensification of uses as well as the scale of the development would be inappropriate to the rural character of the site. 2. The development would be contrary to Policy ED10 - Protection of Prime Quality Agricultural Land and Carbon Rich Soils of the adopted Scottish Borders Local Development Plan in that the proposed poultry unit will result in the permanent loss of prime quality agricultural land. 3. The development would be contrary to Policy HD3 - Protection of Residential Amenity of the adopted Scottish Borders Local Development Plan in that the proposed poultry unit would have an unacceptable adverse visual impact on the existing residential properties and the surrounding area generally. 4. The development would be contrary to Policy EP1 - International Nature Conservation Sites and Protected Species of the adopted Scottish Borders Local Development Plan in that no evidence has been provided to demonstrate the proposed development will not give rise to unacceptable pollution of the adjoining watercourse. Furthermore the proposed development would be contrary to Policy EP15 - Development Affecting the water Environment and Policy EP3 - Local Biodiversity of the Scottish Borders Local Development Plan 2016 in that further evidence is required to ensure that there would be no adverse impacts on the water environment and local biodiversity.

Grounds of Appeal: Each of the statutory bodies are supportive of the planning application. The new poultry building will help sustain the applicants farming diversification business, employ more local people and produce Scottish free range eggs. The applicant believes that the proposals are fully compliant with the Local Plan requirements, and their assertion is supported by the statutory consultee responses and the planning officer recommendation for approval.

Method of Appeal: Written Representations

## 2.2 Enforcements

Nil

## 3 APPEAL DECISIONS RECEIVED

### 3.1 Planning Applications

Nil

### 3.2 Enforcements

Nil

## 4 APPEALS OUTSTANDING

- 4.1 There remained 4 appeals previously reported on which decisions were still awaited when this report was prepared on 23<sup>rd</sup> November 2017. This relates to sites at:

<ul style="list-style-type: none"><li>Land North of Howpark Farmhouse, Grantshouse</li></ul>	<ul style="list-style-type: none"><li>Poultry Farm, Marchmont Road, Greenlaw</li></ul>
<ul style="list-style-type: none"><li>Units 9 and 10, 6 - 8 Douglas Bridge, Galashiels</li></ul>	<ul style="list-style-type: none"><li>Land North East of 3 The Old Creamery, Dolphinton</li></ul>

## 5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 17/00926/PPP  
Proposal: Erection of dwellinghouse  
Site: Land Adjacent Deanfoot Cottage, Deanfoot Road, West Linton  
Appellant: Mr & Mrs Peter Gardiner

Reason for Refusal: The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would amount to sporadic residential development in a countryside location, and no overriding case for a dwellinghouse has been substantiated

- 5.2 Reference: 17/00973/FUL  
Proposal: Change of use of agricultural land to form storage yard and siting of 7 No storage containers  
Site: Land North East of Greenbraehead Farmhouse, Hawick  
Appellant: Bayhill Farming Ltd

Reason for Refusal: The proposal is contrary to Scottish Borders Council Local Development Plan Policy ED7 in that there is no overriding economic and/or operational need for the proposal to be sited in this particular countryside location; the proposal would more reasonably be accommodated within the Development Boundary of a settlement and the siting and operation of a commercial storage facility would be highly unsympathetic to the rural character of the surrounding area.

- 5.3 Reference: 17/01112/FUL  
Proposal: Erection of hay shed  
Site: Field No 0328 Kirkburn, Cardrona  
Appellant: Cleek Poultry Ltd

Reasons for Refusal: 1. The application is contrary to Policies PMD2, ED7 and EP5 of Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance on Local Landscape Designations in that the height and design of the proposal is incongruous with the appearance of the existing adjoining building and would result in an unacceptable adverse visual impact on the character and quality of the designated landscape. No operational justification to override these concerns and justify an exceptional form of permission in this rural location has been demonstrated. 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 any traffic generated by the proposal can access the site without detriment to road safety.

- 5.4    Reference:                    17/01113/FUL  
       Proposal:                    Erection of tractor shed  
       Site:                         Field No 0328 Kirkburn, Cardrona  
       Appellant:                   Cleek Poultry Ltd

Reason for Refusal:    The application is contrary to Policies PMD2, ED7 and EP5 of Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance on Local Landscape Designations in that the height and design of the proposal is incongruous with the appearance of the existing adjoining building and would result in an unacceptable adverse visual impact on the character and quality of the designated landscape. No operational justification to override these concerns and justify an exceptional form of permission in this rural location has been demonstrated.

- 5.5    Reference:                    17/01139/FUL  
       Proposal:                    Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail)  
       Site:                         40-41 The Square, Kelso  
       Appellant:                   Mr Robert McCririck

Reason for Refusal:    The proposed change of use from Class 1 (Shop) to Class 2 (Financial, Professional and Other Services) would be contrary to Policy ED4 of the Local Development Plan 2016 in that the use of the premises as a podiatry clinic would result in the loss of prime retail floorspace in a prominent location and introduce a non-retail/food and drink use within the Core Activity Area in Kelso, which forms part of the principal shopping area in the town centre. It has not been adequately demonstrated that the proposed change of use to Class 2 would maintain the vitality and viability of Kelso town centre. Material considerations, including the vacancy of the unit, have been accounted for but do not outweigh the conflict with Policy ED4.

## **6    REVIEWS DETERMINED**

- 6.1    Reference:                    17/00239/FUL  
       Proposal:                    Erection of micro meat processing unit and byre  
       Site:                         Land at Hardiesmill Place, Gordon  
       Appellant:                   Mr Robin Tuke

Reason for Refusal:    The proposal does not comply with Adopted Local Development Plan Policies ED7 and PMD2 in that the design of the micro meat processing building is unsympathetic to the rural character of the site and surrounding area, and would be readily visible from the public realm (including from the adjacent local road) as a consequence of the isolated, greenfield nature of the site and the lack of any existing effective screen within the surrounding landscape (beyond the immature and patchy tree belt on the site, which would require to be cleared in part, in order to accommodate the proposal). This unacceptably detrimental landscape and visual impact is not outweighed by the potential economic and environmental benefits of the proposal to the Applicant's farming and butchery businesses and wider rural economy.

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: 17/00308/FUL  
 Proposal: Erection of boundary fence (retrospective)  
 Site: 33 Justice Park, Oxton  
 Appellant: Mr Marc Ridgway
- Reason for Refusal: The proposal is contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 in that it is not compatible with, and does not respect, the open plan nature and character of the surrounding area, in that it is overbearing relative to the adjacent public footway, and is an incongruous form of development within the context of the wider street scene.
- Method of Review: Review of Papers
- Review Decision: Decision of Appointed Officer Upheld
- 6.3 Reference: 17/00472/FUL  
 Proposal: Alterations and extension to dwellinghouse  
 Site: 1 Glenkinnon, Ashiestiel Bridge, Clovenfords  
 Appellant: Mr & Mrs Rutherford
- Reason for Refusal: The proposed extension to the dwelling would be contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 in that it would not be of a scale that would be visually appropriate to the existing building or its surroundings.
- Method of Review: Review of Papers
- Review Decision: Decision of Appointed Officer Overturned (Subject to conditions)
- 6.4 Reference: 17/01112/FUL  
 Proposal: Erection of hay shed  
 Site: Field No 0328 Kirkburn, Cardrona  
 Appellant: Cleek Poultry Ltd
- Reasons for Refusal: 1. The application is contrary to Policies PMD2, ED7 and EP5 of Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance on Local Landscape Designations in that the height and design of the proposal is incongruous with the appearance of the existing adjoining building and would result in an unacceptable adverse visual impact on the character and quality of the designated landscape. No operational justification to override these concerns and justify an exceptional form of permission in this rural location has been demonstrated. 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 any traffic generated by the proposal can access the site without detriment to road safety.
- Method of Review: Review of Papers
- Review Decision: Decision of Appointed Officer Upheld

6.5 Reference: 17/01113/FUL  
 Proposal: Erection of tractor shed  
 Site: Field No 0328 Kirkburn, Cardrona  
 Appellant: Cleek Poultry Ltd

Reason for Refusal: The application is contrary to Policies PMD2, ED7 and EP5 of Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance on Local Landscape Designations in that the height and design of the proposal is incongruous with the appearance of the existing adjoining building and would result in an unacceptable adverse visual impact on the character and quality of the designated landscape. No operational justification to override these concerns and justify an exceptional form of permission in this rural location has been demonstrated.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

## 7 REVIEWS OUTSTANDING

7.1 There remained 1 review previously reported on which a decision was still awaited when this report was prepared on 23<sup>rd</sup> November 2017. This relates to a site at:

<ul style="list-style-type: none"> <li>Land North East of and Incorporating J Rutherford Workshop, Rhymers Mill, Mill Road, Earlston</li> </ul>	<ul style="list-style-type: none"> <li></li> </ul>
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## 8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

## 9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

## 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 23<sup>rd</sup> November 2017. This relates to sites at:

<ul style="list-style-type: none"> <li>(Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir</li> </ul>	<ul style="list-style-type: none"> <li>Fallago Rig 1, Longformacus</li> </ul>
<ul style="list-style-type: none"> <li>Fallago Rig 2, Longformacus</li> </ul>	<ul style="list-style-type: none"> <li>Birneyknowe Wind Farm, Land North, South, East &amp; West of Birnieknowe Cottage, Hawick</li> </ul>

**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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