

PLANNING AND BUILDING STANDARDS COMMITTEE

30th April 2018

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: 17/01342/PPP
Proposal: Demolition of existing building and erection of four dwellinghouses
Site: Site at Industrial Buildings and Yard, Elders Drive, Newtown St Boswells
Appellant: Craigmount Properties

Reason for Refusal: The proposals would be contrary to the aims and principles of Policy ED1 of the Scottish Borders Local Development Plan 2016 in that the development would result in the loss of industrial land and premises and there is sufficient housing land allocation existing elsewhere to enable housing development in the village without requiring the loss of commercial premises.

Grounds of Appeal: In 1990 the applicants purchased the property from the previous owner who had established Planning Consent for the Housing development Ref 371./88. The intention to develop the area with an appropriate density of housing. The access lane from the then A68 public road to the property was a "right of access" road. It transpired that the conditions of the Planning Consent required a more onerous construction to accommodate any more than 2 dwellings (policy at the time). Approach was made to neighbours to establish if land could be made available to widen the existing lane to a suitable standard: not possible due to "kings ransom" being asked for the land. The property continued as vacant land with existing storage shed and workshop being occupied by a light engineering tenant (not requiring the rest of the land). The applicants reviewed the position and decided to proceed with a new application. The Agent approached the Technical Services department of the Scottish Borders Council; held a site meeting with Mr Alan Scott. Mr Scott indicated that he could now consider 4 dwellings on the site. The Planning

department were also supportive of the application. The existing Tenant is aware of the application.

2.2 Enforcements

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

Nil

3.2 Enforcements

- 3.2.1 Reference: 17/00006/UNDEV
Proposal: Painting of exterior of building within conservation area and listed building
Site: 13 St Ella's Place, Eyemouth
Appellant: Mrs Evy Young

Reason for Notice: It appears to the Council that the above breach of planning control has occurred within the last four years. The land affected at 13 St Ella's Place, Eyemouth sits within the Eyemouth Conservation Area and is also a C Listed Building. Planning permission and listed building consent are required for the change in colour and any external works to the appearance of the building. The external render surfaces of the building have been painted an alternative and unauthorised colour and the window bandings have also been painted out. A retrospective planning and listed building application was submitted but was refused. No subsequent appeal has been lodged and no attempts have been made to regularise the unauthorised works.

Grounds of Appeal: The appellant was away when the walls were painted and didn't realise how bright it was until after the painter had finished. It was too expensive to have it re-done immediately and she was told it would tone down to a gentler colour and it is going in that direction now. The appellant is planning to cut windows into the front and back wall in January, the walls will then need to be repainted. Due to the winter weather and spray from the big waves hitting the house it is not possible to paint the walls during winter. The appellant is looking for an extension of 6 months to be able to do the repainting in the summer.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Stephen Hall, advised that during his site visit he noted the proximity of the rear of the property to the sea wall and the general exposure of this elevation to adverse winter weather conditions arriving off the North Sea. He therefore agrees with the appellant that the repainting, at least of the rear elevation, during the winter and early spring would be difficult. He also noted that scaffolding was present during the site inspection of 8 March, but the new windows at the front elevation had yet to be inserted. He reported that the repainting

of the main house should be co-ordinated with the repainting of the outbuilding, and for it to happen after the main external works on the outbuilding are completed. Therefore, the reporter upholds the enforcement notice but varies the terms of the notice by amending the time of compliance from one month to six months to allow ample time for weather conditions to improve, for the building works to be completed and for the repainting to be carried out over the course of the summer.

3.2.2 Reference: 17/00089/UNUSE
Proposal: Erection of scaffolding structure and metal panel fence structure
Site: Land North West of Kirkburn Church, Peebles
Appellant: Mr Andrew Cleghorn

Reason for Notice: It appears to the Planning Authority that the amenity of part of the district is adversely affected by the detrimental visual effect of Land North West of Kirkburn Church, Peebles and on the street scene of that part of Kirkburn, Peebles in the approximate position shown in red on the attached plan. A scaffolding structure and metal panel fence structure have been erected on the land without the benefit of either deemed or express planning permission, and it is considered that these structures adversely affect the amenity of the area.

Grounds of Appeal: Mr Cleghorn has consent for a tourism related development on the ground in question and it is a condition of that consent that an archaeological investigation takes place prior to implementation of the works. In order to establish the tourism development Mr Cleghorn would like to commence with screen planting in the area in question and it is proposed to do the investigation prior to planting. The scaffold in question is a temporary structure which will be moved along the boundary in question during the course of the archaeologist's dig, thereby giving them shelter and cover during the proceedings. Mr Cleghorn did not realise the scaffold required planning consent and since a visit from SBC, has applied for consent for the scaffold. The boundary fence was moved by his neighbour who tried to claim a portion of Mr Cleghorn's ground. Until the matter is resolved Mr Cleghorn has been forced to erect the temporary fence to keep cattle within his small holding and also to ensure that health and safety measures are in place to prevent the public from accessing his small holding and in particular the aforementioned scaffold. Both structures have a meaningful shelf life – the scaffold for 18 months and the fence for as long as it takes to resolve the boundary dispute.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Stephen Hall, concluded that the scaffolding structure and fence do adversely affect the amenity of the district and that the appeal under ground (a) fails. With regard to grounds (c) and (d), the reporter states that the height and overall scale of the scaffolding structure is far greater than would ordinarily be required to shelter archaeological works. The structure is also not easily moveable, as he would have expected for such a shelter. There was no evidence of any archaeological works ongoing or even having been carried out at the time of the site visit, and yet the structure has apparently (according to the council's evidence) been in place since at least July 2017. The reporter accepts the need for stock-proof fencing if the intention is to graze cattle

in the appellant's field; however it is not necessary to construct the fence out of solid metal sheets and poles, when alternative fencing solutions more appropriate to the rural character of the area are commonly available, therefore the appeal under ground (d) fails. The reporter feels that the removal of the scaffolding structure and fence is relatively straightforward and easily capable of being achieved within the one month period of the enforcement notice and therefore the appeal under ground (c) also fails.

4 APPEALS OUTSTANDING

4.1 There remained 7 appeals previously reported on which decisions were still awaited when this report was prepared on 19th April 2018. This relates to sites at:

• Land North of Howpark Farmhouse, Grantshouse	• Poultry Farm, Marchmont Road, Greenlaw
• Land South West of Easter Happlew Farmhouse, Peebles	• Hutton Hall Barns, Hutton
• Land East of Knapdale 54 Edinburgh Road, Peebles	• Land North West of Gilston Farm, Heriot
• Land South West of Lurgiescleuch (Pines Burn), Hawick	•

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 17/01617/PPP
 Proposal: Erection of dwellinghouse
 Site: Land North West of The Gables, Gattonside
 Appellant: Mr And Mrs A Matthew

Reason for Refusal: It is considered that the proposed development would be contrary to policies PMD2 and, PMD5 of the Local Development Plan 2016 in that adequate access to the site cannot be achieved resulting in an adverse impact on road safety, for the following reasons: 1. The junction of the private road (Priors Road), serving the site and the B6360 is not suitable for additional traffic due to the acute angle at which Priors Road joins the B6360, its width, steep gradient, visibility, loose material and uneven surface making it difficult for vehicles enter and exit the junction and for each other to pass at the junction. 2. Priors Road itself, between the B6360 and The Loan, suffers from poor construction make-up, tight geometry, lack of width combined with limited forward visibility, inadequate passing provision, absence of on-street parking and inadequate street lighting. 3. The junction of the road serving the site and The Loan is substandard in geometry making a left turn out of Priors Road or a right turn in extremely difficult.

5.2 Reference: 17/01685/PPP
 Proposal: Erection of dwellinghouse
 Site: Land South of The Bungalow, Blacklee Brae, Bonchester Bridge
 Appellant: Mr John Huck

Reasons for Refusal: 1. The proposed development is contrary to Adopted Local Plan Policy HD2 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) in

that: (i) the development is not sympathetic to the character of the building group and would not contribute positively to the sense of place of the existing building group; and (ii) the Applicant has not demonstrated that there is any operational need for a new dwellinghouse to be located at the site as a direct operational requirement of any agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside. 2. The proposed development is contrary to Adopted Local Plan Policies HD2, PMD2 and EP13, in that it has not been demonstrated satisfactorily that the development would not have any unacceptable impacts upon the local landscape, principally that it would not cause the loss of, or serious damage to, an existing woodland resource with landscape, ecological and shelter value. 3. The proposed development is contrary to Adopted Local Plan Policies HD2, PMD2 and EP1 in that it has not been demonstrated satisfactorily that the development would not be liable to have any unacceptable impacts upon local biodiversity, principally upon bats, a European Protected Species.

- 5.3 Reference: 17/01704/FUL
Proposal: Change of use from retail to dog grooming practice
Site: 38 Bank Street, Galashiels
Appellant: Mr S Wilson

Reason for Refusal: The proposed development would not comply with Policy ED4 of the Local Development Plan 2016 in that the use would not comprise a Class 1 or 3 use; would occupy a premises which has not been sufficiently marketed for sale or let; and which has been vacant for a relatively short period. The level of footfall contribution to the town centre will likely be less than that generated by a Class 1 or 3 use operating from the same location and this would detract from the future viability and vitality of the town centre.

- 5.4 Reference: 17/01731/FUL
Proposal: Extension to dwellinghouse
Site: 34 Edinburgh Road, Peebles
Appellant: Ms Lynne Marshall

Reason for Refusal: The development would be contrary to Policy PMD2 of the Local Development Plan 2016 in that the proposed extension would not be sympathetic to the existing building in its form and scale and it would, therefore, have an adverse visual impact on the building and surrounding area.

6 REVIEWS DETERMINED

- 6.1 Reference: 17/01008/FUL
Proposal: Erection of replacement dwelling house
Site: Derelict Dwelling Land West of Glenkinnon Lodge, Peelburnfoot, Clovenfords
Appellant: Mr Adam Elder

Reasons for Refusal: 1. The proposed development is contrary to policy EP13 (Trees, Woodland and Hedgerows) of the Scottish Borders Local Development Plan (2016), and contrary to adopted supplementary guidance on Trees and Development in that the development will result in significant removal of trees subject to Tree Preservation Order which provide a positive landscape contribution. Furthermore, the proposed development would lead to increased pressure to remove further trees in

the future. 2. The proposed development is contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), in that the proposed development would not sympathetically relate to the existing building group in terms of siting, scale, form or design. The existence of a building on site is inadequate justification for the proposed development.

Method of Review: Review of Papers and Further Written Submissions

Review Decision: Decision of Appointed Officer Upheld

6.2 Reference: 17/01409/FUL
Proposal: Extension to form new living room
Site: 16 Craig Brown Avenue, Selkirk
Appellant: Mr Harry Thomson

Reason for Refusal: The proposed extension would reduce the available off-street parking below the minimum standard specified in the Local Development Plan 2016. The extension would also not relate well to the adjoining proposed property to the north east, and would be potentially detrimental to its amenity. The development is, therefore, contrary to Policies PMD2, HD3 and IS7 of the Local Development Plan 2016.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.3 Reference: 17/01572/PPP
Proposal: Extension to dwellinghouse
Site: Land South East of Beckhope, Kailzie, Peebles
Appellant: Mrs Anne McKelvey

Reasons for Refusal: 1. 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 the proposed development breaks into a previously undeveloped field which is located out with both natural and man made boundaries of the building group. This location fails to respect the character of the building group and would potentially lead to ribbon development which would further undermine its character. 2. 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 the proposed development fails to reflect and respect the scale and siting of other individual dwelling plots within the group and would therefore adversely affect the character of the building group.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to conditions, informatives and a Section 75 Legal Agreement)

6.4 Reference: 17/01613/PPP
Proposal: Erection of dwellinghouse
Site: Land East of Keleden, Ednam, Kelso
Appellant: Mr & Mrs Brian Soar

Reason for Refusal: The proposals would be contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the erection of a dwellinghouse on this site would result in development outwith the

development boundary of the village as defined on the settlement profile map for Ednam, leading to unjustified encroachment into the open countryside and coalescence with the Cliftonhill building group. The proposed dwelling is not a job generating development in the countryside that has economic justification under Policy ED7 or HD2; it is not an affordable housing development that can be justified in terms of Policy HD1; a shortfall in the provision of an effective 5 year land supply has not been identified and it is not a development that would offer significant community benefits that would outweigh the need to protect the development boundary.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to conditions, informatives and a Section 75 Legal Agreement)

6.5 Reference: 17/01704/FUL
Proposal: Change of use from retail to dog grooming practice
Site: 38 Bank Street, Galashiels
Appellant: Mr S Wilson

Reason for Refusal: The proposed development would not comply with Policy ED4 of the Local Development Plan 2016 in that the use would not comprise a Class 1 or 3 use; would occupy a premises which has not been sufficiently marketed for sale or let; and which has been vacant for a relatively short period. The level of footfall contribution to the town centre will likely be less than that generated by a Class 1 or 3 use operating from the same location and this would detract from the future viability and vitality of the town centre.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to conditions and an informative)

7 REVIEWS OUTSTANDING

7.1 There remained no reviews previously reported on which decisions were still awaited when this report was prepared on 19th April 2018.

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 3 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 19th April 2018. This relates to sites at:

• 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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