

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

**Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013**

**Application for Planning Permission**

**Reference : 15/00947/FUL**

**To : Cleek Poultry Ltd The Tractor Shed Kirkburn Cardrona Peebles**

With reference to your application validated on **12th August 2015** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-


**Proposal : Erection of cattle/hay shed and feed silo**

**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 29th September 2015  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

Signed

  
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**Chief Planning Officer**

**APPLICATION REFERENCE : 15/00947/FUL****Schedule of Plans and Drawings Refused:**

| <b>Plan Ref</b> | <b>Plan Type</b> | <b>Plan Status</b> |
|-----------------|------------------|--------------------|
| 196 02 A        | Elevations       | Refused            |

**REASON FOR REFUSAL**

- 1 The application is contrary to Policies G1, EP2 and D1 of the Scottish Borders Consolidated Local Plan 2011 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building and silo 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 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 building and silo that would justify an exceptional permission for them in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building and silo 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, nor are there any indications of how a feed silo and cattle court would relate to each other in scale of usage terms, all of which further undermine the case for justification in this location.
- 3 The application is contrary to Policy BE2 of the Scottish Borders Consolidated Local Plan 2011 in that it has not been adequately demonstrated that the building and silo would not have an adverse impact on the setting of the archaeological site of Our Lady's Church and Churchyard adjoining the application site.
- 4 The application is contrary to Policy D1 of the Scottish Borders Consolidated Local Plan 2011 in that it has not been adequately demonstrated that any traffic generated by the proposal can access the site without detriment to road safety.

**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.

**SCOTTISH BORDERS COUNCIL**

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

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

**REF :** 15/00947/FUL

**APPLICANT :** Cleek Poultry Ltd

**AGENT :**

**DEVELOPMENT :** Erection of cattle/hay shed and feed silo

**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 02 A        | Elevations       | Refused            |

**NUMBER OF REPRESENTATIONS:** 0

**SUMMARY OF REPRESENTATIONS:**

Roads Planning: Respose awaited.

Environmental Health:

Amenity and Pollution

Assessment of Application

Noise

This Application includes proposals to erect a cattle / hay shed and feed silo

Equipment associated with feed silos can cause noise impacts from motors and other ancillary equipment.

Recommendation

Agree with application in principle, subject to conditions.

Conditions

Noise

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.

The feed silo and associated equipment 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.

Archaeology Officer:

Please see my comments with respect to application 15/00493/FUL. These remain valid for this application as does the objection pending the submission of further information to help me judge setting impacts to the regionally significant site of Our Lady's Church and churchyard.

Landscape Officer:

#### Description of the Site

The site is a part of a larger north facing field on the southern side of the Tweed valley. The site lies wholly within the Tweed Valley Special Landscape Area (SPA) and the designation recognises the special character of the valley landscape in the Designation statement as follows: 'The broad Tweed Valley is typical of the Borders, and is the most familiar of the Borders valleys. Accordingly it has a strong sense of place, with certain views being instantly recognisable. The varied mix of landscape elements is highly representative, with forestry, woodland, open hillsides and pastoral farmland all juxtaposed. Added to this mix is a range of settlement types, with the valley providing the setting to several settlements. The landscape unfolds as the viewer follows the river through the valley, presenting new vistas alternately dominated by forestry, as around Walkerburn, or by the steep rocky slopes above Innerleithen. The contrast between the well settled valley and the bare heather and grass moors and landmark hills is striking. Well-designed forestry actively contributes to this visual experience in places.'  
The Inventory Designed Landscape of Kailzie lies immediately across the minor road to the north. The field slopes steeply down to the minor road that runs northeast/ southwest immediately to the north.

#### Nature of the Proposal

The proposal is for the erection of a 44 x 10 x 7m high cattle/hay shed with staff facilities and an 11.5m x 7.5m diameter feed silo

#### Implications of the Proposal for the Landscape including any Mitigation

Due to the sloping nature of the field I am concerned that the cattle shed and silo will be highly visible from the north side of the valley and more locally from the B7062 immediately to the north of the field. No attempt has been made to cut the building into the slope.

The attractive juxtaposition of valley side pastoral farmland with mixed and coniferous forestry and woodland could potentially be undermined by the introduction of an industrial scale shed that will require substantial earth moving to achieve the required amount of level ground. I suggest that the existing trees along the north boundary may not provide any screening for the buildings that will be located well up the hillside and I am concerned they will be seen from much of the surrounding elevated land to the north west, north and north east.

As part of an extensive development of the field we would normally expect a Landscape and Visual Impact Assessment (LVIA) to be undertaken to test the scheme.

Local Plan Policy EP2 requires developers to comply with Structure Plan policy N11 which states that 'In assessing proposals for development in AGLVs (replaced by SLAs in 2012), the Council will seek to safeguard landscape quality and will have particular regard to the landscape impact of the proposed development.'

#### Conclusion

The submitted information was limited, however I have a concern that this proposal with no attempt to lower the buildings' heights will have a serious negative visual impact on this part of the Tweed valley and would be visually intrusive from much of the surrounding area

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

Economic Development: No comments as there are no supporting business related documents.

Peebles and District Community Council: Response awaited.

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

Scottish Borders Consolidated Local Plan 2011

Policy G1 Quality Standards for New Development

Policy BE2 Archaeological Sites and Ancient Monuments

Policy EP2 Areas of Great Landscape Value

Policy D1 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 28th September 2015

The site forms part of an 8 acre smallholding at Kirkburn, Cardrona, on the back road to Peebles. This planning application is one of seven which have been submitted for various buildings and structures on the land to the south and west of the holiday chalets site. Together with an eighth proposal in the form of an AGN, five of the applications all relate to the same site and are competing proposals, only one of which could actually be implemented. This cattle court/hay shed application is one of the five occupying a triangular area of land which rises to the south and above the holiday chalets site, stretching to the public road to Laverlaw to the rear. All seven other applications have been refused, including previous applications for hay sheds and a cattle court - and a feed silo on a site adjoining.

The building amalgamates previous hay shed and cattle court proposals into one building, it being erected adjoining a new 6m access road to the south of the chalet site and adjoining the corner of Our Lady's Church and graveyard remains. It will be 44m by 10m with an eaves height of 6m and a ridge height of 7.45m. It will be clad in larchlap boarding with a charcoal grey fibre roof and will possess two roller shutter doors to the front and three other pedestrian doors. Staff quarters are shown at one end of the building at mezzanine level consisting of a rest room, toilet and kitchenette. The ground floor has an equipment room and hay store section, the majority being given over to a cattle purpose. A feed silo is also proposed to the east of the cattle shed measuring 7.5m wide by 12.3m to ridge.

The site also lies within the Tweed Valley Special Landscape Area No. 2 - a recent local landscape designation which requires extra care and attention to be paid to development that could adversely impact on the character of the landscape. Management recommendations were set out in the Supplementary Planning Guidance accompanying the designation, the most pertinent being "...to better integrate existing development into the landscape". This was arising out of pressure for development on hills and hillsides across the designated area.

Such considerations were uppermost when the adjoining holiday chalets application was considered at Committee. As a result of concerns over visual impacts on rising land, revisions to the scheme were required to reduce impacts on the recently designated landscape. This involved removal of upper chalets and the loop road as well as a series of cross sections to demonstrate that the development would not be seen from the A72 on the Horsbrugh Straight above the existing tree canopy line.

In processing the initial AGN application for Mushroom growing sheds, concern was expressed that those sheds were as tall as the Hub House within the holiday development, yet apparently on higher ground by several metres. The tree top heights on the sections submitted with the holiday chalets application indicated screening up to about 188m AOD which was sufficient to screen the Hub House. It was not felt that the proposed sheds would be screened to the same extent by the existing trees, the Landscape Officer believing that they will be highly visible above them. The same loop road was also proposed as part of the Mushroom sheds application which would also be visible above the tree canopy.



The Landscape Officer concluded that in the absence of any Landscape and Visual Impact Assessment to prove otherwise, the development would have a detrimental impact on the Special Landscape Area. The applicant was invited to respond to these concerns with supporting information which could include cross sections, photomontages, topographical and floor level information. They were also invited to consider the precise siting of the sheds and the roof height and design. It was clearly stated, however, that any additional information submitted may still confirm the concerns over landscape impact, especially if significant excavation required to lower floor levels remains prominent in itself.

A revised plan was submitted for the mushroom shed application accompanied by a topographical detailed survey and proposals to reduce the impacts of those buildings by cutting in the floor level as well as reducing the heights of those buildings from 7.3m down to 4.8m. The accompanying letter believed that they were a better design solution than the initial proposal. Tree heights were demonstrated, in the highest case, to be higher than the ridge height now proposed. However, of the tree heights actually shown, the general top of the tree line is still appreciably below the ridges of the two buildings. The most recent application on the same site for rabbit breeding sheds goes further and lowers the floor levels even more whilst still keeping the new 4.8m ridge height. These reductions and design solutions were considered acceptable for the rabbits proposal, noting that it was possible that the ridge heights of those buildings could be as little as 0.5-1.5m above the average tree line height. However, the rabbits proposal was still refused for archaeological, business and traffic related reasons.

This background is important as it should be noted that the cattle court building which is the subject of this application, is neither cut into the site nor is lower in height, being more than 2.5m above the heights of the revised mushroom/rabbit sheds, without taking into account any cut into the site. Even if such cut was proposed for the current application, the height of the building would still result in projection above the average tree height by at least 3-4.5m which would have a major landscape impact, exacerbated by the bulk of the building across its 44m length. There is previous clear advice from the Landscape Officer that such an impact would be unacceptable, given the level of projection of building above the tree line when viewed from the A72. There is also likely to be local impacts from the B7062 next to the site. The previous hay shed and cattle court applications were refused partially for landscape impact reasons and this re-submitted proposal makes no attempt to minimise the landscape impact that was of concern with those applications

These landscape impacts would be exacerbated by the feed silo which, at 12.3m height, is only a 3m reduction on the feed silo refused as part of the chicken sheds application on the site to the west. As with that silo, the slope of the ground means that the structure would be presented to public view to the north, rising up the hill to the Laverlaw Road and introducing an intrusive element into the hill slope. The effects would be contrary to the purposes of designating the Special Landscape Area in the first instance. Combined with the bulk and height of the cattle/hay shed building, this proposal is no different or better than previous applications

Given the stated purpose of the building as mainly for cattle, it is considered that there would be no real possibility of reducing the ridge of the building to the extent proposed for the rabbit sheds. Indeed, the stated purpose of the building does not seem to have influenced the design. Whilst cattle courts are generally taller buildings, there is no ventilation apparently proposed and few openings apart from two roller shutter doors and four pedestrian doors. There is also staff provision in the form of a rest room, kitchenette and a toilet which either seems unnecessary and unrelated to a cattle court - or excessive in that such provision could be provided elsewhere on the holding, probably within the existing buildings. Certainly, there would be no effective justification to have these facilities duplicated in every building proposed on this site.

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. In this case, the building is proposed mainly for cattle yet neither seems suited for the purpose nor related to the size and current farming activities on the holding. Recently, it was confirmed that only a few cattle were held on the holding and there has not been any Business Plan submitted explaining the farming practices, either existing or proposed. 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. Whilst it has been mentioned that an additional 12 acres to the rear are used from an adjoining farm, there has been no demonstration of this in a Business Plan. In any case, the sheer scale of the proposed building would be unlikely to be able to be justified for the housing of cattle from the landholding, even if it was confirmed there was a formal lease for the additional 12 acres. The same could be said of the use of

part of the building for hay, given the size of the landholding and lack of available growing ground - given that the proposal is also for cattle grazing on the same ground.

Questions also arise over the business justification for the feed store, given it was previously proposed and felt excessive for the poultry sheds which have now been refused. Feed silos for cattle are unusual and on the scale proposed, would seem to be unjustified without any further explanation in the form of a Business Plan.

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 building and silo 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 building and silo 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.

There are also potential archaeological implications for this proposal. The adjacent site was consented for holiday cottage development, and this carried with it a condition for archaeological evaluation. The reasoning behind this was the proximity to Our Lady's Church and, the potential setting impacts, and the discovery of a bronze axe head which indicates prehistoric activity. The Archaeology Officer is particularly concerned about the development of the fields west and south of Our Lady's Church. Development that impacts its setting would be contrary to Policy BE2 of the Consolidated Local Plan. In particular, he is concerned that the setting will be further eroded by developments that begin to surround the church and churchyard. The setting includes the fields to the north and south and a topographic relation with the slope to the south-west. These fields are also, at present (including the recently consented holiday chalets), the only areas that are undeveloped and it may be desirable to retain this status for the benefit of the church's setting. Development on the slope would not only appear to 'wrap around' the church yard, it would also overlook the site. The photovoltaic cells and track in near proximity to the churchyard could form a significant competing element with the churchyard.

The Archaeology Officer objects to the application as currently submitted in the absence of additional information such as a photomontage and wireframe from the churchyard showing the development, proposals to mitigate the impact to the setting of the churchyard and photos from the development site towards the churchyard. The applicant was asked to provide such information for the Mushroom Sheds AGN but felt such information was not necessary, given the revised topographical information and willingness to enter into a planning condition for field evaluation. Whilst the Archaeology Officer noted the reductions made to the Mushroom and Rabbit Sheds applications, the cattle court application is higher, bulkier and involves more structures and development of the hillside. His comments remain applicable to this proposal which must be considered to contravene Policy BE2 which seeks to protect Archaeological Sites and their settings from detrimental impact.

Roads Planning have concerns over this proposal together with others submitted on the same and adjoining sites. They point out that conditioned work has never been completed, with the bell mouth still requiring to be surfaced and visibility from the access onto the public road remaining substandard. This proposal, if approved, would increase the amount of vehicles using the access and should it be approved, upgrading works should be conditioned following the submission of details. 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 on the other applications which details the type, number and size of vehicle trips which will be generated along with the frequency of trips. The statement must also include anticipated traffic movements for all other proposed development served by this access. Whilst they did not request this information for the previous refused cattle court application, the mixture of additional uses here including the hay and feed silo have led them to be concerned over traffic generation without submission of additional information on traffic movements. In the absence of this, they cannot support the application.

Given the uncertainty over the scale of the building and its 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.

There was also noise issues raised by Environmental Health which could be covered by appropriate conditions.

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

The application is contrary to Policies G1, EP2 and D1 of the Scottish Borders Consolidated Local Plan 2011 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building and silo 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 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 building and silo that would justify an exceptional permission for them in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building and silo 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, nor are there any indications of how a feed silo and cattle court would relate to each other in usage terms , all of which further undermine the case for justification in this location.

The application is contrary to Policy BE2 of the Scottish Borders Consolidated Local Plan 2011 in that it has not been adequately demonstrated that the building and silo would not have an adverse impact on the setting of the archaeological site of Our Lady's Church and Churchyard adjoining the application site.

The application is contrary to Policy D1 of the Scottish Borders Consolidated Local Plan 2011 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 G1, EP2 and D1 of the Scottish Borders Consolidated Local Plan 2011 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building and silo 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 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 building and silo that would justify an exceptional permission for them in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building and silo 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, nor are there any indications of how a feed silo and cattle court would relate to each other in scale of usage terms , all of which further undermine the case for justification in this location.
- 3 The application is contrary to Policy BE2 of the Scottish Borders Consolidated Local Plan 2011 in that it has not been adequately demonstrated that the building and silo would not have an adverse impact on the setting of the archaeological site of Our Lady's Church and Churchyard adjoining the application site.
- 4 The application is contrary to Policy D1 of the Scottish Borders Consolidated Local Plan 2011 in that it has not been adequately demonstrated that any traffic generated by the proposal can access the site without detriment to road safety.