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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**

**7<sup>th</sup> November 2016**

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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

Nil

- 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 27<sup>th</sup> October 2016. This relates to sites at:

<ul style="list-style-type: none"><li>• Land North of Upper Stewarton, (Kilrubie Wind Farm Development), Eddleston, Peebles</li></ul>	<ul style="list-style-type: none"><li>• Land North West of Whitmuir Hall, Selkirk</li></ul>
<ul style="list-style-type: none"><li>• 62 Castle Street, Duns</li></ul>	<ul style="list-style-type: none"><li>• 22 Bridge Street, Kelso</li></ul>

## 5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 16/00953/FUL  
Proposal: Removal of existing summer house and erection of garden room  
Site: Beechwood, Lawyer's Brae, Galashiels  
Appellant: Mr & Mrs Doyle

Reason for Refusal: The development would, by virtue of its prominent siting and large scale, be visually unsympathetic to the character of its surroundings, contrary to Policies PMD2 and HD3 of the Local Development Plan 2016, resulting in an adverse visual impact in this location.

## 6 REVIEWS DETERMINED

- 6.1 Reference: 15/01484/FUL  
Proposal: Replacement windows  
Site: 5 East High Street, Lauder  
Appellant: Mrs M Dick

Reason for Refusal: The design of the replacement windows fails to comply with Policies G1 and BE4 of the Consolidated Scottish Borders Local Plan (2011), and with the advice contained within the Council's approved Supplementary Planning Guidance note on Replacement Windows and Doors (2015), in that: (i) the proposed use of stick-on glazing bars would result in an adverse impact upon the appearance and character of the building and would be detrimental to the wider character and appearance of this part of Lauder's Conservation Area; and (ii) with respect to the front and side elevations only, the proposed replacement window material (uPVC) and use of double glazing, would cumulatively result in an adverse impact upon the appearance and character of the building and would be detrimental to the wider character and appearance of this section of the Area of Prime Frontage/Core Area within Lauder's Conservation Area.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

- 6.2 Reference: 16/00126/FUL  
Proposal: Replacement windows and door  
Site: 62 Castle Street, Duns  
Appellant: Alan John Redpath

Reason for Refusal: The application contravenes Policy BE1 and G1 of the Consolidated Local Plan 2011 and the terms of the Replacement Windows and Doors SPG in that the proposals lack sufficient information regarding the condition of the existing windows and door and the design of the proposed replacement windows including their frame material and the design of the replacement door would result in having a harmful effect upon the special historic and architectural character of the grade B listed building. Policy provisions contained within the emerging Local Development Plan would not alter this recommendation.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

- 6.3 Reference: 16/00397/FUL  
Proposal: Change of use of land to commercial storage and siting of 42 No storage containers (retrospective)  
Site: Land East of Langlee Mains Farmhouse, Galashiels  
Appellant: Wilson G Jamieson Ltd

Reason for Refusal: The proposal does not comply with Scottish Borders Council Local Development Plan Policies ED7, EP6 and PMD2 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; and the siting and operation of a commercial storage facility would be highly unsympathetic to the rural character and amenity of this site and the surrounding area, principally through the landscape and visual impacts that would result from such an industrial type and scale of operation being accommodated at this highly visible countryside location.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

- 6.4 Reference: 16/00494/FUL  
Proposal: Erection of poultry building and erection of alter, sacred well and stance for statue  
Site: Field No 0328, Kirkburn, Cardrona  
Appellant: Cleek Poultry Ltd

Reasons for Refusal: 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 and structures 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 and structures 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 is not of a design or scale that appear suited either to the proposed use for which it is intended or 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. 4. The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that the uses proposed for the building would not have an adverse impact on the local environment and the amenity of nearby residents.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.5 Reference: 16/00495/FUL  
Proposal: Extension to form animal flotation unit

Site: Field No 0328 Kirkburn, Cardrona  
Appellant: Cleek Poultry Ltd

Reasons for Refusal: 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

## **7 REVIEWS OUTSTANDING**

7.1 There remained no reviews previously reported on which decisions were still awaited when this report was prepared on 27<sup>th</sup> October 2016.

## **8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED**

Nil

## **9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED**

9.1 Reference: 14/00169/S36  
Proposal: Construction of Wind farm (Revised Scheme) comprising 19 no. wind turbines, associated access tracks, crane hardstandings, 1 no. meteorological mast, substation, construction compound and 2 no. borrow pits  
Site: Land North Of Nether Monynut Cottage (Aikengall IIa), Cockburnspath  
Appellant: Community Windpower Ltd

Reasons for Objection: 1. Impact on Landscape Character: The proposed development would be contrary to Policies G1 and D4 of the Scottish Borders 2011 Local Plan, and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) in that the development would unacceptably harm the Borders landscape due to: (i) the prominence of the application site and the ability of the turbines and infrastructure to be seen as highly prominent and poorly contained new components of the landscape from a wide area due to their siting beyond the containment

limitations of the receiving landscape (upland edges), as represented by viewpoints and ZTV information within the ES (ii) the unacceptable cumulative effects of the turbines and infrastructure with other consented or operational development at Crystal Rig, Aikengall, Hoprigshiels and Ferneylea resulting from the coalescence of schemes over different phases of landscape, between which is an absence of adequate separation which, together with a lack of good topographical containment, would cause the underlying landscape character to be overwhelmed; and (iii) the adverse effect of the development on the underlying landscape resulting from its disharmonious appearance, dominance, massing, spread and layout design, and its combined relationship with other wind energy development with which it has overriding and harmful cumulative landscape effects, most noticeably with earlier phases of the Aikengall array but also with Crystal Rig.

2. Adverse Visual and Amenity Impacts: The proposed development would be contrary to Policies G1, D4, BE2 and H2 of the Scottish Borders 2011 Local Plan, and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) in that the development would give rise to unacceptable visual and residential amenity effects due to: (i) the high level of visibility of the development and lack of good topographical containment resulting from some of the turbines and infrastructure creeping over the upland edges and down the outer upland slopes (ii) the messy, unbalanced, cluttered and dominant appearance of the development due to the design layout, in particular due to increased overlapping, overtopping and intensification of the turbines within the visual envelope of the development and the lack of bridging effects with Aikengall II (iii) the adverse effects experienced by users of the public path network, in particular users of the Southern Upland Way and areas generally used for recreational access (iv) the potentially unacceptable level of visual impact caused by the dominance of the turbines in relation to a number of private residences, in particular Star Cottage near Paitshell (v) the failure to demonstrate that the noise impacts on noise sensitive receptors would be within acceptable limits (vi) the adverse visual impacts relating to settings of scheduled monuments at Edin's Hall & Broch, and Shannabank Hill Fort.

3. Road Safety and User Amenity: The proposed development would be contrary to Policies H2, G1 and D4 of the Scottish Borders 2011 Local Plan, in that the proposed vehicular access proposals are unacceptable due to: (i) the high level of unnecessary adverse impact on amenity and safety of residents and road users caused by the implementation of new and upgraded infrastructure to enable the transportation of abnormal and other loads to and from the site.

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Michael Shiel, concluded that the development would make a worthwhile contribution towards the achievement of the Scottish Government's targets for renewable energy generation. The development would have a number of adverse landscape and visual impacts but none to the extent that he judged them to be unacceptable. In particular, the effects are mitigated to a degree because the wind turbines would be seen in the context of those already built and under construction on Monynut Edge. As a result, the landscape and visual impact would be less than if this were a stand-alone development. The reporter also stated that there would be no other unacceptable environmental impacts, subject to appropriate mitigation measures, that can be secured through conditions. The development is acceptable when considered against the criteria in paragraph 169 of Scottish Planning Policy. The development benefits from the presumption in favour of development that contributes toward sustainable development introduced

by Scottish Planning Policy and would not conflict with the relevant policies in the extant and emerging development plans for the area. Finally the reported concluded that the proposed development generally meets the requirements of Schedule 9 of the Electricity Act.

## 10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained one S36 PLIs previously reported on which a decision was still awaited when this report was prepared on 27<sup>th</sup> October 2016. This relates to a site 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></li></ul>
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### Approved by

**Ian Aikman**  
**Chief Planning Officer**

**Signature .....**

### Author(s)

Name	Designation and Contact Number
Laura Wemyss	Administrative Assistant (Regulatory) 01835 824000 Ext 5409

**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.

Contact us at Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel. No. 01835 825431 Fax No. 01835 825071  
Email: [PLACEtransrequest@scotborders.gov.uk](mailto:PLACEtransrequest@scotborders.gov.uk)