

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 16/01464/FUL

APPLICANT : Cleek Poultry Ltd

AGENT :

DEVELOPMENT : Erection of agricultural storage building with welfare accommodation

LOCATION: Field No 0328 Kirkburn
Cardrona
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
196 72	Elevations	Refused
196 73	Site Plan	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.

Landscape Architect:

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 a 12 x 18 x 7.5m high shed with staff facilities with 6m wide access track and associated parking on land to the south of the B7062.

Implications of the Proposal for the Landscape including any Mitigation

This application is for a shed on the sloping ground immediately to the south of the B7062. Due to the sloping nature of the field I am concerned that the shed will be visible locally from the B7062 immediately to the north of the field. 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 will not provide adequate screening for the shed.

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.'

Despite my concerns there is a precedent for development in this location.

As long as a robust screen planting scheme, that would help to integrate the development into the immediate landscape, is a condition of any approval, I would not be minded to object to this development.

Archaeology Officer:

Thank you for requesting an archaeology consultation. I can support the principle of this application. However, please see my consultation with respect to the consented development in this area. There are potential archaeological implications that can be mitigated. I recommend that Condition 9 of the existing consent covering this application site be carried forward.

Economic Development:

Economic Development cannot support the application for the erection of agricultural building and welfare accommodation in field no 0328, Kirkburn, Cardrona:

This is due to the close proximity of the proposed location of the agricultural building and welfare accommodation to the existing approved application for holiday lodges and laundry building 15/00831/FUL (superseded by 16/00892/FUL). It is the opinion of Economic Development that siting agricultural buildings so close to holiday lodges would detract from a quality visitor experience.

Environmental Health:

Amenity and Pollution

Assessment of Application

Air Quality

Noise

Nuisance

This is an Application to erect an agricultural building including a workshop. This has the potential to impact on adjacent occupiers.

Recommendation

No Objection subject to Conditions.

Conditions

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 amenity of nearby properties.

All plant and machinery 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 amenity of nearby properties.

Peebles and District Community Council: Response awaited.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

Policy PMD2 Quality Standards

Policy EP8 Archaeology

Policy EP5 Special Landscape Areas

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 17th January 2017

The landscape impact reasons for refusal of previous applications at this landholding have been thoroughly rehearsed, connected with the need for development to be sympathetic to the landscape designation which the Tweed Valley now lies within. All decisions have taken cognisance of the potential screening effects of the trees to the south of the landholding, on both sides of the road, recognising that the holiday developments (being on lower land) would be satisfactorily screened, augmented by new planting. None of the other applications have respected the issues of landscape impact both from the A72 above the general tree line and from the B road itself next to the site. Two of the applications (15/00468/AGN and 15/00671/FUL) were potentially on excavated land and had ridge heights that were closer to being of limited impact above the tree line but these were ultimately still rejected as the requested amendments to ridge and ground heights were not agreed to.

What sets this application apart from the other non-holiday proposals is that it is proposed to occupy part of the site previously granted for holiday chalets (12/00902/FUL and 15/00965/FUL). These applications still demonstrated, through cross sectional and landscaping information, that any projection of the buildings above the general tree top heights was highly unlikely. Whilst there is one noted roadside tree of 110.43mAOD tree top height, the others vary from around the 105 - 108 m AOD height with one further west at 109m. There is no doubt that the average tree top height of screening afforded by the trees is nearer the 107m height and that the general impact of the holiday chalets was contained by the screening, albeit a condition was imposed to soften the abrupt nature of the roadside elevations, roof design and overall ridge heights - an attempt to limit and reduce visual impacts from the B Road below the site.

This proposed storage building will be 7.5m to ridge on land that is in the vicinity of 98-99m AOD. This is 1.5m higher than the chalets approved on this site but occupies a position that was formally approved for the higher hub house under consent 12/00902/FUL, albeit that was consented on land slightly lower down than now proposed. It is also the case that the storage building will be bulkier than the two chalets approved on this site and will have a high eaves line, something the condition imposed on 15/00965/FUL was seeking to soften and resolve. Visual impacts on the local B Road were the main reason for that condition but the concerns that there were over localised impact were outweighed by the economic benefits of the tourism

development. That scheme was supported by a Business Plan and met the Policies in the LDP, the visual impacts being less than that currently proposed and being able to be resolved further by condition.

This scheme has no such justification, the localised impacts being greater than that envisaged by the approved chalets and there being no obvious demonstrated benefits to allow the visual impacts to be accepted and outweighed. Even with new planting to the roadside bank, the scheme would need to be justified as necessary for mitigation then to be considered as an acceptable method of reducing visual impacts. Despite the proposal not having an adverse impact from the A72 when viewed across the valley, I find that the increased localised visual impacts caused by an unjustified and unsubstantiated scheme are still contrary to LDP Policy on development within the countryside and within a Special Landscape Area.

For reasons fully explained in previous applications without a Business Plan, there is no adequate justification or demonstrated business need for a building of this scale and purpose on the small holding. The issues have been well rehearsed in other applications about how an 8.5 acre holding with a range of existing buildings could produce a need for another building on the site. As no Business Plan has again been submitted with this application, none of the previous reasons for refusal relating to compliance with the justification requirement of the relevant LDP Policy have been met by this proposal and it continues to remain in breach of the Policy.

A number of the previous applications have been refused partly on road access grounds as the proposals have not demonstrated what level of traffic is likely to be generated by the floorspace and descriptions proposed. This application is no different and the Roads Planning Service have noted that, without traffic information being submitted, they cannot be satisfied that the proposal can be safely accommodated by the road leading to the site or the junction, even if improved as per the approved design.

The Local Review Body had previously commented that there was a conflict in relationship between the consented holiday developments and the scale and proximity of the agricultural and other proposals on land adjoining. This application increases the potential for conflict due to it occupying part of the holiday chalets site. If approved and implemented, the storage building would replace two holiday chalets at the main entrance to the site and sit alongside others in very close proximity. This point is also raised by Economic Development in their response to the current application. I do not consider that this is a valid reason to oppose the planning application as the holiday consents have not been commenced. However, I do believe that the conflict would have needed to have been reconciled if this application was being approved, by means of a condition effectively preventing the development of the holiday chalets and sheds consents until a revised "masterplan" was submitted to show how the proposed development could be accommodated and comfortably co-exist with the remaining part of the holiday proposals. The fact that the matter could be handled by an appropriate planning condition determines that it is not grounds for refusal of the scheme for this particular reason.

Likewise, the matters raised by Environmental Health and Archaeology could have been addressed by a planning condition.

REASON FOR DECISION :

The application is contrary to Policies PMD2, EP5 and ED7 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance relating to Special Landscape Area 2 - Tweed Valley 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 with adverse visual impacts on the local environment. The proposed building is not of a design or scale that appears suited to 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 Guidance relating to Special Landscape Area 2 - Tweed Valley 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 with adverse visual impacts on the local environment. The proposed building is not of a design or scale that appears suited to the size of the holding on which it would be situated, which further undermines the case for justification in this location.

- 2 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.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.

**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: 17/00010/RREF

Planning Application Reference: 16/01464/FUL

Development Proposal: Erection of agricultural storage building with welfare accommodation

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 Guidance relating to Special Landscape Area 2 - Tweed Valley 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 with adverse visual impacts on the local environment. The proposed building is not of a design or scale that appears suited to the size of the holding on which it would be situated, which further undermines the case for justification in this location.
- 2 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 an agricultural storage building with welfare accommodation at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Site Plan	19673
General Arrangement	19672

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 an agricultural storage building with welfare accommodation. The building, which incorporated a mezzanine floor, has a footprint of 12m x 18m and a ridge height of 7.5m. The building would be erected in a currently undeveloped field to the north east of the existing vehicular access and the main yard at the applicant's land holding at Kirkburn.

The Review Body acknowledged that the site occupied land that had previously had planning permission for holiday chalets and a hub building. Members accepted the conclusion of the appointed officer that due to the location of the proposed building and the screening to the north of the landholding, in this instance, the wider visual impacts on the landscape from the A72 were not so significant as to warrant refusal of the application. However, they were concerned that there would be localised

visual impacts due to the bulk and scale of the building and that these would be harmful.

The application proposes the creation of provision for small “nest” agricultural businesses at the site. However, the application was not supported by a business plan for this activity or any statement that set out the development strategy for the landholding for the activities carried out at the site. In the circumstances, the Review Body had no evidence before them about the need and suitability of this development on the 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 visual and landscape objections to the development and overturn the decision.

The Local Review Body expressed concern that there would be a potential conflict in relationship between the consented holiday development and the scale and proximity of the agricultural and other proposals on land adjoining. Members were concerned about how the proposal would relate to all of those, how compatible they would be with one another and whether there would be conflict between the uses on such a limited area of land. Whilst uncomfortable with the potential conflict they accepted the appointed officer’s conclusion that it did not form a reason to oppose the application in this instance.

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 planning authority.

The Review Body noted the applicant’s comments about upgrading the access bellmouth and the assertion that the development would lessen the traffic generated at the site. However, they were not convinced and Members concluded that the application was deficient in term of the traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) and, in their view, it had not been possible to undertake a full assessment of the road safety implications of the development.

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