



**NOTICE OF REVIEW**

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Failure to supply all the relevant information could invalidate your notice of review.**

Use **BLOCK CAPITALS** if completing in manuscript

**Applicant(s)**

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

**Agent (if any)**

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

Mark this box to confirm all contact should be through this representative:

\* Do you agree to correspondence regarding your review being sent by e-mail? Yes  No

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application  Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

**Nature of application**

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

**Reasons for seeking review**

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

**Review procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

**Site inspection**

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- |  | Yes                                 | No                       |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land?                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

**Statement**

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. **Note:** you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE ATTACHED STATEMENT

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes  No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

THE OFFICER MADE NO REQUEST FOR FURTHER INFORMATION DURING THE APPLICATION PROCESS.

THE OFFICER IS AWARE THAT THE APPLICANT IS NOT COMPUTER LITERATE, AND THE PROCESS OF NOT COMMUNICATING WITH THE APPLICANT BY LETTER (OR PHONE) AND OTHERWISE ASSUMING THAT THE PLANNING PORTAL CAN BE USED IS AGAINST THE RIGHTS OF A PERSON CHOOSING TO AVOID THE WORLD WIDE WEB.

THE APPLICANT HAS PAID PLANNING FEES AND THE COUNCIL SHOULD RECOGNISE THAT IF AN APPLICANT CHOOSES NOT TO USE THE PLANNING PORTAL, THIS SHOULD NOT JEOPARDISE AN APPLICATION FOR CONSENT.

IF FURTHER INFORMATION WERE REQUIRED, THIS SHOULD HAVE BEEN REQUESTED BY LETTER.

**List of documents and evidence**

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

STATEMENT OF APPEAL  PART 3 REPORT FROM THE PLANNING OFFICER  REFUSAL NOTICE  DRAWINGS 196 190 90 & 91 WITH REFUSAL STAMPS
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Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

**Checklist**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

**Declaration**

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date

15/8/17

***The Completed form should be returned to the Head of Corporate Administration, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA.***

STATEMENT OF APPEAL OR REVIEW  
17/00384/FUL  
ALTERATIONS TO EXISTING BELLMOUTH AND FORMATION OF NEW ACCESS  
KIRKBURN, CARDRONA, PEBBLES

The access-road in this application serves Nos 3,4,7 & 8 Kirkburn Cottages & also the house now formed in the former William Cree Memorial Church. Furthermore it is used by visitors to the graveyard at Kirkburn Church.

The applicant owns the ground to the south of the existing access road. He currently has planning consent for a tourism related development on part of the ground in his ownership. The sewage system for this development is to be located in North East corner of his ground, and the tail drain is to run to the Kirkburn by way of the forestry ground to the North of No 8 Kirkburn Cottages.

The existing access arrives at the B7062 at an acute angle. Indeed, a description of this access is made by the Roads Planning officer in another planning application (17/00806/FUL). The description reads :

“The junction between the minor public road and the B7062 is tortuous in its alignment and single track in nature. Left-turns into the junction and right-turns out are near impossible to make without multiple manoeuvres.”

The applicant owns the ground over which it is possible to improve the existing access and create a safe solution for access and egress. Whilst it is appreciated that further information would be required in-order to formalise the construction of this road, a valued appraisal was made of levels and landscape features and existing trees in the production of this planning application. The levels and realignment of contours suggested on drawing 196 91 are not hypothetical – they have been calculated and considered to present an ‘in-principle’ design solution for the new bellmouth that can be constructed to an adoptable standard.

The proposed bellmouth presents the opportunity to resolve a severe safety matter otherwise not achievable, where the outcome considerably improves road safety and public amenity without cost to the Scottish Borders Council.

I therefore ask that this application is carefully considered as part of this review, and understand fully that the technical and landscaping matters can be conditioned should the consent be granted under review.

AJC for Cleek Poultry Ltd

15.8.2017

**SCOTTISH BORDERS COUNCIL**

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

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

**REF :** 17/00384/FUL

**APPLICANT :** Cleek Poultry Ltd

**AGENT :**

**DEVELOPMENT :** Alterations to existing bellmouth and formation of new access

**LOCATION:** Land North West Of Kirkburn Parish Church  
Cardrona  
Scottish Borders

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

Plan Ref	Plan Type	Plan Status
196 90	Location Plan	Refused
196 91	Block Plans	Refused

**NUMBER OF REPRESENTATIONS: 5**

**SUMMARY OF REPRESENTATIONS:**

Roads Planning:

The existing junction arrangement is not ideal and the principle of altering this access is acceptable from a road safety point of view. However, as this is the junction of the two public roads any proposal for altering this junction will require Road Construction Consent to ensure the road is designed to the appropriate standard. Furthermore, a Stopping-Up Order may be required to stop up any part of the existing road which will not be incorporated in the proposed road. Whilst the Council promote the Order, the costs associated with this must be borne by the applicant. As part of this process there is a public consultation period and any objections that are raised during that period will have to be resolved prior to the order being approved. If the Council are unable to resolve the objections, the matter will be referred to the Scottish Ministers for determination. Any approval of this proposal will require a condition to be attached to the consent stating that works are not to be commenced until the Stopping-Up Order has been approved.

Notwithstanding the above, there is insufficient information submitted in relation to the proposed alteration of the junction and road and I am unable to fully assess the impact of this proposal. I will require a detailed design to be submitted showing levels, cross sections, long section, earthwork slopes, geometry and drainage measures.

Until I receive this additional information, I am unable to support this proposal.

Archaeology Officer:

Thank you for requesting an archaeology consultation. I do not object to this proposal. The existing consent carries with it an archaeology condition. I recommend that this is carried forward for the reasons outlined in my previous consultation responses if this proposal is consented.

Landscape Architect:

#### Description of the Site

The site includes the access road in to Kirkburn cottages and the other properties that form the building group, and banking to both sides of the access road. As the General Arrangement Contour Plan (Drg 196 91) show there are 3 mature trees on the bank to the south of the existing Kirkburn road. The site is wholly within the Tweed Valley Special Landscape Area (SLA) and its location at the junction of the Kirkburn Road and the B7062 makes it highly visible to local traffic, some of which may be tourist traffic using the smaller local road network to enjoy the local landscape character and to avoid the busier A72.

#### Nature of the Proposal

The proposal is to re-align the Kirkburn road, swinging it around to the south before coming back to the existing alignment as it turns south eastwards and to create a new access into the adjacent field.

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

The re-aligned access road will involve the felling of the three mature trees on the southern banking and some major earthworks to achieve the desired road layout and will affect a change to the local character of the minor B7062 road. Furthermore, the formation of a new field access will mean that the proposed tree buffer planting along the north east boundary of the field, as approved as part of the consented development of holiday lodges (Planning Ref 12/00902/FUL & 15 / 00965/FUL) will not be fully achievable and would increase visibility into and out of the lodge development and could greatly reduce the ability of this buffer planting, along this sensitive boundary, to create separation of the lodge development from the residential properties.

Any benefits accrued from the road re-alignment do not, in my opinion, outweigh the loss of the three trees on the banking and the visual intrusion and loss of local landscape character that earthworks of this scale involve.

I consider the landscape and visual impact of the proposal is moderately significant and detrimental to the local character of B7062 and will have a negative impact, albeit relatively local, on the character of the SLA.

#### Conclusion

Given the landscape and visual impacts of the proposed development on the local character of the immediate area and the fact that there is an adequate access into the adjacent field less than 150m further west along the A7062, I do not support this proposal to re-align the road and to form a new access into the field.

Peebles and District Community Council: Response awaited.

There have also been objections received from five local residential properties on the following grounds:

The opening is unnecessary as there are already three other access points.

The access and earthworks will reduce the screening between the holiday development and Kirkburn, blurring the distinction and impacting on residential amenity.

There is precedent attached to this and a housing application, both unsuccessful. Approval would increase the likelihood of residential development.

There is no need for such road improvement, the current road operates without problem.

The earthworks and tree felling would increase impacts locally and across the valley, contrary to LDP Policy on landscape designations.

Development would adversely affect the setting of the listed building adjoining and the archaeological sites nearby, being contrary to LDP Policy.

Neighbour notification incomplete as others use the access road.



The application is not legal as the applicant does not own the road affected.

**PLANNING CONSIDERATIONS AND POLICIES:**

Scottish Borders Local Development Plan 2016

Policy PMD2 Quality Standards

Policy EP7 Listed Buildings

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 31st May 2017

This application is a proposal to realign the existing Kirkburn building group public road junction with the B7062 road by creating a 90 degree bellmouth of 5.5m road width before curving the new road back towards the line of the existing road and then leading a slightly widened road up to the building group. This would then lead to a junction whereby an access is take up into the field that has been consented for holiday chalets and holiday sheds. These consents have not been implemented and the access must, therefore, be considered on its own merits as an alternative access into the field in question, for whatever purpose. It has clearly been designed, however, to cater for a development on the scale of the consented holiday developments. It would theoretically connect with the turning head on the approved layout 15/00965/FUL, albeit cutting through a proposed tree screen and reducing the area of existing and proposed planting at the north-eastern end of this development. There is no proposal to close off the existing access to the field from the western end. The new roadway will involve the loss of three mature trees as it enters the banking into the field and will cut into the ground with 5-6m of banking being required on the first curve of the road.

There is history with such a road proposal, connected with previous unsuccessful attempts to achieve planning permission for housing in the late 90s and early 2000s. Developments for six houses were either refused or withdrawn, part of the reasons relating to the fact that either the proposed road access was not achievable or had an elevated and overbearing impact on local landscape character at this location. Even when a reduced scheme for three houses was proposed which received some support from the Department, this was still rejected by the Committee, then on appeal.

Then, as now, the comments from Roads Planning were generally in support of anything that could improve the existing narrow and acutely angled current access and junction. However, they still have a number of questions and concerns over the current proposal, including further proof that the access could be physically achieved, needing a detailed design to be submitted showing levels, cross sections, long section, earthwork slopes, geometry and drainage measures. Furthermore, a stopping up order would need to be promoted by the Council and paid for by the developer, allowing a representation period for local residents and users of the road. Should objections be received to this (and there have been five to this current application), then they would need to be resolved, otherwise the matter would be passed to the Scottish Ministers. A further issue is that the applicant has notified the Council as perceived part owners of the land to which the application relates. This is not the case as the current roadway and the land outside the applicant's field are privately owned by another party/parties, the Council simply having rights under the Roads (Scotland) Act to maintain an adoptable road over the land. This is not ownership and the objectors have rightly pointed this out.

It is concluded that whilst the principle of what is being proposed is acceptable in terms of a potential road safety improvement, the application has not adequately demonstrated that the access can either be physically or legally achieved. It also does not address the questions of need when there is an acceptable access to the west of the field from the B7062, the possibility of through traffic if that is not stopped up to the field and the general road safety and amenity impacts of introducing holiday or agricultural traffic into the Kirkburn building group.

Even if the above could have been resolved, there are significant landscape impacts caused by the proposal which differ from the circumstances in 2003 when a roadway improvement was proposed for the three



house development. The main differences are that the Tweed Valley is now a designated Special Landscape Area and that a holiday development has been consented which relies on existing and proposed landscaping to screen it from the A72, the B7062 and the residents within the Kirkburn building group. The Landscape Architect has noted the three mature trees that would need to be felled at the roadside and the reductions in proposed planting belts as a result of the roadway proposals. She feels that this would increase visibility into and out of the lodge development and could greatly reduce the ability of this buffer planting, along this sensitive boundary, to create separation of the lodge development from the residential properties. These are also objections expressed by five separate properties within the building group adjoining. The Landscape Architect concludes by stating-

"Any benefits accrued from the road re-alignment do not, in my opinion, outweigh the loss of the three trees on the banking and the visual intrusion and loss of local landscape character that earthworks of this scale involve. I consider the landscape and visual impact of the proposal is moderately significant and detrimental to the local character of B7062 and will have a negative impact, albeit relatively local, on the character of the SLA."

As there appears to be no pressing need for this second access into the field to potentially serve the holiday development, the disadvantages of landscape and residential amenity impacts would outweigh any benefits to road safety, even if the proposals could be physically and legally achieved. The application must, therefore, be refused for these reasons which are contrary to Policies PMD2, ED7, EP5 and HD3.

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

The application is contrary to Policies PMD2, ED7, EP5 and HD3 of the Scottish Borders Local Development Plan and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed access road will be locally prominent in the landscape and will create significant earthworks, loss of mature trees and reduction of proposed planting areas intended to screen the consented holiday developments, having a significant adverse effect on the character and quality of the designated landscape and the amenity of adjoining residents. Furthermore, the application has failed to demonstrate that the development can be achieved in terms of levels, geometry, drainage and that there is any ability to secure stopping up of the existing roadway.

#### **Recommendation: Refused**

- 1 The application is contrary to Policies PMD2, ED7, EP5 and HD3 of the Scottish Borders Local Development Plan and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed access road will be locally prominent in the landscape and will create significant earthworks, loss of mature trees and reduction of proposed planting areas intended to screen the consented holiday developments, having a significant adverse effect on the character and quality of the designated landscape and the amenity of adjoining residents. Furthermore, the application has failed to demonstrate that the development can be achieved in terms of levels, geometry, drainage and that there is any ability to secure stopping up of the existing roadway.

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

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

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

**Application for Planning Permission**

**Reference : 17/00384/FUL**

**To : Cleek Poultry Ltd The Tractor Shed Kirkburn Peebles Scottish Borders**

With reference to your application validated on **6th April 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-


**Proposal : Alterations to existing bellmouth and formation of new access**

**at : Land North West Of Kirkburn Parish Church Cardrona Scottish Borders**

The Scottish Borders Council hereby **refuse** planning permission for the **reason(s) stated on the attached schedule.**

**Dated 7th June 2017  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

Signed



.....  
**Chief Planning Officer**

**APPLICATION REFERENCE : 17/00384/FUL**

**Schedule of Plans and Drawings Refused:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
196 90	Location Plan	Refused
196 91	Block Plans	Refused

**REASON FOR REFUSAL**

- 1 The application is contrary to Policies PMD2, ED7, EP5 and HD3 of the Scottish Borders Local Development Plan and Supplementary Planning Policies relating to Special Landscape Area 2- Tweed Valley in that the proposed access road will be locally prominent in the landscape and will create significant earthworks, loss of mature trees and reduction of proposed planting areas intended to screen the consented holiday developments, having a significant adverse effect on the character and quality of the designated landscape and the amenity of adjoining residents. Furthermore, the application has failed to demonstrate that the development can be achieved in terms of levels, geometry, drainage and that there is any ability to secure stopping up of the existing roadway.

**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.

