



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)

Agent (if any)

Name CLEEK POULTRY LTD

Name

Address TRACTOR SHED, KIRKBURN, PEEBLES

Address

Postcode EH45 9HU

Postcode

Contact Telephone 1

Contact Telephone 1

Contact Telephone 2

Contact Telephone 2

Fax No

Fax No

E-mail* NONE AVAILABLE

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 SCOTTISH BORDERS COUNCIL

Planning authority's application reference number 17/00647/FUL

Site address LAND TO NORTH WEST OF KIRKBURN PARISH CHURCH (FORMER) CARDRONA, SCOTTISH BORDERS

Description of proposed development FORMATION OF HARDSTANDING, STEPS, RETAINING WALL AND NEW FOOTPATH

Date of application 8TH MAY 2017 Date of decision (if any) 3RD JULY 2017

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 92 WITH REFUSAL STAMPS

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
17/00647/FUL
FORMATION OF HARDSTAND, STEPS, RETAINING WALL
& NEW FOOTPATH
KIRKBURN, CARDRONA, PEEBLES

The proposal is to form a new hardstand area adjacent to the existing house once the William Cree Memorial Church. This hardstand is to be linked by way of a short flight of steps and an access path enabling pedestrians to migrate from the tourism development in field 0308 to the Kirkburn Road, and thereby to the forest walks at Kirkburn.

The applicant currently has planning consent for a tourism related development on part of the ground to the west of the application site. 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 hardstand gives a safe stance for the service vehicles required to maintain the sewage treatment system, avoiding traffic issues for the residents and others of the Kirkburn Cottage community.

The formation of the footpath along the North and North-West boundary of the Graveyard and William Cree Church has a secondary advantage of enabling a land drain to be installed whilst the work is carried out. The surface of the path will be granular allowing storm water to drain. This will be channelled by way of a field drain to the hardstand area where it will ultimately discharge via the sewage tail-drain to Kirkburn.

The footpath links the Kirkburn Road to the tourism development and removes the need for pedestrians to walk along the B 7062 from the existing tourism access to the adjacent forest walks. It is further anticipated that whilst forming the tail drain from Kirkburn Road to the Kirkburn the Forestry Commission may grant access to extend the proposed footpath along the North boundary of No 8 Kirkburn Cottages. This would remove any need for pedestrians to walk along the B7062 and avoid the safety issues presented at the existing Kirkburn bridge.

A previous application for consent had been made to widen the B7062 below the tourism development which would have helped to reduce the conflict of pedestrians and cars along this part of the road. This safety matter will surely become an issue once the tourism development is implemented. That previous application was refused but had involved the formation of gabions along the North-West site boundary of the tourism development enabling a footpath to be formed.

It should be noted that this submission for planning consent was made shortly after the submission for a safer, improved access to the Kirkburn Road had been submitted. The proposed bellmouth in that application had presented the opportunity to resolve a severe safety problem otherwise not achievable, where the outcome considerably improved road safety and public amenity without cost to the Scottish Borders Council.

I ask that this application is carefully considered as part of this review for the safety and amenity gains it gives. I fully understand fully that the technical and landscaping matters can be conditioned should the consent be granted under review, and that planting to remove the impact of the gabions and bankings would need to be carefully considered.

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 : 17/00647/FUL

APPLICANT : Cleek Poultry Ltd

AGENT :

DEVELOPMENT : Formation of hardstanding, steps, retaining wall and new foot path

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

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
196 02	Site Plan	Refused

NUMBER OF REPRESENTATIONS: 1
SUMMARY OF REPRESENTATIONS:

Roads Planning:

Due to the lack of information accompanying this application, I am unable to make an informed decision on whether to support this application. There is no information on what the hard-standing is to be used for or the type, frequency and number of vehicles anticipated to be using this area.

A Transport Statement will be required to accompany this application. This statement should include the information detailed above.

Furthermore, I have concerns over the existing access onto the B7062 and the impact of any additional traffic movements at this junction needs to be assessed.

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

Archaeology Officer:

Thank you for requesting an archaeology consultation. Please see my other comments for the site in question with respect to potential impacts to unknown and buried archaeological features or deposits. I recommend that previously consented conditions are carried forward if this application is consented.

I do not feel that the proposal will have a significant adverse setting impact on the formerly Scheduled Our Lady's Church and churchyard. However there is very little information in the application for what this proposal relates to and if this might form infrastructure for a wider development proposal which may have adverse impacts. I do note that the proposed footpath may run near to root systems of trees

that line (and form the setting of) Our Lady's Church and churchyard. I recommend obtaining the opinion of the Landscape and Tree Officers on the potential impacts to the trees.

I do not object to this proposal, and I recommend that if consented previously archaeology conditions are carried forward.

Heritage and Design:

BACKGROUND

The application site lies adjacent to the category B listed former Kirkburn (William Cree Memorial) Church that has been converted for residential use.

The application site forms part of a larger area of land holding that has been the subject to a considerable number of planning applications over recent years in many cases overlapping and duplicating site areas.

ASSESSMENT OF PROPOSALS

I have reviewed the application in terms of impact on the setting of the former church.

Only a site plan has been submitted with no supporting statement or additional information, such as elevations or site sections. It is not clear what the purpose of an area of hardstanding located immediately alongside the NW side of the former church will be. As well as the hardstanding (no details of surface treatment or finish), the works also involve the introduction of 2 rows of gabions (presumably stone filled) adjacent to the boundary of the former church with the hardstanding area set between 1 and 2m below the existing contour at the boundary.

Subject to boundary treatment, it appears that these gabions would be visible as the former church is approached on the road from the public road on the S side of the Tweed, my initial view, is that this will have an adverse impact on the setting of the listed building by changing the relationship of how the building sits in the landscape and in absence of any additional supporting information I have concerns about what the purpose of the hardstanding will be. as the current proposals only show a footpath providing access to it. Without further information it is impossible to say if these proposals will have a significantly adverse impact.

RECOMMENDATION / RECOMMENDED CONDITIONS.

I have concerns about the impact on the setting of the former church and in the absence of any additional information, applying the "precautionary principle", I object to the proposals at present. I am prepared to review these comments if further information comes available.

Peebles and District Community Council: Response awaited.

AHSS: Response awaited.

There have also been objections to this application from five properties at Kirkburn, all contained within the same signed letter. The main grounds of objection are as follows:

the proposal removes agreed landscaping between Kirkburn and the consented holiday development and directs users to the houses.

there is no history of access from Kirkburn to the field.

there would be conflict from the hardstanding and use of it with the listed building and residential amenity.

drainage problems.

steps do not create a disabled friendly holiday development.

the footpath link from the hardstanding to the north is unclear.

there would be road safety implications for the use of the current Kirkburn road and junction with the B Road.

the path could impact on trees.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

Policy PMD2 Quality Standards

Policy ED7 Business, Tourism and Leisure Development in the Countryside

Policy EP7 Listed Buildings

Policy EP8 Archaeology

Policy HD3 Protection of Residential Amenity

Recommendation by - Craig Miller (Lead Planning Officer) on 30th June 2017

This application relates to the eastern corner of a field adjoining the Kirkburn building group which has seen a number of applications in recent years for holiday developments, all of which have been consented but none yet implemented. The proposal is to form a hardstanding area adjoining the former Wm Cree Memorial Church which is a Category B Listed Building and which, with extension, has been converted into a dwellinghouse. The hardstanding area would be approximately one metre below rising field level and appears to be proposed to be connected with the public road at Kirkburn via a two metre hardcore footpath which runs off to the north of the hardstanding. There is currently a banked verge outwith the field fence between the road and the field and the submitted plan does not suggest a direct connection with the road other than via the footpath. The hardstanding area would be gravelled and there is no background statement or justification suggesting the purpose of the hardstanding.

The other part of the proposal is a further two metre hardcore footpath running up from the hardstanding area along the boundary of the field with the Wm Cree building and then along the boundary with the Yew Trees which border the Our Lady's Church and Churchyard, a former Scheduled Monument. The path would then connect with a track which runs through the farm holding, separating the field consented for holiday development from the rest of the farm holding. There is no obvious purpose for the proposal in connection with the holiday developments and, indeed, the proposals would impinge on a turning area and, in particular, landscaping that was proposed for both the holiday sheds and chalets proposals. There is also no obvious connection with the refused application for the junction access amendments sought recently at the Kirkburn road junction with the B Road.

Although the objections received from residents at Kirkburn correctly point out the conflict with the holiday developments and the actual erosion of planting buffers intended to separate the development from the residents within the building group, the holiday developments have not been commenced and do not represent a valid or material reason, in itself, to reject the proposals. Similarly, whilst the footpath proposal may impact on Yew trees outwith the site, these are neither protected in themselves nor border any Scheduled archaeological remains. As they also do not border a site which has any valid commenced development upon it, any impacts on the trees cannot also be considered to be a material factor in any decision on the application.

The main determining issues on this application must relate to compliance with Policies on road safety, residential amenity and, in particular, impacts on the setting of the B Listed Building immediately adjoining the works. With regard to Policy ED7 on development within the countryside, there has to be acceptable road safety impacts and this proposal is of concern to Roads Planning. Even if there is no direct connection between the hardstanding and the Kirkburn road, the two metre footpath to the north suggests an indirect connection is intended. This is further highlighted by the presence of steps within the other intended footpath leading off the hardstanding into the farmland to the south. Roads Planning cannot support the proposal as they are concerned about the impacts of additional traffic movements on the existing junction between the Kirkburn public road and the B7062. Without any further information on the type, number and frequency of vehicles serving this hardstanding area, they are unable to support the application. Similarly, the impacts of additional parking and vehicular movements associated with the hardstanding area will create unnecessary and detrimental impacts on residential amenity at the small building group at Kirkburn. The objections received from residents in this respect are concurred with. There is an acceptable access already from the B7062 into the heart of the applicant's smallholding and there is no justification submitted to substantiate the need for another access point, even if only pedestrian, to service a hardstanding area which could still create parking and additional vehicular movements on the Kirkburn public road. In summary, there are road safety and amenity reasons to oppose this proposal with regards to the potential impacts of vehicular use servicing and generated by the proposals.

The other material factor is impact on the Category B Listed Building of the former Wm Cree Memorial Church which is now extended and occupied as a dwellinghouse. This property is immediately adjoining the hardstanding and proposed stepped footpath. It is clear that the Heritage and Design Officer believes there would be adverse impacts on the visual setting of the listed building. He feels the proposed gabion baskets will be visible from the public roads and will change the relationship of how the building is appreciated in the landscape. He also has concerns over the purpose of the hardstanding. Although he cannot say that the combined impacts would be significant without additional information, he does feel the impacts would still be adverse and objects to the application. Given that there has been no additional supporting information submitted, the application must be determined on the current proposals. Of major relevance is that Policy EP7 applies the test of whether any development affecting the setting of a listed building would be adverse, not the harsher test of whether effects would be significantly adverse. Given this, the proposals are clearly contrary to LDP Policy and as the advice of Heritage and Design is against the proposal, the application should be refused for this reason in addition to the road safety reasons outlined above.

I have taken account of all other relevant considerations including the comments from residents. I have also considered the impacts of the stepped path on residential amenity now enjoyed within the converted former Wm Cree Church. I do not find, however, that there are any other material factors that would justify refusal of the application other than those already outlined within this report.

REASON FOR DECISION :

The application is contrary to Policies PMD2, HD3, EP7 and ED7 of the Scottish Borders Local Development Plan 2016 in that the proposal would create adverse impacts on the setting of a Category B Statutorily Listed Building adjoining the site and on the amenity of nearby residential amenity properties.

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, HD3, EP7 and ED7 of the Scottish Borders Local Development Plan 2016 in that the proposal would create adverse effects on the setting of a Category B Statutorily Listed Building adjoining the site and on the amenity of nearby residential amenity properties.
- 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”.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

Application for Planning Permission

Reference : 17/00647/FUL

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

With reference to your application validated on **8th May 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Formation of hardstanding, steps, retaining wall and new foot path

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 3rd July 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



.....
Chief Planning Officer

APPLICATION REFERENCE : 17/00647/FUL

Schedule of Plans and Drawings Refused:

Plan Ref	Plan Type	Plan Status
196 02	Site Plan	Refused

REASON FOR REFUSAL

- 1 The application is contrary to Policies PMD2, HD3, EP7 and ED7 of the Scottish Borders Local Development Plan 2016 in that the proposal would create adverse effects on the setting of a Category B Statutorily Listed Building adjoining the site and on the amenity of nearby residential amenity properties.
- 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.

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 0SA.

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.