

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**1<sup>st</sup> June 2015**

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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

- 2.1.1 Reference: 14/00738/FUL  
Proposal: Construction of wind farm consisting of 8 No turbines up to 100m high to tip with associated external transformers, tracking, new site entrance off A701, borrow pit, underground cabling, substation and compound and temporary construction compound  
Site: Land South East of Halmyre Mains Farmhouse (Hag Law), Romanno Bridge  
Appellant: Stevenson Hill Wind Energy Ltd

Reasons for Refusal: 1. The proposed development would be contrary to Policies G1, BE2 and D4 of the Scottish Borders 2011 Local Plan, and Policy 10 of the South-East Scotland Strategic Development Plan (SESplan) and the Council's Supplementary Planning Guidance on Wind Energy in that the development would unacceptably harm the Borders landscape including Historic Landscape due to: (i) the prominence of the application site and the ability of the turbines to be seen as highly prominent and poorly contained new components of the landscape from a wide area, as represented by viewpoints and ZTV information within the ES (ii) the unacceptable vertical scale of the turbines in relation to the scale of the receiving landscape and absence of good topographical containment, causing the underlying landscape/landform to be overwhelmed (iii) the impacts on landscape character arising from a high level of intervisibility between several landscape character areas/types with recognised landscape quality (including the Upper Tweeddale National Scenic Area) (iv) the appearance of the development resulting from its placement on a line of hills ridges, linear layout design, its scale in relation to other wind energy development with which it has cumulative landscape effects and the potential visual confusion caused by the proximity of the proposed Cloich Wind Farm to Hag Law, there being no visual coherence

between the two windfarms (v) the siting and prominence in a Historic Landscape, within which the development would appear as an incongruous and anachronistic new item; and (vi) the introduction of a large commercial wind farm in an area which does not have the capacity to absorb it without causing overriding harm, and which is presently wind farm free. 2. 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) and the Council's Supplementary Planning Guidance on Wind Energy 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 (ii) the adverse effects experienced by users of the public path network, in particular the Scottish National Trail, and areas generally used for recreational access (including vehicular access routes to such areas) (iii) the potentially unacceptable level of visual impact caused by the design of the development, in particular the dominance of the turbines in proximity to sensitive receptors (residences, school, public buildings), within the settlements at Romannobridge/Halmyre, Mountain Cross and West Linton (iv) the lack of certainty relating to the application of noise limitations in relation to certain noise sensitive receptors, in particular because it has not been demonstrated that it is possible to meet recommendations within ETSU-R-97 due to the potential cumulative noise effects from Hag Law and Cloich Wind Farms; and (v) the overriding harmful visual impacts relating to settings of a range of scheduled monuments within a culturally rich landscape.

Grounds of Appeal: The Proposed Development is well-designed and sensitively sited. The "*in principle*" objection of the Council is not supported by the development plan or any material considerations. The objection from HS is overly cautious and does not withstand careful scrutiny. The majority of the statutory consultees including SNH, SEPA, the MoD, Transport Scotland, Edinburgh Airport, NATS (En Route) PLC, and RSPB Scotland are content that the Proposed Development be consented. The Proposed Development complies with the development plan and the material considerations.

Method of Appeal: Because of the interconnection with the Cloich Forrest Appeal, Scottish Ministers have called in this Appeal and will make the final determination.

## 2.2 Enforcements

Nil

## 3 APPEAL DECISIONS RECEIVED

### 3.1 Planning Applications

3.1.1 Reference: 14/00763/FUL  
Proposal: Installation of anaerobic digestion sustainable energy plant  
Site: Ravelaw Farm, Whitsome, Duns  
Appellant: Ivor Gaston & Son

Reason for Refusal: Having regard to the 250m appropriate separating distance between the proposed anaerobic digester and any sensitive

receptors recommended by Scottish Planning Policy, the proposed development would give rise to unacceptable impacts on the living conditions of neighbouring residents, by particular reason of odour, contrary to Policies G1 and H2 of the Scottish Borders Local Plan.

Grounds of Appeal: The appellant believes that the proposal: 1. Has no significant siting, design or visual impacts. 2. Will not have an unacceptable impact on residential amenity. 3. Adheres to criteria regarding traffic and access, storage of hazardous substances, waste, water supply and biodiversity. 4. Complies with the Development Plan and all related planning policy in particular with regard to the requirement of national and local governments to support renewable energy development. 5. Will support sustainable economic development as promoted by SPP as it will sustain a local business, create new local employment and provide other spin-off employment/business as part of constructing/servicing the plant. 6. Is smaller than AD Plant approved by SBC in the recent past and which have been approved despite the proposals being under the 250 metre guideline outlines in SPP. There is clear precedence therefore that the proposal should be treated in the same way as other AD Plants within the region.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Karen Heywood, concluded that the proposed development does not accord with the relevant provisions of the development plan and that there are no material considerations which would justify granting planning permission. The Reporter considered all matters raised, but there were none which would lead her to alter her conclusions.

### 3.2 Enforcements

Nil

## 4 APPEALS OUTSTANDING

4.1 There remained one appeal previously reported on which a decision was still awaited when this report was prepared on 21<sup>st</sup> May 2015. This relates to a site at:

- Land West of Kingledores Farm (Glenkerie), Broughton, Biggar •

## 5 REVIEW REQUESTS RECEIVED

5.1 Reference: 14/00835/FUL  
Proposal: Siting of residential caravan (retrospective)  
Site: Land West of Tibbieshiels Inn, St Marys Loch, Selkirk  
Appellant: Alistair Moody

Reasons for Refusal: 1. The proposal is contrary to Local Plan policy D2 in that the development is not located within a building group or with a dispersed building group close to an identified anchor point, there is no

economic justification for a residential caravan at this site and it is not of a high quality design which would be expected in a rural location. 2. The proposal is contrary to Local Plan policy G1 - Quality Standards for New Development as the caravan does not respect the character of the surrounding area, it does not create a development with a sense of place or add to any existing sense of place and in terms of materials it does not complement the highest quality of architecture in the locality.

- 5.2 Reference: 14/01342/FUL  
Proposal: Erection of veterinary practice building  
Site: Land South East of Paul Burton Warehouse, (Plot 8)  
Pinnaclehill Industrial Estate, Kelso  
Appellant: Cheviot Vets

Reason for Refusal: The proposed development is contrary to Policy ED1 of the Scottish Borders Consolidated Local Plan 2011 in that the erection of a veterinary practice building would result in the development of use class 2 business on a strategic employment site restricted to use classes 4, 5 and 6. The development of a veterinary practice on this strategic employment site would lead to undesirable precedent and the loss of strategic employment land.

- 5.3 Reference: 15/00111/FUL  
Proposal: Erection of boundary fence and garden shed  
(retrospective)  
Site: 1 Old Mill Cottages, West Linton  
Appellant: Mr Ronnie Wells

Condition Imposed: Within two months of the date on this consent the fence at the front of the property shall be painted or stained in a colour to be approved in advance by the local planning authority. Reason: To ensure that the development is appropriate to its surroundings and the setting of the listed building.

- 5.4 Reference: 15/00275/FUL  
Proposal: Part change of use to form dental surgery suite  
Site: 3 Cherry Court, Cavalry Park, Peebles  
Appellant: J T Ceramics Ltd

Reason for Refusal: The proposed change of use of part of the premises to dental surgery suite would be contrary to Adopted Local Plan Policy ED1 in that it is not a Class 4, Class 5 or Class 6 use, and the site (Cavalry Park) is safeguarded for employment uses in the Adopted Local Plan, having more particularly been identified as a Strategic Employment Site; a designation which requires that all other uses be resisted.

## **6 REVIEWS DETERMINED**

- 6.1 Reference: 14/01400/FUL  
Proposal: Replacement windows  
Site: 27-29 Eastgate, Peebles, Scottish Borders, EH45  
8AB  
Appellant: Mr David McGrath

Reason for Refusal: The application is in contravention of Policy BE4 of the Consolidated Local Plan 2011 and the terms of the "Replacement Windows" SPG in that the proposed replacement window material is not in

accordance with that required for designated Prime Frontage within Peebles Conservation Area and the replacement of the existing windows, which represent a significant proportion of the building frontage, would be to the detriment of the character of the building in particular and the Conservation Area more generally.

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 21<sup>st</sup> May 2015.

### Approved by

**Brian Frater**  
**Service Director Regulatory Services**

**Signature** .....

### Author(s)

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**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.

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