
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

4th June 2018

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

- 3.1.1 Reference: 16/00980/FUL
Proposal: Wind farm development comprising of 8 no turbines
100m height to tip and associated works,
infrastructure, compounds, buildings and
meteorological mast
Site: Land North of Howpark Farmhouse, Grantshouse
Appellant: LE20 Ltd

Reason for Refusal: The proposed development is contrary to policy ED9 of the Scottish Borders Local Development Plan 2016, the provisions of the Supplementary Planning Guidance on Windfarms 2011 and the study on Landscape Capacity and Cumulative Impact 2013 (Ironside Farrar) in that the development would have significant adverse cumulative visual impacts on residential and other receptors and that the landscape is incapable of accommodating the scale of turbines proposed. In addition, the identified economic benefits are not sufficient to outweigh the significant visual and landscape objections to the development.

Grounds of Appeal: It is considered that the proposed wind farm will not have unacceptable significant adverse impacts either individually or cumulatively on residential and other receptors and that, the landscape has the capacity to satisfactorily accommodate the scale of turbines proposed. Given that the proposed wind farm is in accordance with the development plan, there is a legal presumption in terms of Section 25 of the Planning Act in favour of permission being granted unless material considerations indicate otherwise. On the whole, the material considerations in this Appeal weigh heavily in favour of approving the proposed wind farm. Whilst the proposed wind farm has generated a moderate degree of objection from third parties and Community Councils, these objections are insufficient to justify refusal.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, R W Maslin, considered the Landscape viewpoints bearing in mind the Drone-Penmanshiel cluster of 39 turbines and found that adding the eight proposed turbines would intensify the landscape effect of the cluster but would not radically alter the existing effect. The reporter also found that noise from the proposed development would not result in unacceptable significant adverse impacts or effects if a condition were imposed. The reporter found no conflict with Policy ED9 and gave careful consideration to the conflicts with Policies HD3, PMD2, EP7 and EP8, but found the conflicts limited in degree. As the proposed development accords with the development plan the reporter did not weigh economic and environmental benefits against adverse impacts or effects, though the report did find that there will be benefits, albeit minor, in terms of employment and reduction in greenhouse gas emissions from the energy sector and contribution to the change to a low-carbon economy. Special regard was given to the desirability of preserving the setting of Renton House, but the reporter felt the adverse effects are not so great as to justify refusal of planning permission. Therefore, the reporter concluded that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusal of planning permission. The appeal is therefore allowed and planning permission granted subject to 31 conditions and four advisory notes.

3.1.2 **Reference:** 17/00015/PPP
Proposal: Residential development with associated supporting infrastructure and public open space
Site: Land East of Knapdale 54 Edinburgh Road, Peebles
Appellant: S Carmichael Properties Ltd

Reasons for Refusal: 1. The application is contrary to Policy PMD4 of the Scottish Borders Local Development Plan 2016 in that the site lies outwith the defined settlement boundary of Peebles and insufficient reasons have been given as to why an exceptional approval would be justified in this case. 2. The application is contrary to Policies PMD2, PMD4, EP5 and EP10 of the Scottish Borders Local Development Plan 2016 in that the development would create significant adverse landscape and visual impacts, within a Designed Landscape and Special Landscape Area on a prominent and sensitive edge of the town settlement boundary. 3. The application is contrary to Policies PMD2 and IS6 of the Scottish Borders Local Development Plan 2016 in that it has not been demonstrated that

the development could be accessed without significant detriment to road safety on the A703 and at the junction with the proposed access road.

Grounds of Appeal: 1. The proposed development can be reasonably assessed against the terms and provisions of Policy PMD4 of the Scottish Borders Local Development Plan (LDP) as it is of such a scale that it would have no demonstrable or adverse impact upon the longer term development and expansion of the settlement of Peebles. 2. The appellant's landscape architect has prepared a report which demonstrates that the proposed development site will give rise to no significant landscape impacts. The Council have failed to provide sufficient justification which could reasonably support the second reason for refusal. 3. There has been no known record of any significant accidents associated with the use of the current site access road configuration. Whilst the proposed junction improvements may not being the site access junction fully up to the Council's relevant standard, they will bring a measured improvement to both the standard and functioning of the junction and therefore the proposed development can be reasonably justified against Policies PMD2 and IS6 of the LDP.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Keith Bray, concluded that the proposed development does not accord overall with the relevant provisions of the development plan and in particular a fundamental LDP policy PMD4. There were no material considerations which would still justify granting planning permission. The reporter considered all the other matters raised, but there were none which would lead him to alter his conclusions.

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 6 appeals previously reported on which decisions were still awaited when this report was prepared on 25th May 2018. This relates to sites at:

• Poultry Farm, Marchmont Road, Greenlaw	• Land South West of Easter Haprew Farmhouse, Peebles
• Hutton Hall Barns, Hutton	• Land North West of Gilston Farm, Heriot
• Land South West of Lurgiescleuch (Pines Burn), Hawick	• Site at Industrial Buildings and Yard, Elders Drive, Newtown St Boswells

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 16/01371/FUL
Proposal: Change of use of agricultural buildings and alterations to form 12 No dwellinghouses

Site: Agricultural Buildings, South East of Merlewood,
Hutton Castle Barns, Hutton
Appellant: Mr Geoffrey Bain

Reasons for Refusal: 1. The application is contrary to Policy PMD2 (Quality Standards) and HD3 (Residential Amenity) of the Scottish Borders Local Development Plan 2016 in that the proposed development would not be compatible with neighbouring uses, with a reasonable likelihood of unacceptable residential amenity impacts arising for the future occupants of the proposed dwelling units. 2. The application is contrary to the Supplementary Planning Guidance: New Housing in the Borders Countryside 2008 in that the proposed development would conflict with the operations of a working farm. 3. The application is contrary to Policy IS2 (Developer Contributions) of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance: Affordable Housing and Development Contributions in that the applicant has not committed to paying the necessary development contributions towards deficiencies in infrastructure and services which will be created or exacerbated as a result of the development. 4. The application is contrary to Policies EP1 (International Nature Conservation Sites), EP2 (National Nature Conservation Sites and Protected Species) and EP3 (Local Biodiversity) of the Scottish Borders Local Development Plan 2016 and the Supplementary Planning Guidance on Biodiversity 2005 in that the potential impact on protected species is unknown as the required ecological surveys have not been carried out. 5. The application is contrary to Policies PMD2 (Quality Standards) in that the proposed parking and access arrangements would result in an adverse impact on road safety.

5.2 Reference: 17/01362/FUL
Proposal: Part change of use of paddock to form new access and drive to dwellinghouse, erection of gates and summerhouse and formation of new parking area and tennis courts
Site: Southbank and Paddock South East of Southbank, Bowden, Melrose
Appellant: Mrs Sarah Wilkinson

Reasons for Refusal: 1. The proposal would be contrary to policy PMD4 of the Local Development Plan 2016 in that the change of use of the paddock to domestic garden ground and the erection of the tennis court, fencing and summerhouse and the formation of the access and driveway would be outwith the village's Development Boundary, resulting in inappropriate encroachment into the open countryside. There is no justification for this development in terms of the exceptions listed within policy PMD4 and approving this proposal would set an undesirable precedent for similar developments outwith the village that would further erode the Development Boundary. 2. The proposal would be contrary to policies PMD2 and EP9 of the Local Development Plan 2016 as the development would be out of keeping with the rural character of the area and edge-of-village location. The proposal would be prominent in the landscape, with inappropriate boundary treatments that do not help to integrate the development into its surroundings and the wider environment, and would adversely affect the setting of the village, the character and appearance of this part of the Conservation Area and the visual amenities of the area.

5.3 Reference: 17/01734/PPP
Proposal: Erection of dwellinghouse
Site: Land South West of 1 Hill Terrace, Stow

Appellant: Susan Aitchison

Reason for Refusal: The access road serving the site is unsuitable for further traffic and is not capable of being improved to a standard that is adequate to support the additional traffic generated by the proposed development. The development would, therefore, be contrary to Policies PMD2 and PMD5 of the Local Development Plan 2016. This conflict would potentially lead to serious risk to road and pedestrian safety. There are no other material considerations that would outweigh this conflict with the development plan.

5.4 Reference: 18/00287/FUL
Proposal: Erection of dwellinghouse
Site: Land North West of Doonbye, Smith's Road, Darnick
Appellant: Mr I Maxwell

Reasons for Refusal: 1. The proposed development would not comply with policies PMD2, PMD5 or IS7 of the Local Development Plan 2016 as no off-street parking would be provided and the resulting implications on Smith's Road would have potential adverse impacts on road and pedestrian safety. Other material considerations do not outweigh these conflicts with policy. 2. The proposed development would be contrary to policies PMD2, PMD5 and HD3 as it would constitute overdevelopment of the site in a manner that would have an adverse impact on the residential amenities of future occupants of the dwellinghouse and an intrusive and overbearing impact on neighbouring properties. Other material considerations do not outweigh these conflicts with policy.

6 REVIEWS DETERMINED

6.1 Reference: 17/01617/PPP
Proposal: Erection of dwellinghouse
Site: Land North West of The Gables, Gattonside
Appellant: Mr And Mrs A Matthew

Reason for Refusal: It is considered that the proposed development would be contrary to policies PMD2 and, PMD5 of the Local Development Plan 2016 in that adequate access to the site cannot be achieved resulting in an adverse impact on road safety, for the following reasons: 1. The junction of the private road (Priors Road), serving the site and the B6360 is not suitable for additional traffic due to the acute angle at which Priors Road joins the B6360, its width, steep gradient, visibility, loose material and uneven surface making it difficult for vehicles enter and exit the junction and for each other to pass at the junction. 2. Priors Road itself, between the B6360 and The Loan, suffers from poor construction make-up, tight geometry, lack of width combined with limited forward visibility, inadequate passing provision, absence of on-street parking and inadequate street lighting. 3. The junction of the road serving the site and The Loan is substandard in geometry making a left turn out of Priors Road or a right turn in extremely difficult.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.2 Reference: 17/01685/PPP
Proposal: Erection of dwellinghouse

Site: Land South of The Bungalow, Blacklee Brae,
Bonchester Bridge
Appellant: Mr John Huck

Reasons for Refusal: 1. The proposed development is contrary to Adopted Local Plan Policy HD2 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) in that: (i) the development is not sympathetic to the character of the building group and would not contribute positively to the sense of place of the existing building group; and (ii) the Applicant has not demonstrated that there is any operational need for a new dwellinghouse to be located at the site as a direct operational requirement of any agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside. 2. The proposed development is contrary to Adopted Local Plan Policies HD2, PMD2 and EP13, in that it has not been demonstrated satisfactorily that the development would not have any unacceptable impacts upon the local landscape, principally that it would not cause the loss of, or serious damage to, an existing woodland resource with landscape, ecological and shelter value. 3. The proposed development is contrary to Adopted Local Plan Policies HD2, PMD2 and EP1 in that it has not been demonstrated satisfactorily that the development would not be liable to have any unacceptable impacts upon local biodiversity, principally upon bats, a European Protected Species.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to conditions and informatives)

6.3 Reference: 17/01731/FUL
Proposal: Extension to dwellinghouse
Site: 34 Edinburgh Road, Peebles
Appellant: Ms Lynne Marshall

Reason for Refusal: The development would be contrary to Policy PMD2 of the Local Development Plan 2016 in that the proposed extension would not be sympathetic to the existing building in its form and scale and it would, therefore, have an adverse visual impact on the building and surrounding area.

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 25th May 2018.

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained 3 S36 PLI’s previously reported on which decisions were still awaited when this report was prepared on 25th May 2018. This relates to sites at:

• Fallago Rig 1, Longformacus	• Fallago Rig 2, Longformacus
• Birneyknowe Wind Farm, Land North, South, East & West of Birnieknowe Cottage, Hawick	•

Approved by

**Ian Aikman
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Signature

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Background Papers: None.
Previous Minute Reference: None.

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