
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

25th 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: 16/01360/PPP
Proposal: Residential development comprising 38 dwelling units with associated access, landscaping and open space
Site: Poultry Farm, Marchmont Road, Greenlaw
Appellant: Amber Real Estates Investments Ltd

Reason for Refusal: The proposed development is contrary to Policy PMD4 (Development Outwith Development Boundaries) of the Scottish Borders Council Local Development Plan 2016 in that: (i) the application site lies outwith the Development Boundary at Greenlaw; (ii) the application site is not an existing allocated housing site; and (iii) there are no strong reasons substantiating any view that it should be made the subject of any exceptional approval. The identification and release of additional housing land to respond to any housing land shortfall in the Borders is specifically addressed in Policy HD4 (Meeting the Housing Land Requirement/Further Housing land Safeguarding) and therefore the release of unallocated land for housing development on the scale proposed would undermine the Council's planned approach to housing development

set out in its Local Development Plan and would result in an unjustified and piecemeal development at a Local Planning Authority level.

Grounds of Appeal: 1. The Council is not maintaining a five year effective housing land supply. The LDP Examination Report confirms that the LDP fails to adequately address the housing land requirement set out in SESplan. To address this, the Reporter recommended that the Council, within 12 months of adoption of the LDP, prepare and submit to Scottish Minister's Supplementary Guidance in order to identify additional sites to provide for a further 916 units. The LDP was adopted on 12 May 2016 and to date the Council has yet to adopt the supplementary guidance required. The consequence of this is that the development plan policies about the supply of housing land are out of date. This means that the following adopted LDP policies have significantly reduced weight in the determination of this Appeal: – Policy PMD4 (Development Outwith Development Boundaries) – Policy HD4 (Meeting the Housing Land Requirement / Further Housing Land Safeguarding). Accordingly, the provisions of the approved SDP should prevail in this determination especially the policy requirements set out in Policy 7 (Maintaining a Five Year Housing Land Supply). 2. There is a significant shortfall in the five year effective housing land supply of 5,091 homes in accord with the 2016 Housing Land Audit 2016. 3. Accordingly in terms of SPP, development plan policies about the supply of housing land are out of date. The presumption in favour of sustainable development is a significant material consideration that supports the approval of this Appeal. In determining this Appeal, significant weight can be given to approving effective previously developed housing sites which represent sustainable development. 4. There are no technical reasons why this Site can not come forward for development. The Appellant and the Council reached agreement on all technical matters relevant to the determination of the Application and now, this Appeal. 5. The site is effective in accord with Planning Advice Note 2/2010: Affordable Housing and Housing Land Audits (August 2010). Approval of the Appeal can enable the proposal to contribute to maintaining the 5 year effective housing land supply, with construction of homes potentially commencing in 2018. 6. There are no adverse impacts arising from the Proposal which would lead to the conclusion that the Appeal should be dismissed. The shortfall in the five year effective housing land supply is significant and urgent action is needed, particularly in Greenlaw where existing, long-standing allocations have notably failed to deliver any housing completions in recent years. This is in accord with the requirements of the approved Strategic Development Plan and Scottish Planning Policy.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Trudi Craggs, concluded that subject to the completion of a planning obligation to cover the matters of affordable housing, the proposal accords with the development plan and there are no other material considerations which would lead the report to conclude otherwise. The reporter therefore grants planning permission in principle subject to 11 conditions and a Section 75 legal agreement, which must be completed by the end of the 12 week period.

3.1.2 Reference: 17/01342/PPP
Proposal: Demolition of existing building and erection of four dwellinghouses

Site: Site at Industrial Buildings and Yard, Elders Drive, Newtown St Boswells
Appellant: Craigmount Properties

Reason for Refusal: The proposals would be contrary to the aims and principles of Policy ED1 of the Scottish Borders Local Development Plan 2016 in that the development would result in the loss of industrial land and premises and there is sufficient housing land allocation existing elsewhere to enable housing development in the village without requiring the loss of commercial premises.

Grounds of Appeal: In 1990 the applicants purchased the property from the previous owner who had established Planning Consent for the Housing development Ref 371./88. The intention to develop the area with an appropriate density of housing. The access lane from the then A68 public road to the property was a "right of access" road. It transpired that the conditions of the Planning Consent required a more onerous construction to accommodate any more than 2 dwellings (policy at the time). Approach was made to neighbours to establish if land could be made available to widen the existing lane to a suitable standard: not possible due to "kings ransom" being asked for the land. The property continued as vacant land with existing storage shed and workshop being occupied by a light engineering tenant (not requiring the rest of the land). The applicants reviewed the position and decided to proceed with a new application. The Agent approached the Technical Services department of the Scottish Borders Council; held a site meeting with Mr Alan Scott. Mr Scott indicated that he could now consider 4 dwellings on the site. The Planning department were also supportive of the application. The existing Tenant is aware of the application.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Philip Barton, concluded that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusal. Therefore, the reporter allows the appeal and grants planning permission in principle subject to eighteen conditions and two advisory notes.

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 4 appeals previously reported on which decisions were still awaited when this report was prepared on 15th June 2018. This relates to sites at:

• Land South West of Easter Happrew Farmhouse, Peebles	• Hutton Hall Barns, Hutton
• Land North West of Gilston Farm, Heriot	• Land South West of Lurgiescleuch (Pines Burn), Hawick

5 REVIEW REQUESTS RECEIVED

6 REVIEWS DETERMINED

7 REVIEWS OUTSTANDING

7.1 There remained 4 reviews previously reported on which decisions were still awaited when this report was prepared on 15th June 2018. This relates to sites at:

<ul style="list-style-type: none">• Agricultural Buildings, South East of Merlewood, Hutton Castle Barns, Hutton	<ul style="list-style-type: none">• Southbank and Paddock South East of Southbank, Bowden, Melrose
<ul style="list-style-type: none">• Land South West of 1 Hill Terrace, Stow	<ul style="list-style-type: none">• Land North West of Doonbye, Smith's Road, Darnick

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

Nil

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 15th June 2018. This relates to sites at:

<ul style="list-style-type: none">• Fallago Rig 1, Longformacus	<ul style="list-style-type: none">• Fallago Rig 2, Longformacus
<ul style="list-style-type: none">• Birneyknowe Wind Farm, Land North, South, East & West of Birnieknowe Cottage, Hawick	<ul style="list-style-type: none">•

Approved by

Ian Aikman
Chief Planning Officer

Signature

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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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