

PLANNING AND BUILDING STANDARDS COMMITTEE

10th December 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

- 2.1.1 Reference: 17/01255/FUL
Proposal: Erection of wind farm comprising 7 No wind turbines up to 132m high to tip, access tracks, hard standings, electrical control building and compound, borrow pits, ancillary infrastructure and associated groundworks
Site: Land West of Whitslaid (Barrel Law), Selkirk
Appellant: Barrel Law Windfarm Ltd

Reason for Refusal: The development conflicts with Policy ED9 of the Scottish Borders Local Development Plan 2016 and the Scottish Borders Council "Renewable Energy" Supplementary Guidance 2018 in that it would have unacceptable, significant and adverse impacts and effects, by virtue of

- Its vertical scale in relation to the scale of the receiving landscape
- Its prominent and dominant appearance in local, adjacent and wider landscapes
- Its poorly designed appearance from a range of vantage points due to overlapping and variation in heights viewed in relation to the underlying topography
- The intensification of adverse landscape and visual impacts due to cumulative visibility with Langhope Rig windfarm, including from the area around the former site of the William Ogilvie Cairn on the road to Robertson.
- The vertical scale of the turbines, combined with their elevated position in the landscape.
- The proximity and dominance of the turbines to residences and their environs, including Easter Ale Moor.

Grounds of Appeal: The application for the proposed development went to the Committee with a recommendation for approval and with the

planning officer concluding that “the scheme complies with national and local policies and guidance on renewable energy development. In reaching that conclusion the planning officer had the consultation response from the Council’s landscape architect. This was a careful and well constructed report which concluded that “the overall impacts in landscape and visual terms are not sufficient to maintain an objection to this application.” The Committee rejected the recommendation and refused consent. The Committee did not provide any critical analysis of the advice and assessments with which it had been provided.

2.2 Enforcements

Nil

2.3 Works to Trees

2.3.1 Reference: 18/01057/TPO
Proposal: Works to trees
Site: 22 Craigmyle Park, Peel
Appellant: Alex McNicol

Reason for Refusal: The Beech is currently in good health, the main stem, limb framework and foliage are not displaying any signs of ill health, pathogens or significant defects. I would therefore not grant permission for its removal but would have no objections to remedial work to try and alleviate your concerns for the weight of the single limb closest to the property. Crown thinning and selective limb removal to both maintain the crown form and reduce weight is what I discussed with Alex as a way forward.

Grounds of Appeal: The Tree is too close to the house, it is only 8.1 metres from the south east corner at the rear of the house. Eventually limbs will begin to fall to the ground without any warning. We want to pre-empt the possibility the tree causing damage to the house, or causing death or injury to anyone in the property or to anyone on the roads bounding the garden. Permission has been denied to remove the tree, but approval has been given for some remedial works. That is merely a short term fix and with absolutely no guarantee that the Appellants concerns will no longer be valid. The tree will still be massive, it will still carry the threats above that potentially will not be removed by the suggested remedial work. If it remains healthy, within five or six years it will be just as big a threat as it is today.

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

3.1.1 Reference: 16/01377/FUL
Proposal: Erection of poultry building
Site: Land South West of Easter Haprew Farmhouse, Peebles
Appellant: Glenrath Farms Ltd

Reason for Refusal: The proposed development would be contrary to Policy ED7 - Business, Tourism and Leisure Development in the

Countryside and Policy EP4 - National Scenic Areas of the Scottish Borders Local Development Plan 2016 in that the poultry building would have an unacceptable adverse impact on and does not respect the amenity and character of the surrounding area and would have an unacceptable adverse effect on the scenic qualities of the National Scenic Area. The scale, siting and design of the development would set an undesirable precedent and would result in an unacceptable form of development in this nationally important landscape.

Grounds of Appeal: This proposed shed is costing over £1M will provide an extra 2 fulltime and 2 part time jobs. The applicant is happy to plant more trees to screen the new shed from the minimal traffic on the John Buchan Way as they did for the present shed. Manure will be spread weekly, as at present, so no storage is required. Vehicle traffic will only be increased by 1 hired workers car and 1 lorry load of feed per week. There is plenty of space for the eggs leaving the farm to be transported in the exiting lorry. SEPA have confirmed they have no objections to this planning application. The applicant will continue to work with SEPA to secure a Pollution and Control Permit in order to regulate all environmental issues relating to the egg production on an ongoing basis. Scottish Borders Council officials recommended approval for this application.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Amanda Chisholm, allows the appeal subject to 13 conditions and four advisory notes. 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 still justify refusing to grant planning permission. The report considered all other matters raised, but there were none which would lead her to alter her conclusions.

3.1.2 Reference: 17/00623/FUL
Proposal: Erection of poultry building and associated works
Site: Hutton Hall Barns, Hutton
Appellant: Mrs Angela Maclean

Reasons for Refusal: 1. The development would be contrary to Policy ED7 - Business, Tourism and Leisure Development in the Countryside of the adopted Scottish Borders Local Development Plan in that the proposed poultry unit would not respect the amenity and character of the surrounding area. In addition impact of the expansion and intensification of uses as well as the scale of the development would be inappropriate to the rural character of the site. 2. The development would be contrary to Policy ED10 - Protection of Prime Quality Agricultural Land and Carbon Rich Soils of the adopted Scottish Borders Local Development Plan in that the proposed poultry unit will result in the permanent loss of prime quality agricultural land. 3. The development would be contrary to Policy HD3 - Protection of Residential Amenity of the adopted Scottish Borders Local Development Plan in that the proposed poultry unit would have an unacceptable adverse visual impact on the existing residential properties and the surrounding area generally. 4. The development would be contrary to Policy EP1 - International Nature Conservation Sites and Protected Species of the adopted Scottish Borders Local Development Plan in that no evidence has been provided to demonstrate the proposed development will not give rise to unacceptable pollution of the adjoining

watercourse. Furthermore the proposed development would be contrary to Policy EP15 - Development Affecting the water Environment and Policy EP3 - Local Biodiversity of the Scottish Borders Local Development Plan 2016 in that further evidence is required to ensure that there would be no adverse impacts on the water environment and local biodiversity.

Grounds of Appeal: Each of the statutory bodies are supportive of the planning application. The new poultry building will help sustain the applicants farming diversification business, employ more local people and produce Scottish free range eggs. The applicant believes that the proposals are fully compliant with the Local Plan requirements, and their assertion is supported by the statutory consultee responses and the planning officer recommendation for approval.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Amanda Chisholm, allows the appeal subject to 14 conditions, four informatives and four advisory notes. 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 still justify refusing to grant planning permission. The reporter considered all the other matters raised, but there were none that would lead her to alter her conclusions.

3.2 Enforcements

Nil

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained 3 appeals previously reported on which decisions were still awaited when this report was prepared on 29th November 2018. This relates to sites at:

• Land North West of Gilston Farm, Heriot	• Glenacre, Camptown, Jedburgh
• Land East of Keleden, Ednam	•

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 18/01010/FUL
Proposal: Replacement of shop front windows and door screens
Site: Scotts View Take-Away, Main Street, St Boswells
Appellant: Mr Abbay Lazim

Reasons for Refusal: The UPVC door and side panels, by reason of their design and material, are contrary to policies PMD2 and EP9 of the Scottish

Borders Local Development Plan 2016 and Supplementary Planning Guidance: Replacement Windows and Doors 2015 in that they are harmful to the character and appearance of the Conservation Area and would set an undesirable precedent for similar doors which would further erode the character and appearance of the Conservation Area.

6 REVIEWS DETERMINED

- 6.1 Reference: 18/00635/FUL
Proposal: Change of Use from Class 4 to include Class 11 (Leisure) and Class 3 (Cafe)
Site: Factory Plexus Facility, Tweedside Park, Tweedbank, Galashiels
Appellant: J S Crawford Properties (Borders) Ltd

Reasons for Refusal: 1. The proposed development will conflict with Policies PMD3 and ED1 of the Scottish Borders Council Local Development Plan 2016 and Supplementary Guidance - Central Borders Business Park Tweedbank 2017, in that it would comprise uses which do not fall within the permitted uses for this Strategic Business and Industrial Site and which would not contribute positively to the efficient functioning of the allocated site or its future as a business park 2. The proposed development conflicts with Policy EP13 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance Trees and Development 2008 in that it comprises car park alterations which potentially risk adversely affecting adjacent trees which are important to the amenity value of the business park and the application does not demonstrate that the trees will be adequately protected during construction of the car park alterations.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.2 Reference: 18/00644/PPP
Proposal: Erection of dwellinghouse (renewal of planning permission 15/00036/PPP)
Site: Land North West of Chapel Cottage, Melrose
Appellant: Mr, Mrs and Mr Archie, Helen & Hugh Shaw Stewart

Reason for Refusal: The proposed development is contrary in principle to Adopted Local Plan Policy HD2 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) in that it lies out with the Development Boundary, and: (i) the site is not well-related to any existing rural building group (let alone to any building group capable of augmentation in accordance with the requirements of Policy HD2, Section A, 'Building Groups'); 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.

Method of Review: Review of Papers

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

6.3 Reference: 18/00832/PPP
Proposal: Erection of two dwellinghouses
Site: Land North East of Stainie Brae, Lower Greenhill,
Selkirk
Appellant: Mr Mike Orr

Reason for Refusal: The proposed development is contrary to Adopted Local Development 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 new dwellinghouses 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.

Method of Review: Review of Papers and Site Visit

Review Decision: Decision of Appointed Officer Upheld (Terms of Refusal Varied)

6.4 Reference: 18/00929/PPP
Proposal: Erection of dwellinghouse
Site: Land North East of Ladywood Lower Greenhill,
Selkirk
Appellant: Mr and Mrs Eric Forster

Reason for Refusal: The proposed development is contrary to Adopted Local Development 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 new dwellinghouses 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.

Method of Review: Review of Papers and Site Visit

Review Decision: Decision of Appointed Officer Overturned (Subject to conditions, informatives and a Section 75 Legal Agreement)

7 REVIEWS OUTSTANDING

7.1 There remained one review previously reported on which a decision was still awaited when this report was prepared on 29th November 2018. This relates to a site at:

- | | |
|---|---|
| <ul style="list-style-type: none">• Elsielea, 61 West High Street, Lauder | <ul style="list-style-type: none">• |
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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 29th November 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

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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