
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

7th January 2019

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: 17/00063/PPP
Proposal: Erection of residential units, formation of dwellinghouse from engine house, relocation of allotment space, erection of workshop units with associated access and infrastructure works.
Site: March Street Mills, March Street, Peebles
Appellant: Moorbrook Textiles Ltd

Reason for Refusal: Appeal against non-determination of application.

Grounds of Appeal: The site is identified as suitable for residential development in SBC's adopted Supplementary Guidance on Housing Land. The applications had a prolonged pre-application consultation period including two public exhibitions. The applications were considered at Planning Committee on 5 November 2018 with a recommendation from Planning Officers to approve and grant planning permission in principle and conservation area consent. No objections from any SBC department or statutory consultee remained, save for that of the Community Council. Following presentations by a local councillor, third party objectors, the applicant and their agent, in addition to the presentation by the case officer, the committee members discussed the applications, questioned the case officer and concluded that the item should be continued to allow for a site visit on 28 November 2018. The appellant feels that putting the highly complex and emotive decisions into the hands of the Report acting on behalf of Scottish Ministers to be the appropriate action.

Method of Appeal: Written Representations

- 2.1.2 Reference: 17/00064/CON
Proposal: Demolition of mill buildings
Site: March Street Mills, March Street, Peebles

Appellant: Moorbrook Textiles Ltd

Reason for Refusal: Appeal against non-determination of application.

Grounds of Appeal: The site is identified as suitable for residential development in SBC's adopted Supplementary Guidance on Housing Land. The applications had a prolonged pre-application consultation period including two public exhibitions. The applications were considered at Planning Committee on 5 November 2018 with a recommendation from Planning Officers to approve and grant planning permission in principle and conservation area consent. No objections from any SBC department or statutory consultee remained, save for that of the Community Council. Following presentations by a local councillor, third party objectors, the applicant and their agent, in addition to the presentation by the case officer, the committee members discussed the applications, questioned the case officer and concluded that the item should be continued to allow for a site visit on 28 November 2018. The appellant feels that putting the highly complex and emotive decisions into the hands of the Report acting on behalf of Scottish Ministers to be the appropriate action.

Method of Appeal: Written Representations

2.2 Enforcements

2.2.1 Reference: 15/00045/UNDEV
Proposal: Residential caravan without Planning Permission
Site: Land West of Gallowberry Bank, Blyth Bridge
Appellant: Andrew Brown

Reason for Notice: It appears to the Planning Authority that the amenity of part of the district is adversely affected by the detrimental visual effect of the site. A van has been placed on the site along with two hand built sheds, tyres, corrugated sheets, tarpaulin, doors, pallets, fencing wire, wood/logs, branches, caravan chassis, wheelie bins, wheel barrows, telegraphic poles, ladders, scaffolding poles, BBQ, as well as other plastic containers and metal pieces are on the land without the benefit of either deemed or express planning permission, and it is considered that these items adversely affect the amenity of the area.

Grounds of Appeal: The steps required by the notice exceed what is necessary to remedy any such adverse effect. Not all items listed need to be removed from site such as – corrugated sheets, pallets, fencing wire, wood, logs, branches, tyres, wheel barrows & telegraph poles. These items can be stored in a tidy manner and out of sight. The van is actually a caravanette which is used for shelter & storage while he is working on site.

Method of Appeal: Written Representations

2.2.2 Reference: 18/00074/UNUSE
Proposal: Use of dwelling house as a Party House
Site: Greenloaning, The Loan, West Linton
Appellant: Michael Gerrard Cameron

Reason for Notice: Without planning permission, a material change of use from residential dwelling to short stay commercial visitor accommodation

Grounds of Appeal: The Notice indicates there has been a breach of planning control against Section 123. The appellant does not feel that the activity complained about is a “development” under any of the four possible breaches of Section 123. The appellant has been using the property as accommodation for short stay visitors since 2008 and so for over 10 years, therefore under Section 124 no action may be taken after 10 years.

Method of Appeal: Written Representations

2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

3.1.1 Reference: 18/00849/CLEU
Proposal: Certificate of Lawfulness for an Existing Use: Class 9 Residential
Site: Glenacre, Camptown, Jedburgh
Appellant: Mr Tom Watters

Reason for Refusal: The existing use has not been established for a period of at least 10 years therefore no lawful use has been established under the terms of Section 124 (3) of the Town and Country Planning (Scotland) Act 1997.

Grounds of Appeal: The property has not been used as a Guest House since 1st January 2014, thus the breach is immune from enforcement action. The 10 year period stated to be required by the Council in the decision to refuse a Certificate of Lawfulness is based upon an incorrect interpretation of the law, a point subsequently acknowledged by the Council. The introduction of additional reasons for refusing to grant a Certificate of Lawfulness subsequent to the decision being issued is considered to be unreasonable, including the requirement for the Appellant to demonstrate that bedrooms upstairs and downstairs have been used by the family rather than paying guests.

Method of Appeal: Written Representations & Site Visit

Reporter’s Decision: Dismissed

Summary of Decision: The Reporter, Philip Barton, concluded that there may have been a period or periods since 1 January 2014 when Glenacre was occupied solely by the appellant and members of his family, but on the balance of probability, he found that the alleged use did not commence more than four years before the date of the application for the certificate and has not continued since then without abandonment. The reporter found that the council’s refusal to grant the certificate is well-founded and therefore concluded that the appeal should be dismissed and that the certificate should not be granted.

3.2 Enforcements

Nil

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained 4 appeals previously reported on which decisions were still awaited when this report was prepared on 20th December 2018. This relates to sites at:

| | |
|--|---|
| <ul style="list-style-type: none">• Land North West of Gilston Farm, Heriot | <ul style="list-style-type: none">• Land East of Keleden, Ednam |
| <ul style="list-style-type: none">• Land West of Whitslaid (Barrel Law), Selkirk | <ul style="list-style-type: none">• 22 Craigmyle Park, Peel |

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 18/00956/FUL
Proposal: Erection of dwellinghouse
Site: Land North West of Chapel Cottage, Melrose
Appellant: Mr & Mrs Rose and Alexis Kennedy

Reasons for Refusal: 1. 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. 2. The proposed development is contrary in principle to Adopted Local Plan Policies HD2, PMD2, EP10 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008) and Supplementary Planning Guidance - Place-Making and Design (January 2010), in that it is not in keeping with the sense of place of the countryside character and setting of the site and the surrounding area, principally through the introduction of an unsympathetic and suburban form of development into an isolated rural location, which would be harmful to the visual amenities of the site and surrounding area; including the Linthill Designed Landscape. 3. The proposed development is contrary to Adopted Local Plan Policies HD2, PMD2, EP10 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, existing mature trees and hedging which contribute to the landscape value of the Linthill Designed Landscape. 4. The proposal does not comply with Adopted Local Development Plan Policy PMD2 in that the access arrangements are unsuitable to serve the development and inadequate provision has been

made for the accommodation of appropriate visibility splays, such that there would be adverse impacts upon road safety as a result.

- 5.2 Reference: 18/01215/FUL
Proposal: Extension to dwellinghouse
Site: 10 Townhead Way, Newstead
Appellant: Mr Kevin Patterson

Reason for Refusal: The proposal would be contrary to policy HD3 of the Scottish Borders Local Development Plan 2016 and advice contained within the Council's Supplementary Planning Guidance on Householder Development (Privacy and Sunlight) 2006 in that by virtue of the position, mass and height of the extension, the proposal would be harmful to the residential amenities of occupants of the neighbouring property in terms of outlook due to its dominance and the resulting unacceptable loss of light.

- 5.3 Reference: 18/01229/FUL
Proposal: Extension to provide an additional 7 No workshop units (Class 5/6), 1 No unit to provide dog daycare facility and change of use of paddock to dog exercise area
Site: Storage Units, Farknowes, Langshaw Road, Galashiels
Appellant: Wilson G Jamieson

Reasons for Refusal: 1. The development of Class 5 and 6 workshops would be contrary to Policy ED7 of the Local Development Plan 2016 in that insufficient justification has been provided to demonstrate an economic or operational need for this particular countryside location and the development would have a significantly adverse impact on the rural character of the surrounding area. Other material considerations do not outweigh this conflict. 2. The development would be contrary to Policies ED7 and PMD2 of the Local Development Plan 2016 in that the visual appearance of the proposed extension would not be compatible with the rural character of the surrounding area. Other material considerations do not outweigh this conflict. 3. The development of Class 5 and Class 6 workshops would be contrary to Policy PMD1 of the Local Development Plan 2016 in that the location of the site and types of uses would mean that there would be significant reliance on the private car, with limited potential for the development to be accessed by other transport modes, ultimately amounting to unsustainable development. Other material considerations do not outweigh this conflict.

- 5.4 Reference: 18/01332/PPP
Proposal: Erection of dwellinghouse and detached garage/stable
Site: Land North East of River Cottage, Linthill, Melrose
Appellant: Mr & Mrs T Ferguson

Reason for Refusal: 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.

5.5 Reference: 18/01341/PPP
Proposal: Erection of dwellinghouse and detached garage
Site: Land South East of Tarf House, West Linton
Appellant: Mr and Mrs Erlend Milne

Reason for Refusal: The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would amount to sporadic residential development in a countryside location unrelated to a building group that meets policy definitions and no overriding case for a dwellinghouse has been substantiated.

6 REVIEWS DETERMINED

6.1 Reference: 18/00580/FUL
Proposal: Alterations and extension to dwellinghouse and erection of detached garage/workshop
Site: Elsielea, 61 West High Street, Lauder
Appellant: Miss Fiona Duff

Condition Imposed: Condition 2: Drawing Number 005 - Proposed Garage/Workshop (dated 22.04.18) submitted with the application is not covered by this grant of planning consent. No development shall commence until amended drawings of the proposed garage/workshop are submitted to and approved in writing by the planning authority and thereafter no development shall take place except in strict accordance with the revised drawings unless otherwise agreed in writing by the planning authority. The mono-pitched roof over the proposed garage/workshop shall be reversed so that the tall blank elevation faces north and the lower eaves elevation faces south. Reason: To ensure a satisfactory form of development appropriate to the conservation area.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Varied (Revised Conditions)

6.2 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.

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 20th December 2018.

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 20th December 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
Chief Planning Officer

Signature

Author(s)

| Name | Designation and Contact Number |
|--------------|---|
| Laura Wemyss | Administrative Assistant (Regulatory) 01835 824000 Ext 5409 |

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.

Contact us at Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel. No. 01835 825431 Fax No. 01835 825071
Email: PLACetransrequest@scotborders.gov.uk