
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

3rd June 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: 18/01086/FUL
Proposal: Erection of 2 blocks of residential flats comprising 40 No units of mixed accommodation with communal bike store, bin stances and associated parking and landscaping
Site: 1 - 39 Tweedbridge Court, Peebles
Appellant: Eildon Housing Association Ltd

Reason for Refusal: The proposals would be contrary to Local Development Plan Policy PMD2 paragraphs (h), (i) and (k) in that the development would not be designed in sympathy with local Scottish Borders architectural styles, would be of a scale, mass, height and density inappropriate to its surroundings and would not be compatible with or respect the character of the surrounding area and neighbouring built form. The proposals would also be contrary to Local Development Plan Policy EP9 in that the development would not preserve or enhance the special architectural or historic character and appearance of the nearby Peebles Conservation Area.

Grounds of Appeal: The appeal proposal represents a significant development within Peebles in a sensitive, prominent location on the edge of the Conservation Area. The physical land use principle of housing on the site is established through the site's previous residential use and its specific allocation in the adopted Local Development Plan for an indicative 50 housing units. Following an amended approach from the original submission, the revised design as currently proposed, presents a more traditional form of development which has reduced the mass and visual scale of the proposals and, as a consequence, secured the support of the Planning Officer and the Council's Heritage & Design Team. The very subjective nature of design and the interpretation of the relevant policies and guidance that assess the merits of proposals is recognised. It is

however considered that, consistent with LDP Policies PMD2, HD3 and EP9, on balance, the appeal proposal provides for an acceptable form of development at this location which will not cause significant harm to the character, appearance and amenity of both the immediate and wider surrounding townscape, including the Peebles Conservation Area. The proposal, if implemented, will provide for much needed affordable housing in Peebles where there is a recognised acute shortfall of such accommodation.

Method of Appeal: Written Representations

2.1.2 Reference: 18/01417/FUL
Proposal: Residential development comprising of 69 dwelling units with associated works
Site: Coopersknowe Phase 4 and 5, Coopersknowe Crescent, Galashiels
Appellant: Eildon Housing Association

Reason for Refusal: The increase in the number of 2 and a half storey residential blocks would create a development contrary to Local Development Plan Policy PMD2, paragraphs (i) and (k) in that it would lead to over development of the site, would create a development which does not respect the character of the surrounding area and would create a significant adverse impact on the C77 road and surrounding public road network.

Grounds of Appeal: The physical land use principle of housing on the appeal site is established through the site's extant planning permission (16/00869/FUL) granted on 5th December 2016 and its specific allocation in the adopted Local Development Plan for an indicative 50 housing units. There are no technical or environmental objections to the proposal. An assessment by the Appellant's Transport Consultants has concluded that consistent with the view of the Council's Roads Planning, the proposals would not create a significant adverse impact on the C77 road and the surrounding public road network. The very subjective nature of design and the interpretation of the relevant policies and guidance that assess the merits of proposals is recognised. It is however considered that, consistent with LDP Policies PMD2 and HD3, on balance, the appeal proposal provides for an acceptable form of development at this location which will not cause significant harm to the predominantly residential character, appearance and amenity of both the immediate and wider surrounding townscape and not result in overdevelopment. The proposal, if implemented, will provide for much needed affordable housing in Galashiels where there is a recognised acute shortfall of such accommodation.

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: Not all items listed need to be removed i.e. Fence post & wire, wheel barrows, corrugated sheets, pallets and van (which is used for storage of tools & shelter while working on site), branches and ladder. The Van is actually a caravanette. Due to health conditions he would require more time to tidy site. It was agreed by Enforcement Officers that the tyres could be stored out of sight for future use.

2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

3.1.1 Reference: 18/01627/LBC
Proposal: Replacement windows
Site: The Honey House, The Row, Longformacus
Appellant: Mr Michael Stevensom

Reason for Refusal: The proposed replacement windows are contrary to Policy EP7: Listed Buildings of the Scottish Borders Local Development Plan 2016 and the Council's Supplementary Planning Guidance: Replacement Windows and Doors 2015. The proposed replacement windows would introduce an inferior material (uPVC) to the principal elevation of the property which would not be in keeping with the character and appearance of the category C Listed Building. Thus, adversely impacting upon its integrity and authenticity.

Grounds of Appeal: The applicant is appealing against the inconsistency of approach. The appellant wishes the case to be considered on a basis consistent with all other previous comparable applications, which in turn means granting permission for the use of upvc. Especially as the appellant has gone beyond many previous cases by seeking permission to install upvc windows which have been specifically designed to be sympathetic to the heritage of historic buildings.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Chris Norman, dismissed the appeal concluding that the replacement uVPC windows would have an unacceptable impact on the character and appearance of the listed building. Contrary to section 14(2) of the 1997 Act they fail to preserve the features of special architectural and historic interest that the listed building possesses.

3.2 Enforcements

3.2.1 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 & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Chris Norman, dismissed the appeal, stating that the use of the property for the provision of short-stay accommodation for visitors is not covered by a use class. There is no provision for this in the Act that would allow this class 9 house to change to this use without planning permission. Therefore this development is in breach of planning control. Despite the Reporters request the appellant has not displayed any relevant documentation relating to the use of the house from the council as building standards authority. Neither has the appellant argued that any change of use of the house is exempt from the need for a building warrant. No non-domestic business rates have been paid, no safety certificates have been provided. The Reporter also concluded that the unauthorised use of the property has an unacceptable impact on the character of the established amenity in the generally quiet part of West Linton.

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained one appeals previously reported on which a decision was still awaited when this report was prepared on 23rd May 2019. This relates to a site at:

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| <ul style="list-style-type: none">Land West of Whitslaid (Barrel Law), Selkirk | <ul style="list-style-type: none"> |
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5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 18/01469/PPP
Proposal: Erection of two dwellinghouses
Site: Paddock South of and Incorporating Part Garden
Ground of 1 Cowdenburn Cottages, West Linton
Appellant: Mr A Anderson

Reasons for Refusal: 1. 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 not relate sympathetically to the character of the existing building group or surrounding landscape. 2. The development would be contrary to policy EP13 of the Local Development Plan 2016 and Trees and Development Guidance 2008 in that it would cause the loss or serious damage to high amenity value trees which would not be outweighed by an overriding public benefit.

6 REVIEWS DETERMINED

Nil

7 REVIEWS OUTSTANDING

- 7.1 There remained 4 reviews previously reported on which decisions were still awaited when this report was prepared on 23rd May 2019. This relates to sites at:

• Land East of Rose Cottage, Maxwell Street, Innerleithen	• Deans Bar, 3 Orrock Place, Hawick
• Plot 3 Land North East of The Old Church, Lamberton	• Agricultural Barn Mid Softlaw Farm, Kelso

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 2 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 23rd May 2019. This relates to sites at:

• Fallago Rig 1, Longformacus	• Fallago Rig 2, Longformacus
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Approved by

**Ian Aikman
Chief Planning & Housing 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