
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

1st July 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: 19/00339/CLEU
Proposal: Certificate of Lawfulness for an Existing Use : Class 9 Residential
Site: Glenacre, Camptown, Jedburgh
Appellant: Mr and Mrs Tom Watters

Reason for Refusal: The existing use has not been established for a period of at least 4 years therefore no lawful use has been established under the terms of Section 124 (2) of the Town and Country Planning (Scotland) Act 1997.

Grounds of Appeal: The second application for CLEU, provided substantial and sufficient evidence to demonstrate that "on the balance of probabilities" the property had been used for a period of at least 4 years as a family dwellinghouse, with no Bed and Breakfast/Guest House use whatsoever during that period. The appellants believe that the Planning Authority unreasonably and incorrectly interpreted tax return information and put unreasonable weight on matters of signage and website.

Method of Appeal: Written Representations

2.2 Enforcements

Nil

2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

Nil

3.2 Enforcements

- 3.2.1 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.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Christopher Warren, dismissed the appeal and varied the terms of the notice by changing the specified period for compliance from 28 days to 8 weeks. The reporter found, during his unaccompanied site visit, the combined effect of the various items stored and/or deposited on the site to result in an unkempt and rather unsatisfactory appearance. The appearance does have a detrimental impact upon visual amenity and is in stark contrast to the surrounding land. The majority of items on the site would be straightforward to remove from the land however, some larger items may require arrangements to be made between the appellant and professional services to have them removed and therefore the reporter has agreed to extend the compliance period to 8 weeks.

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 20th June 2019. This relates to sites at:

<ul style="list-style-type: none"> Land West of Whitslaid (Barrel Law), Selkirk 	<ul style="list-style-type: none"> 1 - 39 Tweedbridge Court, Peebles
<ul style="list-style-type: none"> Coopersknowe Phase 4 and 5, Coopersknowe Crescent, Galashiels 	<ul style="list-style-type: none">

5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 18/01671/FUL
 Proposal: Erection of four dwellinghouses
 Site: Land West of Thornwood Lodge, Weensland Road, Hawick
 Appellant: Borders Low Carbon Developments Ltd

Reasons for Refusal: 1. The proposal is contrary to Adopted Local Development Plan Policies PMD2 and PMD5 in that it would not respect the amenity and character of the site and surrounding area, including neighbouring built form, in that the proposed dwellinghouses would not be of a design or layout that would be sympathetic to the site or the surrounding area. 2. The proposal is contrary to Adopted Local Development Plan Policies PMD2, PMD5 and HD3 in that it would have unacceptable impacts upon the amenity of the residential property at No 8 Weensland Terrace, principally as a consequence of an unacceptable loss of daylight and outlook due to the significant exaggeration of these impacts as a consequence of the proposed dwellinghouses being set further back into the site from the public road, than is necessary or otherwise justified by any circumstances on site or within the surrounding streetscape.

- 5.2 Reference: 18/01680/FUL
 Proposal: Erection of three holiday lodges, access and associated infrastructure
 Site: Land West of 1 Hallrule Farm Cottage, Bonchester Bridge
 Appellant: Mrs Claire MacTaggart

Reasons for Refusal: 1. The development would be contrary to Policy ED7 of the Adopted Local Development Plan 2016 in that the Applicant has failed to provide adequate business justification to demonstrate that the proposal is capable of being developed and operated viably as a holiday accommodation business in this location, potentially resulting in unsustainable development in an undeveloped rural landscape. 2. The development would be contrary to Policies ED7, PMD2 and EP5 of the Adopted Local Development Plan 2016 in that its siting and design will not respect and be compatible with the amenity and character of the surrounding area, and will result in a significantly adverse impact upon existing landscape character and rural visual amenity, including that of the Teviot Valleys Special Landscape Area and that of the setting of the building group at Hallrule.

6 REVIEWS DETERMINED

6.1 Reference: 18/00728/PPP
Proposal: Erection of dwellinghouse
Site: Land East of Rose Cottage, Maxwell Street,
Innerleithen
Appellant: Mr Raymond Keddie

Reason for Refusal: The proposed development at this site would be contrary to policies PMD5, EP9 and EP11 of the Scottish Borders Local Development Plan (2016) in that development of this area of green space will have a detrimental impact on the townscape structure of the settlement and the special character and appearance of the Conservation Area.

Method of Review: Review of Papers and Further Written Submissions

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

6.2 Reference: 18/00961/FUL
Proposal: Erection of dwellinghouse with detached garage
Site: Plot 3 Land North East of The Old Church,
Lamberton
Appellant: Mrs Suzanne Currie

Reasons for Refusal: 1. The development will conflict with Policies PMD2 and HD2 of the Local Development Plan 2016 because the proposed dwellinghouse is not of a design quality that complies with the Council's Supplementary Planning Guidance "Placemaking and Design" 2010. The form, scale and mass of the proposed building produce an inappropriate appearance which amount to an unacceptable overall design. The siting and orientation of the proposed building would not produce a satisfactory frontage or achieve an adequate relationship with the existing building group. The development will contribute negatively to the visual amenity of the surrounding area as a result. 2. The development will conflict with Policy EP8 (Archaeology) of the Local Development Plan 2016 in that the development will adversely affect the setting of the Scheduled Monument, there is no strong social or economic benefit arising from this development, and there is an alternative means of meeting development need.

Method of Review: Review of Papers and Site Visit

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

6.3 Reference: 18/01071/FUL
Proposal: Part change of use from agricultural barn to vehicle body repair and paint shop with associated parking (retrospective)
Site: Agricultural Barn Mid Softlaw Farm, Kelso
Appellant: Mr Keith Redpath

Reasons for Refusal: 1. The use of the agricultural building as a motor vehicle workshop does not comply with policy ED7 of the Local Development Plan 2016 as the use does not require this particular rural location and is not appropriate to the rural character of the area. Such a use would be more reasonably accommodated within the Development Boundary of a settlement rather than in this particular rural location.

Increased frequency and intensification of the use of this building for Class 5: Industry would be harmful to the amenity and character of the surrounding area and to residential amenities. Further, the applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location. 2. The proposal does not comply with policies PMD1 and IS7 of the Local Development Plan 2016 in that it would be more reasonably accommodated within the Development Boundary of a settlement to encourage uptake of sustainable transport methods. The proposal would lead to the over-dependence of the private car. Car parking requirements or means of sustainable transport for this proposal have not been demonstrated. 3. The proposal does not comply with policies PMD1 and PMD2 of the Local Development Plan 2016 in that the long term adaptability of the building has not been demonstrated. No proposals have been made for provision of toilet facilities, staff welfare rooms or office space, waste water treatment or water sources to comply with sustainability and quality standards.

Method of Review: Review of Papers

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

6.4 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.

Method of Review: Review of Papers

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 20th June 2019. This relates to a site at:

- Deans Bar, 3 Orrock Place, Hawick

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 20th June 2019. This relates to sites at:

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

Ian Aikman
Chief Planning & Housing Officer

Signature

Author(s)

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Background Papers: None.

Previous Minute Reference: None.

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