

**PLANNING AND BUILDING STANDARDS COMMITTEE**

**2<sup>nd</sup> September 2019**

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**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: 17/00226/FUL  
Proposal: Erection of a windfarm comprising of 7 wind turbines 126.5m high to tip, associated infrastructure, ancillary buildings and temporary borrow pits  
Site: Land North West of Gilston Farm, Heriot  
Appellant: Gilston Hill Windfarm Ltd

Reasons for Refusal: The proposal is contrary to Adopted Scottish Borders Council Local Development Plan Policy ED9 in that it would have relevant unacceptable significant adverse impacts or effects that cannot be satisfactorily mitigated, and which are not outweighed by the wider economic, environmental and other benefits that would otherwise be derived from its siting and operation at the site. In particular:

- The scale, form and location of the development proposed would represent a significant, detrimental change to the existing landscape character and visual amenity of the immediate locality and the wider area, and would also result in unacceptable cumulative landscape and visual impacts through its contribution to views within which it would be visible alongside surrounding wind farm schemes; and
- It would present a hazard to aviation safety both as an obstacle to aircraft and in its potential to disrupt radar operations at Kincardine and Edinburgh Airport.

Informatives – 1. It has not been demonstrated that the proposals would not have unacceptable impacts upon a Protected Species, specifically badgers, whose setts are liable to be impacted by the operation of one of the borrow-pits. 2. It has not been demonstrated that the proposals would not have unacceptable impacts upon Priority Species, specifically butterflies, whose habitat may be impacted by the development. 3. It has not been demonstrated that the proposals would not have any unacceptable impacts upon a private water supply.

Reason for Appeal: The Appeal decision has been successfully challenged and the Court of Session has returned the case to the DPEA to be re-determined.

## 2.2 Enforcements

Nil

## 2.3 Works to Trees

Nil

### 3 APPEAL DECISIONS RECEIVED

#### 3.1 Planning Applications

Nil

#### 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 22<sup>nd</sup> August 2019. This relates to sites at:

<ul style="list-style-type: none"><li>Land West of Whitslaid (Barrel Law), Selkirk</li></ul>	<ul style="list-style-type: none"><li>Coopersknowe Phase 4 and 5, Coopersknowe Crescent, Galashiels</li></ul>
<ul style="list-style-type: none"><li>Glenacre, Camptown, Jedburgh</li></ul>	<ul style="list-style-type: none"><li></li></ul>

### 5 REVIEW REQUESTS RECEIVED

5.1 Reference: 18/01654/FUL  
Proposal: Erection of dwellinghouse  
Site: Land North East of The Rest, Murrayfield, St Abbs  
Appellant: Mr and Mrs Peter Gibson

Reason for Refusal: The proposal would be contrary to policies PMD2, PMD5, EP7, EP9 and EP11 of the Local Development Plan 2016 in that the siting and design of the development and the loss of open space would have a detrimental effect on the character and appearance of the Conservation Area, the setting of the nearby Listed Building and the visual

amenity of the area. Other material considerations do not outweigh these conflicts with policy.

- 5.2 Reference: 19/00330/FUL  
Proposal: Erection of dwellinghouse  
Site: Land East of Lilybrooke West Flemington, Eyemouth  
Appellant: Mr And Mrs Cook

Reason for Refusal: The development would conflict with Local Development Plan 2016 policies PMD2 (Quality Standards) and HD2 (Housing in the Countryside). The size of the proposed site and the scale and mass of the proposed dwellinghouse are not appropriate for the surroundings of the site and would not respect the character of the existing building group. The proposed development is not of a design quality that complies with the Council's Supplementary Planning Guidance "Placemaking and Design" 2010 and does not attempt to integrate into the surrounding landform. The development will contribute negatively to the visual amenity of the surrounding area as a result.

- 5.3 Reference: 19/00386/FUL  
Proposal: Erection of porch  
Site: 2 Deloraine Court, Hawick  
Appellant: Porters Porches And Conservatories

Reason for Refusal: The development would be contrary to Policy PMD2 of the Local Development Plan 2016 in that its form and design would have an adverse impact on the visual amenity of the site and surrounding area.

- 5.4 Reference: 19/00521/AMC  
Proposal: Erection of dwellinghouse and detached garage (approval of all matters specified in conditions 18/01256/PPP)  
Site: Land South East of Dundas Cottage, Selkirk  
Appellant: Mr Darin Strutt and Jennifer Ettienne

Reason for Refusal: The development would not comply with Policy PMD2 of the Scottish Borders Council Local Development Plan 2016, the Ettrick (Hopehouse) Mini Planning Brief and the Supplementary Planning Guidance on Placemaking and Design 2010, in that its form and depth would not relate sympathetically to the character of the surrounding area and neighbouring built form. There are no other material considerations that would be sufficient to override these policy conflicts.

## **6 REVIEWS DETERMINED**

- 6.1 Reference: 17/01368/FUL  
Proposal: Variation of condition 4 of planning permission 16/00753/FUL to reinstate 2 no windows in lieu of air conditioning units  
Site: Deans Bar, 3 Orrock Place, Hawick  
Appellant: Mark Deans

Reason for Refusal: The proposal does not comply with Adopted Local Development Plan Policy HD3 in that: (a) where the proposed windows are both openable and required to be open for the purposes of ventilation; and (b) where the function room were capable of being used to accommodate the public bar's customers and entertainment without there being any

approved alternative ventilation system in operation to avoid the need to open the windows (or fire exit) when the function room is occupied by customers (that is, were the function room to be occupied contrary to the explicit requirements of Planning Condition No 4 attached to Planning Consent 17/01368/FUL); then this would give rise to a set of circumstances in which the amenity of existing neighbouring residential properties would be liable to be subject to adverse impacts; specifically in terms of them being liable to be subject to disturbance from unacceptable noise nuisance impacts emanating from within the function room. Further, the Applicant's Noise Impact Assessment has neither provided any substantive evidence to the contrary nor has it identified any effective alternative scheme of mitigation, which might reasonably be employed to address these impacts appropriately.

Method of Review: Review of Papers, Further Written Submissions and a Hearing

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

- 6.2 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.

Method of Review: Review of Papers

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

- 6.3 Reference: 19/00330/FUL  
Proposal: Erection of dwellinghouse  
Site: Land East of Lilybrooke West Flemington, Eyemouth  
Appellant: Mr And Mrs Cook

Reason for Refusal: The development would conflict with Local Development Plan 2016 policies PMD2 (Quality Standards) and HD2 (Housing in the Countryside). The size of the proposed site and the scale and mass of the proposed dwellinghouse are not appropriate for the surroundings of the site and would not respect the character of the existing building group. The proposed development is not of a design quality that complies with the Council's Supplementary Planning Guidance

"Placemaking and Design" 2010 and does not attempt to integrate into the surrounding landform. The development will contribute negatively to the visual amenity of the surrounding area as a result.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.4 Reference: 19/00358/PPP  
Proposal: Erection of dwellinghouse  
Site: Garden Ground of Beechwood Pyatshaw, Lauder  
Appellant: Mr R Martin

Reason for Refusal: The proposed development would be contrary to Policy HD2 of the Scottish Borders Local Development Plan 2016 in that the erection of a dwellinghouse on this site would exceed the threshold of 2 additional dwelling units or a 30% increase in the building group permitted within the current Local Development Plan 2016 period and there are no exceptional circumstances that would justify a departure from this Policy. In addition, the proposal does not respect the character of the building group, in terms of plot size and spacing, and would constitute an over development of the site, potentially impacting on trees within the site, which would be detrimental to the visual amenities of the area.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.5 Reference: 19/00386/FUL  
Proposal: Erection of porch  
Site: 2 Deloraine Court, Hawick  
Appellant: Porters Porches And Conservatories

Reason for Refusal: The development would be contrary to Policy PMD2 of the Local Development Plan 2016 in that its form and design would have an adverse impact on the visual amenity of the site and surrounding area.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

## 7 REVIEWS OUTSTANDING

7.1 There remained 2 reviews previously reported on which decisions were still awaited when this report was prepared on 22<sup>nd</sup> August 2019. This relates to sites at:

- |   |   |
|---|---|
| • Land West of 1 Hallrule Farm Cottage, Bonchester Bridge | • Land South West of Milkieston Toll House, Peebles |
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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 2 S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 22<sup>nd</sup> August 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.

**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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