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## **PLANNING APPEALS & REVIEWS**

**Briefing Note by Chief Planning & Housing Officer**

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### **PLANNING AND BUILDING STANDARDS COMMITTEE**

**7<sup>th</sup> October 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

Nil

- 2.2 Enforcements

Nil

- 2.3 Works to Trees

Nil

#### **3 APPEAL DECISIONS RECEIVED**

- 3.1 Planning Applications

- 3.1.1 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 5<sup>th</sup> 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 & Site Visit

**Reporter's Decision:** Sustained

**Summary of Decision:** The Reporter, Amanda Chisholm, advised that in her view the proposed development would represent an acceptable transition between low-density Coopersknowe Crescent and the higher-density Melrose Gait, and would therefore be compatible with and respect the character of the surrounding area. The orientation of and spacing between the blocks would avoid an oppressive appearance and, in her view, would also be appropriate in terms of privacy and noise issues. The reporter therefore 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 therefore allowed the appeal and granted planning permission subject to 13 conditions and four advisory notes.

3.1.2 **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 & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Richard Hickman, read in detail all documents provided by the appellants and after attending a site visit was satisfied that this proved that the B&B/guest house use ceased at the end of 2013. The tax returns showed no income from B&B/guest house operations from 2014-2015 onwards. The signage was on a minor road with minimal non-local through traffic. The reporter is satisfied on the balance of probability that the B&B/guest house ceased at the end of 2013 and therefore concluded that the certificate should be granted.

### 3.2 Enforcements

Nil

### 3.3 Works to Trees

Nil

## 4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 26<sup>th</sup> September 2019. This relates to sites at:

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| • Land West of Whitslaid (Barrel Law), Selkirk | • Land North West of Gilston Farm, Heriot |
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## 5 REVIEW REQUESTS RECEIVED

Nil

## 6 REVIEWS DETERMINED

6.1 Reference: 18/01161/FUL  
Proposal: Change of use of agricultural land to dog care walking facility and erection of boundary fence  
Site: Land South West of Milkieston Toll House, Peebles  
Appellant: Mr Paul Lawrie

Reason for Refusal: The development is contrary to Policy PMD2 of the Local Development Plan 2016 in that intensified traffic usage of the sub-standard vehicular access creates a detrimental impact on road safety on the A703. The continued use of the existing sub-standard access would result in an unacceptable adverse impact on road safety, including but not limited to the site access.

Method of Review: Review of Papers & Further Written Submissions

Review Decision: Decision of Appointed Officer Upheld

6.2 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.3 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.

Method of Review: Review of Papers, Site Visit & Further Written Submissions

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

## 7 REVIEWS OUTSTANDING

7.1 There remained one review previously reported on which a decision was still awaited when this report was prepared on 26<sup>th</sup> September 2019. This relates to a site at:

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| <ul style="list-style-type: none"><li>Land South East of Dundas Cottage, Selkirk</li></ul> | <ul style="list-style-type: none"><li></li></ul> |
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## 8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

8.1 Reference: 18/00768/S36

Proposal: Erection of 11 turbines, 4 No turbines up to 149.9m high to tip, 3 No turbines 174.5m high to tip, and 4 No turbines 200m high to tip and associated works  
 Site: Crystal Rigg Wind Farm, Cranshaws, Duns  
 Appellant: Crystal Rig IV Limited

Reasons for Objection: 1. Adverse Visual Impact - The proposed development would be contrary Local Development Plan Policy ED9 in that the visual impact of red aviation lights fitted to the nacelles of seven of the eleven turbines would introduce lighting, whose purpose is to draw attention to the development, with an industrial appearance which would be incongruous and visible from a considerable distance from the development. This is incompatible with the visual amenity of the dark rural environment largely unaffected by artificial light, which is experienced by receptors travelling on public roads and paths within the Eastern and Central Borders in hours of darkness and would also increase the prominence of this wind farm environment from these affected routes at times of dusk and dawn. 2. Impact on Landscape Character - The proposed development would be contrary Local Development Plan Policy EP5 in that the location of red aviation lights on an elevated location within the Lammermuir Hills would adversely affect the night time character of the Lammermuir Hills Special Landscape Area by industrialising the dark rural environment which would be experienced by receptors travelling on roads and paths within the SLA. 3. Advisory Note - Should the development be considered for approval, then conditions and the need for a Legal Agreement have been identified covering a number of different aspects including noise limits, roads matters, ecology and archaeology.

**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 26<sup>th</sup> September 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)**

| Name         | Designation and Contact Number                              |
|--------------|---|
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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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