
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

3rd February 2020

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: 17/01255/FUL
Proposal: Erection of wind farm comprising 7 No wind turbines up to 132m high to tip, access tracks, hard standings, electrical control building and compound, borrow pits, ancillary infrastructure and associated groundworks
Site: Land West of Whitslaid (Barrel Law), Selkirk
Appellant: Barrel Law Windfarm Ltd

Reason for Refusal: The development conflicts with Policy ED9 of the Scottish Borders Local Development Plan 2016 and the Scottish Borders Council "Renewable Energy" Supplementary Guidance 2018 in that it would have unacceptable, significant and adverse impacts and effects, by virtue of

- Its vertical scale in relation to the scale of the receiving landscape
- Its prominent and dominant appearance in local, adjacent and wider landscapes
- Its poorly designed appearance from a range of vantage points due to overlapping and variation in heights viewed in relation to the underlying topography
- The intensification of adverse landscape and visual impacts due to cumulative visibility with Langhope Rig windfarm, including from the area around the former site of the William Ogilvie Cairn on the road to Robertson.
- The vertical scale of the turbines, combined with their elevated position in the landscape.
- The proximity and dominance of the turbines to residences and their environs, including Easter Alemoor.

Grounds of Appeal: The application for the proposed development went to the Committee with a recommendation for approval and with the planning officer concluding that “the scheme complies with national and local policies and guidance on renewable energy development. In reaching that conclusion the planning officer had the consultation response from the Council’s landscape architect. This was a careful and well constructed report which concluded that “the overall impacts in landscape and visual terms are not sufficient to maintain an objection to this application.” The Committee rejected the recommendation and refused consent. The Committee did not provide any critical analysis of the advice and assessments with which it had been provided.

Method of Appeal: Written Representations, Site Visits & Hearing

Reporter’s Decision: Dismissed

Summary of Decision: The Reporter, Elspeth Cook, acknowledged that there is a broad Scottish Government and development plan support for renewable energy development. She stated that in many respects this proposed wind farm development would be able to comply with the development plan and national guidance. However, she did not find that the positive outcomes and the potential economic benefits arising from this development were sufficient to set aside the adverse environmental effects specifically relating to cumulative and separate visual and landscape effects and residential visual amenity effects at this location. The Reporter therefore concluded that the proposed development would not accord overall with the development plan. She found that there were no overriding material considerations which would still justify granting planning permission. She considered all the other matters raised, but there were none which led her to alter her conclusions.

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 22nd January 2020. This relates to sites at:

- | | |
|---|--|
| • Land North West of Gilston Farm, Heriot | • Silver Grange, Old Greenlaw Farm, Greenlaw, Duns |
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5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 19/01000/PPP
Proposal: Erection of dwellinghouse and garage
Site: Land East of Auburn Cottage, Ashkirk
Appellant: Mr & Mrs C W Davies

Reason for Refusal: The proposed development is contrary in principle to Adopted Local Development Plan Policy HD2 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 character, sense of place and setting of the building group, or with the landscape and amenity of the surrounding area, principally through the unsympathetic extension of the building group beyond its defined sense of place, which would also constitute and promote a 'ribbon' form of development, extending along the public road, northeastwards, into the open countryside, with no immediate or obvious containment of development in this direction. The provision of a tree belt, as proposed, will not provide acceptable mitigation against the landscape and visual impact of the development.

- 5.2 Reference: 19/01358/PPP
Proposal: Erection of dwellinghouse
Site: Land South of Dodlands, Hawick
Appellant: Mr C Lyle

Reason for Refusal: The development would be contrary to Policies PMD2 and HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 because it would constitute housing in the countryside that would be unrelated to a building group that meets current policy definitions and an economic case has not been substantiated. Furthermore, the proposed means of access would be unsatisfactory since the development would potentially increase the road safety risk at the nearby junction with the A6088.

6 REVIEWS DETERMINED

- 6.1 Reference: 18/01766/PPP
Proposal: Erection of dwellinghouse
Site: Land North West of Poultry Farm, Stow Road, Lauder
Appellant: Dr John Crombie Smith

Reason for Refusal: The proposal is contrary to policies PMD4 and HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside (December 2008) in that the application site is located outwith the Development Boundary for

Lauder, is not associated with any recognised building group of 3 or more houses and the need for a house at this particular location has not been adequately demonstrated as being a direct operational requirement of any agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside. The erection of a house on this site would lead to an unjustified and sporadic expansion of residential development into the open countryside.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.2 Reference: 19/00590/FUL
Proposal: Erection of dwellinghouse and agricultural building
Site: Land North East of Hoprigshiel Farmhouse,
Cockburnspath
Appellant: Mr & Mrs S Phaup

Reason for Refusal: The proposed development would be contrary to Policy HD2 of the Local Development Plan 2016 and the New Housing in the Borders Countryside Guidance 2008 in that the proposed dwellinghouse and agricultural storage building would not have a visually sympathetic relationship with either the existing farm steading or the nearby building group; would result in sporadic rural development that would not relate sympathetically to the character of the surrounding landscape; and insufficient justification has been submitted demonstrating that a site more sympathetically related to the steading or building group is not available.

Method of Review: Review of Papers & Site Visit

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions, Informatives and a Legal Agreement)

6.3 Reference: 19/01358/PPP
Proposal: Erection of dwellinghouse
Site: Land South of Dodlands, Hawick
Appellant: Mr C Lyle

Reason for Refusal: The development would be contrary to Policies PMD2 and HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 because it would constitute housing in the countryside that would be unrelated to a building group that meets current policy definitions and an economic case has not been substantiated. Furthermore, the proposed means of access would be unsatisfactory since the development would potentially increase the road safety risk at the nearby junction with the A6088.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld (Terms of Refusal Varied)

7 REVIEWS OUTSTANDING

7.1 There remained 3 reviews previously reported on which decisions were still awaited when this report was prepared on 22nd January 2020. This relates to sites at:

<ul style="list-style-type: none">• Garden Ground of 7 Heriot House, Heriot	<ul style="list-style-type: none">• Land South West of Carlenrig Farm, Teviothead, Hawick
<ul style="list-style-type: none">• Land South East of Bungalow, Denholm Mill, Denholm	<ul style="list-style-type: none">•

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 22nd January 2020. This relates to sites at:

<ul style="list-style-type: none">• Fallago Rig 1, Longformacus	<ul style="list-style-type: none">• Fallago Rig 2, Longformacus
<ul style="list-style-type: none">• Crystal Rigg Wind Farm, Cranshaws, Duns	<ul style="list-style-type: none">•

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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