

SCOTTISH BORDERS COUNCIL PLANNING AND BUILDING STANDARDS COMMITTEE

MINUTE of Meeting of the PLANNING AND BUILDING STANDARDS COMMITTEE held by Microsoft Teams on Monday, 7 December 2020 at 11.15 a.m.

Present:- Councillors S Mountford (Chairman), A. Anderson, J. Fullarton, S. Hamilton, H. Laing, D. Moffat, C. Ramage, N. Richards, E. Small
In Attendance:- Lead Planning Officer (B.Fotheringham), Lead Roads Planning Officer, Solicitor (Sarah Thompson), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 2 November 2020.

DECISION

APPROVED for signature by the Chairman.

DECLARATION OF INTEREST

Councillor Moffat declared an interest in application 19/01454/FUL- Land South of Dental Health Centre, Kelso Road, Coldstream and Councillor Ramage declared an interest in application 20/00893/FUL in terms of Section 5 of the Councillors Code of Conduct and left the meeting during the discussion of these applications.

2. **APPLICATIONS**

There had been circulated copies of reports by the Chief Planning and Housing Officer on an application for planning permission requiring consideration by the Committee.

DECISION

DEALT with the applications as detailed in Appendix I to this Minute.

The meeting adjourned at 12.55 p.m. for lunch and reconvened at 1.15 p.m.

The meeting adjourned at 2.30 p.m. to allow Councillors to discuss their reasons for proposing the refusal on an application and reconvened at 2.45 p.m.

3. **APPEALS AND REVIEWS**

There had been circulated copies of a briefing note by the Chief Planning Officer on Appeals to the Scottish Ministers and Local Reviews.

DECISION

NOTED that:-

(a) **Appeals had been received in respect of:-**

- (i) **Erection of poultry building (Shed 5), upgrade of access junction, formation of access road, and associated works at Hutton Hall Barns, Hutton – 20/00347/FUL;**
- (ii) **Erection of dwellinghouse on Land North East of Burnside, Lower Green, West Linton – 20/00378/PPP; and**

(iii) **Erection of poultry building (Shed 6) and associated works at Hutton Hall Barns, Hutton – 20/00470/FUL;**

(b) **there remained one review previously reported on which decisions were still awaited when the report was prepared on 25 November 2020**

Land North West of Willowdean House, Foulden	
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(c) **a review request had been received in respect of the formation of dormer at 19 Myrescroft, Ancrum, Jedburgh - 20/00537/FUL**

(d) **the review request in respect of the Erection of two dwellinghouses on Garden Ground of 7 Heriot House, Heriot had been withdrawn.**

(e) **the decision of the Appointed Officer had been upheld in respect of the formation of new boundary fence(retrospective) at 1 Forley's Field, Goslawdales, Selkirk**

(f) **the decision of the Appointed Officer had been overturned (SUBJECT TO CONDITIONS AND Informatives) in respect of the Erection of a dwellinghouse with detached garage on Land North West of Strathmyre Old Belses, Jedburgh**

(g) **there remained two reviews previously reported on which decisions were still awaited when the report was prepared on 25 November 2020**

<ul style="list-style-type: none">Garden Ground of Clifton Cottage, High Street, Kirk Yetholm	<ul style="list-style-type: none">Land North East of East Neuk, Morebattle
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(h) **there remained 3 S36 PLI's previously reported on which decisions were still awaited when the report was prepared on 24th September 2020 and related 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">

The meeting concluded at 2.50 p.m.

APPENDIX I
APPLICATION FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
19/01454/FUL	Change of use of agricultural land to form holiday caravan and camping park with associated vehicular access roads, parking, landscaping, drainage infrastructure and public car charging points	Land to South of Dental Health Centre, Kelso Road Coldstream

Decision: Approved subject to the following conditions and informatives:

1. The occupation of the caravans hereby approved shall be restricted to genuine holidaymakers only staying for a maximum of 6 months in total within any consecutive period of 365 days commencing on the 1st of January. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.
Reason: A permanent residential site in this location would conflict with the established planning policy for this rural area.
2. No development shall be commenced until samples including colour finishes of all external materials to be used on all buildings (including caravans and their decks) throughout the site are submitted to, and approved by in writing by the Planning Authority. Thereafter the development shall take place in accordance with the approved samples.
Reason: To safeguard the visual amenity of the area and the character of the landscape.
3. Notwithstanding the layout illustrated on approved Site Plan Drawing No 5773 – C – 02 Rev E, no development shall commence until a revised site plan (supplemented by updated visualisations) has been submitted to and approved in writing by the planning authority which seeks to microsite;
 - i. Caravans in the north eastern part of the site towards lower ground levels
 - ii Caravans and their associated decks and access roads in the south of the site away from the adjacent tree belt to the south.
 - iii The footpath at the north western corner which links to the track to the west of the site shall be repositioned to link with the site services further south.Reason: A revised positioning of proposed caravans is required to ensure that the development integrates with the character and appearance of the surrounding area.
4. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which shall first be submitted to and approved in writing by the Planning Authority, and shall include (as appropriate):
 - i. Location of new trees, shrubs, hedges and grassed areas
 - ii. Increased the number of planted areas between caravans and the width and length of those shown on approved Drawing No L(90)0002
 - iii. Schedule of plants to comprise species, plant sizes and proposed numbers/density which includes a three year Defects Liability Period
 - iv. Location and design, including materials, of walls, fences and gatesReason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings and respect the setting of the Scheduled Monument.
5. No development shall commence until protective fencing in accordance with BS537:2012 has been erected in accordance with the approved Tree Protection Plan, Drawing No 20_5837_10_39. The protective barrier shall only be removed when the development has been completed. All works to existing trees shall comply with the works specified within the

Arboricultural Implications Assessment and other than those identified for removal shown on approved Drawing No 20_5837_10_39, no trees within or around the application site shall be felled, lopped, lifted or disturbed in any way without the prior consent of the Planning Authority.

Reason: The existing tree(s) represent an important visual feature which the Planning Authority considered should be substantially maintained.

6. The development hereby approved shall only be carried out in strict accordance with a programme of phasing which includes phasing of all soft landscape works which has first been submitted to and approved in writing by the Planning Authority.

Reason: To ensure that the development of the proceeds in an appropriate manner which respects the landscape setting of the holiday park.

7. No development shall commence until precise details surfacing materials to be used on all roads, footpaths and parking spaces has first been submitted to, and approved by in writing by the Planning Authority. Thereafter the development shall take place in accordance with the approved materials.

Reason: To safeguard the visual amenity of the area and the character of the landscape.

8. No development shall commence until an engineering drawing of the new access onto the public road has first been submitted to and approved by in writing by the Planning Authority. Thereafter the development shall take place wholly in accordance with the agreed details and the new access shall be completed prior to the development becoming operational.

Reason: To ensure the access into the site is formed to an appropriate standard

9. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.

Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

10. No development shall commence until precise details of the location and design of a protective barrier of temporary fencing which shall be erected around the boundary of the Cottage Hospital, settlement 250m SE of, Scheduled Monument has been submitted to and agreed in writing with the Planning Authority and thereafter the barrier shall be erected before development works commence and shall only be removed once development works have been completed unless otherwise agreed with the Planning Authority.

Reason: To ensure that the Scheduled Monument is protected from construction works.

11. Prior to installation, precise details of the location and design (including text) of the interpretation board to be erected within the Scheduled Monument shall be submitted to and agreed in writing with the Planning Authority and thereafter the interpretation board shall be installed in accordance with the agreed details prior to the caravan and camp site becoming operational.

Reason: To preserve the archaeological interest of the Scheduled Monument.

12. No development shall commence until the following Ecological Mitigation Measures have been submitted to and approved in writing by the Planning Authority and thereafter, no

development shall take place except in strict accordance with those details. The submitted details shall include

- a) Construction Environmental Management Plan (CEMP)
- b) A Species Protection Plan for badger and breeding birds which shall incorporate a pre-development supplementary survey and mitigation plan
- c) A Landscape and Habitat Management Plan (LHMP)

Points a) – c) shall address measures identified in the Ecological Impact Assessment, ECOS Countryside Services LLP, 8th October 2019. Once approved, the proposed development shall be carried out in strict accordance with the approved details.

Reason: To ensure that species and habitats affected by the development are afforded suitable protection in accordance with previously approved details.

13. Prior to occupation of the development hereby approved a detailed Lighting Management Strategy for all exterior lighting throughout the site (including those attached to buildings and free standing) shall be submitted to and approved in writing by the Planning Authority. The Lighting Management Strategy shall include lighting provisions for bats. Thereafter the development shall take place in complete accordance with the agreed details.

Reason: To safeguard the visual amenity of the area and mitigate the impact of lighting on local biodiversity.

14. No drainage system other than the public mains sewer shall be used to service the development without the written consent of the Planning Authority and written evidence shall be supplied to the planning authority that the site is connected to the public water drainage network prior to the development becoming operational.

Reason: To ensure that the development does not have a detrimental effect on public health.

15. No development shall commence until a report has been submitted to and approved in writing by the Planning Authority that the public mains water supply is available and can be provided for the development. Written evidence shall be supplied to the planning authority that the site is connected to the public mains water supply prior to the development becoming operational.

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

16. Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within all noise sensitive properties (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2

Reason: To protect the residential amenity of nearby properties.

Informatives

1. A Traffic Regulation Order (TRO) should be pursued with the Councils Road Safety Team prior to development commencing on site. The TRO should seek to reduce the speed limit on the A698 for the section of road where the site access is provided. The conclusion of the TRO will inform the detailed design requirements for the site access including associated visibility splays which require to be agreed by Condition 8. Any signage and lining required to by the TRO will be required to be implemented before the development becomes operational.
2. All plant and machinery shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits specified in Condition 17.

NOTE

1. Councillors John Greenwell and Donald Moffat spoke in support of the application
2. Mrs Franceys Murray and Isobel Coughlin, Residents spoke against the application
3. Mr Chris Gregg, Applicant and David Queripel, Agent spoke in support of the application.

VOTE

Councillor Laing, seconded by Councillor Small moved that the Occupation of the caravans be limited to genuine holidaymakers only staying for a maximum of 6 months in total within any consecutive period of 365 days commencing on the 1st of January. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.

Councillor Ramage, seconded by Councillor Richards moved as an amendment that the occupation of the caravans be limited to genuine holidaymakers staying up to a maximum of 11 months 2 weeks and closed for 2 weeks in February

As the meeting was conducted by Microsoft Teams members were unable to vote by the normal show of hands and gave a verbal response as to how they wished to vote the result of which was as follows:-

Motion – 4 votes

Amendment – 4 votes

As there was an equality of votes, the Chairman exercised his casting vote in favour of the motion.

The motion was accordingly carried

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
20/00769/FUL	Change of use to allow commercial equestrian use at existing equestrian site to facilitate the relocation of established equestrian business and erection of 2 No storage buildings, 1 no Office and 1 No toilet block.	Land at Quarry Farm Lamberton.

Decision: Approved subject to the following conditions and Informatives.

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
2. No development shall commence until an Ecological Impact Assessment informed by a Preliminary Ecological Appraisal has been submitted to and approved in writing by the Planning Authority. The Ecological Impact Assessment should include any necessary mitigation measures for adverse impacts on protected species or habitats. Thereafter the development hereby approved shall only be carried out in strict accordance with the agreed mitigation measures and any agreed enhancement measures.
Reason: to protect the ecological resource and ensure LDP policies EP1, EP2 and EP3 are satisfied.
3. Prior to the commencement of development, details of the siting, design, external materials, colours and any screening for the portacabin, tack room storage container and portaloo shall be submitted to and agreed in writing by the Planning Authority. Thereafter the development shall be carried out wholly in accordance with the agreed details.
Reason: to control the appearance of the portacabin, tack room storage container and portaloo, in the interests of landscape and visual amenity.

4. Prior to the commencement of development, precise details of the design and materials (including elevation drawings and floor plans or photos) of the two lean-to additions to the existing shed building shall be submitted to and agreed in writing by the Planning Authority. Thereafter the development shall be carried out wholly in accordance with the agreed details.

Reason: to control the appearance of two lean-to additions to the existing shed building, in the interests of landscape and visual amenity.

5. Prior to the commencement of development, a scheme of soft landscaping works shall be submitted to and approved in writing by the Planning Authority, and shall include:
- i. indication of existing trees, shrubs and hedges to be removed
 - ii. location of new trees, shrubs, hedges and grassed areas, including compensatory planting for the foliage to be removed for visibility at the junction with the public road.
 - iii. schedule of plants to comprise species, plant sizes and proposed numbers/density
 - iv. programme for completion and subsequent maintenance.
 - v. Thereafter, the agreed landscaping works shall be carried out and maintained wholly in accordance with the agreed details.

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

6. Prior to the commencement of development, details of arrangements for toilet facilities and foul waste shall be submitted to and agreed in writing by the Planning Authority. Thereafter, the agreed toilet facilities and foul waste arrangements shall be in place before the development becomes operational, and shall be retained thereafter unless otherwise agreed in writing by the Planning Authority.

Reason: to protect residential amenity and the wider environment.

7. Prior to the commencement of development, details of the siting of stable waste storage shall be submitted to and agreed in writing by the Planning Authority. Thereafter, stable waste from the development shall only be stored in strict accordance with the agreed details.

Reason: to protect residential amenity and the wider environment.

8. Prior to the commencement of development, details of the proposed water supply shall be submitted to and agreed in writing by the Planning Authority. Thereafter, the agreed water supply arrangements shall be in place before the development becomes operational, and shall be maintained thereafter unless otherwise agreed in writing by the Planning Authority.

Reason: to ensure water supply arrangements do not harm existing private water supplies.

9. Prior to the commencement of development, details of all proposed external lighting shall be submitted to the Planning Authority for written approval. Thereafter, no external lighting shall be installed with the exception of external lighting that has first been agreed in writing by the Planning Authority.

Reason: to protect residential amenity and the character and amenity of the surrounding area.

10. Prior to the development becoming operational, visibility at the junction of the private access and minor public road shall be improved, the details of which shall first be submitted to and approved in writing by the planning authority. The junction of the private access serving the development shall also be improved to the following specification before the development becomes operational:

The bellmouth of the private access shall be no steeper than 1 in 10 for the first 6m and shall be 5m wide with 6m radii; and

The bellmouth of the private access shall be surfaced using 40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (base course) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.

Reason: To ensure safe access and egress from the site and to ensure the access is of a standard capable of accommodating the increase in traffic.

11. Prior to the development hereby approved becoming operational, two passing places shall be provided on the access track to the site in strict accordance with details first agreed in writing by the Planning Authority.
Reason: To ensure the access track is of a standard capable of accommodating the increase in traffic.
12. With the exception of the junction improvements and two passing places agreed under conditions 10 and 11, no permission is granted for the upgrade of the existing access track, and any such works shall only be carried out following the submission and approval of a separate planning application.
Reason: the upgrade of the access track did not form part of these proposals assessed and would require separate consideration.
13. Prior to the development hereby approved becoming operational, the parking shown on the approved site plan shall be provided in strict accordance with surfacing, levels, and edge protection details first agreed in writing by the Planning Authority.
Reason: To ensure adequate parking is provided within the site.
14. The external lighting hereby approved under Condition 9 shall only operate between the hours of 7 a.m. and 7 p.m.
Reason: to protect residential amenity and the character and amenity of the surrounding area.
15. Any noise emitted by plant and machinery used on the site shall not exceed Noise Rating Curve NR20 between the hours of 2300 to 0700 and NR 30 at all other times when measured within all noise sensitive properties (windows can be open for ventilation). The noise emanating from any plant and machinery used on the site should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2.
Reason: To protect residential amenity.
16. All plant and machinery shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.
Reason: To protect residential amenity.

Information for the applicant

1. It should be borne in mind that only contractors first approved by the Council may work within the public road boundary.
2. It is brought to the attention of the applicant that public comments lodged in response to the application raise the possibility of ragwort within the site and adjoining fields.
3. The applicant is advised of the former development and activities at the application site including vehicle storage/ abandonment. Should unexpected ground conditions e.g. made ground extending to depth, discolouration or malodorous substances be encountered in excavations, or evidence of potential contamination e.g. underground structures, remains of buried wastes or equipment be encountered during site works it is requested that Environmental Health are immediately consulted. Should the applicant wish to discuss this further their enquiry should be directed to Environmental Health.
4. It is recommended that the applicant contact the Environmental Health team to discuss whether the toilet, washing and welfare facilities intended meet the requirements under Health and Safety at Work legislation.

5. The Riding Establishments Act 1964 defines a Riding Establishment as “the carrying on of a business of keeping horses to let them out on hire for riding, or for use in providing instruction in riding for payment, or both, “ and requires such businesses to be licensed by the Local Authority. If the applicant intends the stables to operate as a riding establishment in the future, the premises will need to be licensed. Current conditions of licence are discussed alongside health and safety issues applicable to the trade, within the CIEH publication *Health and safety guidance for inspections of horse riding establishments and livery yards*. A free copy may be downloaded from www.cieh.org/policy/inspections_horse_livery.html. Hardcopies may be purchased from CIEH Tel. 020 7827 5821. Further information about the required standards is available from SBC’s Regulatory Services, Environmental Health Team. Riding Establishment application forms are available from SBC’s, Licensing Team.

NOTE

Mr Joe Nugent, Agent spoke in support of the application.

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
20/00893/FUL	Erection of two dwellinghouses (change of house Previously approved under planning consent 19/00947/FUL	Land South West of West Lodge Minto

Decision: Approved subject to the following conditions and Informatives

Conditions

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority, unless otherwise agreed by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
2. All previous conditions attached to planning consent reference 19/00947/FUL remain valid and shall be duplicated in this permission unless otherwise agreed in writing by the planning authority. Any submissions already made to and approved in writing by the planning authority in response to conditions of that consent shall remain the council’s approved position and no further information will be required unless requested by the planning authority. The development hereby approved shall proceed in full accordance with the conditions and approved response of that permission unless otherwise agreed in writing by the planning authority.
Reason: To ensure a satisfactory form of development appropriate to its setting and to ensure the requirements of all previous conditions are met in full.

Informatives

- 1 Private drainage systems often cause public health problems when no clear responsibility or access rights exist for maintaining the system in a working condition. Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law. The applicant should satisfy themselves that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified.
- 2 The access to the site from the public road to be constructed as a service layby to my standard specification DC3. The initial 5 metres of the shared driveway beyond the rear of the service lay-by to be a minimum of 5.5 metres wide to allow two vehicles to pass and surfaced to the same specification.

- 3 Only contractors first approved by the Council may work within the public road boundary.
- 4 The promoted Minto Hills path in the Paths around Hawick booklet is described from Denholm and the route shown is the route on the maps below. The full booklet may be accessed from the council website www.scotborders.gov.uk/walking
- 5 The applicant is reminded that, under the Conservation Regulations (Natural Habitats & c.) 1994 (as amended) it is an offence to deliberately or recklessly damage or destroy a breeding site or resting place of bats (whether or not deliberately or recklessly), capture, injure or kill a bat, harass a bat or group of bats, disturb a bat in a roost (any structure or place it uses for shelter or protection), disturb a bat while it is rearing or otherwise caring for its young, obstruct access to a bat roost or otherwise deny an animal use of a roost, disturb a bat in a manner or in circumstances likely to significantly affect the local distribution or abundance of the species, disturb a bat in a manner or in circumstances likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young.

In the event that bats are discovered following the commencement of works, works should stop immediately and the developer must contact SNH (tel: 01896-756652 or 01463 725 364) for further guidance. Works can only recommence by following any guidance given by SNH. The developer and all contractors to be made aware of accepted standard procedures of working with bats at www.bats.org.uk. Further information and articles available at:
http://www.bats.org.uk/pages/bats_and_buildings.html
http://www.bats.org.uk/pages/existing_buildings.html <https://cdn.bats.org.uk/pdf/Bats-Trees.pdf?mtime=20181101151317>

NOTE

Mr William Roberts, Denholm & District Community Council spoke against the application.

VOTE

Councillor Hamilton, seconded by Councillor Fullarton moved that the application be approved as per the officer recommendation.

Councillor Anderson, seconded by Councillor Small moved as an amendment that the application be refused on the grounds that the development was contrary to policy PMD2 of the Local Development Plan in that it would not be of a scale, massing and height appropriate to its surroundings and would constitute overdevelopment of the site.

As the meeting was conducted by Microsoft Teams members were unable to vote by the normal show of hands and gave a verbal response as to how they wished to vote the result of which was as follows:-

Motion – 5 votes

Amendment – 3 votes

The motion was accordingly carried.