
PLANNING APPEALS & REVIEWS

Briefing Note by Service Director Regulatory Services

PLANNING AND BUILDING STANDARDS COMMITTEE

2nd March 2015

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

3 APPEAL DECISIONS RECEIVED

- 3.1 Planning Applications

- 3.1.1 Reference: 14/00617/MOD75
Proposal: Discharge of planning obligation pursuant to planning permission 99/00638/OUT
Site: Site of Former Farm Cottage, Lylestane Farm, Oxtou
Appellant: Adam Wilson & Isabelle Campbell Young

Reasons for Refusal: The establishment of a new residential property in an isolated rural location in the absence of any restrictions upon its occupancy for the purposes of ensuring that it would only ever be used to serve a specific business' identified operational requirements, would be directly contrary to the Council's rural housing policy; and specifically, Policy D2 of the Adopted Scottish Borders Consolidated Local Plan 2011 and the guidance of the approved Supplementary Guidance Note on New Housing in the Borders Countryside. Further, it is not considered that there any material considerations, including the advice and guidance of Circular 3/2012, that outweigh the need to determine this application in accordance with the Council's adopted Housing in the Countryside Policy.

Grounds of Appeal: 1. The obligation fails to meet the tests of necessity and reasonableness and is not justified in planning policy. 2. The Council's reason for refusal is misconceived. The grant of the Application (and therefore the Appeal) would not establish a new residential property in the countryside. The Application related (and this Appeal relates) to a planning obligation attaching to an existing property.

Method of Appeal: Written Representations

Reporter's Decision: Sustained

Summary of Decision: The Reporter, David A Russell, concluded that Circular 3/2012 requires that planning obligations must meet all five tests in paragraph 14. He considered that this obligation fails the tests of necessity and reasonableness. Accordingly he felt that it was not necessary for him to address in detail the remaining three tests. He therefore concluded that the planning obligation as a whole should be discharged.

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 18th February 2015. This relates to sites at:

- Meigle Row, Clovenfords
- Ravelaw Farm, Whitsome, Duns

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 14/01074/FUL
Proposal: Change of use from store, partial demolition and alterations to form 3 No garages
Site: Store, Union Street, Hawick
Appellant: Mr Michael Johnson

Reason for Refusal: The proposal is considered to be contrary to policies G1, G7, BE4 and Inf4 of the Scottish Borders Consolidated Local Plan Adopted 2011 as the proposed alterations to the building to include a profile metal sheeting roof that would appear as a flat roof would harm the character and appearance of the Conservation Area and the visual amenities of the area. In addition, the conversion of the building into three garages is considered to be an overdevelopment of the site that would result in difficulties when accessing and egressing the westerly garage, which would cause potential conflict between users of the existing parking spaces adjacent to the site and users of the proposed garages.

6 REVIEWS DETERMINED

6.1 Reference: 14/00951/FUL
Proposal: Alterations and extension to reinstate dwellinghouse and erection of garage

Site: 1 Prendergust Farm Cottages, Eyemouth
Appellant: Mr Brian Downs

Reason for Refusal: The proposal would constitute overdevelopment of the existing building and the rear extension would be of an unsympathetic design and massing, which draws attention to the discordant scale between the existing house and proposed extension, all of which would detract from the character and appearance of the dwelling, contrary to Policies G1 of the Consolidated Local Plan 2011.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

6.2 Reference: 14/00990/FUL
Proposal: Change of use from workshop (Class 4) to children's soft-play centre, ancillary cafe, sensory area (Class 11) and extension incorporating new welfare facilities
Site: No 1 Works, Hillview Trading Estate, Guards Road, Coldstream
Appellant: Mr and Mrs Jon & Anna Standing

Reasons for Refusal: 1. The proposals would be contrary to Policy Inf4 and Inf11 of the Consolidated Local Plan 2011 in that the proposed change of use could cause unacceptable adverse impacts on road and pedestrian safety, and may harm the estate through the introduction of mixed use traffic demand. 2. The proposed change of use would be contrary to Policy ED1 of the Consolidated Local Plan in that that change of use to form children's soft play centre would result in the loss of employment floor space. Benefits to the surrounding area and community do not outweigh the need to retain the site for Class 4, 5 and 6 employment. The proposal is incompatible with neighbouring employment uses, could blight the Estate, and could cause long term harm through the introduction of mixed use.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

6.3 Reference: 14/01063/PPP
Proposal: Erection of dwellinghouse and garage
Site: Land North East of School House, Heriot
Appellant: Mr Colin Hood

Reason for Refusal: The proposed development is contrary in principle to Adopted Local Plan Policy D2, 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 at Heriot 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, into a previously undeveloped field.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

7 REVIEWS OUTSTANDING

- 7.1 There remained no reviews previously reported on which decisions were still awaited when this report was prepared on 18th February 2015.

Approved by

Brian Frater
Service Director Regulatory Services

Signature

Author(s)

Name	Designation and Contact Number
Laura Wemyss	Administrative Assistant 01835 824000 Ext 5409

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.

Contact us at Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel. No. 01835 825431 Fax No. 01835 825071
Email: PLACetransrequest@scotborders.gov.uk