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## **PLANNING APPEALS & REVIEWS**

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

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

**1<sup>st</sup> March 2021**

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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:	20/00378/PPP
Proposal:	Erection of dwellinghouse
Site:	Land North East of Burnside, Lower Green, West Linton
Appellant:	Messrs Gregor and Campbell Forsyth

Reasons for Refusal: 1. The proposed development represents an overdevelopment of a small site, giving rise to a cramped form of development, out of character with the surrounding Conservation Area and resulting in unacceptable impacts upon neighbouring residential properties, contrary to Policies PMD2, PMD5, EP9 and HD3 of the Scottish Borders Local Development Plan 2016. 2. The submitted application has not adequately demonstrated that safe access and satisfactory off-street parking provision can be achieved and therefore it is considered that

vehicle movements associated with the development would give rise to road safety concerns, including interference with the free passage of vehicles and pedestrians using Back Road, contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016. 3. Insufficient evidence has been submitted to demonstrate that the proposed development can achieve an appropriate level of scale, massing, design and appearance that would be necessary to preserve and enhance the character of the West Linton Conservation Area at this location and therefore the application is contrary to the requirements of Policies EP9 and PMD2 of the Scottish Borders Local Development Plan 2016.

**Reason for Appeal:** The application is a planning application in principle and should be assessed in accordance with the Scottish Government's Planning Circular No. 3 2013. Regulation 10 states there is no requirement for plans, drawings or a design statement. The planning officer stated throughout his report that the drawings submitted were of an indicative building rather than a formal proposal and concluded that the final design would have to be the subject of further applications. The Committee has been influenced beyond the assessment of this regulation by regarding these indicative drawings voluntarily submitted as a detailed proposal and applying detailed planning policies to justify its decision.

**Method of Appeal:** Written Representations

**Reporter's Decision:** Sustained

**Summary of Decision:** The Reporter, Trevor A Croft, concluded that the proposed development accords overall with the relevant provisions of the development plan and that, subject to the completion of a section 75 obligation, there are no material considerations which would still justify refusing to grant planning permission.

### 3.2 Enforcements

Nil

### 3.3 Works to Trees

Nil

## 4 APPEALS OUTSTANDING

4.1 There remained One appeal previously reported on which a decision was still awaited when this report was prepared on 18<sup>th</sup> February 2021. This relates to a site at:

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| • Land North West of Willowdean House, Foulden | • |
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## 5 REVIEW REQUESTS RECEIVED

5.1 Reference: 20/00923/PPP  
Proposal: Erection of dwellinghouse  
Site: Land North West of Whinneybrae, Skirling

Appellant: R E Wood And Sons

Reason for Refusal: The proposed development is contrary to policy HD2 of the Local Development Plan 2016 and the adopted supplementary planning guidance on New Housing in the Borders Countryside, in that the site is outwith any recognised settlement or building group and the need for the house has not been adequately substantiated. Accordingly, the proposed development would represent a sporadic and unjustified form of development in the countryside which would set an undesirable precedent for similar unjustified proposals.

5.2 Reference: 20/01236/FUL  
Proposal: Replacement windows  
Site: Angling Club, 5 Sandbed, Hawick  
Appellant: Hawick Angling Club

Reason for Refusal: The proposal fails to comply with Policies PMD2 and EP9 of the Scottish Borders Council Local Development Plan 2016, and with the advice contained within the Supplementary Guidance: Shop Fronts and Shop Signs 2011, in that its appearance has a significantly adverse and unacceptable visual impact on the character of the building, and is highly detrimental to the character and appearance of Hawick's Conservation Area.

## 6 REVIEWS DETERMINED

6.1 Reference: 20/00453/FUL  
Proposal: Demolition of garage and erection of dwellinghouse  
Site: Garden Ground of Clifton Cottage, High Street, Kirk Yetholm  
Appellant: Mr & Mrs D & C Morrison

Reasons for Refusal: 1. A dwellinghouse on this site would not comply with policy PMD5 of the Local Development Plan 2016 as it would detract from and harm the character and amenity of the surrounding area.  
2. The proposals would not comply with Policy EP9 of the Local Development Plan 2016 in that there would be significantly harmful adverse impacts to Yetholm Conservation Area.

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

Review Decision: Decision of Appointed Officer Upheld

## 7 REVIEWS OUTSTANDING

7.1 There remained One review previously reported on which a decision was still awaited when this report was prepared on 18<sup>th</sup> February 2021. This relates to a site at:

- Land North East of Balcladach,  
Easter Ulston, Jedburgh

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## 8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

## 9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

9.1	Reference:	16/00141/S36
	Proposal:	Variation of condition 2 to extend operational life of wind farm by additional 5 years
	Site:	Fallago Rig 1, Longformacus
	Appellant:	Amec Foster Wheeler Environment & Infrastructure UK Ltd

Reasons for Objection: It would be inappropriate to extend the permission for the existing turbines on the basis of the decision to object to application 16/00145/S36 for the additional 12 turbines.

Reporter's Decision: Sustained

Summary of Decision: Scottish Ministers, varied the consent by changing the wording to allow the application to operate for a period of 30 year.

9.2	Reference:	16/00145/S36
	Proposal:	Erection of 12 additional turbines
	Site:	Fallago Rig 2, Longformacus
	Appellant:	Amec Foster Wheeler Environment & Infrastructure UK Ltd

Reasons for Objection: The proposed development would be contrary to Policy ED9 of the Scottish Borders Local Development Plan in that: a) it would result in unacceptable cumulative visual impacts b) it would be detrimental to the landscape character of the area, resulting in the proposed turbines extending out with the natural confines of the landscape bowl the existing windfarm sits within c) the acceptability of noise impacts on residential receptors were not proven d) the wider economic benefits of the development were not proven, and e) there would be unacceptable adverse impacts on recreational receptors on the Southern Upland Way.

Reporter's Decision: Dismissed

Summary of Decision: Scottish Ministers agreed with the Reporter that the proposed development would provide benefits in relation to helping meet renewable energy targets; associated saving of carbon dioxide emissions; and contributing to the economy through the construction, operation and maintenance of the wind farm. However, the Scottish Ministers consider the proposed development would give rise to significant adverse landscape and visual impacts. Therefore, the Scottish Ministers agree with the Reporter's findings, reasoning and conclusions and refused the application.

## 10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

- 10.1 There remained One S36 PLI previously reported on which a decision was still awaited when this report was prepared on 18<sup>th</sup> February 2021. This relates to a site at:

- Crystal Rigg Wind Farm,  
Cranshaws, Duns

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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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