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## **PLANNING APPEALS & REVIEWS**

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

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

**31<sup>st</sup> May 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: 20/00753/FUL  
Proposal: Erection of 22 dwellinghouses with new access road and associated work  
Site: Land East of Knapdale 54 Edinburgh Road, Peebles  
Appellant: S Carmichael Properties Ltd

Reason for Refusal: Appeal against non-determination of application.

Reason for Appeal: The proposed development is in a sustainable location and fits with the LDP strategy for development and can be considered appropriate in accordance with Policy PMD4 c) for approval in this circumstance.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, David Buylla, concluded that the appeal site lies outside Peebles' development boundary and does not meet all the criteria of SESPlan Policy 7 or Policy PMD4 of the Local development Plan. The Reporter having regard to all of the submitted material, states there is no evidence to support the appellant's claim that the appeal site's location fits with the LDP's strategy for development. On the contrary, the appeal site occupies a location (outside the development boundary) where the LDP is clear that development should only be permitted if justified by exception. The appellant states that the LDP specifically identifies Strategic Growth Areas (SGAs) and that Peebles is in such an area. However, there is no such designation in the LDP or indeed in SESplan. SESplan 2 proposed to indicate broad locations (including Peebles) where strategic growth would be encouraged, but was rejected by Ministers and is not part of the development plan.

### 3.2 Appeal Decision Update

3.2.1 Reference: 20/00067/FUL  
Proposal: Erection of 52 holiday lodges with office, reception/shop and formation of associated roads and parking  
Site: Land North West of Willowdean House, Foulden  
Appellant: Mr and Mrs J & H Tait

Reason for Refusal: The development would be contrary to Policy ED8 - Caravan and Camping Sites of the Scottish Borders Local Development Plan 2016 in that proposed holiday lodges are not of the highest quality, are not in keeping with the local environment and will have an unacceptable adverse impact on local infrastructure, specifically the capacity of local roads. Furthermore the development would be contrary to Policy PMD2 - Quality Standards of the Scottish Borders Local Development Plan 2016 in that the scale, massing and density of the proposed holiday lodges is not appropriate to their surroundings, would not be compatible with or respect the character of the surrounding area and would lead to overdevelopment of the site. The proposed holiday lodges would result in an unacceptable form of development inconsistent with the landscape characteristics of the surrounding area and would lead to unacceptable adverse impacts on pedestrian and road safety.

Reason for Appeal: The development described in this Appeal constitutes sustainable, high quality development in accordance with Scottish Planning Policy. It is also the case that the development accords with the Scottish Borders Local Development Plan (2016). Having regard to the Development Plan, the Appellant considers that the proposed development is in keeping with and respects the local environment in accordance with Policy ED8 and other relevant national and local planning policies. The scale, massing and density of the proposed development is acceptable and respects the character of the area in accordance with Policy PMD2 and other relevant national and local planning policies. The proposed development would not have an unacceptable impact on local infrastructure or the capacity of local roads in accordance with Policy ED8 and other relevant national and local planning policies. The proposed development would not give rise to unacceptable impacts on pedestrian and road safety.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Stephen Hall, looked at all aspects of the development and stated as follows. Principle of Development - while the proposed development would appear to be of a type favoured in principle by Policy ED8A, it is not in a location favoured by the policy. Landscape and Visual Impact - Mainly due to its location rather than its design, the proposal would not be of the highest quality in landscape and visual terms, and would be out of keeping with the local environment, in contravention of Policy ED8A(a). In terms of Policy PMD2 the proposal would also not fully respect the character of the surrounding area. Road Safety - Concerns raised by the council and in some representations are overstated. The proposal complies with Policy PMD2(q), in being acceptable in terms of its impact on road safety. Nunlands House - A Category B listed building located in mature grounds immediately to the north of the appeal site, would not be adversely affected by the proposed low rise development. The proposed layout also avoids placing lodges in the corner of the field closest to Nunlands House. The proposal is therefore compliant with Policy EP7. Foulden Conservation Area - The proposed lodges would be visible from a section of the roadside pavement and some upper north-facing windows within the conservation area. However, there would be a separation distance of over 500 metres with intervening open fields and mature hedgerows. There would not be any significant negative impact on the conservation area. Policy ED10 - The appeal site is located on prime agricultural land, though it has not been used for agriculture for some time. The restoration of the land would be more straightforward than for some types of development, and some form of farming (e.g. grazing) could theoretically still take place around the concrete pads. While the Reporter considers the proposal to be contrary to Policy ED10, this might not on its own have been sufficient justification to refuse permission had other elements of the plan indicated that the development should be approved. Policy ED8 - For developments to be of the highest quality is clearly a strict test. While it is clear that the local development plan envisages some new caravan sites being acceptable, the main factors appear to be the benefits that may accrue to the local economy and the avoidance where possible of countryside locations. The reporter considered the opportunities to benefit the local economy to be limited (largely due to the absence of facilities in Foulden), and the countryside location to be non-compliant with the expectations of Policy ED8. Screening Report - The proposed development has some connectivity to the River Tweed Special Area of Conservation (SAC). The report stated that the proposed development may lead to temporary and long term impact through sediment run-off, pollution, sewerage, increase in flows, and in the absence of mitigation there could be a likely significant effect. However, NatureScot stated that the standard procedures for maintaining good water quality on a development site are sufficient to address concerns regarding the River Tweed SAC, and that it did not consider that the application would have a likely significant effect on the SAC. The Reporter is satisfied that no appropriate assessment was required under the Habitat Regulations. The Reporter concluded that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. He considered all the other matters raised, but there were none which would lead him to alter his conclusions.

### 3.3 Enforcements

Nil

### 3.4 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 20<sup>th</sup> May 2021. This relates to a site at:

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| <ul style="list-style-type: none"><li>Land West of 8 Ballantyne Place, Peebles</li></ul> | <ul style="list-style-type: none"><li></li></ul> |
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## 5 REVIEW REQUESTS RECEIVED

5.1 Reference: 20/00962/FUL  
Proposal: Replacement windows and door  
Site: Linden, Causewayend, Ancrum, Jedburgh  
Appellant: Mr John Szkudro

Reason for Refusal: The use of uPVC for the replacement windows and the design and specification of the door fail to comply with Policies PMD2 and EP9 of the Scottish Borders Council Local Development Plan 2016, and with the advice contained within the Replacement Windows and Doors SPG (2015), in that their appearance would result in an adverse visual impact on the character of the building and would be detrimental to the character and appearance of the Ancrum Conservation Area, including the Area of Prime Frontage.

5.2 Reference: 20/01350/PPP  
Proposal: Erection of dwellinghouse with associated access  
Site: Site East of Dogcraig Cottage Scotsmill, Peebles  
Appellant: Lady Angela Buchan Hepburn

Reasons for Refusal: 1. The development would be contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would not relate sympathetically to an existing building group and would comprise sporadic development in a linear manner alongside the public road in a countryside location and no overriding case for a dwellinghouse on the site has been substantiated. This conflict with the development plan is not overridden by other material considerations. 2. The development would be contrary to policy PMD2 of the Local Development Plan 2016 in that it would fail to ensure there is no adverse impact on road safety, including but not limited to the site access. This conflict with the development plan is not overridden by other material considerations.

5.3 Reference: 21/00045/FUL  
Proposal: Erection of dwellinghouse

Site: Land East of The Bungalow Edington, Chirnside  
Appellant: Mr M Singh

Reason for Refusal: The development would be contrary to policy HD2 of the Local Development Plan 2016 and the New Housing in the Borders Countryside Supplementary Planning Guidance 2008 in that it would not be well related to an existing building group of at least three houses or buildings currently in residential use or capable of conversion to residential use and would comprise sporadic development in a prominent countryside location. In addition no overriding case for a dwellinghouse on the site has been substantiated. This conflict with the Local Development Plan is not overridden by any other material considerations.

5.4 Reference: 21/00285/PPP  
Proposal: Erection of dwellinghouse  
Site: Land West of The Old Barn Westwater, West Linton  
Appellant: Mr Charles Bruce

Reason for Refusal: The development would be contrary to policy HD2 of the Local Development Plan 2016 in that the development would exceed the limitations of the group during the current Local Development Plan period. No overriding case for a dwellinghouse on the site has been substantiated. This conflict with the development plan is not overridden by other material considerations.

## 6 REVIEWS DETERMINED

6.1 Reference: 20/01234/FUL  
Proposal: Erection of boundary fence (retrospective)  
Site: 1 Raeburn Lane, Selkirk  
Appellant: Mr Josh Welsh

Reason for Refusal: The development would be contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 in that it would represent a prominent and incongruous form of development that would have an adverse impact on the character and appearance of the surrounding area. This conflict is not overcome by other material considerations.

Method of Review: Review of Papers

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 20<sup>th</sup> May 2021. This relates to a site at:

- Angling Club, 5 Sandbed, Hawick

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## 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 one S36 PLI previously reported on which a decision was still awaited when this report was prepared on 20<sup>th</sup> May 2021. This relates to a site at:

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| <ul style="list-style-type: none"><li>• Crystal Rigg Wind Farm, Cranshaws, Duns</li></ul> | <ul style="list-style-type: none"><li>•</li></ul> |
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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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