
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

28th June 2021

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

- 2.1.1 Reference: 20/01544/ADV
Proposal: Installation of bill board signage
Site: Lidl UK GmbH, Wilton Path, Hawick
Appellant: Lidl UK GmbH

Reason for Refusal: The proposal fails to comply with criteria b) of Policy IS16 and criteria i) and k) of Policy PMD2 of the Scottish Borders Council Local Development Plan 2016, in that the scale and billboard design of the proposal is not in keeping with the character and visual amenity of the surrounding residential area where the sign will be visible from. The proposal would, therefore, have an unacceptable adverse impact on the amenity of the area.

Reason for Appeal: The Town & Country Planning Act Control of Advertisement (Scotland) Regulations (1984) limits the exercise of powers for the control of advertisements solely in the interests of amenity and public safety. There is no suggestion from the planning authority in either the Report of Handling (C1) or in the reason for refusal (C2) that the proposal raises any concerns in terms of public safety. In terms of road safety this is reinforced in the consultation response from SBC Roads Planning Service (B1) which only considers the original proposals for illuminating the sign and, even with this, no objection was raised provided that a condition was imposed limiting the luminance of the proposed lighting. As noted above, this aspect of the proposal has been withdrawn and such a condition would not be necessary. There is no suggestion that this proposal has any effect on pedestrian or vehicular safety as a result of its size or location. The focus of these grounds of appeal is therefore concerned with the impact of the proposed advertisement on amenity.

Method of Appeal: Written Representations

2.2 Enforcements

2.2.1 Reference: 20/00198/UNDEV
Proposal: Enlargement of garden and erection of sheds and drinking hut
Site: 1 Broad Street, Eyemouth
Appellant: Martin & Jemma Landels

Reason for Notice: It appears to the Council that the above breach of planning control has occurred within the last 4 years. An area of open amenity land owned by Scottish Borders Council has been enclosed with a boundary fence and used as garden ground. The boundary fence is in excess of 1 metre in height within 20 metres of a road. The fence does not benefit from any permitted development. Two timber sheds have been erected on the land without the benefit of planning permission.

Grounds of Appeal: The Appellants have correspondence emails from SBC that show that they were advised to apply for planning permission and leave all structures up while doing so. They would like the outcome to be to go ahead with the planning application.

Method of Appeal: Written Representations

2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

3.1.1 Reference: 20/00691/FUL
Proposal: Erection of two dwellinghouses and removal of Condition No 4 from Planning Consent 02/01783/FUL
Site: Land West of 8 Ballantyne Place, Peebles
Appellant: Mr Rob Begg

Reasons for Refusal: 1. The development would be contrary to Policy EP11 - Protection of Greenspace of the Scottish Borders Local Development Plan 2016 in that the erection of two houses on this site would result in the permanent loss of green space to the detriment of the amenity and character of the surrounding area. The loss of the green space would be contrary to Condition 4 of planning consent 02/01783/FUL which requires the layout of the wider development site to make adequate provision for a play area(s), and it has not been adequately demonstrated that the development would outweigh the need to retain this open space. 2. The development would be contrary to Policy PMD5 - Infill Development of the Scottish Borders Local Development Plan 2016 in that the erection of two houses would result in over development of the site. The development would result in the permanent loss of an area of green space to the detriment of the character and amenity of the surrounding area. 3. The development would be contrary to Policy PMD2 - Quality Standards of the Scottish Borders Local Development Plan 2016 in that the erection of

two houses on this site would not respect the character of the surrounding area. The development of this site would result in the permanent loss of meaningful green space.

Reason for Appeal: The appeal has been carefully considered by planning professionals and found to be approvable subject to standard conditions.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter states that the main issue in this appeal is the effect that developing the appeal site would have on the character, appearance and amenity of Ballantyne Place and the wider conservation area. The concludes that the proposal would conflict with the second criterion of Policy PMD5 due to the harm that would be caused to the character and amenity of the surrounding area by the loss of this open amenity space. The proposal would also result in the loss of 'meaningful open space' contrary to Policy PMD2. Policy HD3 aims to protect the amenity of both established residential areas and proposed housing developments. The principle of developing this open space is contrary to this policy due to the adverse impact it would have on the amenity of the existing development. Policy EP11 aims to prevent unjustified piecemeal loss of open space. The Reporter finds no demonstrable social, economic or community justification for its loss or evidence that outweighs the need to retain the only area of open space within Ballantyne Place. The proposals are therefore contrary to Policy EP11. The Reporter finds no conflict with Policy EP9, concluding that the development would harm the character and appearance of Ballantyne Place, but would not expect the effect on the wider conservation area as a whole to be materially adverse. [Please see the DPEA Website for the full Appeal Decision Notice](#)

3.2 Enforcements

Nil

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained no appeals previously reported on which decisions were still awaited when this report was prepared on 18th June 2021. This relates to sites at:

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 21/00030/PPP
Proposal: Erection of dwellinghouse with outbuildings and associated work including new access
Site: Land South West of Rachan Woodlands, Broughton
Appellant: Mr J Warnock

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 no overriding case for a dwellinghouse on the site has been substantiated. The applicant has failed to demonstrate that there exists no appropriate site within a building group and there is no suitable existing house or other building capable of conversion for the required residential use 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 EP4 of the Local Development Plan 2016 in that it is likely to have a significant adverse effect on the qualities for which the site and its surroundings have been designated and no overriding case for a dwellinghouse on this site within the Upper Tweeddale National Scenic Area has been substantiated. This conflict with the development plan is not overridden by other material considerations. 3. The development would be contrary to policy EP10 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that proposed house is not carefully sited and is not informed by and respectful of the historic landscape structure. No overriding case for a dwellinghouse on this site within the locally designated Rachan designed landscape has been substantiated. This conflict with the development plan is not overridden by other material considerations.

6 REVIEWS DETERMINED

6.1 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.

Method of Review: Review of Papers & Further Written Submissions

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions)

6.2 Reference: 21/00045/FUL
Proposal: Erection of dwellinghouse
Site: Land East of The Bungalow Edington, Chirside
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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

7 REVIEWS OUTSTANDING

7.1 There remained 3 reviews previously reported on which decisions were still awaited when this report was prepared on 18th June 2021. This relates to sites at:

<ul style="list-style-type: none">Linden, Causewayend, Ancrum, Jedburgh	<ul style="list-style-type: none">Site East of Dogcraig Cottage Scotsmill, Peebles
<ul style="list-style-type: none">Land West of The Old Barn Westwater, West Linton	<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 one S36 PLI previously reported on which a decision was still awaited when this report was prepared on 18th June 2021. This relates to a site at:

<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)

Name	Designation and Contact Number
Laura Wemyss	Administrative Assistant (Regulatory) 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