
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

4th October 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: 21/00958/CLPU
Proposal: Certifying the proposed use for short stay commercial letting
Site: Greenloaning, The Loan, West Linton
Appellant: Michael Gerrard Cameron

Reason for Refusal: The council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines that the development is not authorised in accordance with the particulars given in the application.

Reasons for Appeal: The appellant seeks a certificate of lawfulness of proposed use certifying that the proposed use of the property for "short stay commercial visitor accommodation" (1) does not amount to a material change of use subject to the property being used for this proposed use for not more than 38% of the time or for 20 weeks in any calendar year and (2) on the basis of (1) such a proposed use is not a breach of the enforcement notice.

[Please see the DPEA Website for the Appeal Documents](#)

Method of Appeal: Written Representations

2.2 Enforcements

Nil

2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

3.1 Planning Applications

Nil

3.2 Enforcements

Nil

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 23rd September 2021. This relates to sites at:

• 1 Broad Street, Eyemouth

• Rowanside, The Row,
Longformacus, Duns

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 21/00074/FUL
Proposal: Alterations and extension to dwellinghouse
Site: Whinfield, Chesters Brae, Chesters, Hawick
Appellant: Mr Ehsan Alanizi

Reason for Refusal: The proposal would be contrary to criteria h), i) and k) of Policy PMD2 of the Local Development Plan 2016 in that the scale, massing and height of the proposed extension is not appropriate to the existing building and does not respect its sense of place or contribution to the character and appearance of the rural area.

5.2 Reference: 21/00839/PPP
Proposal: Erection of dwellinghouse, formation of new access and associated work
Site: Plot 1 Site Adjacent Stroma, Charlesfield Industrial Estate, St Boswells
Appellant: Mr Trevor Jackson

Reason for Refusal: The development is contrary to Policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside in that it would constitute new housing in the countryside that would be poorly related to an established building group, which is deemed to be complete and not suitable for further additions. The erection of a dwellinghouse on this site would constitute backland development out of keeping with the linear character of the building group and would have an inappropriate impact on the setting of the group and sense of place. In addition, the proposal would bring a

residential use closer to the industrial uses within Charlesfield Industrial Estate resulting in a conflict of uses, potentially detrimental to residential amenities, contrary to policy HD3.

5.3 Reference: 21/00840/PPP
 Proposal: Erection of dwellinghouse, formation of new access and associated work
 Site: Plot 2 Site Adjacent Stroma, Charlesfield Industrial Estate, St Boswells
 Appellant: Mr Trevor Jackson

Reason for Refusal: The development is contrary to Policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside in that it would constitute new housing in the countryside that would be poorly related to an established building group, which is deemed to be complete and not suitable for further additions. The erection of a dwellinghouse on this site would constitute backland development out of keeping with the linear character of the building group and would have an inappropriate impact on the setting of the group and sense of place. In addition, the proposal would bring a residential use closer to the industrial uses within Charlesfield Industrial Estate resulting in a conflict of uses, potentially detrimental to residential amenities, contrary to policy HD3,

6 REVIEWS DETERMINED

6.1 Reference: 21/00624/PPP
 Proposal: Erection of dwellinghouse
 Site: Land East of Renton Bush, Reston
 Appellant: Aver Chartered Accountants

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 there is no building group at this location and no other case for a dwellinghouse at this location has been presented. The proposed development would comprise sporadic development in a countryside location. 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 5 reviews previously reported on which decisions were still awaited when this report was prepared on 23rd September 2021. This relates to sites at:

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| • Penvalla, Broughton | • 3 Rowan Court Suite 3, Cavalry Park, Peebles |
| • Slaters Yard off Charlesfield Road, St Boswells | • Land Adjacent Carnlea, Main Street, Heiton |
| • Land South of Crunzion Cottage, Earlston Road, Stow, Galashiels | • |

8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

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| 9.1 | Reference: | 18/00768/S36 |
| | Proposal: | Erection of 11 turbines, 4 No turbines up to 149.9m high to tip, 3 No turbines 174.5m high to tip, and 4 No turbines 200m high to tip and associated works |
| | Site: | Crystal Rigg Wind Farm, Cranshaws, Duns |
| | Appellant: | Crystal Rig IV Limited |

Reasons for Objection: 1. Adverse Visual Impact - The proposed development would be contrary Local Development Plan Policy ED9 in that the visual impact of red aviation lights fitted to the nacelles of seven of the eleven turbines would introduce lighting, whose purpose is to draw attention to the development, with an industrial appearance which would be incongruous and visible from a considerable distance from the development. This is incompatible with the visual amenity of the dark rural environment largely unaffected by artificial light, which is experienced by receptors travelling on public roads and paths within the Eastern and Central Borders in hours of darkness and would also increase the prominence of this wind farm environment from these affected routes at times of dusk and dawn. 2. Impact on Landscape Character - The proposed development would be contrary Local Development Plan Policy EP5 in that the location of red aviation lights on an elevated location within the Lammermuir Hills would adversely affect the night time character of the Lammermuir Hills Special Landscape Area by industrialising the dark rural environment which would be experienced by receptors travelling on roads and paths within the SLA. 3. Advisory Note - Should the development be considered for approval, then conditions and the need for a Legal Agreement have been identified covering a number of different aspects including noise limits, roads matters, ecology and archaeology.

Reporter's Decision: Sustained

Summary of Decision: The Reporters, Karen Heywood and Andrew Sikes, concluded that the proposed development attracts considerable support from current UK and Scottish Government energy policy and international agreements and would make a meaningful contribution towards meeting UK and Scotland's renewable energy and emissions reduction targets; the proposed development would comply with the adopted local development plans for each council area; the presence of 145 operational turbines has irretrievably altered the landscape character of the area. While the proposed development would give rise to some adverse effects, within this context, the predicted effects would not be unacceptable; the proposed visible aviation lighting scheme has been approved by the Civil Aviation Authority and complies with the current international and UK regulatory framework; the proposed aviation lights would give rise to some significant effects when seen from certain viewpoints, however, the likelihood of people being present at the viewpoints at night is low and the transient nature of the views when moving through the landscape would result in the effects of the proposed lights being experienced for a short time only; very few people would be

affected by visibility of the aviation lights to a significant extent, including those living in the small number of residential properties located within, or just beyond, the 3 kilometre study area; and, with embedded mitigation measures proposed as part of the development, and others secured by condition, there would be no other significant residual effects. Scottish Ministers agreed with the reporters and grant section 36 consent. [Please see the DPEA Website for the full Appeal Decision Notice](#)

10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained no S36 PLIs previously reported on which decisions were still awaited when this report was prepared on 23rd September 2021.

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.

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