
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

6th December 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

Nil

- 2.2 Enforcements

Nil

- 2.3 Works to Trees

Nil

3 APPEAL DECISIONS RECEIVED

- 3.1 Planning Applications

- 3.1.1 Reference: 21/00338/LBC
Proposal: Replacement windows
Site: Rowanside, The Row, Longformacus, Duns
Appellant: Mr Mark Latto

Reason for Refusal: The replacement uPVC windows to the principal elevation would be discordant and incongruous features that would adversely impact upon the special character and appearance of the listed building. The proposal would have an adverse impact on the Rowanside and it would not preserve or enhance the architectural or historic interest of the listed building. The proposal is contrary to Policy EP7 of the Scottish Borders Local Development Plan 2016 and the Council's Supplementary Planning Guidance 'Replacement Windows and Doors 2015'.

Reasons for Appeal: 1. Riverside Cottage less than 100m from property, also a Grade C Listed building, has had the same windows fitted. 2. Would like all new windows to be of the same construction throughout to bring Rowanside back to an original look for period. 3. The rear of the property has no direct sunlight causing the wooden window's to rot, not lasting as long as PVC options. 4. All windows in the properties along The Row are of mixed styles and materials. The Appellant wishes to fit durable windows in the correct style for the property. 5. Agent has stated that wooden windows will be 3 times more expensive with less life expectancy. Honey House, next door had new windows fitted 2 years ago which have split. Appellant feels that wooden windows will not last as long and therefore have a bigger impact on the environment.

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

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Amanda Chisholm, dismissed the appeal concluding that the proposed replacement windows and door on the rear elevation of the appeal property would introduce change to the façade of the listed building but that this change would not adversely affect its features of interest. However, the proposed use of uPVC would adversely affect the property's features of special architectural or historic interest and would not serve to preserve the listed building and its setting.

[Please see the DPEA Website for the full Appeal Decision Notice](#)

3.2 Enforcements

3.2.1 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 & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The appellants contend that the site boundary of the plan referred to in the enforcement notice extends beyond the area of land recently enclosed. The council does not dispute the claims of the appellant and has provided an updated plan to clarify the extent of the site to be reinstated. The appellants have been provided with a copy of this

plan and have raised no concerns with regards to its accuracy. The reporter has therefore dismissed the appeal and directs that the enforcement notice dated 28th April 2021 be upheld, subject to the replacement of the original site plan with the updated plan.

[Please see the DPEA Website for the full Appeal Decision Notice](#)

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 24th November 2021. This relates to a site at:

• Greenloaning, The Loan, West Linton	•
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5 REVIEW REQUESTS RECEIVED

5.1 Reference: 21/00448/FUL
Proposal: Change of use of amenity land to garden ground and erection of bike/log store (retrospective)
Site: Land East of 15 Howdenburn Court, Jedburgh
Appellant: Mr Lee Albert Tickhill

Reason for Refusal: The development is not in accordance with Policy PMD2 (Quality Standards) of the Local Development Plan 2016 in that the structure obstructs visibility on this corner and it is in close proximity to passing vehicles, adversely impacting on road safety. In addition, the siting of the structure within the road verge prevents new services from being installed and access for maintenance of existing services placed within the verge. Granting permission would set a dangerous precedent for similar structures in the road verge in the locale.

5.2 Reference: 21/00502/FUL
Proposal: Modification of Condition 2 of planning permission 12/01191/PPP in respect of extension to period of permission
Site: Land North East of Buxton House, Buxton Road, Selkirk
Appellant: Mr Hugh and Violet Lovatt

Reason for Refusal: The proposed development is contrary to Policy HD2 of the Scottish Borders Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that the application site does not constitute an appropriate addition to the building group at Buxton. Furthermore, given the site is currently for sale, any other material considerations, including the applicant's personal circumstances, do not override this policy conflict.

5.3 Reference: 21/00726/PPP
Proposal: Erection of dwellinghouse

Site: Plot 5 Land South West of Hume Bank, Hume Hall Holdings, Greenlaw
Appellant: Mrs C Redpath

Reason for Refusal: The proposed development would be contrary to Policy HD2 and Policy ED10 of the Scottish Borders Local Development Plan 2016, as well as the Council's adopted Supplementary Planning Guidance 'New Housing in the Borders Countryside 2008' in that it would not relate well to an existing building group, it would break into an undeveloped field and the application site would be disproportionately large within this context and so the development would be detrimental to the character of the building group. In addition, the development would result in the permanent loss of prime quality agricultural land.

5.4 Reference: 21/00727/PPP
Proposal: Erection of dwellinghouse
Site: Plot 4 Hume Bank Hume Hall Holdings, Greenlaw
Appellant: Mrs C Redpath

Reason for Refusal: The proposed development would be contrary to Policy HD2 and Policy ED10 of the Scottish Borders Local Development Plan 2016, as well as the Council's adopted Supplementary Planning Guidance 'New Housing in the Borders Countryside 2008' in that it would not relate well to an existing building group, it would break into an undeveloped field and the application site would be disproportionately large within this context and so the development would be detrimental to the character of the building group. In addition, the development would result in the permanent loss of prime quality agricultural land.

5.5 Reference: 21/00836/FUL
Proposal: Siting of mobile catering truck and alterations to existing access
Site: Land at Station Yard, Traquair Road, Innerleithen
Appellant: Mr Gordon Bain

Reasons for Refusal: 1. The proposed development would be contrary to Policies PMD3, ED1 and ED3 of the Local Development Plan 2016 in that it would comprise the loss of employment land during the period of consent for the catering truck, thus prejudicing the availability of business and industrial land within the allocated employment land site. Furthermore, it would likely divert trade from the allocated town centre, thus undermining its vitality and viability. The resulting impacts would potentially have adverse economic implications, and these would not be sufficiently overcome by any other material considerations. 2. The proposed development would be contrary to Policy HD3 of the Local Development Plan 2016 in that the comings and goings and congregation of customers would potentially undermine the amenity of neighbouring property. The resulting impact would have potentially significant amenity implications, and these would not be sufficiently overcome by any other material considerations.

5.6 Reference: 21/00965/FUL
Proposal: Erection of glazed covered pergola to existing outside seating area (part retrospective)
Site: Waterloo Arms, Chirnside, Duns
Appellant: Waterloo Arms

Conditions Imposed: 1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority. Reason: To ensure that the development is carried out in accordance with the approved details. 2. Permission is granted for a limited period of 3 months from the date of this consent. Thereafter, the pergola structure shall be dismantled and removed from the site within one week of the expiry of this period, unless a planning application to retain the development has been submitted to and approved by the Planning Authority. Reason: It would be harmful to residential amenity to allow the development to remain indefinitely.

5.7 Reference: 21/00999/PPP
Proposal: Erection of dwellinghouse and formation of new access
Site: Plot 1 Land North of Cakemuir House, Nenthorn
Appellant: Mr and Mrs Forster

Reasons for Refusal: 1. The proposal is contrary to policy HD2 of the Scottish Borders Local Development Plan 2016, and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Planning Guidance 2008, in that the site is not within or well related to a building group and would unacceptably adversely impact the landscape and visual amenity of the surrounding area. 2. The proposal is contrary to policy PMD1 of the Local Development Plan 2016 in that it would present itself as ribbon development contrary to the sustainable use and management of land. 3. The proposal is contrary to Policy PMD2 of the Local Development Plan 2016, in that the site is not compatible with or respects the character of the surrounding area or building group.

5.8 Reference: 21/01000/PPP
Proposal: Erection of dwellinghouse and formation of new access
Site: Plot 2 Land North of Cakemuir House, Nenthorn
Appellant: Mr and Mrs Forster

Reasons for Refusal: 1. The proposal is contrary to policy HD2 of the Scottish Borders Local Development Plan 2016, and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Planning Guidance 2008, in that the site is not within or well related to a building group and would unacceptably adversely impact the landscape and visual amenity of the surrounding area. 2. The proposal is contrary to policy PMD1 of the Local Development Plan 2016 in that it would present itself as ribbon development contrary to the sustainable use and management of land. 3. The proposal is contrary to Policy PMD2 of the Local Development Plan 2016, in that the site is not compatible with or respects the character of the surrounding area or building group.

5.9 Reference: 21/01012/FUL
Proposal: Erection of summer house and formation of off street parking (retrospective)
Site: 2 Winston Road, Galashiels
Appellant: Mr Conrad Campbell

Reason for Refusal: The summerhouse is contrary to Policies PMD2 and HD3 of the Local Development Plan 2016 in that it occupies a prominent and obtrusive location, and its siting has an unacceptable adverse visual impact on the character of the area. There are no other material

considerations that are sufficient to overcome the adverse visual impact resulting from this part of the proposed development

5.10 Reference: 21/01257/FUL
Proposal: Erection of dwellinghouse
Site: Garden Ground of Kilknowe House, East End, Earlston
Appellant: Mr A Elliot

Reason for Refusal: The proposal is contrary to policy IS8 of the Local Development Plan 2016 in that the site is at significant risk of flooding and allowing a dwellinghouse to be erected on this site would put persons and property at risk of flooding. In addition, access and egress could not be safely achievable during a flood event.

6 REVIEWS DETERMINED

6.1 Reference: 20/01620/PPP
Proposal: Erection of 4 no dwellinghouse with associated infrastructure and access
Site: Land South of Crunzion Cottage, Earlston Road, Stow, Galashiels
Appellant: Mr Bruce Weir

Reason for Refusal: The development would be contrary to Policy PMD4 of the Local Development Plan 2016 in that it would be located outside the settlement boundary of the village and does not meet the exceptions contained within Policy PMD4, particularly in that strong reasons have not been given to demonstrate that there is a shortfall identified by the Council through the housing land audit with regard to the provision of an effective five year housing land supply. Furthermore, it would not represent a logical extension of the built-up area and would not be sympathetic to the character of the settlement or achieve visual cohesion with it. The resulting development would have an unacceptably adverse effect on the character of the settlement at this location, thus also conflicting with Policy PMD2 of the Local Development Plan 2016. This conflict with the Local Development Plan is not overridden by other material considerations

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.2 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.

Method of Review: Review of Papers

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

6.3 Reference: 21/00137/FUL
Proposal: Erection of ancillary accommodation to dwellinghouse and installation of 12 KW ground mounted solar array
Site: Penvalla, Broughton
Appellant: Mr Bradley Clarke

Conditions Imposed: 1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the planning authority. Reason: To ensure that the development is carried out in accordance with the approved details. 2. The development hereby approved shall remain as permanent ancillary accommodation to the principal dwelling (known currently as Penvalla) and shall be occupied only by persons of the same household. There shall be no subdivision of this single residential planning unit and it shall not be used for independent residential or holiday rental purposes. Reason: The planning authority considers that the development hereby permitted is the maximum that can be reasonably allowed without causing detriment to infrastructure provision and an intensification of use of the road/access by increased vehicle movements would not be appropriate in this location. 3. No development shall be commenced until a detailed 'method statement' in relation to all works within the root protection area (RPA) of retained trees has been submitted to and approved in writing by the planning authority. Specific issues to be dealt with in the method statement: a) A scaled plan (minimum of 1:200) showing the position, size, RPA, species and unique identification reference of each retained tree affected by the works and including details of the extent and nature of all works within the RPA of retained trees. The Tree Protection Plan (as required in BS 5837:2012) to be submitted should show location of all tree protection in relation to the proposed development, fencing and with hatching or other to show ground protection and there should be a statement about hand digging only within RPAs - when excavations are absolutely necessary; b) a written statement detailing the proposed works including hand digging, use of filter cloth, timber edging, cellular ground reinforcement, porous surfaces etc. as relevant; c) a specification for protective fencing to safeguard trees during the construction phases and a plan indicating the alignment of the protective fencing; d) a specification for ground protection within RPAs. The development thereafter shall be implemented in strict accordance with the approved details. Reason: To ensure that the trees to be retained and which are of value to the national scenic area will not be damaged during construction operations. 4. No development should commence until evidence has been provided to the planning authority that the ancillary building is to be connected to the public water supply and foul drainage system, unless otherwise agreed in writing with the planning authority. Thereafter, the ancillary building shall not be occupied until the connections are made to those networks. Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and to ensure that the development does not have a detrimental effect on amenity and public health.

Method of Review: Review of Papers & Further Written Submissions

Review Decision: Decision of Appointed Officer Overturned (Varied condition)

6.4 Reference: 21/00486/FUL
Proposal: Part Change of Use of ground floor to Class 10 and alterations to form additional office space from attic floor
Site: 3 Rowan Court Suite 3, Cavalry Park, Peebles
Appellant: Mr Stephen Lamb

Reason for Refusal: The development would be contrary to policies ED1 and PMD3 of the Local Development Plan 2016 in that the use as a day centre for the elderly (falling within class 10 of The Town and Country Planning (Use Classes)(Scotland) Order 1997) would not be a commercial activity that would be complementary or ancillary to the Cavalry Park Strategic High Amenity Site and would result in the loss of high quality office accommodation and its replacement with potentially less attractive accommodation. This would not serve to protect the business park adequately for employment purposes. This conflict with the Development Plan is not overridden by other material considerations.

Method of Review: Review of Papers & Further Written Submissions

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

6.5 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions and a Legal Agreement)

6.6 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.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions and a Legal Agreement)

7 REVIEWS OUTSTANDING

7.1 There remained 3 reviews previously reported on which decisions were still awaited when this report was prepared on 24th November 2021. This relates to sites at:

<ul style="list-style-type: none"> Slaters Yard off Charlesfield Road, St Boswells 	<ul style="list-style-type: none"> Land Adjacent Carnlea, Main Street, Heiton
<ul style="list-style-type: none"> Whinfield, Chesters Brae, Chesters, Hawick 	<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 no S36 PLI previously reported on which a decision was still awaited when this report was prepared on 24th November 2021.

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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