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## **PLANNING APPEALS & REVIEWS**

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

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## **PLANNING AND BUILDING STANDARDS COMMITTEE**

**13<sup>th</sup> June 2022**

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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

- 2.1.1 Reference: 21/01440/LBC  
Proposal: Replacement windows  
Site: 18 - 19 Slitrig Crescent, Hawick  
Appellant: Mr Bryce Crawford

Reason for Refusal: The proposed replacement windows would be contrary to Policy EP7 of the Local Development Plan 2016 and SPG Replacement Windows and Doors 2015 in that their material, opening method and specifications would detract from the special architectural and historic interest of the Listed Building.

Reasons for Appeal: Most of the current windows are single glazed, some are painted shut, missing the necessary cords and ironmongery to open and in an unsuitable position to be able to open safely or the wood has rotten. All the windows have excessive amounts of condensation on the inside most days with some showing mould growths. The uPVC windows proposed would mimic timber in every way, would help reduce CO2 emissions and would alleviate health and security concerns.

[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 no appeals previously reported on which decisions were still awaited when this report was prepared on 1<sup>st</sup> June 2022.

### **5 REVIEW REQUESTS RECEIVED**

- 5.1 Reference: 21/01068/FUL  
Proposal: Replacement windows  
Site: Craigard, Canongate, Denholm  
Appellant: Mr & Mrs M J Fox

Review against non-determination of Application.

- 5.2 Reference: 21/01283/PPP  
Proposal: Erection of dwellinghouse  
Site: Land South East of Hardens Hall, Duns  
Appellant: Duns Golf Club

Reason for Refusal: The proposed development is contrary to Policy PMD4 and Policy HD2 of the Scottish Borders Local Development Plan 2016 in that the proposed development, at the location identified, would have an adverse impact upon the composition and quality of the landscape character as the application site would be visually detached from the settlement of Duns and it would not relate to an existing building group within the countryside. The proposed development would erode the integrity of the development boundary for the settlement of Duns. Furthermore, the proposed development would fail to comply with Policy PMD2 in that there is no infrastructure to support pedestrian movements between the application site and the settlement of Duns, which would adversely impact upon pedestrian safety.

- 5.3 Reference: 21/01421/PPP  
Proposal: Erection of dwellinghouse  
Site: Land North East of Woodend Farmhouse, Duns  
Appellant: Mr John and Mrs Louise Seed

Reasons for Refusal: 1. The development is contrary to Policy HD2 (A) of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside 2008 in that it would constitute piecemeal, sporadic new housing development in the countryside that would be poorly related to an established building group, outwith the sense of place within a previously undeveloped field and beyond the defined boundaries of the building group. The proposal would be out of keeping with the character of the building group, resulting in an unacceptable adverse impact on the landscape and visual amenities of the surrounding area. 2. The development is contrary to Policy HD2 (F) of the Local Development Plan 2016 in that the need for a house for a retiring farmer has not been adequately substantiated and it has not been adequately demonstrated that no other sites exist within the building group and that no suitable existing house or buildings capable of conversion are available for the intended use. This conflict with the development plan is not overridden by other material considerations. 3. The development is contrary to Policy ED10 of the Local Development Plan 2016 as the site is within a cultivated agricultural field and the development would result in the permanent loss of prime quality agricultural land, which is a valuable and finite resource.

- 5.4 Reference: 21/01439/FUL  
 Proposal: Replacement windows  
 Site: 18 - 19 Slitrig Crescent, Hawick  
 Appellant: Mr Bryce Crawford

Reason for Refusal: The proposed replacement windows would be contrary to Policy EP9 of the Local Development Plan 2016 and SPG Replacement Windows and Doors 2015 in that their material, opening method and specifications would detract from the special character and appearance of the Conservation Area.

- 5.5 Reference: 21/01588/FUL  
 Proposal: Erection of dwellinghouse  
 Site: Land South West of Windrush Highend, Hawick  
 Appellant: Mr Hamad Aloswadain

Reason for Refusal: The development is contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that the proposal is not well related to an existing building group of at least three houses and no overriding economic case has been made that a house is required in this isolated location for essential rural business purposes.

- 5.6 Reference: 21/01846/PPP  
 Proposal: Erection of two dwellinghouses  
 Site: Land North of Ivanhoe, Dingleton Road, Melrose  
 Appellant: Rivertree Residential Ltd

Review against non-determination of Application.

- 5.7 Reference: 21/01909/FUL  
 Proposal: Erection of dwellinghouse  
 Site: Garden Ground of Greenrig, Blair Avenue, Jedburgh  
 Appellant: Mr Laurie Bunyan

Reason for Refusal: The proposal would be contrary to Policies PMD2 and PMD5 of the Local Development Plan 2016 and Supplementary

Planning Guidance: Placemaking and Design 2010 in that it would result in development which is out of keeping with the character of the existing development pattern and would represent over-development and town cramming to the detriment of the amenity and character of the surrounding area.

- 5.8    Reference:                    21/01982/FUL  
      Proposal:                    Change of use from agricultural store, alterations and extension to form dwellinghouse with garage  
      Site:                         The Blue House near Swansfield Farm, Reston, Eyemouth  
      Appellant:                  Mr Graeme Forsyth

Reason for Refusal:    The proposed dwellinghouse would be contrary to Policy HD2 (C - Conversions) of the Local Development Plan 2016 in that the proposed conversion and extension would not be in keeping with the scale and character of the existing building. The development would have the appearance of a new building dwellinghouse in the open countryside linked to a more subservient outbuilding which is proposed for ancillary use. The development would therefore contribute to the sense of sporadic residential development in the countryside, to the detriment of the character of the site and surrounding area. Other material considerations have been accounted for but these do not outweigh the harm that would result from the development.

- 5.9    Reference:                    22/00127/FUL  
      Proposal:                    Change of use from Industrial (Class 4,5,6) to Fitness Studio (Class 11) (retrospective)  
      Site:                         Unit C, Whinstone Mill, Netherdale Industrial Estate, Galashiels  
      Appellant:                  Ms Daina McFarlane

Reason for Refusal:    The development would be contrary to Policy ED1 of the Local Development Plan 2016 in that it would result in the loss of floorspace allocated for Classes 4-6 and the exception criteria within the policy are not satisfied. The loss of floorspace allocated for Classes 4-6 will have an adverse impact on the development of businesses within these Classes seeking to locate within the industrial estate. Other material considerations are not sufficient to outweigh the harm resulting from the incremental loss of allocated floorspace.

## **6    REVIEWS DETERMINED**

- 6.1    Reference:                    20/00796/FUL  
      Proposal:                    Erection of dwellinghouse  
      Site:                         Land West of Causewayfoot Cottage Wolflee, Hawick  
      Appellant:                  Miss Dawn Kilpatrick

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 the proposed development is located outside of the identifiable boundaries of the Wolfelee building group which is contained by the woodland and public road to the north of the site. This development would appear divorced from the building group and would fail to respect its character and historic sense of place. No economic case has been substantiated to support a house out with the extent of the building

group. 2. The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 and criteria h) and k) of Policy PMD2 and the Placemaking and Design SPG in that the form and design of the proposal would fail to sensitively integrate with the architectural style of the countryside location and would detract from the character and sense of place of the rural area. 3. The development would be contrary to Policy IS8 of the Local Development Plan 2016 in that the site is located within the 1 in 200 year functional floodplain of the Catlee Burn. This development would be at significant risk of flooding from the Catlee Burn and no information has been provided to demonstrate that the proposal can be safely developed on this land free from flood risk and without increasing the probability of flooding elsewhere.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld (Terms of Refusal Varied)

6.2 Reference: 21/00312/AMC  
 Proposal: Erection of new dwelling with garage (Approval of all matters specified in condition of planning permission 18/01632/PPP)  
 Site: Land North Of Old Manor Inn, Lanton  
 Appellant: Mr Richard and Alison Stables

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 and ensure to a satisfactory form of development, which contributes appropriately to its setting, and to minimise risk to trees. 2. Notwithstanding the submitted details in this application, the roof of the dwelling shall be slate of a type first submitted to and approved in writing with the planning authority. The development is thereafter to be completed using the agreed slate, prior to occupation of the dwelling. The external parts of the flue of the wood burning stove are to be matt black or matt grey in colour. In addition, the frames of the Solar PV panels hereby approved shall be coloured non-reflective black or dark grey unless with the prior written consent of the Planning Authority. Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting. 3. The dwellinghouse shall not be occupied until the connection to the public mains water supply is made, and the approved foul and surface water drainage measures are implemented. Surface water-run off shall be maintained at pre-development levels. Reason: To ensure that the development is adequately serviced. 4. No development shall commence until further details of landscaping (including location, species and number of new planting), timescale for implementation and future maintenance of planting have been submitted to and approved in writing by the Planning Authority. The landscaping shall be carried out and maintained in accordance with the approved details. Reason: To visually integrate the development sympathetically with the setting. 5. Construction works shall only be carried out in accordance with the submitted Arboricultural Report (Robert Gray Forestry & Arboricultural Consultants) dated September 2021. All trees shall be protected as per this report including provision of the approved driveway and parking and erection of protective fencing in accordance with BS5837:12 during the construction period. No trees shall be subsequently removed or lopped

unless with the prior written approval of the Planning Authority. Reason: To ensure protection of trees that contribute to the landscape setting of the site.

Method of Review: Review of Papers

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

- 6.3 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.

Method of Review: Review of Papers & Further Written Submissions

Review Decision: Decision of Appointed Officer Upheld

- 6.4 Reference: 21/00710/PPP  
Proposal: Erection of dwellinghouse with access, landscaping and associated works  
Site: Land South and West of Greywalls, Gattonside  
Appellant: Mr N & Mrs C Cameron

Reason for Refusal: The development is contrary to Policies HD2 and EP6 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside 2008 in that it would constitute piecemeal, sporadic new housing development in the countryside that would be poorly related to an established building group, within a previously undeveloped field, outwith the sense of place, out of keeping with the character of the building group, resulting in an unacceptable adverse impact on the landscape and visual amenities of the surrounding area. 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 Upheld

- 6.5 Reference: 21/00793/FUL  
Proposal: Partial change of use of shop and alterations to form manager's flat  
Site: Shop, 43 High Street, Hawick  
Appellant: Ms Ha Pham

Reason for Refusal: The proposal is contrary to Policies ED3 and PMD2 in that it would have an unacceptable impact on the town centre, specifically in undermining the viability of an existing retail/commercial

unit thereby detracting unacceptably from the vitality and viability of this area of the town centre, and would be unacceptably detrimental to the character of the surrounding area.

Method of Review: Review of Papers

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

- 6.6 Reference: 21/01132/FUL  
Proposal: Erection of pergola and boundary fencing (retrospective)  
Site: 58 George Street, Peebles  
Appellant: Lisa Dawkins

Reason for Refusal: The pergola and fencing is contrary to policies PMD2 and HD3 of the Local Development Plan 2016 in that the siting of the pergola and the varied height and style of the fencing would have an unacceptably adverse impact on the character and visual amenity of this residential area. There are no other material considerations that are sufficient to overcome the adverse visual impact resulting from the proposed development.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.7 Reference: 21/01262/FUL  
Proposal: Removal of Condition 2 of planning permission 18/01000/FUL pertaining to use as holiday let accommodation  
Site: Warlawbank Steading, Reston, Eyemouth  
Appellant: Ms Louise Weddell

Reason for Refusal: The proposed removal of Condition 2 of planning permission 18/01000/FUL would be contrary to Local Development Plan 2016 policies PMD2 (Quality Standards), HD2 (Housing in the Countryside), HD3 (Protection of Residential Amenity) and IS2 (Development Contributions) as the Planning Authority would lose control over the consented use of the development for holiday let purposes. The use of the development for residential purposes would be incompatible with neighbouring farm uses, with unacceptable levels of amenity for occupants, and would result in the creation of a new residential unit without addressing deficiencies in local education created as a result of the development. Other material considerations do not justify a departure from the Development Plan in this case.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.8 Reference: 21/01270/FUL  
Proposal: Change of use from Industrial (Class 4,5,6) to a Functional Fitness Gym (Class 11)  
Site: Unit B, Whinstone Mill, Netherdale Industrial Estate, Galashiels  
Appellant: Miss Lianne Wallace

Reason for Refusal: The development would be contrary to Policy ED1 of the Local Development Plan 2016 in that it would result in the loss of floorspace allocated for Classes 4-6 and the exception criteria within the policy are not satisfied. The loss of floorspace allocated for Classes 4-6 will have an adverse impact on the development of businesses within these Classes seeking to locate within the industrial estate. Other material considerations are not sufficient to outweigh the harm resulting from the incremental loss of allocated floorspace.

Method of Review: Review of Papers & Further Written Submissions

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

- 6.9 Reference: 21/01422/FUL  
Proposal: Demolition of steading and farmhouse and erection of two dwellinghouses  
Site: Land at Haughhead Farm and Steading Building, Innerleithen  
Appellant: Mr William, Brenda and Sarah Glennie

Reason for Refusal: The proposed steading replacement would be contrary to Policy HD2 of the Local Development Plan 2016 in that it would comprise residential development in the countryside that does not meet criteria within Policy HD2. The steading replacement would not be related to a building group; would not comprise the conversion of an existing building; would not replace or restore an existing or former house; and, no business justification has been provided to support the requirement for a dwellinghouse to replace the existing former steading. The development would, therefore, contribute to sporadic residential development in the countryside, to the detriment of the character of the site and surrounding area. Other material considerations have been accounted for but these do not outweigh the harm that would result from the development.

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 two reviews previously reported on which decisions were still awaited when this report was prepared on 1<sup>st</sup> June 2022. This relates to sites at:

- |   |  |
|---|--|
| • Land East of Delgany, Old Cambus, Cockburnspath | • East Lodge, Netherurd, Blyth Bridge, West Linton |
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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 1<sup>st</sup> June 2022. This relates to a site at:

- |  |  |
|--|--|
| <ul style="list-style-type: none"><li>Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick</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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