

PLANNING AND BUILDING STANDARDS COMMITTEE

3rd October 2022

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: 21/01302/FUL
Proposal: Erection of dwellinghouse
Site: Land South West of West Lodge, Minto
Appellant: David Anderson And Prof. Sally Haw

Reason for Refusal: The dwellinghouse would be contrary to Policy PMD5 of the Local Development Plan 2016 in that it would detract from the character and amenity of the surrounding area and would not respect the scale, form, design and density of the surrounding area. The erection of a house on this site would have an unacceptable adverse impact on the setting of the settlement on a prominent approach to the village.

Reasons for Appeal: The design principles are set out in the Design Statement. The appellant took on board the Planning Officers suggestions when producing the final design proposal. The case officer's report committee concludes that the application conforms with the Scottish Borders Local Plan. The new Committee did not seem to understand the criteria by which to judge the proposal and ignored the recommendation of the Head of Planning, the advice of the officers and over-arching national planning policies. The zero carbon home proposed will help fight climate change and contribute to the local economy.

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

Method of Appeal: Written Representations

2.2 Enforcements

- 2.2.1 Reference: 21/00005/UNDEV
Proposal: Siting of static caravan clad in timber and land engineering works undertaken

Site: Land South West of Yethouse Farmhouse,
Newcastleton
Appellant: A Hale

Reason for Notice: It appears to the Council that the above breach of planning control has occurred within the last 4 years. A static caravan which has been clad in timber has been sited on the land and remains so without the benefit of planning permission. An amount of land engineering works have also been undertaken within the land shown edge in red on the attached plan.

Grounds of Appeal: The static caravan is used as welfare facilities for The Holding, has no foundations, sewerage or other plumbing or grid electricity supply and the Appellant therefore believes it is permitted. The Appellant was not aware that cladding the caravan represented a contravention of any regulations. A static caravan has been on the land for at least ten years and therefore falls outside of any enforcement powers. In recent times the circular earthworks located centrally within The Holding were created by the previous owner. These were to provide a horse exercise facility. The Appellant is undertaking to reinstate the field and erect a livestock fence through that location, to restore the land to agricultural production. The polythene tunnel is small, being 3.6m long x 2.4m wide and 2.4m at the ridge. It is sited 2.4m from the boundary with a primary function to provide shelter for new-born lambs. The Appellant does not consider that this requires planning permission. Outside of lambing time the tunnel is used to produce vegetables for personal consumption.

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

Method of Appeal: Written Representations

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 appeal previously reported on which a decision was still awaited when this report was prepared on 23rd September 2022.

5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 22/00279/FUL
Proposal: Demolition of agricultural building, erection of dwellinghouses with ancillary accommodation
Site: Derelict Agricultural Building North of Ladyurd Farmhouse, West Linton
Appellant: Mrs Louisa Gardiner

Reasons for Refusal: 1. The development 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 dwellinghouses 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 dwellinghouses to replace the existing agricultural building. 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. 2. The development would be contrary to policies HD2 and PMD2 of the Local Development Plan 2016 in that the proposed development is unsympathetic to the surrounding context in terms of scale and form and has not been designed in sympathy with Scottish Borders architectural styles. No overriding case for the development as proposed has been substantiated. Other material considerations have been accounted for but these do not outweigh the harm that would result from the development. 3. The development would be contrary to policy EP1 of the Local Development Plan 2016 and Biodiversity guidance in that the applicant has failed to prove that the development will not have an adverse effect on European Protected Species which may be present on the site. Other material considerations have been accounted for but these do not outweigh the harm that would result from the development.

- 5.2 Reference: 22/00396/FUL
Proposal: Replacement windows and door (retrospective)
Site: Caddie Cottage, Teapot Street, Morebattle, Kelso
Appellant: Mr Robert Muir

Reason for Refusal: The development is contrary to policy EP9 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance: Replacement Windows and Doors 2015 in so much as the development does not preserve or enhance character or appearance of Morebattle Conservation Area.

- 5.3 Reference: 22/00496/FUL
Proposal: Alterations and extension to dwellinghouse
Site: Deanfoot Cottage, Deanfoot Road, West Linton
Appellant: Ms Norma Gordon

Reason for Refusal: The development would be contrary to policy PMD2 of the Local Development Plan 2016 in that the following criteria require that developments: h) create a sense of place based on a clear understanding of the context and are designed in sympathy with Scottish Borders architectural style; i) are of a scale, massing and height

appropriate to the existing building; j) are finished externally in materials which complement the existing building; k) respect the character of the surrounding area and neighbouring built form. The proposed development is unsympathetic to the building which it would extend in terms of form, scale, height, massing and materials and would not complement that building. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations.

6 REVIEWS DETERMINED

6.1 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.

Method of Review: Review of Papers & Further Written Submissions

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

6.2 Reference: 21/01639/FUL
Proposal: Erection of dwellinghouse
Site: Land West of Cavers, Hillhead, Cavers, Hawick
Appellant: Mr Mark McGlone

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 because it would constitute housing in the countryside that would not relate well to the existing building group and would lead to an unjustified sporadic expansion of development into a previously undeveloped field. Furthermore, there is no overriding economic justification to support the development. Material considerations do not outweigh the resulting harm.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.3 Reference: 22/00207/FUL
Proposal: Change of use of barn and alterations and extension to form dwellinghouse
Site: Land North of Carterhouse, Jedburgh
Appellant: Mr & Mrs C & J Stephens

Reason for Refusal: The development is contrary to criteria a) of Part C of Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that the existing building is not worthy of conversion in terms of its architectural or historic merit and nor does it appear physically suited for residential use. The site lies outwith any recognised settlement or building group and no overriding essential business need has been substantiated for a house in this isolated location. The proposal would lead to sporadic residential development in the countryside and other material considerations do not outweigh the conflict with the Local Development Plan and harm that would result.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

7 REVIEWS OUTSTANDING

7.1 There remained 8 reviews previously reported on which decisions were still awaited when this report was prepared on 23rd September 2022. This relates to sites at:

• Unit C, Whinstone Mill, Netherdale Industrial Estate, Galashiels	• Land East of 16 Hendersyde Avenue, Kelso
• Plot 1, Land North of Belses Cottage, Jedburgh	• Plot 2, Land North of Belses Cottage, Jedburgh
• Woodland Strip, North of Springhall Farm, Kelso	• Garden Ground of Cheviot View, Eden Road, Gordon
• Land West of 1 The Wellnage, Station Road, Duns	• Land North and East of Tweed Lodge, Hoebridge East Road, Gattonside

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 23rd September 2022. This relates to a site at:

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