
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

11th January 2016

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

3 APPEAL DECISIONS RECEIVED

- 3.1 Planning Applications

- 3.1.1 Reference: 14/01081/FUL
Proposal: Wind farm development comprising 7 No wind turbines 110m high to tip with ancillary equipment, access track and associated works
Site: Land West of Muircleugh Farmhouse, Lauder
Appellant: Airvolution Energy Ltd

Reasons for Refusal: 1. The development would result in unacceptable individual and cumulative impacts (combined with existing wind farms and proposed developments at Girthgate and extension to Long Park) on the landscape character of the surrounding area, most notably the Lauder Common, contrary to Policies G1 and D4 of the Consolidated Local Plan 2011, by virtue of the location and scale of the development. 2. The development would result in unacceptable individual and cumulative impacts (combined with existing wind farms and proposed developments at Girthgate and extension to Long Park) on visual receptors, including the Lauder Common, B6362, A68 and A697, the Southern Upland Way, Girthgate route, Eildon Hills and Thirlestane Castle, which combine to conflict with Policies G1 and D4 of the Consolidated Local Plan 2011 by virtue of the location and scale of the development. 3. There would be an

unacceptable cumulative impact (combined with Girthgate) on the setting of the Cathpair Scheduled Monument, contrary to Policies D4 and BE2 of the Consolidated Local Plan 2011. 4. Inadequate evidence has been provided to demonstrate that the development will not lead to unacceptable impacts on residential receptors as a result of noise both individually and cumulatively (combined with existing wind farms and proposed developments at Girthgate and extension to Long Park) contrary to Policy D4 of the Consolidated Local Plan 2011. 5. The development would contribute to loss of wader habitat as a result of the siting of Turbine 6, contrary to Policies D4, NE3 and NE5 of the Consolidated Local Plan 2011.

Grounds of Appeal: 1. The development has support in principle from national planning policy, and will make a significant contribution to achieving the Government's challenging renewable energy and climate change targets. 2. The development is located in a site to which such applications are guided by national policy and the Development Plan. 3. The development is well located to minimise impacts on landscape, ecology, ornithology, residential amenity (visually or by noise or shadow flicker), geology, soils, the water environment or archaeology, and does not impact on radar or other Ministry of Defence assets. 4. The environmental effects are an inevitable consequence for this type of development, the effects are minimised as far as possible and are acceptable. 5. The development will provide positive economic benefits locally. 6. The Council's reasons for refusal, Reasons 1 and 2 relating to landscape and visual impacts are overstated, Reason 3 relating to cumulative impact is overstated and shouldn't be accumulative with Girthgate, Reason 4 relating to noise is addressed in the Supplementary Environmental Information provided with this appeal and Reason 5 relating to the loss of wader habitat is not significant and is offset by a much larger habitat management proposal. 7. Section 25 of the Town and Country Planning Act (Scotland) 1997 (as amended) requires that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The development accords with the Development Plan and the balance considerations support the grant of planning permission.

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Dismissed

Summary of Decision: The Reporter, Michael J P Cunliffe, concluded that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. He does not consider that the renewable energy benefits of the proposal are sufficient to outweigh the adverse impacts on the landscape, visual receptors and recreations. He has considered all the other matters raised, but there are none which lead him to alter his conclusions to dismiss the appeal and refuse planning permission.

3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 18th December 2015. This relates to sites at:

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| • Land South East of Halmyre Mains Farmhouse (Hag Law), Romanno Bridge | • Land North East and North West of Farmhouse Braidlie (Windy Edge), Hawick |
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5 REVIEW REQUESTS RECEIVED

Nil

6 REVIEWS DETERMINED

6.1 Reference: 14/00996/PPP
Proposal: Erection of dwellinghouse
Site: Plot A Chirnside Station, Chirnside
Appellant: G Drummond

Reason for Refusal: 1. The proposal is contrary to policy D2 of the Scottish Borders Consolidated Local Plan 2011 as the proposal for the dwellinghouse would exceed the maximum threshold of 8 new dwellinghouses or a 30% increase in the size of the existing building group (when assessed in conjunction with associated applications 14/00997/PPP and 14/00995/PPP) during the current Local Plan period and the need for the number of units above this threshold in this location has not been adequately substantiated. The proposal would therefore represent an unacceptable and unjustified development which would inappropriately expand the building group into the surrounding countryside. 2. The proposal would be contrary to policy INF2 of the Scottish Borders Council Consolidated Local Plan 2011 in that the dwelling would have an adverse effect on the continued use of the access route/railway, which is promoted under Policy EP12 of the Proposed Local Development Plan 2013. Reason: To protect general rights of responsible access.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.2 Reference: 14/01282/FUL
Proposal: Change of use of land to form extension to existing holiday park
Site: Land South West of Northburn Caravan Park, Pocklaw Slap, Eyemouth
Appellant: Park Resorts Ltd

Reasons for Refusal: 1. The proposals would be contrary to policy H3 of the Consolidated Local Plan in that the proposed change of use of land would result in the loss of allocated housing land which is required to meet the housing land requirement for the Berwickshire Housing Market Area. 2. The proposal would be contrary Policy Inf3 of the Consolidated Local Plan in that the proposed development would give raise to road safety concerns with additional traffic to the park requiring to access residential streets rather than utilising the existing park entrance and access route.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.3 Reference: 15/00601/FUL
Proposal: Replacement windows (retrospective)
Site: Tushielaw Inn, Ettrick Valley, Selkirk
Appellant: Donna Cornish

Reasons for Refusal: 1. The replacement windows do not comply with Local Plan Policy G1in that they are not of an appropriate design or style and do not complement the quality of the architecture of the historically important building. 2. The proposals do not comply with the Supplementary Planning Guidance on Replacement windows as they have not been replaced on a 'like for like' basis and the essential features which formed part of the historical character of the building have not been retained.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned

- 6.4 Reference: 15/00662/FUL
Proposal: Installation of 2 No rooflights
Site: Caroline Villa, Main Street, West Linton
Appellant: Mr Mark Hepworth

Condition Imposed: Notwithstanding the details of the proposed rooflights submitted with the application, the approved rooflights to be permanently fixed closed and to have obscure glazing, to be retained in perpetuity. Before any development commences on site details of the rooflights, the method of fixing and the type of obscure glazing to be submitted to and approved by the Planning Authority. The development then to be completed in accordance with the approved details. Reason: To protect the residential amenity of nearby properties from overlooking.

Method of Review: Review of Papers

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

- 6.5 Reference: 15/00682/FUL
Proposal: Siting of portacabin for use as flour mill
Site: Land North West of Spruce House, Romano Bridge, West Linton
Appellant: Romanno Mains Renewables Ltd

Reason for Refusal: The proposal does not comply in principle with Adopted Local Plan Policy D1 in that the proposal would more reasonably be accommodated within the Development Boundary of a settlement rather than in this particular location. Further, the Applicant has not demonstrated any overriding economic and/or operational need for this particular countryside location.

Method of Review: Review of Papers

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

6.6 Reference: 15/00745/PPP
Proposal: Erection of dwellinghouse
Site: Land East of Park Lane, Croft Park, Croft Road,
Kelso
Appellant: Mr James Hewit

Reason for Refusal: The proposal is contrary to Policies G1 and G7 of the Consolidated Scottish Borders Local Plan 2011 in that the proposed dwellinghouse would result in an inappropriate form of infill development that is out of keeping with the character and amenity of the surrounding area to the detriment of the established residential character of the area. In addition, it has not been adequately demonstrated that a dwellinghouse can be accommodated on site without resulting in over development. The erection of a dwelling on this site would set an undesirable precedent which would not be compatible with, or respect, the neighbouring built form.

Method of Review: Review of Papers

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

7 REVIEWS OUTSTANDING

7.1 There remained no reviews previously reported on which decisions were still awaited when this report was prepared on 18th December 2015.

Approved by

Ian Aikman
Chief Planning Officer

Signature

Author(s)

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Laura Wemyss	Administrative Assistant 01835 824000 Ext 5409

Background Papers: None.

Previous Minute Reference: None.

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