



## SCOTTISH EXECUTIVE

Development Department  
Inquiry Reporters Unit

2 Greenside Lane  
Edinburgh EH1 3AG  
DX 557005 Edinburgh - 20

Ian Borthwick  
Planning Consultant  
Tullibardine  
Haystoun Terrace  
Peebles  
EH45 9EA

Telephone: 0131-244 5672  
Fax: 0131-244 5680

[http://www.scotland.gov.uk/planning\\_appeals/seiru](http://www.scotland.gov.uk/planning_appeals/seiru)

Your ref: lb/168  
Our ref: P/PPA/140/152

17 October 2002

Dear Sir

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 47 AND SCHEDULE 4  
PLANNING APPEAL BY COLIN GILHOLM: ERECTION OF 4 DWELLINGHOUSES AT SITE OF SILO BINS, EDINGTON MILL, CHIRNSIDE, DUNS**

1. I refer to your client's appeal, which I have been appointed to determine, against the refusal of outline planning permission by the Scottish Borders Council for the erection of 4 dwellinghouses at the site of silo bins at Edington Mill, Chirnside, Duns. I have considered the written submissions and made an accompanied inspection of the appeal site and the surrounding area on 29 August 2002.
2. The appeal site comprises 2 derelict metal silo bins and land around them amounting to some 0.7ha located in gently rolling open countryside some 3km south east of the village of Chirnside. There are concrete hardstandings on the southern side of the site; the remainder of the open part of the site is overgrown. To the north is a small young plantation, beyond that and to the west and east are agricultural fields, and to the south the land drops steeply into the gorge of the Whiteadder Water. Edington Mill, now disused, lies within the gorge. The area is accessed from the A6105 Chirnside to Berwick road by means of an adopted single track road some 1.5km long, which also serves Edington Mains Farm and other properties, and terminates at the mill. The council has recently approved the development of 28 dwellinghouses at Edington Mill involving change of use, conversion and extension of existing buildings and erection of new dwellings. Three existing dwellings would be incorporated into the scheme. The subject application was submitted alongside the various applications for those other developments as part of a comprehensive scheme for the area.
3. The application for planning permission proposes the demolition of the silo bins and an illustrative drawing shows 4 luxury detached dwellinghouses, one in each quadrant of the site, served by 2 parallel and adjacent driveways off the minor public road.



4. Planning permission was refused on the grounds that the proposal would be contrary to policy 7 of the Berwickshire Local Plan in that it would constitute housing development in the countryside outwith any recognised settlement or building group.

5. The relevant part of policy 7 of the local plan states (in summary) that limited development may be permitted within or adjacent to building groups other than those specified elsewhere in the policy. All such development should meet criteria including: no adverse effect on the viability of a farming unit or conflict with the operations of a working farm; satisfactory access and other road requirements; no adverse effect on countryside amenity, landscape and nature conservation; no adverse impact on ancient monuments and archaeological sites; and appropriate siting, design and materials.

### SUMMARY OF CASES

6. **For your client**, you state that the application was refused contrary to the recommendation of officers. They acknowledged that, taken along with other development recently approved at Edington Mill, the proposal constituted an acceptable development in terms of sense of place, scale, numbers and distance from the rest of the group, and which would therefore form part of a dispersed building group. In a review of its policy in April 2000, the council explained that, with respect to dispersed building groups, housing need not be restricted to groups where there is a tight nucleus of properties. It also stated that it is not practicable to set down maximum distances between a new building and the existing group. The proposal therefore accords with council policy.

7. Although not immediately next to sites where development has been approved, the silos were part of the complex at Edington Mill. Development at Edington stands at various levels, gradually rising from the valley floor up to the level of the adjoining agricultural land; there is no single visual plane. The site shares a sense of place with the mill complex and represents a dispersed building group related to the former mill activities. It is connected to the same services as the mill, is served by the same road and is visually linked by roadside shrubbery along the top of the steep bank leading down to the river. The council's landscape architect has acknowledged that the remainder of the development would benefit from the removal of the derelict silos. Even if the silos were simply demolished, the site would remain derelict and, because of the extensive area of hardstanding, would have no realistic prospect of returning to agricultural use. In any event, the land does not form part of any agricultural unit. Alternatively, the site's established use as part of the mill would make it difficult for the council to resist commercial or industrial use on the land. Such use would be detrimental to the approved development at the mill. No objections to the proposal were raised by the council's conservation officer, the Architectural Heritage Society for Scotland and the Berwickshire Civic Society. Both Scottish Natural Heritage and the Scottish Environment Protection Agency have made clear that their specific interests have been satisfied by the proposals.

8. The site can be sympathetically treated in terms of design, layout and landscaping so that it forms an entrance to the Edington Mill project. Your client would have no objection to a restriction on development of the appeal site until a trigger point in development of the rest of the project has been reached.

9. **On behalf of the council**, it is contended that the appeal site does not lie within or adjacent to a recognised building group. The site does not represent an extension of the building group comprising the former mill and associated buildings. The main mill working site lies in the flood plain of the river, whereas the appeal site lies at a substantially higher level and on a different visual

plane to the majority of the other buildings. The site would not share a sense of place with the remainder of the development. The proposal would be contrary to criterion 4 of policy 7 in the local plan, as it would have an adverse effect on countryside amenity and landscape. Any new building on the site would be visually intrusive in the landscape of the Merse, being visible from a great distance and viewed against the skyline from the access road. Removal of the existing silo bins would not constitute sufficient benefit to amenity and landscape to justify a departure from policy.

10. The majority of **consultation responses** are to the whole project at Edington Mill; some make comments which are not relevant to the appeal proposal and many make no specific reference to the appeal proposal. There were no objections from the council's Director of Transport and Environmental Standards, subject to some provisos. The Association for the Protection of Rural Scotland and the Scottish Civic Trust objected to the project as a whole. Huxton and Paxton Community Council expressed severe doubts about the large scale of the proposed development. In addition to its opposition to the development as a whole, Chirnside Community Council considered that the appeal proposal would be particularly conspicuous in the landscape.

11. **Representations** were received from and on behalf of the National Farmers' Union and 11 local residents opposing the whole project and the appeal proposal on various grounds, including: unsuitable road access and junction with the A6105; inability to form new passing places on the access road; lack of a footway and street lighting to the main road; exacerbating the over-development recently approved at Edington; detrimental impact on farming operations; disturbance to residents caused by night time farming activities; visual prominence of the appeal site; lack of demand for housing in the locality; and inconsistency with council policies and guidance.

## CONCLUSIONS

12. Section 25 of the Act requires the determination in this case to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise. No reference has been made to the structure plan as being relevant to this appeal. The remaining part of the development plan is the Berwickshire Local Plan 1994. Accordingly, based on my inspection of the appeal site and the written submissions, I consider that the issues to be determined are whether the proposal is consistent with the relevant provisions of the local plan and, if not, whether an exception to these provisions is justified by other material considerations, including the New Housing in the Borders Countryside Policy and Guidance Note, amended April 2000; the visual impact of the proposal; the likelihood and impact of alternative uses; and highway and road safety matters.

13. The non-statutory amended Guidance Note refers to the suggestion in the previous Note that a building group was identifiable by a sense of place, to which natural boundaries such as water courses, trees, enclosing landform, and man-made boundaries such as existing buildings, roads, plantations or means of enclosure, would contribute. The previous Note went on to state that normally a group would consist of residential buildings, comprising at least 3 dwelling units, including existing buildings capable of conversion to residential use; the suitability of any particular group to accommodate new houses should be assessed in the light of 9 criteria. The amended Guidance Note adds that:

- since dispersed groups exist in some parts of the Borders, new housing need not be restricted to groups where there is a tight nucleus of properties;
- that interpretation should not be abused so that it led to sporadic development in the countryside;
- it is not practicable to set down standards specifying the maximum distance between a new building and the existing group; and

- natural boundaries should take precedence over man-made boundaries in defining the extent of a building group.

14. On the first issue, policy 7 of the adopted local plan allows for limited development adjacent to building groups. The appeal site itself includes 2 derelict metal silos and no dwellings or buildings which could be converted to dwellings. The site stands some 115m from the nearest part of the grounds to Edington Mill House and some 100m from the nearest part of the proposed curtilage of residential development within a redundant concrete grain silo forming part of the Edington Mill project. The intervening ground is in agricultural and woodland uses and the buildings in question are fairly well screened from the appeal site by the falling ground levels and the trees. In my judgement, the appeal site cannot be considered to be part of or adjacent to a building group and therefore does not conform to the local plan.

15. With regard to the second issue, the council's amended Guidance Note does not have any statutory status. It was prepared entirely by a working group of members and officers of the council, with the benefit of presentations to that group by Scottish Natural Heritage and the Scottish Agricultural College, and was not subject to wider consultation. It was then adopted by the council as supplementary guidance to its local plan policies. Such guidance can be helpful to planning authorities in the day-to-day implementation of its development control functions. However, to the extent that it goes beyond the local plan policy, I can place only limited weight on its provisions. The main point at issue is the concept of dispersed groups. That, it seems to me, is an attempt to widen the scope of those groups to which policy 7 can apply. But it can go no further in this instance than to support the case for regarding the area of the approved development at Edington Mill as a dispersed group. The derelict silos on the appeal site cannot themselves be considered as a part of that group since they are not dwellings or buildings capable of conversion to residential use. The former functional connection between the silos and the mill has little bearing in that respect. If the argument for Edington Mill as a dispersed group is accepted, and that seems reasonable to me, then the test in policy 7 still has to be applied to the development proposal on the appeal site. But my conclusion would remain that the site cannot be considered to be adjacent to the group.

16. Even setting that argument to one side, I am far from persuaded that the appeal site shares a sense of place with the rest of the Edington Mill project site. I note that the council's landscape architect considers the area of the mill and gorge to have an intimate and separate character from the more open agricultural areas in the vicinity. In my view there is a very strong contrast between the dramatic and enclosed landscape of the gorge and the wide open farmland above with its long vistas. The appeal site undoubtedly lies within the latter landscape. The woodland and shrubs which stand between the appeal site and the nearest part of the project site serve more to divide than to connect them. Indeed, there is a lack of natural and strong man-made boundaries to tie the appeal site in with the rest of the mill complex. I conclude that the appeal proposal would amount to the kind of abuse of the guidance resulting in sporadic development in the countryside to which the guidance is opposed.

17. The proposed houses would be backed by some mature trees along the rim of the gorge, but the hedges and young plantation on the other sides offer little visual containment, nor does the landform assist in that respect. Consequently, the development, even if differently laid out and designed, would be quite prominent in this open landscape and, in my judgement, out of place. The existing derelict silos are undoubtedly an eyesore; they and the concrete hardstandings would be better removed. However, the removal of dereliction is not, in my view, a sufficient reason to permit housing in the open countryside in breach of policy.

18. You have argued that, were housing not allowed, commercial or industrial use would be difficult to resist on this land. I have not been apprised of the policy background to such uses and, in any event, I do not accept that all such uses would necessarily be detrimental to the amenity and environment of housing at the mill project.

19. Third parties have raised highway and road safety concerns against the appeal proposal. However, the council has decided that with respect to the 28 houses as approved, suspensive conditions would be sufficient to achieve the necessary improvements. The technical evidence supports that view and, indeed, the view that the addition of 4 more houses would make no material difference to those matters. Furthermore, as council officer's report points out the access road formerly served the, no doubt, substantial traffic from the former oat mill as well as agricultural and residential property. I see no reason to differ with the council's stance. Hence, I do not consider that highway and road safety matters constitute a reason for refusal.

20. I therefore find: that the proposal is not consistent with the relevant provisions of the local plan; and that no exception to these provisions is justified by other material considerations, including the New Housing in the Borders Countryside Policy and Guidance Note, amended April 2000, the visual impact of the proposal, and possible alternative uses on the site. Whilst I consider that highway and road safety matters do not constitute a reason for refusal, that does not justify an exception to local plan policy.

21. I have taken account of all the other matters raised but find none that outweigh the considerations on which my decision is based.

22. In exercise of the powers delegated to me I therefore dismiss your appeal.

23. This decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks of the date of this letter, as conferred by sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997; on any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts.

24. A copy of this letter has been sent to the Scottish Borders Council, the Association for the Protection of Rural Scotland, the Scottish Civic Trust, Huxton and Paxton Community Council, Chirnside Community Council, the National Farmers' Union, and the local objectors.

Yours faithfully



M MAHONY  
Reporter