
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

4th September 2023

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: 23/00332/ADV
Proposal: Installation of illuminated signage (retrospective)
Site: 35 Horsemarket, Kelso
Appellant: Mr Anthony Khoury

Reason for Refusal: The signage, by reason of the size, scale, design and materials, is contrary to Policy 14 of National Planning Framework 4 in terms of creating distinctive places and policies PMD2, EP9 and IS16 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance on Shop Fronts and Shop Signs in that the signage has an adverse detrimental impact on the traditional character of the host building and the character and appearance of the conservation area.

Reasons for Appeal: Refusal was based on the size, design and material used for the new shop sign, along with an illuminated strip light. Existing shop fronts in the near vicinity have similar installations, with some gaining planning approval. The new signage is not entirely different from other shop fronts, and the applicant feels he has been unfairly singled out with an enforcement notice.

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

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Trudi Craggs, determined the issues in this appeal on whether the signage is contrary to the interests of amenity or public safety. The reported noted there were no public safety issues cited in the reason for refusal. The roads authority did not object to the signage subject to the imposition of a condition controlling the illumination. There is a wide variation of signage along the street. Only a couple of signs seemed to be capable of being illuminated; these were for businesses that would operate in the evening. Given the eclectic mix of buildings and signs which, in the reporters view is a characteristic of the conservation area, the signage does not look inappropriate or out of place. The style is similar to the lighting on other buildings and is the preferred style in the supplementary guidance on shop fronts and shop signs. The reporter therefore granted planning permission subject to one condition.

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

3.2 Enforcements

Nil

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained 2 appeals previously reported on which decisions were still awaited when this report was prepared on 24th August 2023. This relates to sites at:

- | | |
|--------------------------------|------------------------------------|
| • 32 Dunglass Road, Coldstream | • Keppel Gate Nettlingflat, Heriot |
|--------------------------------|------------------------------------|

5 REVIEW REQUESTS RECEIVED

Nil

6 REVIEWS DETERMINED

6.1 Reference: 22/00576/FUL
Proposal: Erection of agricultural building (retrospective)
Site: Ravelaw Farm, Duns
Appellant: Mr Robert Gaston

Reason for Refusal: The development fails to comply with Policy HD3 of the Scottish Borders Local Development Plan 2016, in that the addition of a further agricultural building to house livestock at the farm could potentially exacerbate existing issues, which would negatively impact upon the amenity of nearby residential properties.

Method of Review: Review of Papers, Site Visit & Further Written Submissions

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

- 6.2 Reference: 22/00788/FUL
Proposal: Alterations and dormer extension to dwellinghouse
Site: 11 Tweed Avenue, Peebles
Appellant: Mr Gary Neale

Review against non-determination of Application.

Method of Review: Review of Papers & Further Written Submissions

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

- 6.3 Reference: 22/00869/PPP
Proposal: Erection of dwellinghouse
Site: Land South of Greenbraehead Farmhouse,
Greenbraehead, Hawick
Appellant: Mr Stephen Murray

Reason for Refusal: The development would be contrary to Policy HD2 of the Local Development Plan 2016, the New Housing in the Borders Countryside Guidance 2008 and Policy 17 of NPF4 in that the development would be unrelated to a building group and it has not been demonstrated that there is a robust economic case that the development will support a viable rural business. This would lead to an unsustainable form of development which would have a detrimental impact on the character and amenity of the rural area. This conflict with the development plan is not overridden by any other material considerations.

Method of Review: Review of Papers

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

- 6.4 Reference: 22/01416/PPP
Proposal: Erection of 2no dwellinghouses
Site: Land South of 1 Kelso Road, Coldstream
Appellant: Mr Andrew Douglas-Home

Reason for Refusal: The proposed development would be contrary to Policy PMD4 and Policy HD2 of the Scottish Borders Local Development Plan 2016, as well as the Council's Supplementary Planning Guidance 'New Housing in the Borders Countryside 2008' in that it would erode the integrity of the development boundary for the settlement of Coldstream, it would not relate well to an existing building group, it would break into an undeveloped field outwith the group's sense of place, to the detriment of

the character and appearance of the building group. Furthermore, the development is contrary to Policy ED10 of the Local Development Plan 2016 as the development would result in the permanent loss of prime quality agricultural land, which is a valuable and finite resource. This conflict with the development plan is not overridden by any other material considerations.

Method of Review: Review of Papers

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

6.5 Reference: 22/01666/PPP
Proposal: Erection of 4 no dwellinghouses
Site: Land West of Greenburn Cottage, Auchencrow
Appellant: W A Mole & Son

Reason for Refusal: The proposed development is contrary to policy HD2 (Housing in the Countryside) of the Local Development Plan 2016 and Supplementary Planning Guidance New Housing in the Borders Countryside 2008 in that by virtue of topography and being located beyond the well established western edge of Auchencrow, the proposed site would not be well related to an existing building group of three or more dwellinghouses. The proposed development would extend beyond Auchencrow's sense of place, into an undeveloped field, and would result in ribbon development to the detriment of both the village's character and the surrounding landscape.

Method of Review: Review of Papers & Site Visit

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

6.6 Reference: 22/01739/FUL
Proposal: Erection of dwellinghouse with detached garage
Site: Land West of The Old Barn Westwater, West Linton
Appellant: Mr Ian Swan

Reasons for Refusal: 1. The development would be contrary to policies HD2 and PMD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside guidance in that the proposed development is unsympathetic to the adjoining buildings and the surrounding context in terms of siting, access, orientation, form, scale, height, massing and materials. Furthermore, no account has been taken of the trees within to the site meaning the proposal is also contrary to policy EP13. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations. 2. The development would be contrary to policies HD2 and PMD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside guidance in that the proposed development is unsympathetic to the adjoining buildings and the surrounding context in terms of siting, access, orientation, form, scale, height, massing and materials. Furthermore, no account has been taken of the trees within to the site meaning the proposal is also contrary to policy EP13. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations.

- Method of Review: Review of Papers, Site Visit & Further Written Submissions
- Review Decision: Decision of Appointed Officer Upheld
- 6.7 Reference: 22/01824/PPP
 Proposal: Erection of dwellinghouse with access, landscaping and associated works
 Site: Land South and West of Greywalls, Gattonside
 Appellant: Mr & Mrs N & C Cameron

Review against non-determination of Application.

- Method of Review: Review of Papers
- Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions and a Legal Agreement)
- 6.8 Reference: 22/01903/AMC
 Proposal: Demolition of shed and erection of dwellinghouse (approval of all matters specified in planning permission 20/00874/PPP)
 Site: Land North West of Rosebank Cemetery Lodge, Shedden Park Road, Kelso
 Appellant: Mr M Curtin

Reason for Refusal: The proposal would be contrary to National Planning Framework 4 Policy 14 and Policies PMD2 and PMD5 of the Local Development Plan 2016 and Supplementary Planning Guidance: Placemaking and Design 2010 in that, due to the scale and design of the proposal, 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, with specific reference to the adjacent Conservation Area.

- Method of Review: Review of Papers
- Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions)
- 6.9 Reference: 22/01935/FUL
 Proposal: Installation of timber gates (retrospective)
 Site: Church House, Raemartin Square, West Linton
 Appellant: Mr JM And Mrs G Barton

Reason for Refusal: The development would be contrary to policies EP9 and PMD2 of the Local Development Plan 2016 in that the alterations to the gates would have an unacceptably adverse impact on the character and appearance of the conservation area and on the 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 Overturned

6.10 Reference: 22/01973/AMC
Proposal: Erection of dwellinghouse with outbuilding and formation of new access (approval of all matters specified in conditions of planning permission 21/00030/PPP)
Site: Land at Rachan Woodlands, Broughton
Appellant: Mr Jim Warnock

Reason for Refusal: The siting of the proposed development would not be well related to the existing building group. As a result, the proposal does not fulfil the requirements of condition 1 of the planning permission in principle. In doing so, the application fails to comply with Scottish Borders Local Development Plan 2016 policies PMD2 and HD2; NPF4 policies 14; 16 and; 17. In addition, the development does not comply with supplementary planning guidance on New Housing in the Borders Countryside and; Placemaking and Design. 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)

6.11 Reference: 23/00026/FUL
Proposal: Change of use of shop and alterations to form 2 no dwellinghouses
Site: Shop, 22 - 24 South Street, Duns
Appellant: Mr Hugh Garratt

Review against non-determination of Application.

Method of Review: Review of Papers

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

6.12 Reference: 23/00056/FUL
Proposal: Change of Use from Class 4 to Class 2 Veterinary Practice
Site: 2 Rowan Court, Cavalry Park, Peebles
Appellant: Two Rivers Veterinary Practice Ltd

Reason for Refusal: The development would be contrary to Policy 26 of the NPF4 and Policy PMD3 and Policy ED1 of the Local Development Plan 2016 in that the use as a veterinary practice (falling within Class 2 of The Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended, would be a commercial activity that would not be complementary, or ancillary, to the Cavalry Park Strategic High Amenity Site and a use such as that would prejudice its primary function. Furthermore, it would ultimately lead to the loss of allocated business and industrial land when there is a known need for such sites. Other material considerations, including the applicant's need for new premises, are fully acknowledged but, on balance, do not override the loss of the site to Class 4 uses, nor the potentially undesirable precedent that would result from the loss of this extent of floorspace to a non-compliant use.

Method of Review: Review of Papers

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

6.13 Reference: 23/00260/PPP
Proposal: Erection of a dwellinghouse with access, landscaping, garden space, and associated works
Site: Land West of Greywalls, Gattonside
Appellant: Mr & Mrs N & C Cameron

Review against non-determination of Application.

Method of Review: Review of Papers

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

7 REVIEWS OUTSTANDING

7.1 There remained 8 reviews previously reported on which decisions were still awaited when this report was prepared on 24th August 2023. This relates to sites at:

| | |
|--|---|
| • Land South of Ebbastrand, Coldingham Sands, Coldingham | • Land North of Belses Cottage, Jedburgh |
| • Land South of Headshaw Farmhouse, Ashkirk, Selkirk | • Land Northeast of The Bungalow, Crosshill, Chirnside |
| • Site Adjacent The Steading Whiteburn Farm, Lauder | • W Pearce and Sons St Ronan's Works, 2 Miller Street, Innerleithen |
| • 22 Weensland Park, Hawick | • U-Stor Business Units, Spylaw Road, Kelso |

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 24th August 2023. This relates to a site at:

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|--|---|
| • Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick | • |
|--|---|

Approved by

Ian Aikman
Chief Planning & Housing Officer

Signature

Author(s)

| Name | Designation and Contact Number |
|--------------|---|
| Laura Wemyss | Administrative Assistant (Regulatory) 01835 824000 Ext 5409 |

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.

Contact us at Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel. No. 01835 825431 Fax No. 01835 825071
Email: PLACEtransrequest@scotborders.gov.uk