
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

6th November 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

- 2.2.1 Reference: 23/00041/ADVERT
Proposal: Erection of Advert on Gable
Site: 2 Gladstone Street, Hawick
Appellant: Katrina Yule

Reason for Notice: An advertisement has been installed at the property situated upon the Land Affected on the elevation facing The Loan, Hawick. The advertisement does not benefit from deemed consent under the Town and Country Planning (Control of Advertisement)(Scotland) Regulations 1984, failing under Class IV. The installed advertisement has not been subject to an advertisement consent application for express consent.

Grounds of Appeal: The notice was issued on the grounds set out in Class IV.1.1 of the Town and Country Planning (Control of Advertisement)(Scotland) Act 1984 which stipulates that an advertisement cannot be affixed to a wall of a shop unless that wall contains a shop window. The appellant is of the view that there are indeed windows in the wall to which the advertisement is affixed. Three windows in the wall in question.

[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 3 appeals previously reported on which decisions were still awaited when this report was prepared on 26th October 2023. This relates to sites at:

<ul style="list-style-type: none">Land at Menzion Forest Block, Quarter Hill, Tweedsmuir	<ul style="list-style-type: none">Land East of Kirkwell House, Preston Road, Duns
<ul style="list-style-type: none">Land Adjacent Rose Cottage, Maxwell Street, Innerleithen	<ul style="list-style-type: none">

5 REVIEW REQUESTS RECEIVED

5.1 Reference: 23/00553/FUL
Proposal: Change of use from agricultural land to lorry storage yard and erection of building
Site: Land East of Unit 3 Croft Park Industrial Estate, Morebattle, Kelso
Appellant: James Y Burn Haulage

Conditions Imposed: 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended. 2. 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. 3. No development of the shed (hereby approved on site plan 102 Rev B) shall be commenced until the following precise details: i. Proposed plans and elevations of the building; ii. Full details of the external materials, including colour, to be used in the construction of the building; iii. The finished floor levels of the building hereby approved; have been submitted submitted to and approved in writing by the Planning Authority. Thereafter development to be completed in accordance with the approved details. Reason: To protect the character and amenity of the area. 4. The site and building hereby approved shall only be used for Class 4 (office, reseach and development or light industry), Class 5 (general industry) or Class 6, (storage and distribution) of Schedule of The

Town and Country Planning (Use Classes) (Scotland) Order 1997, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order. Reason: To ensure that the use remains compatible within the site.

5. No septic tank, washbay or building hereby approved may be developed before fully detailed design proposals for foul and surface water drainage, demonstrating that there will be no negative impact to public health, the environment or the quality of watercourses or ground water, have been submitted to and approved in writing by the Planning Authority. Thereafter development to be undertaken in accordance with these details. Reason: The Planning Authority requires consideration of full details of surface water drainage (SUDS), foul water connections and/or any private systems proposed.

6. No development shall be commenced until the precise construction details of the bell mouth and pavement (and precise streetlighting details, if required) shown on site plan, 102 Rev B, has been submitted to and approved in writing by the Planning Authority. Thereafter the bell mouth and pavement to be completed in accordance with these details before the site is brought in to use, or a timescale which has been prior agreed with the Planning Authority. Reason: To ensure the development hereby approved is served by an appropriate form of access, in the interests of road safety.

7. No development shall commence until precise details of: i. location of new trees, shrubs, hedges and grassed areas; ii. schedule of plants to comprise species, plant sizes and proposed numbers/density; iii. programme for completion and subsequent maintenance. of the proposed tree and hedge planting shown on Site Plan 102 Rev B have been submitted to and approved in writing by the Planning Authority. Thereafter this scheme shall be carried out in the first planting and seeding seasons following the site coming in to use, and shall be maintained thereafter and replaced as may be necessary for a period of two years from the date of completion of the planting, seeding or turfing. Reason: To ensure that the proposed landscaping is carried out as approved.

8. Before any part of the permitted development is commenced, the hedge to be retained on the site shall be protected by a fence 1.5 metres high placed at a minimum distance of 2.0 metres from the edge of the hedge, and the fencing shall be removed only when the development has been completed. During the period of construction of the development the existing soil levels around the boles of the hedges so retained shall not be altered. Reason: In the interests of preserving the hedges which contribute to the visual amenity of the area.

9. The visibility splay (2.4m x 160m) as shown on Site Plan, 102 Rev B must be provided on site before the site is brought in to use and retained free of visual obstruction (when viewed from drivers eye height of 1.05m) in perpetuity. Reason: To ensure adequate drivers visibility for access and egress to the B-classified road.

10. No external flood lighting of the site is permitted except in accordance with an exterior lighting plan which shall first have been submitted to and approved in writing by the Planning Authority. The lighting plan shall be designed in accordance with the guidance produced by The Institution of Lighting Professionals and the Bat Conservation Trust, Aug 2018 (as outlined: Guidance Note 8/18 (2018): Bats and artificial lighting in the UK). Thereafter no development shall take place except in strict accordance with the approved lighting plan. All lights shall be suitably shuttered/shielded and directed to prevent unwanted light flood. Reason: In the interests of protecting bats, biodiversity, residential amenity and the character of the predominantly rural area.

5.2	Reference:	23/00716/FUL
	Proposal:	Erection of dwellinghouse
	Site:	Garden Ground of Cheviot View, Eden Road, Gordon

Appellant: Mr Nigel Carey

Reason for Refusal: The proposed development is contrary to policies PMD2 and PMD5 of the Local Development Plan 2016 and the Council's Supplementary Planning Guidance on Placemaking and Design 2010, in that the small size of the site and cramped layout would constitute overdevelopment that fails to respect or respond to the character or density of the surrounding area resulting in adverse impacts on the character and amenity of the surrounding area. The proposed development is contrary to policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance on Householder Development in that the small size of the site would result in the proposed dwellinghouse being positioned in close proximity to the new house being built to the east, harming the residential amenities of future occupants of the new house in terms of light, privacy and outlook.

6 REVIEWS DETERMINED

6.1 Reference: 22/01947/FUL
Proposal: Erection of dwellinghouse with detached garage
Site: Land South of Headshaw Farmhouse, Ashkirk, Selkirk
Appellant: Mrs Nancy Margaret Hunter

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, and Policies 9 and 17 of the National Planning Framework 4 because it would constitute housing in the countryside that would be unrelated to a 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. The resulting visual impact of the development would be adverse and, therefore, also conflict with policy PMD2. This conflict with the development plan is not overridden by any other material considerations.

Method of Review: Review of Papers & Further Written Submissions

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

6.2 Reference: 23/00331/FUL
Proposal: Erection of dwellinghouse
Site: Land South of 1 Netherwells, Jedburgh
Appellant: Mr Peter Caunt

Reasons for Refusal: 1. It is considered that the proposals are contrary to National Planning Framework 4 policy 17 and policy HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance New Housing in the Borders Countryside (2008) in that the proposed development would be sited within a previously undeveloped field, beyond the natural and man-made boundaries of the Netherwells building group, outwith the sense of place of the building group and out of keeping with the character of the building group resulting in an unacceptable adverse impact on the landscape and amenity of the surrounding area. Accordingly, the proposed development would represent a sporadic and unjustified form of development in the countryside, which would set an

undesirable precedent for similar unjustified proposals. 2. The proposal would be contrary to policy PMD2 of the Local Development Plan 2016 as the poor quality design, over development of the site and inappropriate ribbon development would not be compatible with or respect the character of the surrounding area or building group to the detriment of the character and amenity of the building group.

Method of Review: Review of Papers

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

- 6.3 Reference: 23/00507/PPP
Proposal: Erection of dwellinghouse
Site: Plot C Land West of Hedgehope Cottage, Winfield
Appellant: Aver Chartered Accountants

Reason for Refusal: The development is contrary to policies 1, 2 and 17 of National Planning Framework 4 and PMD1 and HD2 of the Local Development Plan 2016 because it would constitute unsustainable, car dependent, sporadic housing development in the open countryside, unrelated to any existing building group and would be out of keeping with the character of the 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 Upheld (Terms of Refusal Varied)

- 6.4 Reference: 23/00508/PPP
Proposal: Erection of dwellinghouse
Site: Land East of Dunedin Lodge, Crossrig
Appellant: Aver Chartered Accountants

Reasons for Refusal: 1. The development is contrary to policy HD2 (Housing in the Countryside) of the Local Development Plan 2016 because it would not be well related to any existing building group, would break into an undeveloped field with strong natural boundaries, and no other supporting justification has been made. The development gains no support from policy 17 of National Planning Framework 4. This conflict with the development plan is not overridden by any other material considerations. 2. The proposed development is contrary to Local Development Plan 2016 policy ED10 (Protection of Prime Quality Agricultural Land and Carbon Rich Soils) and National Planning Framework 4 policies 5 (Soils) and 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) as it would result in the permanent loss of greenfield, prime quality agricultural land without any necessary exceptional justification.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

- 6.5 Reference: 23/00509/PPP
Proposal: Erection of dwellinghouse
Site: Land North East of Alba Cottage, Fishwick
Appellant: Aver Chartered Accountants

Reason for Refusal: The development is contrary to policies 1, 2 and 17 of National Planning Framework 4 and HD2 of the Local Development Plan 2016 because it would constitute unsustainable, car dependent, sporadic housing development in the open countryside, unrelated to any existing building group and would be out of keeping with the character of the 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 Upheld (Terms of Refusal Varied)

7 REVIEWS OUTSTANDING

7.1 There remained 2 reviews previously reported on which decisions were still awaited when this report was prepared on 26th October 2023. This relates to sites at:

<ul style="list-style-type: none"> Site Adjacent The Steading Whiteburn Farm, Lauder 	<ul style="list-style-type: none"> U-Stor Business Units, Spylaw Road, Kelso
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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 26th October 2023. 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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