
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning & Housing Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

8th January 2024

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

Nil

- 3.2 Enforcements

- 3.2.1 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

Method of Appeal: Written Representations & Site Visit

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Rob Huntley, noted during his site visit that the walls fronting Gladstone Street and Myreslaw Green have street-facing display windows. The appeal advertisement is not displayed on any of the street-facing walls but is positioned on the southeast facing wall of the building which runs back at approximately right-angles from Beaconsfield Terrace. This wall does not contain a window. The appellant points out that the wall on which the advertisement is displayed contains a glazed door, which gives access to the shop and should therefore be regarded as a shop window for the purposes of Class IV(1) of Schedule 4 to the Regulations. Although there is no explicit definition of "shop window" in the Regulations, I consider that the term implies more than simply a window in a building used as a shop. The presence of a degree of display, related to the goods or services available in or supplied from the shop, is, the reporter feels, necessary for a window to be encompassed by the term shop window. The reporter concluded that content is required to authorise the display of the appeal advertisement and therefore dismissed the appeal.

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

3.3 Works to Trees

Nil

4 APPEALS OUTSTANDING

4.1 There remained One appeal previously reported on which a decision was still awaited when this report was prepared on 18th December 2023. This relates to a site at:

• Land East of Kirkwell House, Preston Road, Duns	•
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5 REVIEW REQUESTS RECEIVED

5.1 Reference: 22/00532/PPP
Proposal: Erection of dwellinghouse
Site: Land West of The Garden House, Brieryyards, Hornshole Bridge, Hawick

Appellant: Mr Michael Johnson

Reasons for Refusal: 1. The proposed development would be contrary to Policy HD2 of the Scottish Borders Local Development Plan 2016, New Housing in the Borders Countryside Supplementary Planning Guidance and Policy 17 of National Planning Framework 4 in that the site does not form part of an existing building group of at least three houses or buildings currently in residential use, or capable of conversion to residential use and it has not been adequately demonstrated that the proposed house is a direct operational requirement to support an established rural business or other enterprise at this location. 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. 2. The development is also contrary to policy PMD2 of the Scottish Borders Local Development Plan 2016 in that the proposed dwellinghouse would result in additional vehicular traffic on a sub-standard access to the public road to the detriment of road safety. This conflict with the development plan is not overridden by any other material considerations.

5.2 Reference: 23/01007/PPP
Proposal: Erection of dwellinghouse with access and associated works
Site: Land East of Mos Easley, Teviothead
Appellant: Buccleuch Estates Ltd

Reason for Refusal: The development would be contrary to Policy HD2 of the Scottish Borders Local Development Plan (2016), Policies 9 and 17 of NPF4 (2023) and the New Housing in the Borders Countryside Guidance (2008) because it would constitute housing in the countryside that would lead to an unjustified sporadic expansion of development into a previously undeveloped field likely leading to extension of the group that would adversely affect its character. These policy conflicts are not sufficiently overridden by other material considerations.

5.3 Reference: 23/01065/FUL
Proposal: Erection of dwellinghouse
Site: Land Adjacent Carnlea, Main Street, Heiton
Appellant: Mr Mark Graham

Reason for Refusal: The proposed development would not comply with National Planning Framework 4 Policy 14 and Policies PMD2: Quality Standards and PMD5: Infill Development of the Local Development Plan 2016 in that the development would result in additional vehicular traffic on a substandard access to the detriment of road safety, both vehicular and pedestrian, and the proposed upgrade of the junction with the A698 would appear incongruous with the linear streetscape and any scheme in isolation may have a detrimental effect on road safety.

6 REVIEWS DETERMINED

6.1 Reference: 23/00325/FUL
Proposal: Proposed change of use for Units 8-2 and 8-3 to mixed use include Classes 1 and 10
Site: U-Stor Business Units, Spylaw Road, Kelso
Appellant: U-Store Business Units Ltd

Reasons for Refusal: 1. The proposal is contrary to National Planning Framework 4 Policy 26 as the proposal is not for business and industry uses on a site allocated for such uses in the Local Development Plan, and the Class 1 and Class 10 uses are not compatible with the business and industrial character of the area and would prejudice the function of the area. In addition, the proposal is contrary to National Planning Framework 4 Policy 27 and the Town Centre First Approach, as it has not been adequately demonstrated that the proposed uses cannot be accommodated within the town centre or edge of centre or that there will be no significant adverse effect on the vitality and viability of the town centre; the proposal would set an undesirable precedent when town centres should be supported. 2. The proposal is contrary to Policy ED1 of the Local Development Plan 2016 in that the proposal would result in the loss of safeguarded business and industrial land and the Class 1 and Class 10 uses are not compatible with the predominant surrounding uses and would set an undesirable precedent for other retail uses, which are more suited to town centre locations, prejudicing the long term provision of business and industrial land in Kelso. In addition, the proposal is contrary to Policy ED3 of the Local Development Plan 2016, which seeks to develop and enhance the role of town centres by guiding retail development to town centres.

Method of Review: Review of Papers & Further Written Submissions

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

6.2 Reference: 23/00847/FUL
 Proposal: Erection of boundary fence (retrospective)
 Site: 24 - 1 Ettrick Terrace, Hawick
 Appellant: Mr Gary Johnstone

Reason for Refusal: The development would be contrary to Policy PMD2 of the Scottish Borders Local Development Plan 2016 and Policy 14 of NPF4 in that it would constitute a prominent and incongruous form of development that would have an adverse impact on the character and appearance of the surrounding area.

Method of Review: Review of Papers

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

7 REVIEWS OUTSTANDING

7.1 There remained 5 reviews previously reported on which decisions were still awaited when this report was prepared on 18th December 2023. This relates to sites at:

• Garden Ground of Glenbield, Redpath	• Land South of 1 Old Edinburgh Road, Eddleston
• Land North of Ivanhoe, Dingleton Road, Melrose	• The Blue House Near Swansfield Farm, Reston, Eyemouth
• 58 Waldie Griffiths Drive, 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 18th December 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)

Name	Designation and Contact Number
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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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