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## PLANNING APPEALS & REVIEWS

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### Briefing Note by Chief Planning & Housing Officer

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## PLANNING AND BUILDING STANDARDS COMMITTEE

5<sup>th</sup> February 2024

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### 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

- 2.1.1 Reference: 23/00140/LBC  
Proposal: Replacement windows  
Site: Middle House, Kingsmuir Hall, Bonnington Road, Peebles  
Appellant: Miss Julie Harrison

Reason for Refusal: The development would be contrary to policy EP7 of the Local Development Plan 2016, policy 7 of NPF4 and the council's SPG "Replacement Windows and Doors" in that that the material, frame dimensions and specifications of the proposed windows would have an unacceptable adverse impact on and detract from the special architectural and historic interest of the listed building. No overriding case for the development as proposed has been substantiated. These conflicts with the development plan are not overridden by other material considerations.

Reasons for Appeal: uPVC provides better thermal efficiency, requires less maintenance, is less prone to impacts of weather and is also cheaper to replace and maintain. The property is in a private lane and is only partially visible to neighbours, who have raised no objections. Peebles Civic Society have not objected to replacement with uPVC. The replacement windows are sympathetic to the existing historic style of the building and in keeping with the existing size, style and appearance. Replacement will improve the current look by removing external aluminium secondary glazing that exists on some windows. Neighbouring building had uPVC windows retrospectively approved. Other properties located in the conservation area and on main roads have been allowed uPVC replacements.

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

- 2.1.2 Reference: 23/00657/FUL

Proposal: Formation of accesses and change of use of land to storage (part retrospective)  
Site: Land South East of Mounthooly House, Jedburgh  
Appellant: Ramsay Mounthooly Ltd

Reasons for Refusal: 1. The proposed development would be contrary to Policy ED10 (Protection of Prime Quality Agricultural Land and Carbon Rich Soils) of the Scottish Borders Local Development Plan 2016 and Policy 5 (Soils) of National Planning Framework 4 in that it would lead to the permanent loss of prime quality agricultural land. 2. The proposed development would be contrary to Policy PMD2 (Quality Standards) of the Scottish Borders Local Development Plan 2016 in that the use of the site for storage would not be compatible with or reflect the character of the surrounding area and neighbouring residential uses. 3. The proposed development would be contrary to Policy ED7 (Business, Tourism and Leisure Development in the Countryside) of the Scottish Borders Local Development Plan 2016 in that the development would not respect the character or amenity of the surrounding area and would have a significant impact on nearby uses.

Reasons for Appeal: The Appellants are appealing against the decision taken by the councillors. The planning application was put forward for approval. The site has been left as waste land. Within the proposal screening would be installed along the roadside to screen the existing steading and area from the road. The storage space is required and would not take up the complete field. Levels would be reduce increasing the catchment area for any future flooding to help neighbouring properties. [Please see the DPEA Website for the Appeal Documents](#)

## 2.2 Enforcements

Nil

## 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 One appeal previously reported on which a decision was still awaited when this report was prepared on 24<sup>th</sup> January 2024. This relates to a site at:

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| <ul style="list-style-type: none"><li>• Land East of Kirkwell House, Preston Road, Duns</li></ul> | <ul style="list-style-type: none"><li>•</li></ul> |
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## 5 REVIEW REQUESTS RECEIVED

5.1 Reference: 23/00225/FUL  
Proposal: Replacement windows  
Site: Middle House, Kingsmuir Hall, Bonnington Road, Peebles  
Appellant: Miss Julie Harrison

Reason for Refusal: The development would be contrary to policy EP7 of the Local Development Plan 2016, policy 7 of NPF4 and the council's SPG "Replacement Windows and Doors" in that that the material, frame dimensions and specifications of the proposed windows would have an unacceptable adverse impact on and detract from the special architectural and historic interest of the listed building. No overriding case for the development as proposed has been substantiated. These conflicts with the development plan are not overridden by other material considerations.

5.2 Reference: 23/00625/FUL  
Proposal: Erection of dwellinghouse, formation of access and associated works  
Site: Land East of Blinkbonny Farmhouse, Kelso  
Appellant: Mr Jimmy Shanks

Reason for Refusal: 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 Blinkbonny 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. In addition, the proposal would be contrary to policy PMD2 of Local Development Plan 2016 in that it would result in access tracks leading to the site resulting in significantly adverse impacts upon existing landscape character and rural visual amenity.

5.3 Reference: 23/00695/PPP  
Proposal: Erection of two dwellinghouses with access and associated works  
Site: Land East of Buckletons, Stichill Stables, Kelso  
Appellant: Mr R And Mrs A Shanks

Reason for Refusal: The proposals are contrary to National Planning Framework 4 policy 17 and policies HD2 and IS6 of the Local Development Plan 2016 and Supplementary Planning Guidance New Housing in the Borders Countryside (2008) in that they do not have suitable road access

contrary to road safety and design standards. In addition, the proposal would be contrary to policy PMD2 of the Local Development Plan 2016 in that the proposed vehicular access would have an adverse impact on road safety, both for users of the private road and users of the B6364 public road. 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.

- 5.4 Reference: 23/01135/FUL  
Proposal: Formation of dormer window in lieu of previously approved rooflight (retrospective)  
Site: 8 St Dunstan, Lilliesleaf  
Appellant: Mr Matthew Parker And Miss Lindsay Sayer

Reason for Refusal: The proposed development would permit an unacceptable degree of overlooking of neighbouring garden ground to the detriment of the privacy of the neighbouring property and would, therefore, be contrary to Policy 16 of National Planning Framework 4 and Policy HD3 of the Local Development Plan 2016.

- 5.5 Reference: 23/01165/PPP  
Proposal: Erection of dwellinghouse  
Site: Land East of Morebattle Mains Cottages, Morebattle  
Appellant: Mr Peter & Catherine Grimley

Reason for Refusal: The proposals are contrary to National Planning Framework 4 policy 17, policy HD2 of the Local Development Plan 2016 and the 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 Morebattle Mains 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. In addition, the proposals would be contrary to policy PMD2 of the Local Development Plan 2016 in that the proposed development would result in significantly adverse impacts upon existing landscape character and rural visual amenity.

- 5.6 Reference: 23/01424/FUL  
Proposal: Erection of fence (retrospective)  
Site: 11A Roxburghe Drive, Hawick  
Appellant: Maureen Lewis

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. Other material considerations do not outweigh the adverse visual impact of the development.

## **6 REVIEWS DETERMINED**

- 6.1 Reference: 23/00492/PPP  
Proposal: Erection of dwellinghouse

Site: Land North of Ivanhoe, Dingleton Road, Melrose  
Appellant: Rivertree Residential Ltd

Reason for Refusal: The development would be contrary to policy 6 of the National Planning Framework 4 and policies EP10 and EP13 of the Scottish Borders Local Development Plan 2016 and SBC Supplementary Planning Guidance: Trees and Development 2020 in that there would be an unacceptable loss of protected trees, which would undermine the value of the site as a historic orchard of amenity value, compromising the character and amenity of the local area, the setting of the Dingleton Hospital redevelopment and the integrity of the Dingleton Designed Landscape, prejudicing the health and future retention of the remaining trees whilst allowing insufficient space for adequate compensatory planting. Furthermore, it has not been demonstrated that the public benefit of the development would outweigh the loss of, and impacts on, the protected trees.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

6.2 Reference: 23/00684/FUL  
Proposal: Change of use from amenity land to garden ground  
Site: 58 Waldie Griffiths Drive, Kelso  
Appellant: M&J Ballantyne Ltd

Reason for Refusal: The proposal would be contrary to Policy 20 of National Planning Framework 4 and Policies PMD2 and EP11 of the Local Development Plan 2016 and the Supplementary Planning Guidance on Placemaking and Design 2010 in that it would result in the loss of public open space that would be out of character with the existing and proposed development pattern to the detriment of the visual amenity and character of the surrounding area. In addition, it has not been demonstrated that there is a social, economic or community benefit for the loss of open space or that the need for development outweighs the need to retain the space. No comparable or enhancement of existing open space has been provided to mitigate the potential loss.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

## 7 REVIEWS OUTSTANDING

7.1 There remained 6 reviews previously reported on which decisions were still awaited when this report was prepared on 24<sup>th</sup> January 2024. This relates to sites at:

• Garden Ground of Glenbield, Redpath	• Land South of 1 Old Edinburgh Road, Eddleston
• The Blue House Near Swansfield Farm, Reston, Eyemouth	• Land Adjacent Carnlea, Main Street, Heiton
• Land West of The Garden House, Brieryyards, Hornshole Bridge, Hawick	• Land East of Mos Eisle, Teviothead

## 8 SECTION 36 PUBLIC LOCAL INQUIRIES RECEIVED

Nil

## 9 SECTION 36 PUBLIC LOCAL INQUIRIES DETERMINED

9.1	Reference:	19/00756/S36
	Proposal:	Erection of 45 No wind turbines and associated access tracks, infrastructure including substation/control room buildings and compound, temporary construction compound, meteorological mast and temporary borrow pits
	Site:	Land West of Castleweary (Faw Side Community Wind Farm), Fawside, Hawick
	Appellant:	Community Windpower Ltd

Reasons for Objection: 1. Impact on Landscape Character - The proposed development would be contrary to Local Development Plan Policy ED9 the Renewable Energy Supplementary Guidance and the Landscape Capacity and Cumulative Impact Study, in that the scale, form, layout and location of the development would represent a significant and unacceptable adverse change to the existing landscape character of the area, particularly impacting on the scale, appreciation and character of the Cauldcleuch Head and Craik Landscape Character Areas. 2. Visual Impact - The proposed development would be contrary to Local Development Plan Policy ED9 the Renewable Energy Supplementary Guidance and the Landscape Capacity and Cumulative Impact Study, in that the excessive scale and layout of the proposed development will result in significant and unacceptable adverse visual impacts to sensitive receptors using the minor road to Commonbrae and travelling to and from the Scottish Borders on the A7. 3. Aviation Lighting - The proposed development would be contrary to Local Development Plan Policy ED9 and the Renewable Energy Supplementary Guidance in that the visual impact of red aviation lights on the wind turbines, will create significant and unacceptable adverse visual effects, incongruous and visible over considerable distance. This will introduce urban characteristics into a dark rural environment largely unaffected by artificial light experienced by receptors travelling on public roads and paths within the area and would also detract from the sense of remoteness and tranquility of the Cauldcleuch Head and Craik Landscape Character Areas. 4. Archaeology Impacts - The proposed development would be contrary to Local Development Plan Policies ED9, EP8 and the Renewable Energy Supplementary Guidance in that the applicant has failed to demonstrate that the direct physical impacts of the development would not be significant and unacceptable on sites of national, regional and local archaeological significance within the site. Furthermore, the size and location of turbines 8 and 19 would have an unacceptable and significantly adverse impact on the setting of Pikethaw Cairn, without adequate mitigation or demonstration that the benefits of the scheme outweigh such impact.

Reporter's Decision: Sustained

Summary of Decision: The Reporter, Claire Milne, stated that in balancing the factors for and against this renewable energy proposal, the reporter recognised the contribution, in providing up to 315 MW, towards meeting climate change objectives and emission reduction targets. The introduction of battery storage as part of the development would also help

enhance security of supply. Also considering the significant adverse environmental effects, in particular on the landscape and visual amenity of the area and on residential amenity. In this case, the safeguarding of important defence interests is also relevant and a matter which requires careful consideration. The proposal would introduce significant adverse visual effects from most of the representative viewpoints assessed in the LVIA. This would affect a wide geographical area between Langholm and Hawick and affect a varied population including local inhabitants, visitors and tourists. The impact of aviation lighting on the proposed turbines would add to these significant adverse effects. There is an unresolved objection by the MoD in relation to the effect on the Eskdalemuir seismic array, which needs to be safeguarded. The reporter feels that the applicant's proposed approach could prejudice the ability of the MoD to safeguard the array and would unacceptably risk its protection. The reporter considered the updated national policy support for onshore wind energy, and the significant contribution the proposal would make towards tackling the climate crisis, adds substantial weight in favour of the proposed development. However, on balance the reporter found that the benefits of the proposed development, even in the context of considerable policy support for the type of development proposed, would not outweigh the significant adverse landscape, visual and residential amenity effects, and the potential effects on defence interests at Eskdalemuir. The reporter therefore concluded that the proposed development would conflict with NPF4 and is also inconsistent with the relevant local development plan policies of Dumfries and Galloway Council and Scottish Borders Council. [Please see the Energy Consent Units Website for the full Determination](#)

## 10 SECTION 36 PUBLIC LOCAL INQUIRIES OUTSTANDING

10.1 There remained no S36 PLI's previously reported on which decisions were still awaited when this report was prepared on 24<sup>th</sup> January 2024.

### 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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