
PLANNING APPEALS & REVIEWS

Briefing Note by Chief Planning Officer

PLANNING AND BUILDING STANDARDS COMMITTEE

30th May 2016

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

3 APPEAL DECISIONS RECEIVED

Nil

- 3.2 Enforcements

Nil

4 APPEALS OUTSTANDING

- 4.1 There remained 3 appeals previously reported on which decisions were still awaited when this report was prepared on 19th May 2016. This relates to sites at:

<ul style="list-style-type: none">Land South East of Halmyre Mains Farmhouse (Hag Law), Romanno Bridge	<ul style="list-style-type: none">Land North East and North West of Farmhouse Braidlie (Windy Edge), Hawick
<ul style="list-style-type: none">Land North of Upper Stewarton, (Kilrubie Wind Farm Development), Eddleston, Peebles	<ul style="list-style-type: none">

5 REVIEW REQUESTS RECEIVED

- 5.1 Reference: 15/00890/PPP
Proposal: Erection of dwellinghouse and upgrade access track
Site: Redundant Water Treatment Works, North East of Broughton Place Cottage, Broughton
Appellant: Mr Stewart Kane

Reasons for Refusal: 1. The proposal is contrary to Policy D2 - Housing in the Countryside and Supplementary Planning Guidance on New Housing in the Borders Countryside and Policy HD2 - Housing in the Countryside of the proposed Local development Plan in that the site for the new house is not within the recognisable building group at Broughton Place and it does not relate well to this group. 2. The proposal would be contrary to Policies D2 and G8 of the Scottish Borders Consolidated Local Plan 2011 and Policies HD2 and PMD4 of the Proposed Local Development Plan in that the stated need for the dwellinghouse would not justify the proposed development in this specific location. 3. The proposed dwellinghouse would be contrary to Policy D2 of the Scottish Borders Consolidated Local Plan 2011 and Policy HD2 of the Proposed Local development Plan in that satisfactory access and other road requirements cannot be met.

- 5.2 Reference: 15/01498/FUL
Proposal: Change of use from Class 4 (Office) to Class 2 (Beauty Therapy Salon)
Site: Block 2 Unit 6 Cherry Court, Cavalry Park, Peebles
Appellant: Ms K McFadzean

Reason for Refusal: The proposed change of use of the premises to Beauty Therapy Salon would be contrary to Adopted Local Plan Policy ED1 in that it is not a Class 4, Class 5 or Class 6 use, and the site (Cavalry Park) is safeguarded for employment uses in the Adopted Local Plan, having more particularly been identified as a Strategic Employment Site; a designation which requires that all other uses be resisted. Further, the Beauty Therapy Salon would not constitute a complementary commercial activity or enhance the quality of the business park as an employment location, and as such does not comply with the Policy ED1 of the emerging Local Development Plan.

- 5.3 Reference: 15/01552/FUL
Proposal: Erection of two dwellinghouses
Site: Land South of Primary School, West End, Denholm
Appellant: Mr and Mrs N Ewart

Reasons for Refusal: 1. The proposed development is contrary to policies G7, BE4 and BE6 of the Consolidated Scottish Borders Local Plan (2011) in that it would result in the loss of open space to the detriment of the amenity and character of the village, its western approach and to the detriment of the character and appearance of the Denholm Conservation Area. 2. The proposed development set forth in this application is considered contrary to policy G1 of the Consolidated Scottish Borders Local Plan (2011), and contrary to adopted supplementary planning guidance on Placemaking and Design in that the proposed dwellings would not reflect the neighbouring built form and density.

- 5.4 Reference: 16/00041/FUL

Proposal: Removal of Condition 3 of planning permission 04/02011/FUL pertaining to occupancy of the dwellinghouse
Site: Craigie Knowe, Blainslie Road, Earlston
Appellant: Aileen Cockburn

Reason for Refusal: The establishment of a new residential property in an isolated rural location in the absence of any restrictions upon its occupancy for the purposes of ensuring that it would only ever be used to serve a specific business' identified operational requirements, would be directly contrary to the Council's rural housing policy; and specifically, Policy D2 of the Adopted Scottish Borders Consolidated Local Plan 2011 and the guidance of the approved Supplementary Guidance Note on New Housing in the Borders Countryside. Further, it is not considered that there are any material considerations - including the Applicant's supporting case and the advice and guidance of the SPP and Circular 4/1998 - that outweigh the need to determine this application in accordance with the Council's adopted Housing in the Countryside Policy. Accordingly the application is only reasonably refused.

6 REVIEWS DETERMINED

6.1 Reference: 15/00100/FUL
Proposal: Erection of Class 1 retail foodstore with ancillary works including car parking, access and landscaping
Site: Land and Buildings at Wilton Mills, 31 - 32 Commercial Road, Hawick
Appellant: Wilton Mills Ltd

Reason for Refusal: The proposal is contrary to policies H3 and ED3 of the Scottish Borders Consolidated Local Plan Adopted 2011 and policy ED3 of the Local Development Plan 2013 and Supplementary Planning Guidance: Commercial Road Hawick 2009 in that there is no spare retail capacity to accommodate a Class 1 foodstore in Hawick and the quantitative need for the proposed foodstore has not been adequately substantiated. In addition, the submission has failed to identify a qualitative need for the store as the proposal would not provide a different retail offer from existing foodstores in the town. As a result, a retail store on this edge-of-centre site would have a direct detrimental impact on the vitality and viability of an already vulnerable town centre.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions and a Section 75 Legal Agreement)

6.2 Reference: 15/01323/FUL
Proposal: Erection of dwellinghouse
Site: Land North East of The Cottage, Lauder Barns, Lauder
Appellant: Angela Fairbairn

Reasons for Refusal: 1. Notwithstanding that the site is well-related to the existing building group at Lauder Barns, and taking account of a live outline planning consent (07/02397/OUT) for two dwellings within the same building group, the proposal is contrary in principle to Adopted Local Plan Policy D2 in that approval would increase the number of new

dwellings capable of being developed within the current Local Plan period in association with the existing building group at Lauder Barns, above two, which is the maximum number of additional dwellings that are explicitly allowed by Policy D2 in relation to a building group of three existing dwellings. Furthermore, there is no operational need for a new dwellinghouse to be located at the site to serve any agricultural business, or other business with a justifiable requirement for a full-time worker to be accommodated on-site, on a permanent basis; and there are no other considerations material to this planning decision that outweigh the need to determine this application in strict accordance with planning policy. 2. The design and layout of the proposal are contrary to Adopted Local Plan Policies D2 and G1, and the advice of the approved 'Place-Making and Design' Supplementary Planning Guidance Note, in that these are unsympathetic to the prevailing sense of place within, and setting of, the building group at Lauder Barns and to the character and appearance of the surrounding landscape. This is because the elevation facing the access road (the South Elevation) would not have the appearance, or setting, of a principal elevation, but instead, would have a notably secondary, even 'rear elevation', character. The visual impact of this would be further exaggerated by the erection of a 1.8m high boundary fence along the boundary with the access road, which would convey a very strong visual impression of the land to the south of the dwellinghouse being a rear garden area when this would more sympathetically be a front garden area.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions and a Section 75 Legal Agreement)

6.3 Reference: 15/01354/FUL
 Proposal: External alterations and erection of 4 No flagpoles
 Site: Office West Grove, Waverley Road, Melrose
 Appellant: Rural Renaissance Ltd

Reason for Refusal: The proposed development is contrary to Adopted Local Plan Policy G1 in that the erection of the four no flagpoles, would not in its scale (principally in the height and number of flag poles featured) in culmination with its siting, be compatible with, or respectful of, the character of the surrounding area and neighbouring built form.

Method of Review: Review of Papers

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

6.4 Reference: 15/01491/FUL
 Proposal: Erection of dwellinghouse and detached garage/annex
 Site: Land West of Whistlefield, Darnick
 Appellant: Mr and Mrs P Burns

Reasons for Refusal: 1. The development will conflict with Policies G1 and G7 of the Consolidated Local Plan 2011 because the proposed dwellinghouse is not of a design quality that complies with the Council's Supplementary Planning Guidance "Placemaking and Design" 2010. The proportions of roof to wall, plan depth and overall footprint and profile all combine to produce an inappropriate form and massing which amount to an unacceptable overall design. The development will also contribute

negatively to the visual amenity of the surrounding area as a result. 2. The development will conflict with Policy NE4 of the Consolidated Local Plan 2011 in that the development may lead to loss of mature trees that have public amenity value, and the application contains insufficient information to demonstrate that this will not be the case. The potential loss of the trees will harm the visual amenity of the surrounding area.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Overturned (Subject to Conditions and a Section 75 Legal Agreement)

6.5 Reference: 15/01557/FUL
Proposal: Erection of dwellinghouse
Site: Builders Yard, Land South West of 76 St Andrew Street, Galashiels
Appellant: Book Developments

Reason for Refusal: The development would conflict with Policies G1 and G7 of the Consolidated Local Plan 2011 and Supplementary Planning Guidance "Placemaking and Design" 2010 because the scale, form and design of the development would, in this backland location, lead to an unacceptable visual impact on the character of the surrounding area and neighbouring built form.

Method of Review: Review of Papers

Review Decision: Decision of Appointed Officer Upheld

7 REVIEWS OUTSTANDING

7.1 There remained 2 reviews previously reported on which decisions were still awaited when this report was prepared on 19th May 2016. This relates to sites at:

- | | |
|---|------------------------------|
| • Land South of Camphouse Farmhouse, Camptown, Jedburgh | • 5 East High Street, Lauder |
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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 3 S36 PLIs previously reported on which decisions were still awaited when this report was prepared on 19th May 2016. This relates to sites at:

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|---|--|
| • Land North of Nether Monynut Cottage (Aikengall IIa), | • Cloich Forest Wind Farm, Land West of Whitelaw Burn, Eddleston |
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Cockburnspath	
<ul style="list-style-type: none"> (Whitelaw Brae Wind Farm), Land South East of Glenbreck House, Tweedsmuir 	<ul style="list-style-type: none">

Approved by

Ian Aikman
Chief Planning 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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