

Public Document Pack

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in Council Chamber, Council Headquarters, Newtown St Boswells, TD6 0SA on Monday, 17 April 2017 at 10.00 am

Present:- Councillors R. Smith (Chairman), J. Brown (Vice-Chairman), M. Ballantyne, J. Campbell, J. A. Fullarton, I. Gillespie, S. Mountford and B White

Apologies:- Councillor D. Moffat

In Attendance:- Chief Planning Officer, Managing Solicitor – Property and Licensing, Democratic Services Team Leader, Democratic Services Officer (F. Walling).

1. **REVIEW OF 16/01513/FUL**

There had been circulated copies of the request from Cleek Poultry Ltd, The Tractor Shed, Kirkburn, Cardrona, to review the decision to refuse the planning application in respect of erection of a storage building for agricultural machinery in Field No 0328, Kirkburn, Cardrona. Included in the supporting papers were the Notice of Review (including the Decision Notice); officer's report; papers referred to in the report; consultations; and a list of relevant policies. In considering the application Members focused in particular on the elevated site of the building and its potential impact on the landscape when viewed from across the valley. It was noted that the application did not include the required information on traffic movements to be able to assess road safety implications and Members were also concerned at the lack of information to provide economic justification for a machinery storage shed on this scale.

DECISION

AGREED that:-

- (a) **the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) **the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) **the officer's decision to refuse the application be upheld for the reasons detailed in Appendix I to this Minute.**

2. **REVIEW OF 16/01506/FUL**

There had been circulated copies of the request from Cleek Poultry Ltd, The Tractor Shed, Kirkburn, Cardrona, to review the decision to refuse the planning application in respect of erection of a straw storage building in Field No 0328, Kirkburn, Cardrona. Included in the supporting papers were the Notice of Review (including the Decision Notice); officer's report; papers referred to in the report; consultations; and a list of relevant policies. Although Members accepted that a small holding may require a building in which to store straw they were concerned that no information had been presented to

explain the activities carried out on the site and specifically whether any livestock was kept on the site. Further concern was expressed that, due to the height of the proposed building and its position on an elevated site, there would be a detrimental impact of the development on the surrounding landscape.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the officer's decision to refuse the application be upheld for the reasons detailed in Appendix II to this Minute.**

3. REVIEW OF 16/01507/FUL

There had been circulated copies of the request from Cleek Poultry Ltd, The Tractor Shed, Kirkburn, Cardrona, to review the decision to refuse the planning application in respect of erection of a machinery storage building in Field No 0328, Kirkburn, Cardrona. Included in the supporting papers were the Notice of Review (including the Decision Notice); officer's report; papers referred to in the report; consultations; and a list of relevant policies. Member discussed the application and noted that the proposed machinery storage building would project 2.5m above the ridgeline of the buildings to which it was attached. They were concerned about the impact of the proposed development on views from the surrounding area. It was accepted that the height proposed for the building was necessary if the intention was to store tipping trailers and telescopic handlers but noted that there was no evidence presented to justify the requirement for such a building. Members were also concerned that there was insufficient information to be able to undertake an assessment of road safety implications of the development and requested that an additional reason be added to the refusal notice on road safety grounds.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the officer's decision to refuse the application be varied for the reasons detailed in Appendix III to this Minute.**

4. REVIEW OF 16/01464/FUL

There had been circulated copies of the request from Cleek Poultry Ltd, The Tractor Shed, Kirkburn, Cardrona, to review the decision to refuse the planning application in respect of erection of an agricultural storage building with welfare accommodation in Field

No 0328, Kirkburn, Cardrona. Included in the supporting papers were the Notice of Review (including the Decision Notice); officer's report; papers referred to in the report; consultations; and a list of relevant policies. In considering this application Members accepted that the visual impact of the proposed building should be limited due to screening to the north of the holding and the siting of the building at a lower level. However concern was expressed about the close proximity of the proposed building with the consented holiday development. Although the owner wished to maintain a small 'nest' of buildings for storage use by other agricultural businesses on the site there was no evidence presented to support this proposal. Members reiterated their request for a business case for the development and asked for evidence of how the applicant's activities fell within the definition of a smallholding.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the officer's decision to refuse the application be upheld for the reasons detailed in Appendix IV to this Minute.**

The meeting concluded at 11.00 am

This page is intentionally left blank



APPENDIX I

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013

Local Review Reference: 17/00007/RREF

Planning Application Reference: 16/01513/FUL

Development Proposal: Erection of machinery storage building

Location: Field No 0328 Kirkburn, Cardrona

Applicant: Cleek Poultry Ltd

DECISION

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice and on the following grounds:

- 1 The application is contrary to Policies PMD2, EP5 and ED7 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building will be prominent in height, elevation and visibility within the landscape and will have a significant detrimental impact on the character and quality of the designated landscape.
- 2 The application is contrary to Policies PMD2 and ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building that would justify an exceptional permission for it in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building is not of a design or scale that appears justified by the size of the holding on which it would be situated, which further undermines the case for justification in this location.
- 3 The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that

any traffic generated by the proposal can access the site without detriment to road safety.

DEVELOPMENT PROPOSAL

The application relates to the erection of a machinery storage building at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Site Plan	19683
General Arrangement	19684

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 17th April 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Officer's Report; c) Papers referred to in Report; d) Consultations and e) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the most relevant of the listed policies were:

- Local Development Plan policies: PMD2, EP5, EP8 and ED7.

Other Material Considerations

- Scottish Planning Policy
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal was to erect a machinery storage building directly to the south of the existing buildings in the yard at the applicant's land holding at Kirkburn. The building, which has a footprint of 6m x 24m, would be placed on the upper yard on elevated ground and would project by a minimum of 2.5m above the ridgeline of the existing buildings.

The Review Body noted that the applicant sought to contain his activities within the existing nucleus of buildings at the holding. However, Members were concerned that due to its elevation the building would be prominent from more distant views across the valley and would extend above the tree cover to the northern boundary of the landholding. Members agreed with the view of the landscape architect that this was

harmful on visual and landscape grounds and therefore unacceptable. They concluded that it would constitute a prominent feature on an elevated site, which would detract from the intrinsic qualities of the Tweed Valley Special Landscape Area.

The Review Body noted that the application was not supported by a business plan or any statement that set out the development strategy for the landholding. They had no evidence before them as to the activities carried out at the site or why the new building was needed. In their view, no credible or sustainable economic justification had been made for the building on this size of landholding to set aside the strong landscape objections to the development.

The Review Body reiterated their request that the applicant submit a business case/masterplan for the landholding that would set out clearly the objectives for the landholding with any subsequent planning applications lodged with the Council.

Members noted the comments of the Roads Planning officer and agreed that the application was deficient in term of the required traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) to enable a full assessment of the road safety implications of the development to be undertaken.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was refused.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed...Councillor R Smith
Chairman of the Local Review Body

Date 24 April 2017

This page is intentionally left blank



APPENDIX II

**SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY DECISION NOTICE**

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND
LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 17/00008/RREF

Planning Application Reference: 16/01506/FUL

Development Proposal: Erection of straw storage building

Location: Field No 0328 Kirkburn, Cardrona

Applicant: Cleek Poultry Ltd

DECISION

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice and on the following grounds:

- 1 The application is contrary to Policies PMD2, EP5 and ED7 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building will be prominent in height, elevation and visibility within the landscape and will have a significant detrimental impact on the character and quality of the designated landscape.
- 2 The application is contrary to Policies PMD2 and ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building that would justify an exceptional permission for it in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building is not of a design or scale that appears justified by the size of the holding on which it would be situated, which further undermines the case for justification in this location.
- 3 The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that

any traffic generated by the proposal can access the site without detriment to road safety.

DEVELOPMENT PROPOSAL

The application relates to the erection of a straw storage building at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Site Plan	19685
General Arrangement	19686

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 17th April 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Officer's Report; c) Papers referred to in Report; d) Consultations and e) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the most relevant of the listed policies were:

- Local Development Plan policies: PMD2, EP5, EP8 and ED7.

Other Material Considerations

- Scottish Planning Policy
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal was to erect a straw storage building to the south of the existing buildings in the yard at the applicant's land holding at Kirkburn. The building, which had a footprint of 8m x 18m, would be placed on the upper yard on elevated ground and would project by a minimum of 2.5m above the ridgeline of the existing buildings in the main yard.

The Review Body noted that the applicant sought to contain his activities within the existing nucleus of buildings at the holding. However, whilst Members accepted that this was a building of a modest scale, they were still concerned that, due to its elevation, the building would be prominent from more distant views across the valley and would extend above the tree cover to the northern boundary of the landholding. Members agreed with the view of the landscape architect that this was harmful on

visual and landscape grounds and therefore unacceptable. They concluded that it would constitute a prominent feature on an elevated site, which would detract from the intrinsic qualities of the Tweed Valley Special Landscape Area.

The Review Body accepted that a small holding may need to store straw. However, the application was not supported by a business plan or any statement that set out the development strategy for the landholding or the activities carried out at the site. In the circumstances, they had no evidence before them as why the new straw building was needed for this small holding. In the absence of a credible or sustainable economic justification for the building on this size of landholding they had no reason to set aside the strong landscape objections to the development or overturn the decision.

The Review Body reiterated their request that the applicant submit a business case/masterplan for the landholding that would set out clearly the objectives for the landholding with any subsequent planning applications lodged with the Council.

Members noted the comments of the Roads Planning officer and agreed that the application was deficient in term of the required traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) to enable a full assessment of the road safety implications of the development to be undertaken.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was refused.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed.....Councillor R Smith
Chairman of the Local Review Body

Date.....24 April 2017

This page is intentionally left blank



APPENDIX III

**SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY DECISION NOTICE**

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND
LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 17/00009/RREF

Planning Application Reference: 16/01507/FUL

Development Proposal: Erection of machinery storage building

Location: Field No 0328 Kirkburn, Cardrona

Applicant: Cleek Poultry Ltd

DECISION

The Local Review Body (LRB) varies the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice and on the following grounds:

- 1 The application is contrary to Policies PMD2, ED7 and EP5 of Scottish Borders Local Development Plan 2016 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building will be prominent in height, elevation and visibility within the landscape, will be poorly visually related to the existing buildings adjoining and will have a significant detrimental impact on the character and quality of the designated landscape.
- 2 The application is contrary to Policies PMD2 and ED7 of Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building that would justify an exceptional permission for it in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building and use are not of a scale or purpose that appear related to the nature or size of the holding on which the building would be situated, which further undermines the case for justification in this location.
- 3 The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that

any traffic generated by the proposal can access the site without detriment to road safety.

DEVELOPMENT PROPOSAL

The application relates to the erection of a machinery storage building at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Site Plan	19681
General Arrangement	19680

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 17th April 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Officer's Report; c) Papers referred to in Report; d) Consultations and e) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the most relevant of the listed policies were:

- Local Development Plan policies: PMD2, EP5, EP8 and ED7.

Other Material Considerations

- Scottish Planning Policy
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal was to erect a machinery storage building to the west of the existing buildings in the yard at the applicant's land holding at Kirkburn. The building, which has a footprint of 7m x 10m, would be placed on the lower yard and at 7m in height it would project 2.5m above the ridgeline of the existing buildings which it was to be attached to.

The Review Body noted that the applicant sought to contain his activities within the existing nucleus of buildings at the holding. However, Members did not agree with the applicant that the building was of "limited height" and that he had demonstrated that "... the building would be hidden from view for the A72". They were concerned that, due to the height of the building, it would be prominent from more distant views

across the valley and would extend above the tree cover to the northern boundary of the landholding. Members agreed with the view of the landscape architect that this was harmful on visual and landscape grounds and therefore unacceptable. They concluded that it would constitute a prominent feature on an elevated site, which would detract from the intrinsic qualities of the Tweed Valley Special Landscape Area.

The Review Body accepted that, if the building was required for the storage and maintenance of tipping trailers and telescopic handlers, the internal height proposed would be necessary. However, the application was not supported by a business plan or any statement that set out the development strategy for the landholding for the activities carried out at the site. In the circumstances, they had no evidence before them as why the new building was needed for this small holding. In the absence of a credible or sustainable economic justification for the building on this size of landholding they had no reason to set aside the strong landscape objections to the development and overturn the decision.

The Review Body reiterated their request that the applicant submit a business case/masterplan for the landholding that would set out clearly the objectives for the landholding with any subsequent planning applications lodged with the planning authority.

Members were concerned that the application was deficient in term of the traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) and, in their view, it had not been possible to undertake a full assessment of the road safety implications of the development. In the circumstances, the Review Body varied the terms of the decision and added an additional reason for refusal on road safety grounds.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was refused.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed....Councillor R Smith
Chairman of the Local Review Body

Date.....24 April 2017



APPENDIX IV

**SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY DECISION NOTICE**

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 17/00010/RREF

Planning Application Reference: 16/01464/FUL

Development Proposal: Erection of agricultural storage building with welfare accommodation

Location: Field No 0328 Kirkburn, Cardrona

Applicant: Cleek Poultry Ltd

DECISION

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice and on the following grounds:

- 1 The application is contrary to Policies PMD2, EP5 and ED7 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance relating to Special Landscape Area 2 - Tweed Valley in that it has not been adequately demonstrated that there is an overriding justification for the proposed building that would justify an exceptional permission for it in this rural location and, therefore, the development would appear as unwarranted development in the open countryside with adverse visual impacts on the local environment. The proposed building is not of a design or scale that appears suited to the size of the holding on which it would be situated, which further undermines the case for justification in this location.
- 2 The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that any traffic generated by the proposal can access the site without detriment to road safety.

DEVELOPMENT PROPOSAL

The application relates to the erection of an agricultural storage building with welfare accommodation at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Site Plan	19673
General Arrangement	19672

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 17th April 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Officer's Report; c) Papers referred to in Report; d) Consultations and e) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the most relevant of the listed policies were:

- Local Development Plan policies: PMD2, EP5, EP8 and ED7.

Other Material Considerations

- Scottish Planning Policy
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal was to erect an agricultural storage building with welfare accommodation. The building, which incorporated a mezzanine floor, has a footprint of 12m x 18m and a ridge height of 7.5m. The building would be erected in a currently undeveloped field to the north east of the existing vehicular access and the main yard at the applicant's land holding at Kirkburn.

The Review Body acknowledged that the site occupied land that had previously had planning permission for holiday chalets and a hub building. Members accepted the conclusion of the appointed officer that due to the location of the proposed building and the screening to the north of the landholding, in this instance, the wider visual impacts on the landscape from the A72 were not so significant as to warrant refusal of the application. However, they were concerned that there would be localised visual impacts due to the bulk and scale of the building and that these would be harmful.

The application proposes the creation of provision for small "nest" agricultural businesses at the site. However, the application was not supported by a business plan for this activity or any statement that set out the development strategy for the landholding for the activities carried out at the site. In the circumstances, the Review Body had no evidence before them about the need and suitability of this development on the small holding. In the absence of a credible or sustainable economic justification for the building on this size of landholding they

had no reason to set aside the visual and landscape objections to the development and overturn the decision.

The Local Review Body expressed concern that there would be a potential conflict in relationship between the consented holiday development and the scale and proximity of the agricultural and other proposals on land adjoining. Members were concerned about how the proposal would relate to all of those, how compatible they would be with one another and whether there would be conflict between the uses on such a limited area of land. Whilst uncomfortable with the potential conflict they accepted the appointed officer's conclusion that it did not form a reason to oppose the application in this instance.

The Review Body reiterated their request that the applicant submit a business case/masterplan for the landholding that would set out clearly the objectives for the landholding with any subsequent planning applications lodged with the planning authority.

The Review Body noted the applicant's comments about upgrading the access bellmouth and the assertion that the development would lessen the traffic generated at the site. However, they were not convinced and Members concluded that the application was deficient in term of the traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) and, in their view, it had not been possible to undertake a full assessment of the road safety implications of the development.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was refused.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed....Councillor R Smith
Chairman of the Local Review Body

Date.....24 April 2017

This page is intentionally left blank