

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: 17/00018/RREF

Planning Application Reference: 17/00090/FUL

Development Proposal: Erection of agricultural storage shed with welfare accommodation

Location: Land West Of Former William Cree Memorial Church Kirkburn
Cardrona Peebles

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 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 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.
- 3 The application is contrary to Policies EP7 and EP8 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that the development will not adversely affect the setting of the adjoining statutorily listed building and sites of archaeological interest.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Site Plan	196 73G
General Arrangement	196 72A

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 July 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, had 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 applicant's main yard at Kirkburn, on the edge of the applicant's land holding adjoining the former William Cree Memorial Church.

The Review Body acknowledged that the site occupied land that had previously had planning permission for holiday chalets and a hub building. However, in their view, this raised concerns about the potential for conflict between the proposed use and the other consented and existing uses at the locus, especially on such a limited area of land.

The approved chalet buildings were 6m in height and smaller in size and scale to the agricultural shed now proposed. Members noted that the chalets were required by planning condition to be lowered to reduce further any visual impact. Whilst the new shed would at 7.5m would be higher than the approved chalet buildings its relative position on the site and the contour at which they would be placed, means that the shed would be not be overly visible and dominant in the local landscape due to the screening of the roadside tree belt. Members agreed with that it would not have an adverse and harmful impact on the Tweed Valley landscape.

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 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. Members agreed that the proposed building was not of a design or scale suited to the size of the holding.

The applicant asserts that the access bellmouth had been suitably upgraded and that the development would lessen the traffic generated at the site. However, Members accepted that the application was deficient in term of traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) to substantiate that view.

The Review Body were conscious of the sensitivities in terms of the building's relationship to the archaeological site of Our Lady's Church and churchyard and the listed former William Cree Memorial Church. Members did not feel that this had been adequately taken into account or resolved by the applicant.

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.....Cllr T Miers
Chairman of the Local Review Body

Date.....7 August 2017