

## APPENDIX I

### SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

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#### 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

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**Local Review Reference:** 17/00015/RREF

**Planning Application Reference:** 16/01174/PPP

**Development Proposal:** Erection of vehicle body repair workshop and associated parking

**Location:** Land North West of Dunrig, Spylaw Farm, Lamancha, West Linton

**Applicant:** GS Chapman Vehicle Body Repairs

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### DECISION

The Local Review Body (LRB) reverses the decision of the appointed officer and grants planning permission for the reasons set out in this decision notice and subject to the conditions set out below.

### DEVELOPMENT PROPOSAL

The application for planning permission in principle relates to the erection of a vehicle body repair workshop and associated parking on land north west of Dunrig, Spylaw Farm Lamancha, West Linton. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	OS extract
<u>Indicative Plans</u>	
Sketch Plans & Elevations of New Workshop	2016/13/102
Site Plan	2016/13/101A

### 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 initial meeting on 19<sup>th</sup> June 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review (including the Decision Notice); b) officer's report; c) papers referred to in report; d) Consultations and e) List of policies, the LRB concluded that it did not have sufficient information to determine the review and that further procedure in the form of a site visit was necessary. The site visit was held on the 3<sup>rd</sup> July and the case was then reported back to the Review Body at its next meeting on 17<sup>th</sup> July 2017. Following further debate it was determined that additional information was required in the form of written submissions in respect of the following matters:

1. What consideration had been given to siting the proposed development within or near to the currently existing farm building group.
2. Whether a legal agreement tying the new business to the land holding was achievable.

Submissions in respect to these matters were received from the applicant and the appointed officer and these were presented to the Local Review Body at its meeting on 21<sup>st</sup> August 2017. On receipt of this information, the Review Body proceeded to determine the case.

The Review Body noted that there was new information submitted with the review papers in respect of letters from two neighbouring landowners, Mr J Dyke and Mr A Laird and an email from the Community Council, that were not before the appointed officer when the decision was issued. Members decided that this evidence did not meet the tests set out in Section 43B of the Town & Country Planning (Scotland) Act 1997 and they proceeded to determine the case without reference to this information.

## **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: HD3, PMD1, PMD2, ED7, EP13, EP16, IS7 & IS9

The Review Body debated the application at some length and acknowledged that this was a particularly challenging case. Members appreciated the additional information provided to them through further procedure and that this had been of great assistance to their deliberations on this case.

In considering the suitability of the site for this business use, Members discussed the terms of Policy ED7 in detail. The policy requires that there be an economic and/or operational need for the particular countryside location, and that it can be proven that the development could not be reasonably accommodated within the Development Boundary of a settlement.

The Review Body noted that the “body repair” business was currently operating from a building leased from the owners of Sunnyside Farm and that this arrangement was due to expire in April 2018. They also noted that the existing facilities were not suitable for the current use and that as Sunnyside Farm had just been sold, the continuation of such a lease arrangement was in doubt.

Members noted that this was an established business serving a client base within the West Linton area. The Review Body was satisfied a strong economic case had been made for supporting the business. They also accepted that operationally a location within the northern part of the Borders was necessary to enable the business to continue operating effectively and potentially expand. The fact that the business currently operated from a rural location in this area was an important factor, which had to be taken into account.

The Review Body acknowledged the efforts made by the applicant to secure alternative sites for the business in Peebles and West Linton and with landowners in the West Linton area but that no such sites were available. They debated, at length, whether the current site was suitable for the proposed use and whether there were alternative locations for the building within the applicant’s landholding. They accepted the problems in re-siting the proposed building closer to the southern part of the site and that the existing buildings next to Dunrig were not capable or available for this use. Ultimately, the LRB was satisfied that this was an appropriate site for the business.

In terms of Policy ED7 they were content that there was both an operational and economic need for the business to be in this location and that it could not be reasonably located within the Development Boundary of a settlement. In coming to their conclusion in these matters, the LRB gave great weight to the views and support of the Economic Development Section for the development.

In terms of the developmental criteria within Policy ED7, the Local Review Body was satisfied that the building could be developed in a way that respected the character and amenity of the area. They did not accept that the building would be unduly visible or strident in the landscape. The indicative plans submitted with the application illustrated a building similar in form to a modest agricultural building in the landscape. Members accepted that conditions regarding material and landscaping, with a substantial planted buffer along the eastern boundary, could be imposed that would allow a suitable development to be achieved. The restriction of external storage, along with a restriction on the proposed use, would also help retain the rural character of the locality. In addition, they were satisfied that there would be no impact on neighbouring properties.

The Review Body was content that additional matters relating to access, parking, turning facilities, water supply and drainage could be covered by suitably worded conditions.

## **CONCLUSION**

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

## **DIRECTIONS**

1. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
  - (a) the expiration of three years from the date of this permission, or
  - (b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

## **CONDITIONS**

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
3. No development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the building have been submitted to and approved in writing by the Local Planning Authority, and thereafter no development shall take place except in strict accordance with those details.

Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
4. The means of surface water and foul drainage to be submitted to and approved in writing by the Planning Authority before the development is commenced. The development then to be implemented in accordance with the approved details.

Reason: To ensure that the site is adequately serviced.

5. No development is to commence until a report, by a suitably qualified person, has been submitted to and approved in writing by the Planning Authority, demonstrating the provision of an adequate water supply to the development in terms of quality, quantity and the impacts of this proposed supply on surrounding supplies or properties. The provisions of the approved report shall be implemented prior to the occupation of the building(s)/dwellinghouse(s) hereby approved.

Reason: To ensure that the development is adequately serviced with water without a detrimental effect on the water supplies of surrounding properties.

6. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):

- i. existing and finished ground levels in relation to a fixed datum preferably ordnance
- ii. measures to protect existing trees and hedgerows along the northern and western boundaries of the site during the construction phase and to ensure their retention thereafter and, in the case of damage, restored
- iii. details of a substantial shelter belt to be planted to the eastern boundary of the site
- iv. location and design, including materials, of walls, fences and gates
- v. soft and hard landscaping works
- vi. existing and proposed services such as cables, pipelines, sub-stations
- vii. other artefacts and structures such as street furniture, play equipment
- viii. A programme for the implementation and completion of the scheme of landscape works and subsequent maintenance thereof.

Reason: To ensure the satisfactory form, layout and assimilation of the development into the landscape and to ensure a degree of separation between the new dwelling house and the property known as Highland Brae.

7. Prior to the commencement of the operation of the business, hereby approved, details of the new access to the site and the parking and turning, within the application site shall be submitted to and approved by the Planning Authority. The parking and turning area should be retained for this use thereafter.

Reason: In the interests of road safety to ensure the satisfactory access, off road parking and turning for vehicles is provided at the site.

8. The premises shall be used for a body repair workshop only and for no other purpose (including any other purpose in Class 5 of the Schedule to The Town and Country Planning (Use Classes) (Scotland) Order 1997, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).

Reason: To ensure that the use remains compatible within the site.

9. No open storage of material or equipment associated with the body repair business shall take place within the curtilage of the site without the prior written permission of the Local Planning Authority.

Reason: To safeguard the visual appearance of the area.

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**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.

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**Signed...**Councillor T. Miers  
Chairman of the Local Review Body

**Date.....**5 September 2017