

## APPENDIX IV

### 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:** 17/00027/RREF

**Planning Application Reference:** 17/00530/FUL

**Development Proposal:** Erection of dwellinghouse with attached garage and workshop

**Location:** Land North West of Alderbank, Macbiehill, West Linton

**Applicant:** Mr & Mrs D Gold

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### 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 ground:

1. The proposals do not comply with Local Development Plan Policy HD3 and the Supplementary Planning Guidance on Privacy and Sunlight in that the proximity and change in levels in relation to "Alderbank" would result in significant adverse effects on the residential amenity enjoyed by that property, creating an overbearing impression.

### DEVELOPMENT PROPOSAL

The full application relates to the erection of dwellinghouse with attached garage and workshop at land north west of Alderbank, Macbiehill, West Linton. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Site Plan	Document 1
Location Plan	Document 2
General	Document 3
General	OGS 173 30

## **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 21<sup>st</sup> August 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review (including the Decision Notice and Officer's Report); b) Papers referred to in Report; c) Consultations; and d) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case. In coming to this decision Members considered the applicants' request for further procedure in the form of a site visit and one or more hearing sessions.

## **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: PMD1, PMD2, HD2, HD3, EP13, IS2 & IS7

### Other Material Considerations

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011

The Local Review Body was satisfied there was a building group at Macbiehill, as defined in Local Plan Policy HD2 and in the approved Supplementary Planning Guidance on New Housing in the Borders Countryside.

The Review Body then turned its attention to whether the site was a suitable addition to the group. They considered the site to be well related to the pattern of development at Macbiehill and that it was contained by the existing landscape setting of the building group. Members noted that there was a difference in level between the site and the adjoining property "Alderbank" which had been accentuated through the creation of the development platform for that property. They also noted that there had been some tree planting along the south eastern boundary of the site between it and Alderbank. In their view this did not constitute a substantial boundary or edge to the building group. Consequently, it was concluded that the site in question was within the development envelope of the building group.

In terms of the number of residential units proposed, this was within the limits set by Policy HD2 of 2 or 30% within a Local Plan period.

The Review Body was content with the design and appearance of the new house but felt that its relationship to Alderbank was unacceptable and harmful. In their view the new house would have an overbearing and dominating impact on the existing property due to its proximity and elevation. The proposal was therefore contrary to Policy HD3 and the second ground for the appointed officer's decision was upheld.

## **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.

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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...**30 August 2017