

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: 17/00043/RREF

Planning Application Reference: 17/01112/FUL

Development Proposal: Erection of hay shed

Location: Field No 0328 Kirkburn, Cardrona

Applicant: Cleek Poultry Ltd

DECISION

The Local Review Body 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, ED7 and EP5 of Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance on Local Landscape Designations in that the height and design of the proposal is incongruous with the appearance of the existing adjoining building and would result in an unacceptable adverse visual impact on the character and quality of the designated landscape. No operational justification to override these concerns and justify an exceptional form of permission in this rural location has been demonstrated.
- 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 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 hay shed at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Location Plan	196 HAY 03
Topographical Survey	196 HAY 1
General Arrangement	196 HAY 02

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 20th November 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. In coming to this decision, the Review Body considered the applicant's request for a site visit but concluded that this was not necessary.

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 hay shed adjoining the existing buildings in the yard at the applicant's land holding at Kirkburn. The building, which had a footprint of 6.5m x 10m, would be placed to the western edge of the yard and would project by a minimum of 2.4m 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 land holding. Whilst having some sympathy for the applicant and the need for the hay shed, they were concerned that the proposed building was too tall and at 2.4m higher than the existing buildings would look both incongruous and out of scale.

Whilst Members noted the Landscape Architect no longer objected to the development and was content that the height of the trees in Kailzie Gardens would screen some of the visual impact from across the valley, they considered that it would still be prominent from more localised views. The screening along the B7062 was more limited and could not necessarily be relied on for screening in the medium

to longer term. Members agreed that the development would be harmful on visual and landscape grounds and therefore unacceptable.

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 for the activities carried out at the site. In the circumstances, they had no evidence before them as to the operational or business need for the hay shed. They had no reason to set aside the strong landscape objections to the development or overturn the decision.

Members noted the comments of the Roads Planning officer and agreed that the application was deficient in terms 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 T Miers
Chairman of the Local Review Body

Date.....21 November 2017