

APPENDIX II

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY INTENTIONS 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: 18/00004/RREF

Planning Application Reference: 17/01613/PPP

Development Proposal: Erection of dwellinghouse

Location: Land East of Keleden, Ednam, Kelso

Applicant: Mr & Mrs Brian Soar

DECISION

The Local Review Body reverses the decision of the appointed officer and grants planning permission for the reasons set out in this decision notice subject to conditions, informatives and the applicant entering into a Section 75 agreement as set out below.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	AT3007 PP-01

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 16th April 2018.

After examining the review documentation at that meeting, which included: a) Notice of Review (including Decision Notice); b) Officer's Report; c) Papers referred to in Officer's Report; d) Consultations; e) Support comments; f) Objections; g) General comments; h) Further representations and response from applicant; and i) List of Policies, the Review

Body proceeded to determine the case. They also noted the applicant's request for further procedure in the form of a site visit but did not consider this necessary after considering the case and viewing photographs and plans of the site and surroundings.

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 relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, PMD4, ED10, HD2, HD3, IS2, IS5, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Development Contributions 2011

The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse on a plot to the eastern edge of Ednam, east of a property known as Keleden, and west of Cliftonhill Farm. Access would be taken off the public road to Cliftonhill.

Members noted that the application site was outwith but adjoining the settlement boundary of Ednam as defined in the Local Development Plan. From the supporting papers and the site photographs, they also had regard to the recent erection of two dwellinghouses on the northern side of the road, close to the plot. These houses were consented by the Review Body in relation to an application for planning permission in principle in 2011, followed up by the detailed house designs. The Review Body gave significant weight to the presence of these houses in assessment of the proposal. The Review Body also noted the planning history on the site including previous refusals and rejection at Local Review.

Members considered the proposal principally against Policy PMD4 of the Local Development Plan and, firstly, against each of the four exception criteria. Whilst it was accepted that the proposal was not justified on an economic basis nor represented an affordable housing proposal, the Review Body did note the local support for the proposal and the contribution another house would make to the community and local facilities, accepting that there was a local need for housing. They, therefore, felt that two of the exception criteria were met by the proposal.

The Review Body then considered the secondary criteria under Policy PMD4 and accepted that they were met by the proposal, especially in relation to the site representing a logical extension to the settlement edge of Ednam. Members considered that with the current field edge to Cliftonhill being augmented by the planting that has been carried out, this was a more defined visible boundary to Ednam than the current boundary. This could be further augmented by planting through a planning condition.

The Review Body also considered that there was a significant impact created by the two new houses north of the public road that were added to the Cliftonhill building group, diminishing the gap between Ednam and Cliftonhill to the extent that there was less justification in retaining the application site as a remaining gap, the stronger and more natural boundary being the field boundary to the eastern edge of the site.

It was also considered that the two new houses would have more visual impact on the landscape than development of the application site, subject to precise design and siting agreed at the next planning stage. Members were also mindful of the fact that the site and other land north of the Cliftonhill road had been submitted by land owners as part of the Local Development Plan Review and that there was development pressure at this side of Ednam, albeit this could not be given any weight in the final decision as submissions were still being considered.

The Review Body then considered other matters including surface water drainage, boundary planting and road access. It was noted that drainage and planting works had already been undertaken and that further details of these matters, together with road access, could be addressed by planning 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. Thereafter the development shall be carried out in accordance with the agreed details.

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 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 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. existing landscaping features and planting to be retained and, in the case of damage, restored
- iii. location and design, including materials, of walls, fences and gates
- iv. soft and hard landscaping works including roadside treatment
- v. existing and proposed services such as cables, pipelines, sub-stations
- vi. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

4. No development shall commence until the details of the access serving the site, which shall include a service lay-by and interceptive drainage measures, and the parking and turning facilities within the site have been submitted to and approved by the Planning Authority. Thereafter, the works shall be implemented in accordance with the agreed details and within an agreed timescale.

Reason: To ensure the site is adequately serviced.

5. No development to commence until further details of the provision of water, foul and surface water drainage are submitted to, and approved by, the Planning Authority. The development then to proceed in accordance with the approved details.

Reason: To ensure that satisfactory arrangements are made for water supply and the disposal of surface and foul water.

INFORMATIVES

With regards to Condition 2, the Roads Planning Service advises that the access should be no steeper than 1 in 15 for the initial 5m and that the service lay-by should be designed as per SBC specification DC-3. Only contractors approved by the Council may work within public road boundary.

LEGAL AGREEMENT

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of a financial contribution towards education facilities in the locality.

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.....19 April 2018

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