

**Please find attached the Public Minutes in respect of
Item 6 on the agenda for the above meeting**

6.	<p>Committee Minutes (Pages 3 - 140)</p> <p>Consider Minutes of the following Committees:-</p> <ul style="list-style-type: none"> (a) Local Review Body 25 May 2020 (b) Local Review Body 1 June 2020 (c) Pension Fund Committee 22 June 2020 (d) Pension Fund Board 22 June 2020 (e) Audit & Scrutiny 23 June 2020 (f) Hawick Common Good Fund 24 June 2020 (g) Civic Government Licensing 26 June 2020 (h) Coldstream Common Good Fund 30 June 2020 (i) Peebles Common Good Fund 1 July 2020 (j) Selkirk Common Good Fund 2 July 2020 (k) Local Review Body 13 July 2020 (l) Local Review Body 15 July 2020 (m) Hawick Common Good Fund 17 July 2020 (n) Planning & Building Standards 3 August 2020 <p>(Copies attached.)</p>	5 mins
----	---	--------

This page is intentionally left blank

(a)	Local Review Body	25 May 2020
(b)	Local Review Body	1 June 2020
(c)	Pension Fund Committee	22 June 2020
(d)	Pension Fund Board	22 June 2020
(e)	Audit & Scrutiny	23 June 2020
(f)	Hawick Common Good Fund	24 June 2020
(g)	Civic Government Licensing	26 June 2020
(h)	Coldstream Common Good Fund	30 June 2020
(i)	Peebles Common Good Fund	1 July 2020
(j)	Selkirk Common Good Fund	2 July 2020
(k)	Local Review Body	13 July 2020
(l)	Local Review Body	15 July 2020
(m)	Hawick Common Good Fund	17 July 2020
(n)	Planning & Building Standards	3 August 2020

This page is intentionally left blank

Public Document Pack

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW
BODY conducted remotely by Microsoft
Teams Live Event on Monday, 25 May 2020
at 10.00 am

Present:- Councillors T. Miers (Chairman), J. A. Fullarton, S. Hamilton, H. Laing,
S. Mountford, C. Ramage, N. Richards and E. Small

Apologies:- Councillor A. Anderson

In Attendance:- Principal Planning Officer – Major Applications/Local Review, Chief Legal
Officer, Democratic Services Team Leader, Democratic Services Officer
(F. Walling).

CHAIRMAN

The Chairman opened the meeting and welcomed Members of the Local Review Body and members of the public to the Scottish Borders Council's first publicly open on-line meeting. The meeting was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place, due to the Covid-19 pandemic.

MEMBERS

Having not been present when the following review was first considered Councillors Ramage and Richards did not take part in the determination and left the on-line meeting prior to its consideration.

1. CONTINUATION OF REVIEW OF 18/01194/FUL.

With reference to paragraph 2 of the Minute of 16 March 2020, there had been re-circulated copies of the request from Mr Jamie Reddihough per Mark R Russell, Ethical Planning (North East) Ltd, Stoddart Street, Newcastle Upon Tyne, to review the decision to refuse the planning application for erection of a dwellinghouse, garages and associated access on land North West of Town O' Rule Farmhouse, Bonchester Bridge, Hawick. The supporting papers included the Notice of Review and associated documents (including the Decision Notice and Officer's Report); papers referred to in the Officer's Report; Consultations; and a list of policies. Also circulated were copies of the response from the Council's Ecology Officer on new evidence in the form of a report entitled Preliminary Bat Roost Assessment and Extended Phase 1 Habitat Survey, which had been submitted with the Notice of Review documentation and which had not been before the Appointed Planning Officer at the time of determination. After noting from the additional written submission that the Ecology Officer accepted the findings of the bat survey and Extended Phase 1 Habitat Survey, subject to appropriate conditions, Members continued their consideration of the application. They noted that the principle of a house on the site had previously been established. Their ensuing discussion focussed, in particular on the sense of place, scale, siting and design of the proposed dwellinghouse. Although some concern was expressed about the height and dominance of the building within the landscape the majority of Members concluded that, due to the layout of surrounding buildings and the slope of the land to the rear, any potential visual impact would be minimised. Councillor Mountford, seconded by Councillor Fullarton, moved that the officer's decision be overturned and the application approved. Councillor Laing moved as an amendment that the officer's decision to refuse the application be upheld, but the amendment did not receive a seconder so the application was approved.

DECISION

AGREED that:-

- (a) the review could be considered without the need for any further procedure on the basis of the papers submitted and the additional written submission;**
- (b) the proposal would be in keeping with the Development Plan; and**
- (c) the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions, informatives and a legal agreement, for the reasons detailed in Appendix I to this Minute.**

MEMBERS

Councillors Ramage and Richardson returned to the on-line meeting.

2. REVIEW OF 19/01629/PPP.

There had been circulated copies of the request from Mr Simon Brown, per Ferguson Planning, 54 Island Street, Galashiels, to review the decision to refuse the planning application for erection of a dwellinghouse and associated infrastructure in the walled garden at Ashiestiel Mansion House, Galashiels. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); papers referred to in the Officer's Report; Consultations; and a list of policies. Members noted that the proposed site was within a walled garden which they recognised had an historical connection to Ashiestiel House and two lodge houses. They agreed that there was a building group present in the vicinity of Ashiestiel House with capacity for the addition of one house. Taking into account the sense of place and containment by woodland, they concluded that the walled garden formed part of that building group and that the proposed site was a suitable addition to the group. Members noted the historical importance of the wall and, although noting that the application was for planning permission in principle, were strongly supportive of the indicative drawings showing development of the site in sympathy with the context of the wall. However, after lengthy discussion they agreed that submission of details of the retention and restoration of the relevant section of wall be requested from the applicant by way of an informative rather than this being imposed by a condition to the planning consent.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be in keeping with the Development Plan; and**
- (d) the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions, informatives and a legal agreement, for the reasons detailed in Appendix II to this Minute.**

3. REVIEW OF 19/00193/FUL.

There had been circulated copies of the request from Mr Erlend Milne, per Ferguson Planning, 54 Island Street, Galashiels, to review the decision to refuse the planning application for erection of a dwellinghouse, workshop/garage and associated works on land south east of Tarf House, West Linton. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); papers referred to in the Officer's Report, consultations; support comments; and a list of policies. The Planning Advisor drew attention to certain documents in the form of a consultation response from West Linton Community Council and a letter from a Scottish Borders Council Ward Member which had been submitted with the Notice of Review documentation and which

had not been before the Appointed Planning Officer at the time of determination. Members considered that the information did not raise any new matters not already known to the Appointed Officer. There was, therefore, no requirement to apply Section 43(B) of the Regulations and the information could be taken into consideration. Members noted the history of the site, that the Review Body had previously refused an application for a dwellinghouse but that on that occasion there had been no justification on economic grounds submitted for a dwellinghouse on the site. They noted that a Business Plan had now been submitted providing details of three businesses, two of which would be run from the workshop alongside the dwellinghouse and the third relating to lease and operation of an Icelandic Horse running track nearby. After discussion Members were satisfied that the businesses were appropriate to the rural area and that, for a number of reasons, relating to security, animal welfare and operational efficiency, the case for a dwellinghouse on the site had been justified.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) documents in the form of a consultation response from West Linton Community Council and a letter from a Scottish Borders Council Ward Member, which had not been before the Appointed Planning Officer at the time of determination, did not raise any new matters, that there was no requirement to apply Section 43(B) of the Regulations and that the information could be taken into consideration;**
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) the proposal would be in keeping with the Development Plan; and**
- (e) the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions, informatives and a legal agreement, for the reasons detailed in Appendix III to this Minute.**

4. REVIEW OF 19/01784/FUL.

There had been circulated copies of the request from Mr Stephen Cranston, per Stuart Patterson Building & Timber Frame Design, 5 Burnflat Lane, Hawick, to review refusal of the planning application for part change of use from garage/storage and alterations to form a workshop and storage for joinery business at Buccleuch Hotel, Trinity Street, Hawick. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultations; representation; and a list of policies. Members noted that the site was an annex to the former Buccleuch Hotel, which was now vacant, and that the proposal was for the basement floor to accommodate the joinery business, workshop and store and the former hotel car park to the rear to be used as the workshop yard. Members commented that this empty building, comprising the basement and two upper floors was at risk of becoming derelict which would have a negative visual effect on the streetscape. They accepted that the location had become an increased commercial and business area, with a mix of business and residential uses surrounding the site. Views were expressed that the proposal could co-exist satisfactorily with adjoining uses and enhance the vitality and mixed use nature of the town centre. In view of the applicant's declared longer-term intention of converting the two upper floors to residential or retail use, Members agreed that further information was required about the construction of the workshop in terms of materials to mitigate against the impact of noise breakout into those areas. They also noted that the Ecology Officer had sought further information, specifically a survey for bats, ahead of the determination of the planning application. Members therefore agreed that the review could not be considered without further procedure in the form of written submissions in respect of both these matters.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could not be considered without further procedure in the form of written submissions;**
- (c) the applicant be requested to provide further information, in respect of the building subject to the application, as follows:**
 - A survey for bats; and**
 - Further details of potential development of the floors over the workshop, as a future phase and as referred to in the appeal statement, and proposed measures to be incorporated into the construction of the workshop to mitigate against the impact of noise breakout into those areas.**
- (d) consideration of the review be continued on a date to be arranged.**

5. REVIEW OF 19/01645/FUL.

There had been circulated copies of the request from Mr & Mrs William Rose, per Kanak Bose Ltd, Ogcscastle, Roman Road, Carnwarth, to review refusal of the planning application for erection of dwellinghouse and detached garage on land south west of 3 Mill Lade, Blyth Bridge. The supporting papers included the Notice of Review (including the Decision Notice); Officer's Report; papers referred to in the Officer's Report; Consultations; and a list of policies. The Planning Advisor drew attention to new evidence, in the form of three Flood Risk Assessment drawings which had been submitted with the Notice of Review documentation and which had not been before the Appointed Planning Officer at the time of determination. The Review Body considered that the new information could be considered, as it met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997 and that this new information was material to the determination of the review. It was agreed that, as expert opinion on the Flood Risk Assessment drawings was required, there was a need for further procedure in the form of written submissions and that SEPA and the Council's Flood Risk Officer be given the opportunity to comment on the new information provided.

DECISION

AGREED:-

- (a) that the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) that the new information submitted with the Notice of Review documentation in the form of three Flood Risk Assessment Drawings numbered 20-001-FR 001; 20-001-FR 002; and 20-001-FR 003 met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997 and that the review could not be considered without further procedure in the form of written submissions in respect of that new evidence;**
- (c) to request representations from SEPA and the Council's Flood Risk Officer on the new evidence; and**
- (d) that consideration of the review be continued on a date to be arranged.**

6. REVIEW OF 19/00193/FUL.

There had been circulated copies of the request from Mr Robert Harrison, per D & H Farmer, Meldon Design Studio, 2 Elcho Street Brae, Peebles, to review refusal of the planning application for demolition of dwellinghouse and erection of two dwellinghouses at Benrig, at 1 Cuddyside, Peebles. The supporting papers included the Notice of Review; application referred to in appeal statement; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultations; objections; and a list of policies. The

Planning Advisor drew attention to information which had been submitted with the Notice of Review documentation but which had not been before the Appointed Planning Officer at the time of determination. This related to planning consent 19/01471/FUL and in particular the SEPA responses to that application. Following advice from the Chief Legal Officer, Members were of the opinion that planning decisions on other sites did not represent new information, that there was no requirement to apply Section 43(B) of the Regulations and that this information could be taken into consideration. Members noted that the site of the proposed development was within the settlement boundary of Peebles and within Peebles Conservation Area. In the ensuing discussion they were concerned that the proposal represented overdevelopment of the site, the higher ridge line of the proposed building would have a detrimental impact on the conservation area and they commented on the lack of boundary treatment. Members also noted the objection from SEPA, relating to flood risk and the concerns of the Roads Planning Officer relating to lack of parking and adequacy of the access.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) information in the form of a previous planning consent, which had not been before the Appointed Planning Officer at the time of determination, did not represent new information, that there was no requirement to apply Section 43(B) of the Regulations and that the information could be taken into consideration;**
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (e) the officer's decision to refuse the application be upheld but varied and the application be refused, for the reasons detailed in Appendix IV to this Minute.**

The meeting concluded at 2.00 pm

This page is intentionally left blank



APPENDIX I

**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: 20/00001/RREF

Planning Application Reference: 18/01194/FUL

Development Proposal: Erection of dwellinghouse, garages and associated access

Location: Land North West of Town O Rule Farmhouse, Bonchester Bridge

Applicant: Mr Jamie Reddihough

DECISION

The Local Review Body reverses the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this intentions notice subject to conditions and 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, garages and associated access. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Proposed Elevations	AL(0)306
Proposed Elevations	AL(0)307
Proposed Sections	AL(0)308
Location Plan	A100-01
Existing Site Plan	AL(0)101C
Existing Site Plan	AL(0)100C
Existing Elevations	AL(0)102A
Proposed Plans	AL(0)304
Proposed Site Plan	AL(0)301
Proposed Site Plan	AL(0)302

PRELIMINARY MATTERS

The Local Review Body initially 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 March 2020. After examining the review documentation which included: a) Notice of Review and associated documents (including the Decision Notice and officer's report); b) Papers referred to in officer's report; c) Consultations and d) List of Policies, the Review Body considered whether certain matters included in the review documents constituted new evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to further information in the form of a Preliminary Bat Roost Assessment and Extended Phase 1 Habitat Survey. Members agreed that the information was new and considered that it met the Section 43B test, that it was material to the determination of the Review and could be considered. However, as expert opinion on the information was required, there was a requirement for further procedure in the form of written submissions to enable the Council's Ecology Officer to comment on the new information.

The Review was, therefore, continued to the Local Review Body meeting on 25th May 2020 where the Review Body considered the response to the new information provided by the Ecology Officer. Having noted that the applicant had requested further procedure in the form of a hearing and site visit, the Review Body did not consider either necessary in this instance and proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, HD2, HD3, EP1, EP2, EP3, EP5, EP8, EP13, EP15, IS2, IS7, IS8, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- National Planning Framework 3
- Scottish Planning Policy

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse, garages and an associated access on a site north-west of Town O Rule Farmhouse, Bonchester Bridge.

Members firstly considered Policy HD2 and whether there was a building group present with capacity for addition. They noted that the principle of a house had previously been established through an earlier consent for a dwellinghouse on the site and that the justification for that consent was the presence of a building group with at least three existing houses, the houses lying to the south-east of the site. They were content that there was a building group present and that there was capacity to add a further house to that group. Whilst they noted that the purpose of the house was to provide a local residence for the farmer of the land, economic justification would not be necessary to support the principle of a house on the site.

The Review Body then considered whether the site was well related to the building group. In this respect, they noted the presence of old and new farm buildings within and surrounding the site. Although they accepted that the development involved moving an existing farm access to the west, the track was not a strong visual boundary in itself and the ancillary buildings along the northern edge of the development were not extending the group significantly. Members were content that the development still lay within the natural limits and sense of place of the farm and building group.

Members then considered the scale, siting and design of the dwellinghouse under Policies HD2, PMD2 and supplementary planning guidance. They noted that the building was an L-shaped extension to a retained existing building and considered that such a layout, whilst often difficult to transition from old to new, was sympathetic to the general farm steading context, especially since noting the revision to the plans which restricted the footprint of the development away from the steeply sloping land to the rear. Whilst accepting that the footprint was large in scale, they considered that the layout, surrounding existing and proposed landscaping and continued rising ground outwith the site to the north-west minimised the potential visual impacts of the scale of the development and integrated the development into its surroundings and wider landscape.

Although there was also some concern expressed over the height of the main part of the new-build element, the Review Body felt that in such steading groupings, there was recognition that the farmhouse would often be the tallest or largest building. They felt that with the layout, surrounding buildings, and rising land to the rear, the design was acceptable, would not break the skyline and was high quality in compliance with Policy PMD2. They particularly welcomed the sustainable approach to the design and commended the use of renewable technology.

The Review Body then considered other material issues relating to the proposal including trees, access, archaeology, contamination, water, drainage and ecology but were of the opinion that appropriate conditions could address them satisfactorily. They noted that the Ecology Officer accepted the findings of the bat survey and Extended Phase One Habitat Survey, subject to appropriate conditions. Members also considered whether the scale of the development could give rise to the potential for business use but concluded that the consent was for a dwellinghouse and that any subsequent business use would be a matter for future assessment based on the specific circumstances. The Review Body also noted that development contributions for education were required and could be secured by legal agreement.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2 and HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The proposal represented an appropriate

addition to the existing building group and the design and layout, assisted by landscaping and topography, would have no significant impacts on the landscape and would appear in character with the steading buildings and building group. Consequently, the application was approved.

DIRECTION

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 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 a scheme of external materials (including specifications and samples of materials and colours) for the dwellinghouse, has first been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved scheme.
Reason: To ensure external materials are visually appropriate to the development and sympathetic to the surrounding area.
2. 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):
 - a) existing and finished ground levels in relation to a fixed datum preferably ordnance
 - b) existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
 - c) location and design, including materials, of walls, fences and gates
 - d) soft and hard landscaping works including new tree planting and any bunding
 - e) existing and proposed services such as cables, pipelines, sub-stations
 - f) A programme for completion and subsequent maintenance.Reason: To ensure the satisfactory form, layout and assimilation of the development.
3. No development to be commenced until the finished floor level of the house and all proposed ground levels have been submitted to, and approved in writing by, the Planning Authority. The development should then proceed in accordance with the approved levels.
Reason: To safeguard the landscape and visual amenity of the area.
4. No development to be commenced until a scheme of access details for both the dwellinghouse and existing agricultural buildings is submitted to, and approved in writing by, the Planning Authority. Thereafter, the approved details to be implemented in full prior to occupation of the proposed dwellinghouse, unless otherwise agreed in writing with the Council.
Reason: To ensure adequate access is provided from the public road to serve the development site.
5. No development to commence until further details of the provision of a water supply, foul and surface water drainage are submitted to, and approved by, the Planning Authority. Thereafter, development shall proceed in strict accordance with the approved details.
Reason: To ensure that satisfactory arrangements are made for the provision of water and for disposal of surface and foul water.

6. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.

Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

7. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition, and thereafter:-
- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

8. No development to be commenced until a tree survey identifying the existing mature trees within the site and an Arboricultural Impact Assessment are submitted to, and

approved by, the Planning Authority. The identified trees then agreed for retention to be protected at all times during construction and building operations, by the erection of substantial timber fence around the trees, together with such other measures as are necessary to protect the trees and their roots from damage. Details of the methods it is proposed to use shall be submitted by the applicant to the Local Planning Authority and be approved by them in writing. The approved protective measures shall be undertaken before any works commence on the site and must, thereafter be observed at all times until the development is completed.

Reason: To ensure that adequate precautions are taken to protect trees during building operations.

9. Prior to the commencement of development, the developer shall provide to the Planning Authority:
- a. a copy of the relevant European Protected Species licence, or,
 - b. a copy of a statement in writing from Scottish Natural Heritage (licensing authority) stating that such a licence is not necessary for the specified development

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1 and EP3.

10. Prior to the commencement of development, the developer shall submit for approval in writing by the Planning Authority written confirmation that the Species Protection Plan for bats, as outlined in *Preliminary Bat Roost Assessment and Extended Phase 1 Habitat Survey, Bonchester Bridge, Eco North November 2019* shall be implemented in full. Thereafter, no development shall take place except in strict accordance with the outlined Species Protection Plan.

Reason: To protect the ecological interest in accordance with Local Development Plan policy EP3.

11. No development shall commence during the breeding bird season unless in strict accordance with a Species Protection Plan (SPP) for breeding birds that shall be submitted to and approved by the Planning Authority. The SPP shall include provision for a pre-development supplementary survey and mitigation.

Reason: To protect the ecological interest in accordance with Local Development Plan policy EP3.

12. Prior to commencement of development, a Construction Method Statement (CMS) shall be submitted for approval to the Planning Authority, incorporating measures to mitigate potential impacts on the water environment, including the River Tweed SAC, (incorporating good practice as outlined in SEPA guidance, e.g. *GPP 5*), and on protected and notable species. Care should be taken to avoid contamination of the water environment, by following SEPA good practice guidelines, e.g. *GPP 5*. No development shall take place except in compliance with the approved CMS.

Reason: To protect the ecological interest in accordance with Local Development Plan policy *EP3*.

13. Prior to commencement of development, a Habitat Enhancement and Management Plan (HEMP) outlining measures to enhance local biodiversity and the ecological network through planting native species of local provenance and incorporating recommendations from the Preliminary Ecological Appraisal (Ethical Planning LLP, 2018), shall be submitted to and approved by the Planning Authority. No development shall take place except in compliance with the approved HEMP.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1 and EP3.

INFORMATIVES

1. With regard to Condition 4, you are advised that the specification for all works associated with any new access connected with this development, is:

40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.

It should also be noted that all works within the public road boundary, must be undertaken by a contractor first approved by the Council.

LEGAL AGREEMENT

The Local Review Body required that a Section 75 Agreement be entered into to secure contributions towards Denholm Primary School.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street,
Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose,
TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....8 June 2020



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: 20/00002/RREF

Planning Application Reference: 19/01629/PPP

Development Proposal: Erection of dwellinghouse and associated infrastructure

Location: Walled Garden, Ashiestiel Mansion House, Galashiels

Applicant: Mr Simon Brown

DECISION

The Local Review Body reverses the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this intentions notice subject to conditions and informatives and the applicants entering into a Section 75, or other suitable Legal Agreement, as set out below.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Location Plan	1413.pl_01
Block Plan	1413.pl_02
Floor Plan	1413.pl_03
Elevations	1413.pl_04

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 25th May 2020. After examining the review documentation which included: a) Notice of Review and associated documents (including Decision Notice and officer's report; b) Papers referred to in

officer's report; c) Consultations; and d) List of Policies, the Review Body proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, HD2, HD3, EP1, EP2, EP3, EP5, EP7, EP8, EP10, EP13, IS2, IS3, IS7, IS8, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse and associated infrastructure at the Walled Garden, Ashiestiel Mansion House, Galashiels.

Members firstly considered whether there was a building group in the vicinity and also whether there was capacity for addition to any such group. They noted that the site consisted of the former walled garden to Ashiestiel House which existed to the north of the site and they also noted the presence of two lodge houses nearer to the site on the north side of the public road. The Review Body attached considerable weight to the historical connection of Ashiestiel House with the two lodge houses and walled garden. They concluded that there was a building group present and that there was capacity for the addition of one house, in compliance with Policy HD2 and the relevant SPG.

Members then considered the relationship of the site with the group and whether it was in keeping with its character, whilst noting that the application was for planning permission in principle and that the suggested precise position and design of house remained indicative. In this respect, they had regard to the historical association of the walled garden with Ashiestiel House and noted that the wall and some outbuildings remained intact. Although they noted the Appointed Officer's concerns over detachment of the walled garden from the building group and lack of intervisibility, they agreed that the historical connection, relationship with the existing house and lodges and containment formed by the woodland all contributed to an impression that the walled garden formed part of the Ashiestiel estate and sense of place. These considerations outweighed any concerns over detachment and lack of intervisibility and

Members concluded that the site was well-related to the group and within the natural sense of place.

The Review Body noted that, although the application was for planning permission in principle, indicative drawings had also been provided to demonstrate how the site could be developed in sympathy with the character and context of the wall and surroundings which included incorporation and conversion of two small derelict outbuildings forming part of the wall. Whilst they accepted that the final siting and design details would be a matter for a subsequent application for the approval of matters specified as conditions, they acknowledged that the site could be developed sympathetically in keeping with the surroundings and with limited visibility.

The Review Body then considered the issue of the existing wall within the site and whether the retention of the wall was necessary for the application to comply with Policy HD2. Whilst Members were aware of the historical importance of the wall and noted that the Archaeology Officer considered the wall to be worthy of listing, they were also mindful of the significant length and height of wall that would need to be repaired and maintained in the longer term. They considered this could be an unjustifiable burden upon the developers of a single dwellinghouse. After discussion on whether a planning condition or other legal commitment was justified for retention of the wall or part of it, the Review Body concluded that the applicant should be advised, by means of an informative, that details of the retention and restoration of the relevant section of wall should be submitted with the first application for approval of matters specified as conditions.

Members also considered the issue of precedent which was a concern expressed by the Community Council. They concluded that each application must always be judged upon its own merits and any concerns over further development could not influence any decision on the current proposal.

The Review Body finally considered other material issues relating to the proposal including access, archaeology, contamination, ecology and tree protection but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for education and the Waverley Line were required and could be secured by legal agreement.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policy HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate addition to an existing building group within its sense of place. 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. Parking and turning for a minimum of two vehicles, excluding any garages, must be provided within the curtilage of the site prior to the occupation of the dwelling. Thereafter they must be retained in perpetuity.

Reason: To ensure the development hereby approved is served by an appropriate level of off-road parking.

4. The junction with the public road must be amended to allow satisfactory access and egress. A scheme of details must be included with any subsequent application for approval.

Reason: To ensure the development hereby approved is served by an adequate form of junction.

5. The access track between the junction with the public road and the parking/turning area must be constructed so as to provide a level, free draining surface capable of taking a 14 tonne axle load.

Reason: To ensure the development hereby approved is served by an adequate form of access.

6. Any gates proposed should open into the site and be set back a minimum of 6m from the existing carriageway.

Reason: To ensure that the gates do not pose a danger to users of the adjacent public road.

7. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and

approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition.

and thereafter

Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.

Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).

Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.

Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

8. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.

Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

9. 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):
 - a) existing and finished ground levels in relation to a fixed datum preferably ordnance
 - b) trees to be retained within the site
 - c) existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored

- d) location and design, including materials, of walls, fences and gates
 - e) soft and hard landscaping works including new planting within the site
 - f) existing and proposed services such as cables, pipelines, sub-stations
 - g) A programme for completion and subsequent maintenance.
Reason: To ensure the satisfactory form, layout and assimilation of the development.
10. No development to be commenced until a tree survey identifying the existing mature trees within the site is submitted to, and approved by, the Planning Authority. The identified trees then agreed for retention to be protected at all times during construction and building operations, by the erection of substantial timber fence around the trees, together with such other measures as are necessary to protect the trees and their roots from damage. Details of the methods it is proposed to use shall be submitted by the applicant to the Local Planning Authority and be approved by them in writing. The approved protective measures shall be undertaken before any works commence on the site and must, thereafter be observed at all times until the development is completed.
Reason: To ensure that adequate precautions are taken to protect trees during building operations.
11. No development should commence until the applicant has provided evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition
Reason: To ensure that the development does not have a detrimental effect on amenity and public health.
12. No water supply other than the public mains water supply shall be used to supply the development without the written agreement of the Planning Authority.
Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.
13. A bat survey to be submitted with the first application for approval of matters specified in conditions and no development to be commenced until the survey, including mitigation, a Species Protection Plan if required and display of any bat licence, is approved by the Planning Authority. The development then to proceed in accordance with the mitigation, Plan and any appropriate licence.
Reason: To protect the ecological interest in accordance with Local Development Plan Policy EP1.
14. No development shall be undertaken during the breeding bird season (March to September), unless in strict compliance with a Species Protection Plan for breeding birds that shall be submitted to and approved in writing by the Planning Authority.
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.
15. No development to be commenced until a scheme of waste storage has been submitted to, and approved in writing by, the Planning Authority. Once approved, provision to be made in accordance with the approved details prior to occupation of the dwellinghouse.
Reason: To ensure adequate provision for waste storage within the site.

INFORMATIVES

1. A scheme of details of the retention and restoration of the relevant section of wall surrounding the site should be submitted with the first application for approval of matters specified as conditions.
2. With regard to Condition 5, the area between the public road and the walled garden has numerous trees within it. The applicant should ensure that the provision of the access track route and works, and the parking and turning area, do not adversely impact on the existing trees.
3. With regard to Conditions 4 and 6, the junction with the public road should include appropriate radii to allow vehicles easy access and egress, be surfaced for the initial 6m as shown below and have appropriate drainage in place, or designed layout, to ensure no surface water flows on to the adjacent public road. All work within the public road boundary must be undertaken by a contractor first approved by the Council.

Access Spec.

40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.

4. With regard to Condition 8, the ALGAO guidance for historic building recording can be found at:
www.algao.org.uk/sites/default/files/documents/ALGAO_Scotland_Buildings_Guidance_2013.pdf
5. With regard to Condition 11, private drainage systems often impact on amenity and cause other problems when no clear responsibility or access rights exist for maintaining the system in a working condition.

Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law.

To discharge Condition 11, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified.

LEGAL AGREEMENT

The Local Review Body required that a Section 75, or other suitable legal agreement, be entered into to secure developer contributions for Galashiels Academy, Clovenfords Primary School and the Waverley Line.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 “Code of Practice for Noise and Vibration Control on Construction and Open Sites”.

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....8 June 2020

This page is intentionally left blank



APPENDIX III

**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: 20/00003/RREF

Planning Application Reference: 19/01646/PPP

Development Proposal: Erection of dwellinghouse, workshop/garage and associated works

Location: Land South East of Tarf House, West Linton

Applicant: Mr Erlend Milne

DECISION

The Local Review Body reverses the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this intentions notice subject to conditions and 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, workshop/garage and associated works. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	PL001
Proposed Block Plan	PL002

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 25th May 2020. After examining the review documentation which included: a) Notice of Review and associated documents (including Decision Notice and officer's report); b) Papers referred to in officer's report; c) Consultations; d) Support comments and e) List of Policies, the Review Body considered whether certain matters included in the review documents constituted new

evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to further information in the form of a consultation response from West Linton Community Council and a letter from an SBC Ward Councillor. Members considered that the information did not raise any new matters not already known to the Appointed Officer. There was, therefore, no requirement to apply Section 43(B) of the Regulations and the information could be taken into consideration.

The Review Body proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD2, HD2, HD3, ED7, IS2, IS5, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- Scottish Planning Policy

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse, workshop/garage and associated works on a site south-east of Tarf House, West Linton.

Members noted that the same applicant had sought permission previously on the site for a dwellinghouse, on the basis that the site was part of a building group under Policy HD2. Members had not accepted that there was a building group present and refused the application after consideration. Although the Review Body were aware of the applicant's businesses, they did not previously feel that sufficient business case had been advanced to justify a house on the site under Part F of Policy HD2 relating to economic need.

Whilst Members were still of the same opinion that there was no building group present, they noted that a Business Plan had now been submitted with the current application which not only provided further details of the applicant's current two businesses, but also his intention to take on a third business relating to the lease and operation of an Icelandic Horse running track nearby. The Review Body considered the businesses to be generally appropriate to the rural area in compliance with Policies HD2 and ED7 and were, subsequently, more convinced that the Business Plan outlined a case for needing a dwellinghouse on the site alongside the proposed workshop and with proximity to the track, providing benefits of security, animal welfare and operational efficiency. Members also noted the significant local support within the community for the proposal and the difficult current circumstances which were likely to lead to encouragement of working from home for the foreseeable future. After taking into account all

of these matters, the Review Body, agreed that there was now a proven justification for a house under Section F of Policy HD2, provided the house was tied to the businesses by planning condition. They accepted the tie could not include the Icelandic Horse track business as this was not currently owned by the applicant.

Members then considered the further requirements of Policy HD2 for proposals to have no negative impacts on the local landscape or community. In terms of the position of the site away from neighbouring property, the expressed local support for the application and the presence of existing screening in the vicinity, the Review Body were content there would be no negative impacts on the landscape or the community.

The Review Body finally considered other material issues relating to the proposal including access, water, drainage and a right of way at the site but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for education were required and could be secured by legal agreement.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies HD2 and ED7 of the Local Development Plan and relevant Supplementary Planning Guidance. There was economic justification for a house and workshop on the site and there would be no significant impacts on the landscape subject to appropriate siting and design. 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. Occupation of the proposed dwellinghouse to be limited to a person employed in the saddle and leather goods businesses outlined in the business plan submitted with the application, or any dependent of such a person residing with him or her but including a widow or widower of such a person.
Reason: The erection of a dwellinghouse for normal residential occupation would be contrary to the Council's policy on housing in the countryside.
4. Parking and turning (excluding any garage space) for two vehicles shall be provided within the curtilage of the dwellinghouse before the dwellinghouse hereby approved is occupied and must thereafter be retained in perpetuity.
Reason: To ensure the provision of adequate off-street parking.
5. No development should commence until the applicant has provided evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition
Reason: To ensure that the development does not have a detrimental effect on amenity and public health.
6. No water supply other than the public mains water supply shall be used to supply the development without the written agreement of the Planning Authority.
Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.
7. No development to be commenced until existing public access through the site has been satisfactorily safeguarded and retained or formally diverted in accordance with the statutory provisions.
Reason: To safeguard public access rights.
8. No development to be commenced until a scheme of waste storage has been submitted to, and approved in writing by, the Planning Authority. Once approved, provision to be made in accordance with the approved details prior to occupation of the dwellinghouse or use of the workshop, whichever is the sooner.
Reason: To ensure adequate provision for waste storage within the site.

INFORMATIVES

1. With regard to Condition 5, private drainage systems often impact on amenity and cause other problems when no clear responsibility or access rights exist for maintaining the system in a working condition.

Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law.

To discharge Condition 5, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly

established by way of a binding legal agreement. Access rights should also be specified.

LEGAL AGREEMENT

The Local Review Body required that a Section 75, or other suitable legal agreement, be entered into to secure developer contributions for Peebles High School and West Linton Primary School.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD

Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA

Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU

British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND

Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA

Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL

BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....8 June 2020



APPENDIX IV

**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: 20/00006/RREF

Planning Application Reference: 19/00193/FUL

Development Proposal: Demolition of dwellinghouse and erection of two dwellinghouses

Location: Benrig, 1 Cuddyside, Peebles

Applicant: Mr Robert Harrison

DECISION

The Local Review Body upholds and varies the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

1. The development is contrary to Policies PMD2 and EP9 of the Local Development Plan 2016 in that the design would not be appropriate to the setting and would not be compatible with the neighbouring built form or Conservation Area. It would also be detrimental to the amenity of the surrounding area in that it would result in extra vehicular traffic on a sub-standard access to the detriment of road safety. Other material considerations do not outweigh this conflict with policy.
2. The development is contrary to Policies PMD5 and EP9 of the Local Development Plan 2016 in that it would lead to over-development of the site, would not be visually appropriate or sympathetic to, and would have an adverse visual impact on the character of, the surrounding area and Conservation Area. Other material considerations do not outweigh this conflict with policy.
3. The development is contrary to Policy IS7 of the Local Development Plan 2016 in that the appropriate parking provision has not been provided which would be to the detriment of road safety. Other material considerations do not outweigh this conflict with policy.

4. The development is contrary to Policy IS8 of the Local Development Plan 2016 in that the proposed development will result in a material increase in the number of properties within the functional floodplain and may likely be at significant risk of flooding. Other material considerations do not outweigh this conflict with policy.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Location Plan	1 of 5
Site Plan	D009a
Floor Plans	D006a
Elevations	D008a
Photos	5 of 5

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 25th May 2020.

After examining the review documentation at that meeting, which included a) Notice of Review and associated documents; b) Application referred to in appeal statement; c) Decision Notice; d) Officer's Report; e) Papers referred to in Officer's Report; f) Consultations; g) Objections and h) List of Policies, the Review Body noted that the applicant referred to new information within the Review submission relating to planning consent ref. 19/01471/FUL for a residential development east of Dukessaugh, Peebles and, in particular, the SEPA responses to that application. Members were of the opinion that planning decisions on other sites did not represent new information, that there was no requirement to apply Section 43(B) of the Regulations and that this information could be taken into consideration.

The Review Body also noted that the applicant requested further procedure in the form of a site visit, but did not consider it necessary in this instance and proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, PMD3, PMD5, ED5, HD1, HD3, HD4, EP8, EP9, EP15, IS2, IS7, IS8, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- Contaminated Land Inspection Strategy 2001
- Scottish Planning Policy

The Review Body noted that the proposal was for planning permission to demolish a dwellinghouse and erect two dwellinghouses at Benrig, 1 Cuddyside, Peebles.

Members firstly considered the location of the site and noted that it lay within the settlement boundary of Peebles and within Peebles Conservation Area as defined in the Local Development Plan and was, therefore, subject to Policies PMD5 on infill development and EP9 on Conservation Areas in particular. In noting that the proposed development replaced one house with a building containing two, they were concerned at the resultant overdevelopment of the plot and higher ridge line of the building in comparison with surrounding properties. Members considered that the height and massing of the building would have a detrimental impact on those properties and the Conservation Area. They also had concerns over the change to boundary treatment. Overall, they agreed with the Appointed Officer that the proposal was not appropriate infill development. However, they also felt that the proposals were not compatible with, nor would enhance, the amenity of the Conservation Area.

The Review Body then debated the other material factors that led to the original refusal. Members considered that the design of the building was not to the level of quality required under Policies PMD2 or EP9. They also noted and accepted the concerns of the Roads Planning Service over lack of parking and adequacy of the access road and noted the objections of SEPA regarding flood risk. Overall, Members agreed with the Appointed Officer on all of these material factors.

The Review Body finally considered other issues relating to the proposal including archaeology, contamination, water, drainage and waste storage but concluded that the site was not appropriate for the aforementioned reasons relating to Policies PMD2, PMD5, EP9, IS7 and IS8. They noted that, had the application been supported, then development contributions for education, affordable housing and traffic management in Peebles would have been secured by legal agreement.

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 for the reasons stated above.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....8 June 2020

Public Document Pack

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW
BODY conducted remotely by Microsoft
Teams Live Event on Monday, 1 June 2020
at 10.00 am

Present:- Councillors T. Miers (Chairman), J. A. Fullarton, S. Hamilton, H. Laing,
S. Mountford, C. Ramage, N. Richards and E. Small

Apologies:- Councillor A. Anderson

In Attendance:- Principal Planning Officer – Major Applications/Local Review, Chief Legal
Officer, Democratic Services Team Leader, Democratic Services Officer
(F. Walling).

CHAIRMAN

The Chairman opened the meeting and welcomed Members of the Local Review Body and members of the public to the Scottish Borders Council's open on-line meeting. The meeting was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place, due to the Covid-19 pandemic.

1. REVIEW OF 19/01611/FUL.

There had been circulated copies of the request from Mr Francis Peto, per Aitken Turnbull Architects Ltd, 9 Bridge Place, Galashiels, to review the decision to refuse the planning application for erection of dwellinghouse with attached garage at disused sawmill, Cowdenknowes, Earlston. The supporting papers included the Notice of Review (including the Decision Notice, Officer's Report and consultations); papers referred to in the Officer's Report; and a list of policies. In their initial discussion Members agreed that there was a building group present which related to Cowdenknowes House and noted that this was a dispersed group of residential units separated by areas of mature woodland and private driveways. Although there was capacity for expansion of the building group Members noted that the former sawmill and site of the proposed development was located on the periphery of the building group and outwith a belt of mature trees which could be considered a defensible boundary to the group. Whilst noting the probable historical link and significance of the former sawmill to the estate, Members' consideration focussed on whether the proposed site for a dwellinghouse reflected the sense of place and character of the group. In this respect Members attached importance to the proposed design of the house which they felt may undermine and fail to reflect the traditional character and amenity of the group. Opinion was divided and concern was expressed that insufficient information had been presented about the character of the existing buildings within the building group, to enable a decision to be made as to whether the proposed new development was an appropriate addition to the group which was sympathetic to its character and sense of place.

VOTE:

Councillor Mountford, seconded by Councillor Richards, moved that a decision on the application be made without further procedure.

Councillor Ramage, seconded by Councillor Laing, moved as an amendment that the review could not be considered without further procedure and that additional visual information be requested.

Members voted as follows:-

Motion - 4 votes

Amendment - 4 votes

The Chairman used his casting vote in favour of the amendment so consideration of the review was accordingly continued for further procedure.

DECISION

DECIDED that:-

- (a) **the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **the review could not be considered without further procedure in the form of additional visual information;**
- (c) **the applicant be requested to provide further information in the form of photographs, of the existing buildings within the building group at Cowdenknowes, to provide evidence of how the design of the proposed dwellinghouse relates to the character and sense of place of its surroundings; and**
- (d) **consideration of the review be continued on a date to be arranged.**

2. REVIEW OF 19/01019/FUL.

2.1 There had been circulated copies of the request from Mr Anthony Williams, per Susan Williams, 2/151 Stanhill Drive, Surfers Paradise, QLD 4217, Australia, to review the decision to refuse the planning application for installation of replacement windows (retrospective) at 10 Exchange Street, Jedburgh. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; and a list of policies. Members noted that the property within which the replacement windows had been installed was within the Jedburgh Conservation Area but outwith the Prime Frontage part of the Conservation Area. Whilst Members accepted that, for a number of reasons, the windows did not comply with current Policies and Supplementary Planning Guidance on Replacement Windows and Doors they took into account the surrounding mix of existing window styles and patterns in the area. After further debate, Members' opinion remained divided as to whether the windows were of an acceptable design. Before a vote was taken the process of taking the vote at the remote meeting was addressed and confirmed as below.

2.2 Voting procedure

In view of the technical difficulties of holding a vote by show of hands, within a meeting held remotely, Members agreed unanimously to suspend Standing Order 41 of Scottish Borders Council Procedural Standing Orders and that their voting choice be conveyed verbally. It was further agreed that this decision also be applied to the vote taken verbally under paragraph 1 above as this procedural requirement had been overlooked at that time.

DECISION

AGREED to suspend Standing Order 41 of the Scottish Borders Council Procedural Standing Orders to allow votes to be taken without a show of hands.

Consideration of 19/01019/FUL continued

VOTE

Councillor Mountford, seconded by Councillor Fullarton moved that the decision to refuse the application be upheld.

Councillor Hamilton, seconded by Councillor Richards, moved as an amendment that the decision to refuse the application be reversed and the application approved.

Members voted as follows:-

Motion - 5 votes

Amendment - 3 votes

The motion was accordingly carried and the application refused.

DECISION

DECIDED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the officer's decision to refuse the application be upheld and the application be refused, for the reasons detailed in Appendix I to this Minute.**

3. REVIEW OF 19/01432/PPP.

There had been circulated copies of the request from Mr Andrew Thomson, per Ferguson Planning, 54 Island Street, Galashiels, to review refusal of the planning application for erection of two dwellinghouses and associated works on land North West of Quarry Bank, Hume. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); applications referred to by applicant; papers referred to in the Officer's Report; consultations; support comments; and a list of policies. Having accepted that the village of Hume constituted a building group and that there was capacity to expand the group, Members' discussion focussed on whether the proposed site for two houses was well related to and reflected the character of the group. They noted the linear nature of housing to the east of the site and that houses were principally on the same side of the public road as the site. Members concluded that the proposed development was an appropriate addition to the building group subject to a new planted boundary being provided to the west of the site. In their discussion they addressed concerns raised by the Roads Planning Officer about connectivity of the site to the footpath and street lighting at the eastern end of the village but noted the rural character of the settlement and that connection to these facilities may not be within the control of the applicant.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be in keeping with the Development Plan; and**

- (d) the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions, informatives and a legal agreement, for the reasons detailed in Appendix II to this Minute.**

4. REVIEW OF 18/00749/FUL.

There had been circulated copies of the request from Bentley Developments, per Gillespie Macandrew LLP, 163, West George Street, Glasgow, to review refusal of the planning application for variation of Condition 1 of planning permission 13/01082/FUL to allow the lifespan of the application to be extended by a further three years, on Plot 2, land south East of Mounthooly House, Jedburgh. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; consultations; and a list of policies. Members noted the differing views of both the applicant and the appointed officer on whether the Council were, in effect, able to re-examine the principle of the consent and the subsequent environmental effects and noted the documents lodged by the applicant, which included Scottish Government Circular 3/2013 "Development Management Procedures". They also considered the views of the appointed officer, and advice provided at the meeting by the Planning Advisor and the Council's Chief Legal Officer, which detailed both sides of the legal argument. Members took all this information into account and noted that both the Council's Flood Risk Officer and SEPA had objected to the application after considering the Flood Risk Assessment supplied as part of the application. After discussion the majority of Members concluded that there was a significant change in the detail of information and risk pertaining to flooding and that for this reason the proposed development was contrary to the Development Plan.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the officer's decision to refuse the application be upheld and the application be refused, for the reasons detailed in Appendix III to this Minute.**

5. REVIEW OF 18/00748/FUL.

There had been circulated copies of the request from Bentley Developments, per Gillespie Macandrew LLP, 163, West George Street, Glasgow, to review refusal of the planning application for variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years, on Plot 1, land south East of Mounthooly House, Jedburgh. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; consultations; and a list of policies. The presentation and advice provided to Members by the Planning Advisor and Chief Legal Officer for the review of 18/00749/FUL (paragraph 4 above) was also applicable to this review. Members considered the two cases together, as outlined in the paragraph above.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**

- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the officer's decision to refuse the application be upheld and the application be refused, for the reasons detailed in Appendix IV to this Minute.**

The meeting concluded at 12.45 pm

This page is intentionally left blank



APPENDIX I

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: 20/00008/RREF

Planning Application Reference: 19/01019/FUL

Development Proposal: Installation of replacement windows (retrospective)

Location: 10 Exchange Street, Jedburgh

Applicant: Mr Anthony Williams

DECISION

The Local Review Body upholds the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

1. The development is contrary to policies PMD2 and EP9 of the Scottish Borders Local Development Plan 2016 and the Supplementary Planning Guidance on Replacement Windows and Doors 2015 in that the windows are of an inappropriate design for the character of the building and do not preserve or enhance the character and appearance of the Conservation Area.

DEVELOPMENT PROPOSAL

The application relates to the installation of replacement windows. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	
Photo showing replacement windows	

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 1st June 2020.

After examining the review documentation at that meeting, which included a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report and e) List of Policies, the Review Body proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, HD3 and EP9

Other Material Considerations

- SBC Supplementary Planning Guidance on Replacement Windows and Doors 2015

The Review Body noted that the application was for replacement windows to the upper floors of a property at 10 Exchange Street, Jedburgh. As the windows had already been installed, the application was retrospective.

Members firstly considered the location of the property and noted that it lay within Jedburgh Conservation Area and was, therefore, subject to Policy EP9 on Conservation Areas and the associated Supplementary Planning Guidance (SPG) on Replacement Windows and Doors. The Review Body noted that the site lay outwith the Prime Frontage part of the Conservation Area defined in the SPG and they also had due regard to the surrounding existing window styles and patterns, including modern brown replacement windows to the adjoining property. Whilst noting some variation in surrounding window styles, Members still considered that any new proposals should be assessed against the Policies and Guidance as they currently stand, taking into account the prevailing window styles in the area. They were not unduly influenced by occasional differing styles which may have reflected previous versions of Policies and Guidance.

Members agreed with the Appointed Officer that the replacement windows did not comply with the Policies or Supplementary Planning Guidance. They did not consider that the mid-rails to the windows had either the step or thickness of profile that would be exhibited by sash windows in the vicinity. The Review Body also noted the thicker visible frame thickness of the installed windows and that they were single pane tilt and turn units. Whilst understanding that the applicant had offered to recess the windows behind the stone surrounds, they felt that they had no information to suggest such an amendment would be either achievable or result in a more acceptable design. Overall and whilst they had no issue with the colour or uPVC material, Members did not consider that the replacement windows complied with Policies and Guidance within the Conservation Area, due to the thicker frames and slender mid-rails. They

did not feel the windows preserved or enhanced the character or quality of the Conservation Area.

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 for the reasons stated above.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....8 June 2020

This page is intentionally left blank



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: 20/00009/RREF

Planning Application Reference: 19/01432/PPP

Development Proposal: Erection of two dwellinghouses and associated works

Location: Land North West of Quarry Bank, Hume

Applicant: Mr Andrew Thomson

DECISION

The Local Review Body reverses the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this intentions notice subject to conditions and informatives and the applicants entering into a Section 75, or other suitable Legal Agreement, as set out below.

DEVELOPMENT PROPOSAL

The application relates to the erection of two dwellinghouses and associated works. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	ATPPP01
Existing Site Plan	ATPPP02
Proposed Site Plan	ATPPP03

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 1st June 2020. After examining the review documentation which included: a) Notice of Review (including Decision Notice and Officer's report); b) Applications referred to by applicant; c)

Papers referred to in officer's report; d) Consultations; e) Support comments and f) List of Policies, the Review Body proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, HD2, HD3, EP4, EP8, IS2, IS5, IS7, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- Scottish Planning Policy 2014

The Review Body noted that the proposal was for the erection of two dwellinghouses on land North-West of Quarry Bank, Hume.

The Review Body noted that Hume was not a defined settlement in the Local Development Plan and, firstly, considered whether it constituted a building group under the terms of Policy HD2. Members understood that approximately 20 houses currently existed and they, therefore, accepted this constituted a building group. It was also recognised that the group could expand by up to five houses and that the proposal was within that scale of addition capacity.

Members then considered the relationship of the site with the group and whether it was in keeping with its character, whilst noting that the application was for planning permission in principle and that the suggested siting and design of the houses remained indicative. In this respect, they noted the opinion of the Appointed Officer that the site did not relate well to the character of the group, was ribbon development and broke into an undeveloped field. However, whilst Members understood the concerns over ribbon development, they felt that the character of Hume was almost uniformly linear with no development, apart from Cragside Farm, on the opposite side of the public road. The group contained a mixture of older houses opposite the castle and newer houses to the eastern end. It was clear to them that such groups have grown in the past and must be encouraged to continue to expand under Policy HD2 and the Supplementary Planning Guidance. The site reflects linear expansion in keeping with the group's current character. They also noted from the Archaeology Officer's comments that the group had previously been larger to the west.

Whilst the Review Body accepted that the character of the group altered after the bend in the road to the north, they noted that there was no strong visual boundary between the applicant's house and site in question, the boundary consisting of fencing and hedging. Members did not

accept the view of the Appointed Officer that the shelter belt north of Cragside Farm provided a defensible boundary to the group as it was on the opposite side of the road from the site. However, they still considered it important that the site was provided with a new planted boundary, by condition, to represent the outer edge and visual termination of the building group. This would also help integrate the development into the sensitive landscape setting that was recognised by the Review Body.

With appropriate landscaping conditions, Members were content that the development would read as part of the building group. They also noted the support for the development from the Community Council and local residents and the fact that the development would support an active local business.

The Review Body then considered the issue of access links under Policy PMD2 and noted the concerns from the Roads Planning Officer over the lack of connection with the footpath and street lighting that exists at the eastern end of the village. However, Members also noted that there was a considerable distance between the site and these facilities and that connection may not be within the control of the applicant. Members also felt that the application of modern standards of pedestrian access and street lighting in the central and older parts of the building group may not be achievable or desirable in terms of impact on character. They concluded that the proposal was acceptable under the relevant part of Policy PMD2 in the circumstances.

The Review Body finally considered other material issues relating to the proposal including residential amenity, roads, parking, water, drainage and archaeology but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for affordable housing and education were required and could be secured by legal agreement.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies HD2 and PMD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate addition to an existing building group within its sense of place and enclosed by proposed planting. 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. The landscaping shall include tree planting to form a strong boundary to the north-west. 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 to be commenced until further details of access and parking provision are submitted to, and approved in writing by, the Planning Authority. Thereafter the development to be completed in accordance with the approved details prior to occupation of the first dwellinghouse unless otherwise agreed. The details shall include:

- I. Access to be constructed as per SBC Standard Detail DC-3
- II. 2 no. parking spaces, not including any garage, and turning area for each dwellinghouse to be provided within the curtilage of the site and retained thereafter in perpetuity

Reason: To ensure satisfactory form of access and adequate parking and turning provision, in the interests of road safety.

4. Notwithstanding the terms of Class 3E of Schedule 1 of The Town and Country Planning (General Permitted Development) Order (Scotland) 1992 (as amended 2011 and with any subsequent amendments or Orders), no means of enclosure to be erected within the site unless a planning application has been submitted to, and approved by, the Planning Authority.

Reason: To safeguard the surrounding landscape and visual amenity of the area.

5. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.

Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

6. No development to be commenced until a scheme of waste storage has been submitted to, and approved in writing by, the Planning Authority. Once approved, provision to be made in accordance with the approved details prior to occupation of each dwellinghouse.

Reason: To ensure adequate provision for waste storage within the site.

INFORMATIVES

All work within the public road boundary must be undertaken by a contractor first approved by the Council.

LEGAL AGREEMENT

The Local Review Body required that a Section 75, or other suitable legal agreement, be entered into to secure developer contributions for Berwickshire High School and affordable housing.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street,
Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose,
TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....8 June 2020



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: 20/00010/RREF

Planning Application Reference: 18/00749/FUL

Development Proposal: Variation of Condition 1 of planning permission 13/01082/FUL to allow the lifespan of the application to be extended by a further three years

Location: Plot 2 Land South East of Mounthooly House, Jedburgh

Applicant: Bentley Developments

DECISION

The Local Review Body upholds the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

1. The development would be contrary to Policy IS8 of the Local Development Plan 2016 in that the site is at risk of flooding to the extent that there is no safe access/egress route resulting in risk to life and, in addition, development on the functional floodplain may displace the capacity to convey and store flood water, materially increasing the risk of flooding elsewhere and putting people and property at risk.

DEVELOPMENT PROPOSAL

The application relates to the variation of Condition 1 of planning permission 13/01082/FUL to allow the lifespan of the application to be extended by a further three years. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location/Site Plan	KB/98/11/BW4

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 1st June 2020.

After examining the review documentation at that meeting, which included a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultations and f) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of written submissions, but did not consider it necessary in this instance and proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD2, HD1, HD2, HD3, EP1, EP2, EP3, IS2, IS7, IS8, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- Scottish Planning Policy 2014
- Circular 3/2013 "Development Management Procedures"

The Review Body noted that the application was made under Section 42 of the Act to vary Condition 1 of planning permission 13/01082/FUL to allow the lifespan of the application to be extended by a further three years, at Plot 2 Land South East of Mounthooly House, Jedburgh. Members understood that the application had been submitted before the expiry of the consent. They also noted that the consent had, however, now expired. They noted the differing views of both the applicant and the Appointed Officer on whether the Council were, in effect, able to re-examine the principle of the consent and the subsequent environmental effects.

They noted that the applicant had lodged several letters from a solicitor and Circular 3/2013 "Development Management Procedures", maintaining that when an application under Section 42 is made within the expiry date of the consent, the Planning Authority may only consider the issue of the conditions attached to the resulting permission. The Review Body also noted the views of the Appointed Officer who determined the application after taking advice from the Council's Legal Services Officer. In his opinion, the Circular explained that in certain circumstances, such as when the previous permission has lapsed, a Planning Authority could consider the overall effect of granting a new planning permission. The consent had not lapsed when the Section 42 application was submitted but, during the processing of the application, the original consent had then lapsed and, in the Appointed Officer's opinion, he was entitled

to follow the advice of the Circular and consider the overall effect of granting a new permission taking into account any changed material factors.

The Legal Adviser to the Local Review Body detailed both sides of that legal argument to Members. She advised that Members were by law required to consider “only the question of the conditions subject to which planning permission should be granted” and that in interpreting that provision they should have regard to the Circular. Members were advised that the approach taken by the Appointed Officer was lawful, but they should now determine whether it was the correct decision in all the circumstances.

After full consideration of the matter, the Review Body determined that there was a significant change in the detail of information and risk pertaining to flooding on the site. They noted that both the Council’s Flood Risk Officer and SEPA had objected to the application after considering the Flood Risk Assessment that had been supplied as part of the Section 42 application.

Members noted the level of inundation and flood risk was now considered to be significant on the site, following a more detailed examination of the risks using more accurate information and modelling. They also noted that neither the Flood Risk Officer nor SEPA considered there to be a safe access or egress from the site in the event of flooding and that the site was within the functional flood plain. After considering all matters, the Review Body agreed with the objections from SEPA and the Flood Risk Officer and determined that the application was contrary to Policy IS8 of the Local Development Plan.

Members then considered other issues relating to the proposal including building group addition in the countryside and the siting and design of the house, but concluded that the proposal was not appropriate for the aforementioned reasons relating to Policy IS8. They noted that had the application been supported, then development contributions for affordable housing would have been secured by a new legal agreement.

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 for the reasons stated above.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....8 June 2020



APPENDIX IV

**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: 20/00011/RREF

Planning Application Reference: 18/00748/FUL

Development Proposal: Variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years

Location: Plot 1 Land South East of Mounthooly House, Jedburgh

Applicant: Bentley Developments

DECISION

The Local Review Body upholds the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

1. The development would be contrary to Policy IS8 of the Local Development Plan 2016 in that the site is at risk of flooding to the extent that there is no safe access/egress route resulting in risk to life and, in addition, development on the functional floodplain may displace the capacity to convey and store flood water, materially increasing the risk of flooding elsewhere and putting people and property at risk.

DEVELOPMENT PROPOSAL

The application relates to the variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location/Site Plan	KB/98/11/BW4

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 1st June 2020.

After examining the review documentation at that meeting, which included a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultations and f) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of written submissions, but did not consider it necessary in this instance and proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD2, HD1, HD2, HD3, EP1, EP2, EP3, IS2, IS7, IS8, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- Scottish Planning Policy 2014
- Circular 3/2013 "Development Management Procedures"

The Review Body noted that the application was made under Section 42 of the Act to vary Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years, at Plot 1 Land South East of Mounthooly House, Jedburgh. Members understood that the application had been submitted before the expiry of the consent. They also noted that the consent had, however, now expired. They noted the differing views of both the applicant and the Appointed Officer on whether the Council were, in effect, able to re-examine the principle of the consent and the subsequent environmental effects.

They noted that the applicant had lodged several letters from a solicitor and Circular 3/2013 "Development Management Procedures", maintaining that when an application under Section 42 is made within the expiry date of the consent, the Planning Authority may only consider the issue of the conditions attached to the resulting permission. The Review Body also noted the views of the Appointed Officer who determined the application after taking advice from the Council's Legal Services Officer. In his opinion, the Circular explained that in certain circumstances, such as when the previous permission has lapsed, a Planning Authority could consider the overall effect of granting a new planning permission. The consent had not lapsed when the Section 42 application was submitted but, during the processing of the application, the original consent had then lapsed and, in the Appointed Officer's opinion, he was entitled

to follow the advice of the Circular and consider the overall effect of granting a new permission taking into account any changed material factors.

The Legal Adviser to the Local Review Body detailed both sides of that legal argument to Members. She advised that Members were by law required to consider “only the question of the conditions subject to which planning permission should be granted” and that in interpreting that provision they should have regard to the Circular. Members were advised that the approach taken by the Appointed Officer was lawful, but they should now determine whether it was the correct decision in all the circumstances.

After full consideration of the matter, the Review Body determined that there was a significant change in the detail of information and risk pertaining to flooding on the site. They noted that both the Council’s Flood Risk Officer and SEPA had objected to the application after considering the Flood Risk Assessment that had been supplied as part of the Section 42 application.

Members noted the level of inundation and flood risk was now considered to be significant on the site, following a more detailed examination of the risks using more accurate information and modelling. They also noted that neither the Flood Risk Officer nor SEPA considered there to be a safe access or egress from the site in the event of flooding and that the site was within the functional flood plain. After considering all matters, the Review Body agreed with the objections from SEPA and the Flood Risk Officer and determined that the application was contrary to Policy IS8 of the Local Development Plan.

Members then considered other issues relating to the proposal including building group addition in the countryside and the siting and design of the house, but concluded that the proposal was not appropriate for the aforementioned reasons relating to Policy IS8. They noted that had the application been supported, then development contributions for affordable housing would have been secured by a new legal agreement.

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 for the reasons stated above.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....8 June 2020

SCOTTISH BORDERS COUNCIL PENSION FUND COMMITTEE AND PENSION BOARD

MINUTES of Meeting of the PENSION FUND
COMMITTEE AND PENSION BOARD held
via Microsoft Teams on Monday, 22 June
2020 at 10.00 am

Present:- Councillors D Parker, S Aitchison, G Edgar, C Hamilton, D Moffat, S Mountford, S Scott, Mr M Drysdale, Mr M Everett, Ms C Stewart and Ms L Ross

Apologies:- Councillor J Brown, Ms K M Hughes, Ms H Robertson.

In Attendance: Executive Director Finance & Regulatory, Pensions and Investment Manager, HR Shared Services Manager, Chief Officer Audit & Risk (paragraphs 1 – 11), Principal Consultant (KPMG), Democratic Services Officer (J Turnbull).

1. **WELCOME**

The Chair opened the meeting and welcomed Members of the Pension Fund Committee, Pension Board and members of the public to the Scottish Borders Council's open on-line meeting. The meeting was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place, due to the Covid-19 pandemic

2. **MINUTE**

There had been circulated copies of the Minute of the Meeting of 10 March 2020.

DECISION

NOTED for signature by the Chairman.

3. **FUNDING STRATEGY STATEMENT & STATEMENT OF INVESTMENT PRINCIPLES 2020**

With reference to paragraph 2 of the Minute of 13 June 2019, there had been circulated copies of a report by the Executive Director Finance and Regulatory which proposed the revised Funding Strategy Statement (FSS) and Statement of Investment Principles (SIP) for 2020. The report explained that both these documents should be kept under review and be updated and approved annually in line with the Pension Fund's Business Plan. This report discharged that requirement. The Pension Fund was required by the Local Government Pension Scheme (LGPS) Regulations to have an up-to-date Statement of Investment Principles and Funding Strategy Statement. Appendix A, to the report, contained the Funding Strategy Statement. Appendix B, to the report, contained the revised Statement of Investment Principles (SIP) for approval. The Pensions and Investment Manager, Mrs Robb, explained that there were a few minor changes to the document, highlighting the name change of the Fund's investment consultant KPMG to Isio and the stock lending update.

DECISION

AGREED

(a) **The Funding Strategy Statement set out in Appendix A to the report; and**

(b) **The Statement of Investment Principles set out in Appendix B to the report**

PENSION BOARD MEMBER

Ms C Stewart joined the meeting following consideration of the above report.

4. **SCOTTISH BORDERS COUNCIL PENSION FUND INTERNAL AUDIT ANNUAL ASSURANCE REPORT 2019/20**

With reference to paragraph 3 of the Minute of 13 June 2019, there had been circulated copies of a report by the Chief Officer Audit & Risk, which presented the Pension Fund Committee and the Pension Fund Board with the Internal Audit Annual Assurance Report for the year to 31 March 2020. The report included the Chief Officer Audit & Risk's independent assurance opinion on the adequacy of the Scottish Borders Council Pension Fund's overall control environment. The report explained that the Public Sector Internal Audit Standards (PSIAS) required that the Chief Officer Audit & Risk provided an annual internal audit opinion and report on the adequacy and effectiveness of the Pension Fund's governance, risk management and internal controls to support the preparation of the Pension Fund's Annual Governance Statement. To meet the requirements of the PSIAS the Scottish Borders Council Pension Fund Internal Audit Annual Assurance Report 2019/20 included the Internal Audit annual opinion, providing details of the Internal Audit activity during the year to support the opinion, and stated the conformance of the Council's Internal Audit service with the PSIAS. The Chief Officer Audit & Risk's opinion was that, based on Internal Audit reviews and knowledge, the systems of internal control operating in 2019/20 within the Scottish Borders Council Pension Fund were adequate, and governance and risk management arrangements were effective. The independent assurance opinion had been used to inform the Pension Fund's Annual Governance Statement 2019/20, and the Governance Policy and Compliance Statement 2019. The Chief Officer Audit & Risk, Ms Stacey, explained that there had been a slight change to the report format which provided further clarity on the Internal Audit annual opinion within Section 4.

DECISION

NOTED the Scottish Borders Council Pension Fund Internal Audit Annual Assurance Report 2019/20.

5. **GOVERNANCE POLICY & COMPLIANCE STATEMENT 2019**

With reference to paragraph 4 of the Minute of 13 June 2019, there had been circulated copies of a report by the Executive Director Finance and Regulatory which proposed the revised Governance Policy and Compliance Statement for the Scottish Borders Council Pension Fund (the Pension Fund) following implementation of the 2015 regulatory changes. The report also requested approval of the Governance Compliance Statement, included in the Appendix to the report, for inclusion in the Pension Fund's Annual Report and Accounts 2019/20. The Governance Compliance Statement, demonstrated that the Pension Fund was in full compliance with best practice guidance. Mrs Robb explained that there had been minor changes to the document to reflect changes to officers' titles, change to Isio from KPMG and the merger of SB Cares LLP and SB Supports LLP with Scottish Borders Council.

DECISION

AGREED the revised Governance Policy and Compliance Statement 2019 and the Governance Compliance Statement for inclusion in the Pension Fund Annual Report and Accounts 2019/20.

6. **PENSION ADMINISTRATION PERFORMANCE 2019/20**

With reference to paragraph 5 of the Minute of 13 June 2019, there had been circulated copies of a report by the Service Director HR and Communications presenting the Pension Administration Performance 2019/20 and requesting the Committee's approval for its inclusion in the Annual Report for the Fund. Appendix 1 to the report contained the Pension Administration Performance for 2019/20 as it would be included in the Fund's Annual Report and Accounts. The report explained that during 2019/20 all payments were made on time with the exception of one employer, the three payments that were late were all received within two working days of the due date. Performance remained at the expected high standard, which was testament to the dedication of the staff within the Pension Team, having coped with the resignation of two members of staff and the TUPE transfer of SB Cares back to Scottish Borders Council during the reporting period. The Annual Benefit Statements had been issued in accordance with the 31 August deadline in

all instances. It was noted that the Employer Liaison Meeting scheduled for March was not held due to the Covid-19 pandemic. A review of the communication methods for future years would be carried out and, if circumstances allowed, the Council would consider holding the event on an annual basis and schedule in due course. Due to Covid-19 no payslips had been issued to pensioners, this along with information on the application of the Pensions Increase and a link to the Local Government Association FAQ's on Covid-19 and the LGPS have been published on the Pension Fund website. In response to questions the HR Shared Services Manager advised that the payment from Jedburgh Leisure Facilities Trust had been delayed by two calendar days and there had been no explanation given for the lateness. Regarding the resignation of two staff members, Mr Angus confirmed that the Pension Team was now fully staffed.

DECISION

- (a) NOTED the Pension Administration Performance for 2019/20 as set out in Appendix 1, to the report.**
- (b) AGREED the inclusion of the Pension Administration Performance for 2019/20 in the Pension Fund Annual Report and Accounts 2019/20.**

7. TRAINING PLAN 2020/21

With reference to paragraph 6 of the Minute of 13 June, there had been circulated copies of a report by the Executive Director Finance and Regulatory comparing actual 2019/20 attendance for Pension Fund Committee and Pension Board members to the requirements detailed in the current Training Policy approved in June 2017. The report proposed key areas of training for 2020/21 in line with the Policy based on the Skills Knowledge assessment undertaken in April 2020, scores received were summarised in the table in paragraph 5.1 of the report and in more detail in Appendix 2 to the report. The Training Knowledge and Skills Assessment undertaken in April 2019 were summarised in Appendix 2 to the report. The proposed training areas for 2020/21 would focus on Financial Markets and Products, Investment performance and risk management, Pension Administration and General Pension Fund Regulatory environment. Members were strongly encouraged to actively participate in all training events to demonstrate their commitment to enhancing the governance of the Pension Fund and to support effective decision making. Mrs Robb explained that because of the Covid-19 pandemic the annual conference and training sessions would be delivered virtually this year. In response to a question regarding two Committee Members attending less than two events, Mrs Robb advised that she would investigate further and advise out with the meeting.

DECISION

- (a) NOTED:**
 - (i) The outcome of the 2019/20 training programme and the attendance levels for training and meetings; and**
 - (iii) The outcome of the Knowledge and Skills Self-Assessment for 2020/21.**
- (b) AGREED the training areas for 2020/21 set out in paragraph 6.2 of the report and that all members should prioritise attendance at training events wherever practicable.**

8. BUSINESS PLAN 2020/21 - 2022/23

With reference to paragraph 7 of the Minute 13 June 2019, there had been circulated copies of a report by the Executive Director Finance and Regulatory proposing the Pension Fund Business Plan 2020/21 and 2022/23 be approved. Best practice suggested that having a Business Plan for the Pension Fund was a good way of demonstrating compliance with the "Myners Principle" relating to effective decision making. Appendix 1, to the report, contained the first Pension Fund Business Plan covering the period 2020/21 – 2022/23. The Business Plan 2020/21 – 2022/23 identified

an Action Plan which would be delivered during the next three years to support the aims and objectives of the Pension Fund.

DECISION

AGREED the Pension Fund Business Plan 2021/22 - 2022.23 as set Appendix 1 to the report.

MEMBER

Councillor Moffat joined the meeting during consideration of the above report.

9. **RISK REGISTER UPDATE**

With reference to paragraph 3 of the Minute of 10 March 2020, there had been circulated copies of a report by the Executive Director Finance and Regulatory, which formed part of the risk review requirements and provided the Pension Fund Committee and Pension Board with an update on progress of actions taken by management to mitigate these risks. Identifying and managing risk was a corner stone of effective management and was required under the Council's Risk Management Policy and process guide and CIPFA's guidance "Delivering Governance in Local Government Framework 2007". It was further reflected and enhanced in the "Local Government Pension Scheme" published by CIPFA. A full risk review had been undertaken on 15 May 2020 with officers from relevant departments to review and update the full risk register, the output of which was shown in Appendix 1. A summary of changes made during the review were detailed in paragraph 4.3 of the report. Two new risks had been identified in relation to global pandemics and the consequences on the assets and employers. These were detailed in paragraph 4.4 of the report. In line with the Council's Risk Management Policy (2018) a paper to be presented at the September meeting would report progress on management actions and present any new risks for consideration. Mrs Robb highlighted the two new risks: The first related to assets and investments and the risk that the funding level might fall and employers would be required to pay increased contributions. The second was in relation to loss of income due to closure of facilities and the risk of failure of employers to pay contributions with a loss of cash flow to pay pensioners. However, diversification of the Funds investment strategy meant that the Fund had recovered well during the pandemic. In response to a question regarding the implications of homeworking, the Chief Officer Audit & Risk. Ms Stacey, advised that the Council's Homeworking Policy was a key element of the Council's Corporate Risk Review which was scheduled shortly.

DECISION

AGREED

- (a) **The updated Full Risk Register as contained in Appendix 1 to the report; and**
- (b) **To an update on progress of management actions to be presented in September 2020.**

10. **PENSION FUND BUDGET OUT-TURN AS AT 31 MARCH 2020**

With reference to paragraph 9 of the Minute of 13 June 2019, there had been circulated copies of a report by the Executive Director Finance and Regulatory providing the Pension Fund Committee and Pension Board with the budget out-turn position for the Pension Fund Budget to 31 March 2020. The Local Government Pension Scheme (Scotland) Regulation 2014 required administering authorities to ensure strong governance arrangements and set out standards they were to be measured against. To ensure the Fund met these standards the budget for 2019/20 was approved on 7 March 2019 following the standard presentation recommended by the CIPFA accounting guidelines. The report was the final out-turn report of the approved budget. The total expenditure to 31 March 2020 was £5.9m against a budget of £6.4m giving an underspend of £0.5m.

DECISION

NOTED the actual expenditure against budget to 31 March 2020

11. **DRAFT ANNUAL REPORT (INCLUDING ANNUAL ACCOUNTS)**

With reference to paragraph 10 of the Minute of 13 June 2019, there had been circulated copies of a report by the Executive Director Finance and Regulatory presenting for scrutiny and approval the draft Annual Report and Accounts for the Pension Fund for 2019/20 prior to submission to the external auditors. The Local Government Pension Scheme Amendment (Scotland) Regulations 2010 specified the elements which must be contained in the Annual Report and Accounts, the list of these were contained in paragraph 4.1 of the report. The draft Report and Accounts were still subject to statutory Audit, which would commence early July 2020. Following the statutory Audit process the final Report and Accounts would be circulated to the joint Committee and Board to review and recommend for approval. Mrs Robb explained that the Annual Report format had changed to be more transparent and met requirements of the guidance. Mrs Robb advised that Section 6 of the report had been expanded to include different categories of individual managers. The final version of the report would be included in the Auditor's report.

DECISION

NOTED the Pension Fund Annual Report and Accounts 2019/20, contained in Appendix 1 to the report, prior to their submission to the Council's Audit and Scrutiny Committee on the 23 June 2020, and supports their submission for review by the External Auditors, Audit Scotland as part of the subsequent audit process.

MR A BARCLAY

The Chair advised that as Mr Eck Barclay was retiring, this would be his last meeting. The Chair thanked Eck for his commitment and valuable input, of over 20 years, to the Pension Fund and wished him a long, happy retirement.

12. **ITEMS LIKELY TO BE TAKEN IN PRIVATE**

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business contained in the following items on the ground that they involved the likely disclosure of exempt information as defined in paragraphs 6 and 8 of the part 1 of Schedule 7A to the Act.

13. **MINUTE**

The Committee noted the Private Minute of the meeting of 10 March 2020.

14. **QUARTER PERFORMANCE TO 31 MARCH 2020**

The Committee considered a private report by Isio.

15. **INFRASTRUCTURE PERFORMANCE**

The Committee noted a private report by Executive Director Finance and Regulatory updating on infrastructure investment made by the Fund under delegated authority.

The meeting concluded at 11.30 am

This page is intentionally left blank

SCOTTISH BORDERS COUNCIL PENSION BOARD

MINUTE of Meeting of the PENSION
BOARD held Via Microsoft Teams on
Monday, 22 June 2020 at 1.00 pm

Present:- Mr A Barclay (Chair), Councillor S Aitchison, Mr M Drysdale,
Ms L Ross
Apologies:- Ms C Stewart, Ms K M Hughes, Mrs H Robertson
In Attendance:- Pension & Investments Manager, HR Shared Services Manager, Democratic
Services Officer (J Turnbull).
Also in Attendance:- Mr Haseeb, Audit Scotland, Mr D Bell.

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting of 17 December 2019.

DECISION

NOTED for signature by the Chairman.

2. **PENSION BOARD MEMBERSHIP**

The Chair, Mr Barclay, advised that as he was retiring from Scottish Borders Council, this would be his last meeting. The new Unite representative on the Pension Board would be Mr David Bell.

DECISION

NOTED:

- (a) **The retirement of Mr A Barclay from the Pension Board; and**
- (b) **The new Unite representative on the Pension Board was Mr D Bell.**

3. **APPOINTMENT OF CHAIR AND VICE-CHAIR**

It was agreed that in accordance with the Pension Board Constitution, Councillor A Aitchison be appointed as Chairman and Mr D Bell be recommended as Vice-Chairman. The appointments would run until June 2021.

DECISION

NOTED

- (a) **That Councillor S Aitchison be appointed as Chairman of the Pension Board until June 2021; and**
- (b) **That it was recommended that Mr D Bell be appointment as Vice-Chairman of the Pension Board until June 2021.**

4. **JOINT MEETING OF PENSION COMMITTEE AND PENSION BOARD**

- 4.1 With reference to paragraph 3.2 of the Minute of 10 March, the Board asked for an update on the Scheme Advisory Board (SAB) evaluation on the merging of funds. The Pension and Investments Manager, Mrs Robb, explained that the SAB had not met since the last Pension Board's meeting and therefore no scoping or procurement had been undertaken. However, Mrs Robb understood that a meeting had been scheduled for 24 June, although no agenda had been issued for this meeting. The Board expressed concern at the lack of transparency and short notice given for the meeting. The Board asked that their concerns be relayed to Councillors Parker and Mountford to report back to the SAB. The Chair would also advise Unite representatives attending the SAB of the Board's concerns. It was also agreed that the Chair, in conjunction with officers, write to the Board, the draft letter to be circulated to Board members for any comments.

- 4.2 The Board commented on the Fund's positive performance, Mrs Robb clarified that although both the Fund's liabilities and assets had decreased, liabilities had reduced further than assets. In response to questions, Mrs Robb explained that the Actuary would take a longer term view of the Fund's assets and would also take cognisance of the impact of Covid-19 when undertaking the Triannual Valuation. The McCloud judgement might also impact on the valuation. With regard to Visit Scotland, Mrs Robb explained that this was an admitted body and would transition to Lothian Pension Fund during 2020/21. Regarding the reduction in investment managers' fees Mrs Robb clarified that the fees were based on valuations and as these had reduced the fees had decreased. Discussion was still ongoing with managers regarding their fees. The reduction in active members was discussed, Mrs Robb advised that changes to the asset strategy would ensure the Pension Fund had sufficient investment income to meet future pension liabilities.

DECISION

AGREED that the Chair in conjunction with the Pension & Investments Manager write to the Scheme Advisory Board relaying the Board's concerns.

5. **MR A BARCLAY**

The Pension Board thanked Mr Barclay for his many years of dedicated service to the Pension Board and congratulated him on his retirement.

DECISION

NOTED the retirement of Mr Barclay.

6. **DATE OF NEXT MEETING**

The date of the next meeting of the Pension Board would be advised.

DECISION

NOTED.

The meeting concluded at 1.35 pm

SCOTTISH BORDERS COUNCIL AUDIT AND SCRUTINY COMMITTEE

MINUTE of Meeting of the AUDIT AND
SCRUTINY COMMITTEE conducted
remotely by Microsoft Teams Live Event on
Tuesday, 23 June 2020 at 10.15 am

Present:- Councillors S. Bell (Chairman), H. Anderson, K. Chapman, J. Fullarton,
S. Hamilton (Vice-Chairman), N. Richards, H. Scott, S. Scott and E. Thornton-
Nicol. Audit Business: Ms H. Barnett and Mr M Middlemiss (from para 6)
and from Audit Scotland: Mr A. Haseeb, Mr G. Samson and Ms G. Woolman.

In Attendance:- Executive Director Finance & Regulatory, Chief Officer Audit & Risk, Clerk to
the Council, Democratic Services Officer (F. Walling).

CHAIRMAN

The Chairman opened the meeting and welcomed Members of the Audit and Scrutiny Committee and members of the public to the Scottish Borders Council's open on-line meeting. The meeting was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place, due to the COVID-19 pandemic.

1. MINUTE.

1.1 There had been circulated copies of the Minute of the Meeting held on 9 March 2020.

DECISION

APPROVED for signature by the Chairman.

1.2 With regard to paragraph 2 of the Minute, the Chief Officer Audit and Risk apologised that, due to current circumstances, the Action Tracker and update on the Best Value Action Plan were not presented but were planned to be available at the next meeting. With regard to the Internal Audit Strategy and Annual Plan 2020/21, summarised in paragraph 7 of the Minute, the Chief Officer advised that, due to the effects of the current pandemic, the Plan had been re-assessed in terms of potential changes i.e. add audits to cover new risks, defer low risk cyclical audits to a future year, and re-schedule medium risk audits to later in the year. This had been carried out in consultation with the Corporate Management Team and any significant changes would be submitted to the Committee for approval. The Chairman recognised the changes in priorities brought about by recent developments and agreed there should be more time given to follow up on actions and it was particularly important that there was follow up on the Best Value Audit.

**DECISION
NOTED.**

AUDIT BUSINESS

2. INTERNAL AUDIT WORK TO MARCH 2020.

There had been circulated copies of a report by the Chief Officer Audit and Risk which provided Members of the Audit and Scrutiny Committee with details of the recent work carried out by Internal Audit and the recommended audit actions agreed by Management to improve internal controls and governance arrangements. The work Internal Audit had carried out during the period from 1 to 31 March 2020 was detailed in the report. During the period, a total of 3 final Internal Audit reports had been issued. There was a total of 14 recommendations made associated with the 3 reports (10 Medium Risk; 4 Low Risk). An Executive Summary of the final Internal Audit reports issued, including audit objective, findings, good practice, recommendations (where appropriate) and the Chief Officer Audit

and Risk's independent and objective opinion on the adequacy of the control environment and governance arrangements within each audit area, was detailed in Appendix 1 to the report. The Chief Officer gave thanks to the Internal Audit team for their efforts during the year to complete all planned assurance work, and to Management for their cooperation in finalising the three assurance reports during a very challenging time. The Chief Officer summarised the main points and recommendations within the 3 reports which related to: Contracting and Procurement; Business World ERP System Key Internal Controls; and SB Contracts. Members asked questions and received further clarification, in particular around Business World ERP System Key Internal Controls. They welcomed the good levels of assurances given. In response to a question as to whether there was capacity to monitor the audit actions post-COVID-19, the Chief Officer advised that she had agreed with Management a three-month extension to all audit actions, having taken into account risks from all open actions. Internal Auditors had a positive working relationship with Managers and, in recognising that the pandemic posed a significant risk to the whole organisation, would review recommendations with action owners.

DECISION

- (a) NOTED the final Internal Audit reports issued based on Internal Audit work carried out in the period from 1 to 31 March 2020 in accordance with the delivery of the approved Internal Audit Annual Plan 2019/20; and**
- (b) AGREED to acknowledge the assurance provided on internal controls and governance arrangements in place for the areas covered by this Internal Audit work, and the actions agreed by Management to improve internal controls and governance.**

3. RISK MANAGEMENT ANNUAL REPORT 2019/20.

- 3.1** With reference to paragraph 6 of the Minute of 13 May 2019, there had been circulated copies of a report by the Chief Officer Audit and Risk providing an overview of Scottish Borders Council's responsibilities in respect of risk management and an update on the risk management activity during 2019/20. The report explained that during 2019/20 various Executive/Service Directors representing the diverse range of Council services made presentations to the Audit and Scrutiny Committee at each of their meetings on the strategic risks facing their respective Services. The style and content of the presentations changed from February 2020, following a request from the Chair of the Committee for the presentations to be more focused on how individual risks were managed and controlled. This new approach had proven to be successful, with Members providing positive feedback following presentations by the Executive Director, Finance and Regulatory, in February 2020 and the Chief Social Work and Public Protection Officer in March 2020. It was further explained that, following the outbreak of the coronavirus COVID-19 at the end of 2019, the Council began to proactively anticipate and identify risks to its essential services. Plans and mitigations were agreed and put in place so that when lockdown occurred on 23 March 2020 the Council continued to support the most vulnerable individuals and businesses within its communities. As Scotland and the Council moved into the next stage of the pandemic, risks would continue to be identified and managed to ensure that Services continued to be delivered in the safest way possible for all stakeholders.
- 3.2** In response to a question about reference to the use of Pentana, the Council's performance management system, being encouraged or enforced, the Corporate Risk Officer explained that improved Pentana system functionality had provided the opportunity for Service Managers to monitor their Business Plan Actions, Performance Indicators, Risks and Audit Actions through dedicated portals. The use of Pentana system for all Services would therefore ensure Managers had an overview of all Performance Indicators, actions and risks in one place. Next steps for 2020/21 included the review of the Risk Management training course. Given the exceptional circumstances as a consequence of the Coronavirus pandemic, the training may be delivered through an

online platform to ensure that Managers had the skills to continue to identify, monitor and control risks in line with the Corporate Risk Management Policy and Framework.

DECISION

AGREED to acknowledge satisfaction with the arrangements for managing risks at the Council to ensure their on-going effectiveness in support of the Council's risk management policy and strategy.

4. COUNTER FRAUD ANNUAL REPORT 2019/20.

With reference to paragraph 7 of the Minute of 13 May 2019, there had been circulated copies of a report by the Chief Officer Audit and Risk providing details of the Council's counter fraud responsibilities and an update on the fraud prevention, detection and investigation activity during the year to 31 March 2020. The report explained that this was the second annual report on progress in relation to the revised Counter Fraud Policy statement and 3-year Counter Fraud Strategy approved by Council in 2018. Scottish Borders Council continued to participate in the National Fraud Initiative (NFI) which was a UK wide counter fraud exercise led by the Cabinet Office and Audit Scotland. It used data analytic techniques to compare information about individuals held by different public bodies, and on different systems, to identify circumstances (data matches) that might suggest the existence of fraud or error. The outcomes of the Council's participation in the National Fraud Initiative (NFI) 2018/2019 were shown in a table within the report. In summary, total savings (overpayments and estimated savings) of £346,725 from fraud and error were identified in the NFI 2018/2019 exercise, as at 4 April 2020. In response to Members' questions, the Corporate Fraud and Compliance Officer gave further clarification about the information provided. He pointed out that the amount of Fraud and Error identified for Council Tax Discount was not an indication of increased levels of fraud. This was primarily due to Customer Services taking a canvas of Council Tax Discounts in February 2019 and the associated checking to determine whether these discounts were claimed legitimately. He also explained the difference between estimated savings and total savings (which included savings resulting from an ongoing liability) and that the calculation of these was driven by rules provided by Audit Scotland. In response to a question about plans for Fraud Awareness Training across the workforce and with reference to the relatively low number of sessions held in 2019/20, the Corporate Fraud and Compliance Officer explained that two types of training were planned. It was proposed to provide a short e-learning module which would be mandatory to all staff. Enhanced training would be targeted to staff in specific areas of relevance, such as finance, to refresh the message, highlight different types of fraud and enable staff to have confidence to identify fraud where this is occurring.

DECISION

AGREED:

(a) to NOTE:

(i) the counter fraud work undertaken in support of the Council's counter fraud policy and strategy; and

(ii) the outcomes of the counter fraud activity 2019/20.

(b) to request that officers note the importance placed by the Committee on the availability of Fraud Awareness Training for all staff.

5. INTERNAL AUDIT ANNUAL ASSURANCE REPORT 2019/20.

With reference to paragraph 8 of the Minute of 13 May 2019, there had been circulated copies of a report by the Chief Officer Audit & Risk presenting the Internal Audit Assurance Report for the year to 31 March 2020 which included the Chief Officer Audit and Risk's independent assurance opinion on the adequacy of the Council's overall control environment. The report explained that the Public Sector Internal Audit Standards

(PSIAS) required that the Chief Audit Executive (CAE), the Council's Chief Officer Audit and Risk, provide an annual internal audit opinion and report on the adequacy and effectiveness of the Council's governance, risk management and internal controls to support the preparation of the Annual Governance Statement. This was in support of the overall governance arrangements of the Council, as set out in the Local Code of Corporate Governance. The Internal Audit Annual Assurance Report for 2019/20, attached as Appendix 1 to the report, included the annual Internal Audit opinion, provided details of the Internal Audit activity and performance during the year to fulfil its role, and summarised the outcomes of assessments of the Internal Audit service against the PSIAS. The Chief Officer Audit & Risk's opinion was that, based on Internal Audit reviews and knowledge, the systems of internal control, governance and risk management within the Council were operating satisfactorily. The Chief Officer highlighted the main points of the three elements of the report and gave further clarification where requested by Members. In terms of the Internal Audit Annual Plan 2019/20 Delivery, she explained that the level of Actual Audit days was higher than in the plan. This can be attributed to the unplanned secondment of a Graduate Finance Trainee for the second half of the year which more than offset the extraordinary staff sickness absence during the first half of the year. In response to a question about the ongoing Shared Internal Audit Services arrangement between Scottish Borders Council and Midlothian Council, the Chief Officer indicated that the benefits for both authorities appeared to be continuing. On the basis of these positive outcomes there was an opportunity for both authorities to explore other aspects in terms of shared services.

DECISION

- (a) **NOTED the Internal Audit Annual Assurance Report 2019/20 attached as Appendix 1 to the report.**
- (b) **AGREED that the Internal Audit Annual Assurance Report 2019/20 be published on the Council's website.**

MEMBER

The Chairman welcomed Mr Middlemiss to the meeting, who apologised for his unavoidable delay.

6. SCOTTISH BORDERS COUNCIL ANNUAL GOVERNANCE STATEMENT 2019/20.

6.1 With reference to paragraph 9 of the Minute of 13 May 2019, there had been circulated copies of a report by the Chief Executive presenting for approval the Annual Governance Statement that would be published in the Council's Statement of Accounts 2019/20. The Annual Governance Statement 2019/20 at Appendix 1, in compliance with the CIPFA/SOLACE Framework 'Delivering Good Governance in Local Government' (2016), provided details of the Council's Governance Framework, the annual Review of Framework undertaken, Improvement Areas of Governance, and overall opinion. In terms of overall corporate governance it was the Chief Executive's opinion that, although there were a few areas of work to be completed for full compliance with the Local Code, the overall governance arrangements of the Council were considered sound. The Executive Director Finance and Regulatory presented the report and summarised the Council's governance arrangements as these related to the seven core principles of good governance set out in the CIPFA/SOLACE Framework. He also highlighted the main areas where improvement in governance arrangements could be made, in particular with respect to implementing the Best Value Action Plan approved by Council in December 2019. With reference to the statement on the Community Planning Partnership the Chairman commented that although assurance was given of a joined-up nature between the Locality Plans, Improvement Plan and Community Partnership Plan, this should be a priority for attention in the year ahead to strengthen the linkage between the plans and improve partnership outcomes.

6.2 The Executive Director emphasised that the assurance opinion reflected the assessment of governance in place during normal operations in 2019/20 prior to the significant

coronavirus (COVID-19) outbreak in late March 2020. The latter clearly had an impact on business as usual in the delivery of services. The Council moved to Critical Service delivery on the evening of Monday 23 March 2020 following the announcements by the First Minister and Prime Minister on new coronavirus restrictions. This meant that as a Category 1 responder the Council's primary responsibilities were working with other resilience partners to protect life, especially the vulnerable, and to support businesses and the wider public; as such local authority workers were part of the essential response during the COVID-19 outbreak. In response to a question about openness and transparency in relation to reports approved using Emergency Powers, on a temporary basis during the COVID-19 outbreak, the Clerk to the Council confirmed that these reports would be published on the Council's website.

DECISION

AGREED to:-

- (a) note the details of the Annual Governance Statement 2019/20 as detailed in Appendix 1 to the report and that it reflected the risk environment and governance in place to achieve objectives;**
- (b) acknowledge the actions identified by Management to improve internal controls and governance arrangements; and**
- (b) give approval for publication of the Annual Governance Statement in the Council's Statement of Accounts 2019/20.**

ADJOURNEMENT

The meeting was adjourned at 11:44 am and re-convened at 11:50 am.

MEMBER

Councillor H. Scott left the meeting during the presentation and discussion below.

7. UNAUDITED REPORTS AND ACCOUNTS 2019/20 FOR SCOTTISH BORDERS COUNCIL.

- 7.1 With reference to paragraph 3 of the Minute of 25 June 2019, there had been circulated copies of a report and associated papers, by the Executive Director Finance and Regulatory, providing an opportunity to scrutinise the draft Scottish Borders Council and Group Annual Report and Accounts for the year ended 31 March 2020 prior to its submission to the External Auditors. It was explained that the draft Report and Accounts were still subject to Statutory Audit, which would commence in July as normal, but was likely to conclude later than usual due to competing audit demands as a result of the COVID-19 pandemic. It was estimated that following the Audit process, the final report and Accounts would be submitted to Council in November 2020. The Accounts summarised the financial transactions for the 2019/20 financial year and the balance sheet positions as at 31 March 2020 as set out in the Local Authority Accounts (Scotland) Regulations 2014. The draft Annual Accounts for 2019/20 were attached as Appendices to the report as follows: Annual Accounts for Scottish Borders Council; SBC Common Good Funds; SBC Welfare Trust; SBC Education Trust; SBC Community Enhancement Trust; Ormiston Trust for Institute Fund; SBC Charity Funds; Bridge Homes LLP; and Lowood Tweedbank Ltd. The accounts would be submitted to the External Auditors, Audit Scotland or KPMG as appropriate for full audit by 30 June 2020 and be available for public inspection on the Council's website for a 14 day period commencing 1 July 2020.
- 7.2 The Executive Director highlighted the main points from the Scottish Borders Council 2019/20 accounts by means of a visual presentation. Before doing so, he paid tribute to his staff for their achievement in preparing the accounts within the original timescale, despite the very difficult circumstances. The presentation provided the following headline figures: the Revenue Outturn for 2019/20 showed £1.538m underspend (0.58% of final approved budget); £13.263m Financial Plan Savings had been achieved, 70% of those on

a permanent basis; £8.412m of Earmarked balances from 2019/20 were carried into 2020/21 including £1.16m of DSM carry forward; Net Assets excluding Pension Fund liabilities had increased by £9.6m on the Balance Sheet; and there had been Capital Expenditure of £44.3m with a timing movement of £8.4m into 2020/21. The presentation gave an analysis of revenue expenditure by service and a graph detailing efficiency savings achieved over the past 5 years, categorised into permanent and temporary savings brought forward. With regard to SB Contracts in 2019/20 turnover had increased by £9m, or 57.2%, to £25.6m, with 20% of the total being generated by external works. In terms of the Council's reserves, the Useable Reserve as at 31 March 2020 equated to £30.1m. The presentation went on to refer to the Group accounts that were included with the papers. It was noted that with regard to the Scottish Borders Health and Social Care Partnership, the Integration Joint Board accounts had not been finalised for 2019/20, due to NHS resources being directed towards response to the COVID-19 outbreak. The group position reflected 2018/19 figures and would be updated once the accounts were available.

- 7.3 The Executive Director answered Members' questions on the accounts and provided further clarification where requested. Issues covered included: the pension liability and how this was calculated for the purposes of the accounts; the statement of indebtedness in relation to the IJB; the strategy in relation to reducing future demand for services; and the assessment and mitigation of risk of the current reduction in activity for SB Contracts. With regard to the percentage of total savings achieved on a permanent basis, Mr Robertson advised that whilst he would prefer to see a higher percentage of savings achieved permanently in line with the agreed financial plan, he recognised that in reality this was becoming tougher to achieve year on year, particularly taking into account the challenges now posed by COVID-19. In terms of the cumulative risk going forward due to the pandemic, he drew attention to a paper being presented to full Council on the response to the COVID-19 outbreak and the unprecedented financial challenge facing the Council. In this regard and in response to another question, he confirmed that the Council had useable reserves of £30.1m of which £7.8m were unallocated. Other reserves earmarked for specific purposes could also be used to support the response if this was considered prudent. The use of reserves would have to be repaid in future years. In terms of bad debts and the estimated ultimate collection rate for Council of 98.8% within the budget, the Executive Director explained that this was being monitored closely and accepted that this may have to be amended in the 2021/22 budget, also taking into account effect on cash flow. He confirmed that the Council would adopt a sympathetic approach to the collection of outstanding Council Tax and other debts and agree payment plans where appropriate. With regard to the average rate of interest of 4.67% paid on external debt, he explained that this was the average pooled rate on the Council's Loans Fund and that historic loans were re-financed at lower rates as the opportunities arose. The Chairman thanked the Executive Director and his team for their work behind the preparation of the accounts.

**DECISION
AGREED:-**

- (a) **to note the Draft Annual Report and Accounts 2019/20 for Scottish Borders Council and associated Group Accounts; and**
- (b) **to support its submission for review by the External Auditors, Audit Scotland for Scottish Borders Council, Common Good and Trust Funds accounts, and to KPMG who continue to provide the external audit of the Council's subsidiary Bridge Homes.**
8. **UNAUDITED REPORT AND ACCOUNTS 2019/20 FOR SCOTTISH BORDERS COUNCIL PENSION FUND.**

With reference to paragraph 3.3 of the Minute of 25 June 2020, there had been circulated copies of a report by the Executive Director Finance and Regulatory, providing an

opportunity to scrutinise the Draft unaudited Annual Report and Accounts for the Pension Fund for 2019/20 tabled prior to their submission to the External Auditors. The draft unaudited Annual Report and Accounts, provided in Appendix 1 to the report, had been presented to the Joint Pension Fund Committee and the Pension Fund Board on 22 June 2020 for approval of submission to External Auditors and publication for inspection by the statutory deadline of 30 June 2020. Following the statutory Audit process, the final Report and Accounts would be submitted to the joint Committee and Board to review and recommend for approval. The Annual Report would also be made available for public inspection for a 3-week period commencing 30 June 2020. The Executive Director Finance and Regulatory presented the report and highlighted the main points. Due to COVID-19 and the subsequent market crash in March 2020, the Fund had seen, for the first time since 2008, negative performance of 1.7% against a benchmark of negative 1.9%. The rebalancing and diversification work which had been ongoing over the past 5 years had meant the full effect of the market crash had not been incurred by the Fund. The Fund had throughout 2019/20 continued with the processing of diversification away from equities and had increased its investments in infrastructure from £11.5m to £26.4m. The Pension Fund Committee and Board believed that a positive approach to Environmental, Social and Governance (ESG) issues could positively affect the performance of the Fund. Good progress had been made with the Fund's first annual responsible investment report being approved. This report showed that 99.8% of the Funds' assets were managed in compliance with United Nations Principles of Responsible Investment (UNPRI) signatories. The Fund continued to work with all its managers to ensure ESG was fully integrated into all their investment decisions. The Fund has also during the year become signatories to Climate Action 100+ initiative which was actively working to ensure the Paris Agreement climate change targets were met. In answer to a question with regard to the assessment and management of risk the Executive Director gave further clarification and confirmed that all identified actions were monitored quarterly with a full risk review undertaken annually.

DECISION

NOTED the Draft Unaudited Pension Fund Annual Report and Accounts for 2019/20

9. **AUDIT SCOTLAND: COVID-19 WHAT IT MEANS FOR PUBLIC AUDIT IN SCOTLAND.** There had been circulated copies of a briefing by Audit Scotland, published in May 2020. Mr Haseeb (Audit Scotland) presented the paper and explained that a further briefing was currently being prepared. Audit Scotland recognised that public bodies were under exceptional pressure as they managed the impact of the pandemic. Guidance and deadlines for financial reporting had been amended to reflect this. The Audit for Scottish Borders Council would commence in July as planned, but instead of sign-off being by the end of September this would be extended to the 30 November. It would be some time before the impact of COVID-19 on public services and finances would be fully understood. The approach to audit would be flexible, pragmatic and consistent. Audit Scotland's work would need to reflect the impact of COVID-19 on public services but also maintain a focus on the other key challenges facing Scotland's public sector. Within the financial audit, governance would be a key focus, including the new arrangements put in place by public bodies in response to COVID-19. Audit Scotland was committed to helping Parliament and the public understand how public money had been used during this crisis and ensure lessons were learned for the future. The complex and dynamic nature of the COVID-19 crisis meant that the work would need to be carried out in a phased approach. In the longer term, Audit Scotland would be working to identify lessons that could be learnt from the public sector's response; assessing the outcomes achieved from key Scottish Government spending and programmes related to COVID-19; and aligning work programme with the Scottish Government's work to rebuild Scotland's economy, remove inequality and advance wellbeing. The Chairman thanked the Audit Scotland representatives and the Committee's external members for their attendance.

DECISION

NOTED

SCRUTINY BUSINESS

10. PROPOSED SCRUTINY WORK PROGRAMME

There had been circulated copies of an extract from the Audit & Scrutiny Minute of 10 February 2020 regarding a report by the Service Director Customer and Communities, presenting an update on subjects for Scrutiny review as part of the future Scrutiny Work Programme. There were 14 subjects which were due to be taken forward and these were detailed in the Appendix to the extract. In light of the impact of COVID-19 the Chairman invited Members to reconsider the Scrutiny Work Programme being recommended for approval to Council and to re-look at the priority order of these subjects for review. In the ensuing discussion, Members agreed that it was appropriate to change the order on the list contained within the appendix and identified the priority subjects for review as: Child Poverty; Welfare Fund; Following the Public Pound – grant evaluations; Grass Cutting Regime & Biodiversity; Police Community Action Teams; and Recycling and Waste Policy. After hearing information from the Chief Officer Audit & Risk that both the Welfare Fund and Funding to Community Groups would be part of the 2020/21 Internal Audit Programme, Members agreed to leave all 14 subjects on the list but to ask the Clerk to the Council, in consultation with the Chief Officer Audit & Risk, to decide an appropriate order of consideration based on the priorities identified above. The Clerk added that Members could agree to include additional subjects on the list at a later date providing these were also agreed by Council.

DECISION

* AGREED

- (a) to amend the recommendation to Council in Paragraph 10.2(a) of the Minute of Audit & Scrutiny Committee of 10 February 2020:
- (b) to recommend to COUNCIL:
 - (i) approval of the subjects to be included in the Scrutiny Work Programme, as detailed in the Appendix to this Minute; and
 - (ii) given the response/recovery work required for COVID-19, and its impact on officer resources/time, that the order of the Scrutiny Work Programme is prioritised by the Audit & Scrutiny Committee.

The meeting concluded at 1.45 pm

SCOTTISH BORDERS COUNCIL HAWICK COMMON GOOD FUND SUB-COMMITTEE

MINUTES of Meeting of the HAWICK
COMMON GOOD FUND SUB-
COMMITTEE held via Microsoft Teams on
Wednesday, 24 June 2020 at 2.00 pm.

Present:- Councillors: G Turnbull (Chairman), S Marshall, W McAteer,
C Ramage, N Richards
Apologies Councillor D Paterson, Mr J Campbell (Hawick Community Council)
In Attendance:- Estates Strategy Surveyor (N Curtis), Pensions and Investments Manager (K
Robb), Managing Solicitor (R Kirk), Property Officer (F Scott), Democratic
Services Officer (J Turnbull)

WELCOME

The Chairman opened the meeting and welcomed Members of the Sub-Committee and members of the public to the Scottish Borders Council's open on-line meeting. The meeting was to consider urgent items and was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place, due to the COVID-19 pandemic.

1. MINUTE

There had been circulated copies of the Minute of the meeting held on 26 November 2019.

DECISION

APPROVED the Minute of the Meeting held on 26 November 2019 for signature by the Chairman.

2. MATTERS ARISING FROM THE MINUTE

2.1 With regard to paragraph 6.4 of the Minute of 26 November 2019, the Chairman advised that because of the COVID-19 pandemic the Hawick Reivers' Festival had not gone ahead as planned. It was noted that for next year's festival, a new funding application would be required to be submitted and that the grant for this year's Festival should be returned to Hawick Common Good. However, the amount returned was to preclude any costs incurred by Hawick Reivers' Festival that they were unable to reclaim.

2.2 With reference to Item 6.4(b) of the Minute of 26 November 2019, the Sub-Committee considered that Council, at the meeting on 30 January 2020, had not given appropriate consideration to their request. The Sub-Committee agreed that the recommendation that Hawick Reivers' Association be included within the Council's Festival budget be reconsidered by Council.

DECISION

(a) **AGREED To request that Hawick Reivers' Association reimburse the Sub-Committee funding granted for the 2020 Hawick Reivers' Festival, precluding any costs incurred that they were unable to be reclaim.**

* (b) **AGREED TO RECOMMEND TO COUNCIL that inclusion of Hawick Reivers' Association within the Council's Festival budget be reconsidered.**

3. **FINANCIAL ASSISTANCE**

3.1 **Hawick Royal Albert United Football Club**

There had been circulated copies of an application for financial assistance from Hawick Royal Albert United Football Club requesting £5,000.00 towards refurbishment works and repairs to their car park. The application explained that the Football Club's premises and car park had received extensive damage during the recent flooding in February this year. The Chairman thanked the Secretary of the Football Club for attending the meeting remotely and for the detailed application and explanation given for the Football Club's request. The Sub-Committee noted that the Football Club had raised £15k towards the works and supported the application for funding.

DECISION

AGREED to award £5,000.00 to Hawick Royal Albert United Football Club towards refurbishment works and repairs to their car park. The works and repairs to be undertaken within current government guidelines in relation to COVID-19.

4. **MONITORING REPORT FOR 12 MONTHS TO 31 MARCH 2020**

With reference to paragraph 8 of the Minute of 26 November 2019, there had been circulated copies of a report by the Executive Director Finance and Regulatory providing details of the income and expenditure for the Hawick Good Fund Sub-Committee for the year 2019/20 and proposed budget for 2020/21. Appendix 1 to the report provided the projected income and expenditure for 2019/20. This showed a surplus of £108,805 for the year which was slightly higher than the surplus figure reported at the 26 November 2019 meeting. Appendix 2 provided an actual balance sheet value as at 31 March 2020 and showed an increase in reserves of £947,895 due to the revaluation of properties off set slightly by unrealised loss on the Kames Investment Fund. Appendix 3 provided a breakdown of the property portfolio showing the effect of the revaluation. Appendix 4 showed the value of the Kames Capital Investment Fund to 31 March 2020. The Pensions & Investments Manager, Mrs Robb, advised that the Kames Capital Investment Fund return was less than anticipated due to the global impact of COVID-19. In response to questions, Mrs Robb advised that Kames Capital Investment Fund provided an annual update on performance for Members. To adhere to social distancing measures, this would be held remotely this year. With regard to the income and expenditure detail provided in the report, a summary of annual income received would be included in the annual end of year report going forward. Regarding heritable assets value these were shown as nil as heritable assets could not be sold.

DECISION

- (a) **AGREED the proposed income and expenditure for 2020/21 detailed in Appendix 1 to the report.**
- (b) **NOTED within the appendices to the report:-**
 - (i) **The actual income and expenditure for 2019/20 as shown in Appendix 1**
 - (ii) **The final balance sheet value as at 31 March 2020 in Appendix 2;**
 - (iii) **The summary of the property portfolio in Appendix 3; and**
 - (iv) **The current position of the Kames Capital Investment Fund in Appendix 4.**

5. **PROPERTY UPDATE**

5.1 **Woodland Management Scheme**

With reference to paragraph 16.4 of the Minute of 26 November 2019, the Estates Strategy Surveyor advised that a hard core timber stacking area had been installed at the Nip Knowes to assist with timber removal. This would be beneficial for parking of walkers' vehicles after the timber had been extracted. Once the timber removal had been completed at the Nip Knowes, the contractors would upgrade the track leading from the Golf Club car park, and fell any remaining trees and wind blow and remove from the site. Members raised the issue of fly tipping at the Nip Knowes and it was agreed that once the work was completed fencing and a gate would be erected to prevent access to the land by fly tippers.

5.2 **New Building at St Leonards Farm**

With reference to paragraph 16.1 of the Minute of 26 November 2019, the Property Officer displayed photographs showing progress of the works to the byre and landscaping of the midden. Works to the byre had stopped because of COVID-19 and would recommence when the contractor was un-furloughed.

5.3 **Pilmuir Farm Building**

With reference to paragraph 16.3 of the Minute of 26 November 2019, the Property Officer advised that works to the roof would commence following completion of the works at St Leonards Farm.

DECISION

(a) **NOTED the report.**

(b) **AGREED that fencing and a gate be erected at the Nip Knowes, once timber removal was completed.**

6. **PRIVATE BUSINESS**

AGREED exclude the public from the meeting during consideration of the business detailed in the Appendix to the Minute on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 6 of Part 1 of Schedule 7A of the Act.

MEMBER

Councillor Marshall left the online meeting.

7. **PRIVATE MINUTE**

Members approved the Private Minute of the Hawick Common Good Fund Sub-Committee held on 26 November 2019.

8. **MATTERS ARISING FROM THE MINUTE**

The Sub-Committee considered an update on works at the Wee Haugh, Hawick.

9. **URGENT ITEM**

Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency.

10. **PROPERTY UPDATE**

The Sub-Committee considered a private verbal report by the Chairman.

11. **NEXT MEETING**

The date of the next meeting would be dependent on the amount of urgent business to be discussed and would be advised in due course.

The meeting concluded at 2.45 pm

This page is intentionally left blank

SCOTTISH BORDERS COUNCIL CIVIC GOVERNMENT LICENSING COMMITTEE

MINUTE of Meeting of the CIVIC
GOVERNMENT LICENSING COMMITTEE
held via Microsoft Teams on Friday, 26 June
2020 at 10.00 a.m.

Present:- Councillors J. Greenwell (Chairman), J. Brown, D. Paterson, N. Richards,
S. Scott, R. Tatler, E. Thornton-Nicol, G. Turnbull, T. Weatherston.

In Attendance:- Managing Solicitor – Property and Licensing, Licensing Team Leader,
Licensing Standards and Enforcement Officer (Mr M. Wynne), Democratic
Services Officer (F. Henderson), Inspector J. McGuigan - Police Scotland.

ORDER OF BUSINESS

The Chairman varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

PRIVATE BUSINESS

DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 14 of part 1 of Schedule 7A to the Act.

SUMMARY OF PRIVATE BUSINESS

- 1.0 **Hearing to consider grant of Taxi Driver Licence – Jay Littlejohn**
There had been circulated copies of an application, accompanied by three letters of support, for the grant of a Taxi Driver Licence together with a letter of objection, dated 10 June 2020, from Police Scotland. Mr Littlejohn and his representative were present at the meeting via Microsoft Teams. After hearing both parties, the Committee agreed that the application for a Taxi Driver's Licence submitted by Mr Littlejohn be refused.
- 2.0 **Hearing to consider grant of Taxi Driver Licence – Lukasz Silianczuk**
There had been circulated copies of an application together with a written submission and a letter of representation dated 9 March 2020, from Police Scotland. The Applicant was present via Microsoft Teams. After hearing both parties, the Committee agreed that the application for a Taxi Driver's Licence submitted by Lukasz Silianczuk be granted.
- 3.0 **Hearing to consider grant of Taxi Driver Licence – Ian Johnston**
There had been circulated copies of an application, a written submission, a letter of support and a letter of representation dated 12 February 2020, from Police Scotland. Although cited to attend, the applicant was not able to do so and he had confirmed beforehand that the application be considered in his absence. After hearing from Police Scotland and after considering the applicant's written submission, the Committee agreed that the application for a Taxi Driver's Licence submitted by Ian Johnston be granted.

The meeting concluded at 11.25 a.m.

This page is intentionally left blank

**SCOTTISH BORDERS COUNCIL
COLDSTREAM COMMON GOOD FUND SUB-COMMITTEE**

MINUTE of Meeting of the COLDSTREAM
COMMON GOOD FUND SUB-COMMITTEE
held by Microsoft Team on Tuesday, 30 June
2020 at 2.00 p.m.

Present:- Councillors D. Moffat, M. Rowley
Apology:- Councillor J. Greenwell
In Attendance:- Principal Solicitor, Capital & Investments Manager, Estates Surveyor (T. Hill),
Democratic Services Team Leader,

1. **CHAIRMAN**

In the absence of Councillor Greenwell, Councillor Rowley proposed that Councillor Moffat chair the meeting..

DECISION

AGREED that Councillor Moffat chair the meeting.

2. **MONITORING REPORT FOR 12 MONTHS TO 31 MARCH 2020 AND PROPOSED BUDGET FOR FINANCIAL YEAR 2020/21**

There had been circulated copies of a report by the Executive Director, Finance and Regulatory, providing the details of the assets held by the Coldstream Common Good Fund as at 31 March 2020, a full year revenue out-turn for 2019/20 and projected balance sheet values as at 31 March 2021. Appendix 1 to the report provided an Income and Expenditure account for the year to 31 March 2020 and Appendix 2 provided an actual balance sheet as at 31 March 2020. It showed an increase in the reserves of £59,460, due to the revaluation of the properties.

DECISION

AGREED:-

- (a) **to note the actual income and expenditure for 2019/20 in Appendix 1;**
- (b) **the proposed budget for 2020/21 as shown in Appendix 1; and**
- (c) **to note the final balance sheet value as at 31 March 2020 in Appendix 2.**

3. **COLDSTREAM FOOTBALL CLUB, HOME PARK, COLDSTREAM**

There had been circulated copies of a report by the Service Director Assets and Infrastructure proposing that permission be granted to Coldstream Football Club for erection of floodlights at their ground at Home Park which they lease from Coldstream Common Good. The report explained that the new Scottish Football Association (SFA) licencing requirements meant that Coldstream Football Club would lose their SFA licence and be removed from the league that they currently played in unless new floodlights were installed. In response to a question on timescales the Estates Surveyor advised that site investigations were being carried out and it was hoped they would be installed in early July.

DECISION

AGREED to grant permission for the erection of floodlights at the ground of Coldstream Football Club in Home Park.

The meeting concluded at 2.10 pm

SCOTTISH BORDERS COUNCIL PEEBLES COMMON GOOD FUND SUB-COMMITTEE

MINUTE of Meeting of the PEEBLES
COMMON GOOD FUND SUB-COMMITTEE
held in the Council Chamber, Rosetta Road,
Peebles on Wednesday, 1 July, 2020 at 2.00
pm

Present:- Councillors R. Tatler (Chairman), H. Anderson, S. Bell, K. Chapman,
S. Haslam, E. Small and Community Councillor L. Hayworth
In Attendance:- Pensions and Investments Manager, Solicitor (G. Sellar), Property Services
Manager, Estates Surveyor T. Hill), Democratic Services Team Leader

1. MINUTES

The Minute of the Meeting of Peebles Common Good Fund Sub-Committee held on 26 February 2020 had been circulated.

DECISION

AGREED to approve the Minute.

2. FINANCIAL MONITORING TO 31 MARCH 2020

There had been circulated copies of a report by the Executive Director, Finance & Regulatory providing details of the income and expenditure for the Peebles Common Good Fund for the year 2019/20 including balance sheet values as at 31 March 2020 and the proposed budget for 2020/21. Appendix 1 to the report provided the actual Income and Expenditure position which showed a surplus of £13,952 for the year which varied from the projected surplus figure previous provided due to essential repairs carried out at the Band Hall. Appendix 2 to the report contained the Balance Sheet to 31 March 2020 and projected an increase in the reserves of £26,399 due to the revaluation of properties offset slightly by unrealised loss on the Kames Investment Fund. Appendix 3 to the report detailed the breakdown of the property portfolio showing the effect of the revaluation. Appendix 4 to the report showed the value of the Kames Capital Investment Fund to 31 March 2020. The Pension and Investments Manager, highlighted the main points and answered Members questions. In response to a question regarding the Kames Investment she advised that no other funds were performing any better in the current climate. Members would have the opportunity to put questions to Kames at the annual meeting later in the year. The reduction in available funding for grants was noted and that the budget would be reviewed on a quarterly basis.

DECISION

AGREED:-

- (a) To note the actual income and expenditure for 2019/20 in Appendix 1 to the report;
- (b) the proposed budget for 2020/21 as shown in Appendix 1 to the report;
- (c) to notes the final balance sheet value as at 31 March 2020 in Appendix 2 to the report;
- (d) to notes the summary of the property portfolio in Appendix 3 to the report;
and

(e) to note the current position of the investment in the Kames Capital Investment Fund in Appendix 4 to the report.

3. APPLICATION FOR FUNDING – TWEED WHEELS

With reference to paragraph 4.1 of the Minute of 26 February 202, copies had been circulated of the additional information requested to allow Members to consider the request for funding of £10,000 towards the purchase of a new minibus. Lorna McCullough joined the meeting and answered Members questions. She advised although the estimated maximum cost was £40,000 the final cost would be dependent on the specification. She also clarified the budget position which related to the Bridge as a whole not just the Tweed Wheels Project. The minibus could be used by other voluntary groups in the area so long as they joined the Bridge, the cost of which was only £15. Members were supportive of the application but felt given the reduced budget available that £10,000 was more than they could grant.

VOTE

Councillor Haslam, seconded by Councillor Small, moved that a grant of £2,000 be given.

Councillor Anderson, seconded by Councillor Bell, moved as an amendment that a grant of £5,000 be given

On a show of hands Members voted as follows:-

Motion - 2 votes

Amendment - 4 votes

The amendment was accordingly carried.

DECISION

DECIDED to give a grant of £5,000 to Tweed Wheels towards the purchase of a new minibus.

DECLARATION OF INTEREST

Councillor Tatler declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the meeting during the discussion. Councillor Anderson took the Chair in his absence.

4. EASTGATE THEATRE LOAN

With reference to paragraph 3.6 of the Minute of 29 May 2019, the had been circulated copies of a request from the Eastgate Theatre Board asking that the date of repayment of their loan of £20,000 be extended from December 2020 for a period of up to 12 months. Ron Inglis, Chairman of the Board joined the meeting and gave Members details of the Theatres current financial position and their plans for the gradual reopening of the facility. He explained the issues around the payment of the Leader Grant of £75,000 which it was hoped would be resolved to allow payment in August. Mr Inglis answered Members questions and advised that Live Borders continued to support the Theatre. In response to a question from Councillor Bell, the Pensions and Investments Manager advised that it was a decision for the Sub-Committee but a one year extension could be given. Members discussed the matter and agreed that as the loan was not repayable until December a decision did not need to be made immediately and agreed that consideration be deferred until their November meeting when the financial position of the Theatre would be clearer.

DECISION

AGREED to defer consideration of the request for a loan extension until the meeting of the Sub-Committee in November,

5. PEEBLES GOLF CLUB

There had been circulated copies of a request from Peebles Golf Club for the following in respect of their rental payments:-

- Waiver of the next two quarterly payments (due July and October 2020).
- A reduction in the annual charge as follows: -
 - 2021 – 20% reduction
 - 2022 – 15% reduction
 - 2023 – 10% reduction

Alan Frain, Club Secretary joined the meeting to explain the reasons for the request and answered Members questions. Councillor Tatler referred to previous communication with Members regarding rental and moved that rent be waived for a period of 3 months. There was no seconder so this proposal fell. In response to a question from Councillor Haslam, the Pensions and Investments Manager explained what granting the request would mean in real terms of loss of income to the Common Good and that this would be treated as a grant to the Golf Club. She further highlighted the issue of granting one group a rent free period and not others. The Council's approach for all of those renting property had been to defer rental payments rather than waive. Members discussed the request and agreed that there current funding position did not allow it to be supported. It was suggested that the Golf Club be put in touch with Business Gateway and South of Scotland Enterprise to see if any other form of assistance was available.

DECISION

AGREED to refuse the request from Peebles Golf Club for a waiver and reduction of rental payments.

6. **URGENT BUSINESS**

Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to make an early decision.

7. **HAYLODGE PARK**

The Property Services Manager advised that a request had been received to hold a wedding in Haylodge Park on 1 August 2020. An Officer Group had been set up to deal with such applications but as the Park was owned by the Common Good Fund he was seeking Members approval. Members noted that any requirements required to meet Covid-19 regulations would be attached to the permission. A check would also be made to ensure it did not clash with a Parkrun.

DECISION

AGREED to give permission in principle subject to the applicant's acceptance of any conditions required by the Property Services Manager.

8. **PRIVATE BUSINESS**

DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 6 of Part I of Schedule 7A to the Act.

SUMMARY OF PRIVATE BUSINESS

9. **Minute**

Approved the private section of the Minute of the meeting held on 26 February 2020.

10. **Jedderfield Farm**

The Sub-Committee considered a report by the Property Services Manager on the future of Jedderfield Farm and agreed that a further report be provided once the required information had been received..

11. **Urgent Business**
Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to make an early decision.
12. **Other Property Matters**
Members considered an item of urgent business regarding other property assets held by the Common Good Fund and agreed to receive further information.
12. **Date of Next Meeting**
Agreed to hold the next meeting of the Sub-Committee on 7 October 2020 at 2 p.m.

The meeting concluded at 4.35 p.m.

Public Document Pack

SCOTTISH BORDERS COUNCIL SELKIRK COMMON GOOD FUND SUB COMMITTEE

MINUTE of Meeting of the SELKIRK
COMMON GOOD FUND SUB COMMITTEE
conducted remotely by Microsoft Teams Live
Event on Thursday, 2 July at 10.00 am

Present:- Councillors G. Edgar (Chairman), C. Cochrane, E. Thornton-Nicol and
Community Councillor T. Combe

In Attendance:- Treasury Business Partner (S. Halliday), Solicitor (J. Webster), Estates
Surveyor (T. Hill), Property Officer (F. Scott), Democratic Services Officer (F.
Walling).

CHAIRMAN

The Chairman opened the meeting and welcomed Members of Selkirk Common Good Fund Sub Committee and members of the public to the Scottish Borders Council's open on-line meeting. The meeting was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place, due to the Covid-19 pandemic.

1. MINUTE

1.1 There had been circulated copies of the Minute of 19 February 2020.

DECISION

APPROVED the Minute for signature by the Chairman.

1.2 With regard to paragraph 7.6 of the Minute the Chairman drew attention to a naming error, in that the place referred to was the Pant Well. This would be corrected in the Minute.

DECISION

NOTED

2. FINANCIAL MONITORING REPORT FOR 12 MONTHS TO 31 MARCH 2020

2.1 There had been circulated copies of a report by the Executive Director Finance & Regulatory providing the details of income and expenditure for the Selkirk Common Good Fund for the year 2019/20, including balance sheet values as at 31 March 2020 and proposed budget for 2020/21. Treasury Business Partner, Sara Halliday, highlighted the main points of the report. Appendix 1 to the report provided the actual income and expenditure position for 2019/20. This showed a surplus of £41,230 for the year, which was an increase from the projected surplus figure reported at the 19 February 2020 meeting, due to the sale of a piece of land at South Common Farm. Included in the final outturn were dividends from the Common Good Funds investment in Kames Capital amounting to £11,313 which was less than the overall 5% target and the monthly distribution profile projections provided by Kames. This was as a result of the market value dropping due to the impact of the COVID-19. As the full economic impact of COVID-19 was not yet known the dividend budget had been reduced to reflect 2.5% compared to the target of 5%. Ms Halliday also drew attention to the proposed property repair budget within the proposed budget for 2020/21 shown in Appendix 1. Following advice provided from Property Services, it was proposed to increase the property repair budget by £77,125 which was mainly to allow for the planned maintenance on Smedheugh Farm £34,000 and Linglie Farm £29,000. A list of recipients was included within the report who were in receipt of grants and donations from the Fund, the total amount being £28,037 which was over the budget of £23,000 due to an increase in the number of applications approved. An actual

balance sheet was provided in Appendix 2 of the report, showing an increase in the reserves of £863,606 due to the revaluation of properties offset slightly by unrealised loss on the Kames Investment Fund. Appendix 3 to the report showed a breakdown of the property portfolio, showing the effect of the revaluation. The value of the Kames Capital Investment Fund to 31 March 2020 was shown in Appendix 4 to the report. The fund had a 5.98% unrealised loss in market value since investment, largely due to continued volatility in investment markets. Overall, however taking account of the income received the fund had achieved a return of -4.83% since investment in February 2018. As a result of the COVID-19 global markets across most asset classes had seen a drop, resulting in an overall negative return for 2019/20. Markets had however seen a bounce back during April and May which had resulted in some of the unrealised loss being negated.

- 2.2 In a discussion of the report, attention was drawn to a mathematical error in the revaluation figures in Appendix 3 to the report, which was issued with the agenda, although this did not affect the final balances. Ms Halliday confirmed that this would be corrected and an amended appendix circulated. In response to a question about the whereabouts of moveable assets, owned by Selkirk Common Good, previously housed in the Town Hall, Solicitor Jane Webster confirmed that, under the terms of the Community Empowerment Act, a list of moveable assets was currently being prepared by legal services. The Chairman agreed to pass on any information he had about these assets which may be helpful in compiling this list.

DECISION

- (a) **NOTED within the appendices to the report the:-**
- (i) **actual income and expenditure for 2019/20 in Appendix 1;**
 - (ii) **final balance sheet value as at 31 March 2020 in Appendix 2;**
 - (iii) **summary of the property portfolio in Appendix 3; and**
 - (iv) **current position of the investment in the Kames Capital investment Fund in Appendix 4.**
- (b) **AGREED the proposed budget for 2020/21 as shown in Appendix 1 to the report.**

Note: with reference to paragraph 2.2 above, an amended version of Appendix 3 to the Monitoring Report is attached to this Minute.

3. APPLICATIONS FOR FINANCIAL ASSISTANCE

MEMBERS

All three elected Members of the Sub-Committee declared an interest in the funding application considered in 3.1 below, in terms of Section 5 of the Councillors Code of Conduct. With reference to paragraph 3 of the Minute of Scottish Borders Council of 30 January 2020, it was noted that, as the Sub Committee would otherwise be inquorate, the Members could consider the application but that their decision would be in the form of a recommendation to Council, where the application would be finally determined.

3.1 Selkirk Common Riding Trust

There had been circulated copies of an application on behalf of Selkirk Common Riding Trust for financial assistance towards the cost of a new platform system at the Victoria Hall. In the application it was explained that the platform would accommodate the annual ceremony of "Bussin" the Royal Burgh Flag on Common Riding Morning. The new system would, in the long term, save the Common Riding Trustees a considerable amount of money and serve to perpetuate the Common Riding tradition. In a discussion of the

application a question was asked as to where the platform would be stored. After further consideration, Members agreed to recommend that the full amount requested of £2,250 be granted, subject to the arrangements and cost of storage being the responsibility of the Trust.

DECISION

- * **AGREED to RECOMMEND to COUNCIL approval of a grant of £2,250 to Selkirk Common Riding Trust, towards the cost of a new platform system at the Victoria Hall subject to the following:-**

- (a) **that the arrangements and cost of storage of the platform be the responsibility of the Trust; and**
- (b) **the work associated with the construction of the platform be carried out in accordance with current guidelines relating to the Covid-19 restrictions.**

3.2 Ettrick Forest Bowling Club

There had been circulated copies of an application for financial assistance on behalf of Ettrick Forest Bowling Club. The application was for £2,540.00 to replace an existing wooden fence, which was rotting, and to replace an ageing hedge with a new fence, thereby enhancing the club's boundary and surroundings. Whilst Members did note from the application papers that the club had a positive bank balance they also recognised that in the current exceptional circumstances the club would not be receiving any income. Members agreed to grant the full amount requested.

DECISION

AGREED to grant funding of £2,540 to Ettrick Forest Bowling Club for the replacement of an existing fence and an ageing hedge, subject to the work being carried out in accordance with current guidelines relating to the Covid-19 restrictions.

3.3 Selkirk Musical Theatre Company

There had been circulated copies of an application for financial assistance on behalf of Selkirk Musical Theatre Company. The application was for £1,500 to part offset the cost of hiring rehearsal and performance space in preparation for a production in February 2021. A total of £2,000 had so far been raised by the organisation's own efforts. However, the application referred to the situation in the light of the pandemic and it was noted that as there were still many conditions with regard to lockdown easing the fund-raising opportunities were very much diminished. Members were very supportive of the value of the Musical Theatre Company to the community of Selkirk, but were concerned that ongoing restrictions may prevent the annual production in February 2021 from going ahead. After further discussion they agreed in principle to grant the full amount requested but that payment should be deferred until it was confirmed that the production would go ahead.

DECISION

AGREED in principle to grant funding of £1,500 to Selkirk Musical Theatre Company towards the cost of the February 2021 production, payment being subject to this production going ahead.

3.4 Girlguiding trip to Canada

There had been circulated copies of an application for financial assistance from a young resident of Selkirk, who was a Ranger/Young Leader and had been selected for a Girlguiding trip to Canada in July 2021. The request was for £1,800 towards the total estimated cost of £2,500. In the application it was emphasised that the experience of the trip would benefit not only the young person concerned, but would be shared with other guiding units and the wider community. The application was supported by a letter from the District Commissioner of Girlguiding Scotland, who also referred to the restrictions around

the Covid-19 lockdown which prevented access to usual methods of fundraising. Members recognised the value of the opportunity of this trip for the young person concerned and accepted the wider potential benefits. However there was some discomfort expressed about the application, it being pointed out that the purpose of the Common Good Fund was to benefit the whole community where possible, rather than to support individual residents. Although opinion was divided, the conclusion of the discussion was not to give a grant in this case. It was noted that the applicant had been referred to a more appropriate source of funding.

DECISION

AGREED not to provide a grant towards the applicant's participation in a Girlguiding trip to Canada.

MEMBER

Councillor Cochrane declared an interest in the following application in terms of Section 5 of the Councillors Code of Conduct and did not take part in the discussion.

3.5 Blooming Selkirk

There had been circulated copies of an application on behalf of Blooming Selkirk for a sum of £750 towards the cost of planted hanging baskets and bedding plants for Selkirk town centre. It was explained that Blooming Selkirk, a sub-group of Selkirk Community Council, was set up initially to supply and distribute hanging baskets for the town centre. The group's current aim was to create a pleasant environment for residents and visitors to the town once travel restrictions were relaxed. A total of £600 had been raised by the group's own efforts but further fundraising had been interrupted by the Covid-19 lockdown. Members were very supportive of the project and agreed to grant in full the amount requested.

DECISION

AGREED to grant £750 to Blooming Selkirk towards the cost of hanging baskets and bedding plants for the town centre, subject to the work being carried out in accordance with current guidelines relating to the Covid-19 restrictions.

4. PROPERTY

The Estates Surveyor, Tricia Hill, was joined at the meeting by Frank Scott who had taken over from Tom Holmes as Property Officer for Selkirk Common Good. With reference to paragraph 7.3 and 7.8 of the Minute of 19 February 2020, Mr Scott gave the following update:

4.1 Green Shed

A quote of £3,500 had been received to carry out the required work on the roof and gutters of the Green Shed, which was well within the maximum £6,000 approved by Councillors at the last meeting. The implementation of this work had therefore been instructed. Mr Scott had also been in touch with a locksmith and the locks on both doors would be changed within the next week. It was noted that Mr Combe would need a set of keys for access by Scott's Selkirk but the others should be held by the Council and a record kept of any that are handed out.

DECISION

NOTED

4.2 Victoria Hall

Mr Scott explained that he and the previous Property Officer had met with a builder to discuss carrying out an assessment of the external condition of the Victoria Hall. Mr Scott recommended that a cherry picker be hired for a week to enable a full assessment to be made. This was likely to cost between £2-3k. The Estates Surveyor confirmed that a sum of £12k had been included in the 2020/21 budget for inspection and remedial works relating to the hall.

DECISION

AGREED to allocate a cost of up to £3k for an assessment of the external condition of the Victoria Hall.

4.3 Smedheugh Farm

Mr Scott advised that he and Ms Hill had visited Smedheugh Farm and had been concerned at the extent of building repairs which were required. In particular Mr Scott showed a photograph of a lintel within a traditional building which was rotten and in need of urgent repair. Members were shocked to see the condition of this structure and expressed disappointment that this had not been previously brought to their attention. They agreed this work be carried out as a matter of urgency.

DECISION

AGREED to approve up to £5k for emergency repair of lintel at Smedheugh Farm

4.4 Farms

In a general discussion about the farms, Members expressed concern that they were not aware of the state of repair of some of the buildings. They referred to regular inspections of properties owned by the Common Good which used to be carried out by Members and asked that these be resumed. Officers confirmed that this could be arranged. Ms Hill added that Property Services had been preparing a 5 year repair plan for all 3 farms and that this would be brought to the next meeting. As advised in the financial report above, Ms Halliday confirmed that the property repair budget for 2020/21 had been increased to cover planned maintenance of the farm properties. Ms Hill also referred to the recent Farm Amnesty on Tenant's Improvements agreed for South Common Farm, which was brought to the attention of Members. She advised that a similar Amnesty document had been requested for Linglie Farm.

DECISION

(a) NOTED that a 5 year repair plan for all 3 farm properties would be brought to the next meeting.

(b) AGREED:-

(i) that officers arrange inspections of Common Good properties by Sub Committee Members;

(ii) to request that property updates to future meetings of the Sub Committee be in writing rather than in verbal form.

5. DRAFT REVISED APPLICATION FORM FOR FUNDING

There had been circulated copies of a draft revised application form, for funding from all the Council's Common Good Funds, which had been re-designed to a format similar to the form used for applications to the Community Fund. The draft form was being presented to all Common Good Fund Sub Committees for comment. Councillor Thornton-Nicol referred to the order of the questions, commenting that 'What does your organisation do and who does it support?' should be the first question asked on the form. She also corrected a point of terminology. There was a further query raised by the Chairman regarding the description of the Royal Burgh which would be checked.

DECISION

APPROVED the revised application form for funding from the Council's Common Good Funds subject to the above amendments.

6. ITEMS LIKELY TO BE TAKEN IN PRIVATE DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 6 and 8 of Part I of Schedule 7A to the Act.

SUMMARY OF PRIVATE BUSINESS

7. **PROPERTY**

Members considered a matter relating to rental payments for properties in the Market Place.

8. **URGENT ITEM: SMEDHEUGH FARM ELECTRICAL WORKS**

Members considered an urgent report by the Service Director Assets and Infrastructure relating to electrical works at Smedheugh Farm and a further urgent matter relating to property.

The meeting concluded at 11.15 am

**SELKIRK COMMON GOOD FUND
PROPERTY PORTFOLIO PERFORMANCE FOR 2019/20
(Actual Income and Expenditure to 31 March 2020)**

Fixed Assets – Land & Buildings	Net Book Value at 31/03/19	Revaluatn Adjust as at 01/04/19	Depn Charge 2019/20	Net Book Value at 31/03/20	Actual Rental Income 2019/20	Actual Property Expenditure at 31/03/20				
						Repairs	Rates, Water & Power	Ins	Other	Total
	£	£	£	£	£	£	£	£	£	£
The Green Hut	4,800	28,200	29,700	3,300	1,175	1,065	0	0	0	1,065
Town Hall Clock	0	0	0	0	0	348	0	0	68	416
Pant Well Monument	0	0	0	0	0	0	0	0	0	0
Victoria Hall Caretakers Flat	41,975	18,026	53,671	6,330	0	0	0	0	0	0
Victoria Hall	661,039	254,036	3,857	911,218	0	3,485	0	0	0	3,485
Pringle Park	0	0	0	0	0	0	0	0	0	0
Victoria Park Pavilion site	2,000	2,000	0	4,000	200	0	0	0	39	39
Pringle Park Play Area	0	0	0	0	0	0	0	0	0	0
Selkirk Golf Course	78,500	73,500	0	152,000	0	0	0	0	0	0
South Common Farm	445,570	(571)	6,463	438,536	8,862	1,915	0	0	217	2,132
Smedheugh Farm	770,800	329,200	19,750	1,080,250	23,546	191	0	0	49	240
Selkirk Hill Grazings	35,000	1,000	0	36,000	820	0	0	0	0	0
Linglie Farm	611,665	108,333	6,800	713,198	0	719	0	0	49	768
Victoria Park & Caravan Site	0	0	0	0	7,284	0	0	0	0	0
26 Market Place	21,835	13,067	3,160	31,742	0	1,725	0	0	0	1,686
28 Market Place	29,300	14,100	4,000	39,400	4,160	241	0	(39)	0	138
Selkirk Town Hall	105,065	49,933	12,380	142,618	3,16	5,567	0	(103)	260	5,827
South Common Plantations	3,500	5,500	0	9,000	0	0	0	0	0	0
Smedheugh Farm Shootings	4,000	(3,000)	0	1,000	200	0	0	0	0	0
Smedheugh Plantations	9,500	25,500	0	35,000	0	0	0	0	0	0
Linglie Plantations	16,000	6,500	0	22,500	0	0	0	0	0	0
Linglie Farm Shootings	8,000	(4,750)	0	3,250	0	0	0	0	0	0
Linglie Mast Site	87,000	1,000	0	88,000	10,311	0	0	0	0	0
South Common Farm Shoot	0	1,000	0	1,000	200	0	0	0	0	0
Selkirk Hill Management Fee	0	0	0	0	0	0	0	0	10,000	10,000
Bog Park Recreation Area	0	0	0	0	0	0	0	0	0	0

Minute Item 2

Fixed Assets – Land & Buildings	Net Book Value at 31/03/19	Revaluatn Adjust as at 1/04/19	Depn Charge 2019/20	Net Book Value at 31/03/20	Actual Rental Income 2019/20	Actual Property Expenditure at 31/03/20				
						Repairs	Rates Water & Power	Ins	Other	Total
	£	£	£	£	£	£	£	£	£	£
Shawburn Amenity Ground	0	40,000	0	40,000	0	0	0	0	0	0
Shawburn Toll Embankment	0		0	0	0	0	0	0	0	0
Bog Park Playground	0		0	0	0	0	0	0	0	0
Victoria Park Play Area	0		0	0	0	0	0	0	0	0
Civic Amenity Site	70,800	39,000	0	109,800	0	0	0	0	0	0
Rosebank Quarry Former Tip Site	0		0	0	0	0	0	0	0	0
Rosebank Quarry Play Area	0		0	0	0	0	0	0	0	0
Shawpark Road Development Site	35,000	(3,000)	0	32,000	0	0	0	0	0	0
River Ettrick Salmon Fishing Right	700	50	0	750	0	0	0	0	0	0
Sir Walter Scott	0		0	0	0	0	0	0	0	0
Property Expenditure - General	0		0	0	0	71	0	0	0	71
Total	3,042,049	998,624	139,781	3,900,892	60,674	15,327	0	(142)	10,682	25,867

Fixed Assets – Moveable Assets	Net Book Value at 31/03/20
	£
Provosts Badge & Chain	0
Treasurer's Badge & Chain	0
Baillies Badges & Chains	0
Burgess Cup	0
Burgess Roll	0
Silver Arrow Display Case	1,500
Haining Painting	0
Total	1,500

This page is intentionally left blank

Public Document Pack

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY conducted remotely by Microsoft Teams Live Event on Monday, 13 July 2020 at 10.00 am

Present:- Councillors T. Miers (Chairman), A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage, N. Richards and E. Small

In Attendance:- Principal Planning Officer – Major Applications/Local Review, Chief Legal Officer, Democratic Services Team Leader, Democratic Services Officer (F. Walling).

CHAIRMAN

The Chairman opened the meeting and welcomed Members of the Local Review Body and members of the public to the meeting. The meeting was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place, due to the Covid-19 pandemic

1. REVIEW OF 20/00235/PPP.

There had been circulated copies of the request from Dr N. Miller, per Ferguson Planning, 54 Island Street, Galashiels, to review the decision to refuse the planning application for erection of a dwellinghouse and formation of access on land North West of Ramsacre, Thickside, Jedburgh. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); papers referred to in the Officer's Report; Consultation; support comment; and a list of policies. In their initial discussion Members agreed that there was a building group in the vicinity of the proposed site and that there was capacity for an additional house. Their ensuing consideration focussed on the relationship of the site to the building group and the potential visual and landscape impact of a house on the proposed site. In doing so they noted the challenging nature of the site in terms of the sloping ground and proposed that the height of the design should be limited in order to be in character with the landscaped surroundings. Members' opinion was divided. Councillor Fullarton moved that the officer's decision be upheld and the application refused, but there was no seconder to this motion. In terms of the height limitation that should be added by condition to planning consent there was a vote as follows:

VOTE

Councillor Mountford, seconded by Councillor Hamilton, moved that a condition be added to limit the height of the design to 1½ storeys.

Councillor Ramage, seconded by Councillor Anderson, moved as an amendment that a condition be added to limit the height of the design to 1 storey.

Members voted as follows:

*Motion - 5 votes
Amendment - 4 votes*

The motion was accordingly carried.

DECISION

DECIDED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;
- (c) the proposal would be in keeping with the Development Plan; and
- (d) the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions and informatives for the reasons detailed in Appendix I to this Minute.

2. **REVIEW OF 20/00283/FUL.**

There had been circulated copies of the request from Mr James Hewit, per Ferguson Planning, 54 Island Street, Galashiels, to review the decision to refuse the planning application for change of use of land to form motor vehicle display and form sales office from industrial unit (renewal of previous consent 16/01363/FUL) and erection of new sales building (retrospective) at Unit 1B and incorporating land to West of Riverside Works, Edinburgh Road, Jedburgh. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); papers referred to in the Officer's Report, consultations; and a list of policies. Members noted that a previous temporary consent for use of the land and building for car sales had now expired but that, although apparently now occupied by a joinery business under Class 5, the premises had been occupied by the permitted use during the preceding three years without local opposition. Members also noted that the land was allocated as a District industrial and employment site but after consideration were of the opinion that the application met most of the criteria to justify uses other than Classes 4 – 6. They also took into account the prevailing situation of extreme economic fragility exacerbated by the Covid-19 crisis and in agreeing that planning consent was justified they agreed that this be on a temporary basis to avoid the permanent loss of allocated industrial and employment land at this site. Members also agreed that landscaping treatment imposed by condition to the previous consent, which had not been carried out, be added as a suspensive condition to this planning consent. They had no objection to the small sales building being retained permanently. With regard to the length of temporary consent that should be approved, opinion was divided:

VOTE

Councillor Fullarton, seconded by Councillor Laing, moved that planning permission be granted for a temporary period of five years.

Councillor Mountford, seconded by Councillor Small, moved as an amendment that planning permission be granted for a temporary period of ten years.

Members voted as follows:

Motion - 5 votes
Amendment - 4 votes

The motion was accordingly carried.

DECISION

DECIDED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;

- (b) **the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) **the proposal would be in keeping with the Development Plan; and**
- (d) **the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions and informatives for the reasons detailed in Appendix II to this Minute.**

ADJOURNEMENT

The meeting was adjourned at 12 noon for 20 minutes.

3. REVIEW OF 19/01579/FUL

There had been circulated copies of the request from Miss Penny Burgess, Towerbrae, 36 Tower Street, Selkirk, to review refusal of the planning application for change of use from residential flat to business use at 62 Shawburn Road, Selkirk. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultations; representation; and a list of policies. The Planning Advisor drew attention to information which had been submitted with the Notice of Review documentation but which had not been before the Appointed Planning Officer at the time of determination. This related to further background and personal information including a tax related document. Members agreed that the information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. Members noted that the application was retrospective as the business use described was already being carried out in the residential flat and that there was no evidence of negative impact on residential neighbours. Although they would prefer such business use to be located in a more appropriate industrial or mixed use surroundings, in accordance with the Local Development Plan, Members were sympathetic to the applicant's situation and, taking into account the current difficult economic climate, were prepared to show flexibility. They recognised that there was an economic benefit, in terms of viability, in allowing the business to continue at this location. After further consideration Members concluded that the use should be limited to a temporary period which would allow the applicant to grow her business and have the opportunity of moving to a more appropriate location in time.

DECISION

AGREED that:-

- (a) **the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **new evidence submitted with the Notice of Review in the form of background and personal information met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997 and could be considered;**
- (c) **the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) **the proposal would be in keeping with the Development Plan; and**
- (e) **the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions and informatives for the reasons detailed in Appendix III to this Minute.**

4. REVIEW OF 19/01701/PPP.

There had been circulated copies of the request from Mr Alasdair Mackenzie, per Ferguson Planning, 54 Island Street, Galashiels, to review refusal of the planning application for erection of dwellinghouse on land North East of West Mains Farmhouse, Carlops. The supporting papers included the Notice of Review (including the Officer's Report); Decision Notice; papers referred to in the Officer's Report; Consultations; and a

list of policies. The Planning Advisor drew attention to new evidence, in the form of a sketch elevation of the proposed house. Members agreed that the information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. Members initially discussed whether there was a building group present in the vicinity of the site, noting that the surrounding houses were dispersed and that any historical link between them appeared to be tenuous. They also discussed other issues relating to the proposal, including possible impact on trees. Whilst noting the family circumstances put forward by the applicant Members also noted that there had been no economic case put forward to support a dwellinghouse on this site. Members' opinion was divided as follows:-

VOTE

Councillor Ramage, seconded by Councillor Anderson, moved that the decision to refuse the application be upheld.

Councillor Small, seconded by Councillor Miers, moved as an amendment that the decision to refuse the application be reversed and the application approved, subject to a tree survey being carried out.

Members voted as follows:

Motion - 5 votes

Amendment - 4 votes

The motion was accordingly carried and the application refused.

DECISION

DECIDED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) new evidence submitted with the Notice of Review in the form of a sketch elevation of the proposed house met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997 and could be considered;**
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (e) the officer's decision to refuse the application be upheld and the application be refused, for the reasons detailed in Appendix IV to this Minute.**

The meeting concluded at 1.45 pm



APPENDIX I

**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: 20/00013/RREF

Planning Application Reference: 20/00235/PPP

Development Proposal: Erection of dwellinghouse and formation of access, landscaping and associated works

Location: Land North West of Ramsacre, Thickside, Jedburgh

Applicant: Dr N Miller

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 and informatives as set out below.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse and formation of access, landscaping and associated works. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	LP01
Proposed Site Plan	SP01

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 13th July 2020.

After examining the review documentation at that meeting, which included a) Notice of Review (including Decision Notice and Officer's Report); b) Papers referred to in Officer's Report; c) Consultation; d) Support Comment; and e) List of Policies, the Review Body proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, HD2, HD3, EP3, EP9, EP13, IS2, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Trees and Development 2008
- Scottish Planning Policy 2014

The Review Body noted that the application was for the erection of a dwellinghouse and formation of access, landscaping and associated works on a site at Thickside, Jedburgh.

Members firstly considered whether there was a building group in the vicinity under Policy HD2 and also whether there was capacity for addition to any such group. They noted that there were three existing houses in the immediate vicinity, including one opposite the site. Members also noted that there were no existing permissions for any further houses at the group. They concluded that there was a building group present and that there was capacity for the addition of one house, in compliance with Policy HD2 and the relevant SPG.

Members then considered the relationship of the site with the group and whether it was within the sense of place and in keeping with its character, whilst noting that the application was for planning permission in principle and that the suggested precise position and design of house remained indicative. In this respect, they had regard to the positions of other houses in the group, especially "Ramsacre". They considered that the character of the group was one where houses were not particularly well related to each other and that the site was no less related in that respect. They concluded that the site was within the sense of place and an appropriate addition to the building group.

The planted boundary between the site and Thickside House was then considered but the Review Body felt this was not a strong division or edge to the group, being a single line of trees within a domestic garden. With appropriate new planting to the south-western edge of

the site, Members felt that the site could balance with “Ramsacre” and provide a finished edge to the building group towards Oxnam Road.

Members then considered the potential visual and landscape impact of the house and recognised the challenging nature of the site in terms of rising levels. They also noted that a neighbour has sought a single storey design. The sketch layout and design of the dwellinghouse provided Members with some assurance that, on such a sloping site, the height would be restricted and the parking would be provided adjoining the road. Nevertheless, they considered it important that the height of the design should be restricted to no more than 1½ storeys and that it was designed to be in character with the group and landscaped surroundings. The Review Body recommended a condition on the height and an applicant informative relating to appropriate supplementary planning guidance.

The Review Body finally considered other material issues relating to the proposal including tree protection, access improvement, water and drainage but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for education were not required at this location.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policy HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate addition to an existing building group with impact on the landscape that can be mitigated by new planting and attention to height and design of the house. 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. trees to be retained within the site
 - iii. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
 - iv. location and design, including materials, of walls, fences and gates
 - v. soft and hard landscaping works including new planting within the site The landscaping shall include tree planting to form a strong boundary to the south-west of the site.
 - vi. existing and proposed services such as cables, pipelines, sub-stations
 - vii. A programme for completion and subsequent maintenance.

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

4. No development to be commenced until a tree survey, identifying any existing trees within and adjoining the site, is submitted to, and approved by, the Planning Authority. The identified trees then agreed for retention to be protected at all times during construction and building operations, by the erection of substantial timber fence around the trees, together with such other measures as are necessary to protect the trees and their roots from damage. Details of the methods it is proposed to use shall be submitted by the applicant to the Local Planning Authority and be approved by them in writing. The approved protective measures shall be undertaken before any works commence on the site and must, thereafter be observed at all times until the development is completed.

Reason: To ensure that adequate precautions are taken to protect trees during building operations.

5. No development to be commenced until further details of access and parking provision are submitted to, and approved in writing by, the Planning Authority. Thereafter the development to be completed in accordance with the approved details prior to occupation of the dwellinghouse unless otherwise agreed. The details shall include:

- i. A visibility splay of 2.4m x 160m to be formed to the north-west of the junction of the private road with the C41 public road.
- ii. 2 no. parking spaces, not including any garage, and turning area to be provided within the curtilage of the site and retained thereafter in perpetuity.

Reason: To ensure satisfactory form of access and adequate parking and turning provision, in the interests of road safety.

6. The dwellinghouse to be no greater in height than a 1½ storey design.

Reason: To safeguard the visual amenity of the area and minimise impact on the character of the building group and landscape.

7. No development to be commenced until the details of water and drainage provision are submitted to, and approved in writing by, the Planning Authority. Once approved, the development then to be completed in accordance with those details.
Reason: To ensure that the development is adequately serviced and in the interests of public health.

INFORMATIVES

1. The design of the dwellinghouse must adhere to the principles and guidance contained within the Council's Supplementary Planning Guidance on Housing in the Countryside and Placemaking and Design.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD

Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA

Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU

British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND

Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....17 July 2020

...



APPENDIX II

**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: 20/00014/RREF

Planning Application Reference: 20/00283/FUL

Development Proposal: Change of use of land to form motor vehicle display and form sales office from industrial unit (renewal of previous consent 16/01363/FUL) and erection of new sales building (retrospective)

Location: Unit 1B and incorporating land to West of Riverside Works, Edinburgh Road, Jedburgh

Applicant: Mr James Hewit

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 and informatives as set out below.

DEVELOPMENT PROPOSAL

The application relates to the change of use of land to form motor vehicle display and form sales office from industrial unit (renewal of previous consent 16/01363/FUL) and erection of new sales building (retrospective). The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	LOC Rev D
Proposed Block Plan	001 Rev H

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 13 July 2020. After examining the review documentation at that meeting, which included a) Notice of Review (including Decision Notice and Officer's Report); b) Papers referred to in Officer's Report; c) Consultations; and d) List of Policies, the Review Body proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD2, ED1, EP1, EP2, EP3, EP13, HD3, IS5, IS7, IS8 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Trees and Development 2008

The Review Body noted that the proposal was for change of use of land to form motor vehicle display and form sales office from industrial unit (renewal of previous consent 16/01363/FUL) and erection of new sales building (retrospective).

Members firstly considered the principle of the development under Policy ED1. They noted that a previous temporary consent for the use of the land and building had been granted but had now expired and that, at the time of the Case Officer site visit, the premises had been re-occupied by a joinery business under Class 5. The Review Body noted that the premises had been occupied by the permitted use of car sales during the preceding three years without local opposition.

Members noted that the land was allocated as a District industrial and employment site in Policy ED1 in the Local Development Plan and that, whilst Class 4-6 uses were preferred, other uses could be acceptable provided certain criteria were met. Members then considered these criteria and were of the opinion that most were met by the proposal. They felt that the industrial land supply at present in Jedburgh was sufficient and would not currently be prejudiced by loss of the site, there being other land and vacancies available for other users. They also recognised that there were employment benefits to allowing an alternative use of the site and that the use, in itself, would be compatible with other uses in the industrial estate. They were of the opinion that car sales could attract people into Jedburgh with the potential of spin-off trade whilst there. Members also noted that continued Class 4-6 use of the premises was possible even if permission for car sales was granted.

Overall, the Review Body considered that at a time of extreme economic fragility, with general concern at the challenging local economic and employment situation exacerbated by the Covid-19 crisis, there was justification to accept the proposed use when taking into account the criteria in Policy ED1. However, they also recognised that the purpose of Policy ED1 is to preserve long term land supply for industrial and employment land for economic recovery and that their encouragement for the proposed use was influenced by the current short term economic position. There was concern that such allocated land should not be lost in the longer term and that there was no evidence of marketability or lack of demand that would justify a permanent loss of industrial land. The Review Body, therefore, considered a temporary consent to be justified on a five year basis, imposed by condition

Members then considered the issue of landscaping and visual impact under Policy PMD2. They noted that an approved landscaping treatment of the edges of the site had not been carried out during the preceding three years, even though a condition had been imposed seeking its implementation. They considered that it was important to ensure the landscaping was carried out if this consent was granted. Given that the landscaping treatment was modest in scale and largely involved hedging and some shrubs and trees, they saw no reason why it could not be carried out at the outset and before the use was permitted to commence on the site. A suspensive condition was agreed in this regard which would ensure that the landscaping would be carried out as approved.

The Review Body finally considered other material issues relating to the proposal including the building extension, preservation of the Core Path, flooding, contamination and biodiversity but were of the opinion that appropriate conditions could address them satisfactorily. They had no objection to the small building extension being retained in perpetuity, its use reverting to Classes 4-6 should the permitted use not be extended beyond the temporary period.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that temporary consent for the development was consistent with Policies PMD2 and ED1 of the Local Development Plan, subject to the previously approved planting scheme being carried out before the development commences. The development was considered to be an appropriate use to be continued on a temporary basis, providing employment in a challenging economic climate. Consequently, the application was approved.

CONDITIONS

1. Consent is granted for a limited period of five years from the date of this consent and the approved use of the land and building shall cease before the expiry of the period unless a planning application to retain the permitted use has been submitted to and approved by the Planning Authority. In the event that no such planning application has been so approved, the use of the premises shall revert to its current lawful use under Classes 4-6 of the Use Class (Scotland) Order 1997. The small building extension shall be retained and shall revert to Class 4-6 use at the end of the aforementioned five year period, unless extension to the permitted use has been allowed.
Reason: To ensure that the proposed use of the building and land do not compromise the long term availability of available employment land in Jedburgh.
2. No development to be commenced until all new planting, as shown on Proposed Block Plan Rev H, is completed, notified to the Planning Authority and completion agreed in writing by them. These landscaping works will be maintained for a period of five years upon planting, during which time, all failed planting shall be replaced. The applicant shall notify the Planning Authority that the approved planting (as per the approved Landscape Plan) is available for inspection after this five year period, at which point, the approved landscaping scheme shall have been implemented and landscaping established in its entirety.
Reason: To ensure effective assimilation of the development to its surroundings.
3. The public path through the site, identified as Core Path 107, must be maintained open and free from obstruction in the course of development and in perpetuity. No stiles, gates, steps or barriers to access may be erected that would deter the potential future use.
Reason: To protect public access rights to this Core Path both during and after development.
4. Details of the position, size, colour, materials and method of illumination of any signage to be displayed on the building, within the site or on the site boundaries to be submitted to and approved in writing by the Planning Authority prior to any signage being displayed. Thereafter the works are to be carried out strictly in accordance with the approved details.

Reason: In accordance with the provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1994.

INFORMATIVES

1. The former use of the site is potentially contaminative and may have resulted in land contamination.

The land is not currently identified as contaminated land and the Council is not aware of any information which indicates the level of risk the potential contamination presents.

The historic use of the site is recorded within a Council database. This database is used to prioritise land for inspection within the Council's Contaminated Land duties. Should the applicant wish to discuss these duties their enquiry should be directed to Environmental Health.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA

Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....17 July 2020

This page is intentionally left blank



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: 20/00015/RREF

Planning Application Reference: 19/01579/FUL

Development Proposal: Change of use from residential flat to business use

Location: 62 Shawburn Road, Selkirk

Applicant: Miss Penny Burgess

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 and informatives as set out below.

DEVELOPMENT PROPOSAL

The application relates to the change of use from residential flat to business use. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
------------------	---------------------------

Location Plan	
---------------	--

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 13 July 2020.

After examining the review documentation at that meeting, which included a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultations and f) List of Policies, the Review Body considered whether certain matters included in the review documents constituted new evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to further background and personal information including business and family histories and a tax related document. Members agreed that the

information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. The Review Body also noted that the applicant had requested further procedure in the form of written submissions, a hearing and a site visit. The Review Body did not consider further procedure necessary in this instance and proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD5, ED2, HD3 and IS7

The Review Body noted that the proposal was to change the use of a residential flat to business use and that, as the use was being carried out, the application was retrospective. Members were clear that the use was located within a wholly residential area and that Policy ED2 would normally seek such business uses to be in more appropriate industrial or mixed use surroundings. However, they noted the full background to the use of the premises as explained by the applicant and also the various commitments and mitigation offered to minimise disturbance to her neighbours.

In the current fragile economic climate, the Review Body were sympathetic to the applicant's situation and immediate business needs for continued use of the premises, at least in the short term. They felt that in such difficult economic times, a more flexible approach may be necessary on occasion to support cases that may not previously have been supported. Taking into account the criteria in Policy ED2 used to assess business use within non-industrial areas, Members appreciated that although a modest one-person business, there was an economic benefit to allowing the business to continue as this could make a difference to viability. It was also apparent that the business was of a limited scale and nature that was not causing issues at present to the residential neighbours. Provided the use could be limited to a temporary period, then the Review Body felt that this would allow the applicant to continue to operate and grow her business whilst aiming to be taking on more appropriate premises in time. Members noted that the applicant herself had suggested a temporary consent and that this was also recommended by the Council's Economic Development Officer.

The Review Body then considered whether other controls were necessary to limit impacts on the residential neighbours and also what impacts other uses within the same Use Class could have. They acknowledged the concerns of the Appointed Officer over detrimental impacts caused by growth of the business or operation of other uses within the same Use Class. However, Members concluded that, provided conditions limited the use to that applied for and only for a limited period of five years, then there was no justification for consideration of other controls such as delivery and customer limitation.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies ED2 and HD3 of the Local Development Plan, subject to consent for a temporary period and limits on the nature of the consented use and operating hours. The development was considered to be appropriate in a residential area for a temporary period and had been justified by supporting material. Consequently, the application was approved for a temporary period of five years.

CONDITIONS

1. Notwithstanding the terms of Class 4 of The Town and Country Planning (Use Classes) (Scotland) Order 1997, this consent is only for the use of the premises for online sales of vintage textiles, haberdashery and needlework supplies and not for any other use within Use Class 4 or any other Use Class.
Reason: To protect surrounding residential amenity.
2. Consent is granted for a limited period of five years from the date of this consent and the approved use of the premises shall cease before the expiry of the period unless a planning application to retain the permitted use has been submitted to and approved by the Planning Authority. In the event that no such planning application has been so approved, the use of the premises shall revert to its current lawful use as a residential flat.
Reason: To protect surrounding residential amenity.
3. The approved use of the premises to be operated only between the hours of 9am and 5pm Monday to Friday.
Reason: To protect surrounding residential amenity.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....17 July 2020

...



APPENDIX IV

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: 20/00016/RREF

Planning Application Reference: 19/01701/PPP

Development Proposal: Erection of dwellinghouse

Location: Land North East of West Mains Farmhouse, Carlops

Applicant: Mr Alasdair Mackenzie

DECISION

The Local Review Body upholds the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

1. The development would be contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would amount to sporadic residential development in a countryside location unrelated to a building group and an overriding economic case for a dwellinghouse has not been substantiated.
2. The development would be contrary to policy EP13 of the Local Development Plan 2016 and Trees and Development Guidance 2008 in that the applicant has failed to demonstrate that the development would not result in serious damage to trees which are of landscape value and there are no public benefits which would clearly outweigh their loss.

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.

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 13th July 2020.

After examining the review documentation at that meeting, which included a) Notice of Review (including Officer's Report); b) Decision Notice; c) Papers referred to in Officer's Report; d) Consultations and e) List of Policies, the Review Body considered whether certain matters included in the review documents constituted new evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to a sketch elevation of the proposed house. Members agreed that the information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. They proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: HD2, HD3, EP5, EP13, IS2, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Trees and Development 2008
- Scottish Planning Policy 2014
- Planning (Scotland) Act 2019
- National Planning Framework 3

The Review Body noted that the application was for the erection of a dwellinghouse at West Mains Farmhouse, Carlops.

Members firstly considered whether there was a building group present under Part A of Policy HD2. They noted the applicant's contention that there was an historical connection between the site, West Mains and other houses in the area built on land which was part of the original holding. They had regard to this and noted the houses in the submissions and on the photographs shown of the surroundings. Whilst, in certain cases, historical connection and relationship can be a relevant factor in determining the sense of place and boundaries of a building group, Members could not accept that there was a sufficiently strong relationship in this instance. They felt that the surrounding houses were well separated, dispersed and

sporadic and that the site was in a location where there was only one other house and some farm buildings. Members did not see any justification for considering the site to be part of a wider building group and felt that any previous historical connection was not obvious in terms of definition of sense of place. They concluded that the site was not part of any existing building group.

The Review Body then considered whether there was any justified economic case for a dwellinghouse on the site under Part F of Policy HD2. They noted that the application had not been justified on this basis and, although they noted the family circumstances and intentions of the application to occupy the house himself, they did not consider that there was sufficient economic case advanced to justify a need for a house on the site under Policy HD2.

The Review Body finally considered other material issues relating to the proposal including impact on trees, residential amenity, parking, impact on the Special Landscape Area, water and drainage. They considered that impact on the trees would have required further investigation but were of the opinion that appropriate conditions could address the other factors satisfactorily.

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 for the reasons stated above.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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...7 August 2020

This page is intentionally left blank

Public Document Pack

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW
BODY conducted remotely by Microsoft
Teams Live Event on Monday, 15 July 2020
at 10.00 am

Present:- Councillors T. Miers (Chairman), J. A. Fullarton, S. Hamilton, H. Laing,
S. Mountford, C. Ramage, N. Richards and E. Small

Absent:- Councillor A. Anderson (not required)
In Attendance:- Principal Planning Officer – Major Applications/Local Review, Chief Legal
Officer, Democratic Services Team Leader, Democratic Services Officer
(F. Walling).

CHAIRMAN

The Chairman opened the meeting and welcomed Members of the Local Review Body and members of the public to the Scottish Borders Council's open on-line meeting. The meeting was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place, due to the Covic-19 pandemic.

MEMBER

Having not been present when the following reviews were first considered Councillor Anderson did not take part in the review of the following applications.

1. **CONTINUATION OF REVIEW OF 19/01645/FUL**

With reference to paragraph 5 of the Minute of 25 May 2020, there had been re-circulated copies of the request from Mr & Mrs William Rose, per Kanak Bose Ltd, Ogscastle, Roman Road, Carnwarth, to review refusal of the planning application for erection of dwellinghouse and detached garage on land south west of 3 Mill Lade, Blyth Bridge. The supporting papers included the Notice of Review (including the Decision Notice); Officer's Report; papers referred to in the Officer's Report; Consultations; and a list of policies. Also circulated were copies of submissions from SEPA and Council's Flood Risk Officer in relation to the additional information and response to those submissions from the applicant. Members noted that the proposed site lay immediately outwith the settlement boundary of Blyth Bridge and the application was therefore contrary to Policy PMD4 of the Local Development Plan. They proceeded to look at the four qualifying requirements which would provide an exception to this policy and concluded that the application did not meet any of those criteria. Members also noted that, following consideration of the additional information, SEPA and the Council's Flood Risk Officer maintained their objection to the application on grounds of flood risk.

DECISION

AGREED that:-

- (a) **the review could be considered without the need for any further procedure on the basis of the papers submitted and the additional written submission;**
- (b) **the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**

- (c) **the officer's decision to refuse the application be upheld and the application be refused, for the reasons detailed in Appendix I to this Minute.**

2. **CONTINUATION OF REVIEW OF 19/01611/FUL**

With reference to paragraph 1 of the Minute of 1 June 2020, there had been re-circulated copies of the request from Mr Francis Peto, per Aitken Turnbull Architects Ltd, 9 Bridge Place, Galashiels, to review the decision to refuse the planning application for erection of dwellinghouse with attached garage at disused sawmill, Cowdenknowes, Earlston. The supporting papers included the Notice of Review (including the Decision Notice, Officer's Report and consultations); papers referred to in the Officer's Report; and a list of policies. Also circulated were copies of additional information provided by the applicant which included photographs of the existing buildings within the Cowdenknowes building group and comments on the additional information from the Appointed Officer. In their discussion Members reiterated their view expressed when the review was first considered that a house would be acceptable on this site only if its siting and design respected the setting and character of the building group at Cowdenknowes. With reference to the photographs submitted by the applicant they commented on the traditional style of the buildings which in several cases had been altered or extended in a way that was sensitive and in keeping with their character. Whilst accepting that the proposed site could be part of the building group they concluded that the proposed design was not sympathetic to the character and setting of the group, nor did it contribute positively to the sense of place.

DECISION

AGREED that:-

- (a) **the review could be considered without the need for any further procedure on the basis of the papers submitted and the additional written submission;**
- (b) **the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (c) **the officer's decision to refuse the application be upheld but varied and the application be refused, for the reasons detailed in Appendix II to this Minute.**

The meeting concluded at 10.50 am



APPENDIX I

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: 20/00005/RREF

Planning Application Reference: 19/01645/FUL

Development Proposal: Erection of dwellinghouse and detached garage

Location: Land South-West of 3 Mill Lade, Blyth Bridge

Applicant: Mr & Mrs William Rose

DECISION

The Local Review Body upholds the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

1. The development would be contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would not relate sympathetically to the character of an existing building group or surrounding landscape.
2. The development would be contrary to policy PMD2 of the Local Development Plan 2016 and Placemaking and Design 2010 in that it would be unsympathetic to the character of the surrounding area and it would fail to make a positive contribution to the sense of place.
3. The development would be contrary to policy PMD4 of the Local Development Plan 2016 in that it would be development beyond the settlement boundary for which there is insufficient justification and it would lead to an isolated house in the countryside with a resulting adverse impact on the character of the surrounding area.
4. The development would be contrary to policy IS8 of the Local Development Plan 2016 in that the applicant has failed to prove that the proposed development will not be at risk of flooding or materially increase the probability of flooding elsewhere.
5. The development would be contrary to policies EP1, EP2 and EP3 of the Local Development Plan 2016 and Biodiversity guidance in that the applicant has failed to prove that the development will not have an adverse effect on European Protected Species or other protected species and habitats which may be present on or adjacent to the site.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Proposed Plans & Elevations	OGS 298 01
Flood Risk Assessment - Existing	20-001-FR-001
Flood Risk Assessment – Proposed 1	20-001-FR-002
Flood Risk Assessment – Proposed 2	20-001-FR-003

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 25th May 2020.

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 Officer's Report; d) Consultations and e) List of Policies, the Review Body considered whether certain matters included in the review documents constituted new evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to further information in the form of drawings demonstrating proposed site and building sections in relation to flood risk. Members considered that the information did meet the Section 43B test, was material to their consideration and could be considered. However, the Review Body noted that neither SEPA nor the Council's Flood Risk Officer had been afforded the opportunity to comment on the new flood risk sections. Members, therefore, considered further procedure was necessary to enable those consultations to be undertaken and to seek the applicant's response to the consultation responses.

The Review Body considered the responses from SEPA, the Council's Flood Risk Officer and the applicant at its meeting on 15th July 2020. They also noted that the applicant had requested further procedure in the form of written submissions and site visit, but did not consider either necessary in this instance and proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD2, PMD4, HD2, HD3, EP1, EP2, EP3, EP15, EP16, IS2, IS7, IS8 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on Local Biodiversity Action Plan 2001

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse and detached garage on a site south-west of 3 Mill Lade, Blyth Bridge.

Members firstly considered the location of the site and noted that, whilst it lay outwith the settlement boundary of Blyth Bridge as defined in the Local Development Plan and was subject to Policy HD2, the fact that the site was outwith but immediately adjoining the settlement boundary determined that the Review should be primarily assessed against Policy PMD4. The Review Body noted that any development immediately outwith a defined settlement boundary would normally be refused unless at least one of four qualifying requirements were met, relating to job generation, affordable housing, local housing land shortfall or significant community benefits. Members considered the proposal against these requirements but did not accept that any of them were met. Consequently, the Review Body did not assess the proposal against the secondary requirements of Policy PMD4 which only require to be considered had one of the four qualifying requirements been met.

Members then considered the issue of flood risk and noted that both SEPA and the Council's Flood Risk Officer maintained their objections after having been consulted on the additional flood sections submitted by the applicant. The Review Body agreed with the objections and expressed concerns over impacts within the flood plain and on other properties. Members saw no reason to disagree with the objections and concluded that the proposal was contrary to Policy IS8

The Review Body finally considered other issues relating to the proposal including biodiversity, house siting and design, residential amenity, roads, parking, water and drainage. Whilst some issues could have been addressed by conditions, Members agreed that other issues relating to house siting, design and biodiversity had not been satisfactorily addressed. They concluded that the site was not appropriate for the aforementioned reasons relating to Policies PMD2, PMD4, EP1-3 and IS8.

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 for the reasons stated above.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....7 August 2020

...



APPENDIX II

**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: 20/00007/RREF

Planning Application Reference: 19/01611/FUL

Development Proposal: Erection of dwellinghouse with attached garage

Location: Disused Sawmill, Cowdenknowes, Earlston

Applicant: Mr Francis Peto

DECISION

The Local Review Body varies the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

The proposed development would be contrary to Policies PMD2 and HD2 of the adopted Scottish Borders Local Development Plan 2016 and supplementary guidance on placemaking and design and housing in the countryside, in that the design and siting of the dwellinghouse would not be well related or sympathetic to the character of the existing building group and would not contribute positively to the sense of place.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Location Plan	L(-1)100
Proposed Site Plan	L(-2)101
Proposed Elevations	L(-4)101

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 1st June 2020.

After examining the review documentation at that meeting, which included a) Notice of Review (including the Decision Notice, Officer's Report and consultations); b) Papers referred to in Officer's Report; and c) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of a site visit, but did not consider it necessary in this instance. However, they did consider it was necessary to seek further procedure in the form of submission of photographs of the existing buildings within the Cowdenknowes Building Group, to provide evidence of how the design of the proposed dwellinghouse related to the character and sense of place of its surroundings.

The Review Body considered the photographs, together with the Appointed Officer's comments on them, at its meeting on 15 July 2020 and proceeded to determine 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 relevant listed policies were:

- Local Development Plan policies: PMD2, HD2, EP1, EP7, EP10, EP13, IS2, IS3, IS7, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- Scottish Planning Policy

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse with attached garage on a site of a disused sawmill, Cowdenknowes, Earlston. In considering the review, Members noted the planning history of the site which included lapsed permission for the style and design of house now applied for but also noted that this was in 2006 and that there had been a new Local Development Plan and supplementary guidance on housing in the countryside and placemaking and design since then.

Members firstly considered whether there was a building group present under Part A of Policy HD2. They noted that a group had been identified under the previous consent and that the applicant and Appointed Officer agreed a group was present, consisting of three existing dwellinghouses and various other buildings in different uses. Although the site did not benefit from immediate proximity or line of sight to other houses in the group, those other houses

were also well separated from each other within an historic estate setting formed around Cowdenknowes House. The Review Body considered that, in this situation, the historic connections with Cowdenknowes House and the rest of the group were evident on site. The site would involve the removal of an old sawmill building previously connected with the estate and would also still be within the woodland belt surrounding the nearby lodge house, parkland and main drive to Cowdenknowes House.

They acknowledged, however, that the site was on the periphery of the former estate and was visible adjoining the public road. Members felt that the design and siting of the house were an integral part of whether they considered the site to be part of the sense of place and, therefore, an appropriate addition to the building group. Whilst they accepted that there were three houses constituting a building group and that there was capacity to add a further house to the group, they were not convinced that the detailed siting and, especially, the design of the house were appropriate or sympathetic to the character of the group.

Members considered the photographs supplied of the existing houses and buildings in the group, together with examples of contemporary design at Garden Cottage and elsewhere in the Borders. In noting that the buildings within the group were predominantly traditional in design but also incorporated a contemporary element, they concluded that the proposed design lacked the quality and sense of identity that was necessary to respect the connection of the site with the Cowdenknowes House estate and the position of the site within the Eildon and Leaderfoot National Scenic Area. Within a new policy background of the Local Development Plan and supplementary guidance on placemaking and design, the Review Body were of the opinion that improved and more sympathetic design and siting were necessary, beyond any minor improvements that could be achieved by planning condition or changes in external materials.

The Review Body concluded that the siting and design of the house within the site were the issue and not the position of the site in itself. Although the Appointed Officer had concerns over the design of the house, she had not specifically refused the application for those reasons. Members, however, considered siting and design to be pivotal in consideration of the Review and were not supportive of the current proposals for the aforementioned reasons. Whilst they accepted that the site could be considered to be part of the building group and sense of place, this was dependant on a siting and design of architectural merit which respected the character and quality of the building group and surrounding designated landscape.

The Review Body finally considered other material issues relating to the proposal including contamination, access, tree retention and ecology but were of the opinion that appropriate conditions could address them satisfactorily.

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 for the reasons stated above.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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.....7 August 2020

SCOTTISH BORDERS COUNCIL HAWICK COMMON GOOD FUND SUB-COMMITTEE

MINUTE of Special Meeting of the
HAWICK COMMON GOOD FUND SUB-
COMMITTEE held via Microsoft Teams on
Friday, 17 July 2020 at 4.30 pm.

Present:- Councillors: G Turnbull (Chairman), S Marshall, W McAteer, D Paterson,
C Ramage, N Richards
Apologies Mr J Campbell (Hawick Community Council)
In Attendance:- Chief Legal Officer, Network Manager, Emergency Planning Officer (A
McLean), Estates Strategy Surveyor (N Curtis), Property Officer (F Scott),
Treasury Business Partner (S Halliday), Democratic Services Officer (J
Turnbull)

1. **WELCOME**

The Chairman opened the meeting and welcomed Members of the Sub-Committee and members of the public to the meeting. This special meeting was to consider one item of urgent business and was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place, due to the COVID-19 pandemic.

2. **HAWICK COMMON HAUGH CAR PARK**

- 2.1 The Estates Strategy Survey, Mr Curtis, explained that a request had been received for permission to use the Common Haugh Car Park for an informal Campervan Rally for three days from 30 July 2020. The co-ordinator of the event, had explained that approximately 20 campervans might attend and other than 'gathering' no formal event would be held during their stay. The co-ordinator had asked if an additional area could be cordoned off to accommodate the campervans. Mr Curtis explained that there was a designated space for eight campervans in the car park. However, an area used for school buses could be coned off, which would meet their requirements. The co-ordinator had advised that they did not require sanitary provisions, other than access to the public water tap in the car park. She was also willing to hold a register of names and addresses for contact tracing if necessary. The Flood Protection Team confirmed that the event would not impact their works and the co-ordinator had been advised. Mr Curtis went on to advise that campervans were permitted under the Traffic Regulation Order (TRO) to park for a maximum of 48 hours in the Common Haugh car park.
- 2.2 The Chief Legal Officer, Mrs McKinlay, explained that in terms of COVID-19 regulations, restrictions still applied to 'gatherings'; which was defined as where people met to undertake an activity together or socialise together. Simply being present at the same place at the same time was not a gathering. The information received in connection with the event, was that this was not a joint activity, people arrived at the same place and the same time but social interaction between them was restricted. Mrs McKinlay clarified that regulations currently allowed up to five households, to gather outside provided they complied with social distancing. In response to a questions, Mrs McKinlay advised that the event could legally take place provided they followed the regulations. If the Sub-Committee agreed to extend an invitation to the group, advice and assistance would be given to the co-ordinator around additional responsibilities to be undertaken. Any breach of COVID-19 regulations would be a matter for Police Scotland.

- 2.3 The Network Manager highlighted that under the provisions of the Street Parking Places Order 2019, no person(s) should use a parking place for sleeping, camping or cooking, although it would be difficult to undertake enforcement action. The Sub-Committee could grant permission for use of the Common Haugh car park for overnight stays for the three day period requested.
- 2.4 In response to a question, the Emergency Planning Officer, Mr McLean, advised that the Emergency Planning Team had been in contact with the co-ordinator, who had explained, they were a group of caravan enthusiasts who were in this instance travelling to Hawick. They kept to themselves and visited local tourist attractions.
- 2.5 Following discussion, it was noted that since the move to Phase 3 of Scotland's route map, campervans were already parking in the car park and that the event would benefit local businesses. However, concerns were raised that it was too early at this stage of exiting lockdown to encourage such events.

VOTE

Councillor Paterson, seconded by Councillor Ramage moved that the request be refused for the use of the Common Haugh car park for a proposed Campervan Rally.

Councillor McAteer, seconded by Councillor Marshall moved as an amended that the request be agreed.

On a show of hands Members voted as follows

Motion - 3 votes
Amendment - 3 votes

As there was an equality of votes the Chairman exercised his casting vote in favour of the Motion, accordingly the Motion was carried.

DECISION

DECIDED to request that the co-ordinator be advised that the Sub-Committee did not agree to the use of the Common Haugh car park for the proposed Campervan Rally.

The meeting concluded at 5.10 pm

SCOTTISH BORDERS COUNCIL PLANNING AND BUILDING STANDARDS COMMITTEE

MINUTE of Meeting of the PLANNING AND
BUILDING STANDARDS COMMITTEE held
by Microsoft Teams on Monday, 3 August
2020 at 10.00 am

Present:- Councillors T. Miers (Chairman), A. Anderson, J. Fullarton, S. Hamilton,
H. Laing, S. Mountford, C. Ramage, N. Richards and E. Small.
In Attendance:- Lead Planning Officer (B. Fotheringham), Lead Officer – Forward
Planning (C. Johnston), Lead Roads Planning Officer, Senior Solicitor (R
Kirk), Democratic Services Team Leader, Democratic Services Officer
(F. Henderson).

1. **MINUTE**

There had been circulated copies of the Minute of the Meeting held on 18 May 2020.

DECISION

APPROVED for signature by the Chairman.

2. **APPLICATION**

There had been circulated copies of a report by the Chief Planning and Housing Officer on an application for planning permission requiring consideration by the Committee.

DECISION

DEALT with the application as detailed in Appendix I to this Minute.

3. **SUPPLEMENTARY PLANNING GUIDANCE: SUSTAINABLE URBAN DRAINAGE SYSTEMS (SUDS)**

With reference to paragraph 5 of the Minute of 4 November 2019, there had been circulated copies of a report by the Executive Director, Corporate Improvement and Economy which sought approval of the Supplementary Planning Guidance (SPG) on Sustainable Urban Drainage Systems (SUDS). Once approved, the Guidance would become a material consideration in the determination of planning applications. The aim of the Supplementary Planning Guidance was to support the effective implementation of Local Development Plan Policies PMD1–Sustainability, IS8 - Flooding and IS9 – Waste Water Treatment Standards and Sustainable Urban Drainage. It also aimed to give more awareness to interested parties of the various SUDS requirements to be incorporated within planning applications. The draft SPG was approved for public consultation with delegated approval to the Chief Planning Officer if no substantive comments were received. Although it was considered there were no major issues raised during the consultation, the SPG had been referred back to the Committee due to the substantive number of textual changes requested by SEPA and Scottish Water. Most of these textual changes referred to their updated work practices and documents. The responses received were contained in Appendix B to the report. In response to a question regarding the use of SUDS systems as part of new school builds which could then be used as an educational resource, Mr Johnston undertook to see how this could be developed.

DECISION

AGREED to approve the Supplementary Planning Guidance on Sustainable Urban Drainage contained in Appendix A to the report.

4. **APPEALS AND REVIEWS.**

There had been circulated copies of a briefing note by the Chief Planning Officer on Appeals to the Scottish Ministers and Local Reviews.

DECISION

NOTED that:-

- (a) **there remained 2 appeals outstanding in respect of :-**
 - (i) **Land North of Carcant Lodge, Wull Muir Wind Farm, Heriot;**
 - (ii) **Land West of 1 Linthaugh Farm Cottage, Jedburgh**

- (b) **Review requests had been received in respect of:-**
 - (i) **Change of use from residential flat to business use, 62 Shawburn Road, Selkirk – 19/01579/FUL;**
 - (ii) **Erection of dwellinghouse on Land North East of West Mains Farmhouse, Carlops – 19/01701/PPP;**
 - (iii) **Erection of treehouse and walkway for use as holiday let accommodation and associated works on Land South West of Sandystones Farmhouse, Ancrum, Jedburgh – 20/00132/PPP;**
 - (iv) **Erection of dwellinghouse and formation of access, landscaping and associated works on Land North West of Ramsacre, Thickside, Jedburgh – 20/00235/PPP;**
 - (v) **Change of use of land to form motor vehicle display and form sales office from industrial unit (renewal of previous consent 16/01363/FUL) and erection of new sales building (retrospective) at Unit 1B and incorporating Land to West of Riverside Works, Edinburgh Road, Jedburgh – 20/00283/FUL**
 - (vi) **Demolition of garage and erection of dwellinghouse on Garden Ground of Clifton Cottage, High Street, Kirk Yetholm – 20/00453/FUL**

- (c) **the decision of the Appointed Officer had been overturned in respect of:-**
 - (i) **the erection of dwellinghouse, garages and associated access on Land North West of Town O Rule Farmhouse, Bonchester Bridge, Hawick (subject to conditions, informatives and a legal agreement) – 18/01194/FUL;**
 - (ii) **Erection of two dwellinghouses and associated works on Land North West of Quarry Bank, Hume (subject to Conditions, Informatives and a Legal Agreement)– 19/01432/PPP;**
 - (iii) **Change of use from residential flat to business use at 62, Shawburn Road, Selkirk – 19/01579/FUL;**
 - (iv) **Erection of dwellinghouse and associated infrastructure at the Walled Garden, Ashiestiel Mansion House, Galashiels – 19/01629/PPP;**

- (v) Erection of dwellinghouse, workshop/garage and associated works on Land South East of Tarf, West Linton – 19/01646/PPP;
 - (vi) Erection of dwellinghouse and formation of access, landscaping and associated work on Land North West of Ramsacre, Thickside, Jedburgh – 20/00235/PPP;
 - (vii) Change of use of land to form motor vehicle display and form sales office from industrial unit (renewal of previous consent 16/01363/FUL) and erection of new sales building (retrospective) at Unit 1B and incorporating Land to West of Riverside Works, Edinburgh Road, Jedburgh – 20/00283/FUL
- (d) the decision of the Appointed Officer had been upheld in respect of:-
- (i) Variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years on Plot 1, Land South East of Mounthooly House, Jedburgh – 18/00748/FUL;
 - (ii) Variation of Condition 1 of planning permission 13/01082/FUL to allow the lifespan of the application to be executed by a further three years on Plot 2, Land South East of Mounthooly House, Jedburgh – 18/00749/FUL;
 - (iii) Demolition of dwellinghouse and erection of two dwellinghouses at Benrig, 1 Cuddyside, Peebles (Terms of refusal varied) – 19/00193/FUL;
 - (iv) Installation of replacement windows (retrospective) at 10 Exchange Street, Jedburgh – 19/01019/FUL;
 - (v) Erection of dwellinghouse with attached garage on disused sawmill, Cowdenknowes, Earlston – 19/01611/FUL;
 - (vi) Erection of dwellinghouse and detached garage on Land South West of 3 Mill Lade, Blyth Bridge – 19/01645/FUL;
 - (vii) Erection of dwellinghouse on Land North East of West Mains Farmhouse, Carlops – 19/01701/PPP
- (e) there remained two reviews previously reported on which decisions were still awaited when the report was prepared on 17 July 2020.

• Garden Ground of 7 Heriot House, Heriot	• Buccleuch Hotel, Trinity Street, Hawick
---	---

The meeting concluded at 11.30 a.m.

APPENDIX I
APPLICATION FOR PLANNING PERMISSION

<u>Reference</u>	<u>Nature of Development</u>	<u>Location</u>
20/00067/FUL	Erection of mobile holiday lodges with office, reception/shop and formation of associated roads and parking	Land North West of Willowdean House, Foulden

Decision: Refused contrary to officer recommendation for the following reason:

The development would be contrary to Policy ED8 - Caravan and Camping Sites of the Scottish Borders Local Development Plan 2016 in that proposed holiday lodges are not of the highest quality, are not in keeping with the local environment and will have an unacceptable adverse impact on local infrastructure, specifically the capacity of local roads. Furthermore the development would be contrary to Policy PMD2 - Quality Standards of the Scottish Borders Local Development Plan 2016 in that the scale, massing and density of the proposed holiday lodges is not appropriate to their surroundings, would not be compatible with or respect the character of the surrounding area and would lead to overdevelopment of the site. The proposed holiday lodges would result in an unacceptable form of development inconsistent with the landscape characteristics of the surrounding area and would lead to unacceptable adverse impacts on pedestrian and road safety.

NOTES

1. Mr Harry Frew, Chairman of Foulden, Mordington & Lamberton Community Council and Mr Hugh Garratt Foulden Resident spoke against the application.
Mr James Tait, Applicant and Mr Martin Taylor, Agent spoke in support of the application.
2. Councillor Richards moved approval of the application but received no seconder so his motion fell.