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SCOTTISH BORDERS COUNCIL **LOCAL REVIEW BODY**

MINUTE of Meeting of the LOCAL REVIEW BODY held in Council Chamber, Council Headquarters. on Monday, 16 February, 2015 at 10.00 am

Present:- Councillors R Smith (Chairman), M Ballantyne, J Campbell, J A Fullarton, I Gillespie, D Moffat, S Mountford and B White

Apologies:- Councillors J Brown

In Attendance:- Major Applications, Review and Enforcement Manager, Solicitor (G. Nelson), Democratic Services Team Leader, Democratic Services Officer (F. Walling).

1. **REVIEW OF APPLICATION 14/0990/FUL**

There had been circulated copies of the request from Mr and Mrs Jon and Anna Standing, per FOB Design UK, 72A Water Lane, Wilmslow, Cheshire, to review the decision to refuse the planning application in respect of the change of use from workshop (Class 4) to children's soft-play centre, ancillary café, sensory area (Class 11) and extension incorporating new welfare facilities at No 1 Works, Hillview Trading Estate, Guards Road, Coldstream. The supporting papers included the Decision Notice, Notice of Review and supporting papers, officer's report of handling and papers referred to in the report, consultations, support comments and a list of relevant policies. In considering the current application and reasons for refusal Members took into account the previous decision of the Local Review Body regarding an application for a play centre at this site. They noted that there were a number of fundamental changes to the nature of the current proposal, in respect of public safety, through the provision of a different access and parking and the removal of outdoor play provision. In respect of the proposed change of use from Class 4 to Class 11, Members had regard to Policy ED1 of the emerging Local Development Plan regarding mixed use areas and the fact that the Council's Economic Development Section had changed their view and were now in support of the application. Subject to the implementation of the measures proposed, Members' majority view was that the development would be compatible with neighbouring uses and would offer significant benefits to the surrounding area.

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 determined without further procedure on the basis of the papers submitted;**
- (c) the development was consistent with the Development Plan and there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted, subject to conditions, as detailed in the Appendix to this Minute.**

The meeting concluded at 11.05 am

**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: 15/00002/RREF

Planning Application Reference: 14/00990/FUL

Development Proposal: Change of use from workshop (Class 4) to children's soft-play centre, ancillary cafe, sensory area (Class 11) and extension incorporating new welfare facilities

Location: No 1 Works, Hillview Trading Estate, Guards Road, Coldstream

Applicant: Mr and Mrs Jon & Anna Standing

DECISION

The Local Review Body reverses the decision of the appointed officer and grants planning permission subject to the conditions set out in this decision notice.

DEVELOPMENT PROPOSAL

The application relates to the change of use from workshop (Class 4) to children's soft-play centre, ancillary cafe, sensory area (Class 11) and extension incorporating new welfare facilities of an existing industrial unit at No 1 Works, Hillview Trading Estate, Guards Road, Coldstream. The application's drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Title Plan	1:1250
Existing Site Plan	11710 PI 02 C (1:200)
Existing Plan and Elevations	11710 PL03 (1:200)
Block Plan	11710 PI 02 C (1:500)
Site Plan	11710 PI 02 C (1:200)
Proposed Elevations & Section	11710 PI 04 B (1:100)

PRELIMINARY MATTERS

The Local Review Body considered the Review competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 16th February 2015.

After examining the review documentation, which included: (a) Decision Notice; (b) Notice of Review and supporting papers; (c) Report of Handling and papers referred to in report; (d) Correspondence from Consultees; (e) Support comments and (f) List of Policies, the Review Body concluded that it had sufficient information to determine the review.

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 2013 and consolidated Scottish Borders Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- SESplan Policy 2
- Local Plan Policies: G1, G2, ED1, INF4 and INF11

Other material key considerations the Local Review Body took into account related to:

- Draft Scottish Borders Local Development Plan 2013 – In particular the provisions of Policy ED1

The Review Body considered, in detail, the grounds for refusal of the current application and the reasoning for the previous decision of the Local Review Body regarding the establishment of a play centre at this site. Members were satisfied that there were a number of fundamental changes to the nature of the proposal and attendant circumstances of the case that enabled them to now support the application.

Members were conscious that public safety was a critical factor in the consideration of this case. The earlier proposal had not successfully dealt with the issues arising from the introduction of children and parents into this predominantly industrial area and the potential conflict with surrounding uses. However, Members were satisfied that the access and parking arrangement now proposed, along with the removal of any outdoor play provision within the site and installation of adequate boundary fencing, addressed these concerns.

The access to the site was now proposed from the public road to the southern boundary of the site, rather than through the site operated by Cromar Metal Products, as previously proposed. The access would run along the western gable of the building into a parking area to the rear of the existing building. This access would be achieved by purchasing an additional 2m strip of land from the adjoining site. This would provide a dedicated vehicular and pedestrian access, off a lightly traffic road, with adequate parking places placed to the rear of the building, close to the access into the play centre. Members stressed that it was critical to their acceptance of the development that this access be provided before the rest of the development commenced. The Review Body did not consider it necessary to form a new footpath to the north side of the industrial access road, as suggested by the Roads Planning Officer, believing that the existing access on the southern side of the road, in

association with the new footpath incorporated into the new access to the site, was suitable for customers arriving at the play centre on foot.

The Review Body was insistent that new boundary fencing be provided along the western and northern boundaries of the site. This fencing would provide a secure enclosed site, and this associated with the removal of any outdoor play provision within the grassed area to the rear of the building would limit any conflict with adjoining uses. Members felt that there should be a pedestrian access gate on the northern boundary fence in case of emergencies but that this should be designed so that it was not available for general access to the site.

As a result of these measures set out above, the Review Body was content that there should be no harmful impact on the operation of the other businesses in the locality and that the development was consistent with Policies INF 4 and INF 11 of the Consolidated Local Plan and the compatibility criteria of Policy ED1.

Members noted that the proposed business would provide 10 new jobs and that there may be spin off for other businesses locally, providing products and services for the play centre. Members accepted that the business was viable and would bring a number of economic and tourism benefits to the area. The facility would meet a demand within the area and enrich the offer available to people visiting the town. Members gave significant weight to the fact that the Economic Development Section had changed their view on the development and were now supporting the application on the grounds of the changes made to the proposal, and their contention that it was consistent with the Council's economic and tourism strategies. In Members' view the applicant had demonstrated that the development offered significant benefits to the surrounding area and community that outweighed the need to retain the site in use classes 4, 5 and 6.

The Review Body noted that the site had been marketed for a period of three years for alternative employment use without a purchasing developer coming forward. They accepted that the applicant had demonstrated that there was a constraint on the site and there was no reasonable prospect of its becoming marketable for employment development in the near future. The nature of the building and the works necessary to enable it to be used for such a purpose, were a significant hindrance to its reinstatement to an alternative employment use. Members agreed that the investment proposed to create the play centre would enhance the building and the area more generally and the works were such that they would not prevent the building reverting to class 4, 5 or 6 uses in the future.

The existence of housing on three sides of the industrial estate and the proximity of the existing play area in Hillview convinced Members that the development would not significantly alter the character of the area and, as already demonstrated in this report, it would be compatible with the neighbouring uses. In coming to their conclusion on the application, Members also gave weight to Policy ED1 of the emerging Local Development Plan, which is the most up to date statement of Council policy, which states that uses other than use classes 4, 5 and 6 may be permissible to allow a more mixed use area.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Development Plan policies ED1, INF4 and INF11 and that there were a number of fundamental changes to the nature of the proposal

and the attendant circumstances that substantially addressed the concerns expressed in the earlier determination by the Local Review Body.

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. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the external materials to be used in the development have been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.

Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

2. No development shall be commenced until:

(a) a detailed specification for the construction of the new vehicular access to the development site, illustrated on the approved site and block plans, and including the proposed pedestrian access, has been submitted to and approved by the Planning Authority, and

(b) the access has been constructed in accordance with the approved details.

Reason: To ensure that the development is served by a suitable standard of access and in the interests of the safety of users of the facility and other road users and pedestrians in the locality.

3. The area allocated for parking and turning on the submitted plan shall be properly delineated, consolidated, surfaced and drained and the necessary signage provided before the business becomes operational. Thereafter, the area shall not be used other than for the parking of vehicles in connection with the business hereby permitted.

Reason: To ensure there is adequate space within the site for the parking of vehicles clear of the highway.

4. 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.

5. Details of all proposed boundary fencing required to enclose the site shall be submitted to and approved in writing by the Local Planning Authority before work on the site is commenced. The details shall include provision for pedestrian access through the fence to the northern boundary of the site. Thereafter, the fencing to be completed before the business becomes operational.

Reason: To ensure that the site is secure and provides a safe environment for users of the facility.

6. There shall be no provision made for outdoor play within the curtilage of the site, without the written permission of the Planning Authority.

Reason: In the interests of the safety of users of the facility and to avoid impacts on the operation of adjoining businesses.

7. Details of the proposed photovoltaic cells or solar panels on the roof of the building shall be submitted to and approved by the Planning Authority. Thereafter, they shall be installed in accordance with the approved details.

Reason: In the interest of the visual amenity of the area.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed....Councillor R. Smith
Chairman of the Local Review Body

Date:...19th February 2015