

# Public Document Pack

## SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in the Council Chamber, Council Headquarters, Newtown St Boswells, TD6 0SA on Monday, 18 April, 2016 at 10.00 am

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

In Attendance:- Lead Officer Plans and Research, Solicitor (G. Nelson), Democratic Services Team Leader, Democratic Services Officer (F. Walling).

### 1. **REVIEW OF APPLICATION 15/01354/FUL**

There had been circulated copies of the request from Rural Renaissance Ltd, per Felsham Planning and Development, 1 Western Terrace, Edinburgh to review the decision to refuse the planning application in respect of external alterations and erection of 4 no. flagpoles at West Grove, Waverley Road, Melrose. Included in the supporting papers were the Notice of Review, including the decision notice and officer's report of handling, papers referred to in the report, consultations, objections and a list of relevant policies. The papers included reference to a previous application and appeal to the Local Review Body which was refused planning consent. The current application differed only in regard to the siting and scale of the proposed flagpoles. Members initially referred to the proposed external alterations to the building and agreed that these were acceptable subject to regulation by planning conditions. Members also noted that in respect of the previous application the Local Review Body had not identified any objection to the principle of flag poles being erected at West Grove, concluding that 'an alternative proposal for the siting and scale of the flagpoles could be more acceptable'. Discussion therefore focused on the modifications proposed in terms of the reduction in height of the flagpoles to 5.2m and their siting at the south western extremity of the site, rather than in front of the principal elevation of the building. Members' opinions were divided about the acceptability of the proposal and also on the number of flagpoles that should be permitted.

#### VOTE

1. *Councillor Campbell, seconded by Councillor Gillespie, moved that the decision to refuse the application be upheld.*

*Councillor Mountford, seconded by Councillor Moffat, moved as an amendment that the decision of the appointed officer to refuse the application be reversed and that, in principle, the application for planning permission for flagpoles be granted.*

*On a show of hands Members voted as follows:-*

*Motion - 2 votes  
Amendment - 7 votes*

*The amendment was accordingly carried.*

2. *Councillor Fullarton, seconded by Councillor Ballantyne, moved that the proposal within the application for 4 flagpoles be approved.*

*Councillor Moffat, seconded by Councillor White, moved as an amendment that the approved number of flagpoles be reduced to 3.*

*On a show of hands Members voted as follows:-*

*Motion - 4 votes*

*Amendment - 5 votes*

*The amendment was accordingly carried.*

The Local Review Body agreed that approval of the application be subject to a condition that the approved flags must not be used for business advertising and a condition worded in consultation with Environmental Health and the Chairman to regulate any potential impact on the neighbouring residential area in respect of noise from the flags and halyards.

## **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 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 Appendix I to this Minute.**

## **2. REVIEW OF APPLICATION 15/00100/FUL**

There had been circulated copies of the request from Wilton Mills Ltd, per GVA Grimley Ltd, Quayside House, 127 Fountainbridge, Edinburgh to review the decision to refuse the planning application in respect of erection of Class 1 retail foodstore with ancillary works including car parking, access and landscaping on land and buildings at Wilton Mills, 31 – 32 Commercial Road, Hawick. Included in the supporting papers were the Notice of Review, including the decision notice and officer's report of handling, drawings, consultations, objections, support comments, a general comment, additional representation and a list of relevant policies. The Local Review Body considered pieces of new evidence that had been submitted with the Notice of Review as detailed in Appendix II to this Minute and concluded, for the reasons given, that determination of the review could be made with reference to this new evidence. The planning advisor summarised for Members the policies and planning guidance relevant to the review. Although the involvement of Aldi was noted members were advised that the review before them was in respect of an application for a Class 1 retail site at Wilton Mills and that the application must be considered De Novo. In their initial discussion Members indicated that they were content that the application was generally compliant with planning policy. Members noted the objection from SEPA and the comments of the Council's Flood Protection Officer with regard to flood risk mitigation. The focus of their discussion was therefore on the perceived economic benefits of the proposal for the town and the probable effect on the viability of businesses in Hawick town centre. It was recognised that, as was the case in other towns, Hawick town centre was vulnerable and in decline in terms of the number of vacant units and decreasing footfall. It was also recognised that

there were complex reasons for this including rent/rate issues, changing habits of shoppers and competition with on-line retail businesses. Members agreed that it was difficult to predict if a new store would exacerbate this situation or perhaps have a positive effect in terms of increased competition and provide a means of attracting people to stop and shop in Hawick rather than going elsewhere. Councillor Fullarton, seconded by Councillor Gillespie, proposed that the Local Review Body defer the decision to allow further procedure in the form of a hearing to specifically hear evidence on the impact of the proposed store on the vitality and viability of the town centre. However other Members expressed the view that there would be nothing to be gained by a hearing and the motion did not receive any further support. Members recognised that there was a balanced argument in favour and against the proposal but the fact that the development site was currently derelict and situated on a prominent route through town was a significant factor in Members' consideration of the application. Members noted that in the event they allowed the appeal, the application would require to be referred to the Scottish Government for approval due to the outstanding objection from SEPA. In concluding, on balance, to approve the application and refer it to the Scottish Government, Members noted that consent would be subject to detailed conditions to be agreed with planning officers and a legal agreement in respect of developer contributions should the Council's Development Negotiator decide that these were required.

## **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) in accordance with Section 43B of the Town and Country Planning (Scotland) Act 1997 the review could be determined with reference to the new evidence submitted with the Notice of Review documentation;**
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) the development was consistent with the Development Plan and there were no other material considerations that would justify departure from the Development Plan; and**
- (e) the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted, subject to and as detailed in Appendix II to this Minute:-**
  - (i) referral to the Scottish Government;**
  - (ii) conditions to be agreed by officers; and**
  - (iii) a legal agreement in respect of developer contributions should these be required.**

## **MEMBERS**

Councillors Ballantyne and Moffat left the meeting and therefore did not take part in the consideration of the review below.

### **3. REVIEW OF APPLICATION 15/01491/FUL**

There had been circulated copies of the request from Mr & Mrs P Burns, 18 Weavers Linn, Tweedbank to review the decision to refuse the planning application in respect of the erection of a dwellinghouse and detached garage/annex on land west of Whistlefield, Darnick. The supporting papers included the Notice of Review, including the decision notice and officer's report of handling; consultations; representations; and a list of relevant

policies. The Local Review Body noted that the principle of a dwellinghouse on the site was in accordance with planning policy. Discussion therefore focused on the design of the proposed development with particular reference to the scale of the roof area. Members recognised that there was an element of subjectivity in making a judgement as to whether the design was appropriate for the area. Reference was made to the relatively large roof area of the neighbouring property and Members were of the opinion that the proposed dwellinghouse would not be of an inappropriate form and massing. In general Members thought the design exciting and noted that the site was large enough to accommodate a house of this size. It was agreed that in addition to being subject to a legal agreement with regard to developer contributions there should be a condition to planning consent to ensure that the garage/annex remained ancillary to the main dwellinghouse.

#### **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 development was consistent with the Development Plan and there were no other material considerations that would justify departure from the Development Plan;**
- (d) the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted, subject to a legal agreement and conditions, as detailed in Appendix III to this Minute and to include the condition that the garage/annex remain ancillary to the main dwellinghouse.**

*The meeting concluded at 1.10 pm*



**APPENDIX I**

**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING  
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND  
LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

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**Local Review Reference:** 16/00004/RREF

**Planning Application Reference:** 15/01354/FUL

**Development Proposal:** External alterations and erection of 4no flagpoles

**Location:** Office, West Grove, Waverley Road, Melrose

**Applicant:** Rural Renaissance Ltd

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**DECISION**

The Local Review Body (LRB) reverses the decision of the appointed planning officer and grants planning permission as set out in the decision notice.

**DEVELOPMENT PROPOSAL**

The application relates to external alterations and the erection of 4no flagpoles at this office building at West Grove, Waverley Road, Melrose. The application drawings consist of the following :

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	9208.2.01
Planning Layout	9208.2.02
Floor Plans	9208.2.03
Elevations	9208.2.04
Elevations	9208.2.05

**PRELIMINARY MATTERS**

The LRB considered at its meeting on 18<sup>th</sup> April 2016, that the review had competently been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

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 report; c) Consultations; d) Objections; e) List of policies, the LRB considered they had enough information to determine the review and proceeded to consider the case. In coming to the conclusion, the LRB noted the request from the appellant for a site inspection and one or more hearing sessions.

## **REASONING**

The determining issues in this review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan 2013 and the consolidated Scottish Borders Local Plan 2011. The LRB considered that the most relevant of the listed policies was:

- Local Plan policy : G1

The LRB also noted that the emerging new Local Plan 2016 would shortly be adopted and that any relevant policies within it should be material considerations to the appeal. It was agreed that relevant policies, including policy PMD2, which will replace policy G1, did not raise any new material considerations in this instance.

Other material considerations the LRB took into account related to:

### **Other Material Considerations**

- Scottish Planning Policy

Members recalled a planning application relating to these premises being referred to them in October 2015. The proposal was for alterations to the main building and 4no flagpoles at the front of the main entrance. Members visited the site and ultimately refused the plans in respect of the location and height of the flagpoles. Members refused the application and were reminded that the decision note stated that members considered "an alternative proposal for the siting and scale of the flagpoles could be more acceptable".

Following the refusal the applicant lodged an amended application which is subject to this Review. The application sought to propose the same alterations to the main building, but to relocate the flagpoles to an alternative location on the western side of the site.

The alterations to the building included a K-render "Arran" roughcast finish which was a yellow / off white colour, dark aluminium cladding, a vertical sundial and lettering above the door. Members confirmed their agreement to support this part of proposal and that planning conditions could be attached to any consent granted in order to obtain more detailed information regarding some of these works.

Members noted that the plans proposed the relocation of the flagpoles onto the western side of the site and they considered this to be a more preferable location. Members acknowledged that the applicants had reduced the height of the flagpoles

from approximately 8 or 9 metres to 5.2 metres. The flagpoles were located 0.5m apart and set back 1.5m back from the boundary fence. Members noted the 4no letters of objection submitted and the concerns they raised.

There were mixed feelings regarding the suitability of the flagpoles in principle, it being suggested that they were acceptable within the grounds of what is a commercial property but it was also stated that they served little practical purpose. It was suggested the lanyards in particular may cause noise issues to nearby residents and that Environmental Health should comment on this should the application be approved.

Discussion took place regarding the number of flagpoles and whether the proposal would be more acceptable if the number was reduced as there was some feeling that they had a cluttered appearance. It was agreed that for the proposal to be acceptable the number of flagpoles required to be reduced to 3no. It was further agreed that if the proposal was to be supported then a condition should ensure the flags were not used for advertisement purposes.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that, subject to the number of approved flagpoles being reduced to 3no, the development was consistent with the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

## **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) The number of flags approved to be limited to 3no

Reason : To ensure a satisfactory form of development, which contributes appropriately to its setting.

2) Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials and any colours to be used in the alterations to the front elevation as shown on drawing no 9108.2.04 has 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 clarification to ensure a satisfactory form of development, which contributes appropriately to its setting.

3) The colour of the external render to be agreed with the Planning Authority

Reason : To ensure a satisfactory form of development, which contributes appropriately to its setting

4) The flags not to be used for advertisement purposes

Reason : To ensure the flags are not used to advertise any business operations

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5) The flagpoles and lanyards to be regularly maintained to ensure their satisfactory operation and steps to be taken to prevent any unacceptable noise levels  
Reason : To ensure the proposal has no unacceptable adverse impact in terms of noise on nearby residencies

**Informative** – In relation to condition no 3 it is not considered that the use of the proposed colour of the “Arran” external render is suitable and an alternative colour should be agreed with the Planning Authority

In relation to condition no 5 any further guidance on carrying out any noise reduction measures should be discussed with the Council’s Environmental Health (Noise) section (contact [DBrown@scotborders.gcsx.gov.uk](mailto:DBrown@scotborders.gcsx.gov.uk) ) to give advice on best practice operations. It was also the advice of the Local Review Body that in order to eliminate any potential unnecessary noise to nearby residencies at unreasonable times any flags should be removed from the flagpoles at night.

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land’s interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

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

**Date...**10 May 2016





**APPENDIX II**

**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY INTENTIONS NOTICE**

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**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING  
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND  
LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

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**Local Review Reference:** 16/00005/RREF

**Planning Application Reference:** 15/00100/FUL

**Development Proposal:** Erection of Class 1 retail foodstore with ancillary works including car parking, access and landscaping

**Location:** Land and Buildings at Wilton Mills, 31-32 Commercial Road, Hawick

**Applicant:** Wilton Mills Ltd

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**DECISION**

The Local Review Body reverses the decision of the appointed officer and gives notice that it intends to grant planning permission subject to notification to Scottish Ministers, conditions and the conclusion of a legal agreement in respect of developer contributions.

**DEVELOPMENT PROPOSAL**

The application relates to the erection of a Class 1 retail foodstore with ancillary works including car parking, access and landscaping. The application drawings consist of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	AT2342-LOC-01-A
Existing Layout	AT2342-EX-01-B
Other	AT2342-EX-02A
Site Plan	AT2342-PP-01K
Floor Plans	AT2342-PP-02D
Other	AT2342-PP-03C
Elevations	AT2342-PP-04-01E
Elevations	AT2342-PP-04-02E
Other	AT2342-PP-05

Other	AT2342-PP-07
Other	AT2342-PP-05
Other	A086735/SK004 REV A
Other	A086735 SKA010 REV 01

## **PRELIMINARY MATTERS**

The Local Review Body (“LRB”) considered at its meeting on 18<sup>th</sup> April 2016, that the review had been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 (hereinafter referred to as the “1997 Act”).

After examining the review documentation at that meeting, which included : a) Notice of Review including the Decision Notice and Officer’s report; b) Drawings; c) Consultation; d) Objectors; e) Support comments; f) General comment; g) Additional representation; and h) List of policies, the LRB considered they had enough information to determine the review and proceeded to consider the case. In coming to the conclusion, the LRB noted the request from the appellant for a site inspection.

## **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 the consolidated Scottish Border’s Local Plan 2011. The LRB considered that the most relevant of the listed policies was:

- Local Plan policies : G1, G2, G4, G7, BE1, BE2, BE4, NE3, NE4, ED3, ED5, H2, H3, Inf4, Inf6, Inf11

The LRB also noted that the emerging new Local Plan 2016 would shortly be adopted and that any relevant policies within it should be material considerations to the appeal. It was noted that policies PMD2, PMD3, PMD5, ED3, ED5, HD3, EP3, EP7, EP8, EP9, EP13, IS7, IS8, IS9, IS13 within the emerging Plan will replace the aforesaid Local Plan 2011 policies. Whilst there were some amendments within the updated policies it was considered that these did not raise any new material considerations in this instance.

Other material considerations the LRB took into account related to:

### **Other Material Considerations**

National Planning Framework 3  
Scottish Planning Policy  
Scottish Historic Environment Policy 2011  
Planning Advice Note 33 : Development of Contaminated Land 2000  
Planning Advice Note 52 : Planning and Small Towns 1997  
Planning Advice Note 59 : Improving Town Centres 1999  
Planning Advice Note 1/2011 Planning and Noise  
Planning Advice Note 2/2011 Planning and Archaeology  
On-line Planning Advice on Flood Risk 2015

SBC Supplementary Planning Guidance on Contaminated Land Inspection Strategy 2001  
SBC Supplementary Planning Guidance on Trees and Development 2008  
SBC Supplementary Planning Guidance on Landscape and Development 2008  
SBC Supplementary Planning Guidance on Biodiversity 2005  
SBC Supplementary Planning Guidance on Privacy and Sunlight (Householder Developments) 2006  
SBC Supplementary Planning Guidance on Placemaking and Design 2010  
SBC Planning Brief on Commercial Road, Hawick 2009

Members noted new information had been submitted as part of the LRB appeal by the appellants which was not submitted during the application processing period.

This comprised:

- (a) an updated vacant floorspace study carried out in January 2016; and
- (b) doc 10 – Dumfries and Galloway Retail Capacity Study extract;
- (c) doc 11- Competition Commission Report extract;
- (d) doc 12 - Retail comparison re Hawick / Galashiels;
- (e) doc 13 – Town Centre and Retailing Methodology report extracts;
- (f) doc 14 –Updated retail assessment tables; and
- (g) doc 15 – Statement on Flooding.

Members considered whether it was appropriate to have regard to each item of new information in terms of the Statutory test set out in section 43B of the 1997 Act.

While acknowledging that item (a) was new information, Members took the view that it was an update of information submitted within the application submission, which given it was carried out post the Officer's decision could not have been submitted earlier. Members therefore decided to accept item (a) in terms of section 43B(1)(a) of the 1997 Act.

Members considered that items (b) to (f) had been submitted by the appellants to the LRB as a response to the Officer's reliance in their decision to the retail capacity study carried out on behalf of the Council by the Robert Drysdale Consultancy in 2011 and that they therefore could not have been submitted before that point in time. Members further considered that this issue was a Material Consideration. Members therefore decided to accept items (b) to (f) in terms of section 43B(1)(a) and section 43B(2)(b) of the 1997 Act.

Members considered that item (g) relating to flooding was a material consideration given SEPA's outstanding objection to the appeal. Members took the view that it was an update of information submitted within the application submission, and were content given the date of the letter that it could not have been submitted earlier. Members therefore decided to accept item (g) in terms of section 43B(1)(a) and section 43B(2)(b) of the 1997 Act.

Members therefore concluded that all the new information could be considered by the LRB in their consideration of the Review.

During the presentation the planning advisor made the point that there were a number of relevant policies and material considerations of relevance to the proposal. However, there was not one which took precedence over all others, and it was the duty of members to consider all relevant policies and material considerations giving what they felt was adequate weight and balance to them in considering and determining the application under appeal De Novo. Clarification was provided to Members by the Legal Advisor that whilst Aldi were behind the proposal they were

not the applicants (Wilton Mills Ltd) and that if planning consent was granted it would be for a retail foodstore, which could potentially be operated by someone other than Aldi.

Members noted that the site was now cleared and therefore any objections regarding the loss of the listed buildings previously on the site were not now material considerations.

Members also noted the site was on the edge of the town centre and a sequential test was consequently submitted by the appellant which stated there were no suitable alternative site options within the town centre boundary and that the Council's Officer had concurred with this conclusion. Members concurred with this view.

Members further noted that a retail assessment had been submitted stating why the appellants considered the proposal would benefit consumers within the catchment area and that net impacts on the town centre retailers would be minimal.

Members agreed that this was a very difficult case to determine. The LRB in essence considered that fundamentally the main issues were judging any perceived economic benefits of a new store in the town and the opportunity to develop a derelict site against perceived impacts the proposal may have on the vitality and viability of the Hawick Town centre. Members were generally content that, other than this critical issue, that the application was capable of complying with Planning Policy subject to suitable conditions and potentially a legal agreement for developer contributions being imposed.

Members commented that the retail assessment was interpreted differently between the appellants and the planning officer and there were discrepancies between current town centre performance statistics stated by the appellants and the Council. Reference was made to two independent retail capacity studies carried out on behalf of the Council by Roderick MacLean Associates Ltd in 2008 and Robert Drysdale Consultancy on retail capacity in 2011. These did not accord with the findings of the appellants study. The appellants retail study was also at odds with objections submitted by consultants on behalf of other retailers in the town. In conclusion Members felt there was no absolute clarity to confirm what impacts the proposal may have on the performance of the town centre.

Members commented that the Aldi store may help stem consumer leakage outwith the town and that the proposal would create competition amongst retailers which is a standard challenge for any business. Ultimately consumers within the catchment area would determine which stores would thrive. Despite the appellants stating Hawick town centre was in a healthy state there was an acceptance by Members that it was vulnerable.

Comment was raised regarding the danger that this proposal could be the death of Hawick town centre which was already in an unhealthy position in terms of the high level of vacant units and decreasing footfall statistics. Whilst any direct competition to other national retailers within the town was not so much of an issue, impacts on the welfare of local traders was a concern.

Reference was made to how successful Aldi was operating in Galashiels although it was difficult to conclusively state what direct impact it may be having on Galashiels town centre. While it was stated ASDA and Tesco in Galashiels are likely to be having some impact on the Galashiels town centre, Members considered this difficult

to quantify without further evidence. Consequently Members concluded it was difficult to predict the likely impacts the proposal would have on Hawick town centre.

Given the site's distance from the town centre there were mixed views as to how likely the proposal would be to encourage consumers to visit the town centre as part of a trip to the Aldi store.

Comment was made that the proposal was a risk to the vitality and viability of the town centre. However, members felt that the town centre was not operating successfully just now and whatever mechanisms were in place to alleviate this were not working. Consequently it was suggested it was a risk worth taking. Members further considered that the fact the site was derelict and in a prominent position was a material consideration that required to be accorded significant weight in reaching a decision.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that development was consistent with the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

## **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. 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.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.

Reason: To ensure that the development is carried out in accordance with the approved details.

3. 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.

4. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation outlining an Archaeological Evaluation. This will be formulated by a contracted suitably qualified industrial archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to conduct a programme of evaluation prior to development. This will include the below ground excavation of evaluation trenches and the full recording of archaeological features and finds. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered the nominated archaeologist(s) will contact the Archaeology Officer for further consultation. The developer will ensure that any significant data and finds undergo post-excavation analysis, the results of which will be submitted to the Planning Authority

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

5. A sample of all materials to be used on all exterior surfaces of the development hereby approved shall be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved samples.  
Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

6. Details of the sheet piling retaining wall proposed to the rear of the store (north west boundary), including a section drawing, to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be completed in accordance with the approved details.

Reason: To safeguard the visual amenities of the area.

7. The proposed boundary wall treatment, using the salvaged stonework from the demolished buildings on the site and incorporating the former lettering "Wilton Mills" from the demolitions, to be completed in accordance with Drawing Number AT2342-PP-05 before the store becomes operational, unless otherwise agreed with the Planning Authority. A short section sample of the boundary wall first to be erected on site for the prior approval in writing by the Planning Authority.

Reason: To safeguard the visual amenities of the area.

8. Details of the number, position, material, dimensions and content of interpretation boards detailing the site's history, the buildings that were demolished within the site and the former mill lade and wheel pit to be submitted to and approved in writing by the Planning Authority before the development commences. The interpretation boards as approved then to be installed within the site before the store becomes operational and maintained thereafter.

Reason: Due to the loss of the Listed Buildings, the wheel pit and mill lade system from the historic environment and due to the importance of mitigation through an approved and implemented scheme of on-site interpretation.

9. Prior to the commencement of development, details of the finished road, pavements and parking surfaces, construction, levels and drainage systems to be submitted to and approved in writing by the Planning Authority and the development must thereafter be undertaken in accordance with the approved details before the development becomes operational.

Reason: To ensure an appropriate layout in the interests of road safety and to safeguard the visual amenities of the area.

10. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall include:

- i. indication of existing trees, shrubs and hedges to be removed, those to be retained and, in the case of damage, proposals for their restoration;
- ii. location of new trees, shrubs, hedges and grassed areas;

- iii. schedule of plants to comprise species, plant sizes and proposed numbers/density;
- iv. programme for subsequent maintenance;
- v. a deadline date for completion; the developer to notify the Planning Authority that the works have been completed and are available for inspection.

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

11. No trees within the application site shall be felled, lopped, lifted or disturbed in any way without the prior consent of the Planning Authority.

Reason: The existing trees represent an important visual feature which the Planning Authority considered should be substantially maintained.

12. Before any part of the permitted development is commenced, the trees to be retained on the site shall be protected by heras fencing or similar placed at a minimum radius of one metre beyond the crown spread of each tree, and the fencing shall be removed only when the development has been completed. During the period of construction of the development:

(a) No excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage or injury to the trees by interference with their root structure;

(b) No fires shall be lit within the spread of the branches of the trees;

(c) No materials or equipment shall be stored within the spread of the branches of the trees;

(d) Any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate;

(e) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated except in accordance with details shown on the approved plans.

Reason: In the interests of preserving the health and vitality of existing trees on the development site, the loss of which would have an adverse effect on the visual amenity of the area.

13. Details of the surface water drainage to be submitted to and approved in writing by the Planning Authority, in consultation with SEPA, Scottish Water and Transport Scotland, before the development commences. The approved scheme then to be completed as part of the development before the store becomes operational.

Reason: To ensure that the site is adequately serviced.

14. A noise Impact Assessment and details of refrigeration, air conditioning and any other noise emitting equipment that will be installed, including the noise level as specified by the manufacturer and whether there is any tonal characteristic associated with the equipment, to be submitted to and approved in writing by the Planning Authority before the development commences. The development then to be carried out and operated in accordance with any mitigation measures contained within the Noise Impact Assessment.

Reason: To safeguard residential amenities.



15. Noise levels emitted by any plant and/or machinery used on the premises must not exceed Noise Rating Curve NR30 when measured at the façade of the nearest noise sensitive residential property.  
Reason: To safeguard residential amenities.

16. No development shall commence on-site until an Operational Plan has been submitted to and approved in writing by the Planning Authority. Once approved this document will form the operational parameters under which the development will be operated and managed. The plan to include:

- Hours of operation
- Delivery times
- Waste management/pest control
- Odour - mitigation and management of ventilation systems
- Air quality - idling of delivery vehicles and other emissions from the development.

Reason: To protect the amenity of nearby residential properties.

17. No fixed lighting shall be erected or installed within or on the boundaries of the site until details of the location, height, design, sensors and luminance have been submitted to and approved in writing by the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority. The lighting shall thereafter be erected, installed and operated in accordance with the approved details.

Reason: To ensure that the lighting is designed to minimise the potential nuisance and disturbances of light spillage to neighbours and the surrounding area and to ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

18. Prior to the occupation of any of the consented development, the proposed site access junction with the A7 Commercial Road, as illustrated in WYG Transport Planning Drawing Number. A086735-SKA010 Rev.01, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland TRBO.

Reason: To ensure that the standard of infrastructure modification proposed to the trunk road complies with the current standards, and that the safety and free flow of traffic on the trunk road is not diminished.

19. Prior to commencement of development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland TRBO.

Reason: To ensure that there will be no distraction to drivers on the trunk road, and that the safety of the traffic on the trunk road will not be diminished.

20. Prior to the occupation of any of the consented development, a barrier/boundary feature of a type approved by the Planning Authority, in consultation with Transport Scotland (TS-TRBO) shall be provided and maintained along the proposed boundary of the site with the A7 Commercial Road.

Reason: To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.

21. There shall be no drainage connections to the trunk road drainage system.  
Reason: To ensure that the efficiency of the existing trunk road drainage network is not affected.
22. No part of the development shall be occupied until a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car has been submitted to and approved in writing by the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority. In particular this Travel Plan shall identify measures to be implemented, the system of management, monitoring, review, reporting and the duration of the plan.  
Reason: To be consistent with the requirements of Scottish Planning Policy (SPP) and PAN 75 Planning for Transport.
23. A revised layout plan showing the proposed car parking and internal road layout to be submitted to and approved in writing by the Planning Authority before the development is commenced. The internal roads and car parking then to be completed in accordance with the approved drawing before the store opens to the public.  
Reason: Reason: To ensure adequate access and on-site car parking is provided for customers to the store.
24. Prior to the commencement of the development the locations and details of taxi pick-up/drop-off points, covered cycle stands and trolley bays to be submitted to and approved in writing by the Planning Authority and these must thereafter be installed in accordance with the approved details before the development becomes operational and retained in perpetuity thereafter.  
Reason: To ensure adequate provision for taxis and cyclists within the site and to discourage inappropriate abandonment of trolleys in the interests of road and pedestrian safety.
25. Details of the position, dimensions, materials, colour, content and method of illumination of any signs to be erected within the site or on the boundaries of the site to be submitted to and approved in writing by the Planning Authority before the signs are erected. The signs then to be erected in accordance with the approved details.  
Reason: To safeguard the visual amenities of the area.
26. The details of any flood barriers proposed for the building or elsewhere in the site to be submitted to and approved in writing by the Planning Authority prior to their installation.  
Reason: To safeguard the visual amenity of the area and to address issues of potential flood risk.
27. The flood mitigation measures contained within Part 4 of the Flood Risk Assessment November 2014 prepared by Terrenus Land & Water to be implemented as part of the development.  
Reason: To address issues of potential flood risk as the site is at risk from flooding.

## **Informatives:**

### Landscaping (condition 10)

In relation to the Tree Report submitted with the application trees 279 and 283 have been felled since the report was prepared. It therefore is unnecessary to remove further trees near the Chicken Coops as this would create a large gap in the tree cover. This area should therefore be left alone and the proposed re-planting moved to the area alongside where trees have already been removed. The proposed tree removals at the eastern end of the site (numbers 292, 293, 294 and 295) can proceed.

The landscaping plan should be amended in respect of the 8 trees indicated along the Commercial Road frontage. These need to be trees of reasonable stature and 8 Tilia x euchlora, extra heavy standard root balled trees are preferred. This is an aphid free form of lime tree used extensively in street frontages elsewhere. It would also be prudent to allow for 75mm of medium grade bark mulch throughout the planting beds in order to minimise moisture loss and inhibit weed growth.

### Drainage (condition 13)

This development will require two levels of treatment for all hardstanding areas including roads. SEPA encourage this first level of SUDS to be source control. Further guidance on the design of SUDS systems and appropriate levels of treatment can be found in CIRIA's C697 manual entitled The SUDS Manual. Advice can also be found in the SEPA Guidance Note Planning advice on sustainable drainage systems (SUDS). Please refer to the SUDS section of SEPA's website for details of regulatory requirements for surface water and SUDS.

### Site Layout (conditions 23 and 24)

The Roads Planning Service advises that:

- There should be a minimum of 6 covered cycle stands provided.
- The pedestrian crossing adjacent to the service yard should be removed from the proposal.
- The parking at the top of the access road should be marked as staff only bays and these should be constructed in a different material to the public car parking spaces.

### Signage (condition 25)

The developer is advised that the proposed signage may require Advertisement Consent.

### Flooding (conditions 26 and 27)

The Council's Flood Protection Officer recommends that the applicant adopts water resilient materials and construction methods as appropriate in the development as advised in PAN 69.

### Construction Work

The Control of Pollution Act 1974 allows the Council to set times during which work may be carried out and the methods used.

The following are the recommended hours for noisy work:

Monday – Friday      0700 – 1900

Saturday              0900 – 1300

Sunday (Public Holidays) – no permitted work (except by prior notification to Scottish Borders Council).

Contractors will be expected to adhere to the noise control measures contained in British Standard 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.

### Listed Building Consent Conditions

The applicant is reminded of the conditions attached to the Listed Building Consents for this site that have implications for its redevelopment:

14/01437/LBC: Demolition of Clock Tower and Gate Lodge.

15/00747/LBCNN: Demolition of boundary wall and erection of replacement wall.

15/00971/LBCNN: Infill of former mill lade and wheel pit.

## **LEGAL AGREEMENT**

The Local Review Body agreed that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of financial contributions towards:

- the manufacturing and placement of signage giving directions from the development site to the town centre
- pedestrian link improvements between the site and the town centre
- shop front improvements as part of the Council's scheme to provide grants to shop owners in the High Street to carry out repairs and enhancements to their shop fronts.

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

**Signed.....**Councilor R Smith  
Chairman of the Local Review Body

**Date ...**24 May 2016

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**APPENDIX III**

**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY INTENTIONS NOTICE**

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**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING  
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND  
LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

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**Local Review Reference:** 16/00006/RREF

**Planning Application Reference:** 15/01491/FUL

**Development Proposal:** Erection of dwelling house and detached garage

**Location:** Land west of Whistlefield, Darnick

**Applicant:** Mr & Mrs P Burns

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**DECISION**

The Local Review Body reverses the decision of the appointed officer and gives notice that it intends to grant planning permission subject to conditions and the conclusion of a legal agreement, as set out in this Intentions notice.

**DEVELOPMENT PROPOSAL**

The application relates to the erection of a house and a detached garage on land adjacent to Whistlefield, Darnick. The application drawings consist of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	REC 09 DEC 2015
Site Plan	REC 03 FEB 2016
General	HOUSE REC 03 FEB 2016
General	GARAGE REC 03 FEB 2016

**PRELIMINARY MATTERS**

The LRB considered at its meeting on 18<sup>th</sup> April 2016, that the review had competently been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included : a) Notice of Review including Decision Notice and Officer's report; b) Consultations; c) Representations; d) List of policies, the LRB considered they had enough information to determine the review and proceeded to consider the case. In coming to the conclusion, the LRB noted the request from the appellant for a site inspection and one or more hearing sessions

## **REASONING**

The determining issues in this review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan 2013 and the consolidated Scottish Border's Local Plan 2011. The LRB considered that the most relevant of the listed policies were:

- Local Plan policies : G1, G7 and NE4

The LRB also noted that the emerging new Local Plan 2016 would shortly be adopted and that any relevant policies within it should be material considerations to the appeal. It was agreed that relevant policies, including policies PMD2, PMD5 and EP13, which will replace the aforesaid Local Plan 2011 policies, did not raise any new material considerations in this instance.

Other material considerations the LRB took into account related to:

### **Other Material Considerations**

- SBC Supplementary Planning Guidance on Privacy and Sunlight (Householder Developments) 2006
- SBC Supplementary Planning Guidance – Placemaking and Design 2010
- SBC Supplementary Planning Guidance – Trees and Development 2008
- SBC Supplementary Planning Guidance – Development Contributions (updated and revised 2015)

During the presentation by the planning advisor members noted what they considered to be a range of house types in the vicinity of the site. It was noted that the site was outwith the village conservation area.

Two letters of representation had been submitted. The first was from the occupier of the property known as Whistlefield, which is located closest to the proposed house on the eastern side, which confirmed support of the proposal. The second does not include an objection, but notes that in 1990 only two houses were built off Lye Road, which was the proposed access route to the appeal site, because to build three would require the road be upgraded to an adoptable standard. It is queried if these conditions still apply. It was confirmed that nowadays roads regulations state 4no houses can be built off a private road within a built up area without the need for it to be brought up to an adoptable standard.



Members noted that whilst the Roads Planner raised some concerns regarding the standard of Lye Road this did not justify a reason for refusal although the access immediately within the site was to be made up to a specified standard. Members also noted the condition and location of a beech tree located on the south west boundary of the site which the planning officer sought more detailed information on in order to confirm if its root systems would be affected by the proposed garage.

Members noted that the prime reasons of concern by the planning officer were the design of the house and the lack of information provided in relation to confirming the safety of the beech tree and trees on the southern boundary. The planning officer considered the house design issues could be resolved if the width of the house was reduced, the eaves were raised and the size of the front projection was reduced.

Whilst acknowledging the planning officer's concerns regarding the proposed house and guidance stated within the Council's Placemaking and Design guidance, it was considered there was always an element of subjectivity with regard to design. In this particular instance members considered the plot was large enough to comfortably accommodate the house and the detached garage and that the design and finishing materials were interesting and quite appropriate in this instance and members were complementary towards the proposal.

Although accommodation was shown on the first floor of the garage, a condition would ensure it was not used as a separate residential unit to the main house. Members commented that the beech tree, on the south west boundary of the site, appeared to be in a poor condition and may have to be removed in any event. Members otherwise considered that the proposal would not endanger any trees.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that development was consistent with the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

## **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 take place until the applicant has secured and implemented a programme of archaeological work and reporting in accordance with a Written Scheme of Investigation (WSI) outlining an Archaeological Battlefield Survey. The requirements of this are:

- The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Institute for Archaeologists (IfA) approval of which shall be in writing by the Planning Authority.
- The developer shall allow sufficient time in advance of development for all archaeological works to be conducted to the satisfaction and written approval of the Planning Authority.

- The developer shall allow the archaeologist(s) access to all areas where development is to be undertaken.
  - Results will be submitted prior to development to the Planning Authority for review and agreement in writing in the form of a Battlefield Survey Report.
  - In the event that the report highlights areas of archaeological potential these will require further targeted evaluation prior to development.
  - If significant archaeology is identified by the contracted archaeologists and in agreement with the Planning Authority, a further scheme of mitigation subject to an amended WSI shall be implemented.
- Reason: The site is within an area where ground works may interfere with, or result in the destruction of, battlefield remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

2. 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.

3. Mains water and foul drainage connections to be confirmed with Scottish Water prior to the commencement of the site

Reason : To ensure adequate service provision of the site

4. Parking to be provided on site for a minimum of 2no vehicles, excluding any garages, along with a turning area within the curtilage of the site

Reason : To ensure adequate parking and turning of vehicles within the site

5. The initial 2.0m of the private driveway from Lye Road into the site will require to be constructed to the following specification - 75mm of 40mm size single course bituminous layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming blinded with sub-base, type 1

Reason : To ensure that adequate access to the site for pedestrians and vehicles is provided and is at all times properly maintained.

6. A plan to be submitted confirming finished site and floor levels to be agreed with the planning authority prior to the commencement of any on-site works

Reason : To ensure the satisfactory development of the site

7. The garage hereby approved shall only be used as ancillary accommodation in connection with the use of the main property as a single private dwelling house and shall at no time be converted to a self-contained unit

Reason: The Planning Authority consider the site to be of insufficient size to accommodate an additional dwelling

8. The colour of the external render and the colour of the garage doors to be agreed with the planning authority

Reason : To safeguard the visual amity of the area

9. Where proposed hard surfaces or buildings pass beneath tree canopies, the developer shall carry out all excavation by hand digging where necessary and provide porous filling around the base of the tree, taking such further precautions as may be necessary to prevent any damage to any tree or its root system.

Reason: To protect the trees to be retained.

### **Legal Agreements**

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of a financial contribution towards educational facilities and towards the re-instatement of the Borders Railway

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application

to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

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

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

**Date...**10 May 2016

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