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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 July, 2016 at 11.00 am

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

Apologies:- Councillors M. Ballantyne and I. Gillespie

In Attendance:- Planning Policy and Access Manager, Solicitor (G. Nelson), Democratic Services Officers (F. Walling and F. Henderson).

1. **DECLARATION OF INTEREST**

In terms of Section 5 of the Councillors Code of Conduct, Councillor Smith declared an interest in Item 4 of the agenda (application 15/01552/FUL) and left the meeting during the consideration of this review.

CHAIRMAN

Councillor Brown chaired the meeting for the review of application 15/01552/FUL considered in the following paragraph.

2. **REVIEW OF 15/01552/FUL**

There had been circulated copies of the request from Mr & Mrs N. Ewart, per Ericht Planning & Property Consultants, to review the decision to refuse the planning application in respect of the erection of two dwellinghouses on land south of the Primary School, West End, Denholm. Included in the supporting papers were the Notice of Review; Decision Notice; officer's report; consultations; general comment and objections; additional representation and response; and a list of relevant policies. With regard to the history of the site, the Local Review Body noted that a number of applications for housing had been refused in the past but that the last refusal had been in 2007. They also noted that the proposal was within both the settlement boundary of Denholm and the Denholm Conservation Area but that there was no specific reference to the site within the Conservation Area statement. Members' discussion focused on the contribution of the proposed site to the sense of place of Denholm, the appearance and slope of the field in which the site was located and the impact of the proposal to the entry point to the village. In this respect Members also discussed the design of the proposed houses and opinion was divided about whether the design was appropriate for this location.

VOTE

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

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

On a show of hands Members voted as follows:-

Motion - 3 votes
Amendment - 3 votes

The Chairman used his casting vote in favour of the amendment which was accordingly carried.

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**
- (d) the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted, subject to conditions, informatives and a legal agreement, for the reasons given in Appendix I to this Minute.**

CHAIRMAN

Councillor Smith resumed his position as Chairman for the remainder of the meeting.

3. REVIEW OF 16/00233/FUL

There had been circulated copies of the request from Ms Martha Gibson, 13, Bridge End, Innerleithen, to review the decision to refuse the planning application in respect of external re-decoration (retrospective) of Shop 1, Leithen Road, Innerleithen. The supporting papers included the Notice of Review including the Decision Notice; officer's report; photographs; consultation; objection; support comment; and a list of relevant policies. Members discussed the impact of the colour with which the shop had been painted in respect of the Innerleithen Conservation Area and also took account of its contribution to the marketing of the shop. Whilst they recognised that the acceptability of the colour choice was to some extent a matter of taste they concluded that it was not an appropriate colour in terms of the character and appearance of the conservation 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 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 for the reasons detailed in Appendix II to this Minute.**

4. REVIEW OF 15/01521/PPP

There had been circulated copies of the request from Lothian Estates, per Clarendon Planning & Development Ltd, 5a Castle Terrace, Edinburgh, to review the decision to refuse the planning application in respect of erection of three dwellinghouses on land north of Bonjedward Garage, Jedburgh. The supporting papers included the Notice of Review which included the Decision Notice, officer's report and consultation responses from Roads and Landscape Architect; other consultation responses; and a list of relevant

policies. Members' initial discussion focused on whether the proposal formed part of the building group at Bonjedward, as suggested by the appellant. In this respect Members' opinion was divided.

VOTE

Councillor Mountford, seconded by Councillor Fullarton, moved that the proposal did form part of the Bonjedward building group.

Councillor Smith, seconded by Councillor Moffat, moved as an amendment that, due to the development site being contained by three roads, the proposal did not form part of the a building group.

On a show of hands Members voted as follows:-

Motion - 2 votes
Amendment - 5 votes

The amendment was accordingly carried.

Having decided, by majority, that the proposal did not form part of a building group, Members went on to conclude, after further detailed discussion that there were no exceptional grounds to justify houses being built on the site in question.

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 for the reasons detailed in Appendix III to this Minute.**

5. CONTINUE CONSIDERATION OF REVIEW OF 15/01484/FUL

With reference to paragraph 3 of the Minute of 16 May 2016, Members were informed that the applicant had requested further deferral of consideration of this case as he had been unable to supply a sample of the uPVC window frame and stick-on glazing bars in time for the meeting.

DECISION

AGREED:-

- (a) to defer consideration of the review to the Local Review Body meeting of 19 September 2016, for which meeting the applicant would be asked to provide a sample of the uPVC window frame and stick-on glazing bars for examination; and**
- (b) that the applicant be advised that consideration of this review would be continued at that meeting on 19 September 2016 whether or not the requested sample was provided.**

6. **CONTINUE CONSIDERATION OF REVIEW OF 15/00769/FUL**

With reference to paragraph 1 of the Minute of 14 March 2016, there had been circulated copies of a Business Plan prepared by SAC Consulting on behalf of the appellant Mr Kerr Renwick and letters from Mr Kerr Renwick and Mr Walter Renwick. Also circulated was a response to the Business Plan by the Economic Development section. With reference to this additional information and the papers provided for the meeting of 14 March 2016 Members continued consideration of this case. Members discussed the detail provided within the Business Plan and noted that the Economic Development section had considered the plan to be viable. The Local Review Body concluded that an economic case had been made which could justify a house on this site at Camphouse Farm. Members' discussion then returned to the design and suitability of the existing temporary structure which was the subject of the retrospective application and noted that it had yet to go through the building standards process. Members concluded that they would allow the structure on a temporary basis for a maximum period of 4 years, subject to conditions, to allow the applicant to develop the business in line with the business plan and to bring forward proposals for an appropriate dwelling. It was confirmed that any future application for a permanent dwelling would require to be justified in terms of Housing in the Countryside and Quality Standards policies.

DECISION

AGREED that:-

- (a) the review could be determined without further procedure on the basis of the papers submitted and the additional written submissions provided;**
- (b) the development was contrary to the Development Plan but that there were other material factors which justified departure from the Development Plan; and**
- (c) the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted on a temporary basis for up to a maximum of 4 years, subject to conditions and an informative, as detailed in Appendix IV to this Minute.**

The meeting concluded at 12.55 pm



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: 16/00012/RREF

Planning Application Reference: 15/01552/FUL

Development Proposal: Erection of 2 dwellinghouses

Location: Land south of Primary School, West End, Denholm

Applicant: Mr and Mrs N Ewart

DECISION

The Local Review Body reverses the decision of the appointed planning 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 2 dwellinghouses on land to the south of the Primary School, West End, Denholm. The application consisted of the following drawings:

Plan Type	Plan Reference No.
Location Plan	OS Extract
Site Plan	MM3017/1
Floor Plans	MM3017/2
Elevations	MM3017/3

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 18th July 2016 that the Review had been competently 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; b) decision notice; c) Officer's Report; d) Consultations; e) general comment and objections; f) additional representation and response; and, g) list of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider 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 2013 and the adopted Scottish Borders Local Development Plan (LDP) 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were:

- Local Development Plan policies : PMD5 (Infill Development), EP11 (Protection of Greenspace), EP9 (Conservation Areas), PMD2 (Quality Standards)

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

- Local Development Plan Policies: HD3 (Residential Amenity), IS7 (Parking Provision and Standards), IS9 (Waste Water Treatment standards and SUDS); IS2 (Developer Contributions)
- Scottish Borders Supplementary Planning Guidance: SPG on Placemaking and Design; SPG on Greenspace; SPG on Householder Development; SPG Development Contributions; SPG Affordable Housing
- PAN65 on Planning and Open Space
- Designing Streets
- Denholm Conservation Area Statement
- Local Plan Inquiry 2006/7 Reporter Decision on Site Proposal.

The Local Review Body noted the planning history of the site with a number of applications for housing having been refused over the last 25 years, but that the last refusal had been in 2007.

Members noted that the plans propose a traditional design of two linked dwellinghouses with a pend in between leading to a courtyard. The dwellinghouses are to be located on the lower portion of the sloping field. Access is to be taken from the Denholm Mill road, with parking facing the road at the front of the properties.

Members noted the proposed location of the new houses, their relationship with surrounding properties, the village, Denholm Mill, Dean Burn, the core path and the A698. Members noted that the proposal is located within the settlement boundary and the Denholm Conservation Area. Members noted there were third party objections and representations in connection with the application.

Members considered the Conservation Area statement in relation to the village and noted that there was no specific reference to the proposal site. Members also considered the nature of the greenspace provided by the site, and noted that it was not formally designated as green space.

Members debated the contribution of the field, in whole or in part, to the setting and sense of place of Denholm, and whether the new building would provide an acceptable entry point to the village. The Local Review Body concluded that while the field, as an entrance point to Denholm, did contribute to the village's setting and sense of place, that an acceptable entry point to the village could still be maintained with appropriately designed dwelling houses at the proposed location in the field.

Members debated the overall massing, design and finishing materials of the proposed house design and whether it would be acceptable within this location and the LRB concluded that it would be.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was acceptable in terms of the Development Plan.

DIRECTIONS

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. 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 except 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.

CONDITIONS

1. Access is to be provided further west to allow a greater distance from the A698. The access scheme and details are to be submitted and agreed in writing with the Council. The access must be constructed in advance of the commencement of construction of dwellings upon the site. The access scheme should be formed as per the following specification prior to the occupation of the first dwelling and in perpetuity:

- access to be a minimum of 5.5 metres wide and formed with 6 metre radii
- the first 5 metres of the access to be constructed to the following specification "75mm of 40mm single course bituminous layer binded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming binded with sub base type 1".
- measures to prevent the flow of surface water onto the public road to be included in the design

Reason: To ensure a safe and appropriate access to the site

2. Public mains water and foul drainage connections to be provided by and confirmed with Scottish Water prior to the commencement of the site. Private water and foul drainage systems are not acceptable in this location.

Reason : To ensure adequate public service provision of the site

3. SUDS provision to be provided and maintained in perpetuity

Reason : To ensure adequate public service provision of the site

Informatives

1. Regarding any works required to the access it is not clear whether or not, or to what extent, the Applicants would have legal right to carry out such works. For their own reassurance, and in advance of construction, the Applicants are strongly advised to establish whether or not there would be any legal obstacle to carrying out the works to provide the access required.

2. There is a low potential for encountering buried archaeology during excavations. If buried features (e.g. walls, pits, post holes) or artefacts (e.g. pottery, ironwork, stone or bronze objects, beads) of potential antiquity are discovered please contact the council's Archaeology Officer for further discussions. Further investigation secured by the developer may be required if significant archaeology is discovered (as per PAN2 (2011) paragraph 31). In the event that human remains or artefacts are discovered, these should remain in situ pending investigation by the Archaeology Officer. Human remains must be reported immediately to the police. Artefacts may require reporting to Treasure Trove Scotland.

3. There is a core path adjacent to the site, and no part of the development (during construction and in perpetuity) should encroach upon the enjoyment of its use by the public.

Legal Agreements

The Local Review Body requires that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of financial contributions towards educational facilities and affordable housing.

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 J Brown
Chairman of the Local Review Body

Date...5 August 2016



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: 16/00014/RREF

Planning Application Reference: 16/00233/FUL

Development Proposal: External redecoration (retrospective) shop

Location: 1, Leithen Road, Innerleithen

Applicant: M Gibson

DECISION

The Local Review Body (LRB) endorses the decision of the appointed officer and agrees to refuse planning permission for the reasons set out in this decision notice on the following grounds:

The development would conflict with Policies (PMD2 Quality Standards) and EP9 (Conservation Areas) of the Scottish Borders Local Development Plan, and with adopted Supplementary Planning Guidance on Placemaking and Design, in that due to:

- the poor relationship of the chosen paint colour on the shopfront with the colours and tones of surrounding materials in conservation area buildings and structures; and
- the prominence of the shopfront in the conservation area and street scene due to its position at the end (focal point) of the High Street;

the inappropriate colour stands out as an incongruous and eye-catching item, harming both the character and the appearance of the conservation area, to the detriment of public amenity.

DEVELOPMENT PROPOSAL

The appeal is for retention of a paint scheme that has been applied to a shopfront, at 1 Leithen Road, Innerleithen. The application drawings consisted of the following drawings :

Plan Type	Plan Reference No.
Location Plan	A4

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 18th July 2016 that the Review had 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; b) Officer's Report; c) Photographs; d) Consultation; e) Objection; (f) Support Comment; and g) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider 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 2013 and the adopted Scottish Borders Local Development Plan (LDP) 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were:

- Local Development Plan policies : PMD2 (Quality Standards) and EP9 (Conservation Areas)
- Supplementary Guidance on Placemaking and Design

Other material considerations were :

- Innerleithen Conservation Area Statement
- SPG Shop Fronts and Shop Signage

Members noted that the appeal is for retention of a paint scheme that has been applied to a shopfront, at 1 Leithen Road, Innerleithen. They noted that the property is not a listed building, and does not adjoin any listed buildings. They noted that the building is quite prominent in the Innerleithen Conservation Area, is a traditional building and is seen as a focal point when viewed looking east along the High Street. Members noted that the painted shopfront is a typical traditional timber type and the colour is a shade of mauve.

Members debated the impact of the colour in respect of the context of the Conservation area, and its contribution to the marketing of the shop. They considered its immediate and wider impact, including the vista along the High Street. They considered whether it met the requirements in terms of the quality standards set by policy and guidance on placemaking and design.

Members considered whether the applied colour could be viewed as having an historic precedence within the context of Innerleithen.

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.

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.....29 July 2016

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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: 16/00015/RREF

Planning Application Reference: 15/01521/PPP

Development Proposal: Erection of 3 dwellinghouses (in principle)

Location: Land north of Bonjedward Garage, Jedburgh

Applicant: Lothian Estates

DECISION

The Local Review Body (LRB) upholds the decision of the appointed officer and agrees to refuse planning permission for the reasons set out in this decision notice on the following grounds:

The proposal is contrary to Policy HD2: Housing in the Countryside of the Local Development Plan and Supplementary Planning Guidance on New Housing in the Borders Countryside 2008 in that the site is not within the recognised building group at Bonjedward and it does not relate well to this group and would therefore not be an appropriate extension to the existing pattern of development. The development would result in sporadic development within the countryside harming the character and appearance of the area.

The proposal is contrary to Policy HD3 of the Local Development Plan relating to the protection of residential amenity in that siting residential housing adjacent to industrial buildings and three main public roads would have a significant adverse impact on the residential amenity of occupiers of the proposed houses.

DEVELOPMENT PROPOSAL

The application relates to a proposal for Planning Permission in Principle for the erection of three dwellinghouses at Bonjedward. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
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Location Plan	A4
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PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 18th July 2016 that the Review had 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 (and Decision Notice, Officer's Report, Roads consultation response, Landscape Architect consultation response); b) Other Consultations; and c) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider 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 2013 and the adopted Scottish Borders Local Development Plan (LDP) 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were:

Local Development Plan policies:

- Policy HD2 Housing in the Countryside
- Policy HD3 Protection of Residential Amenity

Other material policy and guidance included

- Policy PMD4 Development outwith Development Boundaries
- Policy EP7 Listed Buildings
- Policy EP8 Archaeology
- Policy EP10 Gardens and Designed Landscapes
- Policy EP13 Trees, Woodlands and Hedgerows
- Policy IS2 Developer Contributions
- Policy IS7 Parking Provision and Standards
- Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SPG Placemaking and Design

The Local Review Body noted that the applicant seeks Planning Permission in Principle for the erection of three dwellinghouses, indicatively shown as a terrace of three dwellings located to the right of the paddock, aligned with the A698 road to the north, and accessed from a new single drive leading from the A6090.

Members noted that the indicative layout depicts a single building line fronted by a communal drive, with subdivided gardens to rear (allocated by plot number) and extending across the entire greenfield site. An "Augmented" landscape edge is shown by a freehand green line on the north and west boundaries.

Members noted that the agent has highlighted "Bonjedward Building Group" which they define as the 11 dwellings, not including the Joiner's Cottages (two dwellings) to the north.

In the first instance members discussed the proposal in terms of Policy HD2, and whether the proposal forms part of a building group. Members considered the proposal in terms of the principles for housing in the countryside, the potential boundaries to the group particularly in relation to field boundaries and roads. The Review Body concluded that the proposal was separate to and did not form part of a building group.

Members went on to consider whether there was a case for housing on the site, notwithstanding it did not form part of the building group. They considered whether there was any specific reason to override the policy principle on housing in the countryside. They also considered the site in relation to the proximity of the garage, and in relation to the three roads that enclose the area to which the site belongs. Members noted that the Roads Planning Service could support the proposal in principle but discussed concerns in relation to the quality of life that would be available to residents if the site was to be developed. Members concluded that there was no specific justification to allow the proposal to be supported.

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.

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.....29 July 2016

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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: 16/00003/RREF

Planning Application Reference: 15/00769/FUL

Development Proposal: Siting of Caravan for Permanent Residence (Retrospective)

Location: Land south of Camphouse Farmhouse, Camptown

Applicant: Kerr Renwick

DECISION

The Local Review Body reverses the decision of the appointed planning officer and gives notice that it intends to grant temporary planning permission subject to condition that the permission is for up to a maximum of four years and further conditions as set out in this notice.

DEVELOPMENT PROPOSAL

The applicant has applied for permanent residence in this caravan situated at Camphouse Farmhouse, Camptown. The application consisted of the following drawings:

Plan Type	Plan Reference No.
Location Plan	M4P-00434081
Block Plan	1
Elevations	2
Elevations	3
Elevations	4
Elevations	5
Floor Plans	6

PRELIMINARY MATTERS

The review was initially presented to the Local Review Body at its meeting on 14th March 2016. The Local Review Body considered that the Review had been competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included: a) decision notice; b) Notice of Review; c) Officer's Report; d) Consultations, and e) List of Policies, the LRB concluded for the reasons below, that it did not have sufficient information to determine the review and that further procedure was required in the form of additional written submissions.

The Local Review Body reconvened to consider the appeal on 18th July 2016.

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 adopted Scottish Borders Local Development Plan (LDP) 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were:

Local Development Plan policies:

- HD2 (Housing in the Countryside)
- PMD2 (Quality Standards)

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

- HD3 (Protection of Residential Amenity), IS2 (Developer Contributions), EP8 (Archaeology), IS7 (Parking Provision and Standards), IS9 (Waste Water Treatment Standards and SUDS).
- SPG on New Housing in the Borders Countryside, SPG on Placemaking and Design, SPG on Householder Developments.

Members noted that the property is a temporary structure situated to the north of the farm buildings at Camphouse Farm, Camptown. Members noted that the building is retrospective, and had yet to go through the building standards process.

Members noted that the applicant has applied for permanent residence in this building on the basis that he is farming Camphouse Farm holding for the first time since 2015, whilst another family member (who formerly farmed the holding) is residing in the attached farmhouse.

Members noted that the applicant has supported the application stating that applicant tends livestock, in the form of sheep husbandry, and requires to be on-site for 24 hour supervision. The farm size is approximately 154 acres, and the appellant states that the title to the farm is a business comprising three family members and an inventory of livestock has been

provided within a brief Business Plan. The applicant is also running a fencing contracting business from this site.

Members confirmed the site is not in the southern HMA where a more flexible dispersed building group policy would apply.

Members noted the building was 2 portacabins fitted together with external timber cladding. Members noted that the property does not comply with the Council's SPG on Placemaking and Design, and raised concerns on its suitability as a permanent residence.

The LRB noted that no application had been submitted for a building warrant. There were likely to be consequent issues to be addressed in terms of drainage, insulation and fire regulations. These matters would require to be dealt with separately via Building Control process should the LRB grant consent.

Members discussed the possibility of a site visit, but decided not to pursue the matter.

Members agreed there was no building group in the area and the application should therefore be judged on whether an economic/business need case had been made which could justify a house on site.

Members debated the proposal in the context of the proposed farming/contracting business, and whether there may be justification for a temporary permission.

The Local Review Body agreed that some information had been submitted by the applicant regarding a business venture, but considered it insufficient. The Local Review Body agreed to seek further written information in the form of a professionally prepared long term Business Plan for the whole of the farm, and confirmation of the ownership of the farm holding and the interests that other family members had in this.

At the reconvened meeting on 18th July 2016, members noted that a professional business plan had now been provided in relation to the proposed growth of the business, and that the economic development section considered it to be a viable plan. Members agreed that the business plan had the potential to be implemented by the applicant. The Local Review Body agreed that an economic/business need case had been made which could justify a house on the site.

Members discussed again their concerns that this was an inappropriate structure for a permanent dwelling, and whether it could be considered for a temporary permission. A temporary permission would allow the applicant to grow the business in line with the business plan, and also afford him time to put in place arrangements to bring forward a proposal for a house that complied with policy PMD2 on Quality Standards and Supplementary Planning Guidance on Placemaking and Design.

Members agreed that they could allow the structure on a temporary basis but on the strict understanding that this would be for a maximum of 4 years. Members also agreed that any future application for a permanent dwelling would require to be justified in terms of Policy HD2 (section F) which would require a reassessment of progress in relation to the business plan submitted, as well as policy PMD2 on Quality Standards, Supplementary Guidance on Placemaking and Design, and other relevant policies.

CONCLUSION

After considering all relevant information, the Local Review Body concluded on balance that the proposal was acceptable in terms of the Development Plan conditional to it being on a temporary basis for up to a maximum of 4 years.

CONDITIONS

1. The permission established by this decision notice will be for a maximum of 4 years from the date of this decision letter.

Reason: To ensure the proper planning of the area and to achieve a satisfactory form of development.

2. The temporary use hereby permitted shall be discontinued and the building removed on or before 10 August 2020 unless a further permission is obtained.

Reason: To enable the Local Planning Authority to review the matter at the end of a limited period.

3. Access to the site from the trunk road will be via the existing access. No new access will be permitted.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road.

Informative

1. The applicant is advised to be in immediate contact with the Council's Building Standards service and to make a building warrant application in relation to this temporary permission so that the property can be assessed with regards to construction, services, health and safety.

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.....29 July 2016