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SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in Council Chamber, Council Headquarters, Newtown St Boswells, TD6 0SA on Monday, 16 March, 2015 at 10.00 am

- Present:- Councillors R. Smith (Chairman), M. Ballantyne, J. Campbell, J. A. Fullarton and I. Gillespie
- Apologies:- Councillors J. Brown, D. Moffat and S. Mountford
- In Attendance:- Major Applications, Review and Enforcement Manager, Solicitor (G. Nelson), Democratic Services Team Leader, Democratic Services Officer (F. Walling).

1. **REVIEW OF APPLICATION 14/01074/FUL**

There had been circulated copies of the request from Mr Michael Johnson of 22 Marmion Road, Hawick, to review the decision to refuse the planning application in respect of the change of use from store, partial demolition and alterations to form 3 garages. The supporting papers included the Decision Notice, Notice of Review and supporting papers, officer's report of handling and papers referred to in the report, consultations and a list of relevant policies. Members accepted that the existing building was in a poor state and not fit for purpose but were undecided about whether the proposed alterations would harm the character and appearance of the Conservation Area. Members were also concerned that the design was such that there could be significant difficulties in accessing the most westerly of the three garages. After further discussion the majority of Members decided that a site visit was necessary to provide further information on these two points of deliberation.

DECISION

- (a) **AGREED that the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **DECIDED that the review could not be considered without further procedure in the form of an unaccompanied site visit at a date to be arranged.**

2. **REVIEW OF 14/00951/FUL**

With reference to paragraph 2 of the Minute of 26 January 2015, there had been circulated for reconsideration copies of the request from Mr Brian Downs of 1 Prendergust Farm Cottages, Ayton, Eyemouth, to review the decision to refuse the planning application in respect of the alterations and extension to reinstate his dwellinghouse and erection of garage at 1 Prendergust Farm Cottages. Included in the supporting papers were the Decision Notice, Notice of Review and supporting papers, the officer's report of handling and papers referred to in the report, consultations, a comment from a member of the public and a list of relevant policies. Also provided were copies of the LRB Intention Notice following the meeting on 26 January 2015 and the applicant's response to the request for a development contribution. Members were advised that the case had been referred back to the Local Review Body as the applicant did not accept that the original residential use of the building had been extinguished and on that basis he considered a development contribution was not justified. In this respect, the Local Review

Body were satisfied that, in terms of Section 43B (1)(b) of the 1997 Act, there were exceptional circumstances that allowed the new evidence produced by the applicant to be considered. The Review Body considered the new evidence and came to the conclusion that the residential use of the property had not been abandoned and that the development proposal description should be amended to reflect this. As a consequence, no development contribution was necessary. As the review was being considered de novo Members went on to reconsider the suitability of the proposed alterations and extensions to the existing 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) in terms of Section 43B(1)(b) of the 1997 Act there were exceptional circumstances that allowed the consideration of the new evidence;**
- (d) the development was consistent with the Development Plan and there were no other material considerations that would justify departure from the Development Plan;**
- (e) in consideration of the new evidence no development contribution was necessary; and**
- (f) the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted, subject to conditions and an informative as detailed in the Appendix to this Minute.**

The meeting concluded at 11.15 am



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

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

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

Local Review Reference: 14/00035/RREF

Planning Application Reference: 14/00951/FUL

Development Proposal: Alterations and extension to dwellinghouse and erection of garage

Location: 1, Prendergust Farm Cottages, Eyemouth

Applicant: Mr Brian Downs

DECISION

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

DEVELOPMENT PROPOSAL

The application relates to the alteration and extension to dwellinghouse and erection of garage at 1, Prendergust Farm Cottages, Eyemouth. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Site Plan	-
Rear/North East Elevation	1:100
South East Elevation	1:100
South East Side Elevation	1:100
North West Side Elevation	1:100
Cross section of Roof	-
Ground Floor Drawing	1:100
First Floor Drawing	1:100
Garage Elevations Drawing	1:100
Garage Floors Drawing	1:100

PRELIMINARY MATTERS

The Local Review Body considered, at its initial meeting to discuss the matter on 26th January 2015, that the review had been competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

The development proposal in the review before the Local Review Body on 26th January 2015 was described as: Alterations and extension to reinstate dwellinghouse and erection of garage.

After examining the review documentation at that meeting, which included: (a) Decision Notice; (b) Notice of Review and supporting papers; (c) Report of Handling (incorporating Design Statement, Drawings and Application 09/01045/FUL); (d) Consultations; (e) Comment from member of the public and (f) List of Policies, the Review Body concluded that it had sufficient information to determine the review and that further procedure was not required in this instance and members proceeded to determine the case. In coming to this conclusion, the Review Body considered the request from the applicant for further procedure in the form of a site visit.

The Review Body reversed the decision of the appointed officer and gave notice through the issue of an Intention Notice that it intended to grant planning permission subject to conditions, an informative and the conclusion of a legal agreement relating to the payment of a financial contribution towards educational facilities in the locality.

The case was referred back to the Local Review Body at its meeting on 16th March 2015, as the applicant did not accept that the original residential use of the building had been extinguished or abandoned and that, as a result, a development contribution was not justified. The applicant provided information relating to the continued status of the building as a dwellinghouse and the Local Review Body were satisfied from the evidence produced that in terms of Section 43B(1)(b) of the said 1997 Act that there were exceptional circumstances that allowed them to consider this new evidence.

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 Review Body considered that the most relevant of the listed policies were:

- Local Plan Policies: D2, INF4, INF5, INF6, G1, G5, and H2

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

- Scottish Borders Supplementary Planning Guidance on Placemaking & Design 2010
- Scottish Borders Supplementary Planning Guidance on Developer Contributions 2011

- Scottish Borders Supplementary Planning Guidance on new Housing in the Borders Countryside 2008
- Draft Scottish Borders Local development Plan 2013

The Review Body, in considering the new evidence, was satisfied a persuasive case had been made that the residential use of the property had not been abandoned and that the development proposal description should be amended to reflect this. In the circumstances, there would be no additional pressure on educational faculties and the provisions of Policy G5 did not therefore apply. As a consequence, no development contribution was necessary.

Members consideration of the case thereafter turned on the suitability, or otherwise, of the proposed alterations and extensions to the existing dwellinghouse.

The Review Body noted from the planning history that planning permission had already been granted for the erection of a large 5 bedroomed house at the site in 2009. Members were pleased to see that the retention and renovation of the existing cottage was being promoted by the applicant. The building, whilst modest in size and un-listed, had a pleasant rural vernacular appearance, which they agreed should be preserved. Members were content that the alterations to the existing building were sympathetic to its intrinsic character.

On the question of the proposed extensions, Members agreed that they were necessary to provide a sufficient level of accommodation to create a family home. They noted that the rear extension, whilst large, would be set in from both gables of the original house and set below its ridge line. The extension would be screened in full, or in part, from the public domain and would not interfere with the principal elevation of the original cottage. Members were satisfied that the extensions were complimentary to the original building and of an appropriate scale, massing and height.

CONCLUSION

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

DIRECTION

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006

CONDITIONS

1. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the dwellinghouse have been submitted to and approved in writing by the Local Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

2. A detailed plan showing the provision of a new vehicular access onto the public road to be submitted to and approved in writing by the Planning Authority before the development commences. The works specified in the approved scheme to be completed within 3 months of the date of this decision notice.
Reason: To ensure that the access road is of an acceptable standard to cater for the new development.
3. No development shall commence until a detailed and scaled site plan (1:100) for the proposal is submitted to and approved in writing by the Planning Authority. The site plan must illustrate accurately the position of the house, the proposed extensions and garage in relation to the boundaries of the property. Thereafter no development shall take place except in strict accordance with those details.
Reason: To ensure a satisfactory form of development and the plan submitted with the application is insufficient for this purpose.

INFORMATIVE

In respect of condition 2 above, the Roads Planning Officer states that the access must be formed 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.

It should be noted that only Council approved contractors may work within the public road boundary.

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:...18th March 2015