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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, 21 November 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:- Chief Planning Officer, Managing Solicitor – Property and Licensing, Democratic Services Team Leader, Democratic Services Officer (F. Walling).

### 1. **REVIEW OF APPLICATION 16/00953/FUL**

There had been circulated copies of the request from Mr and Mrs Doyle, per A. McGill Architectural Services, Galamoor House, Netherdale, Galashiels, to review the decision to refuse the planning application in respect of the removal of existing summer house and erection of garden room at Beechwood, Lawyer's Brae, Galashiels. Included in the supporting papers were the Notice of Review; Decision Notice; officer's report; papers referred to in the report; consultations; and a list of relevant policies. Members accepted in principle the proposal to replace the existing summer house with the larger garden room and noted that the siting of the proposed building minimised any impact on the setting of the house. Taking into account the layout and elevated position of the site, their ensuing discussion focused on whether or not there would be an adverse visual impact from the removal of screening and erection of the larger building closer to the boundary wall of the property. After a lengthy debate, Members' opinion remained divided.

#### VOTE

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

*Councillor Ballantyne, 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 - 4 votes*

*Amendment - 5 votes*

*The amendment was accordingly carried.*

#### **DECISION**

##### **DECIDED that:-**

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

- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal 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 and for the reasons as detailed in the Appendix to this Minute.**

*The meeting concluded at 11.00 am*



**APPENDIX**

**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:** 16/00026/RREF

**Planning Application Reference:** 16/00953/FUL

**Development Proposal:** Removal of existing summer house and erection of garden room

**Location:** Beechwood, Lawyer's Brae, Galashiels

**Applicant:** Mr & Mrs Doyle

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**DECISION**

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

**DEVELOPMENT PROPOSAL**

The application relates to the removal of an existing summer house and erection of garden room at Beechwood, Lawyer's Brae, Galashiels. The application drawings consist of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	LOC-01
Existing layout Plan	EX-01
Site Plan	PL-01
General	PL-02
Existing Photographs	Other
Specifications	Forest Garden Woodbury Log Cabin

## **PRELIMINARY MATTERS**

The LRB considered at its meeting on 21<sup>st</sup> November 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); b) the Decision Notice); c) Officer's Report; d) papers referred to in report; e) Consultations; and f) 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 adopted Local Development Plan 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were:

- Local Development Plan policies : PMD2, HD3, EP13 and EP8

Other material considerations the LRB referred to were:

- SBC Supplementary Planning Guidance on Householder Development 2006
- SBC Supplementary Planning Guidance on Trees and Development 2008

The Local Review Body was content that as a garden room already existed in the front garden of Beechwood, a replacement building was acceptable in principle. They also accepted that, whilst the proposed building was significantly larger, it was not out of context with the scale and character of the house and its garden. The building had been positioned sensibly and discreetly to minimise any impact of the setting of the house.

Members noted that the existing garden room was well screened by existing trees, hedgerows and vegetation and by the boundary wall to Lawyer's Brae. The critical question therefore related to whether the removal of the screening vegetation and the erection of the larger garden room, closer to the boundary wall with Lawyer's Brae, would be unduly prominent and have an adverse visual impact.

After a lengthy debate, the Review Body concluded that the nature of the adjoining streets, which are characterised by changes in levels, and the nature of the eastern boundary wall to Lawyer's Brae assisted in limiting visibility of the garden room from the immediate area. There may be longer range views of the proposed building but in their assessment these were not critical. They also concluded that the limited visual impact of the building could be further minimised by agreeing an appropriate colour for the external walls of the garden room and the provision of suitable screen planting along the eastern boundary of the property with Lawyer's Brae, incorporating the hedgerow, trellis and climbing plants suggested by the applicant.

The Review Body acknowledged that there had been no neighbour objections and in their view, there would be no direct impact on the privacy of neighbouring properties. However, they did feel that, dependent on how the garden room was used, there may be some potential for noise nuisance for neighbours. The Review Body asked that their concern in this regard be brought to the attention of the applicant.

## **CONCLUSION**

After considering all relevant information, the Local Review Body considered that the development was consistent with Council policy 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 be commenced until the colour of the external walls of the garden room has been approved in writing by the Local Planning Authority. Thereafter, no development shall take place except in strict accordance with those agreed details.  
Reason: The colour of the structure requires further consideration to ensure a satisfactory form of development, which integrates appropriately to its setting.
2. No development shall be commenced until a scheme for the screening of the proposed garden room has first been submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be carried out in accordance with the approved details and within an agreed timescale.  
Reason: The landscaping scheme is required to provide screening for the proposed garden room to ensure a satisfactory form of development, which integrates appropriately to its setting.

## **INFORMATIVE**

During their deliberations on this case, the Local Review Body noted that there was potential for noise nuisance impacting on immediate neighbours from the use of the garden room. Members asked that their concern be drawn to the applicant's attention and that the applicant take this potential impact into account when using the building.

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

**Date.....**21 November 2016