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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, 19 December 2016 at 10.00 am

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 Officer (F. Walling).

1. **REVIEW OF APPLICATION 16/00844/FUL**

There had been circulated copies of the request from Mr J M and R Bayne, per Ferguson Planning, 54 Island Street, Galashiels, to review the decision to refuse the planning application in respect of the erection of 2 No. dwellings for holiday let and associated infrastructure works on land north west of 4 Rink Farm Cottages, Galashiels. Included in the supporting papers were the Decision Notice; Notice of Review; officer's report; consultations; and a list of relevant policies. In an initial discussion of the proposals Members recognised the strength of the economic case that was put forward as part of the application for high class holiday accommodation on the proposed sites. Their ensuing debate focused on whether that economic case was sufficient to outweigh any potential impact of the development on the landscape. After lengthy discussion, a majority of Members were of the opinion that they could not make a decision on the application without a site visit. There was no opposition to the proposal to defer consideration of the case to allow an unaccompanied site visit to take place.

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; and**
- (b) **the review could not be considered without further procedure in the form of an unaccompanied site visit to take place on a date to be arranged.**

2. **REVIEW OF APPLICATION 16/01114/FUL**

There had been circulated copies of the request from Cleek Poultry Ltd, The Tractor Shed, Kirkburn, Cardrona, to review the decision to refuse the planning application in respect of erection of poultry cold store/hay store in Field No 0328, Kirkburn, Cardrona. Included in the supporting papers were the Decision Notice; Notice of Review; officer's report; papers referred to in the report; consultations; and a list of relevant policies. Members' discussion focused on the potential visual impact of the proposed new building, which was an extension to a previously approved cold store building. They noted that no business case had been submitted to support economic justification for the development and, with reference to the wide range of proposals that had previously been put forward for this piece of land, commented again on the need for the applicant to produce a masterplan to set out objectives in a coherent way for the smallholding.

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 the Appendix to this Minute.

The meeting concluded at 11.05 am



APPENDIX

**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: 16/00028/RREF

Planning Application Reference: 16/01114/FUL

Development Proposal: Erection of poultry cold store/hay store

Location: Field no 0328, Kirkburn, Cardrona

Applicant: Cleek Poultry Ltd

DECISION

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

- 1 The application is contrary to Policies PMD2, ED7 and EP5 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building will be prominent in height, elevation and visibility within the landscape and will have a significant detrimental impact on the character and quality of the designated landscape.

- 2 The application is contrary to Policies PMD2 and ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building and that would justify an exceptional permission for it in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building is not of a scale that appears suited for the uses proposed on the agricultural holding on which it would be situated, which further undermines the case for justification in this location.

DEVELOPMENT PROPOSAL

The application relates to the erection of a poultry cold store/hay store at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Elevations & Heights	196 62
Site Plan	196 60
General Arrangement	196 61

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 19th December 2016.

After examining the review documentation at that meeting, which included:

a) Decision Notice; b) Notice of Review; c) Officer's Report; d) Papers referred to in Report; e) Consultations and f) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case. In coming to its conclusion the LRB considered the request from the applicant for further written submissions.

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 Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the most relevant of the listed policies were:

- Local Development Plan policies: PMD2, EP5, EP8 and ED7.

Other Material Considerations

- Scottish Planning Policy
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the applicant intended to extend a previously approved (and partially constructed) cold store building for poultry use at ground floor level and erect a store for hay and animal feedstuffs above the extended cold store on the same footprint. The building would have a charcoal grey corrugated mono pitch roof with walls rendered at ground floor level and larch lap boarded at first floor level.

The submitted plans depicted a building of 6.9m in height, when measured from the existing yard level, to the western part of the applicant's 8acre smallholding at Kirkburn, Cardrona adjoining the B7062. Whilst accepting the roadside trees and vegetation afforded a degree of screening to the existing buildings and yard, Members considered the visual impact of the new building to be unacceptable. They

concluded that it would constitute a prominent feature on an elevated site, which would detract from the intrinsic qualities of the Tweed Valley Special Landscape Area.

Members noted that no business case had been submitted to support the case and therefore there was no economic justification to set aside the strong landscape objections to the development.

Members commented that there had been a wide range of proposals within the smallholding including, for example, the chalet development, poultry buildings, a mushroom store, a rabbit shed and a biomass building. There were concerns how this proposal would relate to all these and how compatible they would be with one another without a conflict of uses on such a limited area of land. Reference was made to the need for the applicant to produce a business plan setting out clearly their objectives for the landholding.

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. Consequently, the application was refused.

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.....22 December 2016

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