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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. on Monday, 20 April, 2015 at 10.00 am

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

Apologies:- Councillors D Moffat and B White

In Attendance:- Major Applications, Review and Enforcement Manager, Solicitor (G. Nelson), Democratic Services Team Leader, Democratic Services Officer (F. Walling).

1. **REVIEW OF APPLICATION 14/01400/FUL**

There had been circulated copies of the request from Mr David McGrath to review the decision to refuse the planning application in respect of replacement windows at 27-29 Eastgate, Peebles. Included in the supporting papers were the Decision Notice, Notice of Review and supporting papers, the officer's report of handling, a consultation response and a list of relevant policies. Additional guidance on replacement windows was tabled at the meeting. Members of the Local Review Body discussed the application and noted that although an amended SPG was currently under preparation it would not come into effect until it had been considered by the Planning and Building Standards Committee and then issued for public consultation and on that basis was not material to this application. Members discussed other replacement windows in the vicinity but noted that these were not in such a prominent location. The colour of the proposed window frames was also discussed and opinion was divided regarding the Appointed Officers decision.

VOTE

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

Councillor Brown, seconded by Councillor Ballantyne, moved as an amendment that the decision should be overturned and the application approved.

On a show of hands Members voted as follows:-

Motion - 5 votes

Amendment - 2 votes

The Motion was accordingly carried.

Members requested that the applicant be made aware of the forthcoming amendments to the SPG.

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 determined without 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**
- (e) the officer's decision to refuse the application be upheld for the reasons detailed in the Appendix to this Minute.**

The meeting concluded at 10.50 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: 15/00006/RREF

Planning Application Reference: 14/01400/FUL

Development Proposal: Replacement windows

Location: 27 - 29, Eastgate, Peebles

Applicant: Mr David McGrath

DECISION

The Local Review Body upholds the decision of the appointed officer and refuses planning permission for the following reason:

- 1 The application is in contravention of Policy BE4 of the Consolidated Local Plan 2011 and the terms of the "Replacement Windows" SPG in that the proposed replacement window material is not in accordance with that required for designated Prime Frontage within Peebles Conservation Area and the replacement of the existing windows, which represent a significant proportion of the building frontage, would be to the detriment of the character of the building in particular and the Conservation Area more generally.

DEVELOPMENT PROPOSAL

The application is for the replacement of three first floor windows to the front elevation of 27-29, Eastgate, Peebles. The application drawings consisted of the following:

Plan Type	Plan Reference No.
Location Plan	1:1000
Window Specifications	-
Window Sections	-
Photographs	-

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 20th April 2015 that the Review had been competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation, which included: (a) Decision Notice, (b) Notice of Review and supporting papers, (c) Officer's Report of Handling, (d) Consultation and (e) List of Policies, the Local Review Body determined that it had sufficient information to determine the review. In coming to this conclusion, the Review Body considered the applicant's request for further procedure in the form of a site visit.

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:

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- Local Plan Policies: G1 and BE4

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

- Supplementary Planning Guidance (SPG) on Replacement Windows April 2012
- Scottish Historic Environment Policy July 2009
- Managing Change in the Historic Environment: Windows (Historic Scotland)

The proposal relates to the replacement of three first floor windows on the front elevation of Graham McGrath gentlemen's outfitters shop 27-29, Eastgate Peebles. The windows are currently traditional timber sash and case units with a two over two glazing pattern and a mid brown stained finish to match the ground floor shopfront and fascia board. The proposed replacement windows were white UPVC sliding sash units, although the applicant did indicate that they could be coloured to match the windows and fascia on the ground floor.

The property is located in the Peebles Conservation Area and within the Prime Frontage or Core Area, as defined in Replacement Windows SPG. The Review Body noted that Policies G1 and BE4 of the Local Plan allow replacement windows provided they preserve or enhance the Conservation Area and that they do not have an adverse visual impact on the building and this part of Peebles.

The Review Body noted that a review of the Replacement Windows SPG was underway, but were conscious that they must base their decision on the current policy framework including the SPG on Replacement Windows April 2012.

The Review Body were content that, in principle, the insertion of double glazed replacement windows at the property would be consistent with the listed policies and planning guidance. Members then considered, in detail, the advice set out in paragraph 1.3.1 of the SPG on Replacement Windows April 2012, which states that any proposed replacement windows should have the same glazing pattern, method of opening and design to match the original windows and be constructed in the same material.

Members accepted that the windows were of a sliding sash style that retained the step between the upper and lower sashes evident in the existing windows and had the same method of opening. Members were also satisfied that the windows could be modified to match the pattern of the original windows through the incorporation of suitable astragals and that this could be controlled by planning condition.

The Review Body debated what the most suitable colour for the windows should be. Members noted that the upper floor windows of the properties in Eastgate were generally white and were often different to the colour of the ground floor shop fronts. In the circumstances, they concluded that the insertion of white windows would be most appropriate.

The Review Body noted that the approved SPG promoted the use of timber replacement windows where the existing windows are still timber. The use of UPVC windows was in conflict with this guidance. Members considered that the prominence of the building in the Conservation Area and the dominance of the large and ornate window openings in the façade of the building meant that the change in the window material would be noticeable and harmful to the character and appearance of the building. In their opinion, it would be difficult to achieve the elegant profile and framing of the existing windows in UPVC and the visual impacts of the new windows would be unacceptable.

In coming to this conclusion, the Review Body noted that other windows had been altered to UPVC units in the immediate vicinity but that the majority of windows in the street were still traditional sash windows. Members also examined the reasoning for the Local Review Body's decision to approve UPVC windows to the dormer at Villeneuve Wines 39 Eastgate. However, they felt that the circumstances of that case, including the less prominent location of the windows, were sufficiently different and did not provide justification to set aside the concerns set out above.

CONCLUSIONS

The Local Review Body concluded that the proposed replacement windows would be contrary to Policies G1 and BE4 of the Consolidated Local Plan and the guidance set out the Replacement Windows SPG and 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:...23 April 2015