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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, 15 October 2018 at 10.00 am

Present:- Councillors T. Miers (Chairman), S. Aitchison, A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage and E. Small
Also present:- Councillor G. Turnbull.
In Attendance:- Principal Planning Officer – Major Applications/Local Review, Solicitor (E. Moir), Democratic Services Team Leader, Democratic Services Officer (F. Walling).

1. **PRE-EXAMINATION MEETING 18/00929/PPP**

There had been circulated copies of the request from Mr & Mrs Eric Forster, per Ferguson Planning, Shiel House, 54 Island Street, Galashiels for review of refusal of the planning application in respect of the erection of dwelling on land north east of Ladywood, Lower Greenhill. Members considered the manner in which this review should be considered under the terms of Regulation 14(1) of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013. They noted that the agent had put forward reasons why a site visit should be held and also that there were differences in opinion between the Appointed Officer and the agent regarding the levels and containment of the site.

DECISION

AGREED:-

- (a) **to hold an unaccompanied site visit on a date to be arranged prior to consideration of the review of application 18/00929/PPP; and**
- (b) **to defer consideration of application 18/00929/PPP to the Local Review Body meeting scheduled for 19 November 2018.**

2. **PRE-EXAMINATION MEETING 18/00832/PPP**

There had been circulated copies of the request from Mr Mike Orr, per Mr Steven Irvine, Stainiebrae, Lower Greenhill, Selkirk for review of refusal of the planning application in respect of the erection of two dwelling houses on land North East of Stainiebrae, Lower Greenhill, Selkirk. Members considered the manner in which this review should be considered under the terms of Regulation 14(1) of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013. They noted that the agent had put forward reasons why a site visit should be held and that a site visit was being held for review of an application on an adjacent site. In the interests of fairness, Members decided that a site visit should also be held for this review and that for reasons of efficiency, both site visits should be carried out on the same day.

DECISION

AGREED to hold an unaccompanied site visit on a date to be arranged prior to consideration of the review of application 18/00832/PPP which was due to take place at the LRB meeting scheduled for 19 November 2019.

3. **REVIEW OF 18/00929/PPP**

Consideration of this review was deferred to the Local Review Body meeting scheduled for 19 November 2018, as detailed in paragraph 1 above.

4. **REVIEW OF 18/00686/FUL.**

There had been circulated copies of the request from Thomas and Pamela Atkinson, Flatt Farm, Newcastleton, Roxburghshire for review of refusal of the planning application in respect of the change of use of land (optional locations) to Site 2 No glamping units for holiday let on land North West, East and South East of Flatt Farmhouse, Newcastleton. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the officer's report; consultations; and a list of relevant policies. Members' attention was drawn to new evidence submitted with the Notice of Review documentation in the form of letters of support from neighbours and local businesses. They concluded that under the terms of Section 43B of the Town and Country Planning (Scotland) Act 1997 this evidence could be referred to in the determination of the review. In a lengthy discussion Members were broadly supportive of the proposals which represented an expansion of an existing farm diversification business based on tourism. There were views expressed about there being insufficient information with the application to enable a full assessment of the impacts of the development but Members concluded that their concerns could be addressed by appropriate conditions and by limiting consent to a temporary period in the first instance.

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) **in accordance with Section 43B of the Town and Country Planning (Scotland) Act 1997 the review could be determined with reference to the new evidence submitted with the Notice of Review documentation;**
- (c) **the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) **the proposal would be in keeping with the Development Plan; and**
- (e) **the officer's decision to refuse the application be reversed and planning permission be granted subject to conditions and informatives, for the reasons detailed in Appendix I to this Minute**

5. **REVIEW OF 18/00745/FUL**

There had been circulated copies of the request from David and Claire McTaggart, per RG Licence Architect, Hillend, Cliftonhill, Kelso for review of refusal of the planning application in respect of the change of use of steading, alterations and extension to form dwellinghouse (revision to planning permission 17/00915/FUL) at Billerwell Farm, Hawick. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the officer's report; consultations; and a list of relevant policies. Members noted that there was a previous valid consent for conversion of the steading building into a dwellinghouse and agreed that the building was suitable for conversion. Their ensuing discussion focussed on the proposed revision of the design and layout which was sought by the applicant to improve the residential accommodation. In particular Members considered the impact of the proposed increased height and scale on the character of the building and the surrounding farm steading and after lengthy debate their opinions remained divided.

VOTE

Councillor Hamilton, seconded by Councillor Mountford, moved that the decision to refuse the application be reversed and the application approved.

Councillor Aitchison, seconded by Councillor Laing, moved as an amendment that the decision to refuse the application be upheld.

On a show of hands Members voted as follows:-

Motion - 5 votes

Amendment - 4 votes

The motion was accordingly carried and the application approved.

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 would be in keeping with the Development Plan; and**
- (d) the officer's decision to refuse the application be reversed and planning permission be granted subject to conditions and informatives, for the reasons detailed in Appendix II to this Minute.**

6. REVIEW OF 18/01039/FUL

There had been circulated copies of the request from Mrs Laura Paterson, 41 North Hermitage Street, Newcastleton for review of refusal of the planning application in respect of replacement windows (revision to planning permission 18/00211/FUL). The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the officer's report; and a list of relevant policies. Members noted that the application for uPVC top-hung replacement windows was a revision to previous planning consent for uPVC sash and case replacements. Whilst accepting that the property was outwith the Core Frontage part of the Newcastleton Conservation Area and that there were a mixture of window styles and materials in neighbouring properties, Members were keen to maintain the traditional profile of the windows on this frontage.

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

The meeting concluded at 11.50 am

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APPENDIX I

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: 18/00023/RREF

Planning Application Reference: 18/00686/FUL

Development Proposal: Change of use of land (optional locations) to site 2 No glamping units for holiday let

Location: Land North West, East and South East of Flatt Farmhouse

Applicant: Thomas & Pamela Atkinson

DECISION

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

DEVELOPMENT PROPOSAL

The application relates to change of use of land (optional locations) to site 2 No glamping units for holiday let. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	1:12500
Location Plan	1:1500
Location Plan	Shelter Belt
Other	Log Cabin details
Floor Plans	Hobbit House
Elevations	Hobbit House
Other	Hobbit House projections x 3

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 15th October 2018.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in officer's report; e) Consultations; and f) List of Policies, the Review Body considered whether new information included by the applicant within the review documents met the test under Section 43B of the Act. This related to support letters received from neighbours and local businesses. The Review Body considered that the test set by Section 43B had been satisfied and, therefore, had regard to the information in determining the case.

They noted the applicant's suggestion for a site visit but did not consider this necessary after viewing photographs and plans of the site and surroundings.

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 relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, ED7, ED8, HD3, EP1, EP13, IS4, IS7, IS9, IS12 and IS13

Other Material Considerations

- Scottish Planning Policy 2014
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015

The Review Body noted that the proposal was for change of use of land in four locations to site 2 No glamping units for holiday let. It was understood that across all four locations, there would be a maximum of only two units sited.

The Review Body firstly considered the proposals against Policies PMD2 and ED7 of the Local Development Plan. They noted the criteria that needed to be complied with under Policy ED7 in particular. With regard to the sequential assessment of existing opportunities, they considered that the nature of glamping units and the market in terms of the type of holiday offered, could not be properly met by the conversion of existing buildings within the steading range. Consequently, Members did not consider that the need for sequential consideration of existing buildings and brownfield sites was material in this instance.

However, it was noted that one of the sites did occupy a brownfield location within the steading group.

The Review Body expressed general support for the tourism nature of the proposals in a remote rural part of the Scottish Borders. Members noted that a bed and breakfast business was in existence at Flatt Farm and that a previous building had also been approved and implemented for the business. They considered that additional accommodation would both bring tourists to the area and represent an appropriate expansion to the existing farm diversification business. They noted that whilst a Business Plan had been submitted, Policy ED7 did not actually require a Business Plan to justify the proposals for an existing business. Nevertheless, Members noted the Business Plan and placed some weight on the support received from Economic Development to the proposals. They also noted the general support from the community and local businesses expressed in the additional letters submitted with the Notice of Review.

The Review Body then considered Policy ED8 and expressed some concerns over the general lack of detail and information to enable the full and proper assessment of the mobility element of the proposed units. They noted that this was what was intended by the applicants but also agreed with the Appointed Officer that many details still required to be provided to enable full consideration of the impacts of the development. These included matters relating to genuine holiday rather than permanent residential occupancy, road access, parking, construction and mobility of the units, surface and curtilage treatment of the sites, tree retention and water and drainage provision. The Review Body were satisfied that these additional details could be addressed by appropriate conditions.

Whilst supportive in principle of the proposals, the Review Body remained concerned about the potential impacts of the development and considered that a temporary consent of three years would enable the development to become established and allow for proper assessment of the impacts on the environment and local economy over the temporary period. An appropriate condition was, therefore, imposed by the Review Body starting from the letting of the first unit, requiring the removal of the units and restoration of the sites at the end of the temporary period unless an application is made and consent granted for a further period.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, ED7 and ED8 of the Local Development Plan. The development was considered to be an enhancement of the existing tourism business and impacts on the area could be controlled and assessed by conditions requiring further details and granting consent for a temporary period. Consequently, the application was approved.

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.

CONDITIONS

1. The glamping units and ground works hereby permitted shall be removed and the sites restored to their former condition within 3 years of commencement of letting of the first unit, unless an application is submitted to, and approved by, the Planning

Authority for retention of the units and works for a further period. The Planning Authority shall be informed in writing of the date of letting of the first unit within one month of the letting.

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

2. The occupation of glamping units shall be restricted to genuine holidaymakers, the definition of which shall be any person staying for a maximum of 4 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.

Reason: Permanent residential use in this location would conflict with the established planning policy for this rural area.

3. This consent is for a maximum of two glamping units in total to be sited at any one time across all four sites.

Reason: To enable the Planning Authority to control the development and minimise impact on the rural environment.

4. No development shall be commenced until further details of the glamping units are submitted to, and approved in writing by, the Planning Authority including their design, external materials, lighting, methods of construction, placement on site and mobility. Once approved, the units shall be installed in accordance with the approved details.

Reason: To enable the Planning Authority to control the development and minimise impact on the rural environment.

5. No development shall be commenced until further details of site preparation and ground works for all four sites have been submitted to, and approved in writing by, the Planning Authority. This shall include vehicular and pedestrian access to each site, parking, impacts on existing trees and walls, new curtilage screening and surfacing. Once approved, the sites shall be prepared in accordance with the approved details.

Reason: To enable the Planning Authority to control the development and minimise impact on the rural environment.

6. No development shall commence until a report has been submitted to and approved in writing by the Planning Authority, demonstrating the provision of an adequate water supply to the development in terms of quality and quantity. The report must also detail all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties in the locality which are served by private water supplies and which may be affected by the development. The provisions of the approved report shall be implemented prior to the occupation of the building(s) hereby approved.

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

7. No development shall commence until the applicant has submitted full drainage details for the development and those details have been approved in writing by the Planning Authority. The details shall include evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition. Once approved, the development shall be implemented in accordance with the approved details.

Reason: To ensure that the development does not have a detrimental effect on amenity and public health.

INFORMATIVES

1. The Environmental Health Officer wishes to ensure you are aware of potential land contamination that may have occurred prior to the referenced site ownership. Should unexpected ground conditions e.g. made ground extending to depth, discolouration or malodorous substances be encountered in excavations or evidence of potential contamination e.g. underground structures, remains of buried wastes or equipment be encountered during site works it is requested that Environmental Health are immediately consulted.
2. In relation to Condition 4, lighting not attached to the units themselves may require the submission of a separate planning application. You are advised to contact the Planning Officer for the area to discuss the requirements further.
3. To fulfil Condition 6, Environmental Health requires the following information to be provided -
 - i. A description of the source(s) / type of the supply – i.e. whether the supply is taken from a watercourse, loch, spring, well or borehole, or any other source or combination of sources.
 - ii. The location of the source(s) of the supply – i.e. the appropriate eight figure Ordnance Survey National Grid Reference(s).
 - iii. The name and address of every relevant person in relation to the supply.
 - iv. NB. A “relevant person”, in relation to a private water supply, means a person (or persons) who: (a) provide the supply; (b) occupy the land from, or on which, the supply is obtained or located; or (c) exercise powers of management or control in relation to the supply.
 - v. The estimated maximum average volume of water provided by the proposed supply, in cubic metres per day (m³/day), and the details of any pump tests/flow rate tests undertaken to determine this estimate.
 - vi. NB. For boreholes/wells refer to BS ISO 14686:2003 “Hydrometric determinations – Pumping tests for water wells – Considerations and guidelines for design, performance and use”.
 - vii. Any water treatment that is intended to be carried out in relation to the proposed supply for the development.
 - viii. Where there are existing users of the proposed supply, the addresses of all such properties.
 - ix. Where there are existing users of the proposed supply, the existing and proposed occupancy levels of all such properties, as far as is reasonably practicable.
 - x. NB. As a minimum, the provision of the number of bedrooms per property will allow an estimate to be made of occupancy levels.
 - xi. Where there are existing users of the proposed supply and / or there are other properties’ private water supplies in the vicinity of the development that may be affected thereby (e.g. neighbouring boreholes, wells, springs, etc.), information advising if and how the proposed development will impact on the existing users and / or the other properties’ supplies.
 - xii. If the development is to be used for commercial purposes and / or members of the public will use / consume the water, the private water supply will be classed as a Type A supply. This will mean that it will require to be sampled / monitored by the local authority on at least an annual basis and a risk assessment of the supply will also be required. As such, prior to commencement of the commercial / public activity, the applicant should contact the Environmental Health

Department of Scottish Borders Council to ensure that compliance with the legislative provisions is able to be secured.

For clarification, the minimum daily volume of water that requires to be supplied by a private water supply must be equivalent to 200 litres of water per person per day who will be using the supply. A reserve storage capacity of three days' supply should be provided. Also, the quality of the water throughout the building(s) must conform to the requirements of The Private Water Supplies (Scotland) Regulations in order for it to be classed as wholesome.

Commercial Use

As the Development may result in the general public consuming the water from the private water supply, the supply will be regulated under The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017. This will mean that the supply will be subjected to annual water testing and a risk assessment of the supply. The applicant should contact an Environmental Health Officer before becoming operational to discuss testing of the water.

4. In relation to Condition 7, Environmental Health advises:

Private drainage systems often impact on amenity and cause other problems when no clear responsibility or access rights exist for maintaining the system in a working condition.

Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law.

To discharge the Condition relating to the private drainage arrangements, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

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 T. Miers
Chairman of the Local Review Body

Date.....30 October 2018

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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: 18/00026/RREF

Planning Application Reference: 18/00745/FUL

Development Proposal: Change of use of steading, alterations and extension to form dwellinghouse (revision to planning permission 17/00915/FUL)

Location: Steading buildings, Billerwell Farm, Hawick

Applicant: Mr & Mrs David & Claire McTaggart

DECISION

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

DEVELOPMENT PROPOSAL

The application relates to change of use of steading, alterations and extension to form dwellinghouse (revision to planning permission 17/00915/FUL). The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Site Plan	DCMP01
Existing Layout	DCMP02
Sections	DCMP03
Existing Elevations	DCMP04
Existing Elevations	DCMP05
Floor Plans	DCMP07
Roof Plan	DCMP09
Elevations	DCMP10
Elevations	DCMP11
Elevations	DCMP12

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 15th October 2018.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultations; and f) List of Policies, the Review Body proceeded to determine the case. They also noted the applicant's request for further procedure in the form of a site visit and hearing but did not consider these necessary after considering the case and viewing photographs and plans of the site and surroundings.

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 relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, HD2, HD3, EP1, EP2, EP3, EP5, EP8, EP16, IS7, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Biodiversity 2005

The Review Body noted that the proposal was for planning permission to change the use of a steading, alterations and extension to form dwellinghouse (revision to planning permission 17/00915/FUL). They accepted that the principle of conversion of the building had already been established in the earlier consent and that it remained valid and could still be implemented. Members agreed with the Appointed Officer that, under Section C of Policy HD2, the building was of character and architectural merit, was not appropriate for continued agricultural use and was suitable for conversion to a dwellinghouse.

The Review Body then considered the details of the proposed scheme and, in particular, the issue of raised height, increased scale and impacts on the character of the building and surrounding steading group. They noted that the existing group had higher buildings, including the farmhouse and those adjoining and that the increase in height would both still retain the existing stepped roof structure and remain within context, given the surrounding building heights. Members also noted that the raised walls would be carried out in matching

stone and that the public elevation facing south-west retained horizontal emphasis and still read as a farm steading building.

The Review Body noted the applicants' justification for the revised scheme and accepted that there needed to be some flexibility in design and layout to achieve residential accommodation that would be practical to live in. The resultant domesticated nature of the windows and the increased width of footprint were largely confined to the internal courtyard that Members considered was more concealed from public view and, consequently, less sensitive. Subject to appropriate conditions on materials, they were content that the revised design would retain the character of the building and still comply with Local Development Plan Policies and Supplementary Planning Guidance.

The Review Body noted that developer contributions had already been paid by the applicants through legal agreement attached to the previous consent. They considered that other matters, such as those relating to ecology, archaeology, roads, water and drainage could be addressed by appropriate conditions, including those attached to the previous consent.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2 and HD2 of the Development Plan and Supplementary Planning Guidance. The building was suitable for conversion to a dwellinghouse and the details of the conversion would retain the character of the building and steading range, providing the applicants with a more workable alternative scheme. Consequently, the application was approved.

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.

CONDITIONS

1. No development shall take place until the applicant has secured and implemented an approved programme of archaeological work in accordance with a Written Scheme of Investigation outlining a Historic Building Survey. This will be formulated by a developer contracted archaeologist(s) and approved in writing by the Planning Authority. Development and archaeological investigation shall only proceed in accordance with the WSI.

The requirements of this are:

- The WSI shall be approved in writing by the Planning Authority.
- Historic Building Survey will be in accordance with the ALGAO: Scotland guidance as requested by the Planning Authority.
- In accordance with the WSI, access shall be afforded to the nominated surveyor to allow archaeological investigation, at all reasonable times.
- Initial results shall be submitted to the Planning Authority for approval in the form of a Historic Building Survey Report (HBSR) within one month following completion of all on-site archaeological works.

- The results of the DSR will be used by the Council's Archaeologist to make recommendations to the Planning Authority for further archaeological investigations, reporting and dissemination of results as required. The developer will be expected to fund and implement all further archaeological work.

Reason: To preserve by record a building of historical interest.

2. This permission shall only permit the conversion and adaptation of the existing structure as a single dwelling unit. It shall not purport to grant permission for the erection of any new dwellings nor for any extensive rebuilding which would be tantamount to the erection of a new building.

Reason: Permission has been granted for the conversion of the existing building to a dwellinghouse in a location where new dwellings would not be appropriate.

3. No development shall commence until details of all materials to be used on all exterior surfaces of the development hereby approved, including natural stone, have been submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be completed in accordance with the approved details.

Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

4. No development shall commence until the colour/finish of all external joinery, including the doors and window frames, has been submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be completed in accordance with the approved details.

Reason: To safeguard the character and appearance of the building and the visual amenities of the area.

5. The roofing material to be natural slate. No development shall commence until a sample of the slate has been submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be completed only by using the approved slate.

Reason: To safeguard the character and appearance of the building and the visual amenities of the area.

6. The windows to be timber with 22mm slim profiled astragals permanently adhered to the surface of the glass and fixed at the frame edge, and with a spacer bar the same colour as the window and fractionally smaller than the astragal thickness, unless otherwise agreed in writing by the Planning Authority.

Reason: To safeguard the character and appearance of the building and the visual amenities of the area.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent Order amending, revoking or re-enacting that Order):

- (i) There shall be no addition or extension to the dwellings (including the insertion of dormer windows or chimneys);
- (ii) There shall be no further building, structure or other enclosure constructed or placed on the site;
- (iii) No additional window or other opening shall be made in any elevation;

unless an application for planning permission in that behalf has first been submitted to and approved by the Planning Authority.

Reason: To safeguard the character, appearance and setting of the building to be converted.

8. No development shall commence until a drawing showing the position and specification (DC-1 or DC-1a attached) of two passing places within the local road network has been submitted to and approved in writing by the Planning Authority. Thereafter, the passing places shall be provided in the approved positions and to the approved specification before the dwellinghouse is occupied.

Reason: To ensure that the traffic created by this development can be safely accommodated on the local road network.

9. The car parking shown on Drawing Number DCMP14 to be provided within the site before the dwellinghouse is occupied and retained in perpetuity.

Reason: To ensure on-site parking is provided and available for use by occupants of the dwellinghouse in the interests of road safety.

10. Prior to the commencement of development, the applicant/developer shall provide the Planning Authority with:

- a) a copy of the relevant European Protected Species licence, or,
- b) a copy of a statement in writing from Scottish Natural Heritage (licensing authority) stating that such a licence is not necessary for the specified development.

Reason: To protect protected species within the site.

11. Prior to commencement of development, a survey for bats by a suitably qualified person will be required for the structure to be altered. No development shall commence until the Planning Authority have approved the survey in writing. If evidence of bats or their roosts is found in the surveys, the developer will be required to submit, as part of their submission to the Planning Authority, a mitigation plan for bats. Thereafter, the development shall only proceed in accordance with the survey and any mitigation identified.

Reason: To protect protected species within the site.

12. Prior to commencement of development, a survey of breeding birds is required for the structure to be altered. Where it is established that there is a breeding bird interest, no development shall be carried out during the breeding bird season (March-August) unless the development is implemented wholly in accordance with a Species Protection Plan for breeding birds, which shall be submitted to and approved by the Planning Authority. The SPP shall include provision for a pre-development supplementary survey and a mitigation plan.

Reason: To protect breeding birds within the site.

13. No development shall commence until details of the foul and surface water drainage have been submitted to and approved in writing by the Planning Authority. This to include evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition. Thereafter, the drainage shall be installed in accordance with the approved details before the dwellinghouse is occupied and maintained thereafter.

Reason: To ensure that the development does not have a detrimental effect on amenity and public health.

14. No development shall commence until a report has been submitted to and approved in writing by the Planning Authority that the public mains water supply is available and can be provided for the development. Prior to the occupation of the dwellinghouse, written confirmation shall be submitted by the applicant/developer to and approved in writing by the Planning Authority that the development has been connected to the public mains water supply. No water supply other than the public mains shall be used to supply the dwellinghouse without the prior written agreement of the Planning Authority.

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

INFORMATIVES

- 1 In respect of condition 1, the level of recording should adhere to the BASIC standard as set out in ALGAO: Scotland guidance which can be found at <https://www.algao.org.uk/scotland>.
- 2 To discharge condition 13, relating to the private drainage arrangements, the applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified. The applicant should also discuss the private drainage arrangements with The Scottish Environmental Protection Agency (SEPA).
- 3 In respect of condition 8, it should be noted that all work within the public road boundary must be undertaken by a contractor first approved by the Council.
- 4 In respect of condition 11, surveys likely to involve disturbance to bats or their roosts can only be carried out by a licensed bat worker. Activity surveys for maternity roosts and occasional roosts in buildings and trees should be conducted between May and September (optimally May – August, depending on the site's suitability for roosting bats). Preliminary roost assessments can be undertaken at any time of year and are sufficient only if it is shown there is negligible suitability for bats.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will

start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

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 T. Miers
Chairman of the Local Review Body

Date.....22 October 2018



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: 18/00028/RREF

Planning Application Reference: 18/01039/FUL

Development Proposal: Replacement windows (revision to planning permission
18/00211/FUL)

Location: 41 North Hermitage Street, Newcastleton

Applicant: Mrs Laura Paterson

DECISION

The Local Review Body upholds the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

1. The design of the replacement windows fails to comply with Policies PMD2 and EP9 of the Scottish Borders Council Local Development Plan 2016, and with the advice contained within the Replacement Windows and Doors SPG (2015), in that their appearance would result in an adverse visual impact on the character of the building and would be detrimental to the character and appearance of the Newcastleton Conservation Area.

DEVELOPMENT PROPOSAL

The application relates to replacement windows to the front elevation of the property as a revision to planning permission 18/00211/FUL. The application drawings and documentation consisted of the following:

Plan Type

Location Plan
Photos
Specifications

Plan Reference No.

World Group

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 15th October 2018.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in officer's report; and e) List of Policies, the Review Body 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 Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, HD3 and EP9

Other Material Considerations

- SBC Supplementary Planning Guidance on "Replacement Windows and Doors" 2015

The Review Body noted that the proposal was for replacement windows to the frontage of a dwellinghouse at 41 North Hermitage Street, Newcastleton, as a revision to an earlier planning permission 18/00211/FUL which allowed for uPVC sash and case replacements.

The Review Body firstly noted that the property was in Newcastleton Conservation Area and currently had timber sash and case windows to the frontage. They noted that the windows were modern replacement units and there was also a mixture of window styles and materials in the vicinity. Members were also aware that the property lay outwith the Core Frontage part of the Conservation Area where sash operating windows were required by Supplementary Planning Guidance

Nevertheless, the Review Body agreed with the Appointed Officer that in this location and on this property frontage, the Policy and Guidance aimed to preserve and enhance the qualities of Newcastleton Conservation Area by maintaining either sash operating windows or, at least, windows which, when closed, would have the distinct step in profile at the mid-rail. In a revision in 2015, the Guidance had been relaxed to allow for the use of uPVC within different parts of Conservation Areas, providing sash or stepped profile designs were maintained. The proposed windows would remove the last remaining traditional characteristic of the windows on this frontage and be flat in profile. Given the requirements of Policy, Guidance and the previous approval which gave the applicant an option of uPVC replacement windows in an appropriate sash format, Members did not consider there was justification to further relax window design in this instance.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and Supplementary Planning Guidance 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 T. Miers
Chairman of the Local Review Body

Date.....22 October 2018

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