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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, 27 May 2019 at 10.00 am

Present:- Councillors S. Hamilton (Chairman), A. Anderson (18/00728/PPP), J. A. Fullarton, H. Laing, S. Mountford (17/01368/FUL & 18/00961/FUL), C. Ramage and E. Small

Apologies:- Councillors T. Miers and S. Aitchison

Also present:- Councillor G. Turnbull

In Attendance:- Principal Planning Officer – Major Applications/Local Review, Principal Officer – Plans & Research (for review 18/00728/PPP), Solicitor (E. Moir), Democratic Services Team Leader, Democratic Services Officer (F. Walling).

CHAIRMAN

In the absence of Councillor Miers the meeting was chaired by Councillor S. Hamilton.

MEMBER

Having not been present when the following review was first considered Councillor Anderson did not take part in the determination and left the Chamber prior to its consideration.

1. CONTINUATION OF REVIEW OF 17/01368/FUL

1.1 With reference to paragraph 1 of the Minute of 15 April, 2019, the Local Review Body continued their consideration of the request from Mr Mark Deans, 64 Weensland Road, Hawick, to review refusal of the planning application for variation of Condition 4 of planning permission 17/01368/FUL to reinstate 2 windows in lieu of air conditioning units at Deans Bar, 3 Orrock Place, Hawick. Clarification had been requested by Members, in the form of a hearing session regarding:-

- the case for the reinstated windows providing a means of ventilation as a suitable alternative to the ventilation system required under Condition 4 of planning consent 16/00753/FUL; and
- the noise impacts of reinstating windows into the function room on the residential amenity of neighbouring residential properties.

Following the hearing session Members of the Local Review Body would consider all aspects of the review with no further input from the hearing attendees.

HEARING SESSION

1.2 The appellant Mr Mark Deans and his wife Mrs Pauline Deans were in attendance at the Hearing to present their case. Speaking on behalf of Scottish Borders Council's Environmental Health Service was Ms Lynn Crothers, Principal Regulatory Services Officer. The third party, who had objected to the application, did not respond to an invitation to take part in the Hearing and was not in attendance. A Hearing statement on behalf of the appellant had been circulated, which included a re-issued report from CSP Acoustics and photographs of the inside of the old smashed windows and of the newly installed windows. A statement by Ms Crothers had also been circulated.

1.3 Mrs Deans explained that the premises had been purchased in 2016 as a family business. It was only when an application was made for an operating licence that they had been

informed that a change of use application to a public house was required. This was despite the premises having been used originally as a pub and more recently as a club. In terms of Condition 4 of planning permission 16/00763/FUL, which related to the function room, the use of this room had not changed so there was a question as to why a new ventilation system was now required. It was thought unreasonable to ask a small business to spend in excess of £8,000 on air conditioning units when these had not been required previously. There was already ventilation by way of extractor fans that were fitted in the walls. There was also concern that their neighbour who complained about noise breakout from the premises would also complain about the noise of air conditioning units if fitted. The applicants had been unable to source satisfactory units that complied with the noise criteria. Fitting the triple glazed windows and the existing extractor fans to provide ventilation was really the only hope of getting the room opened.

- 1.4 Mrs Deans went on to explain that it was extremely difficult to run a business in the town in the current economic climate, particularly now it was operating at half capacity without the use of the function room. With regard to noise emission, thousands had already been spent on noise assessments and solicitor's fees following objections from a neighbour. Although the consultants CSP Acoustics were not in attendance their noise report had been re produced with the recommendations that either:-
- the sound insulation performance of the window glazing specification was improved; or
 - that the internal music levels within the function suite were reduced to make current glazing performance more effective in the control of music breakout noise.

Mr and Mrs Deans would therefore like to suggest the installation of acoustic boards made to fit the inside of the windows that could be removed when the room was not in use. A traffic light system could also be used to monitor the level of music.

- 1.5 Ms Crothers referred Members to the detailed statement she had provided which outlined the reasons why Environmental Health had objected to the application to vary Condition 4 of the previous application 16/00753/FUL, whereby windows in the function room of Deans Bar would be reinstated in lieu of installing a ventilation system. The statement was divided into four parts: provision of context and clarity of the role of Environmental Health in the planning process; information on the input and recommendations made by Environmental Health during the consultation on the planning applications; an explanation of the issues raised with noise assessment which was submitted by the applicant; and an explanation of the noise criteria used to assess noise impacts.
- 1.6 With specific regard to the two matters on which the Hearing was based, Ms Crothers advised that it was not known, in a practical sense, if the windows could be used as a suitable means of ventilation as this would depend on the number of air changes required per hour. Building Standards colleagues may be able to provide more specialist advice on this. Environmental Health's response to this statement would be no. This was because for the windows to be a suitable means of ventilation they would have to remain open. This would then render the content of the noise assessment as obsolete because the noise attenuation of the triple glazed windows would be in the region of 10dB thereby offering little protection to nearby residential dwellings.
- 1.7 Although the noise assessment submitted by Mr Deans appeared to demonstrate that the windows offered adequate protection of the surrounding amenity, detailed analysis of this assessment by Environmental Health and an independent consultant had highlighted a number of shortcomings with the assessment. In addition to the theoretical assessment, visits to the upstairs residential dwelling had demonstrated that the residential amenity was adversely impacted by the noise emissions from the premises.
- 1.8 On being given the opportunity to ask questions, Members asked Ms Crothers for clarification about various technical points in her statement. They also asked for her view

as to whether there would be unacceptable breakout of noise from the existing extractor fans and whether acoustic boards at the windows would keep noise breakout to an acceptable level. In response Ms Crothers advised that in her opinion there would be unacceptable noise from the existing fans. She could not comment on the effectiveness of acoustic boards in reducing noise breakout without having their specifications. She agreed that noise levels could be reduced by the use of, for example, the direction of speakers. When asked if there was some sort of compromise possible for a ventilation system Ms Crothers said that more information would be required about what was proposed. She accepted that the applicant could spend a significant amount of money on a new ventilation system which may still not be acceptable in respect of noise breakout but that the applicant would need to engage with Environmental Health at an early stage in the planning process. In response to questions to the appellants, Mrs Deans referred to efforts they were making to minimise noise emissions and mediate with the neighbour who was complaining.

- 1.9 After the parties involved had given closing summaries of their submissions, the Chairman closed the Hearing session and the Local Review Body reconvened to continue consideration of the review. Members agreed that the Hearing had been useful in providing further information. They expressed sympathy with the appellants' position in trying to grow a business in difficult circumstances and noted that the premises were located in a commercial, not a residential area. Despite the technical detail supplied, Members remained unclear about how effective the suggested acoustic boards and volume limiting equipment would be in reducing noise breakout from the function room. Members made a request to the Legal and Planning Advisors for advice about whether temporary planning permission would be possible to facilitate a trial period with the acoustic boards in place. Following a brief adjournment the officers advised that this would not be the best way forward and that Members should consider continuation and a request for further information. After more discussion Members concluded that they could not make a determination without further procedure and clarification on these matters.

DECISION

AGREED that:-

- (a) the review could not be determined without further procedure in the form of written submissions from the applicant;**
- (b) the applicant provide written submissions on the following:-**
 - Details of the acoustic boards including dimensions, technical specifications, sound insulation properties and fitting aspects (duration; methods of fixing and removal); and**
 - Details of volume limiting equipment which could be used to reduce noise breakout from the function suite.**
- (c) the Council's Planning Officer and Building Standards Officer provide written submissions on the following:**
 - With the proposed acoustic boards in place at the windows, did the extractor fans currently installed provide adequate ventilation in terms of Condition 4 of planning permission 16/00753/FUL and the requirements of building standards/environmental health as appropriate.**
- (d) the review be continued on a date to be arranged.**

MEMBER

Having not been present when the following review was first considered Councillor Mountford did not take part in the determination and left the Chamber prior to its consideration.

2. **CONTINUATION OF REVIEW OF 18/00728/PPP**

With reference to paragraph 2 of the Minute of 18 March 2019 there had been re-circulated copies of the request from Mr Raymond Keddie, Hillhouse, 2 Damside, Innerleithen, to review refusal of the planning application for erection of a dwellinghouse on land east of Rose Cottage, Maxwell Street, Innerleithen. In response to the request from Members for further information, written submissions had also been circulated from the applicant, planning officer, access officer and interested parties about the current usage and function of the greenspace. In focussing on whether the proposal was an appropriate infill site for development, Members considered the additional information provided and discussed at length issues relating to the green space, the significance of the right of way to the northern side of the site and all the third party comments and objections including concerns about the disposal of surface water.

DECISION

AGREED that:-

- (a) **the review could be considered without the need for any further procedure on the basis of the papers submitted and the further information provided;**
- (b) **the proposal would be in keeping with the Development Plan; and**
- (c) **the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions, for the reasons detailed in Appendix I to this Minute**

MEMBER

Having not been present when the following review was first considered Councillor Anderson did not take part in the determination and left the Chamber prior to its consideration.

3. **CONTINUATION OF REVIEW OF 18/00961/FUL**

With reference to paragraph 2 of the Minute of 15 April, 2019 and following a site visit, there had been re-circulated copies of the request from Mrs Suzanne Currie, per Smith and Garratt Rural Asset Management, The Guildhall, Ladykirk, to review the refusal of the planning application for erection of a dwellinghouse with detached garage on Plot 3, land north east of the Old Church, Lamberton. Members agreed that the site visit had been useful in allowing them to assess how the proposed development would relate to other dwellings within the group, also taking into account the view of the site from the A1; and whether there would be a significant impact of the development on the setting of the Scheduled Monument of Old Lamberton Church, Members continued their discussion of the design, mass and orientation of the proposed dwellinghouse, taking into account observations made during the site visit and their deliberations when this review was first considered.

DECISION

AGREED

- (a) **the review could be considered without the need for any further procedure on the basis of the site visit and the papers submitted;**
- (b) **the proposal would be in keeping with the Development Plan; and**

- (c) **the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions, for the reasons detailed in Appendix II to this Minute**

The meeting concluded at 12.35 pm

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APPENDIX I

**SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY INTENTIONS 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: 19/00001/RREF

Planning Application Reference: 18/00728/PPP

Development Proposal: Erection of dwellinghouse

Location: Land East of Rose Cottage, Maxwell Street, Innerleithen

Applicant: Mr Raymond Keddie

DECISION

The Local Review Body reverses the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this decision notice subject to conditions and informatives and the applicants entering into a Section 75 Agreement as set out below.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
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Location Plan	
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Site Plan	
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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 27th May 2019. The review had previously been considered at the meeting of the LRB on 18th March 2019 where it was agreed to defer determining the appeal until further information had been sought from interested parties.

After examining the review documentation which included: a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in officer's report; e) Consultations; f) Objections; g) Further representation; and h) List of Policies, and having considered the responses received to the information requested, the Review Body proceeded to determine 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, PMD5, EP9, EP11, EP16, HD3, IS2, IS5, IS7, IS8, 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 Development Contributions 2011

The Review Body noted that the proposal was for Planning Permission in Principle (PPP) to erect a dwellinghouse on the site. At their meeting in March 2019 the LRB requested further information in terms of what was considered to be the environmental, social or economic values of the greenspace; what was the function of the greenspace; and to give confirmation as to why and when the right of way which previously ran through the site was re-routed.

As the proposal was a PPP members acknowledged that there was no requirement to submit details of, for example, the house type, its design and proposed finishing materials. These matters are considered at the Approval of Reserved Matters stage. Members considered the site was of a sufficient size to accommodate a house and matters such as any impacts on nearby properties would be considered at the Reserved Matters stage. It was not considered any impacts on neighbouring amenity would raise any insurmountable issues.

The Review Body viewed the current appearance of the land, its relationship to other buildings in the area, the character of the conservation area in the vicinity and noted the site was physically fenced off preventing third party access and use. From the additional information provided Members considered that there was no evidence that the site was of significant environmental, social or economic benefit and that development of a well-designed house on the site would not have an adverse impact on this part of the conservation area.

In terms of the claimed Right of Way which previously ran through the application site but had now been rerouted to the northern side of the site, Members noted the third party comments received. Members noted the comments of the SBC Access Officer who stated the Council has no records of any claimed Right of Way on the land in question, although it was acknowledged that the community have intimated that the route was a Right of Way. Members agreed even if there were no formal records of such a route this does not prevent a

case being made for it to be formally recognised and delegated. Members considered that if they were minded to support the proposal a condition should be attached to ensure the new route's retention and for it to be kept free of any obstruction.

In terms of the disposal of surface water from the site, third party objections have stated it could not be put into a soakaway nor put into a combined public sewer. Clearly this matter would need to be resolved before any house on the site could be built. This would be done in consultation and agreement with Scottish Water / SEPA / Building Control. Such specific details would require to be resolved at the Approval of Reserved Matters planning application / Building Warrant stage and could not be implemented without the formal agreement of the necessary parties. Members agreed this matter could be addressed at that stage of the process should this appeal be granted.

In terms of potential contamination on the site, it was noted that in the Report of Handling the Planning Officer stated that following discussions with the Council's Planning Enforcement section it was confirmed the site was cleared up with the removal of weeds and builder's rubble following the serving of an Enforcement Notice. These materials were stored on top of the land as opposed to being under it.

Members noted there was a discrepancy between the refused site plan and the location plan. The site plan included an area of land to the west which is a private vehicular access road. If consent was to be granted then a condition should be attached to ensure the access route was safeguarded and kept free from any obstructions.

Members noted that although the planning officer's Handling Report stated that there would be a requirement for a financial contribution towards affordable housing, as the proposal was for a single house any such contribution would not be required, but that a legal agreement would be required to secure a contribution towards education.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Local Development Plan policies, most notably policies PMD5, EP9 and EP11 and relevant Supplementary Planning Guidance. The proposal was considered to be an appropriate infill site within the Innerleithen Conservation Area. Consequently, the application was approved.

DIRECTIONS

1. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
 - a. the expiration of three years from the date of this permission, or
 - b. the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

CONDITIONS

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. No development shall commence until the details of the access and the parking and turning facilities within the site have been submitted to and approved in writing by the Planning Authority. The details to include 2 no. parking spaces, not including any garage, and turning area to be provided within the curtilage of the site

Reason: To ensure the site is adequately serviced.

4. No development to commence until further details of the provision of foul and surface water drainage are submitted to, and approved by, the Planning Authority. Thereafter, development shall proceed in strict accordance with the approved details.

Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.

5. The private vehicular access route to the west of the site to be safeguarded and kept free from any obstructions

Reason : To ensure the unrestricted retention of the private access route

6. The claimed Right of Way on the northern part of the site to be safeguarded and kept free from any obstructions

Reason : To ensure the unrestricted retention of use of the claimed Right of Way

INFORMATIVES

With regard to Condition 4, all work within the public road boundary must be undertaken by a contractor first approved by the Council. Any proposed gate to the access must open into the driveway away from the public road.

LEGAL AGREEMENT

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of a financial contributions towards St Ronan's Primary School and Peebles High School.

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 S. Hamilton
Chairman of the Local Review Body

Date.....11 June 2019

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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: 19/00006/RREF

Planning Application Reference: 18/00961/FUL

Development Proposal: Erection of dwellinghouse with detached garage

Location: Plot 3 Land North East of The Old Church, Lamberton

Applicant: Mrs Suzanne Currie

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.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse and garage. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	
Floor Plans	CUR001-S&G001
Floor Plans	CUR001-S&G002
Roof Plan	CUR001-S&G003
Elevations	CUR001-S&G004
Elevations	CUR001-S&G005
Sections	CUR001-S&G006
Floor Plans	CUR001-S&G007
Elevations	CUR001-S&G008
Site Plan	CUR001-S&G009
Site Plan	CUR001-S&G010
Photomontage	

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 27th May 2019. The review had previously been considered at the Local Review Body meeting of 15th April 2019 where it was agreed to defer hearing the appeal until after an unaccompanied site visit had been carried out.

After examining the review documentation which included: a) Notice of Review (including Decision Notice and Officer's Report); b) Papers referred to in officer's report; c) Consultations; d) Further representations and e) List of Policies, and having carried out further procedure in the form of an unaccompanied site visit, the Review Body proceeded to determine 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, HD2, HD3, EP5, EP8, EP13, EP14, IS2, IS5, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- Scottish Planning Policy

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse and detached garage on the site. They were of the opinion that the site visit carried out, following the decision to undertake further procedure at the April Local Review Body meeting, was very useful in allowing them to understand the proposals further and how the proposed house and garage siting and design would relate to other dwellings within the group and to the Scheduled Monument of Old Lamberton Church.

Members noted the planning history to the site including an earlier appeal dismissal of two houses on a larger plot and the most recent full planning consent for a house on the application site 16/00947/FUL. They noted that this consent was still valid and established the principle of a dwellinghouse on the plot.

The Review Body then considered the issues of siting, design and scale in relation to compliance Local Development Plan Policies PMD2 and HD2 and the relevant Supplementary Planning Guidance. In terms of siting, there was some concern about orientation of the house with the building group and proximity to existing buildings. They noted from the comparative photomontages that the proposed dwellinghouse appeared to be in a similar location to the approved design and that, whilst

there was realignment which turned the dwellinghouse slightly further away from the group, this was not sufficiently significant to contravene Policies PMD2 or HD2.

In terms of design, the Review Body noted the other buildings within the building group, including Lamberton Lodge, and the design of the previously approved dwellinghouse on the site. They did not consider there was any particular uniformity of design within the group at present and they were content that the design approach was acceptable on the site, noting that materials and colours could be controlled by condition. Members also discussed the differing styles of the east and west elevations of the dwellinghouse but ultimately considered that the appropriate, more traditional elevation faced into the building group and the more contemporary elevation was adequately screened from the A1.

On scale, the Review Body noted that the proposal was not significantly greater in scale than Lamberton Lodge but that the height was also reduced in comparison to the ridge height of the approved design. Having assessed the proposals on site and from the A1, Members did not consider that the scale was excessive or inappropriate to the site and its surroundings.

The Review Body then considered the issue of potential impact of the proposal on the Scheduled Monument of Old Lamberton Church. In this respect, they found the site visit particularly useful in understanding the proposed location of the development and the setting and views in and out from the Scheduled Monument site. Taking into account all factors, including the screening from the Church site and the lack of objection from Historic Environment Scotland, Members did not feel that the impacts on the setting of the Scheduled Monument would be adverse and that, consequently, Policy EP8 could be complied with.

The Review Body finally considered other material issues relating to the proposal including road access, rights of way, landscaping and drainage but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for Eyemouth Primary and High Schools had already been paid and a Section 75 Agreement discharged in relation to the plot.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, HD2 and EP8 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be of appropriate scale, siting, form and design in relation to the building group and that there would not be adverse impacts on the Scheduled Monument of Old Lamberton Church.. 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. 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 house and garage 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. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
 - i. existing and finished ground levels in relation to a fixed datum preferably ordnance
 - ii. existing landscaping features and trees to be retained, protected and, in the case of damage, restored
 - iii. location and design, including materials, of walls, fences and gates
 - iv. soft and hard landscaping works including establishment of hedgerows and tree planted boundaries to the plot
 - v. existing and proposed services such as cables, pipelines, sub-stations
 - vi. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

3. No development shall commence until the following details of the access and parking arrangements have been submitted to and approved in writing by the Planning Authority:
 - i. A service lay-by constructed to the Council's specification (DC-3) at the junction of the site access with the public road.
 - ii. A passing place constructed to the Council's specification (DC-1) on the public road at a location to be agreed by the Local Planning Authority.
 - iii. Parking and turning for a minimum of two vehicles, not including any garages, provided within the curtilage of the property. These facilities shall be retained thereafter perpetuity for that purpose only.
 - iv. Measures to prevent the flow of water onto the public road.

Thereafter, the dwellinghouse not to be occupied until all approved details have been completed.

Reason: To ensure the site is adequately serviced and accessed.

4. No development to be commenced until a tree survey identifying the existing mature trees to the southern boundary of the site with No.3 Lamberton Holdings is submitted to, and approved by, the Planning Authority. The identified trees then to be protected at all times during construction and building operations, by the erection of substantial timber fence around the trees, together with such other measures as are necessary to protect the trees and their roots from damage. Details of the methods it is proposed to use shall be submitted by the applicant to the Local Planning Authority and be approved by them in writing. The approved protective measures shall be undertaken before any works commence on the site and must, thereafter be observed at all times until the development is completed.

Reason: To ensure that adequate precautions are taken to protect trees during building operations.

5. No development is to commence until a report has been submitted to and approved in writing by the Planning Authority providing evidence that arrangements are in place to ensure that the private drainage system is provided and thereafter maintained in a serviceable condition. The provisions of the approved report shall be implemented prior to the occupation of the dwellinghouse hereby approved.

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

6. No development is to commence until a report, by a suitably qualified person, 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, quantity and the impacts of this proposed supply on surrounding supplies or properties. The provisions of the approved report shall be implemented prior to the occupation of the dwellinghouse hereby approved.

Reason: To ensure that the development is adequately serviced with water without a detrimental effect on the water supplies of surrounding properties.

7. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.
Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

8. Right of Way BB53 that runs through the site must be maintained open and free from obstruction in the course of development and in perpetuity. There should be no additional gates, steps, stiles, fences, walls or hedges on this route (shown on the map attached to the Access Officer's consultation reply on the planning application) which would restrict public access.
Reason: To protect general rights of responsible public access.

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 S. Hamilton
Chairman of the Local Review Body

Date.....31 May 2019

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