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SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in the Council Chamber, Council Headquarters, Newtown St Boswells, TD6 0SA on Monday, 21 October 2019 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

In Attendance:- Principal Planning Officer – Major Applications/Local Review, Solicitor (E. Moir), Democratic Services Team Leader, Democratic Services Officer (F. Walling).

1. **REVIEW OF 19/00521/AMC**

There had been circulated copies of the request from Mr Darin Strutt and Ms Jennifer Ettienne, per Keith Renton, Architect, Humestanes, Hume Hall Holdings, Greenlaw, to review refusal of the planning application for approval of all matters specified in conditions for planning consent 18/01256/PPP. The supporting papers included the Notice of Review and associated documents; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultations; Objection; and a list of policies. The Planning Advisor drew attention to new evidence submitted with the Notice of Review documentation in the form of two letters of support for the application. Members accepted that this information met the test set out in Section 43B of The Town and Country Planning (Scotland) Act 1997 and included it in their consideration. Members noted that the principle of a house on the site had been established and that the application related to the siting and design of the proposed dwellinghouse and garage. In the ensuing discussion there was general agreement that the siting and floor level of the dwellinghouse was acceptable and general recognition of the positive elements of the innovative design of the development. However there was a division of opinion as to whether the contemporary design and materials proposed for the dwellinghouse and garage were sympathetic with existing houses in the area, in compliance with the Planning Brief and appropriate for this particular location.

VOTE

Councillor Aitchison, seconded by Councillor Hamilton, moved that the decision to refuse the application be upheld.

Councillor Fullarton, seconded by Councillor Mountford, moved as an amendment that the decision to refuse the application be reversed and the application approved.

On a show of hands Members voted as follows:-

*Motion - 7 votes
Amendment - 2 votes*

The motion was accordingly carried and the application was refused.

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 two letters of support submitted with the Notice of Review documentation met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997 and could be taken into consideration;**
- (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 contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (e) the officer's decision to refuse the application be upheld and the application be refused, for the reasons detailed in Appendix I to this Minute.**

The meeting concluded at 10.40 am



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: 19/00021/RREF

Planning Application Reference: 19/00521/AMC

Development Proposal: Erection of dwellinghouse and detached garage (approval of all matters reserved as conditions 18/01256/PPP)

Location: Land South East of Dundas Cottage, Selkirk

Applicant: Mr Darin Strutt and Jennifer Etienne

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 development would not comply with Policy PMD2 of the Scottish Borders Council Local Development Plan 2016, the Ettrick (Hopehouse) Mini Planning Brief and the Supplementary Planning Guidance on Placemaking and Design 2010, in that its form and depth would not relate sympathetically to the character of the surrounding area and neighbouring built form. There are no other material considerations that would be sufficient to override these policy conflicts.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Location Plan	824P-01
Site Plan	824P-02
Floor Plans	824P-03
South and West Elevations	824P-04

North and East Elevations	824P-05
Garage Elevations	824P-06
3D Views	824P-07

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 21st October 2019.

After examining the review documentation at that meeting, which included a) Notice of Review and associated documents; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultations; f) Objection and g) List of Policies, the Review Body noted that new evidence had been submitted in the form of two letters of support for the proposal from local residents. They accepted that this information met the test set out in Section 43B of The Town and Country Planning (Scotland) Act 1997 and was duly considered. Whilst noting the applicant's request for further procedure in the form of written submissions, the Review Body did not require any further procedure and 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, PMD3, HD3, EP1, EP3, EP16, IS7, IS8 and IS9

Other Material Considerations

- Ettrick (Hopehouse) Mini Planning Brief
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- 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
- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal was to erect a dwellinghouse with detached garage. Members firstly noted that the application was for approval of matters reserved as conditions on planning consent 18/01256/PPP and that the principle of a house on the site was established by that consent, which remained extant until 2022.

Members then considered the details of the submission in relation to siting and design of both the dwellinghouse and garage. They noted that the site sloped down from the public road edge and that the house and garage, by virtue of design and ground levels, would be relatively unobtrusive from public view. They agreed with the Appointed Officer that the siting and floor

level of the dwellinghouse were acceptable, although there was more concern over the position of the garage when combined with its design.

In relation to design, the Review Body assessed the proposals against Local Development Plan Policy PMD2, the “Placemaking and Design” SPG and the “Ettrick (Hopehouse) Mini Planning Brief” in particular. They noted that, whilst there was no prohibition in these documents to contemporary design and materials and that they did not advocate pastiche architecture, there was an expectation that new house designs in a building group would be of sympathetic scale, massing, form and materials. They noted that the Brief, in particular, sought design and materials in keeping with existing dwellings in the area. The Review Body was, however, particularly concerned over the form of the dwellinghouse and garage.

Members accepted that the design of the house and garage was contemporary and embodied sustainability principles. In a different context, they would have accepted such a design approach. They also accepted that modern materials such as roof sheeting and timber cladding had been accepted on a house design to the north of the public road. Nevertheless, they still considered that the form of modern houses in the building group remained traditional and in keeping with the character of existing houses and the requirements of Policy and Planning Brief guidance. The Review Body considered that the proposed design would conflict with, rather than compliment, the traditional houses within the group. They also had some concerns over the amount of metal cladding visible to the public road and over the position, design and scale of the detached garage, which some Members felt was industrial in appearance. Ultimately, they agreed with the Appointed Officer that such a contemporary design and form, whilst acceptable in other locations, was out of character in this context and was contrary to Policies, Supplementary Guidance and the Planning Brief.

The Review Body then considered other relevant matters including road access, landscaping and infrastructure but considered that none justified additional reasons to refuse the application as such matters could have been addressed by conditions.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was refused for the reasons stated above.

Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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...29 October 2019

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