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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, 18 November 2019 at 10.00 am

Present:- Councillors T. Miers (Chairman), J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage and E. Small

Apologies:- Councillors S. Aitchison and A. Anderson

In Attendance:- Principal Planning Officer – Major Applications/Local Review, Solicitor (R. Kirk), Democratic Services Team Leader

1. **REVIEW OF 19/00590/FUL**

There had been circulated copies of the request from Mr and Mrs S. Phaup, per Richard Amos Ltd, to review refusal of the planning application for the erection of a dwellinghouse and agricultural building on land north east of Hoprigshiels Farmhouse, Cockburnspath. 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; and a list of policies. Members agreed that although the proposed design of the house was acceptable concern was expressed regarding the proposed location, which was neither part of the farm or the building group. Members further agreed that an unaccompanied site visit would help their consideration of the application and would also allow them to look at the other possible sites which had been discounted by the applicants.

DECISION

AGREED that:-

- (a) **the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997; and**
- (b) **consideration of the review be deferred to allow Members to visit the site and that the site visit be unaccompanied.**

DECLARATION OF INTEREST

Councillor Ramage declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

2. **REVIEW OF 19/00203/FUL**

There had been circulated copies of the request from Hawick Angling Club, Per Roxburghe Home Solutions, to review refusal of the planning application for the replacement of windows at 5-1 Sandbed, Hawick. The supporting papers included the Notice of Review and associated documents; Decision Notice; Officer's Report; papers referred to in the Officer's Report; and a list of policies. Whilst Members were not averse to the use of uPVC as a material, they agreed that the white colouring and thicker dimensions of the window frames and transoms were out of character with both the colour scheme and frame thicknesses of the existing frontage and also other commercial frontages in the Conservation Area. In simply replacing the windows, Members felt that

this would be in conflict with the colour and design of the remainder of the retained frontage and on that basis the decision of the Appointed Officer should be upheld.

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 be refused, for the reasons detailed in Appendix I to this Minute.

The meeting concluded at 11.00 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: 19/00026/RREF

Planning Application Reference: 19/00203/FUL

Development Proposal: Replacement windows

Location: 5 – 1 Sandbed, Hawick

Applicant: Hawick Angling Club

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 proposal fails to comply with Policies PMD2 and EP9 of the Scottish Borders Council Local Development Plan 2016, and with the advice contained within the Supplementary Planning Guidance: Shop Fronts and Shop Signs 2011, in that its appearance has a significantly adverse and unacceptable visual impact on the character of the building, and is highly detrimental to the character and appearance of Hawick's Conservation Area.

DEVELOPMENT PROPOSAL

The application relates to the replacement of windows to the frontage of the property. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	
Section/Elevation	70mm transom/mullion
Section/Elevation	50mm outer frame
Photograph	Proposed Elevation
Photograph	Existing Elevation
Brochure	

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 18th November 2019.

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, and whilst noting the applicant's request for further procedure in the form of a site visit, 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, ED3, HD3 and EP9
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Other Material Considerations

- SBC Supplementary Planning Guidance on Shop Fronts and Shop Signs 2011

The Review Body noted that the proposal was to replace windows forming the frontage of the Hawick Angling Club at 5-1 Sandbed, Hawick, with white uPVC windows as per the submitted plans and brochure. They noted that during the processing of the application, frame thicknesses and transom detailing had been revised.

Members considered the proposals against Local Development Plan Policies PMD2 and EP9 in particular, noting that the property lay within Hawick Conservation Area and that proposals were required to preserve and enhance the character and amenity of the Conservation Area. They agreed with the Appointed Officer that the proposed windows did not meet these requirements and were also not in accordance with the guidance contained in the "Shop Fronts and Shop Signs" Supplementary Planning Guidance which sought more traditional design.

Whilst the Review Body were not opposed to the principle of uPVC as a material, they noted that the white colouring and thicker dimensions of the window frames and transoms were out of character with both the colour scheme and frame thicknesses of the existing frontage and also other commercial frontages in the Conservation Area. In simply replacing the windows, Members felt that this would be in conflict with the colour and design of the remainder of the retained frontage. They also agreed with the Appointed Officer that the proposal created an impression of domesticity which was out of keeping with the ground floor commercial property frontage.

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.
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Signed....Councillor T Miers
Chairman of the Local Review Body

Date.....26 November 2019

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