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SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in the Council Chamber at Newtown St Boswells on Monday, 20 June 2022 at 10 a.m.

Present:- Councillors S Mountford (Chair), M. Douglas, D. Moffat, A. Orr, V. Thomson, N. Richards, S. Scott.

Apologies:- Councillors J. Cox, E Small.

In Attendance:- Principal Planning Officer (Paragraphs 2 - 6) Assistant Planning Officer (S. Shearer – paragraph 1), Solicitor (S. Thompson), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

1. **REVIEW 21/00448/FUL**

This application was considered by the previous Local Review Body on the 18th April 2022. It was the intention of the LRB to support the proposal but a determination was not reached because it was found that further procedure was required to seek the submission of a bat survey. Due to the local elections held on 5 May, it would not have been appropriate for that Local Review Body to continue the application so that further information could be provided and then considered by the new Local Review Body. The Local Review Body considered the request from Camerons Strachan Yuill Architects, 1 Wilderhaugh, Galashiels to review the decision to refuse alterations and extensions to dwellinghouse and formation of access at East Lodge, Netherurd Blyth Bridge, West Linton. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; consultee comments; consultation replies and List of Policies. The Planning Adviser drew attention to information, in the form of additional information with regard to the possibility of bats, which had been submitted with the Notice of Review but had not been before the Appointed Officer at the time of determination. The Review Body considered that the new evidence met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997, and that this new information was material to the determination of the review and could be considered. However, they also agreed that the matter could not be considered without enabling the Planning Officer and Ecology Officer the opportunity to respond to the Bat Emergence Survey submitted with the Notice of review, and therefore agreed that the application be continued for further procedure in the form of written submission from the Planning Officer and Ecology Officer.

DECISION
AGREED that:-

(a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;

(b) new evidence submitted with the Notice of Review in the form of a Bat Emergency Survey met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;

(c) the review could not be considered without the need for further procedure in the form of written submissions;

(d) the Planning Officer and Ecology Officer be given the opportunity to comment on the Bat Emergance Survey provided by the Applicant; and

(e) consideration of the review be continued to a future meeting on date to be confirmed.

2. **REVIEW 21/00739/PPP**

There had been circulated copies of a request from F J Usher's Children Trust, c/o Hannah Belford, Agent, Wemyss House, 8 Wemyss Place, Edinburgh to review the decision to refuse the planning application for the erection of two dwellinghouses on Land East of Delgany, Old Cambus, Cockburnspath. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information, correspondence, consultation replies; objection comments, general comments, further representations and list of policies. The Planning Adviser drew attention to information, in the form of noise levels of machinery in operation at TD Trees and Land Services, Old Cambus, West Mains submitted by an objector but which had not been before the Appointed Officer at the time of determination. The Review Body considered that the new evidence met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997, and that this new information was material to the determination of the review and could be considered. However, they also agreed that the matter could not be considered without enabling the Planning Officer and Environmental Health to respond to the details in the noise levels submitted by the objector, and therefore agreed that the application be continued for further procedure in the form of written submission from the Planning Officer and Environmental Health.

DECISION
AGREED that:-

(a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;

(b) new evidence submitted by an objector in the form of noise levels of machinery in operation at TD Trees and Land Services, Old Cambus, West met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;

(c) the review could not be considered without the need for further procedure in the form of written submissions;

(d) the Planning Officer and Environmental Health be given the opportunity to comment on the noise level of machinery Level Survey provided by an Objector ; and

(e) consideration of the review be continued to a future meeting on a date to be confirmed.

3. **REVIEW 21/01588/FUL**

There had been circulated copies of a request from Hamad Aloswadian c/o Amy Knowles Brown, Agent, 21 Snowdon Place, Stirling to review the decision to refuse the planning application for the erection of a dwellinghouse on Land South West of Windrush, Highend, Hawick. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information, consultation replies; supporting statement and list of policies. In their initial discussions, Members considered whether there was a building group under Part A of Policy HD2 and noted that the site lay adjoining the applicant's own house. The members noted from the aerial slides and applicant's map submission that there were other houses and buildings in the wider vicinity, but felt these were well separated and that not all

buildings in the wider area were houses and concluded that there was not a building group. The Review Body then considered whether there was a justified business case for a dwellinghouse on the site but concluded that as the falconry facility was operated as a hobby, there was no such justification. Finally the Review Body considered other material issues relating to the proposal including siting and design, impact on trees, impact on the landscape, road access, water and drainage. 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.

DECISION
AGREED that:-

(a) the request for 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 development was contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that the proposal was not well related to an existing building group of at least three houses and no overriding economic case had been made that a house was required in this isolated location for essential rural business purposes; and

(d) the officer's decision to refuse the application be upheld for the reasons set out in Appendix I to this Minute.

4. **REVIEW OF 21/01068/FUL**

There had been circulated copies of a request from Mr and Mrs M J Fox, c/o Stuart Patterson Building and Timber Frame Design, 5 Burnflat Lane, Hawick to review non-determination of a planning application for replacement windows at Craigard, Canongate, Denholm TD9 8NF. The supporting papers included the Notice of Review; additional information; support comments objection comments, correspondence and List of Policies. The Review Body noted that the review was submitted against non-determination of the planning application, as the Council had not determined the application within the agreed extended processing period, this constituted a deemed refusal of the application and they were required to make a 'De Novo' decision on the application. The Review Body noted that the proposal related to a property within Denholm Conservation Area but that it was positioned outwith the Prime Frontage part of the Conservation Area. Given that timber sash and case window styles were not predominant in the vicinity and as the existing windows were casement, Members considered that the proposed windows would maintain the character of Denholm Conservation Area. After considering all relevant information, the Local Review Body concluded that the proposed replacement windows were consistent with Policies PMD2 and EP9 of the Local Development Plan and Supplementary Planning Guidance on Replacement Windows and Doors and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to conditions.

DECISION
DECIDED that:-

(a) the request for 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 proposed replacement windows were consistent with Policies PMD2 and EP9 of the Local Development Plan and Supplementary Planning Guidance on Replacement Windows and Doors and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to conditions as detailed in Appendix II to this Minute

5.0 **REVIEW OF 21/01439/FUL**

There had been circulated copies of a request from Mr Bryce Crawford, 18-19 Slitrig Crescent, Hawick TD9 0EN to review the decision to refuse the planning application for replacement windows at 18-19 Slitrig Crescent, Hawick. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information and list of policies. Members firstly noted that the Review was submitted against refusal of planning permission for the windows but that there was also an appeal against refusal of listed building consent for the windows, submitted to the Department of Planning and Environmental Appeals and currently undetermined. Whilst the Review Body noted the position and the fact that the property was also a statutorily listed building, they proceeded to consider and determine the Review only in relation to the refusal of planning permission, which was required as the property was also within Hawick Conservation Area. Members were aware that the replacement windows would need both planning permission and listed building consent in order to be installed. The Review Body noted that the property lay outwith the Prime Frontage part of the Conservation Area. Given that timber sash and case window styles were not predominant in the vicinity and as the adjoining existing windows were of differing style and pattern, Members considered that the proposed windows would maintain the character of the property and Hawick Conservation Area, subject to conditions on framing, colour and glazing bars. After considering all relevant information, the Members concluded that the proposed replacement windows were consistent with Policies PMD2 and EP9 of the Local Development Plan and Supplementary Planning Guidance on Replacement Windows and Doors and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to conditions.

DECISION
DECIDED that:-

(a) the request for 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) that the proposed replacement windows were consistent with Policies PMD2 and EP9 of the Local Development Plan and Supplementary Planning Guidance on Replacement Windows and Doors and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to conditions.

(d) the officer's decision to refuse the application be overturned and the application approved, subject to conditions, for the reasons detailed in Appendix III to this Minute.

6.0 **REVIEW OF 21/01846/PPP**

There had been circulated copies of a request from Aitken Turnbull Architects, 5 Castle Terrace, Edinburgh EH1 2DP to review non determination of a planning application for the erection of two dwellinghouses on Land North of Ivanhoe, Dingleton Road, Melrose. The Review Body noted that the review was submitted against non-determination of the

planning application, as the Council had not determined the application within the application processing period, this constituted a deemed refusal of the application and they were required to make a 'De Novo' decision on the application. The supporting papers included the Notice of Review; additional information; consultation replies; objection comments; correspondence and List of Policies. The Planning Adviser drew attention to information, in the form of a Bat Potential and Breeding Bird Survey which had been submitted with the Notice of Review but had not been before the Appointed Officer during the processing of the application. The Review Body considered that the new evidence met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997, and that this new information was material to the determination of the review and could be considered. However, they also agreed that the matter could not be considered without enabling the Planning Officer and Ecology Officer the opportunity to respond to the Bat Potential and Breeding Bird Survey submitted with the Notice of review. Members, therefore, agreed that the application be continued for further procedure in the form of written submission from the Planning Officer and Ecology Officer. Members further agreed that a site visit would also assist them in their determination and agreed that this be arranged while the written submissions were being obtained.

DECISION
AGREED that:-

(a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;

(b) the new evidence submitted with the Notice of review in the form of a Bat Potential and Breeding Bird Survey met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;

(c) the review could not be considered without the need for further procedure in the form of written submissions and an unaccompanied visit to the site;

(d) the Planning Officer and Ecology Officer be given the opportunity to comment on the Bat Potential and Breeding Bird Survey submitted with the review and that a site visit be arranged; and

(e) Consideration of the review be continued to a future meeting on a date to be confirmed.

The meeting concluded at 12.20 pm

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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: 22/00009/RREF

Planning Application Reference: 21/01588/FUL

Development Proposal: Erection of dwellinghouse

Location: Land South West of Windrush, Highend, Hawick

Applicant: Mr Hamad Aloswadain

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 is contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that the proposal is not well related to an existing building group of at least three houses and no overriding economic case has been made that a house is required in this isolated location for essential rural business purposes.

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.**
Location Plan	AL(0)100
Proposed Site Plan	AL(0)001 B
Ground Floor Plan	AL(0)002 F
First Floor Plan	AL(0)003 G
Elevations Option 1	AL(0)004 D
Sections	AL(0)006 E
Roof Plan	AL(0)007 B
Site Plan	AL(0)101 A

South Elevation 3D

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 20th June 2022.

After examining the review documentation at that meeting, which included a) Notice of Review (including Officer's Report and Decision Notice); b) Papers referred to in Officer's Report; c) Additional Information; d) Consultation Replies; e) Supporting Statement and f) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of written submissions, a hearing and site inspection but did not consider further procedure necessary in this instance 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: PMD2, HD2, HD3, EP13, IS2, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Housing in the Countryside 2008
- SBC Supplementary Planning Guidance on Developer Contributions 2021
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Waste Planning 2015
- SBC Supplementary Planning Guidance on SUDS 2020

The Review Body noted that the application was for the erection of a dwellinghouse at land South-West of Windrush, Highend, Hawick.

Members firstly considered whether there was a building group present under Part A of Policy HD2. They noted that the site lay adjoining the applicant's own house but that the nearest other house was located at the farm steading to the north, adjoining the public road and at some distance. Whilst Members noted from the aerial slides and applicant's map submission that there were other houses and buildings in the wider vicinity, they felt that the surrounding clusters were well separated and also noted that not all of the buildings in the wider area around the site were houses. The Review Body agreed with the Appointed Officer that there was no building group of a minimum of three existing houses present that the site was related to and that the application was, therefore contrary to Part A of Policy HD2.

The Review Body then considered whether there was any justified business case for a dwellinghouse on the site under Part F of Policy HD2. They noted that there was an active falconry breeding facility on the site and Members were generally sympathetic to the unique

facility and the principle of the request. However, they noted that the applicant had stated that the facility was a hobby and that any local economic benefits and wages for staff were resulting from family wealth. After discussion, they agreed with the Appointed Officer that as there was no evident commercial trading involved with the facility and no submitted Business Plan, there was insufficient business case to justify the need for a second house on the site in order to comply with Part F of Policy HD2. Members concluded that the facility was a hobby and it had not been demonstrated that a new house was essential for business needs.

The Review Body finally considered other material issues relating to the proposal including siting and design, impact on trees, impact on the landscape, road access, water and drainage. As Members did not consider there had been a case substantiated for the principle of a house on the site, they agreed that these issues did not influence their final decision.

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 S Mountford
Chairman of the Local Review Body

Date 27 June 2022

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: 22/00010/RNONDT

Planning Application Reference: 21/01068/FUL

Development Proposal: Replacement windows

Location: Craigard, Cannongate, Denholm

Applicant: Mr & Mrs M J Fox

DECISION

The Local Review Body grants planning permission for the reasons set out in this decision notice, subject to conditions as set out below.

DEVELOPMENT PROPOSAL

The application relates to replacement windows at Craigard, Cannongate, Denholm. The application drawings and documentation consisted of the following:

Plan Type	**Plan Reference No.**
Location Plan	21-735-1001
Proposed Window Details (1 of 2)	21-735-2001
Proposed Window Details (2 of 2)	21-735-2002
Inliten Windows and Doors 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 20th June 2022.

After examining the review documentation at that meeting, which included a) Notice of Review; b) Additional Information; c) Support Comments; d) Objection Comments; e) Correspondence; and f) List of Policies, 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: 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 at Craigard, Cannongate, Denholm.

Members firstly noted that the Review was submitted against non-determination of the planning application, as the Council had not determined the application within the agreed extended processing period with the applicants. The Review Body acknowledged that this constituted deemed refusal of the application and that they were required to make a "De Novo" decision on the application. Members also noted that the Review had been submitted within the statutory three month timescale from the expiry of the extended application processing period and that a Review was being conducted within three months of the Review submission.

The Review Body noted that the proposal related to a property within Denholm Conservation Area but that it was positioned outwith the Prime Frontage part of the Conservation Area as defined in the Replacement Windows and Doors Supplementary Planning Guidance. Members noted that the existing windows to be replaced were not original and were white painted timber casement opening, mostly hinged on the mid-rail. The Review Body noted that the replacement windows would be in white uPVC, the front elevation windows being tilt and turn mechanism with external central transom. The proposed rear windows were noted to be white uPVC casement opening.

Members were aware that replacement windows had previously been refused for the property in 2015 but that the Supplementary Planning Guidance had since been updated. They noted that within the Conservation Area, Policy EP9 set a general requirement for proposals to protect and enhance character. The Review Body also noted that outwith Prime Frontage parts of the Conservation Area, uPVC could be allowable in certain settings, provided the surrounding context was not predominantly timber sash and case and the pattern of replacement glazing was matching.

In this instance, Members were content that the surrounding context was of mixed window styles and that there was no predominance of timber sash and case. They also noted that the current windows within the property were neither original nor timber sash and case and that alternatives had been considered and discounted, in relation to attempting to retain the stepped mid-rail profile. Provided conditions were attached to ensure white framing and sufficient recessing of the frames behind the stone window surrounds. Members considered that the replacement windows would not detract from, and would maintain, the character of the property and that part of Denholm Conservation Area.

The Review Body finally considered all other material issues relating to the proposal but were of the opinion that such issues either did not outweigh their decision to support the proposal or were able to be addressed through appropriate conditions where appropriate.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the proposed replacement windows were consistent with Policies PMD2 and EP9 of the Local Development Plan and Supplementary Planning Guidance on Replacement Windows and Doors and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to conditions.

DIRECTION

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 external surfaces of the replacement window frames shall be finished in white.
   Reason: To safeguard the character and appearance of the property and Conservation Area.

2. The replacement windows not to be installed until details of the setting of the frames behind the window surrounds are submitted to, and approved in writing by, the Planning Authority. The windows then to be installed in accordance with the approved details.
   Reason: To safeguard the character and appearance of the property and Conservation Area.

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

3. 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.

4. 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 Mountford
Chairman of the Local Review Body

Date 27 June 2022

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: 22/00011/RREF

Planning Application Reference: 21/01439/FUL

Development Proposal: Replacement windows

Location: 18-19 Slitrig Crescent, Hawick

Applicant: Mr Bryce Crawford

DECISION

The Local Review Body overturns the decision of the Appointed Officer and grants planning permission for the reasons set out in this decision notice, subject to conditions as set out below.

DEVELOPMENT PROPOSAL

The application relates to replacement windows at 18-19 Slitrig Crescent, Hawick. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Existing Elevations	AT3437 01 A
Proposed Elevations	AT3437 02 A
Casement Detail	Sections A-C
Tilt and Turn Detail	Sections A & B

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 20th June 2022.

After examining the review documentation at that meeting, which included a) Notice of Review (including Decision Notice and Officer's Report); b) Papers referred to in Officer's Report; c)

Additional Information; and d) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of a hearing and site inspection but considered neither necessary in this instance 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: PMD2, HD3, EP7 and EP9

Other Material Considerations

- SBC Supplementary Planning Guidance on Replacement Windows and Doors 2015
- Historic Environment Policy for Scotland 2019
- Managing Change Guidance for Windows 2010

The Review Body noted that the proposal was for replacement windows at 18/19 Slitrig Crescent, Hawick.

Members firstly noted that the Review was submitted against refusal of planning permission for the windows but that there was also an appeal against refusal of listed building consent for the windows, submitted to the Department of Planning and Environmental Appeals and currently undetermined. Whilst the Review Body noted the position and the fact that the property was also a statutorily listed building, they proceeded to consider and determine the Review only in relation to the refusal of planning permission, which was required as the property was also within Hawick Conservation Area. Members were aware that the replacement windows would need both planning permission and listed building consent in order to be installed.

The Review Body noted that the property lay outwith the Prime Frontage part of the Conservation Area as defined in the Replacement Windows and Doors Supplementary Planning Guidance and was, indeed, the last property in the Conservation Area. Members noted that the existing windows to be replaced were mostly green painted timber sash and case, with some casement opening windows on the upper floor. The Review Body noted that the replacement windows would be in green uPVC, the ground floor windows being tilt and turn mechanism with casement on the upper floor. Members noted the windows would be provided with transomes and a six over six glazing pattern, albeit there were no further details provided of the transomes or glazing bars.

The Review Body were generally supportive of the need to replace the windows, given the evidence of problems outlined by the applicant, the age of the building and history of non-domestic previous uses. However, Members wished to ensure that the details of the replacements should still comply with Policies and guidance.

Members then considered the proposal in relation to the character of the building and its overall relationship within the Conservation Area, rather than with regard to the fact that the

property was a listed building. Members noted that within the Conservation Area, Policy EP9 set a general requirement for proposals to protect and enhance character. They also noted that outwith Prime Frontage parts of the Conservation Area, uPVC could be allowable in certain settings, provided the surrounding context was not predominantly timber sash and case and the pattern of replacement glazing was matching.

In this instance, Members were content that the surrounding context was of mixed window styles and materials and that there was no predominance of timber sash and case. In particular, they noted that the property was immediately adjoining modern housing development and non-sash window styles outwith the Conservation Area. The Review Body also acknowledged that whilst the timber sash and case windows at No. 17 Slitrig Crescent would remain and the replacement windows would be mostly compared and related to those retained windows, their glazing pattern and colour were already different from the windows currently within No. 18 and 19. Members considered that as a difference already existed, the proposed replacement windows would simply maintain the position of difference. They were, therefore content with the change from timber to uPVC and from sash and case operation to tilt and turn/casement,

Members then considered the submitted information and were of the opinion that additional detail was required in relation to the transomes and glazing bars, given that the Supplementary Planning Guidance discouraged “stick-on” or purely internal glazing bars. The Review Body considered this could be controlled by an appropriate condition. Provided additional conditions were attached to ensure a matching colour of green framing and sufficient recessing of the frames behind the stone window surrounds, the Review Body considered that the replacement windows would not detract from, and would maintain, the character of the property and that part of Hawick Conservation Area.

The Review Body finally considered all other material issues relating to the proposal but were of the opinion that such issues either did not outweigh their decision to support the proposal or were able to be addressed through appropriate conditions where appropriate.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the proposed replacement windows were consistent with Policies PMD2 and EP9 of the Local Development Plan and Supplementary Planning Guidance on Replacement Windows and Doors and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to conditions.

DIRECTION

2. 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

3. The external surfaces of the replacement window frames shall be finished in green, the precise shade to be agreed in writing with the Planning Authority before the windows are installed.
   Reason: To safeguard the character and appearance of the property and Conservation Area.

4. The replacement windows not to be installed until details of the setting of the frames behind the window surrounds are submitted to, and approved in writing by, the Planning Authority. The windows then to be installed in accordance with the approved details.
   Reason: To safeguard the character and appearance of the property and Conservation Area.

5. The replacement windows not to be installed until details of the glazing bars and transomes are submitted to, and approved in writing by, the Planning Authority. The windows then to be installed in accordance with the approved details.
   Reason: To safeguard the character and appearance of the property and Conservation Area.

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

5. 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.

6. 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 Mountford
Chairman of the Local Review Body

Date 27 June 2022

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