

# Public Document Pack

## SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTES of Meeting of the LOCAL REVIEW BODY held in Council Chamber, Council Headquarters, Newtown St Boswells on Monday, 21 November 2022 at 10.00 am

- Present:- Councillors S Mountford (Chair), M. Douglas, D. Moffat, V. Thomson, N. Richards, S. Scott, E. Small.
- Apologies:- Councillors J. Cox, A. Orr.
- In Attendance:- Assistant Principal Planning Officer (S. Shearer), Solicitor (S. Thompson), Democratic Services Officers (F. Henderson and W. Mohieddeen).

### 1. CONTINUATION OF REVIEW 22/00025/RREF

With reference to paragraph 5 of the Minute of 19 September 2022, the Local Review Body continued their consideration of the request from Mr Christopher Wilson c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the erection of a dwellinghouse on Plot 1 at Land North of Belses Cottage, Jedburgh. 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; objection comments and list of policies. Also circulated were the Planning and Roads Officers comments and Applicant response on new information submitted in terms of the Transport Technical Note included with the Review Papers and not before the Appointed Officer. Members noted that the application was for the erection of a dwellinghouse with new access from the B6400 and the site had been annexed from farmed land by a strip of soft landscaping. Members further noted that an application for the erection of a house on Plot 2 which immediately adjoined the site to the north east was being considered under a separate review (22/00026/REEF). In terms of whether there was a building group, Members concurred with the Applicant that the site was centrally located within part of a wider group of 16 properties and that a previous Local Review Body observed that a building group was present at Old Belses as part of their determination of 20/00022/RREF. They further concluded that there was capacity within the group for the addition of one house and expansion of the building group in other directions could be less acceptable and represent ribbon development along the northern side of the B6400. The site was within the sense of place and an appropriate addition to the nucleus of the building group. Members then considered the issues of road safety and access from the B6400, taking into account the Technical Note on Access, the comments from the Roads Planning Officer and the applicant's response to these comments. The members concluded that the new access had good visibility and the B6400 did not appear to be a busy road and there were no road safety reasons to oppose the development.

#### VOTE

*Councillor Moffat, seconded by Councillor Douglas moved that the application be refused.*

*Councillor Scott, seconded by Councillor Richards moved as an amendment that the application approved.*

*On a show of hands Members voted as follows:-*

*Motion - 2 votes*

*Amendment - 4 votes*

The amendment was accordingly carried.

## **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) After considering all relevant information, the Local Review Body concluded that the development was consistent with Policy HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate addition to the existing building group and would not detract from its sense of place and the means of access would not cause any detrimental impacts on the public road.**
- (d) the officer's decision to refuse the application be overturned and the application approved, for the reasons detailed in Appendix I to this Minute.**

## **2. CONTINUATION OF REVIEW 22/00026/RREF**

With reference to paragraph 6 of the Minute of 22 September 2022, the Local Review Body continued their consideration of the request from Mr Christopher Wilson c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the erection of a dwellinghouse on Plot 2 at Land North of Belses Cottage, Jedburgh. 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; objection comments and list of policies. Also circulated were the Planning and Roads Officers comments and Applicant response on new information submitted in terms of the Transport Technical Note included with the Review Papers and not before the Appointed Officer. Members noted that this was the applicant's second proposal for the erection of a dwellinghouse with new access from the B6400 and the site had been annexed from farmed land by a strip of soft landscaping. Members further noted that an application for the erection of a house on Plot 1 which immediately adjoined the site to the north east was being considered under a separate review (22/00025/REEF). In terms of whether there was a building group, Members concurred with the Applicant that the site was centrally located within part of a wider group of 16 properties and that the a previous Local Review Body observed that a building group was present at Old Belses as part of their determination of 20/00022/RREF. They further concluded that there was capacity within the group for the addition of one house and expansion of the building group in other directions could be less acceptable and represent ribbon development along the northern side of the B6400. The site was within the sense of place and an appropriate addition to the nucleus of the building group. Members then considered the issues of road safety and access from the B6400, taking into account the Technical Note on Access, the comments from the Roads Planning Officer and the applicant's response to these comments. The members concluded that the new access had good visibility and the B6400 did not appear to be a busy road and there were no road safety reasons to oppose the development.

## **VOTE**

*Councillor Mountford, seconded by Councillor Douglas moved that a condition on phasing be included.*

*Councillor Scott, moved as an amendment that no condition on phasing be included, there was no seconder and the amendment fell.*

## **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) After considering all relevant information, the Local Review Body concluded that the development was consistent with Policy HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate addition to the existing building group and would not detract from its sense of place and the means of access would not cause any detrimental impacts on the public road.**
- (d) the officer's decision to refuse the application be overturned and the application approved, subject to conditions and the applicants entering into a Section 75, or other suitable Legal Agreement, as set out in the Intentions Notice detailed in Appendix II to this Minute.**

## **MEMBERS**

Having not been present when the following review was first considered, Councillors Richards and Scott left the meeting.

### **3. CONTINUATION OF REVIEW 22/00028/RREF**

With reference to paragraph 3 of the Minute of 17 October 2022, the Local Review Body continued their consideration of the request from Mr Nigel Carey c/o James O'Rourke, Pro-found, Berwick Workspace, Boarding School Yard, Berwick Upon Tweed to review the decision to refuse the planning application for the erection of a dwellinghouse on Garden Ground of Cheviot View, Eden Road, Gordon. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; general comments; additional information; consultation replies; objection comments and list of policies. The review had been continued to allow an unaccompanied site visit which had been held on 8 November 2022. The Review Body had found the site visit beneficial as it had allowed members to view the site in context and also consider the pattern of development within Gordon and particularly around Eden Road and Main Street. Members determined that the principle of backland development on this particular site would conform to the building pattern within the surrounding streetscape and that this was influenced by planning permission to build a house on another part of garden ground associated with the former dwelling of Cheviot View immediately adjacent to this proposal. Members then considered the suitability of the proposal in terms of its siting and design and judged the size of the site to be small. Members observed that the small scale of the site resulted in the proposal being close to the position of the new house being developed under consent 21/00913/FUL. This would create a tight layout where two houses and their associated parking and turning areas would be located very close to one another and would have an uncomfortable relationship. The size of the plot would only offer limited garden ground with its small scale minimising its function. The Local Review Body noted that Roads Planning had accepted the proposed access, parking and turning arrangements however Members noted that the small size of the site may struggle to accommodate future parking demands and that the size of the site was the key in determining issues.

## **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 further procedure;
- (c) The proposed development failed to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the small size of the site resulted in the proposal leading to a form of overdevelopment which did not respect the density of its surroundings and adversely impacts on the character and amenity of the surrounding area.
- (d) the officer's decision to refuse the application be varied for the reasons detailed in Appendix III to this Minute.

## **MEMBERS**

Councillors Richards and Scott joined the meeting.

#### **4. REVIEW OF 22/00031/RREF**

There had been circulated copies of a request from Louisa Gardiner, c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the demolition of agricultural building and erection of dwellinghouse with ancillary accommodation at derelict agricultural Building, North of Ladyurd Farmhouse, and 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; additional information; consultation replies and list of policies. Members considered whether the site related to a Building Group under Section A of Policy PMD2 and agreed with the Appointed Officer that the building does not lie within a recognised building group of three existing houses. Members also noted that the building was not previously used as a dwellinghouse, The Review Body assessed the proposals against Section C of Policy HD2 which permits the conversion of former agricultural buildings to houses, subject to the proposal satisfying criteria covering; architectural or historic merit, the structural condition and suitability of any alterations and extensions. Members were satisfied that the building had historic merit and that the previous planning permission confirmed it could be suited for residential use, although the proposal would not retain all of the building and that part of the building had fallen into a state of disrepair and would not be capable of conversion. Members were content that the proposal allowed a substantial part of the existing building to be retained and represented a good use of a redundant steading building which was intended to provide accommodation for family members. Having considered all relevant information, the Local Review Body concluded

## **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 further procedure;
- (c) that the development represented suitable conversion and alterations to provide two residential units and ancillary accommodation against Policy HD2 and PMD2 and the development would not have an adverse impact on any European Protected Species.

- (d) **the officer's decision to refuse the application be overturned for the reasons detailed in Appendix IV to this Minute.**

5. **REVIEW OF 22/00033/RREF**

There had been circulated copies of a request from Ms Norma Gordon, Deanfoot Cottage, Deanfoot Road, West Linton to review the decision to refuse the planning application for alterations and extension to dwellinghouse at Deanfoot Cottage, Deanfoot Road, 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; additional information; objection comments and list of policies. The Review Body principally assessed the application against Policy PMD2 of the Local Development Plan and Members observed that the size of the plot was large and could accommodate an extension. The Review Body were concerned that the side extension would be taller than the existing building and the overall footprint of the extensions were greater than the footprint of the existing building. The suburban form and design of the proposal was judged not to respect the traditional character of the existing building and concerns were raised with regard to the external finishes of the development. Members heard how the proposal had been designed so it's scale and contemporary design would be easily identifiable alongside the original building and the two different styles would be joined together by a glazed link which was an approach advocated by Historic Environment Scotland. Whilst Members were sympathetic to the applicant's intentions of utilising the proposed accommodation for family members, they considered the scale of the proposal to be excessive.

**VOTE**

*Councillor Small, seconded by Thomson moved that the application be approved.*

*Councillor Scott, seconded by Councillor Douglas moved as an amendment that the application be refused.*

*On a show of hands Members voted as follows:-*

*Motion - 3 votes*  
*Amendment - 4 votes*

The amendment was accordingly carried.

**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 further procedure;**
- (c) **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.**
- (d) **the officer's decision to refuse the application be upheld as detailed in Appendix V to this Minute.**

6. **REVIEW OF 22/00034/RREF**

There had been circulated copies of a request from Mr Robert Muir, c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application (retrospective) for replacement windows and door at Caddie Cottage, Teapot Street, Morebattle. The supporting papers included the Notice of Review (including the Decision

Notice and Officer's Report); additional information; objection comments and list of policies. The Planning Advisor drew attention to information from the Community Council in support of the application, which had been submitted but which had not been before the Appointed Planning Officer at the time of determination. Members agreed that the information was new but considered that it met Town and Country Planning (Scotland) Act 1997 Section 43B test in that the new information contained material considerations that it was required to take into account and that the new information was deemed to be material to the determination of the Review and could therefore be considered without any further procedure.

#### **VOTE**

*Councillor Richards, seconded by Councillor Douglas moved that a site visit be held.*

*Councillor Scott, seconded by Councillor Thomson moved as an amendment that a decision be reached without a site visit.*

*On a show of hands Members voted as follows:-*

*Motion - 3 votes*  
*Amendment - 3 votes*

*There being an equality of votes, the Chairman exercised his casting vote in favour of a site visit.*

#### **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 not be considered without the need for further procedure in the form of an unaccompanied site visit;**
- (c) consideration of the review be continued to a future meeting on a date to be confirmed.**

*The meeting concluded at 12.42 pm*



**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**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**

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**Local Review Reference:** 22/00025/RREF

**Planning Application Reference:** 21/00992/PPP

**Development Proposal:** Erection of dwellinghouse

**Location:** Plot 1 Land North of Belses Cottage, Jedburgh

**Applicant:** Phen Farms

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**DECISION**

The Local Review Body reversed 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 the formation of a new access road. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	BPHE01-07
Proposed Block Plan	BPHE01-02
Proposed Plans	BPHE01-03

**PRELIMINARY MATTERS**

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 19th September 2022.

After examining the review documentation at that meeting, which included a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultations; f); List of Policies; g) Design, Access and Planning Statement and h) Appeal Statement the Review Body considered whether certain matters included in the review

documents constituted new evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to further information in the form of a Technical Note on Access Impacts.

Members agreed that the information was new and considered that it met the Section 43B test, that it was material to the determination of the Review and could be considered. However, as expert opinion on the information was required, there was a requirement for further procedure in the form of written submissions to enable the Roads Planning Officer to comment on the new information.

The Review was, therefore, continued to the Local Review Body meeting on 21<sup>st</sup> November 2022 where the Review Body considered all matters, including responses to the amended plans from the Planning Officer and Roads Planning Officer, and the applicant's reply to those responses. The Review Body then 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, EP1, EP2, EP3, EP13, IS2, IS7, 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 Management 2015
- SBC Supplementary Planning Guidance on Affordable Housing 2015
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SPP 2014
- Draft NPF4

The Review Body noted that the application was for the erection of a dwellinghouse on land opposite "The Smithy" at Old Belses. New Access was proposed from the B6400 and the site has been annexed from farmed land by a strip of soft landscaping. Members also noted that an application for the erection of a house on Plot 2 which immediately adjoins the site to the north east is being considered under a separate review (22/00026/REEF).

Members firstly considered whether there was a building group in the vicinity of the site under Policy HD2 and also whether there was capacity for addition to any such group. They noted that three residential properties were located to the south of the site on the opposite side of the B6400. Members also noted the applicant's observations that the site was centrally located within part of a wider group of 16 properties as depicted on Figure 4 of the Appeal Statement. Members also recognised that a previous Local Review Body observed that a building group



was present at Old Belses as part of their determination of 20/00022/RREF. They concluded that there was a building group present and that there was capacity for the addition of one house, in compliance with Policy HD2 and the relevant SPG.

Members then considered the relationship of the site within the group and whether it was within the sense of place and in keeping with its character. In this respect, they had regard to the positions of other houses in the group. Members did note that the nearest properties to the site were located on the southern side of the B6400 and they did accept that the site would break into an undeveloped field. They were however persuaded by the positioning of "Braeside" which was already located on the northern side of the B6400 and the soft landscaping which had already been implemented enclosed the site from the field. Members considered the site to be well related to the building group due to its central location and the containment within its planted enclosures. The Review Body considered that expansion of the building group in other directions could be less acceptable and represent ribbon development along the northern side of the B6400. They concluded that the site was within the sense of place and an appropriate addition to nucleus of the building group.

Members then considered the issues of road safety and access from the B6400. Taking into account the Technical Note on Access, the comments from the Roads Planning Officer and the applicant's response to these comments, they concluded that the new access had good visibility and the B6400 did not appear to be a busy road. They found that there were no road safety reasons to oppose the development. They considered that the development would not cause any changes to existing farm traffic movements and they could not enforce restrictions on the type of vehicles using public or private roads. Members noted that the new extended road towards the farm could promote an unsatisfactory form of ribbon development but were ultimately content for this access to form part of the approval. The Review Body, therefore, accepted that the proposal was in compliance with Policy PMD2 in relation to road access and safety.

Members moved on to other material matters covering landscaping, parking and site services were considered but the Review Body were of the opinion that appropriate conditions could address them satisfactorily.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policy HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate addition to the existing building group and would not detract from its sense of place and the means of access would not cause any detrimental impacts on to the public road. Consequently, the application was approved.

## **CONDITIONS**

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.

3. 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.

4. 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

5. No development shall commence until precise details of the water supply and of both foul water and surface water drainage have been submitted to and approved in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved details. The surface water drainage shall be handled by way of sustainable urban drainage techniques.

Reason: To ensure the site is adequately serviced.

6. Parking and turning for a minimum of two vehicles to be provided within the curtilage of the plot, excluding garages, prior to occupation of the dwelling and retained in perpetuity thereafter unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure appropriate parking is provided for the new dwelling.

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, 4<sup>th</sup> 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.

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## **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 S Mountford  
Chairman of the Local Review Body

**Date** 5 December 2022



**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY INTENTIONS NOTICE**

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**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**

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**Local Review Reference:** 22/00026/RREF

**Planning Application Reference:** 21/00993/PPP

**Development Proposal:** Erection of dwellinghouse

**Location:** Plot 2 Land North of Belses Cottage, Jedburgh

**Applicant:** Phen Farms

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**DECISION**

The Local Review Body reversed the decision of the appointed officer and indicated that it intended to grant planning permission for the reasons set out in this intentions notice subject to conditions and the applicants entering into a Section 75, or other suitable Legal Agreement, as set out below.

**DEVELOPMENT PROPOSAL**

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

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	BPHE01-07
Proposed Block Plan	BPHE01-02
Proposed Plans	BPHE01-03

**PRELIMINARY MATTERS**

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 19th September 2022.

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

Consultations; f); List of Policies; g) Design, Access and Planning Statement and h) Appeal Statement the Review Body considered whether certain matters included in the review documents constituted new evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to further information in the form of a Technical Note on Access Impacts.

Members agreed that the information was new and considered that it met the Section 43B test, that it was material to the determination of the Review and could be considered. However, as expert opinion on the information was required, there was a requirement for further procedure in the form of written submissions to enable the Roads Planning Officer to comment on the new information.

The Review was, therefore, continued to the Local Review Body meeting on 21st November 2022 where the Review Body considered all matters, including responses to the amended plans from the Planning Officer and Roads Planning Officer, and the applicant's reply to those responses. The Review Body then 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, EP1, EP2, EP3, EP13, IS2, IS7, 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 Management 2015
- SBC Supplementary Planning Guidance on Affordable Housing 2015
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SPP 2014
- Draft NPF4

The Review Body noted that this was the applicant's second proposal for the erection of a dwellinghouse on land opposite "The Smithy" at Old Belses. The site is located adjacent to their application for a house on Plot 1 to the south west which was considered under a separate review (22/00025/RREF). The Review Body noted that this was the larger of the two sites and both developments would be served via the same proposed access.

Members firstly considered whether there was a building group in the vicinity under Policy HD2 and also whether there was capacity for addition to any such group. They noted that three residential properties were located to the south of the site on the opposite side of the B6400. Members also noted the applicants observations that the site was centrally located

within part of a wider group of 16 properties as depicted on Figure 4 of the Appeal Statement. Additionally Members recognised that a previous Local Review Body observed that a building group was present at Old Belses as part of their determination of 20/00022/RREF. They concluded that there was a building group present. Being mindful that the Review Body had already accepted the addition of one further house to this group at Plot 1, Members were satisfied that the group still had the capacity to accept a further house within the current LDP period under the numerical restrictions set by Section A of Policy H2.

Members then considered the relationship of the site within the group and whether it was within the sense of place and in keeping with its character. In this respect, they had regard to the positions of other houses in the group. Members did note that the nearest properties to the site were located on the southern side of the B6400 and they did accept that the site would break into an undeveloped field. They were however persuaded by the positioning of "Braeside" which was already located on the northern side of the B6400 and the soft landscaping which had already been implemented enclosed the site from the field. Members considered the site to be well related to the building group due to its central location and the containment within its planted enclosures. The Review Body considered that expansion of the building group in other directions could be less acceptable and represent ribbon development along the northern side of the B6400. They concluded that the site was within the sense of place and an appropriate addition to nucleus of the building group.

Members then considered the issues of road safety and access from the B6400. Taking into account the Technical Note on Access, the comments from the Roads Planning Officer and the applicant's response to these comments, they concluded that the new access had good visibility and the B6400 did not appear to be a busy road. They found that there were no road safety reasons to oppose the development. They considered that the development would not cause any changes to existing farm traffic movements and they could not enforce restrictions on the type of vehicles using public or private roads. Members noted that the new extended road towards the farm could promote an unsatisfactory form of ribbon development but were ultimately content for this access to form part of the approval. The Review Body, therefore, accepted that the proposal was in compliance with Policy PMD2 in relation to road access and safety.

Acknowledging the consent for a new house on Plot 1, the Local Review Body then considered the implications of phasing. Members were mindful that should Plot 2 be developed and Plot 1 left undeveloped, this would create an awkward gap which would have an adverse visual impact at a fairly prominent position on the corner of the B6400. Members therefore considered that it would be sensible Plot 2 to either be developed concurrently with Plot 1 or Plot 1 developed first. They were satisfied that suitable phasing of the development could be controlled by a suitably worded planning condition.

Members moved on to other material matters covering landscaping, parking and site services were considered but the Review Body were of the opinion that appropriate conditions could address them satisfactorily. The also noted that as this application would constitute the applicants second consent for a house in the same location that it would require a developer contribution towards affordable housing. This matter could be secured by a legal agreement.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policy HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate addition to the existing building group and would not detract from its sense of place and the

means of access would not cause any detrimental impacts on to the public road. Consequently, the application was approved.

## CONDITIONS

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.
3. 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 take place only 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.
4. No development shall commence until precise details of: the layout, siting, design and external appearance of the building; the means of access thereto; two off-street parking spaces (excluding garages); refuse and recycling bin storage and the landscaping and boundary treatments of the site, have first been submitted to and approved in writing by the planning authority. The development shall be completed in accordance with the approved details unless otherwise agreed in writing with the planning authority.  
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.
5. No development shall commence until precise details of water supply and of both surface water and foul water drainage have been submitted to and approved in writing by the planning authority and thereafter, no development shall take place except in strict accordance with the approved scheme. All surface water drainage shall comply with the SUDS manual (C753) and maintain existing pre-development run off levels  
Reason: To ensure that there are no unacceptable impacts upon the amenity of any neighbouring properties and that surface water is managed in a sustainable manner that does not increase off-site run-off.
6. Parking and turning for a minimum of two vehicles to be provided within the curtilage of the plot, excluding garages, prior to occupation of the dwelling and retained in perpetuity thereafter unless otherwise agreed in writing with the Council.



Reason: To ensure appropriate parking is provided for the new dwelling.

No development of the site shall be undertaken until the development at Plot 1 (21/00992/PPP) has been complete or a programme of phasing which confirms the proposed phased development on this site, Plot 1 (21/00992/PPP) and the new farm access has been submitted to and agreed in writing with the Planning Authority and thereafter the development shall only be carried out in strict accordance with the agree programme of phasing.

Reason: To ensure that the development proceeds in an orderly manner and avoid the creation of a gap site at Plot 1 which would detract from the visual amenity of the rural area.

This shall include a programme for completion of the main elements within the development - the community campus, outdoor sports facilities, all access roads and paths and the demolition of the existing Galashiels Academy. Once approved, the development then to be carried out in accordance with the approved scheme.

Reason: To ensure the development is carried out in a structured and orderly manner which ensures minimum disruption to educational and sporting facilities on site.

## **LEGAL AGREEMENT**

The Local Review Body required that a Section 75, or other suitable legal agreement, be entered into to secure developer contributions for affordable housing.

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, 4<sup>th</sup> 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.

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### **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 S Mountford  
Chairman of the Local Review Body

Date 5<sup>th</sup> December 2022

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**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**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**

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**Local Review Reference:** 22/00028/RREF

**Planning Application Reference:** 21/01905/FUL

**Development Proposal:** Erection of dwellinghouse

**Location:** Garden Ground Of Cheviot View Eden Road Gordon

**Applicant:** Mr Nigel Carey

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**DECISION**

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

The proposed development would fail to comply with Policy PMD2 and Policy PMD5 and the Council's Supplementary Planning Guidance 'Placemaking and Design 2010', in that the small size of the site resulted in the proposal leading to a form of overdevelopment which does not respect the density of its surroundings and adversely impacts on the character and amenity of the surrounding area.

**DEVELOPMENT PROPOSAL**

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

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	C662-PP-001A
Proposed Site Plan	C662-PP-002B
Proposed Elevations	C662-PP-003A

## **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 21<sup>st</sup> November 2022. The review had previously been considered at the 17<sup>th</sup> October 2022 Local Review Body meeting where it was agreed that the appeal should be continued until a unaccompanied site visit had been carried out.

After examining the review documentation at that meeting, which included a) Notice of Review (including the Decision Notice, Officer's Report, consultations and appeal statement and supporting photograph's); b) Papers referred to in Officer's Report; and c) 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, PMD5, HD3, ED10, IS2, IS7, IS9,

Other Material Considerations

- 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

The Review Body noted that the proposal was for planning permission to erect a new dwellinghouse within an area of garden ground that was associated with the former dwellinghouse know as Cheviot View which has been demolished. Members noted that there was an extant planning consent for the erection of a single house directly to the west of this site, under planning reference 21/00913/FUL.

The Local Review Body noted that the site visit was of benefit as it allowed Members to view the site in its context and also consider the pattern of development within Gordon and particularly around Eden Road and Main Street. Members determined that the principle of backland development on this particular site would conform to the building pattern within the surrounding streetscape and that this was influenced by planning permission to build a house on another part of garden ground associated with the former dwelling of Cheviot View immediately adjacent to this proposal.

Members then moved on to consider the suitability of the proposal in terms of its siting and design. Members judged the size of the site to be small. Members observed that the small scale of the site resulted in the proposal being close to the position of the new house being developed under consent 21/00913/FUL. This would create a tight layout where two houses and their associated parking and turning areas would be located very close to one another and would have an uncomfortable relationship. The size of the plot would only offer limited

garden ground with its small scale minimising its function. The Local Review Body noted that Roads Planning had accepted the proposed access, parking and turning arrangements however Members noted that the small size of the site may struggle to accommodate future parking demands.

The Review Body concluded that the size of the site was the key determining issue. Overall, Members considered that the small scale nature of the site gave rise to a cramped layout, which represented overdevelopment of the site and failed to respect the character, amenity and pattern of development within the surrounding area. The proposal was judged to fail to comply with Policy PMD5 covering Infill Development, PMD2 covering Quality Standards and the Councils Placemaking and Design SPG.

## **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.

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### **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 Simon Mountford  
Chairman of the Local Review Body

**Date**.....

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**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY INTENTIONS NOTICE**

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**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**

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**Local Review Reference:** 22/00031/RREF

**Planning Application Reference:** 22/00279/FUL

**Development Proposal:** Demolition of agricultural building, erection of dwellinghouses with ancillary accommodation

**Location:** Derelict Agricultural Building North Of Ladyurd Farmhouse West Linton

**Applicant:** Mrs Louisa Gardiner

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**DECISION**

The Local Review Body reversed the decision of the appointed officer and indicated that it intended to grant planning permission for the reasons set out in this intentions notice subject to conditions and the applicants entering into a Section 75, or other suitable Legal Agreement, as set out below.

**DEVELOPMENT PROPOSAL**

The application relates to the development of two houses and ancillary accommodation at a derelict steading building at Ladyurd Farm. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	1 of 7
Existing Plans	002
Proposed Plans	010
Proposed Plans	011
Proposed Sections	012
Proposed Elevations	013
Proposed Elevations	014

## 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 21<sup>st</sup> November 2022. After examining the review documentation which included: a) Notice of Review (including Appeal Statement); b) Report of Handling c) Consultations; d) Policies, e) Planning Statement, f) Structural Inspection Report, g) Ecological Surveys, 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, EP1, EP2, EP3, EP5, EP8, EP10, IS2, IS7, IS8, IS9, IS13

### Other Material Considerations

- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance Housing in the Countryside 2008
- SBC Supplementary Planning Guidance on Contaminated Land Inspection Strategy 2001
- SBC Supplementary Planning Guidance on Developer Contributions 2019
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems 2020
- SBC Supplementary Planning Guidance on Waste Management 2015
- Draft National Planning Framework 4
- SPP 2014

The Review Body noted the content of the development proposals and that consent was granted in November 2017 for change of use and alteration of the steading to convert it into a single house under 16/01492/FUL but that consent has lapsed.

Members considered whether the site related to a Building Group under Section A of Policy PMD2. The Local Review Body agreed with the Appointed Officer that the building does not lie within a recognised building group of three existing houses. Members also noted that the building was not previously used as a dwellinghouse, therefore the development could not be supported against Section E which only allows for the development of replacement dwellinghouses in the countryside and not the replacement of non-residential buildings with new houses.

The Review Body assessed the proposals against Section C of Policy HD2 which permits the conversion of former agricultural buildings to houses, subject to the proposal satisfying

criteria covering; architectural or historic merit, the structural condition and suitability of any alterations and extensions.

Members were satisfied that the building had historic merit and that the previous planning permission confirmed it could be suited for residential use. The Review Body noted that the proposal would not retain all of the building and that part of the building had fallen into a state of disrepair and would not be capable of conversion. However it was recognised that the previous consent also approved a conversion which involved both retention and rebuild of the existing building. Members were content that the proposal allowed a substantial part of the existing building to be retained. It was noted that the works represented a good use of a redundant steading building which was intended to provide accommodation for family Members. The Review Body considered the scale and design of the proposed alterations and extensions. Members were satisfied that the design of the proposals were suitably similar to the scheme which was approved under the previous consent in 2017.

Taking all matters into consideration, the Local Review Body found that the proposal followed a previous consent which allowed for the redundant farm steading to be converted through retention and repair of the existing building with salvaged materials being re-used on site. Members remained satisfied that a substantial part of the existing building was being retained and the proposal would rebuild the section of the building which is no longer stable as informed by the Structural Survey. Under these specific circumstances, the development was considered to represent a justifiable conversion against Section C of Policy HD2 and the design and scale of the alterations did not have a harmful impact on the character of the rural area.

The Local Review Body moved on to consider ecological matters. Members recognised that the photo provided on the front cover of the Ecological Survey was not of the building proposed for conversion. Members noted that the survey was a re-survey following an initial survey which was carried out as part of the application process for the previous consent. The Review Body heard how the survey is required to consider the impact on bats within 30m of the application site. Members noted the findings of the survey and were satisfied that the development would not pose any adverse impacts on protected species or any other ecological impacts subject to conditions covering avoidance of works commencing during breeding season.

Members moved on to consider planning conditions. The Local Review Body determined that it would be appropriate to ensure that the consent sought to only permit the conversion and sensitive re-use of the existing building and not extensive rebuilding which would be tantamount to the erection of a new dwelling and this could be controlled by planning condition. Other matters covering ancillary use (of the accommodation noted as Unit 3 on the floor plan), use of conservation specification rooflights, formation of one passing place, site services and land contamination investigation could also be addressed by appropriate planning condition. They also noted that developer contributions for education and affordable housing could be secured by legal agreement.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development represented suitable conversion and alterations to provide two residential units and ancillary accommodation against Policy HD2 and PMD2 and the development would not have an adverse impact on any European Protected Species. Consequently, the application was approved.

## **CONDITIONS**

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.
2. No development shall commence until a scheme of details has been submitted to and approved in writing with the Planning Authority which confirms which part of the building are to be retained to wall head height and the remaining walls repaired and renewed with salvaged materials, or those that are similar in age, colour and texture to the original, unless the prior written consent of the Planning Authority is obtained for any variation thereto.  
Reason: This permission shall only permit the conversion and adaptation of the existing structure. It shall not purport to grant permission for the erection of a two new dwellings with ancillary accommodation nor for any extensive rebuilding which would be tantamount to the erection of a new dwelling.
3. Precise details of the specification and location of a single passing place on the access track from the A72 to the development shall be submitted to and agreed in writing with the Planning Authority and thereafter the passing place shall be completed prior to occupation of the first dwellinghouse and the access track shall be maintained to ensure a smooth free draining running surface in perpetuity.  
Reason: In the interests of road safety.
4. No development shall commence until precise details of the means of foul drainage has been submitted to and approved in writing by the Planning Authority. Once approved the works shall be completed in accordance with the approved details prior to occupation of the dwellinghouse.  
Reason: To ensure that the development is adequately serviced and does not have a detrimental effect on amenity and public health.
5. No development shall commence until the means of surface water drainage methods to serve the site which incorporate Sustainable Urban Drainage Systems (SUDS) and maintain existing run-off levels have been submitted to and approved by the Planning Authority thereafter the development shall be completed in accordance with the approved details.  
Reason: To ensure that the development is serviced in a manner which complies surface water drainage requirements in a manner which does not increase flood risk at the development.
6. No development shall be undertaken during the breeding bird season (March to September), unless in strict compliance with a Species Protection Plan for breeding birds, including provision or pre-development supplementary survey, that shall be submitted to and approved in writing by the Planning Authority.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.
7. No development shall commence until a scheme submitted by the Developer to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the planning authority, and is thereafter implemented in accordance with the scheme so approved.  
The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these

documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition, and thereafter;
- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

8. The rooflights indicated on the approved plans shall be of "conservation" design and materials and shall thereafter be so retained.

Reason: To safeguard the character of the building.

9. No development shall commence until precise details of the water supply and of both foul water and surface water drainage have been submitted to and approved in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved details. The surface water drainage shall be handled by way of sustainable urban drainage techniques.

Reason: To ensure the site is adequately serviced.

10. The accommodation titled "Unit 3" on Drawing No Gardiner \_010 and shall only be used as ancillary accommodation in connection with the use of the main property as a single private dwelling house and shall at no time be converted to a self-contained unit.

Reason: A separate dwelling would conflict with established planning policy for this area.

## **LEGAL AGREEMENT**

The Local Review Body required that a Section 75, or other suitable legal agreement, be entered into to secure developer contributions for Pebbles High School and affordable housing.

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.

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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, 4<sup>th</sup> 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.**

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 Mountford  
Chairman of the Local Review Body

**Date**.....

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**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**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**

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**Local Review Reference:** 22/00033/RREF

**Planning Application Reference:** 22/00496/FUL

**Development Proposal:** Alterations and extension to dwellinghouse

**Location:** Deanfoot Cottage, Deanfoot Road, West Linton

**Applicant:** Ms Norma Gordon

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**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 be contrary to policy PMD2 of the Local Development Plan 2016 in that the following criteria require that developments: h) create a sense of place based on a clear understanding of the context and are designed in sympathy with Scottish Borders architectural style; i) are of a scale, massing and height appropriate to the existing building; j) are finished externally in materials which complement the existing building; k) respect the character of the surrounding area and neighbouring built form. The proposed development is unsympathetic to the building which it would extend in terms of form, scale, height, massing and materials and would not complement that building. No overriding case for the development as proposed has been substantiated. This conflict with the development plan is not overridden by other material considerations.

**DEVELOPMENT PROPOSAL**

The application relates to alterations and extension to dwellinghouse. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	1 of 4
Existing Plans & Elevations	599 PP 02
Proposed Site Plan	599/PP/01 REV A
Proposed Plans & Elevations	599/PP/03 REV A

**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 21<sup>st</sup> November 2022.

After examining the review documentation at that meeting, which included a) Notice of Review b) Officer's Report and Decision Notice; c) Papers referred to in Officer's Report; d) Additional Information and e) List of Policies, the Review Body noted that 5 letters of support had been submitted since determination of the application which had not been available to the Appointed Officer prior to the decision on the application being made. Members applied the submission against S43B of The Act and agreed to consider the letters as they were material to their consideration of the Review.

The Review Body also noted that the applicant had requested further procedure in the form of 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, HD3, EP13, IS2 and IS7

Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Trees and Development 2008

The Review Body noted that the application was for a 1½ side extension and flat roof extension with balcony to the rear of bungalow. Members noted that the site had been the subject of various applications since 1995. In 2019 consent was granted for a single storey extension to the side of the property which has now lapsed.

The Local Review Body principally assessed the application against Policy PMD2 of the Local Development Plan. Members observed that the size of the plot is large and could accommodate an extension. The Review Body were concerned that the side extension would be taller than the existing building and the overall footprint of the extensions were greater than the footprint of the existing building. The suburban form and design of the proposal was judged not to respect the traditional character of the existing building. Concerns were also expressed that the external material finishes of the development would not compliment those used on the existing building.

Members heard how the proposal had been designed so it's scale and contemporary design would be easily identifiable alongside the original building and the two different styles would be joined together by a glazed link which is an approach advocated by Historic Environment Scotland.

Whilst Members were sympathetic to the applicant's intentions of utilising the proposed accommodation for family members, they agreed with the Appointed Officer that the excessive scale of the proposal, its suburban form and design and material finishes would fail to respect the character of the traditional bungalow and the buildings rural sense of place.

The Review Body finally considered other material issues relating to the access and trees. As Members did not accept the scale of the development, 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.

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

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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 Mountford  
Chairman of the Local Review Body

**Date**.....

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**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**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**

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**Local Review Reference:** 22/00034/RREF

**Planning Application Reference:** 22/00396/FUL

**Development Proposal:** Replacement windows and door (retrospective)

**Location:** Caddie Cottage, Teapot Street, Morebattle

**Applicant:** Mr Robert Muir

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**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 and a door at Caddie Cottage, Teapot Street, Morebattle. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	
Door and window specifications	
Photographs	As existing
Photographs	Former windows and door

**PRELIMINARY MATTERS**

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 21<sup>st</sup> November 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; d) Objection comments and e) List of Policies, the Review Body considered whether certain matters included in the review documents constituted new evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to further information in the form of a response from the Community Council which had also been referenced in the Statement of Review.

Members agreed that the information was new and considered that it met the Section 43B test, that it was material to the determination of the Review and could be considered. Members did not consider it necessary to undertake further procedure in relation to the Community Council response but did determine that an unaccompanied site inspection would be necessary to view the replacement windows and door in the context of their surroundings within Morebattle Conservation Area.

Having undertaken the site inspection, the case was then presented at the Local Review Body meeting on 19<sup>th</sup> December 2022 where Members 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, HD3 and EP9

### Other Material Considerations

- SBC Supplementary Planning Guidance on Replacement Windows and Doors 2015
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SPP

The Review Body noted that the proposal was to retain replacement windows and a door at Caddie Cottage, Teapot Street, Morebattle.

The Review Body noted that the property lay within 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 and door on the front elevation had been replaced and that the application was retrospective, seeking to retain what had been installed. Members noted that the replacement windows matched the previous windows in terms of operation and general glazing pattern, the difference being the use of white uPVC in terms of the windows and the colour and material in terms of the door. The Review Body also noted that the door was stated to be no different in size than the previous door.

Members noted the concerns of the Appointed Officer over the frame thicknesses of the replacement windows and door, especially the ground floor bay window and upper floor casement window. They also noted that within the Conservation Area, Policy EP9 set a general requirement for proposals to protect and enhance character and that within Prime Frontage parts of the Conservation Area, uPVC could be allowable, provided the surrounding

context was not predominantly timber sash and case and the pattern and dimensions of replacement glazing were matching.

In this instance, Members were content, following their site visit, that the surrounding context was of mixed window styles and materials and that there was no predominance of timber sash and case in Teapot Street. Indeed, there seemed to be several examples of uPVC in the immediate vicinity which provided a matching context for the replacement windows. For this reason, they considered that the alterations did not result in the property becoming incongruous in the Conservation Area and that the windows and door were an appropriate fit for the character of the building and the Prime Frontage part of the 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.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the 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.

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, 4<sup>th</sup> 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.

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**Signed...**Councillor S Mountford  
Chairman of the Local Review Body

**Date** 11 January 2023



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