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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, 19 December 2022 at 10.00 am

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

In Attendance:- Principal Planning Officer, Solicitor (S. Thompson), Democratic Services Team Leader, Democratic Services Officer (F. Henderson.)

MEMBERS

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

1. CONTINUATION OF REVIEW 22/00029/RREF

With reference to paragraph 4 of the Minute of 17 October 2022, the Local Review Body continued their consideration of the request from C & V Developments c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the erection of two dwellinghouses on Land West of Wellnage Station Road, Duns. 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 had found the site visit very beneficial and noted that the site was located within the Duns settlement boundary and there were no specific designation on the site which prevented it from being considered an appropriate infill opportunity. It was also noted that four previous houses had been developed adjoining the site by the same applicant and these had been assessed on the site visit, together with pegged out locations for the proposed two additional houses. The Review Body were of the opinion that the site was an unused area of land which would be improved through development rather than left in an unkempt state and there was no opportunity to secure the landscaping of the site should planning permission not be granted. Following discussion on the siting and design of the proposed houses, it was concluded that the existing houses were well integrated into the area and a further two house of similar design was an acceptable form of development for the site. Members then considered the issue of impact on the setting of The Wellnage, a Category B Statutorily Listed Building adjoining the site. Taking into account the relationship of the site and proposed development with The Wellnage, which had also been observed on the site visit, the Review Body were of the opinion that the setting of the Listed Building had changed significantly since The Wellnage was originally built and was no longer part of a larger undeveloped landscape. Members also noted the subsequent recent built development around The Wellnage, its subdivision, the high garden hedge, intervening trees, lack of inter-visibility and level difference with the lower-lying site. For all of these reasons, the Review Body concluded that the impacts on the setting of a listed building were acceptable and in compliance with Policy EP7. Members wished to ensure retention, repair and ongoing maintenance of the boundary wall, which was in disrepair and this would be included in the conditions.

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 Policies PMD2, PMD5, and EP7 of the Local development Plan and relevant Supplementary Planning Guidance;**
- (d) **the officer's decision to refuse the application be overturned and the application approved, subject to conditions and Legal Agreement as detailed in Appendix I to this Minute.**

MEMBERS

Councillors Richards and Scott joined the meeting prior to consideration of the following review.

Having not been present at the site visit, Councillor Orr left the meeting prior to consideration of the following review.

2. **CONTINUATION OF REVIEW 22/00030/RREF**

With reference to paragraph 5 of the Minute of 17 October 2022, the Local Review Body continued their consideration of the request from Mr Robin Purdie c/o Aitken Turnbull Architects, 9 Bridge Place, Galashiels to review the decision to refuse the planning application for the erection of a dwellinghouse on Land North and East of Tweed Lodge, Hoebridge East Road, Gattonside. The supporting papers included 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 Officers comments and Applicant response on new information submitted in terms of the Daylight Analysis Diagram containing floor plan of neighbouring property. The Review Body had undertaken an unaccompanied site visit, which they had found very helpful. The Review Body noted that there was extant planning permission in principle for a house on the site and that the proposed dwellinghouse lay within the Conservation Area and settlement boundary of Gattonside as defined in the Local Development Plan. As only the garden ground lay outwith the settlement boundary and Conservation Area, Members were content that the principle of the house and its siting were acceptable under Policies PMD4, PMD5 and EP9. The Review Body then considered the siting and design of the house and expressed differing views over the scale, bulk, form and location on the edge of Gattonside. Members noted that there were other examples of contemporary design in the village and that the dark cladding and height of the building helped integrate the house into its setting. They concluded that the building was of appropriate size and design for the site. The Members went on to discuss the visibility of the site from the approach to Gattonside from the east and noted that the schematic planting proposals within the field adjoining the site, which was in the ownership of the Applicant, would help screen the development. Members were content that planting could be achieved by condition and this could mitigate the impact of the visibility of the development.

VOTE

Councillor Richards, seconded by Councillor Scott moved that the officer's decision be overturned and application be approved.

Councillor Thomson, seconded by Councillor Small moved as an amendment that the officer's decision be upheld and the application be refused.

On a show of hands Members voted as follows:-

Motion - 5 votes
Amendment - 3 votes

The motion 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 consistent with Policies PMD2, PMD4, PMD5, EP4, EP6 and EP9 of the Local Development Plan and relevant Supplementary Planning Guidance.**
- (d) The officer's decision to refuse the application be overturned and the application approved, subject to appropriate boundary screening and other conditions as detailed in Appendix II to this Minute.**

MEMBERS

Having not been present when the following review was first considered, Councillors Orr and Cox left the meeting. Having not been present at the site visit, Councillor Scott also left the meeting.

3. CONTINUATION OF REVIEW 22/00034/RREF

With reference to paragraph 6 of the Minute of 21 November 2022, the Local Review Body continued their consideration of the 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. Members noted the concerns of the Appointed Officer over the frame thickness of the replacement windows and door, particularly 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. The Members had found the site visit very helpful and had noted the surrounding context was of mixed window styles and materials and that there was no predominance of timber sash and case in Teapot Street, but instead several examples of uPVC in the immediate vicinity which provided a matching context for the replacement windows and 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.

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) 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.

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

MEMBERS

Councillors Orr, Cox and Scott re-joined the meeting prior to consideration of the following applications.

4. **REVIEW OF 22/00035/RREF**

There had been circulated copies of a request from Mr Peter Hedley, c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the erection of residential holiday let with associated facilities at Townfoot Hill Land North West of Cunzierton House, Oxnam, 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 and list of policies. The Planning Adviser drew attention to the Business Plan; Sequential Site Assessment and Photos; Map of neighbouring developments; Drawings P726-PL-002 and 003 showing parking and right of way and a Visual Impact Study which had been submitted with the Notice of Review but which had not been before the Appointed Officer at the time of determination. Members agreed that the information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. However, they also agreed that the matter could not be considered without enabling the Planning Officer, Access Officer, Roads Officer and Landscape Architect to respond to the additional information listed. Members, therefore, agreed that the application be continued for further procedure in the form of written submissions and 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) new evidence submitted with the Notice of Review in the form of a Business Plan; Sequential Site Assessment and Photos; Map of neighbouring developments; Drawings P726-PL-002 and 003 showing parking and right of way and Visual Impact Study met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;**
- (c) the review could not be considered without the need for further procedure in the form of written submissions;**
- (d) the Planning Officer, Roads Officer, Landscape Architect, and Access Officer be given the opportunity to comment on the information listed above;**
- (e) an unaccompanied site visit be arranged; and**
- (f) consideration of the review be continued to a future meeting on a date to be confirmed.**

5. **REVIEW OF 22/00036/RNONDT**

There had been circulated copies of a request from Stonefalls Development Partnership c/o Camerons Strachan Yuill Architects, 1 Wilderhaugh, Galashiels to review the non-determination of a planning application for the erection of 3 No. single bedroom holiday cabins and associated ground works to create 3 parking bays on Land West of Burnmouth Parish Church, Eyemouth. The Review Body noted that the review was submitted against

non-determination of the planning application, as the Council had not determined the application within the agreed application processing period. This constituted a deemed refusal and Members were required to make a 'De Novo' decision on the application. The supporting papers included the Notice of Review; Additional Information, Consultations Replies, Objection Comments and List of Policies. The Members noted that part of the site had a development history of cottages but that this was both historic and related mainly to the access/parking area. The Review Body also noted that the defined settlement boundary for Burnmouth contained the parking and access road but only a very small proportion of the three proposed holiday pods. The Review Body then considered the issue of safe vehicular access to and egress from the development and noted all submissions on the matter. Members were of the opinion that the steep gradient of the public road, the narrowness of the road, the position of the bend, the acute angle of the site access on that bend for left-turning vehicles into the site and the differing levels would cause significant road safety issues, as indicated by the Roads Officer and objectors. Members went on to discuss the objections from Nature Scot and other respondents in relation to the claims over land stability in the vicinity, Nature Scot having requested an engineer's stability assessment. There was concern that construction work could cause landslip onto the shoreline, damaging reef habitat and ultimately impacting on the Berwickshire and North Northumberland Coastline Special Area of Conservation (SAC). The concerns of the Ecology Officer in relation to breeding birds and protected species were considered in view of the fact that the submitted survey had not been carried out within the activity season and there was potential impact on breeding birds and protected species, including skylark and peregrine falcon. As the development of the three holiday pods was largely located outwith the Burnmouth Settlement Boundary, the Review Body also assessed the application against the principle of Policy ED7 and whilst Members understood that a business case had been submitted as required and noted that tourism objectives had been claimed to be met by the proposals, they considered that the development exhibited overriding issues resulting in non-compliance with settlement boundary, roads and ecology policies. The Review Body concluded that these issues were not outweighed by the claimed economic and tourism benefits and agreed that the Officers decision be upheld.

The Chairman adjourned the meeting at 12.20 p.m. to allow Members time to formulate the wording for the reasons for refusal and given the time, took the opportunity for Members to have lunch prior to reconvening at 1 p.m.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
 - (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
 - (c) the deemed refusal of the application be upheld and the application refused, for the reasons detailed below and in Appendix IV to this Minute.**
-
- 1. The application is contrary to Policy PMD4 of the Scottish Borders Local Development Plan as the development lies largely outwith the development boundary of Burnmouth, and there is insufficient community benefit demonstrated to outweigh the significant adverse effects on the landscape setting of the settlement and the natural heritage of the area.**
 - 2. The application is contrary to Policies PMD2, PMD5 and ED7 of the Scottish Borders Local Development Plan in that the site cannot be**

accessed without significant adverse impacts on road safety, due to the angle and gradient of the site access junction with the public road.

3. The application is contrary to Policy EP1 of the Scottish Borders Local Development Plan in that the applicant has failed to demonstrate that the proposal can be developed without significant detrimental effects on the Berwickshire and North Northumberland Coastline Special Area of Conservation through potential landslip.
4. The application is contrary to Policy EP2 of the Scottish Borders Local Development Plan in that the applicant has failed to demonstrate that the proposal can be developed without significant detrimental effects on breeding birds or Schedule 1 raptors at the site.

6. **REVIEW OF 22/00037/RREF**

There had been circulated copies of a request from Mr Patrick Jenkins, Mansfield, 91 High Street, Coldstream to review the decision to refuse the planning application for the installation of photo voltaic array at Mansfield, 91 High Street, Coldstream. The supporting papers included the Notice of Review; Paper's referred to in the Officers Report, consultation replies and list of policies. Members noted that the property was within Coldstream Conservation Area and that the photovoltaic panels were proposed on the south facing roof slope which was visible on the High Street and in the public realm, for maximum solar gain. Policies PMD2 and EP9 required an alteration appropriate to the existing building, compatible with the character of its surroundings and preserving the special architectural character and appearance of the Conservation Area. However, the Review Body also noted strong support for domestic renewable energy schemes at a national level which was reflected in Local Development Plan Policy ED9. Members discussed whether there were less visible alternatives and were aware of setting a precedent within a Conservation Area. Although the Members opinion was divided, it was agreed to support the growth in domestic green energy and that ultimately the benefits outweighed the visual impact on the character of the dwellinghouse and the Conservation Area in this particular case. Members in support, were of the opinion that the panels may also look more compact and integrated on the building than dispersed across other roofs and parts of the property. It was understood that the panels could be removed again should they no longer be used for electricity production. For these reasons, Members considered that compliance with Policy ED9 outweighed the impacts on the Conservation Area and Policy EP9 in this instance.

VOTE

Councillor Douglas, seconded by Councillor Cox moved that the officer's decision be upheld and the application be refused.

Councillor Richards, seconded by Councillor Moffat moved as an amendment that the officer's decision be overturned and the application be approved.

On a show of hands Members voted as follows:-

Motion - 4 votes
Amendment - 5 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 considered without the need for further procedure;**
- (c) **After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD1, PMD2 and EP9 of the Local Development Plan and relevant Supplementary Planning Guidance. The proposal was considered to be in compliance with the Council's Policies on sustainability and renewable energy sources and that this outweighed any impacts on the character of the house or the Conservation Area.**
- (d) **the officer's decision to refuse the application be overturned, for the reasons detailed in Appendix V to this Minute and subject to conditions.**

7. REVIEW OF 22/00038/RREF

There had been circulated copies of a request from Mrs and Mrs William Dryburgh, Hillside, 6 Duns Road, Swinton, Duns to review the decision to refuse the planning application for the installation of soil vent pipe to front elevation of Hillside, 6 Duns Road, Swinton. The supporting papers included the Notice of Review; Paper's referred to in the Officers Report; additional information; consultation replies; objection comments and list of policies. Members noted that the property was within Swinton Conservation Area, facing the public road at the entrance to the village from Duns. They also noted that Policies PMD2 and EP9 required an alteration appropriate to the existing building, compatible with the character of its surroundings and preserving the special architectural character and appearance of the Conservation Area. Although there was the presence of climbing vegetation on the front elevation of the property which might provide limited screening, especially in summer, the Review Body, whilst divided, ultimately concluded that this would be insufficient mitigation to screen what they considered to be an unsightly routing of the soil pipe and therefore a detrimental visual impact to the front elevation of the property.

VOTE

Councillor Moffat, seconded by Councillor Thomson moved that the officer's decision be overturned and the application be approved.

Councillor Orr, seconded by Councillor Richards moved as an amendment that the officer's decision be upheld and the application be refused.

On a show of hands Members voted as follows:-

*Motion - 3 votes
Amendment - 6 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 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; and**

- (d) **the officer's decision to refuse the application be upheld, for the reasons detailed in Appendix VI to this Minute and subject to conditions.**

The meeting concluded at 1.40 pm



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

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 22/00029/RREF

Planning Application Reference: 22/00081/FUL

Development Proposal: Erection of two dwellinghouses with access and associated works

Location: Land West of 1 The Wellnage, Station Road, Duns

Applicant: C & V Developments

DECISION

The Local Review Body reverses the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this 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 two dwellinghouses at Land West of 1 The Wellnage, Station Road, Duns. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	P759-PL-LOC
Proposed Site Plan	P759-PL-001
Proposed Floor Plans and Elevations	P759-PL-02
Photomontages	Figs 1-6

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 17th October 2022.

After examining the review documentation at that meeting, which included a) Notice of Review (including the Decision Notice and Officer's Report); b) Papers referred to in Officer's Report; c) Additional Information; d) Consultation Replies; and e) List of Policies, the Review Body concluded that there was a requirement for further procedure in the form of an unaccompanied site inspection to enable the impacts of the existing and proposed dwellinghouses to be assessed, especially in relation to the listed building known as The Wellnage.

The Review was, therefore, continued to the Local Review Body meeting on 19th December 2022. Members considered all matters at this meeting, including the photographs and appendices to the Heritage Statement which had not been provided at the October meeting but which had since been clarified as being available to the Appointed Officer before the application was refused. 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, PMD5, HD3, HD4, EP7, EP8, EP13, IS2, IS5, IS7, IS8 and IS9
- Scottish Borders Proposed Local Development Plan Policy IS5

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
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SPP 2014
- Draft NPF4
- Historic Environment Policy for Scotland 2019
- "Managing Change in the Historic Environment – Setting" 2016
- Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

The Review Body noted that the proposal was for the erection of two dwellinghouses at Land West of 1 The Wellnage, Station Road, Duns.

Members noted that the site was located within the Duns settlement boundary and there was no specific designation on the site which prevented it from being considered an appropriate infill opportunity. It was also noted that four previous houses had been developed adjoining the site by the same applicant and these had been assessed on the site visit, together with pegged out locations for the proposed two additional houses. The Review Body were of the opinion that the site was an unused area of land which would be improved through development rather than left in an unkempt state. Members also noted that there was no opportunity to secure the landscaping of the site should planning permission not be granted.

Whilst there was some discussion over the siting and design of the proposed houses, it was ultimately concluded that the four existing houses had been successfully integrated into the area and that, as the development was of similar styling, the application was an acceptable form of development for an appropriate gap site within Duns. Subject to appropriate conditions relating to the landscaping and boundary treatment, including restoration of the roadside wall, the Review Body concluded that the development was an appropriate infill development in keeping with Policies PMD2 and PMD5.

Members then considered the issue of impacts on the setting of The Wellnage, a Category B Statutorily Listed Building adjoining the site. Taking into account the relationship of the site and proposed development with The Wellnage, which had also been observed on the site visit, the Review Body were of the opinion that the setting of the Listed Building had changed significantly since The Wellnage was original built and it was no longer part of a larger undeveloped landscape. Members also noted the subsequent recent built development around The Wellnage, its subdivision, the high garden hedge, intervening trees, lack of inter-visibility and level difference with the lower-lying site. For all of these reasons, the Review Body concluded that the impacts on setting of a listed building were acceptable and in compliance with Policy EP7.

The Review Body finally considered other material issues including impacts on trees, access, parking, rights of way, water, drainage, surface water flooding, waste, the applicant's claims over the development contributing to sustainability, claimed housing land shortfall and the need for compliance with developer contributions. Members were of the opinion that approval with appropriate conditions and a legal agreement could address these issues satisfactorily.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, PMD5 and EP7 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate infill development in keeping with the character of surrounding development and with acceptable impacts on the setting of an adjoining listed building. Consequently, the application was approved subject to conditions and a legal agreement.

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 to be commenced until further details of the vehicular access to the site are submitted to, and approved in writing by, the Planning Authority. Once approved, the access to be completed in accordance with the approved details prior to occupation of the first dwellinghouse.
Reason: To ensure adequate access to the site in the interests of road safety.
3. A vehicle turning area and two parking spaces per dwelling, not including any garage space, shall be provided within the site prior to the occupation of each dwellinghouse hereby approved and shall be retained in perpetuity.
Reason: To provide and maintain adequate off road parking.
4. No development shall commence until a tree survey and tree protection plan are submitted to, and approved in writing by, the Planning Authority. The identified trees

to be protected at all times during construction and building operations, by the erection of substantial timber fence around the trees or tree areas, together with such other measures as are necessary to protect the trees and their roots from damage. Details of the methods it is proposed to use shall be submitted by the applicant to the Local Planning Authority and be approved by them in writing. The approved protective measures shall be undertaken before any works commence on the site and must, thereafter be observed at all times until the development is completed.

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

5. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
 - I. existing and finished ground levels in relation to a fixed datum preferably ordnance
 - II. trees to be retained within the site
 - III. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
 - IV. proposals for the retention, restoration and maintenance of the listed roadside wall bordering the site
 - V. location and design, including materials, of walls, fences and gates
 - VI. soft and hard landscaping works including new tree planting and boundary treatments
 - VII. existing and proposed services such as cables, pipelines, sub-stations
 - VIII. A programme for completion and subsequent maintenance.

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

6. No development to be commenced until the details of water and drainage provision are submitted to, and approved in writing by, the Planning Authority. These details to include SUDs provision and diversion of surface water away from the proposed houses. Once approved, the development then to be completed in accordance with those details.

Reason: To ensure that the development is adequately serviced and in the interests of public health.

7. No development to be commenced until a scheme of waste storage has been submitted to, and approved in writing by, the Planning Authority. Once approved, provision to be made in accordance with the approved details prior to occupation of the first dwellinghouse.

Reason: To ensure adequate provision for waste storage within the 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, Berwickshire High School and Duns Primary School.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 “Code of Practice for Noise and Vibration Control on Construction and Open Sites”.

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

Notice Under 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 11 January 2023



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

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 22/00030/RREF

Planning Application Reference: 22/00296/FUL

Development Proposal: Erection of dwellinghouse

Location: Land North and East of Tweed Lodge, Hoebridge, East Road, Gattonside

Applicant: Mr Robin Purdie

DECISION

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

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse on land North and East of Tweed Lodge, Hoebridge, East Road, Gattonside. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan Existing	L(-1)001
Ground Floor Plan Proposed	L(-2)101.220113
First Floor Plan Proposed	L(-2)102.220113
Proposed Drainage Layout	L(-1)102.220510
Elevations Proposed North & South	L(-4)101.220426
Elevations Proposed North	L(-4)103
Elevation Proposed East and West	L(-4)102.220426
Site Plan Existing & Proposed	L(-1)102.220510 Rev A
Proposed North	L(-4)104
Landscape Concept Plan	L(05) SK01

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 17th October 2022.

After examining the review documentation at that meeting, which included a) Notice of Review (including the Decision Notice and Officer's Report; b) Papers referred to in Officer's Report; c) Additional Information; d) Consultation Replies; e) Objection Comments; and f) Policy List, 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 a Daylight Analysis Diagram and a floor plan of Tweed Lodge contained in the Review Supporting Statement. After consideration, Members agreed that this information was new, met the Section 43B test and that it could be considered, given it was material to the applicant's case and, therefore, to the determination of the Review.

However, Members decided that there was a requirement for further procedure in the form of written submissions to enable the Appointed Officer to respond to the new evidence and for the Review Body to hold an unaccompanied site inspection. The Review was, therefore, continued to the Local Review Body meeting on 19th December 2022 where the Review Body considered all matters, including the response from the Appointed Officer and the applicant's reply to that response. Members 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, PMD4, PMD5, HD3, ED10, EP3, EP4, EP6, EP9, IS2, IS3, IS7, IS9 and IS13
- Proposed Local Development Plan Policies: IS13

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 the erection of a dwellinghouse on land North and East of Tweed Lodge, Hoebridge, East Road, Gattonside.

The Review Body firstly noted that there was extant planning permission in principle for a house on the site and that the proposed dwellinghouse lay within the Conservation Area and settlement boundary of Gattonside as defined in the Local Development Plan. As only the garden ground lay outwith the settlement boundary and Conservation Area, Members were content that the principle of the house and its siting were acceptable under Policies PMD4, PMD5 and EP9.

The Review Body then considered the siting and design of the house under Policies PMD2, PMD5 and EP9. Whilst they noted the concerns of the Planning Officer, Heritage Officer and objectors over the scale, bulk, form and location on the edge of Gattonside, the Review Body were more in agreement with the applicant and supporters of the scheme. They considered there were other examples of contemporary design in the village, including flat roofed, timber clad and eclectic designs. This contributed to a lack of architectural uniformity whilst the proposed external dark timber boarding would match in with nearby architecture. Members also felt that the height of the building was relatively low and that the scale was appropriate for the site location and size. Overall, the Review Body concluded that, subject to materials controlled by condition, the proposed dwellinghouse was of an appropriate size and design in keeping with the character of the Conservation Area and Gattonside in general.

Members also discussed the location on the edge of the settlement and the visibility of the site from the approach to Gattonside from the east. Whilst they understood the concerns of the Planning and Heritage Officers over prominence, the Review Body noted the schematic planting proposals within the field adjoining the site to the east that would help screen the development. Given the applicant's ownership of this field, Members were content that the planting could be achieved by condition and that this could mitigate impact on the visibility of the development, combined with the chosen design and appropriate external materials. They also considered it necessary to remove permitted development rights by condition from the garden to limit external impacts and ensure uniformity of planning control across the whole site.

The Review Body then considered the potential impacts on residential amenity under Policy HD3 and the Householder SPG. Taking into account what was noted on the site visit and the submissions from the applicant and other parties, Members considered the location and scale of the previous barn on the site to be a significant material factor in favour of the new proposal. They noted that the adjoining property, Tweed Lodge, was designed to take account of the barn which existed on site until relatively recently. The Review Body considered that the barn had been overbearing on Tweed Lodge and that the proposed new dwellinghouse was of reduced scale and a more appropriate, beneficial neighbouring development, compared to the barn. Members also noted that only one habitable room window in Tweed Lodge was affected by daylight reduction and that the room in question had other windows facing away from the proposed dwellinghouse. Members concluded that the proposal was in compliance with Policy HD3 and the Householder SPG

The Review Body finally considered other material issues relating to the proposal, including land contamination, water, drainage, access, parking and ecology. Members concluded that these issues did not change their final decision and could be included in conditions where appropriate.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, PMD4, PMD5, EP4, EP6 and EP9 of the Local Development Plan and relevant Supplementary Planning Guidance. The proposal was considered to be an appropriately scaled and designed dwellinghouse in the setting, respecting the settlement fringe location, Conservation Area and adjoining residential property. Subject to appropriate boundary screening and other conditions, 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 samples of external materials for the dwellinghouse, have first been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved samples.
Reason: To ensure external materials are visually appropriate to the development and sympathetic to the surrounding area.
3. Notwithstanding the terms of Classes 3A and 3AA of Schedule 1 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, no outbuildings to be erected within the site unless a planning application has been submitted to, and approved by, the Planning Authority.
Reason: To ensure any garden curtilage development respects the location and adjoining land use/property
4. The parking and turning indicated on drawing L(-1)102 220510 Rev A must be provided prior to occupation and thereafter retained in perpetuity.
Reason: To ensure the development hereby approved is served by an adequate level of parking at all times.
5. Prior to commencement of development, details showing the proposed improvements to the access track to be submitted to, and approved by, the Planning Authority. Thereafter the approved details to be implemented prior to the occupation of the dwelling.
Reason: To ensure the development hereby approved is served by an appropriate standard of access.
6. No development shall take place except in strict accordance with a scheme of hard and soft boundary treatments, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
 - i. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
 - ii. location and design, including materials, of walls, fences and gates
 - iii. soft and hard landscaping works, including details of the indicative planting shown to the east of the site within the field owned by the applicant
 - iv. A programme for completion and subsequent maintenance.
Reason: To ensure the satisfactory form, layout and assimilation of the development.
7. No development to be commenced until the details of water and drainage provision are submitted to, and approved in writing by, the Planning Authority. Once approved, the development then to be completed in accordance with those details.
Reason: To ensure that the development is adequately serviced and in the interests of public health.
8. No development to be commenced until a scheme of waste storage has been submitted to, and approved in writing by, the Planning Authority. Once approved, provision to be made in accordance with the approved details prior to occupation of the dwellinghouse.
Reason: To ensure adequate provision for waste storage within the site.

9. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, 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.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

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

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 11 January 2023

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

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 22/00034/RREF

Planning Application Reference: 22/00396/FUL

Development Proposal: Replacement windows and door (retrospective)

Location: Caddie Cottage, Teapot Street, Morebattle

Applicant: Mr Robert Muir

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:

Plan Type	Plan Reference No.
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 21st 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 19th 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, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

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

Date 11 January 2023

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

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 22/00035/RREF

Planning Application Reference: 22/00464/FUL

Development Proposal: Erection of residential holiday let with associated facilities

Location: Townfoot Hill, Land North West of Cunzierton House, Oxnam, Jedburgh

Applicant: Mr Peter Hedley

DECISION

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

DEVELOPMENT PROPOSAL

The application relates to the erection of a residential holiday let with associated facilities at Townfoot Hill, Land North West of Cunzierton House, Oxnam, Jedburgh. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	P726-PL-LOC
Block Plan	P726-PL-001 Rev A
Site Plan	P726-PL-002 Rev B
Sequential Plan	P726-PL-003

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 19th December 2022.

After examining the review documentation at that meeting, which included a) Notice of Review (including the Decision Notice and Officer's Report); b) Items referred to in Officer's Report; c) Additional Information; d) Consultation Replies; 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 a Business Plan, sequential site assessment, map of neighbouring developments, revised access drawing P726-PL-002 Rev B and Visual Impact Study. After consideration, Members agreed that this information was new, met the Section 43B test and that it could be considered, given it was material to the applicant's case and, therefore, to the determination of the Review.

The Review Body agreed to further procedure by means of written submissions to obtain the comments of the Planning, Landscape, Roads and Access Officers on the new information and to seek the response of the applicant to their comments. Members also agreed to undertake an unaccompanied site visit, which was subsequently carried out on 9 February 2023. The Review was, therefore, continued to the Local Review Body meeting on 20th February 2023 where the Review Body considered all matters, including the responses from the Planning, Landscape, Roads and Access Officers and the applicant's reply to the responses. Members 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: Scottish Borders Local Development Plan 2016 and National Planning Framework 4. The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, ED7, HD3, IS4, IS5, IS7 and IS9
- Proposed Local Development Plan : Policy IS13
- National Planning Framework 4 Policies: 1, 2, 14, 15, 18, 29 and 30

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- Scottish Borders Tourism Strategy 2013-20
- Visit Scotland "Visitor Management Strategy" 2021
- Visit Scotland "Tourism Development Framework" 2016

The Review Body noted that the proposal was for the erection of a residential holiday let with associated facilities at Townfoot Hill, Land North West of Cunzierton House, Oxnam, Jedburgh.

Members firstly considered the principle of the development under Policy ED7. They noted that the Policy required the submission of a business case to support tourist accommodation proposals in the countryside. Whilst they noted that the Appointed Officer considered the submitted Business Plan did not provide sufficient indication of viability to justify the development, the Review Body accepted the Plan on the basis of farm diversification and the contribution it demonstrated to the existing farm business. They noted that the field was part of a working farm and that, in holding and business terms, it was not separated from the farm.

In addition, given the elevated and unique position of the proposal, the Review Body were satisfied that the proposal would be highly attractive to tourists, that the business would be viable as farm diversification and was, therefore, in compliance with Policy ED7.

Members then considered the criteria set down in Policy ED7 and PMD2 on siting, landscape and relationship with adjoining uses. Whilst they noted that the Appointed Officer and Landscape Officer had objected due to the prominence, elevation and secluded location of the proposal being out of character with the landscape and surrounding development pattern, the Review Body noted the additional submissions from the applicant, including the Visual Impact Study and sequential plan with associated photographs. Members considered that the site was a significant distance from a very limited number of farms and houses and that, from some directions, would not be visible at all.

The Review Body also noted that the proposal was utilising an existing disused quarry scar in the hillside, the building being sunk into the site with green roof and other design elements that would successfully reduce prominence, visual impacts and impact on the landscape. Provided controls could be imposed by condition to secure non-reflective glass and discrete indoor/outdoor lighting, Members were content that sunlight glint or evening lighting could be mitigated to acceptable levels, thus addressing the Landscape Officer's concerns over this element. The Review Body concluded that the development was modest in scale and form, with limited visibility and acceptable impacts on the landscape, character of the area and residential amenity. For these reasons, the proposal was in compliance with Development Plan Policies.

The Review Body then assessed the remaining criteria under Policies PMD2 and ED7 relating to the need for demonstration of sequential selection of the site and accessibility considerations. Members noted the submitted sequential map and photographs and were content with the information provided, showing the consideration that had been given to land and building opportunities within the farm. The Review Body also noted that the development was occupying rough agricultural land with previous quarrying use and that the development would contribute positively to the farm.

In terms of access and, whilst there was some concern over the gradient of the public road leading to the site, Members noted that both the Roads and Access Officers were content with the revised plans subject to appropriate conditions on the road access, parking, turning and maintenance of the existing right of way. Subject to those conditions, the Review Body concluded that the development was in accordance with the sequential site selection and accessibility requirements of Policies PMD2 and ED7.

The Review Body finally considered other material issues relating to the proposal including ecology, water, drainage, waste disposal and sustainability. Members also considered the relevance of NPF4 Policies, in particular, Policies 14, 29 and 30, concluding that the proposal was sustainable tourist accommodation benefitting the local economy and community. After full consideration, Members were of the opinion that such matters supported their decision to approve the proposal and were able to be addressed through appropriate conditions where relevant.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD1, PMD2, ED7 and IS5 of the Local Development Plan and Policies 14, 29 and 30 of National Planning Framework 4. The development was considered to be an appropriate provision of tourist accommodation for the location with a justified business case, complying with sustainability and tourism strategies for the area and providing high quality accommodation in an attractive setting. Impacts on

landscape and access could be satisfactorily mitigated by appropriate conditions. Consequently, the application was approved subject to conditions.

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. The occupation of the property shall be restricted to genuine holidaymakers, any person staying for a maximum of 3 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.
Reason: Permanent residential use in this location would conflict with the established planning policy for this rural area.
3. No development to be commenced until a scheme of all external colours and materials, including non-reflective glass, is submitted to, and approved in writing by, the Planning Authority. The development then to be implemented in accordance with the approved scheme.
Reason: To safeguard the visual amenity of the area.
4. No development to be commenced until a scheme of waste storage for the development is submitted to, and approved in writing by the Planning Authority. Once approved, the development then to be operated in accordance with the approved scheme.
Reason: To ensure that the development is adequately serviced and does not have a detrimental effect on amenity and public health.
5. No development to be commenced until a scheme for the provision of a water supply and of disposal of foul and surface water for the development are submitted to, and approved in writing by the Planning Authority. Once approved, the development then to be operated in accordance with the approved scheme.
Reason: To ensure that the development is adequately serviced and does not have a detrimental effect on amenity and public health.
6. No development to be commenced until a plan is submitted to, and approved in writing by, the Planning Authority, indicating the precise line of Right of Way BR191 and the intended surfacing and width of the right of way. Once approved, the Right of Way to be improved where indicated on the plan before the holiday let is first occupied and, thereafter, retained unobstructed in perpetuity.
Reason: To safeguard public access rights through the site.
7. No development to be commenced until full details of the junction with the public road, service lay-by, access track and parking/turning are submitted to, and approved in writing by, the Planning Authority. Once approved, the works to be completed before the holiday let is first occupied and retained in perpetuity thereafter.
Reason: In the interests of road safety.
8. No development to be commenced until a scheme of lighting is submitted to, and approved in writing by, the Planning Authority.
Reason: To safeguard impacts on landscape and visual amenity.

9. No development to be commenced until a landscape scheme has been submitted to, and approved in writing by, the Planning Authority. The scheme shall include all hard and soft landscaping details including the treatment of the access road, parking/turning, walling and immediate boundaries to the site. Once approved, the scheme then to be implemented in accordance with the approved details and maintained in perpetuity thereafter.

Reason: To safeguard impacts on landscape and visual amenity.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD

Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA

Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU

British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND

Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA

Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL

BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH

THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

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

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 27 February 2023



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

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 22/00036/RNONDT

Planning Application Reference: 22/00297/FUL

Development Proposal: Erection of 3 no holiday pods and associated parking

Location: Land West of Burnmouth Church, Stonefalls, Burnmouth, Eyemouth

Applicant: Stonefalls Development Partnership

DECISION

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

1. The application is contrary to Policy PMD4 of the Scottish Borders Local Development Plan as the development lies largely outwith the development boundary of Burnmouth, and there is insufficient community benefit demonstrated to outweigh the significant adverse effects on the landscape setting of the settlement and the natural heritage of the area.
2. The application is contrary to Policies PMD2, PMD5 and ED7 of the Scottish Borders Local Development Plan in that the site cannot be accessed without significant adverse impacts on road safety, due to the angle and gradient of the site access junction with the public road.
3. The application is contrary to Policy EP1 of the Scottish Borders Local Development Plan in that the applicant has failed to demonstrate that the proposal can be developed without significant detrimental effects on the Berwickshire and North Northumberland Coastline Special Area of Conservation through potential landslip.
4. The application is contrary to Policy EP2 of the Scottish Borders Local Development Plan in that the applicant has failed to demonstrate that the proposal can be developed without significant detrimental effects on breeding birds or Schedule 1 raptors at the site.

Development Proposal

The application relates to the erection of 3 no holiday pods and associated parking at Land West of Burnmouth Church, Stonefalls, Burnmouth, Eyemouth. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	10101/3-01
Site Plan	10101/3-02 Rev A
Sections & Elevations	10101/3-04
3D Overview of Site	10101/3-06
3D Views	10101/3-03
Holiday Cabin Plots 1 and 2	10101/3-05
Development Land Area	10101/3-09
Visual Impact	10101/3-20

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 19th December 2022.

After examining the review documentation at that meeting, which included a) Notice of Review (including Decision Notice and Handling Report) ; b) Additional Information; c) Consultation Replies; d) Objection Comments; and e) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of a hearing. After consideration, Members did not consider further procedure was 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: PMD1, PMD2, PMD4, ED7, HD3, EP1, EP2, EP3, EP5, EP7, EP8, EP13, EP14, IS5, IS7, IS8 and IS9.
- Proposed Local Development Plan Policy: IS5

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SESPlan 2013
- SPP
- Draft NPF4
- Scottish Borders Tourism & Strategy Action Plan

The Review Body noted that the proposal was for the erection of 3 no holiday pods and associated parking at Land West of Burnmouth Church, Stonefalls, Burnmouth, Eyemouth.

Members firstly considered the application against Policies PMD4 and ED7 of the Local Development Plan. They noted that part of the site had a development history of cottages but that this was both historic and, in any case, related only to the access/parking area. The Review Body also noted that the defined settlement boundary for Burnmouth did not contain the three proposed holiday pods but only the parking and access road. Members considered that as the development was, therefore, largely outwith the defined settlement boundary, it was contrary to Policy PMD4. The only relevant exception to that Policy related to community benefits and, whilst Members were generally supportive of the principle of tourism accommodation at this location, they did not consider that community benefits had been demonstrated to an extent that would outweigh the landscape or natural heritage impacts on the setting of the settlement boundary

The Review Body then considered the issue of safe vehicular access to the development and noted all submissions on the matter. Members agreed with the Roads Officer and objectors in relation to the steep gradient of the public road, the narrowness of the road, the position of the bend, the acute angle of the site access on that bend for left-turning vehicles into the site and the differing levels. With reference to Policies PMD2, PMD5 and ED7, the Review Body were not persuaded that the development could be accessed without causing significant road safety issues to vehicles generated by the development and other road users. They concluded that the development was contrary to the aforementioned Policies.

Members then discussed the objections of Nature Scot and other respondents in relation to the claims over land stability in the vicinity. It was noted that the position of Nature Scot was of a sustained objection as they were concerned that the construction of the development could cause landslip onto the shoreline, damaging reef habitat and ultimately impacting on the Berwickshire and North Northumberland Coastline Special Area of Conservation (SAC). The Review Body noted that Nature Scot had requested an engineer's stability assessment but this had not been submitted, albeit the applicant had offered submission post-consent by way of planning condition. Members were of the opinion that such an assessment should have been submitted before any decision was taken on the development and therefore, supported the objections of Nature Scot. The Review Body concluded that Policy EP1 was contravened due to the lack of demonstration over the stability of the site being able to accommodate the development without impacts on the SAC

The Review Body also noted the concerns of the Ecology Officer in relation to breeding birds and protected species. As the submitted survey had not been carried out within the activity season, the Officer was concerned over impacts on breeding birds and protected species, including skylark and peregrine falcon. Whilst again the applicant stated that a further survey could be carried out by condition, Members agreed with the Ecology Officer that the survey should have been submitted prior to a decision being taken on the development. As the survey could not be carried out until the commencement of the activity season at the end of March, the Review Body, therefore, considered that the proposal had not demonstrated how it could be developed without significant adverse effects on breeding birds and protected species. The application was, therefore, considered to be in contravention of Policy EP2.

As the development of the three holiday pods was largely located outwith the Burnmouth Settlement Boundary, the Review Body also assessed the application against the principle of Policy ED7. Whilst Members understood that a business case had been submitted as required by Policy ED7 and noted that tourism objectives had been claimed to be met by the proposals, they considered that the development exhibited overriding issues resulting in non-compliance with settlement boundary, roads and ecology policies. The Review Body concluded that these issues were not outweighed by the claimed economic and tourism benefits.

The Review Body finally considered other material issues relating to the proposal including impacts on visual amenity, landscape designations, trees, the listed harbour, surface water flood risk, residential amenity, relationship with the coastal path, archaeology, water, drainage, waste disposal, compliance with SESplan and NPF4. After consideration, these issues did not change the final decision of the Review Body.

CONCLUSION

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

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

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

Date 11 January 2023



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

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 22/00037/RREF

Planning Application Reference: 22/01089/FUL

Development Proposal: Installation of photovoltaic array to the south facing roof

Location: Mansefield, 91 High Street, Coldstream

Applicant: Mr Patrick Jenkins

DECISION

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

DEVELOPMENT PROPOSAL

The application relates to the installation of a photovoltaic array to the south facing roof of Mansefield, 91 High Street, Coldstream. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
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Location Plan	
Roof and Photovoltaic Layout Plan	

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 19th December 2022. After examining the review documentation which included: a) Notice of Review (including Decision Notice and Officer's Report); b) Papers referred to in Officer's Report; c) Consultation Replies; and d) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of a hearing and site inspection. After

consideration, Members did not consider these were 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: PMD1, PMD2, ED9 and EP9

Other Material Considerations

- SBC Supplementary Planning Guidance on Renewable Energy 2018

The Review Body noted that the proposal was for planning permission to install a photovoltaic array to the south facing roof of Mansefield, 91 High Street, Coldstream.

Members noted that the property was within Coldstream Conservation Area and that the photovoltaic panels were proposed on the south facing roof slope which would be visible on the High Street and in the public realm. They noted that Policies PMD2 and EP9 required an alteration appropriate to the existing building, compatible with the character of its surroundings and preserving the special architectural character and appearance of the Conservation Area. However, the Review Body also noted strong support for domestic renewable energy schemes at a national level which was reflected in Local Development Plan Policy ED9. They also accepted the panels were positioned on the south-facing roof for maximum solar gain.

Members did discuss whether there were less visible alternatives for the panels such as ground, outbuilding or rear roof mounting. They were also aware of the precedent that could be set in the Conservation Area of allowing panels on publicly visible roofs.

After full consideration, the Review Body supported the growth in domestic green energy and concluded that the benefits outweighed the visual impact on the character of the dwellinghouse and the Conservation Area in this particular case. Members considered that the panels may also look more compact and integrated on the building than dispersed across other roofs and parts of the property. The Review Body also understood that the panels could be removed again should they no longer be used for electricity production. For these reasons, Members considered that compliance with Policy ED9 outweighed the impacts on the Conservation Area and Policy EP9 in this instance.

The Review Body finally considered other material issues relating to the proposal but concluded that they did not change their final decision.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD1, PMD2 and EP9 of the Local Development Plan and relevant Supplementary Planning Guidance. The proposal was considered to be in compliance with the Council's Policies on sustainability and renewable energy sources and

that this outweighed any impacts on the character of the house or the Conservation Area. 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 the precise details of the photovoltaic panels have first been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved details.
Reason: To ensure the installation is visually appropriate to the dwellinghouse and sympathetic to the surrounding area.
3. The photovoltaic panels to be removed from the roof and the roof restored to its previous condition to the specification of the Planning Authority, within one year of the cessation of electricity production from the panels.
Reason: To safeguard the character of the dwellinghouse and the visual amenity of the Conservation Area.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase,

other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

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

Date 11 January 2023

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

**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Local Review Reference: 22/00038/RREF

Planning Application Reference: 22/00965/FUL

Development Proposal: Installation of soil vent pipe to front elevation

Location: Hillside, 6 Duns Road, Swinton

Applicant: Mr William Dryburgh

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 proposed development fails to comply with Policy PMD2 and Policy EP9 of the Scottish Borders Local Development Plan 2016 in that the route of the proposed soil vent pipe would adversely impact upon the character and appearance of the dwellinghouse and Swinton Conservation Area.

DEVELOPMENT PROPOSAL

The application relates to the installation of a soil vent pipe to the front elevation of Hillside, 6 Duns Road, Swinton. The application drawings and documentation consisted of the following:

Plan Type

Plan Reference No.

Location Plan
Front elevation
Photographs

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 19th December 2022.

After examining the review documentation at that meeting, which included a) Notice of Review (including Officer's Report and Decision Notice); b) Papers referred to in Officer's Report; c) Additional Information; d) Consultation Replies; e) Objection comments and f) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of written submissions and a hearing. After consideration, Members did not consider these were 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 and EP9

The Review Body noted that the application was for the installation of a soil vent pipe to the front elevation of Hillside, 6 Duns Road, Swinton.

Members noted that the property was within Swinton Conservation Area, facing the public road at the entrance to the village from Duns. They also noted that Policies PMD2 and EP9 required an alteration appropriate to the existing building, compatible with the character of its surroundings and preserving the special architectural character and appearance of the Conservation Area.

Although the Review Body noted the presence of climbing vegetation on the front elevation of the property which may provide limited screening, especially in summer, they were of the opinion that this would not be sufficient mitigation to screen what they considered to be an unsightly routing of the soil pipe. Members considered that alternatives should be considered, either concealed within the structure of the building, to the rear or the routing of the pipe on the front elevation to avoid its angled route from roof to ground.

On the basis of the current proposals, Members considered there would be a substantial and detrimental visual impact to the front elevation of the property, both detrimentally affecting its character and that of the Conservation Area.

The Review Body finally considered other material issues relating to the proposal but concluded that they did not change their final decision.

CONCLUSION

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

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed Councillor S Mountford
Chairman of the Local Review Body

Date 11 January 2023

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