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SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTES of Meeting of the LOCAL REVIEW
BODY held in Council Chamber - Blended on
Monday, 17 April 2023 at 10.00 am

Present:- Councillors D. Moffat, N. Richards, E. Small, J. Cox, M. Douglas, A. Orr and
S. Scott

Apologies:- Councillors S. Mountford and V. Thomson

Absent:- Councillors

In Attendance:-

1. **ORDER OF BUSINESS.**
ORDER OF BUSINESS

The Chair varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

2. **PROCEDURAL HEARINGS**

Mrs Thompson, Solicitor explained that that the following applications had been placed on the Agenda as procedural hearings as a result of the Scottish Government introducing the National Planning Framework 4 (NPF4) on 13 February 2023, which superseded previous guidance and now formed part of the Development Plan. In accordance with the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, the Planning Authority must ensure that Planning Decisions and Reviews took account of the new Framework. It was therefore agreed that comments on the impact of NPF4 on the planning application and subsequent review be sought from the Planning Officer and Applicant, prior to the following applications being presented to the Local Review Body for consideration.

3. **CONSIDER REQUEST TO REVIEW REFUSAL IN RESPECT OF THE ALTERATIONS
AND EXTENSION TO DWELLINGHOUSE AT RATCHILL FARMHOUSE, BROUGHTON
- 23/00009/RREF**

REVIEW OF 23/00009/RREF

There had been circulated copies of a request from Jane Prady c/o WT Architecture, 4-6 Gote Lane, South Queensferry EH30 9PS to review the decision to refuse the planning application for the alteration and extension to dwellinghouse at Ratchill Farmhouse, Broughton. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report and consultation replies.

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 not be considered without the need for further procedure in the form of written submissions;**
- (c) **the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and**

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

4. **CONSIDER REQUEST TO REVIEW REFUSAL IN RESPECT OF MODIFICATION OF CONDITION NO. 1 OF PLANNING PERMISSION 15/01355/FUL TO ALLOW THE HOLIDAY CHALET TO BE OCCUPIED AS DWELLINGHOUSE ON LAND AT DISUSED RAILWAY LINE, RACHAN, BROUGHTON - 23/00010/RREF**

REVIEW OF 23/00010/RREF

There had been circulated copies of request from Mr I Maxwell c/o Ferguson Planning, 37 George Street, Edinburgh EH2 2HN to review the decision to refuse the planning application for modification of condition No. 1 of planning permission 15/01355/FUL to allow the holiday chalet to be occupied as a dwellinghouse on Land at Disused Railway Line, Rachan, Broughton. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Support comments; Consultation replies and Objection comments.

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 not be considered without the need for further procedure in the form of written submissions;
- (c) the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and
- (d) consideration of the review be continued to a future meeting on a date to be confirmed.

5. **CONSIDER REQUEST TO REVIEW REFUSAL IN RESPECT OF THE INSTALLATION OF PHOTO VOLTAIC ARRAY TO ROOF AT SCOTT HOUSE, DOUGLAS SQUARE, NEWCATLETON - 23/00011/RREF**

REVIEW OF 23/00011/RREF

There had been circulated copies of a request from Mr Alistair Hodgson c/o CSY Architects, 9 West Street, Berwick-Upon-Tweed to review the decision to refuse the planning application for the installation of photo voltaic array at Scott House, Douglas Square, Newcastleton. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report and Consultation Replies.

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 not be considered without the need for further procedure in the form of written submissions;
- (c) the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and
- (d) consideration of the review be continued to a future meeting on a date to be confirmed.

**6. CONSIDER REQUEST TO REVIEW REFUSAL IN RESPECT OF THE ERECTION OF DWELLINGHOUSE WITH DETACHED GARAGE ON LAND WEST OF THE OLD BARN, WESTWATER, WEST LINTON - 23/00012/RREF
REVIEW OF 23/00012/RREF**

There had been circulated copies of a request from Ian Swann c/o MAKAR Ltd, Clachandreggy, Torbreck, Inverness IV2 6DJ to review the decision to refuse the planning application for the erection of a dwellinghouse with detached garage on Land West of the Old Barn, Westwater, West Linton, The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report and Consultation Replies.

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 not be considered without the need for further procedure in the form of written submissions;**
- (c) the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and**
- (d) consideration of the review be continued to a future meeting on a date to be confirmed.**

**7. CONSIDER REQUEST FOR REVIEW OF REFUSAL OF APPLICATION IN RESPECT OF ALTERATIONS AND DORMER EXTENSION TO DWELLINGHOUSE AT 11 TWEED AVENUE, PEEBLES - 23/00014/RNONDT
REVIEW OF 23/00014/RNONDT**

There had been circulated copies of a request from Gary Neale c/o Robert Slaney, 48 Bruntsfield Gardens, Edinburgh EH10 4DZ to review the decision to refuse the planning application for the alterations and dormer extension to dwellinghouse at 11 Tweed Avenue, Peebles. The supporting papers included the Notice of Review; Consultation Replies and Support Comments.

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 not be considered without the need for further procedure in the form of written submissions;**
- (c) the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and**
- (d) consideration of the review be continued to a future meeting on a date to be confirmed.**

8. MEMBERS

Having not been present when the following review was first considered, Councillor Cox left the meeting. Having not been present at the site visit, Councillor Small left the meeting.

9. **CONTINUATION OF REVIEW OF REFUSAL IN RESPECT OF THE ERECTION OF HOLIDAY LET ACCOMMODATION ON LAND NORTH EAST OF RUNNINGBURN FARM, STICHILL - 22/00039/RREF**

CONTINUATION OF REVIEW 22/00039/RREF

- 7.1 With reference to paragraph 8 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from James Neil and Son per Sam Edwards, 37 One George Street, Edinburgh to review the decision to refuse the planning application for the erection of holiday let accommodation on Land North East of Runningburn Farm, Stichill. The supporting papers included the written submissions from the Planning Officer and Applicant in respect of NPF4; written submissions from the Planning Officer and Applicant in respect of new information; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Additional Information and Consultation Replies.
- 7.2 Members considered the principle of the development under Policy ED7 and whilst they noted that the Appointed Officer considered the submitted Business Plan did not provide sufficient economic benefit to outweigh the environmental impacts of the development, Members accepted the Business Plan on the basis of farm diversification and the contribution such accommodation would make to the existing wedding venue business at the farm. Members considered the criteria set down in Policy ED7 and PMD2 on siting, landscape and relationship with adjoining uses and, having carried out an accompanied site inspection, saw the benefits of the location in a secluded position, in place of an existing building, distant from other properties and hidden from the nearest public road. In terms of the access, Members noted that the Roads Officer was content with the alternative access route, which had less potential conflict with the farm steading and subject to conditions, including a condition securing the details and completion of the alternative access route, the Review Body concluded that the development was in accordance with the accessibility requirements of Policies PMD2 and ED7.

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) **NPF4 Policies did not alter their conclusion.**
- (d) **the officer's decision to refuse the application be overturned and the application approved, for the reasons detailed in Appendix I to this Minute.**

10. **MEMBERS**

Councillors Cox and Small re-joined the meeting prior to consideration of the following application.

11. **CONTINUATION OF REVIEW OF REFUSAL IN RESPECT OF THE ERECTION OF 2 NO. DWELLINGHOUSES ON LAND AT SILO BINS EDINGTON MILL CHIRNSIDE - 22/00040/RREF**

CONTINUATION OF REVIEW 22/00040/RREF

- 8.1 With reference to paragraph 9 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from Mr and Mrs O McLaren c/o Richard Amos, 2 Golden Square, Duns to review the decision to refuse the planning application for the erection of 2 No. dwellinghouses on Land at Silo Bins, Edington Mill, Chirnside. The supporting papers included the written submissions from the Planning Officer and Applicant in respect of NPF4; written submissions from the Planning Officer and Applicant in respect of new information; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Additional Information and Consultation Replies; Support Comments and Objection comments.
- 8.2 Members considered the application in relation to Policy HD2 of the Local Development Plan, Policy 17 of NPF4 and the Housing in the Countryside SPG and noted the comments of all parties, the submitted drawings and visual presentation and that both the applicant and Case Officer agreed upon the existence of a building group within the river valley to the south and it was the relationship of the site with this group that was in dispute. Members accepted that even allowing for the extant consents, there was capacity to add to the group under Clause A) of Policy HD2, however, they did not agree that the application site was part of that group as it was not within the river valley enclosing the group. Members were of the opinion that as the four consented houses were not in existence at this stage, they could not be taken into consideration. In terms of the conflict between the proposed houses and the agricultural building to the north of the site it was noted that the building was used for storage of poultry manure and taking into account all submissions and noting the concerns from the objector, Case Officer and Environmental Health over residential amenity issues caused by odour and flies, the Review Body did not consider that the site was appropriate for housing on the basis of likely incompatibility of uses and close proximity between houses and the agricultural building.

DECISION

AGREED that:-

- (a) **the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
 - (b) **the review could be considered without the need for further procedure;**
 - (c) **the proposal would be contrary to Policies HD2 (Housing in the Countryside), PMD2 (Quality Standards) and HD3 (Protection of Residential Amenity) of the Local Development Plan 2016, Policy 17 of NPF4 and the New Housing in the Borders Countryside Supplementary Planning Guidance 2008 as the erection of dwellinghouses at this location would be poorly related to an established building group and would be incompatible with neighbouring farm uses, with a reasonable likelihood of unacceptable residential amenity impacts arising for the future occupants of the proposed dwelling units. Other material considerations do not justify a departure from the development plan in this regard.**
 - (d) **that the Officer's decision to refuse the application be upheld and varied and the application be refused, for the reasons detailed in Appendix II to this Minute.**
12. **CONTINUATION OF REVIEW OF REFUSAL IN RESPECT OF THE SITING OF SHEPHERDS HUT AND SITING OF CABIN (RETROSPECTIVE) TO FORM HOLIDAY LET ACCOMMODATION ON LAND SOUTH WEST OF CORSTANE FARMHOUSE, BROUGHTON - 22/00044/RREF**
- CONTINUATION OF REVIEW 22/00044/RREF**
- 9.1 With reference to paragraph 3 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from the Firm of Corstane, c/o Ferguson

Planning, 54 Island Street, Galashiels to refuse the planning application for the siting of shepherds hut and siting of cabin (retrospective) to form holiday let accommodation on Land South West of Corstane Farmhouse, Broughton. The supporting papers included the Officer submission and Applicant response to NPF4 statements; Officer submission and Applicant response to new information; the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; consultation replies and support comments.

- 9.2 Members considered the principle of the development under Policy ED7 and noted the Policy supported tourism accommodation in the countryside provided there was a business case. They then considered the criteria set down in Policy ED7 and PND2 on siting, landscape and relationship with adjoining uses and noted the concerns of the Appointed Officer, particularly with regard to segregation from the existing farm. Members considered the site avoided conflict with the operational farm and accepted the findings of the sequential information that it was the most appropriate location for a tourism development. In terms of impact on the landscape setting, Members were satisfied that the site was well concealed by existing roadside hedging and any landscape and visual impacts as a result of the siting of the development would not be harmful, subject to conditions to agree material finishes, including appropriate colours.

DECISION

AGREED that:-

- (a) **the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **the review could be considered without the need for further procedure;**
- (c) **the officer's decision to refuse the application be overturned and the application be approved, subject to conditions, for the reasons detailed in Appendix III to this Minute.**

13. **CONTINUATION OF REVIEW OF REFUSAL IN RESPECT OF ALTERATIONS AND EXTENSION TO DWELLINGHOUSE AT 17 GEORGE STREET, EYEMOUTH - 22/00045/RREF**

14. **MEMBERS**

Having not been present when the following two reviews were first considered, Councillor Small left the meeting. Councillor Scott also left the meeting.

15. **CONTINUATION OF REVIEW OF REFUSAL IN RESPECT OF ALTERATIONS AND EXTENSIONS TO DWELLINGHOUSE AT DOVE COTTAGE, THE GATEHOUSE LODGE, PRESS CASTLE, COLDINGHAM - 22/00046/RREF**

CONTINUATION OF REVIEW 22/00039/RREF

- 11.1 With reference to paragraph 6 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from Mr W Hannah, c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the alterations and extension to dwellinghouse at Dove Cottage, The Gatehouse Lodge, Press Castle, Coldingham. The supporting papers included the written submissions from the Planning Officer and Applicant in respect of NPF4; written submissions from the Planning Officer and Applicant in respect of new information; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Additional Information and Consultation Replies, support comments and list of policies.

- 11.2 Members noted that there was an associated refusal of listed building consent for extensions and alterations to the property and that this was a matter for the DPEA should an appeal against that refusal be submitted. The proposal at Review was in relation to

refusal of planning permission for the same works and Members noted that the proposal required to be assessed against the relevant Development Plan Policies relating to the refusal of planning permission. There had been submitted two versions of the proposals during the processing of the planning application, Drawing no. 22/B943/PL03 which had been superseded by 22/B943/PL03 Revision A, the latter being the drawing that was refused planning permission by the Appointed Officer. The applicant had submitted the Review only on the basis of the original drawing i.e. Drawing no. 22/B943/PL03. The Review Body noted both drawings and differences between them and that they were entitled to consider both in their determination of the Review. Members noted the requirements of the LDP Policy PMD2 in terms of scale, massing and height of any house extensions and alterations and to recognise context and finish in materials which complemented the existing building and area. It was noted that Dove Cottage was a Category C statutorily listed building and that LDP Policy EP7 and NPF4 Policy 7 seek to protect the character and integrity of the listed building, together with high quality materials and design.

Members considered both versions of the drawing and all submissions on the proposals and did not consider that the overall design of the extensions integrated successfully with the listed building, Members expressed particular concern in that the flat roofs and means by which the extensions were attached to the house would jar with the appearance of the house and impact on its character and integrity. The proposals may have complied more with Policy if the approach had been a traditional design with pitched roofing or possible detachment from the dwellinghouse.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for further procedure;**
- (c) the proposed development was contrary to Local Development Plan 2016 policy EP7 (Listed Buildings) and Policy 7 of NPF4 as it would not respect the original structure due to its excessive scale and poorly related design. The proposed development would not maintain the special architectural or historic quality of the building and would have a significant adverse impact on its special character and appearance.**
- (d) the Officer's decision to refuse the application be upheld and varied and the application be refused, for the reasons detailed in Appendix V to this Minute.**

16. MEMBERS

Councillors Cox and Small re-joined the meeting prior to consideration of the following applications.

17. CONTINUATION OF REVIEW OF REFUSAL IN RESPECT OF THE ERECTION OF ERECTION OF CLASS 4 JOINERY WORKSHOP WITH ASSOCIATED ACCESS AND PARKING ON LAND NORTH AND EAST OF CLAY DUB, DUNS ROAD, GREENLAW - 22/00047/RREF

CONTINUATION OF REVIEW 22/00047/RREF

12.1 With reference to paragraph 4 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from Marchmont Estates c/o Smith & Garratt, The Guildhall, Ladykirk, Berwick-Upon-Tweed to review the decision to refuse the planning application for the Erection of Class 4 joinery workshop with associated access and parking on Land North and East of Clay Dub Duns Road, Greenlaw. The supporting papers included

the written submissions from the Planning Officer and Applicant in respect of NPF4 and New Information; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; further representations; consultation replies; support comments; objections; and Applicant response; additional information; consultation replies and objections.

- 12.2 Members considered the principle of the development under Policies PMD4 and ED7, noting that the site lay outwith the defined settlement boundary for Greenlaw and that the development was consequently for business development in the countryside. The Review Body noted that there was community support for the site, including from the Community Council, and that the allocated site on the Edinburgh Road in the village had not been taken up. Members further noted that the intended occupant of the building was a local joinery firm presently operating in Eccles and offered significant local economic benefits to the area if taken up by the firm, being a more sustainable location for employees. Having also conducted an unaccompanied site inspection, the Review Body concluded that the proposal justified an exception to Policy PMD4 and was both an extension to the settlement boundary which would create positive community benefits through local job opportunities and allowing existing firms to expand, whilst also representing a logical extension to the boundary adjoining an existing industrial estate. For similar reasons, they also accepted the proposal under Policy ED7, there being no obvious demand to take up the existing allocated site to the west of the village and the proposal representing an employment generating use on an appropriate site. Members also considered the loss of prime agricultural land and compliance with Policy ED10, but were of the opinion that the loss was outweighed by the need for the site to allow the expansion of a local business with associated economic benefits. Finally consideration was given to the siting, design and the likely impact on the surrounding area, but Members were content that appropriate conditions on the development details, landscaping and operation of the use would ensure compliance with the Development Plan.

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 officer's decision to refuse the application be overturned and the application approved for the reasons detailed in Appendix VI to this Minute and subject to conditions.**

18. CONTINUATION OF REVIEW 23/00001/RREF

With reference to paragraph 5 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from Mr Richard Spray per John Handley Associates Ltd, 65A Leamington Terrace, Edinburgh EH10 4JT to review the decision to refuse the planning application for the Erection of timber storage and processing facility with new access junction, yard area, landscaping, tree planting, SUDs and associated works and planning permission in principle for associated dwellinghouse with office for the timber processing facility on Land South West of West Loch Farmhouse, Peebles. The supporting papers included the written submissions from the Planning Officer and Applicant in respect of NPF4; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; further representations and Applicant response; additional information; consultation replies; objections and list of Policies. The Planning Adviser drew attention to information, in the form of a Legal Opinion from Mr Neil Collar; Tree Protection Plan; Ecology Appraisal Plan; Noise Impact Assessment and Photographs – PB02/PB03 and PB06 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 new information could not be considered without affording the Planning Officer, Ecology Officer and SBC Solicitor an opportunity of making representations. As the application required to be continued, Members requested that an accompanied site visit to the existing and proposed sites be arranged prior to a decision.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) new evidence submitted with the Notice of Review in the form Legal Opinion from Mr Neil Collar; Tree Protection Plan; Ecology Appraisal Plan; Noise Impact Assessment and Photographs – PB02/PB03 and PB06 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 be not considered without the need for further procedure in the form of written submissions and an accompanied site visit;**
- (d) the Planning Officer, Ecology Officer and SBC Solicitor be given the opportunity to comment on the new evidence submitted with the Notice of Review ;**
- (e) consideration of the review be continued to a future meeting on a date to be confirmed.**

o paragraph 5 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from Mr Richard Spray per John Handley Associates Ltd, 65A Leamington Terrace, Edinburgh EH10 4JT to review the decision to refuse the planning application for the Erection of timber storage and processing facility with new access junction, yard area, landscaping, tree planting, SUDs and associated works and planning permission in principle for associated dwellinghouse with office for the timber processing facility on Land South West of West Loch Farmhouse, Peebles. The supporting papers included the written submissions from the Planning Officer and Applicant in respect of NPF4; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; further representations and Applicant response; additional information; consultation replies; objections and list of Policies. The Planning Adviser drew attention to information, in the form of a Legal Opinion from Mr Neil Collar; Tree Protection Plan; Ecology Appraisal Plan; Noise Impact Assessment and Photographs – PB02/PB03 and PB06 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 new information could not be considered without affording the Planning Officer, Ecology Officer and SBC Solicitor an opportunity of making representations. As the application required to be continued, Members requested that an accompanied site visit to the existing and proposed sites be arranged prior to a decision.

DECISION

AGREED that:-

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

- (b) new evidence submitted with the Notice of Review in the form Legal Opinion from Mr Neil Collar; Tree Protection Plan; Ecology Appraisal Plan; Noise Impact Assessment and Photographs – PB02/PB03 and PB06 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 be not considered without the need for further procedure in the form of written submissions and an accompanied site visit;
- (d) the Planning Officer, Ecology Officer and SBC Solicitor be given the opportunity to comment on the new evidence submitted with the Notice of Review ;
- (e) consideration of the review be continued to a future meeting on a date to be confirmed.

19. DECLARATIONS OF INTEREST.

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

20. CONTINUATION OF REVIEW 23/00002/RREF

With reference to paragraph 6 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from Mr Robert Gaston, Ravelaw Farm, Whitsome, Duns to review the decision to refuse the planning application for the Erection of agricultural building (retrospective). The supporting papers included the written submissions from the Planning Officer and Applicant in respect of NPF4; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; consultation replies, general comments; objections and list of Policies. The Planning Adviser drew attention to information, in the form of a Solicitors Letter dated 20 December 2022; New Support letter from Garth Pig Practice Ltd; Signed Letter from Neighbours and set of amended site plans 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 new information could not be considered without affording the Planning Officer an opportunity of making representations. As the application required to be continued, Members requested that an accompanied site visit be arranged prior to a decision.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;
- (b) the new evidence submitted with the Notice of Review in the form of a Solicitors Letter dated 20 December 2022; New Support letter from Garth Pig Practice Ltd; Signed Letter from Neighbours and set of amended site plans 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 be not considered without the need for further procedure in the form of written submissions and an accompanied site visit;
- (d) the Planning Officer be given the opportunity to comment on the new evidence submitted with the Notice of Review ;

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

The meeting concluded at Time Not Specified

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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: 22/00039/RREF

Planning Application Reference: 22/00575/FUL

Development Proposal: Erection of holiday let accommodation

Location: Land North East of Runningburn Farm, Stichill

Applicant: James Neil and Son

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 holiday let accommodation on land North-East of Runningburn Farm, Stichill. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Proposed Site Plan	001
Proposed Floor Plans	PL 001
Proposed Elevations	PL 002
Farm Allocation	001

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 23rd January 2023.

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 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 with photographs, visual impact study and alternative access with photographs. 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 and Roads Officers on the new information and to seek the response of the applicant to their comments. Members also agreed to undertake an accompanied site visit, which was subsequently carried out on 15 February 2023.

The Review was then considered by the Review Body at its meeting on 20th February 2023. At that meeting, Members noted that National Planning Framework 4 (NPF4) was in force as part of the Development Plan and considered it necessary for the Review Body to have regard to any relevant Policies in NPF4 before determining the Review. Members concluded that it was appropriate to undertake further procedure by seeking written submissions from the Appointed Officer and Applicant in relation to NPF4.

The Review was, therefore, continued to the Local Review Body meeting on 17th April 2023 where the Review Body considered all matters, including the responses from the Planning, and Roads 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, EP1, EP2, EP3, IS5, IS7 and IS9
- Proposed Local Development Plan : Policy IS5
- 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 holiday let accommodation on land North-East of Runningburn Farm, Stichill

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 economic benefit to outweigh the environmental impacts of the development, Members accepted the Business Plan on the basis of farm diversification and the contribution such accommodation would make to the existing wedding venue business at the farm. From their site visit and the submissions, the Review Body considered the existing business to be a good example of successful farm diversification and they understood how the business would be supported and expanded through the provision of accommodation on the farm. The Review Body also viewed the proposals as beneficial to tourism and replacing lost accommodation in the local area.

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 had objected due to the isolated and open position of the proposed building, well detached from the farm steading and wedding venue, Members saw the benefits of the location in a secluded position, in place of an existing building, distant from other properties and hidden from the nearest public road. Given the views from the site and the presence of ponds, the Review Body considered the site to be well chosen in operational, tourism and landscape terms with little or no adverse visual impact. They also noted and accepted the sequential information submitted to demonstrate the lack of opportunities within or nearer the business and farm grouping. In terms of compliance with Policies ED7 and PMD2, Members, therefore, accepted the justification for the site to be in this particular rural location

In terms of access, Members noted that the Roads Officer was content with the alternative access route which they had used on their site visit. This was considered to be a better access route with less potential conflict with the farm steading. Subject to a condition securing the details and completion of the alternative access route, the Review Body concluded that the development was in accordance with the accessibility requirements of Policies PMD2 and ED7.

The Review Body finally considered other material issues relating to the proposal including other cited similar cases, ecology, water, drainage, waste disposal, sustainability and residential amenity. 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 established wedding business and local economy. 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 IS7 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 linked to the existing wedding business, complying with sustainability and tourism strategies for the area and providing high quality accommodation in an appropriate setting. Impacts on landscape could be satisfactorily mitigated by appropriate conditions and an alternative access had been accepted which would result in less conflict with the farm. 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, 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 full details of the alternative access track from the farm to the site are submitted to, and approved in writing by, the Planning Authority. Once approved, the track to be completed before the holiday let is first occupied and retained in perpetuity thereafter.
Reason: In the interests of road safety.
7. The parking and turning provision shown on the approved plan to be completed pre-occupation of the property and retained thereafter in perpetuity.
Reason: In the interests of road safety
8. 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 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.
9. No development to be commenced until existing and proposed site and building levels are submitted to, and approved in writing by, the Planning Authority. Once approved, the development to be completed in accordance with the approved levels.
Reason: To safeguard impacts on landscape and visual amenity.

10. No development to be commenced until a Preliminary Ecological Appraisal is submitted to, and approved in writing by, the Planning Authority. Once approved, the development to be completed in accordance with the Appraisal, including any mitigation or subsequent surveys required.

Reason: To safeguard impacts on ecological interests.

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 M Douglas
Vice Chairman of the Local Review Body

Date.....

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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: 22/00040/RREF

Planning Application Reference: 22/00961/PPP

Development Proposal: Erection of 2 no dwellinghouses

Location: Land at Silo Bins, Edington Mill, Chirnside

Applicant: Mr & Mrs O McLaren

DECISION

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

1. The development is contrary to Policy HD2 (Housing in the Countryside) of the Local Development Plan 2016, Policy 17 of NPF4 and the New Housing in the Borders Countryside Supplementary Planning Guidance 2008 in that it would constitute piecemeal and sporadic new housing development in the countryside that would be poorly related to an established building group and no other supporting justification has been presented. This conflict with the development plan is not overridden by any other material considerations.
2. The proposed development is contrary to Local Development Plan 2016 policies PMD2 (Quality Standards) and HD3 (Protection of Residential Amenity) as the erection of dwellinghouses at this location would be incompatible with neighbouring farm uses, with a reasonable likelihood of unacceptable residential amenity impacts arising for the future occupants of the proposed dwelling units. Other material considerations do not justify a departure from the development plan in this regard.

DEVELOPMENT PROPOSAL

The application relates to the erection of 2 No dwellinghouses on land at former Silo Bins, Edington Mill, Chirnside. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	22/B936/Loc
Proposed Site Plan	P002
Proposed Site Plan	P002 Rev A
Existing Site Plan	P001

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 23rd January 2023

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) Support Comments; f) Objection Comments and g) 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 an amended site plan with an enlarged planting belt to the northern boundary of the site. 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 Officer on the new information and to seek the response of the applicant to their comments.

The Review was then considered by the Review Body at its meeting on 20th February 2023. At that meeting, Members noted that National Planning Framework 4 (NPF4) was in force as part of the Development Plan and considered it necessary for the Review Body to have regard to any relevant Policies in NPF4 before determining the Review. Members concluded that it was appropriate to undertake further procedure by seeking written submissions from the Appointed Officer and Applicant in relation to NPF4.

The Review was, therefore, continued to the Local Review Body meeting on 17th April 2023 where the Review Body considered all matters, including the response from the Planning 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 the Scottish Borders Local Development Plan 2016 and NPF4. The LRB considered that the relevant listed policies were:

- Local Development Plan Policies: PMD1, PMD2, HD2, HD3, ED10, EP3, EP8, EP13, IS2, IS5, IS7, IS8, IS9 and IS13
- Proposed Local Development Plan Policies: IS5, IS13

- NPF4 Policies: 1, 2, 3, 5, 7, 9, 14, 16, 17, 18, 22 and 23

Other Material Considerations

- SBC Supplementary Planning Guidance on Housing in the Countryside 2008
- SBC Supplementary Planning Guidance on Developer Contributions 2021
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

The Review Body noted that the application was for the erection of 2 No dwellinghouses on land at former Silo Bins, Edington Mill, Chirnside.

Members firstly considered the application in relation to Policy HD2 of the Local Development Plan, Policy 17 of NPF4 and the Housing in the Countryside SPG. The Review Body noted the comments of all parties, the submitted drawings and visual presentation. They noted that both the applicant and Case Officer agreed upon the existence of a building group at Edington Mill within the river valley to the south and it was the relationship of the site with the group that was in dispute.

Members also accepted that there was a building group at Edington Mill within the river valley and that, even allowing for the extant consents, there was capacity to add to the group under Clause A) of Policy HD2. However, the Review Body did not agree that the application site was part of that group as it was not within the river valley enclosing the group and the site was also distinct and separated by distance from the edge of the valley and existing houses. They agreed with the Appointed Officer that it was, therefore, outwith and had a poor relationship with the building group.

Whilst Members noted the applicant had contended that four consented houses connected the application site with the existing building group, they gave little weight to the argument as none of the houses were actually built and in existence at this stage. The Review Body concluded that the site was outwith and not part of the existing building group and, as there were no economic or agricultural reasons put forward for the houses, the proposal was considered contrary to Policy HD2 and the Housing in the Countryside SPG.

The proposal was also considered to be contrary to NPF4 Policy 17 which allows Local Authorities to tailor their specific approach to housing in the countryside, the proposal being against that specific approach related to building group addition. Whilst Members gave consideration to the applicant's comments in relation to former silos and brownfield land, they did not consider that in this instance, NPF4 Policy 9 had any particular bearing on their decision to uphold the Appointed Officer's refusal of the application.

The Review Body then considered the issue of conflict between the proposed houses and the agricultural building to the north of the site. Members understood from the submissions that the building was used for storage of poultry manure and they noted that the farmer using the building had objected due to the potential of complaints from future residential occupiers. Taking into account all submissions and noting the concerns from the objector, Case Officer and Environmental Health over residential amenity issues caused by odour and flies, the Review Body did not consider that the site was appropriate for housing on the basis of likely incompatibility of uses and close proximity between houses and the agricultural building. Whilst Members noted the augmented planting belt on the revised plan, they also noted that Environmental Health considered such planting would have negligible effect in reducing the impacts from odour and insects. The Review Body, therefore, concluded that the proposal was contrary to Policies PMD2 and HD3 of the Local Development Plan.

The Review Body finally considered other material issues relating to the proposal including road access, rights of way, flood risk, water, drainage, land contamination, landscaping,

archaeology, ecology and the need for developer contributions. As Members did not consider that the proposal was acceptable for relationship with building group and residential amenity reasons, they agreed that these issues did not influence their final decision.

CONCLUSION

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

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

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

Date 28th April 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: 22/00044/RREF

Planning Application Reference: 22/00959/FUL

Development Proposal: Siting of shepherds hut and siting of cabin (retrospective) to form holiday let accommodation

Location: Land South West of Corstane Farmhouse Broughton

Applicant: Firm of Corstane

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 holiday let accommodation on land South West of Corstane Farmhouse Broughton. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	10205-0-LP
Existing Site Plan	10205-3-01
Proposed Block Plan	10205-3-02
Proposed Site Plan	10205-3-03
Proposed Plans & Elevations	10205-3-04
Proposed Plans & Elevations	10205-3-05

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 20th February 2023.

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 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 and visualisations. 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.

Members also noted that since the determination of the application National Planning Framework 4 (NPF4) had been adopted and it now forms part of the Development Plan. The Review Body considered that it was necessary to have regard to any relevant Policies in NPF4 before determining the Review. Members concluded that it was appropriate to undertake further procedure by seeking written submissions from the Appointed Officer and Applicant in relation to NPF4.

The Review was, therefore, continued to the Local Review Body meeting on 17th April 2023 where the Review Body considered all matters, including the responses from the Planning, Economic Development 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, ED8, HD3, EP3, EP4, EP13, IS5, IS7, IS9, IS13
- Proposed Local Development Plan : Policy IS5
- National Planning Framework 4 Policies: 3, 4, 9, 14, 17, 29 and 30

Other Material Considerations

- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance Housing in the Countryside 2008
- SBC Supplementary Planning Guidance on Developer Contributions 2019
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems 2020
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Trees and Development
- SBC Supplementary Planning Guidance on Developer Contributions 2011, updated 2022

The Review Body noted that the proposal was for the siting of shepherds hut and siting of cabin to form holiday let accommodation on a field at Corestane farm, adjacent to the existing steading. It was noted that the cabin had been retrospectively sited within the field.

Members firstly considered the principle of the development under Policy ED7. They noted that the Policy supports tourism accommodation in the countryside provided there is a supporting business case. Members noted that a business case was not provided with the original application however one had accompanied the Appeal and had been admitted as new information. Economic Development Officers reported to the Review Body that the Business case was judged to be reasonable. Members accepted the findings of the Business Plan. They observed that the existing farm business was not large and nor was the scale of the proposed development. The Review Body were satisfied that the proposal would represent a suitable farm diversification which would positively support the rural economy

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 had concerns regarding the siting of the proposal within an undeveloped field and its segregation from the existing farm, Members considered the site avoids any conflicts with the operational farm and accepted the findings of the sequential information that this was the most appropriate location for a tourism development. The Local Review Body were aware that the Appointed Officer was concerned that the siting of the development would pose detrimental landscape and visual impacts, in particular impacts on the landscape setting of the Upper Tweeddale NLA on approach to the scenic area from the B7016 to the west and C7 to the south. However Members were satisfied that the site was well concealed by existing roadside hedging and any landscape and visual impacts as a result of the siting of the development would not be harmful. They did consider that a more sensitive colour of the cabin would be preferred to enable the building to recede within its rural surroundings and accepted that this matter could be addressed by planning condition. Subject to conditions covering external material finishes, including colours and landscaping details, Members accepted that the development would respect character and amenity of the rural area including the special quality of the NSA in accordance with Policies EP7, PMD2 and EP4.

The Review Body finally considered other material issues relating to the proposal including road access, right of way diversion, water, drainage, waste disposal and sustainability. Members also considered the relevance of NPF4 Policies, in particular, Policies 29 and 30, concluding that the proposal was sustainable tourist development which would benefit the local economy. After full consideration, Members were of the opinion that such matters supported their decision to approve the proposal and other matters covering occupancy, shepherds hut details, precise access details, site services and path diversion would 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 ED7, PMD2 and EP4 of the Local Development Plan and Policies 4, 29 and 30 of National Planning Framework 4. The tourism development was considered to be an appropriate farm diversification with an accepted business case which complies with sustainability and tourism strategies for the area and provides high quality accommodation in an appropriate setting. The development was not considered to conflict with the character of the rural area and any landscape impacts including impacts on the landscape setting of the NSA 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 shall commence until precise details of the shepherds hut has been submitted to and approved in writing by, the Planning Authority and thereafter the development then to be completed in accordance with the approved details.
Reason: To safeguard the visual amenity of the area.
4. No development to be commenced until precise details of all external materials and colours which includes an alternative colour to be applied to the walls of the timber cabin have been 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.
5. 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.
6. 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 shall 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.
7. No development hereby approved shall commence until a detailed plan showing the precise means of access has first been submitted to, then approved by, the Council. The detailed plan shall include construction specification, geometry and levels/gradients. Thereafter the approved details shall be fully implemented prior to occupation of either holiday unit.
Reason: To ensure appropriate means of access to the holiday units is provided.
8. The parking and turning provision shown on the approved plan shall be completed prior to the first occupation of the development and retained thereafter in perpetuity.
Reason: In the interests of road safety
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 and a programme for implementation. 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.

10. No development shall commence until precise details are submitted to and agreed in writing with the Planning Authority to agree the diversion of Right of Way BT69 and thereafter the development shall be implemented in accordance with the agreed details with the diverted route remaining open and free from obstruction.

Reason: To provide a suitable link to Broughton and alleviate pressure on stocked fields.

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
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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 M Douglas
Vice Chairman of the Local Review Body

Date 28th April 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: 22/00045/RREF

Planning Application Reference: 22/00371/FUL

Development Proposal: Alterations and extension to dwellinghouse

Location: 17 George Street, Eyemouth

Applicant: Mr and Mrs Craig Fletcher

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 set out below.

DEVELOPMENT PROPOSAL

The application relates to extensions and alterations at 17 George Street Eyemouth. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Proposed Plans & Elevations	006
Proposed Plans & Elevations	007

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 20th February 2023.

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 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 Heritage 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.

Members also noted that since the determination of the application National Planning Framework 4 (NPF4) had been adopted and it now forms part of the Development Plan. The Review Body considered that it was necessary to have regard to any relevant Policies in NPF4 before determining the Review. Members concluded that it was appropriate to undertake further procedure by seeking written submissions from the Appointed Officer and Applicant in relation to NPF4.

The Review was, therefore, continued to the Local Review Body meeting on 17th April 2023 where the Review Body considered all matters, including the responses from the Planning Officer, Heritage and Design Officer 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, ED9, HD3, , EP5, EP7, EP8, EP9 , EP14, IS5, IS7, IS9, IS13
- National Planning Framework 4 Policies: 1, 7, 14, 16 and 27

Other Material Considerations

- SBC Supplementary Planning Guidance on Contaminated Land Inspection Strategy 2001
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems 2020
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Replacement Windows and Doors 2015
- SPP 2014
- Historic Environment Policy for Scotland 2019
- HES: Managing Change in the Historic Environment
- Scottish Government Planning Advice Note: Planning and Archaeology 2/2011

The Review Body noted that the proposal was for alterations and extension to a dwellinghouse. Members also acknowledged that through the course of the application the applicants had reduced the height of the extension and revised the detailing of the proposals which included revisions to the new window opening and dormers on the north elevation.

The Review Body noted that LDP Policy PMD2 requires any house extensions and alterations are required to be of a scale, massing and height that is appropriate to the existing building. The proposal should recognise its context and be finished in materials which complement the existing building and the area. Members noted that as the site is located within the Eyemouth Conservation Area, the proposed development is required to preserve or enhance the special character architectural or historic character and appearance of the Conservation Area in accordance with LDP Policy EP9.

Members observed that the proposal was located within a densely developed part of the Conservation Area and although the development would result in the loss of a parking space, they were satisfied that the amended scale of the proposed extension did not represent overdevelopment of the existing building or surrounding area. The Review Body considered that the design of the extension and alterations were modern but that they would complement the character and appearance of the existing building and Conservation Area. It was considered that it would be important to ensure that the development was completed with suitable material finishes which includes the finishes of all windows and doors, however Members were satisfied that this matter could be addressed by an appropriately worded planning condition. The Review Body were satisfied that the amended design of the proposals complies with placemaking and design policy requirements within LDP Policy PMD2 and NPF4 Policy 16 and that the development would not harm the special character of the Eyemouth Conservation Area in accordance with LDP Policy EP9 and Policy 7 of NPF4.

The Local Reviewed Body considered the impact of the development on residential amenity. Having heard evidence on this matter, in particular loss of light and potential for the proposal to appear visually overbearing for immediate neighbours, Members were satisfied that any impacts were not significantly adverse. The development was found to comply with residential amenity policy requirements within Policy HD3, the Councils SPG on Householder Developments and NPF4 Policy 14, criteria g) part ii.

The Review Body finally considered other material matters, including archaeology impact. Members agreed with the recommendation of the Archaeology Officer in their consultation response to request a watching brief and historic building survey to mitigate archaeological impacts.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, EP9 and HD3 of the of the Local Development Plan and Policies 7, 14 and 16 of National Planning Framework 4. The siting, scale and design of the proposal was considered to respect the character of the existing building and the special character and appearance of the Conservation Area. No adverse impacts on residential amenity were judged to be caused by the proposals. 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. No development shall commence until precise details of all external materials to be used on the extension and alterations, including all window and door material finishes have been submitted to, and approved in writing by, the Planning Authority and

thereafter the development then to be implemented in accordance with the approved scheme.

Reason: To safeguard the special character and appearance of the Conservation Area.

3. No development shall take place until the applicant has secured a programme of archaeological work in accordance with a Written Scheme of Investigation outlining a Watching Brief. This will be formulated by a contracted archaeologist and approved in writing by the Planning Authority. Access should be afforded to allow investigation by a contracted archaeologist(s) nominated by the developer and agreed to by the Planning Authority. The developer shall allow the archaeologist(s) to observe relevant below ground excavation during development, investigate and record features of interest and recover finds and samples if necessary. Results will be submitted to the Planning Authority for review in the form of a Data Structure Report. If significant archaeology is discovered below ground excavation should cease pending further consultation with the Planning Authority. The developer will ensure that any significant data and finds undergo post-excavation analysis, the results of which will be submitted to the Planning Authority

Reason: The site is within an area where ground works may interfere with, or result in the destruction of, archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

4. No development shall take place until the applicant has secured the implementation of a programme of archaeological work (which may include excavation) in accordance with a Written Scheme of Investigation outlining a Historic Building Survey which has been formulated by, or on behalf of, the applicant and submitted to and approved in writing by the Planning Authority. Access should be afforded to allow archaeological investigation, at all reasonable times, by a person or persons nominated by the developer and agreed to by the Planning Authority. Results will be submitted to the Planning Authority for review in the form of a Historic Building

Reason: To preserve by record a building of historical interest.

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 M Douglas
Vice Chairman of the Local Review Body

Date 28th April 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: 22/00046/RREF

Planning Application Reference: 22/01125/FUL

Development Proposal: Alterations and extension to dwellinghouse

Location: Dove Cottage, Gate Lodge, Press Castle, Coldingham

Applicant: Mr W Hannah

DECISION

The Local Review Body upholds and varies 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 is contrary to Local Development Plan 2016 policy EP7 (Listed Buildings) and Policy 7 of NPF4 as it would not respect the original structure due to its excessive scale and poorly related design. The proposed development would not maintain the special architectural or historic quality of the building and would have a significant adverse impact on its special character and appearance.

DEVELOPMENT PROPOSAL

The application relates to the alteration and extension to dwellinghouse at Dove Cottage, Gate Lodge, Press Castle, Coldingham. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	22/B943/PL01A
Existing Plans and Elevations	22/B943/EX01
Proposed Floor Plan and Elevations	22/B943/PL03
Proposed Floor Plan and Elevations	22/B943/PL03A

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 20th February 2023. 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) Support comments and f) List of Policies, Members noted that National Planning Framework 4 (NPF4) was in force as part of the Development Plan and considered it necessary for the Review Body to have regard to any relevant Policies in NPF4 before determining the Review. Members concluded that it was appropriate to undertake further procedure by seeking written submissions from the Appointed Officer and Applicant in relation to NPF4.

The Review was, therefore, continued to the Local Review Body meeting on 17th April 2023 where the Review Body considered all matters, including the response from the Planning 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 the Scottish Borders Local Development Plan 2016 and NPF4. The LRB considered that the relevant listed policies were:

- Local Development Plan Policies: PMD1, PMD2, HD3, EP7, EP8, EP10, EP13 and IS7
- NPF4 Policies: 1, 7, 9, 14, 16, 17 and 29

Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- "Managing Change in the Historic Environment" HES
- SBC Survey of Gardens and Designed Landscapes 2008

The Review Body noted that the application was for the alteration and extension to dwellinghouse at Dove Cottage, Gate Lodge, Press Castle, Coldingham

Members firstly noted that there was also an associated refusal of listed building consent for extensions and alterations to the property and that this was a matter for the DPEA should an appeal against that refusal be submitted. The proposal at Review was in relation to refusal of planning permission for the same works and Members noted that they should assess the proposals against the relevant Development Plan Policies relating to the refusal of planning permission.

The Review Body also noted that two versions of the proposals had been submitted during the processing of the planning application, Drawing no. 22/B943/PL03 then being superseded by 22/B943/PL03 Revision A, the latter being the drawing that was refused planning permission by the Appointed Officer. Members also noted that the applicant had submitted the Review only on the basis of the original drawing before revision i.e. Drawing no. 22/B943/PL03. The Review Body noted both drawings and that they were entitled, and indeed

decided, to consider both in their determination of the Review. The differences between the two drawings were noted by the Members in their consideration of the proposals.

The Review Body noted that LDP Policy PMD2 requires any house extensions or alterations to be in scale, massing and height appropriate to the existing building and also to recognise context and finish in materials which complement the existing building and the area. Members also noted that Dove Cottage was a Category C statutorily listed building and that LDP Policy EP7 and NPF4 Policy 7 seek to protect the character and integrity of the listed building, together with high quality materials and design.

After consideration of both versions of the drawing and all submissions on the proposals, Members did not consider that the overall design of the extensions integrated successfully with the listed building, expressing particular concern that the flat roofs and means by which the extensions were attached to the house would jar with the appearance of the house and impact on its character and integrity. The proposals may have complied more with Policy if the approach had been of traditional design with pitched roofing or possible detachment from the dwellinghouse.. As the proposals stand, the Review Body considered that the proposals would harm the appearance, integrity and character of the house, contrary particularly to Policy EP7 and NPF4 Policy 7.

The Review Body finally considered other material issues relating to the proposal including screen fencing, trees, Designed Landscape, archaeology, access, parking, residential amenity and securing a family home from a holiday unit. As Members did not consider that the proposal was acceptable for design reasons, they agreed that these issues did not influence their final decision.

CONCLUSION

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

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

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

Signed Councillor M Douglas
Vice Chairman of the Local Review Body

Date 28th April 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: 22/00047/RREF

Planning Application Reference: 22/00032/FUL

Development Proposal: Erection of Class 4 joinery workshop with associated access and parking

Location: Land North and East of Clay Dub, Duns Road, Greenlaw

Applicant: Marchmont Farms

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 Class 4 joinery workshop with associated access and parking on Land North and East of Clay Dub, Duns Road, Greenlaw. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Building Plan	Rev C
Elevation Plans	Rev D
Application Area	MFL34-01 Rev D
Landscaping Topo	MFL34-01 Rev A
Landscape Scheme	MFL34-01 Rev B
Landscape Images	

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 20th February 2023.

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) Support comments, e) Consultation Replies; f) Objections; g) Further Representations and h) 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 an extract from a land capability for agriculture map which the applicant was submitting to claim the Planning Officer had made an error and that the land was not Prime Agricultural Land. 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 Officer on the new information and to seek the response of the applicant to her comments. Members also agreed to undertake an unaccompanied site visit, which was subsequently carried out on 13 March 2023.

The Review Body at its meeting on 20th February 2023, also noted that National Planning Framework 4 (NPF4) was in force as part of the Development Plan and Members considered it necessary to have regard to any relevant Policies in NPF4 before determining the Review. The Review Body concluded that it was appropriate to undertake further procedure by seeking written submissions from the Appointed Officer and Applicant in relation to NPF4.

The Review was, therefore, continued to the Local Review Body meeting on 17th April 2023 where the Review Body considered all matters, including the responses from the Planning Officer and the applicant's reply to the responses. Members also noted that the applicant had requested further procedure in the form of a Hearing Session but the Review Body did not consider it 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: 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, PMD3, PMD4, ED1, ED2, ED7, ED10, HD3, EP13, IS4, IS7 and IS9. Land allocations zEL22, MGREE003 and MGREE001
- Proposed Local Development Plan : Policy ED2 and land allocations
- National Planning Framework 4 Policies: 1, 3, 4, 5, 6, 9, 11, 13, 14, 15, 20, 25, 26, 29 and 31

Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Trees and Development 2020

- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems 2020

The Review Body noted that the proposal was for the erection of Class 4 joinery workshop with associated access and parking on Land North and East of Clay Dub, Duns Road, Greenlaw

Members firstly considered the principle of the development under Policies PMD4 and ED7, noting that the site lay outwith the defined settlement boundary for Greenlaw and that the development was consequently for business development in the countryside. The Review Body noted all submissions on whether the proposal complied with these Policies or not, Members concluding that the site was immediately adjoining an existing industrial estate and that expansion with business and industrial uses can cause compliance issues with settlement boundaries. The Review Body noted that there was community support for this site, including from the Community Council, and that the allocated site on the Edinburgh Road in the village had not been taken up at this stage.

Members also noted that the intended occupant of the building was a local joinery firm that presently operated in Eccles, the application site offering significant local economic benefits to the area if taken up by the intended joinery firm, being a more sustainable location for employees. The Review Body concluded that the proposal justified an exception to Policy PMD4 and was both an extension to the settlement boundary which would create positive community benefits through local job opportunities and allowing existing firms to expand, whilst also representing a logical extension to the boundary adjoining an existing industrial estate with similar designed and scaled buildings. For similar reasons, they also accepted the proposal under Policy ED7, there being no obvious demand to take up the existing allocated site to the west of the village and the proposal representing an employment generating use on an appropriate site adjoining the existing industrial estate.

The Review Body then considered the siting and design of the building and its likely impacts on surrounding houses, uses and the landscape setting of the village. Whilst being sympathetic to the objections from local residents over potential adverse operational impacts, Members concluded that provided appropriate conditions were imposed in relation to materials, levels, landscaping and controls over noise and operating hours of the intended use of the building, then the development would comply with the relevant criteria within Policies PMD2, PMD4, ED7 and HD3.

The Review Body then considered the issue of potential loss of prime agricultural land and compliance of the application with Policy ED10. Although the relevant land capability for agriculture map suggested that the land was prime agricultural land, Members doubted this. In any event, they considered the site to be a small area of the overall holding in the corner of a field and its loss was outweighed by the need for the site to allow the expansion of a local business with associated economic benefits.

The Review Body finally considered other material issues relating to the proposal including the previous lapsed consent on the site, the Economic Strategy for the South of Scotland, road safety, parking, ecology, flood risk, water, drainage and proposed planting. Members also considered the relevance of NPF4 Policies, in particular, Policies 5, 9 and 26, concluding that the proposal was a justified exception to the settlement boundary with little impact on prime land and of benefit to the community and local economy. 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 PMD2, PMD4, HD3, ED7 and ED10 of the Local Development Plan and Policies 5, 9 and 26 of National Planning Framework 4. The development was considered to be a justified exception to the settlement boundary with little impact on prime land and of benefit to the community and local economy. Impacts on the landscape, visual amenity and nearby houses could be satisfactorily mitigated by appropriate conditions, including controls over noise and operating hours. 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. No development to be commenced until a scheme of all external colours and materials, 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.
3. 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, including SUDs details, 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.
4. 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 new hedging, planting and bunding. 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.
5. No development to be commenced until existing and proposed site and building levels are submitted to, and approved in writing by, the Planning Authority. Once approved, the development to be completed in accordance with the approved levels.
Reason: To safeguard impacts on landscape and visual amenity.
6. No development to be commenced until a Noise Impact Assessment is submitted to, and approved in writing by, the Planning Authority. Once approved, the development to be completed and operated in accordance with the Assessment, including any mitigation or subsequent assessments required.
Reason: To safeguard residential amenity.
7. No development to be commenced until a Dust Management Plan is submitted to, and approved in writing by, the Planning Authority. Once approved, the development to be completed and operated in accordance with the Plan, including any mitigation required.
Reason: To safeguard residential amenity and road safety.

8. No development to be commenced until details of the operating hours and days for the use are submitted to, and approved in writing by, the Planning Authority. Once approved, the development to be operated in accordance with the agreed hours and days.

Reason: To safeguard residential amenity.

9. The roadside pathway shown on the approved plans to be completed and available before the use becomes operational.

Reason: To provide unobstructed public access in the 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 M Douglas
Vice Chairman of the Local Review Body

Date 28th April 2023

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