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SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in the Council Chamber, Council Headquarters, Newtown St Boswells on Monday, 11 September 2023 at 10 a.m.

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

Apologies: - Councillor S. Mountford.

In Attendance: - Lead Planning Officer, Principal Planning Officer (S. Shearer), Solicitors (S. Thompson in respect of para 1 only and F. Rankine), Democratic Services Officers (F. Henderson and D. Hall).

1. MEMBERS

1. CONTINUATION OF REVIEW 23/00008/RREF

1.1 With reference to paragraph 8, of the Minute of 18 May 2023, the Local Review Body continued their consideration of a request from Mr Rob Cameron c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application in respect of the erection of dwellinghouse and associated work on Land South of Ebbastrand, Coldingham Sands, Coldingham. The Review was initially presented at the meeting of the Local Review Body (LRB) held on 20th March 2023 and continued to invite the submission of statements from the applicant and appointed Officer in relation to National Planning Framework 4 (NPF4). The Review was presented to LRB on 15 May 2023 where Members heard a full presentation of the case but resolved to continue the application for two reasons:

- a) To seek further advice from both the planning Officer and applicant over whether The Bay was under Construction or not at the time of the Local Development Plan (LDP) in May 2016, and
- b) To carry out a site inspection.

1.2 The application was again presented to the LRB on Monday, 11 September 2023 and after examining the review documentation at that meeting, which included (a) submissions by Officer and Applicant on further information requested in terms of whether 'The Bay' (Reference 13/00299/FUL) was under construction at the time of the adoption of the Local Development Plan on 12 May 2016; (b) Submissions by the Planning Officer and Applicants response on NPF4 statement; (c) Notice of Review; (d) Papers referred to in the Officer's report; (e) Additional Information; (f) Consultation replies; (g) Support Comments; (h) Objections; (i) general comments and (j) List of Policies. The Review Body proceeded to determine the case.

1.3 Members agreed that the site visit had been beneficial and allowed them to better understand the relationship of the application site with the coastal slope and the existing building group. Members also agreed that there was no issue with the existing road infrastructure, and an additional house within the group would not have an adverse effect, although some Members expressed the view that the road was 'tight'.

- 1.4 Members accepted that a building group existed but concluded that there was insufficient evidence provided by the applicant to demonstrate commencement of the development on The Bay prior to the adoption of the Scottish Borders LDP 2016. Members noted the Officers supporting information and agreed that there was no spare capacity within the existing group to absorb additional residential development. Members noted that the site was steeply sloping and that alternative methods of construction had been identified through the submission of additional supporting information and 'rock armour' no longer formed part of the application proposals, which was welcomed. The LRB acknowledged the design addendum and felt piling was an appropriate approach to construction as this would result in no adverse effects on the biodiversity of the site or the character of the Berwickshire Coast Special Landscape Area.

DECISION

AGREED that:-

- (a) **the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **the review could be considered without the need for further procedure;**
- (c) **the development was contrary to Local Development Plan 2016, Policy HD2, EP14, PMD2 and NPF4 policies 10 and 17 of the LDP and NPF4 17 in that the site was not well related to the Coldingham Sands building group and the building group had no further capacity for expansion within the current plan period; and**
- (d) **the officer's decision to refuse the application be upheld.**

MEMBERS

Councillor Scott rejoined the meeting, due to technical issues, Councillor Cox was unable to rejoin the meeting. Having not been present at the site visit, Councillors Thomson and Moffat left the meeting for the following item of business.

2. CONTINUATION OF REVIEW 23/00015/RREF

- 2.1 With reference to paragraph 7 of the minute of 17 July 2023, the Local Review Body continued their consideration of a request from Mr Kenneth Short, Per Aitken Turnbull Architects Ltd, 9 Bridge Place, Galashiels to review the decision to refuse the planning application in respect of the erection of dwellinghouse on Land North of Belses Cottage Jedburgh, following the site visit. The supporting papers included (a) the Notice of Review (including the Decision Notice and Officer's Report); (b) papers referred to in the Officer's report; (c) Additional Information; (d) Consultation Replies and (e) List of Policies.
- 2.2 The Review Body noted that the application was for the erection of a dwellinghouse on land adjacent to Belses Cottage and that both the appointed officer and the applicant agreed that there was a building group at Belses. However, contention centred on the extent of the building group. Informed by their site visit, Members concluded that the building group had a dispersed character where it consisted of small pockets of development which formed a single building group of fifteen units which included the properties at New Belses. Against scale of addition rules, the LRB noted that a group of fifteen units would have capacity for up to four new houses within the current plan period. The planning history associated with the building group and that planning permission had already been granted to add three new houses to the group at different locations under approvals; 21/01210/FUL, 21/00992/PPP and 21/00993/PPP) was noted. Members accepted that there was capacity for the addition of one more house within the current plan period under the terms of Policy HD2 and the relevant SPG.

- 2.3 Members went on to consider the road safety issues and access from the B6400 and the minor road to the west. Members noted that two access points had been explored within the Technical Note on Access which supported the application and the Roads Planning had objected on road safety grounds. Members considered that the existing field access was located close to the minor road junction with the B6400 which could present a collision risk. Members also observed that the B6400 was an undulating and twisty road which posed visibility issues for vehicles exiting the site however, they noted that other properties within the group already had direct access points onto B6400. The Review Body considered that traffic volumes were low on the surrounding road network and the addition of traffic associated with one further house would not present a significant road safety issue.

**DECISION
AGREED:-**

- (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 development was consistent with Policy HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was an appropriate addition to the existing building group and would not detract from its sense of place and the means of access would not cause any detrimental impacts on the public road.**
- (d) **the officer's decision to refuse the application be overturned**

MEMBERS

Councillors Cox, Thomson and Moffat rejoined the meeting.

3. REVIEW OF 23/00028/RREF

- 3.1 There had been circulated copies of a request from Miss Janette Hall, Per Buildings Investigation Centre, 5 Melville Terrace, Edinburgh to review the planning application in respect of the Erection of a dwellinghouse on Land Northeast of The Bungalow, Crosshill, Chirnside. The supporting papers included (a) the Notice of Review (including the Decision Notice and Officer's Report); (b) Support Comments; (c) Objections; and (d) List of Policies.
- 3.2 The Review Body noted that the site was located within the Chirnside Development Boundary as allocated within the LDP and therefore the proposal was required to primarily be considered against Policy PMD5 (Infill Development) of the LDP and Policy 16 (Quality Homes) of NPF4. Members noted that both policies encouraged residential developments within settlement boundaries and proposals were required to satisfy all relevant criteria listed under both policies.
- 3.3 The site was located within an area where the predominant land use of the area was residential and the development of a further house within this part of Chirnside was not judged to conflict with the established land use of the area. The proposed site was smaller than other surrounding residential plots, was seen to be an awkward shape and only a single parking space was provided within the site. In order to meet the requirements of the Councils Roads Planning Service a further parking space would be required within the site and whilst there would be space to provide another parking space within the site, Members noted that this would result in the loss of garden ground and leave the development with very limited curtilage space which did not necessarily conform with the pattern of development of the surrounding area. The Local Review Body also considered residential amenity would be compromised by overlooking from the development to the rear which occupied a higher ground level. Amenity of the development would also be

affected by the need to maintain the driveway which ran through the site to provide access to the off-road parking spaces of The Bungalow.

- 3.4 Whilst Members acknowledged the need for more single bed dwellinghouses, it was considered that the small footprint of the site and its awkward shape resulted in even this small-scale proposal appearing to be cramped into the site. This, coupled with need to remove garden ground for a parking space and overlooking from the neighbour to the north, would result in a development with a poor level of amenity.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for further procedure;**
- (c) that the development resulted in a form of over-development which failed to respect the scale, density and character of the surrounding area and concluded that the proposal did not represent a suitable form of infill which would respect the character and amenity of the surrounding area and consequently did not satisfy the Policy PMD5 of the LDP.**
- (d) the Officers decision to refuse the application be upheld.**

4. CONSIDER REVIEW OF 23/00031/RREF

- 4.1 There had been circulated copies of a request from Ms Elaine McKinney, Per Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application in respect of the demolition of a stable and Erection of a dwellinghouse on a site adjacent to the Steading, Whiteburn Farm, Lauder. The supporting papers included (a) Notice of Review (including the Decision Notice and Officer's Report); (b) Paper's referred to in the Officers Report, further representations and Applicant Response; (c) Additional Information; (d) Consultation Replies; (e) Objections; and (f) List of Policies.

- 4.2 The Planning Advisor drew attention to new evidence submitted with the Notice of Review documentation in the form of 3D visualisations of the proposed development (x3) and Site Plan showing where the viewpoints were taken from, which had been submitted with the review, but which had not been before the Appointed Planning Officer at the time of determination. The Review Body considered that the new evidence met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997, and that this new information was material to the determination of the review. It was therefore agreed that there was a need for further procedure in the form of written submissions to afford the Planning Officer and anyone they wished to consult with, the opportunity of assessing this new evidence and submitting their views.

DECISION

AGREED that;

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) new evidence submitted with the Notice of Review in the form of 3D visualisations of the proposed development x 3 and Site Plan showing where the viewpoints were taken from met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and were 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 unaccompanied 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.**

5. REVIEW OF 23/00032/RREF

- 5.1 There had been circulated copies of a request from Mr Alex Clapperton, Per ATW Chartered Architects, Unit 1/2, 80 Queens Drive, Glasgow to review the decision to refuse the planning application in respect of the erection of dwellinghouse at W Pearce and Sons, St Ronan's Works, 2 Miller Street, Innerleithen. The supporting papers included (a) the Notice of Review (including the Decision Notice and Officer's Report); (b) Papers referred to in the Officer's report; (c) Consultation Replies; (d) Support Comments; (e) General Comment; and (f) List of Policies.
- 5.2 The Review Body noted that the application sought consent for a detached dwellinghouse on a former industrial yard and that the site was located within the Innerleithen Development Boundary as allocated by the LDP. Members accepted that, redeveloping the brownfield site for a residential use represented a suitable form of infill housing development which in principle complied with LDP Policy PMD5 and Policies 9 and 16 of NPF4. The Review Body acknowledged that the site was adjacent to the Innerleithen Conservation Area and were satisfied that the amendments made to the siting and design of the proposal were acceptable. The development was considered to tidy-up the site and improve its contribution to the streetscape and the setting of the Conservation Area, subject to any necessary conditions to agree precise external material finishes, boundary fencing details and hard standing finishes. The Review Body considered that the siting, scale and layout of the development would not adversely affect the residential amenity of neighbouring properties and the retained workshop to the north of the dwelling would not pose any amenity issues with the proposed development on the basis that it was used for purposes ancillary to the new residential property and accepted that this matter could be addressed by an appropriately worded planning condition.
- 5.3 The Review Body then considered the issue of flood risk. It was identified that the site was within a 1 in 200-year area of flood risk from the Leithen Water and noted that both SEPA and the Council's Flood Risk Officer had objected to the proposals. They heard that Policy IS8 sought to avoid placing development within defined functional flood plains and also noted that Policy 22 of NPF4 only supported development in an area of flood risk where it met specific criteria whereby the development represented either; essential infrastructure, a water compatible use, redevelopment with a less vulnerable use or redevelopment where a specific need was identified in a LDP. Despite being within the 1 in 200 flood plain, Members considered that the site was located within an established residential area and the development was seen to be positioned a considerable distance from the watercourse where any flood waters would have to first pass through a densely developed part of Innerleithen before reaching the site. Members accepted that the proposal would introduce a more vulnerable land use to the site however, in this case the proposal involved the development of brownfield land and either a comparable or reduced area of buildings positioned on the site.

VOTE

Councillor Thomson, seconded by Orr moved that the application be refused.

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

On a show of hands Members voted as follows: -

Motion – 3 votes

Amendment – 5 votes

The Amendment was accordingly carried.

DECISION

DECIDED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;
- (b) the review could be considered without the need for further procedure;
- (c) that the development was located within an area of flood risk, however it was accepted that there were existing buildings currently occupying the site and that although the proposal would introduce a more vulnerable land use, residential land use was already established within the area. Additionally, the site was a considerable distance from the existing watercourse, and on balance, the development was deemed to not pose a significant flood risk or increase the probability of flooding elsewhere contrary to Policy IS8 of the LDP and Policy 22 of NPF4. Furthermore, the development would improve the visual amenity of the area.
- (d) the Officers decision to refuse the application be overturned.

Footnote:

Under Regulation 35 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, the Planning Authority have notified the Scottish Ministers of their intention to grant planning permission where there has been an objection from a statutory consultee (SEPA). The Scottish Ministers, have exercised the powers conferred on them by Section 46(1) of the Town and Country Planning (Scotland) Act 1997 and determined that the application should be referred to them for determination. The Scottish Ministers will now review the development and their decision on the application will be final.

MEMBERS

Councillor Cox left the meeting prior to consideration of the following application.

6. REVIEW OF 23/00033/RREF

- 6.1 There had been circulated copies of a request from Mr Thomas Kemp, 33 Weensland Park, Hawick to review the decision to refuse the planning application in respect of the Erection of raised decking (retrospective) at 33 Weensland Road, Hawick. The supporting papers included (a) the Notice of Review (including the Decision Notice and Officer's Report); (b) Papers referred to in the Officer's report; and (c) List of Policies.
- 6.2 The Review Body noted that the application was retrospective and that the raised deck had been constructed in the garden ground associated with an upper floor flat. The primary considerations for this application were Development Plan polices covering design standards and residential amenity along with the Councils SPG on Householder Developments. Members noted that the properties on Weensland Park benefited from curtilage space to the rear which was located on ground which sloped from back to front. It was noted that the raised deck was constructed of timber and included a balustrade fencing around its perimeter and had been set into the highest part of the garden to avoid it impacting on access to sunlight and daylight of neighbouring properties and allowed the underbuilding of the deck to be utilised for storage.
- 6.3 The Local Review Body noted that a range of outbuildings were located within the rear gardens of properties along Weensland Park, and that this development did not necessarily detract from the character of the surrounding area, with minimal visibility of

the development from the public road. Members considered the impact of the proposal on residential amenity and specifically against the requirements of LDP Policy HD3 and Policy 16 of NPF4 and noted that these policies required that developments should not adversely affect the amenity of existing properties by avoiding causing detrimental levels of overlooking and loss of privacy. Although Members understood the reasons for erecting a platform with the curtilage space, concerns were raised regarding the scale and positioning of the deck, which caused overlooking into adjacent gardens and ground floor accommodation of adjacent properties, resulting in the development having an overbearing visual impact on adjoining neighbours.

VOTE

Councillor Thomson, seconded by Councillor Scott moved that the application be refused.

Councillor Richards, seconded by Councillor Orr moved as an amendment that the application be approved.

On a show of hands Members voted as follows:-

Motion – 5 votes

Amendment – 2 votes

The Motion was accordingly carried.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for further procedure;**
- (c) that the development was contrary to Policy HD3 of the Scottish Borders Local Development Plan (2016) and Policy 16 of the National Planning Policy Framework 4 (2023), in that the raised decking, by reason of its scale, height and positioning would result in an unacceptable impact in terms of outlook, overlooking and loss of amenity and privacy to neighbouring residential properties and their associated garden grounds.**
- (d) the Officers decision to refuse the application be upheld.**

The meeting concluded at 12.40 pm

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SCOTTISH BORDERS COUNCIL

LOCAL REVIEW BODY INTENTIONS NOTICE

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

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

Local Review Reference: 23/00008/RREF

Planning Application Reference: 22/01357/FUL

Development Proposal: Erection of dwellinghouse and associated works

Location: Land South of Ebbastrand, Coldingham Sands, Coldingham

Applicant: Mr Rob Cameron

DECISION

The Local Review Body upheld the decision of the appointed officer and indicated that it intended to refuse planning permission for the reasons set out in this intention notice.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Location Plan (01/12/2020)	L-01
Site Diagram (01/12/2020)	GA-02
Site Plan (01/12/2020)	GA-03
Level Plan (01/12/2020)	GA-08
Level Plan (01/12/2020)	GA-09
Site Section and Elevation (01/12/2020)	GA-11
Site Section S-C2 (01/12/2020)	GA-12
Site Section S-C3 (01/12/2020)	GA-13
Site Section S-C4 (01/12/2020)	GA-14
South Elevation (01/12/2020)	GA-15
West Elevation (01/12/2020)	GA-16
North Elevation (01/12/2020)	GA-18

Documents

Design Statement
Planning Statement
Ecology Survey

PRELIMINARY MATTERS

The Local Review Body were satisfied that the review had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 11th September 2023.

The Review was first presented to Members at the meeting of the Local Review Body (LRB) held on 20th March 2023 and continued to invite the submission of statements from the applicant and appointed Officer in relation to National Planning Framework 4 (NPF4). The Review was further presented to LRB on 15 May 2023 where Members heard a full presentation of the case but resolved to continue the application for two reasons:

1. To seek further advice from both the planning Officer and applicant over whether The Bay was under Construction or not at the time of the Local Development Plan (LDP) in May 2016, and
2. To carry out a site inspection.

The site inspection took place on 4th July and additional supporting information was submitted by both the appointed Officer and the applicant in relation to point 4 one above.

The application was again presented to the LRB on Monday, 11 September 2023 and after examining the review documentation at that meeting, which included (a) submissions by Officer and Applicant on further information requested; (b) Submission by Officer and Applicant response on NPF4 statement (c) Notice of Review; (d) Papers referred to in the Officer's report; (e) Additional Information (f) Consultation replies (g) Support Comments; (h) Objections; (i) general comments and (j) List of Policies, the Review Body proceeded to determine the case.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: Scottish Borders Local Development Plan (LDP) 2016 and National Planning Framework 4 (NPF4).

The LRB considered that the relevant listed policies were:

LDP policies: PMD1, PMD2, PMD4, PMD5, ED10, HD2, HD3, HD4, EP1, EP2, EP3, EP5, EP13, EP14, EP15, IS2, IS7, IS8, IS9, IS13

Proposed LDP2 policy IS13

NPF4 policies: 1, 2, 3, 4, 5, 9, 10, 14, 16, 17, 18, 23

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
SBC Supplementary Planning Guidance on Housing in the Countryside 2008
SBC Supplementary Planning Guidance on Development Contributions 2022
SBC Supplementary Planning Guidance on Biodiversity 2005
SBC Supplementary Planning Guidance on Local Landscape Designations 201

Members acknowledged that the site visit was very helpful and allowed them to better understand the relationship of the application site with the coastal slope and the existing building group. They also acknowledged that the site visit allowed them to agree there was no issue with the existing road infrastructure (although some Members felt that the road was 'tight' and expressed their concerns) and that an additional house within the group would not have an adverse effect on the existing road infrastructure.

Members accepted that a building group exists at this location but concluded that insufficient evidence had been provided by the applicant to demonstrate commencement of development on The Bay prior to the adoption of the Scottish Borders LDP 2016. Members noted the Officers supporting information and agreed that there is no spare capacity within the existing group to absorb additional residential development. Members agreed with the Officers original decision to refuse the application on the grounds that the application would be contrary to Policy HD2 of the LDP and NPF4 17 in that the site is not well related to the Coldingham Sands building group and the building group has no further capacity for expansion within the current plan period.

The Members noted that the site is not large and may not be suitable for the proposed house. The LRB also noted that the proposed dwelling may affect the outlook of neighbouring properties.

Having considered the proposal against housing in the countryside/rural policies and agreeing that the group cannot accommodate additional development, Members noted that 'rock armour' no longer formed part of the application proposals and Members welcomed this change. They noted that the site is steeply sloping and that alternative methods of construction have been identified through the submission of additional supporting information. The LRB acknowledged the design addendum and felt piling was an appropriate approach to construction as this would result in no adverse effects on the biodiversity of the site or the character of the Berwickshire Coast Special Landscape Area.

The LRB considered how the proposals relate to NPF4 Policies, now that this is part of the Development Plan and agreed that the original reasons for refusal should be amended to account for NPF Policies 4, 9, 10, 14 and 17 relating to Natural Places, Brownfield, vacant and derelict land and empty buildings, Coastal Development, Design quality and place, and Rural Homes respectively.

Overall, Members accepted that justification put forward by the applicant did not demonstrate that works on The Bay had commenced in advance of the adoption of the LDP and agreed with the Officer's original recommendation. Acknowledging that NPF4 now forms part of the Development Plan, Members agreed to amend the original reasons for refusal to include relevant policies within NPF4.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the Coldingham Sands building group has no further capacity for expansion within the current local development plan period. The LRB agreed with the appointed officer and felt that the agent had not provided sufficient evidence to adequately demonstrate that The Bay was under construction prior to 12 May 2016 and had not substantiated previous claims to that effect. Members agreed that the development is contrary to Local Development Plan 2016 policy HD2 and NPF4 policy 17 and relevant Supplementary Planning Guidance on housing in the countryside. Consequently, the application was refused.

REASONS FOR REFUSAL

1. The proposed development is contrary to Local Development Plan 2016 policy HD2 (Housing in the Countryside) and EP14 (Coastline) and NPF4 Policies 10 (Coastal Development) and 17 (Rural Homes) in that the site is not well related to the Coldingham Sands building group and the building group has no further capacity for expansion within the current plan period. The development would result in unacceptable harm to Coldingham Sands' sense of place and would cause unacceptable cumulative impact to the character of the building group and the undeveloped coast.
2. The proposed erection of a dwellinghouse at this location would be contrary to Local Development Plan 2016 policy PMD2 (Quality Standards) criterion (Q) in that the additional traffic generated by the development would have an adverse impact on road safety. The section of road between St Veda's House and the application site is considered incapable of accommodating such further traffic. In particular, the lack of forward visibility at a blind corner outside St Veda's House results in vehicles meeting on a narrow section of road with the need for one vehicle to reverse to the detriment of road and pedestrian safety.
3. The proposed development is considered contrary to Local Development Plan 2016 policies PMD2 criterion (L), EP1 (International Nature Conservation Sites and Protected Species), EP3 (Local Biodiversity) and EP5 (Special Landscape Areas) and NPF4 Policies 4 (Natural Places), 9 (Brownfield, vacant and derelict land and empty buildings) and 14 (Design, quality and place), in that it has not been demonstrated that the development can be satisfactorily accommodated within the site without unacceptable harm to the Berwickshire Coast Special Landscape Area, internationally designated sites, and to the local environment. It has not been demonstrated that the risk of coastal erosion and land slippage can be avoided or mitigated in a manner without unacceptable detrimental impacts to these interests.

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

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.

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 6 October 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: 23/00015/RREF

Planning Application Reference: 23/00034/PPP

Development Proposal: Erection of dwellinghouse

Location: Land North of Belses Cottage, Jedburgh

Applicant: Mr Kenneth Short

DECISION

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

DEVELOPMENT PROPOSAL

The Planning Permission in Principle (PPP) application relates to the erection of a dwellinghouse on land adjacent to Belses Cottage. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	L01
Indicative Site Layout	LOC-01

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 17th July 2023.

After examining the review documentation at that meeting, which included a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Additional Information; f) Consultation Replies and g) List of Policies, the Review Body proceeded to consider the appeal and determined that an unaccompanied site visit was necessary to better

understand that relationship of the site with the existing building group and road safety implications.

Having undertaken the site visit, the case was presented at the Local Review Body meeting on the 11th of September where Members proceeded to determine the case.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: the Scottish Borders Local Development Plan 2016 (LDP) and National Planning Framework 4 (NPF4). The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, HD2, HD3, EP1, EP2, EP3, EP13, IS7, IS9
- NPF4 Policies: 3, 4, 9, 12, 14, 17,18, 22

Other Material Considerations

- SBC Supplementary Planning Guidance on Housing in the Countryside 2008
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008

The Review Body noted that the application was for the erection of a dwellinghouse on land adjacent to Belses Cottage and the topography of the site generally sloped from higher ground from the southeast towards the B6400. Members noted that both the appointed officer and the applicant agreed that there was a building group at Belses, however contention centred on the extent of the building group. Members accepted that a building group was present. Informed by their site visit, Members concluded that the building group had a dispersed character where it consisted of small pockets of development which ultimately formed a single building group of fifteen units which includes the properties at New Belses.

Against scale of addition rules, the LRB noted that a group of fifteen units would have capacity for up to four new houses within the current plan period. Members noted that planning history associated with the building group and that planning permission had already been granted to add three new houses to the group at different locations under approvals; 21/01210/FUL, 21/00992/PPP and 21/00993/PPP). Members accepted that under the 30% growth rule for a building group of fifteen units, that there was capacity for the addition of one more house within the current plan period under the terms of Policy HD2 and the relevant SPG.

Members then considered the relationship of the site within the group and whether it was within the sense of place and in keeping with its character. In this respect, they had regard to the positions of other houses in the group. They considered that the site was directly adjacent to an existing house and the dwellinghouse known as 'Karma' sat prominently in the opposite end of the field. The Local Review Body considered that the site sat centrally within the group

and it would sit comfortably on the opposite side of the road of approvals 21/00992/PPP and 21/00993/PPP. They concluded that the site was within the sense of place and an appropriate addition to nucleus of the building group.

Members then considered the issues of road safety and access from the B6400 and the minor road to the west. Members noted that two different access points had been explored within the Technical Note on Access which supported the application and the Roads Planning had object on road safety grounds. Members considered that the existing field access is located close to the minor road junction with the B6400 which could present a collision risk. Members also observed that the B6400 was an undulating and twisty road which posed visibility issues for vehicles exiting the site however they noted that other properties within the group already had direct access points on the B6400. The Review Body considered that traffic volumes were low on the surrounding road network and ultimately the addition of traffic associated with one further house would not present a significant road safety issue. The Review Body, therefore, accepted that the proposal was in compliance with Policy PMD2 in relation to road access and safety provided that a suitably designed means of access was agreed as part of any detailed planning application.

Members moved on to other material matters covering landscaping, parking and site services. The Review Body were of the opinion that appropriate conditions could address each of these matters satisfactorily, including any surface water issued posed with developing an undulating site.

CONCLUSION

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

CONDITIONS

1. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
 - a. the expiration of three years from the date of this permission, or
 - b. the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the

landscaping of the site have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

4. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006

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

Reason: To ensure the site is adequately serviced.

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

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

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

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

Monday-Friday 0700-1900

Saturday 0800-1300

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

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

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

Notice of Initiation of Development

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

Notice of Completion of Development

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

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

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

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 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 13th October 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: 23/00028/RREF

Planning Application Reference: 22/01236/FUL

Development Proposal: Erection of dwellinghouse

Location: Land Northeast of The Bungalow, Crosshill, Chirnside

Applicant: Miss Janette Hall

DECISION

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

1. The proposed development is contrary to Local Development Plan policy PMD5 (Infill Development). The proposal would amount to over-development of the site, also known as 'town cramming', resulting in a dwellinghouse with a poor level of amenity which would relate poorly to the surrounding streetscene and would harm the setting of the neighbouring listed building. Consequently, the proposed development is also contrary to National Planning Framework 4 policies 7 (Historic Assets and Places) and 14 (Design, Quality and Place), and Local Development Plan policies PMD2 (Quality Standards), EP7 (Listed Buildings) and HD3 (Protection of Residential Amenity). This conflict with the development plan is not overridden by other material considerations.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse on Land North East of The Bungalow, Crosshill, Chirnside. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	000
Site Plan as Existing	003
Proposed Site Plan	004
Proposed Plans	005

Proposed Elevations	006
Other	007
Proposed Block Plan	008

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 11th September 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 the Officer Report; c) Consultation Replies; d) List of Policies; e) Appeal Statement, the Review Body proceeded to determine the case.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: 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, PMD5, HD3, ED10, EP7, EP8, EP11, EP13, IS2, IS7, IS9
- NPF4 policies: 1, 2, 3, 5, 6, 7, 9, 13, 14, 15, 16

Other Material Considerations

- SBC Supplementary Planning Guidance on Householder Development (incorporating Privacy and Sunlight Guide)
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems
- SBC Supplementary Planning Guidance on Trees and Development 2020
- SBC Supplementary Planning Guidance on Waste Management 2015

The Review Body noted that the site was located within the Chirnside Development Boundary as allocated within the LDP and therefore the proposal was required to primarily be considered against Policy PMD5 (Infill Development) of the LDP and Policy 16 (Quality Homes) of NPF4. Members noted that both policies encourage residential developments within settlement boundaries and proposals were required to satisfy all relevant criteria listed under both policies.

Members observed that the site was located within an area where the predominant land use of the area was residential. The development of a further house within this part of Chirnside was not judged to conflict with the established land use of the area. The LRB identified that the site was smaller than other surrounding residential plots, additionally it was also seen to be awkward in shape. Members noted that only a single parking space was provided within the site and in order to meet the requirements of the Councils Roads Planning Service a further parking space would be required within the site. While there would be space to provide another parking space within the site, Members noted that this would result in the loss of garden ground

and leave the development with very limited curtilage space which did not necessarily conform with the pattern of development of the surrounding area. The Local Review Body also considered that the tight nature of the site would result in a development where its residential amenity would be compromised by overlooking from the dwelling to the rear which occupies a higher ground level. Amenity of the development was also found to be affected by the need to maintain the driveway which runs through the site to provide access to the off-road parking spaces of The Bungalow.

Members considered that there was a local need for more single bed dwellinghouses. Nevertheless, the Local Review Body considered that the small footprint of the site and its awkward shape resulted in even this small-scale proposal appearing to be cramped into the site which, coupled with need to remove garden ground for a parking space and overlooking from the neighbour to the north, would result in a development with a poor level of amenity. Members concluded that the proposal resulted in a form of ~~over~~ over-development which failed to respect the scale, density and character of the surrounding area. Members concluded that the proposal did not represent a suitable form of infill which would respect the character and amenity of the surrounding area and consequently did not satisfy the Policy PMD5 of the LDP.

Members finally considered other material issues relating to the proposal, including impact on the setting of the listed building, biodiversity, hedgerow impacts, site services and developer contributions. As Members did not consider that the proposal was an acceptable form of infill development, 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 13th October 2023



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

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

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

Local Review Reference: 23/00032/RREF

Planning Application Reference: 23/00129/FUL

Development Proposal: Erection of dwellinghouse

Location: W. Pearce & Son, St Ronan's Works, 2 Miller Street, Innerleithen

Applicant: Mr Alex Clapperton

DECISION

The Local Review Body is minded to reverse the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this intentions notice subject to conditions and a legal agreement, and also subject to notification to the Scottish Ministers in relation to the objection from SEPA on flood risk.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse on Miller Street, Innerleithen. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	001C
Proposed Plans and Elevations	002C
Proposed Plans, Sections & Elevations	003B (reference on drawing as 002C)
Topographical Plan	004B

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 11th September 2023.

After examining the review documentation at that meeting, which included a) Notice of Review, including Officers Report and decision Notice; b) Papers referred to in the Officers report; c) Consultations replies (d) general comments and List of Policies the Review Body proceeded to determine the case.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: the Scottish Borders Local Development Plan 2016 (LDP) and National Planning Framework 4 (NPF4). The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, PMD5, HD3, EP1, EP2, EP3, EP7, EP13, EP16, IS2, IS7, IS8, IS9, IS13
- NPF4 Policies: 1, 2, 3, 4, 7, 9, 11, 12, 13, 14, 15, 16, 18, 22, 23

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 Waste Management 2015
- SBC Supplementary Planning Guidance on Trees and Development 2008
- 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 application seeks consent for a detached dwellinghouse on a former industrial yard. Members noted that the site is located within the Innerleithen Development Boundary as allocated by the LDP. Members accepted that, redeveloping this brownfield site for a residential use represented a suitable form of infill housing development which in principle complied with LDP Policy PMD5 and Policies 9 and 16 of NPF4.

The Review Body acknowledged that the site was adjacent to the Innerleithen Conservation Area and were satisfied that the amendments made to the siting and design of the proposal were acceptable. The development was considered to tidy-up the site and improve its contribution to the streetscape and the setting of the Conservation Area, subject to any necessary conditions to agree precise external material finishes, boundary fencing details and hard standing finishes.

The Review Body considered that the siting, scale and layout of the development would not adversely affect the residential amenity of neighbouring properties. It was identified that the retained workshop to the north of the dwelling would not pose any amenity issues with the proposed development on the basis that it is used for purposes ancillary to the new residential property. Members accepted that this matter could be addressed by an appropriately worded planning condition.

The Review Body then considered the issue of flood risk. It was identified that the site was within a 1 in 200 year area of flood risk from the Leithen Water and noted –that both SEPA and the Council's Flood Risk Officer had objected to the proposals. They heard that Policy IS8 seeks to avoid placing development within defined functional flood plains. It was also

noted that Policy 22 of NPF4 only supports development in an area of flood risk where it meets specific criteria whereby the development represents either; essential infrastructure, a water compatible use, redevelopment with a less vulnerable use or redevelopment where a specific need is identified in a LDP.

Despite being within the 1 in 200 flood plain, Members considered that the site was located within an established residential area. The development was seen to be positioned a considerable distance from the watercourse where any flood waters would have to first pass through a densely developed part of Innerleithen before reaching the site. Members accepted that the proposal would introduce a more vulnerable land use to the site, however in this case the proposal involved the development of brownfield land and either a comparable or reduced area of buildings positioned on the site.

The Local Review Body accepted that Policy IS8 of the LDP and Policy 22 of NPF4 generally discouraged development from taking place in areas which are subject to flood risk. In this particular case the Local Review Body determined that although the site is located within the flood plain it is located within a well-established residential area which is distant from the watercourse. Members gave weight to the contribution that the development would make to improve the character of this part of Innerleithen along with the residential amenity of neighbouring properties. Having had regard to the relevant provisions of the Development Plan and regard to overriding material considerations as part of the wider planning balance, the Local Review Body concluded that the development of a single house on this brownfield site was not likely to be at significant risk of flooding and nor would the development likely increase the probability of flooding elsewhere.

Members moved on to other material matters covering parking and access, requirement for more discrete bin storage, land contamination and site services including surface water run-off and accepted that these matters could all be satisfactorily addressed by planning conditions. The development was also identified to require a financial developer contribution towards St Ronan's Primary School and Peebles High School and this could be addressed via a legal agreement.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the application is located within an area of flood risk, however it is accepted that there are existing buildings currently occupying the site and that although this proposal would introduce a more vulnerable land use, residential land use is already established within the area. Additionally, the site is a considerable distance from the existing watercourse, and on balance, the development is deemed to not pose a significant flood risk or increase the probability of flooding elsewhere contrary to Policy IS8 of the LDP and Policy 22 of NPF4. Furthermore, the development will improve the visual amenity of the area.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. No development shall commence until the following details have been submitted to and agreed in writing with the Planning Authority and thereafter the development

shall be undertaken in strict accordance with the approved details, unless otherwise agreed in writing with the Planning Authority. Details shall include:

- i. Precise details of all external building materials (include colour finishes)
- ii. Precise details of the siting, scale and design of all means of enclosure
- iii. Precise details of all hardstandings, including a more discrete location for the required bin storage area

Reason: Further details are required to ensure a satisfactory form of development which respects the character and visual amenity of the surrounding area.

3. No development shall commence until precise details of the water supply and of both foul water and surface water drainage have been submitted to and approved in writing by the Planning Authority. All surface water run-off should not exceed pre-development surface water run-off levels and ensure that no additional run-off enters the public road, unless otherwise agreed in writing with the Planning Authority and thereafter no development shall take place except in strict accordance with the approved details. The surface water drainage shall be handled by way of sustainable urban drainage techniques.

Reason: To ensure the site is adequately serviced.

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

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

5. The retained workshop shall at all times be used in connection with, and ancillary to, the residential property which is granted planning permission within this application and shall not be used of any use, except as an outbuilding which is ancillary to the associated residential property.

Reason: The Planning Authority does not consider the establishment of a separate unit to be appropriate in this location.

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 (Carlisle 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 13th October 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: 23/00033/RREF

Planning Application Reference: 22/01936/FUL

Development Proposal: Erection of raised decking (retrospective)

Location: 33 Weensland Road, Hawick

Applicant: Mr Thomas Kemp

DECISION

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

1. The development is contrary to Policy HD3 of the Scottish Borders Local Development Plan (2016) and Policy 16 of the National Planning Policy Framework 4 (2023), in that the raised decking, by reason of its scale, height and positioning would result in an unacceptable impact in terms of outlook, overlooking and loss of amenity and privacy to neighbouring residential properties and their associated garden grounds.

DEVELOPMENT PROPOSAL

The application relates to the erection of a raised deck within the rear garden of 33 Weensland Road, Hawick. The application is retrospective, and drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	Location Plan
Proposed Plans	1
Proposed Plans	2
Photos	Various

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 11th September 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 the Officer Report; c) List of Policies; and d) Photograph's, the Review Body proceeded to determine the case.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: Scottish Borders Local Development Plan 2016 and National Planning Framework 4. The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD2, HD3
- NPF4 policies: 1, 14, 16

Other Material Considerations

- SBC Supplementary Planning Guidance on Householder Development (incorporating Privacy and Sunlight Guide)

The Review Body noted that the application was retrospective and that the raised deck had been constructed in the garden ground associated with an upper floor flat. Members identified that the primary considerations for this application were Development Plan polices covering design standards and residential amenity along with the Councils SPG on Householder Developments.

Members observed that the properties on Weensland Park benefited from curtilage space to the rear which is located on ground which slopes from back to front. It was noted that the raised deck was constructed of timber and included a balustrade fencing around its perimeter. The deck had been set into the highest part of the garden to avoid it impacting on access to sunlight and daylight of neighbouring properties and this siting allowed the underbuilding of the deck to be utilised for storage.

The Local Review Body noted that a range of outbuildings were located within the rear gardens of properties along Weensland Park and that this development did not necessarily detract from the character of the surrounding area, with minimal visibility of the development from the public road.

Members considered the impact of the proposal on residential amenity and specifically against the requirements of LDP Policy HD3 and Policy 16 of NPF4. Members noted that these policies require that developments should not adversely affect the amenity of existing properties by avoiding causing detrimental levels of overlooking and loss of privacy. Concerns were raised that the scale of the deck and its positioning caused overlooking into adjacent gardens and also into ground floor accommodation of adjacent properties. This results in the development having an overbearing visual impact on adjoining neighbours where the deck

would result in a significant loss of privacy which detracts from the enjoyment of their garden ground and privacy of their property.

The Local Review Body understood why creating a platform with the curtilage space would be desirable within an otherwise sloping garden, however the raised deck was found to pose detrimental levels of overlooking into neighbouring gardens and ground flood accommodation resulting in a loss of privacy which significant detracts from the residential amenity of the affected properties. Consequently, the proposal did not satisfy the requirements of LDP Policy HD3 and Policy 16 of NPF4.

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 13th October 2023

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