

APPENDIX II

**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: 16/00008/RREF

Planning Application Reference: 15/01557/FUL

Development Proposal: Erection of dwellinghouse

Location: Builder's yard, Land south west of 76 St Andrew Street, Galashiels

Applicant: Book Developments

DECISION

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice on the following grounds:

The development would conflict with Policies G1 and G7 of the Consolidated Local Plan 2011 and Supplementary Planning Guidance "Placemaking and Design" 2010 because the scale, form and design of the development would, in this backland location, lead to an unacceptable visual impact on the character of the surrounding area and neighbouring built form

DEVELOPMENT PROPOSAL

The application relates to the erection of a house on land to the south west of 76 St Andrew Street in Galashiels. The application drawings consisted of the following drawings :

Plan Type	Plan Reference No.
Location Plan	9249/1.01
Existing layout	9249/1.02
Existing elevations	9249/1.03

Site Plan	9249/1.04
Floor Plans	9249/1.05
Sections	9249/1.06
Elevations	9249/1.07

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 16th May 2016 that the Review had been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included: a) Notice of Review including decision notice; b) Officer's Report; c) Consultations and d) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case.

Within the Notice of Review it was noted that new material had been submitted. This related to a statement by the appellants that the proposal was an affordable property. Members noted that the applicant had submitted this information but it was received by the Planning Officer after the application had been determined. Members noted there was some disagreement between the applicant and the Planning Officer as to what the deadline was within the Processing Agreement for the submission of this information leading up to the determination of the application. Members, although satisfied the Planning Officer had acted properly, had some sympathy with the applicant regarding the misunderstanding of the submission date. Members agreed that the information could be accepted by them under 43B(1)(a) of the 1997 Act on the basis that it could not have been raised before that time. It was considered that in order to ensure this uncertainty did not happen again, Planning Officers should state within Processing Agreements a date when any further information should be submitted "before" which would eliminate any dubiety.

REASONING

The determining issues in this Review were:

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

The Development Plan comprises: SESplan 2013 and the adopted Scottish Borders Local Development Plan (LDP) 2016. Members noted that the new LDP was adopted on 12th May 2016 and therefore relevant policies within it were now the primary material policy considerations and that policies within the consolidated Local Plan 2011 were now superseded. Although the planning application had been considered primarily taking cognisance of the policies within the consolidated Plan which was in force when the application was submitted, it was agreed that the LRB should consider the proposal against policies within the LDP 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were :

- Local Development Plan policies : PMD2 and PMD5

The LRB noted that although these new policies replaced policies G1 and G7 respectively within the consolidated Local Plan, it was considered that the new policies did not raise any new material considerations in this instance.

Members noted the proposed location of the new house, its relationship with surrounding properties and gardens and that the plans proposed a hipped zinc roof with brick walls. Members noted that in order to ensure daylighting into the property yet minimise any privacy or neighbouring amenity issues, external windows comprised of high rooflights and a window on a stairwell. An internal courtyard was incorporated within the design which allowed daylighting to main rooms via hit and miss brickwork and the use of translucent glass bricks. Members noted there had been no third party objections and considered that the planning officer considered it would be an improvement on the historical use of the site as a workshop.

Members considered the design to be innovative and confirmed the design could be supported in many development case scenarios, but debated whether the proposed design was appropriate in this particular location. In this instance it was considered that the proposal was on a backland site which would be highly visible from surrounding properties and gardens and in essence would be a focal point within the general area. While considering a more traditional designed house may be acceptable in this location, Members considered the overall massing, design and finishing materials of the proposed house to be out of character, in particular the zinc roof, with the surrounding properties.

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.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

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 R Smith
Chairman of the Local Review Body

Date.....6 June 2016