

APPENDIX I

**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: 16/00023/RREF

Planning Application Reference: 16/00494/FUL

**Development Proposal: Erection of poultry building and erection of altar, sacred
well and stance for statue**

Location: Field no 0328, Kirkburn, Cardrona

Applicant: Cleek Poultry Ltd

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:

- 1 The application is contrary to Policies PMD2, EP5 and ED7 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed building and structures will be prominent in height, elevation and visibility within the landscape and will have a significant detrimental impact on the character and quality of the designated landscape.
- 2 The application is contrary to Policies PMD2 and ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that there is an overriding justification for the proposed building and structures that would justify an exceptional permission for them in this rural location and, therefore, the development would appear as unwarranted development in the open countryside. The proposed building is not of a design or scale that appear suited either to the proposed use for which it is intended or the size of the holding on which it would be situated, which further undermines the case for justification in this location.

- 3 The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that any traffic generated by the proposal can access the site without detriment to road safety.
- 4 The application is contrary to Policy ED7 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that the uses proposed for the building would not have an adverse impact on the local environment and the amenity of nearby residents.

DEVELOPMENT PROPOSAL

The application relates to the erection of poultry building and erection of alter, sacred well and stance for statue at Kirkburn, Cardrona. The application drawings consisted of the following drawings :

Plan Type	Plan Reference No.
Elevations	196 44
Site Plan	196 42
Block Plans	196 43
Floor Plans	196 45

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 19th September 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) Papers referred to in Report; d) Consultations and e) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case. In coming to its conclusion the LRB considered the request from the applicant for a site inspection, further written submissions and one or more hearing session.

REASONING

The determining issues in this Review were:

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

The Development Plan comprises: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the most relevant of the listed policies were:

- Local Plan policies : PMD2, EP5 and ED7

The LRB noted that the applicant sought planning consent for a poultry building and an altar, sacred well and stance for a statue within his 8acre smallholding at Kirkburn, Cardrona on the B7062 to Peebles. The site is a part of a larger north facing field which slopes downwards from the south towards the B7062.

The proposed poultry building measured 12m(h) x 12m(l) x 8m(w) and would include the use of natural stone and a wet dash finish. The altar, sacred well and stance for a statue would be located to the south of the poultry building on a higher area of land.

Members noted that this was a very similar proposal to a previous application on the same site which had been refused. Whilst some elements are no longer part of the current proposal (e.g. steel containers, water storage building), members also noted that the proposed 4no storey poultry building was considerably higher than the previously proposed poultry building. The plans now propose a 12m high building which members considered would be a very prominent feature within its elevated site position which is within the Tweed Valley Special Landscape Area.

It was noted that further information had been required by consultees. This included a Landscape and Visual Assessment to check the impact of the proposal on the surrounding landscape and the SLA, further information regarding traffic generation and the consequent suitability of the access to accommodate such vehicles, a business plan and an Environmental Statement in respect of the poultry use. This had not been forthcoming.

Members noted that the proposed chicken building would be located at a distance of less than 400m from the existing residencies to the east of the site and the approved chalets within the smallholding site. In the absence of any further Environmental Information, the LRB considered that there was no evidence that problems arising from the lack of separation could be adequately addressed.

Members noted that there have been a wide range of development proposals within the smallholding including, for example, the chalet development, poultry buildings, a mushroom store, a rabbit shed and a biomass building. They were concerned as to how this proposal would relate to that variety of uses and how compatible they would each be with one another on such a limited area of land. Members considered that perhaps there was a need for the applicant to produce a masterplan, demonstrating how he sees his land being used without giving rise to issues of conflict of use.

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 decision of the appointed officer was upheld.

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..... 29 September 2016