

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: 16/00024/RREF

Planning Application Reference: 16/00495/FUL

Development Proposal: Extension to form animal flotation unit

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 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 that would justify an exceptional permission for it 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 appears justified by 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.

DEVELOPMENT PROPOSAL

The application relates to an extension to form an animal flotation unit at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Elevations	196 40
Site Plan	196 41A

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 the 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 applicants 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 an animal flotation unit 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 flotation unit measures 24m (l) x 6m (w) x 5.5m (h) in charcoal grey corrugated sheeting.

Members noted that the application was a resubmission of a previous application which now omitted a storage building which was located on the eastern part of the site. Members noted that the proposed flotation unit was positioned in the same location as previous on elevated land on the southern side of an existing building at upper yard level. It is identical in height and size, albeit with the monopitched roof sloping down to the north as opposed to previously sloping down to the south.

The Review Body noted that the site lies wholly within the Tweed Valley Special Landscape Area (SLA) which recognises the special character of the valley. Members discussed the importance of the SLA of the Tweed Valley, and were concerned that there would be a negative impact on it from the scale and height of the proposals. The Review Body concluded that the scale and height of the proposal would have a negative impact on the character and quality of the landscape.

It was noted the Council's Landscape Architect had requested a Landscape and Visual Assessment to check the impact of the proposal on the surrounding landscape and the SLA. It was also noted that Roads Planning had requested further info regarding traffic generation and Economic Development had requested a business plan. This information had not been produced and the LRB therefore considered there was no material before them that would either demonstrate that an exceptional consent should be granted for economic reasons, nor that that the development could proceed without unacceptable detriment to road safety.

The LRB also had concerns as to how compatible this proposal would be, without a conflict of uses, with other approved and proposed uses within the smallholding given the limited size of the site.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the proposal 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