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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, TD6 0SA on Monday, 19 September, 2016 at 10.00 am

Present:- Councillors R. Smith (Chairman), J. Brown (Vice-Chairman), M. Ballantyne, J. Campbell, I. Gillespie, D. Moffat, S. Mountford and B White

Apologies:- Councillors J. A. Fullarton

In Attendance:- Lead Officer Plans and Research, Chief Legal Officer, Democratic Services Team Leader.

1. **REVIEW OF APPLICATION 16/00494/FUL**

There had been circulated copies of the request from Cleek Poultry Ltd, The Tractor Shed, Kirkburn, to review the decision to refuse the planning application in respect of the erection of poultry building and erection of altar, sacred well and stance for statue in field no. 0328, Kirkburn, Cardrona. Included in the supporting papers were the Notice of Review including the Decision Notice; officer's report; papers referred to in the report; consultations; and list of relevant policies. Members noted that there had been a wide range of development proposals for this site and the surrounding land and expressed concern as to how this proposal would relate to other uses on such a limited area of land. Members considered that there was a need for the applicant to produce a masterplan, demonstrating how his land could be used in a coherent way without giving rise to issues of conflict of use.

DECISION

AGREED that:-

- (a) **the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) **the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) **the officer's decision to refuse the application be upheld for the reasons detailed in Appendix I to this Minute.**

2. **REVIEW OF APPLICATION 16/00495/FUL**

There had been circulated copies of the request from Cleek Poultry Ltd, The Tractor Shed, Kirkburn, Cardrona, to review the decision to refuse the planning application in respect of extension to form animal flotation unit in field No. 0328 at Kirkburn, Cardrona. Included in the supporting papers were the Notice of Review including the Decision Notice; officer's report; papers referred to in the report; consultations; and a list of relevant

policies. Members agreed that the same issues applied to this application as in paragraph 1 above and requested that officers make it clear to the applicant that a coherent and comprehensive business plan was required before any of his proposals could be properly considered. Economic justification was a major factor given the site lay within the Tweed Valley Special Landscape Area.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the officer's decision to refuse the application be upheld for the reasons detailed in Appendix II to this Minute.**

DECLARATIONS OF INTEREST

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

3. REVIEW OF APPLICATION 16/00397/FUL

There had been circulated copies of the request from Wilson G Jamieson, per Peter Macleod, 122 Scott Street, Galashiels, to review the decision to refuse the planning application for change of use of land to commercial storage and siting of 42 No storage containers (retrospective) on land east of Langlee Mains Farmhouse, Galashiels. The supporting papers included the Decision Notice; Notice of Review; officer's report; previous applications referred to in the report; consultations; and a list of relevant policies. It was noted that new material had been submitted as part of the LRB submission. This related to questionnaires sent out by the applicant to users of the containers in order to give support to the proposal. Members considered that, while having regard to the statutory test set out in section 43B of the 1997 Act, they would accept this new material. Members noted that the proposal was close to the Council's recycling centre so there was already some industrial activity in the area and agreed that with appropriate screening this facility could be acceptable at this location. Members also noted the appellant's suggestion of a 3 year temporary consent and that this would allow activities on the site to be monitored and any issues considered when a request for a further approval was received. It was also agreed that the site should be restricted to Use Class 6.

DECISION

AGREED:-

- (a) that the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be contrary to the Development Plan but that there were other material considerations that would justify departure from the Development Plan; and**

- (d) **the decision of the appointed officer to refuse the application be reversed and the application for planning permission be granted, subject to conditions, as detailed in Appendix III to this Minute.**

4. **CONTINUATION OF REVIEW OF APPLICATION 15/01484/FUL**

With reference to paragraph 3 of the Minute of 16 May 2016, and paragraph 5 of the Minute of 18 July 2016, there had been re-circulated copies of the request from Mr & Mrs M Dick, 5 East High Street, Lauder to review the decision to refuse the planning application in respect of replacement windows at 5 East High Street, Lauder. Included in the supporting papers were the Decision Notice, Notice of Review, officer's report, drawings and a list of relevant policies. As requested a sample of the window type was brought to the meeting for Members to inspect. Members were pleased to note the design of the astragals on the sample window and considered that as it was sufficiently similar to the existing windows in the property it was a suitable replacement.

DECISION

AGREED:-

- (a) **the review could be determined without further procedure on the basis of the papers submitted and the sample window provided;**
- (b) **the development was consistent with the development plan; and**
- (c) **the decision of the appointed planning officer to refuse the application be reversed and the application for planning permission be granted, subject to conditions, for the reasons given in Appendix IV to this Minute.**

MEMBERS

Councillors Gillespie and Moffat left the meeting as they had not be present when the following application had been previously considered and therefore could not take part in the discussion.

5. **CONTINUATION OF REVIEW OF APPLICATION 16/00126/FUL**

With reference to paragraph 4 of the Minute of 15 August 2016 there had been circulated copies of the additional information which had been requested by the Local Review Body in respect of the application for replacement windows and door at 62 Castle Street, Duns. Also re-circulated were copies of the original request from Mr A J Redpath for the review of the refusal of the application. The additional information requested regarding the condition of the existing windows and doors had been provided and confirmed that they were beyond repair. Members noted that the property was a B listed building and located within the Duns Conservation Area, although outwith the identified core area. A separate appeal against the refusal of listed building consent was being considered by Historic Environment Scotland. Members agreed that the proposed door and windows, so far as could be ascertained from the information provided, complied with the criteria tests within the Guidance for properties outwith core areas. It was agreed that the replacement door and windows could be accepted subject to the design being agreed with the planning officer and that they were consistent with those in the neighbouring properties.

DECISION

AGREED:-

- (a) **the review could be determined without further procedure on the basis of the papers submitted and the report on the condition of the existing windows provided;**
- (b) **the development was consistent with the development plan; and**

- (c) the decision of the appointed planning officer to refuse the application be reversed and the application for planning permission be granted, subject to conditions, for the reasons given in Appendix V to this Minute.**

The meeting concluded at 1.20 pm



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 altar, 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



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

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APPENDIX III

**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: 16/00025/RREF

Planning Application Reference: 16/00397/FUL

Development Proposal: Change of use to commercial storage and siting of 42no storage containers

Location: Land East of Langlee Mains Farmhouse, Galashiels

Applicant: Wilson G Jamieson Ltd

DECISION

The Local Review Body (LRB) reverses the decision of the appointed planning officer and grants planning permission as set out in the decision notice.

DEVELOPMENT PROPOSAL

The retrospective application relates to the Change of use to commercial storage and siting of 42no storage containers. The application drawings consist of the following :

Plan Type	Plan Reference No.
Location Plan	001
Site Plan	101
Site plan	102
Elevations	GP Dimensions
Roof plan	GP roof
Elevations	GP Door End
Elevations	GP side Wall
Elevations	GP End Door
Other	Bottom side rail
Elevations	Side Wall Panels
Other	Container Floor Sheets
Photos	

Elevations
Sections
Elevations

Rear End Wall
GP Wall Section
GP Underfloor

PRELIMINARY MATTERS

The LRB considered at its meeting on 19th September 2016, that the review had competently 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) the Decision Notice; b) Notice of Review; c) Officer's Report; d) Applications referred to in Report; e) Consultations and f) List of Policies, the LRB considered they had enough information to determine the review and proceeded to consider the case. In coming to the conclusion, the LRB noted the request from the appellant for a site inspection and one or more hearing sessions.

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 Local Development Plan 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were :

- Local Development Plan policies : PMD2, ED7 & EP6

New material had been submitted as part of LRB submission. This related to questionnaires sent out by the applicant to users of the containers in order to give support to the proposal. Members considered whether they could properly have regard to this material in light of the statutory test set out in section 43B of the 1997 Act.

While acknowledging that items were new material which could have been prepared earlier, it was prepared in direct response to the reasons for refusal and it was further considered that this was useful information in order to gauge how well used the facility was and its value to small local businesses. Consequently members agreed to have regard to the new material.

Members noted this was a retrospective application. The proposed commercial storage facility is identified within the applicant's supporting statement as being a side-line to his forestry and fencing contractor business. The proposal will diversify that business' activities. The proposal falls within Class 6 (Storage and Distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The supporting statement advises that its customers are anticipated to be rural businesses or businesses serving rural customers. The applicant operates his fencing and forestry business from the site where he recently was granted retrospective planning consent.

Members noted adopted Local Development Plan policy tests. In particular these related to policies PMD2, ED7 & EP6 which in essence seek to ensure this was an appropriate proposal in this rural location in terms of its use. They gave consideration to the appearance and number of containers and whether an alternative location within a settlement boundary would be available and a preferable location.

Members noted that the proposal was close to the Council's recycling centre so there is already some industrial activity in the area. It was not considered there were many realistic opportunities for operating this business within the settlement boundary of any nearby built up area and it was further noted that Economic Development had raised the question as to whether such storage proposals were in actual fact a good use of industrial land. It was agreed that this type of proposal did provide benefit to other small businesses in the vicinity.

In terms of visual appearance it was considered that the containers were neither particularly tall nor prominent and therefore if hedge screening was to be carried out along the roadside boundary it would be sufficient to give adequate screening to the proposal.

It was agreed the site had not been used for agricultural purposes for some time and given the current condition of the land and the recently approved use for the applicant's business it was most unlikely the use of the site would ever revert back to agricultural use. Members noted the appellants suggestion that a 3 year temporary consent could be considered. This would allow activities from the site to be monitored and at the expiry of the temp period an application could be made for an extension or a permanent approval.

CONCLUSION

After considering all relevant information, the Local Review Body considered that the containers were not unduly prominent on the site and that adequate screening would further lessen any visual impact into the landscape. It was considered the proposed use of the site was appropriate in this location and alternative site options were very limited. However as there was potential for negative impact on the road network to arise from the use, it was further agreed that any permission should be for a limited period of time to monitor that impact.

DIRECTION

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

CONDITIONS

1. No development shall take place except in strict accordance with a scheme of soft landscaping works, which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall include

- i. schedule of plants to comprise species, plant sizes and proposed numbers/density
- ii. programme for completion and subsequent maintenance

Reason: To enable the proper form and layout of the development and the effective assimilation of the development into its wider surroundings.

2. Hard surface within the site to be upgraded to the specification of the Local Planning Authority and at all times properly maintained thereafter.

Reason: To ensure that adequate access within the site for pedestrians and vehicles.

3. The use hereby permitted shall be discontinued, the containers shall be removed and the land restored to its former condition on or before 19th September 2019 unless a further permission is obtained.

Reason: To enable the Local Planning Authority to monitor the impacts and suitability of the approved temporary use within this rural location

4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997, (or in any equivalent provision in any statutory instrument revoking and re-enacting that Order) the use of this site shall be restricted to Class 6 Use (Storage and distribution) only and shall be used for no other purpose

Reason: To ensure that the use remains compatible within the site.

Informative

Any lighting installation used on the premises should be designed in accordance with the guidance produced by The Institution of Lighting Engineers. If necessary, suitable shuttering should be provided for each lamp to prevent unwanted light affecting the occupiers of properties off site.

For the information of the applicant the comments from Scotia Gas Networks Ltd are attached for the applicant's consideration and action.

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



APPENDIX IV

**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: 16/00009/RREF

Planning Application Reference: 15/01484/FUL

Development Proposal: Replacement Windows

Location: 5 East High Street, Lauder

Applicant: Mrs M Dick

DECISION

The Local Review Body (LRB) reverses the decision of the appointed planning officer and grants planning permission as set out in the decision notice.

DEVELOPMENT PROPOSAL

The application relates to replacing timber sash and case windows with UPVC sliding sash windows at 5 East High Street, Lauder. The application drawings consist of the following :

Plan Type	Plan Reference No.
Location Plan	
Specifications	SPECTUS
Elevations	P37845

PRELIMINARY MATTERS

The LRB first considered this review at its meeting on 16th May 2016, when it determined that that the review had competently 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) the Decision Notice; b) Notice of Review; c) Officer's Report; d) Drawings and e) List of Policies, the LRB

considered they required further procedure to enable them to determine the review. They therefore requested the appellant to provide a sample of the proposed uPVC window frame and stick-on astragals for examination by the Local Review Body.

This sample was produced and the LRB considered the matter once more at its meeting of 19th September 2016. At that time they considered that they now had enough information to determine the review and proceeded to consider the case. In coming to the conclusion, the LRB noted the request from the appellant for a site inspection and one or more hearing sessions.

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 Local Development Plan 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were:

- Local Development Plan policies : PMD2 & EP9

Another material document the LRB referred to was:

- SBC Supplementary Planning Guidance on Replacement Windows and Doors 2015

Members noted that the proposal was an end terraced property within the prime frontage / core area of the Lauder conservation area. The plans proposed to install 7no replacement windows. The existing windows are traditional single glazed sliding sashes in white-painted timber frames with astragals. The proposed replacements are described as replicating exactly the external appearance (glazing pattern) and opening mechanism (sash and case) of the existing windows, but these would be double-glazed white-coloured uPVC units. An accompanying 'Spectus VS' brochure offers generic descriptions of windows and the final page describes the use of 'stick-on' Georgian glazing bars.

The Council's approved SPG on Replacement Windows and Doors states that (para 3.28) the principle of the replacement of timber units in uPVC is acceptable where the design pattern, dimensions and method of opening are retained within the new windows and where the proposals address the 'General Principles' set out in Section 3.7 of the same SPG. The General principles require that consideration be given to: (i) the position of the window(s) proposed for replacement, specifically whether or not these are publically visible and/or relate to more modern extensions; (ii) whether or not these windows are originals; (iii) the predominant character of surrounding properties; and (iv) whether or not the proposals maintain or improve the current position. The SPG also states (para 3.29) that within prime frontage / core areas of Conservation Areas the use of stick-on astragals will not be permitted.

Members considered that 3no of the windows were located to the rear of the property and that as these were most inconspicuous from public view they had no objections to replacing those. Members also discussed that there was a range of existing types within the Lauder Conservation Area.

On examining the sample window which was presented to the LRB at the meeting on 19th September, Members considered that the window proportions, the sliding sash appearance and opening mechanism were an acceptable replica of the original windows. In terms of the astragals it was considered that as there was a mid bar between panes of glass the astragals did appear to be an integral part of the window and that the astragals were well fitted and it appeared they would be a permanent fixture within the double glazed unit. Members further considered that the astragal was of the same proportion and design as the existing windows astragal.

CONCLUSION

After considering all relevant information, the Local Review Body considered that the proposed windows were appropriate in this part of the Lauder Conservation Area and consequently approved the plans.

DIRECTION

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

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

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APPENDIX V

**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: 16/00019/RREF

Planning Application Reference: 16/00126/FUL

Development Proposal: Replacement Windows

Location: 62 Castle Street, Duns

Applicant: AJ Redpath

DECISION

The Local Review Body (LRB) reverses the decision of the appointed planning officer and grants planning permission as set out in the decision notice.

DEVELOPMENT PROPOSAL

The application relates to replacing timber sash and case windows with UPVC sliding sash windows and installing a replacement timber door at 62 Castle Street, Duns. The application drawings consist of the following:

Plan Type	Plan Reference No.
Location Plan	
Brochures	Renaissance
Photos	
Photos	
Photos	
Photos	

PRELIMINARY MATTERS

The LRB first considered this review at its meeting on 15th August 2016, when it determined that the review had competently 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) Additional Information Requested; b) Notice of Review; c) the Decision Notice; d) Officer's Report; e) Consultation and f) List of Policies, the LRB considered they could not determine the review without further procedures as they wished to confirm whether the windows could be repaired as opposed to being replaced. Consequently they requested the applicant should give details of the condition of the existing windows and the door from an accredited source.

This information was provided by the Appellant and was presented to the LRB at its meeting of 19th September 2016. At that time the LRB determined that it had enough information to determine the review and proceeded to consider the case. In coming to the conclusion, the LRB noted the request from the appellant for a site inspection and one or more hearing sessions.

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 Local Development Plan 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were:

- Local Development Plan policies : PMD2 & EP9

Another material document the LRB referred to was:

- SBC Supplementary Planning Guidance on Replacement Windows and Doors 2015

Members noted that the property is a B listed building and located within the Duns Conservation Area, although it is outwith the identified core area / prime frontage. The proposal was to replace 7no sash and case windows with a six over six glazing pattern on the front elevation (including the 2 no dormer windows) with wood effect uPVC windows and install a new oak boarded front door. The proposed windows would be UPVC double glazed frames with a sliding sash opening mechanism.

Members acknowledged that although the building was B listed, a separate appeal against the refusal of listed building consent was being considered by Historic Environment Scotland and consideration of any impacts on the property from a listed building perspective was not a matter for the LRB. This LRB appeal was against the refusal of the application for full planning consent which required cognisance of the LDP's policies PMD2 and ED9.

In considering the conditions survey, Members noted the condition of the door and the window and did feel these were predominantly beyond repair.

Reference was made to page 8 of the Council's Supplementary Planning Guidance on Replacement Doors and Windows which states guidance regarding replacement windows within conservation areas but outwith prime frontage / core areas. Members noted that appropriately designed and proportioned UPVC could be permissible and it was agreed that the windows proposed complied with the criteria tests within the Guidance.

CONCLUSION

After considering all relevant information, the Local Review Body considered the proposed replacement windows and door were appropriate for this property within this part of the Duns Conservation Area and approved the application. In order to ensure the windows best matched those of adjoining properties members requested that further discussion is had with the planning case officer with regards to whether external horns should be applied to any of the windows.

DIRECTION

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

INFORMATIVE

As requested by the Local Review Body, in order to ensure the windows best matched those of adjoining properties the applicant should contact the planning case officer as to whether external horns should be applied to any of the proposed windows.

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

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