

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Application for Planning Permission

Reference: 13/00104/PPP

To: Mrs Carole Andrew Easter Lilliesleaf House Lilliesleaf Scottish Borders TD6 9JD

With reference to your application validated on **29th January 2013** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal: Erection of dwellinghouse

At: Land South Of Easter Lilliesleaf House Back Road Lilliesleaf Scottish Borders

The Scottish Borders Council hereby **refuses** planning permission for the **reason(s) stated on the attached schedule**.

**Dated 28th March 2013
Planning and Economic Development
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed
Head of Planning and Regulatory Services

APPLICATION REFERENCE: 13/00104/PPP**Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
	Site Plan	Refused
OS EXTRACT	Location Plan	Refused

REASON FOR REFUSAL

- 1 The proposed development is contrary to Policy G8 of the Scottish Borders Local Plan 2011 in that the site lies outwith the Development Boundary at Lilliesleaf, with no suitable exceptional justification for development in this location.
- 2 The proposed housing development is contrary to Approved Structure Plan Policies H7 and H8; Adopted Local Plan Policy D2; and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008), in that the site lies outwith the Development Boundary, and the need for new dwellinghouses on this site has not been adequately substantiated in terms of the requirements of this policy and guidance.
- 3 The proposed development would have a detrimental impact upon road safety on Back Road, Lilliesleaf.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning 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 require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, 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 may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO THE HEAD OF PLANNING
AND REGULATORY SERVICES**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 13/00104/PPP

APPLICANT : Mrs Carole Andrew

AGENT :

DEVELOPMENT : Erection of dwellinghouse

LOCATION: Land South Of Easter Lilliesleaf House
Back Road
Lilliesleaf
Scottish Borders

TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Site Plan	Refused
OS EXTRACT	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 3
SUMMARY OF REPRESENTATIONS:

EDUCATION AND LIFELONG LEARNING: This site is located within the catchment area for Lilliesleaf Primary School and Selkirk High School. Education has no observations to make on this proposed development at this time and will not be seeking a developer contribution towards the provision of infrastructure for the schools in the catchment area.

LOCAL PLANS SECTION: For full text see Public Access website. In summary, Plans and Research have discussed this proposal with the applicant on previous occasions and wish to re-iterate the following points. Understandably there is much sympathy with Mrs Andrews regarding her daughter's condition and needs, although in processing this application reference must also be made to all other material planning considerations and policy. The Local Plan for Lilliesleaf has a development boundary which seeks to contain development within that area. If this boundary was not in place, then development would continue into the countryside in a piecemeal and unplanned manner. In instances such as this where a proposal is located out with a development boundary policy G8 of the Scottish Borders Local Plan 2011 should be applied. Any development proposals out with the boundary must comply with the rigorous exceptions criteria within the policy. It is contended that the proposal does not satisfy any of the main points 1 to 4 of policy G8's criteria considerations. This is a sensitive proposal and the applicant's circumstances are appreciated and fully sympathised with. However, on balance and taking into consideration all material considerations, the proposal cannot be supported as it does not comply with policy G8 of the Local Plan and would set a precedent for other developments out with the development boundary including instances where property owners have not as yet found alternative housing needs on the open market. It is also considered there is an appropriate plot of land available within the applicant's garden ground for a house which would be supported by the Department under infill policy G7.

ROADS PLANNING SERVICE: I must recommend this application be refused in the interests of road safety. The accesses onto Back Road are all narrow with a lack of radii and do not allow two vehicles to pass, furthermore the visibility onto the B class road is also well below standard at all the junctions. Back road itself is narrow with few passing opportunities. A distinct lack of ability to resolve any of these issue means I am left with no alternative but to object to development in this area.

LILLIESLEAF COMMUNITY COUNCIL: No response received - Consultation expired 27.02.13. A representative had however previously attended a site meeting at pre-application stage, and indicated support for the development of a site for the family on this plot.

PUBLICITY AND CONSULTATION:

The application was publicised by means of a site notice, a press notice in the Southern Reporter, the direct notification of 6 neighbouring properties. All letters, both those submitted with the application, and those received during its processing, can be viewed in full on the Public Access website.

One letter of objection has been received to the application. The objection letter can be summarised as follows:

- Concerns about heavy traffic using the narrow access road leading to the proposed site.
- The objector, from Easter Farm Cottage, has had damage to property caused by traffic trying to gain entry to the lane that leads to the proposed site.
- There is also evidence of substantial damage in the form of subsidence on the back road which would be the alternative access route leading to the proposed site.

A petition in support of the application was submitted by the applicant, with 58 signatories.

21 letters of support were also submitted with the application. Since then, a further 2 letters of support have been forthcoming.

In summary, the letters of support state that:

- There is extensive support within the village and further afield for this proposed development.
- The development would create a safe and secure home for Rachel Andrew.
- The development boundary is an arbitrary line.
- The development would fit in well with surroundings.
- The development would comply with local planning policies.

PLANNING CONSIDERATIONS AND POLICIES:

Consolidated Scottish Borders Structure Plan 2001-2018:

H7 (Housing in the Countryside: Building Groups)

H8 (Housing in the Countryside: Isolated Housing)

I11 (Parking Provision in New Development)

Consolidated Scottish Borders Local Plan 2011

D2 (Housing in the Countryside)

G1 (Quality Standards For New Development)

G5 (Developer Contributions)

G6 (Developer Contributions related to Railway Reinstatement)

G8 (Development outwith Development Boundaries)

H2 (Protection of Residential Amenity)

Inf4 (Parking Provisions and Standards)

NE4 (Trees, Woodlands and Hedgerows)

Housing in the Countryside SPG (2008)

Recommendation by - Andrew Evans (Planning Officer) on 27th March 2013

This application seeks planning permission in principle for the erection of a single detached dwellinghouse on the southern edge of Lilliesleaf.

SITE

The application site is located on the edge of Lilliesleaf, adjacent to Easter Lilliesleaf House, the applicants existing 2 storey traditional dwelling located to the north of the site. The site is the north western corner of an agricultural field and is on the south eastern side of the village. It has a partial frontage onto the Back Road, with a field gate and fence in the corner of the site. The remaining part of the northern boundary of the site bounds the applicants garden, which has mature hedging along its boundary.

To the south and east of the site is located the remainder of the agricultural field. To the north is Back Road, and the back boundary fence of the applicants dwelling, Easter Lilliesleaf House. To the west, the site has a boundary with an adjoining dwelling, no.4 Mossbank. This is a semi detached cottage. It has a slated roof and rendered walls. The gable of the house at no.4, facing the site, is blank. The southern and eastern boundaries of the site are undefined, with the agricultural land falling away to the south. The site is located outwith the village development boundary which is set out in the adopted local plan. Lilliesleaf does not have a conservation area.

PROPOSED DEVELOPMENT

Consent is sought for the erection of a single detached dwelling. The dwelling would be sited so as to continue the front building line of the existing semi detached dwellings at Mossbank. No further details of the proposed design for the dwelling are given at this stage, the application being in principle. The dwelling is required for the applicants daughter, who suffers from epilepsy, additional needs and learning delay. The applicant has sought to provide justification for the house in the supporting information accompanying the application.

APPLICANT SUPPORTING INFORMATION

The applicant has submitted in support of the application the following:

- Letter from applicant - outlining the issues faced with their current dwelling, and the problems arising, listed. It is outlined that the applicant's daughter, Rachel Andrew, who suffers from the conditions noted above, recently suffered a seizure, resulting in a serious fall down the stairs. This has led to the conclusion that for safety reasons the family need to be in single storey accommodation. Consideration has also been given to Rachel's longevity needs.
- Letter from Borders College - Outlines that Rachel is currently enrolled on a course at Borders College.
- Neighbour letters. At the time of submission, the applicant included 21 letters of support from residents of the village. Since submission, further letters of support have been forthcoming.
- Petition. A petition with 58 signatories in support of the proposed development was submitted by the applicant with the application.

PLANNING HISTORY

There is no specific planning history on this site. In the immediate area:

An application (06/00502/FUL, by a different applicant) was refused planning permission and dismissed on appeal in 2007 on a site to the east of Easter Lilliesleaf House. The reporter pointed out in that case that, whilst the site was within the development boundary set out in the then emerging local plan, the design and details of the submission were not acceptable, and the proposed access was over-engineered.

An application (03/01767/OUT, by the same applicant as this current submission) was refused for the erection of three dwellinghouse on land to the South of Easter Lilliesleaf House in 2005 (to the east of this current application site, within the same field). The reason for refusal was: The proposal would be contrary to Policy 8 of the Ettrick and Lauderdale Local Plan 1995 and the New Housing in the Borders Countryside

Policy and Guidance Note in that part of the site lies outwith any settlement or building group and the need for dwellinghouse in this location has not been adequately substantiated.

POLICY PRINCIPLE

The site is located on the edge of Lilliesleaf and is wholly outwith the Development Boundary of the village, which runs along the northern and western site boundaries. Policy G8 of the adopted local plan requires that developments be located within development boundaries of towns and villages. The proposed housing is located outwith the development boundary. Policy G8 Development Outwith Development Boundaries states that where development boundaries are located on Proposals Maps, they indicate the extent to which towns and villages should be allowed to expand during the Local Plan period and that proposals for new development outwith this boundary and not on allocated sites identified on the proposals maps will normally be refused.

Policy G8 does contain exception criteria; however, the housing element does not meet these criteria: It is not job generating; it is not affordable housing; there is not a housing shortfall; and it does not provide significant community benefits. To clarify the 3 latter of these points, the development would not meet the Council definition of Affordable Housing, a housing shortfall has not been identified in this housing market area, and whilst the development would be of benefit to the applicant and her daughter, and not to diminish in any way from the substantial community support forthcoming to the application, it is clear that the development of a single house on this specific site would not offer any wider community benefit in the planning definition of the term. There is no requirement identified through the housing land audit with regard to the provision of additional land / sites to ensure an effective five-year housing land supply. As such, there is no evidence base for supporting the proposed development as an exceptional approval on the basis of Adopted Local Plan Policy G8. In this case the proposed development would meet none of the exceptions criteria within policy G8.

Structure Plan Policy H8 considers that proposals for houses in locations which are unrelated to building groups can not be supported unless their location is essential for the needs of an agricultural business or other business that requires a specific rural location, this is reiterated by Local Plan Policy D2 (Economic Requirement).

Structure Plan Policy H9 relates to affordable and special needs housing, however this policy is applied where a shortfall has been identified through the Local Housing Strategy and, crucially to the consideration of this application, can not be used in this assessment for a single private dwelling on the edge of Lilliesleaf.

The Council must assess this application against the relevant land use policies. The personal circumstances of applicants can rarely be taken in to account when determining planning applications. The Council remains wholly sympathetic to the circumstances on which this application has been required to be made, structure and local plan policies dictate that residential proposals in such edge of settlement locations must meet relevant exceptions criteria, leaving proposals without this required justification to merit refusal.

In this case there is no compelling justification to merit the siting of a dwelling and unfortunately there is no provision for medical grounds or personal circumstances to override accepted land use policies and for which reasons the proposal is deemed to fail to comply with.

PREAPPLICATION DISCUSSION AND ALTERNATIVE SITES

The applicant held pre-application discussions with the planning department, in a meeting also attended by a representative from the community council and Councillor Ballantyne. The applicant has previously promoted the site as a possible amendment to the Local Plan Development Boundary. The site was not considered suitable for inclusion. Mrs Andrew was advised as to the unacceptability of the site in planning terms, prior to the submission of this application.

There remain other options open to the applicant, which have been suggested by the planning department and not pursued further through the planning system by the applicant at this time. These include potential locations for a dwelling or annexe accommodation within the village development boundary and within the applicants existing garden ground, and a building potentially suitable for conversion to residential use. Of these, a site at the eastern end of the applicants existing dwelling appears to have the most significant potential, seeming capable of meeting the applicants need for a single storey dwelling, being located within

the applicants ownership, and being within the development boundary for the village. Roads issues would require further consideration, and the site would require full consideration in a separate application.

LOCAL PLAN PROCESS

The site subject to this planning application was previously subject to consideration during the call for sites through the local plan process. Colleagues in the plans and research section considered the merits of an amendment to the village development boundary. The site was not considered appropriate for inclusion within the boundary. Members subsequently resolved to proceed on the basis of the development boundary in its present position.

COMMUNITY COUNCIL

The Community Council had informally commented at pre-application stage that they supported the application. No formal response has been forthcoming to the application. It is presumed that they are still in support of the application.

APPLICANT CIRCUMSTANCES

The supporting documentation submitted with the application outlines that the dwelling is required for her daughter, who has epilepsy, additional needs and learning delay. The dwelling would permit independent living at a location adjacent to the existing family home. It can be contended however that the same independent accommodation can be achieved with a development within the applicants land within the existing development boundary.

WHETHER APPLICANT CIRCUMSTANCE A MATERIAL CONSIDERATION

The planning authority has considered applications in similar circumstances in recent years. The primary factor for initial consideration has to be the policy principle. The applicants situation is sympathised with. These circumstances are not however overriding of the policy background against which all new housing applications must be considered.

Section 25 of the Town and Country Planning Scotland act requires that the Planning Authority determine the application in line with the provisions of the development plan unless material considerations indicate otherwise. The Royal Town Planning Institute website advice on material considerations states that the circumstances of an applicant should not be treated as a material consideration unless clearly and demonstrably relevant such as in terms of the adaptations required for mobility access to a dwelling for a physically disabled person. This applies equally to any other form of impairment or additional need.

The planning department would do all it can to find a suitable solution to allow for accommodation of a persons additional needs from a dwellinghouse. The circumstances in this case however differ. The adaptations required for a suitable dwellinghouse for the applicants daughter are not what this application seeks to establish. The application seeks to establish the principle of a dwellinghouse on this specific site. As stated above, the principle of any dwelling on this site is unacceptable in planning terms.

Two main tests are used when deciding whether a consideration is material and relevant:

- It should serve or be related to the purpose of planning. This means it should relate to the development and use of land.
- It should fairly and reasonably relate to the particular application.

The Council recognizes the clear medical case presented, and the need for single storey accommodation, but must base its decision on the land use merits being the primary planning consideration of this assessment. It is not considered that these should be overridden by the applicant's case. The personal circumstances of the applicants, whilst being the driving factor behind the submission, are not a material consideration as set out in the Planning Act.

It is however likely that some form of suitable annexe, dwelling or conversion, can be accommodated within the curtilage of the applicants existing house. Such a scheme would have to be subject to a fresh, separate application for planning permission. This has previously been conveyed to the applicant. It should be noted that such an alternative scheme would also likely be able to meet the very specific requirements of the

applicant and her daughter with regards to creating safe, single storey accommodation in close proximity to the existing family home, and could meet the future longevity needs raised by Mrs Andrew.

ACCESS AND ROAD SAFETY

The dwelling would be accessed from the existing back road. The site is positioned by a bend in this road. The Roads Planning Service advise that they cannot support the development of a dwelling on this site on road safety grounds. Irrespective of the intended current occupation of the house, consideration must be given to potential future road safety impacts should its occupation change. At some stage in the future additional traffic movements would be generated by a dwelling on this site. A consent for a dwelling on this site would not be personal to the applicants family, and the wider impacts of a dwelling on the site have to be given consideration.

OCCUPANCY RESTRICTIONS

I have given consideration to whether a legal agreement or planning condition on occupation could render this application acceptable. It would not. The underlying policy conflict cannot be overcome in relation to this site.

OTHER MATTERS FOR CONSIDERATION IN EVENT OF LOCAL REVIEW

In the event of a successful Local Review of this application, members should be mindful of the following:

- Layout and design: Given the fundamental objection to the proposal set out above, and given the fact that the application is for Planning in Principle only, no detailed analysis of the applicants' indicative layouts was required.
- Landscaping: The sites southern and western boundaries are undefined. In the event of a successful local review, consideration must be given to a suitable landscape scheme to define the edge of the settlement.
- Materials: In the event of a Local Review, members should consider the external materials.
- Drainage: In the event of Local Review decision to approve the application, water and drainage services would need confirmed by planning condition.
- Development Contributions: The council has adopted policies with regards to education and affordable housing contributions, and the reinstatement of the Waverley Rail Route. In this case, the application is submitted on the basis of an untied open market dwelling. Contributions in terms of education and affordable housing would not be required for a single house development in this catchment. A Waverley Contribution would be applicable.

REASON FOR DECISION :

It is considered that the proposed development is contrary in principle to the plans and policies of the statutory development plan, including key policy, Adopted Local Plan Policy G8, in that it would be located outwith the Development Boundary of Lilliesleaf without a suitable justification for an exceptional approval. Furthermore, the development would be contrary to policies relating to development in the countryside, and would be to the detriment of road safety on Back Road.

Recommendation: Refused

- 1 The proposed development is contrary to Policy G8 of the Scottish Borders Local Plan 2011 in that the site lies outwith the Development Boundary at Lilliesleaf, with no suitable exceptional justification for development in this location.
- 2 The proposed housing development is contrary to Approved Structure Plan Policies H7 and H8; Adopted Local Plan Policy D2; and the advice of Supplementary Planning Guidance - New Housing

in the Borders Countryside (December 2008), in that the site lies outwith the Development Boundary, and the need for new dwellinghouses on this site has not been adequately substantiated in terms of the requirements of this policy and guidance.

- 3 The proposed development would have a detrimental impact upon road safety on Back Road, Lilliesleaf.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.

**SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY INTENTION 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 2008**

Local Review Reference: 13/00022/RREF

Planning Application Reference: 13/00104/PPP

Development Proposal: Erection of a dwellinghouse

Location: Land South of Easter Lilliesleaf House, Lilliesleaf

Applicant: Mrs Carole Andrew

DECISION

For the reasons set out below, the Local Review Body intend to reverse the decision of the appointed officer and grant planning permission in principle, subject to a section 75 agreement and conditions, on the following grounds:

1. The proposed development is compatible with SESplan Policy 1B, bullet point 3 in that the proposal offers benefit to the community
2. The proposed development is compatible with Policy G8 of the Adopted Local Plan in that it provides community benefit and represents a logical extension of the built up area which is an appropriate scale; does not prejudice the character, visual cohesion or natural built edge of the settlement; does not cause a significant adverse effect on the landscape setting of the settlement or the natural heritage of the surrounding area.

The Planning Permission in Principle to be subject to the following conditions-

STANDARD CONDITIONS

Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before the expiration of three years from the date of this permission

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.

SCHEDULE OF CONDITIONS

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.

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.

The means of water supply and of surface water and foul drainage to be submitted for approval by the Planning Authority.

Reason: to ensure that the site is adequately serviced.

Two car parking spaces shall be provided within the site prior to occupancy of the dwellinghouse.

Reason: In the interests of road safety

SECTION 75

A section 75 shall be entered into to meet appropriate contributions to the Waverley railway and to limit the future use of the dwelling to a person or persons with a disability and/or any dependent, family member or carer of such person residing with him or her.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

This consent 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.

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

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse on land South of Easter Lilliesleaf House, Lilliesleaf. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Site Plan	Headed as Planning Application

PRELIMINARY MATTERS

After examining the review documentation, which included: (a) Decision Notice, (b) Notice of Review and supporting papers (c) Report of Handling, (d) Correspondence from Consultees, (e) Correspondence from objector, (f) letters of support, (g) further representation, (h) List of Policies (including SESplan policies), the Review Body concluded that it had sufficient information to determine the review and that further procedure was not required in this instance. In coming to this conclusion, the Review Body took into account the applicant's request for further procedure in the form of a site visit, written submission and a hearing session.

The Local Review Body considered the Review competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 12th August 2013.

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 and the consolidated Scottish Border's Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- SESplan Policy: Policy 1A and 1B
- Local Plan Policies: G1, G5, G6, G8, D2, H2, NE4, INF4, D2

Other material key considerations the Local Review Body took into account related to:

- Supplementary Planning Guidance on New Housing in the Borders Countryside

The Review Body noted that the site lies outwith the defined settlement boundary of Lilliesleaf. The site is an area of agricultural land for grazing.

The Review Body was mindful of the provisions of Development Plan Policies that any development outwith a settlement boundary would require to meet the tests set by policy. The meeting focused upon the consideration of the demonstrable harm that might result from a positive consideration of the application, the positive benefit to the community and the likely impact on the roads infrastructure.

Members considered that there was no demonstrable harm that would result from a small development in this location and that it would be a logical extension of the settlement in that there was precedent already in the form of the adjacent cottages. Members did not consider that there would be any prejudice to the character or visual cohesion of the settlement edge.

Members discussed the matter of community benefit and felt that SESplan policy 1B would be satisfied and therefore considered that there would be a positive community benefit in making provision of a specialised dwelling house to meet special circumstances as long as there were appropriate safeguards in the form of a section 75 agreement that restricted use of the dwelling for a person or persons with a disability and/or any dependent, family member or carer of such person residing with them.

Members discussed the matter of road safety and considered that the addition of one house in this location would not make any demonstrable impact on road traffic numbers, and therefore were content that the site could be accommodated.

On the basis of the evidence before them, Members considered that the application could be supported because the proposed development is compatible with SESplan Policy 1B, bullet point 3 in that the proposal offers benefit to the community and compatible with Policy G8 of the Adopted Local Plan in that it provides community benefit and represents a logical extension of the built up area which is an appropriate scale; does not prejudice the character, visual cohesion or natural built edge of the settlement; does not cause a significant adverse effect on the landscape setting of the settlement or the natural heritage of the surrounding area.

The Members agreed that the consideration of the application by the Appointed Officer should be reversed, subject to a section 75 agreement for a contribution to the Waverley Railway and in respect of the use of the dwelling for a person or persons with a disability and/or any dependent, family member or carer of such person residing with them. Members also agreed the attachment of relevant conditions on the approval.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was compatible with the Development Plan and that the proposal should be approved subject to a section 75 and appropriate conditions.

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 J Brown
Chairman of the Local Review Body

Date: 19 August 2013