

## APPENDIX IV

### SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

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#### 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

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**Local Review Reference:** 17/00010/RREF

**Planning Application Reference:** 16/01464/FUL

**Development Proposal:** Erection of agricultural storage building with welfare accommodation

**Location:** Field No 0328 Kirkburn, Cardrona

**Applicant:** Cleek Poultry Ltd

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### 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 and 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 Guidance relating to Special Landscape Area 2 - Tweed Valley 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 with adverse visual impacts on the local environment. The proposed building is not of a design or scale that appears suited to the size of the holding on which it would be situated, which further undermines the case for justification in this location.
- 2 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 the erection of an agricultural storage building with welfare accommodation at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Site Plan	19673
General Arrangement	19672

## **PRELIMINARY MATTERS**

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 17<sup>th</sup> April 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review; 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.

## **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 Development Plan policies: PMD2, EP5, EP8 and ED7.

### Other Material Considerations

- Scottish Planning Policy
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal was to erect an agricultural storage building with welfare accommodation. The building, which incorporated a mezzanine floor, has a footprint of 12m x 18m and a ridge height of 7.5m. The building would be erected in a currently undeveloped field to the north east of the existing vehicular access and the main yard at the applicant's land holding at Kirkburn.

The Review Body acknowledged that the site occupied land that had previously had planning permission for holiday chalets and a hub building. Members accepted the conclusion of the appointed officer that due to the location of the proposed building and the screening to the north of the landholding, in this instance, the wider visual impacts on the landscape from the A72 were not so significant as to warrant refusal of the application. However, they were concerned that there would be localised visual impacts due to the bulk and scale of the building and that these would be harmful.

The application proposes the creation of provision for small "nest" agricultural businesses at the site. However, the application was not supported by a business plan for this activity or any statement that set out the development strategy for the landholding for the activities carried out at the site. In the circumstances, the Review Body had no evidence before them about the need and suitability of this development on the small holding. In the absence of a credible or sustainable economic justification for the building on this size of landholding they

had no reason to set aside the visual and landscape objections to the development and overturn the decision.

The Local Review Body expressed concern that there would be a potential conflict in relationship between the consented holiday development and the scale and proximity of the agricultural and other proposals on land adjoining. Members were concerned about how the proposal would relate to all of those, how compatible they would be with one another and whether there would be conflict between the uses on such a limited area of land. Whilst uncomfortable with the potential conflict they accepted the appointed officer's conclusion that it did not form a reason to oppose the application in this instance.

The Review Body reiterated their request that the applicant submit a business case/masterplan for the landholding that would set out clearly the objectives for the landholding with any subsequent planning applications lodged with the planning authority.

The Review Body noted the applicant's comments about upgrading the access bellmouth and the assertion that the development would lessen the traffic generated at the site. However, they were not convinced and Members concluded that the application was deficient in term of the traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) and, in their view, it had not been possible to undertake a full assessment of the road safety implications of the development.

## **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 application was refused.

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### **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.

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**Signed....**Councillor R Smith  
Chairman of the Local Review Body

**Date.....**24 April 2017