

# Public Document Pack

## 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, 17 July 2017 at 10.00 am

Present:- Councillors T. Miers (Chairman), S. Aitchison, A. Anderson, J. A. Fullarton,  
S. Hamilton, H. Laing, S. Mountford, C. Ramage, E. Small  
In Attendance:- Chief Planning Officer, Chief Legal Officer, Democratic Services Team  
Leader.

### 1. **DECLARATIONS OF INTEREST.**

Councillor Small declared an interest in item 6 on the agenda (17/00044/PPP) in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

#### **MEMBER**

Councillor Ramage had not been present at the site visit in respect of the undernoted application and was therefore unable to participate in the further consideration. Councillor Ramage withdrew from the Chamber for this part of the meeting.

### 2. **CONTINUATION: REVIEW OF 16/01174/PPP.**

With reference to paragraph 5 of the Minute of 19 June 2017 and following an unaccompanied site visit, Members continued consideration of the request from GS Chapman Vehicle Body Repairs, per Erich Planning & Property Consultants, Gifford House, Bonnington Road, Peebles, to review the decision to refuse the planning application in respect of the erection of a vehicle body repair workshop and associated parking on land north west of Dunrig, Spylaw Farm, Lamancha, West Linton. The papers which accompanied this review had been re-circulated. Members had found the site visit useful but were divided in their opinion with regard to the relationship of the site to the other farm buildings. Following discussion it was agreed that further information be sought from the applicants regarding the possibility of siting the workshop in or near to the existing farm buildings and if this option had already been discounted by the applicants, their reasons for so doing. Information of the ownership of the land in terms of the possibility of using a Section 75 Agreement to tie the business to the landholding was also requested.

#### **DECISION**

##### **AGREED that:-**

- (a) **the review could not be determined without further procedure in the form of a written statement from the applicants;**
- (b) **the applicants be asked to provide a written statement detailing what consideration had been given to siting the proposed development within or near to the currently existing farm building group, if there was space which could be utilised or existing buildings which could be converted and, if this had been discounted by the applicant details of the reasons for so discounting; and**
- (c) **the applicant be asked to comment on whether a proposal to tie the new business to the landholding would be achievable in terms of current land ownership.**

3. **REVIEW OF REFUSAL OF 16/00872/FUL.**

There had been circulated copies of the request from Mr Paul Lawrie, Linnfall Cottage, Waterheads, Peebles, to review the decision to refuse the planning application in respect of erection of a dog day care building, perimeter fence and associated works (retrospective) on land south west of Milkieston Toll House, Eddleston. Included in the supporting papers were the Decision Notice, Notice of Review; officer's report; papers referred to in the report; consultations; objections; and a list of relevant policies. Members noted that the fence surrounding the development was inadequate and commented on the unacceptable visual impact. Members also expressed concern regarding the access and the implications for road safety.

**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.**

**MEMBER**

Councillor Anderson left the meeting.

4. **REVIEW OF REFUSAL OF 17/00044/PPP**

There had been circulated copies of the request from Mrs Sandra Newton, per Ferguson Planning, Shiel House, 54 Island Street, Galashiels, to review the decision to refuse the planning application in respect of erection of two dwellinghouses in garden ground of Woodlands, Broomlee Mains, West Linton. Presented in the supporting papers were the Notice of Review (including the Decision Notice and officer's report); consultations; representation; and a list of relevant policies. Members agreed that Woodlands was part of the wider building group and that two dwellinghouses would be an acceptable addition. However, Members considered that there should be no further development and asked that a statement to this effect be included in the decision notice. A condition relating to boundary treatment which would define the settlement boundary was also requested.

**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 in keeping with the Development Plan; and**
- (d) **the officer's decision to refuse the application be overturned for the reasons detailed in Appendix II to this Minute.**

5. **REVIEW OF REFUSAL OF 17/00090/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 erection of an agricultural storage building with welfare accommodation on land west of former William Cree Memorial Church, 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 noted that while the building would not have a significant effect on the landscape of the Tweed Valley it would impact on the setting of the adjoining church. They further noted the absence of a comprehensive business case for the operation of the site and that traffic levels were required before proper consideration could be given to the proposal.

**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 III to this Minute.**

**6. REVIEW OF REFUSAL OF 17/00092/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 erection of an agricultural storage building with welfare accommodation on land west of former William Cree Memorial Church, 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 noted that while the building would not have a significant effect on the landscape of the Tweed Valley it would impact on the setting of the adjoining church. They further noted the absence of a comprehensive business case for the operation of the site and that traffic levels were required before proper consideration could be given to the proposal.

**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 IV to this Minute.**

**7. REVIEW OF REFUSAL OF 17/00093/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 erection of an agricultural storage building with welfare accommodation on land west of former William Cree Memorial Church, 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 noted that the height of the building would have a significant visual effect on the landscape of the Tweed Valley. They further noted the absence of a comprehensive business case for the operation of the site and that traffic levels were required before proper consideration could be given to the proposal.

**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 V to this Minute.**

**8. REVIEW OF REFUSAL OF 17/00094/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 erection of an agricultural storage building with welfare accommodation on land west of former William Cree Memorial Church, 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 noted that the height of the building would have a significant visual effect on the landscape of the Tweed Valley. They further noted the absence of a comprehensive business case for the operation of the site and that traffic levels were required before proper consideration could be given to the proposal.

**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 VI to this Minute.**

*The meeting concluded at 12.00 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:** 17/00022/RREF

**Planning Application Reference:** 16/00872/FUL

**Development Proposal:** Erection of dog day care building, perimeter fence and associated works (retrospective)

**Location:** Land South West of Milkieston Toll House, Eddleston

**Applicant:** Mr Paul Lawrie

---

**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 development is contrary to PMD2 in that the fence and building do not satisfy quality standards in that development is having an adverse impact on the amenity and character of the surrounding landscape.
- 2 The development is contrary to ED7 in that no business case has been provided to justify the economic and operational need for the particular countryside location and this development is unsuitable for the locality.
- 3 The development is contrary to IS7 in that intensified traffic usage at the sub-standard vehicular access creates a detrimental impact on road safety on the A703 and is contrary to policy on minimising accesses on to A-class roads.

**DEVELOPMENT PROPOSAL**

The retrospective application for planning permission relates to the erection of dog day care building, perimeter fence and associated works. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Site & Location Plan	1 of 2
Elevations	2 of 2

## **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> July 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review (additional documents); b) Consultations; c) Representation and d) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case. In coming to this conclusion Members considered the applicant's request for a site visit.

## **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: HD3, PMD2, ED7, EP8, IS7 & IS8

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010

The Review Body noted that the dog day care business was currently operating from the site and that the building and the fencing had already been erected to serve and contain the dog business.

In considering the suitability of the site for this business use, Members discussed the terms of Policy ED7 in detail. The policy requires that there be an economic and/or operational need for the particular countryside location, and that it can be proven that the development could not be reasonably accommodated within the Development Boundary of a settlement.

The Review Body appreciated that finding a site for such a business may prove problematic. However, on the basis of the limited information submitted to support the application, Members were not convinced that a persuasive case had been made regarding the operational need for the business being located at Milkieston. In addition, they were not convinced that a cogent economic case had been made for the business nor that the potential for alternative sites for the business had been investigated fully.

The Review Body gave weight to the impact the business was having on the amenity of neighbouring properties and in particular the adjoining farmer, who is no longer able to use the adjoining fields for lambs. Members were not satisfied that the building and fencing were of a suitable standard for this rural locality. They were concerned that they would detract from the visual and scenic qualities of this part of Tweeddale and that it would be highly visible along the main A703 route. They

concluded that the building, fencing and the business did not respect the amenity and rural character of the surrounding area and would have an adverse impact neighbouring uses.

The Review Body shared the concerns of the Roads Planning Officer in that the access was not suitable in terms of its alignment and visibility to serve the proposed business. The intensification of the use of a substandard access junction would not be in the interests of road safety.

## **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.

---

### **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....**Cllr T Miers  
Chairman of the Local Review Body

**Date..**9 August 2017

This page is intentionally left blank





**APPENDIX II**

**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY INTENTIONS 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:** 17/00016/RREF  
**Planning Application Reference:** 17/00044/PPP  
**Development Proposal:** Erection of two dwellinghouses  
**Location:** Garden Ground of Woodlands, Broomlee Mains, West Linton  
**Applicant:** Mrs Sandra Newton

---

**DECISION**

The Local Review Body (LRB) reverses the decision of the appointed officer and grants planning permission for the reasons set out in this decision notice and subject to the conditions set out below and the conclusion of a legal agreement in respect of the payment of development contributions.

**DEVELOPMENT PROPOSAL**

The application for planning permission in principle relates to the erection of two dwellinghouses on former garden ground of Woodlands, Broomlee Mains, West Linton. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Site & Location Plan	PP01

**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> July 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review (additional documents); b) Consultations; c) Representation and d) 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: HD2, HD3, PMD2, IS2 & IS7

### Other Material Considerations

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011

The Local Review Body was satisfied there was a building group at Broomlee, as defined in Local Plan Policy HD2 and in the approved Supplementary Planning Guidance on New Housing in the Borders Countryside comprising Woodlands Farmhouse, The Old Farmhouse, Broomfield and the 7 properties at Broomlee Mains Court.

Members concluded that whilst Woodlands Farmhouse was, to a degree, detached from the main part of the group at Broomlee Main Court it had an historical, functional and physical relationship with those buildings and the farm. In their view, all of the buildings contributed to a distinct sense of place and formed a cohesive building group.

The Review Body turned its attention to whether the site was a suitable addition to the group. They considered the site to be well related to neighbouring properties, that it fitted in well with the pattern of development at Broomlee and was contained by the existing landscape setting of the building group. Members agreed that the formation of a strong boundary, either through hard or soft landscaping, along the southern boundary of the site to the adjoining agricultural fields would further assist the integration of the development. Consequently, it was concluded that the site in question was an acceptable addition to the building group.

In terms of the number of residential units proposed, this was within the limits set by Policy HD2 of 2 or 30% within a Local Plan period. Members did express concern that it may be difficult for the group to accommodate any more than the 2 dwellinghouses proposed by this application.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved.

## **DIRECTIONS**

1. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
  - (a) the expiration of three years from the date of this permission, or
  - (b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

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.
2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

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.

## **CONDITIONS**

1. 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.
2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.

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.
3. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
  - i. existing and finished ground levels in relation to a fixed datum preferably ordnance
  - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
  - iii. location and design, including materials, of walls, fences and gates
  - iv. soft and hard landscaping works
  - v. existing and proposed services such as cables, pipelines, sub-stations
  - vi. a strong landscape boundary along the southern boundary of the site achieved either through hard or soft landscaping

vii. A programme for completion and subsequent maintenance.  
Reason: To ensure the satisfactory form, layout and assimilation of the development.

4. No development shall commence until the details of the upgrading of the existing private access serving the site and the parking and turning facilities within the site have been submitted to and approved by the Planning Authority. Thereafter, the works shall be implemented in accordance with an agreed timescale.

Reason: To ensure the site is adequately serviced.

## **INFORMATIVE**

In respect of condition 4 above, the Roads Planning Officer requires:

- The section of new private road which is to serve the proposed plots must be surfaced for the first 5 metres from the public road, to the following specification “75mm of 40mm size single course bituminous layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming blinded with sub-base, type 1.”
- The remaining section of private road must be formed with a well compacted, free draining running surface which must be able to withstand a 14 tonne axle loading. The road must thereafter be maintained as such in perpetuity.
- Parking and turning for two vehicles per plot must be provided and retained in perpetuity. The current proposal is for one curtilage space and one communal space per plot. My preference would be for two curtilage spaces per plot, however if the applicant wishes to proceed as per their submission then the communal parking must be nose-in rather than layby parking. This will allow better access/egress to the parking bays.
- If practicable, agricultural traffic be removed from the private residential access road to remove potential conflict between agricultural and residential traffic.

In addition, the Roads Planning Officer suggests that consideration should be given to surfacing the entire length of the private road serving the two plots given that vehicles will be turning on this surface in order to enter/exit the parking spaces. This would significantly reduce the ongoing maintenance costs of ensuring the private road is maintained to the original standard.

## **LEGAL AGREEMENT**

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of a financial contribution towards affordable housing and education facilities in the locality.

---

### **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....**Cllr T Miers  
Chairman of the Local Review Body

**Date.....**9 August 2017

This page is intentionally left blank



### 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:** 17/00018/RREF

**Planning Application Reference:** 17/00090/FUL

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

**Location:** Land West Of Former William Cree Memorial Church Kirkburn  
Cardrona Peebles

**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 and on the following grounds:

- 1 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 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.
- 3 The application is contrary to Policies EP7 and EP8 of the Scottish Borders Local Development Plan 2016 in that it has not been adequately demonstrated that the development will not adversely affect the setting of the adjoining statutorily listed building and sites of archaeological interest.

## **DEVELOPMENT PROPOSAL**

The application relates to the erection of an agricultural storage shed 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	196 73G
General Arrangement	196 72A

## **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> July 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, had 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 applicant's main yard at Kirkburn, on the edge of the applicant's land holding adjoining the former William Cree Memorial Church.

The Review Body acknowledged that the site occupied land that had previously had planning permission for holiday chalets and a hub building. However, in their view, this raised concerns about the potential for conflict between the proposed use and the other consented and existing uses at the locus, especially on such a limited area of land.



The approved chalet buildings were 6m in height and smaller in size and scale to the agricultural shed now proposed. Members noted that the chalets were required by planning condition to be lowered to reduce further any visual impact. Whilst the new shed would at 7.5m would be higher than the approved chalet buildings its relative position on the site and the contour at which they would be placed, means that the shed would be not be overly visible and dominant in the local landscape due to the screening of the roadside tree belt. Members agreed with that it would not have an adverse and harmful impact on the Tweed Valley landscape.

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 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. Members agreed that the proposed building was not of a design or scale suited to the size of the holding.

The applicant asserts that the access bellmouth had been suitably upgraded and that the development would lessen the traffic generated at the site. However, Members accepted that the application was deficient in term of traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) to substantiate that view.

The Review Body were conscious of the sensitivities in terms of the building's relationship to the archaeological site of Our Lady's Church and churchyard and the listed former William Cree Memorial Church. Members did not feel that this had been adequately taken into account or resolved by the applicant.

## **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.

---

### **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.....**Cllr T Miers  
Chairman of the Local Review Body

**Date.....**7 August 2017



## 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:** 17/00019/RREF

**Planning Application Reference:** 17/00092/FUL

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

**Location:** Land West Of Former William Cree Memorial Church Kirkburn  
Cardrona Peebles

**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 and on the following grounds:

- 1 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 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 shed 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	196 73F
General Arrangement	196 72A

## **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> July 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review (plus additional documents); 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, had 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 applicant's main yard at Kirkburn.

The Review Body acknowledged that the site occupied land that had previously had planning permission for holiday chalets and a hub building. However, in their view, this raised concerns about the potential for conflict between the proposed use and the other consented and existing uses at the locus, especially on such a limited area of land.

The approved chalet buildings were 6m in height and smaller in size and scale to the agricultural shed now proposed. Members noted that the chalets were required by planning condition to be lowered to reduce further any visual impact. Whilst the new shed would at 7.5m would be higher than the approved chalet buildings its relative position on the site and the contour at which they would be placed, means that the

shed would be not be overly visible and dominant in the local landscape due to the screening of the roadside tree belt. Members agreed with that it would not have an adverse and harmful impact on the Tweed Valley landscape.

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 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. Members agreed that the proposed building was not of a design or scale suited to the size of the holding.

The applicant asserts that the access bellmouth had been suitably upgraded and that the development would lessen the traffic generated at the site. However, Members accepted that the application was deficient in term of traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) to substantiate that view.

## **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.

---

## **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.....**Cllr T Miers  
Chairman of the Local Review Body

**Date.....**7 August 2017

This page is intentionally left blank



## 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:** 17/00020/RREF

**Planning Application Reference:** 17/00093/FUL

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

**Location:** Land West Of Former William Cree Memorial Church Kirkburn  
Cardrona Peebles

**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 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 and cumulative 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 shed 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	196 73E
General Arrangement	196 72A

## **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> July 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review (plus additional documents); 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, had 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 applicant's main yard at Kirkburn.

Members accepted that existing roadside trees would afford a degree of screening of the site and the shed from the B7062 road but they were concerned that it would be prominent from more distant views across the valley. In considering the extent of visual and landscape impact, Members gave great weight to the views of the landscape architect and they agreed that the impact of the new building was harmful and therefore unacceptable. The approved chalet buildings were 6m in height and smaller in size and scale to the agricultural shed now proposed. Members noted that the chalets were required by planning condition to be lowered to reduce further any visual impact. The new shed at 7.5m would be taller than the approved chalet buildings plus its relative position on the site and the contour at which they would be placed, means that the shed would be overly visible and dominant in the local landscape. The Local Review Body concluded that it would constitute a prominent



feature on an elevated site, which would detract from the intrinsic qualities of the Tweed Valley Special Landscape Area.

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 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. Members agreed that the proposed building was not of a design or scale suited to the size of the holding.

The applicant asserts that the access bellmouth had been suitably upgraded and that the development would lessen the traffic generated at the site. However, Members accepted that the application was deficient in term of traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) to substantiate that view.

## **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.

---

### **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.....**Cllr T Miers  
Chairman of the Local Review Body

**Date.....**7 August 2017

This page is intentionally left blank



## APPENDIX VI

### 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:** 17/00021/RREF

**Planning Application Reference:** 17/00094/FUL

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

**Location:** Land West Of Former William Cree Memorial Church Kirkburn  
Cardrona Peebles

**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 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 and cumulative 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 shed 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	196 73D
General Arrangement	196 72A

## **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> July 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review (plus additional documents); 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, had 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 applicant's main yard at Kirkburn.

Members accepted that existing roadside trees would afford a degree of screening of the site and the shed from the B7062 road but they were concerned that it would be prominent from more distant views across the valley. In considering the extent of visual and landscape impact, Members gave great weight to the views of the landscape architect and they agreed that the impact of the new building was harmful and therefore unacceptable. The approved chalet buildings were 6m in height and smaller in size and scale to the agricultural shed now proposed. Members noted that the chalets were required by planning condition to be lowered to reduce further any visual impact. The new shed at 7.5m would be taller than the approved chalet buildings plus its relative position on the site and the contour at which they would be placed, means that the shed would be overly visible and dominant in the local landscape. The Local Review Body concluded that it would constitute a prominent

feature on an elevated site, which would detract from the intrinsic qualities of the Tweed Valley Special Landscape Area.

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 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. Members agreed that the proposed building was not of a design or scale suited to the size of the holding.

The applicant asserts that the access bellmouth had been suitably upgraded and that the development would lessen the traffic generated at the site. However, Members accepted that the application was deficient in term of traffic information (showing the number, type and frequency of vehicular movements associated with this proposal) to substantiate that view.

## **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.

---

## **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.....**Cllr T Miers  
Chairman of the Local Review Body

**Date.....**7 August 2017

This page is intentionally left blank