

APPENDIX II

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013

Local Review Reference: 17/00032/RREF

Planning Application Reference: 17/00384/FUL

Development Proposal: Alterations to existing bellmouth and formation of new access

Location: Land North West of Kirkburn Parish Church, Cardrona

Applicant: Cleek Poultry Ltd

DECISION

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice and on the following grounds:

- 1 The application is contrary to Policies PMD2, ED7, EP5 and HD3 of the Scottish Borders Local Development Plan and Supplementary Planning Policies relating to Special Landscape Area 2-Tweed Valley in that the proposed access road will be locally prominent in the landscape and will create significant earthworks, loss of mature trees and reduction of proposed planting areas intended to screen the consented holiday developments, having a significant adverse effect on the character and quality of the designated landscape and the amenity of adjoining residents. Furthermore, the application has failed to demonstrate that the development can be achieved in terms of levels, geometry, drainage and that there is any ability to secure stopping up of the existing roadway.

DEVELOPMENT PROPOSAL

The application relates to alterations to existing bellmouth and formation of new access on land to the north west of the applicant's landholding at Kirkburn, Cardrona. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
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Location & Site Plan	196 90
General Arrangement Contour Plan	196 91

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 16th October 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Papers referred to in report; c) Consultations; d) Objections; e) Additional representations; and f) 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: HD3, PMD2, ED7, EP5, EP7, EP8 & EP13

Other Material Considerations

- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal would involve altering the existing access that serves the small building group at Kirkburn through a re-alignment of the road and the creation of a new bellmouth onto the B7062. The revised access would also allow vehicular access into the applicant's landholding via a 6 m wide field access from the new road.

After considering the evidence before them, the Review Body were not convinced that a sufficiently strong case had been made to justify a new access point to serve the landholding. Members noted that in approving permission for holiday chalets and a hub building on the adjoining land there had been concerns expressed regarding the potential for conflict between the proposed use and the building group at Kirkburn and that a planted buffer had been required to screen the development. The current proposal would appear to remove this buffer and the separation between the uses, allowing a mix of traffic using the Kirkburn access, and this would likely have a detrimental impact on the amenity of residents. The Review Body was content that the existing access from the B7062 further to the west was suitable to serve the applicant's landholding and the consented developments.

The Review Body was concerned that the scale of the engineering works required to facilitate the new access would alter the character of this part of the B7062, which is a minor rural road. This work associated with the removal of the buffer screen to the holiday chalet development and the loss of three existing mature trees along the roadside would have an unacceptable detrimental visual impact on the area, which lies within the Tweed Valley Special Landscape Area.

The Review Body was also conscious that, whilst the proposal may result in some road safety benefits, there was insufficient information available with the application to allow a full assessment of the access, its precise nature and impact.

The Review Body concluded that any potential benefits accrued from the development did not outweigh the significant landscape and amenity impacts.

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.....
Councillor S Hamilton
Vice Chairman of the Local Review Body

Date.....24 October 2017