

## **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:** 17/00034/RREF

**Planning Application Reference:** 17/00806/FUL

**Development Proposal:** Erection of agricultural building and formation of new access track

**Location:** Land South of 3 Kirkburn Cottages, Cardrona, Peebles

**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 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 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 agricultural building and formation of new access track on land South of 3 Kirkburn Cottages, Cardrona. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	HAN 01 Revision A
General Arrangements & Elevations	HAN 02

## **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 16<sup>th</sup> October 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Papers referred to in the 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.

The Review Body noted that a business case had been submitted with the Notice of Review but which had not been lodged with the appointed officer when the application was determined. Members decided that this evidence did not meet the tests set out in Section 43B of the Act, in that it could have been submitted before that time and that there were no exceptional circumstances why it could not have been lodged before that time. The Review Body proceeded to determine the case without reference to this information.

## **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, EP8 & EP13

Other Material Considerations

- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal was to erect an agricultural shed with staff welfare accommodation for the applicant's proposed cattle venture. The building had a footprint of 9m x 27m and a ridge height of 7.5m and would be erected in a currently undeveloped field to south of the applicant existing 40 acre small holding on land leased by the applicant. Access was originally to be provided from the end of Kirkburn Road, past the existing dwellinghouse, however, this has now changed to utilise the field access through the applicant's landholding and the existing access onto the B7062.

The Review Body noted that the application had not been supported by a business plan/masterplan or any statement that set out the development strategy for the landholding. Members had no detailed evidence before them as to the activities carried out at the site or why the building was needed and how it fitted with the overall strategy for the landholding. In their view, no credible or sustainable economic justification had been made for the building of this size on the landholding.

The Review Body requested 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 Council.

In terms of the access, the Review Body contended that in the absence of a Transport Statement outlining the type, frequency and number of vehicles anticipated to be generated by this business it is not possible to judge whether the existing access is suitable to serve 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 S Hamilton  
Vice Chairman of the Local Review Body

**Date**.....24 October 2017