

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Mark this box to confirm all contact should be through this representative:

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes No

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

N/A

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Please see attached

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

The site was previously allocated for residential use, although the previous owners failed to make representations to have the zoning continued due to the business demise.

An immediate adjacent development was granted (15/00729/FUL) for the substantial rebuilding of a dwelling with a similar floor level.

There are many other dwellings within the immediate vicinity with lower floor levels which have no history of flooding.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

Site plan, floor plans, elevations Flood risk assessment Appeal statement

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date

08/09/2017

The Completed form should be returned to the Head of Corporate Administration, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA.



Erection of Dwellinghouse
Rhymers Mill, Earlston
Scottish Borders, TD4 6DG

Statement of Appeal – September 2017
For Austin Travel
Aitken Turnbull Architects



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1.0 Introduction

- 1.1 This statement of appeal has been prepared by Aitken Turnbull Architects on behalf of the applicant and owner of the site Austin Travel, who wish to encourage new business and an associated dwelling.
- 1.2 The proposal (17/00479/FUL) for the new dwelling was lodged on 29th March 2017 with a decision, via delegated powers to refuse the application received on 8th June 2017. As such, we now seek to appeal the decision via the Council's Local Review Body.
- 1.3 This statement now responds to the reasons for refusal and, where appropriate, cross referring to the delegated officers report, Development Plan and material considerations. The supporting documentation to this appeal are listed.



2.0 Reasons for Refusal

2.1 Within the 'Decision Notice' the main reason for refusal was:

- 2.1.1 *The proposal does not comply with Adopted Local Development Plan Policy IS8 and Scottish Planning Policy in that the site is subject to a significant flood risk and the development would be both at significant risk of flooding and would materially increase the probability of flooding elsewhere.*
- 2.1.2 *The proposal in the positioning of the dwellinghouse and the overall site layout, does not comply with Adopted Local Development Plan Policies PMD2 and PMD5 in that it would not respect the character of the surrounding area and neighbouring built form.*
- 2.1.3 *The proposal does not comply with Adopted Local Development Plan Policies PMD2 and IS7 in that the access arrangements are unsuitable to serve the development and inadequate provision has been made for the accommodation of the parking of two vehicles within the curtilage of the site, such that there would be adverse impacts upon road safety.*
- 2.1.4 *The proposal does not comply with Adopted Local Development Plan Policies PMD5 and HD3 in that the operation of the workshop building in such close proximity to the proposed dwellinghouse has potential to have unacceptable impacts upon the residential amenity of the occupants of the proposed dwellinghouse.*

3.0 Grounds of Appeal

The principle reason for refusal was on grounds of flood risk (refer to 2.1.1) and matters concerning site layout (2.1.2) and access (2.1.3) were discussed with the Planning Officer and were considered secondary and resolvable. Indeed this was referred to in the email exchange with Stuart Herkes dated 26th May 2017. Attempts were also made to realign the house to relate to the houses on Rhymers Avenue although determination was made prior to discussions being finalised.

A Processing Agreement was put in place to allow for additional flood risk information to be submitted in response to the statutory requests. The site was previously allocated for residential use, although the previous owners failed to make representations to have the zoning continued due to the business demise.



There are many other dwellings within the immediate vicinity with lower floor levels which have no history of flooding, and the development does not conflict with the overall site use (2.1.4).

Terrenus Land & Water Ltd have undertaken a detailed Quantitative Level 3 Flood Risk Assessment for the site and have also issued two subsequent follow up addendum letter reports to revise and update the findings of our original report. The addendum letters address comments raised by SEPA and Scottish Borders Council. The latest

addendum letter report was issued to give confidence to Scottish Borders Council that the hydraulic modelling undertaken for the site robust and that the best available information has been used to determine the flood risk to the site.

The latest hydraulic modelling was calibrated to the most recent known flood event (November 2016), an event which was recorded by Scottish Borders Council personnel. The addendum letter and re-modelling also took cognisance of the comments made previously by SEPA with respect to peak flow estimation and quality, reliability and accuracy of height data used within the model. The findings of the calibrated hydraulic modelling has shown that the approach used by Terrenus Land & Water Ltd is robust and that the peak flood water level for the 1 in 200 year event is not sufficient to over top Clatteringford Bridge under normal hydraulic conditions within the Leader Water. Therefore, the site is out-with the functional flood plain of the Leader Water.

For events greater than the design storm event, or for circumstances where there is a significant blockage of Clatteringford Bridge there is the possibility of overland flow from overtopping upstream of the site. In these instances, the issues with respect to flood risk comprise flood routing and conveyance not of functional flood plain or storage. The November 2016 flood event recorded exceptional blockage at the Clatteringford Bridge with resultant higher than normal peak flood water levels upstream of the site. It is recommended that the local authority consider the clearance or management of the upstream shoaling and vegetation at Clatteringford Bridge to ensure optimum performance of the bridge structure and to minimise any increased risk of flooding in and around the village of Earlston. A benefit to the wider community and the hydraulic conveyance performance of the Leader Water at the structure.

For the proposed development the improved hydraulic modelling confirms the following:

- There is no infringement by the proposed development on the functional flood plain of the Leader Water for the 1 in 200 year design storm event;



- There is dry emergency pedestrian access and egress available to the site for the design storm event and during the 1 in 200 year plus 20% uplift for Global Climatic Change events via the higher ground to the east of the site;
- Development profiling of any gardens and soft landscaping areas will be carried out to encourage overland flow pathways away from the proposed development and emergency access and egress routes;
- A flood routing pathway will be established from the road to the southeast in line with the local topography, as this will encourage flood routing back towards the Leader Water.
- Proposed Final Floor Levels are set sufficiently high (102.1m O.D.) providing a freeboard of at least 600mm at the site.

It is concluded that the proposed development is in accordance with current Scottish Planning Policy.

It is noted roads planning have no objections in principal however they raised concerns over the vehicular access being taken off Rhymers Avenue as this is a private road. Having had further discussions with the applicant they have indicated a new access can be formed off Mill Road and a minimum of two private parking spaces can be provided within the curtilage of the property.

Road planning have indicated in their consultation response an access taken from Mill Road will be acceptable.



4.0 Conclusion

We believe that the subject site represents a sound location for a new dwelling. It relates well to its immediate surroundings and will avail of existing infrastructure provision and public transport services nearby.

We should add that our client is content to meet all the required Developer Contributions.

Taking the 'Grounds of Appeal' note within chapter 3 we therefore respectfully request that the appeal be allowed.

