

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: 17/00045/RREF

Planning Application Reference: 17/00926/PPP

Development Proposal: Erection of dwellinghouse

Location: Land Adjacent Deanfoot Cottage, Deanfoot Road, West Linton

Applicant: Mr & Mrs Peter Gardiner

DECISION

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

1. The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would amount to sporadic residential development in a countryside location, and no overriding case for a dwellinghouse has been substantiated

DEVELOPMENT PROPOSAL

The full application relates to the erection of dwellinghouse on garden ground adjacent to Deanfoot Cottage, Deanfoot Road, West Linton

The application drawings consisted of the following drawings:

| Plan Type | Plan Reference No. |
|------------------|---------------------------|
| Location Plan | OGS 259 01 |

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 18th December 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review (including Decision Notice and Consultations); b) Officer's Report of Handling; and c) 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 decision Members considered the applicant's request for further procedure in the form of 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 policies were:

- Local Development Plan policies: PMD4, PMD2, HD2, HD3, EP8, EP13, IS2, IS5, IS7 & IS9

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
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Trees and Development 2008

The Local Review Body noted the site consisted of part of the garden to Deanfoot Cottage and that it lay around 90m outwith the settlement boundary of West Linton, as defined in Local Development Plan (LDP). In the circumstances, the application fell to be determined within the terms of the Council's Housing in the Countryside policies and would need to be tested against the criteria set out in Policy HD2 of the LDP and against the provisions of the approved Supplementary Planning Guidance on New Housing in the Borders Countryside.

After considering the evidence before them and the slide presentation, the Review Body concluded that a building group, as defined in Policy HD2 and the guidance, did not exist at the locus. There was only one house, Deanfoot Cottage and as it was 150m from the access into Deanfoot Farm it could not be considered to be part of that building group. Members agreed that the development was contrary to Part A of Policy HD2 and that the proposal would amount to sporadic residential development in a countryside location. In coming to this decision Members gave weight to the planning history in the immediate area where planning permission had been refused for housing proposals opposite the site for similar reasons.

As no evidence was placed before the Review Body in respect of an economic or operational need for a house on the site there was no justification for a house under Part (F) of Policy HD2. In addition, the proposal could not be justified under the provisions for conversions, restorations or replacement dwellings.

Members accepted that the site could accommodate a dwelling without significant visual or landscape impact and that matters such as servicing and access could be covered by planning condition. However, this did not override the strong policy objection to the principle of the development.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was inconsistent with 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 T Miers
Chairman of the Local Review Body

Date.....21 December 2017