

**APPENDIX II**

**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:** 17/00046/RREF

**Planning Application Reference:** 17/00973/FUL

**Development Proposal:** Change of use of agricultural land to form storage yard and siting of 7 No storage containers

**Location:** Land North East of Greenbraehead Farmhouse, Hawick

**Applicant:** Bayhill Farming Ltd

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**DECISION**

The Local Review Body 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.

**DEVELOPMENT PROPOSAL**

The application relates to the change of use of agricultural land to form a storage yard and for the siting of 7 No storage containers on land North East of Greenbraehead Farmhouse, Hawick. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	LOC Rev A
Site Plan	L (-1) 101 Rev A

**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 18<sup>th</sup> December 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review (including Decision Notice, Officer's Report of Handling and Consultations); b) Papers referred to in report; c) List of policies, the LRB concluded that it had sufficient information to determine the review and that further procedure was not necessary.

## **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 relevant of the listed policies were:

- Local Development Plan policies: HD3, PMD1, PMD2, ED7, IS5, IS7 & IS8

### Other Material Considerations

- Scottish Planning Policy 2014
- PAN 73 Rural Diversification
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

In considering the suitability of the site for this business use, Members discussed the terms of Policy ED7. 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.

After considering the evidence before them, the Review Body was satisfied a persuasive economic case had been made for the proposed business at Greenbraehead. The Review Body noted and gave weight to the fact that the Economic Development Section had no objections to the development. They also agreed that the project was a diversification of an existing agricultural business which was supported by Council and Scottish Planning Policy.

The Review Body debated whether this rural site was suitable for the proposed use and whether there were alternative locations for the business within Hawick. Members were content that there was no fundamental reason why such a use could not be carried out in a rural location or that it would significantly alter the character of the area. In this regard, they acknowledged that planning permission had been granted at Courthill Farm to the north of Hawick for a similar business also in a rural location, which had expanded due to demand for its services in recent years. Members concluded that such a rural location may actually be more appropriate than a settlement due to the need for separation from other uses and the increased security that could be provided by the applicant living on site.

Members noted that the applicant had planning permission for a site at Commercial Road in Hawick for the siting of containers but on reflection, they accepted that the

site was not suitable for the current development and that there were no other suitable alternative sites within Hawick for the scale of development proposed.

In terms of Policy ED7 they were content that there was both an operational and economic need for the business to be in this location and that it could not be reasonably located within the Development Boundary of Hawick.

The Local Review Body was satisfied that the site could be developed in a way that respected the character and amenity of the area. They were content that the nature of the existing topography and extensive mature tree screening along the bank of the Slitrig Water meant that the development would not be unduly visible or strident in the landscape. The proposed storage containers were also tucked into a corner adjoining the existing farm buildings and would be relatively discreet particularly, if they were coloured dark green and kept to single level only. Members expressed some concerns about the potential visual impact of the caravans, their general arrangement on the site and the appearance of the hardstanding areas to be used for storage. However, they agreed that some additional planting along the boundaries of the site and a generally tidying up of the yard surfacing would allow the development to integrate more successfully with its immediate environs and the wider landscape more generally.

Members debated in some detail the nature of the access to the site and whether it was capable of accommodating the proposed development. However, they accepted that due to the low level of activity at the site and that most traffic was likely to be highly seasonal, the proposed improvements to the road surface and the provision of additional passing places were sufficient to address their concerns.

Members agreed to temporary 3 year permission so that the applicant would be able to implement the access, landscape and yard surface improvements and demonstrate that the business could be operated successfully from the site.

## **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. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

## **CONDITIONS**

1. The use hereby permitted shall be discontinued 3 years from the date of this decision notice unless further permission is obtained for its continued use.  
Reason: To enable the Local Planning Authority to review the matter at the end of a limited period.
2. The approved storage containers shall be dark green in colour, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the satisfactory assimilation of the development in to the local landscape.

3. The approved storage containers shall be sited single height only and shall not be stacked on top of each other.

Reason: To ensure the satisfactory assimilation of the development in to the local landscape.

4. 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. measures to protect existing trees and hedgerows during the construction phase and to ensure their retention thereafter and, in the case of damage, restored
- iii. details of a planting around the boundaries of the site
- iv. details of the improved surfacing to the storage yard
- v. location and design, including materials, of walls, fences and gates
- vi. soft and hard landscaping works
- vii. existing and proposed services such as cables, pipelines, sub-stations
- viii. other artefacts and structures such as street furniture, play equipment
- ix. A programme for the implementation and completion of the scheme of landscape works and subsequent maintenance thereof.

Reason: To ensure the satisfactory form, layout and assimilation of the development into the landscape.

5. The access improvements shown on the approved drawing L(-1) 101 Rev A shall be carried out in accordance with a scheme of work which shall first be submitted to and approved by the planning authority prior to the commencement of the development hereby approved. The approved works shall be implemented in accordance with the approved scheme.

Reason: To ensure that the access road is of a suitable standard to serve the approved development.

6. Rights of way BR116 and BR117 that adjoin the application site shall be kept open and free from obstruction during the construction phase of the development.

Reason: To protect public right of access.

## **INFORMATIVE**

The Council's Flood Protection Officer recommends that the applicant adopts water resilient materials and construction methods as appropriate in the development and that the applicant review the Online Planning Advice on Flood Risk.

The applicant should be aware that flooding can occur from other sources including runoff from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts. It is recommended that, to receive flood warnings from SEPA, the applicant signs up to FLOODLINE at [www.sepa.org.uk](http://www.sepa.org.uk) or by telephone on 0845 988 1188.

**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 T Miers  
Chairman of the Local Review Body

**Date.....**8 January 2018