

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: 17/00049/RREF

Planning Application Reference: 17/01039/FUL

Development Proposal: Erection of temple

Location: Land South 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 ED7 of Scottish Borders Local Development Plan 2016 in that it has not been demonstrated that the proposal meets any of the acceptable land uses listed in Policy ED7 and no overriding justification for the proposed building has been provided 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 and use are not of a scale or purpose that appear related to the nature or size of the holding on which the building would be situated, which further undermines the case for justification in this location.

2 The application is contrary to Policies PMD2, ED7 and EP5 of Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance on Local Landscape Designations in that the scale and design of the proposal would be prominent in the landscape and would result in an unacceptable adverse visual impact on the designated area. The proposed development would detract from the character and quality of the Tweed Valley Special Landscape Area and it has not been adequately demonstrated that the adverse landscape impact would be outweighed by social or economic benefits of national or local importance.

3 The application is contrary to Policies PMD2 and ED7 of the Scottish Borders Local Development Plan 2016 in that the proposed temple would result in an unacceptable adverse impact on road safety. The proposed building would increase traffic levels on the existing minor public road and it has not been adequately demonstrated that any traffic generated by the proposal can access the site in manner which does not detrimentally impact on road safety.

4 The application is contrary to Policy EP8 of the Scottish Borders Local Development Plan 2016 in that the siting, scale and design of the proposed development would have an unacceptable adverse impact on the setting of the Our Lady's Church. It has not been adequately demonstrated that the proposal can be accommodated on the site in a manner which does not adversely affect the heritage value of a nationally important archaeological site.

5 The application is contrary to Policy EP7 of the Scottish Borders Local Development Plan 2016 in that the siting, scale and design of the proposed development would have an unacceptable adverse impact on the setting of the William Cree Memorial Church. It has not been adequately demonstrated that the proposal can be accommodated on the site in a manner which protects the setting of the category C listed building.

DEVELOPMENT PROPOSAL

The application relates to the erection of a temple. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	PP01
Elevations	PP02

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 19th February 2018.

After examining the review documentation at that meeting, which included: a) Notice of Review (including the Decision Notice); b) Officer's report; c) Papers referred to in Officer's Report; d) Consultations ; e) Objections 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 relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, ED7, HD3, EP5, EP7, EP8 and IS7

Other Material Considerations

- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal was to erect a temple for mixed religious use on land at the eastern end of the applicant's landholding at Kirkburn, adjoining the site of Our Lady's Church and churchyard. The building has a footprint of 450sq m, of triangular design with 29m apex height, clad in dark green profiled sheeting with clear polycarbonate apex.

The Review Body noted that the proposed building would be significantly higher than the tree and hedge screening alongside the public road and adjoining the site at the churchyard boundary, its height exceeding the top of the screening by a significant degree. Members noted the advice of the Landscape Architect in this respect that the apex of the building would be 132m AOD compared to the highest adjoining tree top heights being 110m AOD. Members, therefore, considered that the building would be unduly tall and of overdominant scale in this setting, appearing both incongruous and out of scale with the surrounding designated landscape, rural setting and buildings.

The Review Body also noted that the application was not in compliance with Local Development Plan Policy ED7 as it was not supported by a business plan or any statement that set out the justification and need for the building at this site. In the circumstances, they, therefore, had no reason to set aside the strong landscape and visual impact objections to the development or overturn the decision.

Members noted the comments of the Roads Planning, Heritage and Archaeology Officers who considered that the application was also deficient in terms of the required traffic and photomontage information to enable a full assessment of the road safety and cultural heritage implications of the development to be undertaken. In the absence of such information, Members had no reason to overturn the Appointed Officer's conclusions in these respects.

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 T Miers
Chairman of the Local Review Body

Date.....20 February 2018

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