

APPENDIX II

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: 18/00003/RREF

Planning Application Reference: 17/01230/FUL

Development Proposal: Erection of boundary fence and formation of parking area (retrospective)

Location: 1 Eildon Terrace, Newtown St Boswells

Applicant: Mr Greg Blacklock

DECISION

The Local Review Body (LRB) 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 and informative set out below.

DEVELOPMENT PROPOSAL

The application relates to the erection of fencing and formation of a parking area. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	
Site Plan	
Photos	

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 12th March 2018.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Decision Notice; c) Officer's report; d) Papers referred to in Officer's Report; e) Consultation; and

e) List of Policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case. They noted the applicant's request for further procedure in the form of written submissions, a Hearing and a site inspection but felt that none of these were necessary after viewing photographs and plans of the site and surroundings.

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, HD3 and IS7

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Householder Development 2006

The Review Body noted that the proposal was for a series of fences around the boundaries of the property, of the same close-boarded design with varying height. They also noted that the fencing bordered the off-street parking area and that much of the work had already been carried out, the application being submitted retrospectively.

The Review Body acknowledged the comments from the applicant with regard to security reasons for the fencing but did not feel that this justified fencing of the height erected along the Bowden Road frontage. They also noted the comparisons with fencing erected at 29 Bowden Road in the vicinity of the application site but felt that fencing was lower, had an element of transparency and was consequently of lesser impact and dominance than the highest section of fence fronting Bowden Road at the application site

The Review Body agreed with the Appointed Officer that the roadside section of fence was too high and prominent in the street scene, to the detriment of local visual amenity. They also agreed with the Appointed Officer that all other sections of fencing were acceptable.

Members also noted and accepted the comments of Roads Planning in relation to the potential road and pedestrian safety impacts of the short section of fence adjoining the car park entrance and considered this needed to be removed back to the first fence post nearest the road.

Members considered if this was done and if this roadside section of the fence was lowered to exactly match in height and design with the side section on the junction with Bowden Road and Eildon Terrace, the fence would be acceptable. They considered these matters could be achieved through the imposition of conditions. On this basis, the Review Body agreed to reverse the decision of the Appointed Officer.

Regarding the off-street parking area the Review Body agreed that there was a need for the footpath crossing and kerbs to be completed in accordance with the Council's required standards.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that, with conditions, 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 subject to conditions and an informative.

CONDITIONS

- 1. Within three months of the date of this consent, the full section of fence fronting Bowden Road to be lowered to match exactly the height and cap rail of the immediately adjoining section on the corner of Bowden Road and Eildon Terrace.
Reason: To safeguard the visual amenity of the area.
- 2. Within three months of the date of this consent, the section of fence adjoining the car park access to be removed between Bowden Road and the first fence post in from the road.
Reason: In the interests of road and pedestrian safety.
- 3. The off-street parking area not to be used until a footway crossing and dropped kerb are completed in full accordance with Council specifications.
Reason: In the interests of road and pedestrian safety.

INFORMATIVE

- 1. In relation to Condition 3, any contractor working within public road must be on the Council approved list.

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 S Hamilton
Chairman of the Local Review Body

Date...19 March 2018