

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: Please read and follow the guidance notes provided when completing this form.

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:

NONE

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.

The main reason for this Notice of Review is that it is considered that a disproportionate view has been attributed to the negative aspects of this application, those being related to road usage.

The comments contained in the further analysis on the points raised by both, the report of the Roads Department and the neighbour objections, will perhaps throw a little more light on the whole situation and allow more weight given to the actual positive aspects of the development. It is interesting to note that in a paragraph contained in the Scheme of Delegation for determining Planning Applications, where an application can be determined by a Planning Officer...there is noted in the exceptions to this...*where an application is opposed by objections from at least 5 separate householdsnot just separate letters as was the case in this application !*

This particular point is raised in the analysis on the actual objections to this development which almost wholly related to road use.

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.

Additional photo of the main part of Priors Road to show clear view of 150 meters of the road to cast some doubt on the comments of objectors specifically mentioning :

limited forward visibility : limited passing places : lack of width for a normal car : poor overall construction : no street lighting.

Comment : there is one street light at the far corner which has been adequate for the last 50 years !! The road is no narrower than others in the village : the construction is the responsibility of the users and no one has raised this question till now !!! Site access is actually only half way down this stretch opposite the White House on the left in photo.

Additional letters of support : from new developers who as they had not started the new build did not feel able to add support to the original application but now support the appeal.

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.

The original application document with plans of the proposed site and the proposed provisional position of the build, the access to the site from Priors Road, and photos showing the views of access from Priors Road to the B6360.
 Additional photo of the main part of Priors Road.
 Additional 5 page analysis with comments on all the Reports related to the decision to refuse the application.
 Note : it is important to acknowledge that in the main the objections related to use of the road they now enjoy and are restricted to only 3 actual properties of road users. (comment earlier on Scheme of Delegation of powers to consider planning applications)

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} ~~applicant~~ ~~delete as appropriate~~ hereby give notice on the planning authority to review the application. **The Completed form should be returned to the Head of Corporate Administration, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA.**

Signed

[Redacted Signature]

28/03/18

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.

on original form

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/~~agents~~ [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

28/03/18

NOTE: The print out from online form is overprinted with instruction as to where to send the actual form.

Notice of Review

Planning Application 17/01617/PPP

- 1. Review forms duly completed**
- 2. Additional information as noted on page 3 of Review form.**
- 3. Copies of original Outline Planning Application**

Signed :



Dated : *28 March 2018*

Notice of Review regarding the Application noted below.

Planning Appeal

Application Reference 17/01617/PPP

Land North West of The Gables, Gattonside, Melrose. TD6 9NJ

Applicants : Mr & Mrs A Matthew, The Gables, Gattonside, Melrose.

**Planning Decision arrived under delegated powers :
Refusal dated 19 January 2018**

I would initially suggest that the whole situation of representations regarding the use of Priors Road has resulted in an unbalanced view being taken of the actual conditions and usage of the road in question. I would therefore draw your attention to a further analysis of the situation and trust you can consider again the issues involved.

I would firstly draw your attention to the positive statement of the Chief Planning Officer as contained in his report that "he has no objection to the proposed development of the site in question albeit with reservations to be decided regarding actual siting of any build together with the " siting, mass and other various matters which no doubt could form the basis of conditions if approval was given.

Further, in the Report of the Lead Planning Officer, again the actual development of the site is mainly positive with the main problem cited as access to the site.

Presumably this refers to the access from the B6360 to Priors Road and not to the actual site itself from Priors Road.

I can only deduce therefore that the decision to refuse the application was taken mainly on the objections to the extra use of the road known as Priors Road and referred to in your report of refusal of outline planning permission.

Looking first at the Report from Roads Department :

This report from Road Department seems to focus on not only a worst case scenario as described, but in reality it is also additionally a very unique and occasional occurrence.

Quote : When a vehicle from Galashiels direction attempts to turn left into Priors Road and at the same time a car is positioned to exit from Priors Road the vehicle in question is left stranded in the middle of the B6360 !

I can confirm that in the thousands of times over a 50 year period that I personally have made this manoeuvre , I could count in one hand the number of times the situation outlined in the Roads Department report has actually arisen.

In any event the difficulty is easily overcome by the approaching vehicle simply, as it has already confirmed no approaching traffic from the direction of Leaderfoot, changing direction moving further up the B6360 to a suitable turning point and returning to enter Priors Road from the Leaderfoot direction which is now clear of the exiting vehicle.

Quote : in the same manoeuvre any following vehicle has to wait till the turn is completed....surely this is the case anywhere if a vehicle has signalled either a left or right turn, any following vehicle has to wait until that turn has been completed.....not an unusual situation and not in any way unique to this particular turning !

Recently I understand that the Road Department turned down a suggestion for a mirror on the opposite side of the road to assist with sight of traffic coming from the direction of Galashiels. I have no information as to the reason for this, but perhaps the Roads Department decided that the existing sight line was at least reasonably adequate and that no further assistance was required ?

Finally with regard to the Report of the Roads Department considering the uneven nature of the actual surface and the excessive amount of loose road material....I understand that these issues are dealt with in conditions of the site development next to Abbotscroft and that the road at that part is to be made up to a more satisfactory state and easier gradient following conclusion of the new build. Perhaps that makes these comments a little less important !

Now to consider the actual neighbour objections :

Perhaps it is now relevant to consider the actual objections and relate them directly to the 7 or 8 properties currently based on and using the road and note that only 3 of these actually objected, although on a two persons to a each property this results in some 6 letters of objection.

Perhaps it would be more realistic to consider properties rather than actual number of letters !

I would suggest that this was basically in an attempt by a few to make out that Priors Road, which is no more than a village lane, seem to be in constant every day use by many vehicles. In fact it really is a private village lane used mainly for access to these 7 or 8 properties and for at least 95% of a normal day there is little or no traffic at all. It is probably not relevant, but worth a comment that these few objectors do not contribute in any way to the upkeep of this road which they have now become very concerned about both the condition and use of the road !

The occupiers of most of the properties situated on this road are either employed or retired, with the majority using the road on a one run out one run in basis. Obviously there could be exceptions to this suggestion, but on the whole there is little use each day. It is certainly not the busy thoroughfare that is suggested !

In all the objectors have also all latched on to a worst case scenario that is possible.....meeting traffic and having to back up the road to a passing place not wide enough for a normal car.... not available for Bin Lorry or any construction traffic “ not in any way different from other roads or lanes in the village.

There is really no need for extra lay byes, all the properties either have a lay bye at the property or can drive into a garden and at no time is the road blocked by a parked vehicle. There has never been any street lighting and the need for this is minimal, no bin lorries have ever been accustomed to using the lane and delivery vans seem to be able to carry out their business with little or no difficulty.

The road itself has a main part of about 150 meters with clear sight from each end and a very reasonable passing place in the middle. I have included a new photo giving sight along the main part of Priors Road.

I have included a new photo giving sight along the main part of Priors Road.

At this point it is relevant to highlight that the :

Quote : if meeting an oncoming car it is necessary to back up to a suitable passing place.....this is quite general to other roads within the village and not in any way unique to Priors Road. In fact the main road in the village, The Loan is liable to this factor and is much more difficult to carry out the "backing up "procedure there with difficult corners, and also being on an incline and sight of an oncoming vehicle is quite restricted.

I would not contest that the access to the B6360 is by no means a good access, but with care it can be used without any real problem and has been over the last 50years or so with no minor or major incidents occurring. Comment in the Roads Department Report that this access is only slightly below normal standard.

However looking first at access from Priors Road there is good sight line of oncoming traffic from the direction of Leaderfoot and while not such good sight line from traffic coming from the direction, it is adequate for egress with care, with any approaching traffic being in the 30mph zone.

Looking now at access from the B6369 onto Priors Road obviously from the direction of Leaderfoot there is no problem as traffic from Galashiels is easily seen and a right turn can safely be negotiated. This situation is shown in the photos included in the original application.

The manoeuvre of coming from Galashiels can be attempted in two ways either by going past the junction and turning further up the road and returning from the direction of Leaderfoot or by attempting a left hand manoeuvre .

A left hand turn into Priors Road does require the use of the opposite side of the B6360, but with good sight of any oncoming traffic this can be carried out with safety as many of the property owners already do.

I would now draw your attention again to the following issues, that with Planning Permission already in place for a development next to Abbotscroft, who permission granted to alter a garage on Priors Road into living accommodation for relatives (another vehicle surely) permission granted for a development at the junction of Priors Road with The Loan, permission granted for a development next to Lindisfarne, all taken as adding to the traffic onto Priors Road, so that

there is now so much traffic on Priors Road that this application has to be refused, using that issue as the main basis, that it will add more traffic to Priors Road.

Suddenly the number of vehicles becomes an important factor although your report does say that number is already undefined !!

So 2 more vehicles now takes it over some undefined limit !!!

This does not seem to be an issue to correctly incorporate into the reasons for refusal of this application and anyway as already explained the traffic use of Priors Road outlined in all the objections, in no way reflects the actual minimal use of the lane, but it is obviously a matter that influenced the decision to refuse the application.

There are a lot of positives incorporated into the reports regarding development of the site, eg : easy access to the actual site, ability to park and turn vehicles, site with no actual building line and set back so as not to take away any amenity from neighbouring properties (perhaps not a relevant objection anyway) not over developing the whole site and as such with careful consideration given to construction would not spoil the whole amenity of the area.

In all the circumstances I would suggest that the refusal is not a reasonable result and taking into account the further points outlined in this appeal, I would like to think that a further look at the whole situation with perhaps a referral to the planning committee, if necessary, would result in a different outcome.

I find it difficult to accept that the refusal to allow the application on the basis that “ the *application has failed to show that reasonable access can be achieved to the proposed site* “ is in any way reasonable when full planning permission has been granted for a site some 35 meters distance away on the same road! I would suggest that the development of this final viable site on Priors Road, resulting in a further two vehicles using the road, would have little or no impact on the overall situation, either the use of Priors Road itself or the access onto and from the B6360 road and I would contend that all these factors re-examined have adequately demonstrated that the refusal of the application was based on an over emphasised view of the whole situation and could be reversed without adversely affecting other road users.

Notice of Review

Planning Application 17/01617/PPP

Additional photo showing main length of Priors Road as commentated in Review Form (page 3)

Additional letters of support from new developers of site on Priors Road noted as number 1 on Location Plan of original application.