

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: 18/00008/RREF

Planning Application Reference: 17/01685/PPP

Development Proposal: Erection of dwellinghouse

Location: Land South of The Bungalow, Blacklee Brae, Bonchester Bridge

Applicant: Mr John Huck

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 subject to conditions and informatives as set out below.

The decision was taken subject to a legal agreement for payment of developer contributions. However, subsequent information was received from the Appointed Officer which clarified that no education contributions were required for the development. Consequently, there was no requirement for a legal agreement.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Location Plan	OS Mastermap

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 21 May 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) Consultations; and f) List of Policies, the Review Body proceeded to determine the case.

They noted the applicant's suggestion for a site visit but did not consider this 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, HD2, HD3, EP1, EP2, EP3, EP13, EP16, IS2, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Trees and Development 2008

The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse on a plot to the south of a property known as The Bungalow, Blacklee Brae, Bonchester Bridge.

The Review Body firstly considered whether a building group was present to which addition would be possible. They accepted that Blacklee Brae constituted a building group in terms of Local Development Plan Policy HD2 and noted that new development had occurred within the group. Whilst accepting that The Bungalow was on the opposite side of the public road from the majority of the houses in the group, they agreed with the assessment of the Appointed Officer that it was still part of the building group.

The Review Body then considered whether the site was a suitable addition to the building group. Members gave weight to the fact that the site was part of the established curtilage of The Bungalow and that the beech hedging along the boundary of the site formed a natural and strong boundary to the group, the site being contained by the hedge and not breaking into the undeveloped field beyond. They considered that an additional house on this side of the road was well related to the building group and would reduce, rather than emphasise, the detachment of The Bungalow in relation to the building group.

Although Members noted that the applicant had suggested the site could form a micro-holding, no business case had been submitted to support the suggestion. As they considered the site to be a natural addition to the building group, they gave no weight to this matter.

There was some concern expressed in relation to landscape impact and the loss of trees. However, the Review Body considered that sufficient tree cover and hedges could be retained by a landscaping condition requiring a tree survey and new planting. They were content that the site was large enough to allow a new house to sit within tree cover and still preserve the landscape setting of the group. Members noted that similar development within woodland had occurred opposite the site. It was also considered that the landscape setting would be enhanced by a well-designed house.

Members considered other issues could be addressed through planning conditions, including a suspensive condition in relation to the need for a bat survey and in relation to breeding birds and red squirrel.

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. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
 - a. the expiration of three years from the date of this permission, or
 - b. the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

CONDITIONS

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority.

Thereafter the development shall only take place in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. 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. existing landscaping features and trees to be retained, protected and, in the case of damage, restored. This should include a full tree survey and arboricultural assessment.
 - iii. location and design, including materials, of walls, fences and gates
 - iv. soft and hard landscaping works
 - v. existing and proposed services such as cables, pipelines, sub-stations
 - vi. A programme for completion and subsequent maintenance.

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

4. No development shall commence until the details of the access and the parking and turning facilities within the site have been submitted to and approved in writing by the Planning Authority. Thereafter, the works shall be implemented in accordance with the agreed details and within an agreed timescale. The junction with the public road should achieve the following:
 - Visibility splays of 2.4 by 70 metres in both directions onto the public road from the proposed access to be provided.
 - Verge crossing to be constructed to the following specification "75mm of 40mm size single course bituminous layer blinded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming blinded with sub-base, type 1."

Reason: To ensure the site is adequately serviced.

5. No development shall commence until further details of the provision of foul and surface water drainage are submitted to, and approved in writing by, the Planning Authority. The details shall include evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: To ensure that satisfactory arrangements are made for the disposal of surface and foul water.

6. No water supply other than the public mains shall be used to supply the Development without the prior written agreement of the Planning Authority.

Reason: To ensure that the Development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

7. No development shall commence until a survey for bats, by a suitably qualified person, is carried out for all mature trees that require felling and submitted to, and approved in writing by, the Planning Authority. If evidence of bats or their roosts is found in the surveys, a mitigation plan for bats will also be required. No development shall commence until the surveys and any mitigation plan have been approved in writing by the Planning Authority. Any works shall, thereafter, be carried out in accordance with the approved mitigation plan.

Reason: To safeguard Protected Species at the site.

8. No development shall commence until a survey for protected species, including breeding birds and red squirrel, is submitted to, and approved in writing by, the Planning Authority. If evidence of protected species, including breeding birds and red squirrel, is found in the surveys, a mitigation plan for protected species and habitats will be required. No development shall commence until a Species and Habitats Protection Plan, which shall include any mitigation plan and which shall also incorporate details of enhancements for biodiversity, has been submitted to, and approved in writing by, the Planning Authority. Any works shall, thereafter, be carried out in accordance with the approved mitigation plan and Species and Habitats Protection Plan.

Reason: To safeguard ecological interests at the site.

INFORMATIVES

Bats

Impacts on bats will be assessed against the three key tests. Surveys likely to involve disturbance to bats or their roosts can only be carried out by a licensed bat worker. Activity surveys for maternity roosts and occasional roosts in trees should be conducted between May and September (optimally May - August). Preliminary Roost Assessment can be undertaken at any time of year.

Private Drainage Systems

Private drainage systems often cause public health problems when no clear responsibility or access rights exist for maintaining the system in a working condition.

Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law.

To discharge the Condition relating to the private drainage arrangements, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified.

Stoves and Use of Solid Fuel

These installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do not indemnify the applicant in respect of Nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted building/planning permission.

Accordingly this advice can assist you to avoid future problems.

The location of the flue should take into account other properties that may be downwind.

The discharge point for the flue should be located as high as possible to allow for maximum dispersion of the flue gasses.

The flue should be terminated with a cap that encourages a high gas efflux velocity.

The flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.

The appliance should only burn fuel of a type and grade that is recommended by the manufacturer.

If you live in a Smoke Control Area you must only use an Exempt Appliance <http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is Approved for use in it <http://smokecontrol.defra.gov.uk/fuels.php?country=s> .

In wood burning stoves you should only burn dry, seasoned timber. Guidance is available on

- [http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuel-woodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuel-woodasfuelguide.pdf)

Treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel.

Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

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.....23rd May 2018

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