

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: 18/00010/RREF

Planning Application Reference: 17/01617/PPP

Development Proposal: Erection of dwellinghouse

Location: Land North West of The Gables, Gattonside

Applicant: Mr & Mrs A Matthew

DECISION

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

1. It is considered that the proposed development would not comply with policies PMD2 and, PMD5 of the Local Development Plan 2016 in that adequate access to the site cannot be achieved resulting in an adverse impact on road safety, for the following reasons:
 - The junction of the private road (Priors Road), serving the site and the B6360 is not suitable for additional traffic due to the acute angle at which Priors Road joins the B6360, its width, steep gradient, visibility, loose material and uneven surface making it difficult for vehicles enter and exit the junction and for each other to pass at the junction.
 - Priors Road itself, between the B6360 and The Loan, suffers from poor construction make-up, tight geometry, lack of width combined with limited forward visibility, inadequate passing provision, absence of on-street parking and inadequate street lighting.
 - The junction of the road serving the site and The Loan is substandard in geometry making a left turn out of Priors Road or a right turn in extremely difficult.

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	1
Site Plan	2

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; f) Objections; g) General Comments; h) Further Representations; i) Response from Applicant to Further Representations; and j) List of policies, the Review Body considered whether new information included by the applicant within the review documents constituted new evidence under Section 43B of the Act. This related to two letters of support submitted by the developers of a plot with planning permission to the south-east of the application site. The Review Body considered that the information could have been submitted before the application was determined by the Appointed Officer and that there were no exceptional circumstances why the information could not have been lodged before that time. The letters were, therefore, not accepted and the Review Body proceeded to determine the case without reference to them.

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, PMD5, HD3, EP4, EP7, EP8, EP9, EP13, IS2, IS3, 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 Privacy and Sunlight 2006

The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse on a plot to the north-west of a property known as The Gables, Gattonside. The plot was shown in more detail on the Site Plan indicating a house position to the rear of the site and access shared with The Gables from Priors Road. Members were also made aware of the details of the approved dwellinghouse on a nearby site, to the south-east of Abbotscroft, which would also use a section of Priors Road (application reference 17/00680/FUL) and which was approved under delegated powers by the Appointed Officer on 28th July 2017.

The Members firstly considered whether the site was an acceptable infill site within the terms of Policy PMD5 of the Local Development Plan. They noted that the site was within Gattonside settlement boundary and had surrounding residential properties. Given the location, context and size of the proposed plot, the Review Body were satisfied that the site was a suitable infill opportunity in principle.

However, Members also noted that Policies PMD2 and PMD5 require sites to be capable of safe access and that there were significant issues with the road system serving the site. Members carefully considered all the submissions made about the existing traffic using the road system, including the traffic to be generated by the approved plot. They noted that there were identified problems throughout the road system and that there were no improvements proposed that could reduce the road safety risks resulting from increased traffic. Members did consider what the effects could be of improved stretches of construction along the site frontage or restrictive signage on the B6360, but, ultimately, did not feel that there was any evidence that sufficient improvement could be achieved.

The Review Body agreed with the Appointed Officer that, whilst the proposal may generate limited additional traffic, the road system serving the site was unsuitable and exhibited significant problems, especially at the junction with the B6360 where visibility was poor. It was also considered that Priors Road was narrow with tight bends, poor construction and inadequate passing opportunities. On balance, Members considered that the road system was not capable of safely accommodating the additional traffic associated with the construction or occupation of a house on the proposed plot. They, therefore, agreed with the Appointed Officer that the proposal was contrary to Policies PMD2 and PMD5 for this reason.

The Review Body also considered other material issues relating to the development, including impacts on The Rig adjoining the site to the west, both in terms of impacts on residential amenity and the setting of a listed building. Whilst there were some concerns expressed about these impacts, it was accepted that they could have been addressed at the detailed design stage had the site been otherwise acceptable.

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.
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Signed..Councillor T Miers
Chairman of the Local Review Body

Date...23rd May 2018