

## APPENDIX II

### SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

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#### 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

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**Local Review Reference:** 18/00014/RREF

**Planning Application Reference:** 17/01734/PPP

**Development Proposal:** Erection of dwellinghouse

**Location:** Land South West of 1 Hill Terrace, Stow

**Applicant:** Susan Aitchison

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### DECISION

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

- 1 The access road serving the site is unsuitable for further traffic and is not capable of being improved to a standard that is adequate to support the additional traffic generated by the proposed development. The development would, therefore, be contrary to Policies PMD2 and PMD5 of the Local Development Plan 2016. This conflict would potentially lead to serious risk to road and pedestrian safety. There are no other material considerations that would outweigh this conflict with the development plan.

### DEVELOPMENT PROPOSAL

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

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	

## **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 16 July 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) Further representations; h) Response to further representations; and i) List of Policies, the Review Body proceeded to determine the case. They also noted the applicant's request for further procedure in the form of a site visit but did not consider this necessary after considering the case and viewing photographs and plans of the site and surroundings.

Members also noted that the applicant had sought, in the Review submission, to alter the proposal from a dwellinghouse to a studio building with toilet and bunk. Members considered that they must review only what was before the Appointed Officer, which was a dwellinghouse and, consequently, disregarded the amended proposal.

## **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, EP1, EP13, IS2, IS3, IS6, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015

The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse.

Members noted that the application site was within the settlement boundary of Stow as defined in the Local Development Plan. From the supporting papers and the site photographs, they noted that, whilst there were surrounding houses and level differences which may cause some issues of overlooking, they were generally in agreement with the Appointed Officer that, had the access been acceptable, the site was a suitable infill opportunity under Policy PMD5 and that issues of privacy and fit of the house within the site could be dealt with at the next planning stage.

The Review Body then considered the issue of the access to the site from the A7, known as Hill Terrace, and noted that there were a number of inadequacies associated with this unadopted stretch of road. They noted that it was very narrow, steep, poorly surfaced and had substandard visibility at the junction with the A7. Whilst they understood that there was already some usage of Hill Terrace associated with existing houses and parking spaces on the site itself, Members still considered that the proposed dwellinghouse would increase traffic onto an unsuitable stretch of road and create road and pedestrian safety risks, contrary to Policies PMD2 and PMD5. They also considered there would be problems arising from construction traffic during development of the site.

The Review Body noted the suggestions from the applicant regarding upgrading of the road but did not accept that there was a capability of sufficient upgrading to overcome the deficiencies identified with the road and its junction with the A7. They noted and agreed with the response of Roads Planning, that the road remains unsuitable for additional traffic.

## **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.

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### **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.....**20 July 2018

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