

APPENDIX III

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: 18/00015/RREF

Planning Application Reference: 18/00287/FUL

Development Proposal: Erection of dwellinghouse

Location: Land North West of Doonbye, Smith's Road, Darnick

Applicant: Mr I Maxwell

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 proposed development would not comply with policies PMD2, PMD5 or IS7 of the Local Development Plan 2016 as no off-street parking would be provided and the resulting implications on Smith's Road would have potential adverse impacts on road and pedestrian safety. Other material considerations do not outweigh these conflicts with policy.
- 2 The proposed development would be contrary to policies PMD2, PMD5 and HD3 as it would constitute overdevelopment of the site in a manner that would have an adverse impact on the residential amenities of future occupants of the dwellinghouse and an intrusive and overbearing impact on neighbouring properties. Other material considerations do not outweigh these conflicts with policy.

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.
Floor Plans	170917/PP/01

Elevations	170917/PP/02
Site Plan	170917/PP/03
Sections	170917/PP/04
Location Plan	170917/PP/05

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 representation; and h) 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.

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: PMD2, PMD5, HD3, EP4, EP8, EP9, IS2, IS3, IS7, IS9 and IS13

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
- Designing Streets – A Policy Statement for Scotland 2010 – Scottish Government

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

Members noted that the application site was within the settlement boundary of Darnick as defined in the Local Development Plan and, firstly, considered whether the site was a suitable infill opportunity under Policy PMD5. Although the location would normally allow the site to be considered as such, the Review Body considered the site to be too small, the house leaving insufficient garden ground around it. The Review Body accepted that the pattern of development in Darnick Conservation Area provided some context for higher density but, given the prominence from Smith's Road and the proximity and nature of surrounding houses and garden ground, Members were of the view that the proposed house represented overdevelopment of the site. They felt the proposals represented cramming onto a very small site contrary to Policies PMD2, PMD5 and HD3.

The Review Body then considered the issues of lack of off-street parking provision within the site and the likely impacts on Smith's Road. They noted that there was no vehicular access to the site nor any possibility for off-street parking within the site. Members were not persuaded by the arguments put forward by the applicant's consultant and felt that the development would increase parking pressures and problems in Smith's Road and adjoining streets, to the detriment of road and pedestrian safety and contrary to Policies PMD2, PMD5 and IS7. They also queried how the site could be constructed, given the lack of vehicular access or street frontage.

The Review Body accepted that the design of the house, in itself, was appropriate within the Conservation Area but this did not outweigh the issues of overdevelopment and lack of parking.

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.

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

Date.....20 July 2018

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