

## APPENDIX I

### SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY INTENTIONS 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:** 18/00017/RREF

**Planning Application Reference:** 18/00270/PPP

**Development Proposal:** Erection of dwellinghouse with associated access road, parking area and combined entrance/layby

**Location:** Land West of Langton Birches, Duns

**Applicant:** Mrs Clare Fleming

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## DECISION

The Local Review Body reverses the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this decision notice subject to conditions, informatives and the applicant entering into a Section 75 agreement as set out below.

## DEVELOPMENT PROPOSAL

The application, which is for planning permission in principle relates to the erection of dwellinghouse with associated access road, parking area and combined entrance/layby at garden ground west of Langton Birches, Duns. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	CFPP01
Site Layout Plan	CFPP02 B

## 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 17 September 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 request for further procedure in the form of written submissions and site visit but did not consider these 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: PMD1, PMD2, ED10, HD2, HD3, EP3, EP13, IS2, IS7 and IS9

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Other Material Considerations

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- 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 Trees and Development 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008

The Review Body considered the proposal principally against Policies HD2 of the Local Development Plan and the guidance within the New Housing in the Borders Countryside SPG.

The Review Body accepted that there was a building group at Langton Birches, as defined in Policy HD2 of the Local Development Plan and in the approved Supplementary Planning Guidance. In coming to this conclusion, Members agreed that the group consisted of 1 and 2 Duns Mill Cottages, The Bungalow, Oakridge and Langton Birches itself and that the locus had a distinct sense of place. As Policy HD2 allows the possibility of 2 further houses to be added to a building group there was potential capacity to allow the proposed house, if the other key policy assessment criteria could be met

Members then debated the boundaries and extent of the building group and concluded that, despite its unusual shape, the garden ground associated with Langton Birches formed part of the group and was included within its sense of place.

The Review Body did not agree that the proposed house would constitute ribbon development. Members were satisfied that the development would be complimentary to the form and character of the building group and that there would be no adverse impacts on the other properties within the group. Whilst they were content in this regard they were concerned about further development along the public road. In their view, the application site

constituted the limit of the group in a westerly direction and no further housing should be allowed beyond the current application site.

In considering the capacity of the site to accommodate a house, Members noted the previous review in 2012 was dismissed on grounds of overdevelopment. However, the decision did not discount the possibility of a house on the site being acceptable. Whilst this was an application for planning permission in principle and no detailed proposal was before them, Members accepted that the site could accommodate a modest dwellinghouse.

The Review Body considered that the revised arrangements shown on drawing CFPP02 B, which illustrated a shared access/layby arrangement for Langton Birches and the new house and the closing off of the existing access to the applicant's property, addressed the concerns about access. They noted that these arrangements were acceptable to the Roads Planning Officer.

The Review Body wished to see the retention, where practicable, of existing trees and hedgerows at the site to retain its rural character and agreed that this along with matters such as the access arrangements and provisions for water and drainage at the site could be addressed by appropriate planning conditions.

## **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 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.

4. 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.

5. No development shall commence until the details of the shared access for Langton Birches and the new dwellinghouse, including the service layby, visibility splays, the parking and turning facilities within the site and the closing off of the existing access to Langton Birches 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.

Reason: To ensure the site is adequately serviced.

6. 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, hedgerow 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.

## **INFORMATIVES**

1. With regards to Condition 5, the Roads Planning officer states that it should be borne in mind that only contractors first approved by the Council may work within the public road boundary.

## **LEGAL AGREEMENT**

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of a financial contribution towards education facilities in the locality.

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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  
Councillor T Miers  
Chairman of the Local Review Body

**Date.....**20 September 2018

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