

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: 18/00023/RREF

Planning Application Reference: 18/00686/FUL

Development Proposal: Change of use of land (optional locations) to site 2 No glamping units for holiday let

Location: Land North West, East and South East of Flatt Farmhouse

Applicant: Thomas & Pamela Atkinson

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.

DEVELOPMENT PROPOSAL

The application relates to change of use of land (optional locations) to site 2 No glamping units for holiday let. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	1:12500
Location Plan	1:1500
Location Plan	Shelter Belt
Other	Log Cabin details
Floor Plans	Hobbit House
Elevations	Hobbit House
Other	Hobbit House projections x 3

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 15th October 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 considered whether new information included by the applicant within the review documents met the test under Section 43B of the Act. This related to support letters received from neighbours and local businesses. The Review Body considered that the test set by Section 43B had been satisfied and, therefore, had regard to the information in determining 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, ED7, ED8, HD3, EP1, EP13, IS4, IS7, IS9, IS12 and IS13

Other Material Considerations

- Scottish Planning Policy 2014
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015

The Review Body noted that the proposal was for change of use of land in four locations to site 2 No glamping units for holiday let. It was understood that across all four locations, there would be a maximum of only two units sited.

The Review Body firstly considered the proposals against Policies PMD2 and ED7 of the Local Development Plan. They noted the criteria that needed to be complied with under Policy ED7 in particular. With regard to the sequential assessment of existing opportunities, they considered that the nature of glamping units and the market in terms of the type of holiday offered, could not be properly met by the conversion of existing buildings within the steading range. Consequently, Members did not consider that the need for sequential consideration of existing buildings and brownfield sites was material in this instance.

However, it was noted that one of the sites did occupy a brownfield location within the steading group.

The Review Body expressed general support for the tourism nature of the proposals in a remote rural part of the Scottish Borders. Members noted that a bed and breakfast business was in existence at Flatt Farm and that a previous building had also been approved and implemented for the business. They considered that additional accommodation would both bring tourists to the area and represent an appropriate expansion to the existing farm diversification business. They noted that whilst a Business Plan had been submitted, Policy ED7 did not actually require a Business Plan to justify the proposals for an existing business. Nevertheless, Members noted the Business Plan and placed some weight on the support received from Economic Development to the proposals. They also noted the general support from the community and local businesses expressed in the additional letters submitted with the Notice of Review.

The Review Body then considered Policy ED8 and expressed some concerns over the general lack of detail and information to enable the full and proper assessment of the mobility element of the proposed units. They noted that this was what was intended by the applicants but also agreed with the Appointed Officer that many details still required to be provided to enable full consideration of the impacts of the development. These included matters relating to genuine holiday rather than permanent residential occupancy, road access, parking, construction and mobility of the units, surface and curtilage treatment of the sites, tree retention and water and drainage provision. The Review Body were satisfied that these additional details could be addressed by appropriate conditions.

Whilst supportive in principle of the proposals, the Review Body remained concerned about the potential impacts of the development and considered that a temporary consent of three years would enable the development to become established and allow for proper assessment of the impacts on the environment and local economy over the temporary period. An appropriate condition was, therefore, imposed by the Review Body starting from the letting of the first unit, requiring the removal of the units and restoration of the sites at the end of the temporary period unless an application is made and consent granted for a further period.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, ED7 and ED8 of the Local Development Plan. The development was considered to be an enhancement of the existing tourism business and impacts on the area could be controlled and assessed by conditions requiring further details and granting consent for a temporary period. Consequently, the application was approved.

DIRECTIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

CONDITIONS

1. The glamping units and ground works hereby permitted shall be removed and the sites restored to their former condition within 3 years of commencement of letting of the first unit, unless an application is submitted to, and approved by, the Planning

Authority for retention of the units and works for a further period. The Planning Authority shall be informed in writing of the date of letting of the first unit within one month of the letting.

Reason: To enable the Planning Authority to review the matter at the end of a limited period

2. The occupation of glamping units shall be restricted to genuine holidaymakers, the definition of which shall be any person staying for a maximum of 4 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.
Reason: Permanent residential use in this location would conflict with the established planning policy for this rural area.
3. This consent is for a maximum of two glamping units in total to be sited at any one time across all four sites.
Reason: To enable the Planning Authority to control the development and minimise impact on the rural environment.
4. No development shall be commenced until further details of the glamping units are submitted to, and approved in writing by, the Planning Authority including their design, external materials, lighting, methods of construction, placement on site and mobility. Once approved, the units shall be installed in accordance with the approved details.
Reason: To enable the Planning Authority to control the development and minimise impact on the rural environment.
5. No development shall be commenced until further details of site preparation and ground works for all four sites have been submitted to, and approved in writing by, the Planning Authority. This shall include vehicular and pedestrian access to each site, parking, impacts on existing trees and walls, new curtilage screening and surfacing. Once approved, the sites shall be prepared in accordance with the approved details.
Reason: To enable the Planning Authority to control the development and minimise impact on the rural environment.
6. No development shall commence until a report has been submitted to and approved in writing by the Planning Authority, demonstrating the provision of an adequate water supply to the development in terms of quality and quantity. The report must also detail all mitigation measures to be delivered to secure the quality, quantity and continuity of water supplies to properties in the locality which are served by private water supplies and which may be affected by the development. The provisions of the approved report shall be implemented prior to the occupation of the building(s) hereby approved.
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 the applicant has submitted full drainage details for the development and those details have been 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. Once approved, the development shall be implemented in accordance with the approved details.

Reason: To ensure that the development does not have a detrimental effect on amenity and public health.

INFORMATIVES

1. The Environmental Health Officer wishes to ensure you are aware of potential land contamination that may have occurred prior to the referenced site ownership. Should unexpected ground conditions e.g. made ground extending to depth, discolouration or malodorous substances be encountered in excavations or evidence of potential contamination e.g. underground structures, remains of buried wastes or equipment be encountered during site works it is requested that Environmental Health are immediately consulted.
2. In relation to Condition 4, lighting not attached to the units themselves may require the submission of a separate planning application. You are advised to contact the Planning Officer for the area to discuss the requirements further.
3. To fulfil Condition 6, Environmental Health requires the following information to be provided -
 - i. A description of the source(s) / type of the supply – i.e. whether the supply is taken from a watercourse, loch, spring, well or borehole, or any other source or combination of sources.
 - ii. The location of the source(s) of the supply – i.e. the appropriate eight figure Ordnance Survey National Grid Reference(s).
 - iii. The name and address of every relevant person in relation to the supply.
 - iv. NB. A “relevant person”, in relation to a private water supply, means a person (or persons) who: (a) provide the supply; (b) occupy the land from, or on which, the supply is obtained or located; or (c) exercise powers of management or control in relation to the supply.
 - v. The estimated maximum average volume of water provided by the proposed supply, in cubic metres per day (m³/day), and the details of any pump tests/flow rate tests undertaken to determine this estimate.
 - vi. NB. For boreholes/wells refer to BS ISO 14686:2003 “Hydrometric determinations – Pumping tests for water wells – Considerations and guidelines for design, performance and use”.
 - vii. Any water treatment that is intended to be carried out in relation to the proposed supply for the development.
 - viii. Where there are existing users of the proposed supply, the addresses of all such properties.
 - ix. Where there are existing users of the proposed supply, the existing and proposed occupancy levels of all such properties, as far as is reasonably practicable.
 - x. NB. As a minimum, the provision of the number of bedrooms per property will allow an estimate to be made of occupancy levels.
 - xi. Where there are existing users of the proposed supply and / or there are other properties’ private water supplies in the vicinity of the development that may be affected thereby (e.g. neighbouring boreholes, wells, springs, etc.), information advising if and how the proposed development will impact on the existing users and / or the other properties’ supplies.
 - xii. If the development is to be used for commercial purposes and / or members of the public will use / consume the water, the private water supply will be classed as a Type A supply. This will mean that it will require to be sampled / monitored by the local authority on at least an annual basis and a risk assessment of the supply will also be required. As such, prior to commencement of the commercial / public activity, the applicant should contact the Environmental Health

Department of Scottish Borders Council to ensure that compliance with the legislative provisions is able to be secured.

For clarification, the minimum daily volume of water that requires to be supplied by a private water supply must be equivalent to 200 litres of water per person per day who will be using the supply. A reserve storage capacity of three days' supply should be provided. Also, the quality of the water throughout the building(s) must conform to the requirements of The Private Water Supplies (Scotland) Regulations in order for it to be classed as wholesome.

Commercial Use

As the Development may result in the general public consuming the water from the private water supply, the supply will be regulated under The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017. This will mean that the supply will be subjected to annual water testing and a risk assessment of the supply. The applicant should contact an Environmental Health Officer before becoming operational to discuss testing of the water.

4. In relation to Condition 7, Environmental Health advises:

Private drainage systems often impact on amenity and cause other 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.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

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.....30 October 2018

...