

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: 18/00026/RREF

Planning Application Reference: 18/00745/FUL

Development Proposal: Change of use of steading, alterations and extension to form dwellinghouse (revision to planning permission 17/00915/FUL)

Location: Steading buildings, Billerwell Farm, Hawick

Applicant: Mr & Mrs David & Claire McTaggart

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 steading, alterations and extension to form dwellinghouse (revision to planning permission 17/00915/FUL). The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Site Plan	DCMP01
Existing Layout	DCMP02
Sections	DCMP03
Existing Elevations	DCMP04
Existing Elevations	DCMP05
Floor Plans	DCMP07
Roof Plan	DCMP09
Elevations	DCMP10
Elevations	DCMP11
Elevations	DCMP12

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 proceeded to determine the case. They also noted the applicant's request for further procedure in the form of a site visit and hearing 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, HD2, HD3, EP1, EP2, EP3, EP5, EP8, EP16, 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 New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Biodiversity 2005

The Review Body noted that the proposal was for planning permission to change the use of a steading, alterations and extension to form dwellinghouse (revision to planning permission 17/00915/FUL). They accepted that the principle of conversion of the building had already been established in the earlier consent and that it remained valid and could still be implemented. Members agreed with the Appointed Officer that, under Section C of Policy HD2, the building was of character and architectural merit, was not appropriate for continued agricultural use and was suitable for conversion to a dwellinghouse.

The Review Body then considered the details of the proposed scheme and, in particular, the issue of raised height, increased scale and impacts on the character of the building and surrounding steading group. They noted that the existing group had higher buildings, including the farmhouse and those adjoining and that the increase in height would both still retain the existing stepped roof structure and remain within context, given the surrounding building heights. Members also noted that the raised walls would be carried out in matching

stone and that the public elevation facing south-west retained horizontal emphasis and still read as a farm steading building.

The Review Body noted the applicants' justification for the revised scheme and accepted that there needed to be some flexibility in design and layout to achieve residential accommodation that would be practical to live in. The resultant domesticated nature of the windows and the increased width of footprint were largely confined to the internal courtyard that Members considered was more concealed from public view and, consequently, less sensitive. Subject to appropriate conditions on materials, they were content that the revised design would retain the character of the building and still comply with Local Development Plan Policies and Supplementary Planning Guidance.

The Review Body noted that developer contributions had already been paid by the applicants through legal agreement attached to the previous consent. They considered that other matters, such as those relating to ecology, archaeology, roads, water and drainage could be addressed by appropriate conditions, including those attached to the previous consent.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2 and HD2 of the Development Plan and Supplementary Planning Guidance. The building was suitable for conversion to a dwellinghouse and the details of the conversion would retain the character of the building and steading range, providing the applicants with a more workable alternative scheme. 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. No development shall take place until the applicant has secured and implemented an approved programme of archaeological work in accordance with a Written Scheme of Investigation outlining a Historic Building Survey. This will be formulated by a developer contracted archaeologist(s) and approved in writing by the Planning Authority. Development and archaeological investigation shall only proceed in accordance with the WSI.

The requirements of this are:

- The WSI shall be approved in writing by the Planning Authority.
- Historic Building Survey will be in accordance with the ALGAO: Scotland guidance as requested by the Planning Authority.
- In accordance with the WSI, access shall be afforded to the nominated surveyor to allow archaeological investigation, at all reasonable times.
- Initial results shall be submitted to the Planning Authority for approval in the form of a Historic Building Survey Report (HBSR) within one month following completion of all on-site archaeological works.

- The results of the DSR will be used by the Council's Archaeologist to make recommendations to the Planning Authority for further archaeological investigations, reporting and dissemination of results as required. The developer will be expected to fund and implement all further archaeological work.

Reason: To preserve by record a building of historical interest.

2. This permission shall only permit the conversion and adaptation of the existing structure as a single dwelling unit. It shall not purport to grant permission for the erection of any new dwellings nor for any extensive rebuilding which would be tantamount to the erection of a new building.

Reason: Permission has been granted for the conversion of the existing building to a dwellinghouse in a location where new dwellings would not be appropriate.

3. No development shall commence until details of all materials to be used on all exterior surfaces of the development hereby approved, including natural stone, have been submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be completed in accordance with the approved details.

Reason: The materials to be used require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

4. No development shall commence until the colour/finish of all external joinery, including the doors and window frames, has been submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be completed in accordance with the approved details.

Reason: To safeguard the character and appearance of the building and the visual amenities of the area.

5. The roofing material to be natural slate. No development shall commence until a sample of the slate has been submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be completed only by using the approved slate.

Reason: To safeguard the character and appearance of the building and the visual amenities of the area.

6. The windows to be timber with 22mm slim profiled astragals permanently adhered to the surface of the glass and fixed at the frame edge, and with a spacer bar the same colour as the window and fractionally smaller than the astragal thickness, unless otherwise agreed in writing by the Planning Authority.

Reason: To safeguard the character and appearance of the building and the visual amenities of the area.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any subsequent Order amending, revoking or re-enacting that Order):

- (i) There shall be no addition or extension to the dwellings (including the insertion of dormer windows or chimneys);
- (ii) There shall be no further building, structure or other enclosure constructed or placed on the site;
- (iii) No additional window or other opening shall be made in any elevation;

unless an application for planning permission in that behalf has first been submitted to and approved by the Planning Authority.

Reason: To safeguard the character, appearance and setting of the building to be converted.

8. No development shall commence until a drawing showing the position and specification (DC-1 or DC-1a attached) of two passing places within the local road network has been submitted to and approved in writing by the Planning Authority. Thereafter, the passing places shall be provided in the approved positions and to the approved specification before the dwellinghouse is occupied.

Reason: To ensure that the traffic created by this development can be safely accommodated on the local road network.

9. The car parking shown on Drawing Number DCMP14 to be provided within the site before the dwellinghouse is occupied and retained in perpetuity.

Reason: To ensure on-site parking is provided and available for use by occupants of the dwellinghouse in the interests of road safety.

10. Prior to the commencement of development, the applicant/developer shall provide the Planning Authority with:

- a) a copy of the relevant European Protected Species licence, or,
- b) a copy of a statement in writing from Scottish Natural Heritage (licensing authority) stating that such a licence is not necessary for the specified development.

Reason: To protect protected species within the site.

11. Prior to commencement of development, a survey for bats by a suitably qualified person will be required for the structure to be altered. No development shall commence until the Planning Authority have approved the survey in writing. If evidence of bats or their roosts is found in the surveys, the developer will be required to submit, as part of their submission to the Planning Authority, a mitigation plan for bats. Thereafter, the development shall only proceed in accordance with the survey and any mitigation identified.

Reason: To protect protected species within the site.

12. Prior to commencement of development, a survey of breeding birds is required for the structure to be altered. Where it is established that there is a breeding bird interest, no development shall be carried out during the breeding bird season (March-August) unless the development is implemented wholly in accordance with a Species Protection Plan for breeding birds, which shall be submitted to and approved by the Planning Authority. The SPP shall include provision for a pre-development supplementary survey and a mitigation plan.

Reason: To protect breeding birds within the site.

13. No development shall commence until details of the foul and surface water drainage have been submitted to and approved in writing by the Planning Authority. This to include evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition. Thereafter, the drainage shall be installed in accordance with the approved details before the dwellinghouse is occupied and maintained thereafter.

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

14. No development shall commence until a report has been submitted to and approved in writing by the Planning Authority that the public mains water supply is available and can be provided for the development. Prior to the occupation of the dwellinghouse, written confirmation shall be submitted by the applicant/developer to and approved in writing by the Planning Authority that the development has been connected to the public mains water supply. No water supply other than the public mains shall be used to supply the dwellinghouse 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.

INFORMATIVES

- 1 In respect of condition 1, the level of recording should adhere to the BASIC standard as set out in ALGAO: Scotland guidance which can be found at <https://www.algao.org.uk/scotland>.
- 2 To discharge condition 13, 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. The applicant should also discuss the private drainage arrangements with The Scottish Environmental Protection Agency (SEPA).
- 3 In respect of condition 8, it should be noted that all work within the public road boundary must be undertaken by a contractor first approved by the Council.
- 4 In respect of condition 11, surveys likely to involve disturbance to bats or their roosts can only be carried out by a licensed bat worker. Activity surveys for maternity roosts and occasional roosts in buildings and trees should be conducted between May and September (optimally May – August, depending on the site's suitability for roosting bats). Preliminary roost assessments can be undertaken at any time of year and are sufficient only if it is shown there is negligible suitability for bats.

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.....22 October 2018