

**APPENDIX III**

**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:** 18/00028/RREF

**Planning Application Reference:** 18/01039/FUL

**Development Proposal:** Replacement windows (revision to planning permission  
18/00211/FUL)

**Location:** 41 North Hermitage Street, Newcastleton

**Applicant:** Mrs Laura Paterson

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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 design of the replacement windows fails to comply with Policies PMD2 and EP9 of the Scottish Borders Council Local Development Plan 2016, and with the advice contained within the Replacement Windows and Doors SPG (2015), in that their appearance would result in an adverse visual impact on the character of the building and would be detrimental to the character and appearance of the Newcastleton Conservation Area.

**DEVELOPMENT PROPOSAL**

The application relates to replacement windows to the front elevation of the property as a revision to planning permission 18/00211/FUL. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	
Photos	
Specifications	World Group

## **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 15<sup>th</sup> 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; and e) List of Policies, the Review Body proceeded to consider the case.

## **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, HD3 and EP9

Other Material Considerations

- SBC Supplementary Planning Guidance on "Replacement Windows and Doors" 2015

The Review Body noted that the proposal was for replacement windows to the frontage of a dwellinghouse at 41 North Hermitage Street, Newcastleton, as a revision to an earlier planning permission 18/00211/FUL which allowed for uPVC sash and case replacements.

The Review Body firstly noted that the property was in Newcastleton Conservation Area and currently had timber sash and case windows to the frontage. They noted that the windows were modern replacement units and there was also a mixture of window styles and materials in the vicinity. Members were also aware that the property lay outwith the Core Frontage part of the Conservation Area where sash operating windows were required by Supplementary Planning Guidance

Nevertheless, the Review Body agreed with the Appointed Officer that in this location and on this property frontage, the Policy and Guidance aimed to preserve and enhance the qualities of Newcastleton Conservation Area by maintaining either sash operating windows or, at least, windows which, when closed, would have the distinct step in profile at the mid-rail. In a revision in 2015, the Guidance had been relaxed to allow for the use of uPVC within different parts of Conservation Areas, providing sash or stepped profile designs were maintained. The proposed windows would remove the last remaining traditional characteristic of the windows on this frontage and be flat in profile. Given the requirements of Policy, Guidance and the previous approval which gave the applicant an option of uPVC replacement windows in an appropriate sash format, Members did not consider there was justification to further relax window design in this instance.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and Supplementary Planning Guidance 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.

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

**Date.....**22 October 2018