

## 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:** 15/00008/RCOND

**Planning Application Reference:** 15/00111/FUL

**Development Proposal:** Erection of boundary fence and garden shed  
(retrospective)

**Location:** 1 Old Mill Cottages, Romannobridge, West Linton

**Applicant:** Mr Ronnie Wells

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### DECISION

The Local Review Body varies the decision of the appointed officer and grants unconditional planning permission for the reasons set out in this notice

### DEVELOPMENT PROPOSAL

The application is retrospective and relates to the erection of boundary fence and garden shed at 1 Old Mill Cottages Romannobridge. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Block Plan	001
Photographs	-

### PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 15<sup>th</sup> June 2015 that the Review had been competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation, which included: (a) Decision Notice, (b) Notice of Review and supporting papers, (c) Officer's Report of Handling, (d) Consultations, (e) Support comments and (f) List of Policies, the Local Review Body determined that it had sufficient information to determine the review. In coming to this

conclusion, the Review Body considered the applicant's request for further procedure in the form of further written procedure.

## **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 2013 and the consolidated Scottish Border's Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

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- Local Plan Policies: G1, G4, H2 and BE1

Other material considerations the Review Body took into considering were:

- Circular 4/1998 - The Use of Conditions in Planning Permissions

The Review Body noted that, whilst the Notice of Review specifically referred to the removal of the condition placed on the planning permission, their consideration of the matter was "de novo" and they were required to consider the acceptability, or otherwise, of the erection of the fence and the garden shed.

After considering the submitted documentation and the Planning Advisor's slide presentation, they concluded that the fence and the shed were acceptable and would have no adverse visual impact on the listed building, the area more generally or the amenity of the neighbouring properties.

Members turned their attention to the terms of the planning condition. In considering the condition, Members were aware of the tests of validity set out in planning circular 4/1998 and that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants.

The Review Body accepted that the fence currently looked rather raw in appearance but they were satisfied that, as the timber was tanalised, it would weather over time to a more natural and attractive appearance. They did not feel that it was necessary, reasonable or beneficial to paint or stain the timber. They also expressed concern that the painting or staining of the fence "dark green" would actually make it stand out more, particularly when contrasted against the red coloured render of the walls of the property.

## **CONCLUSIONS**

The Local Review Body concluded that the proposed garden shed and fence were consistent with the provisions of the listed Development Plan policies but that as the condition did not meet the tests set out in Circular 4/1998 it should be struck from the planning permission.

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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.

**Signed..** Councillor J Brown  
Chairman of the Local Review Body

**Date:...**25 June 2015