

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: 18/00025/RREF

Planning Application Reference: 18/00832/PPP

Development Proposal: Erection of two dwellinghouses

Location: Land North East of Stainie Brae, Lower Greenhill, Selkirk

Applicant: Mr Mike Orr

DECISION

The Local Review Body upholds and varies the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

- 1 The proposed development is contrary to Adopted Local Development Plan Policy HD2 and the advice of Supplementary Planning Guidance - New Housing in the Borders Countryside (December 2008), in that: (i) the development is not sympathetic to the character of the building group and would not contribute positively to the sense of place of the existing building group; (ii) the Applicant has not demonstrated that there is any operational need for new dwellinghouses to be located at the site as a direct operational requirement of any agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside; and (iii) the development would exceed the maximum number of houses allowed to be consented within the building group during the current Local Development Plan period when considered with any existing consent.

DEVELOPMENT PROPOSAL

The application relates to erection of two dwellinghouses. The application drawings and documentation consisted of the following:

Plan Type

Plan Reference No.

Location Plan

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 19th November 2018. The review had previously been considered at a Pre Examination meeting preceding the Local Review Body meeting of 15th October 2018 where it was agreed to carry out an unaccompanied site visit before considering the review.

After examining the review documentation at the meeting on 19th November, which included: a) Notice of Review (including Decision Notice, Officer's Report and Consultations); b) Papers referred to in officer's report; c) Representation; and d) List of Policies, and having carried out an unaccompanied site visit, the Review Body proceeded to determine the case. They noted the applicant's request for further procedure in the form of a hearing but did not consider this necessary after considering the case, visiting the site 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, IS2, IS3, IS7 and IS9

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 Development Contributions 2011

The Review Body noted that the proposal was for Planning Permission in Principle to erect two dwellinghouses on the site. They were of the opinion that the site visit carried out following the Pre-Examination Meeting was very useful in allowing them to understand the proposals and how the site would relate to other dwellings within the group.

Members firstly considered whether there was a building group present at Lower Greenhill and concluded that, in terms of Local Development Plan Policy, five houses currently existed and that these five houses constituted a building group. They recognised that the group could expand by up to two houses but that the proposal for two houses exceeded the scale of addition capacity once the consent granted on the adjoining site (18/00021/RREF) was taken into account.

The Review Body were also in agreement with the appointed officer that the development projected outwith the defensible boundaries of the building group into agricultural land, representing a drift of development with challenging topography and an inappropriate

backland nature. In particular, Members were concerned that the small size of the two plots would be out of character with the generous plot size and property spacings within the existing group, resulting in an impression of overdevelopment and close proximity to other houses.

Members did consider whether any adjustment of the application to limit it to one rather than two houses would remove their concerns but ultimately decided that it would be not be appropriate to amend the proposal in such a significant manner and it would be unlikely to resolve the issues relating to defensible boundaries, challenging topography and relationship with existing houses.

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 and an additional reason added to refer to exceeding of the permitted scale of addition within the building group.

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.....26 November 2018

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