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## SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in Council Chamber, Council Headquarters, Newtown St Boswells, TD6 0SA on Monday, 17 December 2018 at 10.00 am

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Present:- Councillors T. Miers (Chairman), J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage and E. Small

Apologies:- Councillors S. Aitchison and A. Anderson

In Attendance:- Principal Planning Officer – Major Applications/Local Review, Solicitor (E. Moir), Democratic Services Team Leader, Democratic Services Officer (F. Walling).

1. **ORDER OF BUSINESS.**

The Chairman varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

2. **REVIEW OF 18/01010/FUL**

There had been circulated copies of the request from Mr Abby Lazim, per Hunter Architecture, 231 Galashiels Road, Stow, for review of refusal of the planning application in respect of replacement of shop front windows and door screens at Scotts View Take-Away, Main Street, St. Boswells. The supporting papers included the Notice of Review (including the Decision Notice); Officer's Report; papers referred to in the Officer's Report; and a list of policies. Whilst sympathetic with the applicant, in terms of the potential costs of replacing the shopfront and door, Members noted the need to preserve and enhance property within the Conservation Area by utilising traditional designs and materials. In this respect, their opinion was divided as to whether it was appropriate to retain a uPVC side panel, door and surrounds alongside white painted timber-framed units on the front window screens.

VOTE

*Councillor Hamilton, seconded by Councillor Small, moved that the decision to refuse the application be reversed and the application approved.*

*Councillor Laing, seconded by Councillor Mountford, moved as an amendment that the decision to refuse the application be upheld.*

*On a show of hands Members voted as follows:-*

*Motion - 2 votes*

*Amendment - 4 votes*

*The amendment was accordingly carried and the application refused.*

**DECISION**

**AGREED that:-**

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;
- (c) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and
- (d) the officer's decision to refuse the application be upheld and the application refused for the reasons detailed in Appendix I to this Minute.

#### **MEMBERS**

Having not been present at the Local Review Body meeting of 19 November 2018, when the review of 18/00580/FUL, below, was first considered, Councillors Fullarton, Hamilton and Ramage did not take part in the determination of this review and left the Chamber.

#### **3. CONTINUATION OF REVIEW OF 18/00580/FUL**

With reference to paragraph 4 of the Minute of 19 November 2018, in respect of the request from Miss Fiona Duff, per Christopher Thomson Design, 63 Queen Charlotte Street, Edinburgh, to review the grant of planning permission subject to conditions in respect of alterations and extension to dwellinghouse and erection of detached garage/workshop at Elsielea, 61 West High Street, Lauder, there had been circulated copies of further information from the applicant and a statement from the Planning Officer. Also re-circulated were the review papers, including the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; consultations; and a list of policies. Members noted the response from the applicant and the reasons for choice of the monopitched design of the proposed garage/workshop. They then turned their attention back to discuss the orientation of the proposed building in respect of its visual impact and relationship with the adjoining building.

#### **DECISION**

##### **AGREED:-**

- (a) the review could be determined without further procedure on the basis of the papers submitted and the further written submissions:
- (b) the proposal would be in keeping with the Development Plan; and
- (c) the officer's decision to approve the application be varied and planning permission be granted subject to conditions and informatives, with the removal of Condition 2 of the original consent, for the reasons detailed in Appendix II to this Minute.

*The meeting concluded at 10.40 am*



**APPENDIX I**

**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:** 18/00032/RREF

**Planning Application Reference:** 18/01010/FUL

**Development Proposal:** Replacement of shop front windows and door screens

**Location:** Scott's View Take-Away, Main Street, St Boswells

**Applicant:** Mr Abbay Lazim

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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 UPVC door and side panels, by reason of their design and material, are contrary to policies PMD2 and EP9 of the Scottish Borders Local Development Plan 2016 and Supplementary Planning Guidance: Replacement Windows and Doors 2015 in that they are harmful to the character and appearance of the Conservation Area and would set an undesirable precedent for similar doors which would further erode the character and appearance of the Conservation Area.

**DEVELOPMENT PROPOSAL**

The application relates to replacement of shop front windows and door screens. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	1349.PI.1
Proposed Elevations	1349.PI.2 Rev A

## **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 17<sup>th</sup> December 2018.

After examining the review documentation at that meeting, which included: a) Notice of Review (including Decision Notice); b) Officer's Report; c) Papers referred to in officer's report; and d) List of Policies, the Review Body proceeded to determine 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: PMD2, HD3 and EP9

Other Material Considerations

- SBC Supplementary Planning Guidance on Shop Fronts and Shop Signs 2011
- SBC Supplementary Planning Guidance on Replacement Windows and Doors 2015

The Review Body noted that the proposal was for replacement of shop front windows and door screens and that the intention was to replace the front shopfront screens in white painted timber whilst retaining the current white uPVC angled side panel, door and surrounds. They noted that the current shopfront did not have planning permission and that the proposal was submitted by the applicant to attempt to rectify the situation.

The Review Body considered the proposals against Policies PMD2 and EP9 of the Local Development Plan, noting that the Policies within Conservation Areas sought to preserve and enhance property by utilising more traditional designs and materials. Members also noted that the Replacement Windows and Doors and Shop Fronts and Shop Signs Supplementary Planning Guidance sought similar treatments within Conservation Areas.

Whilst there was sympathy from Members in relation to the potential costs in replacing the shopfront and door, they were mindful of the fact that the need for approval and standards expected in the Conservation Area should have been known and contact could have been made with the Case Officer before the works had been carried out. Ultimately, the Review Body considered that the property was in a sensitive location within the Conservation Area and that traditional materials should be used for the entire frontage, in line with current Policies and Guidance. They considered it visually inappropriate to retain a uPVC section when the remainder would be altered to timber and that this partial rectification of the shopfront was not consistent with the aims of preserving and enhancing the character and qualities of the Conservation Area.

Members noted that, whilst there may be other properties within the Conservation Area where claimed inappropriate shopfronts or materials exist, the Policies and Guidance seek to preserve and enhance the special qualities and character of Conservation Areas by utilising the more traditional designs and materials in such Areas. The proposal to only partially amend the shopfront and retain a uPVC element was not consistent with these aims.

## **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.

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

Date.....18 December 2018

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**APPENDIX II**

**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:** 18/00029/RCOND

**Planning Application Reference:** 18/00580/FUL

**Development Proposal:** Alterations and extension to dwellinghouse and erection of detached garage/workshop

**Location:** Elsielea, 61 West High Street, Lauder

**Applicant:** Miss Fiona Duff

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**DECISION**

The Local Review Body varies 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 which omits Condition 2 of the original consent 18/00580/FUL and is approved on the basis of Drawing reference 005.

**DEVELOPMENT PROPOSAL**

The application relates to alterations and extension to dwellinghouse and erection of detached garage/workshop. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	001
Existing Layout	002
Floor Plans	003
Elevations	004
Proposed garage/workshop	005

## **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 19<sup>th</sup> November 2018. Members continued the Review to enable further procedure and invited the applicant to explain the reasons for the garage height and roof design. The review was then considered further at the Review Body meeting on 17<sup>th</sup> December 2018.

After examining the review documentation at that meeting, which included: a) Further Information from Applicant; b) Statement from Planning Officer and c) Review Papers (including Notice of Review, Decision Notice, Officer's Report, Papers referred to in Officer's Report, Consultations and List of Policies), the Review Body proceeded to determine 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: PMD2, PMD5, HD3, EP7, EP8, EP9, EP13 and IS7

### Other Material Considerations

- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

The Review Body noted that the proposal was to omit Condition 2 of the original planning consent and seek to erect the garage/workshop building as originally intended by the applicant in accordance with Drawing reference 005.

The Review Body firstly considered the proposals principally against Policies PMD2 and EP9 of the Local Development Plan. They noted that the other alterations to the dwellinghouse, including a rear extension, were accepted by the Appointed Officer and had planning permission. The Review Body considered these elements of the proposal and were content that they were in accordance with Local Development Plan Policies and Supplementary Guidance on development within Conservation Areas and within the setting of Listed Buildings.

The Review Body also noted that the Appointed Officer accepted the design of the proposed garage/workshop and that the issue related to where the high side of the monopitched design was located. There had been discussion regarding whether a dual pitched roof design with potentially reduced ridge height may have been more appropriate in the location proposed and further information was sought from the applicant including the reasons for the monopitched design. Members noted the response from the applicant that the design was intended for enhanced storage in connection with the house renovation and that the applicant felt the design had context within the local area.



On the basis of the further information, Members agreed that a dual pitched roof may have increased visual impact and they, therefore, accepted the principle of the monopitched design. They then considered the impacts of the orientation of the design on the public realm and in relation to Conservation Area Policies. They did not accept the view of the Appointed Officer that relocating the high side of the building to the north would reduce impacts and be more sympathetic to the Conservation Area. They considered that retaining the orientation as originally proposed would allow the ridge height and roofscape to flow more naturally from the adjoining building to the south and reduce the visual impacts. The Review Body also noted that the existing tree within the garden to the south of the proposed garage/workshop would be retained and that this afforded screening to the high side of the building.

In conclusion, the Review Body agreed to vary the Appointed Officer's decision and remove the original Condition 2, the development still being subject to the remaining four Conditions and to the details shown on all originally approved drawings and Drawing reference 005.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, EP9 and EP13 of the Local Development Plan. The development was considered to be a sympathetic proposal in keeping with the character of the Conservation Area and on the basis of the originally proposed garage/workshop building design and orientation.

## **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 external surfaces of the development hereby permitted shall be completed in the materials shown on the plan hereby approved, and no other materials shall be used without the prior written consent of the Planning Authority.  
Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.
- 2 No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.  
Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

- 3 No trees within the application site shall be felled, lopped, lifted or disturbed in any way without the prior consent of the Planning Authority.  
Reason: The existing tree(s) represent an important visual feature which the Planning Authority considered should be substantially maintained.
- 4 Before any part of the permitted development is commenced, the trees to be retained on the site shall be protected in accordance with BS5837:2012 - Trees in Relation to Design, Demolition and Construction, and the protective fencing/barrier shall be removed only when the development has been completed. During the period of construction of the development:
- (a) No excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage or injury to the trees by interference with their root structure;
  - (b) No fires shall be lit within the spread of the branches of the trees;
  - (c) No materials or equipment shall be stored within the spread of the branches of the trees;
  - (d) Any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate;
  - (e) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated except in accordance with details shown on the approved plans.
- Reason: In the interests of preserving the health and vitality of existing trees on the development site, the loss of which would have an adverse effect on the visual amenity of the area.

## **INFORMATIVES**

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, 4<sup>th</sup> 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.

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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**.....18 December 2018

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