

## **APPENDIX I**

### **SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY INTENTIONS 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:** 19/00015/RREF

**Planning Application Reference:** 18/01671/FUL

**Development Proposal:** Erection of four dwellinghouses

**Location:** Land West of Thornwood Lodge, Weensland Road, Hawick

**Applicant:** Borders Low Carbon Developments Ltd

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## **DECISION**

The Local Review Body reverses the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this intentions notice subject to conditions and informatives and the applicants entering into a Section 75 Agreement as set out below.

## **DEVELOPMENT PROPOSAL**

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

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	
Proposed Plans	9373.1.01
Proposed Elevations	04
Proposed Sections	03 rev A
Proposed Plans	02
Other	05
Existing Plans	Trees

## **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> August 2019. After examining the review documentation which included: a) Notice of Review; b) Decision Notice; c) Officer's report; d) Papers referred to in officer's report; e) Consultations; f) Objections and g) 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: PMD1, PMD2, PMD5, HD3, EP1, EP2, EP3, EP13, IS2, IS7, IS8, IS9 and IS13

### Other Material Considerations

- Scottish Planning Policy 2014
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Guidance on Renewable Energy 2018
- SBC Supplementary Planning Guidance on Waste Management 2015
- BRE Guidance 209
- "A Low Carbon Building Standards Strategy for Scotland" 2007 and 2013

The Review Body noted that the proposal was for Planning Permission to erect four dwellinghouses on the site west of Thornwood Lodge, Weensland Road, Hawick.

Members firstly considered the application against Policy PMD5 of the Local Development Plan and accepted that the site was an infill site within the settlement, having previously been granted outline planning permission for three houses on a slightly larger site

The Review Body then considered the design of the dwellinghouses against Policies PMD2 and PMD5 . They generally welcomed the imaginative design and felt that contemporary, rather than conventional, design would be more likely as a result of the low-carbon approach to the development. They also noted the applicant's record of other sustainable developments. Members generally considered that there was mixed modern architecture in the vicinity and that the designs would not, therefore, appear out of character or context. Whilst expressing some concern about the proposed flat roof design, they noted that the solar panels would also be read as a pitched roof and that the ridge lines would be in keeping with the houses to the west. Ultimately, they felt that the contemporary designs would comply with the varied and mixed architecture of the area.

Members then considered the siting and layout of the proposals and, in particular, the degree of set-back. Again they noted that the existing houses in the vicinity, including Thornwood Lodge adjoining and the houses opposite, displayed different degrees of set-back and that there was a staggered arrangement along the road generally. They did not, therefore, consider the set-back resulted in a layout or development inconsistent with the character of the area.

The Review Body then considered the issues of impact on residential amenity under Policies PMD2, HD3 and the "Householder" SPG. In particular, they deliberated about potential impacts of the height, proximity and set-back of the houses, including possible impacts on outlook and daylight, on the nearest property to the west at 8 Weensland Terrace. However, in noting that there were no windows facing the development from that property, Members were satisfied that the impacts on residential amenity would be acceptable. They agreed, however, that to preserve privacy, permitted development rights be removed by condition to ensure any new openings would require a separate planning permission.

The Review Body finally considered other material issues relating to the proposal including trees and hedges, river ecology, potential flood risk and parking but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for affordable housing were required and could be secured by legal agreement.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, PMD5 and HD3 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be of appropriate design and layout on an infill site. 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 commence until a scheme of external materials (including specifications and samples of materials and colours) for all buildings within the development, has first been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved scheme.  
Reason: To ensure external materials are visually appropriate to the development and sympathetic to the surrounding area.
2. No development to be commenced until full elevational drawings of all houses within the development are submitted to, and approved in writing by, the Planning Authority. The development then to be carried out in accordance with the approved drawings.  
Reason: To safeguard the visual amenity of the area.
3. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
  - i. existing and finished ground levels in relation to a fixed datum preferably ordnance
  - ii. a survey of existing trees within the site

- iii. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
- iv. location and design, including materials, of walls, fences and gates
- v. soft and hard landscaping works including the moss roof treatments
- vi. existing and proposed services such as cables, pipelines, sub-stations
- vii. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

4. Notwithstanding the terms of Class 1 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and any subsequent Amendment Orders, no further window or door openings to be formed in the buildings unless application is made and permission subsequently granted for such openings.

Reason: To safeguard residential amenity.

5. The finished floor levels of the dwellinghouses to be no lower than 97.1m AOD.

Reason: To safeguard the proposed properties from flood risk.

6. No development to be commenced until further details of access and parking provision are submitted to, and approved in writing by, the Planning Authority. Thereafter the development to be completed in accordance with the approved details prior to occupation of the first dwelling unless otherwise agreed. The details shall include:

- i. Access points to be constructed as per DC-10, with the width of the access to be widened to suit.
- ii. Visibility splays of 2.4 by 43 metres to be provided in both directions from each access point.
- iii. Construction specification for the parking areas to be detailed.
- iv. Dimensions of the parking bays and turning space to be detailed.

Reason: To ensure satisfactory form of access and adequate parking and turning provision, in the interests of road safety.

7. No development to commence until further details of the provision of a water supply, foul and surface water drainage are submitted to, and approved by, the Planning Authority. Thereafter, development shall proceed in strict accordance with the approved details.

Reason: To ensure that satisfactory arrangements are made for the provision of water and for disposal of surface and foul water.

8. No development to be commenced until a Construction Environment Management Plan and Construction Method Statement are submitted to, and approved in writing by, the Planning Authority. Once approved, the development to proceed on the basis of the approved details including implementation of any mitigation as identified in the details.

Reason: To safeguard ecological interests within and adjoining the site.

9. No development to be commenced until a Species Protection Plan is submitted to, and approved in writing by, the Planning Authority in relation to breeding birds. Once approved, the development then to be carried out in accordance with the Plan.

Reason: To safeguard breeding birds within and adjoining the site.

10. No development to be commenced until a scheme of lighting is submitted to, and approved in writing by, the Planning Authority, to mitigate impacts on otter and other ecological interests within the site and adjoining River Teviot. Once approved, the lighting to be installed and operated in perpetuity in accordance with the approved scheme.

Reason: To safeguard otter and other ecological interests within and adjoining the site.

## **INFORMATIVES**

Please note that an objector has suggested there may be buried asbestos cladding within the site resulting from demolition of a former prefabricated house on the site.

With regard to Condition 8, the following advice is provided by SEPA:

Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).

Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012.

A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which:

- is more than 4 hectares,
- is in excess of 5km, or
- includes an area of more than 1 hectare or length of more than 500m on ground with a slope in excess of 25°

See SEPA's [Sector Specific Guidance: Construction Sites \(WAT-SG-75\)](#) for details. Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.

Below these thresholds you will need to comply with [CAR General Binding Rule 10](#) which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment. The detail of how this is achieved may be required through a planning condition.

Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office at:

Burnbrae, Mossilee Road, Galashiels, TD1 1NF, tel 01896 754797

## **LEGAL AGREEMENT**

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of a financial contribution for affordable housing.

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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**Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013**

1. If the applicant is aggrieved by the decision of the planning authority:
    - (a) to refuse permission for the proposed development;
    - (b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission; or
    - (c) to grant permission or approval, consent or agreement 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 August 2019

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