

## **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:** 19/00017/RREF

**Planning Application Reference:** 19/00358/PPP

**Development Proposal:** Erection of dwellinghouse

**Location:** Garden Ground of Beechwood, Pyatshaw, Lauder

**Applicant:** Mr R Martin

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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 proposed development would be contrary to Policy HD2 of the Scottish Borders Local Development Plan 2016 in that the erection of a dwellinghouse on this site would exceed the threshold of 2 additional dwelling units or a 30% increase in the building group permitted within the current Local Development Plan 2016 period and there are no exceptional circumstances that would justify a departure from this Policy. In addition, the proposal does not respect the character of the building group, in terms of plot size and spacing, and would constitute an over development of the site, potentially impacting on trees within the site, which would be detrimental to the visual amenities of the area.

### **DEVELOPMENT PROPOSAL**

The application relates to the erection of a dwellinghouse. The application drawings and documentation consisted of the following:

#### **Plan Type**

#### **Plan Reference No.**

Location Plan  
Proposed Site Plan

MKT/RM/002

## **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) Consultation; and f) List of Policies, and whilst noting the applicant's request for further procedure in the form of a site inspection, the Review Body did not require further procedure and 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, HD2, HD3, EP7, EP10, EP13, IS2, IS7 and IS9

### **Other Material Considerations**

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008

The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse within the garden ground of Beechwood, Pyatshaw, Lauder.

Members firstly noted that there was a complex planning history of new dwellinghouse approvals at Pyatshaw and that it had been established that there was a building group comprising of ten existing dwellinghouses at the start of the current Local Development Plan period. They accepted that under Policy HD2, there were sufficient houses to qualify as an existing building group. They also noted the infill location of the proposed plot and agreed with the Appointed Officer that it lay within the building group and sense of place.

The Review Body then considered the issue of scale of addition to the Pyatshaw group, noting that HD2 would allow for 30% addition within the current period of the Local Development Plan and that this would represent three additional houses consented both within, or not yet under construction at the start of, the Local Development Plan period. Members noted that there were already four such additional houses and accepted the reasons given by the Appointed Officer why the exception was allowed to grant the fourth house. However, this proposal would represent the fifth house within the Local Development Plan period and the Review Body could not accept that there were any justifiable reasons to grant a further exception to Policy HD2 in

terms of scale of addition. The Policy was in place to control building group rate of expansion and Members noted that this could be reassessed if any new applications were made once the new Local Development Plan was adopted.

Members then considered the compatibility of the plot with its neighbouring properties. They noted that the subdivision of the garden ground of Beechwood would result in two small plots and that this would be out of character with the nature and spacing of plots and properties within the remainder of the building group. Whilst they appreciated that the application was submitted only for planning permission in principle, they still agreed with the Appointed Officer that the proposal represented overdevelopment and could detrimentally impact on the trees within and adjoining the plot, placing them under pressure for removal.

## **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 for the reasons stated above.

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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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