

**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:** 17/00022/RREF

**Planning Application Reference:** 16/00872/FUL

**Development Proposal:** Erection of dog day care building, perimeter fence and associated works (retrospective)

**Location:** Land South West of Milkieston Toll House, Eddleston

**Applicant:** Mr Paul Lawrie

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**DECISION**

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice and on the following grounds:

- 1 The development is contrary to PMD2 in that the fence and building do not satisfy quality standards in that development is having an adverse impact on the amenity and character of the surrounding landscape.
- 2 The development is contrary to ED7 in that no business case has been provided to justify the economic and operational need for the particular countryside location and this development is unsuitable for the locality.
- 3 The development is contrary to IS7 in that intensified traffic usage at the sub-standard vehicular access creates a detrimental impact on road safety on the A703 and is contrary to policy on minimising accesses on to A-class roads.

**DEVELOPMENT PROPOSAL**

The retrospective application for planning permission relates to the erection of dog day care building, perimeter fence and associated works. The application drawings consisted of the following drawings:

| <b>Plan Type</b>     | <b>Plan Reference No.</b> |
|----------------------|---------------------------|
| Site & Location Plan | 1 of 2                    |
| Elevations           | 2 of 2                    |

## **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> July 2017.

After examining the review documentation at that meeting, which included: a) Notice of Review (additional documents); b) Consultations; c) Representation and d) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case. In coming to this conclusion Members considered the applicant's request for a site visit.

## **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 most relevant of the listed policies were:

- Local Development Plan policies: HD3, PMD2, ED7, EP8, IS7 & IS8

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010

The Review Body noted that the dog day care business was currently operating from the site and that the building and the fencing had already been erected to serve and contain the dog business.

In considering the suitability of the site for this business use, Members discussed the terms of Policy ED7 in detail. The policy requires that there be an economic and/or operational need for the particular countryside location, and that it can be proven that the development could not be reasonably accommodated within the Development Boundary of a settlement.

The Review Body appreciated that finding a site for such a business may prove problematic. However, on the basis of the limited information submitted to support the application, Members were not convinced that a persuasive case had been made regarding the operational need for the business being located at Milkieston. In addition, they were not convinced that a cogent economic case had been made for the business nor that the potential for alternative sites for the business had been investigated fully.

The Review Body gave weight to the impact the business was having on the amenity of neighbouring properties and in particular the adjoining farmer, who is no longer able to use the adjoining fields for lambs. Members were not satisfied that the building and fencing were of a suitable standard for this rural locality. They were concerned that they would detract from the visual and scenic qualities of this part of Tweeddale and that it would be highly visible along the main A703 route. They concluded that the building, fencing and the business did not respect the amenity and

rural character of the surrounding area and would have an adverse impact neighbouring uses.

The Review Body shared the concerns of the Roads Planning Officer in that the access was not suitable in terms of its alignment and visibility to serve the proposed business. The intensification of the use of a substandard access junction would not be in the interests of road safety.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan 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....**Cllr T Miers  
Chairman of the Local Review Body

**Date..**9 August 2017