

# Public Document Pack

## SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in the Council Chamber, Council Headquarters, Newtown St Boswells, TD6 0SA on Monday, 19 August 2019 at 10.00 am

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- Present:- Councillors T. Miers (Chairman), A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford and E. Small
- Apologies:- Councillors S. Aitchison and C. Ramage
- In Attendance:- Principal Planning Officer – Major Applications/Local Review, Solicitor (E. Moir), Democratic Services Team Leader, Democratic Services Officer (F. Walling).

### ORDER OF BUSINESS

The Chairman explained that, due to the number of reviews on the agenda, there would be a break for lunch after Item 7. Consideration of the reviews of applications 19/00386/FUL and 17/01368/FUL would not commence before 1.00 pm.

#### 1. REVIEW OF 18/01671/FUL.

There had been circulated copies of the request from Borders Low Carbon Developments Ltd, per Ferguson Planning, Shiel House, 54 Island Street, Galashiels, to review refusal of the planning application for erection of four dwellinghouses on land west of Thornwood Lodge, Weensland Road, Hawick. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultations; Objections; and a list of policies. Members accepted that this was an infill site, noting that outline planning permission had previously been granted for three houses on a slightly larger site. Their ensuing discussion focussed on the design of the proposed houses and the layout of the development, in terms of degree of setback. Particular attention was given to the contemporary features of the design which were associated with the low carbon approach to the development. Members' opinion was divided on these issues.

### VOTE

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

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

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

*Motion - 4 votes  
Amendment - 3 votes*

*The motion was accordingly carried and the application approved.*

### DECISION

**DECIDED 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 was consistent with the Development Plan; and**
- (d) **the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions, informatives and a legal agreement, for the reasons detailed in Appendix I to this Minute.**

2. **REVIEW OF 18/01161/FUL.**

There had been circulated copies of the request from Mr Paul Lawrie, per Planning Solutions Edinburgh, Midlothian Innovation Centre, 1 Pentlandfield Business Park, Roslin, to review the refusal of the planning application for change of use of agricultural land to dog care walking facility and erection of boundary fence on land south west of Milkieston Toll House, Peebles. Included in the supporting papers were the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultations; an objection; additional representation and response; and a list of policies. The Planning Advisor drew attention to new evidence submitted with the Notice of Review documentation regarding the access to the site, in the form of a drawing showing Visibility Sight Lines and information about improvement of visibility brought about by the clearance of vegetation as part of the plan to relocate the junction of the road to Cringletie Hotel. This information had not been before the Appointed Planning Officer at the time of determination. The Review Body considered that the new evidence met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997, and that this new information was material to the determination of the review. It was therefore agreed that there was a need for further procedure in the form of written submissions to afford the Roads Planning Officer the opportunity of assessing this new evidence and submitting his views.

**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 new information submitted with the Notice of Review documentation met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997 and that the review could not be considered without further procedure in the form of written submissions in respect of that new evidence;**
- (c) **to request representations from the Roads Planning Officer on the new evidence in the form of the drawing 'Visibility Sight Lines' and the improvement in visibility brought about by clearance of vegetation as part of the plan to relocate the junction of Cringletie Hotel; and**
- (d) **consideration of the review be continued on a date to be arranged.**

3. **REVIEW OF 19/00358/PPP.**

There had been circulated copies of the request from Mr R Martin, per MKT Design, Beechwood, Pyatshaw, Lauder, to review refusal of the planning application for erection of a dwellinghouse in garden ground of Beechwood, Pyatshaw, Lauder. Included in the supporting papers were the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultation; and a list of policies. Members noted the planning history to the site and that, unless an exception was made, there was no

capacity within Policy HD2 to further expand the number of dwellinghouses in the building group at Pyatshaw within the Local Development Plan period. Members also discussed the size of the proposed plot in relation to the size and spacing of other plots within the group. Members considered whether there were any justifiable reasons to grant an exception to the policy in this case.

## **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 be refused, for the reasons detailed in Appendix II to this Minute.**

#### **4. REVIEW OF 19/00330/FUL.**

There had been circulated copies of the request from Mr and Mrs Cook, per Ferguson Planning, Shiel House, 54 Island Street, Galashiels, to review refusal of the planning application for erection of a dwellinghouse on land east of Lilybrooke, West Flemington, Eyemouth. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in Officer's Report; Consultations; and a list of policies. Members accepted that there was a building group of four existing dwellinghouses at West Flemington. They went on to discuss whether the proposed dwellinghouse was an appropriate addition to the building group and whether it was sympathetic to the character of the other buildings in the group. In particular, concern was expressed about the visual impact and prominence of the proposed dwellinghouse in terms of its size, scale and massing. Opinions remained divided as to whether the visual impact could be mitigated by the planting of a new boundary and the use of contrasting colours and/or materials on the house itself.

### VOTE

*Councillor Mountford, seconded by Councillor Anderson, moved that the decision to refuse the application be upheld.*

*Councillor Fullarton, seconded by Councillor Laing, moved as an amendment that the decision to refuse the application be reversed and the application approved, subject to conditions regarding the colour of the external finishes and an appropriate boundary planting scheme.*

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

*Motion - 4 votes*

*Amendment - 3 votes*

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

## **DECISION**

### **DECIDED 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 be refused, for the reasons detailed in Appendix III to this Minute.

#### **ADJOURNEMENT**

The meeting was adjourned for lunch at 11.50 am and reconvened at 1.00 pm.

#### **5. REVIEW OF 19/00386/FUL.**

There had been circulated copies of the request from Porters Porches and Conservatories, per Aitken Turnbull Architects Ltd, 9 Bridge Place, Galashiels, to review refusal of the planning application for erection of a porch at 2 Deloraine Court, Hawick. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in Officer's Report; and a list of policies. Members, whilst sympathetic with the applicant, noted that the proposed porch was of a different size and design and of different character to the one erected on the adjoining house. Members considered whether the design was in keeping with the character of the house and the surrounding area generally.

#### **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 be refused, for the reasons detailed in Appendix IV to this Minute.

#### **MEMBERS**

Having not been present when the following review was first considered Councillors Miers and Anderson did not take part in the determination and left the Chamber prior to its consideration.

#### **CHAIRMAN**

In the absence of Councillor Miers the Chairman's role was taken by Councillor Hamilton.

#### **6. REVIEW OF 17/01368/FUL.**

With reference to paragraph 1 of the Minute of 27 May 2019, there had been re-circulated copies of the request from Mr Mark Deans, 64 Weensland Road, Hawick, to review refusal of the planning application for variation of condition 4 of planning permission 16/00763/FUL to reinstate two windows in lieu of air conditioning units at Deans Bar, 3 Orrock Place, Hawick. In response to the request from Members for further information in

the form of written submissions, there had also been circulated further information from the applicant regarding noise limiting measures and a response from the Environmental Health Officer; and further information from the Planning Officer and Building Standards Officer regarding ventilation issues and a response from the applicant. In their deliberations Members took into account the information included in the Review documentation, all the information gathered as part of the oral hearing session and the additional evidence received in response to their request for further information. In their discussion, Members firstly considered the submissions from officers regarding the ventilation system and noted the advice that the same system had been in use when the function room was previously used as a public bar and that it was considered appropriate to meet the functional standard. Members' attention then turned to the reinstatement of the two windows, the associated potential for additional noise nuisance and the additional information submitted relating to the effectiveness of proposed measures to mitigate against noise breakout. Whilst Members remained concerned over possible noise impacts, they gave consideration to the mitigation measures proposed and noted that separate powers were available to Environmental Health to control noise nuisance if that occurred.

## **DECISION**

### **AGREED that:-**

- (a) the review could be considered without the need for any further procedure on the basis of the papers submitted, the Hearing and the further information provided in the form of written submissions;**
- (b) the proposal would be consistent with the Development Plan; and**
- (c) the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions and informatives, for the reasons detailed in Appendix V to this Minute.**

*The meeting concluded at 1.40 pm*

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**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.

**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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**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:

<b>Plan Type</b>	<b>Plan Reference No.</b>
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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**APPENDIX III**

**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:** 19/00018/RREF

**Planning Application Reference:** 19/00330/FUL

**Development Proposal:** Erection of dwellinghouse

**Location:** Land East of Lilybrooke, West Flemington, Eyemouth

**Applicant:** Mr & Mrs Cook

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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 development would conflict with Local Development Plan 2016 policies PMD2 (Quality Standards) and HD2 (Housing in the Countryside). The size of the proposed site and the scale and mass of the proposed dwellinghouse are not appropriate for the surroundings of the site and would not respect the character of the existing building group. The proposed development is not of a design quality that complies with the Council's Supplementary Planning Guidance "Placemaking and Design" 2010 and does not attempt to integrate into the surrounding landform. The development will contribute negatively to the visual amenity of the surrounding area as a result.

**DEVELOPMENT PROPOSAL**

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

<b>Plan Type</b>	<b>Plan Reference No.</b>
Proposed Plans	7649PL1
Proposed Elevations	7649PL2
Proposed Site Plan	7649PL3
Existing Site Plan	7649PL4

## 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 and f) 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, HD2, HD3, ED10, EP5, EP7, EP10, EP13, EP14, EP16, 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 New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- Scottish Planning Policy

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse adjoining Lilybrooke, West Flemington, Eyemouth.

Members firstly noted that it had previously been established that there was a building group comprising of four existing dwellinghouses at West Flemington. They accepted that under Policy HD2, there were sufficient houses to qualify as an existing building group. Whilst it was understood that a valid consent for one house already existed at the building group, the proposed dwellinghouse was still within the maximum number of houses allowed under Policy HD2, resulting in no more than two being consented during the current Local Development Plan period.

The Review Body then considered the location of the site and noted the position of houses, outbuildings and agricultural buildings. It was also noted that there was no strong visual boundary with Lilybrooke and that, although there was a previous requirement to secure a planted boundary at the eastern and northern sides of Lilybrooke, this had not been

implemented. Members were of the opinion that the position of the proposed plot was still within, and related sufficiently to, the sense of place for them to accept the principle of a house on the plot.

The Review Body then considered the issues of the size, scale and massing of the proposed design on the plot. They noted that the site was open and prominent within the landscape upon the edge of the group and, although the hedging along the southern boundary with the road had some effect in screening from that direction, the site sloped down to the north and was particularly prominent from that approach. Whilst there was discussion over the potential for new boundary planting to mitigate the impacts of the proposal, Members agreed that screening would be of limited effect and that the main issue was the size and scale of the house, appearing dominant in the landscape and not being consistent or sympathetic to other houses and buildings within the group. Whilst they had no issue with the single storey nature of the design, they felt that the house was too large and that its scale and proportions were not in keeping with the other houses in the group.

Members also considered the design of the house under Policies PMD2, HD2 and the SPG. They generally had no concerns over the design approach and noted slate roofing was proposed. However, there was concern over the visual impact and massing of the house with one render colour throughout. There was also concern over whether the more interesting house elevation should face the roadside rather than to the rear and there was discussion over whether a variation of colours or materials on parts of the house could satisfactorily resolve any concerns. Ultimately and, whilst appropriate amendments and conditions might have addressed such matters to some extent, Members considered that the scale and visual impact of the house remained overbearing and that, on balance, this could not be mitigated by conditions addressing the design of the proposed dwellinghouse.

## **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 reason 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



**APPENDIX IV**

**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:** 19/00019/RREF

**Planning Application Reference:** 19/00386/FUL

**Development Proposal:** Erection of porch

**Location:** 2 Deloraine Court, Hawick

**Applicant:** Porters Porches and Conservatories

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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 development would be contrary to Policy PMD2 of the Local Development Plan 2016 in that its form and design would have an adverse impact on the visual amenity of the site and surrounding area.

**DEVELOPMENT PROPOSAL**

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

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	LOC
Existing Plans and Elevations	SK01
Proposed Plans and Elevations	SK02

## **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 and e) List of Policies, and whilst noting the applicant's request for further procedure in the form of a site inspection, hearing and written submissions, 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: PMD2, HD3 and IS7

Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

The Review Body noted that the proposal was for planning permission to erect a glazed porch and fire wall at 2 Deloraine Court, Hawick.

Members firstly noted that the porch was proposed onto the front elevation of the house and that a porch of different design had been erected on the front elevation of the adjoining house. They agreed with the Appointed Officer that the proposed porch, as a result of its size and glazed design, was not in keeping with the character of the house or street and was of a very different design to the adjoining porch. They were of the opinion that the proposed design was not meeting the design standards expected by Local Development Plan Policy PMD2 and that the design was more appropriate to a rear garden rather than front street location.

The Review Body noted that the applicant had proposed amendments to the lower glazed panels and roof but felt that they could not support the proposal without more substantial changes, as outlined by the Appointed Officer and influenced by the size and design of the existing porch on an adjoining property. Such changes could only be considered in a new planning application.

## **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 reason 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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**APPENDIX V**

**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:** 19/00005/RREF

**Planning Application Reference:** 17/01368/FUL

**Development Proposal:** Variation of condition 4 of planning permission 16/00753/FUL to reinstate 2 no windows in lieu of air conditioning units

**Location:** Deans Bar, 3 Orrock Place, Hawick

**Applicant:** Mark Deans

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**DECISION**

The Local Review Body reverses 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.

**DEVELOPMENT PROPOSAL**

The application relates to a variation of condition 4 of planning permission 16/00753/FUL to reinstate 2 no windows in lieu of air conditioning units. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	
Floor Plans	
Specifications	Windows
Photos	
Report	Noise Impact Assessment
Specification	Acoustic Boards
Specification	Sentry MK2 Sound Level Control

## **PRELIMINARY MATTERS**

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 15<sup>th</sup> April 2019.

After examining the review documentation at that meeting, which included a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultations; f) Objection and g) List of Policies, the LRB concluded that it did not have sufficient information to determine the review and that it required Further Procedure in the form of an oral hearing.

With regard to the potential noise impacts of reinstating the windows, Members referred to the apparently conflicting advice provided by experts in the form of the applicant's Noise Assessment Report and the Council's consultants who assessed that report. It was agreed that the Review Body could not come to a conclusion about the application without further information being provided by way of a hearing session, to which the applicant, Council's Environmental Health Officer and interested party were invited. The matters considered at the hearing were: the case for the reinstated windows providing a means of ventilation as a suitable alternative to the ventilation system required under Condition 4 of planning consent 16/00753/FUL; and the noise impacts of reinstating the windows into the function room on the residential amenity of neighbouring residential properties.

The hearing was held at 10am on Monday 27<sup>th</sup> May 2019, after which the Review Body reconvened to consider the case. Following the hearing, Members agreed that it had been useful in providing further technical details and noted the mitigation proposed by the applicant to reduce noise breakout from the function room when in use. However, Members remained unclear about how effective the proposed mitigation in the form of acoustic boards and volume limiting equipment would be. After further discussion, they concluded that they could not make a determination without further procedure, in the form of written submissions, from the applicant to provide details of the boards and volume limiting equipment, and from the Council's Planning Officer and Building Standards in relation to their requirements for ventilation with the acoustic boards in place.

The Review was, therefore, continued to the Local Review Body meeting on 19<sup>th</sup> August 2019 where written submissions from the applicant, Environmental Health Officer, Planning Officer and Building Standards Officer were considered, together with a response from the applicant to those matters raised by other parties.. The Review Body then 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, ED3, HD3, EP9 and IS8

## Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

The Review Body noted that the proposal was to seek variation of condition 4 of planning permission 16/00753/FUL to reinstate 2 no windows in lieu of air conditioning units at Deans Bar, Orrock Place, Hawick.

Members firstly considered the variation to the condition which centred around the ventilation system for the function room, the use of the room being reliant on the Council accepting a system. It was noted that opinion had been sought from the Council's Planning Officer and Building Standards on the adequacy of the existing ventilation system, should the windows be kept shut and proposed acoustic boards placed over the windows internally during functions. The Review Body noted and accepted the advice of Building Standards that, as the ventilation system had been in use when the function room was previously used as part of a public bar, it was appropriate to meet the functional standard. They, therefore, accepted that condition 4 of consent 16/00753/FUL had been met and the condition could be varied through omission.

However, they then considered the issues of the removal of the former blocked up openings and replacement with the windows that had already been installed. Whilst they had no concerns over the designs of the windows in terms of the Conservation Area or character of the building and area, the submissions during the application and Review process had indicated potential for additional noise nuisance and breakout when the function room was in use.

Members had sympathy with the applicant in his attempts to control noise. They also considered that the mitigation proposed by the applicant would provide an additional layer of noise control. They were satisfied that with the windows shut, the proposed acoustic boards in place during functions and an agreed volume limiting system in operation, their remaining concerns over noise nuisance were allayed to some extent. They also noted that there were separate procedures that could be followed by Environmental Health in seeking further compliance under different legislation should a noise nuisance be deemed to be present.

Members sought conditions to secure this necessary mitigation, including the submission and agreement of the precise operating details and volume limit of the sound control system within two months of the date of the consent. They also agreed that an Applicant Informative be included to ensure the boards were maintained to ensure their sound insulation properties were not degraded in the regular actions of installing and removing them after use of the function room. Finally, they noted that as with any Section 42 application to vary a condition, the original conditions should be reattached to the consent unless any had been discharged in the interim.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, HD3 and EP9 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be of appropriate design and the impacts of use could be controlled by appropriate conditions. 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. The function room not to be used unless the windows are shut and acoustic boards placed over them for the entire duration of any event or other activity held in the function room. The boards and the methods of mounting to be in full accordance with the details submitted.  
Reason: To protect the residential amenity of nearby properties.
2. The function room not to be used until further details of the sound control system, including level of sound limit, are submitted to, and approved by, the Planning Authority within two months of the date of this consent. Thereafter, the system to be operated in accordance with the approved details for the entire duration of any event or other activity held in the function room.  
Reason: To protect the residential amenity of nearby properties.
3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.  
Reason: To ensure that the development is carried out in accordance with the approved details.
4. Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 - 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2.  
Reason: To protect the residential amenity of nearby properties.
5. All plant and machinery shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.  
Reason: To protect the residential amenity of nearby properties.

## **INFORMATIVES**

With regard to Condition 1, the acoustic boards should be maintained to ensure their sound insulation properties are not degraded in the regular actions of installing and removing them.

SEPA recommend the use of flood resistant and resilience materials and design in transforming the property from rugby club to public house. They also recommend that the applicant investigates the availability of flood insurance cover since the property is considered to be in an area of high risk.

As access and egress to the development may also be affected by flood waters, in order to receive flood warnings from SEPA, the applicant should sign up to FLOODLINE at [www.sepa.org.uk](http://www.sepa.org.uk) or by telephone on 0845 988 1188.

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 S. Hamilton  
Chairman of the Local Review Body

**Date.....**26 August 2019

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