

## **APPENDIX I**

### **SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE**

---

**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**

---

**Local Review Reference:** 19/00020/RREF

**Planning Application Reference:** 18/01654/FUL

**Development Proposal:** Erection of dwellinghouse

**Location:** Land North-East of The Rest, Murrayfield, St Abbs

**Applicant:** Mr & Mrs Peter Gibson

---

### **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 proposal would be contrary to policies PMD2, PMD5, EP7, EP9 and EP11 of the Local Development Plan 2016 in that the siting and design of the development and the loss of open space would have a detrimental effect on the character and appearance of the Conservation Area, the setting of the nearby Listed Building and the visual amenity of the area. Other material considerations do not outweigh these conflicts with policy.

### **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 Elevations	18/313 001
Other	18/313 003

## **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 16<sup>th</sup> September 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) Objections; g) Support Comment; h) Additional representations and response from applicant and i) List of Policies, the Review Body noted that new evidence had been submitted in the form of an old photograph of the site and surrounding houses. They accepted that this information met the test set out in Section 43B of The Town and Country Planning (Scotland) Act 1997 and was duly considered. Whilst noting the applicant's request for further procedure in the form of written submissions, a hearing and a site inspection, the Review Body did not require any 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, PMD5, HD3, EP1, EP2, EP3, EP5, EP7, EP8, EP9, EP11, EP13, EP14, IS2, IS5, IS7, 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 Landscape and Development 2008
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on Green Space 2009
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- Planning Advice Note 65 "Planning and Open Space"
- Historic Environment Scotland "Managing Change in the Historic Environment – Setting"
- Climate Change (Scotland) Act 2009

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse. They noted that the applicants wished to downsize but stay at their own property and that they had chosen a sustainable design which sought to minimise the impact on neighbours and the surrounding area.

Members firstly noted that the site was within St Abbs Conservation Area and the relationship of the site with surrounding properties and the proximity of the coastal path were examined. They noted that the edge of the village at this point opened up to the sea affording sea views and they were particularly concerned at the impacts on The Beacon which directly faced the site. They agreed with the Appointed Officer that the amenity and character of this part of the Conservation Area were

strongly contributed to by the area of garden ground around The Rest, including the application site. Members considered that such private open space was protected by Policy EP11 and that any development of the site would reduce this open space, represent overdevelopment and adversely affect the character and amenity of the Conservation Area and the properties surrounding it, which included a statutorily listed building. They ultimately concluded that the site should not be developed for these reasons

The Review Body also considered the siting, form and design of the dwellinghouse which were significantly influenced by the applicants' attempts to minimise impacts on surrounding properties and from public paths and roads. Whilst they acknowledged the reasons, they considered that the final design was not in keeping with the siting, scale and form of the larger and taller houses surrounding the site, resulting in incongruity and adverse impact on the Conservation Area and lack of compliance with the "Placemaking and Design" Supplementary Planning Guidance. Members ultimately considered that the surrounding constraints contributed to a design which was inappropriate for the area.

## **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 for the reasons stated above.

---

### **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 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.

---

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

**Date.....**26 September 2019