

## **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:** 19/00025/RREF

**Planning Application Reference:** 19/01178/PPP

**Development Proposal:** Erection of dwellinghouse

**Location:** Land North-East of Maxton House, St Boswells

**Applicant:** Mr and Mrs Richard and Alison Thomas

---

## **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 is contrary to policies HD2 and EP6 of the Local Development Plan 2016 and Supplementary Planning Guidance New Houses in the Borders Countryside 2008 in that the site is outwith the Development Boundaries of St Boswells and Maxton and is not a logical extension to any building group, is divorced from the existing housing, outwith that sense of place. In addition, the proposal would break into a previously undeveloped field and the location would not respect the spacing between existing properties within the building group.
2. Furthermore, the need for a house at this particular location has not been adequately demonstrated as being a direct operational requirement of any agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside. The erection of a dwellinghouse on this site would lead to an unjustified and sporadic expansion of residential development into the open countryside and within the area designated as Countryside Around Towns.

## **DEVELOPMENT PROPOSAL**

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

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	1809_B_001
Site Plan	1809_B_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 16<sup>th</sup> December 2019.

After examining the review documentation at that meeting, which included a) Notice of Review and associated documents; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultations; f) Support and general comments; g) Objection comments; h) Additional representation and i) 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, EP1, EP2, EP3, EP5, EP6, EP13, IS2, IS3, IS5, IS7 and IS9

### **Other Material Considerations**

- SBC Supplementary Planning Guidance on Placemaking and 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 Planning Guidance on New Housing in the Borders Countryside 2008

The Review Body noted that the proposal was for Planning Permission in Principle to erect a dwellinghouse on the site. Members noted the planning history within the grounds of Maxton House although this was outwith the application site and dated back to the 1990's.

The Review Body firstly considered the location of the site, being outwith the settlement boundaries of St Boswells and Maxton and, therefore, subject to the housing in the countryside Policy HD2 in the Local Development Plan and the associated Supplementary Planning Guidance (SPG).

Members accepted that there was a building group to the west of the site, centred around Maxton House, under Section A of Policy HD2. They did not consider the houses and buildings north-east of the site to be part of the group. The group contained more than the required minimum of three existing houses and there appeared to be capacity within the group to accommodate a further house, under the scale of addition rule within the Policy.

The Review Body then considered the relationship of the site with the building group, taking into account the advice contained within the SPG. Although the Appointed Officer had partly refused the application due to the site not respecting the spacing between houses within the group, Members accepted the applicants' position that the site was of a similar distance away from existing houses to the west than the existing houses were from each other. They also accepted that, in terms of landscape impact, the site was well concealed by distance and screening from existing houses and the public realm.

However, Members considered that for a site to be well-related to the building group and be contained within a sense of place, this required more than matching the distance between houses within the group. They took into account the other characteristics of the group and noted that the site was one of a number of fields and paddocks surrounding existing houses which were part of the character of the group. Members were particularly concerned that the development represented incursion into a previously undeveloped field, visually separated from other houses by screened boundaries. This was contrary to the advice within the SPG and contributed to their view that the site was not part of the natural sense of place of the building group and did not connect well with the other buildings.

The Review Body then considered the application under Section F of Policy HD2 but noted that the application was not supported by any economic justification to establish the need for a house on the site. Whilst there was also some concern expressed over whether the site was the appropriate location for contemporary design, Members accepted this was not a material factor in determining the Review as the submitted drawings were purely indicative in support of an application for Planning Permission in Principle.

The Review Body finally considered other issues relating to the proposal including road access, trees, ecology and residential amenity but concluded that the site was not appropriate for the aforementioned reasons relating to Policy HD2, undeveloped fields and being outwith the sense of place. They noted that had the application been supported, then development contributions for education and the Waverley Line would have been secured by legal agreement.

## **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.

---

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 S Hamilton  
Chairman of the Local Review Body

**Date.....**21 December 2019