

APPENDIX II

**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: 19/00027/RCOND

Planning Application Reference: 19/01018/FUL

Development Proposal: Erection of porch and replacement boundary fence

Location: 4 Lauder Road, Earlston

Applicant: Mr Bryan Moore

DECISION

The Local Review Body upholds the decision of the appointed officer to grant planning permission as explained in this decision notice and subject to the conditions as set out below.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Location Plan	
Proposed Plans	27766(MOORE)PL01
Photograph	Proposed Photo

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 16th December 2019.

After examining the review documentation at that meeting, which included a) Notice of Review and associated photographs; 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 noted that the

applicant had requested a site visit but did not consider it necessary in this instance 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 Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

The Review Body noted that the proposal was for planning permission to erect a glazed front porch and 1.8m high timber fencing to the front and rear gardens of the property. They noted that the Review was in relation to Condition 2 relating to the height of the fencing but that they were required to assess the complete proposal, including the front porch. They noted that the Appointed Officer had approved the porch and Members were also in agreement with this element of the proposals. The Review Body also noted that the height of the fencing to the rear of the property, being restricted by Condition 2 to the existing height, did not appear to be in dispute. They accepted this fencing and the limitations contained within Condition 2

The Review Body then considered the remainder of Condition 2 which related to the front and side fences facing the A68 and intervening minor lane. Although they noted there was some existing screening and took into account the nature of adjoining and other local boundary treatments which included fences, hedges and walls, they agreed with the Appointed Officer that a fence of 1.8m height would appear imposing on the street scene, presenting an overwhelming visual impact and blankness to the detriment of the visual amenity of the area. They agreed that a reduction to 1.2m height was justified and supported Condition 2 as imposed on the consent.

They also felt the property was in closer proximity to the public road than other examples in the vicinity and that privacy could be achieved by other means not requiring planning permission, including blinds within the porch and the planting of boundary hedging.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2 and HD3 of the Local Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to the conditions below.

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 porch hereby permitted shall not be carried out otherwise than in complete accordance with the drawing (Number: 27766(Moore) PL01), materials and specifications approved by the Planning Authority.

Reason: To ensure that the development is carried out in accordance with the approved details.

2. The fence and gate to be erected on the front and side boundaries of the front garden facing the A68 to be no more than 1.2m in height (the fence on the north/side boundary to be no higher than the existing fence).

Reason: To safeguard visual amenities.

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, 4th 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 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.....23 December 2019

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