



**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: 16/00012/RREF

Planning Application Reference: 15/01552/FUL

Development Proposal: Erection of 2 dwellinghouses

Location: Land south of Primary School, West End, Denholm

Applicant: Mr and Mrs N Ewart

DECISION

The Local Review Body reversed the decision of the appointed planning officer and indicated that it intended to grant planning permission for the reasons set out in this decision notice subject to conditions, informatives and the conclusion of a legal agreement as set out below.

The necessary Section 75 Agreement has now been concluded.

DEVELOPMENT PROPOSAL

The application relates to the erection of 2 dwellinghouses on land to the south of the Primary School, West End, Denholm. The application consisted of the following drawings:

Plan Type	Plan Reference No.
Location Plan	OS Extract
Site Plan	MM3017/1
Floor Plans	MM3017/2
Elevations	MM3017/3

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 18th July 2016 that the Review had been competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) decision notice; c) Officer's Report; d) Consultations; e) general comment and objections; f) additional representation and response; and, g) list of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider 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 2013 and the adopted Scottish Borders Local Development Plan (LDP) 2016. The LRB considered that the most relevant of the listed policies of the LDP 2016 were:

- Local Development Plan policies : PMD5 (Infill Development), EP11 (Protection of Greenspace), EP9 (Conservation Areas), PMD2 (Quality Standards)

Other key material considerations the Local Review Body took into account related to:

- Local Development Plan Policies: HD3 (Residential Amenity), IS7 (Parking Provision and Standards), IS9 (Waste Water Treatment standards and SUDS); IS2 (Developer Contributions)
- Scottish Borders Supplementary Planning Guidance: SPG on Placemaking and Design; SPG on Greenspace; SPG on Householder Development; SPG Development Contributions; SPG Affordable Housing
- PAN65 on Planning and Open Space
- Designing Streets
- Denholm Conservation Area Statement
- Local Plan Inquiry 2006/7 Reporter Decision on Site Proposal.

The Local Review Body noted the planning history of the site with a number of applications for housing having been refused over the last 25 years, but that the last refusal had been in 2007.

Members noted that the plans propose a traditional design of two linked dwellinghouses with a path in between leading to a courtyard. The dwellinghouses are to be located on the lower portion of the sloping field. Access is to be taken from the Denholm Mill road, with parking facing the road at the front of the properties.

Members noted the proposed location of the new houses, their relationship with surrounding properties, the village, Denholm Mill, Dean Burn, the core path and the A698. Members noted that the proposal is located within the settlement boundary

and the Denholm Conservation Area. Members noted there were third party objections and representations in connection with the application.

Members considered the Conservation Area statement in relation to the village and noted that there was no specific reference to the proposal site. Members also considered the nature of the greenspace provided by the site, and noted that it was not formally designated as green space.

Members debated the contribution of the field, in whole or in part, to the setting and sense of place of Denholm, and whether the new building would provide an acceptable entry point to the village. The Local Review Body concluded that while the field, as an entrance point to Denholm, did contribute to the village's setting and sense of place, that an acceptable entry point to the village could still be maintained with appropriately designed dwelling houses at the proposed location in the field.

Members considered the Conservation Area statement in relation to the village and noted that there was no specific reference to the proposal site.

Members debated the overall massing, design and finishing materials of the proposed house design and whether it would be acceptable within this location and the LRB concluded that it would be.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was acceptable in terms of the Development Plan.

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

2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

CONDITIONS

1. Access is to be provided further west to allow a greater distance from the A698. The access scheme and details are to be submitted and agreed in writing with the Council. The access must be constructed in advance of the commencement of construction of dwellings upon the site. The access scheme should be formed as per the following specification prior to the occupation of the first dwelling and in perpetuity:
- access to be a minimum of 5.5 metres wide and formed with 6 metre radii

-the first 5 metres of the access to be constructed to the following specification
"75mm of 40mm single course bituminous layer binded with bituminous grit all to BS 4987 laid on 375mm of 100mm broken stone bottoming binded with sub base type 1".

- measures to prevent the flow of surface water onto the public road to be included in the design

Reason: To ensure a safe and appropriate access to the site

2. Public mains water and foul drainage connections to be provided by and confirmed with Scottish Water prior to the commencement of the site. Private water and foul drainage systems are not acceptable in this location.

Reason : To ensure adequate public service provision of the site

3. SUDS provision to be provided and maintained in perpetuity

Reason : To ensure adequate public service provision of the site

Informatives

1. Regarding any works required to the access it is not clear whether or not, or to what extent, the Applicants would have legal right to carry out such works. For their own reassurance, and in advance of construction, the Applicants are strongly advised to establish whether or not there would be any legal obstacle to carrying out the works to provide the access required.

2. There is a low potential for encountering buried archaeology during excavations. If buried features (e.g. walls, pits, post holes) or artefacts (e.g. pottery, ironwork, stone or bronze objects, beads) of potential antiquity are discovered please contact the council's Archaeology Officer for further discussions. Further investigation secured by the developer may be required if significant archaeology is discovered (as per PAN2 (2011) paragraph 31). In the event that human remains or artefacts are discovered, these should remain in situ pending investigation by the Archaeology Officer. Human remains must be reported immediately to the police. Artefacts may require reporting to Treasure Trove Scotland.

3. There is a core path adjacent to the site, and no part of the development (during construction and in perpetuity) should encroach upon the enjoyment of its use by the public.

Legal Agreements

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of financial contributions towards educational facilities and affordable housing. This Agreement has now been concluded.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed.....
Chairman of the Local Review Body

Date..... 23-1-19

