

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: 19/00030/RREF

Planning Application Reference: 18/01766/PPP

Development Proposal: Erection of dwellinghouse

Location: Land North-West of Poultry farm, Stow Road, Lauder

Applicant: Dr John Crombie Smith

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 PMD4 and HD2 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside (December 2008) in that the application site is located outwith the Development Boundary for Lauder, is not associated with any recognised building group of 3 or more houses and 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 house on this site would lead to an unjustified and sporadic expansion of residential development into the open countryside.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Location Plan	MKT/JCS/001
Site Plan	MKT/JCS/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 20th January 2020.

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 and f) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of 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: PMD1, PMD2, PMD4, HD2, HD3, ED7, EP13, IS2, IS3, IS5, IS7, IS9 and IS12

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 firstly considered the location of the site and noted that it lay close to, but outwith the settlement boundary of Lauder as defined in the Local Development Plan and was, therefore, subject to Policies PMD4 on development outwith settlement boundaries, HD2 on housing in the countryside and the associated Supplementary Planning Guidance (SPG).

The Review Body noted that under Policy PMD4, any development that was associated with, but lay outside a settlement boundary, would normally be refused unless one of four exceptions could be proven. Of these exceptions, they considered that only one was relevant in relation to any proposal that may have demonstrated an economic justification. They noted that the application was supported by a Business Plan and supporting information, relating to a business for showing, breeding and stabling horses. Although they welcomed the applicant's intentions to restore and expand the business on the site, they did not consider that the Business Plan and supporting information provided sufficient economic justification for a house to support the business. Consequently, the development was contrary to Policy PMD4. They commented that the applicant would be able to reapply at a later date should there be enhanced justification.

Members then considered the application under Policy HD2 relating to housing in the countryside and, in particular, Part A relating to building groups and Part F relating to economic requirement. Noting the location of the site, they did not consider that it lay within any building group of three or more existing houses. Given they were also of the opinion that there was insufficient economic justification to demonstrate a house was necessary on the site, they concluded that the site was contrary to Policy HD2 and the SPG.

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 Policies PMD4 and HD2. 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.

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.....3 February 2020

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