

## APPENDIX III

### SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

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**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**

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**Local Review Reference:** 19/00034/RREF

**Planning Application Reference:** 19/01358/PPP

**Development Proposal:** Erection of dwellinghouse

**Location:** Land South of Dodlands, Hawick.

**Applicant:** Mr C Lyle

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## DECISION

The Local Review Body upholds but varies the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

1. The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 because it would constitute housing in the countryside that would be unrelated to a building group that meets current policy definitions and an economic case has not been substantiated.

## 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	19-667-PPP-1001

## 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 20<sup>th</sup> January 2020.

After examining the review documentation at that meeting, which included a) Notice of Review (including letters of support); 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 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, HD2, HD3, EP1, EP2, EP3, EP13, IS2, 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
- SBC Supplementary Planning Guidance on Waste Management 2015
- Scottish Planning Policy

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 outwith the settlement boundary of Hawick as defined in the Local Development Plan and was, therefore, subject to Policy HD2 on housing in the countryside and the associated Supplementary Planning Guidance (SPG).

The Review Body firstly considered Part A of Policy HD2 which allows development within and adjoining building groups. They noted that the site adjoined two existing dwellinghouses but that, as Policy HD2 requires a building group to have a minimum of three existing houses within a sense of place, the proposal failed to comply with this fundamental requirement and was, consequently, contrary to the Policy. In reaching this conclusion, the Review Body were aware of other houses in the wider area but they did not consider that they formed a building group with the site and two existing houses. Had there been a building group reaching the minimum definition of three houses, then Members felt the site would have been a natural addition.

The Review Body then considered the application under Part F of Policy HD2 relating to economic requirement. Whilst they understood the applicant's concerns over security of livestock, they did not consider that there was sufficient economic justification to demonstrate a house was necessary on the site. Members concluded that the site was contrary to Policy HD2 and the SPG.

The Review Body then considered the application under Policy PMD2 and road safety. Whilst they accepted that the existing junction from the track onto the A6088 was not ideal and had existing visibility restrictions, they accepted the applicant's submissions that this was a track with existing vehicular usage and that, whether another house was built or not, he would still be using the access

to tend to his livestock. Members, therefore, did not accept the view of Roads Planning that vehicular usage would increase to an unsafe degree and varied the decision to omit this reason for refusal.

The Review Body finally considered other issues relating to the proposal including landscape impact, trees, ecology, rights of way, water, drainage and residential amenity but concluded that the site was not appropriate for the aforementioned reasons relating to Policy HD2. They noted that had the application been supported, then development contributions for education 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.

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### **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.

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

**Date.....**3 February 2020

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