

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: 19/00031/RREF

Planning Application Reference: 19/00857/FUL

Development Proposal: Erection of fence

Location: Land South East of Bungalow, Denholm Mill, Denholm

Applicant: Denholm Mill Proprietor's Association

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 proposed development would be contrary to Policies EP9 and PMD2 of the Scottish Borders Local Development Plan 2016 in that it would represent a prominent and incongruous form of development that would have an adverse impact on the character and appearance of the Conservation Area.

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	01
Site Plan	02
Block Plan	04
Fence Elevation	

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 17th February 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; f) Representations; and g) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of a hearing and site visit but did not consider either 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, EP8, EP9 and IS5

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking and Design 2010

The Review Body noted that the proposal was for planning permission to erect a fence of post and wire design at 1.8m height and that this had been reduced from 2.1m height during the processing of the application. They also noted that the location of the fence was within the Conservation Area and in a prominent position upon the approach to Denholm from the west. Members were also aware of the extant planning permission for two houses and proposed stone walling boundary treatment in the field to the rear of the proposed fence.

Whilst there was some recognition of the low visibility nature of the post and wire design, the Review Body agreed with the Appointed Officer that the fence was too high in a prominent location at the entry to Denholm and with adverse visual effects on the Conservation Area. They also noted the Appointed Officer and Landscape Architect advice that the fence was not needed for training fruit trees and that a lower fence of up to one metre height would not have needed planning permission and would have had considerably less visual impact.

They concluded that the fence at the height proposed was not a sympathetic or appropriate boundary treatment for the site, contrary to Policy EP9 of the Local Development Plan.

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.....19 February 2020