

APPENDIX II

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY INTENTIONS 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: 19/00032/RREF

Planning Application Reference: 19/00514/FUL

Development Proposal: Erection of dwellinghouse

Location: Land South West of Carlenrig Farm, Teviothead, Hawick

Applicant: Mr Walter Douglas

DECISION

The Local Review Body reverses the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this intentions notice subject to conditions and informatives and the applicant entering into a Section 75 Agreement as set out below.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Location Plan	001B
Front Elevation	401
Back Elevation	402
Side Elevation 1	403
Side Elevation 2	404
Ground Floor	201
First Floor	202

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 which included: a) Notice of Review (including Decision Notice and Officer's report); b) Papers referred to in officer's report; c) Application referred to in appellant statement; d) Consultations; and e) List of Policies, the Review Body considered whether certain matters included in the review documents constituted new evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to further information on a revised planning application for the proposed agricultural building adjoining the site, including drawings and photomontages. The Review Body were informed that planning permission for that building, in a revised position, had now been granted and that the combined impact of the house with the agricultural building in its original position related directly to one of the reasons for refusal of the house. Members considered that the information did meet the Section 43B test, was material to their consideration and could be considered.

Members also 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: PMD1, PMD2, HD2, HD3, EP8, IS2, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Waste Management 2015

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse on a site south-west of Carlenrig Farm, Teviothead. Before considering the Review, Members noted that planning permission had now been granted for the associated agricultural building in a revised position nearer to the proposed dwellinghouse. As this addressed one of the original reasons for refusal of the house, Members considered it material to the Review and had due regard to it in their decision.

The Review Body firstly considered the principle of a house on the site under Policy HD2. They noted that Carlenrig Farm steading, in itself, occupied a distinct sense of place separated from the application site by woodland and that there was no building group present. However, a case had been submitted for a need for the house on the basis of an agricultural business and this was accepted by the Appointed Officer and Economic Development. Members noted

that the farmer had purchased 136 acres of the farm and that, whilst farming a larger leased area on a temporary basis, the labour requirement had been established and accepted on the basis of the 136 acre holding. Members, therefore, agreed that there was a proven justification for a house under Section F of Policy HD2, provided the house and holding were tied together within a legal agreement.

The Review Body then considered the issue of whether there were existing opportunities within the farm to accommodate a house. The topography and enclosure of Carlenrig Farm were noted as were the comments of the Appointed Officer on constraints to alternative site selection. Ultimately, Members felt that there was no justification to oppose the application on the basis that there were other more appropriate sites.

Landscape impacts were then considered, Members paying particular attention to views of the site from the A7 and the elevation and steep levels of the site. Visual material was examined including photomontages and detailed section, landscaping and layout details which accompanied the planning application for the agricultural building. Members also noted the backdrop tree planting proposed to the rear of the site on the opposite side of the public road which reduced skyline impacts as well as bunding and planting proposed to the front of the agricultural building. Further consideration was also given as to whether such bunding and planting treatment was necessary to the front of the proposed dwellinghouse. Whilst Members recognised the potential landscape impacts of the house and the sloping levels, they considered that the impacts could be mitigated satisfactorily through new planting given that a similar approach had already been accepted by the Appointed Officer relating to the agricultural building. They were content to leave the final details to officers in an appropriate condition. A further condition should also address appropriate levels for the house and surrounding ground.

The Review Body then considered the design and scale of the house. They agreed with the Appointed Officer that the overall form, scale and materials were acceptable for the area, provided colours and materials were reserved for agreement in an appropriate condition. In particular, they considered that timber walling as proposed would enable the design to be integrated into the landscape.

In relation to the combined impacts of the house and proposed agricultural building, Members attached weight to the fact that the agricultural building was now approved, notably in a lower position than originally proposed, as well as being closer to the proposed house. This addressed the concerns over relationship between the two buildings and with the landscape, the Review Body considering that the submission had been improved in those respects and was an arrangement that would not look out of character for the rural area containing the site.

The Review Body finally considered other material issues relating to the proposal including access, archaeology, water and drainage but were of the opinion that appropriate conditions could address them satisfactorily.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2 and HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. There was justification for a house on the site and landscape impacts could be mitigated through appropriate planting and materials, secured by condition. Consequently, the application was approved.

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. No development shall commence until a scheme of external materials (including specifications and samples of materials and colours) for the dwellinghouse, has first been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved scheme.
Reason: To ensure external materials are visually appropriate to the development and sympathetic to the surrounding area.
2. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
 - i. existing and finished ground levels in relation to a fixed datum preferably ordnance
 - ii. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
 - iii. location and design, including materials, of walls, fences and gates
 - iv. soft and hard landscaping works including new tree planting and any bunding
 - v. existing and proposed services such as cables, pipelines, sub-stations
 - vi. A programme for completion and subsequent maintenance.Reason: To ensure the satisfactory form, layout and assimilation of the development.
3. No development to be commenced until the finished floor level of the house and all proposed ground levels have been submitted to, and approved in writing by, the Planning Authority. The development should then proceed in accordance with the approved levels.
Reason: To safeguard the landscape and visual amenity of the area.
4. No development to be commenced until further details of access and parking provision are submitted to, and approved in writing by, the Planning Authority. Thereafter the development to be completed in accordance with the approved details prior to occupation of the dwelling unless otherwise agreed. The details shall include:
 - i. The access junction with the public road
 - ii. The access to the site
 - iii. Parking and turning for a minimum of two vehicles, excluding garages, to be provided within the curtilage of the plot, prior to occupation and retained thereafter in perpetuity, unless otherwise agreed.Reason: To ensure satisfactory form of access and adequate parking and turning provision, in the interests of road safety.
5. No development to commence until further details of the provision of a water supply, foul and surface water drainage are submitted to, and approved by, the Planning Authority. Thereafter, development shall proceed in strict accordance with the approved details.
Reason: To ensure that satisfactory arrangements are made for the provision of water and for disposal of surface and foul water.
6. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of

the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.

Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

7. No development to be commenced until a scheme of waste storage has been submitted to, and approved in writing by, the Planning Authority. Once approved, provision to be made in accordance with the approved details prior to occupation of the dwellinghouse.

Reason: To ensure adequate provision for waste storage within the site.

INFORMATIVES

Please note that retention and use of the existing caravan on the site may require planning permission once the house has been occupied. You should contact Development Management regarding this.

LEGAL AGREEMENT

The Local Review Body required that a Section 75 Agreement be entered into to tie the house to the farm holding.

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.....19 February 2020