

APPENDIX I

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: 20/00001/RREF

Planning Application Reference: 18/01194/FUL

Development Proposal: Erection of dwellinghouse, garages and associated access

Location: Land North West of Town O Rule Farmhouse, Bonchester Bridge

Applicant: Mr Jamie Reddihough

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, garages and associated access. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Proposed Elevations	AL(0)306
Proposed Elevations	AL(0)307
Proposed Sections	AL(0)308
Location Plan	A100-01
Existing Site Plan	AL(0)101C
Existing Site Plan	AL(0)100C
Existing Elevations	AL(0)102A
Proposed Plans	AL(0)304
Proposed Site Plan	AL(0)301
Proposed Site Plan	AL(0)302

Proposed Plans
Proposed Roof Plan

AL(0)303
AL(0)305

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 16th March 2020. After examining the review documentation which included: a) Notice of Review and associated documents (including the Decision Notice and officer's report); b) Papers referred to in officer's report; c) Consultations and d) 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 in the form of a Preliminary Bat Roost Assessment and Extended Phase 1 Habitat Survey. Members agreed that the information was new and considered that it met the Section 43B test, that it was material to the determination of the Review and could be considered. However, as expert opinion on the information was required, there was a requirement for further procedure in the form of written submissions to enable the Council's Ecology Officer to comment on the new information.

The Review was, therefore, continued to the Local Review Body meeting on 25th May 2020 where the Review Body considered the response to the new information provided by the Ecology Officer. Having noted that the applicant had requested further procedure in the form of a hearing and site visit, the Review Body 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, EP1, EP2, EP3, EP5, EP8, EP13, EP15, IS2, IS7, IS8, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- 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 Landscape and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- National Planning Framework 3
- Scottish Planning Policy

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse, garages and an associated access on a site north-west of Town O Rule Farmhouse, Bonchester Bridge.

Members firstly considered Policy HD2 and whether there was a building group present with capacity for addition. They noted that the principle of a house had previously been established through an earlier consent for a dwellinghouse on the site and that the justification for that consent was the presence of a building group with at least three existing houses, the houses lying to the south-east of the site. They were content that there was a building group present and that there was capacity to add a further house to that group. Whilst they noted that the purpose of the house was to provide a local residence for the farmer of the land, economic justification would not be necessary to support the principle of a house on the site.

The Review Body then considered whether the site was well related to the building group. In this respect, they noted the presence of old and new farm buildings within and surrounding the site. Although they accepted that the development involved moving an existing farm access to the west, the track was not a strong visual boundary in itself and the ancillary buildings along the northern edge of the development were not extending the group significantly. Members were content that the development still lay within the natural limits and sense of place of the farm and building group.

Members then considered the scale, siting and design of the dwellinghouse under Policies HD2, PMD2 and supplementary planning guidance. They noted that the building was an L-shaped extension to a retained existing building and considered that such a layout, whilst often difficult to transition from old to new, was sympathetic to the general farm steading context, especially since noting the revision to the plans which restricted the footprint of the development away from the steeply sloping land to the rear. Whilst accepting that the footprint was large in scale, they considered that the layout, surrounding existing and proposed landscaping and continued rising ground outwith the site to the north-west minimised the potential visual impacts of the scale of the development and integrated the development into its surroundings and wider landscape.

Although there was also some concern expressed over the height of the main part of the new-build element, the Review Body felt that in such steading groupings, there was recognition that the farmhouse would often be the tallest or largest building. They felt that with the layout, surrounding buildings, and rising land to the rear, the design was acceptable, would not break the skyline and was high quality in compliance with Policy PMD2. They particularly welcomed the sustainable approach to the design and commended the use of renewable technology.

The Review Body then considered other material issues relating to the proposal including trees, access, archaeology, contamination, water, drainage and ecology but were of the opinion that appropriate conditions could address them satisfactorily. They noted that the Ecology Officer accepted the findings of the bat survey and Extended Phase One Habitat Survey, subject to appropriate conditions. Members also considered whether the scale of the development could give rise to the potential for business use but concluded that the consent was for a dwellinghouse and that any subsequent business use would be a matter for future assessment based on the specific circumstances. The Review Body also noted that development contributions for education were required and could be secured by legal agreement.

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. The proposal represented an appropriate

addition to the existing building group and the design and layout, assisted by landscaping and topography, would have no significant impacts on the landscape and would appear in character with the steading buildings and building group. Consequently, the application was approved.

DIRECTION

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):
 - a) existing and finished ground levels in relation to a fixed datum preferably ordnance
 - b) existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
 - c) location and design, including materials, of walls, fences and gates
 - d) soft and hard landscaping works including new tree planting and any bunding
 - e) existing and proposed services such as cables, pipelines, sub-stations
 - f) 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 a scheme of access details for both the dwellinghouse and existing agricultural buildings is submitted to, and approved in writing by, the Planning Authority. Thereafter, the approved details to be implemented in full prior to occupation of the proposed dwellinghouse, unless otherwise agreed in writing with the Council.
Reason: To ensure adequate access is provided from the public road to serve the development site.
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. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition, and thereafter:-
- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

8. No development to be commenced until a tree survey identifying the existing mature trees within the site and an Arboricultural Impact Assessment are submitted to, and

approved by, the Planning Authority. The identified trees then agreed for retention to be protected at all times during construction and building operations, by the erection of substantial timber fence around the trees, together with such other measures as are necessary to protect the trees and their roots from damage. Details of the methods it is proposed to use shall be submitted by the applicant to the Local Planning Authority and be approved by them in writing. The approved protective measures shall be undertaken before any works commence on the site and must, thereafter be observed at all times until the development is completed.

Reason: To ensure that adequate precautions are taken to protect trees during building operations.

9. Prior to the commencement of development, the developer shall provide to the Planning Authority:
- a. a copy of the relevant European Protected Species licence, or,
 - b. a copy of a statement in writing from Scottish Natural Heritage (licensing authority) stating that such a licence is not necessary for the specified development

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1 and EP3.

10. Prior to the commencement of development, the developer shall submit for approval in writing by the Planning Authority written confirmation that the Species Protection Plan for bats, as outlined in *Preliminary Bat Roost Assessment and Extended Phase 1 Habitat Survey, Bonchester Bridge, Eco North November 2019* shall be implemented in full. Thereafter, no development shall take place except in strict accordance with the outlined Species Protection Plan.

Reason: To protect the ecological interest in accordance with Local Development Plan policy EP3.

11. No development shall commence during the breeding bird season unless in strict accordance with a Species Protection Plan (SPP) for breeding birds that shall be submitted to and approved by the Planning Authority. The SPP shall include provision for a pre-development supplementary survey and mitigation.

Reason: To protect the ecological interest in accordance with Local Development Plan policy EP3.

12. Prior to commencement of development, a Construction Method Statement (CMS) shall be submitted for approval to the Planning Authority, incorporating measures to mitigate potential impacts on the water environment, including the River Tweed SAC, (incorporating good practice as outlined in SEPA guidance, e.g. *GPP 5*), and on protected and notable species. Care should be taken to avoid contamination of the water environment, by following SEPA good practice guidelines, e.g. *GPP 5*. No development shall take place except in compliance with the approved CMS.

Reason: To protect the ecological interest in accordance with Local Development Plan policy *EP3*.

13. Prior to commencement of development, a Habitat Enhancement and Management Plan (HEMP) outlining measures to enhance local biodiversity and the ecological network through planting native species of local provenance and incorporating recommendations from the Preliminary Ecological Appraisal (Ethical Planning LLP, 2018), shall be submitted to and approved by the Planning Authority. No development shall take place except in compliance with the approved HEMP.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1 and EP3.

INFORMATIVES

1. With regard to Condition 4, you are advised that the specification for all works associated with any new access connected with this development, is:

40mm of 14mm size close graded bituminous surface course to BS 4987 laid on 60mm of 20mm size dense binder course (basecourse) to the same BS laid on 350mm of 100mm broken stone bottoming blinded with sub-base, type 1.

It should also be noted that all works within the public road boundary, must be undertaken by a contractor first approved by the Council.

LEGAL AGREEMENT

The Local Review Body required that a Section 75 Agreement be entered into to secure contributions towards Denholm Primary School.

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.....8 June 2020