

APPENDIX IV

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: 20/00006/RREF

Planning Application Reference: 19/00193/FUL

Development Proposal: Demolition of dwellinghouse and erection of two dwellinghouses

Location: Benrig, 1 Cuddyside, Peebles

Applicant: Mr Robert Harrison

DECISION

The Local Review Body upholds and 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 is contrary to Policies PMD2 and EP9 of the Local Development Plan 2016 in that the design would not be appropriate to the setting and would not be compatible with the neighbouring built form or Conservation Area. It would also be detrimental to the amenity of the surrounding area in that it would result in extra vehicular traffic on a sub-standard access to the detriment of road safety. Other material considerations do not outweigh this conflict with policy.
2. The development is contrary to Policies PMD5 and EP9 of the Local Development Plan 2016 in that it would lead to over-development of the site, would not be visually appropriate or sympathetic to, and would have an adverse visual impact on the character of, the surrounding area and Conservation Area. Other material considerations do not outweigh this conflict with policy.
3. The development is contrary to Policy IS7 of the Local Development Plan 2016 in that the appropriate parking provision has not been provided which would be to the detriment of road safety. Other material considerations do not outweigh this conflict with policy.

4. The development is contrary to Policy IS8 of the Local Development Plan 2016 in that the proposed development will result in a material increase in the number of properties within the functional floodplain and may likely be at significant risk of flooding. Other material considerations do not outweigh this conflict with policy.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Location Plan	1 of 5
Site Plan	D009a
Floor Plans	D006a
Elevations	D008a
Photos	5 of 5

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 25th May 2020.

After examining the review documentation at that meeting, which included a) Notice of Review and associated documents; b) Application referred to in appeal statement; c) Decision Notice; d) Officer's Report; e) Papers referred to in Officer's Report; f) Consultations; g) Objections and h) List of Policies, the Review Body noted that the applicant referred to new information within the Review submission relating to planning consent ref. 19/01471/FUL for a residential development east of Dukeshough, Peebles and, in particular, the SEPA responses to that application. Members were of the opinion that planning decisions on other sites did not represent new information, that there was no requirement to apply Section 43(B) of the Regulations and that this information could be taken into consideration.

The Review Body also noted that the applicant 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, PMD3, PMD5, ED5, HD1, HD3, HD4, EP8, EP9, 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 Trees and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- Contaminated Land Inspection Strategy 2001
- Scottish Planning Policy

The Review Body noted that the proposal was for planning permission to demolish a dwellinghouse and erect two dwellinghouses at Benrig, 1 Cuddyside, Peebles.

Members firstly considered the location of the site and noted that it lay within the settlement boundary of Peebles and within Peebles Conservation Area as defined in the Local Development Plan and was, therefore, subject to Policies PMD5 on infill development and EP9 on Conservation Areas in particular. In noting that the proposed development replaced one house with a building containing two, they were concerned at the resultant overdevelopment of the plot and higher ridge line of the building in comparison with surrounding properties. Members considered that the height and massing of the building would have a detrimental impact on those properties and the Conservation Area. They also had concerns over the change to boundary treatment. Overall, they agreed with the Appointed Officer that the proposal was not appropriate infill development. However, they also felt that the proposals were not compatible with, nor would enhance, the amenity of the Conservation Area.

The Review Body then debated the other material factors that led to the original refusal. Members considered that the design of the building was not to the level of quality required under Policies PMD2 or EP9. They also noted and accepted the concerns of the Roads Planning Service over lack of parking and adequacy of the access road and noted the objections of SEPA regarding flood risk. Overall, Members agreed with the Appointed Officer on all of these material factors.

The Review Body finally considered other issues relating to the proposal including archaeology, contamination, water, drainage and waste storage but concluded that the site was not appropriate for the aforementioned reasons relating to Policies PMD2, PMD5, EP9, IS7 and IS8. They noted that, had the application been supported, then development contributions for education, affordable housing and traffic management in Peebles 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.
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Signed...Councillor T Miers
Chairman of the Local Review Body

Date.....8 June 2020