

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: 20/00016/RREF

Planning Application Reference: 19/01701/PPP

Development Proposal: Erection of dwellinghouse

Location: Land North East of West Mains Farmhouse, Carlops

Applicant: Mr Alasdair Mackenzie

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 development would be contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would amount to sporadic residential development in a countryside location unrelated to a building group and an overriding economic case for a dwellinghouse has not been substantiated.
2. The development would be contrary to policy EP13 of the Local Development Plan 2016 and Trees and Development Guidance 2008 in that the applicant has failed to demonstrate that the development would not result in serious damage to trees which are of landscape value and there are no public benefits which would clearly outweigh their loss.

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.

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 13th July 2020.

After examining the review documentation at that meeting, which included a) Notice of Review (including Officer's Report); b) Decision Notice; c) Papers referred to in Officer's Report; 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 a sketch elevation of the proposed house. Members agreed that the information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. They 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: HD2, HD3, EP5, EP13, IS2, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- 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
- SBC Supplementary Planning Guidance on Trees and Development 2008
- Scottish Planning Policy 2014
- Planning (Scotland) Act 2019
- National Planning Framework 3

The Review Body noted that the application was for the erection of a dwellinghouse at West Mains Farmhouse, Carlops.

Members firstly considered whether there was a building group present under Part A of Policy HD2. They noted the applicant's contention that there was an historical connection between the site, West Mains and other houses in the area built on land which was part of the original holding. They had regard to this and noted the houses in the submissions and on the photographs shown of the surroundings. Whilst, in certain cases, historical connection and relationship can be a relevant factor in determining the sense of place and boundaries of a building group, Members could not accept that there was a sufficiently strong relationship in this instance. They felt that the surrounding houses were well separated, dispersed and

sporadic and that the site was in a location where there was only one other house and some farm buildings. Members did not see any justification for considering the site to be part of a wider building group and felt that any previous historical connection was not obvious in terms of definition of sense of place. They concluded that the site was not part of any existing building group.

The Review Body then considered whether there was any justified economic case for a dwellinghouse on the site under Part F of Policy HD2. They noted that the application had not been justified on this basis and, although they noted the family circumstances and intentions of the application to occupy the house himself, they did not consider that there was sufficient economic case advanced to justify a need for a house on the site under Policy HD2.

The Review Body finally considered other material issues relating to the proposal including impact on trees, residential amenity, parking, impact on the Special Landscape Area, water and drainage. They considered that impact on the trees would have required further investigation but were of the opinion that appropriate conditions could address the other factors satisfactorily.

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...7 August 2020