

**APPENDIX II**

**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**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**

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**Local Review Reference:** 20/00007/RREF

**Planning Application Reference:** 19/01611/FUL

**Development Proposal:** Erection of dwellinghouse with attached garage

**Location:** Disused Sawmill, Cowdenknowes, Earlston

**Applicant:** Mr Francis Peto

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**DECISION**

The Local Review Body varies the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

The proposed development would be contrary to Policies PMD2 and HD2 of the adopted Scottish Borders Local Development Plan 2016 and supplementary guidance on placemaking and design and housing in the countryside, in that the design and siting of the dwellinghouse would not be well related or sympathetic to the character of the existing building group and would not contribute positively to the sense of place.

**DEVELOPMENT PROPOSAL**

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

| <b>Plan Type</b>    | <b>Plan Reference No.</b> |
|---------------------|---------------------------|
| Location Plan       | L(-1)100                  |
| Proposed Site Plan  | L(-2)101                  |
| Proposed Elevations | L(-4)101                  |

## **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 1<sup>st</sup> June 2020.

After examining the review documentation at that meeting, which included a) Notice of Review (including the Decision Notice, Officer's Report and consultations); b) Papers referred to in Officer's Report; and c) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of a site visit, but did not consider it necessary in this instance. However, they did consider it was necessary to seek further procedure in the form of submission of photographs of the existing buildings within the Cowdenknowes Building Group, to provide evidence of how the design of the proposed dwellinghouse related to the character and sense of place of its surroundings.

The Review Body considered the photographs, together with the Appointed Officer's comments on them, at its meeting on 15 July 2020 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, HD2, EP1, EP7, EP10, EP13, IS2, IS3, IS7, IS9 and IS13

### **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
- Scottish Planning Policy

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse with attached garage on a site of a disused sawmill, Cowdenknowes, Earlston. In considering the review, Members noted the planning history of the site which included lapsed permission for the style and design of house now applied for but also noted that this was in 2006 and that there had been a new Local Development Plan and supplementary guidance on housing in the countryside and placemaking and design since then.

Members firstly considered whether there was a building group present under Part A of Policy HD2. They noted that a group had been identified under the previous consent and that the applicant and Appointed Officer agreed a group was present, consisting of three existing dwellinghouses and various other buildings in different uses. Although the site did not benefit from immediate proximity or line of sight to other houses in the group, those other houses

were also well separated from each other within an historic estate setting formed around Cowdenknowes House. The Review Body considered that, in this situation, the historic connections with Cowdenknowes House and the rest of the group were evident on site. The site would involve the removal of an old sawmill building previously connected with the estate and would also still be within the woodland belt surrounding the nearby lodge house, parkland and main drive to Cowdenknowes House.

They acknowledged, however, that the site was on the periphery of the former estate and was visible adjoining the public road. Members felt that the design and siting of the house were an integral part of whether they considered the site to be part of the sense of place and, therefore, an appropriate addition to the building group. Whilst they accepted that there were three houses constituting a building group and that there was capacity to add a further house to the group, they were not convinced that the detailed siting and, especially, the design of the house were appropriate or sympathetic to the character of the group.

Members considered the photographs supplied of the existing houses and buildings in the group, together with examples of contemporary design at Garden Cottage and elsewhere in the Borders. In noting that the buildings within the group were predominantly traditional in design but also incorporated a contemporary element, they concluded that the proposed design lacked the quality and sense of identity that was necessary to respect the connection of the site with the Cowdenknowes House estate and the position of the site within the Eildon and Leaderfoot National Scenic Area. Within a new policy background of the Local Development Plan and supplementary guidance on placemaking and design, the Review Body were of the opinion that improved and more sympathetic design and siting were necessary, beyond any minor improvements that could be achieved by planning condition or changes in external materials.

The Review Body concluded that the siting and design of the house within the site were the issue and not the position of the site in itself. Although the Appointed Officer had concerns over the design of the house, she had not specifically refused the application for those reasons. Members, however, considered siting and design to be pivotal in consideration of the Review and were not supportive of the current proposals for the aforementioned reasons. Whilst they accepted that the site could be considered to be part of the building group and sense of place, this was dependant on a siting and design of architectural merit which respected the character and quality of the building group and surrounding designated landscape.

The Review Body finally considered other material issues relating to the proposal including contamination, access, tree retention and ecology 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 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.

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**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.....**7 August 2020