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SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW
BODY conducted remotely by Microsoft
Teams Live Event on Monday, 25 May 2020
at 10.00 am

Present:- Councillors T. Miers (Chairman), J. A. Fullarton, S. Hamilton, H. Laing,
S. Mountford, C. Ramage, N. Richards and E. Small

Apologies:- Councillor A. Anderson

In Attendance:- Principal Planning Officer – Major Applications/Local Review, Chief Legal
Officer, Democratic Services Team Leader, Democratic Services Officer
(F. Walling).

CHAIRMAN

The Chairman opened the meeting and welcomed Members of the Local Review Body and members of the public to the Scottish Borders Council's first publicly open on-line meeting. The meeting was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place, due to the Covid-19 pandemic.

MEMBERS

Having not been present when the following review was first considered Councillors Ramage and Richards did not take part in the determination and left the on-line meeting prior to its consideration.

1. CONTINUATION OF REVIEW OF 18/01194/FUL.

With reference to paragraph 2 of the Minute of 16 March 2020, there had been re-circulated copies of the request from Mr Jamie Reddihough per Mark R Russell, Ethical Planning (North East) Ltd, Stoddart Street, Newcastle Upon Tyne, to review the decision to refuse the planning application for erection of a dwellinghouse, garages and associated access on land North West of Town O' Rule Farmhouse, Bonchester Bridge, Hawick. The supporting papers included the Notice of Review and associated documents (including the Decision Notice and Officer's Report); papers referred to in the Officer's Report; Consultations; and a list of policies. Also circulated were copies of the response from the Council's Ecology Officer on new evidence in the form of a report entitled Preliminary Bat Roost Assessment and Extended Phase 1 Habitat Survey, which had been submitted with the Notice of Review documentation and which had not been before the Appointed Planning Officer at the time of determination. After noting from the additional written submission that the Ecology Officer accepted the findings of the bat survey and Extended Phase 1 Habitat Survey, subject to appropriate conditions, Members continued their consideration of the application. They noted that the principle of a house on the site had previously been established. Their ensuing discussion focussed, in particular on the sense of place, scale, siting and design of the proposed dwellinghouse. Although some concern was expressed about the height and dominance of the building within the landscape the majority of Members concluded that, due to the layout of surrounding buildings and the slope of the land to the rear, any potential visual impact would be minimised. Councillor Mountford, seconded by Councillor Fullarton, moved that the officer's decision be overturned and the application approved. Councillor Laing moved as an amendment that the officer's decision to refuse the application be upheld, but the amendment did not receive a seconder so the application was approved.

DECISION

AGREED that:-

- (a) the review could be considered without the need for any further procedure on the basis of the papers submitted and the additional written submission;**
- (b) the proposal would be in keeping with the Development Plan; and**
- (c) the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions, informatives and a legal agreement, for the reasons detailed in Appendix I to this Minute.**

MEMBERS

Councillors Ramage and Richardson returned to the on-line meeting.

2. REVIEW OF 19/01629/PPP.

There had been circulated copies of the request from Mr Simon Brown, per Ferguson Planning, 54 Island Street, Galashiels, to review the decision to refuse the planning application for erection of a dwellinghouse and associated infrastructure in the walled garden at Ashiestiel Mansion House, Galashiels. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); papers referred to in the Officer's Report; Consultations; and a list of policies. Members noted that the proposed site was within a walled garden which they recognised had an historical connection to Ashiestiel House and two lodge houses. They agreed that there was a building group present in the vicinity of Ashiestiel House with capacity for the addition of one house. Taking into account the sense of place and containment by woodland, they concluded that the walled garden formed part of that building group and that the proposed site was a suitable addition to the group. Members noted the historical importance of the wall and, although noting that the application was for planning permission in principle, were strongly supportive of the indicative drawings showing development of the site in sympathy with the context of the wall. However, after lengthy discussion they agreed that submission of details of the retention and restoration of the relevant section of wall be requested from the applicant by way of an informative rather than this being imposed by a condition to the planning consent.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be in keeping with the Development Plan; and**
- (d) the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions, informatives and a legal agreement, for the reasons detailed in Appendix II to this Minute.**

3. REVIEW OF 19/00193/FUL.

There had been circulated copies of the request from Mr Erlend Milne, per Ferguson Planning, 54 Island Street, Galashiels, to review the decision to refuse the planning application for erection of a dwellinghouse, workshop/garage and associated works on land south east of Tarf House, West Linton. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); papers referred to in the Officer's Report, consultations; support comments; and a list of policies. The Planning Advisor drew attention to certain documents in the form of a consultation response from West Linton Community Council and a letter from a Scottish Borders Council Ward Member which had been submitted with the Notice of Review documentation and which

had not been before the Appointed Planning Officer at the time of determination. Members considered that the information did not raise any new matters not already known to the Appointed Officer. There was, therefore, no requirement to apply Section 43(B) of the Regulations and the information could be taken into consideration. Members noted the history of the site, that the Review Body had previously refused an application for a dwellinghouse but that on that occasion there had been no justification on economic grounds submitted for a dwellinghouse on the site. They noted that a Business Plan had now been submitted providing details of three businesses, two of which would be run from the workshop alongside the dwellinghouse and the third relating to lease and operation of an Icelandic Horse running track nearby. After discussion Members were satisfied that the businesses were appropriate to the rural area and that, for a number of reasons, relating to security, animal welfare and operational efficiency, the case for a dwellinghouse on the site had been justified.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) documents in the form of a consultation response from West Linton Community Council and a letter from a Scottish Borders Council Ward Member, which had not been before the Appointed Planning Officer at the time of determination, did not raise any new matters, that there was no requirement to apply Section 43(B) of the Regulations and that the information could be taken into consideration;**
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) the proposal would be in keeping with the Development Plan; and**
- (e) the officer's decision to refuse the application be reversed and planning permission be granted, subject to conditions, informatives and a legal agreement, for the reasons detailed in Appendix III to this Minute.**

4. REVIEW OF 19/01784/FUL.

There had been circulated copies of the request from Mr Stephen Cranston, per Stuart Patterson Building & Timber Frame Design, 5 Burnflat Lane, Hawick, to review refusal of the planning application for part change of use from garage/storage and alterations to form a workshop and storage for joinery business at Buccleuch Hotel, Trinity Street, Hawick. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultations; representation; and a list of policies. Members noted that the site was an annex to the former Buccleuch Hotel, which was now vacant, and that the proposal was for the basement floor to accommodate the joinery business, workshop and store and the former hotel car park to the rear to be used as the workshop yard. Members commented that this empty building, comprising the basement and two upper floors was at risk of becoming derelict which would have a negative visual effect on the streetscape. They accepted that the location had become an increased commercial and business area, with a mix of business and residential uses surrounding the site. Views were expressed that the proposal could co-exist satisfactorily with adjoining uses and enhance the vitality and mixed use nature of the town centre. In view of the applicant's declared longer-term intention of converting the two upper floors to residential or retail use, Members agreed that further information was required about the construction of the workshop in terms of materials to mitigate against the impact of noise breakout into those areas. They also noted that the Ecology Officer had sought further information, specifically a survey for bats, ahead of the determination of the planning application. Members therefore agreed that the review could not be considered without further procedure in the form of written submissions in respect of both these matters.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could not be considered without further procedure in the form of written submissions;**
- (c) the applicant be requested to provide further information, in respect of the building subject to the application, as follows:**
 - A survey for bats; and**
 - Further details of potential development of the floors over the workshop, as a future phase and as referred to in the appeal statement, and proposed measures to be incorporated into the construction of the workshop to mitigate against the impact of noise breakout into those areas.**
- (d) consideration of the review be continued on a date to be arranged.**

5. REVIEW OF 19/01645/FUL.

There had been circulated copies of the request from Mr & Mrs William Rose, per Kanak Bose Ltd, Ogcscastle, Roman Road, Carnwarth, to review refusal of the planning application for erection of dwellinghouse and detached garage on land south west of 3 Mill Lade, Blyth Bridge. The supporting papers included the Notice of Review (including the Decision Notice); Officer's Report; papers referred to in the Officer's Report; Consultations; and a list of policies. The Planning Advisor drew attention to new evidence, in the form of three Flood Risk Assessment drawings which had been submitted with the Notice of Review documentation and which had not been before the Appointed Planning Officer at the time of determination. The Review Body considered that the new information could be considered, as it met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997 and that this new information was material to the determination of the review. It was agreed that, as expert opinion on the Flood Risk Assessment drawings was required, there was a need for further procedure in the form of written submissions and that SEPA and the Council's Flood Risk Officer be given the opportunity to comment on the new information provided.

DECISION

AGREED:-

- (a) that the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) that the new information submitted with the Notice of Review documentation in the form of three Flood Risk Assessment Drawings numbered 20-001-FR 001; 20-001-FR 002; and 20-001-FR 003 met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997 and that the review could not be considered without further procedure in the form of written submissions in respect of that new evidence;**
- (c) to request representations from SEPA and the Council's Flood Risk Officer on the new evidence; and**
- (d) that consideration of the review be continued on a date to be arranged.**

6. REVIEW OF 19/00193/FUL.

There had been circulated copies of the request from Mr Robert Harrison, per D & H Farmer, Meldon Design Studio, 2 Elcho Street Brae, Peebles, to review refusal of the planning application for demolition of dwellinghouse and erection of two dwellinghouses at Benrig, at 1 Cuddyside, Peebles. The supporting papers included the Notice of Review; application referred to in appeal statement; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultations; objections; and a list of policies. The

Planning Advisor drew attention to information which had been submitted with the Notice of Review documentation but which had not been before the Appointed Planning Officer at the time of determination. This related to planning consent 19/01471/FUL and in particular the SEPA responses to that application. Following advice from the Chief Legal Officer, 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. Members noted that the site of the proposed development was within the settlement boundary of Peebles and within Peebles Conservation Area. In the ensuing discussion they were concerned that the proposal represented overdevelopment of the site, the higher ridge line of the proposed building would have a detrimental impact on the conservation area and they commented on the lack of boundary treatment. Members also noted the objection from SEPA, relating to flood risk and the concerns of the Roads Planning Officer relating to lack of parking and adequacy of the access.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) information in the form of a previous planning consent, which had not been before the Appointed Planning Officer at the time of determination, did not represent new information, that there was no requirement to apply Section 43(B) of the Regulations and that the information could be taken into consideration;**
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (e) the officer's decision to refuse the application be upheld but varied and the application be refused, for the reasons detailed in Appendix IV to this Minute.**

The meeting concluded at 2.00 pm

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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

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



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: 20/00002/RREF

Planning Application Reference: 19/01629/PPP

Development Proposal: Erection of dwellinghouse and associated infrastructure

Location: Walled Garden, Ashiestiel Mansion House, Galashiels

Applicant: Mr Simon Brown

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 applicants entering into a Section 75, or other suitable Legal Agreement, as set out below.

DEVELOPMENT PROPOSAL

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

Plan Type	Plan Reference No.
Location Plan	1413.pl_01
Block Plan	1413.pl_02
Floor Plan	1413.pl_03
Elevations	1413.pl_04

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 which included: a) Notice of Review and associated documents (including Decision Notice and officer's report; b) Papers referred to in

officer's report; c) Consultations; and d) List of Policies, the Review Body 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, EP7, EP8, EP10, EP13, IS2, IS3, 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 Trees and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012

The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse and associated infrastructure at the Walled Garden, Ashiestiel Mansion House, Galashiels.

Members firstly considered whether there was a building group in the vicinity and also whether there was capacity for addition to any such group. They noted that the site consisted of the former walled garden to Ashiestiel House which existed to the north of the site and they also noted the presence of two lodge houses nearer to the site on the north side of the public road. The Review Body attached considerable weight to the historical connection of Ashiestiel House with the two lodge houses and walled garden. They concluded that there was a building group present and that there was capacity for the addition of one house, in compliance with Policy HD2 and the relevant SPG.

Members then considered the relationship of the site with the group and whether it was in keeping with its character, whilst noting that the application was for planning permission in principle and that the suggested precise position and design of house remained indicative. In this respect, they had regard to the historical association of the walled garden with Ashiestiel House and noted that the wall and some outbuildings remained intact. Although they noted the Appointed Officer's concerns over detachment of the walled garden from the building group and lack of intervisibility, they agreed that the historical connection, relationship with the existing house and lodges and containment formed by the woodland all contributed to an impression that the walled garden formed part of the Ashiestiel estate and sense of place. These considerations outweighed any concerns over detachment and lack of intervisibility and

Members concluded that the site was well-related to the group and within the natural sense of place.

The Review Body noted that, although the application was for planning permission in principle, indicative drawings had also been provided to demonstrate how the site could be developed in sympathy with the character and context of the wall and surroundings which included incorporation and conversion of two small derelict outbuildings forming part of the wall. Whilst they accepted that the final siting and design details would be a matter for a subsequent application for the approval of matters specified as conditions, they acknowledged that the site could be developed sympathetically in keeping with the surroundings and with limited visibility.

The Review Body then considered the issue of the existing wall within the site and whether the retention of the wall was necessary for the application to comply with Policy HD2. Whilst Members were aware of the historical importance of the wall and noted that the Archaeology Officer considered the wall to be worthy of listing, they were also mindful of the significant length and height of wall that would need to be repaired and maintained in the longer term. They considered this could be an unjustifiable burden upon the developers of a single dwellinghouse. After discussion on whether a planning condition or other legal commitment was justified for retention of the wall or part of it, the Review Body concluded that the applicant should be advised, by means of an informative, that details of the retention and restoration of the relevant section of wall should be submitted with the first application for approval of matters specified as conditions.

Members also considered the issue of precedent which was a concern expressed by the Community Council. They concluded that each application must always be judged upon its own merits and any concerns over further development could not influence any decision on the current proposal.

The Review Body finally considered other material issues relating to the proposal including access, archaeology, contamination, ecology and tree protection but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for education and the Waverley Line 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 Policy HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate addition to an existing building group within its sense of place. Consequently, the application was approved.

DIRECTIONS

1. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
 - a. the expiration of three years from the date of this permission, or
 - b. the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 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 the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. Parking and turning for a minimum of two vehicles, excluding any garages, must be provided within the curtilage of the site prior to the occupation of the dwelling. Thereafter they must be retained in perpetuity.

Reason: To ensure the development hereby approved is served by an appropriate level of off-road parking.

4. The junction with the public road must be amended to allow satisfactory access and egress. A scheme of details must be included with any subsequent application for approval.

Reason: To ensure the development hereby approved is served by an adequate form of junction.

5. The access track between the junction with the public road and the parking/turning area must be constructed so as to provide a level, free draining surface capable of taking a 14 tonne axle load.

Reason: To ensure the development hereby approved is served by an adequate form of access.

6. Any gates proposed should open into the site and be set back a minimum of 6m from the existing carriageway.

Reason: To ensure that the gates do not pose a danger to users of the adjacent public road.

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 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

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.

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).

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.

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 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.

9. 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) trees to be retained within the site
 - c) existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored

- d) location and design, including materials, of walls, fences and gates
 - e) soft and hard landscaping works including new planting within the site
 - f) existing and proposed services such as cables, pipelines, sub-stations
 - g) A programme for completion and subsequent maintenance.
Reason: To ensure the satisfactory form, layout and assimilation of the development.
10. No development to be commenced until a tree survey identifying the existing mature trees within the site is 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.
11. No development should commence until the applicant has provided evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition
Reason: To ensure that the development does not have a detrimental effect on amenity and public health.
12. No water supply other than the public mains water supply shall be used to supply the development without the written agreement of the Planning Authority.
Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.
13. A bat survey to be submitted with the first application for approval of matters specified in conditions and no development to be commenced until the survey, including mitigation, a Species Protection Plan if required and display of any bat licence, is approved by the Planning Authority. The development then to proceed in accordance with the mitigation, Plan and any appropriate licence.
Reason: To protect the ecological interest in accordance with Local Development Plan Policy EP1.
14. No development shall be undertaken during the breeding bird season (March to September), unless in strict compliance with a Species Protection Plan for breeding birds that shall be submitted to and approved in writing by the Planning Authority.
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.
15. 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

1. A scheme of details of the retention and restoration of the relevant section of wall surrounding the site should be submitted with the first application for approval of matters specified as conditions.
2. With regard to Condition 5, the area between the public road and the walled garden has numerous trees within it. The applicant should ensure that the provision of the access track route and works, and the parking and turning area, do not adversely impact on the existing trees.
3. With regard to Conditions 4 and 6, the junction with the public road should include appropriate radii to allow vehicles easy access and egress, be surfaced for the initial 6m as shown below and have appropriate drainage in place, or designed layout, to ensure no surface water flows on to the adjacent public road. All work within the public road boundary must be undertaken by a contractor first approved by the Council.

Access Spec.

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.

4. With regard to Condition 8, the ALGAO guidance for historic building recording can be found at:
www.algao.org.uk/sites/default/files/documents/ALGAO_Scotland_Buildings_Guidance_2013.pdf
5. With regard to Condition 11, private drainage systems often impact on amenity and cause other problems when no clear responsibility or access rights exist for maintaining the system in a working condition.

Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law.

To discharge Condition 11, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified.

LEGAL AGREEMENT

The Local Review Body required that a Section 75, or other suitable legal agreement, be entered into to secure developer contributions for Galashiels Academy, Clovenfords Primary School and the Waverley Line.

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.
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Signed....Councillor T Miers
Chairman of the Local Review Body

Date.....8 June 2020

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APPENDIX III

**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: 20/00003/RREF

Planning Application Reference: 19/01646/PPP

Development Proposal: Erection of dwellinghouse, workshop/garage and associated works

Location: Land South East of Tarf House, West Linton

Applicant: Mr Erlend Milne

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, workshop/garage and associated works. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	PL001
Proposed Block Plan	PL002

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 which included: a) Notice of Review and associated documents (including Decision Notice and officer's report); b) Papers referred to in officer's report; c) Consultations; d) Support comments 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 in the form of a consultation response from West Linton Community Council and a letter from an SBC Ward Councillor. Members considered that the information did not raise any new matters not already known to the Appointed Officer. There was, therefore, no requirement to apply Section 43(B) of the Regulations and the information could be taken into consideration.

The Review Body 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, HD3, ED7, IS2, IS5, 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
- Scottish Planning Policy

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse, workshop/garage and associated works on a site south-east of Tarf House, West Linton.

Members noted that the same applicant had sought permission previously on the site for a dwellinghouse, on the basis that the site was part of a building group under Policy HD2. Members had not accepted that there was a building group present and refused the application after consideration. Although the Review Body were aware of the applicant's businesses, they did not previously feel that sufficient business case had been advanced to justify a house on the site under Part F of Policy HD2 relating to economic need.

Whilst Members were still of the same opinion that there was no building group present, they noted that a Business Plan had now been submitted with the current application which not only provided further details of the applicant's current two businesses, but also his intention to take on a third business relating to the lease and operation of an Icelandic Horse running track nearby. The Review Body considered the businesses to be generally appropriate to the rural area in compliance with Policies HD2 and ED7 and were, subsequently, more convinced that the Business Plan outlined a case for needing a dwellinghouse on the site alongside the proposed workshop and with proximity to the track, providing benefits of security, animal welfare and operational efficiency. Members also noted the significant local support within the community for the proposal and the difficult current circumstances which were likely to lead to encouragement of working from home for the foreseeable future. After taking into account all

of these matters, the Review Body, agreed that there was now a proven justification for a house under Section F of Policy HD2, provided the house was tied to the businesses by planning condition. They accepted the tie could not include the Icelandic Horse track business as this was not currently owned by the applicant.

Members then considered the further requirements of Policy HD2 for proposals to have no negative impacts on the local landscape or community. In terms of the position of the site away from neighbouring property, the expressed local support for the application and the presence of existing screening in the vicinity, the Review Body were content there would be no negative impacts on the landscape or the community.

The Review Body finally considered other material issues relating to the proposal including access, water, drainage and a right of way at the site but were of the opinion that appropriate conditions could address them satisfactorily. They 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 HD2 and ED7 of the Local Development Plan and relevant Supplementary Planning Guidance. There was economic justification for a house and workshop on the site and there would be no significant impacts on the landscape subject to appropriate siting and design. Consequently, the application was approved.

DIRECTIONS

1. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
 - a. the expiration of three years from the date of this permission, or
 - b. the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 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 the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place in strict accordance with the details so approved.
Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
3. Occupation of the proposed dwellinghouse to be limited to a person employed in the saddle and leather goods businesses outlined in the business plan submitted with the application, or any dependent of such a person residing with him or her but including a widow or widower of such a person.
Reason: The erection of a dwellinghouse for normal residential occupation would be contrary to the Council's policy on housing in the countryside.
4. Parking and turning (excluding any garage space) for two vehicles shall be provided within the curtilage of the dwellinghouse before the dwellinghouse hereby approved is occupied and must thereafter be retained in perpetuity.
Reason: To ensure the provision of adequate off-street parking.
5. No development should commence until the applicant has provided evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition
Reason: To ensure that the development does not have a detrimental effect on amenity and public health.
6. No water supply other than the public mains water supply shall be used to supply the development without the written agreement of the Planning Authority.
Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.
7. No development to be commenced until existing public access through the site has been satisfactorily safeguarded and retained or formally diverted in accordance with the statutory provisions.
Reason: To safeguard public access rights.
8. 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 or use of the workshop, whichever is the sooner.
Reason: To ensure adequate provision for waste storage within the site.

INFORMATIVES

1. With regard to Condition 5, private drainage systems often impact on amenity and cause other problems when no clear responsibility or access rights exist for maintaining the system in a working condition.

Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law.

To discharge Condition 5, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly

established by way of a binding legal agreement. Access rights should also be specified.

LEGAL AGREEMENT

The Local Review Body required that a Section 75, or other suitable legal agreement, be entered into to secure developer contributions for Peebles High School and West Linton 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



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