

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: 20/00017/RREF

Planning Application Reference: 20/00132/PPP

Development Proposal: Erection of treehouse and walkway for use as holiday let accommodation and associated works

Location: Land South West of Sandystones Farmhouse, Ancrum, Jedburgh

Applicant: Sandystones Ltd

DECISION

The Local Review Body is minded to reverse 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, but further subject to notification to the Scottish Ministers in relation to the objection on flood risk from SEPA

DEVELOPMENT PROPOSAL

The application relates to the erection of a treehouse for use as holiday let accommodation, walkway and associated works. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	
Proposed Site Plan	

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 17th August 2020. After examining the review documentation which included: a) Notice of Review

(including Decision Notice); b) Officer's Report; c) Papers referred to in officer's report; d) Consultations; and e) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of a hearing and site visit but did not consider further procedure was 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, ED7, HD3, EP1, EP2, EP3, EP13, EP15, IS7, IS8 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Trees and Development 2008
- Scottish Planning Policy
- National Planning Framework 3

The Review Body noted that the proposal was for planning permission in principle to erect a treehouse for holiday let accommodation, walkway and associated works on a site south-west of Sandystones Farmhouse, Ancrum, Jedburgh.

Members noted that the application was for holiday accommodation and that the Appointed Officer had accepted the business case put forward for the development. They also noted the support of the Economic Development Officer and were content that the proposal complied with Policy ED7, the Review Body welcoming the proposal to introduce holiday accommodation in an attractive wooded setting and representing positive farm diversification. Members also accepted that the proposal was aimed at a niche market and, given the intended treehouse and walkway design, considered that the proposed site was specifically chosen to meet the design, involving riverside woodland alongside an old mill lade with changes in levels and existing mature trees. Provided the trees were retained and protected by condition, Members considered that the landscape and visual impacts of the development would be acceptable.

The Review Body then considered the issue of flood risk and noted that both SEPA and the Council's Flood Risk Officer had objected to the proposals, after considering the applicant's Flood Risk Assessment and associated submissions. They noted that Policy IS8 seeks to avoid placing development within defined functional flood plain and that the purpose of the Policy was to not place people at risk of flooding. However, they also noted the applicant's submissions which demonstrated that the level of the treehouse and walkway were above the 1 in 200 year risk inclusive of freeboard. They were not persuaded that it was justifiable to apply the less frequent and much higher level 1 in 1000 year flood risk, as requested by SEPA. Members felt this was excessive and that consultees were being overly cautious in respect to the development. The Review Body also accepted the applicant's contention that the

treehouse and walkway design were bespoke for the tree and riverbank setting and could not simply be moved elsewhere onto land outwith the defined functional flood plain.

Members also considered the issue of the stilted foundations and the final design of the proposal. Given that the current proposal was seeking planning permission in principle, they noted that final design and constructional specification were matters for the detailed planning and building warrant stages and that full and suitable engineering details would be able to be assessed at those stages.

Members concluded that the proposal was compliant with Policy IS8 on flood risk and that the applicant's submissions had demonstrated minimisation of impacts from flooding, subject to detailed design at the next planning and building warrant stages and a condition ensuring floor and walkway levels were above the defined flood risk levels, as advised by the applicant's consultants. The Review Body were aware that there remained a SEPA objection and that, under the regulations governing notification of planning applications, the intention to approve the application must be notified to the Scottish Ministers.

The Review Body finally considered other material issues relating to the proposal including access, tree protection, ecology, water and drainage 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 consistent with Policies PMD2, ED7, EP13 and IS8 of the Local Development Plan and relevant Supplementary Planning Guidance. There was justification for holiday accommodation on the site and there would be no significant impacts on the landscape subject to appropriate tree retention, siting and design. Flood risk had been demonstrated by the applicant to a sufficient and safe level, the details of the support structure and stability of the building and walkway to be addressed within any subsequent building warrant application. Consequently, the Local Review Body was minded to approve the application subject to notification to the Scottish Ministers, due to the outstanding objection from SEPA.

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. The finished floor level of the treehouse and walkway to be no lower than 102.55m AOD as identified in the Flood Risk Assessment by Kaya Consulting Limited dated 12 August 2019.
Reason: To safeguard against flood risk at the site.
4. The occupation of the treehouse shall be restricted to genuine holidaymakers, any person staying for a maximum of 4 weeks within any consecutive period and for no more than three months in total within the calendar year. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.
Reason: Permanent residential use in this location would conflict with the established planning policy for this rural area.
5. No development to be commenced until further details are submitted to, and approved in writing by, the Planning Authority regarding vehicular access to the site and parking and turning for two vehicles. Once approved, the access and parking/turning to be completed in accordance with the approved details before the building is occupied.
Reason: To ensure the provision of adequate access and parking for the development.
6. No development to be commenced until details of water supply and both foul and surface water drainage are 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 development.
Reason: To ensure the site is adequately serviced.
7. No development to be commenced until a tree survey identifying the existing mature trees within the site, an Arboricultural Impact Assessment and Method Statement 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 protection measures to be agreed around the trees. 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.

8. A Preliminary Ecological Appraisal to be submitted with the application for approval of matters specified as conditions. No development to be commenced until the Appraisal and any subsequent surveys or mitigation are approved and implemented as agreed.
Reason: To safeguard ecological interests at the site.
9. 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 development.
Reason: To ensure adequate provision for waste storage within the site.

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 S Mountford
Acting Chairman of the Local Review Body

Date.....21 August 2020

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