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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, 19 October 2020 at 10.00 am

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Present:- Councillors S. Mountford (Chair), A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, D. Moffat, C. Ramage and N. Richards

Apologies:- Councillor E. Small

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

### 1. **REVIEW OF 20/00486/FUL**

There had been circulated copies of the request from Mr Neil Fortune and Ms Valerie Mauchlen, per Ferguson Planning, 54 Island Street, Galashiels, to review the decision to refuse the planning application for erection of dwellinghouse with detached garage on land north west of Strathmyre, Old Belses, Jedburgh. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultations; general comment; and a list of policies. The Planning Advisor drew attention to information, in the form of amended drawings, 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. Members agreed that the information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. However, they also agreed that the new drawings could not be considered without affording the planning officer and roads planning officer an opportunity of making representations on this new information.

#### **DECISION**

##### **AGREED that:-**

- (a) **the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **new evidence submitted with the Notice of Review in the form of amended Drawings - PP01 (Floor Plan Section, Elevations) and Drawing SP01 Site Plan met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;**
- (c) **the review could not be considered without the need for further procedure in the form of written submissions;**
- (d) **the planning officer and roads planning officer be given the opportunity to comment on the new drawings submitted with the Notice of Review documents; and**
- (e) **consideration of the review be continued on a date to be arranged.**

### 2. **REVIEW OF 20/00714/PPP**

There had been circulated copies of the request from Mr Stuart Corrigan, per Andrew Bennie Planning Limited to review the decision to refuse the planning application for erection of two dwellinghouses in the paddock north of Station House, Cowdenburn. The supporting papers included the Notice of Review (including the Officer's Report and Decision Notice); papers referred to in the Officer's Report, consultations; and a list of policies. In noting the site of the proposed development, Members referred to their determination of a previous application as documented in the Notice of Review submission and which related to a site on the eastern side of the road and where they had agreed a building group was present. In this regard Members re-stated their interpretation of the boundary of that building group which, whilst noting their presence, did not include the buildings on the opposite side of the road and the site of the proposed development. After further consideration they concluded that the site was not a well related addition to the building group. They also noted that in terms of the scale of addition, there was no further capacity to extend the building group within the current Local Development Plan period.

#### **DECISION**

##### **AGREED that:-**

- (a) the request for 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 contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the officer's decision to refuse the application be upheld and the application be refused, for the reasons detailed in Appendix I to this Minute**

*The meeting concluded at 10.45 am*



**APPENDIX I**

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

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**APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND)  
ACT 1997**

**THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW  
PROCEDURE) (SCOTLAND) REGULATIONS 2013**

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**Local Review Reference:** 20/00023/RREF

**Planning Application Reference:** 20/00714/PPP

**Development Proposal:** Erection of two dwellinghouses

**Location:** Paddock North of Station House, Cowdenburn

**Applicant:** Mr Stuart Corrigan

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**DECISION**

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

1. The development would be contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would not relate sympathetically to an existing building group and would comprise sporadic development in a linear manner alongside the public road. No economic or other overriding case would override this conflict. Furthermore, the nearest building group has been increased by the maximum permissible in terms of policy HD2 within the current Local Development Plan period and no overriding case has been substantiated for allowing additional dwellinghouses.

**DEVELOPMENT PROPOSAL**

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

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	1 of 2
Proposed Site Plan	2 of 2

## **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 19<sup>th</sup> October 2020.

After examining the review documentation at that meeting, which included a) Notice of Review (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 noted that the applicant had 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: PMD2, HD2, HD3, IS2, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Landscape and Development 2008

The Review Body noted that the proposal was for planning permission in principle to erect two dwellinghouses on a site at Paddock, North of Station House, Cowdenburn

Members firstly considered whether there was a building group in the vicinity in terms of Policy HD2 and the Housing in the Countryside SPG. They noted that they had agreed a building group was present at Cowdenburn when determining a previous case in June 2019 on the eastern side of the public road – application reference 18/01469/PPP. Although the Review Body noted the applicant's contention that they had considered the Old Station and Station House to be part of the group when consenting that application, Members were clear that they had simply noted the presence of these two houses. They did not consider them to be part of the group and felt that the site (18/01469/PPP) was bookending the row of cottages forming the group, contained between those cottages and the railway. Members, therefore, agreed with the Appointed Officer in his interpretation of their decision relating to 18/01469/PPP and the boundaries of the building group.

Members then considered the relationship of the site with the group as to whether it was in keeping with its character, whilst noting that the application was for planning permission in principle and that the position and design of houses was still to be submitted. They considered that not only was the site on the other side of the public road from the building group, it also resulted in development within an undeveloped field and represented ribbon development, against the provisions of Policy HD2 and the SPG. They concluded that the site was not within the sense of place and was not a well-related addition to the group.

The Review Body then considered the issue of scale of addition and, whilst noting the applicant's view that a 100% addition should be applied in line with the advice in the SPG, Members were of the opinion that adopted Policy stated a 30% or 2 house addition was the maximum permissible and that the proposal should be assessed against this. Given the approval of the aforementioned two houses under application reference 18/01469/PPP, there was no further capacity to extend the building group within the current Local Development Plan period, even if the site had been considered to be a suitable addition to the building group.

The Review Body finally considered other material issues relating to the proposal including any economic case for the houses, residential amenity, access, parking, water and drainage but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for education and affordable housing were required and could be 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.

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### **Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.**

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

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**Signed...** Councillor S Mountford  
Chairman of the Local Review Body

**Date...**27 October 2020

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