

**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 2008**

Local Review Reference: 11/00022/RREF

Planning Application Reference: 11/00430/FUL

Development Proposal: Erection of dwellinghouse and storage building and formation of access

Location: Land South East of 37 Mainsfield Avenue, Morebattle

Applicant: W G and Mrs M Walker

Date Review Received: 13/07/11

Decision Date:

DECISION

The Local Review Body upholds the decision of the appointed officer and refuses planning permission for the following reasons:

- 1 The proposed development is contrary to Policy H8 of the Consolidated Scottish Borders Structure Plan (2011), Policy D2 of the Consolidated Scottish Borders Local Plan (2011) and the adopted Supplementary Planning Guidance on New Housing in the Borders Countryside (2008), in that the site is out with any recognised settlement or building group and the need for the house has not been adequately substantiated, and that, accordingly, the proposed development would represent a sporadic form of development in the open countryside.
- 2 The proposed development would furthermore be contrary to policy G1 of the Consolidated Scottish Borders Local Plan (2011) and the adopted Supplementary Planning Guidance on Placemaking and Design January 2010, in that the proposed design of dwellinghouse is not of an acceptably high standard to warrant approval and would be detrimental to the visual amenities of the area.
- 3 The proposed development is contrary to Policy D1 of the Consolidated Scottish Borders Local Plan (2011), in that:

- Suitable justification for the development of the business at this site, outwith any recognised settlement has not been adequately substantiated, and that, accordingly, the proposed development would represent a sporadic form of development in the open countryside.
- The development has not been suitably demonstrated to be incapable of location within the development boundary of a settlement.

DEVELOPMENT PROPOSAL

The application relates to the erection of dwellinghouse and storage building and formation of access at land south east of 37 Mainsfield Avenue, Morebattle. The applications drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Floor Plan & Sections	0920-01
Elevations	0920-02
Elevations & Floor Plans	51009
Site Plan	HP/2094-102
Sections	HP/2094-103
Location Plan	HP/2094-100
Site Plan	HP/2094-101

PRELIMINARY MATTERS

After examining the review documentation, which included: (a) Decision Notice, (b) Notice of Review and supporting papers, (c) Report of Handling, (d) Comments from Consultees, and (e) List of Policies, the Review Body concluded that it had sufficient information to determine the review and that further procedure was not required in this instance. In coming to this conclusion, the Review Body took into account the applicant's request for further procedure in the form of further written representations, hearing sessions and for a site visit to be held.

The Local Review Body considered the Review competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 19th September 2011.

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: consolidated Scottish Borders Structure Plan 2001-2018 and consolidated Scottish Border's Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- Structure Plan Policies: E2, N20, H7, H8, E16 and I11
- Local Plan Policies: G8, G1, D1, D2, H2, Inf4, Inf6 and G5

Other material key considerations the Local Review Body took into account related to:

- Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- Supplementary Planning Guidance on Placemaking and Design 2010
- Supplementary Planning Guidance on Development Contributions 2011
- Supplementary Planning Guidance on Householder Developments 2006

The Review Body established that the site lay outwith the settlement boundary for Morebattle, as defined in the adopted Local Plan, and as such the developments suitability must be tested against the range of development in the countryside policies.

The Review Body was advised that in the Notice of Review the applicant's agent had referred to Structure Plan Policies E1 - Prime Quality Agricultural land and E2 - Farm diversification and Local Plan Policy G8 - Development Outwith Settlement Boundaries that were not highlighted in the List of Policies. Members agreed that that Policy E1 was not relevant to their consideration of the case as the land was not prime quality agricultural land but that the other policies referred to were cognisant to their deliberations. The policies were set out in full on pages 11-12 and 21 respectively of the applicant's supporting statement.

After considering the submitted information, the Review Body was not convinced that the applicant had demonstrated conclusively that the agricultural groundworks business needed to be located at the site proposed. Members expressed doubt that it even required a rural location; although they acknowledged that ease of access to markets, customers and travel distances for staff were important considerations when locating a business.

Members were sympathetic to the aspirations of the business to expand and encouraged that there was potential for job creation but did not agree that the location was suitable for the proposed development. The Review Body noted policy dictated that sites outwith the settlement boundary should only be contemplated in exceptional circumstances, where no alternative allocated site are available. They contended that the business could be located almost anywhere, but suggested that an alternative location, in particular on the employment site within the village at Croft Park, would be more appropriate.

Members were satisfied that development on land at Croft Park would still meet the requirements of the business, as set out in their supporting statement, and that it would be quite possible to provide effective security measures at this alternative site. They did not accept that the reasons raised by the applicant against the relocation to Croft Park were justified or that the issues of access and safety could not be overcome. They did not feel that the option of an alternative site had been fully tested. The proposal therefore failed to meet the provisions of Policy D1 in terms of economic and operational requirement for siting at this particular locality.

The Review Body were also concerned about the relationship of the development to the village. The development appeared as an inappropriate form of sporadic development into the open countryside surrounding Morebattle. Members were not persuaded that it would be seen as a logical extension to the settlement or that, in its proposed form, would respect the character and amenity of the area.

In terms of the need for the new house, the Review Body were not convinced that, in the absence of the agricultural groundworks business, that the house could be justified on the basis of the agricultural operations at the site. They considered that the land holding was too small and the scale of farming operations too limited to

justify a new house. It was therefore contrary to the provisions of Structure Plan Policy H8 and Local Plan Policy D2.

The Review Body discussed the design of the dwellinghouse at some length and whilst there were differing views expressed, came to the conclusion that the house was inappropriate in terms of current design guidance and also in terms of its suitability for this particular locality. They agreed with the appointed officer that the house was contrary to policy G1 of the Local Plan.

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.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

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.....
Chairman of the Local Review Body

Date.....