

APPENDIX I

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: 20/00024/RREF

Planning Application Reference: 20/00472/FUL

Development Proposal: Formation of new boundary fence (retrospective)

Location: 1 Forley's Field, Goslawdales, Selkirk

Applicant: Mrs E Houston Grundy

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 PMD2 of the Scottish Borders Local Development Plan 2016 in that it would represent a prominent and incongruous form of development that would have an adverse impact on the character and appearance of the surrounding area. This conflict is not overcome by other material considerations.

DEVELOPMENT PROPOSAL

The application relates to the formation of a new boundary fence (retrospective). The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	P620-PL-LOC
Proposed Plans	P620-PL-001

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 16th November 2020.

After examining the review documentation at that meeting, which included a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultation; f) Support comment; g) Objection; and h) 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 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: PMD2, HD3, and IS7

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010

The Review Body noted that the proposal was for planning permission to form a boundary fence and that, as the fence was erected, the application sought retrospective permission. Members also noted that adjustments were proposed in the vicinity of the street lighting column to allow access to the column and also create the necessary service strip width. They accepted that the Roads Officer had no objection to the proposals, provided the adjustments were made.

The Review Body then considered the visual impact and suitability of the fence as part of the boundary treatment and landscaping for the properties in the vicinity. Members agreed with the Appointed Officer that the fence was too high, in an open frontage position adjoining the roadway and providing a dominant and unsympathetic treatment to a garden boundary, to the detriment of the character and amenity of the area. The Review Body considered the fence not to be in keeping with, nor provide a positive contribution to, the existing landscape of the surrounding area, when taking into account new frontage landscaping opposite and elsewhere within the street. Consequently, the fencing was considered contrary to Policy PMD2 of the Local Development Plan and the landscaping requirements of the planning consent for the original housing development.

Members noted the applicant's requirements for privacy and considered the appropriateness of other options which could be imposed by condition, such as reductions in the height or extent of fencing and changes in stain colour. They also noted the presence of fencing and planting opposite and the applicant's suggestion that the fencing combined with that to form a gateway to the development. However, Members considered the fencing opposite to be more recessed with its impacts further reduced by the existing planting. Ultimately, they were not

persuaded that there were acceptable alternative options nor that the context justified supporting the proposal.

They concluded that the fence, at the height and in the location proposed, was not a sympathetic or appropriate boundary treatment for the site and was contrary to Policy PMD2 of the Local Development Plan and the Placemaking and Design SPG.

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.

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

Date.....2 December 2020