

**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:** 15/00007/RREF

**Planning Application Reference:** 14/00835/FUL

**Development Proposal:** Siting of residential caravan (retrospective)

**Location:** Land West of Tibbie Shiels Inn, St Mary's Loch, Selkirk

**Applicant:** Alistair Moody Proprietor

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**DECISION**

The Local Review Body reverses the decision of the appointed officer and grants planning permission subject to conditions and informative, as set out in this decision notice.

**DEVELOPMENT PROPOSAL**

The application relates to siting of residential caravan at land west of Tibbie Shiels Inn, St Mary's Loch, Selkirk. The application drawings consisted of the following drawings:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	-
Site Plan	-

**PRELIMINARY MATTERS**

The Local Review Body considered, at its initial meeting to discuss the matter on 15<sup>th</sup> June 2015, that the review had been competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included: (a) Decision Notice; (b) Notice of Review and supporting papers; (c) Report of Handling

(papers referred to in Report of Handling); (d) Consultations; (e) Objection; (f) Further representation and (g) List of Policies, the Review Body concluded that it did not have sufficient information to determine the review and that further procedure was required in this instance in the form of further written submission in respect of:

- (i) evidence of the basis on which the caravan had been occupied over the last 2-3 year period in respect of the nature of user and length of period(s) of use in each case; and
- (ii) the proposed use or uses going forward with economic justification for the use(s)

In coming to this conclusion, the Review Body considered the request from the applicant for further procedure in the form of written representations, oral hearings and a site visit.

The Review Body re-convened to determine the case on 17<sup>th</sup> August 2015 and considered the two submissions from the appointed officer and the applicant in respect of the listed items.

## **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 2013 and the consolidated Scottish Border's Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- Local Plan Policies: G1, D1 and D2

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

- Scottish Borders Supplementary Planning Guidance on new Housing in the Borders Countryside 2008
- Supplementary Planning Guidance on Local Landscape Designations 2012
- Draft Scottish Borders Local Development Plan 2013

The Review Body noted that the static caravan was already in-situ at the site and had been there for some considerable period. Members were quite content that it had no impact on the visual qualities of the locality. The caravan was placed within an existing woodland area, at a lower level than the main access road and during the summer months it would be well screened.

In terms of the use of the caravan, the Review Body noted that it had been occupied by staff at the Tibbie Shiels Inn, and for the bailiff for St Mary's Angling Club in the past three years. It had not been used for permanent residential use. Whilst the economic case that had been submitted by the applicant was far from robust, Members were satisfied that, if the caravan was occupied by staff or for short term holiday lets, it would help support an important local rural business. The occupancy

could be restricted by the imposition of a suitable planning condition. The Review Body concluded that the development would be consistent with Local Plan policy D1.

While the caravan was currently in a reasonable condition, Members did not feel that it was suitable for permanent retention at the site. In the circumstances, the Review Body considered that temporary 10 year permission was appropriate in this case.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

## **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. Within 3 months of this consent, a scheme shall be submitted to and approved by the Planning Authority detailing how any free standing objects at the site, such as the septic tank, are to be securely anchored to the ground. Thereafter, the approved scheme to be carried out in accordance with the approved implementation plan set out in the scheme.  
Reason: To prevent such objects being washed away in a flood causing potential damage downstream and blocking culverts and bridges.
2. The occupation of the caravan shall be restricted to following:
  - (a) person/s solely or mainly employed, and their dependents, in the Tibbie Shiels Inn business premises located on the site.
  - (b) genuine holidaymakers for individual periods not exceeding 4 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.

Reason: The use of the caravan for permanent residential use in this location would conflict with the established planning policy for this rural area.

3. The caravan hereby permitted shall be removed and the land restored to its former condition on or before 17<sup>th</sup> August 2025.  
Reason: The caravan is constructed of materials which are likely to deteriorate to the detriment of the external appearance of the caravan and which would then have an adverse effect upon the visual amenity of the area.
4. The means of water supply, surface water and foul drainage to be submitted to and approved in writing by the Planning Authority before the development is commenced. The development shall then be implemented in accordance with the approved details.  
Reason: To ensure that the site is adequately serviced.

## **INFORMATIVE**

The Council's Flood Officer advises that:

The developer must accept that their property is at flood risk and accept that flooding may occur.

As access and egress to the development may also be affected by flood waters, he would recommend that you receive flood warnings from SEPA, and should sign up to FLOODLINE at [www.sepa.org.uk](http://www.sepa.org.uk) or by telephone on 0845 988 1188.

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### **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..**Councillor R Smith  
Chairman of the Local Review Body

**Date:...**2 September 2015