

APPENDIX V

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: 15/00016/RREF

Planning Application Reference: 15/00071/FUL

Development Proposal: Erection of dwellinghouse

Location: Land North of Wormiston Farm, Eddleston

Applicant: R & M Brockie & Son

DECISION

The Local Review Body reverses the decision of the appointed officer and gives notice that it intends to grant planning permission subject to conditions and the conclusion of a legal agreement, as set out in this decision notice.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse on land north of Wormiston Farm, Eddleston. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Location Plan	2014/46/101
Elevations	2014/46/104/A
Floor Plans	2014/46/103/A
Site Plan	2014/46/102/A

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 17th August 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, which included: (a) Decision Notice; (b) Notice of Review and supporting papers; (c) Report of Handling; (d) Consultations; and (e) List of Policies, the Review Body concluded that it had sufficient information to decide 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 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: INF4, H2, D2, G5 and G1

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 Trees and Development 2008
- Supplementary Planning Guidance on Biodiversity 2005
- Supplementary Planning Guidance on Placemaking & Design 2010
- Supplementary Planning Guidance on Development Contributions 2011
- Scottish Borders Proposed Local Development Plan 2013

The Local Review Body was satisfied that there was a building group at Wormiston Farm, as defined in Local Plan Policy D2 and in the approved Supplementary Planning Guidance on New Housing in the Borders Countryside comprising the 3 farm cottages to the south and the farmhouse bungalow to the north of the group. The houses book-ended the existing farm buildings, which also contributed to the area's sense of place.

The Local Review Body then considered whether the proposed house was a suitable addition to the existing group. The Review Body noted the appointed officer considered that the tree belt to the north of the farmhouse bungalow constituted a natural boundary to the building group, and that the proposed site was located out with that boundary.

The Review Body was satisfied that the proposal would be consistent with the existing development pattern at the group. The new house would relate well to the building group, which is a long linear ridgeline feature, with buildings intermittently screened by trees and open to view from the A703. The provision of strong tree belt and landscaping would help further assist the integration of the house into the landscape. Consequently, it was concluded that the site in question was an acceptable addition to the building group

In view of the decision to accept that this was a suitable addition to the building group there was no requirement to consider the question of economic need for the house or the availability of alternative sites or premises at Wormiston for the applicant.

Members turned their attention to the acceptability of the proposed house. They noted that positive changes had been made to the design of the house in response to criticism from the appointed officer and they were satisfied that these had produced a house that would sit well in the landscape and was in keeping with the character of the group.

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. Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the building have been submitted to and approved in writing by the Local Planning Authority, and thereafter no development shall take place except in strict accordance with those details.

Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

2. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):

- i. existing and finished ground levels in relation to a fixed datum preferably ordnance
- ii. measures to ensure adjoining trees are protected during the construction phase
- iii. location of new trees, shrubs, hedges and grassed areas and schedule of plants to comprise species, plant sizes and proposed numbers/density
- iv. location and design, including materials, of walls, fences and gates
- v. soft and hard landscaping works
- vi. existing and proposed services such as cables, pipelines, sub-stations
- vii. other artefacts and structures such as street furniture, play equipment
- viii. a programme for completion and subsequent maintenance.

Thereafter the landscaping works shall be implemented in accordance with the approved scheme.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

3. The means of 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 and to ensure that the development does not have a detrimental effect on public health.
4. No development should commence until the applicant has provided evidence that the site will be serviced by a wholesome supply of drinking water of adequate volume. The supply should not have a detrimental effect on other private water supplies in the area. The development shall then be implemented in accordance with the approved details
Reason: To ensure that the site is adequately serviced without a detrimental effect on the water supplies of surrounding properties.
5. Prior to the commencement of the development, a scheme showing details of the necessary access, parking and turning arrangements for the new dwellinghouse shall be submitted to and approved by the Planning Authority. The scheme shall include:
 - i. a service lay-by incorporated into the access as per Council specification DC-3 (attached).
 - ii. the first 5 metres of the access at a gradient not exceeding 1 in 18 and thereafter the maximum gradient to be 1 in 8. The area intended for the parking and turning of motor vehicles not to exceed a gradient of 1 in 18.
 - iii. a construction specification for private driveway and parking area
 - iv. parking and turning for a minimum of two vehicles, excluding garages, to be provided within the curtilage of the plot prior to the dwellinghouse being occupied, and thereafter retained solely for that purpose.
 - v. a single passing place to be provided at an agreed location and constructed as per the Council's my specification DC-1 (attached).
 - vi. Visibility splays of 2.4 metres by 90 metres in both directions onto the public road to be provided prior to the dwelling being occupied. Thereafter, the visibility splays to be maintained and kept clear from obstruction.
 - vii. confirmation to be provided as to the relocation of the existing field access

The agreed scheme shall be fully implemented prior to the occupation of the dwellinghouse.

Reason: To ensure that the access road is of an acceptable standard to cater for the new development.

6. No development shall commence until a scheme indicating the finished floor level of the dwellinghouse hereby permitted has been submitted to and approved in writing by the Local Planning Authority. Such details shall indicate the existing and proposed levels throughout the application site. The dwellinghouse shall then be erected in strict accordance with those agreed levels.
Reason: To ensure that the proposed development achieves a suitable landscape fit and does not have an adverse effect upon the visual amenity of the locality.

INFORMATIVES

Water Supply

Any house that does not have an adequate piped supply of wholesome water within the property will fail the tolerable standard as defined by Section 86 of the Housing (Scotland) Act 1987.

As the dwelling is to be serviced by a private water supply the applicant will need to provide details to demonstrate that the supply will be adequate for the size of the dwelling and not affect supplies in the vicinity.

The will involve the provision of the following information (delete the as appropriate).

1. The type of supply ie borehole, spring, well etc
2. The location of the source by way of an 8 digit reference number.
3. Details of other properties on the supply (if the supply is an existing one)
4. Estimated volume of water that the supply will provide (details of flow test)
5. Evidence that this supply will not have a detrimental effect on supplies in the area
6. Details of any emergency tanks
7. Details of treatment to be installed on the system.
8. Details of any laboratory tests carried out to ensure the water is wholesome (has the supply been tested did it pass).

For information, the minimum daily volume of water that requires to be supplied by a private water supply must be equivalent to one cubic metre (or 1000 litres) of water per day for every five persons who will be using the supply. It is the provision of this quantity that must be ensured and, as such, water storage facilities may be necessary for this purpose. In addition, when designing storage facilities, the minimum recommended capacity is three days' worth of supply, in order to allow for supply interruption/failure.

Private Drainage System

Private drainage systems often cause public health problems when no clear responsibility or access rights exist for maintaining the system in a working condition.

Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law.

To discharge the Condition relating to the private drainage arrangements, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement

Solid Fuel Use

These installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do not indemnify you in respect of Nuisance action.

Accordingly this advice can assist you to avoid future problems.

The location of the flue should take into account other properties that may be downwind.

The discharge point for the flue should be located as high as possible to allow for maximum dispersion of the flue gasses.

The flue should be terminated with a cap that encourages a high gas efflux velocity.

The flue and appliance should be checked and serviced at regular intervals to ensure that they continue to operate efficiently and cleanly.

The appliance should only burn fuel of a type and grade that is recommended by the manufacturer.

If you live in a Smoke Control Area you must only use an Exempt Appliance <http://smokecontrol.defra.gov.uk/appliances.php?country=s> and the fuel that is Approved for use in it <http://smokecontrol.defra.gov.uk/fuels.php?country=s> .

In wood burning stoves you should only burn dry, seasoned timber. Guidance is available on -

[http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/\\$FILE/eng-woodfuel-woodasfuelguide.pdf](http://www.forestry.gov.uk/pdf/eng-woodfuel-woodasfuelguide.pdf/$FILE/eng-woodfuel-woodasfuelguide.pdf)

Treated timber, waste wood, manufactured timber and laminates etc. should not be used as fuel.

Paper and kindling can be used for lighting, but purpose made firelighters can cause fewer odour problems.

The appliance should only burn fuel of a type and grade that is recommended by the manufacturer.

LEGAL AGREEMENT

The Local Review Body required that a Section 75 Agreement, or other suitable legal agreement, be entered into regarding the payment of a financial contribution towards educational facilities.

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