

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: 21/00001/RREF

Planning Application Reference: 20/00956/PPP

Development Proposal: Erection of dwellinghouse with integral garage

Location: Land North East of Balcladach, Easter Ulston, Jedburgh

Applicant: Mr D J Irvine

DECISION

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

1. The proposal is contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Planning Guidance Note (2008), in that the proposed development would be within a previously undeveloped field, beyond the natural and man-made boundaries of the Easter Ulston building group, outwith the sense of place of the building group and out of keeping with the character of the building group resulting in an unacceptable adverse impact on the landscape and amenity of the surrounding area.
2. The proposal is contrary to Policy PMD1, Sustainability of the Scottish Borders Local Development Plan (2016), in that it would present itself as ribbon development contrary to the sustainable use and management of land.
3. The proposal is contrary to Policy PMD2, Quality Standards of the Scottish Borders Local Development Plan (2016), in that the site is not compatible with or respects the character of the surrounding area.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse with integral garage. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
OS Sitemap	Block Plan

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 15th March 2021.

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; d) Objections; e) General Comments; f) Additional representations and response from applicant and g) List of Policies, the Review Body 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: PMD1, PMD2, PMD3, PMD4, PMD5, HD2, HD3, EP1, EP2, EP3, EP8, EP12, EP13, IS2, IS5, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on Green Space 2009
- SBC Supplementary Planning Guidance on Affordable Housing
- SBC Supplementary Planning Guidance on Use of Timber in Sustainable Construction 2009
- SG Housing 2017
- Local Biodiversity Action Plan 2001

The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse and integral garage on a site North-East of Balcladach, Easter Ulston, Jedburgh.

Members firstly considered whether there was a building group at Easter Ulston in terms of Policy HD2 and the Housing in the Countryside SPG. They noted that the settlement had grown in a predominantly linear fashion around the road in recent years and they were content

that Easter Ulston had sufficient existing houses to qualify as a building group under the Policy. The Review Body also noted that the Policy allowed for two new houses or 30% scale of addition to the group within the current Local Development Plan period. As this allowance has to take into account extant but unimplemented consents, Members noted that one such consent exists but that there still remained capacity to expand the group. The application, therefore, was not considered to be contrary to these fundamental requirements of Policy HD2 and the SPG.

Members then considered the relationship of the site with the group as to whether it was in keeping with its character. It was noted that the application was for planning permission in principle and that the position and design of the house were still to be submitted, albeit the intention was to erect a single storey property. Whilst the Review Body noted the presence of "Fairfields" opposite and the applicant's justification for extension of the building group boundary on the basis of symmetry, they attached greater weight to the natural existing boundary of the group and the fact that the site was located in the corner of an undeveloped field. They did not feel that the creation of a matching or symmetrical boundary provided the justification to break into an open undeveloped field and considered that, irrespective of the line of any new garden boundary or planting, the site was outwith the natural sense of place and was inappropriate expansion. They also agreed with the Appointed Officer that, as creation of a symmetrical boundary was not justification to break into an undeveloped field, the proposal also represented ribbon development contrary to Policy PMD1 and the Housing in the Countryside SPG.

The Review Body then considered other material issues relating to the proposal including residential amenity, road capacity, water and drainage but were of the opinion that the issues were not material to their decision and appropriate conditions could address them satisfactorily. They also noted that development contributions would not have been required.

Finally, Members noted the presence of a Section 75 Agreement which precluded any new housing development on the land including the site. Whilst this was material information in relation to the history and development constraints in the building group, the Review Body considered that the presence of the Agreement was not, in itself, a reason to refuse the planning application. There was a different procedure to be followed to seek exclusion of the site from the Agreement, had the planning application been considered acceptable in terms of the Local Development Plan. Members, therefore, agreed to omit the reason for refusal relating to the Section 75 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.

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.....22 March 2021