

## **APPENDIX II**

### **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:** 21/00002/RREF

**Planning Application Reference:** 20/00923/PPP

**Development Proposal:** Erection of dwellinghouse

**Location:** Land North West of Whinneybrae, Skirling

**Applicant:** R E Wood & Sons

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## **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 proposed development is contrary to policy HD2 of the Local Development Plan 2016 and the adopted supplementary planning guidance on New Housing in the Borders Countryside, in that the site is outwith any recognised settlement or building group and the need for the house has not been adequately substantiated. Accordingly, the proposed development would represent a sporadic and unjustified form of development in the countryside which would set an undesirable precedent for similar unjustified proposals.

## **DEVELOPMENT PROPOSAL**

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

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	1 of 1

## **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 15<sup>th</sup> 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) Additional representation and response from applicant and f) 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: PMD2, PMD4, HD2, HD3, EP13, IS2, IS5, IS7 and IS9

### Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- 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

The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse for an agricultural worker on a site North-West of Whinneybrae, Skirling

Members firstly considered the location near to Skirling and whether the site would need to be assessed against Policy PMD4 relating to settlement boundaries. In noting that the field was not adjoining the boundary and was over 200m away, the Review Body agreed that whilst there were impacts to be considered from Skirling, Policy PMD4 did not apply in this instance.

As the site was for the erection of a house outwith any settlement or building group, Members then considered the application in relation to Policy HD2 Part F and noted the applicant's submissions regarding the justification for the house. They noted that the holding was intended to be reserved for an existing pedigree sheep flock. This was in order to act on best advice to provide maximum health and welfare standards by separating the pedigree flock from livestock on the applicant's two other farms. Members noted the location of these farms, the claimed justification for needing a house to care for the pedigree sheep flock and the need for the business to employ an additional worker. They also noted the fact that the applicant owned the site whereas their business operated tenanted land elsewhere.

The Review Body considered the case for a house and whilst they noted the success of the business, were supportive of it and accepted the apparent benefits of separating the pedigree sheep flock, they agreed with the Appointed Officer that the applicant had failed to adequately demonstrate the need for a house on the holding. In particular, the Review Body felt there was insufficient information in relation to investigating alternative accommodation for a farm worker, either on the two farms associated with the business, or within nearby local settlements or building groups such as Skirling. They also did not feel it had been sufficiently demonstrated that it was necessary for a worker to actually live on the holding, rather than nearby.

In the absence of more detailed and convincing information about these aspects, Members were of the opinion that the location of a house in an open, undeveloped field had not been justified and that, in terms of impacts on the landscape and from Skirling itself, the proposal was contrary to Part F of Policy HD2 and the Housing in the Countryside SPG

The Review Body then considered other material issues relating to the proposal including residential amenity, road access, the right of way, 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 have been required for Peebles High School.

## **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.

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### **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