

# Public Document Pack

## SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW  
BODY conducted remotely by Microsoft  
Teams Live Event on Monday, 17 May 2021  
at 10.00 am

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Present:- Councillors S. Mountford (Chair), J. A. Fullarton, S. Hamilton, H. Laing,  
D. Moffat, C. Ramage, N. Richards and E. Small

Apologies:- Councillor A. Anderson

In Attendance:- Principal Planning Officer – Major Applications/Local Review, Solicitor (S.  
Thompson), Democratic Services Team Leader, Democratic Services Officer  
(F. Walling).

### 1. **REVIEW OF 20/01234/FUL**

There had been circulated copies of the request from Mr Josh Welsh, 1 Raeburn Lane, Selkirk, to review the decision to refuse the planning application for the erection of a boundary fence (retrospective) at 1 Raeburn Lane, Selkirk. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; support comment; and a list of policies. 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. In the ensuing discussion Members were content with the principle of a timber fence replacing the previous metal fence and had sympathy with the applicant in terms of requirements for privacy and dog security. However their opinion was divided about the visual impact of the fence at that location, in terms of its prominence and, in particular, its height.

#### VOTE

*Councillor Small, seconded by Councillor Laing moved that the decision to refuse the application be upheld.*

*Councillor Moffat, seconded by Councillor Hamilton, moved as an amendment that the decision to refuse the application be reversed and the application approved.*

*Members voted as follows:-*

*Motion - 4 votes*

*Amendment - 4 votes*

*The Chairman used his casting vote in favour of the motion which was accordingly carried and the application refused,*

#### **DECISION**

**DECIDED that:-**

- (a) **the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**

- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the officer's decision to refuse the application be upheld and the application be refused, for the reasons detailed in the Appendix to this Minute.**

*The meeting concluded at 10.30 am*



**APPENDIX**

**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:** 21/00006/RREF

**Planning Application Reference:** 20/01234/FUL

**Development Proposal:** Erection of boundary fence (retrospective)

**Location:** 1 Raeburn Lane, Selkirk

**Applicant:** Mr Josh Welsh

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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 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 erection of a fence. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
OS Sitemap	Block Plan
Photograph	1
Photograph	2
Photograph	3

## **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 17<sup>th</sup> May 2021.

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) Support comment; and f) List of Policies, the Review Body considered the applicant's request for further procedure in the form of a site visit but did not consider it 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 and HD3
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Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking and 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 appreciated that the applicant had followed the appropriate procedure once the planning breach had been identified

The Review Body firstly considered the visual impact of the fence as a garden and roadside boundary treatment. They assessed the fence on the photographs submitted by the applicant and a series of photographs showing surrounding properties taken from Google Streetview, whilst understanding that the latter were several years old. Members had no issue with a timber fence replacing the previous metal fence, but they agreed with the Appointed Officer that the fence was too high, out of keeping with the surrounding hedges and low boundary treatments and did not provide a positive contribution to the existing streetscape. They considered that there were established planning regulations governing fencing height and the proposal contravened these. The Review Body did discuss whether the fence would have been more acceptable if lower in height. They also noted the adjoining high hedge, albeit they felt that hedging still provided a softer impact on the street scene. Members concluded that the fencing was contrary to Policy PMD2 of the Local Development Plan.

In terms of the applicant's residential amenity under Policy HD3, Members noted the applicant's requirements for privacy, dog security and the location of the property downhill at a road junction and near to a bus stop. Whilst they had sympathy with the applicant in terms of the perceived benefits of the fencing and noted that there was a letter of support and no objections from neighbours, the Review Body did not consider these outweighed their concerns over visual impact and height of the fencing. They concluded that the fence, at the

height and in the location proposed, was prominent, incongruous and an inappropriate boundary treatment for the site, contrary to Policy PMD2 of the Local Development Plan.

## **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**.....21 May 2021

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