



Chief Executive
- 5 MAY 2021
Democratic Services

Notice of Review

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013

IMPORTANT: Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name Charles Bruce
Address 3 Edderston Ridge Park, Peebles
Postcode EH45 9NG

Contact Telephone 1
Contact Telephone 2
E-mail*

Agent (if any)

Name
Address

Postcode

Contact Telephone 1
Contact Telephone 2
E-mail*

Mark this box to confirm all contact should be through this representative:

Yes No

* Do you agree to correspondence regarding your review being sent by e-mail?

Planning authority Scottish Borders Council

Planning authority's application reference number 21/00285/PPP

Site address Land West of the Old Barn, Westwater, West Linton

Description of proposed development
Erection of dwellinghouse. Planning Permission in Principle

Date of application 28/2/2021

Date of decision (if any) 27/4/2021

Notice of Review

Note: this notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review (tick one box)

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions; and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

The Planning Officer's decision is incorrect and wrongly interprets the full planning history of the site and the number of permitted developments under Local Area Plan Policy HD2

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement

You must state, in full, why you are seeking a review of your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

To properly assess whether or not the Planning Officer ' s decision is correct or not, it is necessary to examine the entire recent planning history of the site.

This goes back to 2004 and commenced with an application by Mr & Mrs Thomson to build a dwelling house on ground owned by them and adjacent to the property comprising approximately 26 acres of land, then owned by my late father and mother-in-law and known as West Water and now owned by myself and other family members

Mr & Mrs Thomson were refused permission to build a dwelling house on the grounds this was classed as housing in the countryside and that a building group, which would have permitted such a development, did not exist at the location.

This refusal was appealed to the Reporter, who found that West Water Cottage and Bogsbank Farm, which lay adjacent to the proposed site on either side of Bogsbank Road, did form a building group and that this group should also be taken to include West Water itself at the end of the existing driveway and the disused barn between West Water and West Water Cottage, which was being planned for development. This makes a building group in 2004 of four properties, and permission was granted to the Thomson ' s for their development, making five properties.

The Thomson ' s allowed this permission to lapse, but when a re application was made by them in 2014, the same arguments about building groups were advanced by the Planning Officer at that time to support refusal. These arguments were again overturned by the Local Review Body on 29/2/2015 and an extant permission to build here now exists, though no property has yet been built.

Reading the current Local Area Plan, adopted on 12/5/2016, Policy HD2 states that in relation to Housing in the Countryside, additional permissions may be granted on the basis of 2 properties or 30% of the existing number, whichever is the greater. In the case of our proposed development, the greater number would be 2, which would take the total number of properties across the whole site to seven, once all implementable permissions have been put into action.

At the date of adoption of the current Local Area Plan, on 12/5/2016, the following properties existed and should be taken as forming a building group on that date: *SEE ENCLOSED DOCUMENT*

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. Note: there will be no opportunity to submit further documents to accompany this notice of review.

It is assumed that all correspondence between myself and the Planning Officer will be made available to the Panel by him, and that the official planning history of the site will similarly be made available. Key dates have however been fully researched and are included in my argument above.

Note: the planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note: where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date 3/5/2021

The completed form should be returned to the Clerk of the Local Review Body, Democratic Services, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA or sent by email to localreview@scotborders.gov.uk

Full text shown under 'Statement' on attached form but cropped due to nature of the formatting within that document.

To properly assess whether or not the Planning Officer's decision is correct or not, it is necessary to examine the entire recent planning history of the site.

This goes back to 2004 and commenced with an application by Mr & Mrs Thomson to build a dwelling house on ground owned by them and adjacent to the property comprising approximately 26 acres of land, then owned by my late father and mother-in-law and known as West Water and now owned by myself and other family members

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The Thomson's allowed this permission to lapse, but when a re application was made by them in 2014, the same arguments about building groups were advanced by the Planning Officer at that time to support refusal. These arguments were again overturned by the Local Review Body on 29/2/2015 and an extant permission to build here now exists, though no property has yet been built.

Reading the current Local Area Plan, adopted on 12/5/2016, Policy HD2 states that in relation to Housing in the Countryside, additional permissions may be granted on the basis of 2 properties or 30% of the existing number, whichever is the greater. In the case of our proposed development, the greater number would be 2, which would take the total number of properties across the whole site to seven, once all implementable permissions have been put into action.

At the date of adoption of the current Local Area Plan, on 12/5/2016, the following properties existed and should be taken as forming a building group on that date:

1. The now rebuilt Westwater House
2. West Water Cottage
3. An implementable permission in respect of The Old Barn, dated 7/2/2016
4. Bogbank Farm
5. An implementable permission for one dwelling on land South of Westwater Cottage (the Thomson development)

It is therefore my submission that 2 further permissions for properties additional to the existing five would in the normal course of events still be available.

Permission was granted on 14/5/2019 for one dwelling west of Westwater House, and this property is now nearing completion.

The existing implementable permission for conversion of the Old Barn to a dwelling house was subsequently changed to permission for a simple erection of a dwelling house on 8/2/2019.

However, this was a technical change found to be necessary due to the poor state of the original building and was to all intents and purposes the same development counted in the above list on the key date of 12 May 2016.

My submission is that this still leaves one further plot available for permission and I have applied for Planning Permission in Principle for such a plot.

This has been refused by the Planning Officer on the basis that, and I quote, "the extant permissions must be taken as 'using up' the available development opportunities.

I fail to see how he can have reached this conclusion, and respectfully request that his decision is overturned and Planning Permission in Principle is granted as requested.

Finally, I note that the new draft Local Area Plan currently progressing towards adoption will, once again, permit an expansion of building groups such as this by 30% or two, whichever is the greater. So, on that basis, it is likely that permission would be granted once this new plan is implemented if the decision to refuse this application is upheld. It seems slightly disingenuous to me to refuse permission for a development that in all likelihood will be granted anyway, just slightly further down the line, but my principle argument remains as previously stated.

New housing is being called for at all levels of Government, and this development will release an affordable house somewhere further down the property chain if allowed to proceed.

As a footnote I find it disappointing to note that Planning Officers have now three times attempted to refuse permission for development within this building group, firstly in relation to an application by Mr & Mrs Thomson in 2004 then again by a further application by them in 2014 in respect of the same site and now in respect of this application by myself.

On the first occasion their views were overturned very unambiguously by The Reporter in 2004, which should have served to inform future applications in relation to this site, and on the second occasion by the Local Review Panel in 2015. This is now the third occasion on which an application has been refused incorrectly in my view on similarly spurious grounds as before.



35/21