

**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:** 21/00017/RREF

**Planning Application Reference:** 21/00624/PPP

**Development Proposal:** Erection of dwellinghouse

**Location:** Land East of Renton Bush, Reston

**Applicant:** Aver Chartered Accountants

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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 HD2 of the Local Development Plan 2016 and the New Housing in the Borders Countryside Supplementary Planning Guidance 2008 in that there is no building group at this location and no other case for a dwellinghouse at this location has been presented. The proposed development would comprise sporadic development in a countryside location. This conflict with the Local Development Plan is not overridden by any other material considerations.

**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	A55 196
Site Plan	003
Site Plan	004

**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 13<sup>th</sup> September 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) Objection; and e) List of Policies, the Review Body noted the applicant request for further procedure by means of a site inspection 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: PMD1, PMD2, HD2, HD3, EP1, EP2, EP3, EP7, EP13, IS2, 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
- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on SUDS 2020
- SBC Supplementary Planning Guidance on Affordable Housing 2015
- SBC Supplementary Guidance "Housing" 2017
- SESPlan 2013
- Scottish Planning Policy 2014
- Scottish Borders Woodland Strategy 2005
- Local Biodiversity Action Plan 2001
- Scottish Government "Control of Woodland Removal" Policy
- "Scottish Biodiversity Strategy" 2004 and 2020
- Scottish Government "Forestry Strategy 2019-2029" 2019
- Planning (Scotland) Act 2019
- PAN 72 "Housing in the Countryside" 2005

The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse on land east of Renton Bush, Reston. Members also noted that the site

currently contained an unauthorised building and groundworks which, together with an adjoining building and works, did not have the benefit of planning permission and was subject to enforcement action.

Members firstly considered the location of the site between Greenwood Farm and Houndwood. They agreed with the Appointed Officer that the site was outwith these building groups and not an appropriate addition to them. The proposal was, therefore, considered contrary to Clause A of Policy HD2 and the New Housing in the Countryside SPG.

The Review Body then considered the application in relation to Clause F of Policy HD2 and noted the applicant's submissions regarding the justification for the house, which related to compliance with Government Policy on rural development and homeworking. Members did not consider this was sufficient economic reason to justify a house on the site and concluded that the proposal was contrary to Clause F of Policy HD2.

The Review Body then considered whether there were other material factors relating to the proposal that should influence their decision and outweigh non-compliance with Policy HD2. They noted the applicant's submissions that approval of a house with design and planting conditions could achieve an environmental improvement at the site and be a more timeous and effective rectification of unauthorised development than the Council taking enforcement action, especially as the site is in receivership. Whilst Members accepted that enforcement proceedings may present challenges and take time, they did not consider that erection of a house on the site was the appropriate solution. The Review Body considered that reinstatement of the ground and replanting of woodland were the appropriate remedial actions, secured through action from the Council and Scottish Forestry.

The Review Body finally considered other material issues relating to the proposal including landscape impacts, water, drainage, access and developer contributions but were of the opinion that the issues did not influence the overall decision on the Review and could have been controlled by appropriate conditions and a legal agreement had the proposal been supported.

## **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**.....

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