

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: 15/00021/RREF

Planning Application Reference: 15/00616/FUL

Development Proposal: Installation of 16 no. solar photovoltaic panels to roof

Location: Raebank, Chapel Street, Selkirk

Applicant: Mr G Chamberlain

DECISION

The Local Review Body (LRB) reverses the decision of the appointed planning officer and grants planning permission as set out in the decision notice.

DEVELOPMENT PROPOSAL

The application relates to the erection of 16 no. solar photovoltaic panels on the south east facing roof of this detached property within Selkirk Conservation Area. The application drawings consist of the following :

Plan Type	Plan Reference No.
Location Plan	OS Extract
Planning Layout	Roof layout
Brochures	Solar Panel
Photos	As existing

PRELIMINARY MATTERS

The LRB considered at its meeting on 19th October 2015, that the review had been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

REASONING

After examining the review documentation at that meeting, which included : a) Notice of Review and accompanying papers including the decision notice, officer's report and comment from the Community Council; b) Papers referred to in officer's report and c) List of policies, the LRB considered that it had sufficient information to determine the review and proceeded to consider the case. In coming to this conclusion, the LRB considered the request from the applicants for further procedure in the form of written representations, one or more hearing sessions and a site visit.

Within the Notice of Review it was noted that the Appellant stated that "The interpretation of what constitutes unacceptable impact on the conservation area is subjective. The application needs to be seen in the context of the surrounding street and the precedent set by the approval of a larger application by the Parish Church has been overlooked". Members were advised that they should consider the Local Review proposals "de novo", but should have due regard to whether the Parish Church decision set a relevant precedent that was material to the current application.

Clarification was made in respect of reference given within the Notice of Review by the Appellants to the Town and Country Planning (General Permitted Development) (Domestic Microgeneration) (Scotland) Amendment Order 2009. The LRB acknowledged that the Order lays down the regulations as to whether proposals require planning consent or not – it does not state whether such proposals should or should not be approved. Whether proposals are consequently acceptable or not is guided by policy and other material considerations. The LRB noted that the proposal required planning consent as the property was located within the Selkirk Conservation Area of which the Council had withdrawn all normal permitted development rights.

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 2013 and the consolidated Scottish Border's Local Plan 2011. The LRB considered that the most relevant of the listed policies were:

- Local Plan policies : G1, BE4 and D4

Other material key considerations the LRB took into account related to:

Other Material Considerations

- Supplementary Planning Guidance on Renewable Energy 2007
- Supplementary Planning Guidance - Placemaking and Design 2010
- Historic Scotland's Managing Change in the Historic Environment "Micro Renewables" 2010
- Historic Scotland's Micro-renewables in the Historic Environment 2014
- Scottish Historic Environment Policy 2011
- Scottish Planning Policy
- Scottish Borders Proposed Local Development Plan 2013

Members of the LRB noted the proposed location and proposed array of the solar panels over the majority of the south east face of the roof and that the Appellant considered that the proposal would not be feasible from an economic point of view if the proposed number of panels were reduced.

Members of the LRB also noted the context of the surrounding streets and considered whether a precedent had been set by the approval of a larger application for a solar panel array at the Parish Church within the Selkirk conservation area. While members did consider that the Parish Church was a relevant consideration they considered that it did not set a general precedent for such proposals and that it could be distinguished from the current application given that in overall area terms only a small part of the church roof was covered by the array of solar panels, minimising the impact on the conservation area.

Whilst noting the proposal was within the Selkirk Conservation Area, members noted that the street that the solar array would face was not within the prime frontage. They considered that Chapel Street was not a primary route through the town nor did they consider it was of any great architectural merit. Members considered that the location of the property, and in particular the section of roof on which the panels are proposed, was not particularly prominent within the Conservation Area, that the scale of the panels was not prominent in relation to the context of the street and that in general solar panels were now considered a more common and less contentious means of renewable energy. Members made reference to the recently updated Council Guidance on Replacement Windows which stated that when determining applications for replacement windows cognisance should be given as to how prominent properties were within Conservation Areas, and that there could be more flexibility in more extreme cases. It was considered that this principal could also be applied to this proposal.

As required by policy D4 members weighed up the wider economic and environmental benefits of the solar panels against any perceived detrimental impacts on the Conservation Area. It was considered that in the specific location of the proposal the benefits outweighed any perceived detrimental impacts on the Conservation Area.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that development was consistent to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

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.

Signed...Councillor R Smith
Chairman of the Local Review Body

Date...2nd November 2015
