

APPENDIX II

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: 15/00022/RREF

Planning Application Reference: 15/00504/FUL

Development Proposal: External alterations and erection of 4no flagpoles

Location: West Grove, Waverley Road, Melrose

Applicant: Rural Renaissance Ltd

DECISION

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice on the following grounds:

1. The proposed development is contrary to Adopted Local Plan Policy G1, in that the erection of the four no. flagpoles, would not be compatible with, or respectful of, the character of the surrounding area and neighbouring built form.
2. The proposed development is contrary to Adopted Local Plan Policy BE4 in that the erection of the four no. flagpoles would have an unacceptable adverse impact upon the character and appearance of the Conservation Area as a consequence of the unusual character of this aspect of the development; its siting immediately adjacent to the Conservation Area; and the high visibility of the site, which would mean that the aforementioned impacts would go unmitigated.

DEVELOPMENT PROPOSAL

The application relates to external alterations and the erection of 4no flagpoles at West Grove, Waverley Road, Melrose. The application drawings consisted of the following drawings :

Plan Type	Plan Reference No.
Location Plan	9208.1.01
Floor Plans	9208.1.02
Elevations	9208.1.03 Front
Elevations	9209.1.04 Side

PRELIMINARY MATTERS

The Local Review Body 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.

After examining the review documentation at that meeting, which included: a) Notice of Review and accompanying papers including Decision Notice and Officer's report; b) Consultation Responses; c) Objections and d) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case. In coming to its conclusion the LRB considered the request from the applicants for a site inspection, further written submissions and one or more hearing sessions.

Within the Notice of Review it was noted that reference was made to a previous approval for flagpoles at the entrance to the applicant's site at Priorwood within the town. The Appellant considers this a precedent whilst the planning officer states that the site location, site characteristics and proposals are different. Members were advised that they should consider the Local Review proposals "de novo", with the issue of whether Priorwood set any precedent that was material to the current case also being a matter for the LRB to consider.

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

- Local Plan policies : G1 and BE4

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

Other Material Considerations

Scottish Planning Policy
Scottish Borders Proposed Local Development Plan 2013

LRB members noted the full extent of all parts of the application proposal, and whilst not located within the Conservation Area the application site immediately adjoined it. Some concerns were raised regarding the proposed colour of the external render and that details of the proposal sun dial were limited. However, it was considered that appropriately worded conditions could be attached to any consent issued requiring the agreement of an alternative render and the submission of further details for approval regarding the sun dial. It was therefore not considered there would be any insurmountable issues to resolve these matters.

Members considered that the most contentious part of the proposal was the erection of the 4no flagpoles. Members noted that information regarding the flagpoles was limited, particularly that no specific heights were stated and that it could only be estimated they would be between 8 and 9 metres taking cognisance of plan ref 9208.1.03 which suggests they may be approximately 1 metre above the existing lighting column on site.

In order to fully assess the proposal members visited the site. On site members took cognisance of the proposed location of the flagpoles and their estimated heights, that the surrounding buildings were primarily residential properties, they considered how prominent they may be from a number of locations within the immediate vicinity and considered any perceived impacts the flagpoles will have on the Conservation Area.

The LRB agreed with the planning officer that Priorswood did not set a precedent effecting this proposal in that the site location, site characteristics and proposals are different.

Whilst having no general objections in principal to flagpoles, the LRB considered that in this specific instance their perceived overall heights, their prominent appearance due to their locations close to the roadside, their cluttered nature, the impact on the adjoining Conservation Area and that they were considered out of character with the residential area prevented members supporting the proposal. Although members considered that an alternative proposal for the siting and scale of the flagpoles could be more acceptable, members agreed that the application required to be judged as submitted.

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.

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
