

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW
BODY held via Microsoft Teams on Monday,
13 September 2021 at 10.00 am

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

Apologies:- Councillor S. Hamilton.

In Attendance:- Lead Planning Officer (C. Miller), Solicitor (S. Thompson), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

1. REVIEW OF 21/00016/RREF

There had been circulated copies of the request from AB Wight Engineering Ltd c/o Murray Land & Buildings, Hillside, Dean Place, Newstead, Melrose TD6 9RL to review the decision to refuse the planning application for the erection of a new agricultural machinery dealership premises at Slaters' Yard, Charlesfield, St Boswells TD6 0HH. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultation Replies, Objection Comments, Additional Information and a list of policies. The Planning Officer drew attention to information, in the form of 3D images, which had been submitted with the Notice of Review documentation but which had not been before the Appointed Officer at the time of determination. Members agreed that the information was new but considered in that it met the Section 43B Test and was material to the determination of the Review so should be considered. Members noted that the proposed site would be contrary to policy PMD4 of the Local Development Plan 2016 as it was outwith the Development Boundary for St Boswells and outwith the Charlesfield Industrial Estate. The proposed development could prejudice the character and natural edge of St Boswells and cause significant adverse effects on the landscape setting of the settlement. In addition, there appeared to be no significant community benefits of the proposal that justified development outwith the Development Boundary. The Members considered the history of the site and questioned whether other sites would be available. Following further discussion, Members concluded that they could not determine the review without further procedure in the form of additional information from the Planning Officer and Forward Planning on available Industrial Land within Charlesfield and surrounding area. They also asked for an unaccompanied site visit to be arranged to enable them to assess the site of proposed development in the context of the surrounding area.

DECISION

AGREED 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 new information submitted with the Notice of Review documentation in the form of three 3D images met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997;

- (c) **the review could not be considered without further procedure in the form of an unaccompanied site visit and a Hearing;**
- (d) **the Applicant and Appointed Officer (or any officer nominated by the Appointed Officer) be asked to attend and provide information at the Hearing on the availability of Industrial land within Charlesfield Industrial Estate, St. Boswells and surrounding area;**
- (e) **consideration of the review be continued to a future meeting on a date to be arranged.**

2. **REVIEW OF 21/00017/RREF**

There had been circulated copies of the request from Aver Chartered Accountants, c/o Bidwells LLP, Broxden House, Lamberkine Drive, Perth PH1 to review the decision to refuse the planning application for the development of a single dwellinghouse and parking on Land East of Renton Bush, Reston. The supporting papers included the Notice of Review; Decision Notice; Officer's Report; papers referred to in the Officer's Report; Consultation Replies, Objection comments and a list of policies. The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse and parking and the site 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. They went on to give consideration to whether there was a building group at the location and after considering all relevant information and agreed that the site was outwith any building groups and was not an appropriate addition to them. 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 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.

DECISION

AGREED 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 refused, for the reasons detailed in Appendix I to this Minute .**

3. **URGENT BUSINESS**

Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Chairman was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to make an early decision.

4. **PROCEDURE**

- 4.1 The Planning Adviser reported that the Scottish Government had recently amended Scottish Planning Policy (SPP) and introduced a new Planning Advice Note (PAN 1/2020 in December 2020) which was widely recognised as a move to avoid the tilted balance becoming a mainstay of the Scottish planning system and to direct the industry toward a standardised methodology for calculating the extent of a 5 year housing land supply (HLS)

against housing land requirements (HLR). A Court of Session decision issued on 21 July 2021 concluded that the changes to SPP and the introduction of PAN 1/2020 were unlawful and as a result, would cease to affect the Scottish planning system with immediate effect. The policy amendments and new guidance were not found to be unsound in content, rather that the consultation process which led to their adoption was insufficient and unfair. It followed that these policy and guidance measures could be reintroduced subject to suitable consultation, such as that which must take place in the lead up to approval of National Planning Framework 4.

- 4.2 In terms of the review of Application 20/01620/PPP and 21/00018/RREF in respect of Earlston Road, Stow it was explained that the decision to refuse had been made on the basis of the guidance, prior to the recent amendments. The Applicant on submitting the application for review had taken these changes into consideration. The Legal Adviser stated that Officers required to review their decision in light of these changes prior to consideration of the application by the Local Review Body on 18 October 2021 to prevent any delays in considering the application.

DECISION

AGREED that the Appointed Officer be requested to re-appraise their decision on application 20/01620/PPP and 21/00018/RREF in light of the squashing of PAN 1/2020 and retraction of paragraphs in the SPP, regarding sustainability.

The meeting concluded at 11.50 a.m.

