

**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: 21/00018/RREF

Planning Application Reference: 20/01620/PPP

Development Proposal: Erection of 4 no. dwellinghouses with associated infrastructure and access

Location: Land South of Crunzion Cottage, Earlston Road, Stow

Applicant: Mr Bruce Weir

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 PMD4 of the Local Development Plan 2016 in that it would be located outside the settlement boundary of the village and does not meet the exceptions contained within Policy PMD4, particularly in that strong reasons have not been given to demonstrate that there is a shortfall identified by the Council through the housing land audit with regard to the provision of an effective five year housing land supply. Furthermore, it would not represent a logical extension of the built-up area and would not be sympathetic to the character of the settlement or achieve visual cohesion with it. The resulting development would have an unacceptably adverse effect on the character of the settlement at this location, thus also conflicting with Policy PMD2 of the Local Development Plan 2016. This conflict with the Local Development Plan is not overridden by other material considerations.

DEVELOPMENT PROPOSAL

The application relates to the erection of 4 no. dwellinghouses with associated infrastructure and access at Land South of Crunzion Cottage, Earlston Road, Stow. The application drawings and documentation consisted of the following:

Plan Type

Plan Reference No.

Location Plan	1279 pl 00
Block Plan	1279 pl 01 Rev F
House Type A	1279 HT A
House Type B	1279 HT B
Garage Elevation	1279 Garage 01
Site Survey	01A
Culvert Sections	0001 P5
Block Plan	1279 Scheme.2 01
Block Plan	1279 Scheme.3 01

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 18th October 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) Objection comments; d) Further Objection comments and applicant's response; e) Additional information; f) Consultation Replies; g) Correspondence and h) List of Policies, the Review Body 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, PMD4, HD1, HD2, HD3, HD4, EP1, EP2, EP3, EP8, EP9, EP13, EP15, IS2, IS3, IS7, IS8 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Affordable Housing 2015
- 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
- Scottish Planning Policy 2014
- SESPlan 2013
- SBC Proposed Local Development Plan 2

The Review Body noted that the proposal was for planning permission in principle for the erection of 4 no. dwellinghouses with associated infrastructure and access at Land South of Crunzion Cottage, Earlston Road, Stow.

The Review Body noted that Stow was a defined settlement in the Local Development Plan and that the site lay immediately outwith the settlement boundary. The most relevant Policy was considered to be Policy PMD4 relating to development outwith development boundaries. Members were aware that development would not normally be approved under Policy PMD4 unless one of four qualifying criteria were met. Whilst they considered all criteria, including economic justification, community benefit and affordable housing, Members considered the most pertinent criterion to be that relating to the claimed shortfall in the five year effective housing land supply, given this was the main exception to PMD4 claimed by the applicant.

The Review Body noted the submissions and calculations put forward by both the applicant and Forward Planning with regard to effective housing land supply, including the Reporter's decision on land at Venlaw in Peebles, and considered that the matter had been investigated in significant detail during the processing of the application and Review. After full consideration of all of the submissions, Members were of the opinion that there had been no strong reason submitted under Criterion c) of Policy PMD4 to demonstrate that the application for four houses should be allowed outwith the Stow settlement boundary as an exception to that Policy. The Review Body considered that, under PMD4, it was for the Council to identify if there was a shortfall in the 5 year effective housing land supply and, as Forward Planning had not identified a shortfall, Members accepted the position of the Council on the issue. They also took into account the Reporter's decision at Venlaw and the SPP advice on sustainability but concluded that the case made by Forward Planning was robust and that there was no justification to allow an exception to PMD4 based upon housing land availability.

Members did assess the proposal against the other qualifying criteria within Policy PMD4 but did not consider the development to be affordable housing, nor were there any economic or community benefits demonstrated to the extent that would justify developing outwith the settlement boundary of Stow. Whilst the Review Body accepted that the arrival of the railway station might lead to increased development pressures in the local area, they did not consider that overriding reasons had been advanced to justify a development outwith the defined settlement boundary in this instance.

The Review Body also assessed the proposal against the secondary criteria within Policy PMD4, together with Policies PMD1, PMD2 and relevant criteria on the site and development's relationship with the adjoining settlement and built fabric. Members considered that the site was an open field, detached from the settlement and with potentially major impacts on Stow. They did not consider that the development met with the secondary criteria in Policy PMD4 nor with the relevant criteria in Policies PMD1 and PMD2.

The Review Body finally considered other material issues relating to the proposal including road and pedestrian access, drainage, residential amenity, trees and ecology 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.

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.

Signed.....
Councillor S Mountford
Chairman of the Local Review Body

Date.....

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