

Local Review Reference: 13/00032/RREF
Planning Application Reference: 12/01191/PPP
Development Proposal: Erection of Dwellinghouse
Location: Land North East of Buxton House, Eastfield, Selkirk
Applicant: Mr Hugh Lovatt

The Local Review Body of Scottish Borders Council reversed the decision of the Planning Officer and indicated at its meeting on 16th September 2013 that it was minded to approve the planning permission in principle subject to a planning obligation regarding developer contributions.

Between that point and the date of the decision was officially signed off a protracted negotiation was undertaken in relation to the planning obligation. Some 5 years passed before the decision notice was issued following the conclusion and recording of the planning obligation. The decision notice is signed and dated 17th September 2018. There are 6 conditions attached to that decision that cover the following headers.

Condition 1 – Requires approval of the details of the layout, siting and design etc to be lodged with the Local Planning Authority.

Condition 2 – sets out the time requirements for lodging the approval of matters specified in conditions under the different time requirements set out in the Town and Country Planning (Scotland) Act 1997 (as amended).

Condition 3 – Requires the development to commence or be implemented before the expiry of 2 years from the date of the approval of the last of the matters specified in the conditions.

Condition 4 – a condition in relation to water and drainage.

Condition 5 – a condition relation to landscaping

Condition 6 – a condition requiring a Design Statement and detailed design requirements

Until the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and the accompanying Development Management Regulations (Scotland) Circular 3/2013 decision notices on planning permissions had previously included what was known as the 'standard time' conditions setting out the time periods for the implementation of planning permission. Consents were set out in a general convention that included conditions, as we find on this PPP for Eastfield, relating to the expiry of the permission should it not be implemented. Given that the Scottish Borders Council Local Review Body decision on 12/01191/PPP predated the change in procedures where time conditions were no longer included on decision notices the decision we have on this case still includes time conditions. The effect of there being this condition (condition 2 on the PPP) relating to the implementation of this permission as opposed to general requirements taken as forming part of the decision then the applicant seeks to amend this condition as they are entitled to do, before the expiry of the consent.

S42 of the Town and Country Planning (Scotland) Act 1997 (as amended) permits the applicant to apply to the local planning authority to request that a condition be modified. The modification sought in this case will have the effect of extending the planning permission for a further period of 3 years as set out in the conditions. A new planning permission document will be issued, without time periods for implementation set out in conditions as is done at present. The application will however have to comply with the time limits set out in S59 TCP (S) Act 1997. For the avoidance of doubt the current planning permission in principle expires on 17th September 2021.

This application under S42 is submitted via email as eplanning requires an application form etc where Regulation 11 of the Town and Country Planning (Development Management Procedure)(Scotland)Regulations 2008 does not. It advises that the application form is not required to be completed, nor all the supporting material submitted again. The appropriate S42 application fee of £202 will also submitted by the applicant direct to yourselves. The original application is identified in the title.

We look forward to hearing from you in due course

Suzanne C McIntosh MRTPI HonFRIAS