

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW
BODY held via Microsoft Teams on Monday,
7 March 2022 at 2 p.m.

- Present:- Councillors S Mountford (Chair), A. Anderson, J. Fullarton, H. Laing, S. Hamilton, C. Ramage and E. Small.
- Apologies:- Councillors N. Richards, D. Moffat.
- In Attendance:- Principal Planning Officer, Solicitor (S. Thompson), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).
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1. CONTINUATION OF REVIEW 21/01257/FUL

With reference to paragraph 4 of the Minute of 17 January 2022, the Local Review Body continued their consideration of the request from Mr S Aitchison, 3 Glenfield Crescent, Galashiels on behalf of Mr A Elliot to review the decision to refuse the planning application for the erection of a dwellinghouse on garden ground, Kilnknowe House, East Green, Earlston. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Additional Information; Objection comments; Consultation replies, List of policies and submission by the Roads Planning Officer, Planning Officer and Flood Risk Officer on the plan showing an alternative access to the proposed dwellinghouse. After considering all relevant information, the Local Review Body concluded that the development was contrary to IS8 of the Local Development Plan in that the site was at significant risk of flooding and allowing a dwellinghouse to be erected on this site would put persons and property at risk of flooding. In addition, access and egress could not be safely achievable during a flood event. There were no other material considerations that would justify departure from the Development Plan. Consequently, the application was refused.

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 was contrary to the Local Development Plan and there were no other material considerations that would justify departure from the Development Plan.
 - (d) the officer's decision to refuse the application be upheld and the application refused for the reasons set out in Appendix I to this Minute.
2. REVIEW OF 21/00710/PPP
- There had been circulated copies of the request from Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the Erection of a

dwellinghouse with access, landscaping and associated works on Land South and West of Greywalls, Gattonside. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; correspondence; consultation replies; objections, general comments and list of policies. The Planning Adviser drew attention to information, in the form of two historical maps 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 that it met the Section 43B test, was material to the determination of the Review and could be considered. However, they also agreed that the new information could not be considered without affording the Planning Officer, the opportunity of commenting on the new information and agreed that the application be continued for further procedure.

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) new evidence submitted with the Notice of Review in the form of two historical maps met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;**
- (c) the review could not be considered without the need for further procedure in the form of written submissions;**
- (d) the Planning Officer be given the opportunity to comment on the new evidence submitted with the Notice of Review.**
- (e) consideration of the review be continued to a future meeting on a date to be confirmed.**

3. REVIEW OF 21/01344/FUL

There had been circulated copies of the request from Mr Christopher Brass, 1 Robson Close, Ryton, Gateshead to review the decision to refuse the planning application for the siting of 2 no. shepherds huts for short term holiday accommodation on Land East of the Old Stables, Lennel. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Additional Information, Correspondence; consultation replies and response from Applicant; support comment; Objection comments and response from applicant; further objection comments and response from applicant and List of policies. The Planning Adviser drew attention to information, in the form of three Scottish Borders LRB Appeal/Review decisions for holiday/hut accommodation and the outcome of a court case 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 that it met the Section 43B test, was material to the determination of the Review and could be considered. After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD1, PMD2, ED7 and IS5 of the Local Development Plan. The development was considered to be an appropriate provision of tourist accommodation for the location with a justified business case, complying with sustainability and tourism strategies for the area, connecting with and avoiding adverse impacts on public access routes. Consequently, the application was approved subject to conditions.

VOTE

Councillor Hamilton, seconded by Councillor Laing moved that the Officer's decision be overturned and the application approved.

Councillor Ramage, seconded by Councillor Anderson moved as an amendment that the Officer's decision be upheld and the application refused.

As the meeting was conducted by Microsoft Teams members were unable to vote by the normal show of hands and gave a verbal response as to how they wished to vote the result of which was as follows:-

Motion – 5 votes

Amendment – 2 votes

The motion was accordingly carried.

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) new evidence submitted with the Notice of Review in the form of three Scottish Borders LRB Appeal/Review decisions for holiday/hut accommodation and the outcome of a court case which had been submitted with the Notice of review met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;**
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) the development was consistent with Policies PMD1, PMD2, ED7 and IS5 of the Local Development Plan. The development was considered to be an appropriate provision of tourist accommodation for the location with a justified business case, complying with sustainability and tourism strategies for the area, connecting with and avoiding adverse impacts on public access routes. Consequently, the application was approved subject to conditions; and**
- (e) the officers decision to refuse the application be overturned and the application approved, subject to conditions, for the reasons detailed in Appendix II to this Minute.**

4. REVIEW OF 21/00002/FUL

There had been circulated copies of the request from Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the Erection of a dwellinghouse on Plot1, Land South East of Steading Buildings, Greystonelees Farm, Burnmouth. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; correspondence; consultation replies; objections, general comments and list of policies. After considering all relevant information, the Local Review Body concluded that the development was contrary to policy HD2 of the Local Development Plan (Housing in the Countryside) as there was no remaining capacity for the extension of the building group within the current plan period. This capacity was taken up by two consents for new build dwellinghouses granted under this part of the policy on neighbouring plots. Policy HD2 stated that no further development above this threshold would be permitted, and there are no material considerations which would outweigh this. Consequently, the application was refused.

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 further procedure on the basis of the papers submitted;**
- (c) the development was contrary policy HD2 of the Local Development Plan 2016 (Housing in the Countryside) and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the decision of the appointed officer be upheld and the application refused, for the reasons detailed in Appendix III to this Minute.**

5. REVIEW OF 21/00595/PPP

There had been circulated copies of the request from Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the Erection of a dwellinghouse with access and associated works on Land East of Deuchar Mill House, Yarrow. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; consultation replies; objections, further representations and Applicant response and list of policies. The Planning Adviser drew attention to information, in the form of a new site plan indicating a hedge which had been submitted with the Notice of Review but had not been before the Appointed Officer at the time of determination. The Review Body considered that the new evidence met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997, and that this new information was material to the determination of the review and could be considered. After considering all relevant information, the Local Review Body concluded that the development was contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Planning Guidance Note (2008), in that the proposed development would not relate sympathetically to the sense of place of the existing building group, and would potentially lead to ribbon development along a public road. The proposal did not comply with Policy PMD2 of the Local Development Plan 2016 in that it would fail to ensure there was no adverse impact on road safety. Consequently, the application was refused.

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) new evidence submitted with the Notice of Review in the form of a new site plan indicating a hedge which had been submitted with the Notice of review met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;**
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan; and**
- (e) the decision of the appointed officer be upheld and the application refused, for the reasons detailed in Appendix IV to this Minute.**

The meeting concluded at 5 p.m.