

**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: 21/00038/RREF

Planning Application Reference: 21/00710/PPP

Development Proposal: Erection of dwellinghouse with access, landscaping and associated works

Location: Land South and West of Greywalls, Gattonside

Applicant: Mr N & Mrs C Cameron

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 is contrary to Policies HD2 and EP6 of the Local Development Plan 2016 and Supplementary Planning Guidance: New Housing in the Borders Countryside 2008 in that it would constitute piecemeal, sporadic new housing development in the countryside that would be poorly related to an established building group, within a previously undeveloped field, outwith the sense of place, out of keeping with the character of the building group, resulting in an unacceptable adverse impact on the landscape and visual amenities of the surrounding area. This conflict with the development plan is not overridden by other material considerations.

Development Proposal

The application relates to the erection of a dwellinghouse with access, landscaping and associated works on land South and West of Greywalls, Gattonside. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Site Location Plan (Comparison)	P01 B2
Site Location Plan (Indicative)	P01 B2
Indicative Floor Plan and Elevation	S01 B

First Floor Plan	S02 B
Access Road Plan	21/011/01
Access Road Long Section	21/011/02
Access Road Cross Sections 1	21/011/03
Access Road Cross Sections 2	21/011/04

Preliminary Matters

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 7th March 2022.

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) Additional Information; d) Consultation Replies; and e) List of Policies, the Review Body considered whether certain matters included in the review documents constituted new evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to further information in the form of two historical Ordnance Survey maps of the area.

Members agreed that the information was new and considered that it met the Section 43B test, that it was material to the determination of the Review and could be considered. However, there was a requirement for further procedure in the form of written submissions to enable the Appointed Officer to comment on the new information.

The Review was, therefore, continued to the Local Review Body meeting on 18th April 2022 where the Review Body considered all matters, including a response to the further information from the Appointed Officer and the applicant's comments on that response. The Review Body then 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, HD2, EP1, EP2, EP3, EP4, EP6, EP7, EP8, EP13, IS2, IS3, IS7, IS8, and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Housing in the Countryside 2008
- SBC Supplementary Planning Guidance on Developer Contributions 2021
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems 2020
- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on Countryside Around Towns 2011

- Scottish Planning Policy 2014

The Review Body noted that the proposal was for the erection of a dwellinghouse with access, landscaping and associated works on land South and West of Greywalls, Gattonside.

Members firstly considered whether there was a building group in the vicinity under Clause A of Policy HD2. They noted that there were a number of existing houses in the immediate vicinity to the north and east of the site, based around Friars Hall and including a new dwellinghouse at Friarshaugh View. Members were satisfied that this constituted a building group under Clause A of Policy HD2. In terms of whether there was capacity for the group to be expanded, the Review Body also noted that there were no existing permissions for any further houses at the group and they concluded that, subject to the site being considered to be an acceptable addition to the group, there was capacity for the development in compliance with Policy HD2 and the relevant SPG.

Members then considered the relationship of the site with the group and whether it was within the group's sense of place and in keeping with its character. In this respect, they noted the location of the site within the northern part of an open field, immediately adjoining the curved boundary of Greywalls which was formed by a wall and by beech hedging. Members also noted the other boundaries in the vicinity including woodland to the north of the site and conifer hedging enclosing the garden of Friars Hall to the east of the site.

Whilst the Review Body acknowledged the points advanced by the applicant in contending that the site was part of the sense of place at the group, on balance, Members disagreed. They considered that the proposal represented incursion into an undeveloped field and, whilst it was adjoining the building group, it did not integrate with the group nor did it relate well to the character or sense of place. Members considered that the boundary to the group in the vicinity of the site was formed by the curved wall and hedge of Greywalls, the site being both outwith that and distant from other houses within the building group. This isolation led to a poor relationship with the building group which was exacerbated by the lengthy access road taken from the westerly field access. Members concluded that the site was not an appropriate addition to the building group and was contrary to Policy HD2 and the relevant Supplementary Planning Guidance. The Review Body also noted that there had been no economic justification advanced for the need for the site under Part F of Policy HD2.

Members then considered the issues of landscape and residential amenity impacts, noting that the site was covered by the Countryside Around Towns Policy EP6. The Review Body agreed with the Appointed Officer that the isolation and detachment of the site from the building group led to contravention of this Policy and that the length and location of the proposed access road both detracted from the amenity of the area and could lead to development pressure in the future.

The Review Body finally considered other material issues relating to the proposal including water, drainage, impacts on trees and hedges, ecology, archaeology, flood risk and the need for compliance with developer contributions. Members were of the opinion that appropriate conditions and a legal agreement could have addressed these issues satisfactorily, had the application 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.

Councillor S Mountford
Chairman of the Local Review Body

Date 27th April 2022

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