

**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**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**

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**Local Review Reference:** 22/00007/RREF

**Planning Application Reference:** 21/01422/FUL

**Development Proposal:** Demolition of steading and farmhouse and erection of two dwellinghouses

**Location:** Land At Haughhead Farm And Steading Building Innerleithen

**Applicant:** Mr William, Brenda and Sarah Glennie

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**DECISION**

The Local Review Body reversed the decision of the appointed officer and indicated that it intended to grant planning permission for the reasons set out in this intentions notice subject to conditions and the applicants entering into a Section 75, or other suitable Legal Agreement, as set out below.

**DEVELOPMENT PROPOSAL**

The application relates to the demolition of a farmhouse and steading building and erection of a two new houses in their place along with access, landscaping and associated works. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	20035-LOC
Existing Plans and Elevations	20035-E-101
Proposed Site Plan	20035-001-A
Proposed Plans	20035-ST-101-A
Proposed Plans	20035-FH-101-A
Proposed Elevations	20035-FH-201-A
Proposed Elevations	20035-ST-101-A

## **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 18<sup>th</sup> April 2022. After examining the review documentation which included: a) Notice of Review (including Appeal Statement); b) Report of Handling c) Consultations; d) Policies, e) Planning Statement, f) Structural Inspection Report, f) Costings Reports, g) Ecological Surveys, 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, HD2, HD3, HD4, EP1, EP2, EP3, EP5, EP8, EP13, EP15, EP16, IS2, IS5, IS7, IS8, IS9, IS13

### Other Material Considerations

- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on Development Contributions 2011 (Updated 2020)
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Local Biodiversity Action Plan 2001
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Privacy and Sunlight Guide 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems 2020
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Affordable Housing 2015
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage 2020
- Scottish Planning Policy 2014
- Draft NPF4 2021

The Review Body noted that the proposal seeks consent for a replacement house on the site of a derelict farmhouse, and a house on the site of a former steading building. It was noted that consent was granted in April 2016 to convert the steading building to a house under 15/00742/FUL but that consent has lapsed.

Members firstly considered whether Policy HD2 (E) supported the replacement of a new house on the site of the now dilapidated farmhouse. Members agreed with the appointed officer and applicant that the replacement of this existing former residential building with a new residential building is acceptable against the criteria set out in HD2 (E).

The Review Body then turned their attention to the replacement steading building with a new build house. Members recognised that demolishing the steading and replacing the building with a new build house posed tensions against Policy HD2.

Members firstly heard that both the appointed officer and applicants were in agreement that a new build house on this site would not relate to an existing building group of at least 3 houses against HD2.

The development was not found to align with other criteria for new housing in the countryside where it did not relate to the conversion of a steading to a house, the restoration of a house, the replacement of an existing house and no economic justification had been substantiated which confirmed that a house is required in this location for business reasons. Members did recognise that the site did benefit from a previous consent to convert the building but that consent has subsequently lapsed. The Local Review Body appreciated that the design of the proposal replicated the previous unimplemented permission and that the scale and appearance of the proposal is in keeping with the character of the existing building. The Review Body noted how the applicants Condition Survey found physical failings with the building. To address current flooding issues at the site Members heard how the finished floor levels at the steading would be required to be raised by 1m. The Review Body identified that this would pose a significant barrier for any potential conversion of the steading building. Members acknowledged that failing to secure the redevelopment of this brownfield site would result in both existing dilapidated buildings (steading and farmhouse) falling into further state of disrepair and appearing as an eyesore within the surrounding environment.

Taking all matters into consideration, the Local Review Body found that flooding issues effectively signified that the building was beyond conversion and the benefits of securing the redevelopment of this wider brownfield site outweighed the implications of not securing its sensitive reuse. Under these specific circumstances, the demolition of the steading building and replacement with a new build house was in this case considered as an exceptional approval.

The Local Review Body recognised that the proposed layout failed to protect the permissive path which passed through the site. Members determined that the impacts of the development on this path should be addressed by a planning condition.

Members moved on to other materials matters covering fenestration, fascia details landscaping, site services, bin storage, archaeology, ecology and contamination were considered but the Review Body were of the opinion that appropriate conditions could address them satisfactorily. They also noted that developer contributions for education and affordable house could be secured by legal agreement.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was considered to be a justified exception to housing in the countryside policy provisions within the LDP. Matters concerning fenestration, fascia details, materials, landscaping, site services, bin storage, archaeology, contamination and access of way are able to be addressed by planning conditions. Developer contributions towards local school and affordable house can be addressed via legal agreement. Consequently, the application was approved.

## **DIRECTIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

## **CONDITIONS**

1. Notwithstanding details illustrated on the approved drawing, no development shall commence until revised plans addressing the following matters have been provided;
  - i. elevation drawings addressing the proportions of windows on the new farmhouse and steading and the fascia details on the steading
  - ii. a site plan identifying areas for bin stances for each dwellinghouse and also deleting bin storage within the service layby.

The revised plans shall be approved in writing with the Planning Authority and thereafter the development shall be undertaken in accordance with the revised details.

Reason: The fenestration design and fascia detail requires revision to ensure an appropriate form of development which respects the character of the rural area.

2. No development shall commence until precise details of all external material finishes (including colour finish) to be used on the development have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing with the planning authority.

Reason: To ensure the material finishes respect the character and appearance of the surrounding area.

3. No development shall commence until the precise means of access, parking and turning have been submitted to and approved in writing with the Planning Authority. The details shall include definition of the communal turning area, construction specifications and visibility splays of 2 by 90 metres in either direction onto the public road. The development shall be completed in accordance with the agreed details prior to occupation of the first dwelling unless otherwise agreed in writing.

Reason: To ensure appropriate means of access, parking and turning are provided for this residential development.

4. No development shall commence until precise details of the means of foul drainage has been submitted to and approved in writing by the Planning Authority. Once approved the works shall be completed in accordance with the approved details prior to occupation of the dwellinghouse.

Reason: To ensure that the development is adequately serviced and does not have a detrimental effect on amenity and public health.

5. No development shall commence until the means of surface water drainage methods to serve the site which incorporate Sustainable Urban Drainage Systems (SUDS) and maintain existing run-off levels have been submitted to and approved by the Planning Authority thereafter the development shall be completed in accordance with the approved details.

Reason: To ensure that the development is serviced in a manner which complies surface water drainage requirements in a manner which does not increase flood risk at the development.

6. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- i. existing and finished ground levels in relation to a fixed datum preferably ordnance
  - ii. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
  - iii. location and design, including materials, of walls, fences and gates
  - iv. soft and hard landscaping works including new planting within the site
  - v. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

7. No development shall take place until the applicant has secured the implementation of a programme of archaeological work (which may include excavation) in accordance with a Written Scheme of Investigation outlining a Historic Building Survey which has been formulated by, or on behalf of, the applicant and submitted to and approved in writing by the Planning Authority. Access should be afforded to allow archaeological investigation, at all reasonable times, by a person or persons nominated by the developer and agreed to by the Planning Authority. Results will be submitted to the Planning Authority for review in the form of a Historic Building Survey Report.

Reason: To preserve by record a building of historical interest.

8. No development shall be undertaken during the breeding bird season (March to September), unless in strict compliance with a Species Protection Plan for breeding birds, including provision or pre-development supplementary survey, that shall be submitted to and approved in writing by the Planning Authority.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.

9. No development shall commence until the developer has provided the Planning Authority with either of the following undertakings;
- a) a copy of the relevant European Protected Species licence, or, written confirmation that works will be carried out under a Bat Low Impact Licence (BLIMP) or
  - b) a copy of a statement in writing from NatureScot (licensing authority) stating that such a licence is not necessary for the specified development

c) Where a statement in writing from NatureScot has been submitted to the Planning Authority in pursuance of part b) of this condition, no development shall commence until the developer submits for approval in writing by the Planning Authority a Bat Mitigation Plan, including measures as outlined Bat and breeding bird survey, Haughead farm , Innerleithen. The Wildlife Partnership, 16 June 2021. Thereafter, no development shall take place except in strict accordance with the approved plan.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1 and EP3.

10. No development shall commence until a scheme submitted by the Developer to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the planning authority, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition, and thereafter;
- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

11. No development shall commence until a scheme of details has been submitted to and agreed in writing with the Planning Authority which mitigates the impact of the development on path INGT/River/2 which dissects the site and thereafter the development shall be undertaken in accordance with the agreed details.

Reason: To ensure that public access remains attractive and convenient.

## **LEGAL AGREEMENT**

The Local Review Body required that a Section 75, or other suitable legal agreement, be entered into to secure developer contributions for Pebbles High School and affordable housing.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Under The Control of Pollution Act 1974, the Council recommends the following hours for noisy construction-related work:

Monday-Friday 0700-1900

Saturday 0800-1300

Sunday and Public Holidays - no permitted work (except by prior agreement with the Council)

Contractors will be expected to adhere to the measures contained in BS 5228:2009 "Code of Practice for Noise and Vibration Control on Construction and Open Sites".

For more information or to make a request to carry out works outside the above hours, please contact an Environmental Health Officer at the Council.

## **Notice of Initiation of Development**

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable.

### **Notice of Completion of Development**

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD  
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA  
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU  
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND  
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA  
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL  
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH  
THUS, Susiephone Department, 4<sup>th</sup> Floor, 75 Waterloo Street, Glasgow, G2 7BD  
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

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### **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.

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

Date 29 April 2022