



**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: 21/00031/RREF

Planning Application Reference: 21/01012/FUL

Development Proposal: Erection of summer house and formation of off-street parking
(retrospective)

Location: 2 Winston Road, Galashiels

Applicant: Mr Conrad Campbell

DECISION

The Local Review Body reverses the decision of the appointed officer and grants planning permission for the reasons set out in this decision notice, subject to conditions as set out below.

DEVELOPMENT PROPOSAL

The application relates to the erection of a summerhouse and formation of off-street parking (retrospective). The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	LOC-01
Existing and Proposed Plans and Elevations	PL-01
Photographs	

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 21st February 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) Consultation Replies; and d) 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 three support letters from neighbouring proprietors and to an offer from the applicant to make external changes to the summerhouse. Members agreed that the external change offer was already a matter that the Appointed Officer had considered in determining the original application and was, therefore, not new evidence. However, Members agreed that the three support letters were new and met the Section 43B test, as they were material to the determination of the Review and could be considered. 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: PMD2, HD3, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

The Review Body noted that the proposal was for the erection of a summerhouse, boundary fencing and formation of off-street parking at a ground floor flat at 2 Winston Road, Galashiels. Members noted that the work had been carried out and the application was, therefore, retrospective.

Taking into account the requirements of Local Development Plan Policies PMD2, HD3 and IS7, Members were aware that the location was on the corner of two public roads and noted from the photographs that there was an element of on-street parking which both potentially impaired road safety and also had an adverse visual impact. The Review Body considered that providing two further off-street spaces improved the road safety and visual impacts at this prominent location, subject to the conditions required by the Roads Planning Officer. Members also felt that the positive aspects of the parking provision helped outweigh any adverse impacts caused by the summerhouse.

Members then considered the summerhouse and the key issues of visual impact and prominence. They understood that Policies PMD2 and HD3 required development to be in sympathy and character with its residential surroundings and they carefully considered the corner location of the garden ground, the visibility and prominence from both Winston Road and Kenilworth Avenue and the scale, form and materials of the summerhouse. They also took into account the applicant's offer to change colours or make other external alterations.

The Review Body fully understood the concerns of the Appointed Officer over prominence and visual impact, recognising that there was significant visual impact from the public roads in the vicinity. Members debated the potential incongruity of the summerhouse which they would have preferred in a rear garden location but, ultimately, felt that there were mitigating circumstances that made the impacts acceptable on balance. These related to the larger scale

and modern architecture of the surroundings, the quality of the summerhouse design and materials and the limitations facing the applicant in the occupation of a ground floor flat having prominent garden ground facing two public roads. Members also noted that the applicant had not been aware of the need for planning permission, due both to the forward location of the summerhouse and the fact that the property was a flat.

In accepting there were mitigating factors that outweighed the prominence and adverse impacts of the summerhouse in this particular location, the Review Body then debated the issue of external appearance and colour, given the applicant's offer to make changes. After full discussion, there was no consensus on whether a darker or lighter colour would lessen the visual impacts and Members ultimately accepted the external appearance and colour of the summerhouse without further amendment, recognising that the material was natural timber, the summerhouse was well designed and there was insufficient space for screen planting.

The Review Body finally considered other material issues relating to the proposal, including potential impacts on residential amenity and the details of the parking spaces, but the issues did not influence their determination of the Review, also noting that neighbours were in support of the development and that the parking space details could be addressed by conditions.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, HD3 and IS7 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate garden building, well designed and in keeping with the character of the surrounding area. The provision of off-street parking was also of benefit both to road safety and visual amenity in terms of the street scene. Consequently, the application was approved subject to conditions.

CONDITIONS

1. The footway crossing must be constructed as per SBC standard detail DC10, or equal as approved in writing with the Planning Authority within six months of this consent.
Reason: To ensure the integrity of the existing public footway is maintained.
2. The off street parking must be constructed as per drawing PL-01 prior to the completion of the development and must not be used for the purposes of vehicle parking until such time as it is completed.
Reason: To ensure the parking area is fit for purpose and constructed accordingly.
3. Upon completion, the parking area shown on drawing PL-01 must be kept clear from obstruction and be available for vehicle parking at all time in perpetuity.
Reason: To ensure the development hereby approved is used as intended and the dwelling is served by two parking spaces in perpetuity.

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, 4th 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.

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 Hamilton
Acting Chairman of the Local Review Body

Date 8 March 2022

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