

**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: 21/00034/RREF

Planning Application Reference: 21/00448/FUL

Development Proposal: Change of use of amenity land to garden ground and erection of bike/log store (retrospective)

Location: Land East of 15 Howdenburn Court, Jedburgh

Applicant: Mr Lee Albert Tickhill

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 not in accordance with Policy PMD2 (Quality Standards) of the Local Development Plan 2016 in that the structure obstructs visibility on this corner and it is in close proximity to passing vehicles, adversely impacting on road safety. In addition, the siting of the structure within the road verge prevents new services from being installed and access for maintenance of existing services placed within the verge. Granting permission would set a dangerous precedent for similar structures in the road verge in the locale.

DEVELOPMENT PROPOSAL

The application relates to the change of use of amenity land to garden ground and erection of bike/log store (retrospective) on land east of 15 Howdenburn Court, Jedburgh. The application drawings and documentation consisted of the following:

| Plan Type | Plan Reference No. |
|---------------------|---------------------------|
| Location Plan | |
| Proposed Floor Plan | 02 |
| Front Elevation | 03 |
| Side Elevation | 04 |

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) Objection Comments; d) Consultation Replies; e) Support Comment and f) List of Policies, the Review Body considered the issue of whether any public utilities lay within the road verge below the bike/log store. Members decided there was a requirement for further procedure in the form of written submissions to enable the Roads Officer to confirm what utilities were present.

The Review was, therefore, continued to the Local Review Body meeting on 18th April 2022 where the Review Body considered all matters, including confirmation of the utilities from the Roads Officer and the applicant's reply to that response. The Review Body also noted that the applicant had requested further procedure in the form of written submissions and a site visit but did not consider it necessary in this instance and 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 and HD3

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

The Review Body noted that the proposal was for planning permission to erect a bike/log store at 15 Howdenburn Court, Jedburgh. Members noted that the works had been carried out and that the application at Review was, therefore, retrospective.

The Review Body had no issue with the design or scale of the log store, noting that its appearance was in keeping with the boundary treatment of other properties in the vicinity. They also noted that the store was located on former amenity ground and that the owner of the ground had been served the appropriate notice when the planning application was lodged. Members concluded that in terms of residential amenity, the store was in compliance with Local Development Plan Policies PMD2 and HD3.

However, the Review Body noted that the store had been erected within road verge, close to a road junction. Members were aware that the Appointed and Roads Officers considered the structure would interfere with road safety by impacting on sightlines and increasing collision risk due to lack of scarcement space with the road carriageway.

The Review Body also noted that the structure potentially affected access to road services and infrastructure. Having queried the presence of services and receiving confirmation from the Roads Officer that the verge contained street lighting cables and Scottish Water apparatus, Members agreed that obstruction of access to such services was not acceptable and prejudicial to road safety. They also agreed with the Appointed Officer that allowing development within road verge would set a precedent for impacting on such services. The Review Body, therefore, agreed with the concerns of the Appointed and Roads Officers, concluding that the bike/log store was contrary to the road safety requirements of Local Development Plan Policy PMD2.

The Review Body finally considered all other material issues but concluded that these issues did not influence their overall decision on the Review that the decision of the Appointed Officer be upheld.

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.

Signed Councillor S Hamilton
Vice Chairman of the Local Review Body

Date 16 May 2022