

**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:** 21/00035/RREF

**Planning Application Reference:** 21/00734/FUL

**Development Proposal:** Change of use of agricultural building and alterations to form dwellinghouse

**Location:** Land North East of Gamekeeper's Cottage, Eckford

**Applicant:** Buccleuch Estates Ltd

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**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 proposal is contrary to policy PMD4 of the Local Development Plan 2016 as the site is outwith the development boundary for Eckford and the proposal does not satisfy the criteria within the policy for exceptional circumstances. No material considerations have been identified which would outweigh the need to consider this proposal in accordance with policies of the Local Development Plan 2016.
2. The proposal is contrary to Part C of policy HD2 of the Local Development Plan 2016 in that the building has no architectural or historic merit and is not physically suited for residential use. The structural survey has not demonstrated that the building is capable of conversion without significant changes to the structure. The conversion would not be in keeping with current scale of the building. The development would be tantamount to rebuilding or replacement.
3. The proposal is contrary to policy PMD2 of the Local Development Plan 2016 as this pattern of development would not be compatible with or respectful to the neighbouring built form or settlement pattern. The scale, massing and height would result in an appearance which is not designed in sympathy with Scottish Borders architectural styles.

4. The proposal is contrary to policy ED10 of the Local Development Plan 2016 in that the change of use of prime quality agricultural land to garden ground would result in the permanent loss of prime agricultural land.

## **DEVELOPMENT PROPOSAL**

The application relates to the change of use of an agricultural building and alterations to form a dwellinghouse at Land North East of Gamekeeper's Cottage, Eckford. The application drawings and documentation consisted of the following:

| <b>Plan Type</b>           | <b>Plan Reference No.</b> |
|----------------------------|---------------------------|
| Existing Ground Floor Plan | 10093-0-01                |
| Existing Elevations        | 10093-0-02                |
| Existing Elevations        | 10093-0-03                |
| Existing Sections          | 10093-0-04                |
| Location Plan              | 10093-0-05                |
| Proposed Plans             | 10093-0-10                |
| Proposed Plans             | 10093-0-11                |
| Proposed Roof Plan         | 10093-0-12                |
| Proposed Sections          | 10093-0-13                |
| 3D View                    | 10093-0-14                |
| Proposed Elevations        | 10093-0-15                |
| Proposed Elevations        | 10093-0-16                |
| Proposed Site Plan         | 10093-0-17                |

## **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 21<sup>st</sup> 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) Additional Information; d) Objection comments; e) Consultation Comments; f) General Comments; and g) List of Policies, 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, PMD4, ED10, HD2, HD3, HD4, EP2, EP3, EP8, EP13, IS2, IS7, IS8, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Development Contributions 2011

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SPP 2014
- SBC LDP 2
- SESPlan 2013
- General Permitted Development and Use Classes (Scotland) Amendment Order 2020
- Appeal Decision PPA-140-2088 Venlaw Peebles

The Review Body noted that the proposal was for planning permission to change the use of an agricultural building and carry out alterations to form a dwellinghouse at Land North East of Gamekeeper's Cottage, Eckford.

Members firstly noted that as the building lay outwith the defined settlement boundary of Eckford in the Local Development Plan, the development must be considered against Part C of Policy HD2 which refers to conversion of existing buildings to houses in the countryside. The Review Body assessed the proposals against that part of the Policy but also the relevant criteria within Policy PMD2, as well as the detailed guidance in the Housing in the Countryside Supplementary Planning Guidance and the Farm Steading Conversions Advice Note at Appendix 2 of the SPG.

Referring to the three tests under Part C of Policy HD2, the Review Body firstly considered whether the building had sufficient architectural and historic merit to demonstrate that it was capable of conversion and suitable for the purpose intended. Members were wholly supportive of conversion of buildings in general but felt that the building needed to be appropriate in the first instance. Members were firmly of the opinion that this building had little character or merit, that it represented an overbearing and large scale building in the locality with metal cladding exterior and that there was little architectural or visual benefit to be gained by attempting to convert it. Whilst they accepted that the applicant had made considerable efforts in the details of the bold design and external treatment, the Review Body ultimately agreed with the Appointed Officer that the building was of insufficient architectural and historic merit to justify or suit the intended purpose.

Members then considered the second requirement of Part C of Policy HD2 which requires the building to be substantially intact and able to be converted without significant demolition. They noted that a Structural Survey had been submitted as required by the Policy but also that the Appointed Officer noted wholesale changes and removals of the exterior of the building fabric and also that there were doubts over whether the structural timbers required strengthening or replacement. The Review Body considered all the details but concluded that the proposals had not clearly demonstrated there would be anything other than significant elements of demolition, and this further indicated the unsuitability of the building for conversion.

Members then considered the third and final requirement of Part C of Policy HD2 which requires the details of any conversion work to be within both character and scale of the existing building. The Review Body agreed with the Appointed Officer that the building had very little character or merit and that the wholesale changes to the exterior, with new metal/timber cladding and additional glazing, did not retain what character it had.

Taking all these fundamental requirements into account under Policy HD2 and the SPG, Members then considered the impacts of the proposed conversion on the local community and surrounding environment, applying Policy PMD2. They noted the local opposition to converting the building and the design of the conversion. They also noted local opinion that it would be better to consider new-build development, including addressing the issue of drainage capacity which seemed to be preventing consideration of new-build housing. Taking into account the requirements of the Placemaking and Design section of Policy PMD2, the Review

Body considered the building to be overbearing and large scale in Eckford, the details of the new external treatment exacerbating the incongruity of the building scale, form and design, so close to other houses of smaller and more traditional design in the village. Members concluded that the proposal would result in a building out of character, unattractive and overbearing, contrary to the requirements of Policy PMD2 which seek compatibility and respect with neighbouring built forms.

The Review Body then assessed the application under Policy PMD4 relating to development being contained within settlement boundaries. They noted that Eckford has a settlement boundary defined in the Local Development Plan and Members also noted the position with regard to development history, service constraints and considerations relating to extending the boundary under the Proposed Local Development Plan process. It was noted that both the agricultural building and Eckford Cottage lay directly outwith the current defined settlement boundary and that the applicant had claimed Policy PMD4 did not relate to conversions but only new-build. However, the Review Body were in agreement with the Appointed Officer that the proposed development intended works to the existing building to an extent that represented significant levels of demolition and new-build replacement. Members, therefore, considered the development to be contrary to Policy PMD4 and they did not feel that any of the qualifying exception tests were met under that Policy.

Members then considered the issue of loss of prime agricultural land which is protected by Policy ED10. The Review Body noted that the Appointed Officer had opposed the development for the scale of prime agricultural land lost due to curtilage. Whilst acknowledging that the applicant had offered to reduce the curtilage, Members could understand why the scale of the curtilage was as originally proposed, commensurate with the scale of the building being converted. Consequently, the Review Body agreed with the Appointed Officer that the loss of prime land was permanent and large scale, did not comply with any of the exceptions under Policy ED10 and, therefore, contravened the Policy.

The Review Body finally considered other material issues relating to the proposal including residential amenity, ecology, landscape, access, water, drainage, developer contributions, renewable technologies and claimed housing land shortfall. They were of the opinion that the issues either did not influence the overall decision on the Review or could have been controlled by appropriate conditions and a legal agreement had the proposal been supported. They also did not accept that permitted development rights for conversion of agricultural buildings into houses had material significance in this particular case due to the host building being much larger than qualifying buildings with such rights.

## **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.

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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 Hamilton  
Acting Chairman of the Local Review Body

**Date** 8 March 2022

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