



**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:** 21/00039/RREF

**Planning Application Reference:** 21/01344/FUL

**Development Proposal:** Siting of 2 no. shepherds' huts for short term holiday accommodation

**Location:** Land East of The Old Stables, Lennel House, Coldstream

**Applicant:** Mr Christopher Brass

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**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 and informatives as set out below.

**DEVELOPMENT PROPOSAL**

The application relates to the siting of 2 no. shepherds' huts for short term holiday accommodation on Land East of The Old Stables, Lennel House, Coldstream. The application drawings and documentation consisted of the following:

**Plan Type**

**Plan Reference No.**

Site/Location Plan  
Elevations of Shepherds' Huts  
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 7<sup>th</sup> 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) Correspondence; e) Consultation Replies and Response from Applicant; f) Support Comments; g) Objection Comments and Applicant Response; h) Further Objection Comments and Response from Applicant; and i) 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 Borders Appeal/Review decisions for holiday/hut accommodation and the outcome of a court case. After consideration, Members agreed that this information was new, met the Section 43B test and that it could be considered, given it was material to the applicant's case and, therefore, to the determination of the Review.

The Review Body also noted that the applicant had requested further procedure in the form of a hearing session 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, PMD4, ED7, ED10, HD2, HD3, EP1, EP2, EP3, EP7, EP10, EP13, EP16, IS4, IS5, IS7, IS8 and IS9

### Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- Scottish Borders Tourism Strategy and Action Plan 2013-2019

The Review Body noted that the proposal was for the siting of 2 no. shepherds' huts for short term holiday accommodation on Land East of The Old Stables, Lennel House, Coldstream.

Members firstly considered the principle of the development under Policy ED7. They noted that the Policy required the submission of a business case to support tourist accommodation proposals in the countryside. They agreed with the Appointed Officer that the business case was acceptable, outlining a proposal based upon eco-friendly tourism accommodation and supporting more sustainable modes of transport such as walking, cycling and public transport. Members considered that such development should be encouraged. In those respects, Members also noted the location of the site adjoining the Tweed Trail and the network of paths in the area. The Review Body concluded that the business case had merit and was in compliance with Policy ED7 as well as with the sustainable access requirements of Policies PMD1 and PMD2. Members also considered the criteria set down in Policy ED7 and PMD2

on siting and relationship with adjoining uses but concluded that the development was modest in scale and form, with limited visibility and impacts.

The Review Body then considered the issues of vehicular access, pedestrian and road safety which had been the reasons for refusal under Policy PMD2. They noted the objections from the Roads Officer and carefully considered the reasons for the objections, noting the nature of the track leading from the public road to the site, the visibility at the junction with the public road and the general condition, width and gradient of the track. Members noted that the track was a public right of way and also provided access to the applicant's existing agricultural building and the River Tweed.

The Review Body understood that, although the applicant had a right of access to the site, there was no ability to undertake any track or junction improvements. However, Members also noted the applicant's clearly stated intentions to market and book the shepherds' huts on the basis of no car access or parking provision and that there was Policy encouragement for alternative, more sustainable means of transport. Whilst the Review Body took into account all the objections from the Roads Officer and third parties on the issue of road and pedestrian safety, Members considered that, with the small scale nature of the proposals, the unsuitable nature of the track for private cars and the booking controls intended by the applicant, the impacts on road and pedestrian safety were not sufficient in this instance to justify opposing the development under Policy PMD2.

Members then considered the issue of claimed public access through the site and noted all the submissions made by objectors and the applicant. After discussion, the Review Body agreed with the Access and Appointed Officers, that the issue of claimed access was a matter for resolution outwith the remit of the planning application, noting in any case that the siting of the shepherds' huts would be unlikely to impact on the line of the claimed access. The Review Body were content that the precise siting and curtilage treatment around each hut could be further agreed by a planning condition, the Appointed Officer being able to take into account all site constraints during that process.

The Review Body finally considered other material issues relating to the proposal including development outwith settlement boundaries, trees, ecology, water, drainage, waste disposal, flood risk, prime agricultural land and use of the existing agricultural building, but were of the opinion that such issues either did not outweigh their decision to support the proposal or were able to be addressed through appropriate conditions.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD1, PMD2, ED7 and IS5 of the Local Development Plan. The development was considered to be an appropriate provision of tourist accommodation for the location with a justified business case, complying with sustainability and tourism strategies for the area, connecting with and avoiding adverse impacts on public access routes. Consequently, the application was approved subject to conditions.

## **DIRECTION**

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. The occupation of the shepherds' huts shall be restricted to genuine holidaymakers, any person staying for a maximum of 3 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.  
Reason: Permanent residential use in this location would conflict with the established planning policy for this rural area.
2. No development to be commenced until a scheme of all external colours and materials for the huts are submitted to, and approved in writing by, the Planning Authority. The development then to be implemented in accordance with the approved scheme.  
Reason: To safeguard the visual amenity of the area.
3. No development to be commenced until a plan is submitted to, and approved in writing by, the Planning Authority, detailing the precise location of each hut on the site, the extent of curtilage around each hut intended for guests to use in association with their stay, the boundary treatments for each curtilage and provision for pedestrian and cycle access to the huts. The development then to be implemented in accordance with the approved scheme and maintained thereafter.  
Reason: To ensure the satisfactory form, layout, operation and relationship of the development with the site constraints.
4. No development to be commenced until a scheme of waste storage for the development is submitted to, and approved in writing by the Planning Authority. Once approved, the development then to be operated in accordance with the approved scheme.  
Reason: To ensure that the development is adequately serviced and does not have a detrimental effect on amenity and public health.
5. No development to be commenced until a scheme for the provision of a water supply and of disposal of foul and surface water for the development are submitted to, and approved in writing by the Planning Authority. Once approved, the development then to be operated in accordance with the approved scheme.  
Reason: To ensure that the development is adequately serviced and does not have a detrimental effect on amenity and public health.
6. No development to be commenced until a Preliminary Ecological Appraisal by a suitably qualified professional is carried out, submitted to, and approved in writing by the Planning Authority. The development then to be implemented in accordance with the findings of the Appraisal, including any mitigation measures or additional surveys as necessary.  
Reason: To safeguard nature conservation interests and potential protected species at the site.

## **INFORMATIVES**

1. If stoves are intended to be installed in the huts, these have the potential to create smoke and odour nuisance. You would, therefore, be recommended to contact the Environmental Health Service of the Council for advice in relation to the potential impacts of stove operation and what mitigation may be advised.
2. In relation to Conditions 1 and 3, consideration should be given to disabled access to the huts.

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 15 March 2022**

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