

**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:** 21/00040/RREF

**Planning Application Reference:** 21/00002/FUL

**Development Proposal:** Erection of dwellinghouse

**Location:** Plot 1 Land South East of Steading Buildings, Greystonelees Farm, Burnmouth

**Applicant:** Mr Richard Wood

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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 proposed erection of a further dwellinghouse at this location would be contrary to Local Development Plan 2016 Policy HD2 (Housing in the Countryside) as there is no remaining capacity for the expansion of the building group within the current plan period. The building group's capacity for expansion within the current Local Development Plan 2016 period was two units. This capacity was taken up by two consents for new build dwellinghouses granted under this part of the policy on neighbouring plots. Policy HD2 states that no further development above this threshold will be permitted, and there are no material considerations which would outweigh this.

**DEVELOPMENT PROPOSAL**

The application relates to the erection of a dwellinghouse at Plot 1, Land South East of Steading Buildings, Greystonelees Farm, Burnmouth. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	103
Site Location and Layout	010
Proposed Site Plan	101B
Floor Plans and Elevations	100E

## 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; f) Objections; g) General Comment; and h) 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, ED9, ED10, HD2, HD3, EP5, EP7, EP8, EP13, EP14, IS2, IS7, IS9 and IS13

### Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Development Contributions 2021
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Renewable Energy 2018
- SBC Supplementary Planning Guidance on SUDS 2020
- Contaminated Land Inspection Strategy 2001
- PAN33 Contaminated Land
- SPP 2014
- Proposed LDP 2

The Review Body noted that the proposal was for planning permission for the erection of a dwellinghouse at Plot 1, Land South East of Steading Buildings, Greystonelees Farm, Burnmouth.

Members firstly considered whether there was a building group in the vicinity under Clause A of Policy HD2. They noted that the Appointed Officer accepted the presence of a building group at Greystonelees, comprising of seven existing houses under the terms of Policy HD2. As this was more than the minimum number of existing houses required to constitute a building

group in order to comply with Policy HD2, the Review Body accepted that there was a clear group present.

Members then considered the issue of whether the building group had capacity to be expanded under the scale of addition maximum threshold contained within Policy HD2, which they understood to be two additional houses within the period of the current Local Development Plan. The Review Body considered the planning history of development within the building group and noted that two houses had already been approved in 2021 and were already under construction on adjoining plots. Members considered all material factors relating to the development of a further house on the Review site, including the applicant's claims that the site already held an extant consent through commencement and that completion of the group was an overriding material factor.

After consideration, the Review Body did not consider that other material factors outweighed the issue of exceeding the scale of addition figure of two houses during the Local Development Plan period and agreed with the Appointed Officer that there were no justifiable reasons for exceeding the capacity threshold. Members considered it important to apply the threshold consistently and noted that, had the Appointed Officer accepted that a consent was extant on Plot 1, then consent would not have been granted for two houses on the other plots as they understood that the scale of addition capacity would be reduced by any pre-existing extant consents.

Given that houses were now actively being erected on Plots 2 and 3, the Review Body noted that these would be considered as part of the existing number of houses within the building group at the time of adoption of the new Proposed Local Development Plan and would not then effectively reduce the scale of addition through being extant permissions without construction having started. Members also noted that there had been no economic or agricultural justification submitted for the house, under Clause F of Policy HD2. Members, therefore, concluded that there would be an opportunity to re-apply for permission at a later stage and agreed with the Appointed Officer that the current application at Review should be refused for exceeding the scale of addition threshold.

Notwithstanding the issue of scale of addition, Members considered all other aspects of the proposal in terms of whether the site was an appropriate addition to the building group and whether the siting and design of the house were appropriate for the group in terms of impacts on landscape and adjoining properties. After assessment under Policies PMD2, HD2 and HD3, together with the relevant Supplementary Planning Guidance, the Review Body were satisfied that the site would secure completion of the group in an appropriate manner with sympathetic scale and design. They noted that the rising land would visually terminate the group and that the design and aspect of the house would both achieve attractive outlook and preserve residential amenity.

The Review Body finally considered other material issues relating to the proposal including access and parking for the house and existing cottages, water, drainage, archaeology, potential land contamination and the need for compliance with developer contributions, but were of the opinion that the issues did not influence the overall decision on the Review and could have been controlled by appropriate conditions and a legal agreement had the proposal been supported.

## **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 Mountford  
Chairman of the Local Review Body

**Date 15 March 2022**

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