

**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: 21/00041/RREF

Planning Application Reference: 21/00595/PPP

Development Proposal: Erection of dwellinghouse with access and associated works

Location: Land East of Deuchars Mill House, Yarrow

Applicant: Buccleuch Estates Ltd

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 development at this site would be contrary to policy HD2 of the Scottish Borders Local Development Plan (2016), and contrary to the guidance within the adopted New Housing in the Borders Countryside Supplementary Planning Guidance Note (2008), in that the proposed development would not relate sympathetically to the sense of place of the existing building group, and would potentially lead to ribbon development along a public road.
2. The proposal does not comply with Policy PMD2 of the Local Development Plan 2016 in that it would fail to ensure there is no adverse impact on road safety.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse with access and associated works on Land East of Deuchars Mill House, Yarrow. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Site/Location Plan	10059-0-01
Site Plan as Proposed	10059-0-02 Rev A
Site Plan as Proposed	10059-0-02 Rev B

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 7th 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) Consultation Replies; e) Objection comments; f) Further Representations and Applicant Response; and g) 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 further information in the form of an amended drawing 10059-0-02 Rev B showing a proposed hedgerow along the southern boundary of the proposed access to the site.

Members agreed that the information was new and considered that it met the Section 43B test, that it was material to the determination of the Review and could be considered. The Review Body did not require any further procedure in relation to the new information 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, HD2, HD3, EP1, EP2, EP3, EP5, EP13, IS2, IS7, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Housing in the Countryside 2008
- SBC Supplementary Planning Guidance on Developer Contributions 2021
- 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
- SPP 2014

The Review Body noted that the proposal was for planning permission in principle for the erection of a dwellinghouse with access and associated works on Land East of Deuchars Mill House, Yarrow.

Members firstly considered whether there was a building group in the vicinity under Clause A of Policy HD2. They noted that there were three existing houses on the south side of the public road, accessed from the same descending driveway which served the old mill. In terms of the number of houses and their arrangement, the Review Body were satisfied that this constituted a building group under Clause A of Policy HD2. With regard to whether there was capacity for the group to be expanded, the Review Body also noted that there were no existing permissions for any further houses at the group and they concluded that, subject to the site being considered to be an acceptable addition to the group, there was capacity for the development in compliance with Policy HD2 and the relevant SPG.

Members then considered the relationship of the site with the group, whether it was within the group's sense of place and in keeping with its character. They also considered the issues of landscape impact in relation to Policy HD2 and PMD2. In terms of relationship of the site with the group, the Review Body were in agreement with the Appointed Officer that the site would appear isolated, visually prominent and detached from the other houses forming the building group. The existing houses all accessed from the same driveway which unified and contributed to the group's character and sense of place. The houses were also at descending levels from the public road, resulting in them being relatively concealed from public view. The proposed site would be more elevated, visible and prominent in the landscape, resulting in detachment and a poor relationship with the remainder of the houses in the group. Members considered this poor relationship to be exacerbated by the lengthy access road which provided separate access to the site.

The Review Body also considered that the site represented ribbon development, given the location of the site outwith the sense of place, on higher land and accessed by a separate roadway with little visual connection with the group. Whilst they acknowledged the site lay within the Southern Housing Market Area and that dispersed group patterns could be considered under Policy HD2, they did not consider this sufficiently redressed the issues of detachment, prominence and poor relationship of the site with the remainder of the building group. 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 the site was an inappropriate addition to the building group, contrary to Policy HD2 and the relevant Supplementary Planning Guidance.

Members then considered the issue of access to the site and noted that the access point from the public road had been amended during the processing of the application to attempt to address objections on road safety and lack of required visibility. Taking into account the requirements of Policy PMD2 in seeking to avoid adverse impacts on road safety, the Review Body noted that there was sustained objection from the Appointed Officer and Roads Officer to the amended access. Whilst there was some discussion over the merits of the original or amended access points, given the identified issues of detachment and building group relationship caused by the lengthy access road, on balance, Members ultimately accepted the advice of the Appointed and Roads Officers that the revised access would create additional traffic and impacts on the public road to the detriment of road safety.

The Review Body finally considered other material issues relating to the proposal including residential amenity, water, drainage, impacts on trees and hedges, ecology and land contamination 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 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.

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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