

**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: 21/00028/RREF

Planning Application Reference: 21/00999/PPP

Development Proposal: Erection of dwellinghouse and formation of new access

Location: Plot 1, Land North of Cakemuir House, Nenthorn

Applicant: Mr and Mrs Forster

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 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 2008, in that the site is not within or well related to a building group and would unacceptably adversely impact the landscape and visual amenity of the surrounding area.

2 The proposal is contrary to policy PMD1 of the Local Development Plan 2016 in that it would present itself as ribbon development contrary to the sustainable use and management of land.

3 The proposal is contrary to Policy PMD2 of the Local Development Plan 2016, in that the site is not compatible with or respects the character of the surrounding area or building group.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse and formation of a new access at Plot 1, Land North of Cakemuir House, Nenthorn. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	AH170 LP01 A

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 17th January 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) Further Representations and f) 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, HD2, HD3, HD4, EP2, EP3, EP7, EP13, IS2, IS7, IS8 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Trees and Development 2008
- Scottish Planning Policy 2014
- SESPlan 2013

The Review Body noted that the proposal was for planning permission in principle for the erection of a dwellinghouse and formation of a new access at Plot 1, Land North of Cakemuir House, Nenthorn.

Members firstly considered whether there was a building group in the vicinity under Clause A of Policy HD2. They noted that a building group lay to the east of the site at Nenthorn comprising more than the minimum number of existing houses required to comply with Policy HD2. Whilst Members noted that the applicant claimed the building group included a wider and more dispersed arrangement of residential properties as per Figure 10 of the applicant's Review Statement, they did not agree with the applicant's view of the extent of the building group.

The Review Body considered that the building group at Nenthorn only included the grouping of houses to the east of the site and did not include Cakemuir to the south of the site. They

considered that Cakemuir was separated from the site and from Nenthorn by the configuration of public roads, roadside hedges and especially by the alignment of the Cakemuir houses which had their rear elevations facing the site to the north. As Members considered Cakemuir and Nenthorn to be two distinct building groups, they agreed with the Appointed Officer that development of the site could result in coalescence. Members also noted that, as a result of Nenthorn and Cakemuir being separate groups, the capacity of the groups to accommodate new development under Policy HD2 was significantly affected by the presence of extant and subsequent approvals to Local Development Plan adoption. Members considered that development on those sites should be completed before any further expansion of Nenthorn is considered.

In terms of the sense of place, character and whether the site was an appropriate addition to either building group, the Review Body noted that the site broke into an open agricultural field and represented both ribbon development to Nenthorn and development on the other side of a public road and hedgerow to Cakemuir, where existing houses had their principal elevations facing south. Consequently, Members felt the site was outwith natural and man-made boundaries and was poorly related to both groups, in contravention of Policies PMD2, HD2 and Supplementary Planning Guidance.

The Review Body then considered whether there was any economic justification for the dwellinghouse under Clause F of Policy HD2 and also whether the development would comply with Policy PMD1 on sustainability. They concluded that there was no economic case advanced for a house on the Plot and that the development would not comply with PMD1, given that it represented ribbon development into open agricultural land. Members also considered the relationship of Plot 1 with Plot 2, but ultimately decided that the proposal was outwith the boundaries and sense of place of both building groups, irrespective of its relationship with Plot 2 or its order of implementation.

The Review Body finally considered other material issues relating to the proposal including residential amenity, claimed housing land shortfall, tree/hedge impacts, access, water, drainage, biodiversity and 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.

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 27th January 2022