

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW
BODY held via Microsoft Teams on Monday,
18 April 2022 at 10 a.m.

- Present:- Councillors S Mountford (Chair), A. Anderson, H. Laing, S. Hamilton, C. Ramage, N. Richards and E. Small.
- Apologies:- Councillors J. Fullarton, D. Moffat.
- In Attendance:- Principal Planning Officer (Paragraphs 1-4) Assistant Planning Officer (S. Shearer – paragraphs 5-6), Solicitor (S. Thompson), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).
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MEMBERS

Councillors Mountford and Laing did not take part in the determination of the following Review having not been present when it was first considered and left the Meeting prior to its consideration. In the absence of Councillor Mountford, Councillor Hamilton Chaired the meeting for this item of business.

1. CONTINUATION OF REVIEW 21/00448/FUL

With reference to paragraph 4 of the Minute of 21 February 2022, the Local Review Body continued their consideration of the request from Mr Lee Tickhill, 15 Howdenburn Court, Jedburgh to review the decision to refuse the planning application for change of use of Amenity land to garden ground and erection of bike/log store. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Objection comments; Consultation replies; support comments; List of policies and submission by the Roads Planning Officer and response from the Applicant on information received regarding existing utilities contained within the verge. After considering all relevant information, the Local Review Body concluded that the development was contrary to the Local Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was refused.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;
- (c) the proposal was contrary to the Local Development Plan and there were no other material considerations that would justify departure from the Development Plan; and
- (d) the officer's decision to refuse the application be upheld and the application refused for the reasons set out in Appendix I to this Minute.

MEMBERS

Councillors Laing and Mountford rejoined the meeting.

Councillor Richards did not take part in the determination of the following Review having not been present when it was first considered and left the Meeting prior to its consideration.

2. CONTINUATION OF REVIEW 21/00710/PPP

With reference to paragraph 4 of the Minute of 7 March 2022, the Local Review Body continued their consideration of the request from Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the erection of a dwellinghouse with access, landscaping and associated works on Land South and West of Greywalls, Gattonside. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; consultation replies, list of policies and submission by the Planning Officer and Applicant response on two Historical maps which had been submitted with the review papers. 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.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the proposal was contrary to the Local Development Plan and there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the officer's decision to refuse the application be upheld and the application refused for the reasons set out in Appendix II to this Minute.**

MEMBERS

Councillor Richards rejoined the meeting.

Councillor Anderson did not take part in the determination of the following Review having not been present when it was first considered and left the Meeting prior to its consideration.

3. CONTINUATION OF REVIEW 21/01270/FUL

With reference to paragraph 4 of the Minute of 21 March 2022, the Local Review Body continued their consideration of the request from Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the change of use from Industrial (Class4,5,6) to a Functional Fitness Gym (Class 11) at Unit B, Whinstone Mill, Netherdale Industrial Estate, Galashiels. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; consultation replies; General comments; further representation; list of policies and submission by the Economic Development Officer and Planning Officer and response from Applicant on the applicants review statement regarding vacant industrial and commercial premises within Galashiels. After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD3 and ED1 of the Local Development Plan. The development

was considered to be a justified exception within an industrial area with increasingly mixed use, providing gym facilities for which there was a proven demand. Subject to conditions ensuring gym use only and a reversion to industrial uses should the gym use cease, the application was approved.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the development was consistent with Policies PMD3 and ED1 of the Local Development Plan and considered to be a justified exception within an industrial area with increasingly mixed use, providing gym facilities for which there was a proven demand; and**
- (d) the officer's decision to refuse the application be overturned and the application approved, subject to conditions set out in Appendix III to this Minute.**

MEMBER

Councillor Anderson rejoined the meeting.

4. REVIEW OF 21/00793/FUL

There had been circulated copies of a request from Ha Viet Pham, c/o Andrew Scott, Murray House, High Street, Langholm to review the decision to refuse the planning application for the partial change of use of shop and alterations to form manager's flat at shop, 43 High Street, Hawick . The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; consultation replies; Design Access and Heritage Statement; correspondence from the Agent and List of Policies. The Planning Adviser drew attention to information, in the form of magazine articles and website excerpts contained within in Appendix 3 of the review submission submitted with the Notice of Review but had not been before the Appointed Officer at the time of determination. The Review Body considered that the new evidence met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997, and that this new information was material to the determination of the review and could be considered. After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2 and ED3 of the Local Development Plan. The majority of Members considered that the development was an appropriate provision of supporting residential accommodation for the retained ground floor commercial unit and that, provided conditions were imposed linking occupancy and allowing the accommodation to revert to previous use, then the vitality of Hawick High Street and Town Centre would be preserved. Consequently, the application was approved subject to conditions.

VOTE

Councillor Laing, seconded by Councillor Smail moved that the Officer's decision be overturned and the application approved.

Councillor Ramage, seconded by Councillor Anderson moved as an amendment that the Officer's decision be upheld and the application refused.

As the meeting was conducted by Microsoft Teams members were unable to vote by the normal show of hands and gave a verbal response as to how they wished to vote the result of which was as follows:-

*Motion – 5 votes
Amendment – 2 votes*

The Motion was accordingly carried.

DECISION

DECIDED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) new evidence submitted with the Notice of Review in the form of magazine articles and web site excerpts and was material to the determination;**
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) the development was consistent with Policies PMD2 and ED3 of the Local Development Plan. The development was considered to be an appropriate provision of supporting residential accommodation for the retained ground floor commercial unit and that, provided conditions were imposed linking occupancy and allowing the accommodation to revert to previous use, then the vitality of Hawick High Street and Town Centre would be preserved. Consequently, the application was approved subject to conditions; and**
- (e) the officers decision to refuse the application be overturned and the application approved, subject to conditions, for the reasons detailed in Appendix IV to this Minute.**

5. REVIEW OF 22/01422/FUL

There had been circulated copies of a request from Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the demolition of steading and farmhouse and erection of two dwellinghouses on land at Haughhead Farm and Steading Building. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; objection comments; General comments and list of policies. After considering all relevant information, the majority of Members concluded that the development was considered to be a justified exception to housing in the countryside policy provisions within the LDP. Matters concerning fenestration, fascia details, materials, landscaping, site services, bin storage, archaeology, contamination and access of way were able to be addressed by planning conditions. Developer contributions towards local school and affordable house would be addressed via legal agreement. Consequently, the application was approved.

VOTE

Councillor Mountford, seconded by Councillor Laing moved that the Officer's decision be upheld and the application refused.

Councillor Small, seconded by Councillor Richards moved as an amendment that the Officer's decision be overturned and the application approved.

As the meeting was conducted by Microsoft Teams members were unable to vote by the normal show of hands and gave a verbal response as to how they wished to vote the result of which was as follows:-

*Motion – 2 votes
Amendment – 5 votes*

The amendment was accordingly carried.

DECISION

DECIDED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) the development was considered to be a justified exception to housing in the countryside policy provisions within the LDP. Matters concerning fenestration, fascia details, materials, landscaping, site services, bin storage, archaeology, contamination and access of way to be addressed by planning conditions. Developer contributions towards local school and affordable house be addressed via legal agreement; and**
- (c) the officers decision to refuse the application be overturned and the application approved, subject to conditions, for the reasons detailed in Appendix V to this Minute.**

6. REVIEW OF 21/01908/FUL

- 6.1 There had been circulated copies of a request from Camerons Strachan Yuill Architects, 1 Wilderhaugh, Galashiels to review the decision to refuse alterations and extensions to dwellinghouse and formation of access at East Lodge, Netherurd Blyth Bridge, West Linton. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; consultee comments; consultation replies and List of Policies. The Planning Adviser drew attention to information, in the form of additional information with regard to the possibility of bats, which had been submitted with the Notice of Review but had not been before the Appointed Officer at the time of determination. The Review Body considered that the new evidence met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997, and that this new information was material to the determination of the review and could be considered, without referring back to the Officer on this occasion. After considering all relevant information, the majority of Members concluded that the application could be approved.

VOTE

Councillor Laing, seconded by Councillor Ramage moved that the Officer's decision be upheld and the application refused.

Councillor Small, seconded by Councillor Richards moved as an amendment that the Officer's decision be overturned and the application approved.

As the meeting was conducted by Microsoft Teams members were unable to vote by the normal show of hands and gave a verbal response as to how they wished to vote the result of which was as follows:-

Motion – 3 votes

Amendment – 4 votes

The amendment was accordingly carried.

- 6.2 In light of the decision taken by the Local Review Body, Ms Thomson advised that the bat survey was a legal requirement and would be required to be carried out before the Local Review Body could determine the application. She had not shared

this information with Members prior to their consideration of the application so that their final decision was not influenced by this requirement. However, due to the imminent Local Government Elections, the matter could not be continued to a future meeting of the current Local Review Body and would require to be considered “de novo” by the newly appointed Local Review Body following the Election.

DECISION

(a) DECIDED that:-

- (i) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997; and**
- (ii) new evidence submitted with the Notice of Review in the form additional information regarding the possibility of bats met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination.**

(b) NOTED that:-

- (i) although the review could be considered without the need for further procedure in the form of written submissions the bat survey was required prior to the final determination of the application; and**
- (ii) due to the imminent Local Government Elections, the matter could not be continued and would require to be presented “de novo” to the newly appointed Local Review Body at the first available opportunity following the Election.**

The meeting concluded at 1.45 p.m.