

**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: 22/00004/RCOND

Planning Application Reference: 21/00312/AMC

Development Proposal: Erection of new dwelling with garage (Approval of all matters specified in condition of planning permission 18/01632/PPP)

Location: Land North Of Old Manor Inn Lanton

Applicant: Mr Richard and Alison Stables

DECISION

The Local Review Body overturns the decision of the appointed officer and grants planning permission for the reasons set out in this decision notice subject to conditions as set out below.

DEVELOPMENT PROPOSAL

The application relates to the approval of matters specified in conditions of consent 18/01632/PPP for the erection of a dwelling house with attached garage. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	857P-01
Proposed Site Plan	857P-03B
3D View	857P-06
Existing Site Plan	857P02-02
Proposed Elevations	857P02-05
Proposed Plans & Sections	857P02-04
Specifications	Geocell Tree Root Protection
Report	Arboricultural Report

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 21st March 2022. After examining the review documentation which included: a) Notice of Review b) Review Statement c) Applicants Photos c) Report of Handling d) Consultations e) 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, EP13, IS2, IS5, IS7, EP2, EP3, EP5, EP8, EP13, EP16, IS7, IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Sustainable Urban Drainage 2020
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Use of Timber in Sustainable Construction 2009
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Renewable Energy 2007
- SBC Supplementary Planning Guidance on Privacy and Sunlight Guide 2006
- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on Local Biodiversity Action Plan 2001

The Review Body noted that the appeal was in relation to Condition 2 of consent 21/00312/AMC and in particular the requirement for the roof of the development to be externally finished using a slate roof instead of standing seam metal coloured dark grey (RAL7016) with a matt finish as originally proposed.

The Review Body noted that the Review was submitted in relation to a condition attached to a planning permission but that, as the Review was not resulting from refusal of a Section 42 application, Members were entitled to re-assess the whole consent on a De Novo basis and not only in relation to the Condition which was sought to be varied.

The Review Body, firstly considered matters specified in conditions of consent 18/01632/PPP. Members welcomed the contemporary design approach of the

proposal and had no issues with the siting or scale of the dwellinghouse. Its means of access and landscaping was acceptable. No concerns were raised in response to other matters covered by the PPP consent which included parking provision, means of tree and hedge retention, site services and protection of an existing decorative on site water pump and surface water drain.

Members then turned their attention to the roof material finish. The Review Body were provided with relevant plans, 3D visuals, photos of the site and the surrounding area which identified roof material finishes of different properties within the village and their relationship with the application site.

The Review Body observed that the site did not occupy a prominent location but its roof material finish must respect the character of Lanton. Members did agree that there was a range of roof material finishes in Lanton and there may be particular locations within the village where a slate roof finish would be preferable. It was queried if a change to slate would pose structural issues for the development. This would be a matter which would have been required to be addressed at Building Warrant stage however the applicant had not opposed the Condition on structural grounds. It was the consensus of the Members that a metal sheet roof would complement the architectural appearance of the proposed dwellinghouse. The Review Body agreed that its discrete location would ensure that a dark grey coloured standing seam metal roof in a matt finish would not detract from the visual amenities of the surrounding area and would be suitable at this site.

The Review Body heard how other requirements of Condition 2 of consent sought to control the external colour finish of the flue and PV panel frames. This part of the condition was not contested by the applicants and Members were satisfied that it would be appropriate to retain the requirement that this equipment should be dark coloured in a non-reflective finishes.

CONCLUSION

After considering all the information, the Local Review Body considered that the development was consistent with relevant policies of the Local Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to the conditions below.

CONDITIONS

- 1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details and ensure to a satisfactory form of development, which contributes appropriately to its setting, and to minimise risk to trees.
- 2 The external parts of the flue of the wood burning stove are to be matt black or matt grey in colour. In addition, the frames of the Solar PV panels hereby approved shall be coloured non-reflective black or dark grey unless with the prior written consent of the Planning Authority.
Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting.

- 3 The dwellinghouse shall not be occupied until the connection to the public mains water supply is made, and the approved foul and surface water drainage measures are implemented. Surface water-run off shall be maintained at pre-development levels.
Reason: To ensure that the development is adequately serviced.
- 4 No development shall commence until further details of landscaping (including location, species and number of new planting), timescale for implementation and future maintenance of planting have been submitted to and approved in writing by the Planning Authority. The landscaping shall be carried out and maintained in accordance with the approved details.
Reason: To visually integrate the development sympathetically with the setting.
- 5 Construction works shall only be carried out in accordance with the submitted Arboricultural Report (Robert Gray Forestry & Arboricultural Consultants) dated September 2021. All trees shall be protected as per this report including provision of the approved driveway and parking and erection of protective fencing in accordance with BS5837:12 during the construction period. No trees shall be subsequently removed or lopped unless with the prior written approval of the Planning Authority.
Reason: To ensure protection of trees that contribute to the landscape setting of the site.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

If the stove has an output of more than 45kw, the applicant should contact the Council's Environmental Health Service and provide further information in order that a screening assessment can be carried out. Stove installations can cause smoke and odour complaints and any Building and Planning Consents for the installation do not indemnify the applicant in respect of nuisance action. In the event of nuisance action being taken there is no guarantee that remedial work will be granted a Building Warrant/Planning Permission, including changes to the height and position of the flue.

There is a low potential for encountering buried archaeology during excavations. If buried features (e.g. walls, pits, post-holes) or artefacts (e.g. pottery, ironwork, bronze objects, and beads) of potential antiquity are discovered, please contact the planner or Council's Archaeology Officer for further discussions.

Further investigation secured by the development may be required if significant archaeology is discovered per PAN2 (2011) paragraph 31. In the event that human remains or artefacts are discovered, these should remain in situ pending investigation by the Archaeology Officer. Human Remains must be reported immediately to the police. Artefacts may require reporting to Treasure Trove Scotland.

The applicant is reminded that this permission does not convey approval for works affecting third party rights which may exist on the land or any adjoining. The applicant is therefore advised to seek the approval of any parties having an interest in any land affected by this permission

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, 4th 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.

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 1 April 2022