



**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:** 22/00007/RREF

**Planning Application Reference:** 21/01908/FUL

**Development Proposal:** Alterations and extension to dwellinghouse and formation of access

**Location:** East Lodge Netherurd Blyth Bridge West Linton

**Applicant:** Mr Alasdair McKenzie

**Date Review Received:** 28.02.2022

**Decision Date:** 18 July 2022

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**DECISION**

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

**DEVELOPMENT PROPOSAL**

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	10113(--)-001
Existing Site Plan	10113(--)-002
Existing Plans	10113(--)-004
Existing Sections	10113(--)-003
Existing Elevations	10113(--)-011
Proposed Site Plan	10113(--)-012
Proposed Plans	10113(--)-013
Proposed Sections	10113(--)-014
Proposed Elevations	10113(--)-015

**PRELIMINARY MATTERS**

The application was presented at its meeting on 20<sup>th</sup> June 2022. 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.

After examining the review documentation at that meeting, which included a) Notice of Review, including Decision Notice and Officer's Report; b) Papers referred to in Officer's Report; c) List of Policies d) Appeal Statement; e) Other decisions referred to by applicant, the Review Body noted that the applicant had requested further procedure in the form of a site visit, but did not consider it necessary in this instance. However they did consider that further procedure was necessary in the form of the submission of a Bat Survey and response from the Councils Ecologist on the submitted Bat Survey.

The Review Body considered the additional information, together with the Ecology Officer's comments on them, at its meeting on 18th July 2022 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: PMD2, HD3, EP1 EP2, EP3, EP5, EP7, EP8, EP10, EP13, EP16, IS7, IS8

### Other Material Considerations

- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Householder Development (incorporating privacy and light guidance) 2006
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Technical Advice Note# 1 Bat Surveys

The Review Body noted that the existing building is a simple single storey gatehouse building with traditional details. It is located at the end of eastern access to the Cat B Listed Netherurd House. The proposal would raise the roof of the existing building add wall head dormers to its frontage and a 1 ½ storey extension to the rear. Nose in parking from the minor public road is also to be formed at the bottom of the rear garden.

The property was not listed or in a conservation area and Members determined there was scope to alter and extend the property to provide a larger family house.

Members did observe that the existing building was of architectural merit but it had started to fall in to a state of disrepair. Its modest size meant that it is now unlikely meet modern living requirements, putting the building in danger of becoming dilapidated. The Review Body did consider that the overall scale of the proposals was challenging however the works would

revitalise the accommodation and encourage a sustainable form of development. No concerns were raised regarding the proposed external material finishes. Overall, Members concluded that the design approach was acceptable and that the landscape had the capacity to sympathetically accept a proposal of the size without detracting from its character and appearance.

The Local Review Body were satisfied that the proposed development would not cause the loss or serious damage to any mature trees adjacent to the site which contributed to the tree lined avenue approach road to Netherurd House. Members were satisfied that the submitted Bat Emergency Survey had addressed ecological implications posed by the development, subject to a condition to restrict works commencing in the breeding bird season and informative notes covering best practice and legislative species requirements.

Members heard how it was still required to be demonstrated that sufficient visibility was provided to vehicles exiting the new parking area which may require the lowering of part of the stone boundary wall. The Review Body were satisfied that these details could be addressed by planning condition.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, EP13 and EP1 of the Local Development Plan and relevant Supplementary Planning Guidance. The alterations and extension would revitalise East Lodge, Netherurd to provide a viable family home in a manner which can be accommodated within the surrounding landscape without detracting from the character of the surrounding area. No adverse impacts on any adjacent trees would be caused and following the submission of further ecological information the development would not have an adverse impact on any European Protected Species. Consequently, the application was approved.

## **DIRECTIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

## **CONDITIONS**

1. No development shall be commenced until precise details of all materials (including colour finish) to be used in the construction of the external walls and roofs of the extension and alterations have been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.  
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
2. No development shall be undertaken during the breeding bird season (March to August inclusive), unless in strict compliance with a Species Protection Plan for breeding birds, including provision for pre-development supplementary survey and compensatory nest boxes, that shall be submitted to and approved in writing by the Planning Authority, thereafter the development shall be undertaken in accordance with the agreed details.  
Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.

3. No development shall commence until a scheme of details covering access arrangements have been submitted to and agreed in writing with the Planning Authority and thereafter the development shall be completed in accordance with the agreed details. The following details shall be provided;
  - A detailed plan illustrating visibility splays from the new access in both directions on to the public road and where required works to the existing boundary wall to achieve appropriate visibility.
  - Construction details and drainage arrangements for the new parking area  
Reason: Further information is required to ensure vehicles can safely exit the new parking area and its construction and drainage does not pose any road safety issues.

## **INFORMATIVES**

1. In the event that bats are discovered following the commencement of works, works should stop immediately and the developer must contact NatureScot for further guidance. Works can only recommence by following any guidance given by NatureScot. The developer and all contractors to be made aware of accepted standard procedures of working with bats at [www.bats.org.uk](http://www.bats.org.uk).
2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, (as amended), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. If nesting birds are discovered after works commence, such works must stop and a competent ecologist must be contacted for advice.
3. The applicant is reminded that under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) they must follow SEPA's General Binding Rules to avoid contamination of the water environment, e.g. GBR 9, 10D and 11

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, 4<sup>th</sup> 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.

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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.

**Signed.....**  
Councillor S Mountford  
Chairman of the Local Review Body

Dated 28 July 2022



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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:** 22/00012/RREF

**Planning Application Reference:** 21/01909/FUL

**Development Proposal:** Erection of dwellinghouse

**Location:** Garden ground of Greenrig, Blair Avenue, Jedburgh

**Applicant:** Mr Laurie Bunyan

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**DECISION**

The Local Review Body reverses 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 erection of a dwellinghouse. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Existing Location Plan	21-02543(00)01
Location Plan	21-02543(01)02
Proposed Floor and Roof Plan	21-02543(01)03
Proposed Elevations	21-02543(01)04
Proposed Site Plan	21-02543(01)01

**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 18<sup>th</sup>

July 2022. After examining the review documentation which included: a) Notice of Review (including Decision Notice and Officer's Report); b) Papers referred to in Officer's Report; c) Consultation Replies; and d) List of Policies, the Review Body noted that the applicant had requested further procedure in the form of written submissions and a site inspection. After consideration, Members did not consider these were necessary in this instance 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, PMD5, HD3, EP13, IS2, IS7, IS8 and IS9

### Other Material Considerations

- Scottish Planning Policy 2014
- 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 Sustainable Urban Drainage Systems 2020

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse on the front garden of Greenrig, Blair Avenue, Jedburgh. Members noted that the site was surrounded by other residential properties and that a second access would be provided to serve Greenrig to the rear, the site being provided with its own access and sufficient parking and turning for two cars

Members firstly considered the application against Policy PMD5 of the Local Development Plan and accepted that the site was an infill site within the defined settlement boundary of Jedburgh. Although there was some concern and discussion over the size of the plot and ratio of development, the Review Body ultimately accepted that the development would be in keeping with the character of the street and the general urban pattern and density. Members noted that the proposed dwellinghouse was modest in scale and that development would comply with the relevant criteria within Policy PMD5. With the general width of Blair Avenue and the retention of the roadside hedge (which the applicant had offered), the Review Body concluded that the development would be in accordance with the Infill Policy PMD5.

The Review Body then considered the design and siting of the dwellinghouse against Policies PMD2 and PMD5. They generally considered the house to be in proportion with neighbouring property and of sympathetic height, design and alignment. Members accepted the use of render and tile and, subject to conditions, concluded that the proposal was in compliance with Policies PMD2 and PMD5 on appropriate siting and design. The Review Body also noted there were no neighbour objections and that the development would have little impact on residential amenity, thereby complying with Policy HD3.

The Review Body finally considered other material issues relating to the proposal including water, drainage, parking and turning but were of the opinion that appropriate conditions could address these satisfactorily, noting that the Roads Officer had no issues with the proposed accesses, parking and turning arrangements. They also noted that development contributions for education would not be required in this instance.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, PMD5, HD3 and IS7 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be of appropriate design and layout on an infill site with acceptable parking and access provision. Consequently, the application was approved.

## **DIRECTIONS**

2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

## **CONDITIONS**

1. No development shall commence until a scheme of external materials (including specifications and samples of materials and colours) for the dwellinghouse, has first been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved scheme.  
Reason: To ensure external materials are visually appropriate to the development and sympathetic to the surrounding area.
2. No development shall take place except in strict accordance with a scheme of hard and soft boundary treatments, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
  - i. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored – including the roadside hedge
  - ii. location and design, including materials, of walls, fences and gates
  - iii. soft and hard landscaping works
  - iv. A programme for completion and subsequent maintenance.Reason: To ensure the satisfactory form, layout and assimilation of the development.
3. No development to be commenced until the finished floor level of the dwellinghouse is submitted to, and approved in writing by, the Planning Authority. The development then to be implemented in accordance with the approved level.  
Reason: To safeguard adjoining residential amenity and ensure integration with the townscape.
4. Two parking spaces, excluding any garages, to be provided within the curtilage of the site prior to occupation of the dwelling and retained thereafter in perpetuity.  
Reason: To ensure the development is served by adequate parking provision at all times.
5. The new vehicular access to the property known as Greenrig to be formed to the specification of the Planning Authority prior to the new driveway becoming operational.  
Reason: To ensure access and egress to the existing property and to protect the



integrity of the public road.

6. No development to commence until further details of the provision of a water supply, foul and surface water drainage are submitted to, and approved by, the Planning Authority. Thereafter, development shall proceed in strict accordance with the approved details.

Reason: To ensure that satisfactory arrangements are made for the provision of water and for disposal of surface and foul water.

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, 4<sup>th</sup> 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.

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**Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.**

3. 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.
4. 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** 22 July 2022

**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY INTENTIONS 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:** 22/00014/RREF

**Planning Application Reference:** 21/01283/PPP

**Development Proposal:** Erection of dwellinghouse

**Location:** Land South East of Hardens Hall, Duns

**Applicant:** Duns Golf Club

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**DECISION**

The Local Review Body reverses the decision of the appointed officer and indicates that it intends to grant planning permission for the reasons set out in this intentions notice subject to conditions and the applicants entering into a Section 75, or other suitable Legal Agreement, as set out below.

**DEVELOPMENT PROPOSAL**

The application relates to the erection of a dwellinghouse. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
UK Planning Maps	Site Plan

**PRELIMINARY MATTERS**

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 18<sup>th</sup> July 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) General Comments; d) Additional Information; e) Consultation Replies; and f) List of Policies, the Review Body noted that the applicant had lodged new information in the form of

three photomontage maps indicating the existing and proposed houses in the vicinity of the site, both at Hardens Hall and in the wider group to the west. Members understood that the Maps did not raise any new information that was not already in front of the Appointed Officer before the decision was made and, therefore, did not consider that the information needed to be tested under S43B of The Act. The Review Body also noted that the objection from Mrs Katie Massie to the planning application had been withdrawn and that her objection should be not be considered in the determination of the Review.

Members also noted that the applicant had requested further procedure by means of a hearing and site inspection. After consideration, the Review Body did not consider these necessary in this instance 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, PMD4, HD2, HD3, ED7, ED10, EP1, EP2, EP3, EP4, EP5, EP13, EP8, EP13, IS2, IS7, IS8, 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 Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Waste Planning 2015
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Contaminated Land Inspection Strategy 2001
- Scottish Planning Policy 2014

The Review Body noted that the proposal was for the erection of a dwellinghouse on land South-East of Hardens Hall, Duns. Members noted the planning history leading to development in Hardens Road, both within the Duns settlement boundary as defined in the Local Development Plan and in the wider area to the west of the site

Members firstly considered whether there was a building group in the vicinity under Clause A of Policy HD2. Whilst they noted the applicant's claim that Hardens Hall and outbuildings constituted a building group of three dwellinghouses, the Review Body were not persuaded by this suggestion, given the background information to the case. However, Members did note there were four existing houses in the "Western Housing Group" as annotated on the applicant's submitted plans. Although it was understood that there were only two houses present within this group at the time of Local Development Plan adoption, the Review Body were aware that several planning consents had already been granted for further housing in the group, including subdivision of plots and an appeal decision. Given the history and the presence of four existing houses, Members were, therefore, content that there was a building group present under Policy HD2, consisting of the "Western Housing Group" as noted on the applicant's submissions.

In terms of whether there was capacity for this group to be expanded, the Review Body also noted that there were already several permissions and houses built since the Local Development Plan adoption and that, as the scale of addition had already been breached, a further breach through granting the current Review would not be sufficiently material to justify refusal, given the history. Members concluded that, subject to the site being considered to be an acceptable addition to the group, the issue of capacity was not a determining issue.

Members then considered the relationship of the site with the group and whether it was within the group's sense of place and in keeping with its character. In this respect, they noted that the site adjoined Hardens Hall and was both within the overall sense of place of the wider grouping of houses to the west but also could be considered to be a logical extension. The Review Body concluded that the site was an appropriate addition, within the sense of place and character of the building group.

Whilst Members noted that the original application had also been refused due to the site being outwith, but related to, the Duns Settlement boundary as defined in the Local Development Plan, they considered that approving the site as an addition to a building group in the countryside under Policy HD2 outweighed the relevance of Policy PMD4 or the need for the proposal to comply with the terms of that Policy and its exclusions.

Members then considered the development in relation to Policies PMD1 and 2 and the impacts of a lack of footpath link, both in terms of sustainability of transport and road safety. Whilst they noted the objections of the Roads Officer, the Review Body considered that, given the presence of other development in the vicinity, it would be neither justified nor proportionate to require a single house application to provide a footpath link to Duns.

The Review Body finally considered other material issues relating to the proposal including landscape impact, residential amenity, access, water, drainage, contamination, trees, hedges and ecological matters but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for education would also be required, to be secured by legal agreement.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD1, PMD2, PMD4 and HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate addition to an existing building group to the west of the site and this outweighed the location of the site outwith the Duns defined Settlement Boundary. Members were also content that it would be disproportionate to require a footpath link to Duns for a single dwellinghouse in consideration of the existing developments in the vicinity. Consequently, the application was approved subject to conditions and legal agreement.

## **DIRECTIONS**

1. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
  - a. the expiration of three years from the date of this permission, or
  - b. the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

## CONDITIONS

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site, have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):

- I. existing and finished ground levels in relation to a fixed datum preferably ordnance
- II. a survey to indicate trees to be retained within the site
- III. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
- IV. location and design, including materials, of walls, fences and gates
- V. soft and hard landscaping works including new tree planting within the site
- VI. existing and proposed services such as cables, pipelines, sub-stations
- VII. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

4. No development to be commenced until further details of access and parking provision are submitted to, and approved in writing by, the Planning Authority. Thereafter the development to be completed in accordance with the approved details prior to occupation of the dwellinghouse unless otherwise agreed. The details shall include:

- I. The main access to include visibility splays, surface water drainage interception and provision for service vehicles, including construction and levels details.
- II. 2 no. parking spaces, not including any garage, and turning area to be provided within the curtilage of the site and retained thereafter in perpetuity

Reason: To ensure satisfactory form of access and adequate parking and turning provision in the interests of road safety.

5. No development to be commenced until the details of water and drainage provision are submitted to, and approved in writing by, the Planning Authority. Once approved, the development then to be completed in accordance with those details.  
Reason: To ensure that the development is adequately serviced and in the interests of public health.
6. No development to be commenced until a scheme of waste storage has been submitted to, and approved in writing by, the Planning Authority. Once approved, provision to be made in accordance with the approved details prior to occupation of the dwellinghouse.  
Reason: To ensure adequate provision for waste storage within the site.
7. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition. and thereafter
- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.  
Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

## **LEGAL AGREEMENT**

The Local Review Body required that a Section 75, or other suitable legal agreement, be entered into to secure developer contributions for Berwickshire High School and Duns Primary School.

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, 4<sup>th</sup> 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.

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**Notice Under Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.**

5. 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.
  
  6. 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** 22 July 2022

**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:** 22/00017/RREF

**Planning Application Reference:** 21/01982/FUL

**Development Proposal:** Change of Use from agricultural store, alterations and extension to form dwellinghouse with garage

**Location:** The Blue House, near Swansfield Farm, Reston

**Applicant:** Mr Graeme Forsyth

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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 dwellinghouse would be contrary to Policy HD2 (C - Conversions) of the Local Development Plan 2016 in that the proposed conversion and extension would not be in keeping with the scale and character of the existing building. The development would have the appearance of a new building dwellinghouse in the open countryside linked to a more subservient outbuilding which is proposed for ancillary use. The development would therefore contribute to the sense of sporadic residential development in the countryside, to the detriment of the character of the site and surrounding area. Other material considerations have been accounted for but these do not outweigh the harm that would result from the development.

**DEVELOPMENT PROPOSAL**

The application relates to change of use from agricultural store, alterations and extension to form dwellinghouse with garage. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	
Ground Floor Plan	21-028-001

First Floor Plan	21-028-002
SE and SW Proposed Elevations	21-028-003
NW and NE Proposed Elevations	21-028-004
Site Plan	21-028-005
Garage Plan and Elevations	21-028-006
Existing building	21-028-007

## **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 18<sup>th</sup> July 2022.

After examining the review documentation at that meeting, which included a) Notice of Review (including Officer's Report and Decision Notice); b) Papers referred to in Officer's Report; c) Additional Information and d) List of Policies, the Review Body noted that the applicant had lodged an additional 3D image of the proposed development which had not been available to the Appointed Officer before a decision was taken on the application. Members applied the submission against S43B of The Act and admitted the image as they considered it to be material to their consideration of the Review.

The Review Body also noted that the applicant had requested further procedure in the form of written submissions, a hearing and site inspection but did not consider further procedure necessary in this instance 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, ED9, ED10, EP1, EP2, EP3, EP8, 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 Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Renewable Energy 2018
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems 2020
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Use of Timber in Sustainable Construction 2009

- Scottish Planning Policy 2014

The Review Body noted that the application was for a change of use from agricultural store, alterations and extension to form dwellinghouse with garage at The Blue House, near Swansfield Farm, Reston. Members noted that the building was last used as an agricultural store, that it currently had no roof and that it had historic residential usage.

Members principally assessed the application against Section C of Local Development Plan Policy HD2 and the relevant Supplementary Planning Guidance. They noted this was the only Section of that Policy which covered conversion of non-residential buildings to dwellinghouses, Sections C and D relating to restoration or replacement of existing houses. Whilst Members were generally sympathetic to the applicant's intentions of bringing the old building back into use by conversion and addition, they agreed with the Appointed Officer that the scale of the new-build additions would be out of context with, and overbearing in relation to, the retained building. Members considered that this could result in the existing building appearing to be a subservient element, the overall impression being of a new-build dwellinghouse in an isolated position, outwith any building group.

Whilst the Review Body had no particular issue with the choice of contemporary materials, they considered that the excessive scale and incongruous relationship with the retained building would result in a conversion of little architectural merit. Members also did not accept the applicant's contention that the proposed overall design was intended to give the impression of an agricultural barn or grouping. Ultimately, the Review Body considered that the proposal was in contravention of Section C of Policy HD2 for reasons of excessive scale of the new-build additions. They also noted that Policy PMD2 required alterations or extensions to be appropriate to the existing building and that the proposal was too excessive in scale to achieve this.

Members suggested that a proposal of reduced scale more sympathetic to, and utilising the existing building at the heart of the conversion, would be more appropriate in relation to Policy HD2 and would be of greater architectural and historic merit.

The Review Body finally considered other material issues relating to the proposal including water, drainage, access, parking, archaeology, ecology, trees, contamination and developer contributions. As Members did not accept the scale of the development, they agreed that these issues did not influence their final decision.

## **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.**

7. 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.

8. 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** 22 July 2022