

**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: 20/00009/RREF

Planning Application Reference: 19/01432/PPP

Development Proposal: Erection of two dwellinghouses and associated works

Location: Land North West of Quarry Bank, Hume

Applicant: Mr Andrew Thomson

DECISION

The Local Review Body reversed the decision of the appointed officer and indicated that it intended to grant planning permission for the reasons set out in this decision notice subject to conditions and informatives and the applicant entering into a Section 75, or other suitable Legal Agreement, as set out below.

The necessary Section 75 Agreement has now been concluded.

DEVELOPMENT PROPOSAL

The application relates to the erection of two dwellinghouses and associated works. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	ATPPP01
Existing Site Plan	ATPPP02
Proposed Site Plan	ATPPP03

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 1st June 2020. After examining the review documentation which included: a) Notice of Review (including Decision Notice and Officer's report); b) Applications referred to by applicant; c)

Papers referred to in officer's report; d) Consultations; e) Support comments 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, EP4, EP8, IS2, IS5, IS7, IS9 and IS13

Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- Scottish Planning Policy 2014

The Review Body noted that the proposal was for the erection of two dwellinghouses on land North-West of Quarry Bank, Hume.

The Review Body noted that Hume was not a defined settlement in the Local Development Plan and, firstly, considered whether it constituted a building group under the terms of Policy HD2. Members understood that approximately 20 houses currently existed and they, therefore, accepted this constituted a building group. It was also recognised that the group could expand by up to five houses and that the proposal was within that scale of addition capacity.

Members then considered the relationship of the site with the group and whether it was in keeping with its character, whilst noting that the application was for planning permission in principle and that the suggested siting and design of the houses remained indicative. In this respect, they noted the opinion of the Appointed Officer that the site did not relate well to the character of the group, was ribbon development and broke into an undeveloped field. However, whilst Members understood the concerns over ribbon development, they felt that the character of Hume was almost uniformly linear with no development, apart from Cragside Farm, on the opposite side of the public road. The group contained a mixture of older houses opposite the castle and newer houses to the eastern end. It was clear to them that such groups have grown in the past and must be encouraged to continue to expand under Policy HD2 and the Supplementary Planning Guidance. The site reflects linear expansion in keeping with the group's current character. They also noted from the Archaeology Officer's comments that the group had previously been larger to the west.

Whilst the Review Body accepted that the character of the group altered after the bend in the road to the north, they noted that there was no strong visual boundary between the applicant's

house and site in question, the boundary consisting of fencing and hedging. Members did not accept the view of the Appointed Officer that the shelter belt north of Cragside Farm provided a defensible boundary to the group as it was on the opposite side of the road from the site. However, they still considered it important that the site was provided with a new planted boundary, by condition, to represent the outer edge and visual termination of the building group. This would also help integrate the development into the sensitive landscape setting that was recognised by the Review Body.

With appropriate landscaping conditions, Members were content that the development would read as part of the building group. They also noted the support for the development from the Community Council and local residents and the fact that the development would support an active local business.

The Review Body then considered the issue of access links under Policy PMD2 and noted the concerns from the Roads Planning Officer over the lack of connection with the footpath and street lighting that exists at the eastern end of the village. However, Members also noted that there was a considerable distance between the site and these facilities and that connection may not be within the control of the applicant. Members also felt that the application of modern standards of pedestrian access and street lighting in the central and older parts of the building group may not be achievable or desirable in terms of impact on character. They concluded that the proposal was acceptable under the relevant part of Policy PMD2 in the circumstances.

The Review Body finally considered other material issues relating to the proposal including residential amenity, roads, parking, water, drainage and archaeology but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for affordable housing and education were required and could be secured by legal agreement.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies HD2 and PMD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate addition to an existing building group within its sense of place and enclosed by proposed planting. Consequently, the application was approved.

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. The landscaping shall include tree planting to form a strong boundary to the north-west. 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 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 first dwellinghouse unless otherwise agreed. The details shall include:

- I. Access to be constructed as per SBC Standard Detail DC-3
- II. 2 no. parking spaces, not including any garage, and turning area for each dwellinghouse 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.

4. Notwithstanding the terms of Class 3E of Schedule 1 of The Town and Country Planning (General Permitted Development) Order (Scotland) 1992 (as amended 2011 and with any subsequent amendments or Orders), no means of enclosure to be erected within the site unless a planning application has been submitted to, and approved by, the Planning Authority.

Reason: To safeguard the surrounding landscape and visual amenity of the area.

5. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured a Written Scheme of Investigation (WSI) detailing a programme of archaeological works. The WSI shall be formulated and implemented by a contracted archaeological organisation working to the standards of the Chartered Institute for Archaeologists (CIfA). The WSI shall be submitted by the developer no later than 1 month prior to the start of development works and approved by the Planning Authority before the commencement of any development. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording, recovery of archaeological resources within the development site, post-excavation assessment, reporting and dissemination of results are undertaken per the WSI.

Reason: The site is within an area where development may damage or destroy archaeological remains, and it is therefore desirable to afford a reasonable opportunity to record the history of the site.

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 each dwellinghouse.

Reason: To ensure adequate provision for waste storage within the site.

INFORMATIVES

All work within the public road boundary must be undertaken by a contractor first approved by the Council.

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 affordable housing. A Section 75 Agreement has now been concluded.

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.

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

Date...5th November 2020