

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in the Council Chamber at Newtown St Boswells on Monday, 20 June 2022 at 10 a.m.

Present:- Councillors S Mountford (Chair), M. Douglas, D. Moffat, A. Orr, V. Thomson, N. Richards, S. Scott.

Apologies:- Councillors J. Cox, E Small.

In Attendance:- Principal Planning Officer (Paragraphs 2 - 6) Assistant Planning Officer (S. Shearer – paragraph 1), Solicitor (S. Thompson), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

1. REVIEW 21/00448/FUL

This application was considered by the previous Local Review Body on the 18th April 2022. It was the intention of the LRB to support the proposal but a determination was not reached because it was found that further procedure was required to seek the submission of a bat survey. Due to the local elections held on 5 May, it would not have been appropriate for that Local Review Body to continue the application so that further information could be provided and then considered by the new Local Review Body. The Local Review Body considered the 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. However, they also agreed that the matter could not be considered without enabling the Planning Officer and Ecology Officer the opportunity to respond to the Bat Emergence Survey submitted with the Notice of review, and therefore agreed that the application be continued for further procedure in the form of written submission from the Planning Officer and Ecology Officer.

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) new evidence submitted with the Notice of Review in the form of a Bat Emergency Survey met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;
- (c) the review could not be considered without the need for further procedure in the form of written submissions;

- (d) the Planning Officer and Ecology Officer be given the opportunity to comment on the Bat Emergence Survey provided by the Applicant; and**
- (e) consideration of the review be continued to a future meeting on date to be confirmed.**

2. REVIEW 21/00739/PPP

There had been circulated copies of a request from F J Usher's Children Trust, c/o Hannah Belford, Agent, Wemyss House, 8 Wemyss Place, Edinburgh to review the decision to refuse the planning application for the erection of two dwellinghouses on Land East of Delgany, Old Cambus, Cockburnspath. 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, correspondence, consultation replies; objection comments, general comments, further representations and list of policies. The Planning Adviser drew attention to information, in the form of noise levels of machinery in operation at TD Trees and Land Services, Old Cambus, West Mains submitted by an objector but which 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. However, they also agreed that the matter could not be considered without enabling the Planning Officer and Environmental Health to respond to the details in the noise levels submitted by the objector, and therefore agreed that the application be continued for further procedure in the form of written submission from the Planning Officer and Environmental Health.

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) new evidence submitted by an objector in the form of noise levels of machinery in operation at TD Trees and Land Services, Old Cambus, West met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;**
- (c) the review could not be considered without the need for further procedure in the form of written submissions;**
- (d) the Planning Officer and Environmental Health be given the opportunity to comment on the noise level of machinery Level Survey provided by an Objector ; and**
- (e) consideration of the review be continued to a future meeting on a date to be confirmed.**

3. REVIEW 21/01588/FUL

There had been circulated copies of a request from Hamad Aloswadian c/o Amy Knowles Brown, Agent, 21 Snowdon Place, Stirling to review the decision to refuse the planning application for the erection of a dwellinghouse on Land South West of Windrush, Highend, 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; additional information, consultation replies; supporting statement and list of policies. In their initial discussions, Members considered whether there was a building group under Part A of Policy HD2 and noted that the site lay adjoining the applicant's own house. The members noted from the aerial slides and applicant's map submission that there were other houses and buildings in the wider vicinity, but felt these were well separated and that not all

buildings in the wider area were houses and concluded that there was not a building group. The Review Body then considered whether there was a justified business case for a dwellinghouse on the site but concluded that as the falconry facility was operated as a hobby, there was no such justification. Finally the Review Body considered other material issues relating to the proposal including siting and design, impact on trees, impact on the landscape, road access, water and drainage. 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.

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 contrary to policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that the proposal was not well related to an existing building group of at least three houses and no overriding economic case had been made that a house was required in this isolated location for essential rural business purposes; and**
- (d) the officer's decision to refuse the application be upheld for the reasons set out in Appendix I to this Minute.**

4. REVIEW OF 21/01068/FUL

There had been circulated copies of a request from Mr and Mrs M J Fox, c/o Stuart Patterson Building and Timber Frame Design, 5 Burnflat Lane, Hawick to review non-determination of a planning application for replacement windows at Craigard, Canongate, Denholm TD9 8NF. The supporting papers included the Notice of Review; additional information; support comments objection comments, correspondence and List of Policies. The Review Body noted that the review was submitted against non-determination of the planning application, as the Council had not determined the application within the agreed extended processing period, this constituted a deemed refusal of the application and they were required to make a 'De Novo' decision on the application. The Review Body noted that the proposal related to a property within Denholm Conservation Area but that it was positioned outwith the Prime Frontage part of the Conservation Area. Given that timber sash and case window styles were not predominant in the vicinity and as the existing windows were casement, Members considered that the proposed windows would maintain the character of Denholm Conservation Area. After considering all relevant information, the Local Review Body concluded that the proposed replacement windows were consistent with Policies PMD2 and EP9 of the Local Development Plan and Supplementary Planning Guidance on Replacement Windows and Doors and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to conditions.

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 proposed replacement windows were consistent with Policies PMD2 and EP9 of the Local Development Plan and Supplementary Planning Guidance on Replacement Windows and Doors and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to conditions as detailed in Appendix II to this Minute.**

5. REVIEW OF 21/01439/FUL

There had been circulated copies of a request from Mr Bryce Crawford, 18-19 Slitrig Crescent, Hawick TD9 0EN to review the decision to refuse the planning application for replacement windows at 18-19 Slitrig Crescent, 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; additional information and list of policies. Members firstly noted that the Review was submitted against refusal of planning permission for the windows but that there was also an appeal against refusal of listed building consent for the windows, submitted to the Department of Planning and Environmental Appeals and currently undetermined. Whilst the Review Body noted the position and the fact that the property was also a statutorily listed building, they proceeded to consider and determine the Review only in relation to the refusal of planning permission, which was required as the property was also within Hawick Conservation Area. Members were aware that the replacement windows would need both planning permission and listed building consent in order to be installed. The Review Body noted that the property lay outwith the Prime Frontage part of the Conservation Area. Given that timber sash and case window styles were not predominant in the vicinity and as the adjoining existing windows were of differing style and pattern, Members considered that the proposed windows would maintain the character of the property and Hawick Conservation Area, subject to conditions on framing, colour and glazing bars. After considering all relevant information, the Members concluded that the proposed replacement windows were consistent with Policies PMD2 and EP9 of the Local Development Plan and Supplementary Planning Guidance on Replacement Windows and Doors and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to conditions.

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) **that the proposed replacement windows were consistent with Policies PMD2 and EP9 of the Local Development Plan and Supplementary Planning Guidance on Replacement Windows and Doors and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved subject to conditions.**
- (d) **the officer's decision to refuse the application be overturned and the application approved, subject to conditions, for the reasons detailed in Appendix III to this Minute.**

6. REVIEW OF 21/01846/PPP

There had been circulated copies of a request from Aitken Turnbull Architects, 5 Castle Terrace, Edinburgh EH1 2DP to review non determination of a planning application for the erection of two dwellinghouses on Land North of Ivanhoe, Dingleton Road, Melrose. The Review Body noted that the review was submitted against non-determination of the

planning application, as the Council had not determined the application within the application processing period, this constituted a deemed refusal of the application and they were required to make a 'De Novo' decision on the application. The supporting papers included the Notice of Review; additional information; consultation replies; objection comments; correspondence and List of Policies. The Planning Adviser drew attention to information, in the form of a Bat Potential and Breeding Bird Survey which had been submitted with the Notice of Review but had not been before the Appointed Officer during the processing of the application. 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. However, they also agreed that the matter could not be considered without enabling the Planning Officer and Ecology Officer the opportunity to respond to the Bat Potential and Breeding Bird Survey submitted with the Notice of review. Members, therefore, agreed that the application be continued for further procedure in the form of written submission from the Planning Officer and Ecology Officer. Members further agreed that a site visit would also assist them in their determination and agreed that this be arranged while the written submissions were being obtained.

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 new evidence submitted with the Notice of review in the form of a Bat Potential and Breeding Bird Survey met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;**
- (c) the review could not be considered without the need for further procedure in the form of written submissions and an unaccompanied visit to the site;**
- (d) the Planning Officer and Ecology Officer be given the opportunity to comment on the Bat Potential and Breeding Bird Survey submitted with the review and that a site visit be arranged; and**
- (e) Consideration of the review be continued to a future meeting on a date to be confirmed.**

The meeting concluded at 12.20 p.m.