

**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:** 22/00024/RREF

**Planning Application Reference:** 21/01639/FUL

**Development Proposal:** Erection of dwellinghouse

**Location:** Land West of Cavers Hillhead, Cavers, Hawick

**Applicant:** Mr Mark McGlone

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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 development is contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 because it would constitute housing in the countryside that would not relate well to the existing building group and would lead to an unjustified sporadic expansion of development into a previously undeveloped field. Furthermore, there is no overriding economic justification to support the development. Material considerations do not outweigh the resulting harm.

## **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>
Location Plan	514.1.01
Site Plan, Section, Planting	514.1.02
Floor and Roof Plan	514.1.03
Sections, Elevations	514.1.04

## **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 22nd September 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) Consultation Replies; d) Support Comments; e) Further Representation and f) Policy List, the Review Body 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: PMD2, HD2, HD3, EP1, EP2, EP3, EP13, IS2, IS7 and IS9

### 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 Landscape and Development 2008
- SBC Supplementary Planning Guidance on Local Landscape Designations 2012
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SPP 2014

The Review Body noted that the application was for the erection of a dwellinghouse at land West of Cavers Hillhead, Cavers, Hawick.

Members firstly considered whether there was a building group present under Part A of Policy HD2. They noted that whilst the site lay adjoining an existing dwellinghouse known as Cavers Hillhead, there were no other houses in the immediate vicinity. Whilst the Review Body noted the applicant's claims in relation to an historic connection with Cavers Castle parkland, the need to stem rural depopulation and to consider building groups of less than three houses, they agreed with the Appointed Officer that there was no building group present of a minimum of three existing houses that the site was related to and that the application was, therefore contrary to Part A of Policy HD2 – the current adopted Local Development Plan Policy for new housing in the countryside.

Members considered that, even if they had identified a building group of three houses in the vicinity, the site would still contravene Policy and guidance by breaking into an undeveloped field outwith the character and sense of place. Whilst the applicant contended this was garden

ground associated with Cavers Hillhead, the Review Body still considered this to be part of an undeveloped field which contained, and extended beyond the current confines of, the garden. Members also considered that allowing development could set a precedent for further sporadic expansion

The Review Body then considered whether there was any justified business case for a dwellinghouse on the site under Part F of Policy HD2. They noted that the new house was principally intended to provide accommodation for a manager of the woodland resource on the land holding but would also reduce the isolation and improve the welfare of the current resident of Cavers Hillhead, as well as supporting diversification of the holiday park. Whilst Members were generally sympathetic to the principle of the request and noted the claimed benefits, they did not consider there was sufficient economic case advanced to justify the erection of a house on the site. The submitted Business Case relating to woodland management did not persuade the Review Body that it was essential for a manager's dwellinghouse to be located at the site. It was, therefore, concluded that the proposal was contrary to Part F of Policy HD2.

The Review Body finally considered other material issues relating to the proposal including water and drainage, road access, parking, tree impacts, ecology and the need for compliance with developer contributions. As Members did not consider there had been a case substantiated for the principle of a house on the site, 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 reason 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.**

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 3<sup>rd</sup> October 2022**