

# SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in the Council Chamber, Council Headquarters, Newtown St Boswells on Thursday, 22 September 2022 at 10 a.m.

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

In Attendance:- Principal Planning Officer, Solicitor (S. Thompson), Democratic Services Team Leader (via Microsoft Teams), Democratic Services Officer (F. Henderson).

## ORDER OF BUSINESS

The Chairman varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

## MEMBERS

Having not been present when the following review was first considered, Councillors Mountford and Scott left the meeting. Councillor Richards chaired the meeting for the following item.

### 1. CONTINUATION OF REVIEW 22/00093/PPP

With reference to paragraph 5 of the Minute of 15 August, the Local Review Body continued their consideration of the request from Mr James Hewitt c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the erection of a dwellinghouse with associated infrastructure works on Land adjoining 16 Hendersyde Drive, Kelso. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; consultation replies; objection comments; further representations and list of policies. Consideration of the review **had been** continued to allow members to undertake a site visit which was held on 29 August 2022. The Members confirmed that the site visit had been worthwhile and had given them a better sense of the size of the site and the overhang of the nearby trees. The Members considered the comments from Scottish Water in terms of the equipment contained within the site, the Flood Risk Officers comments and those comments from the roads officer. In particular members were concerned about the risk from surface flooding as no evidence had been provided to evaluate the potential impacts.

## 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 not be considered without the need for further procedure in the form of written submissions;
- (c) the Applicant be requested to submit either a Flood Risk Assessment or a Drainage Impact Assessment in line with the advice from the Flood Risk Officer, following which the Flood Risk Officer would be given the opportunity to comment; and

- (d) **consideration of the review be continued to a future meeting on a date to be confirmed.**

## **MEMBERS**

Councillors Mountford and Scott joined the meeting prior to consideration of the following review.

### **2. CONTINUATION OF REVIEW 21/01421/PPP**

With reference to paragraph 4 of the Minute of 18 July 2022, the Local Review Body continued their consideration of the request from Mr and Mrs J Seed c/o Ferguson Planning, 54 Island Street, Galashiels Duns to review the decision to refuse the planning application for the erection of a dwellinghouse, on Land North East of Woodend Farmhouse, Gavinton, Duns. The supporting papers included the Notice of Review; Decision Notice; Officers Report; papers referred to in the Officers report; consultation replies; list of policies and written submission from the Planning Officer and Applicants response. Also circulated were the Planning Officers comments and Applicant response on new information submitted in terms of the Soil Fertility Report; 3D image of proposed new House in relation to Existing House and Revised Site Plan indicating a reduced development boundary. Members considered whether there was a building group in the vicinity and noted there were at least three existing houses in the immediate vicinity, including the existing farmhouse and cottages and were satisfied that this constituted a building group. Members also agreed there was capacity for the group to be expanded; The Review Body concluded that the site balanced the group, allowing the farmhouse to occupy a central position and that the site mirrored the location of the cottages whilst being necessarily separated from the access and buildings relating to the working farm. The Review Body also noted the applicants' current occupation at Woodend Farm, the intention for a retirement house and the continued operation of the farm by family. However, in terms of Clause F of Policy HD2, Members did not consider it necessary to test the proposal due to their support under Clause A relating to building group addition. Members then considered whether the proposal would be contrary to Policy ED10 in relation to the loss of prime quality agricultural land and were satisfied with the findings of the Soil Fertility Report, accepting that the site occupied a poorer grade of land at the field margin and that the reduced extent of the site also resulted in a smaller land take. After considering all relevant information, the application was approved subject to conditions and a legal agreement.

## **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; and**
- (c) **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 the intentions notice subject to conditions and the applicants entering into a Section 75, or other suitable Legal Agreement, as set out in Appendix I to this Minute.**
- ### **3. REVIEW 22/00207/FUL**
- There had been circulated copies of a request from Mr & Mrs C & J Stephens, c/o Ferguson Planning, Shiel House, 54 Island Street, Galashiels to review the decision to refuse the planning application for the change of use of barn and alterations and extension to form dwellinghouse on Land North of Carterhouse, Jedburgh. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; consultation replies and list of

policies. Members firstly noted that as the building lay outwith any defined settlement boundary or building group, the development must be considered against Part C of Policy HD2 which referred to conversion of existing buildings to houses in the countryside. The Review Body assessed the proposals against that part of the Policy but also the relevant criteria within Policy PMD2, as well as the detailed guidance in the Housing in the Countryside Supplementary Planning Guidance and the Farm Steading Conversions Advice Note at Appendix 2 of the SPG. While being supportive of the conversion of buildings in principle, the Review Body were firmly of the opinion that the building had insufficient architectural character or merit. Following conversion, the building would still retain the appearance of an agricultural shed and Members could, therefore, not accept that such conversion work would either improve the appearance and merit of the building, or make it appear suitable for residential purposes.

## **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 criteria a) of Part C of Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that the existing building was not worthy of conversion in terms of its architectural or historic merit and nor did it appear physically suited for residential use. The site lay outwith any recognised settlement or building group and no overriding essential business need had been substantiated for a house in this isolated location. The proposal would lead to sporadic residential development in the countryside and other material considerations did not outweigh the conflict with the Local Development Plan and harm that would result.**
- (d) the officer's decision to refuse the application be upheld and the application refused, for the reasons detailed in Appendix II to this Minute.**

#### **4. REVIEW 21/01639/FUL**

There had been circulated copies of a request from Mark McGlone, 20 Birch Avenue, Elgin c/o ACJ Group, 5 Moycroft Industrial Estate, Elgin to review the decision to refuse the planning application for the erection of a dwellinghouse at Cavers Hillhead, 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; consultation replies; support comments; further representations and list of policies. Members noted that the application was for the erection of a dwellinghouse at land West of Cavers Hillhead, Cavers, Hawick. They went onto consider whether there was a building group present and noted that whilst the site lay adjoining an existing dwellinghouse known as Cavers Hillhead, there were no other houses in the immediate vicinity and concluded that there was no building group present. Members also considered that, if approved, the development would have contravened policy and guidance by breaking into an underdeveloped field outwith the character and sense of place. Members then considered if there was a justified business case for a dwellinghouse on the site and while generally sympathetic to the principle and divided on the issue, they ultimately concluded that there was insufficient evidence to support on economic case to justify the erection of a house on the site.

## **VOTE**

*Councillor Moffat, seconded by Councillor Scott moved that application be refused.*

*Councillor Thomson, seconded by Councillor Orr moved as an amendment that the application approved.*

*On a show of hands Members voted as follows:-*

*Motion - 6 votes*

*Amendment - 3 votes*

The motion was accordingly carried.

#### **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 development was 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 was no overriding economic justification to support the development. Material considerations did not outweigh the resulting harm.**
- (d) **the officer's decision to refuse the application be upheld and the application refused, for the reasons detailed in Appendix III to this Minute.**

#### **5. REVIEW OF 21/00992/PPP**

There had been circulated copies of a request from Mr Christopher Wilson c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the erection of a dwellinghouse on Plot 1 at Land North of Belses Cottage, Jedburgh. 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; objection comments and list of policies. The Planning Advisor drew attention to information, in the form of a Transport Technical Note, which had been submitted with the Notice of Review documentation but which had not been before the Appointed Planning Officer at the time of determination. Members agreed that the information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. However, they also agreed that the Transport Technical Note could not be considered without affording the Roads Officer and Planning Officer an opportunity of making representations on this new information.

#### **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 Transport Technical Note 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 Roads and Planning Officer be given the opportunity to comment on the new evidence submitted with the Notice of Review; and**
- (e) consideration of the review be continued to a future meeting on a date to be confirmed.**

**6. REVIEW OF 21/00993/PPP**

There had been circulated copies of a request from Mr Christopher Wilson c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the erection of a dwellinghouse on Plot 2 at Land North of Belses Cottage, Jedburgh. 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; objection comments and list of policies. The Planning Advisor drew attention to information, in the form of a Transport Technical Note, which had been submitted with the Notice of Review documentation but which had not been before the Appointed Planning Officer at the time of determination. Members agreed that the information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. However, they also agreed that the Transport Technical Note could not be considered without affording the Roads Officer and Planning Officer an opportunity of making representations on this new information.

**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 Transport Technical Note 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 Roads and Planning Officer be given the opportunity to comment on the new evidence submitted with the Notice of Review; 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.*