

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 Monday, 23 January 2023 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, Democratic Services Officer (F. Henderson).

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 22/00021/RREF

With reference to paragraph 1 of the Minute of 22 September 2022, 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 a Flood Risk Assessment and comments from the Flooding Officer; 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 either a Flood Risk Assessment or a Drainage Impact Assessment in line with the advice from the Flood Risk Officer to be submitted. The Review Body noted the history of the site and were divided on its retention as public open space. After discussion, Members concluded that the site was large enough to accommodate a dwellinghouse without significant impact on adjoining properties or overdevelopment and was therefore an appropriate gap site. Members then considered the issue of the trees to the rear of the site and were content that there was sufficient space for the dwellinghouse without undue impact on the trees. In terms of drainage on the site and the identified concerns over surface water flood risk, members noted the Flood Risk Assessment and the Flood Risk Officer acceptance of its contents and that there were higher parts of the site during their site inspection. Subject to conditions siting the house away from the small area of surface water flood risk identified in the Assessment and ensuring the finished floor level was at or above 49.67m above Ordnance Datum, the Review Body were content that flood risk had been satisfactorily addressed under Policy IS8.

VOTE

Councillor Moffat, seconded by Councillor Small moved that officer's decision be overturned and the application be approved.

Councillor Thompson, seconded by Councillor Douglas moved as an amendment that the officer's decision be upheld and the application refused.

On a show of hands Members voted as follows:-

*Motion - 4 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) **After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, PMD5, EP11, EP13 and IS8 of the Local Development Plan. The development was considered to be an appropriate infill development in keeping with the character of surrounding development and with acceptable impacts on the open space and residential neighbouring properties. The development was also able to be achieved without flood risk. Consequently, the application was approved subject to conditions and a legal agreement.**
- (d) **the officer's decision to refuse the application be overturned and the application approved, for the reasons detailed in Appendix I to this Minute.**

MEMBERS

Councillors Mountford and Scott re-joined the meeting.

2. REVIEW OF 22/00031/RREF

There had been circulated copies of a request from James Neil and Son, c/o Ferguson Planning, 37 George Street, Edinburgh to review the decision to refuse the planning application for the erection of holiday let accommodation on Land North East of Runningburn Farm, Stichill. 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 and list of policies. The Planning Adviser drew attention to information, in the form of a Business Plan; Sequential Site Assessment with Photographs; Visual Impact Study and Alternative Access with Photographs which had been submitted with the Notice of Review but which had not been before the Appointed 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 new information could not be considered without affording the Roads Officer and Planning Officer an opportunity of making representations. In view of the fact that the application was being continued for written submissions, the Members requested a site visit. The Planning Adviser recommended an accompanied site visit as the site was difficult to reach otherwise.

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 Business Plan; Sequential Site Assessment with Photographs; Visual Impact Study and Alternative Access with Photographs 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 Officers be given the opportunity to comment on the new evidence submitted with the Notice of Review;**
- (e) **an accompanied site visit be arranged; and**
- (f) **consideration of the review be continued to a future meeting on a date to be confirmed.**

3. REVIEW OF 22/00040/RREF

There had been circulated copies of a request from Mr and Mrs O McLaren, per Richards Amos Ltd, 2 Golden Square, Duns to review the decision to refuse the planning application for the erection of 2 No. dwellinghouses on Land at Silo Bins, Edington Mill, Edington Mill Road, Chirnside. 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; support comments, objection comments and list of policies. The Planning Adviser drew attention to information, in the form of an amended site plan with enlarged intervening planting which had been submitted with the Notice of Review but which had not been before the Appointed 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 amended site plan could not be considered without affording the 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 an amended site plan 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 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.**

4. REVIEW OF 22/00041/RREF

There had been circulated copies of a request from Mr P J Lewis, c/o RM Architecture Ltd, Bloomfield, Heatherlie Park, Selkirk to review the decision to refuse the planning application for the erection of a dwellinghouse on Land South West of Castleside Cottage, Selkirk. 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 further representations and list of policies. The members noted that a revised Contextual Elevation where a new window could be installed on the applicant's adjoining cottage was a new drawing not in front of the Appointed Officer. However he was clearly aware of the option as considered in the Handling Report under "Neighbouring Amenity". For this reason and the fact that residential amenity was not cited as a reason for refusal, the Members accepted the new information without the need to test against S43B of the Act.

The Planning Advisor highlighted that while the Community Council had originally objected to the application with concerns over sewage treatment, flood risk and the lack of sympathetic scale, design and materials, in response to the Review submission, the Community Council now welcomed the development and agreed with the applicant that the contemporary agricultural design was in keeping with the building group, offering balance at the end of the group. The members agreed that there was a building group and that the application related well, although there were some concerns around the design and the use of fibre cement for the roof and external walls. The Members agreed to continue consideration of the application to allow a sample of the Fibre Cement to be provided together with photographic images of buildings where fibre cement had been used for external walls and roofs to the same extent as that proposed.

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 not be considered without the need for further procedure;**
- (c) the Applicant be given the opportunity to provide a sample of the Fibre Cement together with photographic images of buildings where fibre cement had been used for external walls and roofs to the same extent as that proposed.**
- (d) consideration of the review be continued to a future meeting on a date to be confirmed.**

5. REVIEW OF 22/00043/RREF

There had been circulated copies of a request from Mr Graham Hodgson, c/o Tetra Tech, Quay West, Trafford Wharf Road, to review the decision to refuse the planning application for the change of use of land and plot layout to form extension to caravan park on Land West of Pease Bay Holiday Home Park, 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; consultation replies; objection comments, Applicants response to objections and list of policies. Members noted that the present caravan site consisted of 330 caravans and the application was for a further 19 lodges for a mixture of owned and short term lets. Members considered the impact of the development in terms of the landscape and visual impacts and whilst divided over the level of impact that the extension would have on the Special Landscape Area and coastline, concluded the site could successfully accommodate the development, especially once ground shaping and landscape mitigation were undertaken. Members went onto consider the potential impact on the local infrastructure and flooding and noted the satisfactory findings of the Flood Risk Assessment and lack of objections from Transport Scotland and the Roads Officer. Members were therefore content that the road system could accommodate additional traffic generated from the site and that flood risk was not an issue.

VOTE

Councillor Thompson, seconded by Councillor Orr moved that the officers' decision be upheld and the application be refused.

Councillor Moffat, seconded by Councillor Scott moved as an amendment that the officer's decision be overturned and the application be approved.

On a show of hands Members voted as follows:-

Motion - 4 votes
Amendment - 5 votes

The amendment 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 further procedure;**
- (c) **After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, ED8, EP5, EP14 and relevant Supplementary Planning Guidance. The proposal was considered to be an appropriately scaled and designed extension to the existing holiday park, with limited and acceptable impacts on the locally designated landscape, visual amenity of the area and local infrastructure, providing additional local economic benefits and subject to appropriate conditions**
- (d) **the officer's decision to refuse the application be overturned, for the reasons detailed in Appendix II to this Minute and subject to conditions.**

The meeting concluded at 12:05 p.m.