

**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: 22/00030/RREF

Planning Application Reference: 22/00296/FUL

Development Proposal: Erection of dwellinghouse

Location: Land North and East of Tweed Lodge, Hoebridge, East Road, Gattonside

Applicant: Mr Robin Purdie

DECISION

The Local Review Body reverses the decision of the appointed officer and grants planning permission for the reasons set out in this decision notice, subject to conditions as set out below.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse on land North and East of Tweed Lodge, Hoebridge, East Road, Gattonside. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan Existing	L(-1)001
Ground Floor Plan Proposed	L(-2)101.220113
First Floor Plan Proposed	L(-2)102.220113
Proposed Drainage Layout	L(-1)102.220510
Elevations Proposed North & South	L(-4)101.220426
Elevations Proposed North	L(-4)103
Elevation Proposed East and West	L(-4)102.220426
Site Plan Existing & Proposed	L(-1)102.220510 Rev A
Proposed North	L(-4)104
Landscape Concept Plan	L(05) SK01

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 17th October 2022.

After examining the review documentation at that meeting, which included a) Notice of Review (including the Decision Notice and Officer's Report; b) Papers referred to in Officer's Report; c) Additional Information; d) Consultation Replies; e) Objection Comments; and f) Policy List, the Review Body considered whether certain matters included in the review documents constituted new evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. This related to a Daylight Analysis Diagram and a floor plan of Tweed Lodge contained in the Review Supporting Statement. After consideration, Members agreed that this information was new, met the Section 43B test and that it could be considered, given it was material to the applicant's case and, therefore, to the determination of the Review.

However, Members decided that there was a requirement for further procedure in the form of written submissions to enable the Appointed Officer to respond to the new evidence and for the Review Body to hold an unaccompanied site inspection. The Review was, therefore, continued to the Local Review Body meeting on 19th December 2022 where the Review Body considered all matters, including the response from the Appointed Officer and the applicant's reply to that response. Members then 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, PMD4, PMD5, HD3, ED10, EP3, EP4, EP6, EP9, IS2, IS3, IS7, IS9 and IS13
- Proposed Local Development Plan Policies: IS13

Other Material Considerations

- 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

The Review Body noted that the proposal was for the erection of a dwellinghouse on land North and East of Tweed Lodge, Hoebridge, East Road, Gattonside.

The Review Body firstly noted that there was extant planning permission in principle for a house on the site and that the proposed dwellinghouse lay within the Conservation Area and settlement boundary of Gattonside as defined in the Local Development Plan. As only the garden ground lay outwith the settlement boundary and Conservation Area, Members were content that the principle of the house and its siting were acceptable under Policies PMD4, PMD5 and EP9.

The Review Body then considered the siting and design of the house under Policies PMD2, PMD5 and EP9. Whilst they noted the concerns of the Planning Officer, Heritage Officer and objectors over the scale, bulk, form and location on the edge of Gattonside, the Review Body were more in agreement with the applicant and supporters of the scheme. They considered there were other examples of contemporary design in the village, including flat roofed, timber clad and eclectic designs. This contributed to a lack of architectural uniformity whilst the proposed external dark timber boarding would match in with nearby architecture. Members also felt that the height of the building was relatively low and that the scale was appropriate for the site location and size. Overall, the Review Body concluded that, subject to materials controlled by condition, the proposed dwellinghouse was of an appropriate size and design in keeping with the character of the Conservation Area and Gattonside in general.

Members also discussed the location on the edge of the settlement and the visibility of the site from the approach to Gattonside from the east. Whilst they understood the concerns of the Planning and Heritage Officers over prominence, the Review Body noted the schematic planting proposals within the field adjoining the site to the east that would help screen the development. Given the applicant's ownership of this field, Members were content that the planting could be achieved by condition and that this could mitigate impact on the visibility of the development, combined with the chosen design and appropriate external materials. They also considered it necessary to remove permitted development rights by condition from the garden to limit external impacts and ensure uniformity of planning control across the whole site.

The Review Body then considered the potential impacts on residential amenity under Policy HD3 and the Householder SPG. Taking into account what was noted on the site visit and the submissions from the applicant and other parties, Members considered the location and scale of the previous barn on the site to be a significant material factor in favour of the new proposal. They noted that the adjoining property, Tweed Lodge, was designed to take account of the barn which existed on site until relatively recently. The Review Body considered that the barn had been overbearing on Tweed Lodge and that the proposed new dwellinghouse was of reduced scale and a more appropriate, beneficial neighbouring development, compared to the barn. Members also noted that only one habitable room window in Tweed Lodge was affected by daylight reduction and that the room in question had other windows facing away from the proposed dwellinghouse. Members concluded that the proposal was in compliance with Policy HD3 and the Householder SPG

The Review Body finally considered other material issues relating to the proposal, including land contamination, water, drainage, access, parking and ecology. Members concluded that these issues did not change their final decision and could be included in conditions where appropriate.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, PMD4, PMD5, EP4, EP6 and EP9 of the Local Development Plan and relevant Supplementary Planning Guidance. The proposal was considered to be an appropriately scaled and designed dwellinghouse in the setting, respecting the settlement fringe location, Conservation Area and adjoining residential property. Subject to appropriate boundary screening and other conditions, the application was approved.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. No development shall commence until samples of external materials for the dwellinghouse, have first been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved samples.
Reason: To ensure external materials are visually appropriate to the development and sympathetic to the surrounding area.
3. Notwithstanding the terms of Classes 3A and 3AA of Schedule 1 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, no outbuildings to be erected within the site unless a planning application has been submitted to, and approved by, the Planning Authority.
Reason: To ensure any garden curtilage development respects the location and adjoining land use/property
4. The parking and turning indicated on drawing L(-1)102 220510 Rev A must be provided prior to occupation and thereafter retained in perpetuity.
Reason: To ensure the development hereby approved is served by an adequate level of parking at all times.
5. Prior to commencement of development, details showing the proposed improvements to the access track to be submitted to, and approved by, the Planning Authority. Thereafter the approved details to be implemented prior to the occupation of the dwelling.
Reason: To ensure the development hereby approved is served by an appropriate standard of access.
6. No development shall take place except in strict accordance with a scheme of hard and soft boundary treatments, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
 - i. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
 - ii. location and design, including materials, of walls, fences and gates
 - iii. soft and hard landscaping works, including details of the indicative planting shown to the east of the site within the field owned by the applicant
 - iv. A programme for completion and subsequent maintenance.Reason: To ensure the satisfactory form, layout and assimilation of the development.
7. No development to be commenced until the details of water and drainage provision are submitted to, and approved in writing by, the Planning Authority. Once approved, the development then to be completed in accordance with those details.
Reason: To ensure that the development is adequately serviced and in the interests of public health.
8. 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 the dwellinghouse.
Reason: To ensure adequate provision for waste storage within the site.

9. Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition and thereafter
- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

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

Date 11 January 2023

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