

**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:** 22/00034/RREF

**Planning Application Reference:** 22/00396/FUL

**Development Proposal:** Replacement windows and door (retrospective)

**Location:** Caddie Cottage, Teapot Street, Morebattle

**Applicant:** Mr Robert Muir

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**DECISION**

The Local Review Body overturns 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 replacement windows and a door at Caddie Cottage, Teapot Street, Morebattle. The application drawings and documentation consisted of the following:

**Plan Type**

**Plan Reference No.**

Location Plan

Door and window specifications

Photographs

Photographs

As existing

Former windows and door

**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 21<sup>st</sup> November 2022.

After examining the review documentation at that meeting, which included a) Notice of Review (including Decision Notice and Officer's Report); b) Papers referred to in Officer's Report; c)

Additional Information; d) Objection comments and e) List of Policies, 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 further information in the form of a response from the Community Council which had also been referenced in the Statement of Review.

Members agreed that the information was new and considered that it met the Section 43B test, that it was material to the determination of the Review and could be considered. Members did not consider it necessary to undertake further procedure in relation to the Community Council response but did determine that an unaccompanied site inspection would be necessary to view the replacement windows and door in the context of their surroundings within Morebattle Conservation Area.

Having undertaken the site inspection, the case was then presented at the Local Review Body meeting on 19<sup>th</sup> December 2022 where Members 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, HD3 and EP9

### Other Material Considerations

- SBC Supplementary Planning Guidance on Replacement Windows and Doors 2015
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SPP

The Review Body noted that the proposal was to retain replacement windows and a door at Caddie Cottage, Teapot Street, Morebattle.

The Review Body noted that the property lay within the Prime Frontage part of the Conservation Area as defined in the Replacement Windows and Doors Supplementary Planning Guidance. Members noted that the existing windows and door on the front elevation had been replaced and that the application was retrospective, seeking to retain what had been installed. Members noted that the replacement windows matched the previous windows in terms of operation and general glazing pattern, the difference being the use of white uPVC in terms of the windows and the colour and material in terms of the door. The Review Body also noted that the door was stated to be no different in size than the previous door.

Members noted the concerns of the Appointed Officer over the frame thicknesses of the replacement windows and door, especially the ground floor bay window and upper floor casement window. They also noted that within the Conservation Area, Policy EP9 set a general requirement for proposals to protect and enhance character and that within Prime Frontage parts of the Conservation Area, uPVC could be allowable, provided the surrounding

context was not predominantly timber sash and case and the pattern and dimensions of replacement glazing were matching.

In this instance, Members were content, following their site visit, that the surrounding context was of mixed window styles and materials and that there was no predominance of timber sash and case in Teapot Street. Indeed, there seemed to be several examples of uPVC in the immediate vicinity which provided a matching context for the replacement windows. For this reason, they considered that the alterations did not result in the property becoming incongruous in the Conservation Area and that the windows and door were an appropriate fit for the character of the building and the Prime Frontage part of the Conservation Area.

The Review Body finally considered all other material issues relating to the proposal but were of the opinion that such issues either did not outweigh their decision to support the proposal.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the 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.

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, 4<sup>th</sup> 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.

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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** 11 January 2023

