

APPENDIX I

**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: 15/00023/RREF

Planning Application Reference: 14/00996/PPP

Development Proposal: Erection of dwellinghouse

Location: Plot A, Chirnside Station, Chirnside

Applicant: G Drummond

DECISION

The Local Review Body varies the decision of the appointed officer and refuses to grant planning permission for the following reason:

- 1 The proposal is contrary to policy D2 of the Scottish Borders Consolidated Local Plan 2011 as the proposal for the dwellinghouse would exceed the maximum threshold of 8 new dwellinghouses or a 30% increase in the size of the existing building group (when assessed in conjunction with associated applications 14/00997/PPP and 14/00995/PPP) during the current Local Plan period and the need for the number of units above this threshold in this location has not been adequately substantiated. The proposal would therefore represent an unacceptable and unjustified development which would inappropriately expand the building group into the surrounding countryside.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse on Plot A, Chirnside Station, Chirnside. The application drawings consisted of the following drawings:

| Plan Type | Plan Reference No. |
|------------------|---------------------------|
| Location Plan | - |

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 14th December 2015, that the review had been competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation, which included: (a) Notice of Review and accompanying papers: including Decision Notice; (b) Officer Report (Report of Handling); (c) Papers referred to in officer's report; (d) Consultations; and (e) List of Policies, the Review Body concluded that it had sufficient information to decide the case. In coming to this decision, the Review Body considered the applicant's request for further procedure in the form of a site visit and a hearing session.

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 2013 and the consolidated Scottish Border's Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- SESplan Policies: 8-Transportation and 11 – Delivering the Green Network
- Local Plan Policies: INF2, INF3, INF4, INF5 , INF6, H2, D2, G5 and G1

Other material key considerations the Local Review Body took into account related to:

- Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- Supplementary Planning Guidance on Placemaking & Design 2010
- Supplementary Planning Guidance on Development Contributions 2011
- Scottish Borders Proposed Local Development Plan 2013 (Plus Reporters recommendations set out in their Report of Examination)

The Local Review Body was satisfied there was a building group at Chirside Station, as defined in Local Plan Policy D2 and in the approved Supplementary Planning Guidance on New Housing in the Borders Countryside. However, the size of the building group and its resultant capacity for further development was subject to significant debate and deliberation by Members.

The Review Body noted the applicant suggested there were 30 existing houses at the group but that the appointed officer only accepted a total of 28 dwellinghouses. Members examined in detail the "site plan" and "List of Dwelling and Addresses in the Building Group" in the applicants Statement of Appeal.

In considering Plot C (No. 30), they noted that Policy D2 of the Local Plan and Policy HD2 of the Proposed Local Development Plan set out that:

“The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local (Development) Plan period. This will include those units under construction or nearing completion at that point.”

Whilst the Review Body accepted that the consent for Plot C had been implemented, due to modest site works being undertaken a number of years ago, there was no evidence of subsequent or recent construction works and the dwelling was not nearing completion at the start of the Local Plan period in 2011. Members concluded that Plot C (No. 30) could not count towards the number of dwellings in the group.

The position on No.29 (The Old Birdhouses) was less clear, in that it appeared to relate to a property in the same curtilage as No 27 (Chestnut Lodge) but it was not, on the basis of the available evidence, conclusively proven that two separate dwellinghouses existed. The only planning history at that property related to the formation of a “granny annexe”, which would be ancillary and would not be classed as a separate dwellinghouse in planning terms. Notwithstanding, the dubiety about this unit, Members observed that even if it was conclusively demonstrated that 29 dwellings existed at the locality the approval of a further unit would constitute a 31% increase in the capacity of the building group. This would have been above the permitted policy threshold for expanding building groups.

Members noted that planning permission had been granted for a dwellinghouse on Plot A on several occasions in the past but that since the recent approval in 2007 the Development Plan policy had changed in respect of group capacity for additional units. While the old policy allowed up to a 100% increase, this has been reduced in terms of the current Development Plan policy to the greater of either 2 dwellinghouses or 30 % within a Local Plan period. The policy had been introduced to allow only smaller scale additions to building groups and to ensure development was effectively assimilated into the form and nature of building groups. The Review Body were aware that 8 dwellinghouses had recently been approved at the group (using up the available 30% capacity) and they concluded that this consent should be developed before any further development was approved.

In the circumstances, the application would be contrary to Development Plan Policy D2 and HD2 of the Proposed Local Development Plan. The question of capacity could be re-considered in subsequent Local Plans periods, should new houses be built at the locus.

In terms of the development of the plot, the Review Body was satisfied that the proposal would be consistent with the existing development pattern at the group. The plot will relate well to the building group. Consequently, it was concluded that a house on the site would be an acceptable addition to the building group.

The Review Body did not accept that it was necessary, or practicable, to retain the former railway line for recreational use. The existing right of way (The David Hume Way) by-passed the site and would not be impacted by the development. Any proposed route along this section of the railway line would be limited by the development approved on Plot C and the restriction in travelling south through the Ahlstrom factory complex.

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.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

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.

Signed.... Cllr R Smith
Chairman of the Local Review Body

Date:... 17 December 2015