

APPENDIX III

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: 15/00028/RREF

Planning Application Reference: 15/00745/PPP

Development Proposal: Erection of residential dwelling, demolition of stables,
access and associated works

Location: Land east of Park Lane, Croft Park, Croft Road, Kelso TD5 7ET

Applicant: Jim Hewit

DECISION

For the reasons set out below, the Local Review Body overturns the decision of the appointed officer and grants planning permission in principle subject to directions and conditions as set out in this decision notice.

DEVELOPMENT PROPOSAL

The application relates to the erection of residential dwelling, demolition of stables, access and associated works in respect of land east of Park Lane, Croft Park, Croft Road, Kelso TD5 7ET. The application drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Site Plan	SK02
Block Plan	SK01
Site Sections	SK03

PRELIMINARY MATTERS

After examining the review documentation, which included: (a) Notice of Review and accompanying papers - officer's report and decision notice of 1 October 2015 (b)

consultations (c) objection (d) additional representations and response (e) Local Development Plan further issues (f) List of Policies, the Review Body concluded that it had sufficient information to determine the review and that further procedure was not required in this instance. In coming to this conclusion, the Review Body took into account the applicant's request for further procedure in the form of a site visit.

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

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

- Local Plan Policies: G1, G5, G7, H2

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

- Proposed Local Development Plan Policies: PMD2, PMD5, HD3, IS2
- Supplementary Planning Guidance on Placemaking & Design 2010
- Supplementary Planning Guidance on Landscape and Development 2008
- Supplementary Planning Guidance on Development Contributions 2015

The Review Body noted that the site lies within the settlement boundary of Kelso and that the site lies within the curtilage of the residential property known as Park Lane. The proposed area for building lies to the west end of the site in the vicinity of the loose box currently on site. The site constraints in terms of its steep slope were noted as were the proposed sections in relation to the development.

The Review Body was mindful of the provisions of Development Plan Policies that any development within a settlement boundary would require to meet the tests set by policies G1 and G7 (and H2). Members also noted that because the application was 'in principle' that it was unable to reach conclusions on a number of the criteria that would require further detail at the reserved matters stage. The meeting focused upon the compatibility of the proposed development with the surrounding area and on whether it could be satisfactorily accommodated on site.

Members noted that the proposal was acceptable to the Council Roads service subject to the inclusion of conditions in relation to the provision of car parking for two cars and associated turning, and the reduction in height of a hedge to allow visibility from the public footpath.

Members observed that it was a challenging site and that if Planning Permission in Principle was granted it would require, at the reserved matters stage, an innovative

and high quality solution to be found for the proposed dwelling house to fit well into its surroundings.

The Review Body on balance considered the site suitable for development in relation to the key determining policies.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was acceptable in relation to the Development Plan and that there were no other material considerations that would justify refusal of the proposal. The Local Review Body therefore agreed to overturn the officer decision and approve the appeal subject to directions and conditions.

DIRECTIONS

1. No development shall commence until the details of the layout, siting, design and external appearance of the building, the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:

- (a) the expiration of three years from the date of this permission, or
- (b) the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place except in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

CONDITIONS

1. Two parking spaces and turning to be provided within the curtilage of the plot and retained in perpetuity.

Reason: To ensure that there is adequate space within the site for the parking of vehicles clear of the highway.

2. The hedge that separates the private access from the public footway to be reduced in height to no greater than 1000mm over the first 2000mm in perpetuity.

Reason: To ensure that the development is served by a safe and satisfactory means of access.

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