

APPENDIX VI

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: 15/00026/RREF

Planning Application Reference: 15/00682/FUL

Development Proposal: Siting of portacabin for use as flour mill

Location: Land to north west of Spruce House, Romanno Bridge, West Linton

Applicant: Romanno Mains Renewables Ltd

DECISION

The Local Review Body (LRB) reverses the decision of the appointed planning officer and grants planning permission as set out in the decision notice.

DEVELOPMENT PROPOSAL

The application relates to the temporary siting of a portacabin for use as a flour mill on land to the north west of the appellant's property at Spruce House, Romanno Bridge. The application drawings consist of the following :

Plan Type	Plan Reference No.
Location Plan	OS Extract
Site Plan	-
Floor Plan	-
Combi Mill - Brochure (2no)	-

PRELIMINARY MATTERS

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

REASONING

After examining the review documentation at that meeting, which included : a) Notice of Review and accompanying papers including the officer's report and decision notice; b) Papers referred to in officer's report and c) Additional information; d) Consultations and e) List of policies the LRB considered that it had sufficient information to determine the review and proceeded to consider the case. In coming to this conclusion, the LRB considered the request from the applicants for further procedure in the form of a site visit.

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 LRB considered that the most relevant of the listed policies were:

- Local Plan policies : G1, D1, H2 and Inf4

The LRB also noted that following the recent DPEA Reporter's recommendations regarding the Examination of the Council's proposed Local Development Plan 2013, policies PMD2, ED7, HD3, IS7 respectively will replace the aforesaid policies and are therefore material considerations to this proposal. It was agreed these new policies do not raise any new material considerations

Other material key considerations the LRB took into account related to:

Other Material Considerations

- Circular 4 / 1998 – The Use of Planning Conditions

It was noted that the appellants had applied for a temporary consent in order to test the success of the business venture and if successful it was intended that an alternative site would be sought to operate the business on a more permanent basis. The planning officer had expressed concern that by allowing even a temporary consent it may be difficult to prevent a permanent use from the site should such an application be submitted. The LRB were advised that allowing a temporary consent would be a reasonable course of action which would be defensible should it be challenged for a permanent use of the proposal in the future.

The LRB noted that the appellants were not able to identify any appropriate location for this venture within the built up area of nearby Romanno Bridge and that there were no alternative locations within the vicinity of the farm holding. LRB members expressed general support for farm diversification and felt the proximity of the proposed portacabin to the applicant's property known as Spruce House allowed a degree of overlooking and consequent site security as well as convenience for the operators. The LRB considered that as the proposal was only to operate 2 days a week there would be no adverse impacts in terms of any traffic generation or any general amenity issues.

It was considered that there would be no impact on the amenity of existing residential properties as identified in policy D1 and that the proposed site was well screened from existing housing in nearby Romanno Bridge by 30 metre coniferous woodland. The LRB referred to Council support for working from home and felt the rural location was appropriate for this business venture.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. The LRB therefore agreed to overturn the officer decision and approve the appeal subject to the following conditions:

1. Approval is granted for a limited period of five years from the date of this consent and the portacabin to be removed from the site prior to the expiry of that period

Reason : The site is not considered appropriate for the permanent siting of the portacabin and operation of the business

2. The materials to be used on the external walls and roof of the portacabin shall first have been submitted to and approved in writing by the Local Planning Authority prior to onsite works commencing.

Reason: To ensure a satisfactory form of development, which contributes appropriately to its setting

3. Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernable tonal component. Tonality shall be determined with reference to BS 7445-2

Reason : To protect the residential amenity of nearby properties.

4. The Unit shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.

Reason : To protect the residential amenity of nearby properties.

Informative

Food Premises Registration

The premises will need to be registered with the Council before commencing operations. In order to ensure that the layout of the premises complies with the registration requirements the applicant should contact an Environmental Health Officer as the earliest stage possible. This can be done by calling 0300 100 1800 or emailing PLACEhealth@scotborders.gov.uk

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....Councillor R Smith
Chairman of the Local Review Body

Date ...17 December 2015
