

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY

MINUTE of Meeting of the LOCAL REVIEW BODY held in the Council Chamber, Council Headquarters, Newtown St Boswells on Monday, 20 February 2023 at 10 a.m.

- Present:- Councillors S Mountford (Chair), J. Cox, M. Douglas, D. Moffat, A. Orr, V. Thomson, N. Richards, S. Scott.
- Apologies: Councillor E. Small.
- In Attendance:- Principal Planning Officer (C. Miller), Assistant Planning Officer (S. Shearer), Solicitor (S. Thompson), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

ORDER OF BUSINESS

The Chair varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

1. CONTINUATION OF REVIEW - 22/00035/RREF

With reference to paragraph 4 of the Minute of 12 December 2022, the Local Review Body continued their consideration of the request from Mr Peter Hedley, c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the erection of residential holiday let with associated facilities at Townfoot Hill Land North West of Cunzierton House, Oxnam, Jedburgh. The supporting papers included the submission by the Planning Officer and Applicants response to the new information; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; consultation replies and list of policies.

- 1.2 It was reported that the Scottish Government had adopted, with effect from 13 February 2023, the new National Planning Framework (NPF4) which superseded previous guidance and had been incorporated into the Local Development Plan. Members noted that in accordance with the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, the Planning Authority must ensure that Planning Decisions and Reviews took account of the new Framework. In respect of this particular review, the Planning Officer had provided full comments on how NPF4 related to the proposal and his decision, as part of his comments on the new information submitted by the applicant. In turn, the applicant had responded to the Officer's comments on NPF4 and the members agreed to proceed with the Review.

- 1.3 Members reported that they had found the site visit, carried out on 20 February 2023, very useful and that the proposal was for the erection of a residential holiday let with associated facilities. Members firstly considered the principle of the development under Policy ED7 and the requirement for submission of a business case to support tourist accommodation proposals in the countryside. Whilst they noted that the Appointed Officer considered the submitted Business Plan did not provide sufficient indication of viability to justify the development, the Review Body accepted the Plan on the basis of farm diversification and the contribution it demonstrated to the existing farm business. In considering the criteria set down in Policy ED7 and PMD2 on siting, landscape and relationship with adjoining uses, it was noted that the Appointed Officer and Landscape Officer had objected due to the prominence, elevation and secluded location of the proposal and that it was out of character with the landscape and surrounding development pattern. The Review Body noted the additional submissions from the applicant, including

the Visual Impact Study and sequential plan with associated photographs and agreed that the site was a significant distance from a very limited number of farms and houses and that, from some directions, would not be visible. It was noted that the proposal was utilising an existing disused quarry scar in the hillside, the building being sunk into the site with green roof and other design elements that would successfully reduce prominence, visual impacts and impact on the landscape. Provided controls could be imposed by condition to secure non-reflective glass and discrete indoor/outdoor lighting, Members were content that sunlight glint or evening lighting could be mitigated to acceptable levels, thus addressing the Landscape Officer's concerns over this element. In terms of access, whilst there was some concern over the gradient of the public road leading to the site, Members noted that both the Roads and Access Officers were content with the revised plans subject to appropriate conditions on the road access, parking, turning and maintenance of the existing right of way. Subject to those conditions, the Review Body concluded that the development was modest in scale and form, with limited visibility and acceptable impacts on the landscape, character of the area and residential amenity.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (c) after considering all relevant information the development was consistent with Policies PMD1, PMD2, ED7 and IS5 of the Local Development Plan and Policies 14, 29 and 30 of National Planning Framework 4 and the development was considered to be an appropriate provision of tourist accommodation for the location with a justified business case, complying with sustainability and tourism strategies for the area and providing high quality accommodation in an attractive setting. Impacts on landscape and access could be satisfactorily mitigated by appropriate conditions; and**
- (d) the officer's decision to refuse the application be overturned and the application approved, for the reasons detailed in Appendix I to this Minute.**

2. CONTINUATION OF REVIEW - 22/00041/RREF

With reference to paragraph 4 of the Minute of 23 January 2023, the Local Review Body continued their consideration of the request from Mr P J Lewis, c/o RM Architecture Ltd, Bloomfield, Heatherlie Park, Selkirk to review the decision to refuse the planning application for the erection of a dwellinghouse on Land South West of Castleside Cottage, Selkirk. The supporting papers included the written submission from the Applicant detailing the fibre cement cladding and colour proposed, together with photographs of the use of the material; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; consultation replies further representations and list of policies. It had previously been accepted that there was a building group present and the site was an appropriate addition to that group under the Housing in the Countryside Policy HD2 and the relevant SPG. The Applicant had also supplied a sample of the fibre cement to be used.

- 2.1 It was reported that the Scottish Government had adopted, with effect from 13 February 2023, the new National Planning Framework (NPF4) which superseded previous guidance and had been incorporated into the Local Development Plan. Members noted that in accordance with the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, the Planning Authority must ensure that Planning Decisions and Reviews took account of the new Framework. To this end, members agreed that the

review be continued to allow the Applicant and Planning Officer the opportunity to submit comments on the impact of NPF4 on the Application.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could not be considered without the need for further procedure in the form of written submissions;**
- (c) the Applicant and Planning Officer be given the opportunity to submit an NPF4 statement; and**
- (d) consideration of the review be continued to a future meeting on a date to be confirmed.**

3. REVIEW - 22/00044/RREF

There had been circulated copies of a request from the Firm of Corstane, c/o Ferguson Planning, 54 Island Street, Galashiels to refuse the planning application for the siting of shepherds hut and siting of cabin (retrospective) to form holiday let accommodation on Land South West of Corstane Farmhouse, Broughton. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; consultation replies; support comments and list of policies. The Planning Adviser drew attention to information, in the form of Visualisations and Business Plan which had been submitted with the Notice of Review but which had not been before the Appointed Officer at the time of determination. Members agreed that the information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. However, they also agreed that the new information could not be considered without affording the Planning Officer an opportunity of making representations.

- 3.1 Furthermore, Mrs Thompson, Solicitor advised that as a result of the Scottish Government adopting, with effect from 13 February 2023, the National Planning Framework (NPF4) which superseded previous guidance and had been incorporated into the Local Development Plan. Members noted that in accordance with the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, the Planning Authority must ensure that Planning Decisions and Reviews took account of the new Framework and agreed that the review be continued to allow the Applicant and Planning Officer the opportunity to submit comments on the impact of NPF4 on the Application.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) new evidence submitted with the Notice of Review in the form of visualisations and Business Plan met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;**
- (c) the review could be not considered without the need for further procedure in the form of written submissions;**
- (d) the Planning Officer be given the opportunity to comment on the new evidence submitted with the Notice of Review ;**

- (e) the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and**
- (f) consideration of the review be continued to a future meeting on a date to be confirmed.**

4.0 REVIEW – 22/00047/RREF

There had been circulated copies of a request from Marchmont Farms Ltd, per Smith and Garratt, The Guildhall, Ladykirk, Berwick-upon-Tweed to review the decision to refuse the planning application for the erection of Class 4 joinery workshop with associated access and parking on Land North and East of Clay Dub, Duns Road, Greenlaw, Duns. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; support comments, consultation replies, objections, further representations and list of policies. The Planning Adviser drew attention to information, in the form of an extract of a land capability for agriculture map, the applicant claiming the Planning Officer had made an error as the site was not Prime Agricultural Land according to their map which had been submitted with the Notice of Review. As this had not been before the Appointed Officer at the time of determination, Members agreed that the information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. However, they also agreed that the new information could not be considered without affording the Planning Officer an opportunity of making representations. The Members also requested a site visit.

- 4.1** Furthermore, Mrs Thompson, Solicitor advised that as a result of the Scottish Government adopting, with effect from 13 February 2023, the National Planning Framework (NPF4) which superseded previous guidance and had been incorporated into the Local development Plan. Members noted that in accordance with the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, the Planning Authority must ensure that Planning Decisions and Reviews took account of the new Framework and agreed that the review be continued to allow the Applicant and Planning Officer the opportunity to submit comments on the impact of NPF4 on the Application.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) new evidence submitted with the Notice of Review in the form of an extract of a land capability for agriculture map (which, it was claimed, demonstrated the Planning Officer had made an error as the site was not Prime Agricultural Land) met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;**
- (c) the review could be not considered without the need for further procedure in the form of written submissions;**
- (d) the Planning Officer be given the opportunity to comment on the new evidence submitted with the Notice of Review ;**
- (e) the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and**
- (f) consideration of the review be continued to a future meeting on a date to be confirmed.**

5. **REVIEW – 22/00045/RREF**

There had been circulated copies of a request from Mr and Mrs Craig Fletcher, c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for alterations and extension to dwellinghouse at 17 George Street, Eyemouth. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; consultation replies; additional information and list of policies. The Planning Adviser drew attention to information, in the form of a Heritage Statement which had been submitted with the Notice of Review but which had not been before the Appointed Officer at the time of determination. Members agreed that the information was new but considered that it met the Section 43B test, was material to the determination of the Review and could be considered. However, they also agreed that the new information could not be considered without affording the Planning Officer an opportunity of making representations.

- 5.1 Furthermore, Mrs Thompson, Solicitor advised that as a result of the Scottish Government adopting, with effect from 13 February 2023, the National Planning Framework (NPF4) which superseded previous guidance and had been incorporated into the Local development Plan. Members noted that in accordance with the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, the Planning Authority must ensure that Planning Decisions and Reviews took account of the new Framework and agreed that the application be continued to allow the Applicant and Planning Officer the opportunity to submit comments on the impact of NPF4 on the application.

DECISION

AGREED that:-

- (a) **the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **new evidence submitted with the Notice of Review in the form of a Heritage Statement met the test set in Section 43B of the Town and Country Planning (Scotland) Act 1997 and was material to the determination;**
- (c) **the review could be not considered without the need for further procedure in the form of written submissions;**
- (d) **the Planning Officer be given the opportunity to comment on the new evidence submitted with the Notice of Review;**
- (e) **the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and**
- (f) **consideration of the review be continued to a future meeting on a date to be confirmed.**

6. **REVIEW – 22/00046/RREF**

There had been circulated copies of a request from Mr W Hannah, c/o Ferguson Planning, 54 Island Street, Galashiels to review the decision to refuse the planning application for the alterations and extensions to dwellinghouse at Dove Cottage, Gate Lodge, Press Castle, Coldingham, Eyemouth. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; consultation replies, support comments and list of policies. Mrs Thompson, Solicitor advised that as a result of the Scottish Government adopting, with effect from 13 February 2023, the National Planning Framework (NPF4) which superseded previous guidance and had been incorporated into the Local development Plan. Members noted that in accordance with the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, the Planning Authority must ensure that Planning Decisions and Reviews took account of the new Framework and agreed that the

application be continued to allow the Applicant and Planning Officer the opportunity to submit comments on the impact of NPF4 on the Application.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could not be considered without the need for further procedure in the form of written submissions ;**
- (c) the Applicant and Planning Officer be given the opportunity to submit an NPF4 statement; and**
- (d) consideration of the review be continued to a future meeting on a date to be confirmed.**

PROCEDURAL HEARINGS

7. Mrs Thompson, Solicitor explained that that the following applications had been placed on the Agenda as procedural hearings as a result of the Scottish Government introducing the National Planning Framework 4 (NPF4) on 13 February 2023, which superseded previous guidance and had been incorporated into the Local Development Plan. In accordance with the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997, the Planning Authority must ensure that Planning Decisions and Reviews took account of the new Framework. It was therefore agreed that comments on the impact of NPF4 on the planning application and subsequent review be sought from the Planning Officer and Applicant, prior to the following applications being presented to the Local Review Body for consideration.

8. **CONTINUATION OF REVIEW - 22/00039/RREF**

With reference to paragraph 2 of the Minute of 23 January 2023, there had been circulated copies of a request from James Neil and Son per Sam Edwards, 37 One George Street, Edinburgh to review the decision to refuse the planning application for the erection of holiday accommodation on Land North East of Runningburn Farm, Stichill. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information and consultation replies.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could not be considered without the need for further procedure in the form of written submissions;**
- (c) the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and**
- (d) consideration of the review be continued to a future meeting on a date to be confirmed.**

9. **CONTINUATION OF REVIEW - 22/00040/RREF**

With reference to paragraph 3 of the Minute of 23 January 2023, there had been circulated copies of request from Mr and Mrs McLaren, per Richards Amos Ltd, 2 Golden

Square, Duns to review the decision to refuse the planning application for the erection of 2 No. dwellinghouses on Land at Silo Bins, Edington Mill, Edington Road, Chirnside. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information, consultation replies and objection comments.

DECISION

AGREED that:-

- (a) **the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **the review could not be considered without the need for further procedure in the form of written submissions;**
- (c) **the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and**
- (d) **consideration of the review be continued to a future meeting on a date to be confirmed.**

10. REVIEW - 23/00001/RREF

There had been circulated copies of a request from Mr Richard Spray, per Mr Handley, John Handley Associates Ltd, 65A Leamington Terrace, Edinburgh to review the decision to refuse the planning application for the erection of timber storage and processing facility with new access junction, yard area, landscaping, tree planting, SUDs and associated works and planning permission in principle for associated dwellinghouse with office for the timber processing facility on Land South West of West Loch Farmhouse, Peebles. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Consultation Replies; Objection comments and further representations.

DECISION

AGREED that:-

- (a) **the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) **the review could not be considered without the need for further procedure in the form of written submissions;**
- (c) **the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and**
- (d) **consideration of the review be continued to a future meeting on a date to be confirmed.**

11. REVIEW - 23/0002/RREF

There had been circulated copies of a request from Mr Robert Gaston, Ravelaw Farm, Duns to review the decision to refuse the planning application for the erection of agricultural building (retrospective) at Ravelaw Farm, Duns. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Consultation Replies; support comments and objection comments.

DECISION

AGREED that:-

- (a) the request for review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) the review could not be considered without the need for further procedure in the form of written submissions;**
- (c) the Planning Officer and Applicant be given the opportunity to submit an NPF4 statement; and**
- (d) consideration of the review be continued to a future meeting on a date to be confirmed.**

The meeting concluded at 11:40 a.m.