



**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: 22/00039/RREF

Planning Application Reference: 22/00575/FUL

Development Proposal: Erection of holiday let accommodation

Location: Land North East of Runningburn Farm, Stichill

Applicant: James Neil and Son

DECISION

The Local Review Body reverses 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 the erection of holiday let accommodation on land North-East of Runningburn Farm, Stichill. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Proposed Site Plan	001
Proposed Floor Plans	PL 001
Proposed Elevations	PL 002
Farm Allocation	001

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 23rd January 2023.

After examining the review documentation at that meeting, which included a) Notice of Review (including the Decision Notice and Officer's Report); b) Papers referred to in Officer's Report; c) Additional Information; d) Consultation Replies; 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 a Business Plan, sequential site assessment with photographs, visual impact study and alternative access with photographs. After consideration, Members agreed that this information was new, met the Section 43B test and that it could be considered, given it was material to the applicant's case and, therefore, to the determination of the Review.

The Review Body agreed to further procedure by means of written submissions to obtain the comments of the Planning and Roads Officers on the new information and to seek the response of the applicant to their comments. Members also agreed to undertake an accompanied site visit, which was subsequently carried out on 15 February 2023.

The Review was then considered by the Review Body at its meeting on 20th February 2023. At that meeting, Members noted that National Planning Framework 4 (NPF4) was in force as part of the Development Plan and considered it necessary for the Review Body to have regard to any relevant Policies in NPF4 before determining the Review. Members concluded that it was appropriate to undertake further procedure by seeking written submissions from the Appointed Officer and Applicant in relation to NPF4.

The Review was, therefore, continued to the Local Review Body meeting on 17th April 2023 where the Review Body considered all matters, including the responses from the Planning, and Roads Officers and the applicant's reply to the responses. Members then 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: Scottish Borders Local Development Plan 2016 and National Planning Framework 4. The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD1, PMD2, ED7, HD3, EP1, EP2, EP3, IS5, IS7 and IS9
- Proposed Local Development Plan : Policy IS5
- National Planning Framework 4 Policies: 1, 2, 14, 15, 18, 29 and 30

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- Scottish Borders Tourism Strategy 2013-20
- Visit Scotland "Visitor Management Strategy" 2021
- Visit Scotland "Tourism Development Framework" 2016

The Review Body noted that the proposal was for the erection of holiday let accommodation on land North-East of Runningburn Farm, Stichill

Members firstly considered the principle of the development under Policy ED7. They noted that the Policy required the 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 economic benefit to outweigh the environmental impacts of the development, Members accepted the Business Plan on the basis of farm diversification and the contribution such accommodation would make to the existing wedding venue business at the farm. From their site visit and the submissions, the Review Body considered the existing business to be a good example of successful farm diversification and they understood how the business would be supported and expanded through the provision of accommodation on the farm. The Review Body also viewed the proposals as beneficial to tourism and replacing lost accommodation in the local area.

Members then considered the criteria set down in Policy ED7 and PMD2 on siting, landscape and relationship with adjoining uses. Whilst they noted that the Appointed Officer had objected due to the isolated and open position of the proposed building, well detached from the farm steading and wedding venue, Members saw the benefits of the location in a secluded position, in place of an existing building, distant from other properties and hidden from the nearest public road. Given the views from the site and the presence of ponds, the Review Body considered the site to be well chosen in operational, tourism and landscape terms with little or no adverse visual impact. They also noted and accepted the sequential information submitted to demonstrate the lack of opportunities within or nearer the business and farm grouping. In terms of compliance with Policies ED7 and PMD2, Members, therefore, accepted the justification for the site to be in this particular rural location

In terms of access, Members noted that the Roads Officer was content with the alternative access route which they had used on their site visit. This was considered to be a better access route with less potential conflict with the farm steading. Subject to a condition securing the details and completion of the alternative access route, the Review Body concluded that the development was in accordance with the accessibility requirements of Policies PMD2 and ED7.

The Review Body finally considered other material issues relating to the proposal including other cited similar cases, ecology, water, drainage, waste disposal, sustainability and residential amenity. Members also considered the relevance of NPF4 Policies, in particular, Policies 14, 29 and 30, concluding that the proposal was sustainable tourist accommodation benefitting the established wedding business and local economy. After full consideration, Members were of the opinion that such matters supported their decision to approve the proposal and were able to be addressed through appropriate conditions where relevant.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD1, PMD2, ED7 and IS7 of the Local Development Plan and Policies 14, 29 and 30 of National Planning Framework 4. The development was considered to be an appropriate provision of tourist accommodation for the location with a justified business case linked to the existing wedding business, complying with sustainability and tourism strategies for the area and providing high quality accommodation in an appropriate setting. Impacts on landscape could be satisfactorily mitigated by appropriate conditions and an alternative access had been accepted which would result in less conflict with the farm. Consequently, the application was approved subject to conditions.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.
2. The occupation of the property shall be restricted to genuine holidaymakers, any person staying for a maximum of 3 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.
Reason: Permanent residential use in this location would conflict with the established planning policy for this rural area.
3. No development to be commenced until a scheme of all external colours and materials, is submitted to, and approved in writing by, the Planning Authority. The development then to be implemented in accordance with the approved scheme.
Reason: To safeguard the visual amenity of the area.
4. No development to be commenced until a scheme of waste storage for the development is submitted to, and approved in writing by the Planning Authority. Once approved, the development then to be operated in accordance with the approved scheme.
Reason: To ensure that the development is adequately serviced and does not have a detrimental effect on amenity and public health.
5. No development to be commenced until a scheme for the provision of a water supply and of disposal of foul and surface water for the development are submitted to, and approved in writing by the Planning Authority. Once approved, the development then to be operated in accordance with the approved scheme.
Reason: To ensure that the development is adequately serviced and does not have a detrimental effect on amenity and public health.
6. No development to be commenced until full details of the alternative access track from the farm to the site are submitted to, and approved in writing by, the Planning Authority. Once approved, the track to be completed before the holiday let is first occupied and retained in perpetuity thereafter.
Reason: In the interests of road safety.
7. The parking and turning provision shown on the approved plan to be completed pre-occupation of the property and retained thereafter in perpetuity.
Reason: In the interests of road safety
8. No development to be commenced until a landscape scheme has been submitted to, and approved in writing by, the Planning Authority. The scheme shall include all hard and soft landscaping details including the treatment of the access road and immediate boundaries to the site. Once approved, the scheme then to be implemented in accordance with the approved details and maintained in perpetuity thereafter.
Reason: To safeguard impacts on landscape and visual amenity.
9. No development to be commenced until existing and proposed site and building levels are submitted to, and approved in writing by, the Planning Authority. Once approved, the development to be completed in accordance with the approved levels.
Reason: To safeguard impacts on landscape and visual amenity.

10. No development to be commenced until a Preliminary Ecological Appraisal is submitted to, and approved in writing by, the Planning Authority. Once approved, the development to be completed in accordance with the Appraisal, including any mitigation or subsequent surveys required.

Reason: To safeguard impacts on ecological interests.

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, 4th 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.

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 M Douglas
Vice Chairman of the Local Review Body

Date.....

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