

**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: 22/00044/RREF

Planning Application Reference: 22/00959/FUL

Development Proposal: Siting of shepherds hut and siting of cabin (retrospective) to form holiday let accommodation

Location: Land South West of Corstane Farmhouse Broughton

Applicant: Firm of Corstane

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 South West of Corstane Farmhouse Broughton. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	10205-0-LP
Existing Site Plan	10205-3-01
Proposed Block Plan	10205-3-02
Proposed Site Plan	10205-3-03
Proposed Plans & Elevations	10205-3-04
Proposed Plans & Elevations	10205-3-05

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 20th February 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 and visualisations. 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.

Members also noted that since the determination of the application National Planning Framework 4 (NPF4) had been adopted and it now forms part of the Development Plan. The Review Body considered that it was necessary 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, Economic Development 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, ED8, HD3, EP3, EP4, EP13, IS5, IS7, IS9, IS13
- Proposed Local Development Plan : Policy IS5
- National Planning Framework 4 Policies: 3, 4, 9, 14, 17, 29 and 30

Other Material Considerations

- SBC Supplementary Planning Guidance on Biodiversity 2005
- SBC Supplementary Planning Guidance Housing in the Countryside 2008
- SBC Supplementary Planning Guidance on Developer Contributions 2019
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems 2020
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Trees and Development
- SBC Supplementary Planning Guidance on Developer Contributions 2011, updated 2022

The Review Body noted that the proposal was for the siting of shepherds hut and siting of cabin to form holiday let accommodation on a field at Corestane farm, adjacent to the existing steading. It was noted that the cabin had been retrospectively sited within the field.

Members firstly considered the principle of the development under Policy ED7. They noted that the Policy supports tourism accommodation in the countryside provided there is a supporting business case. Members noted that a business case was not provided with the original application however one had accompanied the Appeal and had been admitted as new information. Economic Development Officers reported to the Review Body that the Business case was judged to be reasonable. Members accepted the findings of the Business Plan. They observed that the existing farm business was not large and nor was the scale of the proposed development. The Review Body were satisfied that the proposal would represent a suitable farm diversification which would positively support the rural economy

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 concerns regarding the siting of the proposal within an undeveloped field and its segregation from the existing farm, Members considered the site avoids any conflicts with the operational farm and accepted the findings of the sequential information that this was the most appropriate location for a tourism development. The Local Review Body were aware that the Appointed Officer was concerned that the siting of the development would pose detrimental landscape and visual impacts, in particular impacts on the landscape setting of the Upper Tweeddale NLA on approach to the scenic area from the B7016 to the west and C7 to the south. However Members were satisfied that the site was well concealed by existing roadside hedging and any landscape and visual impacts as a result of the siting of the development would not be harmful. They did consider that a more sensitive colour of the cabin would be preferred to enable the building to recede within its rural surroundings and accepted that this matter could be addressed by planning condition. Subject to conditions covering external material finishes, including colours and landscaping details, Members accepted that the development would respect character and amenity of the rural area including the special quality of the NSA in accordance with Policies EP7, PMD2 and EP4.

The Review Body finally considered other material issues relating to the proposal including road access, right of way diversion, water, drainage, waste disposal and sustainability. Members also considered the relevance of NPF4 Policies, in particular, Policies 29 and 30, concluding that the proposal was sustainable tourist development which would benefit the local economy. After full consideration, Members were of the opinion that such matters supported their decision to approve the proposal and other matters covering occupancy, shepherds hut details, precise access details, site services and path diversion would 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 ED7, PMD2 and EP4 of the Local Development Plan and Policies 4, 29 and 30 of National Planning Framework 4. The tourism development was considered to be an appropriate farm diversification with an accepted business case which complies with sustainability and tourism strategies for the area and provides high quality accommodation in an appropriate setting. The development was not considered to conflict with the character of the rural area and any landscape impacts including impacts on the landscape setting of the NSA could be satisfactorily mitigated by appropriate conditions. 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 shall commence until precise details of the shepherds hut has been submitted to and approved in writing by, the Planning Authority and thereafter the development then to be completed in accordance with the approved details.
Reason: To safeguard the visual amenity of the area.
4. No development to be commenced until precise details of all external materials and colours which includes an alternative colour to be applied to the walls of the timber cabin have been 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.
5. 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.
6. 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 shall 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.
7. No development hereby approved shall commence until a detailed plan showing the precise means of access has first been submitted to, then approved by, the Council. The detailed plan shall include construction specification, geometry and levels/gradients. Thereafter the approved details shall be fully implemented prior to occupation of either holiday unit.
Reason: To ensure appropriate means of access to the holiday units is provided.
8. The parking and turning provision shown on the approved plan shall be completed prior to the first occupation of the development and retained thereafter in perpetuity.
Reason: In the interests of road safety
9. 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 and a programme for implementation. 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.

10. No development shall commence until precise details are submitted to and agreed in writing with the Planning Authority to agree the diversion of Right of Way BT69 and thereafter the development shall be implemented in accordance with the agreed details with the diverted route remaining open and free from obstruction.

Reason: To provide a suitable link to Broughton and alleviate pressure on stocked fields.

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.

Signed...Councillor M Douglas
Vice Chairman of the Local Review Body

Date 28th April 2023