

**SCOTTISH BORDERS COUNCIL  
LOCAL REVIEW BODY DECISION NOTICE**

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**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**

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**Local Review Reference:** 22/00047/RREF

**Planning Application Reference:** 22/00032/FUL

**Development Proposal:** Erection of Class 4 joinery workshop with associated access and parking

**Location:** Land North and East of Clay Dub, Duns Road, Greenlaw

**Applicant:** Marchmont Farms

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**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 Class 4 joinery workshop with associated access and parking on Land North and East of Clay Dub, Duns Road, Greenlaw. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Building Plan	Rev C
Elevation Plans	Rev D
Application Area	MFL34-01 Rev D
Landscaping Topo	MFL34-01 Rev A
Landscape Scheme	MFL34-01 Rev B
Landscape Images	

**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 20<sup>th</sup> 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) Support comments, e) Consultation Replies; f) Objections; g) Further Representations and h) 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 an extract from a land capability for agriculture map which the applicant was submitting to claim the Planning Officer had made an error and that the land was not Prime Agricultural Land. 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 Officer on the new information and to seek the response of the applicant to her comments. Members also agreed to undertake an unaccompanied site visit, which was subsequently carried out on 13 March 2023.

The Review Body at its meeting on 20<sup>th</sup> February 2023, also noted that National Planning Framework 4 (NPF4) was in force as part of the Development Plan and Members considered it necessary to have regard to any relevant Policies in NPF4 before determining the Review. The Review Body 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 17<sup>th</sup> April 2023 where the Review Body considered all matters, including the responses from the Planning Officer and the applicant's reply to the responses. Members also noted that the applicant had requested further procedure in the form of a Hearing Session but the Review Body did not consider it necessary in this instance and 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, PMD3, PMD4, ED1, ED2, ED7, ED10, HD3, EP13, IS4, IS7 and IS9. Land allocations zEL22, MGREE003 and MGREE001
- Proposed Local Development Plan : Policy ED2 and land allocations
- National Planning Framework 4 Policies: 1, 3, 4, 5, 6, 9, 11, 13, 14, 15, 20, 25, 26, 29 and 31

## **Other Material Considerations**

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Trees and Development 2020

- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems 2020

The Review Body noted that the proposal was for the erection of Class 4 joinery workshop with associated access and parking on Land North and East of Clay Dub, Duns Road, Greenlaw

Members firstly considered the principle of the development under Policies PMD4 and ED7, noting that the site lay outwith the defined settlement boundary for Greenlaw and that the development was consequently for business development in the countryside. The Review Body noted all submissions on whether the proposal complied with these Policies or not, Members concluding that the site was immediately adjoining an existing industrial estate and that expansion with business and industrial uses can cause compliance issues with settlement boundaries. The Review Body noted that there was community support for this site, including from the Community Council, and that the allocated site on the Edinburgh Road in the village had not been taken up at this stage.

Members also noted that the intended occupant of the building was a local joinery firm that presently operated in Eccles, the application site offering significant local economic benefits to the area if taken up by the intended joinery firm, being a more sustainable location for employees. The Review Body concluded that the proposal justified an exception to Policy PMD4 and was both an extension to the settlement boundary which would create positive community benefits through local job opportunities and allowing existing firms to expand, whilst also representing a logical extension to the boundary adjoining an existing industrial estate with similar designed and scaled buildings. For similar reasons, they also accepted the proposal under Policy ED7, there being no obvious demand to take up the existing allocated site to the west of the village and the proposal representing an employment generating use on an appropriate site adjoining the existing industrial estate.

The Review Body then considered the siting and design of the building and its likely impacts on surrounding houses, uses and the landscape setting of the village. Whilst being sympathetic to the objections from local residents over potential adverse operational impacts, Members concluded that provided appropriate conditions were imposed in relation to materials, levels, landscaping and controls over noise and operating hours of the intended use of the building, then the development would comply with the relevant criteria within Policies PMD2, PMD4, ED7 and HD3.

The Review Body then considered the issue of potential loss of prime agricultural land and compliance of the application with Policy ED10. Although the relevant land capability for agriculture map suggested that the land was prime agricultural land, Members doubted this. In any event, they considered the site to be a small area of the overall holding in the corner of a field and its loss was outweighed by the need for the site to allow the expansion of a local business with associated economic benefits.

The Review Body finally considered other material issues relating to the proposal including the previous lapsed consent on the site, the Economic Strategy for the South of Scotland, road safety, parking, ecology, flood risk, water, drainage and proposed planting. Members also considered the relevance of NPF4 Policies, in particular, Policies 5, 9 and 26, concluding that the proposal was a justified exception to the settlement boundary with little impact on prime land and of benefit to the community 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 PMD2, PMD4, HD3, ED7 and ED10 of the Local Development Plan and Policies 5, 9 and 26 of National Planning Framework 4. The development was considered to be a justified exception to the settlement boundary with little impact on prime land and of benefit to the community and local economy. Impacts on the landscape, visual amenity and nearby houses could be satisfactorily mitigated by appropriate conditions, including controls over noise and operating hours. 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. 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.
3. 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, including SUDs details, 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.
4. 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 new hedging, planting and bunding. 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.
5. 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.
6. No development to be commenced until a Noise Impact Assessment is submitted to, and approved in writing by, the Planning Authority. Once approved, the development to be completed and operated in accordance with the Assessment, including any mitigation or subsequent assessments required.  
Reason: To safeguard residential amenity.
7. No development to be commenced until a Dust Management Plan is submitted to, and approved in writing by, the Planning Authority. Once approved, the development to be completed and operated in accordance with the Plan, including any mitigation required.  
Reason: To safeguard residential amenity and road safety.

8. No development to be commenced until details of the operating hours and days for the use are submitted to, and approved in writing by, the Planning Authority. Once approved, the development to be operated in accordance with the agreed hours and days.

Reason: To safeguard residential amenity.

9. The roadside pathway shown on the approved plans to be completed and available before the use becomes operational.

Reason: To provide unobstructed public access in the area.

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, 4<sup>th</sup> 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.

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**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 28<sup>th</sup> April 2023**

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