

**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, 17 April 2023 at 10 a.m.

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Present:- Councillors M. Douglas (Chair), J. Cox, D. Moffat, A. Orr, N. Richards, S. Scott, E. Small.

Apologies: Councillors S. Mountford, V. Thomson.

In Attendance:- Principal Planning Officer (C. Miller), 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.

**PROCEDURAL HEARINGS**

1. 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as a result of the Scottish Government introducing the National Planning Framework 4 (NPF4) on 13 February 2023, which superseded previous guidance and now formed part of the Development Plan.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.

2. **REVIEW OF 23/00009/RREF**

There had been circulated copies of a request from Jane Prady c/o WT Architecture, 4-6 Gote Lane, South Queensferry EH30 9PS to review the decision to refuse the planning application for the alteration and extension to dwellinghouse at Ratchill 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 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.**

3. **REVIEW OF 23/00010/RREF**

There had been circulated copies of request from Mr I Maxwell c/o Ferguson Planning, 37 George Street, Edinburgh EH2 2HN to review the decision to refuse the planning application for modification of condition No. 1 of planning permission 15/01355/FUL to allow the holiday chalet to be occupied as a dwellinghouse on Land at Disused Railway Line, Rachan, 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; Support comments; 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.**

4. **REVIEW OF 23/00011/RREF**

There had been circulated copies of a request from Mr Alistair Hodgson c/o CSY Architects, 9 West Street, Berwick-Upon-Tweed to review the decision to refuse the planning application for the installation of photo voltaic array at Scott House, Douglas Square, Newcastleton. The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report 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.**

5. **REVIEW OF 23/00012/RREF**

There had been circulated copies of a request from Ian Swann c/o MAKAR Ltd, Clachandreggy, Torbreck, Inverness IV2 6DJ to review the decision to refuse the planning application for the erection of a dwellinghouse with detached garage on Land West of the Old Barn, Westwater, West Linton, The supporting papers included the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report 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.

6. **REVIEW OF 23/00014/RNONDT**

There had been circulated copies of a request from Gary Neale c/o Robert Slaney, 48 Bruntsfield Gardens, Edinburgh EH10 4DZ to review the decision to refuse the planning application for the alterations and dormer extension to dwellinghouse at 11 Tweed Avenue, Peebles. The supporting papers included the Notice of Review; Consultation Replies and Support 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.

**MEMBERS**

Having not been present when the following review was first considered, Councillor Cox left the meeting. Having not been present at the site visit, Councillor Small left the meeting.

7. **CONTINUATION OF REVIEW 22/00039/RREF**

7.1 With reference to paragraph 8 of the Minute of 20 February 2023, the Local Review Body continued their consideration 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 let accommodation on Land North East of Runningburn Farm, Stichill. The supporting papers included the written submissions from the Planning Officer and Applicant in respect of NPF4; written submissions from the Planning Officer and Applicant in respect of new information; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Additional Information and Consultation Replies.

7.2 Members considered the principle of the development under Policy ED7 and 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. Members considered the criteria set down in Policy ED7 and PMD2 on siting, landscape and relationship with adjoining uses and, having carried out an accompanied site inspection, 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. In terms of the access, Members noted that the Roads Officer was content with the alternative access route, which had less potential conflict with the farm steading and subject to conditions, including 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.

## **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 further procedure;**
- (c) NPF4 Policies did not alter their conclusion.**
- (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.**

## **MEMBERS**

Councillors Cox and Small re-joined the meeting prior to consideration of the following application.

### **8. CONTINUATION OF REVIEW 22/00040/RREF**

- 8.1 With reference to paragraph 9 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from Mr and Mrs O McLaren c/o Richard Amos, 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, Chirnside. The supporting papers included the written submissions from the Planning Officer and Applicant in respect of NPF4; written submissions from the Planning Officer and Applicant in respect of new information; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Additional Information and Consultation Replies; Support Comments and Objection comments.
- 8.2 Members considered the application in relation to Policy HD2 of the Local Development Plan, Policy 17 of NPF4 and the Housing in the Countryside SPG and noted the comments of all parties, the submitted drawings and visual presentation and that both the applicant and Case Officer agreed upon the existence of a building group within the river valley to the south and it was the relationship of the site with this group that was in dispute. Members accepted that even allowing for the extant consents, there was capacity to add to the group under Clause A) of Policy HD2, however, they did not agree that the application site was part of that group as it was not within the river valley enclosing the group. Members were of the opinion that as the four consented houses were not in existence at this stage, they could not be taken into consideration. In terms of the conflict between the proposed houses and the agricultural building to the north of the site it was noted that the building was used for storage of poultry manure and taking into account all submissions and noting the concerns from the objector, Case Officer and Environmental Health over residential amenity issues caused by odour and flies, the Review Body did not consider that the site was appropriate for housing on the basis of likely incompatibility of uses and close proximity between houses and the agricultural building.

## **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 further procedure;**
- (c) **the proposal would be contrary to Policies HD2 (Housing in the Countryside), PMD2 (Quality Standards) and HD3 (Protection of Residential Amenity) of the Local Development Plan 2016, Policy 17 of NPF4 and the New Housing in the Borders Countryside Supplementary Planning Guidance 2008 as the erection of dwellinghouses at this location would be poorly related to an established building group and would be incompatible with neighbouring farm uses, with a reasonable likelihood of unacceptable residential amenity impacts arising for the future occupants of the proposed dwelling units. Other material considerations do not justify a departure from the development plan in this regard.**
- (d) **that the Officer's decision to refuse the application be upheld and varied and the application be refused, for the reasons detailed in Appendix II to this Minute.**

**9. CONTINUATION OF REVIEW 22/00044/RREF**

- 9.1 With reference to paragraph 3 of the Minute of 20 February 2023, the Local Review Body continued their consideration 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 Officer submission and Applicant response to NPF4 statements; Officer submission and Applicant response to new information; the Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; consultation replies and support comments.
- 9.2 Members considered the principle of the development under Policy ED7 and noted the Policy supported tourism accommodation in the countryside provided there was a business case. They then considered the criteria set down in Policy ED7 and PND2 on siting, landscape and relationship with adjoining uses and noted the concerns of the Appointed Officer, particularly with regard to segregation from the existing farm. Members considered the site avoided conflict with the operational farm and accepted the findings of the sequential information that it was the most appropriate location for a tourism development. In terms of impact on the landscape setting, 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, subject to conditions to agree material finishes, including appropriate colours.

**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 further procedure;**
- (c) **the officer's decision to refuse the application be overturned and the application be approved, subject to conditions, for the reasons detailed in Appendix III to this Minute.**

**10. CONTINUATION OF REVIEW 22/00039/RREF**

With reference to paragraph 5 of the Minute of 20 February 2023, the Local Review Body continued their consideration 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 written submissions from the Planning

Officer and Applicant response in respect of NPF4; written submissions from the Planning Officer and Applicant in respect of new information; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Additional Information and Consultation Replies and list of policies.

- 10.1 Members noted the requirements of the LDP Policy PMD2 and Policy EP9 in terms of scale, massing and height of any house extensions and alterations and the preservation and enhancement of the special character architectural or historic character and appearance of a conservation Area. Members noted that the proposal was located within a densely developed part of the Conservation Area and although the development would result in the loss of a parking space, were satisfied that the amended scale of the proposed extension did not represent overdevelopment of the existing building or surrounding area. The design of the extension and alterations were modern but would complement the character and appearance of the existing building and Conservation Area. Members considered it important to ensure that the development was completed with suitable material finishes which included the finishes of all windows and doors, and were satisfied that this matter could be addressed by an appropriately worded planning condition. In terms of the impact of the development on residential amenity, Members were satisfied that any impacts were not significantly adverse.

#### **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 further procedure;**
- (c) **the development was consistent with Policies PMD2, EP9 and HD3 of the of the Local Development Plan and Policies 7, 14 and 16 of National Planning Framework 4.**
- (d) **the officer's decision to refuse the application be overturned and the application be approved, subject to conditions, for the reasons detailed in Appendix IV to this Minute.**

#### **MEMBERS**

Having not been present when the following two reviews were first considered, Councillor Small left the meeting. Councillor Scott also left the meeting.

#### **11. CONTINUATION OF REVIEW 22/00039/RREF**

- 11.1 With reference to paragraph 6 of the Minute of 20 February 2023, the Local Review Body continued their consideration 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 extension to dwellinghouse at Dove Cottage, The Gatehouse Lodge, Press Castle, Coldingham. The supporting papers included the written submissions from the Planning Officer and Applicant in respect of NPF4; written submissions from the Planning Officer and Applicant in respect of new information; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; Additional Information and Consultation Replies, support comments and list of policies.
- 11.2 Members noted that there was an associated refusal of listed building consent for extensions and alterations to the property and that this was a matter for the DPEA should an appeal against that refusal be submitted. The proposal at Review was in relation to refusal of planning permission for the same works and Members noted that the proposal required to be assessed against the relevant Development Plan Policies relating to the refusal of planning permission. There had been submitted two versions of the proposals during the processing of the planning application, Drawing no. 22/B943/PL03 which had

been superseded by 22/B943/PL03 Revision A, the latter being the drawing that was refused planning permission by the Appointed Officer. The applicant had submitted the Review only on the basis of the original drawing i.e. Drawing no. 22/B943/PL03. The Review Body noted both drawings and differences between them and that they were entitled to consider both in their determination of the Review. Members noted the requirements of the LDP Policy PMD2 in terms of scale, massing and height of any house extensions and alterations and to recognise context and finish in materials which complemented the existing building and area. It was noted that Dove Cottage was a Category C statutorily listed building and that LDP Policy EP7 and NPF4 Policy 7 seek to protect the character and integrity of the listed building, together with high quality materials and design.

Members considered both versions of the drawing and all submissions on the proposals and did not consider that the overall design of the extensions integrated successfully with the listed building, Members expressed particular concern in that the flat roofs and means by which the extensions were attached to the house would jar with the appearance of the house and impact on its character and integrity. The proposals may have complied more with Policy if the approach had been a traditional design with pitched roofing or possible detachment from the dwellinghouse.

## **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 further procedure;**
- (c) the proposed development was contrary to Local Development Plan 2016 policy EP7 (Listed Buildings) and Policy 7 of NPF4 as it would not respect the original structure due to its excessive scale and poorly related design. The proposed development would not maintain the special architectural or historic quality of the building and would have a significant adverse impact on its special character and appearance.**
- (d) the Officer's decision to refuse the application be upheld and varied and the application be refused, for the reasons detailed in Appendix V to this Minute.**

## **MEMBERS**

Having not been present when the following review was first considered, Councillor Cox left the meeting.

### **12. CONTINUATION OF REVIEW 22/00047/RREF**

- 12.1** With reference to paragraph 4 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from Marchmont Estates c/o Smith & 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. The supporting papers included the written submissions from the Planning Officer and Applicant in respect of NPF4 and New Information; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; further representations; consultation replies; support comments; objections; and Applicant response; additional information; consultation replies and objections.
- 12.2** Members 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 that there was community support for the site, including from the Community

Council, and that the allocated site on the Edinburgh Road in the village had not been taken up. Members further noted that the intended occupant of the building was a local joinery firm presently operating in Eccles and offered significant local economic benefits to the area if taken up by the firm, being a more sustainable location for employees. Having also conducted an unaccompanied site inspection, 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. 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. Members also considered the loss of prime agricultural land and compliance with Policy ED10, but were of the opinion that the loss was outweighed by the need for the site to allow the expansion of a local business with associated economic benefits. Finally consideration was given to the siting, design and the likely impact on the surrounding area, but Members were content that appropriate conditions on the development details, landscaping and operation of the use would ensure compliance with the Development Plan.

## **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) the officer's decision to refuse the application be overturned and the application approved for the reasons detailed in Appendix VI to this Minute and subject to conditions.**

## **MEMBERS**

Councillors Cox and Small re-joined the meeting prior to consideration of the following applications.

### **13. CONTINUATION OF REVIEW 23/00001/RREF**

With reference to paragraph 5 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from Mr Richard Spray per John Handley Associates Ltd, 65A Leamington Terrace, Edinburgh EH10 4JT 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 written submissions from the Planning Officer and Applicant in respect of NPF4; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; further representations and Applicant response; additional information; consultation replies; objections and list of Policies. The Planning Adviser drew attention to information, in the form of a Legal Opinion from Mr Neil Collar; Tree Protection Plan; Ecology Appraisal Plan; Noise Impact Assessment and Photographs – PB02/PB03 and PB06 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, Ecology Officer and SBC Solicitor an opportunity of making representations. As the application required to be continued, Members requested



that an accompanied site visit to the existing and proposed sites be arranged prior to a decision.

#### **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 Legal Opinion from Mr Neil Collar; Tree Protection Plan; Ecology Appraisal Plan; Noise Impact Assessment and Photographs – PB02/PB03 and PB06 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 and an accompanied site visit;
- (d) the Planning Officer, Ecology Officer and SBC Solicitor be given the opportunity to comment on the new evidence submitted with the Notice of Review ;
- (e) consideration of the review be continued to a future meeting on a date to be confirmed.

#### **DECLARATION OF INTEREST**

Councillor Orr declared an interest in the following item of business in terms of Section 5 of the Councillors Code of Conduct and left the Chamber during the discussion.

#### **14. CONTINUATION OF REVIEW 23/00002/RREF**

With reference to paragraph 6 of the Minute of 20 February 2023, the Local Review Body continued their consideration of a request from Mr Robert Gaston, Ravelaw Farm, Whitsome, Duns to review the decision to refuse the planning application for the Erection of agricultural building (retrospective). The supporting papers included the written submissions from the Planning Officer and Applicant in respect of NPF4; Notice of Review (including the Decision Notice and Officer's Report); Papers referred to in the Officer's report; additional information; consultation replies, general comments; objections and list of Policies. The Planning Adviser drew attention to information, in the form of a Solicitors Letter dated 20 December 2022; New Support letter from Garth Pig Practice Ltd; Signed Letter from Neighbours and set of amended site plans 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. As the application required to be continued, Members requested that an accompanied site visit be arranged prior to a decision.

#### **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 new evidence submitted with the Notice of Review in the form of a Solicitors Letter dated 20 December 2022; New Support letter from Garth Pig Practice Ltd; Signed Letter from Neighbours and set of amended site plans

**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 and an accompanied site visit;**
- (d) the Planning Officer be given the opportunity to comment on the new evidence submitted with the Notice of Review ;**
- (e) consideration of the review be continued to a future meeting on a date to be confirmed.**

*The meeting concluded at 2.30 p.m.*