

**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:** 20/00022/RREF

**Planning Application Reference:** 20/00486/FUL

**Development Proposal:** Erection of dwellinghouse with detached garage

**Location:** Land North West of Strathmyre, Old Belses, Jedburgh

**Applicant:** Mr and Ms Neil/Valerie Fortune/Mauchlen

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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 and informatives as set out below.

**DEVELOPMENT PROPOSAL**

The application relates to the erection of a dwellinghouse with detached garage. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	SP01 v 1
Site Plan	SP01 v 2
Floor Plan, Sections, Elevations	PP01 v 3

**PRELIMINARY MATTERS**

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 19<sup>th</sup> October 2020.

After examining the review documentation at that meeting, which included a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e)

Consultations; f) General Comment; and g) 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 further information in the form of amended Drawings PP01 (Floor Plan, Section, Elevations) and SP01 (Site Plan).

Members agreed that the information was new and considered that it met the Section 43B test, that it was material to the determination of the Review and could be considered. However, as expert opinion on the information was required, there was a requirement for further procedure in the form of written submissions to enable the Planning Officer and Roads Planning Officer to comment on the new information.

The Review was, therefore, continued to the Local Review Body meeting on 16<sup>th</sup> November 2020 where the Review Body considered all matters, including responses to the amended plans from the Planning Officer and Roads Planning Officer, and the applicant's reply to those responses. The Review Body 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: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD2, HD2, HD3, EP1, EP2, EP3, EP13, IS2, IS7 and IS9

### Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008

The Review Body noted that the application was for the erection of a dwellinghouse with detached garage on a site North-West of Strathmyre, Old Belses, Jedburgh.

Members firstly considered whether there was a building group in the vicinity under Policy HD2 and also whether there was capacity for addition to any such group. They noted that there were three existing houses in the immediate vicinity, including a modern house ("Braeside") opposite the site. Members also noted that there were no existing permissions for any further houses at the group. They concluded that there was a building group present and that there was capacity for the addition of one house, in compliance with Policy HD2 and the relevant SPG.

Members then considered the relationship of the site with the group and whether it was within the sense of place and in keeping with its character. In this respect, they had regard to the positions of other houses in the group, especially "Braeside", and they noted that the site did

not extend beyond that property along the public road. Members did accept that the site represented breaking into an undeveloped field but were persuaded by the proposed landscape boundary treatments, which included a planted boundary opposite “Braeside”, separating the site for the new house and garage from a paddock owned by the applicants and not intended for development. Subject to the planted boundary being secured by condition, Members considered that this could form a strong edge to the building group and would be defensible should any approach for development in the paddock be made in the future. Members considered the site to be well related to the building group due to its position adjoining the three houses and contained within the planted edge. Indeed, the Review Body considered that expansion of the building group in other directions could be less acceptable and represent ribbon development. Subject to appropriate conditions on planting, they concluded that the site was within the sense of place and an appropriate addition to the building group.

Members then considered the issues of road safety and access from the B6400. Taking into account the comments from the Roads Planning Officer and applicant and noting both the photographic material and amended plans which moved and widened the access, they concluded that there were no road safety reasons to oppose the development. The Review Body considered that road users would be slowing down due to the presence of a building group with the potential of emerging traffic from two access points in proximity to the proposed access. They also noted that the road was straight with good visibility and that the access point had been offset from that opposite serving “Braeside” and widened to achieve a service lay-by and improved sightlines. The Review Body, therefore, accepted that the proposal was in compliance with Policy PMD2 in relation to road access and safety.

The Review Body then considered the design of the house and garage. Whilst they noted that there was mixed architecture and house styles in the building group, including a contemporary design represented by “Braeside” and a modern bungalow represented by “Strathmyre”, Members shared the concerns of the Appointed Officer over the suburban nature of the house. However, they felt that their concerns could be addressed by a condition ensuring revisions to the window designs and external materials be agreed with the Planning Officer. Subject to those revisions, they considered that a bungalow would be sympathetic in scale and impact to the rest of the building group and the garage also had precedent with the position of the garage serving “Braeside”. Consequently, subject to an appropriate condition, Members considered that the design was in compliance with Policies PMD2 and HD2 and the relevant Supplementary Guidance.

The Review Body finally considered other material issues relating to the proposal including the siting of the house and garage, residential amenity, water, drainage and waste storage but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for education were not required at this location.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policy HD2 of the Local Development Plan and relevant Supplementary Planning Guidance. The development was considered to be an appropriate addition to an existing building group with visual impacts that can be mitigated by new planting and amendments to the design of the house. Consequently, the application was approved.

## **DIRECTIONS**

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.

## CONDITIONS

1. No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the planning authority. Details of the scheme shall include (as appropriate):
  - i. existing and finished ground levels in relation to a fixed datum preferably ordnance
  - ii. trees to be retained within the site
  - iii. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
  - iv. location and design, including materials, of walls, fences and gates
  - v. soft and hard landscaping works including new planting within the site. The landscaping shall include hedging and tree planting to form a strong boundary to the south-west of the site, between the site of the house and the adjoining paddock/amenity ground
  - vi. existing and proposed services such as cables, pipelines, sub-stations
  - vii. A programme for completion and subsequent maintenance.  
Reason: To ensure the satisfactory form, layout and assimilation of the development.
  
2. No development to be commenced until further details of the site access are submitted to, and approved in writing by, the Planning Authority. Thereafter the development to be completed in accordance with the approved details prior to occupation of the dwellinghouse unless otherwise agreed. The details shall include:
  - i. A visibility splay of 2.4m x 120m to be formed in both directions at the site entrance with the public road
  - ii. The site entrance to be designed as per DC3 standards for a service lay-by.
  - iii. Drainage, levels and construction proposals  
Reason: To ensure satisfactory form of access and in the interests of road safety.
  
3. The dwellinghouse not to be occupied until parking and turning sufficient for two cars is provided within the site, excluding the garage, and maintained thereafter in perpetuity.  
Reason: In the interests of road safety.
  
4. No development to be commenced until details of water and drainage provision are submitted to, and approved in writing by, the Planning Authority. Once approved, the development then to be completed in accordance with those details.  
Reason: To ensure that the development is adequately serviced and in the interests of public health.
  
5. No development to be commenced until revised house elevations are submitted to, and approved in writing by, the Planning Authority. The revisions to be based upon the guidance within the Council's "Placemaking and Design" Supplementary Planning Guidance 2010 and should involve amendment to window design and external materials. Once approved, the development then to be completed in accordance with those details.  
Reason: To safeguard the visual amenity of the area..
  
6. No development to be commenced until existing and proposed ground and house/garage floor levels are submitted to, and approved in writing by, the Planning Authority. Once approved, the development then to be completed in accordance with the approved levels.

Reason: To safeguard the visual amenity of the area.

7. No development to be commenced until a scheme of waste storage 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.

## **INFORMATIVES**

1. All works within the public road to be undertaken by a contractor on the Council's approved list.

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 S Mountford  
Chairman of the Local Review Body

**Date.....**2 December 2020

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