

**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: 20/00003/RREF

Planning Application Reference: 19/01646/PPP

Development Proposal: Erection of dwellinghouse, workshop/garage and associated works

Location: Land South East of Tarf House, West Linton

Applicant: Mr Erlend Milne

DECISION

The Local Review Body reversed the decision of the appointed officer and indicated that it intended to grant planning permission for the reasons set out in this decision notice subject to conditions and informatives and the applicant entering into a Section 75 Agreement as set out below.

The necessary Section 69 Agreement has now been concluded.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse, workshop/garage and associated works. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	PL001
Proposed Block Plan	PL002

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 25th May 2020. After examining the review documentation which included: a) Notice of Review and associated documents (including Decision Notice and officer's report); b) Papers referred to

in officer's report; c) Consultations; d) Support comments 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 further information in the form of a consultation response from West Linton Community Council and a letter from an SBC Ward Councillor. Members considered that the information did not raise any new matters not already known to the Appointed Officer. There was, therefore, no requirement to apply Section 43(B) of the Regulations and the information could be taken into consideration.

The Review Body 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, ED7, IS2, IS5, IS7 and IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Waste Management 2015
- Scottish Planning Policy

The Review Body noted that the proposal was for planning permission to erect a dwellinghouse, workshop/garage and associated works on a site south-east of Tarf House, West Linton.

Members noted that the same applicant had sought permission previously on the site for a dwellinghouse, on the basis that the site was part of a building group under Policy HD2. Members had not accepted that there was a building group present and refused the application after consideration. Although the Review Body were aware of the applicant's businesses, they did not previously feel that sufficient business case had been advanced to justify a house on the site under Part F of Policy HD2 relating to economic need.

Whilst Members were still of the same opinion that there was no building group present, they noted that a Business Plan had now been submitted with the current application which not only provided further details of the applicant's current two businesses, but also his intention to take on a third business relating to the lease and operation of an Icelandic Horse running track nearby. The Review Body considered the businesses to be generally appropriate to the rural area in compliance with Policies HD2 and ED7 and were, subsequently, more convinced that the Business Plan outlined a case for needing a dwellinghouse on the site alongside the proposed workshop and with proximity to the track, providing benefits of security, animal welfare and operational efficiency. Members also noted the significant local support within the

community for the proposal and the difficult current circumstances which were likely to lead to encouragement of working from home for the foreseeable future. After taking into account all of these matters, the Review Body, agreed that there was now a proven justification for a house under Section F of Policy HD2, provided the house was tied to the businesses by planning condition. They accepted the tie could not include the Icelandic Horse track business as this was not currently owned by the applicant.

Members then considered the further requirements of Policy HD2 for proposals to have no negative impacts on the local landscape or community. In terms of the position of the site away from neighbouring property, the expressed local support for the application and the presence of existing screening in the vicinity, the Review Body were content there would be no negative impacts on the landscape or the community.

The Review Body finally considered other material issues relating to the proposal including access, water, drainage and a right of way at the site but were of the opinion that appropriate conditions could address them satisfactorily. They also noted that development contributions for education were required and could be secured by legal agreement.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies HD2 and ED7 of the Local Development Plan and relevant Supplementary Planning Guidance. There was economic justification for a house and workshop on the site and there would be no significant impacts on the landscape subject to appropriate siting and design. Consequently, the application was approved.

DIRECTIONS

1. Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:
 - a. the expiration of three years from the date of this permission, or
 - b. the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal.

Only one application may be submitted under paragraph (b) of this condition, where such an application is made later than three years after the date of this consent.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

CONDITIONS

1. No development shall commence until the details of the layout, siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. No development shall commence until all matters specified in conditions have, where required, been submitted to and approved in writing by the Planning Authority. Thereafter the development shall only take place in strict accordance with the details so approved.

Reason: To achieve a satisfactory form of development, and to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. Occupation of the proposed dwellinghouse to be limited to a person employed in the saddle and leather goods businesses outlined in the business plan submitted with the application, or any dependent of such a person residing with him or her but including a widow or widower of such a person.

Reason: The erection of a dwellinghouse for normal residential occupation would be contrary to the Council's policy on housing in the countryside.

4. Parking and turning (excluding any garage space) for two vehicles shall be provided within the curtilage of the dwellinghouse before the dwellinghouse hereby approved is occupied and must thereafter be retained in perpetuity.

Reason: To ensure the provision of adequate off-street parking.

5. No development should commence until the applicant has provided evidence that arrangements are in place to ensure that the private drainage system will be maintained in a serviceable condition

Reason: To ensure that the development does not have a detrimental effect on amenity and public health.

6. No water supply other than the public mains water supply shall be used to supply the development without the written agreement of the Planning Authority.

Reason: To ensure that the development is adequately serviced with a sufficient supply of wholesome water and there are no unacceptable impacts upon the amenity of any neighbouring properties.

7. No development to be commenced until existing public access through the site has been satisfactorily safeguarded and retained or formally diverted in accordance with the statutory provisions.

Reason: To safeguard public access rights.

8. No development to be commenced until a scheme of waste storage has been submitted to, and approved in writing by, the Planning Authority. Once approved, provision to be made in accordance with the approved details prior to occupation of the dwellinghouse or use of the workshop, whichever is the sooner.

Reason: To ensure adequate provision for waste storage within the site.

INFORMATIVES

1. With regard to Condition 5, private drainage systems often impact on amenity and cause other problems when no clear responsibility or access rights exist for maintaining the system in a working condition.

Problems can also arise when new properties connect into an existing system and the rights and duties have not been set down in law.

To discharge Condition 5, the Applicant should produce documentary evidence that the maintenance duties on each dwelling served by the system have been clearly established by way of a binding legal agreement. Access rights should also be specified.

LEGAL AGREEMENT

The Local Review Body required that a Section 75, or other suitable legal agreement, be entered into to secure developer contributions for Peebles High School and West Linton Primary School. A Section 69 Agreement has now been concluded.

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 Mountford
Chairman of the Local Review Body

Date.....9 November 2021