

**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: 21/00010/RREF

Planning Application Reference: 21/00285/PPP

Development Proposal: Erection of dwellinghouse

Location: Land West of the Old Barn Westwater West Linton

Applicant: Mr Charles Bruce

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 intentions notice subject to conditions and the applicants entering into a Section 75, or other suitable Legal 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, access, landscaping and associated works. The application drawings and documentation consisted of the following:

Plan Type

Plan Reference No.

Location Plan

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 12th July 2021. After examining the review documentation which included: a) Notice of Review (including Appeal Statement); b) Report of Handling c) Consultations; d) Policies, 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: PMD1, PMD2, PMD5, HD2, EP13, IS2, IS5, IS7, IS9

Other Material Considerations

- SBC Supplementary Planning Guidance on Development Contributions 2011 (Updated 2020)
- SBC Supplementary Planning Guidance on Landscape and Development 2008
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Privacy and Sunlight Guide 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Sustainable Urban Drainage Systems 2020
- SBC Supplementary Planning Guidance on Trees and Development 2008
- SBC Supplementary Planning Guidance on Waste Management 2015

The Review Body noted that the proposal was for planning permission in principle to erect a dwellinghouse on a Land West of the Old Barn Westwater West Linton.

Members firstly considered whether there was a building group present at Westwater and whether the site was well related to the group. They noted that it had previously been determined that there was a building group at Westwater. Members were satisfied that a cohesive building group of at least 3 dwelling houses still existed at Westwater.

The Review Body turned its attention to whether the site was a suitable addition to the group. Some concerns were raised that following previous residential development to the west of the application site that this proposal could represent ribbon development along the access road. Having looked at the boundaries of the group, Members were satisfied that the site fell within existing woodland to the west which encloses the group and that the development of a house on this site would help to 'bookend' existing residential development along the road side.

The Review Body then considered whether the building group had capacity for further expansion within the current LDP plan period against the scale of addition rule. Members observed that there was a complex planning history of residential development at this building group and that 3 new houses were currently being developed with 2 of these developments nearing completion. Members recognised that approving this application would further exceed the number of new dwellings which could be added to the group in the current plan period. Members were mindful that the site was well-related to the group considered that, despite being premature, this development would complete the building group. The Review Body considered that the suitable relationship of the development and the prospect of the development completing the group represented material considerations

which in the context of this building group justified an exceptional form of development to take place and add one further house to this group within the current LDP plan period.

Members moved on to other material matters and considered that the mature trees within the site and the group make a positive contribution to the visual amenity of the surrounding area and help to enclose the building group. A detailed application should be informed by a tree survey to seek to ensure that the mature trees are retained where possible and this matter should be a condition of this consent. Members also considered whether the scale of the dwellinghouse should be limited by planning condition however they were satisfied that assessment of the detailed application would ensure that a dwellinghouse in this site is of an appropriate height. Matters covering landscaping, access and site services were considered but the Review Body were of the opinion that appropriate conditions could address them satisfactorily. The also noted that development contributions for education could be secured by legal agreement.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was considered to be a justified exception to the scale of addition permissible against Policy HD2 within the current plan period as the site was well-related to the existing building group at Westwater and was judged to complete the group. Matters concerning suitable design, landscape treatment and tree protection were matters which are able to be addressed at the next planning stage. 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. All applications for approval of matters referred to in Condition 1 shall include an Arboricultural Impact Assessment in compliance with BS5837:12 accounting for the trees and hedgerows located within and adjacent to the site. No trees or hedges within the site shall be lopped, felled or otherwise disturbed unless specified as such within the assessment and unless approved as such by the Planning Authority. The development shall be implemented only with the protection measures in place, where required, and all trees and hedges within the site shall be retained following completion of the development unless otherwise agreed with the Planning Authority.
Reason: To preserve the health and vitality of trees within the site whose loss would have an adverse impact on the visual amenity of the surrounding area.

4. 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:
 - I. existing and finished ground levels in relation to a fixed datum preferably ordnance
 - II. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
 - III. location and design, including materials, of walls, fences and gates
 - IV. soft and hard landscaping works including new planting within the site
 - V. A programme for completion and subsequent maintenance.
 Reason: To ensure the satisfactory form, layout and assimilation of the development.

5. 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.
Reason: To ensure adequate provision for waste storage within the site.

6. No development shall commence until precise details of the water supply and of both foul water and surface water drainage have been submitted to and approved in writing by the Planning Authority. Thereafter no development shall take place except in strict accordance with the approved details. The surface water drainage shall be handled by way of sustainable urban drainage techniques.
Reason: To ensure the site is adequately serviced.

7. Parking and turning for a minimum of two vehicles to be provided within the curtilage of the plot, excluding garages, prior to occupation of the dwelling and retained in perpetuity thereafter unless otherwise agreed in writing with the Council.
Reason: To ensure appropriate parking is provided for the new dwelling.

LEGAL AGREEMENT

The Local Review Body required that a Section 75, or other suitable legal agreement, be entered into to secure developer contributions for West Linton Primary School and Peebles High 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 H Laing
Chairman of the Local Review Body

Date.....

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