

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, 19 June 2023 at 10 a.m.

Present:- Councillors S. Mountford (Chair), M. Douglas, J. Cox, A. Orr, N. Richards, S. Scott, V. Thomson.
Apologies:- Councillors D. Moffat, E. Small.
In Attendance:- Chief Planning and Housing Officer, Principal Planning Officer (C. Miller), Solicitors (S. Thompson for para 1 and Fraser Rankine from para 2), Democratic Services Team Leader, Democratic Services Officer (F. Henderson).

MEMBERS

Having not been present when the following review was first considered, Councillors Mountford, Thomson and Scott left the meeting. Councillor Douglas chaired the meeting for the next item of business only.

1. CONTINUATION OF REVIEW 23/00001/RREF

- 1.1 With reference to paragraph 13 of the Minute of 17 April 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 a 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 comments from the Planning Officer, Ecology Officer and SBC Solicitor on the new information; 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. An accompanied site visit, to the applicant's existing timber storage and processing yard at Loanhead, Mid Lothian and also to the application site itself was undertaken on 22 May 2023.
- 1.2 The Review Body noted that the proposal was for the erection of a timber storage and processing facility. In considering the proposals, especially in relation to Policies ED7 and 29 and taking into account all submissions, the Review Body were of the opinion that, after balancing the processing and chipping elements against the use of the proposed site for timber storage and drying, any industrial process was a very small part of the overall development and that it predominantly involved forestry operations. Members noted the offer from the applicant to limit chipping to four days per month and the extent of timber storage on the site which would be left drying for lengthy periods without movement. The Review Body concluded that as the development was predominantly for forestry operations, it was more justifiable on a greenfield rather than brownfield site and that it was an appropriate development for a rural location, in compliance with the principle of Policy ED7.
- 1.3 The Review Body then considered specific criteria within Policy ED7, including noise and residential amenity which were also controlled by Policies HD3, 14 and 23. All submissions were considered in relation to noise impacts on nearby existing and proposed housing, including the offer by the applicant of a maximum 4 day limit of

chipping per month by condition, the location of the chipping and processing buildings to be furthest away from existing houses, the area of applicant ownership without any works proposed and, notwithstanding the proximity of West Loch Farmhouse, the degree of distance to the steading and other cottages that could be affected. Given all these factors, the Review Body were content that sufficient buffer existed to reduce the noise impacts of the development, which would be infrequent with regard to chipping noise. Members also noted the findings of the Noise Impact Assessment and were content that, with the full implementation of the mitigation in the Assessment secured by condition, the impacts of the development on residential amenity were reduced to acceptable levels and, thus, in compliance with Policies ED7, HD3, 14 and 23.

- 1.4 The Review Body then considered the issue of road safety under Policies PMD2 and ED7 and were in support of the Roads Officer's requirements for a scheme of road improvement, involving passing places on the public road. Subject to an appropriate condition securing the scheme for completion before the development became operational, the Review Body considered the proposal in compliance with Local Development Plan Policies PMD2 and ED7 in relation to access and road safety. There was discussion with regard to the applicant's offer to limit all timber received at the site to be sourced only from within the Scottish Borders and whilst Members understood the aims of such a restriction in relation to sustainability, reduced transport distances and to relate the facility to local product and were supportive of limiting the source of timber to the Scottish Borders, Members considered this to be a small and limited area and agreed to a condition which also included the Lothians as well as the Scottish Borders, subject to a condition securing an enforceable verification and monitoring scheme.
- 1.5 The Review Body then considered the planning permission in principle element of the application and the proposal for a dwellinghouse and office in the south-western corner of the site. The Review Body accepted the applicant's case for requiring residential and office accommodation on the site, noting that the applicant would accept conditions securing an occupancy link with the business and no commencement of the dwellinghouse/office until the timber storage and processing development was complete and operational. Subject to appropriate conditions, Members considered the site to be justified provision of accommodation on site for a worker in the adjoining business, complying with Clause F of Policy HD2, NPF4 Policy 17 and the Housing in the Countryside SPG.

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 an appropriate rural location for a facility which was predominantly a forestry operation and that the residential and environmental impacts could be addressed by appropriate planning conditions. The dwellinghouse/office was also considered to be justified, provided occupancy was tied to the business and commenced after the business opened; and**
- (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, subject to conditions and a legal agreement.**

MEMBERS

Councillors Mountford, Thomson and Scott returned to the meeting.

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.

2. REVIEW OF 23/00012/RREF

- 2.1 There had been circulated copies of a request from Mr Ian Swann, per MAKAR Ltd, Clachandreggy, Dores Road, Torbreck, Inverness to review the planning application in respect of the erection of dwellinghouse on Land West of the Old Barn, Westwater, West Linton. 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); Additional Information and Consultation Replies.
- 2.2 The Planning Advisor drew attention to new evidence submitted with the Notice of Review documentation in the form of a comparative section with nearby property; a plan of the building group; detailed Landscape proposal; Privacy Diagram and responses from the SBC Tree Officer and a Tree Consultant which had been submitted with the review but which had not been before the Appointed Planning Officer at the time of determination. The Review Body considered that the new evidence met the test set out in Section 43B of the Town and Country Planning (Scotland) Act 1997, and that this new information was material to the determination of the review. It was therefore agreed that there was a need for further procedure in the form of written submissions to afford the Planning Officer and anyone he wished to consult with, the opportunity of assessing this new evidence and submitting their views.

DECISION

AGREED:-

- (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 of revised 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;**
- (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.**

DECLARATION OF INTEREST

Councillor Thomson 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.

3. REVIEW OF 23/00009/RREF

- 3.1 There had been circulated copies of a request from Mrs Jane Prady, per WT Architecture, 4-6 Gote Lane, South Queensferry, Edinburgh EH30 9PS to review the planning application in respect of alterations and extension to dwellinghouse at Ratchill Farmhouse, Broughton. 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 Officers report; Additional Information and Consultation Replies.
- 3.2 The Members noted that the site lay outwith the settlement boundary of Broughton, located within a grouping of traditional buildings in a secluded and mature landscape

setting. The cottage lay to the west of the grouping and was of a modest single storey nature. The proposal was a large contemporary extension to the existing cottage, however following discussion, the majority were of the opinion that the extension was appropriate in scale, height and form when considered in the context of the group of buildings as a whole and not solely as an addition to the existing cottage.

VOTE

Councillor Mountford, seconded by Councillor Richards, moved that the officer's decision be overturned and the application approved.

Councillor Cox, seconded by Councillor Scott moved as an amendment that the officer's decision be upheld and the application approved.

On a show of hands Members voted as follows:-

Motion - 4 votes

Amendment - 2 votes

The Motion was accordingly carried.

DECISION

DECIDED 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) that the development was consistent with Policies PMD2 and HD3 of the Local Development Plan and Policies 14 and 16 of National Planning Framework 4 and that there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the Officers decision to refuse the application be overturned and the planning permission granted, subject to conditions, for the reasons detailed in Appendix II to this Minute.**

4. CONSIDER REVIEW OF 23/00010/RREF

- 4.1 There had been circulated copies of a request from Mr I Maxwell, c/o RM Architecture, Tintent, Rachan, Broughton to review the decision to refuse the planning application in respect of the modification of condition No.1 of planning permission 15/01355/FUL to allow the holiday chalet to be occupied as dwellinghouse. 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; Support comments; consultation Replies and Objections.
- 4.2 The Review Body noted that this was a section 42 application for the deletion of condition 1 of planning permission 15/01355/FUL to allow the holiday chalet built on land at the disused railway line at Rachan, Broughton to be occupied as a dwellinghouse. Members considered whether there was a building group in the vicinity of the site under Clause A of Policy HD2 and were satisfied there was a dispersed building group at Rachan, which was characterised by the sense of place created by the Tomb Plantation, the former sawmill site, the pond and the existing estate dwellings. In considering the suitability of adding to this group, they did not accept that the site, formed part of this wider dispersed group or would be within its identifiable limits. Whilst acknowledging the points raised by the applicant that the site was part of the sense of place at the group, Members exercised their reasonable and proportionate planning judgement and gave weight to the

interpretation of the nature of the building group and disagreed. As the tourism use of the building had never commenced, the viability of the business had not been tested and whilst noting the health condition of the applicant, the members did not consider that this prevented operation of the business as set out in the applicant's original business plan, or indeed, by other parties on his behalf.

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) after considering all relevant information, the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was refused for the reasons stated above; and**
- (d) the Officers decision to refuse the application be upheld and the planning permission refused, for the reasons detailed in Appendix III to this Minute.**

5. REVIEW OF 23/00011/RREF

- 5.1 There had been circulated copies of a request from Alistair Hodgson, per Camerons Strachan Yuill Architects, 9 West Street, Berwick-Upon-Tweed to review the decision to refuse the planning application in respect of the installation of photo voltaic array to roof at Scott House, Douglas Square, Newcastleton. The supporting papers included the Notice of Review; papers referred to in the Officer's Report and Consultation Replies.
- 5.2 Members noted that the property was within Newcastleton Conservation Area but was not a listed building. It was further noted that the photo voltaic panels were proposed on the south facing roof slope of the terraced property which was located within Douglas Square. The Review Body understood that Policies PMD2, EP9 and 7 required an alteration appropriate to the existing building, compatible with the character of its surroundings and preserving the special architectural character and appearance of the Conservation Area. However, Members also noted strong support for domestic renewable energy schemes at a national level which was reflected in Local Development Plan Policy ED9 and Policy 11. Members considered whether there were less visible alternatives for the panels but also accepted that, as required by Policy 7, the applicant was providing mitigation in the form of in-roof flush-fitting photo voltaic panels. This was considered an innovative method of fitting panels of lower visual impact and intrusion, minimising the impact on the Conservation Area

VOTE

Councillor Mountford, seconded by Councillor Richards, moved that the officer's decision be upheld and the application refused.

Councillor Thomson, seconded by Councillor Cox moved as an amendment that the officer's decision be overturned and the application approved.

On a show of hands Members voted as follows:-

*Motion - 3 votes
Amendment - 4 votes*

The Amendment was accordingly carried.

DECISION

DECIDED 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) that the development was consistent with the relevant policies of the Local Development Plan and Supplementary Planning Guidance and there were no other material considerations that would justify departure from the Development Plan; and**
- (d) the Officers decision to refuse the application be overturned and the planning permission granted subject to conditions, for the reasons detailed in Appendix IV to this Minute.**

The meeting concluded at 12.50 p.m.