

**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:** 23/00011/RREF

**Planning Application Reference:** 22/01982/FUL

**Development Proposal:** Installation of photo voltaic array to roof

**Location:** Scott House, Douglas Square, Newcastleton

**Applicant:** Mr Alistair Hodgson

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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 as set out below.

**DEVELOPMENT PROPOSAL**

The application relates to the installation of a photo voltaic array to the south facing roof of Scott House, Douglas Square, Newcastleton. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	10252-PL-001
Existing Plans and Site Plan	10252-PL-002
Existing Elevations	10252-PL-003
Proposed Plans and Site Plan	10252-PL-004
Proposed Elevations	10252-PL-005
Design and Heritage Statement	

**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 19<sup>th</sup> June 2023. After examining the review documentation which included: a) Notice of Review

(including Decision Notice and Officer's Report); b) Papers referred to in Officer's Report; and c) Consultation Replies, the Review Body noted that the applicant had requested further procedure in the form of a hearing. After consideration, Members did not consider this was necessary in this instance and 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: Scottish Borders Local Development Plan 2016 and National Planning Framework 4. The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD2, HD3, ED9, EP1 and EP9
- National Planning Framework 4 Policies: 1-3, 7 and 11

### Other Material Considerations

- SBC Supplementary Planning Guidance on "Renewable Energy" 2018
- "Managing Change in the Historic Environment" HES

The Review Body noted that the proposal was for planning permission to install a photo voltaic array to the south facing roof of Scott House, Douglas Square, Newcastleton.

Members noted that the property was within Newcastleton Conservation Area and that the photo voltaic panels were proposed on the south facing roof slope of the terraced property which was located within Douglas Square. They noted 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, the Review Body 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 did consider whether there were less visible alternatives for the panels but also noted that, as required by Policy 7, the applicant was providing mitigation in the form of in-roof flush-fitting photo voltaic panels. The Review Body welcomed this innovative method of fitting panels which they considered to be of lower visual impact and intrusion. As a consequence of this proposed method of fitting, Members concluded that the impacts on the Conservation Area would be minimised, when also taking into account the unexceptional character of the building, the fact it was not a listed building, the limited visibility of the panels throughout Douglas Square, the fact that the property did not occupy a prominent focal position in itself and the lack of impact on the main features and character of the Conservation Area which was the grid layout of buildings rather than their individual architectural character or merit.

Whilst the Review Body were aware of the precedent that could be set in the Conservation Area in allowing panels on publicly visible roofs, they considered that the impact would be minimised for the aforementioned reasons and that Government and local support for domestic renewable energy provided additional weight to their decision. Ultimately, Members considered that compliance with Policies ED9 and 11 outweighed the impacts on the Conservation Area in this instance. Those impacts were reduced further by virtue of the flush-

fitting panel design, plain architecture and limited impact of the house roof in Douglas Square and Conservation Area in general.

The Review Body finally considered other material issues relating to the proposal but concluded that they did not change their final decision.

## **CONCLUSION**

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, ED9 and EP9 of the Local Development Plan, Policies 7 and 11 of NPF4 and relevant Supplementary Planning Guidance. The proposal was considered to be in compliance with the Council's Policy on renewable energy sources and that this outweighed any impacts on the character of the house or the Conservation Area. Mitigation of impacts had also been minimised by the use of flush-fitting photo-voltaic panels. Consequently, the application was approved.

## **CONDITIONS**

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.
2. Should any bats or bat roosts be encountered when carrying out roof and slate works to accommodate the photo voltaic panels, works should immediately cease and advice then obtained from Nature Scot who will then advise regarding procedure.  
Reason: To safeguard internationally protected species at the site.
3. The photo voltaic panels to be removed from the roof and the roof restored to its previous condition to the specification of the Planning Authority, within one year of the cessation of electricity production from the panels.  
Reason: To safeguard the character of the dwellinghouse and the visual amenity of the Conservation Area.

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** 27 June 2023

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