

**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 2008**

Local Review Reference: 11/00023/RREF & 11/00024/RREF

Planning Application Reference: 11/00156/PPP & 11/00157/PPP

Development Proposal: Erection of dwellinghouses

Location: Plots 1 & 2 Land North of Boonraw, Whiteburn, Lauder

Applicant: Lauder Farms Ltd

Date Review Received: 08/07/11

Decision Date:

DECISION

The Local Review Body upholds the decision of the appointed officer and refuses planning permission for both applications on the following grounds:

1. The proposal would be contrary to Approved Structure Plan Policy H7 and Adopted Local Plan Policies D2 (A) and G1, and the advice of the approved New Housing in the Borders Countryside Supplementary Planning Guidance (December 2008), in that the erection of a dwellinghouse on this site would not reflect or respect the character and amenity of the existing building group and would not relate to the established built form and pattern of development within the building group. Furthermore the proposal would not be contained within the identified sense of place created by the existing buildings and means of enclosure.

DEVELOPMENT PROPOSAL

The applications relate to the erection of dwellinghouses on adjoining plots at land north of Boonraw, Whiteburn, Lauder. The applications drawings consisted of the following drawings:

Plan Type	Plan Reference No.
Location Plan	GC1058

PRELIMINARY MATTERS

After examining the review documentation, which included: (a) Decision Notices, (b) Notices of Review and supporting papers, (c) Reports of Handling, (d) Correspondence from objectors, (e) Correspondence from Consultees, and (f) further correspondence from objector and response from applicant and (g) List of Policies, the Review Body concluded that it had sufficient information to determine the review and that further procedure was not required in this instance. In coming to this conclusion, the Review Body took into account the applicant's request for further procedure in the form of a site visit.

The Local Review Body considered the Review competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 19th September 2011.

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: consolidated Scottish Borders Structure Plan 2001-2018 and consolidated Scottish Border's Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- Structure Plan Policies: H7
- Local Plan Policies: G1, D2, H2 and G5

Other material key considerations the Local Review Body took into account related to:

- Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- Supplementary Planning Guidance on Placemaking and Design 2010
- Supplementary Planning Guidance on Development Contributions 2011

After considering the documentation and the slides shown by the Planning Advisor, the Review Body accepted that there was a building group at Whiteburn as defined in Structure Plan Policy H7, Policy D2 of the Local Plan and in the approved Supplementary Planning Guidance. In coming to this conclusion, Members noted that there were a number of existing houses at Whiteburn and that previous planning decisions for the houses Boonraw and Woodville, acknowledged the existence of a building group at the locality.

In considering the capacity of the building group to accommodate additional housing the Local Review Body accepted that the proposed developments would not exceed the 30% or 2 house limit in Policy D2 of the Local Plan.

The Review Body examined the question of the desirability of developing the sites and whether the development of the plots would constitute suitable additions to the building group. Whilst it was accepted that the sites were adjacent to the building group at Whiteburn, Members considered that they fell out with the area contained by its boundaries and its sense of place. Members were of the view that the group had a tight, linear and compact appearance and that there were strong boundaries that

enclosed it. To the east and west this was formed by existing tree belts and to the south by the A697 road. They acknowledged that the access track to the north edge of the group, and southern boundaries of the plots, was a relatively recent construction but were content that it constituted a distinct and defensible edge to the building group, that should not be breached.

The Review Body contended that the sites, and any dwellinghouses erected thereon, would appear to project into the open countryside, into an undeveloped field and would not be well related to the character and pattern of building in the group. The Review Body concluded that the proposals would not constitute suitable or appropriate additions to the building group and were therefore contrary to Policy D2 of the Local Plan and the advice set out in the supplementary planning guidance note.

The Local Review Body having concluded that the application did not comply with the Development Plan, considered whether there were any other material considerations that should be given weight in the decision making process. Members noted that a Section 50 Agreement (now Section 75) was in force on the land that restricted further development. They considered that the reasons why such an agreement had been entered into were still relevant and were comfortable that the planning policy and context had not changed sufficiently in the intervening period (since 1991) for this to influence their consideration of the application.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

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.....
Chairman of the Local Review Body

Date.....