

**SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY INTENTIONS 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: 23/00023/RREF

Planning Application Reference: 22/01947/FUL

Development Proposal: Erection of dwellinghouse with detached garage

Location: Land South of Headshaw Farmhouse, Ashkirk, Selkirk

Applicant: Mrs Nancy Margaret Hunter

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 intention notice subject to conditions and the applicants entering into a Section 75, or other suitable Legal Agreement, as set out below.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse with detached garage on land south of Headshaw Farmhouse, Ashkirk. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	073P-01
Proposed Site Plan	873P-02
Proposed Plans	873P-03
Proposed Elevations	873P-04
Proposed Elevations	873P-05
3D View	873P-06
Proposed Plans & Elevations	873P-07
Other	Sequential Plan

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 14th August 2023.

After examining the review documentation at that meeting, which included a) Submission by Officer on New Information; b) Notice of Review; c) Decision Notice; d) Officer's Report; e) Papers referred to in Officer's Report; f) Additional Information; g) Consultation Replies and g f) List of Policies; the Review Body noted that new evidence had been submitted which related to annotated aerial images and photographs. This information was not in front of the Appointed Officer at the time of determination. After consideration, Members agreed that this information was new, met the Section 43B test and that it could be considered, given it was material to the applicant's case and, therefore, to the determination of the Review. Comment on the new information was sought from the Planning Officer.

The Review was, therefore, continued to the Local Review Body meeting on 20th October 2023 where the Review Body considered all matters, including the responses from the Planning Officer. Members then 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: the Scottish Borders Local Development Plan 2016 (LDP) and National Planning Framework 4 (NPF4). The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD2, HD2, HD3, EP1, EP2, EP3, EP13, IS2, IS3 IS7, IS9
- NPF4 Policies: 3, 4, 6, 9, 14, 17

Other Material Considerations

- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Trees and Development 2020
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Housing in the Countryside 2008
- SBC Supplementary Planning Guidance on Development Contributions 2022
- SBC Supplementary Planning Guidance on Landscape and Development 2020
- SBC Supplementary Planning Guidance on SUDS 2020

The Review Body noted that full planning permission was sought for the erection of a dwellinghouse with detached garage. Members noted that the site was laid to grass and generally sloped towards the southeast.

The Local Review Body considered the proposals against development plan policy provisions covering rural housing and placemaking, principally Policies HD2 and PMD2 of the LDP and Policies 17 of NPF4 as well as the SPG on Housing in the Countryside. The impact of the development on the greenfield site was considered against Policy 9 of NPF4.

Members noted that the appointed officer and the applicant agreed that there was a building group at Headshaw. Against the requirements of Section (A) Building Groups of Policy HD2, the Local

Review Body agreed that there was an identifiable building group at Headshaw which consisted of more than three residential properties. Under the scale of addition rule, Members were satisfied that the building group has the numerical capacity to accept further housing within the current local development plan period.

The Local Review Body proceeded to consider whether the site is well related to the sense of place of the building group and in keeping with its character. Members noted that this was the area of contention with the determination of the application. It was observed that existing properties within the group were located on the northern side of the access road **and** set behind mature hedging and trees.

The Local Review Body noted that the site fronts on to the access driveway and importantly its southwestern boundary is defined by a drystone dyke. Weight was given to the importance of this wall which was viewed to be a man-made boundary which formed an integral boundary to the building group. The LRB were satisfied that the plot was still close to other properties in the group and benefited from intervisibility to some of the existing houses, in particular with the 'The Bungalow' which lies directly opposite the site. In this case, the LRB were satisfied that the driveway was not the identifiable boundary of this building group, and the location of the site integrated with the sense of place and character of the building group provided that sufficient site landscaping and means of tree protection were agreed.

Members then turned their attention to the siting and design of the dwellinghouse. The LRB judged that the siting and single storey height of the proposal would not be visually dominant within the surrounding landscape with the rising land and mature planting to the north providing ample containment. The design of the house and garage was accepted to represent a high-quality development which respects the character of the rural environment and comply with relevant design requirements of NPF4 Policy 17 and Policies PMD2 and HD2 of the LDP. Members supported the proposed palette of external material finishes but owing to the siting of the development within the rural landscaping agreement of the precise specifications of the finishes were required to be agreed by condition.

Members moved on to consider other material matters covering access, parking, site services, biodiversity enhancements and developer contributions towards the Wavery Line. The Review Body were of the opinion that appropriate conditions and legal agreement could address each of these matters satisfactorily.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Polies HD2 and PMD2 of the Local Development Plan Policy 17 of NPF4 and relevant Supplementary Planning Guidance. The development was considered to be well related to an existing building group where the siting, scale and design of the proposal respected the character of the group and the visual amenity of the surrounding rural area. Consequently, the application was approved, subject to conditions and legal agreement.

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. No development shall commence until precise details including colour finish of the external building materials finishes shall be submitted for the written approval of the Planning

Authority and the development shall be implemented in accordance with the approved details.

Reason: To ensure that the development respects the character and visual amenity of the surrounding area.

3. 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.

4. 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 Planning Authority.

Reason: To ensure appropriate parking is provided for the new dwelling.

5. 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. trees to be retained within the site
- iii. existing landscaping features, hedgerows and trees to be retained, protected and, in the case of damage, restored
- iv. location and design, including materials, of walls, fences and gates
- v. soft and hard landscaping works
- vi. existing and proposed services such as cables, pipelines, sub-stations
- vii. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

6. No development shall commence until a Biodiversity Enhancement plan has been submitted to and agreed in writing with the Planning Authority and thereafter the development shall be undertaken in accordance with the approved details unless otherwise agreed with the Planning Authority.

Reason: To enhance the ecological interest in accordance with Local Development Plan policies EP3 and NPF4 Policy 3.

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 S Mountford
Chairman of the Local Review Body

Date 7 November 2023