

**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:** 23/00038/RREF

**Planning Application Reference:** 23/00508/FUL

**Development Proposal:** Erection of dwellinghouse

**Location:** Land East of Dunedin Lodge, Crossrig, Berwick-Upon-Tweed

**Applicant:** Aver Chartered Accountants

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## **DECISION**

The Local Review Body upholds the decision of the appointed officer and refuses planning permission as explained in this decision notice and on the following grounds:

1. The development is contrary to policy HD2 (Housing in the Countryside) of the Local Development Plan 2016 because it would not be well related to any existing building group, would break into an undeveloped field with strong natural boundaries, and no other supporting justification has been made. The development gains no support from policy 17 of National Planning Framework 4. This conflict with the development plan is not overridden by any other material considerations.
2. The proposed development is contrary to Local Development Plan 2016 policy ED10 (Protection of Prime Quality Agricultural Land and Carbon Rich Soils) and National Planning Framework 4 policies 5 (Soils) and 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) as it would result in the permanent loss of greenfield, prime quality agricultural land without any necessary exceptional justification.

## **DEVELOPMENT PROPOSAL**

The application relates to the erection of a dwellinghouse on land west of land East of Dunedin Lodge, Crossrig. The application drawings and documentation consisted of the following:

<b>Plan Type</b>	<b>Plan Reference No.</b>
Location Plan	A.57,647
Location Plan	A.57,647L 1

## **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 23rd October 2023.

After examining the review documentation at that meeting, which included a) Notice of Review; b) Decision Notice; c) Officer's Report; and d) List of 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: 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: PMD1, PMD2, ED10, HD2, HD3, EP1, EP2, EP3, EP7, EP13, IS2, IS7, IS9
- NPF4 Policies: 1, 2, 3, 4, 5, 6, 7, 9, 13, 14, 15, 16, 17, 18, 20, 23

### **Other Material Considerations**

- SBC Supplementary Planning Guidance on Householder Development 2006
- SBC Supplementary Planning Guidance on Planning Guidance 2005
- SBC Supplementary Planning Guidance on Development Contributions 2011 (Updated 2023)
- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Privacy and Amenity 2006
- SBC Supplementary Planning Guidance on Placemaking and Design 2010
- SBC Supplementary Planning Guidance on Trees and Development 2008

The Review Body noted that planning permission in principle was sought for the erection of a dwellinghouse. Members noted that the site was located at the corner of an existing field which is accessed via a minor public road which connects Sunwick and Fishwick.

The Local Review Body considered the proposals against development plan policy provisions covering rural housing and prime quality agricultural land, principally Policies HD2 and ED10 of the LDP and Policies 17 and 5 of NPF4 as well as the SPG on Housing in the Countryside.

The LRB firstly considered whether there was a building group in the vicinity under Clause A of Policy HD2. Members accepted that there was an identifiable building group at this location. Under scale of addition rules, Members accepted that that the group had the capacity for further residential development within the current LDP period.

Members then considered the relationship of the site with the group and whether it was within the group's sense of place and in keeping with its character. Members noted that Dunedin Lodge directly to the west of the site had been separately developed on economic requirement grounds for a retiring farmer and not as a building group addition. After deliberation, the LRB determined that the building group was restricted to the four Sunwick Farm Cottage to the east where the public road acted as the identifiable boundary of the group. The proposal was also judged to represent the incursion into an undeveloped field and whilst it was adjacent to Dunedin Lodge, this property was not viewed to form part of the building group. The site was found to be located on the opposite side of the road of the group where it fell outwith the groups sense of place. Furthermore, the triangular shape of the site coupled with the need to retain mature trees would make its development awkward where it would likely jar with the otherwise linear character of the group.

The Local Review Body concluded that the site was not an appropriate addition to the building group and was contrary to Policy HD2, Policy 17 of NPF4 and the relevant Supplementary Planning Guidance on housing in the countryside. The Review Body also noted that there had been no economic justification advanced for the need for the site under Part F of Policy HD2.

The Review Body noted that the site was allocated as Prime Quality Agricultural Land (PQAL) in the LDP which is covered by Policy ED10 of the LDP and Policy 5 of NPF4. The proposed development was not identified to meet any of the exceptional forms of development which are supported to be undertaken on PQAL by both policies. Members concluded that the development would result in the unjustified loss of PQAL which conflicted with development plan policy provision on PQAL.

The Local Review Body noted material matters covering access, parking, archaeology, land, contamination, site services and developer contributions. As Members did not consider that the proposal was an acceptable rural housing development, these issues did not influence their final decision.

## **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. Consequently, the application was refused for the reasons stated above.

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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** 7 November 2023