

**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 2013**

Local Review Reference: 23/00039/RREF

Planning Application Reference: 23/00509/FUL

Development Proposal: Erection of dwellinghouse

Location: Land Northeast of Alba Cottage, Fishwick Berwick-Upon-Tweed

Applicant: Aver Chartered Accountants

DECISION

The Local Review Body upholds and varies 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 policies 1, 2 and 17 of National Planning Framework 4 and PMD1 and HD2 of the Local Development Plan 2016 because it would constitute unsustainable, sporadic housing development in the open countryside, unrelated to any existing building group and would be out of keeping with the character of the area. This conflict with the development plan is not overridden by any other material considerations.

DEVELOPMENT PROPOSAL

The application relates to the erection of a dwellinghouse on land Northeast of Alba Cottage, Fishwick. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	A.57,647c
Location Plan	A.57,647L 4

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; e) Additional Information and f) 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, ED5, HD2, HD3, EP1, EP2, EP3, IS2, IS7, IS9
- NPF4 Policies: 1, 2, 3, 4, 5, 6, 9, 13, 14, 15, 16, 17, 18, 23

Other Material Considerations

- Proposed Local Development Plan 2020: Policy ED5 Regeneration
- SBC Supplementary Planning Guidance on Biodiversity 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 hardcore had been laid and stanchions erected in relation to previous works at the site.

The Local Review Body considered the proposals against development plan policy provisions covering rural housing and brownfield land, principally Policies HD2 and ED5 of the LDP and Policies 9 and 17 of NPF4 as well as the SPG on Housing in the Countryside.

Members observed that a building group of at least three existing houses was not identifiable at this location. The proposal was not determined to represent a rural housing development which complied with Building Group addition policy requirement of Policy HD2. Members considered the proposal against all other sections of Policy HD2 and concluded that the development failed to comply with any of the forms of rural housing development promoted by Policy HD2 of the LDP.

The Local Review Body considered whether the proposal could be supported against NPF4 Policy 17 as the suitable reuse of brownfield land and LDP Policy ED5 as a regeneration opportunity. Although the site been partially developed some years ago, these works were unauthorised. The application was considered to be an opportunistic proposal that does not align with the development opportunities promoted by Policy 9 of NPF4 which focused on reusing land which is no longer required for its original development purposes and where the

previous development had not related to unlawful development operations. Furthermore, the development of a house in this location was not considered to respect the character of the rural area which is a fundamental requirement of criteria a) of Policy 17 of NPF4.

The Local Review Body noted that part of the reason the application was refused was due to its car dependency as a result of its rural location which was perceived to be unsustainable. Members accepted that the development would generate vehicle movements. However, the number of movements would not be disproportionate to the number of vehicle movements associated with other housing developments within rural parts of the Scottish Borders. Members determined that 'car dependency' concerns should be removed from the reason for refusal.

The Local Review Body noted material matters covering access, parking, 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.

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 6th December 2023