

SCOTTISH BORDERS COUNCIL
LOCAL REVIEW BODY

MINUTE of MEETING of the LOCAL REVIEW
BODY held in Council Headquarters, Newtown St.
Boswells on 15 February 2016 at 10.00 a.m.

Present:- Councillors R. Smith (Chairman), M. Ballantyne, J. Brown J. Campbell,
I. Gillespie, S. Mountford, B. White.
Apologies:- Councillor J. Fullarton, D. Moffat.
In Attendance:- Lead Officer Plans and Research, Solicitor (G. Nelson), Democratic Services
Team Leader, Democratic Services Officer (F. Walling).

1. **REVIEW OF APPLICATION 15/01034/FUL**

There had been circulated copies of the request from Mrs Patricia Crippin, per Erich Planning & Property Consultants, 40 Belgrave Road, Edinburgh, to review the decision to refuse the planning application in respect of the erection of a dwellinghouse on land west of Craigerne Coach House, Edderston Road, Peebles. Included in the supporting papers were the Notice of Review, Decision Notice, officer's report of handling, consultations and a list of relevant policies. The Local Review Body considered two pieces of new evidence that had been submitted with the Notice of Review: (i) a sketch showing the appearance of the proposed house; and (ii) information relating to a change of ownership of the site. After taking legal advice and subsequent discussion Members concluded that reference could be made to item (i) as it was considered material to the determination of the case; and to (ii) because the new information could not have been received earlier and was considered material to the determination of the case. Members discussed the capacity of the site for the proposed development; the appearance of the new retaining wall at the boundary of the site; the relevance of the change of ownership of the site to the issue of trees and landscaping requirements relating to permission for the adjoining Coach House development; and in particular the impact of the proposed development on the setting of the character and design of the Coach House development.

VOTE

Councillor Brown, seconded by Councillor Mountford, moved that the decision to refuse the application be upheld.

Councillor Gillespie, seconded by Councillor Ballantyne, moved as an amendment that the decision should be overturned and the application approved.

On a show of hands Members voted as follows:

Motion - 5 votes
Amendment - 2 votes

The motion was accordingly carried.

Following the decision to uphold the refusal of the application the Chairman queried the position regarding the retaining wall which had already been constructed. Mr Johnston advised that the applicant could apply for planning permission for the wall and this would allow the need for the wall to be properly considered. Should planning permission ultimately be refused then appropriate enforcement action would be taken. Members agreed that investigation of the need for the wall be referred to the Planning Officer.

DECISION

AGREED that:-

- (a) the request for a review had been competently made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997;**
- (b) in accordance with Section 43B of the Town and Country Planning (Scotland) Act 1997 the review could be determined with reference to the new evidence submitted with the Notice of Review documentation;**
- (c) the review could be considered without the need for any further procedure on the basis of the papers submitted;**
- (d) the proposal would be contrary to the Development Plan and that there were no other material considerations that would justify departure from the Development Plan;**
- (e) the officer's decision to refuse the application be upheld for the reasons detailed in the Appendix to this Minute; and**
- (f) the matter of the retaining wall be referred to the Planning Officer for further investigation.**

The meeting concluded at 11.35 am

APPENDIX

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: 16/00001/RREF

Planning Application Reference: 15/01034/FUL

Development Proposal: Erection of dwellinghouse

Location: Land west of Craigerne Coachhouse, Edderston Road, Peebles

Applicant: P Crippin

DECISION

The Local Review Body (LRB) upholds the decision of the appointed officer and refuses planning permission for the reasons set out in this decision notice on the following grounds:

The application is contrary to Policies G1, G7 and NE4 of the Scottish Borders Consolidated Local Plan 2011 in that the proposed development would represent a cramped form of development, out of character with this part of Edderston Road. The proposed house would result in an overdevelopment and significant reduction, of an area of ground which is required for landscaped and wooded setting for the approved Craigerne Coachhouse development, resulting in an inappropriate congested appearance between the development and Edderston Road, providing insufficient space for new and replacement planting, undermining the retention of preserved trees and being out of character with the design of the Coachhouse development and the traditional houses in the area.

DEVELOPMENT PROPOSAL

The application relates to the erection of a house on land to the west of Craigerne Coachhouse in Peebles. The application drawings consisted of the following drawings :

Plan Type	Plan Reference No.
Planning Supporting Statement	
Site photographs	
Elevations	2014/12/104
Site Plan	2014/12/102A
Floor Plan	2014/12/103
Location Plan	2014/12/101

PRELIMINARY MATTERS

The Local Review Body considered at its meeting on 15th February 2016 that the Review had been made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation at that meeting, which included: a) Notice of Review and accompanying papers; b) Decision Notice; c) Officer's Report; d) Consultations and e) List of policies, the LRB concluded that it had sufficient information to determine the review and proceeded to consider the case. In coming to its conclusion the LRB considered the request from the applicants for a site inspection.

Within the Notice of Review it was noted that new material had been submitted. These were :

- 1) An artist's 3D sketch of the house showing its relationship with the Coachhouse and how it related to other features within the site. Although it was accepted that this sketch was not part of the application proposal and there seemed little reason as to why this had not been included within it, it was considered that this sketch provided useful information that was a material consideration for decision making purposes. Consequently Members decided it could be considered as part of the Review in accordance with Section 43B of the Town and Country Planning (Scotland) Act 1997.
- 2) New information had also been submitted by the appellants stating that the Coachhouse and the appeal site were now in separate ownership and consequently the planning condition attached to the Coachhouse consent which required landscaping to be carried out could not be applied to the appeal site. Members noted that when the appeal site application was submitted the owner, Glentress Homes, owned both the sites. It was assumed the new owner had only recently taken over the site, although the appellants' appeal statement did not state who the new owner was. Members decided that given it appeared the ownership had recently changed this information could not have been raised earlier and as material information to the decision making process could be considered as part of the Review in accordance with Section 43B of the Town and Country Planning (Scotland) Act 1997.

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: SESplan Strategic Development Plan 2013 and the consolidated Scottish Borders Local Plan 2011. The LRB considered that the most relevant of the listed policies were:

- Local Plan policies : G1, G7 and BE4

The proposed Local Development Plan 2013 had now been agreed by the Scottish Borders Council and is awaiting confirmation of adoption by Scottish Ministers. Reference was made to the corresponding policies within the proposed Plan. It was agreed that these corresponding policies within the proposed Plan did not raise any new material considerations in respect of this proposal.

Members noted that consent was initially granted for alterations and extensions to the Coachhouse which was a B listed building at the time. Works were carried out in an unauthorised manner and a retrospective application was submitted to rectify the deviations. The applicants then applied to

have the building delisted. This was ultimately agreed by Historic Scotland and Members agreed that in essence this meant that any impacts on the Coachhouse could not now be considered in terms of it being a listed building.

The issue of ownership of the site was discussed and there was concern that there was no identification as to who the new owner of the site was, and that this apparent sale of the land allegedly prevented landscaping being carried out on the appeal site as desired by the planning case officer in terms of the existing Coachhouse consent. Debate ensued as to whether or not further information should be sought in order to confirm who the new owners of the land were. However, it was decided that this was not necessary and there was sufficient information for members to determine the proposal without this confirmation.

Members noted the relationship between the proposed house and the new western wing on the Coachhouse and raised no issues in terms of overlooking or any detrimental impacts on privacy or amenity.

Members noted that the planning officer and landscape architect had reservations regarding the physical practicalities of planting 5no proposed trees on the northern part of the site. It was noted that one of the proposed trees was to replace a mature tree covered by a Tree Preservation Order which had been removed. On this part of the site there is only some 6 to 7 metres between the proposed house and the mutual northern boundary and some services had also been installed in this area which would raise some conflict with tree root systems. This raised issues as to how successful the proposed landscaping would be. Reference had been made in the Council's landscape architect response to "BS5837 : 2012 - Trees in relation to design, demolition and constructions", and members accordingly considered this document. Members noted table A.1 within BS5837: 2012 which suggested safety distances new trees should be planted from services and buildings. Reference was made to future issues when the trees grew and that lopping or topping of trees may be required should the house be permitted in the location proposed. This would be a particular issue for the replacement TPO tree which should not be subject to measures which would prevent its natural growth. Members noted that the planning case officer stated that any tree planting should have been carried out first rather than the proposed house being built first which consequently dictated what landscaping may or may not be possible to be carried out.

The submitted site plan and photographs of the site were discussed in detail. Members considered that the proposal would represent a cramped form of development out of character with this part of Edderston Road and that it would detract from the setting, context and rural aspect of the Coachhousehouse. Some stated that even if the Coachhouse was not there they would still consider the proposal to be overdevelopment of the site.

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...Councillor R Smith
Chairman of the Local Review Body

Date...2nd March 2016
