

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**Town and Country Planning (Development Management Procedure) (Scotland) Regulations
2013****Application for Planning Permission****Reference : 15/01079/FUL****To : Mr & Mrs David & Jane Gordon per David Jane Architects Bank House Innerleithen Scottish
Borders EH44 6HA**

With reference to your application validated on **10th September 2015** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Replacement windows**at : 5 High Street Innerleithen Scottish Borders EH44 6HA**

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, subject to the following direction:

- That the development to which this permission relates must be commenced within three years of the date of this permission.

And subject to the conditions on the attached schedule imposed by the Council for the reasons stated

**Dated 22nd February 2016
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed.....
Chief Planning Officer

APPLICATION REFERENCE : 15/01079/FUL**Schedule of Plans and Drawings Approved:**

Plan Ref	Plan Type	Plan Status
13011-LOC	Location Plan	Approved
13011-101	Elevations	Approved
13011-E-101	Existing Elevations	Approved

REASON FOR DECISION

The application, with appropriate condition, complies with Development Plan Policies on replacement windows and impacts on residential amenity in that the window replacements are of acceptable design and the flue proposal can be prohibited by condition.

SCHEDULE OF CONDITIONS

- 1 The consent is only for the replacement windows and not for the proposed flue.
Reason: The application has failed to adequately demonstrate that the erection of the proposed flue would not have significant detrimental impacts on nearby residential amenity through transmission of smoke nuisance.

FOR THE INFORMATION OF THE APPLICANT

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.

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. A form is enclosed with this decision notice for this purpose.

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.

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning 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 require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, 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 may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 15/01079/FUL

APPLICANT : Mr & Mrs David & Jane Gordon

AGENT : David Jane Architects

DEVELOPMENT : Replacement windows

LOCATION: 5 High Street
Innerleithen
Scottish Borders
EH44 6HA

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
13011-LOC	Location Plan	Approved
13011-101	Elevations	Approved
13011-E-101	Existing Elevations	Approved

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

Environmental Health:

Assessment of Application

Air quality
Nuisance

This is an application to install replacement windows and a flue.

The documents lodged in connection with the Application indicate the provision of a solid fuel appliance.

These have the potential to cause smoke and odour problems if not properly installed and maintained.

The plans indicate that the flue will discharge below the level of windows in adjacent premises.

Recommendation

Delete as appropriate - Object.

Objection maintained after successive meetings and submissions made by applicant.

Innerleithen and District Community Council: Response awaited.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Consolidated Local Plan 2011

Policy G1 Quality Standards for New Development
Policy H2 Protection of Residential Amenity
Policy BE4 Conservation Areas
Policy D4 Renewable Energy

"Replacement Windows and Doors" SPG

Recommendation by - Craig Miller (Lead Planning Officer) on 2nd November 2015

These works relate to a shop/office property which fronts onto the High Street in Innerleithen, restricted to the rear part of the building adjoining the R Smail Printing Works along Leithen Crescent. The proposals relate to the erection of a grey powder coated metal flue serving a proposed internal stove and replacement of two windows with uPVC units.

The windows are in compliance with Development Plan Policy and Supplementary Planning Guidance on replacement windows within a Conservation Area. Neither current window unit is traditional sash and one is totally concealed to public view on the west facing wall of the office building. Replacement with white uPVC casement units would not be of any consequence to the character of this part of the building or the Conservation Area and consent can be granted for them.

The flue proposal causes no significant aesthetic issues as the proposal is for a grey coloured modest flue emerging from the hipped roof of the office and terminating just above office ridge. Whilst visible from Leithen Crescent, the flue would be a maximum of two metres in length and its grey colour and minimal projection above the ridge of the office roof means that there is no Conservation Area reason to oppose it.

However, the flue serves a solid fuel appliance inside the office and the response from Environmental Health has been one of objection, despite several additional submissions from the applicant. The EHO, who quite often will merely request an Applicant Informative, believes that this proposal is likely to give rise to insurmountable smoke complaint due to the level of venting and the location of neighbours' residential window openings. The applicant has attempted to display that the impacts would not be as severe by proposing a raising of the flue by one further metre, stating that residential properties are not downwind of the prevailing wind and providing a HETAS guarantee of safe installation of such a stove and flue. These subsequent submissions and a meeting with Environmental Health have not dissuaded them from a sustained objection. Had there been support for a one metre raising of the flue, then the revised plans would have needed to be the subject of a new planning application and a fresh assessment of the impact on the Conservation Area and visual amenity carried out. The taller the flue, the greater the impact from Leithen Crescent and the greater the impact on the amenity of the Conservation Area.

As any additional raising of the flue is likely to be opposed on visual amenity grounds and as one metre is not sufficient to allow removal of the EHO objection, this element of the application cannot be supported. Based upon the guidance from the EHO, it would be likely to convey smoke and air pollution issues to nearby windows, even allowing for the fact that the premises seeking the flue are commercial shop/office premises which would only be likely to be seeking heating during office hours. However, if there is a demonstrable problem with lack of flue height and proximity of residential windows, then restrictions in operating hours are an unsatisfactory patch over a more fundamental problem.

Policies H2 and D4 do require works to protect residential amenity. Whilst H2 is more in relation to visual and audible issues of amenity, D4 certainly requires micro-renewables to respect and protect residential amenity. Given that Environmental Health sustain their objection on the basis of an apparently irresolvable air pollution likelihood, Local Plan Policy D4 would not be complied with. The revised plan was tabled in draft form but also not accepted - so the original application drawings should be used for a decision on this application. As there is another element of the proposals that is acceptable (the replacement windows), the application should not be refused as this would deny an important and acceptable element of the proposals. The application will be approved with a condition denying the external flue on the grounds of protection of residential amenity.

REASON FOR DECISION :

The application, with appropriate condition, complies with Development Plan Policies on replacement windows and impacts on residential amenity in that the window replacements are of acceptable design and the flue proposal can be prohibited by condition.

Recommendation: Approved subject to conditions

- 1 The consent is only for the replacement windows and not for the proposed flue.
Reason: The application has failed to adequately demonstrate that the erection of the proposed flue would not have significant detrimental impacts on nearby residential amenity through transmission of smoke nuisance.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.

