

APPENDIX II

**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: 19/00003/RREF

Planning Application Reference: 18/01462/FUL

Development Proposal: Replacement windows

Location: Sunnybrae, Midlem

Applicant: Mrs Joan McKay

DECISION

The Local Review Body reverses the decision of the appointed officer and grants planning permission for the reasons set out in this decision notice subject to the conditions as set out below.

DEVELOPMENT PROPOSAL

The application relates to replacement windows to a dwellinghouse. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	
Elevations	27205 PL01
Window Schedule	
Window Section	
Photographs X 5	

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 18 March 2019.

After examining the review documentation at that meeting, which included: a) Notice of Review; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report and e) List of Policies,

the Review Body noted the applicant's suggestion for a site visit but did not consider this necessary after viewing photographs and plans of the property and surroundings. They proceeded to consider and determine the Review.

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 Scottish Borders Local Development Plan 2016. The LRB considered that the relevant listed policies were:

- Local Development Plan Policies: PMD1, PMD2 and EP9

Other Material Considerations

- SBC Supplementary Planning Guidance on Replacement Windows and Doors 2015

The Review Body noted that the proposal was for planning permission to replace windows to a dwellinghouse at Sunnybrae, Midlem. Members noted that the property was located within Midlem Conservation Area and the southern elevation was within the Prime Frontage part of the Conservation Area, as defined in the Replacement Windows and Doors SPG. Members considered that whilst there should be full regard to the prevailing window types and materials in this part of the Conservation Area and that the normal expectation would be for timber, they noted that the SPG did not prohibit the use of uPVC provided the design of the replacement units was closely matching and there was justification in terms of surrounding window types. They also considered that the use of modern window materials in general would be of benefit in terms of energy efficiency and maintenance.

After considering the information submitted with the Review, including a sample of the woodgrain effect uPVC, Members felt that the proposals were a close match for the existing timber sash and case and that there was sufficient variety in surrounding window types, pattern and materials, to enable them to consider that the specific uPVC finish was acceptable in this instance, subject to agreement on the actual design detail of the windows.

The Review Body went on to discuss the design details and noted, in particular, that the proposed dormer window pattern did not replicate the existing two over two pattern and that there was insufficient information on the frame or astragal thickness and profile of all windows. However, they considered these matters could be agreed by condition to ensure that the finished windows were as close a match as possible to the timber units they were replacing. They had no issue with the replacement casement units to the rear kitchen window, given the concealed nature of the location.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with the Development Plan and that there were no other material considerations that would justify departure from the Development Plan. Consequently, the application was approved.

DIRECTIONS

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.

CONDITIONS

1. No development to be commenced until further details of the window frames, externally visible frame thickness and external astragals are submitted to, and approved in writing by, the Planning Authority. The development then to proceed in accordance with the approved details.
Reason: To protect the character of the property and the visual amenity of Midlem Conservation Area.
2. Notwithstanding what is shown on the approved Window Schedule, no development to be commenced until further details of the astragal pattern within the front dormers, which should replicate the existing, are submitted to, and approved in writing by, the Planning Authority. The development then to proceed in accordance with the approved details.
Reason: To protect the character of the property and the visual amenity of Midlem Conservation Area.

INFORMATIVES

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 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 T. Miers
Chairman of the Local Review Body

Date.....25 March 2019

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