

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**Town and Country Planning (Development Management Procedure) (Scotland) Regulations  
2013**

**Application for Planning Permission**

**Reference : 16/00753/FUL**

**To : Mark Deans 64 Weensland Road Hawick Scottish Borders TD9 9NX**

With reference to your application validated on **24th June 2016** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : Change of use from rugby club to public house and external re-decoration**

**at : Hawick YM RFC 3 Orrock Place Hawick Scottish Borders TD90HQ**

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 17th November 2016  
Planning and Regulatory Services  
Environment and Infrastructure  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed**



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**Chief Planning Officer**

**APPLICATION REFERENCE : 16/00753/FUL****Schedule of Plans and Drawings Approved:**

| <b>Plan Ref</b> | <b>Plan Type</b> | <b>Plan Status</b> |
|-----------------|------------------|--------------------|
| 1 R/C           | Elevations       | Approved           |
| 2               | Location Plan    | Approved           |
| 3               | Specifications   | Approved           |
| 4               | Photos           | Approved           |
| 5               | Elevations       | Approved           |

**REASON FOR DECISION**

The proposals to change the use of the building to a public house and for external re-decoration, subject to conditions, complies with policies PMD2, PMD5, ED3, HD3, EP9 and IS8 of the Scottish Borders Local Development Plan 2016 in that the proposal would not harm the character or appearance of the Conservation Area, the visual amenities of the area or significantly harm residential amenities.

**SCHEDULE OF CONDITIONS**

- 1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.  
Reason: To ensure that the development is carried out in accordance with the approved details.
- 2 Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 - 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2.  
Reason: To protect the residential amenity of nearby properties.
- 3 All plant and machinery shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.  
Reason: To protect the residential amenity of nearby properties.
- 4 The function room not to be used, open or accessible to members of the public/patrons until full details of a ventilation system for the function room have been submitted to, approved in writing by the Planning Authority and installed in accordance with the approved details. These details to include an external elevation drawing of the building showing the units in place, details of the ducting required and the specification of the units. The door to the function room to be locked whilst the public house is open to members of the public/patrons and a "no entry" sign placed on the door. These measures to be kept in place until the approved ventilation system has been installed.  
Reason: To protect the residential amenity of nearby properties.

**FOR THE INFORMATION OF THE APPLICANT**

It should be noted that:

- 1 SEPA recommend the use of flood resistant and resilience materials and design in transforming the property from rugby club to public house. They also recommend that the applicant investigates the availability of flood insurance cover since the property is considered to be in an area of high risk.

As access and egress to the development may also be affected by flood waters, in order to receive flood warnings from SEPA, the applicant should sign up to FLOODLINE at [www.sepa.org.uk](http://www.sepa.org.uk) or by telephone on 0845 988 1188.

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, 4<sup>th</sup> 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 :** 16/00753/FUL

**APPLICANT :** Mark Deans

**AGENT :**

**DEVELOPMENT :** Change of use from rugby club to public house and external re-decoration

**LOCATION:** Hawick YM RFC  
3 Orrock Place  
Hawick  
Scottish Borders  
TD9 0HQ

**TYPE :** FUL Application

**REASON FOR DELAY:**

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**DRAWING NUMBERS:**

| <b>Plan Ref</b> | <b>Plan Type</b> | <b>Plan Status</b> |
|-----------------|------------------|--------------------|
| 5               | Elevations       | Approved           |
| 1 R/C           | Elevations       | Approved           |
| 2               | Location Plan    | Approved           |
| 3               | Specifications   | Approved           |
| 4               | Photos           | Approved           |

**NUMBER OF REPRESENTATIONS: 1**

**SUMMARY OF REPRESENTATIONS:**

- o Noise nuisance due to the opening times and lack of noise insulation;
- o Flooding damage.

**CONSULTATIONS:**

Roads Planning Service: Whilst I have no objections to the principles of this proposal, it is not a simple no objections. We have previously raised concerns regarding the lack of parking provision for licenced premises elsewhere in Hawick and this is no different. There is no dedicated parking proposed for the property, although there is parking in close proximity. There is some immediately outside the property, within 150m at the Common Haugh and there is also limited restricted on-street parking opposite the property. Our previous concerns were also related to a business which had more restaurant facilities, hence would be more likely to attract customers in a vehicle. As this proposal appears mainly to be for a pub, it is likely (though not exclusively) to attract pedestrian custom. Taking all of the above into consideration, and its town centre location, I will not object to the proposal.

Flood Protection Officer: In terms of information that this Council has concerning flood risk to this site, I would state that The Indicative River, Surface Water & Coastal Hazard Map (Scotland) known as the "third generation flood mapping" prepared by SEPA indicates that the site is at risk from a flood event

with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year.

Review of the SEPA flood hazard map shows the site is at risk of fluvial flooding from the River Teviot and River Slitrig. Notwithstanding the above, this is a small scale development that is unlikely to have a significant effect on the storage capacity of the flood plain or affect local flooding issues.

As access and egress to the development may also be affected by flood waters, should approval be given, I would recommend that, to receive flood warnings from SEPA, the applicant signs up to FLOODLINE at [www.sepa.org.uk](http://www.sepa.org.uk) or by telephone on 0845 988 1188. I would also recommend that the applicant adopts water resilient materials and construction methods as appropriate in the development as advised in PAN 69.

Environmental Health: There is no indication if food is to be prepared and served on the premises, no details of the ventilation to be used in the function room, of delivery times for the premises, on the type of entertainment system to be installed or whether the premises will be used for the playing of amplified music, signing or playing of electrical instruments. The applicant should provide this information.

Re-consultation: The applicant has yet to provide information on the ventilation to be used in the function room. The applicant should provide this information. The applicant has stated deliveries will most likely take place during working hours on Fridays. The applicant should provide information on what these working hours are.

Re-consultation: The applicant has stated he intends to ventilate the function room with two wall split air conditioning units. Conditions are required.

Hawick Flood Protection Scheme: No response.

SEPA: We have no objection to the proposed development on flood risk grounds. The development is at a significant risk of flooding but the proposed change of use is not regarded as a significant change in vulnerability.

Hawick Community Council: No response.

#### APPLICANT'S SUPPORTING INFORMATION:

- o The building was used as a pub until the YM Rugby Club changed the usage to a club 10 years ago.
- o The building would be changed back to a public house and no alterations are proposed other than redecoration and painting the front grey.
- o A sign is proposed in the same position as the existing sign.
- o Part time jobs will be created and the proposal will benefit the town.
- o Environmental Health has advised on how to control noise levels.

#### PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

PMD2: Quality Standards  
PMD5: Infill Development  
ED3: Town Centres and Shopping Development  
HD3: Protection of Residential Amenity  
EP9: Conservation Areas  
IS7: Parking Provisions and Standards  
IS8: Flooding

Supplementary Planning Guidance:

Guidance on Householder Developments July 2006  
Placemaking and Design January 2010

**Recommendation by** - Julie Hayward (Lead Planning Officer) on 17th November 2016

#### Site and Proposal

The premises was the Hawick YM RFC club but is now vacant and is on the ground floor of a three storey building situated within the Hawick Conservation Area. The ground floor frontage is stone and the remainder of the building has dry dash rendered walls, with timber cladding on the front gable, and a slate roof.

There are flats on the first and second floor and a three storey building containing flats adjoining to the north. The electricity substation is to the south together with the three storey rear elevation of no.4 Buccleuch Street. There is an area of car parking in front of the building accessed from Sandbed (the A7). The properties opposite are all in commercial use at ground floor level with residential above. There is a pedestrian access to the rear along the southern boundary of the property. The premises are single storey to the rear and the Royal mail sorting office is beyond the rear yard.

The proposal is to convert the ground floor of the property from clubrooms to a public house. Although the property was a public house previously the planning history for the site indicates that it has been used by the rugby club for over ten years. Planning permission is required as the use as private clubrooms falls within Class 10: Assembly and Leisure of the Use Classes Order as the club was a private members club and a public house is Sui Generis, not falling within any use class, and used by all members of the public.

The layout drawing shows that there was a main clubroom, pool room, beer store, stage, toilets and function room. No internal alterations are proposed other than redecoration. The external window frames and doors would be painted Deep Fossil grey; this has already been done.

A new fascia sign is proposed for the front elevation of the building. This would be grey aluminium with silver lettering.

#### Planning Policy

The site is situated within the town centre, as defined in the Scottish Borders Local Development Plan 2016. Policy ED3 states that the Council will seek to develop and enhance the role of town centres and supports a wide range of uses appropriate to a town centre. Town centre developments will be approved provided that the character, vitality, viability and mixed use nature of the town centre will be maintained and enhanced. The Council will encourage the use of town centres during the evening provided that residential amenity is protected.

Policy ED3 encourages a mix of uses within the town centre including leisure and entertainment uses. The property was once a public house and public houses are a common feature in Hawick town centre. The proposal would result in the use of a vacant building. In these respects, the proposal complies with policy ED3.

Policy PMD5 encourages the re-use of buildings within settlement boundaries provided certain criteria are met. These will be addressed within this report. One criterion is that the proposal does not conflict with the established land use of the area. This part of Hawick is characterised by a mix of uses, including retail, restaurants, residential and take aways. It is considered that the proposal would be in keeping with the mixed use nature of the surrounding area.

#### Design and Impact on the Conservation Area and Visual Amenities

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development. Policy PMD5 requires that the development respects the scale, form, design, materials and density of its surroundings; the individual and cumulative effects of the development should not lead to over-development or town cramming; the proposal should not detract from the character and amenity of the surrounding area.

Policy EP9 states that the Council will support development proposals within or adjacent to Conservation Areas which are located and designed to preserve and enhance the special architectural or historic character and appearance of the Conservation Area, respecting the scale, proportions, alignment, density, materials and boundary treatments of nearby buildings and open spaces.

The only external alterations to the building were to paint the doors and window frames grey. This work has been done and has improved the appearance of the building. The proposed sign would be small in scale and installed above the entrance door. It would be illuminated by the existing down lighters.

The proposal would not harm the character or appearance of the Conservation Area or the visual amenities of the area.

#### Flooding

Policy IS8 of the Local Development Plan advises that as a general principle, new development should be located in areas free from significant flood risk and developments will not be permitted if it would be at significant risk of flooding or would materially increase the probability of flooding elsewhere. The ability of flood plains to convey and store flood water should be protected.

SEPA advises that the property is located within the 0.5% AP (1:200) flood extent of the SEPA Flood Map and is considered to be at a significant risk of flooding from the Rivers Teviot and Slitrig. The property is located close to the confluence of the two rivers. The property is also close to the Albert Bridge which has a local impact on high river levels in the River Teviot. A partial blockage of this bridge by tree debris during a flood event could further raise flood levels in this area.

The existing rugby club is at a significant risk of flooding however the change from a rugby club to a public house is not viewed by SEPA as a significant change in vulnerability provided that it is not used at any time for residential accommodation. They recommend that flood resistant and resilient materials are used in any internal construction works. This advice would be included in an applicant informative. The Council's Flood Protection Officer has no objections to the proposal.

#### Impact on Residential Amenities

Policy ED5 states that the development should not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking. Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. Advice on light and privacy is contained within the Supplementary Planning Guidance: Guidance on Householder Developments July 2006.

No extensions or new openings would be formed that would affect the light or privacy of occupiers of neighbouring properties.

Public houses have the potential to cause noise nuisance in respect of late opening hours, noise from customers within and leaving the pub late at night and amplified music. There are residential properties above and adjoining the property.

Environmental Health has requested additional information in respect of how the premises would be operated and noise mitigation measures have been requested from the applicant.

The applicant has confirmed that food will not be prepared or served on the premises. There are old vents in the function room which were for an old heating system which is no longer operational. There will be a juke box in the main bar which will be used to play background music and amplified music will be played in the function room. Delivery times will be between working hours, most likely on a Friday.



Environmental Health was satisfied with this information but require details of a ventilation system for the function room. They are concerned that the fire door to the rear or windows would be opened to provide ventilation during a function which would then result in noise nuisance occurring to local residents. Following a meeting on site with Environmental Health Officers and the applicant details of the ventilation system have been submitted. However, the applicant has failed to demonstrate that the system itself, which would be fitted to the external rear wall of the property, would comply with Environmental Health's recommended noise levels.

To date no amended scheme has been submitted. The applicant, however, is keen to finish the alterations to the building so that the public house can open before Christmas and has requested that a condition be attached to the planning permission for the proposal that the function room is not used until details of the ventilation system have been submitted, agreed by the Planning Authority and installed. The applicant has advised that the door to the function room would be locked during the hours that the public house is open to the public and a no entry sign would also be displayed.

There are two concerns with this approach; firstly the applicant may use the function room without adequate ventilation especially over the Christmas period when the demand for its use would be higher than normal. Secondly, there may be a risk that an adequate ventilation system cannot be found within the applicant's price range and then the function room cannot be used.

The condition requested by the applicant would allow the decision to be issued for this application. This condition should also require the door to the function room to be locked to ensure that the function room is closed-off to members of the public/patrons. All noise levels will be conditioned in accordance with Environmental Health's requirements. It would then be possible to pursue enforcement action or action under Environmental Health legislation should the conditions be breached.

In terms of noise from the public house from patrons and amplified music, Environmental Health has advised that they are unable to specify noise limits for patron noise. This would be addressed through Licencing, Environmental Health legislation or would be a police matter should it be an issue once the site is operational.

In light of the above advice, this issue has been tested as robustly as possible through the planning process and a condition on noise levels for the public house is not possible; any noise complaints would be pursued via other legislation.

#### Access and Parking

Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards. Policy PMD5 requires that adequate access and servicing can be achieved.

No dedicated on-site parking is proposed but there is public parking in front of the building, restricted on-street parking and the Common Haugh car park is nearby.

The Roads Planning Service had previously raised concerns regarding the lack of parking provision for licenced premises elsewhere in Hawick and this is no different. As this proposal appears mainly to be for a pub, it is likely (though not exclusively) to attract pedestrian custom. Taking this into account, and the town centre location, they do not object to the proposal.

#### **REASON FOR DECISION :**

The proposals to change the use of the building to a public house and for external re-decoration, subject to conditions, complies with policies PMD2, PMD5, ED3, HD3, EP9 and IS8 of the Scottish Borders Local Development Plan 2016 in that the proposal would not harm the character or appearance of the Conservation Area, the visual amenities of the area or significantly harm residential amenities.

**Recommendation:** Approved - conditions & informatives

- 1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.  
Reason: To ensure that the development is carried out in accordance with the approved details.
- 2 Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 - 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2.  
Reason: To protect the residential amenity of nearby properties.
- 3 All plant and machinery shall be maintained and serviced in accordance with the manufacturer's instructions so as to stay in compliance with the aforementioned noise limits.  
Reason: To protect the residential amenity of nearby properties.
- 4 The function room not to be used, open or accessible to members of the public/patrons until full details of a ventilation system for the function room have been submitted to, approved in writing by the Planning Authority and installed in accordance with the approved details. These details to include an external elevation drawing of the building showing the units in place, details of the ducting required and the specification of the units. The door to the function room to be locked whilst the public house is open to members of the public/patrons and a "no entry" sign placed on the door. These measures to be kept in place until the approved ventilation system has been installed.  
Reason: To protect the residential amenity of nearby properties.

### Informatives

It should be noted that:

- 1 SEPA recommend the use of flood resistant and resilience materials and design in transforming the property from rugby club to public house. They also recommend that the applicant investigates the availability of flood insurance cover since the property is considered to be in an area of high risk.

As access and egress to the development may also be affected by flood waters, in order to receive flood warnings from SEPA, the applicant should sign up to FLOODLINE at [www.sepa.org.uk](http://www.sepa.org.uk) or by telephone on 0845 988 1188.

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