

APPENDIX I

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: 20/00004/RREF

Planning Application Reference: 19/01784/FUL

Development Proposal: Part change of use from garage/storage and alterations to form workshop and storage for joinery business

Location: Buccleuch Hotel, Trinity Street, Hawick

Applicant: Mr Stephen Cranston

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 and subject to conditions.

DEVELOPMENT PROPOSAL

The application relates to part change of use from garage/storage and alterations to form workshop and storage for a joinery business. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	19-673-1003
Existing Site Plan	19-673-1001
Existing Plans & Elevations	19-673-1002
Proposed Site Plan	19-673-2001 rev A
Proposed Elevations	19-673-2002 rev A
Proposed Sections & Elevations	19-673-3002 rev A
Project Specification	19-673-3003
Proposed Ground and First Floor Layouts	19-673-4001

PRELIMINARY MATTERS

The Local Review Body initially considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 25th May 2020. After examining the review documentation at that meeting, which included a) Notice of Review and associated documents; b) Decision Notice; c) Officer's Report; d) Papers referred to in Officer's Report; e) Consultations; f) Representation and g) List of Policies, the Review Body considered that, in view of the applicant's declared longer-term intention of converting the two upper floors to residential or retail use, further information was required about the construction of the workshop in terms of materials to mitigate against the impact of noise breakout into those areas. Members also noted that the Ecology Officer had sought further information, specifically a survey for bats, ahead of the determination of the planning application and this information was also, therefore, required before the Review could be considered.

The Review was, therefore, continued to the Local Review Body meeting on 17th August 2020 when the Review Body considered the further information relating to a bat and breeding bird survey, and drawings and statements from the applicant relating to noise suppression measures between the proposed use, upper and adjoining floors of the building. Members also considered the responses to this information from the Ecology and Environmental Health Officers and then proceeded to 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, PMD5, ED2, ED3, HD3, EP1, EP2, EP16, IS1 and IS7

Other Material Considerations

- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Waste Management 2015
- SBC Supplementary Planning Guidance on Biodiversity 2005

The Review Body noted that the proposal was for planning permission to part change of use from garage/storage and alterations to form workshop and storage for a joinery business

Members firstly considered the location of the site and noted that it was a proposal for employment use outwith designated business or industrial land and should be assessed primarily against Policy ED2. The Review Body also noted the location of the site within the defined town centre area under Policy ED3. Taking into account all the circumstances of the case and noting the applicant's submissions and photographs of the site and surroundings, Members were of the opinion that the area was of mixed use and that the proposal would be generally compatible with the surrounding uses, thus complying with Policy ED2. It was also

considered that the use pattern was changing over time in the area and that the site could be considered to be consistent with uses encouraged within the defined town centre.

The Review Body were particularly concerned that the building had been subdivided a number of years ago, was empty and could fall further into disrepair unless a new use was found and encouraged. In this respect, they welcomed the proposal which also would benefit the economy of the area through creation of employment and business space. They also noted the support of the Economic Development Officer towards the proposals. Members concluded that the proposal was compliant with Policies ED2 and ED3 for these reasons.

The Review Body recognised that there may be potential noise impacts on the surroundings which, whilst mixed, did contain existing and proposed residential properties. In that regard, they noted the Appointed Officer's concerns over potential residential amenity impacts and the additional sound suppression information submitted by the applicant. They noted that the information had led to an objection from the Environmental Health Officer who, in the absence of a Noise Impact Assessment, could not accept the potential noise impacts on surrounding residential property.

Whilst Members had been reassured by the various noise suppression measures outlined by the applicant and noted that the use of the upper floors was still to be the subject of a future planning application, they accepted the advice of the Environmental Health Officer that a Noise Impact Assessment was still necessary. It was determined that this could be required by condition, seeking its submission and agreement before the development commenced, with any mitigation then being put in place before the commencement of the use itself. In this way, the Review Body were content that Policies PMD2 and HD3 would be complied with in terms of residential amenity.

The Review Body finally considered the issue of bats and breeding birds at the site. They noted the findings of the submitted survey and the comments of the Ecology Officer who felt that bat and breeding bird interests could be addressed by conditions. They agreed that appropriate conditions should be attached to control these issues.

CONCLUSION

After considering all relevant information, the Local Review Body concluded that the development was consistent with Policies PMD2, ED2, HD3 and EP1 of the Local Development Plan and relevant Supplementary Planning Guidance. The proposal represented an appropriate use within a mixed commercial and residential area and potential impacts on surrounding uses could be minimised through conditions including noise assessment and mitigation. Consequently, the application was approved.

DIRECTION

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 shall commence until a scheme of external materials (including specifications and samples of materials, colours and window details), has first been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: To ensure external materials are visually appropriate to the development and sympathetic to the surrounding area.

2. Prior to the commencement of development, the developer shall provide to the Planning Authority:
 - a. a copy of the relevant European Protected Species licence, or written confirmation that works can be carried out under a Bat Low Impact Licence, or
 - b. a copy of a statement in writing from Scottish Natural Heritage (licensing authority) stating that such a licence is not necessary for the specified development

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP1 and EP3.

3. Prior to the commencement of development, the developer shall submit for approval in writing by the Planning Authority written confirmation that the Species Protection Plan for bats, as outlined in the *Bat and Breeding Bird Survey, Buccleuch Hotel, Hawick, Findlay Ecology Services, July 2020* shall be implemented in full. Thereafter, no development shall take place except in strict accordance with the outlined Species Protection Plan.

Reason: To protect the ecological interest in accordance with Local Development Plan policy EP3.

4. No development shall be undertaken during the breeding bird season (March to August), unless the developer submits for approval in writing by the Planning Authority written confirmation that the detailed Species Protection Plan for breeding birds, as outlined in the *Bat and Breeding Bird Survey, Buccleuch Hotel, Hawick, Findlay Ecology Services, July 2020* shall be implemented in full. Thereafter, no development shall take place except in strict accordance with the approved plan.

Reason: To protect the ecological interest in accordance with Local Development Plan policies EP2 and EP3.

5. Notwithstanding the terms of Class 5 of The Town and Country Planning (Use Classes) (Scotland) Order 1997, this consent is only for the use of the premises for joinery workshop and storage and not for any other use within Use Class 5 or any other Use Class.

Reason: To protect surrounding residential amenity.

6. No development to be commenced until a Noise Impact Assessment is submitted to, and approved in writing by the Planning Authority. The use not to be commenced until all sound attenuation measures are implemented in accordance with the approved Assessment and the use then operated in accordance with any controls and mitigation identified.

Reason: To protect surrounding residential amenity.

7. No development to be commenced until a scheme of waste storage is submitted to, and approved in writing by, the Planning Authority. The scheme then to be implemented and operated in accordance with the approved details.

Reason: To ensure adequate provision of waste storage and to safeguard the amenity of the area.

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 Regulation 22 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2013.

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
Acting Chairman of the Local Review Body

Date.....21 August 2020

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