

**NOTICE OF REVIEW**

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Failure to supply all the relevant information could invalidate your notice of review.**

Use **BLOCK CAPITALS** if completing in manuscript

**Applicant(s)**

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

**Agent (if any)**

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

Mark this box to confirm all contact should be through this representative:

\* Do you agree to correspondence regarding your review being sent by e-mail?

Yes No

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application  Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

**Nature of application**

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

**Reasons for seeking review**

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

**Review procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

**Site inspection**

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- |  | Yes                                 | No                       |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land?                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

N/A

**Statement**

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Please see attached Appeal Statement and supporting material

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes

No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

N/A

**List of documents and evidence**

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

<ol style="list-style-type: none"><li>1. Planning Application Submission</li><li>2. Location Plan</li><li>3. Application Drawings</li><li>4. Supporting Statement and Correspondence</li><li>5. Planning Officer's Report</li><li>6. Decision Notice</li></ol>
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**Note.** The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

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**Checklist**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

**Note.** Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

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**Declaration**

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

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Date

*23/02/10*

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**The Completed form should be returned to the Head of Corporate Administration, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA.**

## Appeal Statement

### External alterations and erection of 4 No flagpoles

West Grove Waverley Road Melrose TD6 9SL  
Application Ref 15/01354/FUL

February 2016

#### 1.0 Introduction

Felsham Planning and Development is planning adviser to Rural Renaissance Ltd. We are instructed to submit an appeal following Scottish Borders Council's decision to refuse our client's application for *External alterations and erection of 4 No flagpoles* using its delegated powers.

The site lies just outside of, but adjacent to, the Conservation Area in Melrose, and fronts Cross Avenue, on the main approach to the town centre at Melrose from the north and west. The building was originally a Congregationalist Church.

The application was refused on 18th January 2016 for the following reason:

1. *The proposed development is contrary to Adopted Local Plan Policy G1 in that the erection of 4 no flagpoles would not in its scale (principally in the height and number of flagpoles featured) in culmination with its siting, be compatible with or respectful of, the character of the surrounding area and neighbouring built form.*

The Town and Country Planning (Scotland) Act requires full disclosure of an appeal case at the outset. The reasons for refusal cannot be added to or amended. Having regard to the above, we consider the main determining issues to be:

- Whether the proposed development is unusual and out of keeping in this location
- Whether there would be an *unacceptably adverse impact* on the character and appearance of the conservation area
- The policy test, both national and local, dealing with such impact
- The Council officer's assessment and reasoning and whether that is competent or reasonable.

#### 2.0 Planning Policy

The relevant development plan is the Consolidated Scottish Borders Local Plan 2011

Policy BE4 - Conservation Areas is criteria based policy. Its provisions are as follows:

- Development within or adjacent to the conservation area should not have an adverse impact on its character and appearance
- Development must be located to preserve and enhance the special character of the conservation area. It should accord with scale, proportion, density and alignment and boundary treatment of the conservation area
- Full consideration will be given to Scottish Historic Environment Policy (SHEP) when considering development in the conservation area

Policy G1 - Quality Standards for New Development is a criteria based policy and requires that new development should, inter alia:

- Be of a high quality and be designed to fit into the townscape
- Be compatible with the surrounding area and neighbouring uses
- Be satisfactorily accommodated within the site
- Able to allow for contemporary or innovative design
- Incorporate hard and soft landscaping
- Provide appropriate boundary treatments
- Be of a scale, mass and density compatible with the surrounding area

- Colours, textures and materials should complement surrounding architecture

**Policy G7 - Infill Development.** This policy states that, inter alia, development should not detract from the established land use or the character and appearance of the surrounding area. Scale, materials, form and density should be appropriate to its surroundings.

**Policy H2 - Protection of Residential Amenity** states that development should be compatible with a residential area and that visual impact will be a consideration.

Regard must also be had to the Scottish Government's statement on planning policy contained within SPP (Revised). Paragraph 137 states that the planning system should:

*Enable positive change in the historic environment which is informed by a clear understanding of the importance of heritage affected....change should be sensitively to avoid or minimise adverse impacts on the fabric and setting of the asset and ensure that its special characteristics are protected, conserved and enhanced*

Paragraph 141 deals with listed buildings and conservation areas and states:

*...the materials...scale and setting...of any development which will affect the setting of a listed building or conservation area...should be appropriate to the character and appearance of the building or conservation area...*

Therefore, the recently published SPP has clarified the policy test, which is development appropriate to the conservation area. The Local Plan contains a presumption in favour of alterations subject to no adverse impact on the character of the building and those alterations being in keeping with the building. In our view, the nature of the proposed use should not impact on the character of the conservation area.

The Scottish Historic Environment Policy (SHEP) sets out Scottish Ministers' policies, providing direction for Historic Scotland and a policy framework that informs the work of a wide range of public sector organisations. Paragraph 2.37 states that conservation areas are defined as 'areas of special architectural or historic interest. Paragraph 2.44 states:

*2.44. Once an area has been designated, it becomes the duty (see Note 2.23) of the planning authority and any other authority concerned, including Scottish Ministers, to pay special attention to the desirability of preserving or enhancing the character and appearance of the area when exercising their powers under the planning legislation and under Part I of the Historic Buildings and Ancient Monuments Act 1953, the character or appearance of which it is desirable to preserve or enhance.*

### 3.0 Basis for Determination of a Planning Application

The Town & Country Planning (Scotland) Act requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The same principles apply to an appeal. We set out below the basis for determining a planning application and we then consider the reasons for refusal against the prescribed methodology.

The House of Lords in its judgement in the City of Edinburgh Council v Secretary of State for Scotland case 1998 (SLT120) ruled that if a proposal accords with the Development Plan and no other material considerations indicate that it should be refused, planning permission should be granted. It ruled that:

*Although priority must be given to the Development Plan in determining a planning application, there is built in flexibility depending on the facts and circumstances of each case.*

This judgement sets out a clear approach to determining a planning application and clarifies how the development should be used:

1. Identify any provisions of the Development Plan that are relevant to the decision.
2. Interpret them carefully looking at the aims and objectives of the plan as well as the detailed wording of policies.
3. Consider whether or not the proposal accords with the Development Plan.
4. Identify and consider relevant material considerations for and against the proposal.
5. Assess whether these considerations warrant a departure from the Development Plan.

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The determining authority must first consider whether the proposal accords with the development plan. It is important to consider not only the detailed wording of policy, but the aims and objectives of the policy maker. If a proposal is considered to accord with the development plan, it follows that consent should be granted unless any site specific matters preclude consent.

The House of Lords has ruled that material considerations must satisfy two tests:

1. They must be planning considerations, in other words, they must have consequences for the use and development of land or the character of the use of the land; and
2. They must be material to the circumstances of the case and they must relate to the proposed development.

In assessing this proposal we believe that it is also relevant to refer to have regard to Tesco Stores v. Dundee [2012] PTSR 983 case. Paragraph 18 of the Dundee decision states:

*The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by the planning authority in its decision making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and the planning authority...the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, whilst allowing a measure of flexibility to be retained.*

Paragraph 19 continues:

*The development plan should be interpreted objectively in accordance with the language used...that is not to say that such statements should be construed as if they are statutory or contractual provisions. Although a development plan has a legal status and legal effects it is not analogous in its nature or purpose to a statute or contract...development plans are full of broad statements of policy many of which may be mutually irreconcilable, so that in a particular case one must give way to another...many of the provisions of the development plan are framed in language whose application to a given set of facts requires the exercise of judgement. Such matters fall within the jurisdiction of planning authorities.*

The Court ruled that the interpretation of planning policy is a matter of law but the application of planning policy is a matter of planning judgment, therefore provided the planning authority demonstrates a proper understanding of policy in its reasoning it can proceed as it sees fit and weigh one policy against another and/or give weight to factors other than policy in its determination.

#### 4.0 Assessment

Having regard to the House of Lords methodology we note:

Identify any provisions of the Development Plan that are relevant to the decision – the relevant policy is that identified in the reasons for refusal, namely G1. There is no objection on the grounds of impact on the conservation area (BE4), infill development (G7) or residential amenity (H2)

Interpret them carefully looking at the aims and objectives of the plan as well as the detailed wording of policies – the aims and objectives of the development plan that are relevant to this proposal are to maintain the character and appearance of the conservation area; to protect residential amenity; and to ensure that the scale, design and materials that are used are appropriate to the area.

Consider whether or not the proposal accords with the Development Plan – There is no objection to the external alterations. The second reason for refusal attached to the previous planning consent has been removed. The only issue is whether the proposal satisfies the criteria of policy G1

Therefore, the wider alterations must be judged to be in accordance with the development plan and it is only the impact of the flagpoles that need to be considered.

It should be noted that prior to Rural Renaissance buying the site, NHS had approached SBC Planners and discussed the possibility of demolishing the building for housing to which SBC were agreeable in principle. Having regard to the Council's position regarding those discussions it can be deduced that the Council considers that this building and its associated fixtures and fittings do not have any significant meaning or purpose that contributes to the character and appearance of the conservation area.

In order to consider the flag poles in policy terms it is necessary to consider why the planning officer thought the development should be refused and to set his argument against wider policy considerations, in particular SHEP and SPP, which both anticipate that change is

inevitable in a conservation area. SPP contains a presumption in favour of positive change to the built environment. The test is no adverse impact; therefore, some change is anticipated. The officer accepts our argument that there is no impact on the conservation area.

The LRB on behalf of the Council has accepted the principle of the flagpoles, subject to resolving the details. In October 2015 it took two and a half hours to debate this matter and gave the applicant a firm direction on what to do to make the proposal acceptable. We believe that we have now prepared a scheme that addresses the concerns of the LRB, who stated in their deliberation that they wanted to provide an effective brief to ensure that a resubmitted application would be successful.

This is a former church. Its past use would have involved signs and notice boards outside. It would not have had a clear or uncluttered external appearance. Introducing flagpoles will not block a previously unobstructed view nor will it introduce clutter. Nevertheless, we have had regard to the comments made by the Planning Officer's report and the LRB and have moved the flagpoles from the front of the building and reduced the height so that they are comfortably below the 8m level the LRB considered acceptable.

The alterations to the building have been accepted, subject to the minor changes shown on the current applications, which would have been conditioned if the earlier application had been granted consent. Flagpoles do not make an irrevocable alteration to the appearance of the building and are a minor alteration. On the approach into the town and in all views of the building what will be seen is a large building that will be judged as having an historic ecclesiastical use with 4 flagpoles alongside. The flagpoles and the flags will not obscure the vision of the building and may heighten the perception of its historic importance to this part of Melrose, thus adding to the feeling of grandeur and spectacle around the building and its immediate surrounds not undermining the character and appearance of the conservation area.

The LRB in its previous decision gave a clear steer about what would be required to make the proposal acceptable. The required changes were:

- > Reduce height to 8m
- > Remove from the front of the building

These changes have been made. The officer's assessment is clearly contrary to the direction previously given by the LRB in October 2015. He considers 5.2m to be excessive. The LRB considered 8m would be acceptable.

Flagpoles are not an unusual or alien feature in a town and they are often associated with a church, particularly a non-established church, where flags and banners whether placed inside or outside the church are an important part of its ceremony and function. Whilst the use has changed the building remains unmistakably ecclesiastical and flags are not out of keeping with the perception people are likely to have of the building and the features they would expect to find outside such a building. Therefore, the flagpoles should not be judged as having an unacceptable harmful impact on the character of the conservation area.

The planning officer's report seems confused. It states:

*With respect to whether or not the revised flag poles proposal, per se, would otherwise be compatible with, and respectful of, the character of the surrounding area and neighbouring built form, positive regard can be had to the reduced height of the proposed flag poles relative to what was previously proposed. There are no concerns with respect to the principle of erecting 5.2m high flag poles at the site, but regard is necessarily still had to precisely where and how flag poles of this height would be accommodated on the site.*

The officer is accepting the arguments presented and appears to have no objection to either flag poles or the effect they may have on the conservation area. His view on height is at odds with the direction given by the LRB that 8m would be acceptable. As the officers present at the hearing will know the members sought to be helpful and give guidance to the applicant. Their comments are material to this application.

The officer then adopts an approach which can only be described as *splitting hairs*, as follows:

*At 5.2m in height, these poles are still in absolute terms, only reasonably characterised as being high structures within the context of this site and setting. Further, and at four in number, arranged in a row staggered at intervals of approximately half a metre from one another, and set back only around 1.5m from the site boundary with Waverley Road, these flag poles would be liable to have a cumulative visual impact that would be significant, particularly taking into account the immediacy of their proximity to the public road and the lack of any mitigation of their visual impact beyond the containment of their bases by the existing boundary fence.*

The officer accepts that the flagpoles are not high and there will be no impact on the character and appearance of the conservation area. He then appears to contradict his conclusion that the proposal is acceptable in terms of these elements by concluding that there will be a cumulative impact. If there is no impact on the character and appearance of the conservation area it follows that there can be no



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unacceptable cumulative impact. In the light of the clear steer given by the previous LRB consideration and the applicant's response to that advice by altering the proposals we are at a loss to understand why this officer maintains his objection.

The officer then states:

*Given that this siting would be detached some distance from the buildings within the employment site (and moreover, would be situated almost equi-distant between surrounding houses and the former church building), the flag poles would be liable to be viewed in isolation from the site's main buildings; particularly within views from closer proximity (notably from Waverley Road itself, and from within the vicinity of the junction at Tweedmount Road).*

It was the criticism that the flag poles would obscure the building that led to the LRB suggestion that they could be re-sited in a location such as this. The applicant has responded to a very clear steer they were given by LRB in October 2015 about what would be acceptable.

The officer further states:

*In these views, the installation would be liable to register visually, as an isolated, prominently-located, high group of structures, which would be significantly out-of-scale with their surroundings. This visual impact would be highly visible, unusual and incongruous. It would if anything, appear more civic than commercial in its inspiration, suggesting the context of a landmark, memorial or public space rather than an ancillary use of a salient area within the grounds of an office premises. It is considered that flags of the proposed height, would only be appropriately accommodated at a greater distance from the site boundary; and specifically within the interior of the site, ideally at lower level, in the vicinity of the car park, where any flags flown might still be visible from Waverley Road, but so sited, would be both capable of being more discreetly accommodated, in scale with their surroundings, and more intelligibly related to, and integrated within, the context of a business premises. It is also considered that a reduction in number from four flag poles to three or two, would more appropriately help maintain a scale more in keeping with an ancillary component of the business use.*

The officer clearly does not like the flagpoles and has, in our submission, allowed his own subjective judgement to inform his assessment rather than carrying out a systematic assessment against policy. The officer has not demonstrated:

- How or why an unacceptably harmful impact will arise
- Given consideration to the need to maintain prominent buildings in a beneficial use
- Assessed the flagpoles against the street furniture that would have been associated with the previous use
- Given any weight to the fact that flagpoles can be an iconic and attractive feature or given weight to the fact that the display of flags is long associated with buildings of many different kinds and that such display is not harmful or unusual
- Given any thought to the fact that the flying of flags is not restricted to civic or institutional buildings but has a long history of private use
- Given any consideration to the reasons for the flag poles, set out in our client's email to the officer (submitted with this appeal) or the controls our client intends to use (again set out in that email)

The only policy relevant to determination of this application is policy G1. It requires the following

- Be of a high quality and be designed to fit into the townscape – the officer accepts our argument that there is no impact on the character and appearance of the conservation area. Having reached that conclusion it cannot then be asserted that there will be a negative cumulative impact
- Be compatible with the surrounding area and neighbouring uses – this is a former church. The use for which it was built establishes its character. It is usual for a church building to have signs, noticeboards, and even flagpoles. The proposed flagpoles are not out of character
- Be satisfactorily accommodated within the site – the flagpoles have been re-sited to ensure no impact on the front of the building
- Able to allow for contemporary or innovative design – the wider proposals for the building are accepted by the Council
- Incorporate hard and soft landscaping – this is not relevant to this proposal because these elements already exist. Flagpoles are an acceptable item commonly associated with church buildings
- Provide appropriate boundary treatments – as noted above flagpoles are acceptable for this type of building

Therefore, we consider that the proposal complies with the development plan.

Identify and consider relevant material considerations for and against the proposal – Despite the alleged prominence of the site there were only 4 representations, two of which are in support. The consultation responses were as follows

- Roads Planning Section: has not responded but their response to the previous application was to state *I am content that the poles do not interfere with visibility sightlines for drivers exiting the site. No roads objections.*

- **Economic Development Section:** has no objections and supports the improvements proposed for the frontage of this building.

SPP gives weight to representations in the planning process. The lack of objections is a material consideration when set against the assertion made in the reason for refusal. Clearly the community and local residents i.e. those most affected do not share the planning officer's concerns.

To reiterate the case in support, Rural Renaissance wrote to the planning officer on 7<sup>th</sup> July 2015 to address issues raised in discussions, including the flying of flags. That submission remains relevant and was included in the papers for this application. It noted:

1. ***Flying of flags at West Grove compliments and supports the positive aspects of SBC's recent decision on flags:-***  
  
*All modern business organisations must be inclusive and flying flags helps us to promote this policy, the removal of these flags would inhibit this. SBC report supports this argument.*
2. ***Promotes Melrose and reflects positively on its community:-***  
  
*We have been flying flags at our Priorwood Offices for a number of years. Initially just recognising the national days of countries within the UK, more recently we have expanded this to include a number of countries around the globe that we have a connection with. This has proved very popular.*  
  
*Our welcome for the visiting teams at this year's Melrose 7s was retweeted by North Western University (South Africa) to their 10,600 followers. Not only did this promote Melrose and the Scottish Borders to an international audience, but promoted discussion within the town – as do most of our flags. Many people have told us they look to the Crawford's flags to see which national holiday it is! We share photographs of our flags on Facebook to enhance their reach. Our posts have a large, worldwide audience; one of our posts reached 3400 people, of which 1600 interacted with the post. This promotes the Borders – as a place to live, visit and do business.*  
  
*Melrose is a cosmopolitan community with visitors and residents hailing from all across the globe. These flags generate the welcoming and inclusive image.*  
  
*The flags are removed and raised every day and never has there been an incident of vandalism. They do not interfere with any views or pose any threat to the community, but contribute to the surroundings.*
3. ***Flags are commonly found in conservation areas, and are not limited to public or government buildings – banks, hotels and offices fly flags.***
4. ***We will not fly advertising banners from these poles, and as you have stated, this would require separate consent.***

Assess whether these considerations warrant a departure from the Development Plan – we believe that we have prepared a scheme that addresses the previous concerns and satisfies the requirements of the relevant policies. Therefore, the proposal is in accordance with the development plan.

## 5.0 Conclusion

Having regard to the reasons for refusal we conclude:

1. The council has not justified its policy objection. The building's established use, appearance and role and function are different from the surrounding area. The only issue is the erection of 4 flagpoles, which in our submission will be distinctive and attractive and will have a lesser impact than the street furniture associated with the historic use as a church
2. The alterations to the building are all considered acceptable. The flag poles do not make an irrevocable alteration to the appearance of the building and are a minor alteration. On the approach into the town and in all views of the building what will be seen is a large building church building with 4 flagpoles close to the boundary. The flagpoles and the flags will not obscure the vision of the building and may heighten the perception of its historic importance to this part of Melrose, thus adding to the feeling of grandeur and spectacle around the building and its immediate surrounds not undermining the character and appearance of the conservation area. The issue of the flag poles must be set against the wider benefits of continued occupation and use of this building.
3. Flagpoles are not an unusual or alien feature in a town and they are often associated with a church, particularly a non-established church, where flags and banners whether placed inside or outside the church are an important part of its ceremony and function. Whilst the use has changed the building remains unmistakably ecclesiastical and flags are not out of keeping with the perception people are likely to have of the building and the features they would expect to find outside such a building.

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Therefore, the flagpoles cannot be judged as having an unacceptable harmful impact on the character of the conservation area. That being the case in our submission there is no other sustainable objection to this proposal.

Having regard to the above, we conclude:

1. The proposal complies with the aims and objectives of planning policy and is therefore in accordance with the development plan
2. Material considerations support the proposal

For these reasons we conclude that there is no basis to support the reason for refusal and respectfully request that they be overturned and the appeal be granted.



Newtown St Boswells Melrose TD6 0SA

Tel: 01835 825251

Fax: 01835 825071

Email: [itsystemadmin@scotborders.gov.uk](mailto:itsystemadmin@scotborders.gov.uk)

Applications cannot be validated until all necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE                      000135349-002

The online ref number is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the Planning Authority about this application.

### Site Address Details

Planning Authority:

Full postal address of the site (including postcode where available):

Address 1:	<input type="text" value="OFFICE WEST GROVE"/>	Address 5:	<input type="text"/>
Address 2:	<input type="text" value="WAVERLEY ROAD"/>	Town/City/Settlement:	<input type="text" value="MELROSE"/>
Address 3:	<input type="text"/>	Post Code:	<input type="text" value="TD6 9SL"/>
Address 4:	<input type="text"/>		

Please identify/describe the location of the site or sites.

Northing	<input type="text" value="634260"/>	Easting	<input type="text" value="354106"/>
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### Applicant or Agent Details

Are you an applicant, or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this submission)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Cameron's Architects
Ref. Number:	
First Name: *	Hamish
Last Name: *	McAndrew
Telephone Number: *	01896753077
Extension Number:	
Mobile Number:	
Fax Number:	
Email Address: *	hamish.mcandrew@camerons .ltd.uk

You must enter a Building Name or Number, or both:\*

Building Name:	
Building Number:	1
Address 1 (Street): *	Wilderhaugh
Address 2:	
Town/City: *	Galeshiefs
Country: *	UK
Postcode: *	TD1 1QJ

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	
Other Title:	
First Name:	
Last Name:	
Company/Organisation: *	Rural Renaissance Limited
Telephone Number:	
Extension Number:	
Mobile Number:	
Fax Number:	
Email Address:	

You must enter a Building Name or Number, or both:\*

Building Name:	Priorwood
Building Number:	
Address 1 (Street): *	
Address 2:	
Town/City: *	Melrose
Country: *	United Kingdom
Postcode: *	TD6 9EG

## Case Number Details

Please provide the case number from the planning authority for the original application(s).

Case Number: \*

## Document Details

Please provide an explanation as to why the documentation is being attached after the original application was submitted: \* (Max 500 characters)

This is a re-submission following a refusal.

## Checklist - Post Submission Additional Documentation

Please complete the following checklist to make sure you have provided all the necessary information in support of your submission.

The additional documents have been attached to this submission \*

Yes  No

## Declare - Post Submission Additional Documentation

I/We the applicant/agent certify that this is a submission of Additional Documentation, and that all the information given in this submission is true to the best of my/the applicants knowledge.

Declaration Name: Hamish McAndrew

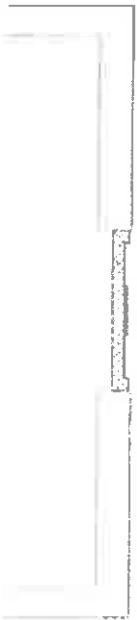
Declaration Date: 29/10/2015

Submission Date: 29/10/2015









PROPOSED ATTIC PLAN (1:1000)



ATTIC PLAN (EXISTING)



1:500



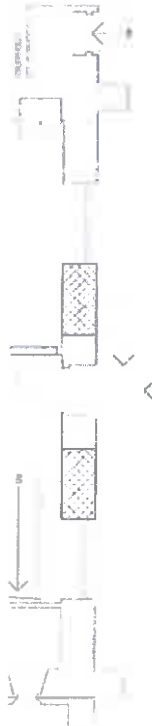
PROPOSED FIRST FLOOR PLAN (1:1000)



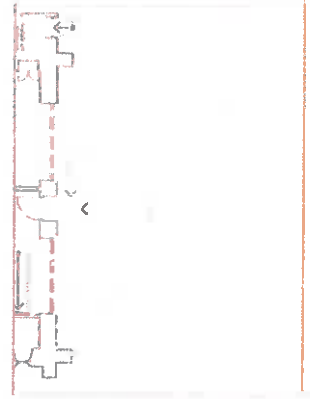
FIRST FLOOR PLAN (EXISTING)



1:500



PROPOSED GROUND FLOOR PLAN (1:1000)

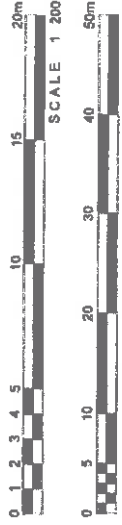


1:500

GROUND FLOOR PLAN (EXISTING)



EXISTING INTERIOR VIEW



--- DOWNTAKINGS SHOWN WITH DOTTED RED LINE



INFILL SHOWN WITH HATCH



1168 Northchurch  
 The Grove, Northchurch  
 Cambridge CB2 8LN  
 Tel: 01223 631856  
 www.camerons.co.uk  
 architecture

client: Rural Renaissance Limited

project: Westgrove, Weaverley Road  
 Melrose  
 TD6 9SL

title: Existing and Proposed Plans

scale: 1:100, 1:200 & 1:500  
 date: 21.10.15

client:  
 name: H&M

file: \\camerons\camerons\projects\9208\9208.dwg

number: 9208.2.03  
 rev: rev

development



PROPOSED FRONT ELEVATION



EXISTING FRONT ELEVATION

**MATERIAL KEY**

1. K-Rend Silicone FT Render - Arran.
2. Aluminium cladding (Dark Finish).
3. Vertical Sun. del.
4. Natural Stone.
5. Tempered Glass Door Canopy.
6. Intercom.
7. Aluminium Framed Glass Panel Door.
8. Aluminium Framed Glazing (Dark Finish).

architecture

design

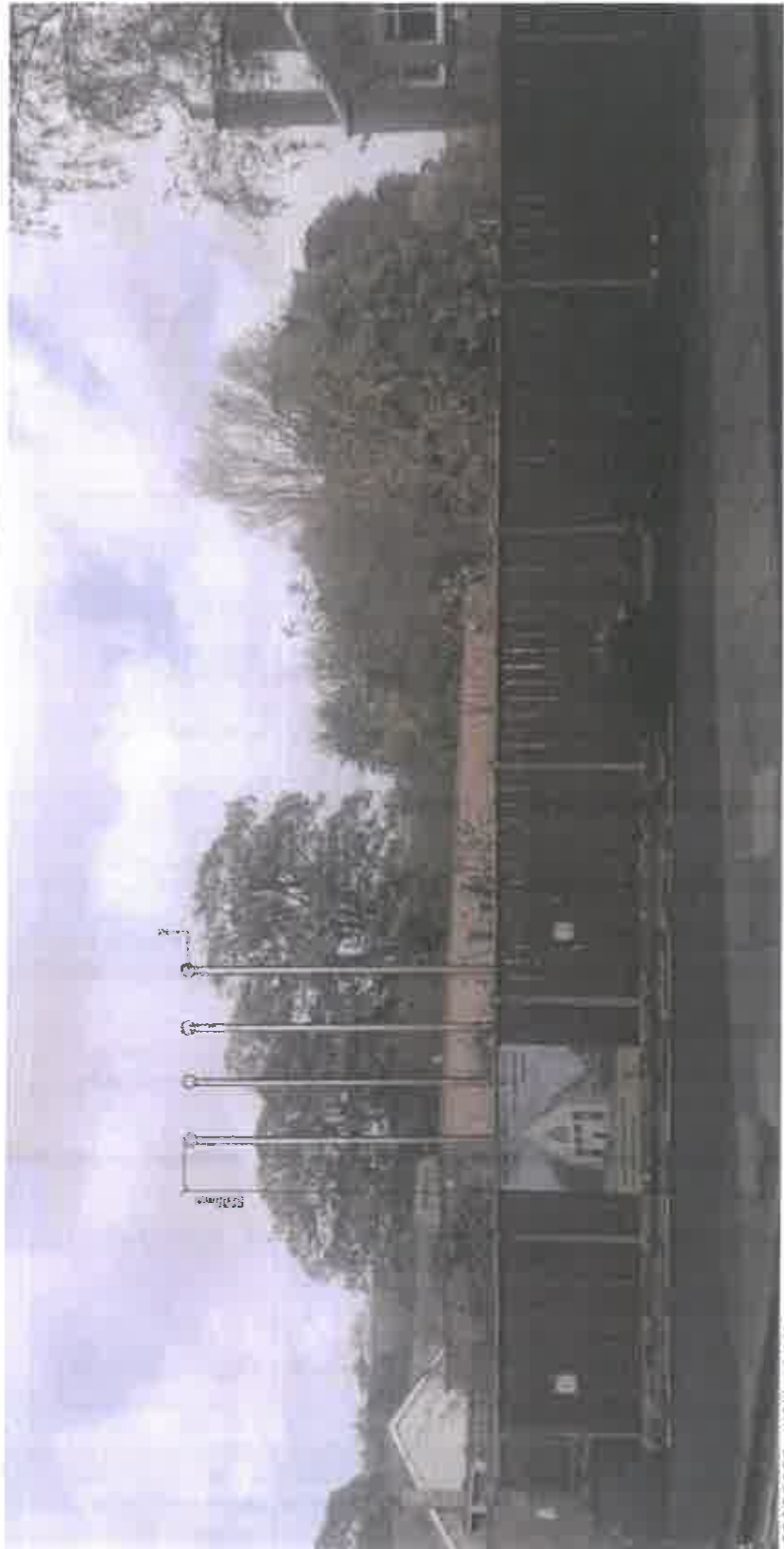
development

Westgrove  
 11 Parkside, South  
 24 3111 341 341 341  
 011 311 341 341 341

Westgrove  
 11 Parkside, South  
 24 3111 341 341 341  
 011 311 341 341 341

**camerons**

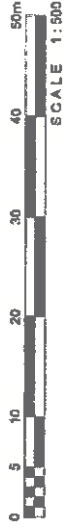
client	Rural Renaissance Limited
project	West Grove, Waverly Road Melrose TD6 9SL
title	Existing & Proposed Front Elevation
scale	NTS
date	21/01/15
drawn	HAM
file	09208.2.04
number	14



PROPOSED VIEW - 1:500



EXISTING VIEW



**MATERIAL KEY**

- 1. K Hard Fibrecrete CT Benches / Arches
- 2. Aluminium Doggals

**COMPANION**  
 10/11/2008  
 10/11/2008  
 10/11/2008  
 10/11/2008  
 10/11/2008  
 10/11/2008  
 10/11/2008

**COMPANION**

date	10/11/2008
drawn	JMM
file	1:500, 1:500, 30x2, 10x3
number	9208.2.02 - A

Director of Planning  
Scottish Borders Council  
Council Headquarters  
Newtown St Boswells  
Melrose  
TD6 0SA

23<sup>rd</sup> November 2015

Dear Sir,

**Application for External Alterations and Erection of 4 No Flagpoles**

**West Grove Waverley Road Melrose TD6 9SL, Rural Renaissance Ltd**

#### 1.0 Introduction

Felsham Planning and Development is planning adviser to Rural Renaissance Ltd. We are instructed to submit a supporting statement for *Application for External alterations and erection of 4 No flagpoles* at West Grove Waverley Road Melrose TD6 9SL.

The site lies just outside of, but adjacent to, the Conservation Area in Melrose, and fronts Cross Avenue, on the main approach to the town centre at Melrose from the north and west. The building was originally a Congregationalist Church.

An earlier application ref 15/00504/FUL was refused on 14<sup>th</sup> July 2015 for the following reasons:

1. *The proposed development is contrary to Adopted Local Plan policy G1 in that the erection of four flagpoles would not be compatible with or respectful of the character of the surrounding area or neighbouring buildings*
2. *The proposal is contrary to Adopted Local Plan policy BE4 in that the erection of 4 flagpoles would have an unacceptably adverse impact on the character and appearance of the conservation area as a consequence of the unusual character of this aspect of the development; its siting immediately adjacent to the conservation area; and the high visibility of the site, which would mean that the aforementioned impacts would go unmitigated*

This was subject to a Notice of Review, which was heard by the Local Review Body on 19<sup>th</sup> October 2015. The appeal was refused on a 3 to 2 vote. Councillor Ballantyne supported the principle of flagpole but was not convinced that 4 could be fitted into space in front of the building.

The Chair was at pains to state that the remainder of the proposal was supported. The principle of flagpoles is accepted but greater detail about how they fit onto site and impact on neighbours is required.

Councillors Fullerton and Mountford moved that the matter be deferred for further written submission or a hearing. They were out voted by Councillor Ballantyne coming down on the side of the chair but stating she accepts principle of flagpole.

The LRB decision notice dated 2<sup>nd</sup> November 2015 stated:

*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*

*LRB members noted the full extent of all parts of the application proposal, and whilst not located within the Conservation Area the application site immediately adjoined it. Some concerns were raised regarding the proposed colour of the external render and that details of the proposal sun dial were limited. However, it was considered that appropriately worded conditions could be attached to any consent issued requiring the agreement of an alternative render and the submission of further details for*

*approval regarding the sun dial. It was therefore not considered there would be any insurmountable issues to resolve these matters.*

*Members noted that information regarding the flagpoles was limited, particularly that no specific heights were stated and that it could only be estimated they would be between 8 and 9 metres taking cognisance of plan ref 9208.1.03 which suggests they may be approximately 1 metre above the existing lighting column on site.*

*Whilst having no general objections in principal to flagpoles, the LRB considered that in this specific instance their perceived overall heights, their prominent appearance due to their locations close to the roadside, their cluttered nature, the impact on the adjoining Conservation Area and that they were considered out of character with the residential area prevented members supporting the proposal. Although members considered that an alternative proposal for the siting and scale of the flagpoles could be more acceptable, members agreed that the application required to be judged as submitted.*

Account has been had to these comments in preparing the revised application submission, as follows:

1. Drawing ref 9208.02 shows the flagpoles relocated away from the front of the building. The flagpoles are 5.2m high, which is comfortably within the 8m height that the Local Review Body considered conditioning. The relocation addresses the LRB concern about visual clutter at the front of the building
2. Drawing ref 9208.04 illustrates the treatment of the frontage and drawing ref 9208.05 illustrates the treatment of the side elevation. These drawing address the points of detail raised by the LRB.

We consider the main determining issues to be:

- Whether the proposed development is unusual and out of keeping in this location
- Whether there would be an *unacceptably adverse impact* on the character and appearance of the conservation area
- The policy test, both national and local, dealing with such impact

## 2.0 Planning Policy

The relevant development plan is the Consolidated Scottish Borders Local Plan 2011.

Policy BE4 - Conservation Areas is criteria based policy. Its provisions are as follows:

- Development within or adjacent to the conservation area should not have an adverse impact on its character and appearance
- Development must be located to preserve and enhance the special character of the conservation area. It should accord with scale, proportion, density and alignment and boundary treatment of the conservation area
- Full consideration will be given to Scottish Historic Environment Policy (SHEP) when considering development in the conservation area

Policy G1 - Quality Standards for New Development is a criteria based policy and requires that new development should, inter alia:

- Be of a high quality and be designed to fit into the townscape
- Be compatible with the surrounding area and neighbouring uses
- Be satisfactorily accommodated within the site
- Able to allow for contemporary or innovative design
- Incorporate hard and soft landscaping
- Provide appropriate boundary treatments
- Be of a scale, mass and density compatible with the surrounding area
- Colours, textures and materials should complement surrounding architecture

Policy H2 - Protection of Residential Amenity states that development should be compatible with a residential area and that visual impact will be a consideration.

Regard must also be had to the Scottish Government's statement on planning policy contained within SPP (Revised). Paragraph 137 states that the planning system should:

*Enable positive change in the historic environment which is informed by a clear understanding of the importance of heritage affected....change should be sensitively to avoid or minimise adverse impacts on the fabric and setting of the asset and ensure that its special characteristics are protected, conserved and enhanced*

Paragraph 141 deals with listed buildings and conservation areas and states:

*...the materials...scale and setting...of any development which will affect the setting of a listed building or conservation area...should be appropriate to the character and appearance of the building or conservation area...*

Therefore, the recently published SPP has clarified the policy test, which is development appropriate to the conservation area. The Local Plan contains a presumption in favour of alterations subject to no adverse impact on the character of the building and those alterations being in keeping with the building. In our view, the nature of the proposed use should not impact on the character of the conservation area.

The Scottish Historic Environment Policy (SHEP) sets out Scottish Ministers' policies, providing direction for Historic Scotland and a policy framework that informs the work of a wide range of public sector organisations. Paragraph 2.37 states that conservation areas are defined as 'areas of special architectural or historic interest'. Paragraph 2.44 states:

*2.44. Once an area has been designated, it becomes the duty (see Note 2.23) of the planning authority and any other authority concerned, including Scottish Ministers, to pay special attention to the desirability of preserving or enhancing the character and appearance of the area when exercising their powers under the planning legislation and under Part I of the Historic Buildings and Ancient Monuments Act 1953, the character or appearance of which it is desirable to preserve or enhance.*

### 3.0 Basis for Determination of a Planning Application

The Town & Country Planning (Scotland) Act requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The same principles apply to an appeal. We set out below the basis for determining a planning application and we then consider the reasons for refusal against the prescribed methodology.

The House of Lords in its judgement in the City of Edinburgh Council v Secretary of State for Scotland case 1998 (SLT120) ruled that if a proposal accords with the Development Plan and no other material considerations indicate that it should be refused, planning permission should be granted. It ruled that:

*Although priority must be given to the Development Plan in determining a planning application, there is built in flexibility depending on the facts and circumstances of each case.*

This judgement sets out a clear approach to determining a planning application and clarifies how the development should be used:

1. Identify any provisions of the Development Plan that are relevant to the decision.
2. Interpret them carefully looking at the aims and objectives of the plan as well as the detailed wording of policies.
3. Consider whether or not the proposal accords with the Development Plan.
4. Identify and consider relevant material considerations for and against the proposal.
5. Assess whether these considerations warrant a departure from the Development Plan.

The determining authority must first consider whether the proposal accords with the development plan. It is important to consider not only the detailed wording of policy, but the aims and objectives of the policy maker. If a proposal is considered to accord with the development plan, it follows that consent should be granted unless any site specific matters preclude consent.

The House of Lords has ruled that material considerations must satisfy two tests:

1. They must be planning considerations, in other words, they must have consequences for the use and development of land or the character of the use of the land; and
2. They must be material to the circumstances of the case and they must relate to the proposed development.

In assessing this proposal we believe that it is also relevant to refer to have regard to Tesco Stores v. Dundee [2012] PTSR 983 [\[2012\] PTSR 983](#). Paragraph 18 of the Dundee decision states:

*The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by the planning authority in its decision making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and the planning authority...the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, whilst allowing a measure of flexibility to be retained.*

Paragraph 19 continues:

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*The development plan should be interpreted objectively in accordance with the language used...that is not to say that such statements should be construed as if they are statutory or contractual provisions. Although a development plan has a legal status and legal effects it is not analogous in its nature or purpose to a statute or contract...development plans are full of broad statements of policy many of which may be mutually irreconcilable, so that in a particular case one must give way to another...many of the provisions of the development plan are framed in language whose application to a given set of facts requires the exercise of judgement. Such matters fall within the jurisdiction of planning authorities.*

The Court ruled that the interpretation of planning policy is a matter of law but the application of planning policy is a matter of planning judgment, therefore provided the planning authority demonstrates a proper understanding of policy in its reasoning it can proceed as it sees fit and weigh one policy against another and/or give weight to factors other than policy in its determination.

#### 4.0 Assessment

Having regard to the House of Lords methodology we note:

Identify any provisions of the Development Plan that are relevant to the decision – the relevant policies are those identified above, namely G1, BE4, and H2.

Interpret them carefully looking at the aims and objectives of the plan as well as the detailed wording of policies – the aims and objectives of the development plan that are relevant to this proposal are to maintain the character and appearance of the conservation area; to support employment; protect residential amenity; and to ensure that the scale, design and materials that are used are appropriate to the area.

Consider whether or not the proposal accords with the Development Plan –the site lies on the edge of Melrose town centre and planning policy seeks a mix of uses within town centres. There is no objection to the building alterations. The planning officer has noted in his previous report that:

*The proposed external alterations to the building with respect to fenestration are an improvement upon the existing appearance in helping to restore a vertical emphasis. If the frames and detailing were finished in dark colours as indicated, this would be entirely beneficial in terms of the character and appearance of the building.*

*The proposed reinstatement of a sun dial in place of a clock-face raises no particular concerns in terms of what has been indicated, but the detail would be appropriately provided for prior approval since some recessed detail appears to be indicated but not described. This matter is capable of being addressed by planning condition.*

*Given the presence of render on the existing building, the proposed extension of this finish does not raise any concerns in principle.*

Therefore, these alterations must be judged to be in accordance with the development plan. It should also be noted that prior to Rural Renaissance buying the site, NHS had approached SBC Planners and discussed the possibility to demolishing the building for housing to which SBC were agreeable in principle. Having regards to the Council's position about those discussions it can be deduced that the Council considers that this building and its associated fixtures and fittings do not have any significant meaning or purpose that contributes to the character and appearance of the conservation area.

The Issue in this case relates to the impact on the character and appearance of the conservation area. SHEP and SPP both anticipate that change is inevitable in a conservation area. SPP contains a presumption in favour of positive change to the built environment. The test is no adverse impact; therefore, some change is anticipated.

The LRB on behalf of the Council has accepted the principle of the flagpoles, subject to resolving the details. We believe that we have now prepared a scheme that addresses the concerns of the LRB, who stated in their deliberation that they wanted to provide an effective brief to ensure that a resubmitted application would be successful.

This is a former church. Its past use would have involved signs and notice boards outside. It would not have had a clear or uncluttered external appearance. Introducing flagpoles will not block a previously unobstructed view nor will it introduce clutter. Nevertheless, we have had regard to the comments made by the Planning Officer's report and the LRB and have moved the flagpoles from the front of the building and reduced the height so that they are comfortably below the 8m level the LRB considered acceptable.

The alterations to the building have been accepted, subject to the minor changes shown on the current applications, which would have been conditioned if the earlier application had been granted consent. Flagpoles do not make an irrevocable alteration to the appearance

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of the building and are a minor alteration. On the approach into the town and in all views of the building what will be seen is a large building that will be judged as having an historic ecclesiastical with 4 flagpoles outside. The flagpoles and the flags will not obscure the vision of the building and may heighten the perception of its historic importance to this part of Melrose, thus adding to the feeling of grandeur and spectacle around the building and its immediate surrounds not undermining the character and appearance of the conservation area.

Flagpoles are not an unusual or alien feature in a town and they are often associated with a church, particularly a non-established church, where flags and banners whether placed inside or outside the church are an important part of its ceremony and function. Whilst the use has changed the building remains unmistakably ecclesiastical and flags are not out of keeping with the perception people are likely to have of the building and the features they would expect to find outside such a building. Therefore, the flagpoles should not be judged as having an unacceptable harmful impact on the character of the conservation area.

The LRB noted that the principle of flagpoles was acceptable and that the issue was the height and location. It was suggested that their deliberation would effectively provide a brief for the applicant to resubmit an application that is likely to be considered acceptable. We believe that the current proposal reflects the guidance given about a scheme that the LRB considered would be acceptable.

Therefore, we consider that the proposal complies with the development plan.

Identify and consider relevant material considerations for and against the proposal – there are no material considerations that would prevent the grant of planning permission.

To reiterate the case in support, Rural Renaissance wrote to the planning officer on 7<sup>th</sup> July 2015 to address issues raised in discussions, including the flying of flags. That submission remains relevant and noted:

1. *Flying of flags at West Grove compliments and supports the positive aspects of SBC's recent decision on flags:-*

*All modern business organisations must be inclusive and flying flags helps us to promote this policy, the removal of these flags would inhibit this. SBC report supports this argument.*

2. *Promotes Melrose and reflects positively on its community:-*

*We have been flying flags at our Priorwood Offices for a number of years. Initially just recognising the national days of countries within the UK, more recently we have expanded this to include a number of countries around the globe that we have a connection with. This has proved very popular.*

*Our welcome for the visiting teams at this year's Melrose 7s was retweeted by North Western University (South Africa) to their 10,600 followers. Not only did this promote Melrose and the Scottish Borders to an international audience, but promoted discussion within the town – as do most of our flags. Many people have told us they look to the Crawford's flags to see which national holiday it is! We share photographs of our flags on Facebook to enhance their reach. Our posts have a large, worldwide audience; one of our posts reached 3400 people, of which 1600 interacted with the post. This promotes the Borders – as a place to live, visit and do business.*

*Melrose is a cosmopolitan community with visitors and residents hailing from all across the globe. These flags generate the welcoming and inclusive image.*

*The flags are removed and raised every day and never has there been an incident of vandalism. They do not interfere with any views or pose any threat to the community, but contribute to the surroundings.*

3. *Flags are commonly found in conservation areas, and are not limited to public or government buildings – banks, hotels and offices fly flags.*

4. *We will not fly advertising banners from these poles, and as you have stated, this would require separate consent.*

Assess whether these considerations warrant a departure from the Development Plan – we believe that we have prepared a scheme that addresses the previous concerns and satisfies the requirements of the relevant policies. Therefore, the proposal is in accordance with the development plan.



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## 5.0 Conclusion

Having regard to the above, we conclude:

1. The proposal complies with the aims and objectives of planning policy and is therefore in accordance with the development plan
2. Material considerations support the proposal

For these reasons we respectfully request that planning permission should be granted.

Yours faithfully



Philip Neaves

Director

## Gavin Yuill

---

**From:** Michael Crawford [Michael.Crawford@jscrawford.co.uk]  
**Sent:** 07 July 2015 11:35  
**To:** SHerkes@scotborders.gov.uk  
**Cc:** Gavin Yuill; Alasdair McIlroy  
**Subject:** West Grove 15/00504/FUL, flag poles

Stuart,

I understand that they are currently two points of dispute which require resolution in order for this application to be approved under delegated powers.

- **Colour of the external render:-** we are content that this is dealt with post approval, as a condition, when we are able to produce sample colours, rather than rely on the computer generated image.
- **Flag poles:-** These are an essential part of our proposals for this development.

### Background:-

My pension fund acquired the former NHS offices on 1<sup>st</sup> July, our plans are to market the offices for commercial lettings. The main building as offices and conference facilities and the rear as a wellness centre. Most other bidders, I understand, we proposing to develop the site for flats.

For this to be successful the building internal and externally must support the marketing strategy. The building must be appear contemporary, international, cosmopolitan and welcoming.

We request that you consider the following prior to finalising your recommendation:-

1. **Flying of flags at West Grove compliments and supports the positive aspects of SBC's recent decision on flags:-**

**A report to councillors said: "This option allows Scottish Borders Council to actively and openly demonstrate its commitment to equality, to celebrate the diversity within our community and promote inclusion."**

**Councillors agreed to implement the policy and erect three flagpoles at a meeting of the full council on Thursday.**

All modern business organisations must be inclusive and flying flags helps us to promote this policy, the removal of these flags would inhibit this. SBC report supports this argument.

**"However, this option may inhibit Scottish Borders Council's ability to actively demonstrate the two other elements of its equality duties (to promote equality of opportunity and to foster good relations) in relation to flag flying."**

2. **Promotes Melrose and reflects positively on its community:-**


We have been flying flags at our Priorwood Offices for a number of years. Initially just recognising the national days of countries within the UK, more recently we have expanded this to include a number of countries around the globe that we have a connection with. This has proved very popular.

Our welcome for the visiting teams at this year's Melrose 7s was retweeted by North Western University (South Africa) to their 10,600 followers. Not only did this promote Melrose and the Scottish Borders to an international audience, but promoted discussion within the town – as do most of our flags. Many people have told us they look to the

Crawford's flags to see which national holiday it is! We share photographs of our flags on Facebook to enhance their reach. Our posts have a large, worldwide audience; one of our posts reached 3400 people, of which 1600 interacted with the post. This promotes the Borders – as a place to live, visit and do business .

**J.S. Crawford 3rd Generation Limited**  
Published by Annabel Crawford (9) · 7 April · Edited ·

The flags are up to welcome the Sevens teams from North West University (RSA) and Germany, who arrive this week for the Melrose Sevens. Good luck in the tournament on Saturday, we look forward to watching you play




539 people reached Boost Post

Like · Comment · Share

**J.S. Crawford 3rd Generation Limited**  
Published by James Crawford (1) · 5 February ·

To all our Kwi friends and customers - Happy Waitangi Day! It belated as our flag raiser was on holiday on Friday!



353 people reached Boost Post

Melrose is a cosmopolitan community with visitors and residents hailing from all across the globe. These flags generate the welcoming and inclusive image.

The flags are removed and raised every day and never has there been an incident of vandalism. They do not interfere with any views or pose any threat to the community, but contribute to the surroundings.

**3. Economic benefits to Melrose:-**

When occupied by the NHS over sixty people worked there, this generated additional economic activity within Melrose. At present the building is empty, and will remain until we can complete the refurbishment and successfully market it. We do not expect to be able to secure a single tenant, as is the nature of the commercial property market in the Borders, instead we will need to attract many smaller companies on short flexible terms. To do this we must create the necessary ambiance, the flags will support this.

**4** Flags are commonly found in conservation areas, and are not limited to public or government buildings – banks, hotels and offices fly flags.

**5** We will not fly advertising banners from these poles, and as you have stated, this would require separate consent.

**6** There were only three objections.

As a concession we can reduce the height of the poles.

We hope you will appreciate the positive impact these flags will have on this important development and the town of Melrose, and your department will be able to support the flags inclusion.

Best Regards

Michael Crawford

Michael J. Crawford BSc. MSc. MCIQB, MAPM

J.S Crawford 3<sup>rd</sup> Generation Ltd

Priorwood

Melrose

TD6 9EG

Tel: 01896 822030

Visit our website: [www.jscrawford.co.uk](http://www.jscrawford.co.uk)

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

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

**Application for Planning Permission**

**Reference : 15/01354/FUL**

**To : Rural Renaissance Ltd per Camerons Ltd Per Hamish McAndrew 1 Wilderhaugh Galashiels  
Scottish Borders TD1 1QJ**

With reference to your application validated on 11th November 2015 for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

**Proposal : External alterations and erection of 4 No flagpoles**

**at : Office West Grove Waverley Road Melrose Scottish Borders TD6 9SL**

The Scottish Borders Council hereby refuse planning permission for the reason(s) stated on the attached schedule.

**Dated 18th January 2016  
Regulatory Services  
Council Headquarters  
Newtown St Boswells  
MELROSE  
TD6 0SA**

**Signed**



.....  
**Chief Planning Officer**

**Schedule of Plans and Drawings Refused:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
01	Location Plan	Refused
02	Planning Layout	Refused
03	Floor Plans	Refused
04	Elevations	Refused
05	Elevations	Refused

- 1 The proposed development is contrary to Adopted Local Plan Policy G1 in that the erection of the four no flagpoles, would not in its scale (principally in the height and number of flag poles featured) in culmination with its siting, be compatible with, or respectful of, the character of the surrounding area and neighbouring built form.

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 OSA.

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 :** 15/01354/FUL  
**APPLICANT :** Rural Renaissance Ltd  
**AGENT :** Camerons Ltd  
**DEVELOPMENT :** External alterations and erection of 4 No flagpoles  
**LOCATION:** Office West Grove  
Waverley Road  
Melrose  
Scottish Borders  
TD6 9SL  
**TYPE :** FUL Application

**REASON FOR DELAY:**

---

**DRAWING NUMBERS:**

<b>Plan Ref</b>	<b>Plan Type</b>	<b>Plan Status</b>
01	Location Plan	Refused
02	Planning Layout	Refused
03	Floor Plans	Refused
04	Elevations	Refused
05	Elevations	Refused

**NUMBER OF REPRESENTATIONS: 4**

**SUMMARY OF REPRESENTATIONS:**

Four representations have been received. These object to the proposal on the following grounds:  
(i) proposed flag-poles: would not be in-keeping with the surrounding area; are too high; unacceptable visual impact upon a main route into Melrose and Conservation Area; no reasonable need for flags relative to office uses; potential use for business advertisement; road safety hazard (driver and pedestrian distraction and potential to obscure sight lines); detrimental to residential amenity; and  
(ii) proposed colour of render would not be in-keeping with surrounding area.

Two of the objectors explicitly state support for the alterations to the building.

Roads Planning Section: has not responded to the public consultation.

Economic Development Section: no objections and supports the improvements proposed for the frontage of this building.

Community Council: No further comments.

**PLANNING CONSIDERATIONS AND POLICIES:**

Consolidated Scottish Borders Local Plan 2011

Policy BE4 - Conservation Areas

Policy G1 - Quality Standards For New Development  
Policy G7 - Infill Development  
Policy H2 - Protection of Residential Amenity

**Recommendation by** - Stuart Herkes (Planning Officer) on 18th January 2016

## BACKGROUND

This report should be read in association with the Report of Handling which informed the planning decision reached in the case of Planning Application 15/00504/FUL last year. In particular, the aforementioned report's description of the site and surrounding area, and its assessment of the proposed external alterations, are maintained in full. The key differences between the current proposal and that which was the subject of Planning Application 15/00504/FUL relate to the siting and scale of the proposed flag poles installation.

Planning Application 15/00504/FUL was refused, because the erection of the four flagpoles: (1) would not be compatible with, or respectful of, the character of the surrounding area and neighbouring built form; and (2) would have an unacceptable adverse impact upon the character and appearance of the Conservation Area as a consequence of its character; its siting immediately adjacent to the Conservation Area; and the high visibility of the site, which would mean that the aforementioned impacts would go unmitigated.

The subsequent appeal was considered by the Council's Local Review Body (LRB). The LRB upheld the appointed officer's decision in full, but did not identify any objection to the principle of flag poles being erected at West Grove. More specifically, it considered that: "an alternative proposal for the siting and scale of the flagpoles could be more acceptable". However, it ultimately resolved that the specific flag poles proposal which was the subject of Planning Application 15/00504/FUL was objectionable on account of the flag poles' "perceived overall heights, their prominent appearance due to their locations close to the roadside, their cluttered nature, the impact on the adjoining Conservation Area and (their being) out of character with the residential area".

The matters that the LRB held to be salient within its assessment of the specific impacts of the previous flag poles proposal, these were the (i) height ('scale') of the proposal; (ii) the siting of the same relative to the public road ('prominence'); and (iii) the number of flag poles to be featured ('cluttered nature') within the installation, and the impacts of this overall appearance upon the Conservation Area and residential area.

The Applicant's Supporting Planning Statement advises that the current proposal is informed by, and is intended to respond to, the concerns expressed by the LRB at the time of its consideration of the appeal relating to the refusal of Planning Application 15/00504/FUL. The Planning Statement seeks to demonstrate that this revised proposal has addressed all of the LRB's concerns, and on this basis, advises that the revised proposal should be supported.

## REVISED FLAG POLES PROPOSAL

The proposal which is the subject of the current application differs from that which was the subject of Planning Application 15/00504/FUL only with respect to the specific details of the proposed erection of four flagpoles on the premises at West Grove. While it was previously proposed that the flagpoles - which at that time, appeared to be in the order of 8 to 9m in height - should be erected in front of the principal elevation of the converted church building, it is now proposed that these poles should be shorter (5.2m, according to a revised Proposal Drawing) and sited in a different location, specifically in close proximity to the corner of Waverley Road and Tweedmount Road, at the southwestern extremity of the site. The flag poles, as now proposed, would be sited in a linear configuration, which would be both parallel to, and in close proximity to, the premises' boundary with the pavement in Waverley Road. They would occupy something of a 'transitional zone' between the residential areas to the south and west, and the remainder of the grounds of the converted former church site to the east and north.

It is understood from the advice provided in support of the current flag poles proposal that, as with the previous proposal, the flag poles would not be used for the flying of advertisements, but would instead fly varying international flags at the time of local events and competitions and/or upon the occasion of national and international festivals and commemorative days.



## PLANNING POLICY CONTEXT

Positive regard can be had to the LRB's acceptance within its appeals decision notice, of the principle of flag poles being erected at West Grove. The main concerns would therefore be the precise form of the proposed flag poles installation, and principally the concern that the scale and siting of any such installation should be sympathetic to the particular context of what should still reasonably be discernible as an ancillary component relating to the main offices use of the premises.

## SCALE, SITING AND COMPOSITION

Due to a greater distance of set-back from the Conservation Area, the current proposal would have no unacceptable impacts upon the setting of the Conservation Area, and it is accepted that the second reason for the refusal of Planning Application 15/00504/FUL would not be reasonably maintained relative to the current proposal. However, if anything, concerns with respect to impacts upon the surrounding residential area have been increased by the displacement of the proposal to the western extremity of the offices site.

With respect to whether or not the revised flag poles proposal, per se, would otherwise be compatible with, and respectful of, the character of the surrounding area and neighbouring built form, positive regard can be had to the reduced height of the proposed flag poles relative to what was previously proposed. There are no concerns with respect to the principle of erecting 5.2m high flag poles at the site, but regard is necessarily still had to precisely where and how flag poles of this height would be accommodated on the site. At 5.2m in height, these poles are still in absolute terms, only reasonably characterised as being high structures within the context of this site and setting. Further, and at four in number, arranged in a row staggered at intervals of approximately half a metre from one another, and set back only around 1.5m from the site boundary with Waverley Road, these flag poles would be liable to have a cumulative visual impact that would be significant, particularly taking into account the immediacy of their proximity to the public road and the lack of any mitigation of their visual impact beyond the containment of their bases by the existing boundary fence.

Given that this siting would be detached some distance from the buildings within the employment site (and moreover, would be situated almost equi-distant between surrounding houses and the former church building), the flag poles would be liable to be viewed in isolation from the site's main buildings; particularly within views from closer proximity (notably from Waverley Road itself, and from within the vicinity of the junction at Tweedmount Road). In these views, the installation would be liable to register visually, as an isolated, prominently-located, high group of structures, which would be significantly out-of-scale with their surroundings. This visual impact would be highly visible, unusual and incongruous. It would if anything, appear more civic than commercial in its inspiration, suggesting the context of a landmark, memorial or public space rather than an ancillary use of a salient area within the grounds of an office premises. It is considered that flags of the proposed height, would only be appropriately accommodated at a greater distance from the site boundary; and specifically within the interior of the site, ideally at lower level, in the vicinity of the car park, where any flags flown might still be visible from Waverley Road, but so sited, would be both capable of being more discreetly accommodated, in scale with their surroundings, and more intelligibly related to, and integrated within, the context of a business premises. It is also considered that a reduction in number from four flag poles to three or two, would more appropriately help maintain a scale more in keeping with an ancillary component of the business use.

Notwithstanding that the current flag poles proposal is preferable to that which was the subject of Planning Application 15/01354/FUL, this revised proposal should still be assessed on its own planning merits relative to the policies and guidance of the statutory development plan.

While it is accepted that the proposed height of the flag poles within the revised proposal is not objectionable per se, this still contributes to an unacceptable cumulative visual impact in association with both the proposed siting and proposed composition of the revised proposal.

In association with the proposed height and composition of the flag poles, the proposal would still be too prominently sited relative to the public realm, and too isolated from the main business premises buildings, as to be capable of being considered both 'in scale' with its surroundings and readily discernible as an ancillary component of the larger offices site. In short, the proposed siting contributes to an incongruous character for the development which would have unacceptable visual impacts upon the character and appearance of the site and surrounding area.

Although the current proposal has sought to address directly previously expressed concerns with respect to the height and siting of the flag poles, there has been no concern to address directly the Planning Department and Local Review Body's concerns that the original proposal was too cluttered in its composition as to be acceptable in terms of its visual impacts. Notwithstanding the reduction in height and removal of the proposal to the southwestern extremity of the business site, the number of flag poles proposed, continues to contribute to a cumulative visual impact that is considered to be unacceptable in its 'cluttered' appearance.

All in all, it is considered that a flag poles installation of this height and composition, sited as proposed, would be liable to appear over-dominant, out-of-scale, and incongruous relative to the grounds of a converted former church and within what is otherwise a predominantly residential area. These visual impacts would moreover be clearly visible from the 'main gateway' route for vehicular traffic approaching Melrose's town centre from the west.

#### MATERIAL CONSIDERATIONS

The Applicant's supporting statement includes some account of the particular views which individual members of the LRB expressed on the day of their consideration of the appeal relating to Planning Application 15/00504/FUL. These individual views are not however specifically recorded in, or recognised within, the LRB's Decision Notice. There is therefore no further requirement to go beyond the immediate record or justification of the LRB's collective decision given in the Appeal Decision Notice itself. The latter is a sufficient and appropriate record of the LRB's deliberations and decision.

In the event of refusal, it is ultimately the Applicant's prerogative to refer the application to the Local Review Body at appeal to obtain the latter's direct consideration of these matters, but as noted above, it is considered that the LRB has within its decision on the appeal relating to Planning Application 15/00504/FUL, identified considerations which the current version of the flag poles proposal has not addressed satisfactorily. The views of the LRB on the current proposal cannot of course be prejudged, but contrary to the Applicant's view, it is not considered that there are reasonable grounds to substantiate any confidence or expectation that the current proposal will have addressed matters to the Local Review Body's satisfaction.

Contrary to the advice of the Applicant's Supporting Statement it is not considered that the Local Review Body has within its appeal decision notice, reasonably indicated its support for 8m high flag poles. On the contrary, the scale of the previous proposal (reasonably including the proposed height) was specifically identified as a concern and a reason for the LRB's decision to dismiss the appeal.

Much of the Applicant's supporting case is concerned to make an assessment of the current proposal relative to the previous one. Notwithstanding that the former is generally liable to be characterised as an improvement upon the latter, assessment of the current proposal is not reasonably reduced to a relative comparison of the two - previous and current - proposals, and a relative improvement is not in itself, sufficient grounds to support the application.

The Applicant's supporting statement also finds support for the current proposal in both the national Scottish Planning Policy and Scottish Historic Environment Policy documents' concern to facilitate positive change within the historic built environment. However, this is general advice and does not override the need to assess the specific proposal in relation to the policies and guidance of the statutory development plan.

#### OTHER CONCERNS

As at the time of the previous determination (15/00504/FUL), it is considered that the proposed external alterations are appropriately capable of being regulated by planning conditions and informatives; with the former requiring the submission of precise details for prior approval, and the latter advising as to what would, and would not, be liable to be considered acceptable at the time of any subsequent consideration of these ulterior details. Accordingly the analysis and conclusions of the 'External Alterations' section of the Report of Handling on Planning Application 15/00504/FUL are hereby maintained in full. It is noted that objectors do specifically take issue with the proposed light colour of the render finish, and this has previously been identified as a concern within the Report of Handling on Planning Application 15/00504/FUL, but, as before, it is also one that is capable of being regularised by planning condition and informative.

As noted at the time of the determination of Planning Application 15/00504/FUL, the proposed alterations to the exterior of the building raise no residential amenity concerns for surrounding dwellings. There would however be potential for disturbance to surrounding residential properties from noise impacts associated with the flapping and rustling of flags in stronger winds. There is moreover, potential for this particular impact to be increased to a level above that which would have occurred in relation to the previously refused proposal. This is because the proposed displacement of the flags to the southwestern extremity of the offices site would bring the flags into much closer proximity to residential properties, thereby inevitably increasing the potential for disturbance to residents. However, as noted previously, it is understood from verbal advice from Environmental Health, that the extent to which this type of noise would be reasonably characterised as noise nuisance, let alone be liable for action under Environmental Health noise regulations, appears minimal. Nonetheless, since the potential for disturbance to surrounding residential properties cannot be ruled out, this would be appropriately drawn to the Applicant's attention in an informative in the event of approval.

The Roads Planning Section has not responded to the public consultation, however, given that the flags would be inside the boundary of the premises, it is not considered that the flags would obscure views from the junction for vehicles turning onto Waverley Road. Objectors' concerns with respect to driver distraction are noted, but flags, if sited out with the road/road verge, are generally not held to be liable to constitute any unacceptable distraction to drivers or pedestrians. In short, there are no road safety concerns relating to this proposal.

Economic Development's support for the proposal is noted, but no planning reasons are given for this support, and the fact of this support does not outweigh the considerations already noted above.

The Applicant has no intention to display advertisements from the flag poles but an objector perceives that the flag poles might be used for business advertisements. Advertisement Consent would be required for the display of any adverts (advertisements on flags and banners included). However, given that the site would be a business premises with potential for future occupying businesses to want to use the flag poles for advertisement, it would be reasonable to attach an informative to advise of the need for Advertisement Consent in the event of any such future proposals. Given the application of Advertisement Regulations however, there would be no necessity for a planning condition.

Although the Applicant has not applied for a change of use relative to the subject building, in the event of approval, an informative would need to advise that any proposal to accommodate conference facilities, or a wellbeing centre, would need to be discussed with the Planning Authority in case either or both of these proposals were to require to be made the subject of a planning application. Too little information has been provided, but both are potentially uses that would not be covered under use Class 4.

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

The proposed development is contrary to Adopted Local Plan Policy G1 in that the erection of the four no flagpoles, would not in its scale (principally in the height and number of flag poles featured) in culmination with its siting, be compatible with, or respectful of, the character of the surrounding area and neighbouring built form.

#### **Recommendation: Refused**

- 1 The proposed development is contrary to Adopted Local Plan Policy G1 in that the erection of the four no flagpoles, would not in its scale (principally in the height and number of flag poles featured) in culmination with its siting, be compatible with, or respectful of, the character of the surrounding area and neighbouring built form.

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