

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/01704/FUL

APPLICANT : Mr S Wilson

AGENT :

DEVELOPMENT : Change of use from retail to dog grooming practice

LOCATION: 38 Bank Street
Galashiels
Scottish Borders
TD1 1EP

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

Consultations:

Roads Planning Service: No objections
Environmental Health Service: No comments

Economic Development Service: Understand it doesn't comply with Policy ED4. However, they do not object because the main aim of Policy ED4 is to protect and enhance the vitality and viability of town centres and this business could contribute to achieving this. They also do not believe this small increase in Class 2 use will have a detrimental effect on the retail floorspace, or retail demand in Galashiels. The business could also maybe consider selling dog leads, bowls etc on ancillary basis

Forward Planning: The proposal falls within Use Class 2 and is therefore contrary to the prime purpose of Policy ED4. The policy does allow consideration of a number of other factors to be considered and applied on a case by case basis which in extreme instances may allow consideration of allowing other uses. The key factors that influence the vitality and viability of a town centre include pedestrian footfall, the diversity of uses and the number of vacant properties. The proposed Class 2 use requires to be tested against Policy ED4's criteria.

The Council's Town Centre Footfall Survey at this location indicates a recent significant increase up to 847 in 2017 from 685 in 2013. The Council's most recent retail survey (Summer 2017) indicates that the Galashiels' retail vacancy rate had decreased 1% to 18% from the figure of 19% in the Winter of 2016. It is appreciated the proposal will generate a degree of footfall, although by the nature of the business and the few people that will visit it in a typical day this would be substantially less than a typical retail unit. Consequently in respect of these matters it is not considered these are reasons in themselves for deviating from Council policy in this instance.

It is understood that these premises have only very recently become vacant, having operated as a sweet shop until late 2017. The Council's retail survey, which goes back to 2006, shows that these premises have not been vacant at any time of the survey. It has previously been occupied as a clothes shop, a craft shop and sweet shop. Bank Street is the most attractive and buoyant retail area of Galashiels, being opposite the well maintained and attractive garden. Vacancy rates on Bank Street have historically been low.

It is noted that the premises are small and some consideration may be given as to what retail interest there may be in a unit of this size. However, it does appear to be the case in Galashiels town centre that there is limited interest in larger retail units and it is not considered that there has been sufficient time for these premises to be marketed to gauge potential interest from retailers. It is considered there are already other small units of similar size on Bank Street operating in retail use.

The comments of Economic Development are noted but there is concern that approvals are granted with the fundamental test that 'any use is better than nothing'. This would be a short term response to a much wider issue and in the longer term precedents would be set for non-class 1 uses which in time would have a serious impact upon the vitality and viability of Galashiels. Town centre regeneration in Galashiels is a major objective for the Council and these principles are identified in the Blueprint. If the Council allows a number of uses which do not meet the principal thrust of Policy ED4 this would defeat the long term aims of generating healthy footfall. This would have major implications for the aspirations of ensuring a buoyant and healthy town centre.

The application does not meet the requirements of Policy ED4 and should therefore be refused.

Flood Protection Officer: The site is at risk in 1:200 year flood event. However, this is a small scale development that won't affect storage capacity of the functional flood plain or affect local flooding problems and so does not oppose. Recommends flood warnings and evacuation plan.

PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

PMD2, PMD5, ED3, ED4, HD3, EP7, EP9, IS7, IS9

Scottish Planning Policy 2014

Recommendation by - Carlos Clarke (Lead Planning Officer) on 7th February 2018

This application seeks consent to convert a vacant shop premises located within the town centre to a dog groomers. The site forms part of the ground floor of a 2 ¾ storey Category C Listed Building located within the Conservation Area. The frontage comprises a door and single window within a stone elevation. No alterations are proposed to the building under this application.

In terms of the principle, the site is within the town centre, where a range of uses can be supported under Policy ED3 provided they contribute positively to the vitality and viability of the town centre. The proposed use is an appropriate activity for a town centre location and will complement its principal retail and service functions. However, the property is also within the Core Activity Area where uses other than Classes 1 and 3 are to be refused under Policy ED4, unless the proposal can be assessed as positively contributing to the town centre. This proposal would most comfortably fit within Class 2 and, even if categorised outside a Class (sui generis) it would be in conflict with Policy ED4 since it is within neither Class 1 nor 3. The test is whether the proposal would make a significant positive contribution to the core retail function of the town centre. To assist with this test, Policy ED4 identifies six criteria to apply to Class 2 uses, and these are considered in turn:

1. How the proposed use would contribute to joint shopping trips

A dog groomer's has the potential to contribute to linked shopping trips. As noted in the applicant's supporting statement, customers can leave their dogs off, and then visit shops or cafes in the town centre. The central location of the premises makes this possible. However, not all dog owners may choose to do this. In all likelihood, the level of linked shopping trips from customers using the proposed business compared with those visiting a shop or café in the same premises is likely to be less. While the difference between this proposal and a retail or café use will not be significant (given that the premises is relatively small), the net benefit to the town centre is likely to be less than the Class 1 and 3 uses promoted by Policy ED4.

2. Footfall contribution

The outlet is currently vacant and, therefore, the proposed use is certainly more beneficial to the town by way of footfall contribution than the current vacancy. Also, the outlet is so small that its overall contribution to the town centre by way of footfall will, whether it is in Class 1, 2 or 3, or another use will, on the whole, be relatively small. However, comparing with a Class 1 retail or Class 3 café use, the use of the property as a dog groomers is, in all likelihood, likely to involve less footfall per day than a retail or café use and that would not reflect the purpose of the policy. Reducing footfall will have a knock-on effect for other Class 1 and 3 uses.

The applicant has stated his intention to sell goods from the premises (30-40%), which will assist in footfall numbers, albeit the level of retail trade is not something that could be easily enforced via a planning consent, if granted. The business will be new, and this suggestion was made in response to Economic Development's comments. Therefore, it would not be prudent to expect this level of retail trade to be guaranteed. It is not considered, in any case, that the proposed use would likely compare as favourably to the footfall contribution of a retail or café use in the same location.

3. Current vacancy and footfall rates

As the Forward Planning Service notes, the town's vacancy rate has dropped of late and the footfall rates in the area have, in their interpretation, significantly increased. These rates will, of course, vary in time and are a useful record of past activity, rather than a strong indicator of future trends. However, they do suggest that Bank Street, in particular, is in a relatively stable position. As they note, the level of vacancy and footfall in the town do not suggest that a departure from Class 1 or Class 3 is justified.

4. Longevity of vacancy

The applicant advises that the most recent business closed in October. This application was made in December. While the speed of this proposal is welcome, and demonstrates that such an outlet in such a highly central location is desirable, it also suggests that the potential for a retail or café business to operate from it has been given little, if any, opportunity. Had the property been vacant for longer, most likely at least a year, this would provide more weight in favour of a use which does not comply with Policy ED4. However, as it stands, the unit has not been vacant long and, in recent years, has not had apparent difficulty in finding new occupiers.

5. Marketing history of premises

The applicant advises that the unit was advertised as far back as May 2017 by means of signage in and on the shop, thus how it came to his attention. He looked into the retail business as a going concern, but established that it was not viable or sustainable as it was. This level of marketing is extremely limited. As the Forward Planning Section notes, there is currently limited interest in the town's larger retail units. However, that may not be the case for smaller units. The extent to which this unit has been marketed for potential sale or lease by a Class 1 or 3 business has been inadequate. Evidence of unsuccessful marketing over at least six months, in local papers and websites, as well as a board on the building, would be the minimum necessary to demonstrate that no retailer or café operator would be interested in occupying it.

On a related note, the applicant has stated that the 'well-being' and micro chipping side of the business should not be forgotten, and points to the potential for the proposal to be an asset to the town. These points are accepted, and the proposed use will potentially be an asset to the town. However, it comprises the use of a premises that could potentially provide a stronger contribution in the form of a Class 1 or 3 use which the LDP positively endorses. There has been next to no opportunity for a retailer or café outlet to do this,

and that suggests that the proposal is premature without such marketing having first been properly undertaken.

6. Ability to retain shop frontage

The shop frontage would be unaffected as no alterations are proposed as part of this application. There is also the potential to require an internal frontage display since it is the applicant's intentions to sell goods as well as provide the principal dog grooming business. The frontage is relatively small and, therefore, whether it is in retail, café or a professional use such as this, the internal display will not have a significant bearing on the town centre. In this case, the proposal is not unacceptable as regards its frontage display

Services and parking

The property is expected to have existing mains and water services. It has no dedicated parking, though that is not a concern for an established town centre property. Bin storage and collection will be expected to follow existing arrangements.

Flood risk

The site is within the 1:200 flood risk area for the town but is an established premises and the proposal is not for a vulnerable use. If the application were to be approved, an informative note could refer to the Flood Protection Officer's advice.

Amenity

There would be no harm to neighbouring residential amenity or neighbouring businesses from a well operated business and I note that the EHS has raised no concerns.

Alterations

No alterations are proposed to the building. An informative can refer the applicant to the potential for alterations to require Planning, Advertisement and/or Listed Building Consent.

Conclusion

The proposal would be a positive contributor to the town centre. However, it would occupy a unit which is safeguarded for a Class 1 (retail) or Class 3 (food and drink) use. The proposal would be for a Class 2 use which, though it may include some element of retail, will not comply with Policy ED4. Applying the tests of Policy ED4, the fact that the property has not been vacant for very long and does not appear to have been subject to marketing of any significance, suggest that the opportunity given for a Class 1 or 3 use to occupy it has been insufficient. Though the applicant's business would be welcome in the town centre, and the effect of its operation from this outlet will not be significantly different from a Class 1 or 3 use due to its size, it will not likely generate the same degree of footfall as either of those uses. It is not considered that a departure from a retail or food and drink use is appropriate or justified at this time. To do so would materially affect determinations on other applications for Class 2 uses within the Core Activity Area. The proposed development will not comply with Policy ED4 and other material considerations do not outweigh this conflict.

REASON FOR DECISION :

The proposed development would not comply with Policy ED4 of the Local Development Plan 2016 in that the use would not comprise a Class 1 or 3 use; would occupy a premises which has not been sufficiently marketed for sale or let; and which has been vacant for a relatively short period. The level of footfall contribution to the town centre will likely be less than that generated by a Class 1 or 3 use operating from the same location and this would detract from the future viability and vitality of the town centre

Recommendation: Refused

- 1 The proposed development would not comply with Policy ED4 of the Local Development Plan 2016 in that the use would not comprise a Class 1 or 3 use; would occupy a premises which has not been sufficiently marketed for sale or let; and which has been vacant for a relatively short period. The level of footfall contribution to the town centre will likely be less than that generated by a Class 1 or 3 use operating from the same location and this would detract from the future viability and vitality of the town centre

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

