

APPENDIX V

SCOTTISH BORDERS COUNCIL LOCAL REVIEW BODY DECISION NOTICE

APPEAL UNDER SECTION 43A (8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2013

Local Review Reference: 18/00007/RREF

Planning Application Reference: 17/01704/FUL

Development Proposal: Change of use from retail to dog grooming practice

Location: 38 Bank Street, Galashiels

Applicant: Mr S Wilson

DECISION

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

DEVELOPMENT PROPOSAL

The application relates to the change of use from retail to a dog grooming practice. The application drawings and documentation consisted of the following:

Plan Type	Plan Reference No.
Location Plan	

PRELIMINARY MATTERS

The Local Review Body considered the review, which had been competently made, under section 43A (8) of the Town & Country Planning (Scotland) Act 1997 at its meeting on 16th April 2018.

After examining the review documentation at that meeting, which included: a) Notice of Review (including Decision Notice); b) Officer's Report; c) Papers referred to in Officer's Report; d) Consultations; and e) List of Policies, the LRB considered whether the social media comments submitted by the applicant in the review documents constituted new

evidence under Section 43B of the Act and whether or not this evidence could be referred to in their deliberations. Members decided that the comments could have been provided and been in front of the Appointed Officer before the application was determined and that there were no exceptional circumstances that meant they could not have been provided at that time. The Review Body proceeded to determine the case without reference to this information. They also noted the applicant's request for further procedure in the form of a site visit and hearing but did not consider this necessary after considering the case and viewing photographs and plans of the site and surroundings.

REASONING

The determining issues in this Review were:

- (1) whether the proposal would be in keeping with the Development Plan, and
- (2) whether there were any material considerations which would justify departure from the Development Plan.

The Development Plan comprises: SESplan Strategic Development Plan 2013 and the Scottish Borders Local Development Plan 2016. The LRB considered that the relevant listed policies were:

- Local Development Plan policies: PMD2, PMD5, ED3, ED4, HD3, EP7, EP9, IS2, IS7, IS8 and IS9

Other Material Considerations

- Scottish Planning Policy 2014

The Review Body noted that the proposal was to change the use of a former retail unit into a dog grooming practice and that this would constitute Class 2 Use under Town and Country Planning (Use Classes) (Scotland) Order 1997. They noted the proposal was for change of use only and that there were no alterations proposed to the shopfront.

Members principally considered the application against Policy ED4, noting that the application site was within the defined Core Activity Area in Galashiels, the Policy normally opposing uses other than Classes 1 and 3 at ground floor level within the Area. As the proposed use fell within Use Class 2, Members then considered the potential contribution of the proposed use to the retail function of Galashiels, using the criteria listed in the justification for Policy ED4 in the Local Development Plan.

In doing so, they noted the consultation response from Economic Development which supported the proposed use, whilst also accepting the point made by Forward Planning that it would not be the case that "any use is better than no use". Members were particularly influenced by the specific nature of the proposal for a dog grooming business, believing that this was a specialist service that would be likely to generate linked shopping trips associated with visiting the use, additional footfall and provide diversity and the type of niche small scale unit that should be encouraged in the retail centre. This would integrate with the variety of different small units in Bank Street, some of them non-retail.

Members considered that there needed to be some flexibility when it related to small scale units, given the pressures within the town centre and the presence of larger stores. Whilst noting that the shop had not been vacant for long, Members considered it important that the proposed use would allow the unit to be occupied, to the benefit of the retail centre. It was

also noted that there would be some ancillary sales of products within the unit and that the shopfront would be unaltered.

Having considered the contribution of the proposed use against the relevant criteria under Policy ED4, the Review Body considered that there would be a positive contribution and that the change of use could be supported. Members then discussed issues relating to length of consent and other uses within Use Class 2. They concluded that there was no justification for a temporary period of consent but that it would be necessary to limit the use to that applied for, rather than allowing any other use within Use Class 2. Members also required an Informative note added to the consent to advise the applicant on the potential need for consent in relation to any new signage or shopfront alteration.

CONCLUSION

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

DIRECTION

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

CONDITION

1. The premises shall be used for a dog grooming practice only and for no other purpose (including any other purpose in Class 2 of the Schedule to The Town and Country Planning (Use Classes) (Scotland) Order 1997, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).
Reason: To ensure that the use is restricted to that applied for.

INFORMATIVE

1. Please note that as the property is within a Conservation Area, any alterations to the shopfront, including changes in colour, are likely to need the submission of a separate planning application. Advertisement Consent may also be necessary for any new signage proposals.

Notice Under Section 21 of the Town & Country Planning (Schemes of Delegation and Local Review procedure) (Scotland) Regulations 2008.

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial

use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Signed..... Councillor T Miers
Chairman of the Local Review Body

Date..... 19 April 2018