

Public Document Pack



LOCAL REVIEW BODY MONDAY, 18 DECEMBER 2017

A MEETING of the LOCAL REVIEW BODY will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST BOSWELLS, TD6 0SA on MONDAY, 18 DECEMBER 2017 at 10.00 am

J. J. WILKINSON,
Clerk to the Council,

11 December 2017

BUSINESS		
1.	Apologies for Absence.	
2.	Order of Business.	
3.	Declarations of Interest.	
4.	Consider request for review of refusal of planning consent in respect of erection of dwellinghouse on land adjacent to Deanfoot Cottage, Deanfoot Road, West Linton. 17/00045/RREF. 17/00926/PPP.	
	(a) Notice of Review Including:- Decision Notice - page 23 Consultations - page 27	(Pages 3 - 32)
	(b) Officer's Report	(Pages 33 - 36)
	(c) List of Policies	(Pages 37 - 44)
5.	Consider request for review of refusal of planning consent in respect of change of use of agricultural land to form storage yard and siting of 7 No storage containers north east of Greenbraehead Farmhouse, Hawick. 17/00973/FUL. 17/00046/RREF.	
	(a) Notice of Review Including:- Decision Notice - page 89 Officer's Report - page 91 Consultations - page 103	(Pages 45 - 108)
	(b) Papers referred to in Officer's Report	(Pages 109 - 124)

	(c) List of policies	(Pages 125 - 130)	
6.	Consider request for review of refusal of planning consent in respect of change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail) at 40-41, The Square, Kelso. 17/01139/FUL. 17/00047/RREF.		
	(a) Notice of Review	(Pages 131 - 224)	
	Including:- Decision Notice – page 201 Officer's Report – page 203		
	(b) Papers referred to in Officer's Report	(Pages 225 - 244)	
	(c) Consultations	(Pages 245 - 250)	
	(d) Support comments	(Pages 251 - 256)	
	(e) Additional representation	(Pages 257 - 258)	
	(f) List of Policies	(Pages 259 - 264)	
7.	Any Other Items Previously Circulated		
8.	Any Other Items which the Chairman Decides are Urgent		

NOTES

1. **Timings given above are only indicative and not intended to inhibit Members' discussions.**
2. **Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

Membership of Committee:- Councillors T. Miers (Chairman), S. Aitchison, A. Anderson, J. A. Fullarton, S. Hamilton, H. Laing, S. Mountford, C. Ramage and E. Small

Please direct any enquiries to Fiona Walling 01835 826504
email fwalling@scotborders.gov.uk



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 type="checkbox"/> | <input checked="" 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:

To enter the site would mean crossing a private garden. Viewing is possible from the public road.

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.

See attached statement

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.

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.

See full list on Statement of Review

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.

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.

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 [REDACTED] Date 31.10.2017

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

STATEMENT OF REVIEW
ERECTION OF ONE DWELLINGHOUSE (in principle)
Garden Ground to the South West of
Deanfoot Cottage, Deanfoot Road, West Linton.

17/00926/PPP

Background

The applicant has applied for planning permission in principle for a single house in the garden ground to the South-West of Deanfoot Cottage. The applicant and his spouse currently live near Blyth Bridge. They hoped to relocate to West Linton where they would be closer to services such as shops and the health centre and not need to be reliant on a car to travel.

They were aware of the ground adjacent to Deanfoot Cottage. In an earlier sale of this property the garden-ground had been offered as a separate lot to the principle house (see Walker Scott Ireland brochure from 2016 (production 1)). They consulted the current owner who agreed that the ground may be available subject to being successful in gaining outline planning consent. The current owner finds the garden - which has a natural division formed by mature planting - too large for his use (Production 2).

Prior to the formal submission being made, the applicant approached the West Linton Community Council to seek their backing. They also tried to discuss the proposal with the Planning Department at Scottish Borders Council. The latter exchange was not helpful in that it was after the cut-off date in February 2017 which prevented pre-application advice.

Site Location

The site lies to the North East of a straight-ish section of the C class road from West Linton to Penicuik (see production 3). The site is 150m beyond the settlement boundary of West Linton and is equidistant between Deanfoot Farm and the village boundary. Deanfoot Farm is the nearest 'Cluster' of buildings and over recent years has seen significant enlargement of the building group.

The site is encompassed on three sides by mature planting (see production 4). The roadside boundary has a dry-stone dyke. The existing house sits within the right-hand half of the ground. The proposed house would be within the left-hand or South-West sector (Production 5).

History

West Linton historically was developed along the North-West/South-East Main Street. During the late C19 the village spread to the North East, and also along Bogs-Bank Road towards Blyth Bridge. The village boundary stopped well short of the application site and between the boundary and Deanfoot Farm there were a number of individual small houses (possibly farm labourer's accommodation). The two principle satellite properties were at Dryburn and Deanfoot Cottage.

Deanfoot Cottage shows on the first Edition OS mapping for West Linton circa 1860 (Production 6). Incidentally and not without significance, at that time and also in circa 1895 the cottage was indeed two homes (see productions 7). These were subdivided by a central solid masonry wall (see floor plan on Production 1). There were three sets of chimney stacks and the garden was at either end of the cottages presumably so as to reduce the land-loss of the agricultural ground behind.

During the latter half of C20 the village expanded significantly towards the North-East, resulting in the settlement boundary where is currently lies. The aforementioned Dryburn is at the edge of the current village boundary, leaving Deanfoot Cottage as a satellite between the village and the first cluster of houses at Deanfoot Farm.

The Planning Refusal

The planning consent has been refused on the grounds of Policy HD2 (production 8 - 3 pages). There is no cluster of buildings at Deanfoot Cottage, and hence the new building would be seen as 'sporadic' development.

If the application site were in another area within the Scottish Borders (Tweedsmuir, for example) the likelihood of the consent being granted would have been significantly improved, as such sporadic development in certain localities is seen to be acceptable.

There has been no indication to the writer that the enclosure formed by the mature planting increases the amenity of the site as a building plot.

There has been a suggestion that by granting consent on this site, thereby choosing to over-rule policy HD2, the planning department could be open to criticism for other advice or decisions made in the locality.

Summary – The Case for Granting under Review

We ask the review board to consider the following in deciding whether the planning officer's decision should be over-turned :

- 1 The proposed plot sits well within the existing planting structure and framework of trees.
- 2 Its development would enhance Deanfoot Cottage and its gardens by the new use given to the garden ground which is currently too large to be properly maintained.
- 3 There have been no objections from neighbours.
- 4 There have been no adverse internal consultations with the council (Production 9 – 2 pages)
- 5 The West Linton Community Council support the development (production 10).
- 6 Historically the plot supported two dwellings, and is sufficiently large to still do so (Production 11).

We understand that if the consent is granted under review, it will be important that any building designed for the site must recognise the scale and massing of Deanfoot Cottage, whilst offering a high-quality design solution to augment the amenity of the locality rather than be detrimental to the rural community.

Supporting Information

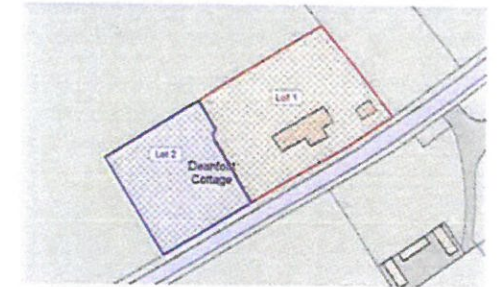
Production 1	Lotting detail from sales literature garden sub-divided
Production 2	Photograph showing strong boundary between existing/proposed
Production 3	Aerial Photograph showing site in context
Production 4	Photograph showing boundary planting
Production 5	OS Map 2017
Production 6	OS Map circa 1860
Production 7	OS Map circa 1895
Production 8	Planning Refusal Notice
Production 9	Consultations – SBC Life Long Learning & Roads Planning
Production 10	Letter of Support – West Linton Community Council
Production 11	photo into the site

Kanak Bose
October 31st 2017

Floor Plan



Ordnance Survey © Crown Copyright 2016. All rights reserved. Licence number 100022432



Address: DEARFOOT COTTAGE, DEARFOOT ROAD, WEST LINTON, EH45 2AU
 OSN: 9179 1625, 1268 1976, 3100

Energy Efficiency Rating		Environmental Impact (CO2) Rating	
Current	Potential	Current	Potential
A	B	B	C
B	C	C	D
C	D	D	E
D	E	E	F
E	F	F	G
F	G	G	
74	44	68	41

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82 High Street, Peebles, EH45 8SW

TEL: 01721 721669

Email: enquiries@walkerscottireland.com

WWW.WALKERSCOTTIRELAND.COM

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Company Number SC500115

W
 CHAR

Production 1

Sales details showing the site as a separate Lot, circa 2016

The floor plan shows the centre mass masonry which originally separated the two cottages – there are still three sets of chimneys, one in the centre and one on either end

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Production 2
The proposed plot is on the area of grass in the middle ground,
the hedge and trees separate this area from the Deanfoot
Cottage garden

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Google Earth



Production 3

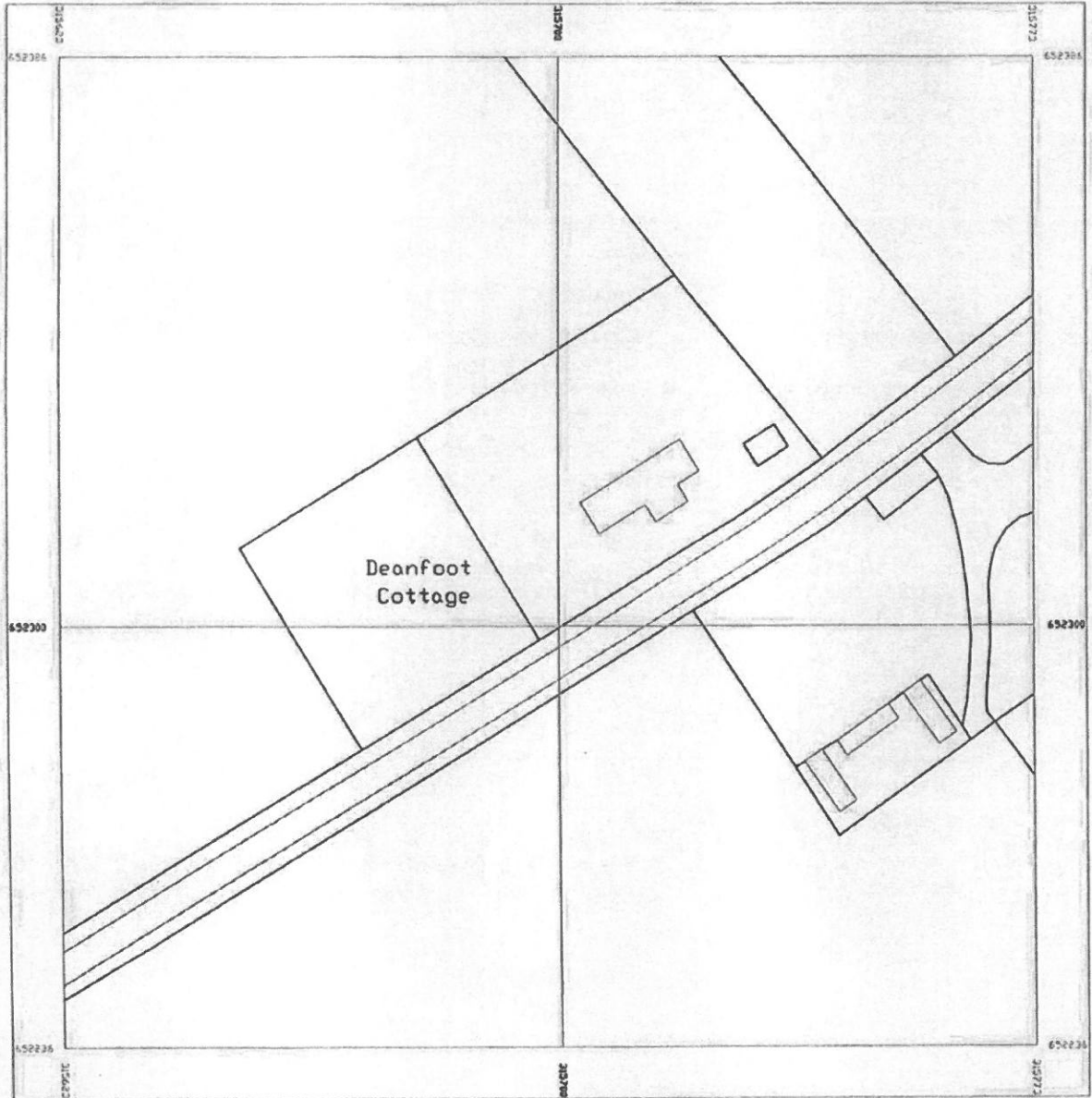
The aerial photograph shows the site in relation to the Other features in the immediate vicinity. It highlights the enclosure formed by the existing planning.

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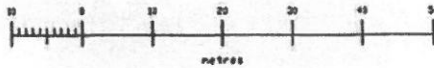


Production 4
Shows the boundary wall along the roadside, with the site
Encompassed by the existing planting

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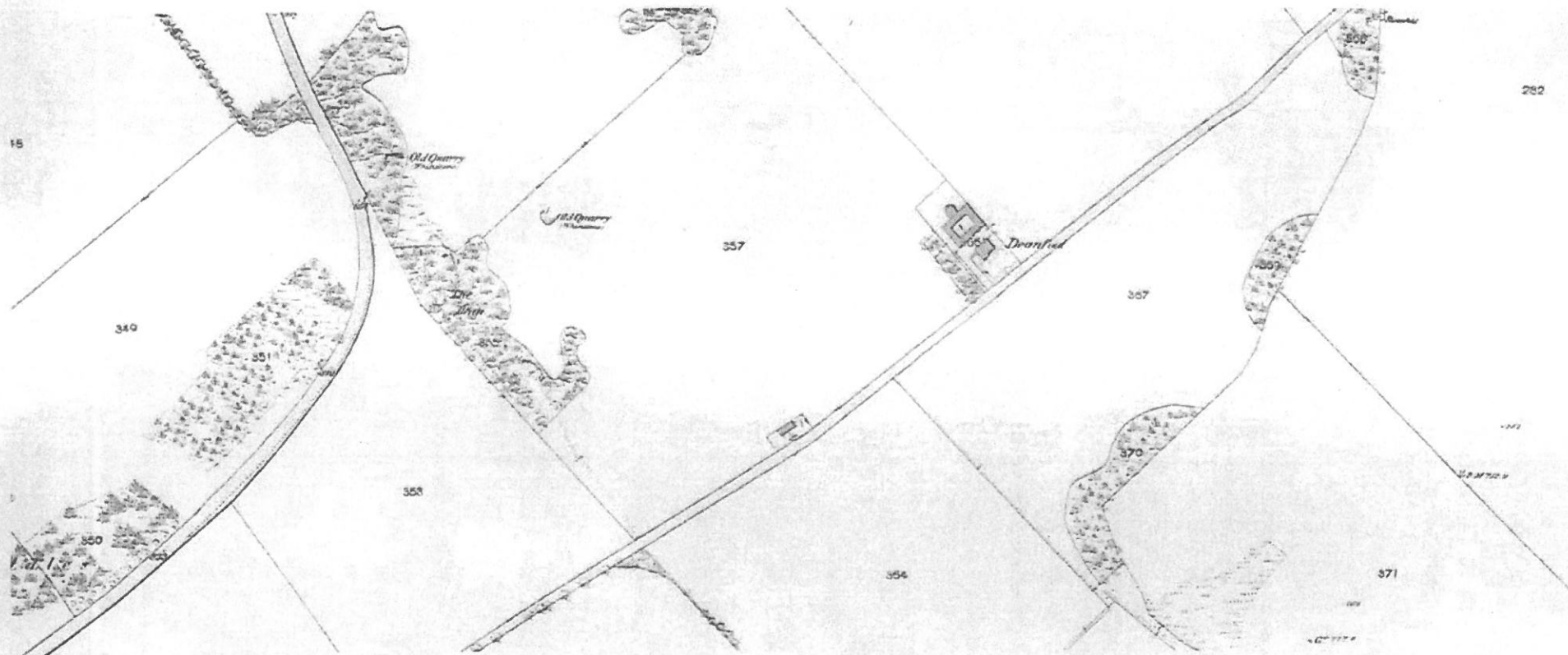
Serial number: 118244
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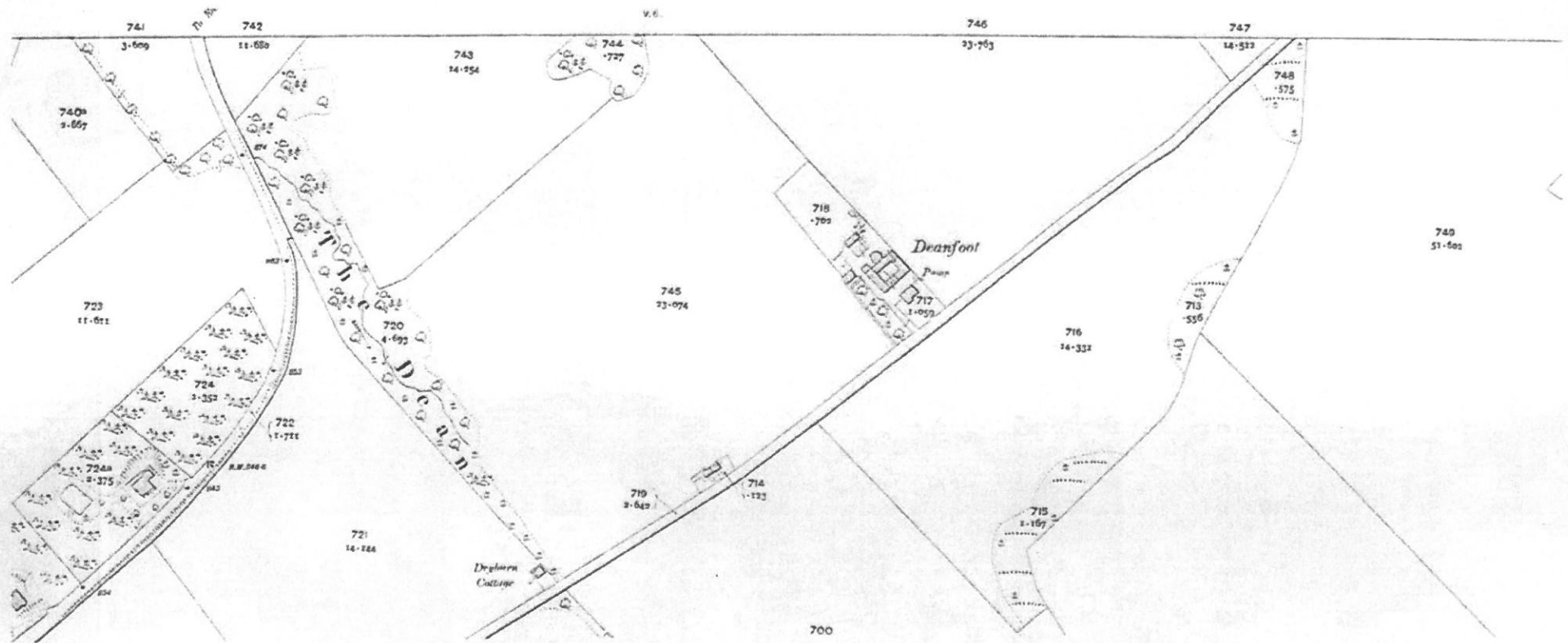
Production 5

The existing cottage sits to the right of the ground, whilst
The proposed site is to the left. Note the mapping
actually formally separates the two parts of the site

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Production 6
OS Map circa 1860 showing 2 houses at Deanfoot Cottage



Production 7
OS Map circa 1895 showing the addition of Dryburn Cottage – this now falls at the very edge of the settlement Boundary – again note there are two cottages at the Application site with gardens either end

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

Application for Planning Permission

Reference : 17/00926/PPP

To : Mr & Mrs Peter Gardiner per Kanak Bose Ltd. Ogscastle Roman Road Carnwarth ML11 8NE

With reference to your application validated on 28th June 2017 for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse

At : Land Adjacent Deanfoot Cottage Deanfoot Road West Linton Scottish Borders

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

Dated 25th August 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

Signed



.....
Depute Chief Planning Officer

Visit <http://eplanning.scotborders.gov.uk/online-applications/>

Production 8 sheet 1

APPLICATION REFERENCE : 17/00926/PPP**Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
OGS 259 01	Location Plan	Refused

REASON FOR REFUSAL

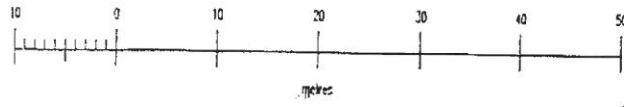
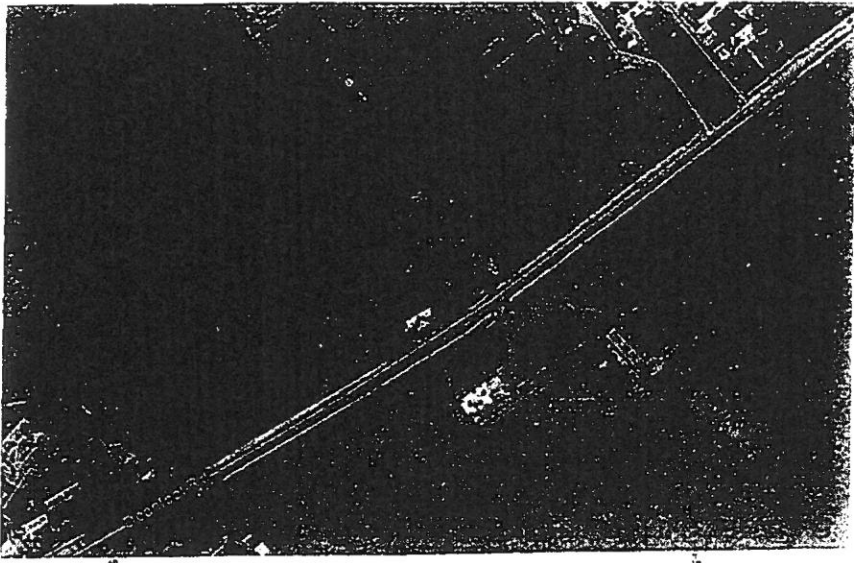
- 1 The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would amount to sporadic residential development in a countryside location, and no overriding case for a dwellinghouse has been substantiated

FOR THE INFORMATION OF THE APPLICANT

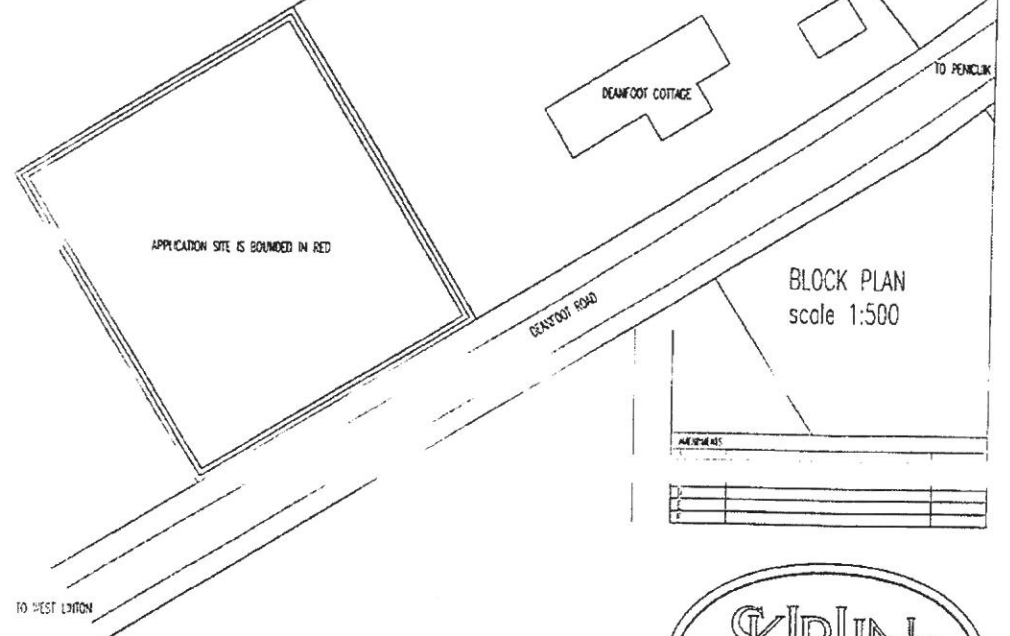
If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the 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.

Visit <http://eplanning.scotborders.gov.uk/online-applications/>

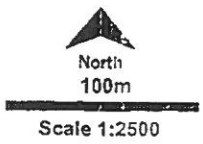
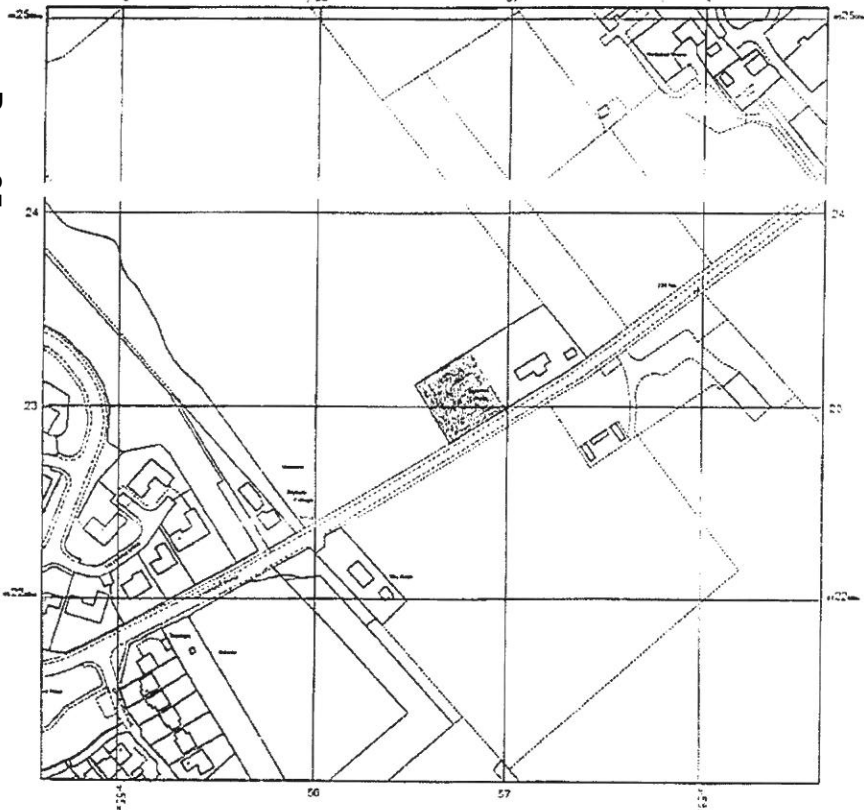


RECEIVED
8 JUN 2017
17/009207/PPP



BLOCK PLAN
scale 1:500

Page 25



Scottish Borders Council
Environment
1/2/2017



KANAK BOSE B.A.R.C.H HONS DIP ARCH
e-mail: kankabose@yahoo.co.uk

SCALE AS STATED		June 2017
OCS 259 01	SITE & LOCATION PLAN AERIAL VIEW	
PROPOSED SITE FOR 1.5 STOREY HOUSE DEANFOOT COTTAGE, DEANFOOT ROAD, WEST LINTON, EH46 7AU Mr & Mrs P M Gardiner		

Production 8 sheet 3

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REGULATORY SERVICES



To: **Development Management Service**
FAO Ranald Dods

Date: 21 July 2017

From: **Roads Planning Service**
Contact: **Paul Grigor**

Ext: 6663

Ref: 17/00926/PPP

Subject: Erection of dwellinghouse
Land Adjacent to Deanfoot Cottage, Deanfoot Road, W Linton

If the planning department are minded to support this application, the following points must be satisfactorily addressed at detailed planning stage;

- Access to the plot to be located at the eastern end.
- Access to be constructed as per my standard specification (DC-3), which includes a service lay-by, or similar approved.
- Parking and turning for two vehicles, excluding garages, to be provided within the curtilage of the plot and retained in perpetuity.

It should be noted that all work within the public road boundary must be undertaken by a contractor first approved by the Council.

Form to be Included DC-3.

AJS

PLANNING CONSULTATION

On behalf of: Director of Education & Lifelong Learning

From: Director of Assets & Infrastructure

Contact: Neil Hastie, Estates Manager

To: Head of Planning & Building Standards

Date: 4th July 2017

Contact: Ranald Dods ☎ 8574

Ref: 17/00926/PPP

PLANNING CONSULTATION

Name of Applicant: Mr & Mrs Peter Gardiner

Agent: Kanak Bose Ltd

Nature of Proposal: Erection of dwelling house

Site: Land adjacent Deanfoot Cottage, Deanfoot Road, West Linton, Scottish Borders

OBSERVATIONS OF: Education & Lifelong Learning (Neil Hastie)

CONSULTATION REPLY

I refer to your request for Educations view on the impact of this proposed development which is within the catchment area for Halyrude Primary School, West Linton Primary School and Peebles High School.

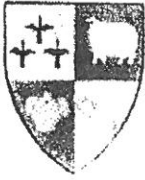
A contribution of £7,463 is sought for the Primary School and £1,051 is sought for the High School, making a total contribution of £8,514.

Rolls over 90% place strain on the schools teaching provision, infrastructure and facilities and reduce flexibility in timetabling, potentially negatively effecting quality standards within the school environment. Contributions are sought to raise capital to extend or improve schools or where deemed necessary to provide new schools in order to ensure that over capacity issues are managed and no reduction in standards is attributed to this within the Borders Area.

This contribution should be paid upon receipt of detailed planning consent but may be phased subject to an agreed schedule.

Please note that the level of contributions for all developments will be reviewed at the end of each financial year and may be changed to reflect changes in the BCIS index – therefore, we reserve the right to vary the level of the contributions.

If you require any further information please do not hesitate to contact me by emailing estatemanagement@scotborders.gov.uk



West Linton Community Council

Chairman: Mr Eric Small, Giffordstone Cottage, Main Street, West Linton, EH46 7EE

Treasurer: Mrs Carn Peaston, 3 Deanfoot Gardens, West Linton, EH46 7JB

Secretary: Mr Graham J Tulloch, 11 Dryburn Brae, West Linton, EH46 7JG

26 July 2017

Mr R Dods
Planning Officer
Environment and Infrastructure
Scottish Borders Council
Council Headquarters
Newtown St Boswells
Melrose
TD6 0SA

Dear Mr Dods

17/00926/PPP Mr & Mrs Peter Gardiner: Erection of dwellinghouse, Land Adjacent Deanfoot Cottage, Deanfoot Road, West Linton.

West Linton Community Council (WLCC), by a majority decision, **Supports** the above application, which came before it at a recent meeting.

Yours Sincerely,

Graham J Tulloch

Production 10



Production 11

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SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/00926/PPP
APPLICANT : Mr & Mrs Peter Gardiner
AGENT : Kanak Bose Ltd.
DEVELOPMENT : Erection of dwellinghouse
LOCATION: Land Adjacent Deanfoot Cottage
 Deanfoot Road
 West Linton
 Scottish Borders

TYPE : PPP Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
OGS 259 01	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

No representations were received.

Consultations were carried out with: Roads - access to the plot should be located at the eastern end of the site and should conform to standard specification (DC-3) which includes a service lay-by or similar. Parking and turning for two vehicles (excluding garages) to be provided within the curtilage; Education and Lifelong Learning - contributions for primary school and Peebles High School would be required if granted; community council - supports the application.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016
 PMD2 - Quality standards
 HD2 - Housing in the countryside
 HD3 - Protection of residential amenity
 EP13 - Trees, woodlands and hedgerows
 IS2 - Developer contributions
 IS7 - Parking provision and standards
 IS9 - Waste water treatment and sustainable urban drainage

Supplementary Planning Guidance
 Placemaking and Design
 New Housing in the Borders Countryside
 Trees and Development
 Development Contributions

The site is not strategic, therefore the policies contained within SESplan are not considered.

Recommendation by - Randal Dods (Planning Officer) on 25th August 2017

This application is made for planning permission in principle for a house on land west of Deanfoot Cottage which is on the C3, Deanfoot Road. The site is some 120m outwith the settlement envelope of West Linton and is approximately 1100m² in area. The site is an area of level garden ground associated with Deanfoot cottage, the western boundary of which is formed by semi-mature trees and a beech hedge. To the north is a narrow stand of semi-mature deciduous and evergreen trees and behind that, open farmland rising some 70m to the summit of a small hill approximately 650m to the north east. A beech hedge roughly 2m in height separates the site from the remaining garden of Deanfoot Cottage and a dry stane dyke approximately 1.2m in height separates the site from Deanfoot Road. The garden ground appears to have been left untended for some time. To the west of the site is an area of open field in active agricultural use. To the south lies more open farmland and beyond that lies the Linton Hotspur football ground, granted permission in December 2014. To the east lies Deanfoot Cottage itself and beyond that, a further area of agricultural land and Deanfoot farm, some 250m distant.

Whilst an application was made to extend Deanfoot Cottage, there is no planning history specific to this site. This part of the countryside around West Linton has seen a number of applications in the past for housing developments. An application for outline planning permission for the erection of a house (reference 01/01741/OUT) was made in in 2001 the field directly opposite the site. That application was refused in February 2002. An application was made in 2010, again in the field directly opposite the site, for the erection of 49 affordable houses. That application was withdrawn in December 2011 prior to determination. Slightly to the south-east, permission was refused in January 2016 for a change of use from an agricultural building to a motor repair facility. In the same area and prior to that, an application for a farmhouse with guest house wing was refused in April 2005. The planning history indicates that this area of countryside is sensitive to development pressures and granting permission could set an undesirable precedent.

The site is directly accessed off the C3 public road, some 120m east of the West Linton settlement envelope. No objection was received from Roads. They suggested a number of conditions should planning permission in principle be granted. The site is capable of providing two car parking spaces within the curtilage in line with their requirements. Whilst no concern is raised by Roads regarding safety, they recommend that if permission was granted, an access should be formed at the eastern end of the site. Those conditions would ensure compliance with policy IS7.

The application submission includes only a location plan, with no details of the proposed development. The fundamental issue in the determination of this application therefore is its principle, with specific reference to LDP policy HD2, Housing in the Countryside. The council aims to encourage a sustainable pattern of development focused on defined settlements. That aim does not preclude the development of housing in the countryside. Where rural housing is permitted by policy HD2, the aim is to locate development in appropriate locations. There are three general principles which are the starting point for the consideration of new houses in the countryside. Those are:

- 1) Locations within villages are preferred to open countryside, where permission will be granted in only special circumstances on appropriate sites;
- 2) sites associated with existing building groups and which will not be detrimental to the character of the group or surrounding area and;
- 3) sites in dispersed communities in the Southern Borders Housing Market Area (HMA).

In this case, the site is not within a village or settlement envelope. Deanfoot Cottage is remote from the eastern settlement envelope of West Linton and from other residential properties at Deanfoot Farm. It is not associated with a building group of at least three houses or buildings capable of conversion to residential use. The application site is within the garden ground of Deanfoot Cottage which, as noted above, is an isolated property. As such, there is no building group. Finally, the site is clearly within the Northern HMA and not the Southern HMA. The application therefore fails to meet any of the general principles used when assessing whether or not an application for rural housing is appropriate.

The policy sets out 6 further main criteria against which applications are assessed. Those are:

- a) Building groups;
- b) dispersed building groups;
- c) conversions of buildings to a house;
- d) restoration of houses;
- e) replacement dwellings
- f) economic requirement.

The site is not: Part of a building group, as already stated; not within a dispersed building group, as generally found in the Southern HMA; a conversion but is instead a proposed new build; a restoration, rather a new build; a replacement dwelling and; justified on economic requirement grounds.

The proposed development is, therefore, contrary to policy HD2, Housing in the Countryside.

The New Housing in the Borders Countryside supplementary planning guidance (SPG) reinforces the terms of policy HD2. No support for the proposal can be found within the SPG nor has the applicant advanced a case setting out why there is an overwhelming need for the development of the site. No justification has been provided by the applicant which indicates that it may be possible to set aside the terms of the SPG.

Since no supporting case has been submitted in support of the application, this proposal remains wholly inconsistent with planning policy and guidance. There are no material considerations of which I am aware that would suggest that policy provisions should be set aside in favour of the development and granting permission in principle would set an undesirable precedent.

Notwithstanding above matters regarding the principle of development, the site would appear reasonably capable of accommodating a modest house. That would, however, need to be balanced by the impact on amenity of both existing residents and those who would inhabit the house and the visual amenity of the rural location resulting from eventual design of the development. Whilst no drawings have been submitted which show an intended design, if permission in principle were granted, it would be for a future application to demonstrate compliance with policies PMD2 (in terms of design and materials) and HD3. In order to comply with policy IS9, a future application will have to demonstrate that the site can be adequately serviced in terms of water and drainage.

The trees to the north and west of the site, although only semi-mature, are of high amenity value to the area and separate the site from the farmland outwith the site boundary and their loss would be contrary to policy EP13. Ideally, consideration of the suitability of the site for a house should be supported by a tree survey, identifying root protection areas and indicative layout and levels plan. In the event that permission were to be granted in principle, it would be for a detailed application to demonstrate that a house could be developed here in a manner that the trees and hedging of high value could be retained.

Finally, if permission were to be granted, developer contributions would be required for education provision to comply with policy IS2. That payment would be secured by means of either a section 75 or a section 69 agreement.

In conclusion, the proposed development is located within the garden ground of a house which is within the countryside. Notwithstanding the lack of objection from consultees and the fact that it may be possible for a future application to show that a house could be accommodated on the site in order to comply with policies relating to design, amenity, parking, trees and hedgerows and drainage, the critical issue with the proposal is that it is outwith the defined settlement envelope of West Linton and does not respect the rural character of the area and neighbouring land uses and would not add to the sense of place. The proposal is therefore contrary to policy HD2 and published guidance on new housing in the countryside and policy PMD2. The applicant has advanced no material reasons to set aside the terms of the development plan and it is recommended that planning permission in principle is refused.

REASON FOR DECISION :

The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would amount to sporadic residential development in a countryside location, and no overriding case for a dwellinghouse has been substantiated.

Recommendation: Refused

- 1 The development would be contrary to Policy HD2 of the Local Development Plan 2016 and New Housing in the Borders Countryside Guidance 2008 in that it would amount to sporadic residential development in a countryside location, and no overriding case for a dwellinghouse has been substantiated

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

LIST OF POLICIES

Local Review Reference: 17/00045/RREF

Planning Application Reference: 17/00926/PPP

Development Proposal: Erection of dwellinghouse

Location: Land Adjacent Deanfoot Cottage, Deanfoot Road, West Linton

Applicant: Mr & Mrs Peter Gardiner

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2016

POLICY PMD2: QUALITY STANDARDS

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

Sustainability

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,
- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,
- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,
- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
- g) it considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking & Design

- h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
- i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
- j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
- k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
- l) it can be satisfactorily accommodated within the site,
- m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
- n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

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Accessibility

- o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,
- p) it incorporates, where required, access for those with mobility difficulties,
- q) it ensures there is no adverse impact on road safety, including but not limited to the site access,
- r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,
- s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Greenspace, Open Space & Biodiversity

- t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
- u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

POLICY PMD4: DEVELOPMENT OUTWITH DEVELOPMENT BOUNDARIES

Where Development Boundaries are defined on Proposals Maps, they indicate the extent to which towns and villages should be allowed to expand during the Local Plan period. Development should be contained within the Development Boundary and proposals for new development outwith this boundary, and not on allocated sites identified on the proposals maps, will normally be refused.

Exceptional approvals may be granted provided strong reasons can be given that:

- a) it is a job-generating development in the countryside that has an economic justification under Policy ED7 or HD2, OR
- b) it is an affordable housing development that can be justified under in terms of Policy HD1, OR
- c) there is a shortfall identified by Scottish Borders Council through the housing land audit with regard to the provision of an effective 5 year housing land supply, OR
- d) it is a development that it is considered would offer significant community benefits that outweigh the need to protect the Development Boundary.

AND the development of the site:

- a) represents a logical extension of the built-up area, and
- b) is of an appropriate scale in relation to the size of the settlement, and
- c) does not prejudice the character, visual cohesion or natural built up edge of the settlement, and
- d) does not cause a significant adverse effect on the landscape setting of the settlement or the natural heritage of the surrounding area.

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The decision on whether to grant exceptional approvals will take account of:

- a) any indicators regarding restrictions on, or encouragement of, development in the longer term that may be set out in the settlement profile;
- b) the cumulative effect of any other developments outwith the Development Boundary within the current Local Plan period;
- c) the infrastructure and service capacity of the settlement.

POLICY HD2: HOUSING IN THE COUNTRYSIDE

The Council wishes to promote appropriate rural housing development:

- a) in village locations in preference to the open countryside where permission will only be granted in special circumstances on appropriate sites,
- b) associated with existing building groups where this does not adversely affect their character or that of the surrounding area, and
- c) in dispersed communities in the Southern Borders housing market area.

These general principles in addition to the requirement for suitable roads access will be the starting point for the consideration of applications for housing in the countryside, which will be supplemented by Supplementary Planning Guidance / Supplementary Guidance on New Housing in the Borders Countryside and on Placemaking and Design.

(A) BUILDING GROUPS

Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such conversion has been implemented,
- b) the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts,
- c) any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.

In addition, where a proposal for new development is to be supported, the proposal should be appropriate in scale, siting, design, access, and materials, and should be sympathetic to the character of the group.

The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point.

(B) DISPERSED BUILDINGS GROUPS

In the Southern Housing Market area there are few building groups comprising 3 houses or more, and a more dispersed pattern is the norm. In this area a lower threshold may be appropriate, particularly where this would result in tangible community, economic or

LIST OF POLICIES

environmental benefits. In these cases the existence of a sense of place will be the primary consideration.

Housing of up to 2 additional dwellings associated with dispersed building groups that meet the above criteria may be approved provided that:

- a) the Council is satisfied that the site lies within a recognised dispersed community in the Southern Borders housing market area,
- b) any consents for new build granted under this part of this policy should not exceed two housing dwellings in addition to the group during the Plan period. No further development above this threshold will be permitted,
- c) the design of housing will be subject to the same considerations as other types of housing in the countryside proposals.

(C) CONVERSIONS OF BUILDINGS TO A HOUSE

Development that is a change of use of a building to a house may be acceptable provided that:

- a) the Council is satisfied that the building has architectural or historic merit, is capable of conversion and is physically suited for residential use,
- b) the building stands substantially intact (normally at least to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion, and
- c) the conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.

(D) RESTORATION OF HOUSES

The restoration of a house may also be acceptable provided that the walls of the former residential property stand substantially intact (normally at least to wallhead height). In addition:

- a) the siting and design reflects and respects the historical building pattern and the character of the landscape setting,
- b) any proposed extension or alteration should be in keeping with the scale, form and architectural character of the existing or original building, and
- c) significant alterations to the original character will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and/or a more sustainable and energy efficient design.

(E) REPLACEMENT DWELLINGS

The proposed replacement of an existing house may be acceptable provided that:

- a) the siting and design of the new building reflects and respects the historical building pattern and the character of the landscape setting,
- b) the proposal is in keeping with the existing/original building in terms of its scale, extent, form and architectural character,
- c) significant alterations to the original character of the house will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and /or a more sustainable and energy efficient design.

(F) ECONOMIC REQUIREMENT

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Housing with a location essential for business needs may be acceptable if the Council is satisfied that:

- a) the housing development is a direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and it is for a worker predominantly employed in the enterprise and the presence of that worker on-site is essential to the efficient operation of the enterprise. Such development could include businesses that would cause disturbance or loss of amenity if located within an existing settlement, or
- b) it is for use of a person last employed in an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and also employed on the unit that is the subject of the application, and the development will release another house for continued use by an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and
- c) the housing development would help support a business that results in a clear social or environmental benefit to the area, including the retention or provision of employment or the provision of affordable or local needs housing, and
- d) no appropriate site exists within a building group, and
- e) there is no suitable existing house or other building capable of conversion for the required residential use.

In ALL instances in considering proposals relative to each of the policy sections above, there shall be compliance with the Council's Supplementary Planning Guidance where it meets the terms of this policy and development must not negatively impact on landscape and existing communities. The cumulative effect of applications under this policy will be taken into account when determining impact.

POLICY HD3 – PROTECTION OF RESIDENTIAL AMENITY

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,
 - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or 'backland' development,
 - (iii) the generation of traffic or noise,
 - (iv) the level of visual impact.

POLICY EP13: TREES, WOODLANDS AND HEDGEROWS

The Council will refuse development that would cause the loss of or serious damage to the woodland resource unless the public benefits of the development clearly outweigh the loss of landscape, ecological, recreational, historical, or shelter value.

Any development that may impact on the woodland resource should:

- a) aim to minimise adverse impacts on the biodiversity value of the woodland resource, including its environmental quality, ecological status and viability; and

LIST OF POLICIES

- b) where there is an unavoidable loss of the woodland resource, ensure appropriate replacement planting, where possible, within the area of the Scottish Borders; and
- c) adhere to any planning agreement sought to enhance the woodland resource.

POLICY IS2: DEVELOPER CONTRIBUTIONS

Where a site is otherwise acceptable in terms of planning policy, but cannot proceed due to deficiencies in infrastructure and services or to environmental impacts, any or all of which will be created or exacerbated as a result of the development, the Council will require developers to make a full or partial contribution towards the cost of addressing such deficiencies.

Contributions may be required for one or more of the following:

- a) treatment of surface or foul waste water in accordance with the Plan's policies on preferred methods (including SUDS maintenance);
- b) provision of schools, school extensions or associated facilities, all in accordance with current educational capacity estimates and schedule of contributions;
- c) off-site transport infrastructure including new roads or road improvements, Safer Routes to School, road safety measures, public car parking, cycle-ways, bridges and associated studies and other access routes, subsidy to public transport operators; all in accordance with the relevant standards and the provisions of any Travel Plan;
- d) leisure, sport, recreation, play areas and community facilities, either on-site or off-site;
- e) landscape, open space, allotment provision, trees and woodlands, including costs of future management and maintenance;
- f) protection, enhancement and promotion of environmental assets either on-site or off-site, having regard to the Local Biodiversity Action Plan and the Council's Supplementary Planning Guidance on Biodiversity, including compensation for any losses and/or alternative provision;
- g) provision of other facilities and equipment for the satisfactory completion of the development that may include: measures to minimise the risk of crime; provision for the storage, collection and recycling of waste, including communal facilities; provision of street furniture and digital connectivity with associated infrastructure.

Wherever possible, any requirement to provide developer contributions will be secured by planning condition. Where a legal agreement is necessary, the preference for using an agreement under other legislation, for example the 1973 Local Government (Scotland) Act and the 1984 Roads (Scotland) Act will be considered. A planning obligation will only be necessary where successors in title need to be bound by its terms. Where appropriate, the council will consider the economic viability of a proposed development, including possible payment options, such as staged or phased payments.

POLICY IS7: PARKING PROVISION AND STANDARDS

Development proposals should provide for car and cycle parking in accordance with approved standards.

Relaxation of technical standards will be considered where appropriate due to the nature of the development and/or if positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of seeking additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

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POLICY IS9: WASTE WATER TREATMENT STANDARDS AND SUSTAINABLE URBAN DRAINAGE

WASTE WATER TREATMENT STANDARDS

The Council's preferred method of dealing with waste water associated with new development will be, in order of priority:

- a) direct connection to the public sewerage system, including pumping if necessary, or failing that:
- b) negotiating developer contributions with Scottish Water to upgrade the existing sewerage network and/or increasing capacity at the waste water treatment works, or failing that:
- c) agreement with Scottish Water and SEPA where required to provide permanent or temporary alternatives to sewer connection including the possibility of stand alone treatment plants until sewer capacity becomes available, or, failing that:
- d) for development in the countryside i.e. not within or immediately adjacent to publicly sewered areas, the use of private sewerage treatment may be acceptable, providing it can be demonstrated that this can be delivered without any negative impacts to public health, the environment or the quality of watercourses or groundwater.

In settlements served by the public foul sewer, permission for an individual private sewage treatment system will normally be refused unless exceptional circumstances prevail and the conditions in criteria (d) above can be satisfied.

Development will be refused if:

- a) it will result in a proliferation of individual septic tanks or other private water treatment infrastructure within settlements,
- b) it will overload existing mains infrastructure or it is impractical for the developer to provide for new infrastructure.

SUSTAINABLE URBAN DRAINAGE

Surface water management for new development, for both greenfield and brownfield sites, must comply with current best practice on sustainable urban drainage systems to the satisfaction of the council, Scottish Environment Protection Agency (where required), Scottish Natural Heritage and other interested parties where required. Development will be refused unless surface water treatment is dealt with in a sustainable manner that avoids flooding, pollution, extensive canalisation and culverting of watercourses. A drainage strategy should be submitted with planning applications to include treatment and flood attenuation measures and details for the long term maintenance of any necessary features.

OTHER MATERIAL CONSIDERATIONS

- SBC Supplementary Planning Guidance on New Housing in the Borders Countryside 2008
- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Development Contributions 2011
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006
- SBC Supplementary Planning Guidance on Trees and Development 2008

LIST OF POLICIES



Newtown St Boswells Melrose TD6 0SA Tel: 01835 825251 Fax: 01835 825071 Email: ITSystemAdmin@scotborders.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE 100075130-001

The online reference 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.

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 application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Ferguson Planning		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	Tim	Building Name:	Shiel House
Last Name: *	Ferguson	Building Number:	54
Telephone Number: *	01896668744	Address 1 (Street): *	Island Street
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	07960003358	Town/City: *	Galashiels
Fax Number:	<input type="text"/>	Country: *	United Kingdom
		Postcode: *	TD1 1NU
Email Address: *	tim@fergusonplanning.co.uk		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text" value="17"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Commercial Road"/>
Company/Organisation	<input type="text" value="Bayhill Farming Ltd"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Hawisk"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="TD9 7AQ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Scottish Borders Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="613482"/>	Easting	<input type="text" value="350828"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Proposed Storage Yard including siting of 7no Storage Containers and Change of Use of Land from Agricultural Land to Storage Yard

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see Appeal Statement for full Grounds of Appeal

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 the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

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. You can attach these documents electronically later in the process: * (Max 500 characters)

Application Form Location and Site Plans Supporting Statement Email Correspondence (dated 4th September 2017) Planning Officer's Report of Handling Consultee Representations LRB Appeal Statement

Application Details

Please provide details of the application and decision.

What is the application reference number? *

17/00973/FUL

What date was the application submitted to the planning authority? *

05/07/2017

What date was the decision issued by the planning authority? *

11/09/2017

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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

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

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: 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. 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.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

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 (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Ferguson Planning Tim Ferguson

Declaration Date: 10/11/2017



LOCAL REVIEW BODY – STATEMENT OF APPEAL
(17/00973/FUL)

**CHANGE OF USE OF AGRICULTURAL LAND TO FORM
STORAGE YARD AND SITING OF 7 NO STORAGE
CONTAINERS**

**LAND NORTH EAST OF GREENBRAEHEAD FARMHOUSE
HAWICK**

CLIENT: BAYHILL FARMING LTD

NOVEMBER 2017



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Co. Antrim BT54
6LG



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Date of Issue: November 2017





1. INTRODUCTION

- 1.1 This statement of appeal has been prepared by Ferguson Planning on behalf of Bayhill Farming Ltd who wish to change the use of agricultural land to form storage yard and siting of 7 No storage containers at land North East of Greenbraehead Farmhouse, Hawick.
- 1.2 The related planning application (17/00973/FUL) was lodged on 6th July 2017 with a decision, via delegated powers, to refuse the application received on 11th September 2017. As such, we now seek to appeal the decision via the Local Review Body.
- 1.3 This statement responds to the reason for refusal and, where appropriate, cross referring to the Local Development Plan and material considerations. The relevant appeal documentation is listed within Appendix 1.



2. REASON FOR REFUSAL

2.1 Within the decision notice the reason for refusal was that:

1. *The proposal is contrary to Scottish Borders Council Local Development Plan Policy ED7 in that there is no overriding economic and/or operational need for the proposal to be sited in this particular countryside location: the proposal would more reasonably be accommodated within the Development Boundary of a settlement and the siting and operation of a commercial storage facility would be highly unsympathetic to the rural character of the surrounding area.*

Representations

- 2.2 No representations were received from members of the public and there were no objections from the consultee responses;
- 2.3 The Council's **Flood Risk Officer** determined that following review of the application it was shown that the proposed site (or parts thereof) is within the 1 in 200 year (0.5% annual probability) flood extent and may be at medium to high risk of flooding. The risk to the proposed site is from surface water flooding only. However, they conceded that as this is a small scale development it is unlikely to affect local flooding problems and therefore had **no objection**.
- 2.4 The Council's **Economic Development Section** also had **no objection** to the scheme. They stated that this would appear to be a diversification of an agricultural business and assumed it is to support a demand from householders. The commented that the site appears set back such that it will not be substantially visible from the public road.
- 2.5 The **Outdoor Access Officer** highlighted that there are rights of way adjacent to the proposed development identified as routes BR117 and BR116 which are currently shared use with agricultural use and walkers, cyclists and horse riders. It was summarised that there would be **no objection** to this proposal regarding Countryside Access but also noted that the rights of way should be kept open and free if obstruction during and after construction.
- 2.6 Initial comments from the **Road Planning Service** stated that there were no objections in principle to the proposal, however concerns were held over the private track and in particular the current running surface which is unsuitable for domestic vehicles. The officer would not support development which would require increased vehicular movements on the present track. Additional information was submitted which incorporated details of the proposed upgrading to the private access track as well as the provision of passing places at intervals along the access track. Following the submission of this additional information, the Roads Planning Service had **no objection** to the proposal and suggested suitable conditions.



Planning Officers Observations

- 2.7 The Planning Officer’s Report for Handling details the reasons for the current determination, they state the following:

The site is outwith any Development Boundary and is not allocated for employment/business use. The established planning use of the site is agricultural. The proposal for storage and the siting of the 7 containers would fall within Class 6: Storage and Distribution of the use Classes Order.

The surrounding area is agricultural in character, though the steading buildings are used for a livery business. Policy ED7 requires the use to be appropriate to the rural character of the area. No justification has been submitted demonstrating an economic or operational need for the use of this site for commercial storage. There appears to be no operational need for this particular rural location. There is no existing commercial/industrial/business use of the site or within the surrounding area and so the proposal does not constitute an expansion or diversification of an existing use. No evidence of demand for the containers or caravan storage in this location has been provided and in any case, such demand could be met within a settlement. There is vacant industrial land within the Development Boundary that could be utilised.

- 2.8 It is strongly disputed that there is no evidence for demand for this type of development. We would point to application reference: 05/01870/FUL which allowed for the development of a caravan storage area and a subsequent permission (reference: 09/00871/FUL) which was granted due to significant demand for the use. It is evident from this permission that the Council do not view the provision of storage for caravan storage and storage containers as inappropriate within a rural location.

- 2.9 Furthermore, the Council’s conclusions that there is vacant land within the development boundary is also contested. The Grounds of Appeal in Section 4 demonstrate that this part of the Council’s argument is flawed. It would appear that the Council have not undertaken an assessment of the employment land currently available within Hawick and no evidence is presented to suggest that there is suitable and available industrial land within the development boundary.

Policy ED7 also states that the use cannot be sited within the Development Boundary of settlement. The proposed storage use would be commercial in character and would be more suited to an urban location such as an existing industrial estate. The applicant has planning permission for 12 storage containers within a site on Commercial Road in Hawick, which has not been implemented but is still valid. The containers could be sited within Hawick. This would also be more sustainable, in reducing vehicle journeys to this rural location. It would appear that the site has been selected because it is within the applicant's ownership rather than for any economic or operation need.





The Council's Economic Development Section advises that this would appear to be a diversification of an agricultural business and assume it is to support a demand from householders. However, no evidence of this has been submitted with the application.

- 2.10 As highlighted within correspondence to the Officer during the determination of the application, the site at Commercial Road is currently being marketed and in the final stages of being sold to an interested party. It was confirmed the applicant's intention is to sell the site in Commercial Road and no longer wishes to develop the site himself therefore repositioning the containers at the Commercial Road site is no longer an option. This site is therefore not available for the proposed development. The likely future use being mainstream commercial which will sit better in this location and given the recent neighbouring additions of Aldi and Sainsbury's.
- 2.11 A rural location offers distinct advantages to a more urban location, within the settlement boundary which include operational benefits. One of the key business justifications is the affordability of the proposed containers and caravan storage provision. As highlighted by the planning officer, the applicant owns the current site and can therefore offer more reasonable rates for future users than would be viable in a more urban location.
- 2.12 The storage business would serve a local catchment potentially for domestic and small business customers. It therefore needs to locate within a fairly tightly defined catchment area around Hawick. The proposal seeks to serve a local need and it is considered that the proposed development complies with both national and local planning objectives particularly those concerned with rural economic development and farm diversification.
- 2.13 The location of the storage containers is not considered to conflict with the long term operation and viability of the existing livery business as it is located on adjacent land that does not form part of the operational land. The farming enterprise would remain the primary business and income generator. As such it is difficult to understand why the Planning Officer feels that the proposal would not fall within the description of rural diversification as outlined by the Council's own Economic Development team.
- 2.14 A non-agricultural business may always not be appropriate in an isolated rural location where it would be part of a cumulative trend that erodes the rural character and tranquillity of the locality. In this area there is little evidence of such a trend working to undermine the overall character of the area and coupled with the relatively low key nature of the proposed use, it is considered that the development is acceptable. In order to maintain the visual appearance, it may be appropriate to condition that the containers be single height only. The ongoing maintenance of the paint finish can also be controlled by condition.
- 2.15 It is considered that the proposal will enable a limited increase in traffic which may infringe marginally on sustainable development principles based on the need to reduce travel. However, it should be recognised that opportunities to maximise sustainable transport solutions vary from urban to rural areas and any such downside should also be outweighed by the positive economic benefits arising from allowing the rural diversification of the site. Paragraph 79 of Scottish



Planning Policy is clear that planning should support economic growth in rural areas in order to create jobs and prosperity. We would also assert that there would not be a conflict with the environmental role of sustainable development in terms of the scheme's acceptable impact on the character and appearance of the area and consequently, as a whole the scheme would be sustainable development.

Policy ED7 requires that the development respects the amenity and character of the area. Where a new building is proposed the developer will be required to provide evidence that no appropriate existing building or brownfield site is available.

- 2.16 The Officer's use of this part of the policy illustrates a misunderstanding of the proposed development and misapplies the relevant provisions of Policy ED7. The proposal does not seek the erection of any 'new buildings', instead the development will provide 7 no. storage containers which are notable by their temporary nature. Caravan storage would also be on a temporary basis. Should the operations cease trading the lands would revert to as they are today.
- 2.17 It is therefore contested that there is a requirement for a 'brownfield' site or existing building to accommodate the proposed development by virtue of its temporary nature. As such, no evidence is required to justify the development in this regard.

The containers and storage area would be sited adjacent to the existing farm buildings. The containers would be industrial in character and the site is 5,016 square metres in area, which could accommodate a large number of caravans and mobile homes. The existing buildings and woodland would provide a degree of screening from the south and west and the land form rises up to the north and east to provide a backdrop.

The site is contained and would not be prominent in the landscape. Any adverse visual impacts could be mitigated by appropriate boundary planting and this could be secured by a planning condition.

- 2.18 The Planning Officer's overall assessment that the site would not be prominent in the landscape is agreed with, however, it is noted that this would somewhat contradict the assertion that the use would not be appropriate to the rural character of the area. It is also concurred that the site would be substantially screened, and this again contradicts the officer's assertion that proposal would be 'highly unsympathetic' when it would substantively not be viewed from any important public vantage points
- 2.19 Public views of the site, the farm and its associated buildings are limited when viewed from key public receptors or highway. Views of the site are possible from a private right of way that runs long the access drive leading to the farm.



- 2.20 The appearance of the scheme is generally akin to many rural farmyards in the countryside. The surrounding land will remain in agricultural use and there is sufficient room for additional landscaping should that be required. It is accepted that containers are not an overly common feature in the open countryside. However, the containers are located in close proximity to the existing farm buildings and are seen against the backdrop of this existing built form in the landscape. This backdrop means the containers are not seen against a rural skyline and this significantly reduces their potential visual impact.
- 2.21 The site contains adequate turning and manoeuvring space within the boundary to allow vehicles to access and egress in a forward gear. The nature of the use is such that high levels of parking are not required and use infrequent. Notwithstanding this, the layout of the site offers ample opportunity for vehicles to park within the site if so required. The amount of caravan and motorhome storage could be contained via a suitably worded condition to ensure that there is no detrimental impact which would create the potential for an industrial site character. Traffic movements to/from the proposed development will be minimal (as per the existing business) and are unlikely to have any impact or loss of amenity for neighbours.
- 2.22 A further condition could be imposed for the provision of additional planting to soften the edge of the development together with the treatment of the external surfaces of the containers with, for example, a dark green finish. The overall effect of which would be to reduce the visual impact when viewed from within the site. The application of a single paint finish to all the containers would add to the uniformity of the containers and thus reduce the visual impact further.

3. PLANNING CONTEXT

- 3.1 The site is situated approximately 1.2km from the centre of Hawick and comprises a small portion of the wider Greenbraehead Farm with an area of approximately 5016 sq.m.
- 3.2 The farm is currently used as a livery farm for horses and the proposed site is used as a stack yard / general storage area for the farm. There are no permanent buildings or features on the proposed site.
- 3.3 The farm and farm yard is accessed from a minor road named Lovers Loan which in turn connects to the B6399. There is also a private track which continues through the farm yard (passing the proposed site) in a northerly direction and links to public road D21(Area 3) Wellogate to Ormiston.
- 3.4 The site is situated approximately 217m to the west of Liddesdale Road (B6399) and separated by significant mature planting along the western boundary of the site. Also to the west is Slitrig Water which meanders from the site into Hawick as well as to the south. Land levels at the site are approximately 144m AOD with land rising significantly to the north, east and south, but slopes gently down to the west.

Figure 1: Aerial View of Property



Source: Google Earth

Figure 2: Wider Context View of the Site



Source: Google Earth

Figure 3: Aerial View of Site



Source: Bing Maps



Related Planning Policy

- 3.5 Within the Report of Handling the Planning Officer has concentrated their determination on Policy ED7: Business, Tourism and Leisure in the Countryside, of the adopted Scottish Borders Local Development Plan:

Policy ED7 states:

- 3.6 Proposals for business, tourism or leisure development in the countryside will be approved and rural diversification initiatives will be encourage provided that:

a) the development is to be used directly agricultural, horticultural or forestry operations, or for uses which by their nature are appropriate to the rural character of the area; or

b) the development is to be used directly for leisure, recreation or tourism appropriate to a countryside location, and where relevant, it is in accordance with the Scottish Borders Tourism Strategy and Action Plan;

c) the development is to be used for other business or employment generating uses, provided that the Council is satisfied that there is an economic and/or operational need for the particular countryside location, and that it cannot be reasonably accommodated within the Development Boundary of a settlement.

- 3.7 In addition, the following criteria will also be considered:

a) the development must respect the amenity and character of the surrounding area.

b) The development must have no significant adverse impact on nearby uses, particularly housing.

d) the development meets all other siting, and design criteria in accordance with Policy PMD2, and

e) the development must take account of accessibility considerations in accordance with Policy IS4.

Material Considerations

- 3.8 Other material considerations that should be taken into account in the determination of this proposal include:



Scottish Borders Local Development Plan

Policy PMD1: Sustainability seeks to ensure sustainability principles which underpin the Plan's policies and which should be incorporated into development proposals. The following principles should be incorporated;

- a) *The long terms sustainable use and management of land*
- b) *The preservation of air and water quality*
- c) *The protection of natural resources, landscapes, habitats and species*
- d) *The protection of built and cultural resources*
- j) *The support of community services and facilities*
- k) *The provision of new jobs and support to the local economy*
- l) *The involvement of the local community in the design, management and improvement of their environment*

Policy PMD2 determines that all new developments will be expected to be of a high quality in accordance with sustainability principles, design to fit with Scottish Borders townscapes and to integrate with its landscape surroundings.

Scottish Planning Policy

3.9 The SPP introduces a presumption in favour of sustainable development. The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place.

3.10 Paragraph 79 requires that plans should set out a spatial strategy which:

- *reflects the development pressures, environmental assets, and economic needs of the area, reflecting the overarching aim of supporting diversification and growth of the rural economy;*
- *promotes economic activity and diversification, including, where appropriate, sustainable development linked to tourism and leisure, forestry, farm and craft diversification and aquaculture, nature conservation, and renewable energy developments, while ensuring that the distinctive character of the area, the service function of small towns and natural and cultural heritage are protected and enhanced;*



PAN 73 Rural Diversification

- 3.11 The PAN highlights that Scottish Ministers are committed to supporting rural life, rural communities and the rural economy and highlights how the planning system can assist in rural diversification by:
- *promoting diversification through development plans;*
 - *giving sound and helpful advice;*
 - *encouraging sustainable diversification;*
 - *addressing issues of accessibility, infrastructure, scale and design; and*
 - *recognising individual circumstances.*
- 3.12 Paragraph 11 determines that in its simplest terms rural diversification means the establishment of new enterprises in rural locations. This can mean existing businesses entering into new areas of activity or the creation of entirely new enterprises.
- 3.13 The PAN further goes on to states that there are many activities that make a valuable contribution to the rural economy that are less immediately obvious such as large scale industrial activities like quarrying and waste disposal, hydro-electric schemes and wind turbines, as well as light industrial activities such as repair shops and machinists. The fact is that, although they may sometimes take a different form or be delivered in unique ways, nearly all of the businesses and services we find in urban areas can be found to some extent in rural areas. When planned well, all of these activities can contribute to the diversity of rural Scotland.
- 3.14 Successful diversification means supporting existing businesses and traditional activities whilst embracing innovation, new activities and new business ideas.



4. GROUNDS OF APPEAL

- 4.1 The reason for refusal is outlined in chapter two. It centres on the belief that the application fails to comply with Policy ED7 of the Scottish Borders Council Local Development Plan (2016) insofar as:
- *There is no overriding economic and/or operational need for the proposal to be sited in this particular countryside location.*
 - *The proposal would more reasonably be accommodated within the Development Boundary of a settlement.*
 - *The siting and operation of a commercial storage facility would be highly unsympathetic to the rural character of the surrounding area.*
- 4.2 Our response to the reason for refusal forms the Grounds of Appeal and which are now listed below. These should be read in conjunction with comments made in relation to the Planning Officer's Report of Handling in Section 2.

GROUNDS OF APPEAL

GOA 1

There is no overriding economic and/or operational need for the proposal to be sited in this particular countryside location:

The proposal would more reasonably be accommodated within the Development Boundary of a settlement

- 4.3 With regards to the above stated reasons for refusal we would like to point out the representation received by the Council's Economic Development department which stated:
- This would appear to be a diversification of an agricultural business and assume it is to support a demand from householders... The Economic Development section has no objections.*
- 4.4 It would appear that the case officer directly contradicts the support offered by the Economic Development department, with regards to location and rural diversification, and puts forward no reasons for this departure.
- 4.5 The provisions of PAN 73 are highlighted above and in particular we would reiterate the belief that successful diversification means supporting existing businesses and traditional activities whilst embracing innovation, new activities and new business ideas. In light of this, the proposal should therefore be welcomed as an innovative rural diversification of the existing agricultural business and deemed acceptable in this regard.





- 4.6 Whilst it is acknowledged that the Council deem this to be a ‘commercial operation’, this opinion alone does not justify the refusal of the application. It should be noted that a ‘commercial operation’ and ‘rural diversification’ are not mutually exclusive descriptions and a development can fall under both categories. It is emphasised that this is the case for the determination of this proposal.
- 4.7 Furthermore, it is stressed that rural diversification is supported at both the National and Local planning policy level and should be viewed favourably as such.
- 4.8 It is unclear why the Council believe that this site would be more appropriate within the settlement boundary. The nature of the site currently is for storage in association with the existing farm operation. The applicant therefore seeks to diversify their existing farm operations to allow for the use of the storage yard for caravans and mobile homes during the “off holiday” season and potential use of the storage containers for parties requiring long term storage.
- 4.9 We would strongly contest the assertion by the Planning Officer that the use would be better located within the Settlement Boundary. Furthermore, we would counter this argument by stating that there are no available suitable sites within the settlement of Hawick and the proposal could therefore not be located within it’s boundary. The following is a directory of sites identified within the adopted Local Development Plan for Business and Industry;

Table 1: Hawick Industrial Property Directory

Property Name	Comments
Allocation Reference – ZEL49	
Barrie Knitwear	Occupied
Howdens Joinery	Occupied
Screwfix	Occupied
Turnbull and Scott	Occupied
Proposed Bonded Warehouse	Application Ref: 17/00595/FUL
Dove Builders Merchants	Occupied
McLeod Glass	Occupied
Jewsons Builders Merchants	Occupied
2 nd Hand Car/Van Sales (Redpath Construction)	Occupied
Stone Mason	Occupied
Building Supplies (Border Hardware)	Occupied
SBC Recycling Depot	Occupied
Allocation Reference – ZEL62	
TMS Motor Spares	Occupied
Former Mill Building	Occupied



FERGUSON PLANNING



Large Open Yard – Emtelle Ltd	Occupied
Allocation Reference – ZEL50	Area at Risk of Flooding
Various Small Commercial/Industrial Units including:	
Hawick Plant Auctions Ltd	Occupied
Mansfield Workshops	Occupied
GM Brown and Sons (Joiners and Contractors)	Occupied
J Telfer (Blacksmith)	Occupied
Craig Motors	Occupied
Johnson’s of Elgin	Occupied
6 No Units to the rear of Former Woodcocks Factory	Occupied
Former Woodcocks Factory	Vacant
Knitwear Factory	Occupied
Eastfield Road	Vacant Site – Not owned by applicant and not large enough for current proposal. Adjacent to river and at risk of flooding.
Allocation Reference: ZEL51	
Lochpark Industrial Estate	Various small commercial/industrial businesses – no vacant or developable land.
Allocation Reference: ZEL52	
Lyle and Scott Factory	Occupied
Hawick Knitwear Factory	Occupied
Allocation Reference: ZEL48	
House of Cheviot Ltd	Occupied
Scottish Borders Art Glass	Occupied
Caledonia Mill Shop	Occupied
Protech	Occupied
Blair and Patterson	Occupied
Roxburghe Windows and Doors	Occupied

4.10 As can be seen within the above table, there are currently no options for available for the proposed development within the settlement boundary of Hawick. The applicant requires an approximate site area of 5016 sq.m, as described within the application, to accommodate the proposed development.

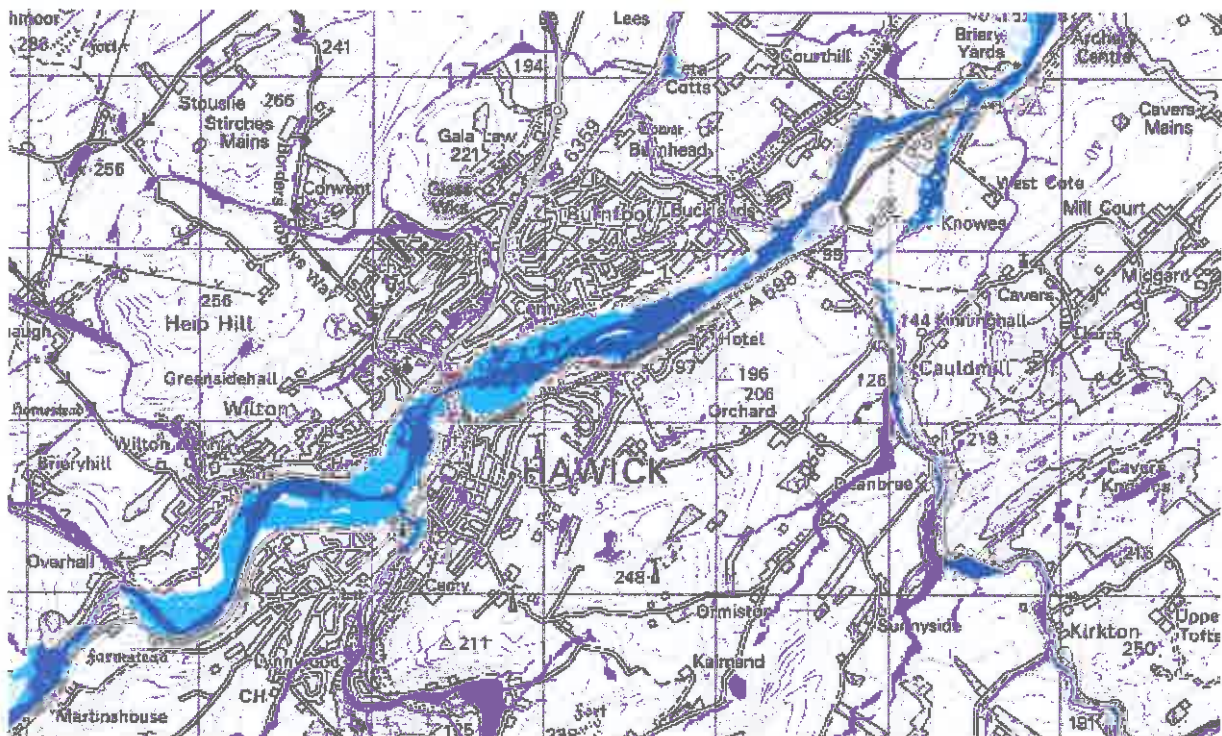
4.11 Many of the sites within the settlement boundary are subject to a high-medium risk of river flooding and would therefore be unsuitable for the proposed development. It is acknowledged that, as highlighted by the Council’s Flood Protection Officer, the risk to the proposed site is from surface water flooding only. However, the officer accepts that *“this is a small scale development that is unlikely to affect local flooding problems and I would not oppose it on*



flooding grounds.”

- 4.12 The following figure is an extract taken from the SEPA Flood Map and demonstrates that the Industrial sites within the settlement boundary are subject to flooding;

Figure 4: SEPA Flood Map



Source: SEPA

- 4.13 The Planning Officer points to the applicant’s current site at Commercial Road which has permission for storage containers as a viable option for the proposed development. However, they fail to take into consideration that this site is currently on the market and no longer available for the applicant’s proposal. Furthermore, the proposal seeks to allow the parking of caravans and campervans in the “off season”. This requires a higher level of security and surveillance than can be offered at the Commercial Road premises. It is considered that the applicant will be able to offer the comfort of a secure, location for those leaving caravans, as well as to any person who may wish to utilise the storage containers.
- 4.14 This is one of the operational requirements of the development which would demonstrate a requirement for a location not within the settlement boundary. In addition to the acceptance of the Economic Development team that the proposal would constitute ‘rural diversification’, it is considered that the proposal entirely complies with Local Development Plan Policy ED7 in this



regard.

- 4.15 Whilst it is accepted that all planning applications should be determined on their own merits, it is also important to understand the planning context of the local area. We would therefore like to point to the Caravan Storage site located at Courthill Farm. This is approximately 850m to the north of the settlement boundary of Hawick. The farm benefits from two permissions for the storage of caravans: 05/01870/FUL and a later extension to the business under reference 09/00871/FUL. The granting of these permissions illustrates that the Council have previously been willing to accept this type of development as suitable within a countryside location.
- 4.16 It is therefore unclear from the Officer's summary, why it is considered that this proposal would be more appropriate within a settlement boundary and no justification has been provided as to why this would indeed be the case.

GOA 2

The siting and operation of a commercial storage facility would be highly unsympathetic to the rural character of the surrounding area.

- 4.17 There is extremely limited visibility of the site from the surrounding area and to suggest that the proposal would be 'highly unsympathetic' is in our opinion incorrect. Given the undulating nature of the local topography and presence of existing mature planting, the site is substantially screened from public vantage points. Indeed, as shown on Figure 5 below (Shown in Blue), there is a single section of road measuring approximately 147m from which the site could be viewed from.

Figure 5: Blue section of road indicates the long range views of the site



Source: Google Earth

- 4.18 Snapshots from vantage points have been provided in Figures 6 – 8. View 1 is from the road to the north, identified as the D21(Area 3) Wellogate to Ormiston road. It is evident that the site can be viewed from this location, however given the limited length of road from which it is visible and the likely speeds which will be travelled along this road, the potential visual impact will be low.

Figure 6: View 1 - site from D21 to the north



Source: Google Maps

- 4.19 Figure 7 is taken approximately 585m from the south of the site which is the closest southerly road. It is evident that the sloping nature of the surrounding area restricts any views of the farm and the proposals will not be able to be viewed from this location.

Figure 7: View 2 - from the South



Source: Google Earth

- 4.20 Figure 8 is from the B6399 to the west. This is the main arterial road joining Hawick with settlements further south. There is no direct view of the application site from this location due to the existing mature planting.

Figure 8: View 3 - from B6399 to the west



Source: Google Earth

- 4.21 The above demonstrates that there will be limited visual impact from the proposed development on the surrounding rural area.
- 4.22 Furthermore, the siting of the storage containers has been carefully considered to ensure that their overall potential impact would be minimised. The containers are to be located close the existing farm buildings to form a compact group of development. It is asserted that this siting will enable the provision of development which is consistent with the agricultural nature of the existing on site operations.
- 4.23 The yard is currently an agricultural stacking and storage yard which is used to store agricultural vehicles which includes equine lorries and hay/straw trailers. These are of a similar scale and mass to the proposed storage containers, thus resulting in a limited visual change to the site and a non-demonstrable impact on the character of the surrounding area. The proposal could therefore not be deemed as highly unsympathetic and we strongly contest this conclusion by the Council.
- 4.24 The (General Permitted Development) (Scotland) Order 2011 in principle allows for the provision of agricultural buildings of up to 465 sq.m and up to 12m in height. This would create a far greater visual impact should such a structure be constructed and as such it is considered that the scale of development being proposed is relatively modest and in keeping with the scale of



the existing farm operations.

- 4.25 No objections were raised by consultees to suggest that the proposal would be unsympathetic to the character of the rural area. The Economic Development response states that:

The site appears set back such that it will not be substantially visible from the public road.

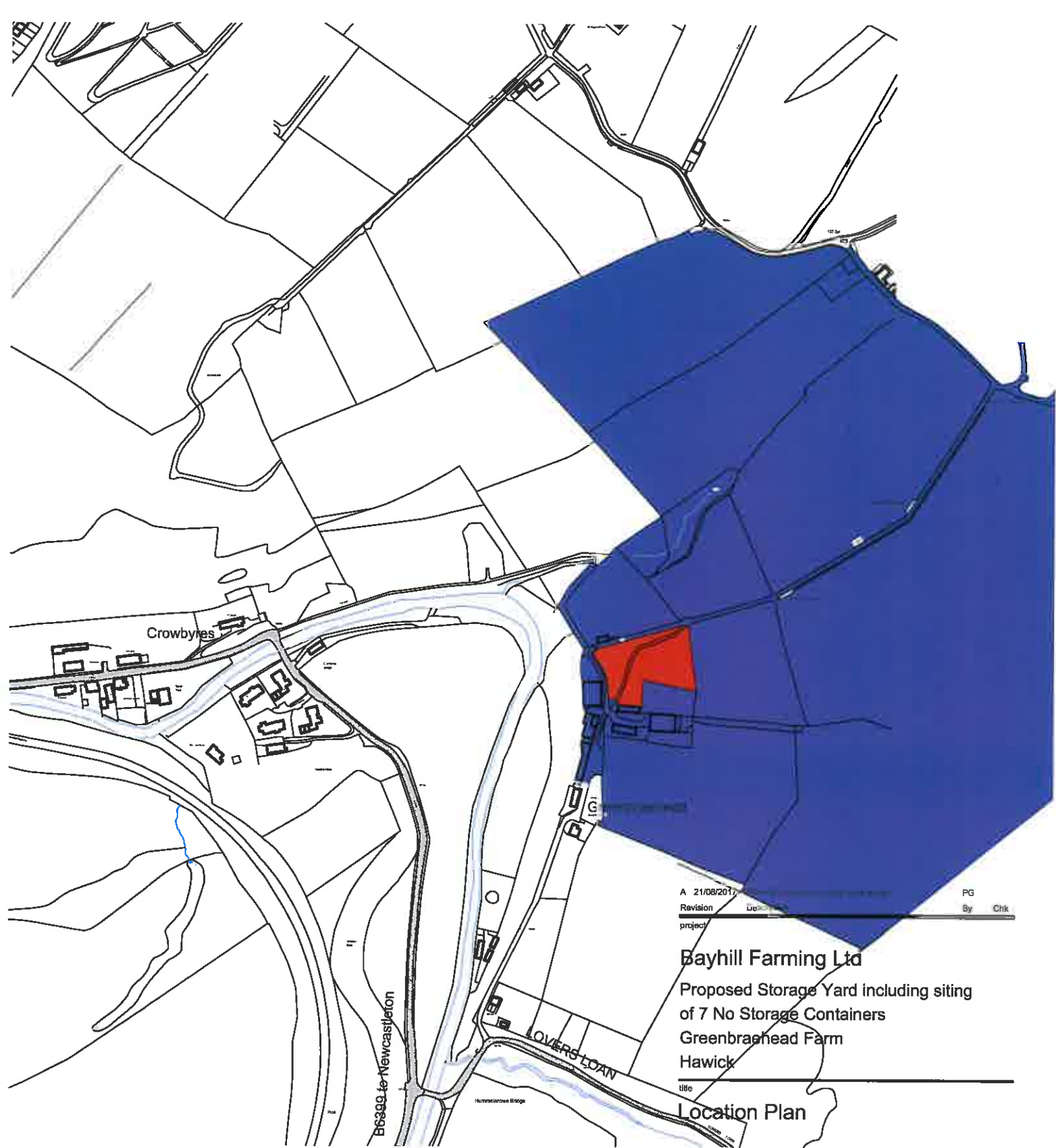
- 4.26 It is therefore considered that the proposed development would not substantially alter the character of the existing area and would not create an industrial development within the rural location. The existing extensive screening that is available will ensure that there would be no significant change to the landscape character of the site from the wider area and would indeed only be predominantly evident once within the site.



5. CONCLUSION AND SUMMARY

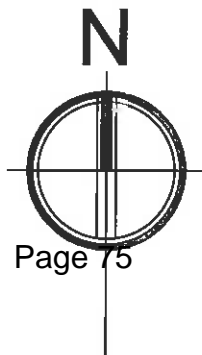
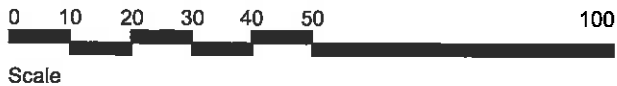
- 5.1 We believe that the subject site represents a sound location for the provision of storage containers and a storage yard for caravans and motorhomes. It is asserted that it does not conflict with the character of the area and represents a suitable rural location which would allow for rural diversification of an existing livery business.
- 5.2 There have been no statutory consultee objection to the proposal and we believe that the proposal, for reasons outlined in the 'Grounds of Appeal', provide more than sufficient evidence to show compliance with related planning policy and an operational need for the proposed development in this rural location.
- 5.3 Taking the 'Grounds of Appeal' noted within Chapter 4 we therefore respectfully request that this appeal be allowed.





Location Plan 1:5000

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scale	size	date	drawn	checked
1:5000	A4	June 2017	PG	

drawing status
PLANNING

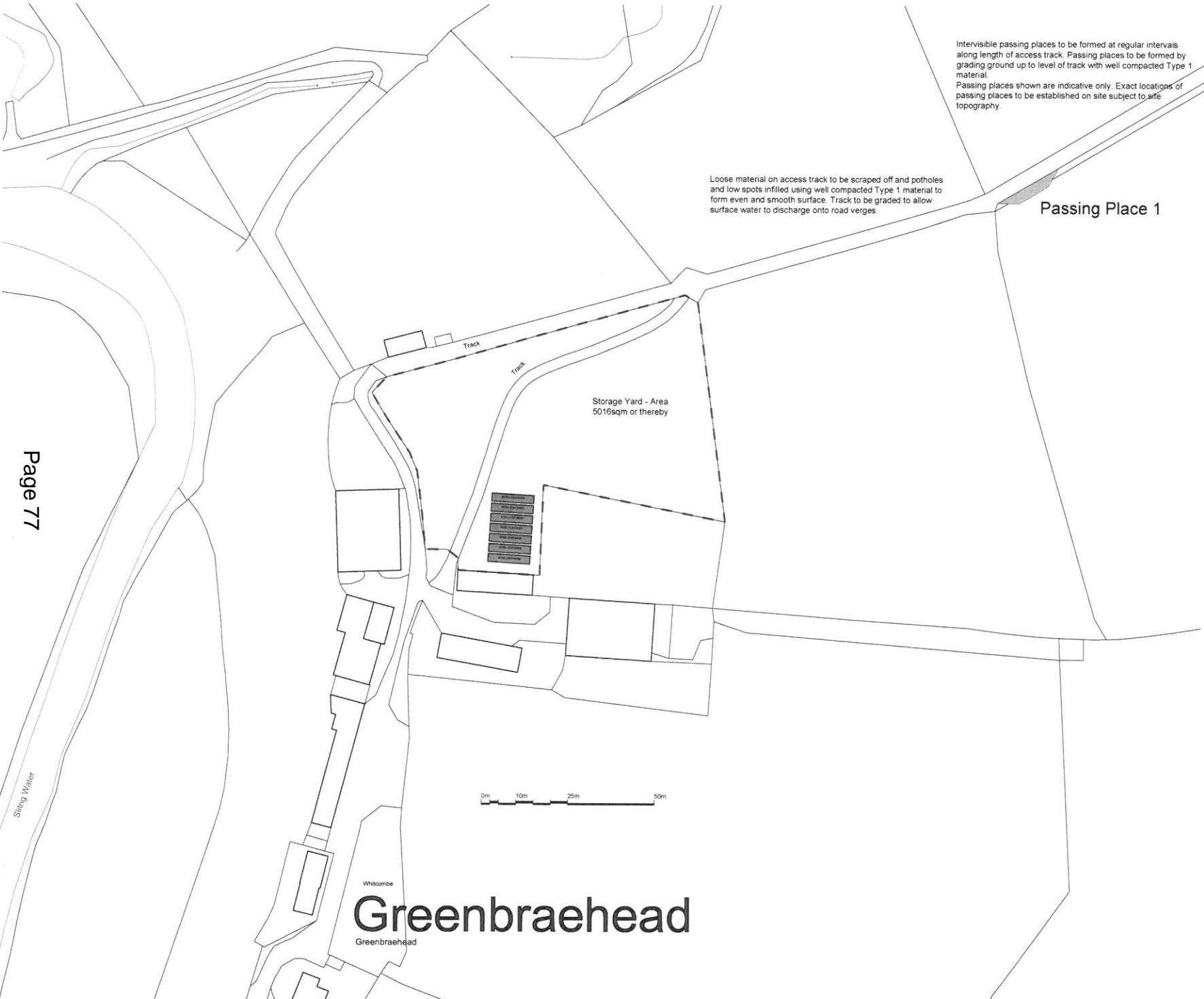
AITKEN TURNBULL ARCHITECTS
 9 Bridge Place
 Galashiels
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01898 752760
 enquiries@aitken-turnbull.co.uk
 www.aitken-turnbull.co.uk

Also at Dumfries & Edinburgh



project no.	drawing no.	revision
AT2944	Loc	A



Intervisible passing places to be formed at regular intervals along length of access track. Passing places to be formed by grading ground up to level of track with well compacted Type 1 material.
 Passing places shown are indicative only. Exact locations of passing places to be established on site subject to site topography.

Loose material on access track to be scraped off and potholes and low spots infilled using well compacted Type 1 material to form even and smooth surface. Track to be graded to allow surface water to discharge onto road verges.

Passing Place 1

- Notes**
1. This drawing is Copyright reserved and should be used only for the purposes intended in its original issue.
 2. Do not scale off this drawing, use only figured dimensions. The Contractor is to bring to the attention of the Architect any discrepancies contained in this drawing prior to work commencing.
 3. This drawing is to be read in conjunction with all relevant drawings and specifications including those from other Consultants.
 4. Any existing dimensions should be checked on site and any discrepancies reported to the Architect.

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Revision	Description	By	Chk
A	21/06/2017 Additional information on access track proposals added	PG	

Bayhill Farming Ltd
 Proposed Storage Yard including
 siting of 7 No Storage Containers
 Greenbraehead Farm
 Hawick

Site Plan as Proposed

Scale	Size	Date	Drawn	Checked
1:500	A1	July 2017	PG	

Drawing status:
PLANNING

AITKEN TURNBULL ARCHITECTS
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 Also at Dumfries & Edinburgh



Project No.	Drawing No.	Revision
AT2944	L(-1)101	A

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Newtown St Boswells Melrose TD6 0SA Tel: 01835 825251 Fax: 01835 825071 Email: ITSystemAdmin@scotborders.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE 100057778-001

The online reference 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.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Proposed Storage Yard including siting of 7no Storage Containers and Change of Use of Land from Agricultural Land to Storage Yard

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

Yes No

Has the work already been started and/or completed? *

No Yes - Started Yes - Completed

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 application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Aitken Turnbull Architects		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	Aitken	Building Name:	<input type="text"/>
Last Name: *	Turnbull	Building Number:	9
Telephone Number: *	01896 752760	Address 1 (Street): *	Bridge Place
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	Galashiels
Fax Number:	<input type="text"/>	Country: *	Scotland
		Postcode: *	TD1 1SN
Email Address: *	admin@aitken-turnbull.co.uk		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text"/>	Building Number:	17
Last Name: *	<input type="text"/>	Address 1 (Street): *	Commercial Road
Company/Organisation	Bayhill Farming Ltd	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	Hawick
Extension Number:	<input type="text"/>	Country: *	Scotland
Mobile Number:	<input type="text"/>	Postcode: *	TD9 7AQ
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:

Scottish Borders Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

613418

Easting

350856

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

5016.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Vacant Agricultural Yard

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? * Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

20

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * Yes No

Do your proposals make provision for sustainable drainage of surface water?? * (e.g. SUDS arrangements) * Yes No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? * Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? * Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? * Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * Yes No

If Yes or No, please provide further details: * (Max 500 characters)

The application is for a Storage Yard. No waste products will be produced.

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace Details

For planning permission in principle applications, if you are unaware of the exact proposed floorspace dimensions please provide an estimate where necessary and provide a fuller explanation in the 'Don't Know' text box below.

Please state the use type and proposed floorspace (or number of rooms if you are proposing a hotel or residential institution): *

Class 6 Storage or Distribution

Gross (proposed) floorspace (In square meters, sq.m) or number of new (additional) Rooms (if class 7, 8 or 8a): *

205

If Class 1, please give details of internal floorspace:

Net trading spaces:

Non-trading space:

Total:

If Class 'Not in a use class' or 'Don't know' is selected, please give more details: (Max 500 characters)

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Aitken Turnbull

On behalf of: Bayhill Farming Ltd

Date: 05/07/2017

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Supporting Statement

Provide copies of the following documents if applicable:

- | | |
|--|--|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Aitken Turnbull Architects Aitken Turnbull

Declaration Date: 05/07/2017

Payment Details

Cheque: Bayhill Farming Ltd No 2 Account, 016717

Created: 05/07/2017 10:51

Greenbraehead Farm, Hawick

Proposed Storage Yard including siting of 7no Storage Containers

Supporting Statement

Location

Greenbraehead Farm is located South East of Hawick approximately 1 mile outwith the town boundary on the B6399 (Newcastleton) road.

Access

The farm and farm yard is accessed from a minor road named Lovers Loan which in turn connects to the B6399. There is also a private track which continues through the farm yard (passing the proposed site) in a northerly direction and links to public road D21(Area 3) Wellogate to Ormiston.

Current Land Use

The farm is currently used a livery farm for horses and the proposed site is used as a stack yard / general storage area for the farm. There are no buildings or features on the proposed site.

Proposed Use of Land, Access and outlook.

The current proposal is to provide a change of use from agricultural land to general storage yard for touring caravans and mobile homes and also siting for 7 no storage containers. The storage of caravans and mobile homes will be during the "off holiday" seasons and will allow owners to store their caravans and mobile homes off the public roads. The storage containers are proposed to be located adjacent to an existing ménage and will be close to the existing building group.

Access to the yard is proposed to be taken from the D21(Area 3) Wellogate to Ormiston public road. No access will be provided through the current farm yard. It is envisaged that access will be not be required on a frequent basis and only a small number of vehicles will require access. There will be adequate space available for visitors to park on site.

The proposed use of the land will have no impact on the current use or daily activities of the farm. The storage units will be positioned to be as close as possible to the existing buildings and will have minimal visual impact as the site is not visible from the B6399 and only visible from a distance from the D21(Area 3) Wellogate to Ormiston road.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

Application for Planning Permission

Reference : 17/00973/FUL

**To : Bayhill Farming Ltd per Aitken Turnbull Architects Ltd 9 Bridge Place Galashiels
Scottish Borders TD1 1SN**

With reference to your application validated on 6th July 2017 for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

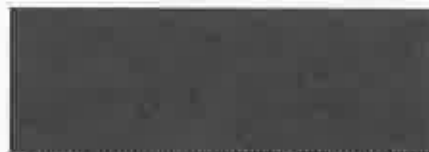
**Proposal : Change of use of agricultural land to form storage yard and siting of 7 No storage
containers**

at : Land North East Of Greenbraehead Farmhouse Hawick Scottish Borders

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

**Dated 11th September 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



Depute Chief Planning Officer

APPLICATION REFERENCE : 17/00973/FUL**Schedule of Plans and Drawings Refused:**

Plan Ref	Plan Type	Plan Status
LOC	Location Plan	Refused
L(-1)101	Site Plan	Refused

REASON FOR REFUSAL

The proposal is contrary to Scottish Borders Council Local Development Plan Policy ED7 in that there is no overriding economic and/or operational need for the proposal to be sited in this particular countryside location; the proposal would more reasonably be accommodated within the Development Boundary of a settlement and the siting and operation of a commercial storage facility would be highly unsympathetic to the rural character of the surrounding area.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/00973/FUL

APPLICANT : Bayhill Farming Ltd

AGENT : Aitken Turnbull Architects Ltd

DEVELOPMENT : Change of use of agricultural land to form storage yard and siting of 7 No
storage containers

LOCATION: Land North East Of Greenbraehead Farmhouse
Hawick
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
LOC	Location Plan	Refused
L(-1)101	Site Plan	Refused

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

There are no representations.

CONSULTATIONS:

Roads Planning Service: Whilst I have no objections in principle to this proposal, I am concerned over the current state of the private track, which is to be the main access to the storage yard. At present the current running surface is such that it is unsuitable for a domestic vehicles and I would not want to support any development which would increase vehicular movements along this track. In order for me to look more favourably on this proposal, a scheme of details would have to be submitted for approval which would detail all the works involved with upgrading the track to provide a smooth running surface. Until the above point is satisfactorily addressed I must withhold my support for this proposal.

Re-consultation: Having reviewed the revised plan I am content with the private access track improvements which have been included. For avoidance of any doubt the improvement works are for the full length of the private track and should be completed to the satisfaction of the Council prior to the site becoming operational.

If the above points are satisfactorily conditioned, should you be minded to support this proposal, then I will not object to this application.

Economic Development: This would appear to be a diversification of an agricultural business and assume it is to support a demand from householders. The site appears set back such that it will not be substantially visible from the public road. No objections.

Flood Protection Officer: In terms of information that this Council has concerning flood risk to this site, I would state that The Indicative River, Surface Water & Coastal Hazard Map (Scotland) known as the "third generation flood mapping" prepared by SEPA indicates that the site is at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year.

Review of the application shows that the proposed site (or parts thereof) is within the 1 in 200 year (0.5% annual probability) flood extent and may be at medium to high risk of flooding. The risk to the proposed site is from surface water flooding only. Notwithstanding the above this is a small scale development that is unlikely to affect local flooding problems and I would not oppose it on flooding grounds.

Access Officer: There are rights of way adjacent to this proposed development on the existing farm tracks to the west and north of the site. These routes BR117 and BR116 adjacent to the site are currently shared use with agricultural use, walkers, cyclists and horse riders.

The adjacent routes Rights of Way BR117 and BR116 should be kept open and free of obstruction before during and after construction. Therefore, if the proposal is granted planning permission then any gates into the property must open into the property and not outwards into the line of the users of the routes. The routes should not form part of the curtilage of the proposed development.

APPLICANT'S SUPPORTING INFORMATION:

- o Supporting Statement

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Local Development Plan 2016

PMD2: Quality Standards

ED7: Business, Tourism and Leisure Development in the Countryside

HD3: Protection of Residential Amenity

IS7: Parking Provision and Standards

Supplementary Planning Guidance:

Placemaking and Design January 2010

Household Developments July 2006

Recommendation by - Julie Hayward (Lead Planning Officer) on 8th September 2017

Site and Proposal

Greenbraeheads Farm is situated to the south of Hawick. The Slitrig Water and the B6399 Hawick to Newcastleton public road are to the west on lower ground, separated by an area of woodland. The farm is surrounded by fields.

The farm is accessed from the minor road to Ormiston (Lovers Loan) off the B6399 to the south by a rough track that passes through the farm yard in a northerly direction and eventually joins the Ormiston to Hawick minor public road (D21) to the north east. There is a horse arena and Greenbraehead Farmhouse on the eastern side of the access track; this property is a one-and-a-half storey render and slate dwellinghouse. Whitcombe is beyond this on the western side of the track and is a two storey conversion with one-and-a-half storey wings, stone and rendered walls and a slate roof. There is a row of stables and a group of farm buildings to the north.

The site is situated adjacent to the farm buildings and comprises of agricultural land but is overgrown and there are piles of rubble within it and two caravans. The agent advises that the site is used as a stack yard/general storage for the farm, which is used for livery for horses. The proposal is to site 7 storage containers on the land and change the use of the whole field (5,016 square metres) to a storage yard.

There is a gated access on the southern boundary and a rough track runs through the site to the north eastern corner where it joins the track that runs through the farm to the public road. A revised site plan has been submitted that includes passing places along this access track to the north east of the site through to the public road. Potholes in the track would be infilled to provide a smooth surface and the track would be graded to allow for surface water drainage onto the verges.

The Supporting Statement outlines that the site would be used to store touring caravans and mobile homes out of season and allow owners to store their caravans off public roads. Seven storage containers would be sited in the field. The agent advises that the containers will be used by the applicant and leased to third parties for long term storage. Access would be from the D21 and not through the farm yard and there is parking within the site.

The applicant owns a site in Hawick (accessed from Victoria Road) where the storage containers are currently sited. The containers do not benefit from planning permission and are the subject of planning enforcement action. This application seeks to find an alternative location for the containers. However, the applicant does have planning permission for the erection of 3 industrial units and the siting of 12 containers at a site on Commercial Road in Hawick (15/00327/FUL) which is still valid and has not been implemented. The agent advises that the applicant intends to sell the site on Commercial Road and will not be developing the site.

Planning Policy

Policy ED7 of the Local Development Plan 2016 states that proposals for business development in the countryside will be approved provided that the development is to be used directly for uses, which by their nature are appropriate to the rural character of the area and the development is to be used for other business or employment generating uses and the Council is satisfied that there is an operational need for the particular countryside location and it cannot be reasonable accommodated within the Development Boundary of a settlement.

The site is outwith any Development Boundary and is not allocated for employment/business use. The established planning use of the site is agricultural. The proposal for storage and the siting of the 7 containers would fall within Class 6: Storage and Distribution of the use Classes Order. The surrounding area is agricultural in character, though the steading buildings are used for a livery business. Policy ED7 requires the use to be appropriate to the rural character of the area. No justification has been submitted demonstrating an economic or operational need for the use of this site for commercial storage. There appears to be no operational need for this particular rural location. There is no existing commercial/industrial/business use of the site or within the surrounding area and so the proposal does not constitute an expansion or diversification of an existing use. No evidence of demand for the containers or caravan storage in this location has been provided and in any case, such demand could be met within a settlement. There is vacant industrial land within the Development Boundary that could be utilised.

Policy ED7 also states that the use cannot be sited within the Development Boundary of settlement. The proposed storage use would be commercial in character and would be more suited to an urban location such as an existing industrial estate. The applicant has planning permission for 12 storage containers within a site on Commercial Road in Hawick, which has not been implemented but is still valid. The containers could be sited within Hawick. This would also be more sustainable, in reducing vehicle journeys to this rural location. It would appear that the site has been selected because it is within the applicant's ownership rather than for any economic or operation need.

The proposal would therefore be contrary to policy ED7.

The Council's Economic Development Section advises that this would appear to be a diversification of an agricultural business and assume it is to support a demand from householders. However, no evidence of this has been submitted with the application.

Impact on Visual Amenities

Policy PMD2 requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscapes and to integrate with its landscape surroundings. The policy contains a number of standards that would apply to all development. Policy ED7 requires that the development respects the amenity and character of the area. Where a new building is proposed the developer will be required to provide evidence that no appropriate existing building or brownfield site is available.

The containers and storage area would be sited adjacent to the existing farm buildings. The containers would be industrial in character and the site is 5,016 square metres in area, which could accommodate a large number of caravans and mobile homes. The existing buildings and woodland would provide a degree of screening from the south and west and the land form rises up to the north and east to provide a backdrop. The site is contained and would not be prominent in the landscape. Any adverse visual impacts could be mitigated by appropriate boundary planting and this could be secured by a planning condition.

Access and Parking

Policy IS7 requires that car parking should be provided in accordance with the Council's adopted standards.

The site would be accessed by the track for the public road to the north east. The Roads Planning Service has expressed concern over the current state of this private track. At present the current running surface is such that it is unsuitable for domestic vehicles. Upgrading of the track is required to provide a smooth running surface and passing places.

An amended site plan has been submitted that includes passing places along this access track to the north east of the site through to the public road. Potholes in the track would be infilled to provide a smooth surface and the track would be graded to allow for surface water drainage onto the verges.

The Roads Planning Service now has no objections provided that the improvement works are for the full length of the private track and completed prior to the site becoming operational. The position and specification of the passing places need to be agreed and also completed prior to the site becoming operational. These matters can be controlled by a planning condition.

Impact on Residential Amenities

Policy HD3 states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted. Advice on light and privacy is contained within the Supplementary Planning Guidance: Guidance on Householder Developments July 2006.

There are two residential properties at Greenbraehead Farm, outwith the ownership of the applicant. These are over 90m from the site. The proposal would not affect the light or privacy of occupants of these properties.

The agent advises that the storage facility would be accessed from the north and no traffic would come through the steading, though it would not be possible to control this by condition. The use of the site for storage should not generate unacceptable noise levels and so it is considered that the proposal would not harm the residential amenities of occupants of these properties.

REASON FOR DECISION :

The proposal is contrary to Scottish Borders Council Local Development Plan Policy ED7 in that there is no overriding economic and/or operational need for the proposal to be sited in this particular countryside location; the proposal would more reasonably be accommodated within the Development Boundary of a settlement and the siting and operation of a commercial storage facility would be highly unsympathetic to the rural character of the surrounding area.

Recommendation: Refused

- 0 The proposal is contrary to Scottish Borders Council Local Development Plan Policy ED7 in that there is no overriding economic and/or operational need for the proposal to be sited in this particular countryside location; the proposal would more reasonably be accommodated within the Development Boundary of a settlement and the siting and operation of a commercial storage facility would be highly unsympathetic to the rural character of the surrounding area.

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

From:Peter Gibb
Sent:4 Sep 2017 11:48:17 +0100
To:Hayward, Julie
Subject:RE: Planning Application Ref 17/00973/FUL

REFERENCE EML-OUT/AT2944/20170904-113445-163

Julie

I have now had an opportunity to discuss the contents of your email below with my client and have added our response to each point in red text. I trust this is of assistance and will allow you to determine our Planning Application. Please do not hesitate to contact me if you require further information or clarification on any point below.

Regards

Peter

Peter Gibb
Senior Technician

for and on behalf of
Aitken Turnbull Architects
9 Bridge Place, Galashiels, TD1 1SN
w: <http://www.aitken-turnbull.co.uk>
e: pgibb@aitken-turnbull.co.uk
t: 01896 752760



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From: Hayward, Julie [mailto:JHayward2@scotborders.gov.uk]
Sent: 30 August 2017 11:39
To: Peter Gibb <pgibb@aitken-turnbull.co.uk>
Subject: RE: Planning Application Ref 17/00973/FUL

Hi

I have now had an opportunity to consider this application and to visit the site. You will note that the Roads Planning Service can now support the proposal, subject to conditions regarding the upgrading of the access track and formation of passing places.

I just require clarification on a number of issues:

- What will the containers be used for once positioned on the site? Will they be for the sole use for the applicant or leased out to other parties? What will be stored within the containers?

The storage containers may be used by the applicant however the applicant has indicated he may wish to lease the containers out to other parties requiring long term storage. At this juncture it is not known exactly what will be stored within the containers however the applicant envisages items such as surplus household furniture / house clearance items being stored. The applicant has indicated that no flammable, explosive, corrosive, hazardous or dangerous materials will be stored within the storage containers and will make this a requirement to anyone leasing a container. □ PG 04/09/2017

- The applicant has planning permission for storage containers on the site in Commercial Road. Why can't the containers be moved from the site in Victoria Road to the site in Commercial Road that benefits from planning permission?

The applicant currently has the site in Commercial Road on the market for sale and has had interest from a potential purchaser. The applicant has indicated he would rather sell the site in Commercial Road and no longer wishes to develop the site himself therefore repositioning the containers from Victoria Road to the Commercial Road site is no longer an option. PG 04/09/2017

- Policy ED7 supports proposals for business development in the countryside if it can be justified that they require a countryside location, are appropriate to the rural character of the area and cannot be accommodated within a settlement. This application seeks to change the use of the site to commercial/storage. There is nothing within the Supporting Statement that sets out why this use, especially the storage container element, requires a countryside location and can't be accommodated within a settlement (for example, the site in Commercial Road)? The proposal would appear to be contrary to this policy.

I note you refer to the proposed use as commercial/storage however the applicant has no intention to trade or sell any goods from the site and intends the site to be used as a storage yard only. The yard is currently an agricultural stack / storage yard and is used to store agricultural vehicles such as equine lorries & hay/straw trailers which are of similar scale and mass to the proposed storage containers. It is not envisaged that the storage containers will require to be accessed on a frequent basis therefore the vehicular access to and from the site will not conflict with its current use or have any adverse impact on the immediate neighbours. The applicant has indicated the storage yard element will be used to store caravans and camper vans during the off holiday period. These will more than likely only be used for a short time each year and will sit dormant for the remainder of the time and will not require frequent visits for maintenance. We feel the nature of the proposal is appropriate to a semi-rural location. PG 04/09/2017

- If the application is supported it is likely that the planning permission would be for a temporary period of 3 years to enable the Council to monitor the site.

Noted and agreed. If the application is approved for a temporary period will the applicant require to reapply for continued use after this 3 year period? PG 04/09/2017

I would welcome your comments.

Thanks

Julie

Julie Hayward

Team Leader

Development Management

Regulatory Services

Scottish Borders Council

Tel: 01835 825585

E-mail: jhayward2@scotborders.gov.uk

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From: Peter Gibb [<mailto:pgibb@aitken-turnbull.co.uk>]

Sent: 21 August 2017 16:31

To: Grigor, Paul

Cc: Hayward, Julie

Subject: Planning Application Ref 17/00973/FUL

REFERENCE EML-OUT/AT2944/20170821-160609-416

Paul

With reference to your consultation response dated 3rd August in connection with the above Planning Application and our subsequent conversation please find attached updated Site Plan drawing AT2944-L(-1)101A incorporating details of the proposed upgrading to the private access track. I have also added a note regarding the provision of passing places at intervals along the access track and indicated these on drawing AT2944-Loc-A.

I trust this addresses the concerns raised in your consultation response and will allow you to support our application. Please do not hesitate to contact me if you would like to discuss any of this in more detail.

Regards

Peter

Peter Gibb
Senior Technician

for and on behalf of
Aitken Turnbull Architects
9 Bridge Place, Galashiels, TD1 1SN
w: <http://www.aitken-turnbull.co.uk>
e: pgibb@aitken-turnbull.co.uk
t: 01896 752760



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PLANNING CONSULTATION

To: Economic Development Section

From: Development Management

Date: 10th July 2017

Contact: Julie Hayward ☎ 01835 825585

Ref: 17/00973/FUL

PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 31st July 2017, If further time will be required for a reply please let me know. If no extension of time is requested and no reply is received by 31st July 2017, it will be assumed that you have no observations and a decision may be taken on the application.

Please remember to e-mail the DCConsultees Mailbox when you have inserted your reply into Idox.

Name of Applicant: Bayhill Farming Ltd

Agent: Aitken Turnbull Architects Ltd

Nature of Proposal: Change of use of agricultural land to form storage yard and siting of 7 No storage containers

Site: Land North East Of Greenbraehead Farmhouse Hawick Scottish Borders

OBSERVATIONS OF: Economic Development Section

CONSULTATION REPLY

This would appear to be a diversification of an agricultural business and assume it is to support a demand from householders. The site appears set back such that it will not be substantially visible from the public road. The Economic Development section has no objections.

Consultation Reply



ENVIRONMENT AND INFRASTRUCTURE

To: HEAD OF PLANNING AND REGULATORY SERVICE

FAO: Julie Hayward **Your Ref:** 17/00973/FUL

From: HEAD OF ENGINEERING & INFRASTRUCTURE **Date:** 26th July 2017

Contact: Lauren Addis **Ext:** 6517 **Our Ref:** B48/2382

Nature of Proposal: Change of use of agricultural land to form storage yard and siting of 7 No storage containers

Site: Land North East Of Greenbraehead Farmhouse Hawick Scottish Borders

In terms of information that this Council has concerning flood risk to this site, I would state that The Indicative River, Surface Water & Coastal Hazard Map (Scotland) known as the "third generation flood mapping" prepared by SEPA indicates that the site is at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any one year.

The Indicative River & Coastal Flood Map (Scotland) has primarily been developed to provide a strategic national overview of flood risk in Scotland. Whilst all reasonable effort has been made to ensure that the flood map is accurate for its intended purpose, no warranty is given.

Due to copyright restrictions I cannot copy the map to you however, if the applicant wishes to inspect the maps they can contact me to arrange a suitable time to come in and view them.

Review of the application shows that the proposed site (or parts thereof) is within the 1 in 200 year (0.5% annual probability) flood extent and may be at medium to high risk of flooding. The risk to the proposed site is from surface water flooding only. Notwithstanding the above this is a small scale development that is unlikely to affect local flooding problems and I would not oppose it on flooding grounds.

I would recommend that the applicant adopts water resilient materials and construction methods as appropriate in the development and that the applicant review the Online Planning Advice on Flood Risk.

The applicant should be made aware that flooding can occur from other sources including run-off from surrounding land, blocked road drains, surcharging sewers and blocked bridges and culverts. I would also recommend that, to receive flood warnings from SEPA, the applicant signs up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188.

Please note that this information must be taken in the context of material that this Council holds in fulfilling its duties under the Flood Risk Management (Scotland) Act 2009.

Lauren Addis
Technician
Flood Risk & Coastal Management

To: **Development Management Service**
FAO Julie Hayward , Council H. Q.

Date: **11th June 2017**

From: **Outdoor Access Officer**

Contact: **S Gray**

Ext: **2603**

Ref: **17/00973/FUL**

PLANNING CONSULTATION REPLY

Nature of Proposal: Change of use of agricultural land to form storage yard
and siting of 7 No storage containers

Site: Land North East Of Greenbraehead Farmhouse Hawick Scottish Borders

Thank you for the request for a consultation response. This response is in relation to Outdoor Countryside Access

Public Road

In relation to existing and new vehicle access to and from the public road(s) then this is a matter for Roads Planning who should also be consulted.

Core paths, Promoted paths and Rights of way

According to records held in the Regulatory Services there are rights of way adjacent to this proposed development on the existing Farm tracks to the West and North of the proposed location of change of use.

As shown on the adjacent maps these routes BR117 and BR116 adjacent to the site are currently shared use with agricultural use and walkers, cyclists and horse riders.

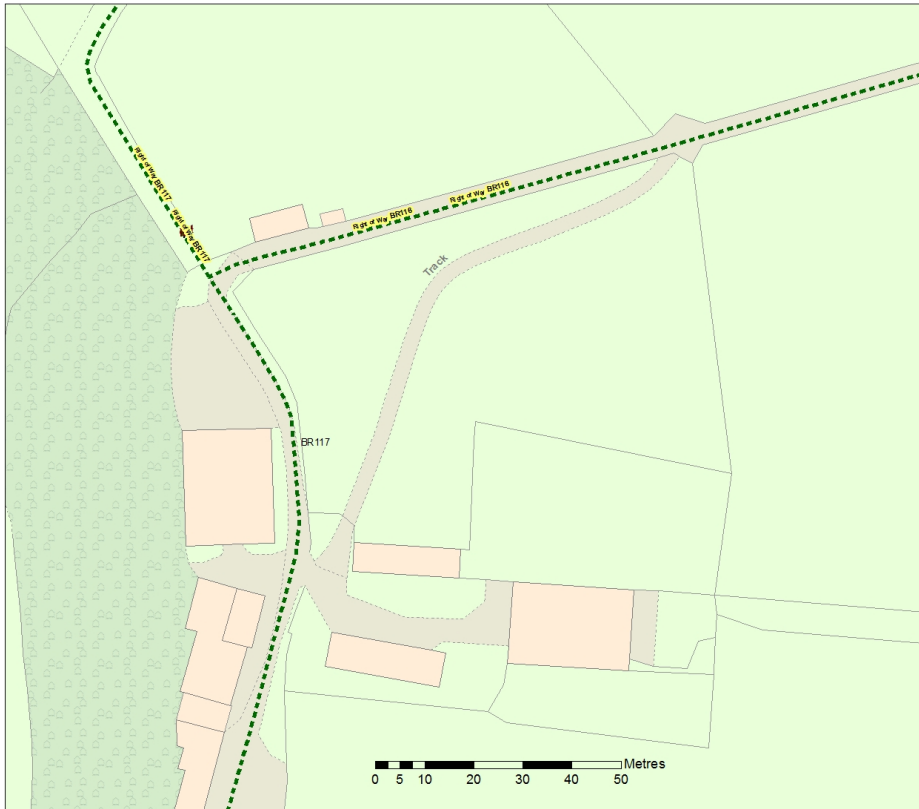


Please note that Scottish Borders Council does not have a definitive record of every claimed right of way within its area. The Scottish Rights of Way and Access Society, the community council and local residents may have evidence of existence of claimed rights of way that have not yet been recorded by SBC

Rights of Way are protected by law under the Countryside (Scotland) Act 1967 sec. 46 'It shall be the duty of a planning authority to assert, protect, and keep open and free from obstruction or encroachment any public right of way which is wholly or partly within their area.

There is no objection to this proposal re Countryside access.


The adjacent routes Rights of Way BR117 and BR116 should be kept open and free of obstruction before during and after construction. Therefore, if the proposal is granted planning permission then any gates into the property must open into the property and not outwards into the line of the users of the routes. The routes will not form part of the curtilage of the proposed development.

Susan Gray
Outdoor Access

**Scottish Borders
Greenbraehead
Legend**

- Managed Path (Local Community)
- Managed Path SBC (Core Path, Promoted Route, Aspirational Core Path)
- Other (Right of Way; Permissive/ Customary Path; Longer-term Aspirational Path)
- Path Link on SBC Adopted Road (No Pavement) (Core Path Link and Promoted routes)

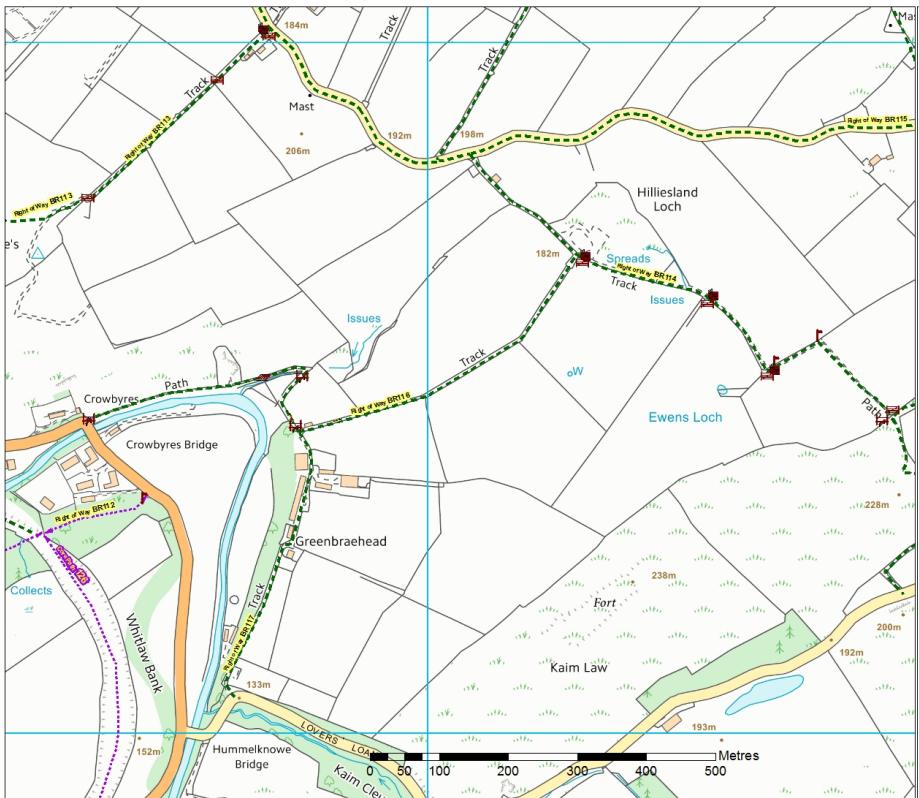




This map has been prepared by the Countryside Access Ranger Service of Scottish Borders Council.

For further details contact:
outdoorsaccess@scotborders.gov.uk
01835 825070


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**Scottish Borders
Greenbraehead
Legend**

- Managed Path (Local Community)
- Managed Path SBC (Core Path, Promoted Route, Aspirational Core Path)
- Other (Right of Way; Permissive/ Customary Path; Longer-term Aspirational Path)
- Path Link on SBC Adopted Road (No Pavement) (Core Path Link and Promoted routes)



This map has been prepared by the Countryside Access Ranger Service of Scottish Borders Council.

For further details contact:
outdoorsaccess@scotborders.gov.uk
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To: **Development Management Service**
FAO Julie Hayward

Date: **3 Aug 2017**

From: **Roads Planning Service**
Contact: **Paul Grigor**

Ext: **6663**

Ref: **17/00973/FUL**

**Subject: Change of use of agricultural land to form storage yard and
siting of 7 No. storage containers
Land North East of Greenbraehead Farmhouse, Hawick**

Whilst I have no objections in principle to this proposal, I am concerned over the current state of the private track which is to be the main access to the storage yard. At present the current running surface is such that it is unsuitable for a domestic vehicle and I would not want to support any development which would increase vehicular movements along this track. During my site visit I was unable to drive all the way down the track due to the state of the running surface and had to turn back.

In order for me to look more favourably on this proposal, a scheme of details would have to be submitted for approval which would detail all the works involved with upgrading the track to provide a smooth running surface.

Until the above point is satisfactorily addressed I must withhold my support for this proposal.

AJS



Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Application for Planning Permission **Reference : 15/00327/FUL**

To : Bayhill Farming Ltd per Aitken Turnbull Architects Ltd Per Alistair Whitson 9 Bridge Place Galashiels Scottish Borders TD1 1SN

With reference to your application validated on **25th March 2015** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of 3 No industrial units and siting of 12 No storage containers

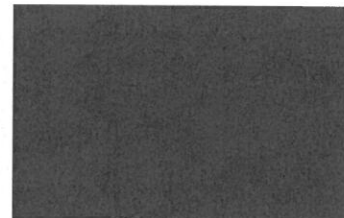
at : Land West Of Store J And R Elliot Ltd Commercial Road Hawick Scottish Borders

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, subject to the following direction:

- That the development to which this permission relates must be commenced within three years of the date of this permission.

And subject to the conditions on the attached schedule imposed by the Council for the reasons stated

Dated 18th June 2015
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA



Signed

.....
Head of Planning and Regulatory Services

APPLICATION REFERENCE : 15/00327/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
AT2539 PL-01	Site Plan	Approved
AT2539 PL-02A	Existing Layout	Approved
AT2539 PL-03A	Site Plan	Approved
AT2539 PL-04	Elevations	Approved

REASON FOR DECISION

The proposals are considered an acceptable form of infill commercial development, of acceptable impacts subject to conditions, and acceptable in terms of design standards, flooding risk and impact, contaminated land, impact on trees, neighbouring amenity and road safety impacts. Subject to the undernoted schedule of conditions and informatives the proposed workshop and storage containers are considered to comply with policies G1, G2, G4, G7, BE2, H2, H3, ED2 and Inf4 of the Consolidated Scottish Borders Local Plan (2011), with Scottish Planning Policy and with adopted Supplementary Planning Guidance on Trees and Development, Householder Development, The Commercial Road Development Framework, and the Scottish Borders Council Contaminated Land Inspection Strategy.

SCHEDULE OF CONDITIONS

- 1 Other than where varied by the conditions of this consent, or where agreed in writing by the Planning Authority, the development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.

- 2 Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the buildings have been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.

- 3 A scheme of works for the provision of car parking spaces 8, 9 and 10 within the Root Protection Area of the chestnut tree to be submitted to and approved in writing by the Planning Authority before the development commences. The scheme is to include a method statement for the works within the Root Protection Area and the design of the parking bay is to be revised to make reference to BS5837:2012, using porous material (such as 'grasscrete' type paving infilled with gravel) and to minimising excavation within the RPA by lifting the surface as high as possible. Thereafter the parking spaces then to be formed in accordance with the approved scheme before the workshops or storage containers are brought in to use.
Reason: To protect the tree within the site that is worthy of retention.

- 4 The gates at the site entrance are to be hung so as to not open onto the public highway. The doors of the workshop building hereby approved are to be hung so as to open into the building.
Reason: To ensure safety for users of the site, on the adjoining lane serving Tewi Cottage, and on the A7.
- 5 Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition.

and thereafter

- b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.
- c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).
- d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.
- e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

- 6 Prior to the commencement of development an operational plan for the development is to be submitted to and approved in writing by the Planning Authority. The plan must address the following:
- a) Hours of operation
 - b) Delivery times
 - c) Waste management and pest control
 - d) Noise mitigation and equipment maintenance
 - e) Odour including mitigation and management of ventilation systems etc
 - f) Lighting including details of the prevention of nuisance
 - g) Air quality, including details covering the idling of delivery vehicles and other emissions from development.

Thereafter the approved document will form the operational parameters under which the development will be operated and managed.

Reason: To protect the amenity of nearby residential properties.

- 7 No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
- i. existing and finished ground levels in relation to a fixed datum preferably ordnance
 - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
 - iii. location and design, including materials, of walls, fences and gates
 - iv. soft and hard landscaping works
 - v. existing and proposed services such as cables, pipelines, sub-stations
 - vi. provision of 3 fastigate hornbeams to be planted along the north west side of the storage units.
 - vii. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

- 8 Prior to the siting of any container hereby approved, a maintenance schedule for the containers, including a schedule for repainting of the containers, is to be submitted to and approved in writing by the Planning Authority. Thereafter, maintenance and re-painting of the containers is to be completed in accordance with the agreed details, for the duration of the containers presence on the site.

Reason: In the interests of visual amenity of the wider area, and to ensure the containers are maintained in a suitable condition for the duration of their presence on the site.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

- 1 Attention is drawn to the consultation response from Economic Development.
- 2 Attention is drawn to the consultation responses from SEPA and the Flood Protection Officer. Specifically:
 - that materials that could potentially cause pollution if washed into the watercourse should not be stored on site.
 - an interceptor gully should not be constructed as any material within it will be washed out during a flood.

- any users of the site sign up for SEPA's Flood Warning for Hawick in order that they can evacuate the site and remove any equipment that could be damaged in the event of flooding. Any equipment likely to be damaged by flood water should also be stored above the predicted flood level.
- Access and egress to the development may also be affected by flood waters. To receive flood warnings from SEPA, the applicant and any occupants of the premises should sign up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188.
- It is recommended that the applicant adopts water resilient materials and construction methods as appropriate in the development as advised in PAN 69.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable. A form is enclosed with this decision notice for this purpose.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

When planning permission is granted for phased development then under section 27B(2) the permission is to be granted subject to a condition that as soon as practicable after each phase, other than the last, is completed, the person carrying out the development is to give notice of that completion to the planning authority.

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Riccarton Mains Road, Currie, Edinburgh, EH14 5AA
Scottish Water, Developer Services, 419 Balmore Road, Possilpark, Glasgow G22 6NU
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If you are in a Coal Authority Area (Carlops or Newcastleton), please contact the Coal Authority at the following address: The Coal Authority 200 Lichfield Lane, Berry Hill, Mansfield, Nottinghamshire NG18 4RG.

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
SERVICE DIRECTOR REGULATORY SERVICES**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 15/00327/FUL

APPLICANT : Bayhill Farming Ltd

AGENT : Aitken Turnbull Architects Ltd

DEVELOPMENT : Erection of 3 No industrial units and siting of 12 No storage containers

LOCATION: Land West Of Store J And R Elliot Ltd
Commercial Road
Hawick
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY: Flooding Issues

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status	
AT2539 PL-01	Topographical survey	Site Plan	Approved
AT2539 PL-02A	Existing Layout	Approved	
AT2539 PL-03A	Proposed site plan	Site Plan	Approved
AT2539 PL-04	Elevations	Approved	

NUMBER OF REPRESENTATIONS: 1

SUMMARY OF REPRESENTATIONS:

ROADS PLANNING SERVICE:

As the road serving this site is a trunk road, the comments of Transport Scotland must be sought. With regards the proposed internal layout of the site, the RPS had some concerns:

1. Current guidance indicates that the level of parking for this size of development should be a minimum of 9 parking spaces.
2. Without knowing the full details of vehicles associated with this proposal, the RPS was unable to confirm if the turning facility will be sufficient. The size indicated will cater for large vans; however it may not be suitable for refuse vehicles or other large rigid lorries. The main issue is that while a vehicle entering the site will be able to turn round in the turning circle indicated, it may not then be able to turn back out the site without multiple manoeuvres. Larger vehicles may have to utilise the area to the front and side of Unit 3 or to the front and side of Unit 1 as a turning head and this is not so ideal in terms of safe working practices.
3. The application form indicates that a waste collection area will be included. This is not indicated on the site plan.

Clarification on the above points and on the intended type of storage proposed would be helpful in assisting a more informed response.

Following clarification from the agent, the RPS advises that the updated plan and details seems agreeable and comments that a condition confirming that the gates have always to open inwards is required.

TRANSPORT SCOTLAND:

Do not advise against.

HAWICK COMMUNITY COUNCIL:

No response received.

ECONOMIC DEVELOPMENT SECTION:

The planned erection of a new industrial building within generally an industrial area does not raise any specific issues as it is modern looking and will have no visual impact, due to it being set back within the site and partly screened by existing trees in one direction and other existing buildings. It is assumed the investment will allow increased business activity and hopefully offer the opportunity for additional employment. Seek clarification on the proposed purpose of the building being for Class 5 use. The application states that the building is for 3 industrial units and it is assumed these may be for lease. The building layout has 3 loading and personnel doors; normal for Class 5, but unit 2 has no toilet provision therefore it is assumed it is purely for storage (Class 6). Class 5 premises need to comply with the Health & Safety at Work etc Act 1974 for employers and employees therefore toilet provision should be created. Also make comments with regards fire separation, and yard layout.

ENVIRONMENTAL HEALTH:

- Contamination: Planning permission should be granted on condition that development is not permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority.
- Amenity and Pollution (Noise): Agree in principle, subject to condition on an operating plan.

FLOOD PROTECTION OFFICER:

Notes the flooding position of the site. Comments that he would object unless the applicant can demonstrate the application would not reduce the functional flood storage area. Notes that there is no proposed use outlined within the information provided, this would be beneficial, as there may be products which could be washed into the river and provide blockages downstream during flood events. As access and egress to the development may also be affected by flood waters, should approval be given, recommends that, to receive flood warnings from SEPA, the applicant signs up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188. Recommends that the applicant adopts water resilient materials and construction methods as appropriate in the development as advised in PAN 69.

LANDSCAPE ARCHITECT:

Confirms following submission of revised plans, a site visit and discussions with the Council's Tree Officer, that although this revised layout does still impact on the RPA of the TPO chestnut, it is a much less intrusive impact, subject to confirmation that the levels also work. Confirms the application can be approved on the basis that the applicant provides a method statement for the works within the RPA (as undertaken at a site at Deanfield) i.e. they should design the parking bay, referring to BS5837:2012, using porous material (such as 'grasscrete' type paving infilled with gravel) and avoiding / minimising excavation within the RPA by lifting the surface as high as possible. The Tree Officer has also requested 3 fastigiate hornbeams to be planted along the NW side of the storage units.

ARCHAEOLOGY OFFICER:

Advises that there are no known implications for this proposal, and no mitigation is proposed.

SEPA HQ:

Initially objected to the proposed development on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy and PAN 69. An initial review of the topographical survey provided in support of this application indicated that during a flood event the site could be flooded to depths in excess of 1.5 metres. Sought clarification on the following points:

- The proposed use of the storage containers and industrial units and any mitigation measures for ensuring the proposals are resilient to flooding.
- Information was required which demonstrates that the proposed use of the site will not result in contamination of the watercourse.

Following submission of additional information by the agent, SEPA were reconsulted, and subsequently advise that on the basis of the information provided by the agent, they are able to withdraw the objection. SEPA went on to provide detailed advice:

- That materials that could potentially cause pollution if washed into the watercourse should not be stored on site.
- An interceptor gulley should not be constructed as any material within it will be washed out during a flood.
- Any users of the site sign up for SEPA's Flood Warning for Hawick in order that they can evacuate the site and remove any equipment that could be damaged in the event of flooding.
- Any equipment likely to be damaged by flood water should also be stored above the predicted flood level.

PUBLICITY AND REPRESENTATIONS

This application was publicised by means of the direct postal notification of 6 neighbouring premises, an advert in the Hawick News and a notice on the national planning notification website.

One letter of objection was received. This can be viewed in full on the online system. In summary, the neighbour has had trees cut on the neighbouring side of the boundary fence between their property at 23 Princes Street and the site at 30 Commercial Road. The neighbour had not previously objected to this planning application because their property was screened from this development. The objector points out that the felling undertaken went beyond what was possible legally with a neighbour being entitled to cut away overhanging branches where they overhang the fence, but not extending onto the other side of the fence i.e. extending beyond the other property's boundary. Also the trees have been cut way and above the height of any container units that may be installed.

PLANNING CONSIDERATIONS AND POLICIES:

CONSOLIDATED SCOTTISH BORDERS LOCAL PLAN (2011)
G1, G2, G4, G7, BE2, H2, H3, ED2, Inf4

Other

SPP

SPGs

- Trees and Development
- Householder Development
- Commercial Road Development Framework (Feb 2009)
- Scottish Borders Council Contaminated Land Inspection Strategy

Recommendation by - Andrew Evans (Planning Officer) on 17th June 2015

SITE

The application site is located off Commercial Road in Hawick. The site is a former builder's yard located to the north of 30 Commercial Road. To the North East is the Wilton Mills Site. To the South West is located the Filling station and car park of the Sainsbury's Supermarket. South of the site is located the Bruce Motors Peugeot Dealership. At the eastern end of the site is located 30 Commercial Road, a traditional stone and slate 2 storey building, which recently obtained consent for a change of use to residential.

PROCESSING AGREEMENT

A processing agreement was concluded with the agent on this application, as revised plans and reconsultation were required.

PROPOSED DEVELOPMENT

Planning permission is sought for the erection of 3 industrial units, and for the siting of 12 storage containers. The three units would take the form of a single subdivided building. The proposed building would have overall dimensions of 31.24m x 9.84m, with a ridge height of 4.795m and a shallow pitched roof. It is proposed to site storage containers within the yard. Parking and turning would be formed.

POLICY PRINCIPLE

The site is located within the Hawick Development Boundary set out in the Consolidated Scottish Borders Local Plan (2011). The site is allocated as a "Redevelopment Opportunity" in the plan. The site remains within the reduced redevelopment allocation in the emerging Local Development Plan of 2013. The wider Commercial Road redevelopment site was subject to a development brief. This sets out options for the redevelopment of the wider area. The adjacent central part of commercial road has since been developed as a Sainsbury's store and petrol station. The north eastern part of Commercial Road contains what remains of Wilton Mills.

In terms of policy ED2 of the CSBLP, on Employment Uses outwith Employment Land, is relevant. Whilst such uses are generally limited to specifically designated land, these uses are also possible on sites such as this one, allocated as redevelopment opportunities. The Economic Development Service of the Council confirms the planned erection of a new industrial building within generally an industrial area such as this one, does not raise any specific issues. The development of the proposed units and siting of the containers for storage is acceptable in principle.

DESIGN AND MATERIALS

Policy G1 of the CSBLP seeks to ensure that suitable materials are used. The proposed design is functional. The proposed building would have a concrete block work base course, suitable for painting. The upper walls would be constructed in a dark grey coloured cladding. A condition on agreement of materials and finished would be appropriate, to ensure compliance with the materials requirements of policy G1.

FLOOD RISK

The site is located on low lying land, and a consultation with the Council Flood Protection team and SEPA was triggered at registration of the application. The site is adjacent to the Teviot, and is known to be at risk of flooding. Policy G4 of the CSBLP sets out that in cases such as this, involving redevelopment of previously developed land known to be at risk of flooding, must account for and manage flood risk. SEPA initially objected to the application on the basis of flood risk. The Flood Prevention Officer was consulted and, whilst advising he would object that the degree of flood storage to be used in the development could not be mitigated, went on to advise that informatives would be appropriate to the proposals.

The agent has provided further clarification on the intended storage to be undertaken. This is agreeable in planning terms and to SEPA. An informative note would be appropriate, to advise against the storing of any materials that could cause pollution.

ROAD SAFETY

The site is accessed off of the A7, a trunk road at this location. Transport Scotland confirms that they do not advise against the application. A revised parking layout was provided, to accommodate the trees at the edge of the site. The RPS was reconsulted on the revised plan. The revised plan shows the provision of 10 parking spaces (1 of the bays is disabled). Bays have had to be relocated to avoid / minimise impacts on protected tree roots. A wheelie bin pick up point for the units is shown at the junction with Commercial Road. The bins are now shown at the entrance doors for the 3 units on the site plan. The agent also confirmed with SEPA that the storage containers and industrial units will be leased from the applicant to local tradesman for storing materials, tools etc. (light industrial). The RPS comment that the application now seems acceptable, subject to a condition on the access gates.

Having considered the proposals, I am satisfied that no issues arise in terms of the available parking space. I am satisfied the proposals would comply with policy Inf4 of the CSBLP. There will be a need for logical use of the storage areas, and the movement of vehicles. This is an issue the operator can resolve themselves, without the need for an overly proscriptive planning condition. Similar self store units operate in Kelso in a similar fashion, without conflict of use, through the proper management of the site.

LANDSCAPE

- Tree Protections

Policy NE4 of the CSBLP seek to protect existing trees from inappropriate development. The comments raised in objection to the application are noted. The neighbour is most upset with felling work carried out on trees on her part of the embankment (and strictly speaking, outside the planning application site). With regards works to trees, the Landscape Architect was consulted on the application, reconsulted on the revised plans and carried out a subsequent site visit with the Tree Officer on being made aware of the works that were being undertaken to trees on this embankment. The Landscape Architect advises in his final response that although this revised layout does still impact on the RPA of the TPO chestnut, it is a much less intrusive impact, subject to confirmation that the levels work. The Landscape Architect confirms that this can be approved on the basis that the applicant provides a method statement for the works within the RPA. I am satisfied that subject to this condition, the application can be approved.

- Planting and Landscaping

The Tree Officer has indicated that additional planting is necessary. The Tree Officer requires planting of hornbeam to the embankment boundary side of the site. A suitable planning condition will ensure that this is undertaken. This will ensure compliance with the relevant criteria (no.6) of policy G1 of the CSBLP, requiring suitable landscaping provisions be made within developments.

ARCHAEOLOGY

The Archaeology Officer was consulted due to the proximity of the site to a Heritage Record in the HER constraint layer in GIS. He however advises that there are no known implications for this proposal, and no mitigation is proposed. As such, I am satisfied that the proposals comply with policy BE2 (Archaeological Sites and Ancient Monuments) of the CSBLP.

AMENITY

Policy H2 of the Consolidated Local Plan seeks to protect residential amenity. The Council has also adopted Supplementary Planning Guidance on Householder Development which sets out privacy and amenity standards. In this case, the nearest dwellings Tewi Cottage, at the front of the site, and the adjoining building which was subject to a change of use application. There are residential dwellings at the top of the embankment at the north east of the site, up on Princes Street. The proposals are sufficiently sited relative to adjoining residential dwellings that no amenity issues arise. The proposals are considered to comply with policy H2 of the CSBLP, and with the policy guidance contained within the adopted SPG on Householder Development.

Comments were also made in terms of amenity and pollution by the Council EHO. A condition was proposed by the EHO requiring that at least 6 weeks prior to the development commencing operations, the applicant must prepare and submit an operational plan for approval by the Planning Authority. The "6 weeks" cannot be justified in planning terms. A suspensive element to the condition will however meet the

requirements of the EHO. I have also reworded the proposed condition, so that it passes the tests for the use of planning conditions. Subject to such a condition I am satisfied that the proposed development will comply with policy H2 of the CSBLP, and that the amenity of nearby residential properties will be suitably protected.

CONTAMINATED LAND

Policy G2 of the CSBLP seeks to ensure that contaminated land is appropriately identified and remediated. The Contaminated Land Officer confirmed that this is a brown field site, that it is known previously housed buildings believed to be associated with a Woollen Mill. This land uses are potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose. It is therefore recommended that planning permission should be granted on condition that development is not permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority. A planning condition is proposed below, and I am satisfied that subject to such a condition, the application can be considered to comply with policy G2 of the CSBLP, and with the contaminated land inspection strategy adopted by the Council. The condition proposed will ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

PERMANENCE OF APPROVAL

Care has to be exercised when approving the siting of containers on any site. Temporary consents or maintenance schedules are often appropriate. In this case, a degree of partial screening is provided by existing buildings, not on all sides, but from the main road, the A7 as it passes the site. I am content that the siting of the containers can be accepted on a longer term basis, so long as arrangements are in place for the maintenance of the containers. A condition in this regard is proposed, also including a requirement for a schedule for repainting of the containers. This will ensure that the containers are maintained in a suitable condition for the duration of their presence on the site.

REASON FOR DECISION :

The proposals are considered an acceptable form of infill commercial development, of acceptable impacts subject to conditions, and acceptable in terms of design standards, flooding risk and impact, contaminated land, impact on trees, neighbouring amenity and road safety impacts. Subject to the undernoted schedule of conditions and informatives the proposed workshop and storage containers are considered to comply with policies G1, G2, G4, G7, BE2, H2, H3, ED2 and Inf4 of the Consolidated Scottish Borders Local Plan (2011), with Scottish Planning Policy and with adopted Supplementary Planning Guidance on Trees and Development, Householder Development, The Commercial Road Development Framework, and the Scottish Borders Council Contaminated Land Inspection Strategy.

Recommendation: Approved - conditions & informatives

- 1 Other than where varied by the conditions of this consent, or where agreed in writing by the Planning Authority, the development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
- 2 Notwithstanding the description of the materials in the application, no development shall be commenced until precise details of the materials to be used in the construction of the external walls and roofs of the buildings have been submitted to and approved in writing by the Planning Authority, and thereafter no development shall take place except in strict accordance with those details.
Reason: The materials require further consideration to ensure a satisfactory form of development, which contributes appropriately to its setting.
- 3 A scheme of works for the provision of car parking spaces 8, 9 and 10 within the Root Protection Area of the chestnut tree to be submitted to and approved in writing by the Planning Authority before the development commences. The scheme is to include a method statement for the works within

the Root Protection Area and the design of the parking bay is to be revised to make reference to BS5837:2012, using porous material (such as 'grasscrete' type paving infilled with gravel) and to minimising excavation within the RPA by lifting the surface as high as possible. Thereafter the parking spaces then to be formed in accordance with the approved scheme before the workshops or storage containers are brought in to use.

Reason: To protect the tree within the site that is worthy of retention.

- 4 The gates at the site entrance are to be hung so as to not open onto the public highway. The doors of the workshop building hereby approved are to be hung so as to open into the building.

Reason: To ensure safety for users of the site, on the adjoining lane serving Tewi Cottage, and on the A7.

- 5 Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-

a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition.

and thereafter

b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents.

c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan).

d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council.

e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council.

Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

- 6 Prior to the commencement of development an operational plan for the development is to be submitted to and approved in writing by the Planning Authority. The plan must address the following:

- a) Hours of operation
- b) Delivery times
- c) Waste management and pest control
- d) Noise mitigation and equipment maintenance

- e) Odour including mitigation and management of ventilation systems etc
- f) Lighting including details of the prevention of nuisance
- g) Air quality, including details covering the idling of delivery vehicles and other emissions from development.

Thereafter the approved document will form the operational parameters under which the development will be operated and managed.

Reason: To protect the amenity of nearby residential properties.

- 7 No development shall take place except in strict accordance with a scheme of hard and soft landscaping works, which has first been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
- i. existing and finished ground levels in relation to a fixed datum preferably ordnance
 - ii. existing landscaping features and vegetation to be retained and, in the case of damage, restored
 - iii. location and design, including materials, of walls, fences and gates
 - iv. soft and hard landscaping works
 - v. existing and proposed services such as cables, pipelines, sub-stations
 - vi. provision of 3 fastigate hornbeams to be planted along the north west side of the storage units.
 - vii. A programme for completion and subsequent maintenance.

Reason: To ensure the satisfactory form, layout and assimilation of the development.

- 8 Prior to the siting of any container hereby approved, a maintenance schedule for the containers, including a schedule for repainting of the containers, is to be submitted to and approved in writing by the Planning Authority. Thereafter, maintenance and re-painting of the containers is to be completed in accordance with the agreed details, for the duration of the containers presence on the site.

Reason: In the interests of visual amenity of the wider area, and to ensure the containers are maintained in a suitable condition for the duration of their presence on the site.

Informatives

It should be noted that:

- 1 Attention is drawn to the consultation response from Economic Development.
- 2 Attention is drawn to the consultation responses from SEPA and the Flood Protection Officer. Specifically:
 - that materials that could potentially cause pollution if washed into the watercourse should not be stored on site.
 - an interceptor gulley should not be constructed as any material within it will be washed out during a flood.
 - any users of the site sign up for SEPA's Flood Warning for Hawick in order that they can evacuate the site and remove any equipment that could be damaged in the event of flooding. Any equipment likely to be damaged by flood water should also be stored above the predicted flood level.
 - Access and egress to the development may also be affected by flood waters. To receive flood warnings from SEPA, the applicant and any occupants of the premises should sign up to FLOODLINE at www.sepa.org.uk or by telephone on 0845 988 1188.
 - It is recommended that the applicant adopts water resilient materials and construction methods as appropriate in the development as advised in PAN 69.

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

LIST OF POLICIES

Local Review Reference: 17/00046/RREF

Planning Application Reference: 17/00973/FUL

Development Proposal: Change of use of agricultural land to form storage yard and siting of 7 No storage containers

Location: Land North East of Greenbraehead Farmhouse, Hawick

Applicant: Bayhill Farming Ltd

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2016

POLICY PMD1: SUSTAINABILITY

In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plan's policies and which developers will be expected to incorporate into their developments:

- a) the long term sustainable use and management of land
- b) the preservation of air and water quality
- c) the protection of natural resources, landscapes, habitats, and species
- d) the protection of built and cultural resources
- e) the efficient use of energy and resources, particularly non-renewable resources
- f) the minimisation of waste, including waste water and encouragement to its sustainable management
- g) the encouragement of walking, cycling, and public transport in preference to the private car
- h) the minimisation of light pollution
- i) the protection of public health and safety
- j) the support to community services and facilities
- k) the provision of new jobs and support to the local economy
- l) the involvement of the local community in the design, management and improvement of their environment

POLICY PMD2: QUALITY STANDARDS

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

Sustainability

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,
- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,
- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,

LIST OF POLICIES

- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
- g) it considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking & Design

- h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
- i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
- j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
- k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
- l) it can be satisfactorily accommodated within the site,
- m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
- n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

Accessibility

- o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,
- p) it incorporates, where required, access for those with mobility difficulties,
- q) it ensures there is no adverse impact on road safety, including but not limited to the site access,
- r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,
- s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Greenspace, Open Space & Biodiversity

- t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
- u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

POLICY ED7: BUSINESS, TOURISM AND LEISURE IN THE COUNTRYSIDE

Proposals for business, tourism or leisure development in the countryside will be approved and rural diversification initiatives will be encouraged provided that:

LIST OF POLICIES

- a) the development is to be used directly for agricultural, horticultural or forestry operations, or for uses which by their nature are appropriate to the rural character of the area; or
- b) the development is to be used directly for leisure, recreation or tourism appropriate to a countryside location and, where relevant, it is in accordance with the Scottish Borders Tourism Strategy and Action Plan;
- c) the development is to be used for other business or employment generating uses, provided that the Council is satisfied that there is an economic and/or operational need for the particular countryside location, and that it cannot be reasonably be accommodated within the Development Boundary of a settlement.

In addition the following criteria will also be considered:

- a) the development must respect the amenity and character of the surrounding area,
- b) the development must have no significant adverse impact on nearby uses, particularly housing,
- c) where a new building is proposed, the developer will be required to provide evidence that no appropriate existing building or brownfield site is available, and where conversion of an existing building of architectural merit is proposed, evidence that the building is capable of conversion without substantial demolition and rebuilding,
- d) the impact of the expansion or intensification of uses, where the use and scale of development are appropriate to the rural character of the area,
- e) the development meets all other siting, and design criteria in accordance with Policy PMD2, and
- f) the development must take account of accessibility considerations in accordance with Policy IS4.

Where a proposal comes forward for the creation of a new business including that of a tourism proposal, a business case that supports the proposal will be required to be submitted as part of the application process.

POLICY HD3: PROTECTION OF RESIDENTIAL AMENITY

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,
 - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or 'backland' development,
 - (iii) the generation of traffic or noise,
 - (iv) the level of visual impact.

POLICY IS5: PROTECTION OF ACCESS ROUTES

Development that would have an adverse impact upon an access route available to the public will not be permitted unless a suitable diversion or appropriate alternative route, as agreed by the Council, can be provided by the developer.

LIST OF POLICIES

POLICY IS7: PARKING PROVISIONS AND STANDARDS

Development proposals should provide for car and cycle parking in accordance with approved standards.

Relaxation of technical standards will be considered where appropriate due to the nature of the development and/or if positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of seeking additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

POLICY IS8: FLOODING

At all times, avoidance will be the first principle of managing flood risk. In general terms, new development should therefore be located in areas free from significant flood risk.

Development will not be permitted if it would be at significant risk of flooding from any source or would materially increase the probability of flooding elsewhere. The ability of functional flood plains to convey and store floodwater should be protected, and development should be located away from them.

Within certain defined risk categories, particularly where the risk is greater than 0.5% annual flooding probability or 1 in 200 year flood risk, some forms of development will generally not be acceptable. These include:

a) development comprising essential civil infrastructure such as hospitals, fire stations, emergency depots etc., schools, care homes, ground-based electrical and telecommunications equipment unless subject to an appropriate long term flood risk management strategy;

b) additional built development in undeveloped and sparsely developed areas.

Other forms of development will be subject to an assessment of the risk and mitigation measures.

Developers will be required to provide, including if necessary at planning permission in principle stage:

a) a competent flood risk assessment, including all sources of flooding, and taking account of climate change; and

b) a report of the measures that are proposed to mitigate the flood risk.

The information used to assess the acceptability of development will include:

a) information and advice from consultation with the council's flood team and the Scottish Environment Protection Agency;

b) flood risk maps provided by the Scottish Environment Protection Agency which indicate the extent of the flood plain;

c) historical records and flood studies held by the council and other agencies, including past flood risk assessment reports carried out by consultants and associated comments from the Scottish Environment Protection Agency, also held by the council;

(d) the Scottish Environment Protection Agency's Land Use Vulnerability Guidance.

OTHER MATERIAL CONSIDERATIONS

- Scottish Planning Policy 2014
- PAN 73 Rural Diversification

LIST OF POLICIES

- SBC Supplementary Planning Guidance on Placemaking & Design 2010
- SBC Supplementary Planning Guidance on Privacy and Sunlight 2006

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Newtown St Boswells Melrose TD6 0SA Tel: 01835 825251 Fax: 01835 825071 Email: ITSystemAdmin@scotborders.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE 100075136-001

The online reference 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.

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 application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Ferguson Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Tim	Building Name:	Shiel House
Last Name: *	Ferguson	Building Number:	54
Telephone Number: *	01896668744	Address 1 (Street): *	Island Street
Extension Number:		Address 2:	
Mobile Number:	07960003358	Town/City: *	Galashiels
Fax Number:		Country: *	United Kingdom
		Postcode: *	TD1 1NU
Email Address: *	tim@fergusonplanning.co.uk		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="C/O Agent"/>
First Name: *	<input type="text" value="Robert"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="McCririck"/>	Address 1 (Street): *	<input type="text" value="C/O Agent"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="C/O Agent"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="C/O Agent"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="TD1 1NU"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Scottish Borders Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="40-41 THE SQUARE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="KELSO"/>
Post Code:	<input type="text" value="TD5 7HL"/>

Please identify/describe the location of the site or sites

Northing

Easting

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

CHANGE OF USE FROM CLASS 1 RETAIL TO ALLOW MIXED USE CLASS 2 (PODIATRY CLINIC) AND CLASS 1 (ANCILLARY RETAIL

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See Appeal Statement for Full Grounds of Appeal

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 the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

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. You can attach these documents electronically later in the process: * (Max 500 characters)

Planning Statement Site and Location Plans Application Form Consultee Responses Email Correspondence Decision Notice Report of Handling

Application Details

Please provide details of the application and decision.

What is the application reference number? *

17/01139/FUL

What date was the application submitted to the planning authority? *

14/08/2017

What date was the decision issued by the planning authority? *

20/10/2017

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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

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

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: 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. 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.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

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 (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Ferguson Planning Tim Ferguson

Declaration Date: 10/11/2017

FERGUSON
PLANNING



SBC LOCAL REVIEW BODY

STATEMENT OF APPEAL

PLANNING REF. 17/01139/FUL

**CHANGE OF USE FROM CLASS 1 (RETAIL) TO
ALLOW MIXED USE CLASS 2 (PODIATARY
CLINIC) AND CLASS 1 (ANCILLARY RETAIL)**

40-41 THE SQUARE, KELSO, TD5 7HL

CLIENT: MR ROBERT MCCRIRICK

NOVEMBER 2017



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2. Reason for Refusal

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5. Conclusion

Appendix 1: Appeal Documents List



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1. INTRODUCTION

- 1.1 This statement of appeal has been prepared by Ferguson Planning, on behalf of Mr Robert McCririck. It relates to a proposal (17/01139/FUL) to change the use of a long standing vacant unit at 40-41, Market Square from a former Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail).
- 1.2 Scottish Borders Council's (SBC) Planning Department on the 20th October 2017 refused the application via delegated powers. As such, we now seek to appeal this decision to the Council's Local Review Body.
- 1.3 The site has been redundant for over two years with no sound interest from a retail or other Class 1 uses. This is despite it being widely advertised during this time by local agents (Edwin Thompson).
- 1.4 The proposal will enable new investment in the Kelso economy and contribute positively to the overall vitality and viability of the Town Centre.
- 1.5 The supporting and background documentation to this appeal are listed within the Appeal Form and Appendix 1 with this statement focused on responding to the reason for refusal. Specific reference to the Development Plan and related material considerations are made when outlining the grounds of appeal.





2. REASONS FOR REFUSAL

- 2.1 Within the 'Decision Notice' there was one reason for refusal that being:

The proposed change of use from Class 1 (Shop) to Class 2 (Financial, Professional and Other Services) would be contrary to Policy ED4 of the Local Development Plan 2016 in that the use of the premises as a podiatry clinic would result in the loss of prime retail floorspace in a prominent location and introduce a non-retail/food and drink use within the Core Activity Area in Kelso, which forms part of the principal shopping area in the town centre. It has not been adequately demonstrated that the proposed change of use to Class 2 would maintain the vitality and viability of Kelso town centre. Material considerations, including the vacancy of the unit, have been accounted for but do not outweigh the conflict with Policy ED4.

- 2.2 It is considered also important to highlight extracts from the Officer's Report of Handling which relate to the reason for refusal. These being:

Joint Shopping Trips, Footfall Contribution and Footfall Rates

This is the principle reason concern in respect of this proposal. It is accepted that potential clients could make joint shopping trips, however there is clear overriding evidence that this use would function equally successfully in an alternative site outwith the Core Activity Area.

I find no compelling reason in the Applicant's Supporting Statement to justify this change of use. Granting approval of this Class 2 use would unnecessarily result in the loss of a retail or food and drink use in a Core Activity Area.

The case against this chosen site is clearly stated by the Forward Planning Section; the projected footfall (when fully operational) is 120-150 clients a week. While sounding a high level of footfall in principle, it is actually only 20 clients per day based on a 6 day week. No operating times are given therefore there is no indication that this operation will be during office hours. I cover the subject of appointments below.

Hours of operation are a significant matter in retail core areas and a significant concern when considering joint shopping trips and contribution to footfall. The target market is stated to be walking and running enthusiasts. This suggests that potentially the majority of business would be outwith normal business and shop opening hours. It therefore seems unlikely that clients would take joint shopping trips. I find no valid argument that this proposal will improve vitality and viability of the town's retail core.

- 2.3 It is considered to be a rather unsubstantiated assumption that visitors to the shop would be outwith normal business and shop opening hours. There is no evidence to suggest that walking and running enthusiasts would require non-conventional business hours operation. It is anticipated that the unit will be open during regular business hours, generally 9am-5pm.





- 2.4 There are many examples of Podiatry Clinics running successfully alongside retail functions which provide products that support the requirements of clients to the clinic.¹ Indeed, there are many examples of this type of retail which operate as a stand-alone business².

In support of current footfall rates, the Council's Footfall Survey 2016 states 'the footfall in Peebles, Kelso and Melrose has generally been steady or increasing in recent years and these towns have low levels of retail unit vacancy. Overall, footfall is up 6% since 2007 and Kelso is considered to be performing well'. This proposal could set a precedent for similar uses that would over time damage this documented improvement in footfall rates.

- 2.5 The Scottish Borders Footfall Survey 2016 actually shows that footfall in the period 2015-2016 decreased by 4%. However, notwithstanding this and in regards to client numbers, the response is based on the assumption of a 6 rather than 5 day week for just visitors to the clinic function side of the business. This artificially lowers and thus greatly underestimates the likely number of visitors to the unit. Indeed, the figures provided for those visiting the practice for medical treatment are very conservative estimates and could expand significantly should additional practitioners become involved with the practice in future. This aside, comparison is being drawn between the number of visitors from this aspect of the business to those visiting other retail locations whilst failing to acknowledge the potential footfall generation from the retail component of the business in its own right.

- 2.6 In addition to presenting a frontage with an obvious retail component, which is in keeping with the spirit of the town centre being more retail-orientated, there are no reasonable grounds to make the assumption that this aspect of the business could not generate a level of footfall comparable to many of the pure retail units in the town. A note of caution should also be applied in relation to the Council surveys as they are simply a snapshot in time and cannot be overly relied upon as a consistent or precise indication of footfall throughout the year.

Sequential Test

There is no evidence provided which would demonstrate that the Applicant has considered other locations outwith the Core Activity Area. There are vacant premises outwith the Core Activity Area that may be appropriate. Sites close by in Horsemarket, Woodmarket and Roxburgh Street would offer appropriate accommodation for Class 2 uses. I find no requirement for a podiatrist to have a lounge behind a fully glazed shop frontage in a Core Activity Area.

- 2.7 Reference to a sequential test is inappropriate in the context of this application. There is no requirement within Policy ED4 to identify other sites that may be more suitable for the proposed development.

¹ <https://www.shuropody.com/>

² <https://www.simplyfeet.co.uk/>, <http://www.shoemed.co.uk>



- 2.8 The Policy does not include a requirement for the applicant to demonstrate that other locations are more appropriate for a Class 2 use. The Policy simply requires justification for the proposed development as submitted.

I find this to be the most significant issue with this application. It is unlikely that this business would have any means of accepting impromptu clients off the street. The main aim of Core Activity Areas is to encourage public activity within such areas to safeguard areas where retailers are able to display and trade at the convenience of the public.

- 2.9 It is anticipated that the Podiatry Clinic will operate on an appointment based system, however there is no evidence to suggest that there would be no ability to accept impromptu clients off the street. This is another assumption made within the Report of Handling without requesting clarification on this point.

Current Vacancy, Marketing History, Longevity of Vacancy

Letters of supports from the public and from the Council's Economic Development Section highlight the fact that this is a vacant unit and a blight on character and appearance of The Square, which is damaging to the vitality of the town.

I find no weight in this argument. It is a small frontage and Economic Development highlight that it is sited in a corner low profile location.

Vacancy is unfortunately a consequence of the free market economics. Market equilibrium will be reached and a willing trader found. You have to look no further than Fat Face at 12 The Square, Kelso. This is a national brand willing to trade in a small market town.

- 2.10 The Report of Handling does not appear to grasp the fundamental issues concerning the vacancy of this unit. Whilst it is accepted that vacancy is a consequence of free market economics, this unit has been vacant for in excess of two years illustrating that there is no desire to operate Class 1 retail in this location.

- 2.11 It is not clear why the decision would choose to disregard the representations made by all but one consultee in supporting the application. This includes support from, the following as well as local residents:

- Kelso Community Council
- Kelso and District Amenity Society
- Economic Development

- 2.12 It is considered that in fact substantial weight should be placed on the material arguments that the proposed use would enhance the vitality of the town. Long term vacancy of units can create a blight on the character of the town centre. As acknowledged within the report: *"The fascia*





panel has been removed leaving an unsightly modern frontage.” This illustrates that he recognises the detrimental impact that the vacancy of the unit is creating.

- 2.13 We would point out the aim of Policy ED4; which is to encourage public activity within the Core Activity Areas in Town Centres. The policy justification states that *“A wider range of commercial uses encourages development which increases footfall in town centres and in turn prevents the gradual loss of essential town centre activities in locations where this is regarded as important to the vitality and viability of the centre.”*
- 2.14 It would appear that the decision does not seek to meet the aims of the policy justification to allow a wider range of commercial uses. The current long term vacancy of the unit is enabling the gradual loss of town centre activities. By bringing the unit back into an active use, with a retail frontage, the vitality and viability of the centre will be maintained.

I confirm that this unit has been advertised since 24/09/2015. Sale particulars demonstrate it was operating as an interior design shop. Prior to this it operated as a hardware store. I do not find this period of vacancy in itself enough evidence to justify departure from Policy ED4. Forward Planning specifically cite the Scottish Borders vacancy survey of Winter 2016 as being justification to the contrary. The survey identifies vacancy levels at 5% compared to an average of 11% in the Borders and a national average of 12%.

- 2.15 The Vacancy Survey can only present a snapshot of time and should not be relied upon as evidence of consistent vacancy rates. However, with the evidence put forward, to continue to prevent genuine interest from local professional business from developing further at this stage for the sake of rigid compliance to the policy is counterproductive when vacancy of the unit represents the least desirable status of all.
- 2.16 Being a statistically favourable area in terms of unit vacancy is of no consolation or practical significance for the owners who bare the financial burden of an unrented unit, for the young professional seeking to create a business of true value in the community and indeed for all those other local businesses who are unable to benefit from the always welcomed increased footfall this could bring through their doors.

Ability to Retain a Frontage

The proposed floorplan appears to make no use of the shop frontage as a retail display area, despite "Class 1 ancillary use" being in the application description. Discussion in the Supporting Statement surrounds sale of foot products but there are no figures given as to the volume or proportion of business these sales would comprise. Certainly there is no evidence in the proposed layout of floor area given over to retailing.

Economic Development argue that this absence of intervention in the frontage to be a positive point. In the proposed plans, it appears that the applicant would use the window display as a lounge area, with a three seater settee, two armchairs and coffee tables and a reception desk. I





do not agree that such a use of this shop frontage "complements neighbouring commercial and retail uses". I place significant weight on this fact. This layout plan successfully demonstrates that this shopfront would be used as a waiting room. This is historically inaccurate for the B Listed Building and is in direct conflict with Core Activity Areas, which seeks to retain these buildings for retailing and food and drink uses to maintain vitality and viability of Kelso Town Centre.

- 2.17 No information was requested during the determination period regarding the volume of, or internal arrangements for the retail aspect of the unit.
- 2.18 There is sufficient space within the unit to accommodate the proposed podiatry clinic as well as the retail functions of the business. It is anticipated that retail aspects could be incorporated within the front bay windows as well as within the premises. This would present an active, retail frontage to The Square. The property was chosen for the proposed use primarily because of the ability to incorporate all of the relevant operational aspects of the podiatry clinic whilst also ensuring sufficient space to accommodate the retail functions of the premises.
- 2.19 The internal arrangements demonstrated on the submitted plans are indicative only. They are not required to demonstrate precisely how the internal arrangements of the premises will function. Should it have been considered that this was a material consideration of considerable weight, it is suggested that the agent or applicant should have been contacted for clarification rather than make unfounded assumptions.
- 2.20 It would appear that the Report of Handling fundamentally misunderstands the operation of the proposed development. The proposal would not create the loss of a retail unit, it will in fact enable a diversification of use within a long term vacant unit. It will essentially retain a retail use as well as allow for the provision of a much needed facility within a highly sustainable location. There appears to be no detailed justification as to why decision concludes that only retailing and food and drink will maintain vitality and viability.



3. PLANNING POLICY CONTEXT

SCOTISH BORDERS LOCAL DEVELOPEMNT PLAN (2016)

- 3.1 It is pertinent that we quote Policy ED 4 in full which is the primary policy used in the determination of this proposal:

To provide flexibility and maintain vitality and viability in the retail core of the town centre, core activity areas have been identified in Galashiels, Hawick, Peebles, Kelso, Selkirk, Melrose, Jedburgh, Duns and Eyemouth. In core activity areas a mix of uses appropriate to the town centre will be allowed. Class 1 and 3 of the use Class Order are seen as appropriate uses within core activity areas. Proposals for uses other than Class 1 and 3 at ground level in core activity areas will normally be refused.

Proposals for other uses including Class 2 will be assessed in terms of their contribution towards the core retail function of the area and will only be acceptable where there is a significant positive contribution to the core retail function.

Other uses, such as residential, are encouraged above shops and other town centre uses.

- 3.2 It is also relevant to quote the reasoning for the amendment to Policy ED 4:

The aim of the policy is to encourage public activity within Core activity areas in Town Centres.

These areas are defined in the town centre network identified in policy ED3 and shown on the proposals maps. A wider range of commercial uses encourages development which increases footfall in town centres and in turn prevents the gradual loss of essential town centre activities in locations where this is regarded as important to the vitality and viability of the centre.

In order to support the vitality and viability of core activity areas, acceptable uses are restricted to Class 1 (shops) and 3 (food and drink) of the use Class Order. proposals for uses within Class 2 (financial, professional and other services) of the use Class Order would only be acceptable where they contribute positively to the core retail activity of the area and will be assessed against the following:

- *How the proposed use would contribute to joint shopping trips;*
- *Footfall contribution;*
- *Current vacancy and footfall rates;*
- *Longevity of vacancy;*
- *Marketing history of premises; and*
- *Ability to retain shop frontage.*



CONNECTED BORDERS (2017-22)

3.3 This document presents the Administration of Scottish Borders Council’s vision for the next 5 years (2017 – 2022)³. As well as stating the key principles that will guide our work it articulates the type of communities we want to create and the progress that needs to be made in order to achieve a more Connected Borders.

3.4 Part 3 of the document states:

As a Council we will adapt the Local Development Plan to promote diversification in town centres that encourages new and existing businesses to flourish by making it easier for a greater variety of business types to set up, including specialist retailers, offices, tourist businesses, cafes and restaurants.

SCOTTISH PLANNING POLICY

3.5 The SPP introduces a presumption in favour of development that contributes to sustainable development. The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.

3.6 This means that policies and decisions should be guided by a number of principles including the following:

- giving due weight to net economic benefit;
- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- supporting delivery of accessible housing, business, retailing and leisure development;

3.7 Policy principles for Town Centres states that planning for town centres should be flexible and proactive, enabling a wide range of uses which bring people into town centres. The planning system should:

- apply a town centre first policy when planning for uses which attract significant numbers of people, including retail and commercial leisure, offices, community and cultural facilities;

³ https://www.scotborders.gov.uk/downloads/file/3281/connected_borders





- encourage a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening;
- ensure development plans, decision-making and monitoring support successful town centres; and
- consider opportunities for promoting residential use within town centres where this fits with local need and demand.

3.8 With regards to Development Management procedures, decisions should take account of new development in a town centre which should contribute to providing a range of uses and should be of a scale which is appropriate to that centre. The impact of new development on the character and amenity of town centres, local centres and high streets will be a material consideration in decision making. The aim is to recognise and prioritise the importance of town centres and encourage a mix of developments which support their vibrancy, vitality and viability. This aim should also be taken into account in decisions concerning proposals to expand or change the use of existing development.



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4. GROUNDS OF APPEAL

THE PROPOSAL

- 4.1 The proposal is relatively straight forward in that there are no external or internal building works being proposed to the currently vacant unit. The applicant seeks to accommodate a use which is currently not present within the settlement or surrounding area.
- 4.2 It is somewhat confusing as to why a mixture of uses including a podiatry clinic with associated retail would be seen as being any different in form or function to a sole retail use as both would function in the same way and fall within separate uses classes and thus triggering the application in question.
- 4.3 The business would create new employment in Kelso Town Centre, bring a prominent vacant unit back into life and increase footfall and custom in a central and sustainable location. It is likely that further enhancements, such as painting of the building/unit, would occur in due course, and to the overall benefit of the town centre environment.
- 4.4 Given the unit falls within the town centre it is accessible by sustainable modes of transport. As outlined within consultations made to the application there is local support for that being proposed (refer to Kelso Amenity Society, Community Council and local resident's representations).

REASON FOR REFUSAL

- 4.5 The main reasons for refusing the application have been outlined within Chapter 2. Our formal response to the reasons form the 'Grounds of Appeal' which are listed below.

GROUNDS OF APPEAL (GOA)

GOA 1

- 4.6 The proposal does not require a deviation from Policy ED4. The reason being that Policy ED4 currently states uses that fall beyond Class 1 could be deemed acceptable where ***it can clearly be demonstrated that the development would not result in an unacceptable adverse impact on the viability and vitality of the town centre or village.***
- 4.7 The proposal seeks to bring back into use a longstanding vacant unit within Kelso's Core Retail Area. It will retain the shop frontage with all external aesthetics remaining as they are at present.
- 4.8 The impact of allowing the unit to be brought back into use for a purpose very similar to that which has gone before is deemed to have a positive rather than negative impact on Kelso's core retail area.





- 4.9 As highlighted within the Planning Statement the front of the property will incorporate the ancillary retail use and therefore the unit will continue to present an active retail frontage to the Core Activity Area.
- 4.10 The proposal will enhance vitality in this area by attracting new customers/clients to the area (currently not happening with vacant unit). Viability is shown in that a Podiatrist is wishing to invest in the town centre not compete with it. Should the Council consider certain Class 2 uses to be unacceptable (beyond that proposed) a suitably worded condition could be applied.
- 4.11 In our opinion, the Report of Handling and reason for refusal has failed to outline how the proposal is going to lead to an unacceptable impact on Kelso's core/town centre and fundamentally misunderstands the proposed mixed use approach which would retain a strong retail element within the unit. The proposed use falls within the town centre and in theory will compliment neighbouring uses not compete with them.

GOA 2

- 4.12 The proposal is also in line with recent Scottish Government guidance. That being to diversify the uses within Scotland's town centres beyond Class 1 in order to bring vitality back to our High Streets and reduce the rising vacancy levels.
- 4.13 It is noted that Kelso's Core Activity Area consists of 71 units, as distinguished within Appendix 4 of the Retail Survey for Scottish Borders. The following table is a breakdown of the uses:

Use Class	Unit Amount	Percentage
Class 1	51	71.9%
Class 2	12	16.9%
Class 3	4	5.6%
Class 7	4	5.6%

- 4.14 As can be seen above, the overwhelming use within the Core Activity Area is Class 1. The proposed change of use would, in the worst case scenario (i.e. a pure Class 2 function), result in the loss of a single Class 1 property. This would result in a 70.4% proportion of Class 1 uses within the CAA. It can certainly not be said that the proposed development would result in an over concentration of Class 2 uses within the town centre. It is therefore considered that the proposed development would have no demonstrable impact on the viability and vitality of the CAA.
- 4.15 Furthermore, it should be recognised that the proposal would not lead to the loss of a retail unit but will merely allow for a wider use of the unit to incorporate a function that would not prejudice the vitality and viability of the town centre.





4.16 The Borders Connect document presents the Administration of Scottish Borders Council's vision for the next 5 years (2017 – 2022). This document was approved during a Committee Meeting on 24th August 2017⁴. It has not been referred to within the Report of Handling although its content should be assessed as a material consideration in the determination of this application.

4.17 The document seeks to actively encourage the development of new and existing business within the Scottish Borders as well as encouraging a flexible approach to town centres. Of pertinence, Section 2 (Page 7) determines that:

Not only will SBC be supporting our existing businesses to grow and develop but we will be encouraging new business and industry to develop in the Borders... When new sites are identified for development, it is essential that adequate consideration is given for enterprise and economic development as well as residential development. Joined-up thinking is required when it comes to town and community planning, making sure that appropriate services and opportunities are provided for our communities and residents.

4.18 Furthermore Section 3 (Page 9) states that:

Our town centres are great local assets where we connect with local services and facilities but many face challenges as patterns of retail change and shoppers use online services or large out of town supermarkets. Low 'footfall' in many towns results in some premises being left empty altogether. As a Council we will adapt the Local Development Plan to promote diversification in town centres that encourages new and existing businesses to flourish by making it easier for a greater variety of business types to set up, including specialist retailers, offices, tourist businesses, cafes and restaurants.

4.19 The decision to refuse the proposed change of use application entirely contradicts the agreed vision of the Council to promote diversification in town centres.

4.20 The proposal seeks to enable a local business owner to establish himself within Kelso and would solve the issue of a long term vacant unit bringing vibrancy and regular use to the town.

GOA 3

4.21 The unit in question has been marketed for Class 1 use for over 2 years, as noted within the Report of Handling. This provides the necessary evidence to demonstrate the lack of demand for continual Class 1 use only. Whether the vacancy level in Kelso town centre is below or above national vacancy rates is irrelevant in our opinion. The focus should be about demonstrating the lack of demand (which we have done) and taking every opportunity to reduce the number of vacant units within Scottish Borders town centres.

⁴ <http://scottishborders.moderngov.co.uk/ieListDocuments.aspx?CIId=132&MIId=3719>





GOA 4

- 4.22 One of the key Grounds of Appeal to be raised, is the overall misunderstanding of the proposed development. A substantial aspect of this is the Council's evident misinterpretation of the plans provided and lack of request for any clarification during the determination process.
- 4.23 It is recognised that the stance appears to suggest that additional information regarding the retail use of the premises would be of benefit. However, with respect, it is felt that despite repeated emphasis placed on the retail value in the proposed use in correspondence directed towards both the Planning Officer and the Forward Planning Department, this would appear to have been significantly disregarded. With that in mind, the following points are laid out which aim to provide the details of the intended use of the building interior. We trust these will provide ample explanation for how the frontage of the premises will complement the core retail activity of the town centre and why it is of great importance that the proposed activity be permitted to take place in this town centre location:
- 4.24 The two large shop front windows will display a range of footcare products as well as athletic footwear, especially running shoes, and specialised footwear inserts (as already stated in section 3.6 of the original planning statement) that historically have only been available further afield (there are currently no providers of specialist athletic footwear in Kelso).
- 4.25 Additional displays will be included on and adjacent to the reception desk site and a footwear range will be incorporated along the right-hand wall immediately adjacent to the right-hand front window.
- 4.26 The front area of the premises, identified by the officer as a 'lounge area' is indeed designed to function as a waiting area for podiatry clients however it also serves to function as a seating area necessary for customers trying on footwear as would be standard in any pure retail establishment selling footwear products.
- 4.27 The area that the reporting officer identified as a "desk area" with "no apparent use" is not actually a desk area at all – this is a foldable treadmill designed for running and walking gait analyses and will be used both in the assessment of patients attending podiatry appointments as well as for retail customers interested in the purchase of athletic footwear and/or specialist shoe inserts in order for trained staff to guide customers as to the best purchases they can make in terms of their individual goals. This brings up two important points:
- The complimentary nature of the two sides of the business; the option of a local provider of technical retail products such as athletic footwear is already likely to be welcomed in Kelso but the combination of this with the expert knowledge of podiatrists and support staff is a first for any establishment in the Scottish Borders. The next closest location to offer services such as treadmill analysis when purchasing athletic footwear is Run4It (Lothian Road,





Edinburgh⁵) and even in this instance the service is offered by retail staff and not practitioners with extensive experience in gait analysis. It would be a shame for the Borders to lose this business and for customers to instead venture elsewhere for these services or simply for appropriate athletic footwear.

- Upskilling of local people; the training of the in-house team to provide these services is just one of the ways in which the business can benefit staff by developing a range of new skills.
 - The two smaller rooms/‘walk-in cupboard’ areas on the ground floor will have a sink reinstated as described in the original planning statement and will also serve as an appropriate space for the storage of specialist equipment used in the process of decontaminating/sterilising medical instruments.
 - The first floor consists of a three room layout; one as a toilet (already in place), the other two conjoining rooms would have the potential for use as storage and/or additional treatment room as per the officer’s interpretation and the original planning statement indicated.

GOA 5

- 4.28 It is asserted that there is a significant misunderstanding made that this business would not be able to accommodate impromptu visits from clients and therefore not contribute significantly to increasing local footfall. Putting aside the matter of a long vacant premises offering absolutely no increase in footfall, this presumption is false in two important regards – firstly, podiatry practices can and do accept drop-in appointments with clients, this is a perfectly routine occurrence and indeed it should be seen as a sign of high ethical standards in ensuring that all visitors seeking treatment or advice are accommodated to the best of the abilities of the practice. The second and perhaps most relevant reason that the reporting officer’s presumption is false brings us back to the almost entirely overlooked matter of the retail use component of the business that we trust the material herein demonstrates will offer ample opportunity for impromptu visits by clients much like that of any pure retail use.
- 4.29 When looking directly at footfall numbers, based on the presumption made by the forward planning department, suggested that the number of clients visiting the premises would generate a low volume of footfall relative to typical pure retail uses. Rebuttal to this was made on more than one occasion but never acknowledged in the final Report of Handling so we are forced here to yet again reaffirm our position to ensure misunderstanding is not made.
- 4.30 The quoted 120-150 clients per week is a conservative figure based on a single practitioner’s diary for a 5-day week and not the entire business over 6 days as the Forward Planning Department inexplicably assumed. Therefore, with the explanation of the building layout; to potentially include 2 treatment rooms plus the additional staff involved, it should be clear that

⁵ <https://www.run4it.com/edinburgh-run4it-running-shop>





the true figure for the entire premises (even for a 5 day week) would far exceed the suggested number.

- 4.31 It was also again not acknowledged in the final report how the retail component of the business would of course also enhance footfall. With this also taken into consideration it is quite reasonable to assume that the proposed businesses could match or in some cases greatly exceed the typical footfall generated by other nearby service-based businesses.

GOA 6

- 4.32 Whilst there is no requirement to undertake a sequential assessment to justify the proposed mixed use of the application unit for a podiatry clinic and retail space, we have undertaken an evaluation of property within Kelso in order to demonstrate that the proposal is situated in the most sequentially preferable location.
- 4.33 At the time of preparing this document there are only two other vacant commercial premises with ground floor access close to Kelso town centre:

36-40 Horsemarket, Kelso

- 4.34 Substantial work is required to alter the property to create suitable spaces for the operational functioning of the podiatry clinic element of the proposals, including private client rooms, orthotic manufacture space and instrument decontamination rooms.
- 4.35 The premises are only two units away from another podiatry clinic which would create obvious conflict between the two businesses and is professionally undesirable for both parties in numerous regards, not least of all, ethically.
- 4.36 The unit is outside of the town centre and thus will not be able to realise the same footfall that the retail component of this business seeks to take advantage of by being situated more centrally.
- 4.37 The unit is more than double the annual rent of the intended property, partly due to its far greater size (to the point of being excessive for the proposed use) making it financially unviable, especially when coupled with the aforementioned internal works required.

26-38 Roxburgh Street

- 4.38 The square footage internal area of this property is stated as approximately 6,983sqft. This is very close to an 8-fold greater floor area than 40-41, The Square and as such is far beyond considerable use for this business.
- 4.39 Again, this unit also suffers from a non-central location which would weaken the retail benefits intended for this business.





- 4.40 Other commercial units advertised in the Kelso area are light-industrial units at Pinnaclehill Industrial Estate which are obviously completely unsuitable for the proposed use.
- 4.41 This clearly demonstrates that the unit identified for the proposed site is the most sequentially preferable within Kelso and the wider area and directly contradicts the Planning Officer's assertion that there are vacant premises in the Core Activity Area which would be more appropriate. No such premises have been identified.

GOA 7

- 4.42 It is considered that the employment opportunities offered by the site have been at worst dismissed and at best misunderstood during the determination of the application.
- 4.43 It is stated that the Council are unconvinced of the employment opportunities this use would create. The proposed creation of a private ground floor treatment room, a potential treatment room/office on the first floor and a reception desk area should have given at least some indication that staff will be necessary to operate this business and again we would have welcomed the opportunity to clarify this had it been presented to us. Nevertheless, to expand on Paragraph 4.13 of the submitted Planning Statement, approximately 5 new jobs are anticipated to be generated through this business in due course. This is based on full-time positions, although it could feasibly increase if part-time vacancies transpire to be more appropriate.
- 4.44 Employment is anticipated to include:
- Lead clinician (Podiatrist)
 - Assistant Practitioner/Orthotic Technician
 - Associate Podiatrist
 - Receptionist/Administrative Assistant
 - Retail Assistant
- 4.45 For a specific example of one of the ways in which this use will foster employment and high-end skill generation, a suitable candidate has already been identified for the role of assistant practitioner/orthotic technician within the business. A summary of this role can be found at The College of Podiatry website - <https://www.scpod.org/assistant-practitioners/>.
- 4.46 Not only would this use provide employment opportunities and foster numerous new skills and professional development opportunities in employees but the number of individuals employed would be at the very least equal to a typical retail use in this premises.



GOA 8

- 4.47 Substantial benefits would be provided to other local businesses in contrast to assertions made by in the Report of Handling. As raised in section 3.9 of the original planning statement, *“There are many other examples of businesses in the town centre other than pure retail including barbers, estate agents, cafés and other medical-based businesses such as opticians and pharmacists who have all demonstrated an ability to thrive in Kelso Square and be only of benefit to the community and their neighbouring local businesses.”*
- 4.48 To put further emphasis on the mutually beneficial arrangement of mixed uses in the town centre it is important to reiterate that, even with all of the retail uses of the this proposal put aside, a specialist podiatry business such as this is inherently good news for other local businesses perhaps even more so than most other possible class 2 uses as *“A typical business day will involve advising numerous clients to, for example, visit local shoe retailers with recommendations on appropriate footwear choices or to visit nearby pharmacists to obtain specific products or get additional expert advice.”*
- 4.49 One need look no further than the public comment of support given to this application by Mr. William Rogerson of Rogerson Footwear for evidence that, in the respondent’s words *“Provision of this professional service centrally and occupation of the redundant unit would I believe have a positive impact on the town centre and benefit surrounding retail.”* This position demonstrates desire by other local businesses to see this proposal granted in addition to the clear support echoed by local residents and all-but-one of the council departments involved in review of the original planning statement.





5. CONCLUSION

- 5.1 We believe that the subject site represents a sound location for an Podiatry Clinic with ancillary retail use. It will compliment neighbouring Class 1 uses, create new employment, drive greater footfall and vitality to Kelso town centre and create associated linked trips and thereby encourage and support the overall vitality and viability of the centre. It is therefore, in our opinion, in compliance with Planning Policy ED4 in that it is clear that it will not have a negative impact on the core retail area
- 5.2 The following 'Grounds of Appeal' which are detailed fully within Chapter 4, should be considered and we respectfully request that this appeal be allowed.
- **GOA 1 – The proposal does not conflict with Policy ED4 and would not lead to an adverse impact on the vitality and viability of the Core Activity Area.**
 - **GOA 2 -The proposal would not lead to the loss of a retail function within the Core Activity Area and would not lead to a concentration of non-retail or food and drink uses.**
 - **GOA 3 – The subject unit has been vacant for an excess of two years.**
 - **GOA 4 – The unit will not present a non-retail frontage to the Core Activity Area as a substantial retail frontage will be incorporated within the proposals.**
 - **GOA 5 – There has been a misinterpretation of footfall figures.**
 - **GOA 6 – There is no requirement for a sequential test, however the unit has been demonstrated as the most sequentially preferable location within Kelso.**
 - **GOA 7 – The proposal offers significant employment benefits.**
 - **GOA – There are wider benefits to the town from the proposals.**



APPENDIX 1 – APPEAL DOCUMENTS

1. Application Form
2. Location and Site Plans
3. Planning Statement
4. Email Correspondence (regarding comments made by Forward Planning Team)
5. Planning Officer's Report of Handling
6. Local Residents Representations
7. Consultee Representations
8. Borders Connect (2017-2022)
9. LRB Appeal Statement



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

Thank you for completing this application form:

ONLINE REFERENCE 100062683-001

The online reference 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.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

CHANGE OF USE FROM CLASS 1 RETAIL TO ALLOW MIXED USE CLASS 2 (PODIATRY CLINIC) AND CLASS 1 (ANCILLARY RETAIL)

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

Yes No

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

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 application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Ferguson Planning		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	Sarah	Building Name:	<input type="text"/>
Last Name: *	Lapsley	Building Number:	69
Telephone Number: *	07586807973	Address 1 (Street): *	Buchanan Street
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	Glasgow
Fax Number:	<input type="text"/>	Country: *	United Kingdom
		Postcode: *	G1 3HL
Email Address: *	sarah@fergusonplanning.co.uk		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	C/O Agent
First Name: *	Robert	Building Number:	<input type="text"/>
Last Name: *	McCrick	Address 1 (Street): *	C/O Agent
Company/Organisation:	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	C/O Agent
Extension Number:	<input type="text"/>	Country: *	United Kingdom
Mobile Number:	<input type="text"/>	Postcode: *	G1 3HL
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

Easting

Pre-Application Discussion

Have you discussed your proposal with the planning authority? * Yes No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

Title:

Other title:

First Name:

Last Name:

Correspondence Reference Number:

Date (dd/mm/yyyy):

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

51.43

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Class 1 (Retail)

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

0

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

Yes No

Do your proposals make provision for sustainable drainage of surface water?? * (e.g. SUDS arrangements) *

Yes No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

- Yes
 No, using a private water supply
 No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

Yes No

If Yes or No, please provide further details: * (Max 500 characters)

Proposal is for Change of Use, waste collection will remain as existing.

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace Details

For planning permission in principle applications, if you are unaware of the exact proposed floorspace dimensions please provide an estimate where necessary and provide a fuller explanation in the 'Don't Know' text box below.

Please state the use type and proposed floorspace (or number of rooms if you are proposing a hotel or residential institution): *

Class 2 Financial, professional and other services

Gross (proposed) floorspace (In square meters, sq.m) or number of new (additional) Rooms (If class 7, 8 or 8a): *

82

If Class 1, please give details of internal floorspace:

Net trading spaces:

Non-trading space:

Total:

If Class 'Not in a use class' or 'Don't know' is selected, please give more details: (Max 500 characters)

For planning permission in principle applications, if you are unaware of the exact proposed floorspace dimensions please provide an estimate where necessary and provide a fuller explanation in the 'Don't Know' text box below.

Please state the use type and proposed floorspace (or number of rooms if you are proposing a hotel or residential institution): *

Class 1 Retail (non-food)

Gross (proposed) floorspace (In square meters, sq.m) or number of new (additional) Rooms (If class 7, 8 or 8a): *

1

If Class 1, please give details of internal floorspace:

Net trading spaces:

Non-trading space:

Total:

If Class 'Not in a use class' or 'Don't know' is selected, please give more details: (Max 500 characters)

Ancillary Class 1 in association with proposed Class 2

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? * Yes No

Is any of the land part of an agricultural holding? * Yes No

Are you able to identify and give appropriate notice to ALL the other owners? * Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Address:

Date of Service of Notice: *

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: *

Signed: Sarah Lapsley

On behalf of: Mr Robert McCririck

Date: 14/08/2017

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

- | | |
|--|--|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify) (Max 500 characters)

Planning Statement

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Ferguson Planning Tim Ferguson

Declaration Date: 14/08/2017

Payment Details

Cheque: 000000, 00000000000000

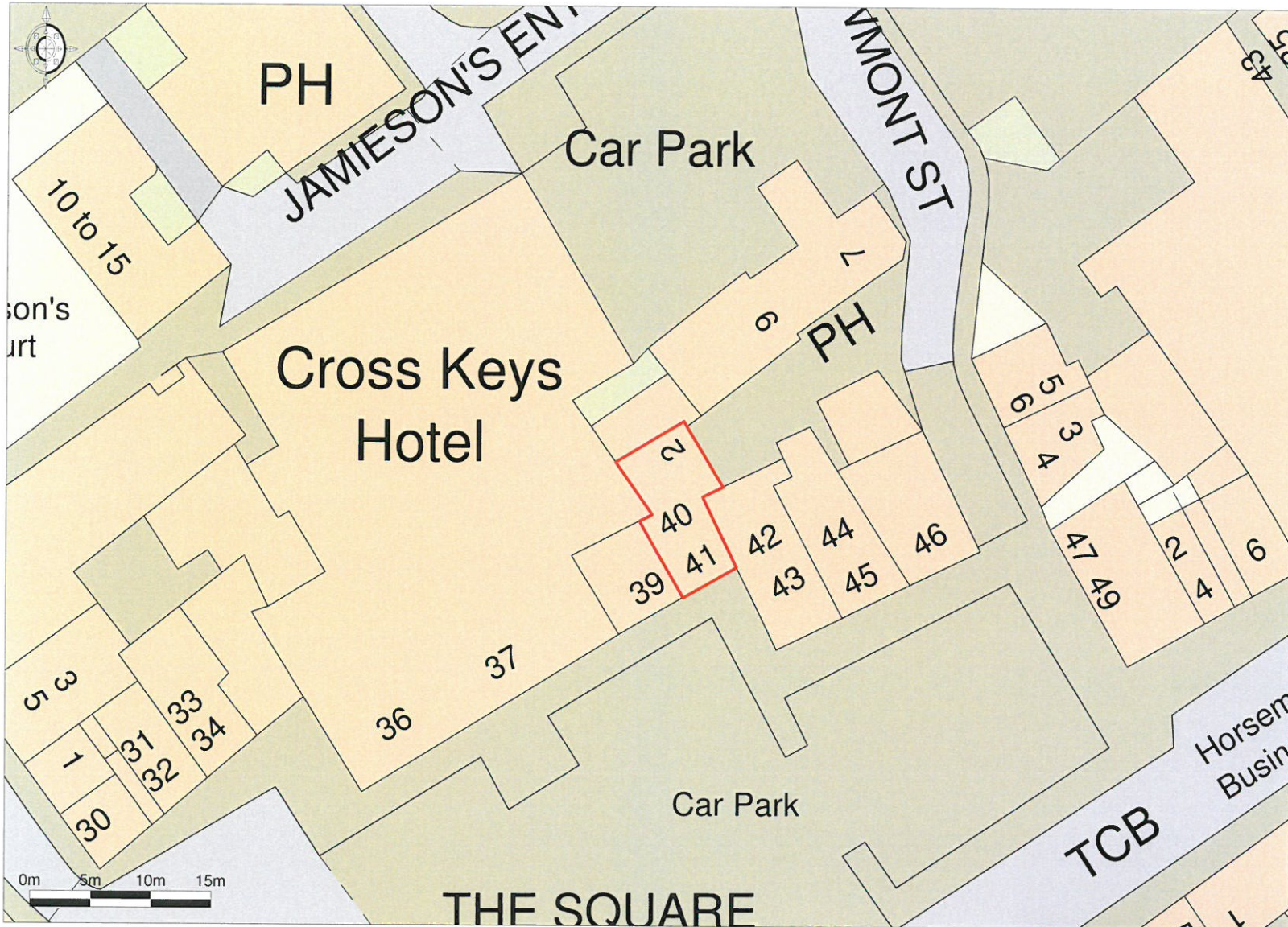
Created: 14/08/2017 14:19

40-41 The Square
Kelso
Location Plan
GB4764

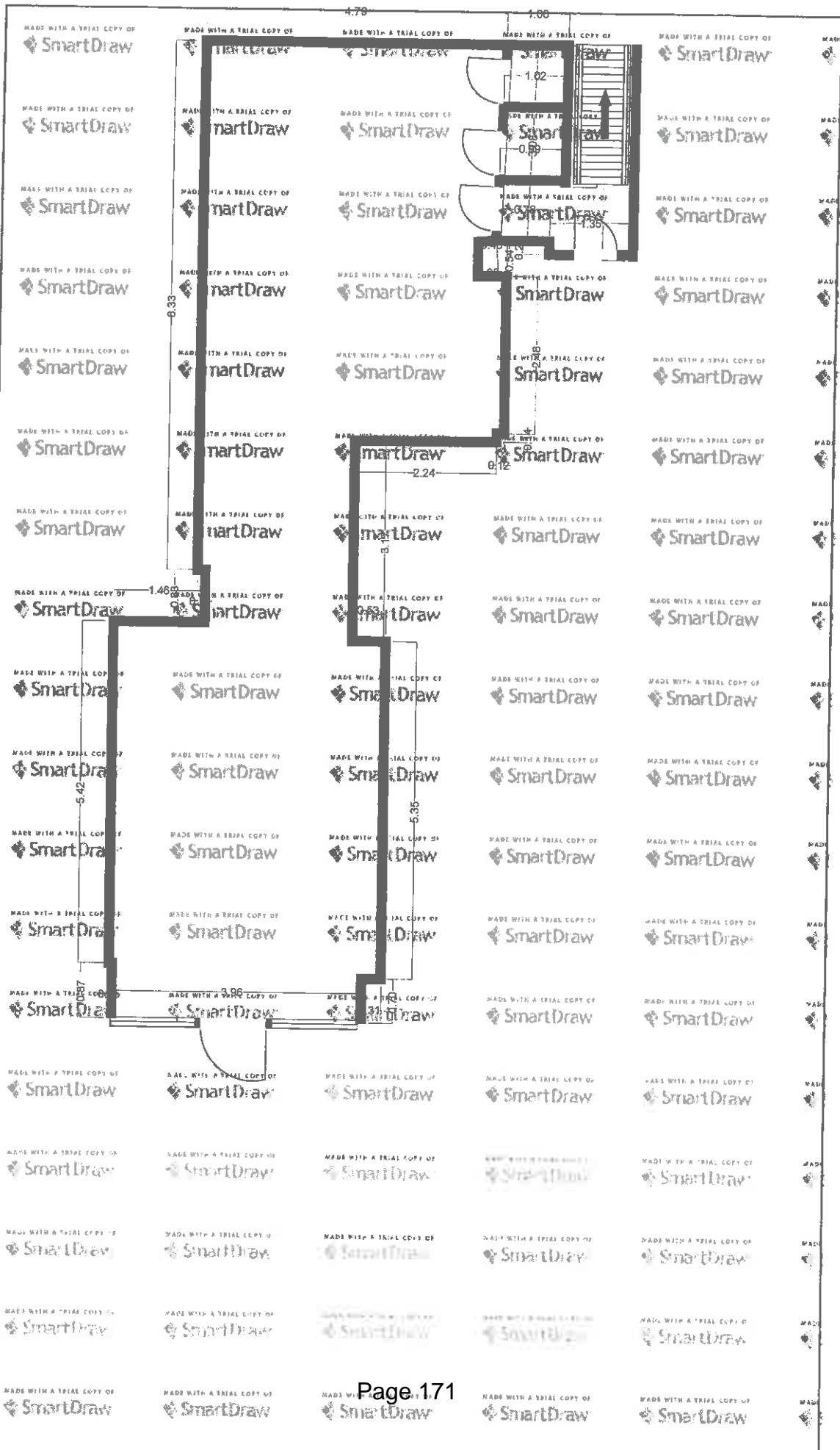


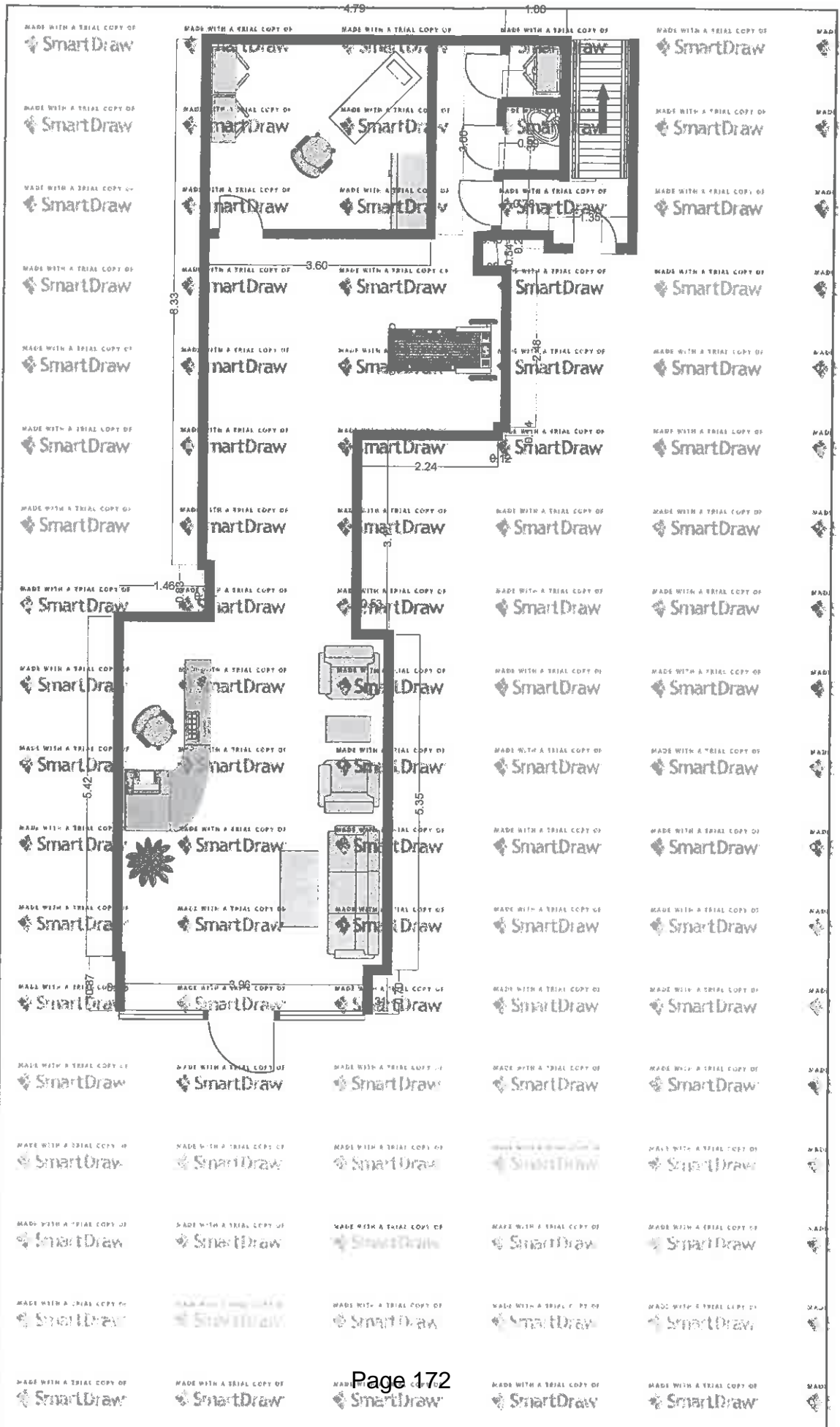
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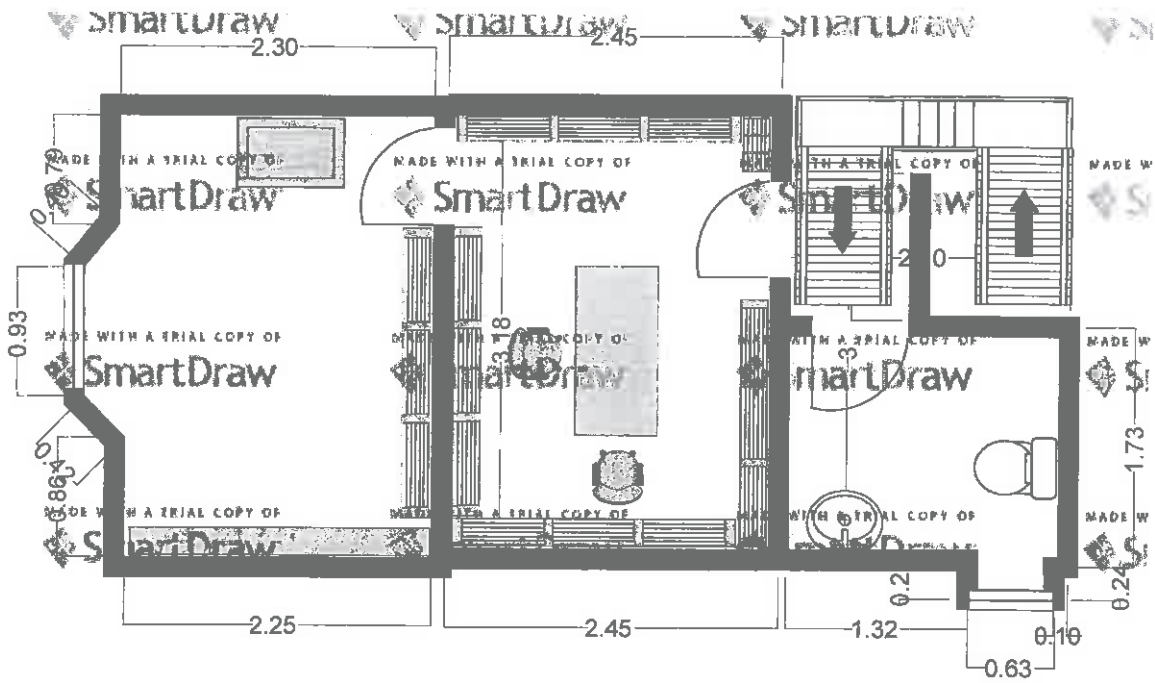
40-41 The Square
Kelso
TD5 7HL
GB4764



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FERGUSON
PLANNING



PLANNING STATEMENT

PROPOSED CHANGE OF USE FROM CLASS 1 RETAIL TO ALLOW CLASS 2 (PODIATRY CLINIC) AND CLASS 1 (ANCILLARY RETAIL)

40-41 MARKET SQUARE, KELSO, TD5 7HL

CLIENT: ROBERT MCCRIRICK

AUGUST 2017



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1. Introduction
2. The Site
3. The Proposal
4. Planning Policy
5. Conclusion



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1. Introduction

- 1.1 This statement has been prepared by Ferguson Planning on behalf Robert McCririck who seeks to change the use of Units 40-41 at Market Square, Kelso to allow a mixture of Class 2 and ancillary Class 1 use to enabled the occupation of the site for a Podiatry Clinic in accordance with the 'The Town and Country Planning (Use Classes) (Scotland) Order 1997'.
- 1.2 The site has been redundant for in excess of a year with no sound interest from a Class 1 retailer despite it being widely advertised by local agents (Edwin Thompson). The proposal will reduce greatly the amount of time that the unit remains vacant and ensures it does not become a detriment to the vitality and viability of the town centre.

The Applicant

- 1.3 The applicant is a local who was born and raised in Kelso. He has spent most of his life within the community and is incredibly proud to call it home. He believes fervently in the power of Kelso's community spirit of which local business plays an integral part. His vision is to build a business in the heart of the town square that supports and grows that community and attracts visitors from much further afield, to not only benefit from the professional services being proposed but will offer the ability to discover the range of unique products and services that the rest of Kelso has to offer.
- 1.4 The ethos of Tweed Podiatry is one that offers a high-class, highly specialized and bespoke range of products and services, and as such will be reflected in the visual appearance of the practice which will maintained to an exceptional standard. It is the applicant's belief that this image will complement the appearance and 'feel' of Kelso's town square remarkably well.





2. The Site

- 2.1 The site subject to this application is located the 'The Square' within Kelso Town Centre albeit in a corner that is overly exposed visually and thought to be the reason for the lower level of interest for retail purposes. Kelso is a buoyant market town with a significant rural catchment. It is located some 18 miles east of Galashiels and 44 miles south of Edinburgh.
- 2.2 The unit itself extends over two levels (Ground and First Floor). The ground floor footprint extends to circa. 51.43 sqm with the first floor level extending to circa. 30.14 sqm (81.57 sqm total).
- 2.3 The accommodation currently comprises:
- **Ground:** There is a narrow frontage to the street which extends and widens towards the rear of the property. The frontage offers large windows and a single central access door, a secondary access is located close to the rear of the property opposite the stairs. There are two 'cubicles' situated to the rear of the property and it is understood one of these previously contained a sink.
 - **First Floor:** The first floor consists of three rooms. One of these being a bathroom with the other two being interconnected, large rectangular spaces.





3. The Proposal

- 3.1 The proposal, in simple terms, seeks to change the use of this currently vacant property which is categorised as Class 1 (Retail) under the terms of the Town and Country Planning (Use Classes) Scotland Order 1997 (as amended) to be used as a Podiatry Clinic which is categorised as Class 2 (Financial and Professional Services) and still also allow for associated Class 1 (Retail).
- 3.2 The proposed business would create new employment in Kelso Town Centre, bring a vacant unit back into life and increase footfall and custom in a central and sustainable location. It is likely that further enhancements, such as painting of the building/unit, would occur in due course, and to the overall benefit of the town centre environment.
- 3.3 A number of internal alterations will be required for the operation of the Podiatry Clinic and these are described as follows. However, it should be noted that no external alterations are proposed and as such will not impact upon the Conservation Area:

Ground Floor

- 3.4 Partitioning will be incorporated in order to provide a private consultation room to carry out podiatry in a quiet and concealed environment. This is the only significant internal alteration with other changes being of a cosmetic nature and thus do not require any material adaptation. A sink will be reinstated within one of the small existing 'cubicles' to the rear of the unit, again this would not require any material alterations as the plumbing is already in place.

First Floor

- 3.5 There will be no material alterations to the first floor. The existing three room layout will remain and only cosmetic changes will be required.

Proposal Justification

- 3.6 The portion of the building visible from outside will consist of a waiting and reception area for clients as well as retail displays which will include a number of industry-leading brands of foot care products and technical footwear inserts that are not available anywhere else nearby. The space within the premises offers ample room to create an appealing front of house appearance to enhance footfall in addition to those visiting Tweed Podiatry for medical treatment which will take place to the rear of the premises.
- 3.7 By virtue of the applicant's role in working with people to improve their foot health and overall activity levels, many other local business stand to gain directly from the recommendations made to clients. A typical business day will involve advising numerous clients to, for example, visit local shoe retailers with recommendations on appropriate footwear choices or to visit nearby pharmacists to obtain specific products or get additional





expert advice. The overall goal is to help people to live more active lives; active individuals spend more time on their feet, are more engaged with their local community and are more likely to spend and enhance the local economy.

- 3.8 The business will include a technical retail suite of various technical footwear inserts from pre-fabricated devices, ready for use right out of the box, to a fully customized orthotic service for more specialist needs. Products will also include a range of pharmaceutical products recommended by the in-house podiatrist on an individual basis that he is licensed to supply and cannot be purchased at other nearby locations. Customers do not currently have access to these in Kelso or other local towns and this is expected to cater especially well to walking and running enthusiasts which includes many local residents as well as a large proportion of visitors to the town who would otherwise need to visit locations further afield such as Newcastle or Edinburgh for these services.
- 3.9 There are many other examples of businesses in the town centre other than pure retail including barbers, estate agents, cafés and other medical-based businesses such as opticians and pharmacists who have all demonstrated an ability to thrive in Kelso Square and be only of benefit to the community and their neighboring local businesses.
- 3.10 Tweed Podiatry is expected to be a great addition to those services and, when fully operational, can cater for approximately 120 - 150 clients per week. The projected catchment area for this practice is also vast with regards to those attending for medical treatment, commonly bringing in visitors from across the Scottish Borders and beyond.
- 3.11 By virtue of being a private practice, this tends to attract individuals with significant disposable income who, in the applicant's experiences of working in other locations, will consistently use their appointment as an opportunity to then visit local retail and hospitality businesses in the local area, thus greatly enhancing overall vitality of the town. Another factor for consideration is that many of these clients will attend the practice routinely throughout the year, thereby increase footfall and local spending consistently and irrespective of seasonality.
- 3.12 Public foot care services across the Scottish Borders have been drastically reshaped and many other nearby towns are no longer able to cater for the needs of local residents. In the eastern areas of the Borders, residents from as far as Duns, Eyemouth and beyond now must travel to Kelso for their nearest NHS Podiatry clinic. Tweed Podiatry can offer a convenient place to visit for all foot care needs; those taking the time to travel are more than likely to use the opportunity to spend a significant portion of their day then visiting other local establishments and putting money into the local economy.



4. Planning Policy

- 4.1 The two key policies to be considered in the determination of the proposed change of use application are Local Development Plan Policies ED3 and ED4.
- 4.2 Policy ED3: Town Centre and Shopping Development seeks to develop and enhance the role of town centre, of which Kelso is identified as a District Town Centre. It is determined that the Council will support a wide range of uses appropriate to a town centre and proposals for shopping development and other town centre developments will generally be approved within the town centre provided that the following are maintained and enhanced:
- Character
 - Vitality
 - Viability
 - Mixed use nature of the town centre
- 4.3 Policy ED4: Core Activity Areas in Town Centres seeks to provide flexibility and maintain viability and vitality in the retail core of the town centre. In Core Activity Area a mix of uses appropriate to the town centre will be allowed and states that Classes 1 and 3 are seen as appropriate uses within these areas.
- 4.4 Proposals for other uses including Class 2 will be assessed in terms of their contribution towards the core retail function of the area and will only be acceptable where there is a significant positive contribution to the core retail function.
- 4.5 Responding to this position, viability is about the ability of a place to attract new investment and vitality is about ensuring strong footfall levels in these central areas and attracting inward expenditure.
- 4.6 The viability of the centre would not change as a result of this proposal, in fact, it will improve. Our evidence has shown that there have been no viable propositions or offers of investment by pure Class 1 uses. This has subsequently led to the application which seeks to look to similar uses to those that have gone before and where demand has been shown by formal notes of interest.
- 4.7 In terms of vitality the unit in question is currently vacant and it is therefore having a damaging effect on the vibrancy of Kelso town centre and core retail area. The proposal will enhance vitality in this area by attracting new customers/clients to the area (currently not happening with vacant unit). Viability is shown in that a podiatry clinic is wishing to invest in the town centre not compete with it. Should the Council consider certain Class 2 uses to be unacceptable (beyond that proposed) a suitable worded condition could be applied.

- 4.8 The proposal will not lead to an unacceptable impact on Kelso's core/town centre. The proposed use falls within the town centre and in theory will compliment neighbouring uses not compete with it.
- 4.9 The proposal will also seek to retain an element of retail which will be reflected in the units façade display thus maintaining the retail character of this prominent location. Beyond this, the establishment of a Podiatry Clinic will attract new investment to the town, create new jobs and increase footfall within the town centre. It therefore provides a positive rather than negative impact on the town centre and therefore in compliance with Policies ED3 and ED4.
- 4.10 Evidently, the policy still allows for Class 2 uses should it contribute positively to the core retail activity, provides footfall contribution, contribute to joint shopping trips, takes account of the longevity of vacancy and marketing history of the premises.
- 4.11 All these points have been addressed previously. The premises have been marketed for over a year with no real interest shown from Class 1 uses. The proposal will therefore fill a current void in a prime town centre location, will increase footfall levels, create new employment, attract new customers and encourage linked trips with existing uses in Kelso town centre.
- 4.12 The marketing of the premises for over a year as Class 1 provides the necessary evidence to demonstrate the lack of demand for continual Class 1 use only. It is considered that whether the vacancy level in Kelso town centre is below or above national vacancy rates is irrelevant in the determination of this proposal. The focus should be about demonstrating the lack of demand (which we have done) and taking every opportunity to reduce the number of vacant units within Scottish Borders town centres.
- 4.13 In terms of economic benefits, the proposal would create up to 5 new jobs within Kelso Town Centre. New employees and customers to the proposed Podiatry Clinic will drive new footfall to the core of Kelso Town Centre which will in turn create linked trips to shops and other services in the locale. Beyond this, businesses that would service the proposed Podiatry Clinic would also benefit, for example, recommendations to local shoe retailers.
- 4.14 Guidance by the Scottish Government on encouraging a greater mix of uses in our town centres is a strong material consideration. The recent publication of the 'SPP Consultation Draft' states that: *Planning for town centres should be flexible and proactive, enabling a wide range of uses which bring people into town centres, including business, civic activity and community uses.*
- 4.15 Building on this sentiment the Scottish Government have also published the 'National Review of Town Centres External Advisory Group Report: Community and Enterprise in Scotland's Town Centres' and 'National Review of Town Centres Town Centre Action Plan – the Scottish Government response'.



- 4.16 Both these documents clearly guide the public and private sectors to do all they can to attract new investment to our town centres and beyond simple Class 1 uses. It states that: *The best way to support retail is to fortify this diversity, by weaving more footfall around it – more people living above and around the shops, and more business, leisure and cultural uses all round – to make the context for shopping in town busier, and the general town centre environment more attractive.*

Summary

- 4.17 Taking due consideration of the related planning policies we consider the proposal to be in compliance with the Local Development Plan and related material considerations for the following reasons:

- The site is allocated as “white land”, albeit it is identified as being within the Core Activity Area of the Town Centre. The proposed use relates well to other retail and commercial uses that surround it. The proposal's acceptability in design, transport and environmental terms has been previously permitted and will not be affected by the change of use.
- There are no neighbouring residential receptors and given the allowance for retail and commercial uses being proposed is considered not to give rise to any significant residential amenity concerns.
- The proposal will provide a local and daily service for the local population and in an area operating as a town centre. Furthermore, the proposals will attract visitors from further afield which will benefit the economy by virtue of ‘linked trips’ with people visiting other shops in the town following attendance at the clinic.
- The current operations have ceased trading. The premises are now vacant and are a detriment to the vitality and viability of this town centre. This proposal seeks a wider range of uses to ensure that the void will be filled within the shortest timeframe possible.
- The proposal will respect the character of the area, will compliment neighbouring commercial and retail uses, and not have a significant impact on residential amenity.
- The unit is in a highly accessible location and one where a great deal of customers are expected to arrive on foot or avail of nearby public transport.
- The proposal will operate within the confines of the opening and service hour restrictions of this type of use.
- Any related signage would be brought forward by way of a separate planning application.



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- The operation of the unit will create jobs in the local economy with further employment during the fit-out phase, therefore boosting the local economy.



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5. Conclusion

- 5.1 It is demonstrated that the subject site represents a sound location for a Podiatry Clinic. It will compliment neighbouring Class 1 and Class 2 uses, create new employment, drive greater footfall and vitality to Kelso town centre and create associated linked trips and thereby encourage and support the overall vitality and viability of the centre. It is therefore, in our opinion, in compliance with Planning Policies ED3 and ED4.
- 5.2 The business would create new employment in Kelso Town Centre, bring a prominent vacant unit back into life and increase footfall and custom in a central and sustainable location. It is likely that further enhancements, such as painting of the building/unit, would occur in due course, and to the overall benefit of the town centre environment. Given the unit falls within the town centre it is accessible by sustainable modes of transport.
- 5.3 It is therefore respectfully requested that this Change of Use Application be approved.

RE: Market Square, Kelso - 17/01139/FUL

Tim Ferguson

Mon 16/10/2017 14:00

To: Robert McCrick [REDACTED] Calvert, Euan <ECalvert@scotborders.gov.uk>;

Cc: Sarah Lapsley <Sarah@fergusonplanning.co.uk>;

Hi Euan

When you get a moment I would be grateful if you can call me as way of an update on this application.

The portal appears to be down but if not already if we can ensure that my and clients email responses below are uploaded to the system.

Related to this it is again important to bring to your attention the recently adopted Connected Borders document which outlines the vision of the Council and which clearly outlines its support for this type of proposal. In Part 3 of the document it specifically states:

"As a Council we will adapt the Local Development Plan to promote diversification in town centres that encourages new and existing businesses to flourish by making it easier for a greater variety of business types to set up, including specialist retailers, offices, tourist businesses, cafes and restaurants.".... "WE WILL: • Diversify our town centres through better use of our planning regulations.

I look forward to hearing from you in the near future.

Regards

Tim

Tim Ferguson
Director



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From: Robert McCririck [REDACTED]
Sent: 12 October 2017 19:06
To: Calvert, Euan <ECalvert@scotborders.gov.uk>
Cc: Sarah Lapsley <Sarah@fergusonplanning.co.uk>; Tim Ferguson <tim@fergusonplanning.co.uk>
Subject: RE: Market Square, Kelso - 17/01139/FUL

Dear Euan,

I felt compelled to write you personally, first of all to thank you in advance for your careful consideration of this planning application and all the associated time and effort taken to come to a decision. Secondly, I would remiss if I did not add further commentary to the current status of the application. I, along with Mr Ferguson, have been very please the incredibly positive comments from council members, member of the public and new comments recently added from neighbouring businesses who share my belief that my business would enhance the town centre and benefit other local establishments.

I must express my continued dismay however that despite the overwhelming positivity in seeing my plans become a reality, including from the majority of the council departments involved, there continues to be resistance to this application from the Forward Planning Department. What has been most disappointing to me has been that in their latest commentary, there has been no further recognition, let alone argument made against the counterpoints I and Mr Ferguson had last communicated. This, to my eyes, shows a lack of engagement in a dialogue around points I feel demonstrate amply that this application is in fact justified and, as has become evident from all the other comments, highly welcomed by many local people, business and council members.

For the sake of brevity I will not reiterate all of the points I have made as they are already available to you but I will state again my immense frustration in seeing these points glossed over, in my view to keep a fixed gaze on Policy ED4. This contrasts with the stance of other departments such as Economic Development who I am very grateful for clearly considering the points I had made and found grounds to in fact deviate from the policy in this instance.

On the point of deviation from the policy, I feel I must point out again that this is for mixed use – a retail element will remain and this is probably the point where a lack of recognition has been of greatest frustration and perhaps one of the most important in regards to the overall decision made.

As for the final paragraph in the forward planning department's latest comments, I seriously disapprove of any insinuation being made, as I interpret it, that the business would in any way represent a 'short term fix to occupy a vacant unit' or create 'dead frontage'. Yet again, there is no acknowledgement of the additional footfall the retail component may generate and a quick fix this is not – the building has been empty for two years and without this change I fear it may remain that way for far longer. That to me is surely justification to allow a business that will in fact represent a long-term solution and a vibrant frontage that will benefit many and is evidently wanted by many.

I want to be clear that I do in fact have a great deal of respect for the forward planning department's obvious desire to maintain the vibrancy and vitality of Kelso – so do I, so do we all. I was born and raised here, it is my home and I want to see the town centre flourish as much as any person. I want to return to the

humanity behind this because that's why I do the work I do – because of the people in my community who I take so much pride in helping. I have worked so hard to get here and I have no intention of stopping now. If this application is unsuccessful I will not be deterred, I will appeal my case if necessary and I will continue to fight for my business and the bright future I want it to bring for me, my family and the community who I truly wish to serve.

With the final date for a decision on this application due very soon I imagine this may be my final opportunity, in the immediate future, to be able to correspond with you. As such I would simply like to finish by offering my deepest appreciation to you, the councillors and officers, the team at Ferguson Planning, and the local businesses and members of the public for all of their wonderful support and for all the hard work I know has been involved.

Yours sincerely

Robert McCririck

Sent from [Mail](#) for Windows 10

From: [Tim Ferguson](#)
Sent: 28 September 2017 10:37
To: [Calvert, Euan](#)
Cc: [Robert McCririck](#); [Sarah Lapsley](#)
Subject: Market Square, Kelso - 17/01139/FUL

Dear Euan

I write in relation to the above application. It is extremely positive to note that there are no objections from bodies such as the local community council and the Kelso and Amenity Society and that there are also a number letters of support from local people who all see nothing but the benefit of regenerating this longstanding empty unit in Kelso Town Centre.

It is again positive to note that the Economic Development team have no objection particularly when one of the key policies, Policy ED 4, relates specifically to Economic Development. We concur with their conclusions that:

- The premises, although facing on to the Square are tucked into a corner; low profile, location, appear to have been vacant and unused for over 1 year, and we believe, if this application was approved, would bring vitality where there has been none, so increasing overall economic activity.
- The new use offers employment opportunities.
- The premises still offers some retail use and would appear ideal for this planned new use, with little change to the appearance of the frontage.
- The use would ultimately increase footfall to these premises, and the town in general, by providing a specialist service.

This response then providing a significant material planning position as to why that proposed should be deemed an appropriate use for the unit in question. This is then furthered by successful appeal decisions which outline a similar position from a wider Council perspective.

Despite the above it was somewhat disappointing to read the Forward Planning consultation on the matter which appears not to have changed despite past appeal decisions and indeed the position of

the Economic Development Department. We would respond to this consultation by outlining the following key points:

- Whilst Kelso does boast a lower than average percentage of vacant units this does not detract from the obvious fact that a long-vacant unit in prominent town centre location is surely to be highly detrimental to the very vibrancy that the town ought to in any way possible maintain and grow.
- Whilst policy ED4 may view class 1 and class 3 as the preferred use for town centre units, the length of time this unit has remained vacant is now greater than two years, demonstrating more than ample time for retail interests to be established had there been any. Moreover, every one of the criteria looked at when considering the addition of a class 2 use under the policy are met by this application with the addition of maintaining an integral class 1 component.
- With the evidence put forward, to continue to prevent genuine interest from local professional business from developing further at this stage for the sake of rigid compliance to the policy is counterproductive when vacancy of the unit represents the least desirable status of all. Being a statistically favourable area in terms of unit vacancy is of no consolation or practical significance for the owners who bare the financial burden of an unrented unit, for the young professional seeking to create a business of true value in the community and indeed for all those other local businesses who are unable to benefit from the always welcomed increased footfall this could bring through their doors.
- In regards to footfall, the numbers quoted by the responder are inaccurate and (without explanation by the responder) have been based on the assumption of a 6 rather than 5 day week which artificially lowers and thus greatly underestimates the likely number of visitors to the unit, the figures for those visiting the practice for medical treatment are also very conservative estimates and could expand significantly should additional practitioners become involved with the practice in future. This aside, the responder draws comparison between the number of visitors from this aspect of the business to those visiting other retail locations whilst not failing to acknowledge the potential footfall generation from the retail component of the business in its own right. In addition to presenting a frontage with an obvious retail component which is in keeping with the spirit of the town centre more retail-orientated, there are no reasonable grounds whatsoever to make the assumption that this aspect of the business could not generate a level of footfall comparable to many of the pure retail units in the town. A note of caution should also be applied in relation to the Council surveys as they are simple a snapshot in time and cannot be overly relied upon as a consistent or precise indication of footfall throughout the year.
- The responder comments that were this application sought in connection to other areas of the town then objection may not be made. This is of little relevance when there are no such suitable units in the described areas that would be appropriate for the purposes of this business.
- It is also important to reiterate the compounding effect that the business has with its compliance from the perspective of joint shopping trips – valued business of our town centre, especially shoe shops, pharmacies and other healthcare providers are all guaranteed to see a steady stream of customers visiting precisely because of healthcare-related recommendations made when visiting this practice. This uniquely beneficial relationship is not one that can be necessarily boasted by other business regardless of use classification.
- The responder states that the application cannot be supported as they believe there are no circumstances identified in which deviation from the policy could be justified. However, in only the paragraph prior to this, the responder themselves demonstrate that precedent for such deviation does in fact exist in a successful application made for a change of use from Class 1 (Travel Agent) to Class 2 (Estate Agent) within the Core Activity Area in The Square, Kelso. This application demonstrates as much justification for approval as the aforementioned example and more. It goes a step further by paying recognition to the understandable desire to maintain a core retail component in the town square and shows that this will for all intents and purposes be maintained or rather reintroduced to this empty building.

With all the points made here and elsewhere in this application it is important that all measures are taken to continue to increase the vitality and viability of our town centres and we kindly seek that this application be supported.

Should you wish to discuss the above or any other related matter please do not hesitate to contact me.

Regards

Tim

Tim Ferguson
Director



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From:Sarah Lapsley
Sent:16 Oct 2017 10:05:19 +0100
To:Calvert, Euan
Cc:Tim Ferguson
Subject:RE: Market Square, Kelso - 17/01139/FUL

Euan,

Further to the below from my colleague and the updated response from Forward Planning, we would like to continue to strongly contest the assertions that the proposal should not be supported.

It would appear from the comments made by the Further Planning team that they misunderstand the fundamental concept of the proposed development. The applicant does not simply seek the change of use of a long standing vacant retail unit for Class 2 use which in their words would present a "dead frontage", indeed the application will present an active retail frontage on to the Core Activity Area. As shown on the submitted Proposed Ground Floor Plan the unit's frontage to the street will be retained as Class 1 retail. This would directly contradict the argument made by Forward Planning that the proposal would conflict with the aims of vitality and viability of the Core Activity Area. This unique proposal would encourage linked trips within Kelso and allow the establishment of supportive links with other businesses in the town centre.

Whilst the department may be in the process of preparing a Main Issues Report this is not a material consideration in the determination of the current application and we are unsure of the relevance of this reference.

We would again like to press the point that the unit has been vacant for in excess of two years and clearly has not been making a valid contribution to the vitality and viability of the town centre. The proposed use would enable the introduction of a tenant who has very strong links with Kelso and seeks to establish a business that will enable him to remain within the settlement. This is not a "short term fix" for a vacant unit, it is very much a long term investment in the Core Business Area which should be encouraged.

Without reiterating all of the points previously raised and the detailed arguments put forward within the supporting Planning Statement, we would like to highlight that there are no other objections to the scheme and would make specific reference to the Economic Development response as well as the not

insignificant support from local residents. I would therefore strongly contest the response of Forward Planning and urge you to take into consideration the considerable economic benefits that the proposal would provide.

Kind regards,

Sarah Lapsley (BA Hons) Dip TP MRTPI

Associate Director



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From: Tim Ferguson
Sent: 28 September 2017 10:37
To: Calvert, Euan <ECalvert@scotborders.gov.uk>
Cc: Robert McCririck [REDACTED] Sarah Lapsley <Sarah@fergusonplanning.co.uk>
Subject: Market Square, Kelso - 17/01139/FUL

Dear Euan

I write in relation to the above application. It is extremely positive to note that there are no objections from bodies such as the local community council and the Kelso and Amenity Society and that there are also a number letters of support from local people who all see nothing but the benefit of regenerating this longstanding empty unit in Kelso Town Centre.

It is again positive to note that the Economic Development team have no objection particularly when one of the key policies, Policy ED 4, relates specifically to Economic Development. We concur with their conclusions that:

- The premises, although facing on to the Square are tucked into a corner; low profile, location, appear to have been vacant and unused for over 1 year, and we believe, if this application was approved, would bring vitality where there has been none, so increasing overall economic activity.
- The new use offers employment opportunities.
- The premises still offers some retail use and would appear ideal for this planned new use, with little change to the appearance of the frontage.
- The use would ultimately increase footfall to these premises, and the town in general, by providing a specialist service.

This response then providing a significant material planning position as to why that proposed should be deemed an appropriate use for the unit in question. This is then furthered by successful appeal decisions which outline a similar position from a wider Council perspective.

Despite the above it was somewhat disappointing to read the Forward Planning consultation on the matter which appears not to have changed despite past appeal decisions and indeed the position of the Economic Development Department. We would respond to this consultation by outlining the following key points:

- Whilst Kelso does boast a lower than average percentage of vacant units this does not detract from the obvious fact that a long-vacant unit in prominent town centre location is surely to be highly detrimental to the very vibrancy that the town ought to in any way possible maintain and grow.
- Whilst policy ED4 may view class 1 and class 3 as the preferred use for town centre units, the length of time this unit has remained vacant is now greater than two years, demonstrating more than ample time for retail interests to be established had there been any. Moreover, every one of the criteria looked at when considering the addition of a class 2 use under the policy are met by this application with the addition of maintaining an integral class 1 component.
- With the evidence put forward, to continue to prevent genuine interest from local professional business from developing further at this stage for the sake of rigid compliance to the policy is counterproductive when vacancy of the unit represents the least desirable status of all. Being a statistically favourable area in terms of unit vacancy is of no consolation or practical significance for the owners who bare the financial burden of an unrented unit, for the young professional seeking to create a business of true value in the community and indeed for all those other local businesses who are unable to benefit from the always welcomed increased footfall this could bring through their doors.
- In regards to footfall, the numbers quoted by the responder are inaccurate and (without explanation by the responder) have been based on the assumption of a 6 rather than 5 day week which artificially lowers and thus greatly underestimates the likely number of visitors to the unit, the figures for those visiting the practice for medical treatment are also very conservative estimates and could expand significantly should additional practitioners become involved with the practice in future. This aside, the responder draws comparison between the number of visitors from this aspect of the business to those visiting other retail locations whilst not failing to acknowledge the potential footfall generation from the retail component of the business in its own right. In addition to presenting a frontage with an obvious retail component which is in keeping with the spirit of the town centre more retail-orientated, there are no reasonable grounds whatsoever to make the assumption that this aspect of the business could not generate a level of footfall comparable to many of the pure retail units in the town. A note of caution should also be applied in relation to the Council surveys as they are simple a snapshot in time and cannot be overly relied upon as a consistent or precise indication of footfall throughout the year.

- The responder comments that were this application sought in connection to other areas of the town then objection may not be made. This is of little relevance when there are no such suitable units in the described areas that would be appropriate for the purposes of this business.
- It is also important to reiterate the compounding effect that the business has with its compliance from the perspective of joint shopping trips □ valued business of our town centre, especially shoe shops, pharmacies and other healthcare providers are all guaranteed to see a steady stream of customers visiting precisely because of healthcare-related recommendations made when visiting this practice. This uniquely beneficial relationship is not one that can be necessarily boasted by other business regardless of use classification.
- The responder states that the application cannot be supported as they believe there are no circumstances identified in which deviation from the policy could be justified. However, in only the paragraph prior to this, the responder themselves demonstrate that precedent for such deviation does in fact exist in a successful application made for a change of use from Class 1 (Travel Agent) to Class 2 (Estate Agent) within the Core Activity Area in The Square, Kelso. This application demonstrates as much justification for approval as the aforementioned example and more. It goes a step further by paying recognition to the understandable desire to maintain a core retail component in the town square and shows that this will for all intents and purposes be maintained or rather reintroduced to this empty building.

With all the points made here and elsewhere in this application it is important that all measures are taken to continue to increase the vitality and viability of our town centres and we kindly seek that this application be supported.

Should you wish to discuss the above or any other related matter please do not hesitate to contact me.

Regards

Tim

Tim Ferguson

Director



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From: Bell, Laura (Planning HQ)
Sent: 12 Oct 2017 11:51:42 +0100
To: Calvert, Euan
Subject: RE: Market Square, Kelso - 17/01139/FUL

Euan,

We have noted Mr Ferguson's comments in relation to planning application 17/01139/FUL but do not feel a case has been made to deviate from policy in this instance.

Whilst there is an initial presumption against class 2 uses within Core Activity Areas these uses would be supported by the department within the adjoining wider town centre boundaries as identified within the Local Development Plan. Consequently the Council is not against uses such as the application proposal within other parts of the overall town centre. It remains the case that stricter controls must be applied within Core Activity Areas to ensure maximum vitality and viability of the central part of these town centres.

Policy ED4 does allow some flexibility although this can vary on a case to case basis depending on the specific town and how it is performing in terms of buoyancy. The department is currently in the process of preparing a Main Issues Report and has consequently attended a number of public events and workshops to discuss a range of planning issues. Across the Scottish Borders there is wide scale opinion and agreement that Kelso continues to be a very active and vibrant town centre by a range of visitors and residents. Consequently whilst for example class 2 uses have been supported in some town centres which have been performing poorly it is not considered there is any justified reasons to support this use.

It is acknowledged that some parties are keen to promote class 2 uses within Core Activity Areas. However, at a time where many town centres are under performing it is vital that the Council does not set precedents for class 2 uses, some of which are deemed 'dead frontages' in terms of the footfall they generate, as short term fixes to occupy vacant units. If this happens, in the longer term Core Activity Areas would have a large component part of uses which would generate limited footfall which in practice would have major implications on town centre vitality and viability.

Regards

Laura

Laura Bell

Planning Officer

Forward Planning

Regulatory Services

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e: Laura.Bell@scotborders.gov.uk

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From: Calvert, Euan

Sent: 28 September 2017 10:45

To: Bell, Laura (Planning HQ)

Subject: FW: Market Square, Kelso - 17/01139/FUL

Euan Calvert

Assistant Planning Officer (Development Management)

Regulatory Services,

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

Application for Planning Permission

Reference : 17/01139/FUL

**To : Mr Robert McCririck per Ferguson Planning Per Sarah Lapsley 69 Buchanan Street Glasgow
United Kingdom G1 3HL**

With reference to your application validated on **17th August 2017** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail)

At : 40-41 The Square Kelso Scottish Borders TD5 7HL

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

**Dated 20th October 2017
Regulatory Services
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed



Depute Chief Planning Officer

APPLICATION REFERENCE : 17/01139/FUL
Schedule of Plans and Drawings Refused:

Plan Ref	Plan Type	Plan Status
1:5000 @A4	Location Plan	Refused
EXISTING GF	Existing Layout	Refused
PROPOSED	Floor Plans	Refused
EXISTING FF	Existing Elevations	Refused
PROPOSED	Floor Plans	Refused
1:500 @ A4	Site Plan	Refused

REASON FOR REFUSAL

- The proposed change of use from Class 1 (Shop) to Class 2 (Financial, Professional and Other Services) would be contrary to Policy ED4 of the Local Development Plan 2016 in that the use of the premises as a podiatry clinic would result in the loss of prime retail floorspace in a prominent location and introduce a non-retail/food and drink use within the Core Activity Area in Kelso, which forms part of the principal shopping area in the town centre. It has not been adequately demonstrated that the proposed change of use to Class 2 would maintain the vitality and viability of Kelso town centre. Material considerations, including the vacancy of the unit, have been accounted for but do not outweigh the conflict with Policy ED4.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority to refuse planning permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Corporate Administration, Council Headquarters, Newtown St Boswells, Melrose TD6 0SA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part 5 of the Town and Country Planning (Scotland) Act 1997.

SCOTTISH BORDERS COUNCIL

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

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 17/01139/FUL

APPLICANT : Mr Robert McCririck

AGENT : Ferguson Planning

DEVELOPMENT : Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail)

LOCATION: 40-41 The Square
Kelso
Scottish Borders
TD5 7HL

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
1:5000 @A4	Location Plan	Refused
EXISTING GF	Existing Layout	Refused
PROPOSED	Floor Plans	Refused
EXISTING FF	Existing Elevations	Refused
PROPOSED	Floor Plans	Refused
1:500 @ A4	Site Plan	Refused

NUMBER OF REPRESENTATIONS: 5

SUMMARY OF REPRESENTATIONS:

17 neighbour notification letters were sent by the Council. Five letters of support were submitted citing:

- Value of property,
- Empty for over a year,
- Employment opportunities,
- Choice and complement existing offer,
- Vibrancy to town centre
- Applicant's pride in community and dedication.
- Empty and unsightly building.
- Increased footfall.
- Foot and ankle services does not currently meet the demand of the local community.

Consultations as follows:

Roads Planning: No objections.

Economic Development: No objection.

1. The premises, although facing onto the Square, are tucked into a corner; with a low profile, location.
2. Vacant and unused for over 1 year and would bring vitality where there has been none, so increasing overall economic activity.
3. Offers employment opportunities.
4. Still offers some retail use.
5. Would appear ideal for this planned new use, with little change to the appearance of the frontage.
6. Increase footfall to these premises, and the town in general, by providing a specialist service.

Kelso and District Amenity Society: Welcome the use. Empty for some time and has sat empty previously for lengthy periods. This type of business would not be detrimental to our historic Square.

Kelso Community Council: Happy to support the plans.

Forward Planning: Ancillary retail operations are noted but the main use is proposed Class 2. Vacancy rate in the town centre of winter 2016 is 5%. Borders average is 11% and the national average is 12%. Kelso remains extremely buoyant compared to other settlements within the Borders and is not at a level which can justify a deviation from policy.

1. Vacancy in excess of a year is noted but that in itself is not an overriding justification.
2. The projection is a proposal to cater for 120-150 clients per week, which on the assumption it will be operated for six days per week. (by approximately 20 people per day) Consequently it will generate relatively low footfall as opposed to any typical class 1 retail use.
3. Barbers, cafe and pharmacies fall within Class 1 or 3.
4. Core Activity Area only relates to safeguarding of retail units along Bridge Street and within the Square (and its immediate vicinity). Parts of nearby Horsemarket, Wood Street and Roxburgh Street would be supported for this use.
5. Class 1 (Travel Agent) to Class 2 (Estate Agent) in the Square (14/00049/FUL) was, similarly, not supported.
6. This is a prominent location within the Core Activity Area.

No circumstances are identified which justify deviation from this well established policy.

Applicant's Supporting Information:

Planning Statement

PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016

PMD2: Quality Standards
 ED4: Core Activity Areas in Town Centres
 HD3: Protection of Residential Amenity
 EP7: Listed Buildings
 EP9: Conservation Areas
 IS7: Parking Provision and Standards

Supplementary Planning Guidance: Shop fronts and Shop Signs, March 2011.

Recommendation by - Euan Calvert (Assistant Planning Officer) on 17th October 2017

Full planning permission is sought for change of use from Class 1 retail to Class 2 (Professional and Other services). The site is within Kelso Conservation Area and within the Town Centre Boundary, as identified within the Local Development Plan 2016. The property is a Category B Listed Building.

Location and Site

The site, 40–41 The Square, is sited two doors along from the Cross Keys Hotel in a corner site where the adjacent building (42-43) steps forward. The building is a two "house" block appearing with 4-bays. Ground floor shops appear at either side of a central door (with fanlight above). There is a modern fascia to this shopfront (right of centre) which completely disguises this architectural symmetry; the two shop fronts appear to have been were designed independently. The shop features a fully glazed door to centre, hung in an alloy frame flanked by modern (near) full height toughed glass screens. Originally this building featured Tuscan pilasters at ground floor, which would have complemented the street scene, but there is no evidence of this feature now. The unit left of centre is Rutherford's Micro-pub. which features a traditional awning.

History

There is no planning history for this building, despite this significant and poorly characterised modern shopfront on this B Listed Building.

The adjacent unit, Rutherford's Micro Pub, gained approval in 2015 (15/00065/FUL and 15/00074/LBCNN). Cullen Kilshaw Estate Agents at no 43, gained approval on appeal in 2014, (14/00049/FUL), which is the building forward and right of this unit. The return wall immediately to the right of this shop frontage is a door to no 42, which is first floor office suite advertising home care/ home help (Nightingales Home Help Service).

Planning Policy

Class 2 of the Town and Country Planning (Use Classes) (Scotland) Order 1992 allows; "use for the provision of (a) financial services; (b) professional services; or (c) any other services (including use as a betting office); which it is appropriate to provide in a shopping area and where the services are provided principally to visiting members of the public."

There is no permitted development (change) from Class 1 to class 2 and the principle of change of use to Class 2 is resisted by Local Development Plan Policy ED4. Policy ED4 identifies that Core Activity Areas should be protected for Classes 1 (shops) and 3 (food and drink) and other proposed uses will normally be refused. The reason given is to provide flexibility and to maintain vitality and viability in the town retail cores.

The policy does however recognise in some instances there can be an exemption to this presumption. The policy states that with regard to other uses including Class 2, these will be "assessed in terms of their contribution towards the core retail function of the area and will only be acceptable where there is a significant positive contribution to the core retail function".

Proposal

The application offers proposed internal layouts but no Listed Building Consent application has been submitted. No external proposals have been submitted, including details of signage, for this B Listed building.

The ground floor is proposed to be given over as a lounge/waiting/reception, behind the double frontage shop windows. The rear area would be a desk area (no use is indicated) and, in the corner, a private consultation room would be formed by partitions. The stairs would lead to first floor treatment space where a three room layout would remain for consultations/office space and a toilet.

I have visited the site and confirm vacancy of the unit. The fascia panel has been removed leaving an unsightly modern frontage. The sale particulars prepared by Edwin Thompson display 81.57sq m of floorspace over 2 floors as "Double fronted retail unit....two first floor rooms with potential for office use" and this document was prepared on 24/09/2015.

Assessment

The material consideration in this decision is whether this is the appropriate location for this use. Policy ED4 has a presumption of refusal for Class 2 uses unless the merits of submission present otherwise. The following are of material consideration:

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

2. Footfall contribution;
3. Current vacancy and footfall rates;
4. Longevity of vacancy;
5. Marketing history;
4. Ability to retain a frontage.

JOINT SHOPPING TRIPS, FOOTFALL CONTRIBUTION AND FOOTFALL RATES

This is the principle reason concern in respect of this proposal. It is accepted that potential clients could make joint shopping trips, however there is clear overriding evidence that this use would function equally successfully in an alternative site outwith the Core Activity Area. You have to look no further than 110m away, at 24 Horsemarket, where change of use was supported for Podiatry in 2014 (14/01163/FUL). It is contended that this particular use does not require a Core Activity Area location.

I find no compelling reason in the Applicant's Supporting Statement to justify this change of use. Granting approval of this Class 2 use would unnecessarily result in the loss of a retail or food and drink use in a Core Activity Area.

The case against this chosen site is clearly stated by the Forward Planning Section; the projected footfall (when fully operational) is 120-150 clients a week. While sounding a high level of footfall in principle, it is actually only 20 clients per day based on a 6 day week. No operating times are given therefore there is no indication that this operation will be during office hours. I cover the subject of appointments below.

Hours of operation are a significant matter in retail core areas and a significant concern when considering joint shopping trips and contribution to footfall. The target market is stated to be walking and running enthusiasts. This suggests that potentially the majority of business would be outwith normal business and shop opening hours. It therefore seems unlikely that clients would take joint shopping trips. I find no valid argument that this proposal will improve vitality and viability of the town's retail core.

In support of current footfall rates, the Council's Footfall Survey 2016 states 'the footfall in Peebles, Kelso and Melrose has generally been steady or increasing in recent years and these towns have low levels of retail unit vacancy. Overall, footfall is up 6% since 2007 and Kelso is considered to be performing well'.

This proposal could set a precedent for similar uses that would over time damage this documented improvement in footfall rates.

Sequential Test

There is no evidence provided which would demonstrate that the Applicant has considered other locations outwith the Core Activity Area. There are vacant premises outwith the Core Activity Area that may be appropriate. Sites close by in Horsemarket, Woodmarket and Roxburgh Street would offer appropriate accommodation for Class 2 uses. I find no requirement for a podiatrist to have a lounge behind a fully glazed shop frontage in a Core Activity Area.

First Floor Use

The plans demonstrate a three room layout at first floor level. Like the adjacent Nightingales Home Help Service, Class 2 use at first floor would not displace essential ground floor retailing space. There is no compelling evidence provided to demonstrate that this ground floor layout has any retail function therefore contributions to the vitality and viability of the town are again considered negligible.

Appointments

I find this to be the most significant issue with this application. It is unlikely that this business would have any means of accepting impromptu clients off the street. The main aim of Core Activity Areas is to encourage public activity within such areas to safeguard areas where retailers are able to display and trade at the convenience of the public.

I conclude that this use is incompatible with the Core Activity Area.

CURRENT VACANCY, MARKETING HISTORY, LONGEVITY OF VACANCY

Letters of supports from the public and from the Council's Economic Development Section highlight the fact that this is a vacant unit and a blight on character and appearance of The Square, which is damaging to the vitality of the town.

I find no weight in this argument. It is a small frontage and Economic Development highlight that it is sited in a corner low profile location.

Vacancy is unfortunately a consequence of the free market economics. Market equilibrium will be reached and a willing trader found. You have to look no further than Fat Face at 12 The Square, Kelso. This is a national brand willing to trade in a small market town. There is increasing market evidence that large companies will choose smaller outlets, like this, over large retail spaces. Large retail spaces are increasingly becoming uncompetitive (due to large overheads) in a market dominated by on-line sales.

I confirm that this unit has been advertised since 24/09/2015. Sale particulars demonstrate it was operating as an interior design shop. Prior to this it operated as a hardware store. I do not find this period of vacancy in itself enough evidence to justify departure from Policy ED4. Forward Planning specifically cite the Scottish Borders vacancy survey of Winter 2016 as being justification to the contrary. The survey identifies vacancy levels at 5% compared to an average of 11% in the Borders and a national average of 12%.

Kelso is "extremely buoyant compared to other settlements within the Borders" and this evidence is unequivocal. The retail vacancy rate in Kelso is not considered to be high enough to justify an exceptional approval contrary to adopted planning policy on Core Activity Areas. I agree with Forward Planning that there is no overriding justification being presented for the loss of Class 1 or Class 3 floorspace within the Core Activity Area.

Ability to Retain a Frontage

The proposed floorplan appears to make no use of the shop frontage as a retail display area, despite "Class 1 ancillary use" being in the application description. Discussion in the Supporting Statement surrounds sale of foot products but there are no figures given as to the volume or proportion of business these sales would comprise. Certainly there is no evidence in the proposed layout of floor area given over to retailing. Economic Development argue that this absence of intervention in the frontage to be a positive point. In the proposed plans, it appears that the applicant would use the window display as a lounge area, with a three seater settee, two armchairs and coffee tables and a reception desk.

I do not agree that such a use of this shop frontage "complements neighbouring commercial and retail uses". I place significant weight on this fact. This layout plan successfully demonstrates that this shopfront would be used as a waiting room. This is historically inaccurate for the B Listed Building and is in direct conflict with Core Activity Areas, which seeks to retain these buildings for retailing and food and drink uses to maintain vitality and viability of Kelso Town Centre.

While this may be an empty and (to some) unsightly building at present, I have reiterate that there are peripheral sites which would better suit this use. This frontage would better suit a retailer with a shop window display offering goods for sale to passing shoppers, thereby providing choice, contributing to footfall and complementing existing offerings in The Square.

I find no overriding material consideration to recommend approval of this application contrary to Policy ED4 in this instance.

Kelso Community Council and Kelso and District Amenity Society support the proposals. KDAS go further to state; "this type of business would not be detrimental to our historic Square". For reasons I highlight above, I find significant issue with this unit becoming Class 2 use.

In response to the representations received, no evidence has been provided by the applicant of this being an employment generating business. I have no evidence of Tweed Podiatrist trading as a business, whether it is a going concern or new start-up. Whether the applicant is local, has pride in Kelso and whether he is dedicated to his work are peripheral matters and not a subject of material consideration for this planning decision.

The Roads Planning Officer has no objection.

REASON FOR DECISION :

The proposed use would be contrary to the primary objective of Policy ED4, which is designed to allow a mix of uses within the Core Activity Area of the town centre that is limited to those within Classes 1 and 3. This proposal for a Class 2 use would not contribute directly to the core retail function of the town centre. It would not contribute as positively (to The Square) as a unit with sole retailing use on ground floor.

Recommendation: Refused

- 1 The proposed change of use from Class 1 (Shop) to Class 2 (Financial, Professional and Other Services) would be contrary to Policy ED4 of the Local Development Plan 2016 in that the use of the premises as a podiatry clinic would result in the loss of prime retail floorspace in a prominent location and introduce a non-retail/food and drink use within the Core Activity Area in Kelso, which forms part of the principal shopping area in the town centre. It has not been adequately demonstrated that the proposed change of use to Class 2 would maintain the vitality and viability of Kelso town centre. Material considerations, including the vacancy of the unit, have been accounted for but do not outweigh the conflict with Policy ED4.

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

CONNECTED BORDERS 2017-2022

The vision of Scottish Borders Council's Administration

“ Our vision
for delivering better
communities ”



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CONNECTED BORDERS 2017-2022

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SCOTTISH BORDERS CONNECTED BORDERS 2017-2022

CONNECTED BORDERS

“ Our vision for delivering better communities ”

This document presents the Administration of Scottish Borders Council's vision for the next 5 years (2017 – 2022). As well as stating the key principles that will guide our work it articulates the type of communities we want to create and the progress that needs to be made in order to achieve a more Connected Borders.

INTRODUCTION

The Scottish Borders is an area of outstanding beauty. As a community we are surrounded by beautiful countryside, historic towns, a manufacturing heritage and close community ties. Challenges include developing and growing as an area while holding these things at the heart of that development, and building on our strengths while ensuring that the vulnerable and marginalised are included and considered in every action that we take. Together we need to ensure that no-one and no community is left behind but that we grow and develop together.

As Administration Councillors we are excited about what the next five years hold for the Borders; there are significant amounts of investment on the horizon to develop our economic base, to build new industry and provide new opportunities. Our communities have the skills, ambition and sense of purpose to lead the Scottish Borders into the future, a future that delivers economic growth and sustainable development, a future that builds our communities into strong, energetic towns and villages.

Our commitments are based on four key principles;

- **Consensus** – all of the councillors in Scottish Borders Council were invited to be involved in developing this vision.
- **Equality** – everyone in the Scottish Borders has the right to be treated equally, with respect and with fairness.
- **Innovation** – we must innovate to meet the needs of our changing economic and social environment.
- **Community** – we are nothing if we are not a community, and our community is our greatest strength.

IN SUMMARY, OVER THE NEXT FIVE YEARS WE WILL BUILD COMMUNITIES THAT ARE:





01. CONNECTED COMMUNITIES

WHY IS THIS IMPORTANT?

Earnings for those working in the Scottish Borders are the lowest of any local authority in Scotland.¹ In order to achieve sustainable growth, communications throughout the Borders must improve. Scottish Borders Council (SBC) needs to invest in our roads and will lobby the Scottish Government to ensure that funds are available to upgrade our infrastructure.

SBC recently received Strategic Timber Transport Funding towards addressing the damage done by the haulage of timber. We want to see this principle extended to other industries which adversely impact our roads and will do this by building stronger partnerships with industry ensuring that these issues are tackled at the start of projects.

The Borders Railway has been a very successful project for the Scottish Borders with over 1.3 million passenger journeys in the first 12 months of operation. When comparing the first six months of 2016 (after the railway opened in September 2015) to the first six months of 2015 (when there was no railway) there was a:²



But we remain ambitious. We want to see the railway extended to Hawick and beyond, with proposals developed for extending the line to Carlisle. The benefits that the railway has brought to Galashiels and Tweedbank can, and should, be extended to other communities in the Borders.

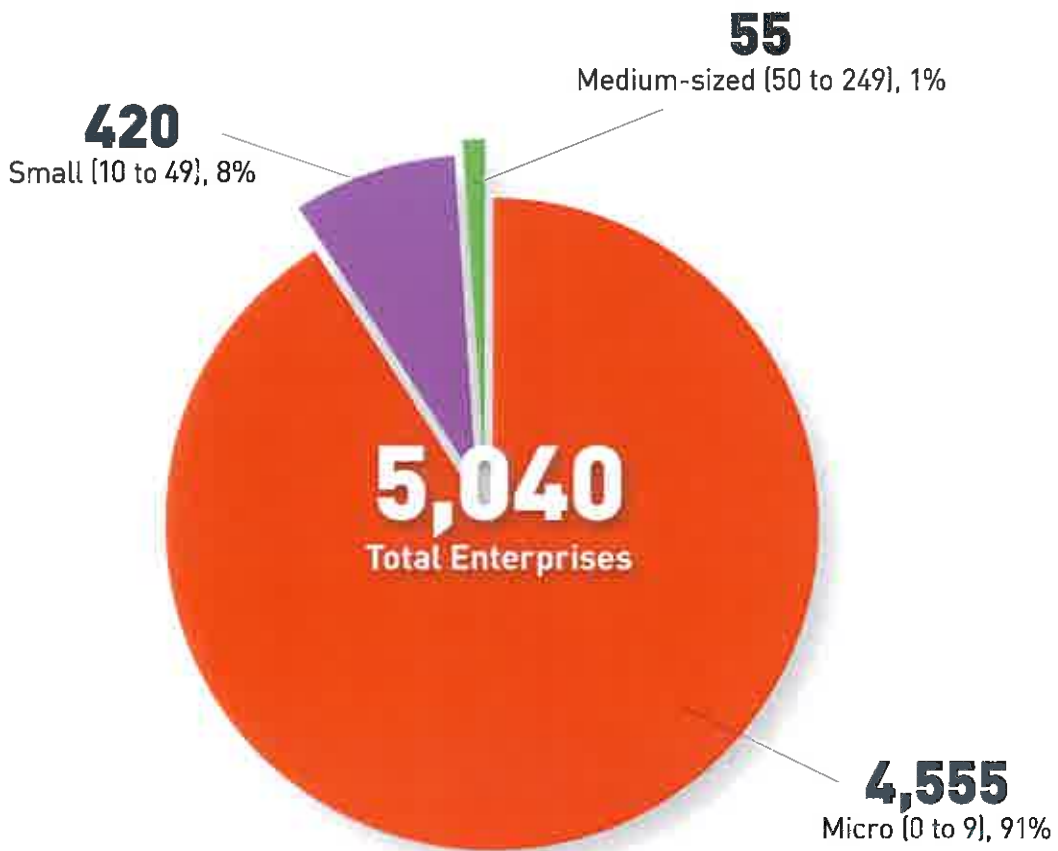
Despite significant investment, many of our residents and businesses often still suffer from exceptionally poor digital connections including poor broadband and patchy/low quality mobile coverage. To build our business base and make the Borders a place people choose to live, work and invest in, our businesses require the best possible access to good connectivity. In 2016 there were 5,040 businesses of which 91% (4,555) were Micro Businesses (0 to 9 employees), 8% were Small Businesses (10 to 49 employees), the remaining 1% of businesses had 50 employees or more.³

¹ Based on median gross weekly earnings, from 2016 Annual Survey of Hours and Earnings (ONS/NOMIS 2017)

² STEAM (Scottish Tourism Economic Activity Monitor)

³ NOMIS - ONS

BUSINESS COUNTS (ENTERPRISE) IN THE SCOTTISH BORDERS IN 2016



We have seen big gains in access to fibre broadband in recent years but some communities – particularly in rural areas - are still missing out. Over the next five years the Council will put pressure on the telecommunications firms and the Scottish Government to ensure that the Borders becomes one of the best connected places to live or do business and a leader in broadband provision in Scotland.

WE WILL:

- Fully support:
 - the case for the feasibility study into the extension of the railway to Hawick and Carlisle, taking into account the Scottish Government's current Borders Transport Corridors Study;
 - the delivery of a local rail service between Edinburgh and Berwick-upon-Tweed including a new station facility at Reston in Eastern Berwickshire.
- Building on SBC's Digital Connectivity Programme, work with the telecommunications industry to improve connectivity and Broadband,
- Protect our roads budget and deliver significant road improvements over the next five years using the Council's Capital programme
- Defend the provision of local public bus services in the Borders



02. COMMUNITIES OF ENTERPRISE

WHY IS THIS IMPORTANT?

There are three main initiatives that will come to fruition over the next five years, impacting on the economic development of the Scottish Borders as a whole:

- The South of Scotland Enterprise Agency, set up on a similar basis to the Highlands and Islands Enterprise will bring a significant investment and support to business;
- The Borderlands Initiative will bring together Northumberland, Carlisle, Cumbria, Dumfries and Galloway and the Scottish Borders to work collaboratively on cross border initiatives such as tourism;
- The South East Scotland City Deal, announced in July this will bring investment to the Borders for business.

These all represent significant investment into the Borders to improve, expand and develop our skills, infrastructure and economic base. Not only will SBC be supporting our existing businesses to grow and develop but we will be encouraging new business and industry to develop in the Borders. We will be working with partners such as the Chamber of Commerce, Social Enterprise Chamber and Federation of Small Business, as well as Business Gateway, to maximise the benefits that will accrue from this investment.

According to the 2011 Census 16% of people aged 16 to 74 in employment work mainly at or from home. Additionally, 22% of the working population who live in the Scottish Borders work out with the Scottish Borders (e.g. Edinburgh or Berwick-Upon-Tweed). We need to ensure that connectivity is as good as it can be for these groups, whether that is digital or physical.

When new sites are identified for development, it is essential that adequate consideration is given for enterprise and economic development as well as residential development. Joined-up thinking is required when it comes to town and community planning, making sure that appropriate services and opportunities are provided for our communities and residents. There is a clear need for smaller communities to have their own designated employment land and the new Local Development Plan will address this.

Social enterprises make a significant contribution to the Scottish economy³, with an estimated Gross Value Added (GVA) of £1.68bn. In 2015 there were 195 social enterprises in the Scottish Borders, about 4% of the total for Scotland (5,000). If the Scottish Borders proportion of the GVA was equal to the proportion of social enterprise, then social enterprises in the Scottish Borders contribute £67.2m to the Scottish Borders economy. There are more social enterprises per 1,000

³ Social Enterprise in Scotland Census 2015 - <http://www.socialenterprisescotland.org.uk/policy/180>

people in the Scottish Borders (1.7) compared to Scotland (1.0). This is a relatively new innovation when it comes to business models and one that as a Council we should explore and build on. Social enterprise companies work for the benefit of all of our communities and we will do all that we can to support them.

WE WILL:

- Work with partners to maximise significant investment in our area through the Borderlands initiative and the Edinburgh and South East Scotland City Region Deal
- Ensure that the developing South of Scotland Enterprise Agency supports new and existing business and attracts investment to our area
- Produce a new Local Development Plan with a focus on delivering land for enterprise and promote this to business to attract new industries to the Scottish Borders
- Encourage new and existing businesses and public sector partners to pay the living wage

³ Social Enterprise in Scotland Census 2015 - <http://www.socialenterprisescotland.org.uk/policy/180>



03. COMMUNITIES OF BEAUTY

WHY IS THIS IMPORTANT?

Our **town centres** are great local assets where we connect with local services and facilities but many face challenges as patterns of retail change and shoppers use online services or large out of town supermarkets. Low 'footfall' in many towns results in some premises being left empty altogether. As a Council we will adapt the Local Development Plan to promote diversification in town centres that encourages new and existing businesses to flourish by making it easier for a greater variety of business types to set up, including specialist retailers, offices, tourist businesses, cafes and restaurants.

The **Borders' built and natural environment** is not just valuable in itself – it is a key economic asset that is vital to attract new jobs and investment in the modern economy. It follows that our economy depends on maintaining and enhancing the quality of our environment, and all new development should have that aim in mind. SBC will aim for the highest standards of design quality in terms of architecture, spacing and context to encourage new building that enhances our surroundings, either reflecting the architectural traditions of the Borders or introducing exciting new designs. SBC will encourage diversity and innovation in design to promote a full range of housing and a continued focus on providing affordable housing. But there should be particular emphasis on those areas that have a low supply but high demand for this type of accommodation.

In recent times, much new housing in the Borders has been built within or adjacent to existing settlements. The new Local Development Plan will aim to encourage smaller developers and new building across the Borders taking account of existing pressures on the infrastructure of existing towns and villages. The emphasis for all development - commercial or residential - will be on its quality of design and the context of its surroundings. The new Local Development Plan will also encourage opportunities to deliver new developments to the highest standards of design. Making the best use of new and existing infrastructure and provide sites for affordable housing.

SBC's Planning Service will continue to work to provide the best possible service to developers and planning applicants, ensuring swift resolution of applications, a clear process, and low costs, particularly for small developers and businesses.

A great part of ensuring our communities retain their beauty and character is to look after our natural environment. The Household Recycling rate for the Borders has increased slightly from 36.3% in Q1 of 2015 to 39.0% in Q4 of 2016. However, the Scottish Borders recycling rate is below the Scottish average of 44% although compares favourably to other similar rural councils.⁴ Future actions include improving access to community recycling centres.

Our Neighbourhood Teams do an outstanding job in keeping our Borders towns looking their best and working with local community groups to deliver festivals and other events. A great deal of time is spent on cutting grass, verges and annual planting. We hope to pilot an initiative whereby the Council works closely with communities to develop a way of managing communal land to increase bio-diversity and improve the whole environment.

The history, culture and activities that we offer are great assets. Tourism is critical for many businesses working and operating in the Borders and as a Council we will do all that we can to enhance and build on this. From considering the signage that is used in our towns, to how this area is marketed both within the UK and abroad we can promote the Scottish Borders as an exciting destination.

WE WILL:

- Diversify our town centres through better use of our planning regulations
- Take an innovative approach to new housing development, encouraging smaller, better placed developments
- Continue to deliver affordable homes in areas that need them the most, guided by the Local Housing Strategy (developed in partnership with Registered Social Landlords)
- Implement a new Waste Management Strategy to improve recycling rates
- Building on SBC's localities work, pilot a biodiversity project to manage communal land, opening it up for more innovative approaches to enhancing our communities

⁴ LGBF - <http://www.improvementservice.org.uk/benchmarking/tool.html>



04. COMMUNITIES OF WELLBEING

WHY IS THIS IMPORTANT?

Education should not only be about schools; we need to consider how our communities develop whether you are 2 or 102. Our Community Learning and Development (CLD) Teams throughout the Borders are doing a fantastic job in listening to our communities and delivering educational opportunities, for example, through developing the Early Years Programme or working with partners to deliver “Men’s Sheds”, and many other projects. This valuable work will continue and grow over the next five years.

As part of this we need to consider our buildings that provide our educational services. Over the next five years we will continue to maintain and deliver an improved schools estate throughout the Borders, ensuring that it is fit for purpose for the next generation. Our flagship project in Jedburgh will be delivered, in partnership with the community, to improve and enhance the educational establishment in that town. However other major Borders towns have high schools that require attention and we will deliver on the Schools Review that is under way. This programme will continue in line with the Council’s commitment to provide centres of excellence for our young people.

Partnership working is the driving force behind ensuring that the Borders remains a **safe place to live, work and visit**. We are committed to resolving the problems that adversely impact the safety and security of our communities working with others to tackle key areas such as the:



We will target substance abuse and its detrimental impact on the health and wellbeing of the vulnerable in our community.

The Borders is acknowledged as one of the safest communities in the country, an enviable position and one that we must fight to retain.

Live Borders was established in April 2016 and has been delivering **sporting and cultural services** since that date. During a period of significant financial pressure, the services that have been delivered on the ground have been maintained to a high standard. Over the next five years we will be working with Live Borders to enhance the cultural focus of our Border towns. The history and depth of our culture and traditions should be cherished and built on. The regeneration of the towns of the Borders has to include cultural regeneration as well as economic regeneration and local plans have to reflect that.

There is a growing network of multi-use paths being developed across the region and we will continue to work with national partners to deliver and increase them to encourage **active travel**. As cycling becomes more and more popular we will work to ensure that significant events such as the Tour of Britain and Tweedlove continue to thrive, bringing major investment, increased tourism and new interest in our region. Key partnerships with local cycling clubs, the Forestry Commission and The Mountain Bike Centre of Scotland are essential to ensuring that the Borders continues to be seen as the UK's premier biking destination.

Over the next five years, this Council will make significant progress in developing services to improve teenage mental health. We will look at models of prevention and treatment and work with partners to deliver improved services in the most relevant context, whether that is in schools or health facilities. We will work to ensure that every young person who requires counselling has access to it, that primary schools are identifying "at risk" young people at an early age, and that our partners are equipped to deliver services that address these issues.

WE WILL:

- Take a "whole community" approach to education (whether you are 2 or 102) to raise attainment, "close the gap" and provide opportunity for everyone
- work with police and local organisations to deliver an extensive project on substance abuse and its impact on mental health
- ensure that our town centre regeneration programme includes an increase in cultural centres as well as an economic focus
- continue to work with Sustrans to deliver multi-use paths across the region
- with partners, deliver improved mental health support to our most vulnerable young people across the Borders

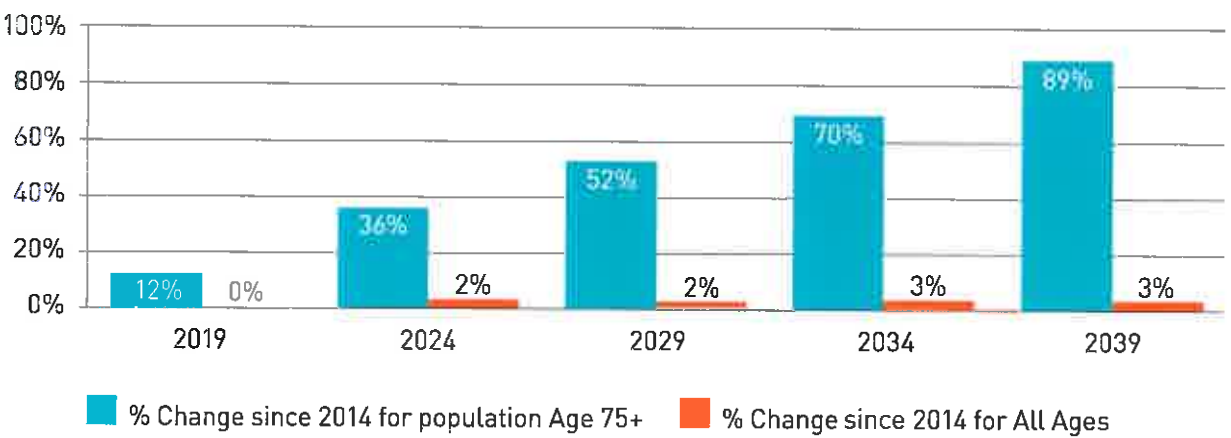


05. COMMUNITIES OF CARING

WHY IS THIS IMPORTANT?

Appropriate care for the elderly is critical as projections suggest that the number of people aged 75+ in the Scottish Borders will increase by 10,353 (89%) between 2014 and 2039, compared to a 3,080 (3%) increase for the total population.

PROJECTED % CHANGE IN POPULATION FOR AGED 75+ COMPARED TO ALL AGES FOR THE SCOTTISH BORDERS, NRS



As a community, we must act now to address this, or we will leave a much bigger issue for future generations to resolve. This is not just an issue for the Council but also for the Third Sector, housing associations, NHS Borders and other partners.

Of particular concern are those elderly people – and their carers - who will be living with dementia. There needs to be a clear patient pathway for those who have been diagnosed with dementia through diagnosis and treatment to a tiered layer of support available when they reach each stage. As a Council we will work with partners to deliver services that will be focused on each person's needs, ensuring that people do not have to struggle to access the care they require and that they can be confident it will be in place when they need it.

Working with partners in the Third Sector, we want to develop plans for prevention and early intervention. There are many fantastic projects that deliver family support, mentoring, education and maternal support. These need to be encouraged, developed and supported to ensure that the needs of our families are being met at an early stage.

WE WILL:

- Ensure that patient pathways are developed for elderly people so the journey of care from first diagnosis to palliative care is clear
- Embed the focus of our family support services to early intervention and mentoring, with a strong focus on early years support and parenting



06. COMMUNITIES THAT ARE EMPOWERED

WHY IS THIS IMPORTANT?

Over the next five years, this Council is committed to being transparent and open. We want communities to engage as much as possible with their local councillors, community councils, community trusts and the many other organisations that exist within our communities, collaborating to build a better Borders.

The Community Empowerment (Scotland) Act 2015 means that communities can have a much greater voice in how councils are run, how services are delivered and how council facilities meet the needs of the local communities in which they are located. This is a welcome and exciting development.

One of the key innovations introduced by the Act is “Participatory Budgeting”, whereby communities will help to decide how funds are spent. This process will be administered by new Area Partnerships (which are replacing Area Forums) and will deliver local decision making and offer a real voice to local community groups. They will have identifiable powers and be able to make a real impact on their local areas.

WE WILL:

- Introduce Area Partnerships to replace Area Forums to bring decision making closer to local communities
- Implement Participatory Budgeting for community projects (through the Area Partnerships) so that communities have a say on what is spent in their local area

You can get this document on audio CD, in large print, and various other formats by contacting us at the address below. In addition, contact the address below for information on language translations, additional copies, or to arrange for an officer to meet with you to explain any areas of the publication that you would like clarified.

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email: membersservices@scotborders.gov.uk



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Regulatory Services

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Application for Planning Permission **Reference: 15/00065/FUL**

To: Mr Simon Rutherford Chestnut Lodge Chirnside Station Chirnside Scottish Borders TD11 3LJ

With reference to your application validated on 19th February 2015 for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal: Change of use from retail and alterations to form micropub

At: 38 The Square Kelso Scottish Borders TD5 7HL

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997, subject to the following direction:

- That the development to which this permission relates must be commenced within three years of the date of this permission.

And subject to the conditions on the attached schedule imposed by the Council for the reasons stated

Dated 3rd April 2015
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA



Signed

.....
Head of Planning and Regulatory Services

APPLICATION REFERENCE: 15/00065/FUL

Schedule of Plans and Drawings Approved:

Plan Ref	Plan Type	Plan Status
15/B340/EX01	Location Plan	Approved
15/B340/SK01	Existing Layout	Approved
	Floor Plans	Approved
SUPPORTING STATEMENT	Report	Approved

REASON FOR DECISION

It is considered that the proposed change of use from shop to micro pub is in accordance with development plan policies covering prime retail frontages and core activity areas in that the proposals are typically located within the centre of towns, will not lead to an undesirable precedent and will not have an unacceptable adverse impact on the vitality and viability of the town centre.

SCHEDULE OF CONDITIONS

- 1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
- 2 Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernable tonal component. Tonality shall be determined with reference to BS 7445-2
Reason To protect the residential amenity of nearby properties.
- 3 The operating times of the premises will be restricted to 1100 to 2300 Monday to Sunday with deliveries permitted 0900-1700 Monday to Saturday. There shall be no amplified music or voice operated within the premises.
Reason To protect the residential amenity of nearby properties.

FOR THE INFORMATION OF THE APPLICANT

It should be noted that:

- 1 The premises will need to be registered with the Council before commencing operations. In order to ensure that the layout of the premises complies with the registration requirements the applicant should contact an Environmental Health Officer as the earliest stage possible. This can be done by calling 0300 100 1800 or emailing PLACEhealth@scotborders.gov.uk

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
SERVICE DIRECTOR REGULATORY SERVICES**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 15/00065/FUL
APPLICANT : Mr Simon Rutherford
AGENT :
DEVELOPMENT : Change of use from retail and alterations to form micropub
LOCATION: 38 The Square
Kelso
Scottish Borders
TD5 7HL
TYPE : FUL Application
REASON FOR DELAY: No Reason

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
15/B340/EX01	Location Plan	Approved
15/B340/SK01	Existing Layout	Approved
	Floor Plans	Approved
SUPPORTING STATEMENT		Report Approved

NUMBER OF REPRESENTATIONS: 0

SUMMARY OF REPRESENTATIONS:

RPS: No objections

Kelso CC: No response

EH: Agree with proposals in principle subject to conditions covering noise opening hours as well as an applicant informative relating to Food Premises Registration.

Kelso AS: No response

Econ Dev: This application for a Change of use, we understand, does not meet Policy ED4 of the Consolidated Local Plan 2011 as it introduces a non-retail use into a location defined for Prime Retail Frontage. Economic Development, however, does support the application 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 aim.

Forward Planning: It is considered that on balance, given this type of proposed use is typically associated and located within the centre of towns, finding alternative locations for this use is problematic and that supporting the proposal will not set an undesirable precedent against policy ED4 given the unique circumstances of this case, it is considered that the proposal can be supported.

PLANNING CONSIDERATIONS AND POLICIES:

Consolidated Local Plan 2011

Policy G1
Policy BE4
Policy ED4
Policy ED5

Proposed Local Development Plan 2013

Policy ED4

Recommendation by - Euan Calvert (Assistant Planning Officer) on 1st April 2015

This application seeks planning consent for a formal change of use and alterations to form a micro pub from a shop at No 38 The Square, Kelso. The application site is a vacant retail unit (formerly John Moody Knitwear) located on the north side of the square between Tweed House Interiors and The Cross Keys Hotel. It is located within the Kelso Conservation Area and is Listed Category B as part of a group listing covering Nos. 38, 39 and 40 The Square. The site is also located within an area covered by the prime retail frontages policy as defined by the Consolidated Local Plan and the Core Activity Areas policy within the Proposed Local Development Plan (PLDP) (currently at Examination).

This report should be read in conjunction with the report and assessment for LBC application 15/00074/LBCNN which seeks consent for internal and external alterations.

Policy ED4 of the Consolidated Local Plan seeks to give protection to shop uses within the prime retail frontages as defined in the settlement proposals maps as these uses enhance the vitality and viability of town centres. Proposals for uses other than shops at ground floor level will be refused. However, Policy ED4 - Core Activity Areas of the Proposed Local Development Plan is also relevant. Whilst the PLDP is currently at Examination, there have been no objections to Policy ED4 during the public consultation of the plan and therefore this policy is a material consideration in the determination of this application. Both policies seek to ensure that retail units are not lost within town centres but Policy ED4 of the PLDP seeks to allow other complementary uses within town centres, including Class 3 uses comprising of food and drink. However, public houses, including micro pubs, fall out with any recognised use class and are considered "Sui Generis". As the proposed use does not fall within Use Class 1 or 3 of the Use Classes Order there would be an initial policy presumption against this proposal.

However, as confirmed by our Forward Planning team, the preferred and logical location for public houses/micro pubs is within the core activity area of town centres where these uses are traditionally located. Locating public houses out with these core activity areas is likely to lead to a detrimental impact on residential amenity in terms of noise nuisance as these areas are generally more residential in nature.

The application also seeks consent for alterations to the property to form the micro pub. These alterations are primarily internal and have been covered by the associated listed building consent application. The proposals would appear to include the application of vinyl lettering to the windows and the erection of a new fascia sign. These matters can be displayed with deemed advertisement consent and are considered appropriate for this building and the wider conservation area.

It is considered that the proposed use of this shop as a micro pub can be supported. Given this type of development is typically associated and located within town centres the unique nature of the development will not lead to an undesirable precedent against Policy ED4 and will not have an adverse effect on the vitality and viability of the town centre. This is very much an on balance decision, recognising the unique nature of the proposed development as a Sui Generis use will not lead to an unacceptable precedent of other uses outwith Use Classes 1 and 3.

REASON FOR DECISION :

It is considered that the proposed change of use from shop to micro pub is in accordance with development plan policies covering prime retail frontages and core activity areas in that the proposals are typically located within the centre of towns, will not lead to an undesirable precedent and will not have an unacceptable adverse impact on the vitality and viability of the town centre.

Recommendation: Approved - conditions & informatives

- 1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans and specifications approved by the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
- 2 Any noise emitted by plant and machinery used on the premises will not exceed Noise Rating Curve NR20 between the hours of 2300 – 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise emanating from any plant and machinery used on the premises should not contain any discernable tonal component. Tonality shall be determined with reference to BS 7445-2
Reason To protect the residential amenity of nearby properties.
- 3 The operating times of the premises will be restricted to 1100 to 2300 Monday to Sunday with deliveries permitted 0900-1700 Monday to Saturday. There shall be no amplified music or voice operated within the premises.
Reason To protect the residential amenity of nearby properties.

Informatives

It should be noted that:

- 1 The premises will need to be registered with the Council before commencing operations. In order to ensure that the layout of the premises complies with the registration requirements the applicant should contact an Environmental Health Officer as the earliest stage possible. This can be done by calling 0300 100 1800 or emailing PLACEhealth@scotborders.gov.uk

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

**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: 14/00008/RREF

Planning Application Reference: 14/00049/FUL

Development Proposal: Change of Use from Class 1 (Travel Agent) to Class 2
(Estate Agent)

Location: 43, The Square, Kelso

Applicant: Mr James Hewit

DECISION

For the reasons set out below, the Local Review Body reverses the decision of the appointed officer and grants planning permission subject to conditions.

DEVELOPMENT PROPOSAL

The application relates to the Change of Use from Class 1 (Travel Agent) to Class 2 (Estate Agent) at 43, The Square, Kelso. The application consisted of the following drawing:

Plan Type	Plan Reference No.
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Location Plan	-
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PRELIMINARY MATTERS

The Local Review Body considered, at its meeting on 12th May 2014, that the Review had been competently made under section 43A (8) of the Town & Country Planning (Scotland) Act 1997.

After examining the review documentation, which included: (a) Decision Notice, (b) Notice of Review; (c) Officer's Report of Handling; (d) Consultations; (e) Support Comments and (f) List of Policies, the Review Body concluded that it did have

sufficient information to determine the case and that further procedure was not required, in the form of further written submissions and an oral hearing session.

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 2013 and the consolidated Scottish Border's Local Plan 2011. The Review Body considered that the most relevant of the listed policies were:

- Local Plan Policies: ED4, ED5, BE4, INF4, H2 and G1

Other material key considerations the Local Review Body took into account related to:

Draft Proposed Local Development Plan 2013

The Local Review Body noted that the Proposed Local Development Plan was a material planning consideration. However they considered that Policy ED4 thereof, could be given little weight. It had been subject to representation during the Plan's development and would therefore be subject to Public Examination. This, in turn, meant the proposed policy was potentially subject to change. The focus of Members' deliberations therefore turned on the compliance of the development with Policy ED4 of the Consolidated Local Plan.

In this regard, Members were aware that they must consider whether it had been proven that the development "...would not result in an unacceptable adverse impact on the viability or vitality of the town centre...". Members commented that whilst they were legally in different use classes the nature of a travel agency and an estate agency were very similar. They were satisfied that the proposed use would generate footfall and have a positive economic impact on the town centre. They accepted that the property had been advertised for a retail use but that no tenants had been forthcoming. The property being empty for 12 months had a negative impact on the town centre. The impact of its continuing to be left vacant was also an overriding concern of the Review Body. Whilst there may be implications for the town centre, if other uses specified in Class 2 were permitted, they were content that with the proposed condition restricting the proposed use to an estate agent only that the development would be consistent with Policy ED4.

CONCLUSIONS

The Local Review Body concluded that the development would not have an unacceptable adverse impact on the viability or viability of the town centre of Kelso and that it was consistent with Policy ED4 of the Development Plan. There were no other material considerations that would justify departure from the Development Plan.

CONDITIONS

- 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.

2. The premises shall be used for an estate agent office 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). The only exception to this restriction would be a change to a use specified in Class 1 (Shops) as defined in the relevant statutory instrument.

Reason: To ensure that the use remains compatible within the site.

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 R. Smith
Chairman of the Local Review Body

Date:...16th May 2014

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO THE HEAD OF PLANNING
AND REGULATORY SERVICES**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 14/00049/FUL

APPLICANT : Mr James Hewit

AGENT : Ferguson Planning

DEVELOPMENT : Change of Use from Class 1 (Travel Agent) to Class 2 (Estate Agent)

LOCATION: 43 The Square
Kelso
Scottish Borders
TD5 7HL

TYPE : FUL Application

REASON FOR DELAY:

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
OS EXTRACT	Location Plan	Refused

NUMBER OF REPRESENTATIONS: 1
SUMMARY OF REPRESENTATIONS:

ROADS PLANNING SERVICE: No objections to the change of use for this town centre re-development. The traffic generated by the buildings former use is likely to be similar to the proposed use. Given the town centre location, the building is well placed to take advantage of the public parking, public transport and pedestrian links already in place.

FORWARD PLANNING SECTION: In summary, the premises are protected by policy ED4 - Prime Retail Frontage of the consolidated Local Development Plan 2011. The purpose of this policy is to support the retention of Class 1 uses within the Use Classes (Scotland) Order 1997 in town centres. These Class 1 uses generally generate higher levels of pedestrian footfall and help promote the viability and vitality of town centres. The application proposes to change the use of the premises from Class 1 to Class 2 and is therefore contrary to policy. The premises occupy a prime retail location within The Square in Kelso which seeks protection of Class 1 uses. It is not considered there are any circumstances identified which could justify a deviation from this well established policy and consequently the proposal cannot be supported.

KELSO AMENITY SOCIETY: Most members have no objection to the COU. A general view was that the re-furbishment of the frontage of the building could not come quickly enough.

COMMUNITY COUNCIL: No objections.

PUBLICITY AND REPRESENTATIONS

The application was publicised by means of the direct notification of 21 neighbouring premises, a site notice, a press notice in the Southern Reporter, and a notice on the national planning notification website. One response form a resident of Rosewood Gardens, Kelso was recieved as a result of this

publicity, supporting the application. A second email was also received in support of the application from SBC Councillor Weatherston.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Consolidated Local Plan 2011

G1 - Quality Standards for New Development
G7 - Infill Development
BE4 - Conservation Areas
ED4 - Prime Retail Frontage
ED5 - Town Centres
H2 - Protection of Residential Amenity
INF4 - Parking Provisions and Standards

Recommendation by - Andrew Evans (Planning Officer) on 19th March 2014

The application relates to 43 The Square a ground floor shop premises in Kelso. The site is located within the Kelso Conservation Area. The site is within the defined town centre boundary of Kelso. The site occupies a very prominent location on the Square.

This application seeks full planning permission for the change of use of the premises from class 1 (retail) use to class 2 (office) use. The property was last in use as a Travel Agency. It is proposed to be used by an Estate Agents firm. The site is located within the Kelso Conservation Area and within an area identified as a prime retail frontage in the Consolidated Scottish Borders Local Plan of 2011.

Policy ED4 of the Consolidated Local Plan 2011 sets out the Council policy on Prime Retail Frontages. In such areas, the Council will resist the loss of shop units. Proposals for uses other than shop units at ground level on prime retail frontages will be refused unless it can be demonstrated that the development would not result in an unacceptable adverse impact on the viability or vitality of the town centre or village.

The application is accompanied by a detailed planning statement which sets out the background to the application. The site has been marketed for retail use for a period of over 12 months. The agents email of March 19th sets out his belief that Policy ED4 is adhered to, as bringing a unit that has remained vacant for over a year back into use for a very similar purpose to its previous use is a net benefit to the vitality and viability of the core retail area and the key test within the policy being that it will clearly not have an unacceptable adverse impact on the vitality and viability of the centre.

The agent goes on to pose the question in his email as to how is this proposal going to have an unacceptable adverse impact on the Vitality or Viability of the town centre? The agent contends that the proposal will enhance vitality in this area by attracting new customers/clients to the area (currently not happening with vacant unit) and that it is a sign of viability in that we have an Estate Agent wishing to invest in the town centre not compete with it. The Agent makes the point that the Council's proposed local development plan is similar to that of the Scottish Government ie. that Class 1 uses within our town centres, core or otherwise, is in decline and steps need to be taken to address the increasing rate of vacancies.

It is however important to note that ultimately, it is the use classes order on which this application hinges. The ultimate question presented to the Planning Authority in this application is to approve the loss of a retail unit to office use within a protected retail frontage, and this should carry significant weight in the determination of the application. Whilst the agent asks the question as to why does the department see the use of the unit as a Travel Agent to be any different to the proposed Estate Agent, the approval being sought seeks an office consent, rather than a retail one, and it is in these terms that the application is contrary to adopted local plan policies. The proposed use for class 2 purposes does not comply with policy. An approval for class 2 use would permit a wide range of class 2 uses to take place in the premises, such as betting offices, accountants, dentists and vets, at the expense of a class 1 retail use. Forward Planning colleagues confirm that it is not considered there are any circumstances identified which could justify a deviation from well established policy ED4.

Emerging planning policy is set out in the local development plan which has been out for public consultation, but not yet subject to any detailed scrutiny through the LDP process. This emerging plan sets out a new policy which would permit a wider range of possible uses in town centres, including office uses. The local development plan is only in its very early stages, and consequently I can only attach very limited weight to the emerging policy. It should also be noted that according to the Council's Retail Survey, Kelso currently has one of the lower vacancy rates in the Borders and based on the summer 2013 Retail Survey the vacancy rate in terms of units sat at 9%, compared to an 11% average figure across the Borders. The retail vacancy rate in Kelso is not (and has not previously been) considered to be high enough to justify an exceptional approval contrary to adopted planning policy on prime retail frontages.

REASON FOR DECISION :

The proposed use would be contrary to Policy ED4 of the Consolidated Local Plan 2011 in that it would result in the loss of a Class 1 retail unit and introduce a non-retail use into the Prime Retail Frontage at this location. It has not been demonstrated that the proposed change of use to Class 2 office would safeguard the vitality and vibrancy of Kelso town centre. Material considerations, including the vacancy of the unit and the current economic climate, have been accounted for but do not outweigh the conflict with Policy ED4.

Recommendation: Refused

- 1 The proposed use would be contrary to Policy ED4 of the Consolidated Local Plan 2011 in that it would result in the loss of a Class 1 retail unit and introduce a non-retail use into the Prime Retail Frontage at this location. It has not been demonstrated that the proposed change of use to Class 2 office would safeguard the vitality and vibrancy of Kelso town centre. Material considerations, including the vacancy of the unit and the current economic climate, have been accounted for but do not outweigh the conflict with Policy ED4.

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

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

Application for Planning Permission

Reference: 14/01163/FUL

To: Matthew Aplin Kingsrig Coldstream Scottish Borders TD12 4NA

With reference to your application validated on **13th October 2014** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal: Change of use from retail to podiatry clinic

at: 24 Horsemarket Kelso Scottish Borders

The Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

subject to the conditions on the attached schedule imposed by the Council for the reasons stated

**Dated 18th November 2014
Planning and Regulatory Services
Environment and Infrastructure
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed


.....
Head of Planning and Regulatory Services

APPLICATION REFERENCE : 14/01163/FUL**Schedule of Plans and Drawings Approved:**

Plan Ref	Plan Type	Plan Status
OS EXTRACT	Location Plan	Approved
SCALE PLAN	Floor Plans	Approved

REASON FOR DECISION

The proposed change of use to Class 2 is considered to comply with policy ED3 (Town Centres and Shopping Development) of the Proposed Scottish Borders Local Development Plan (2013), and the benefits to vitality, viability and enhanced footfall are considered to outweigh the provisions of Policy ED4 of the Consolidated Scottish Borders Local Plan. The proposals are also considered acceptable in terms of impacts on parking, amenity and the wider Kelso Conservation Area.

SCHEDULE OF CONDITIONS

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.

FOR THE INFORMATION OF THE APPLICANT

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained.

Notice of Initiation of Development

Section 27 of the Town and Country Planning (Scotland) Act (as amended) requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, once they have decided the date they will start work on the development, inform the planning authority of that date as soon as is practicable. A form is enclosed with this decision notice for this purpose.

Notice of Completion of Development

Section 27B requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority.

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
SERVICE DIRECTOR REGULATORY SERVICES**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 14/01163/FUL

APPLICANT : Matthew Aplin

AGENT :

DEVELOPMENT : Change of use from retail to podiatry clinic

LOCATION: 24 Horsemarket
Kelso
Scottish Borders

TYPE : FUL Application

REASON FOR DELAY: No Reason

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
OS EXTRACT	Location Plan	Approved
SCALE PLAN	Floor Plans	Approved

NUMBER OF REPRESENTATIONS: 0
SUMMARY OF REPRESENTATIONS:

ECONOMIC DEVELOPMENT: Note that this site is protected in the current Local Plan as prime retail frontage but is not included within the approved but unadopted Local Plan 2013, which has a reduced extent. Have no objections to the loss of retail use here and welcome the retention of the professional service of a podiatry clinic in the town. Trust the approval of the planned new reduced frontage will be a consideration in processing this application.

FORWARD PLANNING SECTION: Within the adopted Consolidated Local Plan 2011 this retail unit is located within the prime retail frontage which is protected by policy ED4 - Prime Retail Frontage. Policy ED4 excludes non Class 1 retail development within the prime frontage areas identified within the Plan unless it can clearly be demonstrated that the development would not result in an unacceptable adverse impact on the viability or vitality of the town centre. As part of the Local Development Plan (LDP) process the local plan polices and prime retail frontages were reviewed. The prime retail frontages were renamed core activity areas and were amended to extend the type of uses appropriate within town centres. The retail unit subject to this planning application is now outwith the prime retail frontage but remains within the Kelso Town Centre boundary and therefore will be assessed against policy ED3 Town Centres and Shopping Development. Policy ED3 encourages a mix of uses within town centres to protect and enhance vitality and viability whilst increasing footfall within the town centre. The policy considers a variety of uses appropriate for location in a town centre including use classes 1, 2, 3 and 4. It should be noted that representations have been received as part of the proposed LDP representation period in relation to policy ED3. However none of the points within these representations are relevant to this application. As the unit is not part of the new core activity area and is for a use appropriate to a town centre environment it is considered that the application can be supported.

ROADS PLANNING SERVICE: No roads objections.

COMMUNITY COUNCIL: Expired 12.11.14, with no response received.

KELSO AMENITY SOCIETY: No objections. Queried whether the shop front would be altered - it not being present on the current application.

PUBLICITY AND REPRESENTATIONS

This application was publicised by means of the direct notification of 32 neighbouring premises. No objections or representations were received.

PLANNING CONSIDERATIONS AND POLICIES:

Scottish Borders Consolidated Local Plan (2011)

G1 - Quality Standards for New Development

G7 - Infill Development

BE4 - Conservation Areas

ED4 - Prime Retail Frontage

ED5 - Town Centres

H2 - Protection of Residential Amenity

INF4 - Parking Provisions and Standards

Proposed Scottish Borders Local Development Plan (2013)

ED3 - Town Centres and Shopping Development.

Recommendation by - Andrew Evans (Planning Officer) on 14th November 2014

This application seeks full planning permission for the change of use of this ground floor retail premises on the Horsemarket in Kelso to a podiatry clinic. This involves a change from Class 1 of the Use Classes Order to Class 2. The site is located within the Kelso Conservation Area and within an area identified as a prime retail frontage in the Consolidated Scottish Borders Local Plan of 2011. Policy ED4 of the Consolidated Local Plan 2011 sets out the Council policy on Prime Retail Frontages. In such areas, the Council will resist the loss of shop units. Proposals for uses other than shop units at ground level on prime retail frontages will be refused unless it can be demonstrated that the development would not result in an unacceptable adverse impact on the viability or vitality of the town centre or village.

Nearby within Kelso, a recent decision was made at 43 The Square, on a planning application (14/00049/FUL) also seeking Change of use to Class 2 in the protected retail frontage. In that case, in May this year, the Local Review Body overturned an earlier refusal which had been made on the grounds of policy ED4. The LRB concluded that the development would not have an unacceptable adverse impact on the viability or vitality of the town centre of Kelso and that it was consistent with Policy ED4 of the Development Plan. It is important to note that ultimately, it is the use classes' order on which this current application hinges. The ultimate question presented to the Planning Authority in this application is to approve the loss of a retail unit to class 2 use within a protected retail frontage.

It is noted however that the emerging Local Development Plan identifies a more flexible policy. The Forward Planning Section of the Council was consulted on the current application at 24 Horsemarket, due to the emerging Local Development Plan being highly relevant to the consideration of this application. The proposed use for class 2 purposes does not comply with the adopted policy in the Consolidated Local Plan. An approval for class 2 use would permit a wide range of class 2 uses to take place in the premises, such as betting offices, accountants, dentists and vets, at the expense of a class 1 retail use. Forward Planning Colleagues confirm emerging planning policy, set out in the local development plan which has been out for public consultation, sets out a new policy which would permit a wider range of possible uses in town centres, including office uses.

Forward Planning colleagues confirm that the former prime retail frontages were renamed core activity areas in the LDP and were amended to extend the type of uses appropriate within town centres. The retail unit subject to this planning application is now outwith the prime retail frontage but remains within the Kelso

Town Centre boundary and therefore will be assessed against policy ED3 Town Centres and Shopping Development. Emerging policy ED3 encourages a mix of uses within town centres to protect and enhance vitality and viability whilst increasing footfall within the town centre. Policy ED3 considers a variety of uses appropriate for location in a town centre including use classes 1 (Retail), 2 (Financial / Professional Services), 3 (Food and Drink) and 4 (Office). Whilst representations have been received as part of the proposed LDP representation period in relation to policy ED3, Forward Planning confirms none of the points within these representations are relevant to this application. As the property is not part of the new core activity area and is for a use appropriate to a town centre environment Forward Plans consider that the application can be supported.

In the context of the previous LRB decision, the provisions of the emerging Local Development Plan, and the supportive consultation response of the Forward Planning Service, objection to the principle of the change of use of this building cannot be sustained, and indeed, the application must be supported.

Turning to other matters, the starting position must be initial consideration against the provisions of the Consolidated Scottish Borders Local Plan (2011). The site is centrally located within the Town Centre Boundary, and the Roads Planning Service confirms no Road Safety objections. The application is considered to comply with policy INF4 of the Consolidated Plan on Parking Provisions and Standards. Whilst a mixture of uses is present in this part of the Town Centre, the proposals are considered compatible with adjacent uses. Finally, whilst the comments of the Kelso Amenity Society and the Economic Development Service in relation to the shop front are noted, this application only covers the Change of Use of the building, not any physical alterations to the external fabric of the building, or signage etc. The application proposed only the Change of Use of the premises. It is noted that the shopfront window would in future serve a treatment room, with internal division of the space taking place. Such division does not require planning permission. The change is considered to be acceptable in terms of impacts upon the wider Kelso Conservation Area. As such, the proposals are considered to comply with the provisions of Policy BE4 (Conservation Areas).

In summary, the proposed change of use to Class 2 is considered to comply with policy ED3 (Town Centres and Shopping Development) of the Proposed Scottish Borders Local Development Plan (2013), and the benefits to vitality, viability and enhanced footfall are considered to outweigh the provisions of Policy ED4 of the Consolidated Scottish Borders Local Plan (2011). The proposals are also considered acceptable in terms of impacts on parking, amenity and the wider Kelso Conservation Area.

No planning conditions are considered necessary in this case, the use for Class 2 purposes being considered acceptable in this case, and the permitted change in the GPDO, back to class 1 use, also posing no problems.

REASON FOR DECISION :

The proposed change of use to Class 2 is considered to comply with policy ED3 (Town Centres and Shopping Development) of the Proposed Scottish Borders Local Development Plan (2013), and the benefits to vitality, viability and enhanced footfall are considered to outweigh the provisions of Policy ED4 of the Consolidated Scottish Borders Local Plan. The proposals are also considered acceptable in terms of impacts on parking, amenity and the wider Kelso Conservation Area.

Recommendation: Approved subject to conditions

- 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.

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

PLANNING CONSULTATION

To: Forward Planning Section

From: Development Management

Date: 22nd August 2017

Contact: Euan Calvert ☎ 01835 826513

Ref: 17/01139/FUL

PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 12th September 2017, If further time will be required for a reply please let me know. If no extension of time is requested and no reply is received by 12th September 2017, it will be assumed that you have no observations and a decision may be taken on the application.

Please remember to e-mail the DCConsultees Mailbox when you have inserted your reply into Idox.

Name of Applicant: Mr Robert McCririck

Agent: Ferguson Planning

Nature of Proposal: Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail)

Site: 40-41 The Square Kelso Scottish Borders TD5 7HL

OBSERVATIONS OF: Forward Planning Section

CONSULTATION REPLY

The site subject to this application is located within the Kelso settlement boundary and within the town's Conservation Area. The site is also within the Kelso Core Activity Area which is protected by Local Development Plan Policy ED4 'Core Activity Areas within Town Centres'.

The retail unit subject to this application has been used as Class 1 and this application proposes to change this use to a podiatry clinic which is a Class 2 use. Whilst it is noted it is indicated there will be some ancillary retail operations from the premises the main use is Class 2 and therefore this is the use which the application should be judged.

Policy ED4 states 'in order to support the vitality and viability of core activity areas, acceptable uses are restricted to Class 1 (shops) and 3 (food and drink) of the Use Class Order. Proposals for uses within Class 2 (financial, professional and other services) of the Use Class Order would only be acceptable where they contribute positively to the core retail activity of the area and will be assessed against the following:

- *How the proposed use would contribute to joint shopping trips;*
- *Footfall contribution;*
- *Current vacancy and footfall rates;*
- *Longevity of vacancy;*
- *Marketing history of premises; and*
- *Ability to retain shop frontage'.*

In terms of the overall current vacancy rates in Kelso, the most recent retail study was undertaken in winter 2016 and recorded the vacancy rate in the town centre as being 5%. The Scottish Borders average is 11% and the national average is 12%. Consequently it is considered the current vacancy rate in Kelso remains extremely buoyant compared to other settlements within the Borders and is not at a level which can justify a deviation from policy. Indeed it is noted that the premises have been vacant in excess of a year, but that in itself is not a justification to override policy in this Core Activity Area.

Within the Scottish Borders Council Footfall Survey 2016 it states *'the footfall in Peebles, Kelso and Melrose has generally been steady or increasing in recent years and these towns have low levels of retail unit vacancy. Overall, footfall is up 6% since 2007 and Kelso is considered to be performing well'*. It is noted that the proposal caters for 120-150 clients per week which on the assumption it will be operated for six days per week it will be visited by approximately 20 people per day. Consequently it will generate relatively low footfall as opposed to any typical class 1 retail use.

A supporting statement has been submitted on behalf of the applicant providing a justification for the proposal. The applicant makes reference to other business in the town centre that are not pure retail including barbers, café and pharmacies. However these uses comply with policy ED4 as they fall within either Class 1 or Class 3. It should be noted that the Core Activity Area only relates to the safeguarding of retail units along Bridge Street and within the Square and its immediate vicinity. Consequently there are, for example, parts of Horsemarket, Wood Street and Roxburgh Street within the town centre where the proposed use would be supported in planning policy terms.

It should be noted that there was a planning application (14/00049/FUL) for a change of use from Class 1 (Travel Agent) to Class 2 (Estate Agent) within the Core Activity Area in The Square, Kelso. This proposal was not supported by the Forward Planning Team as it was contrary to policy and the Development Management Planning Officer recommended refusal of the proposal however the application was ultimately approved at the Council's Local Review Body.

In summary, the unit subject to this planning application is located within a prominent location within the Core Activity Area in The Square, Kelso which is covered by policy ED4 and seeks protection of Class 1 uses. It is not considered there are any circumstances identified which could justify a deviation from this well established policy and consequently the proposal cannot be supported.

REGULATORY SERVICES



To: **Development Management Service**
FAO Euan Calvert

Date: 27th Sept 2017

From: **Roads Planning Service**
Contact: **Keith Patterson**

Ext: **6637**

Ref: **17/01139/FUL**

Subject: Change of Use from Class 1 to Mixed Use Class 1 and 2
40-41 The Square Kelso.

I have no objections to this proposal.

AJS

PLANNING CONSULTATION

To: Economic Development Section

From: Development Management

Date: 21st August 2017

Contact: Euan Calvert ☎ 01835 826513

Ref: 17/01139/FUL

PLANNING CONSULTATION

Your observations are requested on the under noted planning application. I shall be glad to have your reply not later than 11th September 2017, If further time will be required for a reply please let me know. If no extension of time is requested and no reply is received by 11th September 2017, it will be assumed that you have no observations and a decision may be taken on the application.

Please remember to e-mail the DCConsultees Mailbox when you have inserted your reply into Idox.

Name of Applicant: Mr Robert McCririck

Agent: Ferguson Planning

Nature of Proposal: Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail)

Site: 40-41 The Square Kelso Scottish Borders TD5 7HL

OBSERVATIONS OF: Economic Development Section

CONSULTATION REPLY

This application for a Change of use, we understand, does not meet Policy ED4 of the Consolidated Local Plan 2011 as it introduces a partial non-retail use into a location defined for Prime Retail Frontage.

Economic Development, however, does not object to the application 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 aim for the following reasons:

- The premises, although facing on to the Square are tucked into a corner; low profile, location, appear to have been vacant and unused for over 1 year, and we believe, if this application was approved, would bring vitality where there has been none, so increasing overall economic activity.
- The new use offers employment opportunities.
- The premises still offers some retail use and would appear ideal for this planned new use, with little change to the appearance of the frontage.
- The use would ultimately increase footfall to these premises, and the town in general, by providing a specialist service.

Comments for Planning Application 17/01139/FUL

Application Summary

Application Number: 17/01139/FUL

Address: 40-41 The Square Kelso Scottish Borders TD5 7HL

Proposal: Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail)

Case Officer: Euan Calvert

Customer Details

Name: Mrs Shirley Redgrave

Address: Pinnaclehill Lodge Sprouston Road, Kelso, Kelso, Scottish Borders TD5 8ES

Comment Details

Commenter Type: Community Council

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: The Committee looked at this application and considered all of the planning Policies relevant to the area of the proposal and were happy to support the plans.

The Council are very happy to see applications which keep open.

Kelso & District Amenity Society
Dean Weatherston
11 Rosewood Gardens
Kelso
TD5 7ES

31st August 2017

Dear Mr Hayward,

Application Reference: 17/01139/FUL

Name of Applicant: Mr Robert McCririck

Nature of Proposal: Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary)

Site: 40-41 The Square, Kelso, TD5 7HL

KADAS Decision: No Objections

The Society welcomes this unit being brought back into use. There are thankfully only a small number of vacant premises in Kelso, but it would be good to have this one brought back into use as it has been empty for some considerable time, and also previously it has sat empty for lengthy periods. We don't feel this type of business would be detrimental to our historic Square in any way.

Yours faithfully,

Dean Weatherston
(KADAS Secretary)

Committee: Christine Henderson (Chair), Jeanette Baston (Vice Chair), Dean Weatherston (Secretary), Hazel Woodsell (Treasurer), and Jim Fleming (Planning).

Comments for Planning Application 17/01139/FUL

Application Summary

Application Number: 17/01139/FUL

Address: 40-41 The Square Kelso Scottish Borders TD5 7HL

Proposal: Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail)

Case Officer: Euan Calvert

Customer Details

Name: Mr tom weatherston

Address: 60 Oakfield Court, Kelso, Scottish Borders TD5 7NW

Comment Details

Commenter Type: Local Member

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

- Value of property

Comment: I would like to support this application from class 1 retail to class 2 mixed use. This prime site in the centre of the town square has stood empty for over a year resulting in a negative impact on the town centre.

This business would bring a redundant shop back into use would provide employment and provide more choice of services in the town.

There is already a variety of class uses in the town centre and this proposal would compliment what we already have.

Planning policy encourages some flexibility in our town centres in Scotland and this proposal would help keep Kelso town centre vibrant and our empty shops to a minimum.

Kelso square is in the conservation area and investment in our town centre should be encouraged as long as it has a positive impact and I believe this shop opening again can only be positive for the town centre.

Comments for Planning Application 17/01139/FUL

Application Summary

Application Number: 17/01139/FUL

Address: 40-41 The Square Kelso Scottish Borders TD5 7HL

Proposal: Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail)

Case Officer: Euan Calvert

Customer Details

Name: Miss Nicola Stewart

Address: 2 Whitmuirhaugh Farm cottages, Sprouston, Kelso Td5 8hp

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

- Value of property

Comment:Application 17/01139/FUL

To Scottish Borders Council,

Provision of foot and ankle services does not currently meet the demand of the local community and I move that this application, if granted, will allow for the establishment of a vital service in our town centre. I know the applicant to have a wealth of experience in this sector and is most certainly the right person to deliver this service. In doing so, our town will benefit from the transformation of an otherwise empty and unsightly building, will experience increased footfall and will create excellent employment opportunities for local people.

I support this application in its entirety,

Regards,

Nicola Stewart

Comments for Planning Application 17/01139/FUL

Application Summary

Application Number: 17/01139/FUL

Address: 40-41 The Square Kelso Scottish Borders TD5 7HL

Proposal: Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail)

Case Officer: Euan Calvert

Customer Details

Name: Mr william rogeron

Address: Cavalry Park, Peebles, Scottish Borders EH45 9BU

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I would like to offer support to Mr McCriricks application for change of use consent to create a specialist podiatry clinic in this empty unit. Provision of this professional service centrally and occupation of the redundant unit would I believe have a positive impact on the town centre and benefit surrounding retail.

Comments for Planning Application 17/01139/FUL

Application Summary

Application Number: 17/01139/FUL

Address: 40-41 The Square Kelso Scottish Borders TD5 7HL

Proposal: Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail)

Case Officer: Euan Calvert

Customer Details

Name: Mrs JOAN BLACK

Address: 51 Pinnaclehill Park, Kelso, Scottish Borders TD5 8HA

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Feel as premises have been empty for some time and given its prime location it is detrimental to centre not to allow and encourage this local man to set up his business in this area.

Comments for Planning Application 17/01139/FUL

Application Summary

Application Number: 17/01139/FUL

Address: 40-41 The Square Kelso Scottish Borders TD5 7HL

Proposal: Change of use from Class 1 (retail) to allow mixed use Class 2 (podiatry clinic) and Class 1 (ancillary retail)

Case Officer: Euan Calvert

Customer Details

Name: Mrs Susan Hay

Address: 1 Sunnyside Farm Cottages, Reston, Eyemouth, Scottish Borders TD14 5LN

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Dear Sir/Madam,

Having known the applicant, Robert McCririck, for a number of years, I believe him to be an impassioned and thoughtful individual who takes great pride in his Scottish Borders roots, having grown up very close to Kelso. I feel this pride in his local community and his dedication to providing a very high quality of care in his professional work will undoubtedly lead to a successful business venture and will be a huge asset to Kelso's residents, its local businesses and the wider community.

I offer my fullest support to this application and hope the planning team will agree.

Sincerely,

Susan Hay..

Ref/ 17/00047/RREF

Kelso Square.

I would like to offer my support for the change of use in relation to the above application.

As I said in my original comments this shop is in a prime location in Kelso Square and has stood empty for well over a year.

In an ideal world I would like to see every shop to sell 100% retail goods but in the climate we are in just now with on line shopping and large supermarkets those days are behind us.

I support the protection policy in principle but I think there has to be a time when we say there is no advantage in having this shop sitting empty indefinitely in this prime town centre location.

Surely it is more beneficial to have the town centre vibrant with open shops offering a wide range of goods and services and providing employment.

Recent figures show footfall in Kelso fell recently and empty shops do nothing to help this trend.

I would appeal to the committee to allow this shop to reopen offering a vital service to the community and allow the Square to return to the gem it is.

This location has become an eye sore for too long and it's unfair to the businesses along this side of the Square who are trying very hard to enhance their properties and increase business.

I will allow the applicants agent to explain in more detail the planning arguments around this application.

My view is of a Kelso resident who is convinced this is the right thing to do and has the overwhelming support of the Kelso public and the other shopkeepers.

Tom Weatherston

Councillor for

Kelso and district.

Sent from my iPad

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LIST OF POLICIES

Local Review Reference: 17/00047/RREF

Planning Application Reference: 17/01139/FUL

Development Proposal: Change of use from Class 1 Retail to allow Mixed Use Class 2 (Podiatry Clinic) and Class 1 (Ancillary Retail)

Location: 40-41 The Square, Kelso

Applicant: Mr Robert McCririck

SCOTTISH BORDERS LOCAL DEVELOPMENT PLAN 2016

POLICY PMD1: SUSTAINABILITY

In determining planning applications and preparing development briefs, the Council will have regard to the following sustainability principles which underpin all the Plan's policies and which developers will be expected to incorporate into their developments:

- a) the long term sustainable use and management of land
- b) the preservation of air and water quality
- c) the protection of natural resources, landscapes, habitats, and species
- d) the protection of built and cultural resources
- e) the efficient use of energy and resources, particularly non-renewable resources
- f) the minimisation of waste, including waste water and encouragement to its sustainable management
- g) the encouragement of walking, cycling, and public transport in preference to the private car
- h) the minimisation of light pollution
- i) the protection of public health and safety
- j) the support to community services and facilities
- k) the provision of new jobs and support to the local economy
- l) the involvement of the local community in the design, management and improvement of their environment

POLICY PMD2: QUALITY STANDARDS

All new development will be expected to be of high quality in accordance with sustainability principles, designed to fit with Scottish Borders townscapes and to integrate with its landscape surroundings. The standards which will apply to all development are that:

Sustainability

- a) In terms of layout, orientation, construction and energy supply, the developer has demonstrated that appropriate measures have been taken to maximise the efficient use of energy and resources, including the use of renewable energy and resources such as District Heating Schemes and the incorporation of sustainable construction techniques in accordance with supplementary planning guidance. Planning applications must demonstrate that the current carbon dioxide emissions reduction target has been met, with at least half of this target met through the use of low or zero carbon technology,
- b) it provides digital connectivity and associated infrastructure,
- c) it provides for Sustainable Urban Drainage Systems in the context of overall provision of Green Infrastructure where appropriate and their after-care and maintenance,
- d) it encourages minimal water usage for new developments,
- e) it provides for appropriate internal and external provision for waste storage and presentation with, in all instances, separate provision for waste and recycling and, depending on the location, separate provision for composting facilities,

LIST OF POLICIES

- f) it incorporates appropriate hard and soft landscape works, including structural or screen planting where necessary, to help integration with its surroundings and the wider environment and to meet open space requirements. In some cases agreements will be required to ensure that landscape works are undertaken at an early stage of development and that appropriate arrangements are put in place for long term landscape/open space maintenance,
- g) it considers, where appropriate, the long term adaptability of buildings and spaces.

Placemaking & Design

- h) It creates developments with a sense of place, based on a clear understanding of the context, designed in sympathy with Scottish Borders architectural styles; this need not exclude appropriate contemporary and/or innovative design,
- i) it is of a scale, massing, height and density appropriate to its surroundings and, where an extension or alteration, appropriate to the existing building,
- j) it is finished externally in materials, the colours and textures of which complement the highest quality of architecture in the locality and, where an extension or alteration, the existing building,
- k) it is compatible with, and respects the character of the surrounding area, neighbouring uses, and neighbouring built form,
- l) it can be satisfactorily accommodated within the site,
- m) it provides appropriate boundary treatments to ensure attractive edges to the development that will help integration with its surroundings,
- n) it incorporates, where appropriate, adequate safety and security measures, in accordance with current guidance on 'designing out crime'.

Accessibility

- o) Street layouts must be designed to properly connect and integrate with existing street patterns and be able to be easily extended in the future where appropriate in order to minimise the need for turning heads and isolated footpaths,
- p) it incorporates, where required, access for those with mobility difficulties,
- q) it ensures there is no adverse impact on road safety, including but not limited to the site access,
- r) it provides for linkages with adjoining built up areas including public transport connections and provision for buses, and new paths and cycleways, linking where possible to the existing path network; Travel Plans will be encouraged to support more sustainable travel patterns,
- s) it incorporates adequate access and turning space for vehicles including those used for waste collection purposes.

Greenspace, Open Space & Biodiversity

- t) It provides meaningful open space that wherever possible, links to existing open spaces and that is in accordance with current Council standards pending preparation of an up-to-date open space strategy and local standards. In some cases a developer contribution to wider neighbourhood or settlement provision may be appropriate, supported by appropriate arrangements for maintenance,
- u) it retains physical or natural features or habitats which are important to the amenity or biodiversity of the area or makes provision for adequate mitigation or replacements.

Developers are required to provide design and access statements, design briefs and landscape plans as appropriate.

LIST OF POLICIES

POLICY ED3: TOWN CENTRES AND SHOPPING DEVELOPMENT

The Council will seek to develop and enhance the role of town centres. A network of centres and growth of the retail sector will be supported through directing development to the following district town centres:

Duns, Eyemouth, Galashiels, Hawick, Jedburgh, Kelso, Melrose, Peebles, Selkirk

To protect town centres, town centre locations will be preferred to edge-of-centre locations which, in turn, will be preferred to out-of-centre locations. An out-of-centre location will only be considered where there is no suitable site available in a town centre or edge-of-centre location.

The council will support a wide range of uses appropriate to a town centre. Proposals for shopping development and other town centre developments will generally be approved within defined district town centres provided that the character, vitality, viability, and mixed use nature of the town centre will be maintained and enhanced. For the avoidance of doubt, the council will apply the preferred order of locations set out above to appropriate uses generating significant footfall, including community and cultural facilities, offices, libraries, and education and healthcare facilities as well as retail and commercial leisure uses. It will also ensure that different uses are developed in the most appropriate locations.

Town centre enhancement, including the provision of new retail facilities and complementary non-retail uses, will be encouraged in centres both within the hierarchy and other centres which:

- a) are council priorities for area regeneration because of special economic difficulties and/or population decline,
- b) are subject to significant retail spending leakage,
- c) play an important role in areas planned for substantial development under the development strategy.

The council will have regard to the following considerations, where relevant, in assessing applications for out of centre development, including retail proposals:

- a) the individual or cumulative impact of the proposed development on the vitality and viability of existing town centres,
- b) the availability of a suitable town centre or edge of centre site,
- c) the ability of the proposal to meet deficiencies in shopping provision which cannot be met in town centre or edge of centre locations,
- d) the impact of the proposal on travel patterns and car usage,
- e) the accessibility of the site by a choice of means of transport,
- f) the preference for commercial centres in the preferred order of locations, including appropriate retail clusters and parks, over other out of centre locations,
- g) the extent to which a proposal would constitute appropriate small scale shopping provision designed to serve the needs of local rural communities,
- h) the location of the proposal. Sites will be located within existing settlements and, within them preference will be given to applications on vacant or derelict sites, or on sites deemed to be surplus to requirements.

The council will encourage the use of town centres during the evening provided residential amenity is protected. Any proposed development which would create an unacceptable adverse impact on the town centre will be refused.

LIST OF POLICIES

POLICY ED4: CORE ACTIVITY AREAS IN TOWN CENTRES

To provide flexibility and maintain vitality and viability in the retail core of the town centre, core activity areas have been identified in Galashiels, Hawick, Peebles, Kelso, Selkirk, Melrose, Jedburgh, Duns and Eyemouth. In core activity areas a mix of uses appropriate to the town centre will be allowed. Class 1 and 3 of the Use Class Order are seen as appropriate uses within core activity areas.

Proposals for uses other than Class 1 and 3 at ground level in core activity areas will normally be refused.

Proposals for other uses including Class 2 will be assessed in terms of their contribution towards the core retail function of the area and will only be acceptable where there is a significant positive contribution to the core retail function.

Other uses, such as residential, are encouraged above shops and other town centre uses.

POLICY EP7: LISTED BUILDINGS

The Council will support development proposals that conserve, protect, and enhance the character, integrity and setting of Listed Buildings.

Internal or external alterations and extensions to Listed Buildings, or new developments within their curtilage, must meet the following criteria:

- a) be of the highest quality,
- b) respect the original structure in terms of setting, scale, design and materials, whilst not inhibiting contemporary and/or innovative design;
- c) maintain, and should preferably enhance, the special architectural or historic quality of the building;
- a) demonstrate an understanding of the building's significance.

All applications for Listed Building Consent or applications affecting the setting of Listed Buildings will be required to be supported by Design Statements.

New development that adversely affects the setting of a Listed Building will not be permitted.

The demolition of a Listed Building will not be permitted unless there are overriding environmental, economic, social or practical reasons. It must be satisfactorily demonstrated that every effort has been made to continue the present use or to find a suitable new use.

POLICY EP9: CONSERVATION AREAS

The Council will support development proposals within or adjacent to a Conservation Area which are located and designed to preserve or enhance the special architectural or historic character and appearance of the Conservation Area. This should accord with the scale, proportions, alignment, density, materials, and boundary treatment of nearby buildings, open spaces, vistas, gardens and landscapes.

The Council may require applications for full, as opposed to Planning Permission in Principle Consent.

Conservation Area Consent, which is required for the demolition of an unlisted building within a Conservation Area, will only be considered in the context of appropriate proposals for redevelopment and will only be permitted where:

LIST OF POLICIES

- a) the building is incapable of reasonably beneficial use by virtue of its location, physical form or state of disrepair, and
- b) the structural condition of the building is such that it can not be adapted to accommodate alterations or extensions without material loss to its character, and
- c) the proposal will preserve or enhance the Conservation Area, either individually or as part of the townscape.

In cases a) to c) above, demolition will not be permitted to proceed until acceptable alternative treatment of the site has been approved and a contract for the replacement building or for an alternative means of treating the cleared site has been agreed.

Design Statements will be required for all applications for alterations, extensions, or for demolition and replacement which should explain and illustrate the design principles and design concepts of the proposals.

POLICY HD3: PROTECTION OF RESIDENTIAL AMENITY

Development that is judged to have an adverse impact on the amenity of existing or proposed residential areas will not be permitted. To protect the amenity and character of these areas, any developments will be assessed against:

- a) the principle of the development, including where relevant, any open space that would be lost; and
- b) the details of the development itself particularly in terms of:
 - (i) the scale, form and type of development in terms of its fit within a residential area,
 - (ii) the impact of the proposed development on the existing and surrounding properties particularly in terms of overlooking, loss of privacy and sunlighting provisions. These considerations apply especially in relation to garden ground or 'backland' development,
 - (iii) the generation of traffic or noise,
 - (iv) the level of visual impact.

POLICY IS7: PARKING PROVISIONS AND STANDARDS

Development proposals should provide for car and cycle parking in accordance with approved standards.

Relaxation of technical standards will be considered where appropriate due to the nature of the development and/or if positive amenity gains can be demonstrated that do not compromise road safety.

In town centres where there appear to be parking difficulties, the Council will consider the desirability of seeking additional public parking provision, in the context of policies to promote the use of sustainable travel modes.

OTHER MATERIAL CONSIDERATIONS

- SBC Supplementary Planning Guidance on Shop Fronts and Shop Signs 2011
- SBC Retail Survey 2016
- Connected Borders 2017-2022
- Historic Environment Scotland Policy Statement 2016
- Scottish Planning Policy 2014

LIST OF POLICIES

- 'National Review of Town Centres External Advisory Group Report: Community and Enterprise in Scotland's Town Centres' 2013
- 'Town Centre Action Plan' Scottish Government 2013